

116TH CONGRESS
2D SESSION

H. R. 7527

To rescue domestic medical manufacturing activity by providing incentives in economically distressed areas of the United States and its possessions.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2020

Miss GONZÁLEZ-COLÓN of Puerto Rico (for herself, Mr. SERRANO, Mr. BISHOP of Utah, Ms. SHALALA, Mr. KING of New York, and Mr. SOTO) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To rescue domestic medical manufacturing activity by providing incentives in economically distressed areas of the United States and its possessions.

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 “Medical Manufac-
5 turing, Economic Development, and Sustainability Act of
6 2020” or the “MMEDS Act of 2020”.

1 **SEC. 2. ECONOMICALLY DISTRESSED ZONES.**

2 (a) IN GENERAL.—Chapter 1 of the Internal Rev-
 3 enue Code of 1986 is amended by adding at the end the
 4 following new subchapter:

5 **“Subchapter AA—Medical Manufacturing in**
 6 **Economically Distressed Zones**

“SUBCHAPTER AA—MEDICAL MANUFACTURING IN ECONOMICALLY DISTRESSED
 ZONES

“Sec. 1400AA-1. Medical manufacturing in economically distressed zone credit.

“Sec. 1400AA-2. Credit for economically distressed zone products and services
 acquired by domestic medical manufacturers.

“Sec. 1400AA-3. Special rules to secure the national supply chain and for the
 production of population health products.

“Sec. 1400AA-4. Designation of economically distressed zones.

7 **“SEC. 1400AA-1. MEDICAL MANUFACTURING IN ECONOMI-**
 8 **CALLY DISTRESSED ZONE CREDIT.**

9 “(a) ALLOWANCE OF CREDIT.—There shall be al-
 10 lowed as a credit against the tax imposed by subtitle A
 11 for the taxable year an amount equal 40 percent of the
 12 sum of—

13 “(1) the aggregate amount of the taxpayer’s
 14 medical manufacturing economically distressed zone
 15 wages for such taxable year,

16 “(2) the allocable employee fringe benefit ex-
 17 penses of the taxpayer for such taxable year, and

18 “(3) the depreciation and amortization allow-
 19 ances of the taxpayer for the taxable year with re-
 20 spect to qualified medical manufacturing facility
 21 property.

1 “(b) DENIAL OF DOUBLE BENEFIT.—Any wages or
2 other expenses taken into account in determining the cred-
3 it under this section may not be taken into account in de-
4 termining the credit under sections 41, and any other pro-
5 vision determined by the Secretary to be substantially
6 similar.

7 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
8 poses of this section—

9 “(1) ECONOMICALLY DISTRESSED ZONE
10 WAGES.—

11 “(A) IN GENERAL.—The term ‘economi-
12 cally distressed zone wages’ means amounts
13 paid or incurred for wages of an employee by
14 the taxpayer for the taxable year which are—

15 “(i) in connection with the active con-
16 duct of a trade or business of the taxpayer,
17 and

18 “(ii) the principal place of employ-
19 ment of whom is in a qualified medical
20 manufacturing facility of such taxpayer.

21 “(B) LIMITATION ON AMOUNT OF WAGES
22 TAKEN INTO ACCOUNT.—

23 “(i) IN GENERAL.—The amount of
24 wages which may be taken into account
25 under subparagraph (A) with respect to

1 any employee for any taxable year shall
2 not exceed the contribution and benefit
3 base determined under section 230 of the
4 Social Security Act for the calendar year
5 in which such taxable year begins.

6 “(ii) TREATMENT OF PART-TIME EM-
7 PLOYEES, ETC.—If—

8 “(I) any employee is not em-
9 ployed by the taxpayer on a substan-
10 tially full-time basis at all times dur-
11 ing the taxable year, or

12 “(II) the principal place of em-
13 ployment of any employee is not with-
14 in an economically distressed zone at
15 all times during the taxable year,
16 the limitation applicable under clause (i)
17 with respect to such employee shall be the
18 appropriate portion (as determined by the
19 Secretary) of the limitation which would
20 otherwise be in effect under clause (i).

21 “(C) TREATMENT OF CERTAIN EMPLOY-
22 EES.—The term ‘economically distressed zone
23 wages’ shall not include any wages paid to em-
24 ployees who are assigned by the employer to
25 perform services for another person, unless the

1 principal trade or business of the employer is to
2 make employees available for temporary periods
3 to other persons in return for compensation.

