

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To improve the bill.

**IN THE SENATE OF THE UNITED STATES—117th Cong., 2d Sess.**

**H. R. 4346**

Making appropriations for Legislative Branch for the fiscal year ending September 30, 2022, 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 intended to be proposed by Mr. COTTON to  
the amendment (No. 5135) proposed by Mr. SCHUMER

Viz:

1       Beginning on page 41, strike line 17 and all that fol-  
2       lows through line 5 on page 84, and insert the following:

3                   “(ii) includes semiconductor fabrica-  
4                   tion, assembly, testing, packaging, research  
5                   and development, and any additional proc-  
6                   ess identified by the Secretary.

7                   “(C) REQUIRED AGREEMENT.—

8                   “(i) IN GENERAL.—On or before the  
9                   date on which the Secretary awards Fed-  
10                  eral financial assistance to a covered entity  
11                  under this section, the covered entity shall  
12                  enter into an agreement with the Secretary

1 specifying that, during the 10-year period  
2 beginning on the date of the award, the  
3 covered entity may not engage in any  
4 transaction, as defined in the agreement,  
5 involving the expansion of semiconductor  
6 manufacturing capacity in the People's Re-  
7 public of China or any other foreign coun-  
8 try of concern.

9 “(ii) AFFILIATED GROUP.—For the  
10 purpose of applying the requirements in an  
11 agreement required under clause (i), a cov-  
12 ered entity shall include the covered entity  
13 receiving financial assistance under this  
14 section, as well as any member of the cov-  
15 ered entity's affiliated group under section  
16 1504(a) of the Internal Revenue Code of  
17 1986, without regard to section 1504(b)(3)  
18 of such Code.

19 “(D) NOTIFICATION REQUIREMENTS.—  
20 During the applicable term of the agreement of  
21 a covered entity required under subparagraph  
22 (C)(i), the covered entity shall notify the Sec-  
23 retary of any planned transactions of the cov-  
24 ered entity involving the expansion of semicon-  
25 ductor manufacturing capacity in the People's

1 Republic of China or any other foreign country  
2 of concern.

3 “(E) VIOLATION OF AGREEMENT.—

4 “(i) NOTIFICATION TO COVERED EN-  
5 TITIES.—Not later than 90 days after the  
6 date of receipt of a notification described  
7 in subparagraph (D) from a covered entity,  
8 the Secretary, in consultation with the Sec-  
9 retary of Defense and the Director of Na-  
10 tional Intelligence, shall—

11 “(I) determine whether the trans-  
12 action described in the notification  
13 would be a violation of the agreement  
14 of the covered entity required under  
15 subparagraph (C)(i); and

16 “(II) notify the covered entity of  
17 the Secretary’s decision under sub-  
18 clause (I).

19 “(ii) OPPORTUNITY TO REMEDY.—

20 Upon a notification under clause (i)(II)  
21 that a planned transaction of a covered en-  
22 tity is a violation of the agreement of the  
23 covered entity required under subpara-  
24 graph (C)(i), the Secretary shall—

1 “(I) immediately request from  
2 the covered entity tangible proof that  
3 the planned transaction has ceased or  
4 been abandoned; and

5 “(II) provide the covered entity  
6 45 days to produce and provide to the  
7 Secretary the tangible proof described  
8 in subclause (I).

9 “(iii) FAILURE BY THE COVERED EN-  
10 TITY TO CEASE OR REMEDY THE ACTIV-  
11 ITY.—If a covered entity fails to remedy a  
12 violation as set forth under clause (ii), the  
13 Secretary shall recover the full amount of  
14 the Federal financial assistance provided to  
15 the covered entity under this section.

16 “(F) SUBMISSION OF RECORDS.—

17 “(i) IN GENERAL.—The Secretary  
18 may request from a covered entity records  
19 and other necessary information to review  
20 the compliance of the covered entity with  
21 the agreement required under subpara-  
22 graph (C)(i).

23 “(ii) ELIGIBILITY.—In order to be eli-  
24 gible for Federal financial assistance under  
25 this section, a covered entity shall agree to

1 provide records and other necessary infor-  
2 mation requested by the Secretary under  
3 clause (i).

4 “(G) CONFIDENTIALITY OF RECORDS.—

5 “(i) IN GENERAL.—Subject to clause  
6 (ii), any information derived from records  
7 or necessary information disclosed by a  
8 covered entity to the Secretary under this  
9 section—

10 “(I) shall be exempt from disclo-  
11 sure under section 552(b)(3) of title  
12 5, United States Code; and

13 “(II) shall not be made public.

