

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 1166  
OFFERED BY MR. VARGAS OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Public Health Emer-  
3 gency Medical Supplies Enhancement Act of 2023”.

**4 SEC. 2. PUBLIC HEALTH EMERGENCIES.**

5 (a) FUTURE PREPAREDNESS FOR HEALTH EMER-  
6 GENCIES.—Section 702(14) of the Defense Production  
7 Act of 1950 is amended by striking “and critical infra-  
8 structure protection and restoration” and inserting “, crit-  
9 ical infrastructure protection and restoration, and public  
10 health emergency preparedness and response activities”.

11 (b) PUBLIC HEALTH EMERGENCY.—The Defense  
12 Production Act of 1950 (50 U.S.C. 4501 et seq.) is  
13 amended by inserting after section 711 the following:

**14 “SEC. 712. PUBLIC HEALTH EMERGENCIES.**

15 “(a) SCARCE AND CRITICAL MATERIALS.—During a  
16 public health emergency, any medical equipment or sup-  
17 plies determined by the Secretary of Health and Human  
18 Services or the Secretary of Homeland Security to be

1 scarce and critical materials essential to the national de-  
2 fense for purposes of section 101 may be deemed by the  
3 President to be a scarce and critical material essential to  
4 the national defense for purposes of section 101 and other-  
5 wise meet the requirements of section 101(b), and funds  
6 available to implement this Act may be used for the pur-  
7 chase, production (including the construction, repair, and  
8 retrofitting of government-owned facilities as necessary),  
9 or distribution of such medical equipment or supplies.

10 “(b) EXERCISE OF TITLE I AUTHORITIES IN RELA-  
11 TION TO CONTRACTS BY STATE, LOCAL, OR TRIBAL GOV-  
12 ERNMENTS.—In exercising authorities under title I during  
13 a public health emergency, the President (and any officer  
14 or employee of the United States to which authorities  
15 under such title I have been delegated)—

16 “(1) may exercise the prioritization or alloca-  
17 tion authority provided in such title I to exclude any  
18 materials or supplies described in subsection (a) or-  
19 dered by a State, local, or Tribal government that  
20 are scheduled to be delivered within 15 days of the  
21 time at which—

22 “(A) the purchase order or contract by the  
23 Federal Government for such materials or sup-  
24 plies is made; or

1           “(B) the materials or supplies are other-  
2           wise allocated by the Federal Government  
3           under the authorities contained in this Act; and

4           “(2) shall, within 24 hours of any exercise of  
5           the prioritization or allocation authority provided in  
6           such title I—

7           “(A) to the extent practicable notify any  
8           State, local, or Tribal government if the Presi-  
9           dent determines that the exercise of such au-  
10          thorities would delay the receipt of such mate-  
11          rials or supplies ordered by such government;  
12          and

13          “(B) take such steps as may be necessary,  
14          and as authorized by law, to ensure that such  
15          materials or supplies ordered by such govern-  
16          ment are delivered in the shortest possible pe-  
17          riod, consistent with the purposes of this Act.

18          “(c) ENGAGEMENT WITH THE PRIVATE SECTOR.—

19          “(1) OUTREACH REPRESENTATIVE.—Consistent  
20          with the authorities in this title VII, the Adminis-  
21          trator of the Federal Emergency Management Agen-  
22          cy, in consultation with the Secretary of Health and  
23          Human Services, may designate or appoint, pursu-  
24          ant to section 703, an individual to be known as the

1       ‘Outreach Representative’ for any public health  
2       emergency. Such individual shall—

3               “(A) be appointed from among individuals  
4               with substantial experience in the production or  
5               distribution of medical supplies or equipment;  
6               and

7               “(B) act as the Government-wide single  
8               point of contact during the public health emer-  
9               gency for outreach to manufacturing companies  
10              and their suppliers who may be interested in  
11              producing medical supplies or equipment, in-  
12              cluding the materials described under sub-  
13              section (a).

14             “(2) ENCOURAGING PARTNERSHIPS.—During a  
15             public health emergency, the Outreach Representa-  
16             tive shall seek to develop partnerships between com-  
17             panies, in coordination with any overall coordinator  
18             appointed by the President to oversee the response  
19             to the public health emergency, including through  
20             the exercise of the authorities delegated by the  
21             President under section 708.

22             “(d) ENHANCEMENT OF SUPPLY CHAIN PRODUC-  
23             TION.—In exercising authority under title III during a  
24             public health emergency with respect to materials de-  
25             scribed in subsection (a), the President shall seek to en-

1 sure that support is provided to companies that comprise  
2 the supply chains for reagents, components, raw materials,  
3 and other materials and items necessary to produce or use  
4 the materials described in subsection (a), if applicable, to  
5 the extent necessary for the national defense during the  
6 public health emergency.