4 “(2) ALLOCABLE EMPLOYEE FRINGE BENEFIT
5 EXPENSES.—

6 “(A) IN GENERAL.—The term ‘allocable
7 employee fringe benefit expenses’ means the ag-
8 gregate amount allowable as a deduction under
9 this chapter to the taxpayer for the taxable year
10 for the following amounts which are allocable to
11 employment in a qualified medical manufac-
12 turing facility:

13 “(i) Employer contributions under a
14 stock bonus, pension, profit-sharing, or an-
15 nuity plan.

16 “(ii) Employer-provided coverage
17 under any accident or health plan for em-
18 ployees.

19 “(iii) The cost of life or disability in-
20 surance provided to employees.

21 “(B) ALLOCATION.—For purposes of sub-
22 paragraph (A), an amount shall be treated as
23 allocable to a qualified medical manufacturing
24 facility only if such amount is with respect to
25 employment of an individual for services pro-

1 vided, and the principal place of employment of
2 whom is, in such facility.

3 “(3) QUALIFIED MEDICAL MANUFACTURING FA-
4 CILITY.—The term ‘qualified medical manufacturing
5 facility’ means any facility that—

6 “(A) researches and develops or produces
7 medical products, and

8 “(B) is located within an economically dis-
9 tressed zone.

10 “(4) QUALIFIED MEDICAL MANUFACTURING FA-
11 CILITY PROPERTY.—The term ‘qualified medical
12 manufacturing facility property’ means any property
13 used in (or consisting of) a qualified medical manu-
14 facturing facility if such property is directly con-
15 nected to the research, development, or production
16 of a medical product.

17 “(5) MEDICAL PRODUCT.—The term ‘medical
18 product’ means—

19 “(A) any prescription pharmaceutical
20 which—

21 “(i) is subject to regulation under—

22 “(I) section 505 of the Federal
23 Food, Drug, and Cosmetic Act (21
24 U.S.C. 355),

1 “(II) section 802 of such Act (21
2 U.S.C. 382), or

3 “(III) section 351 of the Public
4 Health Service Act (42 U.S.C. 262),
5 or

6 “(ii) is described in section 201(jj) of
7 the Federal Food, Drug, and Cosmetic Act
8 (21 U.S.C. 321(jj)), or

9 “(B) any device (as that term is defined by
10 section 201(h) of the Federal Food, Drug, and
11 Cosmetic Act (21 U.S.C. 321(h))) or part
12 thereof.

13 “(6) AGGREGATION RULES.—

14 “(A) IN GENERAL.—For purposes of this
15 section, members of an affiliated group shall be
16 treated as a single taxpayer.

17 “(B) AFFILIATED GROUP.—The term ‘af-
18 filiated group’ means an affiliated group (as de-
19 fined in section 1504(a), determined without re-
20 gard to section 1504(b)(3)) one or more mem-
21 bers of which are engaged in the active conduct
22 of a trade or business within an economically
23 distressed zone.

1 **“SEC. 1400AA-2. CREDIT FOR ECONOMICALLY DISTRESSED**
2 **ZONE PRODUCTS AND SERVICES ACQUIRED**
3 **BY DOMESTIC MEDICAL MANUFACTURERS.**

4 “(a) ALLOWANCE OF CREDIT.—In the case of an eli-
5 gible medical manufacturer, there shall be allowed as a
6 credit against the tax imposed by subtitle A for the taxable
7 year an amount equal to the applicable percentage of the
8 aggregate amounts paid or incurred by the taxpayer dur-
9 ing such taxable year for qualified economically distressed
10 zone products or services.

11 “(b) APPLICABLE PERCENTAGE.—For purposes of
12 this section, the term applicable percentage means—

13 “(1) 30 percent in the case of amounts paid or
14 incurred to persons not described in paragraph (2)
15 or (3),

16 “(2) 40 percent in the case of amounts paid or
17 incurred to an unrelated minority business, and

18 “(3) 5 percent in the case of amounts paid or
19 incurred to a related person.

20 “(c) ELIGIBLE MEDICAL MANUFACTURER.—For
21 purposes of this section, the term ‘eligible medical manu-
22 facturer’ means any person in the trade or business of pro-
23 ducing medical products in the United States.

24 “(d) QUALIFIED PRODUCT OR SERVICE.—For pur-
25 poses of this section, the term ‘qualified product or service’
26 means—

1 “(1) any product which is produced in an eco-
2 nomicallly distressed zone and which is integrated
3 into a medical product produced by the taxpayer,
4 and

5 “(2) any service which is provided in an eco-
6 nomicallly distressed zone and which is necessary to
7 the production of a medical product by the taxpayer
8 (including packaging).