14 “(ii) EXCEPTIONS.—Clause (i) shall  
15 not prevent the disclosure of any of the fol-  
16 lowing by the Secretary:

17 “(I) Information relevant to any  
18 administrative or judicial action or  
19 proceeding.

20 “(II) Information that a covered  
21 entity has consented to be disclosed to  
22 third parties.

23 “(III) Information necessary to  
24 fulfill the requirement of the congres-

1 sional notification under subpara-  
2 graph (H).

3 “(H) CONGRESSIONAL NOTIFICATION.—

Not later than 60 days after the date on which the Secretary finds a violation by a covered entity of an agreement required under subparagraph (C)(i), and after providing the covered entity with an opportunity to provide information in response to that finding, the Secretary shall provide to the appropriate Committees of Congress—

12 “(i) a notification of the violation;

13                                   “(ii) a brief description of how the  
14                                   Secretary determined the covered entity to  
15                                   be in violation; and

“(iii) a summary of any actions or  
planned actions by the Secretary in re-  
sponse to the violation.

19                   “(I) REGULATIONS.—The Secretary may  
20                   issue regulations implementing this para-  
21                   graph.”; and

22 (6) by adding at the end the following:

23 “(d) SENSE OF CONGRESS.—It is the sense of Con-  
24 gress that, in carrying out subsection (a), the Secretary  
25 should allocate funds in a manner that—

1 “(1) strengthens the security and resilience of  
2 the semiconductor supply chain, including by miti-  
3 gating gaps and vulnerabilities;

4 “(2) provides a supply of secure semiconductors  
5 relevant for national security;

6 “(3) strengthens the leadership of the United  
7 States in semiconductor technology;

8 “(4) grows the economy of the United States  
9 and supports job creation in the United States;

10 “(5) bolsters the semiconductor and skilled  
11 technical workforces in the United States;

12 “(6) promotes the inclusion of economically dis-  
13 advantaged individuals and small businesses; and

14 “(7) improves the resiliency of the semicon-  
15 ductor supply chains of critical manufacturing in-  
16 dustries.

17 “(e) ADDITIONAL ASSISTANCE FOR MATURE TECH-  
18 NOLOGY NODES.—

19 “(1) IN GENERAL.—The Secretary shall estab-  
20 lish within the program established under subsection  
21 (a) an additional program that provides Federal fi-  
22 nancial assistance to covered entities to incentivize  
23 investment in facilities and equipment in the United  
24 States for the fabrication, assembly, testing, or

1 packaging of semiconductors at mature technology  
2 nodes.

3 “(2) ELIGIBILITY AND REQUIREMENTS.—In  
4 order for an entity to qualify to receive Federal fi-  
5 nancial assistance under this subsection, the covered  
6 entity shall agree to—

7 “(A) submit an application under sub-  
8 section (a)(2)(A);

9 “(B) meet the eligibility requirements  
10 under subsection (a)(2)(B);

11 “(C)(i) provide equipment or materials for  
12 the fabrication, assembly, testing, or packaging  
13 of semiconductors at mature technology nodes  
14 in the United States; or

15 “(ii) fabricate, assemble using packaging,  
16 or test semiconductors at mature technology  
17 nodes in the United States;

18 “(D) commit to using any Federal finan-  
19 cial assistance received under this section to in-  
20 crease the production of semiconductors at ma-  
21 ture technology nodes; and

22 “(E) be subject to the considerations de-  
23 scribed in subsection (a)(2)(C).

24 “(3) PROCEDURES.—In granting Federal finan-  
25 cial assistance to covered entities under this sub-



1 section, the Secretary may use the procedures estab-  
2 lished under subsection (a).

3 “(4) CONSIDERATIONS.—In addition to the con-  
4 siderations described in subsection (a)(2)(C), in  
5 granting Federal financial assistance under this sub-  
6 section, the Secretary may consider whether a cov-  
7 ered entity produces or supplies equipment or mate-  
8 rials used in the fabrication, assembly, testing, or  
9 packaging of semiconductors at mature technology  
10 nodes that are necessary to support a critical manu-  
11 facturing industry.

12 “(5) PRIORITY.—In awarding Federal financial  
13 assistance to covered entities under this subsection,  
14 the Secretary shall give priority to covered entities  
15 that support the resiliency of semiconductor supply  
16 chains for critical manufacturing industries in the  
17 United States.

