118TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
118–523

SECURING AMERICA'S VACCINES FOR EMERGENCIES ACT OF 2023

MAY 23, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MCHENRY, from the Committee on Financial Services, submitted the following

R E P O R T

[To accompany H.R. 555]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 555) to amend the Defense Production Act of 1950 to ensure the supply of certain medical materials essential to national defense, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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 "Securing America's Vaccines for Emergencies Act of 2023" or the "SAVE Act of 2023".

SEC. 2. SECURING ESSENTIAL MEDICAL MATERIALS.

(a) STATEMENT OF POLICY.—Section 2(b) of the Defense Production Act of 1950 (50 U.S.C. 4502) is amended—

(1) by redesignating paragraphs (3) through (8) as paragraphs (4) through (9), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) authorities under this Act should be used when appropriate to ensure the availability of medical materials essential to national defense, including through measures designed to secure the drug supply chain, and taking into consideration the importance of United States competitiveness, scientific leadership and cooperation, and innovative capacity;".

(b) STRENGTHENING DOMESTIC CAPABILITY.—Section 107 of the Defense Production Act of 1950 (50 U.S.C. 4517) is amended—

(1) in subsection (a), by inserting "(including medical materials)" after "materials"; and

(2) in subsection (b)(1), by inserting "(including medical materials such as drugs (as defined under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.)), devices, and biological products (as that term is defined in section

351 of the Public Health Service Act (42 U.S.C. 262)) to diagnose, cure, mitigate, treat, or prevent disease that are essential to national defense)" after "essential materials".

(c) STRATEGY ON SECURING SUPPLY CHAINS FOR MEDICAL MATERIALS.—Title I of the Defense Production Act of 1950 (50 U.S.C. 4511 et seq.) is amended by adding at the end the following:

"SEC. 109. STRATEGY ON SECURING SUPPLY CHAINS FOR MEDICAL MATERIALS.

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the President, in consultation with the Secretary of Health and Human Services, the Secretary of Commerce, the Secretary of Homeland Security, and the Secretary of Defense, shall transmit a strategy to the appropriate Members of Congress that includes the following:

"(1) A detailed plan to use the authorities under this title and title III, or any other provision of law, to ensure the supply of medical materials (including drugs (as defined under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.)), devices, and biological products (as that term is defined in section 351 of the Public Health Service Act (42 U.S.C. 262)) to diagnose, cure, mitigate, treat, or prevent disease) essential to national defense, to the extent necessary for the purposes of this Act.

"(2) An analysis of vulnerabilities to existing supply chains for such medical materials, and recommendations to address the vulnerabilities.

"(3) Measures to be undertaken by the President to diversify such supply chains, as appropriate and as required for national defense.

"(4) A discussion of—

"(A) any significant effects resulting from the plan and measures described in this subsection on the production, cost, or distribution of biological products or any other devices or drugs;

"(B) a timeline to ensure that essential components of the supply chain for medical materials are not under the exclusive control of a foreign government in a manner that the President determines could threaten the national defense of the United States; and

"(C) efforts to mitigate any risks resulting from the plan and measures described in this subsection to United States competitiveness, scientific leadership, and innovative capacity, including efforts to cooperate and proactively engage with United States allies.

"(b) PROGRESS REPORT.—Following submission of the strategy under subsection (a), the President shall submit to the appropriate Members of Congress an annual progress report until September 30, 2027, evaluating the implementation of the strategy, and may include updates to the strategy as appropriate. The strategy and progress reports shall be submitted in unclassified form but may contain a classified annex.

"(c) APPROPRIATE MEMBERS OF CONGRESS.—In this section, the term 'appropriate Members of Congress' means the Speaker, majority leader, and minority leader of the House of Representatives, the majority leader and minority leader of the Senate, the Chairman and Ranking Member of the Committee on Financial Services of the House of Representatives, and the Chairman and Ranking Member of the Committee on Banking, Housing, and Urban Affairs of the Senate.".

SEC. 3. INVESTMENT IN SUPPLY CHAIN SECURITY.

(a) IN GENERAL.—Section 303 of the Defense Production Act of 1950 (50 U.S.C. 4533) is amended by adding at the end the following:

"(h) INVESTMENT IN SUPPLY CHAIN SECURITY.—

"(1) IN GENERAL.—In addition to other authorities in this title, the President may make available to an eligible entity described in paragraph (2) payments to increase the security of supply chains and supply chain activities, if the President certifies to Congress not less than 30 days before making such a payment that the payment is critical to meet national defense requirements of the United States.

"(2) ELIGIBLE ENTITY.—An eligible entity described in this paragraph is an entity that—

"(A) is organized under the laws of the United States or any jurisdiction within the United States; and

"(B) produces—

"(i) one or more critical components;

"(ii) critical technology; or

"(iii) one or more products or raw materials for the security of supply chains or supply chain activities.

"(3) DEFINITIONS.—In this subsection, the terms 'supply chain' and 'supply chain activities' have the meanings given those terms by the President by regulation.".

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the President shall prescribe regulations setting forth definitions for the terms "supply chain" and "supply chain activities" for the purposes of section 303(h) of the Defense Production Act of 1950 (50 U.S.C. 4533(h)), as added by subsection (a).

(2) SCOPE OF DEFINITIONS.—The definitions required by paragraph (1)—

(A) shall encompass—

(i) the organizations, people, activities, information, and resources involved in the delivery and operation of a product or service used by the Government; or

(ii) critical infrastructure as defined in Presidential Policy Directive 21 (February 12, 2013; relating to critical infrastructure security and resilience); and

(B) may include variations as determined necessary and appropriate by the President for purposes of national defense.

