

116TH CONGRESS  
2D SESSION

# S. 3921

To require the Federal Government to provide critical health care resources  
in response to the COVID–19 pandemic.

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IN THE SENATE OF THE UNITED STATES

JUNE 9, 2020

Mr. SANDERS introduced the following bill; which was read twice and referred  
to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To require the Federal Government to provide critical health  
care resources in response to the COVID–19 pandemic.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Emergency Medical  
5       Supplies Procurement Act”.

6       **SEC. 2. FEDERAL PROVISION OF CRITICAL HEALTH CARE**  
7       **RESOURCES.**

8       (a) **REQUIREMENT TO PROVIDE CRITICAL HEALTH**  
9       **CARE RESOURCES.—**

1           (1) IN GENERAL.—The President, acting  
2 through the Administrator of the Federal Emer-  
3 gency Management Agency, and in consultation with  
4 the Secretary of Health and Human Services and  
5 the head of any other relevant Federal agency, shall  
6 fulfill, to the greatest extent possible and with due  
7 urgency, according to need, all requests from States  
8 for critical health care resources that are required to  
9 support medical providers, treat patients, or promote  
10 the general well-being in response to, or to recover  
11 from, the outbreak of COVID–19.

12           (2) USE OF AUTHORITIES.—To carry out para-  
13 graph (1), the President shall make use of any and  
14 all available authorities at the disposal of the Fed-  
15 eral Government to procure, manufacture, and sup-  
16 port the manufacturing of critical health care re-  
17 sources, including emergency authorities such as the  
18 Defense Production Act of 1950 (50 U.S.C. 4511 et  
19 seq.), the National Emergencies Act (50 U.S.C.  
20 1601 et seq.), and the Robert T. Stafford Disaster  
21 Relief and Emergency Assistance Act (42 U.S.C.  
22 5121 et seq.).

23           (3) DETERMINATION OF EMERGENCY END  
24 DATE.—The Secretary of Health and Human Serv-

1       ices and the Administrator of the Federal Emer-  
2       gency Management Agency shall jointly—

3               (A) determine the date on which all re-  
4               quests from States for critical health care re-  
5               sources related to the outbreak of COVID–19  
6               are fulfilled or otherwise resolved, which shall  
7               not be earlier than the day after the date on  
8               which no new cases of COVID–19 are reported  
9               in the United States for a period of not less  
10              than 14 consecutive days; and

11             (B) promptly submit to Congress and the  
12             Secretary of the Treasury a certification indi-  
13             cating the date determined under subparagraph  
14             (A).

15       (b) REPORTS TO CONGRESS.—Not later than 7 days  
16       after the date of enactment of this Act, and every 7 days  
17       thereafter until the COVID–19 emergency end date, the  
18       Secretary of Health and Human Services and the Admin-  
19       istrator of the Federal Emergency Management Agency  
20       shall jointly submit to Congress a report on the implemen-  
21       tation of and activities authorized by this section, includ-  
22       ing information on—

23             (1) the use of funds;

24             (2) the number of requests received from States  
25       for critical health care resources, including the con-

1 tents of the requests and the dates on which the re-  
2 quests are received and fulfilled;

3 (3) if any State request received has not been  
4 fulfilled or has been partially fulfilled, the reasons  
5 why the request was not fully fulfilled;

6 (4) the distribution of critical health care re-  
7 sources by State, geographic area, and need;

8 (5) the criteria or methodology used to guide  
9 the prioritization of State requests and the distribu-  
10 tion of critical health care resources; and

11 (6) the sources of the critical health care re-  
12 sources provided to States, including the prices paid  
13 by the Federal Government for such critical health  
14 care resources and to which suppliers such amounts  
15 were paid.

16 (c) FUNDING; LIMITATIONS.—

17 (1) FUNDING.—There is appropriated, out of  
18 amounts in the Treasury not otherwise appropriated,  
19 for the fiscal year ending September 30, 2020, to re-  
20 main available until the COVID–19 emergency end  
21 date, \$75,000,000,000 to the Federal Emergency  
22 Management Agency to carry out this section.

23 (2) LIMITATION.—No funds made available  
24 under this section shall be provided to—

1 (A) any person who is a Federal elected of-  
2 ficial or serving in a Senior Executive Service  
3 position; or

4 (B) any entity that is controlled in whole  
5 or in part by a Federal elected official or serv-  
6 ing in a Senior Executive Service position.

7 (3) EMERGENCY DESIGNATION.—

8 (A) IN GENERAL.—The amounts provided  
9 under this section are designated as an emer-  
10 gency requirement pursuant to section 4(g) of  
11 the Statutory Pay-As-You-Go Act of 2010 (2  
12 U.S.C. 933(g)).

13 (B) DESIGNATION IN SENATE.—In the  
14 Senate, this section is designated as an emer-  
15 gency requirement pursuant to section 4112(a)  
16 of H. Con. Res. 71 (115th Congress), the con-  
17 current resolution on the budget for fiscal year  
18 2018.

19 (d) DEFINITIONS.—In this section—

20 (1) the term “COVID–19 emergency end date”  
21 means the date on which all requests from States for  
22 critical health care resources related to the outbreak  
23 of COVID–19 are fulfilled or otherwise resolved, as  
24 certified by the Administrator of the Federal Emer-

1 agency Management Agency and the Secretary of  
2 Health and Human Services under subsection (a)(3);

3 (2) the term “critical health care resources” in-  
4 cludes—

5 (A) personal protective equipment (such as  
6 surgical masks, N-95 respirator masks, sur-  
7 gical gowns, and face visors);

8 (B) ventilators;

9 (C) testing reagents and compounds;

10 (D) approved vaccines, therapeutics, diag-  
11 nostics, pharmaceuticals, small molecule active  
12 pharmaceutical ingredients, and other necessary  
13 drugs;

14 (E) ancillary medical supplies, and other  
15 applicable supplies required for the administra-  
16 tion of drugs, vaccines and other biological  
17 products, medical devices, and diagnostic tests;  
18 and

19 (F) other medical supplies or hospital in-  
20 frastructure, as necessary;

21 (3) the term “Senior Executive Service posi-  
22 tion” has the meaning given that term in section  
23 3132(a) of title 5, United States Code; and

24 (4) the term “State” means—

- 1 (A) each of the several States of the  
2 United States;
- 3 (B) the District of Columbia;
- 4 (C) the Commonwealth of Puerto Rico;
- 5 (D) Guam;
- 6 (E) American Samoa;
- 7 (F) the Commonwealth of the Northern  
8 Mariana Islands;
- 9 (G) the Federated States of Micronesia;
- 10 (H) the Republic of the Marshall Islands;
- 11 (I) the Republic of Palau;
- 12 (J) the United States Virgin Islands; and
- 13 (K) an Indian tribe, as defined in section  
14 4(e) of the Indian Self-Determination and Edu-  
15 cation Assistance Act (25 U.S.C. 5304(e)).

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