18 “(6) AUTHORIZATION OF APPROPRIATIONS.—  
19 There are authorized to be appropriated to the Sec-  
20 retary to carry out this subsection \$2,000,000,000,  
21 which shall remain available until expended.

22 “(f) CONSTRUCTION PROJECTS.—Section 602 of the  
23 Public Works and Economic Development Act of 1965 (42  
24 U.S.C. 3212) shall apply to a construction project that

1 receives financial assistance from the Secretary under this  
2 section.

3 “(g) LOANS AND LOAN GUARANTEES.—

4 “(1) IN GENERAL.—Subject to the require-  
5 ments of subsection (a) and this subsection, the Sec-  
6 retary may make or guarantee loans to covered enti-  
7 ties as financial assistance under this section.

8 “(2) CONDITIONS.—The Secretary may select  
9 eligible projects to receive loans or loan guarantees  
10 under this subsection if the Secretary determines  
11 that—

12 “(A) the covered entity—

13 “(i) has a reasonable prospect of re-  
14 paying the principal and interest on the  
15 loan; and

16 “(ii) has met such other criteria as  
17 may be established and published by the  
18 Secretary; and

19 “(B) the amount of the loan (when com-  
20 bined with amounts available to the loan recipi-  
21 ent from other sources) will be sufficient to  
22 carry out the project.

23 “(3) REASONABLE PROSPECT OF REPAY-  
24 MENT.—The Secretary shall base a determination of  
25 whether there is a reasonable prospect of repayment

1 of the principal and interest on a loan under para-  
2 graph (2)(A)(i) on a comprehensive evaluation of  
3 whether the covered entity has a reasonable prospect  
4 of repaying the principal and interest, including, as  
5 applicable, an evaluation of—

6 “(A) the strength of the contractual terms  
7 of the project the covered entity plans to per-  
8 form (if commercially reasonably available);

9 “(B) the forecast of noncontractual cash  
10 flows supported by market projections from rep-  
11 utable sources, as determined by the Secretary;

12 “(C) cash sweeps and other structure en-  
13 hancements;

14 “(D) the projected financial strength of the  
15 covered entity—

16 “(i) at the time of loan close; and

17 “(ii) throughout the loan term after  
18 the project is completed;

19 “(E) the financial strength of the investors  
20 and strategic partners of the covered entity, if  
21 applicable;

22 “(F) other financial metrics and analyses  
23 that the private lending community and nation-  
24 ally recognized credit rating agencies rely on, as  
25 determined appropriate by the Secretary; and

1           “(G) such other criteria the Secretary may  
2           determine relevant.

3           “(4) RATES, TERMS, AND REPAYMENTS OF  
4           LOANS.—A loan provided under this subsection—

5           “(A) shall have an interest rate that does  
6           not exceed a level that the Secretary determines  
7           appropriate, taking into account, as of the date  
8           on which the loan is made, the cost of funds to  
9           the Department of the Treasury for obligations  
10          of comparable maturity; and

11          “(B) shall have a term of not more than  
12          25 years.

13          “(5) ADDITIONAL TERMS.—A loan or guarantee  
14          provided under this subsection may include any  
15          other terms and conditions that the Secretary deter-  
16          mines to be appropriate.

17          “(6) RESPONSIBLE LENDER.—No loan may be  
18          guaranteed under this subsection, unless the Sec-  
19          retary determines that—

20               “(A) the lender is responsible; and

21               “(B) adequate provision is made for serv-  
22               icing the loan on reasonable terms and pro-  
23               tecting the financial interest of the United  
24               States.

1           “(7) ADVANCED BUDGET AUTHORITY.—New  
2       loans may not be obligated and new loan guarantees  
3       may not be committed to under this subsection, un-  
4       less appropriations of budget authority to cover the  
5       costs of such loans and loan guarantees are made in  
6       advance in accordance with section 504(b) of the  
7       Federal Credit Reform Act of 1990 (2 U.S.C.  
8       661c(b)).

9           “(8) CONTINUED OVERSIGHT.—The loan agree-  
10      ment for a loan guaranteed under this subsection  
11      shall provide that no provision of the loan agreement  
12      may be amended or waived without the consent of  
13      the Secretary.

