

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—116th Cong., 2d Sess.

S. 4210

To amend the Homeland Security Act of 2002 to authorize the transfer of certain equipment during a public health emergency, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. JOHNSON (for himself and Mr. PETERS)

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Securing Healthcare
5 and Response Equipment Act of 2020” or the “SHARE
6 Act of 2020”.

7 **SEC. 2. TRANSFER OF EQUIPMENT DURING A PUBLIC**
8 **HEALTH EMERGENCY.**

9 (a) AMENDMENT.—Title V of the Homeland Security
10 Act of 2002 (6 U.S.C. 311) is amended by adding at the
11 end the following:

1 **“SEC. 529. TRANSFER OF EQUIPMENT DURING A PUBLIC**
2 **HEALTH EMERGENCY.**

3 “(a) AUTHORIZATION OF TRANSFER OF EQUIP-
4 MENT.—During a public health emergency declared by the
5 Secretary of Health and Human Services under section
6 319(a) of the Public Health Service Act (42 U.S.C.
7 247d(a)), the Secretary, at the request of the Secretary
8 of Health and Human Services, may transfer to the De-
9 partment of Health and Human Services, on a reimburs-
10 able basis, excess personal protective equipment or medi-
11 cally necessary equipment in the possession of the Depart-
12 ment.

13 “(b) DETERMINATION BY SECRETARIES.—

14 “(1) IN GENERAL.—In carrying out this sec-
15 tion—

16 “(A) before requesting a transfer under
17 subsection (a), the Secretary of Health and
18 Human Services shall determine whether the
19 personal protective equipment or medically nec-
20 essary equipment is otherwise available; and

21 “(B) before initiating a transfer under
22 subsection (a), the Secretary, in consultation
23 with the heads of each component within the
24 Department of Homeland Security, shall—

25 “(i) determine whether the personal
26 protective equipment or medically nec-

1 essary equipment requested to be trans-
2 ferred under subsection (a) is excess equip-
3 ment; and

4 “(ii) certify that the transfer of the
5 personal protective equipment or medically
6 necessary equipment will not adversely im-
7 pact the health or safety of officers, em-
8 ployees, or contractors of the Department
9 of Homeland Security.

10 “(2) NOTIFICATION.—The Secretary of Health
11 and Human Services and the Secretary shall each
12 submit to Congress a notification explaining the de-
13 termination made under subparagraphs (A) and (B),
14 respectively, of paragraph (1).

15 “(3) REQUIRED INVENTORY.—

16 “(A) IN GENERAL.—The Secretary shall—

17 “(i) acting through the Chief Medical
18 Officer of the Department, maintain an in-
19 ventory of all personal protective equip-
20 ment and medically necessary equipment in
21 the possession of the Department; and

22 “(ii) make the inventory required
23 under clause (i) available, on a continual
24 basis, to—

1 “(I) the Secretary of Health and
2 Human Services; and

3 “(II) the Committee on Appro-
4 priations and the Committee on
5 Homeland Security and Governmental
6 Affairs of the Senate and the Com-
7 mittee on Appropriations and the
8 Committee on Homeland Security of
9 the House of Representatives.

10 “(B) FORM.—Each inventory required to
11 be made available under subparagraph (A) shall
12 be submitted in unclassified form, but may in-
13 clude a classified annex.”.

14 (b) TABLE OF CONTENTS AMENDMENT.—The table
15 of contents in section 1(b) of the Homeland Security Act
16 of 2002 (Public Law 107–296; 116 Stat. 2135) is amend-
17 ed by inserting after the item relating to section 528 the
18 following:

 “Sec. 529. Transfer of equipment during a public health emergency.”.

19 (c) STRATEGIC NATIONAL STOCKPILE.—Section
20 319F–2(a) of the Public Health Service Act (42 U.S.C.
21 247d–6b(a)) is amended by adding at the end the fol-
22 lowing:

23 “(6) TRANSFERS OF ITEMS.—The Secretary, in
24 coordination with the Secretary of Homeland Secu-
25 rity, may sell drugs, vaccines and other biological

1 products, medical devices, or other supplies main-
2 tained in the stockpile under paragraph (1) to a
3 Federal agency or private, nonprofit, State, local,
4 tribal, or territorial entity for immediate use and
5 distribution, provided that any such items being sold
6 are—

7 “(A) within 1 year of their expiration date;

8 or

9 “(B) determined by the Secretary to no
10 longer be needed in the stockpile due to ad-
11 vances in medical or technical capabilities.”.