9 “(e) MINORITY BUSINESS.—For purposes of this sec-
10 tion—

11 “(1) IN GENERAL.—The term ‘minority busi-
12 ness’ means—

13 “(A) a sole proprietorship carried on by a
14 qualified individual, or

15 “(B) a corporation or partnership—

16 “(i) at least 50 percent of the owner-
17 ship interests in which are held by one or
18 more qualified individuals, and

19 “(ii) of which a qualified individual is
20 the president or chief executive officer (or
21 a substantially equivalent position).

22 “(2) QUALIFIED INDIVIDUAL.—The term ‘quali-
23 fied individual’ means any individual who—

1 “(B) by substituting ‘60 percent’ for ‘40
2 percent’.

3 “(b) ELECTION TO EXPENSE IN LIEU OF TAX CRED-
4 IT FOR DEPRECIATION.—In the case of a taxpayer which
5 elects (at such time and in such manner as the Secretary
6 may provide) the application of this subsection with re-
7 spect to any qualified repatriated medical manufacturing
8 facility or qualified population health product manufac-
9 turing facility—

10 “(1) section 1400AA–1(a)(3) shall not apply
11 with respect to any qualified medical manufacturing
12 facility property with respect to such facility, and

13 “(2) for purposes of section 168(k)—

14 “(A) such property shall be treated as
15 qualified property, and

16 “(B) the applicable percentage with respect
17 to such property shall be 100 percent.

18 “(c) QUALIFIED REPATRIATED MEDICAL MANUFAC-
19 TURING FACILITY.—For purposes of this section, the term
20 ‘qualified repatriated medical manufacturing facility’
21 means any qualified medical manufacturing facility (as de-
22 fined in section 1400AA–1) the production of which was
23 moved to an economically distressed zone from a foreign
24 country that the United States Trade Representative has

1 determined could pose a risk to the national supply chain
 2 because of political or social factors.

3 “(d) **QUALIFIED POPULATION HEALTH PRODUCT**
 4 **MANUFACTURING FACILITY.**—For purposes of this sec-
 5 tion, the term ‘qualified population health product manu-
 6 facturing facility’ means any qualified medical manufac-
 7 turing facility (as defined in section 1400AA–1) that pro-
 8 duces a population health product (as defined in section
 9 319L(a)(11) of the Public Health Service Act) which the
 10 Secretary of Health and Human Services has identified
 11 for support through a strategic initiative under section
 12 319L(c)(4)(F)(ii) of the Public Health Service Act.

13 **“SEC. 1400AA–4. DESIGNATION OF ECONOMICALLY DIS-**
 14 **TRESSED ZONES.**

15 “(a) **IN GENERAL.**—For purposes of this subchapter,
 16 the term ‘economically distressed zone’ means any popu-
 17 lation census tract within the United States which—

18 “(1) has a poverty rate of not less than 35 per-
 19 cent for each of the 5 most recent calendar years for
 20 which information is available, or

21 “(2) satisfies each of the following require-
 22 ments:

23 “(A) has pervasive poverty, unemployment,
 24 low labor force participation, and general dis-
 25 tress measured as a prolonged period of eco-

1 nomic decline measured by real gross national
2 product,

3 “(B) has a poverty rate of not less than 30
4 percent for each of the 5 most recent calendar
5 years for which information is available, and

6 “(C) has been designated as such by the
7 Secretary and the Secretary of Commerce pur-
8 suant to an application under subsection (b).

9 “(b) APPLICATION FOR DESIGNATION.—

10 “(1) IN GENERAL.—An application for designa-
11 tion as an economically distressed zone may be filed
12 by a State or local government in which the popu-
13 lation census tract to which the application applies
14 is located.