14          “(h) OVERSIGHT.—Not later than 4 years after dis-  
15      bursement of the first financial award under subsection  
16      (a), the Inspector General of the Department of Com-  
17      merce shall audit the program under this section to as-  
18      sess—

19           “(1) whether the eligibility requirements for  
20      covered entities receiving financial assistance under  
21      the program are met;

22           “(2) whether eligible entities use the financial  
23      assistance received under the program in accordance  
24      with the requirements of this section;

1           “(3) whether the covered entities receiving fi-  
2           nancial assistance under this program have carried  
3           out the commitments made to worker and commu-  
4           nity investment under subsection (a)(2)(B)(ii)(II) by  
5           the target date for completion set by the Secretary  
6           under subsection (a)(5)(A);

7           “(4) whether the required agreement entered  
8           into by covered entities and the Secretary under sub-  
9           section (a)(6)(C)(i), including the notification proc-  
10          ess, has been carried out to provide covered entities  
11          sufficient guidance about a violation of the required  
12          agreement; and

13          “(5) whether the Secretary has provided timely  
14          Congressional notification about violations of the re-  
15          quired agreement under subsection (a)(6)(C)(i), in-  
16          cluding the required information on how the Sec-  
17          retary reached a determination of whether a covered  
18          entity was in violation under subsection (a)(6)(E).

19          “(i) PROHIBITION ON USE OF FUNDS.—No funds  
20          made available under this section may be used to con-  
21          struct, modify, or improve a facility outside of the United  
22          States.”.

23          (c) ADVANCED MICROELECTRONICS RESEARCH AND  
24          DEVELOPMENT.—Section 9906 of the William M. (Mac)

1 Thornberry National Defense Authorization Act for Fiscal  
2 Year 2021 (15 U.S.C. 4656) is amended—

3 (1) in subsection (a)(3)(A)(ii)—

4 (A) in subclause (II), by inserting “, in-  
5 cluding for technologies based on organic and  
6 inorganic materials” after “components”; and

7 (B) in subclause (V), by striking “and sup-  
8 ply chain integrity” and inserting “supply chain  
9 integrity, and workforce development”;

10 (2) in subsection (c)—

11 (A) in paragraph (1)—

12 (i) by inserting “and grow the domes-  
13 tic semiconductor workforce” after “proto-  
14 typing of advanced semiconductor tech-  
15 nology”; and

16 (ii) by adding at the end the fol-  
17 lowing: “The Secretary may make financial  
18 assistance awards, including construction  
19 awards, in support of the national semicon-  
20 ductor technology center.”; and

21 (B) in paragraph (2)—

22 (i) in subparagraph (B), by inserting  
23 “and capitalize” before “an investment  
24 fund”; and

1 (ii) by striking subparagraph (C) and  
2 inserting the following:

3 “(C) To work with the Secretary of Labor,  
4 the Director of the National Science Founda-  
5 tion, the Secretary of Energy, the private sec-  
6 tor, institutions of higher education, and work-  
7 force training entities to incentivize and expand  
8 geographically diverse participation in graduate,  
9 undergraduate, and community college pro-  
10 grams relevant to microelectronics, including  
11 through—

12 “(i) the development and dissemina-  
13 tion of curricula and research training ex-  
14 periences; and

15 “(ii) the development of workforce  
16 training programs and apprenticeships in  
17 advanced microelectronic design, research,  
18 fabrication, and packaging capabilities.”;

19 (3) in subsection (d)—

20 (A) by striking “the Manufacturing USA  
21 institute” and inserting “a Manufacturing USA  
22 institute”; and

23 (B) by adding at the end the following:  
24 “The Director may make financial assistance  
25 awards, including construction awards, in sup-



1 port of the National Advanced Packaging Man-  
2 ufacturing Program.”;

3 (4) in subsection (f)—

4 (A) in the matter preceding paragraph  
5 (1)—

6 (i) by striking “a Manufacturing USA  
7 Institute” and inserting “not more than 3  
8 Manufacturing USA Institutes”;

9 (ii) by striking “is focused on semi-  
10 conductor manufacturing.” and inserting  
11 “are focused on semiconductor manufac-  
12 turing. The Secretary of Commerce may  
13 award financial assistance to any Manufac-  
14 turing USA Institute for work relating to  
15 semiconductor manufacturing.”; and

16 (iii) by striking “Such institute may  
17 emphasize” and inserting “Such institutes  
18 may emphasize”; and

19 (5) by adding at the end the following:

20 “(h) CONSTRUCTION PROJECTS.—Section 602 of the  
21 Public Works and Economic Development Act of 1965 (42  
22 U.S.C. 3212) shall apply to a construction project that  
23 receives financial assistance under this section.”.