PURPOSE AND SUMMARY

Introduced on January 26, 2023, by Representative French Hill, H.R. 555, the *Securing America's Vaccines for Emergencies Act of 2023 (SAVE Act),* would amend sections of the Defense Production Act (DPA) (50 U.S.C. § 4501–4568) to authorize the President to make payments to manufacturers to ensure the availability of medical materials important to the national defense. It would also require the President to submit a strategy to Congress that includes (1) a plan to use authorities under the Defense Production Act of 1950 to ensure the supply of medical materials essential to the national defense; and (2) plans to diversify, and address vulnerabilities in, supply chains for essential medical materials. Finally, it requires the President to submit to Congress annual progress reports through FY2025 evaluating the implementation of the strategy. By limiting the strategy to national defense, the *SAVE Act* would also help prevent the DPA from being abused for unrelated purposes. Further, the *SAVE Act* would require any strategy to consider potential tradeoffs between DPA and risks to U.S. competitiveness and innovation. These considerations will help the U.S. be better prepared for future emergencies that undermine national security.

BACKGROUND AND NEED FOR LEGISLATION

The DPA allows the President to require companies to prioritize and accept contracts to meet national defense requirements. The DPA also allows for the President to incentivize production through loans, loan guarantees, and purchase commitments. The COVID–19 pandemic underscored the potential for infectious disease to undermine U.S. national security interests. Together with Operation Warp Speed, the previous Administration used the DPA 18 times to accelerate the delivery of COVID–19 therapeutics and related equipment. The DPA allowed the Administration to prioritize contracts with medical suppliers. While the previous Administration's invocation of the DPA was welcomed during the pandemic, there is no broader government strategy on the appropriate use of the DPA to address critical health emergencies, including its use to diversify medical supply chains away from China. This lack of clarity was the impetus for the *SAVE Act.*

HEARING

Pursuant to clause 3(c)(6) of rule XIII, the following hearing was used to develop H.R. 555: The Committee on Financial Services held a hearing on February 7, 2023, titled: "Combatting the Economic Threat from China."

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on February 28, 2023, and ordered H.R. 555 to be reported favorably to the House as amended by a recorded vote of 33 ayes to 1 nay (Record vote no. FC–22), a quorum being present. Before the question was called to order the bill favorably reported, the Committee adopted an amendment in the nature of a substitute offered by Mr. Hill by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the order to report legislation and amendments thereto. H.R. 555 was ordered favorably reported to the House as amendment by a recorded vote of 33 ayes to 1 nay (Record vote no. FC–22), a quorum being present.

Record vote no. FC-22

Representative	Yea	Nay	Present
Mr. McHenry	X		
Mr. Hill	X		
Mr. Lucas			
Mr. Sessions	X		
Mr. Posey	X		
Mr. Luetkemeyer	X		
Mr. Huizenga			
Mrs. Wagner	X		
Mr. Barr	X		
Mr. Williams (TX)			
Mr. Emmer			
Mr. Loudermilk			
Mr. Mooney	X		
Mr. Davidson			
Mr. Rose	X		
Mr. Steil			
Mr. Timmons	X		
Mr. Norman		X	
Mr. Meuser	X		
Mr. Fitzgerald	X		
Mr. Garbarino			
Mrs. Kim	X		
Mr. Donalds	X		
Mr. Flood	X		
Mr. Lawler	X		
Mr. Nunn	X		
Ms. De La Cruz	X		
Mrs. Houchin	X		
Mr. Ogles			

Representative	Yea	Nay	Present
Ms. Waters	X		
Mrs. Velázquez			
Mr. Sherman	X		
Mr. Meeks			
Mr. Scott			
Mr. Lynch			
Mr. Green	X		
Mr. Cleaver			
Mr. Himes			
Mr. Foster	X		
Mrs. Beatty	X		
Mr. Vargas	X		
Mr. Gottheimer	X		
Mr. Gonzalez			
Mr. Casten	X		
Ms. Pressley	X		
Mr. Horsford	X		
Ms. Tlaib	X		
Mr. Torres	X		
Ms. Garcia			
Ms. Williams (GA)	X		
Mr. Nickel			
Ms. Pettersen	X		

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c) of rule XIII of the Rules of the House of Representatives, 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.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goal of H.R. 555 is to help the U.S. be better prepared for future emergencies that undermine national security.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(d)(1) of House rule XIII, 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.

H.R. 555, Securing America's Vaccines for Emergencies Act of 2023
As ordered reported by the House Committee on Financial Services on February 28, 2023

By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	17	not estimated

Increases *net direct spending* in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases *on-budget deficits* in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	Excluded from UMRA
		Contains private-sector mandate?	Excluded from UMRA

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1973.

FEDERAL MANDATES STATEMENT

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

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.

EARMARK IDENTIFICATION

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of the Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Sec. 1: Short title

This Act may be cited as the "Securing America's Vaccines for Emergencies Act of 2023" or the "SAVE Act of 2023".

Sec. 2: Securing essential medical materials

This Section amends the DPA's statement of policy to specify the availability of medical materials is essential to national defense.

Sec. 3: Investment in supply chain security

This Section requires the President to submit a strategy to employ the DPA to secure medical supplies essential for national defense, identify vulnerabilities to the medical supply chain, and work to diversify the supply chain so that key elements are not under the exclusive control of adversarial governments. Finally, the bill requires progress updates to Congress on implementation of the strategy.

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