15 “(2) REQUIREMENTS.—Such application shall
16 include a strategic plan for accomplishing the pur-
17 poses of this subchapter, which—

18 “(A) describes the coordinated economic,
19 human, community, and physical development
20 plan and related activities proposed for the
21 nominated area,

22 “(B) describes the process by which the af-
23 fected community is a full partner in the proc-
24 ess of developing and implementing the plan
25 and the extent to which local institutions and

1 organizations have contributed to the planning
2 process,

3 “(C) identifies the amount of State, local,
4 and private resources that will be available in
5 the nominated area and the private/public part-
6 nerships to be used, which may include partici-
7 pation by, and cooperation with, universities,
8 medical centers, and other private and public
9 entities,

10 “(D) identifies the funding requested
11 under any Federal program in support of the
12 proposed economic, human, community, and
13 physical development and related activities,

14 “(E) identifies baselines, methods, and
15 benchmarks for measuring the success of car-
16 rying out the strategic plan, including the ex-
17 tent to which poor persons and families will be
18 empowered to become economically self-suffi-
19 cient, and

20 “(F) does not include any action to assist
21 any establishment in relocating from one area
22 outside the nominated area to the nominated
23 area, except that assistance for the expansion of
24 an existing business entity through the estab-

1 lishment of a new branch, affiliate, or sub-
2 sidiary is permitted if—

3 “(i) the establishment of the new
4 branch, affiliate, or subsidiary will not re-
5 sult in a decrease in employment in the
6 area of original location or in any other
7 area where the existing business entity
8 conducts business operations,

9 “(ii) there is no reason to believe that
10 the new branch, affiliate, or subsidiary is
11 being established with the intention of clos-
12 ing down the operations of the existing
13 business entity in the area of its original
14 location or in any other area where the ex-
15 isting business entity conducts business op-
16 eration, and

17 “(iii) includes such other information
18 as may be required by the Secretary and
19 the Secretary of Commerce.

20 “(c) PERIOD FOR WHICH DESIGNATIONS ARE IN EF-
21 FECT.—Designation as an economically distressed zone
22 may be made at any time during the 10-year period begin-
23 ning on the date of the enactment of this section, and shall
24 remain in effect with respect to such zone during the 15-
25 year period beginning on the date of such designation.

1 Economically distressed zones described in subsection
2 (a)(1) shall take effect on the date of the enactment of
3 this Act and shall remain in effect during the 15-year pe-
4 riod beginning on such date.

5 “(d) TERRITORIES AND POSSESSIONS.—The term
6 ‘United States’ includes the 50 States, the District of Co-
7 lumbia, and the territories and possessions of the United
8 States.

9 “(e) REGULATIONS.—The Secretary shall issue such
10 regulations or other guidance as may be necessary or ap-
11 propriate to carry out the purposes of this section, includ-
12 ing—

13 “(1) not later than 30 days after the date of
14 the enactment of this section, a list of the population
15 census tracts described in subsection (a)(1), and

16 “(2) not later than 60 days after the date of
17 the enactment of this section, regulations or other
18 guidance regarding the designation of population
19 census tracts described in subsection (a)(2).”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning after
22 December 31, 2019.

23 **SEC. 3. AUTHORITY TO SUPPORT DEVELOPMENT OF POPU-**
24 **LATION HEALTH PRODUCTS.**

25 (a) DEFINITIONS.—

1 (1) QUALIFIED COUNTERMEASURE.—Subpara-
2 graph (A) of section 319F–1(a)(2) of the Public
3 Health Service Act (42 U.S.C. 247d–6a(a)(2)) is
4 amended to read as follows:

5 “(A) QUALIFIED COUNTERMEASURE.—The
6 term ‘qualified countermeasure’ means a drug
7 (as that term is defined by section 201(g)(1) of
8 the Federal Food, Drug, and Cosmetic Act (21
9 U.S.C. 321(g)(1))), biological product (as that
10 term is defined by section 351(i) of this Act (42
11 U.S.C. 262(i))), or device (as that term is de-
12 fined by section 201(h) of the Federal Food,
13 Drug, and Cosmetic Act (21 U.S.C. 321(h))),
14 that the Secretary determines to be a priority
15 consistent with sections 302(2) and 304(a) of
16 the Homeland Security Act of 2002—

17 “(i) to diagnose, mitigate, prevent, or
18 treat harm from any biological agent (in-
19 cluding organisms that cause an infectious
20 disease), toxin, chemical, radiological, or
21 nuclear agent that may cause a public
22 health emergency affecting national secu-
23 rity; or

24 “(ii) to diagnose, mitigate, prevent, or
25 treat harm from an underlying non-com-

1 municable disease which, combined with
2 pandemic influenza or an emerging infec-
3 tious disease, may result in adverse health
4 consequences or serious threat to one or
5 more vulnerable American populations (as
6 defined in section 319L(a)) in an epidemic
7 or pandemic.”.

