

MEDICAL PREPAREDNESS ALLOWABLE USE ACT

NOVEMBER 21, 2013.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. McCAUL, from the Committee on Homeland Security, submitted the following

R E P O R T

[To accompany H.R. 1791]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 1791) to amend the Homeland Security Act of 2002 to codify authority under existing grant guidance authorizing use of Urban Area Security Initiative and State Homeland Security Grant Program funding for enhancing medical preparedness, medical surge capacity, and mass prophylaxis capabilities, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Medical Preparedness Allowable Use Act”.

SEC. 2. USE OF CERTAIN HOMELAND SECURITY GRANT FUNDS FOR ENHANCING MEDICAL PREPAREDNESS, MEDICAL SURGE CAPACITY, AND MASS PROPHYLAXIS CAPABILITIES.

Section 2008 of the Homeland Security Act of 2002 (6 U.S.C. 609) is amended—
(1) in subsection (a), by redesignating paragraphs (10) through (13) as paragraphs (11) through (14), respectively, and by inserting after paragraph (9) the following:

“(10) enhancing medical preparedness, medical surge capacity, and mass prophylaxis capabilities, including the development and maintenance of an initial pharmaceutical stockpile, including medical kits, and diagnostics sufficient to protect first responders, their families, immediate victims, and vulnerable populations from a chemical or biological event;” and

(2) in subsection (b)(3)(B), by striking “(a)(10)” and inserting “(a)(11)”.

PURPOSE AND SUMMARY

The purpose of H.R. 1791 is to amend the Homeland Security Act of 2002 to codify authority under existing grant guidance authorizing use of Urban Area Security Initiative and State Homeland Security Grant Program funding for enhancing medical preparedness, medical surge capacity, and mass prophylaxis capabilities.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 1791 amends the Homeland Security Act of 2002 to clarify that State Homeland Security Grant Program (SHSGP) and Urban Area Security Initiative (UASI) funds may be used to enhance medical preparedness, medical surge capacity, and mass prophylaxis capabilities. Through hearings and briefings held in the Subcommittee in the 112th and 113th Congresses, the Committee received information from stakeholders at the Federal, State, and local level about the importance of medical preparedness. This legislation, and the need to ensure that SHSGP and UASI funds remain available for medical preparedness, was informed by these events.

HEARINGS

No hearings were held on H.R. 1791 in the 113th Congress. However, the Committee held a number of hearings on the issue of medical preparedness and medical countermeasures in the 112th Congress.

On March 17, 2011, the Subcommittee held a hearing entitled “Ensuring Effective Preparedness, Response, and Recovery for Events Impacting Health Security.” The Subcommittee received testimony from Dr. Alexander G. Garza, MD, MPH, Assistant Secretary for Health Affairs and Chief Medical Officer, Department of Homeland Security.

On April 13, 2011, the Subcommittee began a series of hearings entitled “Taking Measure of Countermeasures.” The first day of hearings was subtitled “A Review of Government and Industry Efforts to Protect the Homeland Through Accelerated Research, Development, and Acquisition of Chemical, Biological, Radiological, and Nuclear Medical Countermeasures.” The Subcommittee received testimony from Ms. Cynthia Bascetta, Managing Director,

Health Care, Government Accountability Office; Dr. Segaran P. Pillai, Chief Medical and Science Advisor, Chemical and Biological Division, Science and Technology Directorate, Department of Homeland Security; Dr. Richard J. Hatchett, Chief Medical Officer and Deputy Director, Strategic Sciences and Management, Department of Health and Human Services; Dr. Gerald W. Parker, Deputy Assistant to the Secretary of Defense, Chemical and Biological Defense, Department of Defense; Ms. Phyllis Arthur, Senior Director, Vaccines, Immunotherapeutics, and Diagnostics Policy, Biotechnology Industry Organization; Mr. John M. Clerici, Principal, Tiber Creek Partners LLC; and Dr. Daniel Fagbuyi, Medical Director, Disaster Preparedness and Emergency Management, Children's National Medical Center.

On May 12, 2011, the Subcommittee convened the second day of hearings, subtitled "A Review of Efforts to Protect the Homeland Through Distribution and Dispensing of CBRN Medical Countermeasures." The Subcommittee received testimony from Dr. Alexander Garza, Assistant Secretary for Health Affairs and Chief Medical Officer, Office of Health Affairs, Department of Homeland Security; Rear Admiral Ali Khan, Director, Office of Public Health Preparedness and Response, Centers for Disease Control and Prevention, Department of Health and Human Services; Mr. Mike McHargue, Director of Emergency Operations, Division of Emergency Medical Operations; Florida Department of Health; Mr. David Starr, Director, Countermeasures Response Unit, New York City Department of Health and Mental Hygiene; Chief Lawrence E. Tan, Emergency Medical Services Division, New Castle County, Delaware, testifying on behalf of the Emergency Services Sector Coalition on Medical Countermeasures; and Dr. Jeffrey Levi, Executive Director, Trust for America's Health.