7 “(e) ENHANCED REPORTING DURING A PUBLIC  
8 HEALTH EMERGENCY.—

9 “(1) IN GENERAL.—Not later than 90 days  
10 after the use of authorities under this Act with re-  
11 spect to a public health emergency, and every 120  
12 days thereafter until the termination of such public  
13 health emergency, the President, in consultation  
14 with the Administrator of the Federal Emergency  
15 Management Agency, the Secretary of Defense, and  
16 the Secretary of Health and Human Services, shall  
17 submit to the appropriate congressional committees  
18 a report on the exercise of authorities under titles I,  
19 III, and VII with respect to the public health emer-  
20 gency.

21 “(2) CONTENTS.—Each report required under  
22 paragraph (1) shall include the following:

23 “(A) IN GENERAL.—With respect to each  
24 exercise of such authority—

1 “(i) an explanation of the purpose of  
2 the applicable contract, purchase order, or  
3 other exercise of authority (including an  
4 allocation of materials, services, and facili-  
5 ties under section 101(a)(2));

6 “(ii) the cost of such exercise of au-  
7 thority; and

8 “(iii) if applicable—

9 “(I) the amount of goods that  
10 were purchased or allocated;

11 “(II) an identification of the enti-  
12 ty awarded a contract or purchase  
13 order or that was the subject of the  
14 exercise of authority; and

15 “(III) an identification of any en-  
16 tity that had shipments delayed by the  
17 exercise of any authority under this  
18 Act.

19 “(B) CONSULTATIONS.—A description of  
20 any consultations conducted with relevant  
21 stakeholders on the needs addressed by the ex-  
22 ercise of the authorities described in paragraph  
23 (1).

24 “(3) UPDATE.—The President shall provide an  
25 additional briefing to the appropriate congressional

1 committees on the matters described under para-  
2 graph (2) no later than four months after the sub-  
3 mission of each report.

4 “(f) DEFINITIONS.—In this section:

5 “(1) APPROPRIATE CONGRESSIONAL COMMIT-  
6 TEES.—The term ‘appropriate congressional com-  
7 mittees’ means the Committees on Appropriations,  
8 Armed Services, Energy and Commerce, Financial  
9 Services, and Homeland Security of the House of  
10 Representatives and the Committees on Appropria-  
11 tions, Armed Services, Banking, Housing, and  
12 Urban Affairs, Health, Education, Labor, and Pen-  
13 sions, Homeland Security and Governmental Affairs,  
14 and Veterans’ Affairs of the Senate.

15 “(2) PUBLIC HEALTH EMERGENCY.—The term  
16 ‘public health emergency’ means a public health  
17 emergency determined pursuant to section 319 of  
18 the Public Health Service Act (42 U.S.C. 247d).

19 “(3) RELEVANT STAKEHOLDER.—The term  
20 ‘relevant stakeholder’ means—

21 “(A) representative private sector entities;

22 “(B) representatives of the nonprofit sec-  
23 tor;

24 “(C) representatives of primary and sec-  
25 ondary school systems; and

1           “(D) representatives of organizations rep-  
2           resenting workers, including health workers,  
3           manufacturers, teachers, other public sector  
4           employees, and service sector workers.

5           “(4) STATE.—The term ‘State’ means each of  
6           the several States, the District of Columbia, the  
7           Commonwealth of Puerto Rico, and any territory or  
8           possession of the United States.”.

9           (c) UPDATE TO FEDERAL REGULATIONS.—

10           (1) DPAS.—Not later than 30 days after the  
11           date of enactment of this Act, the Defense Property  
12           Accountability System regulations (15 C.F.R. part  
13           700) shall be revised to reflect the requirements of  
14           section 712(b) of the Defense Production Act of  
15           1950.

16           (2) FAR.—Not later than 30 days after the re-  
17           visions required by paragraph (1) are made, the  
18           Federal Acquisition Regulation shall be revised to  
19           reflect the requirements of section 712(b) of the De-  
20           fense Production Act of 1950, consistent with the  
21           revisions made pursuant to paragraph (1).

22           **SEC. 3. REPORT ON ACTIVITIES INVOLVING SMALL BUSI-**  
23           **NESS.**

24           The report required by section 304(f)(3) of the De-  
25           fense Production Act of 1950 (50 U.S.C. 4534(f)(3)) with



1 respect to fiscal years 2023 and 2024 shall include the  
2 percentage of contracts awarded using funds to carry out  
3 the Defense Production Act of 1950 for each of the fiscal  
4 years 2023 and 2024, respectively, to small business con-  
5 cerns (as defined under section 702 of such Act).