24 (d) ADDITIONAL AUTHORITIES.—Division H of title  
25 XCIX of the William M. (Mac) Thornberry National De-

1 fense Authorization Act for Fiscal Year 2021 (15 U.S.C.  
2 4651 et seq.) is amended by adding at the end the fol-  
3 lowing:

4 **“SEC. 9909. ADDITIONAL AUTHORITIES.**

5 “(a) IN GENERAL.—In carrying out the responsibil-  
6 ities of the Department of Commerce under this division,  
7 the Secretary may—

8 “(1) enter into agreements, including contracts,  
9 grants and cooperative agreements, and other trans-  
10 actions as may be necessary and on such terms as  
11 the Secretary considers appropriate;

12 “(2) make advance payments under agreements  
13 and other transactions authorized under paragraph  
14 (1) without regard to section 3324 of title 31,  
15 United States Code;

16 “(3) require a person or other entity to make  
17 payments to the Department of Commerce upon ap-  
18 plication and as a condition for receiving support  
19 through an award of assistance or other transaction;

20 “(4) procure temporary and intermittent serv-  
21 ices of experts and consultants in accordance with  
22 section 3109 of title 5, United States Code;

23 “(5) notwithstanding section 3104 of title 5,  
24 United States Code, or the provisions of any other  
25 law relating to the appointment, number, classifica-

1       tion, or compensation of employees, make appoint-  
2       ments of scientific, engineering, and professional  
3       personnel, and fix the basic pay of such personnel at  
4       a rate to be determined by the Secretary at rates not  
5       in excess of the highest total annual compensation  
6       payable at the rate determined under section 104 of  
7       title 3, United States Code, except that the Sec-  
8       retary shall appoint not more than 25 personnel  
9       under this paragraph;

10       “(6) with the consent of another Federal agen-  
11       cy, enter into an agreement with that Federal agen-  
12       cy to use, with or without reimbursement, any serv-  
13       ice, equipment, personnel, or facility of that Federal  
14       agency; and

15       “(7) establish such rules, regulations, and pro-  
16       cedures as the Secretary considers appropriate.

17       “(b) REQUIREMENT.—Any funds received from a  
18       payment made by a person or entity pursuant to sub-  
19       section (a)(3) shall be credited to and merged with the  
20       account from which support to the person or entity was  
21       made”.

22       (e) CONFORMING AMENDMENT.—The table of con-  
23       tents for division H of title XCIX of the William M. (Mac)  
24       Thornberry National Defense Authorization Act for Fiscal

1 Year 2021 (Public Law 116–283) is amended by adding  
2 after the item relating to section 9908 the following:

“9909. Additional authorities.”.

3 **SEC. 104. OPPORTUNITY AND INCLUSION.**

4 (a) ESTABLISHMENT.—Not later than 180 days after  
5 the date of enactment of this Act, the Secretary of Com-  
6 merce shall establish activities in the Department of Com-  
7 merce, within the program established under section 9902  
8 of the William M. (Mac) Thornberry National Defense Au-  
9 thorization Act for Fiscal Year 2021 (15 U.S.C. 4652),  
10 to carry out this section using funds appropriated under  
11 this Act.

12 (b) IN GENERAL.—The Secretary of Commerce shall  
13 assign personnel to lead and support the activities carried  
14 out under this section, including coordination with other  
15 workforce development activities of the Department of  
16 Commerce or of Federal agencies, as defined in section  
17 551 of title 5, United States Code, as appropriate.

18 (c) ACTIVITIES.—Personnel assigned by the Sec-  
19 retary to carry out the activities under this section shall—

20 (1) assess the eligibility of a covered entity, as  
21 defined in section 9901 of the William M. (Mac)  
22 Thornberry National Defense Authorization Act for  
23 Fiscal Year 2021 (15 U.S.C. 4651), for financial as-  
24 sistance for a project with respect to the require-  
25 ments under subclauses (II) and (III) of section

1       9902(a)(2)(B)(ii) of the William M. (Mac) Thorn-  
2       berry National Defense Authorization Act for Fiscal  
3       Year 2021 (15 U.S.C. 4652(a)(2)(B)(ii)(II) and  
4       (III));