On April 17, 2012, the Subcommittee held a third day of hearings on "Taking Measure of Countermeasures." The hearing was subtitled "Protecting the Protectors," and the Subcommittee received testimony from Dr. James D. Polk, Principal Deputy Assistant Secretary, Office of Health Affairs, Department of Homeland Security; Mr. Edward J. Gabriel, Principal Deputy Assistant Secretary, Preparedness and Response, Department of Health and Human Services; Chief Al H. Gillespie, President and Chairman of the Board, International Association of Fire Chiefs; Mr. Bruce Lockwood, Second Vice President, USA Council, International Association of Emergency Managers; Sheriff Chris Nocco, Pasco County Sheriff's Office, Pasco County, Florida; and Mr. Manuel Peralta, Director of Safety and Health, National Association of Letter Carriers.

COMMITTEE CONSIDERATION

112th Congress

In the 112th Congress, H.R. 5997, the predecessor bill, was introduced in the House on June 21, 2012, by Mr. Bilirakis, Mr. Clarke of Michigan, Mr. Turner of New York, and Mr. Rogers of Alabama; and referred to the Committee on Homeland Security. Within the Committee, H.R. 5997 was referred to the Subcommittee on Emergency Preparedness, Response, and Communications.

The House considered H.R. 5997 under Suspension of the Rules on November 27, 2012, and passed the bill, amended, by a $\frac{2}{3}$ recorded vote of 397 yeas and 1 nay (Roll No. 609).

113th Congress

The Committee on Homeland Security met on October 29, 2013, to consider H.R. 1791, and ordered the measure to be reported to the House with a favorable recommendation by voice vote. The Committee took the following actions:

The Committee agreed to H.R. 1791, as amended, by voice vote.

The Chair discharged the Subcommittee on Emergency Preparedness, Response, and Communications from further consideration of H.R. 1791.

The following amendments were offered:

An amendment to H.R. 1791 offered by Ms. JACKSON LEE (#1); was WITHDRAWN by unanimous consent.

Page 2, line 19, strike the period at the end and insert “; and”.

Page 2, after line 19, insert the following: (3) by adding at the end of subsection (b) a new paragraph entitled “(6) Transparency to Law Enforcement Entities.”

An amendment to H.R. 1791 offered by Mr. THOMPSON (#2); was WITHDRAWN by unanimous consent.

Page 2, after line 19, insert a new section entitled “Sec. 3. Reauthorization of Metropolitan Medical Response Grant Program.”

An amendment to H.R. 1791 offered by Mr. PAYNE (#3); was AGREED TO by voice vote.

Page 2, line 16, strike “and immediate victims” and insert the following: “immediate victims, and vulnerable populations”.

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. 1791.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

In hearings and briefings during the 112th and 113th Congresses, the Committee heard about the importance of medical countermeasures from representatives of the emergency response community. SHSGP and UASI grant guidance currently authorizes funding to be used to support medical preparedness activities. However, this guidance is drafted and released on a yearly basis and there is no guarantee these expenditures will be authorized in the future. As a result of this bill, State and local governments, including first responders, gain certainty that items such as medical equipment and countermeasures, and pre-deployed medical kits for first responders and their families, similar to those provided to postal workers participating in the National U.S. postal medical countermeasures dispensing pilot program, may continue to be procured.

The Committee notes the contribution that Federal homeland security grant funds, including those used for medical preparedness activities, have made to state and local response capabilities. This was most recently demonstrated in the response to the Boston Marathon bombings, where the seamless medical response undoubtedly saved lives.

At the Full Committee markup of H.R. 1791, Ranking Member Thompson offered an amendment to reauthorize the Metropolitan Medical Response System (MMRS) through FY 2016 at the FY 2010 level. During consideration of the amendment, Chairman McCaul recognized the benefits grant funds, including those used for medical preparedness activities, have provided with respect to response capabilities, noting that the benefits of grant investments were demonstrated during the response to the Boston Marathon bombings. Ranking Member Thompson withdrew his amendment after Chairman McCaul stated that he would work with him and other Members of this Committee to seek possible legislative opportunities to authorize grant programs to ensure that first responders have the tools they need to meet their vital missions and that capabilities have been attained to date are not lost and to identify necessary offsets.