8 (2) OTHER DEFINITIONS.—Subsection (a) of
9 section 319L of the Public Health Service Act (42
10 U.S.C. 247d–7e) is amended by adding at the end
11 the following new paragraphs:

12 “(11) POPULATION HEALTH PRODUCT.—The
13 term ‘population health product’ means a widely
14 available drug to diagnose, mitigate, prevent, or
15 treat harm from an underlying non-communicable
16 disease which, combined with pandemic influenza or
17 an emerging infectious disease, may result in ad-
18 verse health consequences or a serious threat to one
19 or more vulnerable American populations in an epi-
20 demic or pandemic.

21 “(12) VULNERABLE AMERICAN POPU-
22 LATIONS.—The term ‘vulnerable American popu-
23 lations’ means children, pregnant women, older
24 adults, minority populations, and other at-risk indi-
25 viduals with relevant characteristics that warrant

1 consideration during the process of researching and
2 developing such countermeasures and products.”.

3 (b) STRATEGIC INITIATIVES.—Clause (ii) of section
4 319L(c)(4)(F) of the Public Health Service Act (42
5 U.S.C. 247d–7e(e)(4)(F)) is amended to read as follows:

6 “(ii) threats that consistently exist or
7 continually circulate and have a significant
8 potential to become a pandemic, such as
9 pandemic influenza and emerging infec-
10 tious diseases in combination with under-
11 lying non-communicable diseases, which
12 may include the advanced research and de-
13 velopment, manufacturing, and appropriate
14 stockpiling of qualified pandemic or epi-
15 demic products, and products, technologies,
16 or processes to support the advanced re-
17 search and development of such counter-
18 measures (including multiuse platform
19 technologies for diagnostics, vaccines, and
20 therapeutics; virus seeds; clinical trial lots;
21 novel virus strains; and antigen and adju-
22 vant material); and”.

23 (c) AT-RISK INDIVIDUALS.—Paragraph (6) of section
24 319L(c) of the Public Health Service Act (42 U.S.C.
25 247d–7e(c)) is amended to read as follows:

1 “(6) AT-RISK INDIVIDUALS.—In carrying out
2 the functions under this section, the Secretary may
3 give a priority to advanced research and develop-
4 ment of—

5 “(A) qualified countermeasures and quali-
6 fied pandemic or epidemic products likely to be
7 safe and effective with respect to vulnerable
8 American populations; and

9 “(B) population health products likely to
10 protect vulnerable American populations with
11 underlying non-communicable diseases from dis-
12 proportionate harm in epidemics and
13 pandemics.”.

14 (d) OTHER AUTHORITIES.—Section 319L(c) of the
15 Public Health Service Act (42 U.S.C. 247d–7e(c)) is
16 amended by adding at the end the following:

17 “(8) TIMELY DELIVERY OF POPULATION
18 HEALTH PRODUCTS TO AT-RISK INDIVIDUALS.—The
19 Secretary shall collaborate with the Administrator of
20 the Centers for Medicare & Medicaid Services, the
21 Secretary of Defense, the Secretary of Veterans Af-
22 fairs, the Commissioner of Food and Drugs, and the
23 heads of other Federal agencies involved with ap-
24 proval and distribution of health products to assure
25 that such Federal agencies distribute approved pop-

1 ulation health products as promptly and effectively
2 as possible, and as continuously as possible, to pro-
3 tect vulnerable American populations from harm in
4 epidemics and pandemics.

5 “(9) REPORT ON NEED FOR INCENTIVIZING DE-
6 VELOPMENT OF POPULATION HEALTH PRODUCTS.—
7 Not later than 90 days after the date of enactment
8 of the Medical Manufacturing, Economic Develop-
9 ment, and Sustainability Act of 2020, the Secretary
10 shall examine and report to the Congress on—

11 “(A) the extent to which the health of
12 aging Americans, African Americans, His-
13 panics, Native Americans, veterans, or other
14 vulnerable American populations has been dis-
15 proportionately harmed by the COVID–19 pan-
16 demic and prior epidemics and pandemics;

17 “(B) the population health products cur-
18 rently available and whether there is a need for
19 additional innovation and development to
20 produce population health products to reduce
21 the exposure of vulnerable American popu-
22 lations to risk of disproportionate harm in
23 epidemics and pandemics; and

24 “(C) whether the Secretary recommends
25 providing the same incentives for the develop-

1 ment and marketing of population health prod-
2 ucts as is given with respect to covered infec-
3 tious disease products under the Federal Food,
4 Drug, and Cosmetic Act, including under sec-
5 tion 505E of such Act.”.

○