During consideration of H.R. 1791, Emergency Preparedness, Response, and Communications Ranking Member Donald Payne, Jr. offered an amendment to ensure that countermeasures could be made available to vulnerable populations. In the view of the Committee, the term “vulnerable populations” includes children, the elderly, individuals with disabilities, and those in underserved communities. Children, in particular, are of concern to the Committee. This bill highlights the need to acquire and plan for the distribution of countermeasures to those populations and permits grant funding to be used for those activities.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX
EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 1791, the Medical Preparedness Allowable Use Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 6, 2013.

Hon. MICHAEL MCCAUL,
*Chairman, Committee on Homeland Security,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1791, the Medical Preparedness Allowable Use Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Daniel Hoople.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 1791—Medical Preparedness Allowable Use Act

H.R. 1791 would allow certain grants from the Federal Emergency Management Agency (FEMA) to be used for enhancing medical preparedness, medical surge capacity, and mass prophylaxis capabilities. CBO estimates that implementing this legislation would not affect federal expenditures for those grants and would have no impact on the federal budget over the next five years. Enacting this legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 1791 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

FEMA's Urban Area Security Initiative (UASI) and State Homeland Security Grant Program (SHSGP) provide grants to state and local governments to prevent, prepare for, protect against, and respond to acts of terrorism. Funds may be used for a variety of activities that include developing emergency management plans, training and conducting exercises, purchasing equipment, and paying salaries and expenses. The Congress provided \$913 million for those two programs in fiscal year 2013.

The bill would expand the eligible use of UASI and SHSGP funds, as defined in statute, to include activities that enhance medical preparedness, medical surge capacity, and mass prophylaxis capabilities. Examples of permissible activities include the purchase of medical kits and diagnostics to protect first responders and victims. Because such items are already included on FEMA's authorized equipment list for those grants, CBO expects that implementing this language would have no effect on net discretionary spending over the next five years.

The CBO staff contact for this estimate is Daniel Hoople. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 1791 contains the following general performance goals, and objectives, including outcome related goals and objectives authorized.

The objective of this legislation is to ensure that SHSGP and UASI grants are able to be used for medical preparedness activities.

DUPLICATIVE FEDERAL PROGRAMS

The Committee finds that H.R. 1791 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED
TARIFF BENEFITS

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(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 1791 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 1791 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation 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 provides that the bill may be cited as the “Medical Preparedness Allowable Use Act.”

Sec. 2. Use of certain Homeland Security Grant funds for enhancing medical preparedness, medical surge capacity, and mass prophylaxis

This section amends section 2008 of the Homeland Security Act to codify the use of State Homeland Security Grant Program and Urban Area Security Initiative funds for enhancing medical preparedness, medical surge capacity, and mass prophylaxis capabilities.

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 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

* * * * *

TITLE XX—HOMELAND SECURITY GRANTS

* * * * *

Subtitle A—Grants to States and High-Risk Urban Areas

* * * * *

SEC. 2008. USE OF FUNDS.

(a) **PERMITTED USES.**—The Administrator shall permit the recipient of a grant under section 2003 or 2004 to use grant funds to achieve target capabilities related to preventing, preparing for, protecting against, and responding to acts of terrorism, consistent with a State homeland security plan and relevant local, tribal, and regional homeland security plans, through—

(1) * * *

* * * * *

(10) enhancing medical preparedness, medical surge capacity, and mass prophylaxis capabilities, including the development and maintenance of an initial pharmaceutical stockpile, including medical kits, and diagnostics sufficient to protect first responders, their families, immediate victims, and vulnerable populations from a chemical or biological event;

[(10)] *(11) paying salaries and benefits for personnel, including individuals employed by the grant recipient on the date of the relevant grant application, to serve as qualified intelligence analysts, regardless of whether such analysts are current or new full-time employees or contract employees;*

[(11)] *(12) paying expenses directly related to administration of the grant, except that such expenses may not exceed 3 percent of the amount of the grant;*

[(12)] *(13) any activity permitted under the Fiscal Year 2007 Program Guidance of the Department for the State Homeland Security Grant Program, the Urban Area Security Initiative (including activities permitted under the full-time counterterrorism staffing pilot), or the Law Enforcement Terrorism Prevention Program; and*

[(13)] *(14) any other appropriate activity, as determined by the Administrator.*

(b) **LIMITATIONS ON USE OF FUNDS.**—

(1) * * *

* * * * *

(3) **LIMITATIONS ON DISCRETION.**—

(A) * * *

(B) ANALYSTS.—If amounts awarded to a grant recipient under section 2003 or 2004 are used for paying salary or benefits of a qualified intelligence analyst under subsection ~~[(a)(10)]~~ (a)(11), the Administrator shall make such amounts available without time limitations placed on the period of time that the analyst can serve under the grant.

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