5           (2) ensure that each covered entity, as defined  
6       in section 9901 of the William M. (Mac) Thornberry  
7       National Defense Authorization Act for Fiscal Year  
8       2021 (15 U.S.C. 4651), that is awarded financial as-  
9       sistance under section 9902 of that Act (15 U.S.C.  
10      4652) is carrying out the commitments of the cov-  
11      ered entity to economically disadvantaged individuals  
12      as described in the application of the covered entity  
13      under that section by the target dates for completion  
14      established by the Secretary of Commerce under  
15      subsection(a)(5)(A) of that section; and

16           (3) increase participation of and outreach to  
17      economically disadvantaged individuals, minority-  
18      owned businesses, veteran-owned businesses, and  
19      women-owned businesses, as defined by the Sec-  
20      retary of Commerce, respectively, in the geographic  
21      area of a project under section 9902 of the William  
22      M. (Mac) Thornberry National Defense Authoriza-  
23      tion Act for Fiscal Year 2021 (15 U.S.C. 4652) and  
24      serve as a resource for those individuals, businesses,  
25      and covered entities.

1 (d) STAFF.—The activities under this section shall be  
2 staffed at the appropriate levels to carry out the functions  
3 and responsibilities under this section until 95 percent of  
4 the amounts of funds made available for the program es-  
5 tablished under section 9902 of the William M. (Mac)  
6 Thornberry National Defense Authorization Act for Fiscal  
7 Year 2021 (15 U.S.C. 4652) have been expended.

8 (e) REPORT.—Beginning on the date that is 1 year  
9 after the date on which the Secretary of Commerce estab-  
10 lishes the activities described in subsection (c), the Sec-  
11 retary of Commerce shall submit to the appropriate com-  
12 mittees of Congress, as defined in section 9901(1) of the  
13 William M. (Mac) Thornberry National Defense Author-  
14 ization Act for Fiscal Year 2021 (15 U.S.C. 4651), and  
15 make publicly available on the website of the Department  
16 of Commerce an annual report regarding the actions taken  
17 by the Department of Commerce under this section.

18 **SEC. 105. ADDITIONAL GAO REPORTING REQUIREMENTS.**

19 (a) NDAA.—Section 9902(c) of William M. (Mac)  
20 Thornberry National Defense Authorization Act for Fiscal  
21 Year 2021 (15 U.S.C. 4652(c)) is amended—

22 (1) in paragraph (1)—

23 (A) in subparagraph (B)—

24 (i) in clause (i), by striking “; and”

25 and inserting a semicolon; and

1 (ii) by adding at the end the fol-  
2 lowing:

3 “(iii) the Federal Government could  
4 take specific actions to address shortages  
5 in the semiconductor supply chain, includ-  
6 ing—

7 “(I) demand-side incentives, in-  
8 cluding incentives related to the infor-  
9 mation and communications tech-  
10 nology supply chain; and

11 “(II) additional incentives, at na-  
12 tional and global scales, to accelerate  
13 utilization of leading-edge semicon-  
14 ductor nodes to address shortages in  
15 mature semiconductor nodes; and”;  
16 and

17 (B) in subparagraph (C)—

18 (i) in clause (iii), by striking “; and”  
19 and inserting a semicolon; and

20 (ii) by inserting after clause (iv) the  
21 following:

22 “(v) how projects are supporting the  
23 semiconductor needs of critical infrastruc-  
24 ture industries in the United States, in-  
25 cluding those industries designated by the

1 Cybersecurity and Infrastructure Security  
2 Agency as essential infrastructure indus-  
3 tries; and”; and

4 (2) by inserting after paragraph (1)(C)(iv) the  
5 following:

6 “(D) drawing on data made available by  
7 the Department of Labor or other sources, to  
8 the extent practicable, an analysis of—

9 “(i) semiconductor industry data re-  
10 garding businesses that are—

11 “(I) majority owned and con-  
12 trolled by minority individuals;

13 “(II) majority owned and con-  
14 trolled by women; or

15 “(III) majority owned and con-  
16 trolled by both women and minority  
17 individuals;

18 “(ii) the number and amount of con-  
19 tracts and subcontracts awarded by each  
20 covered entity using funds made available  
21 under subsection (a) disaggregated by re-  
22 cipients of each such contract or sub-  
23 contracts that are majority owned and con-  
24 trolled by minority individuals and major-  
25 ity owned and controlled by women; and



1 “(iii) aggregated workforce data, in-  
2 cluding data by race or ethnicity, sex, and  
3 job categories.”.

4 (b) DEPARTMENT OF DEFENSE.—Section  
5 9202(a)(1)(G)(ii)(I) of the William M. (Mac) Thornberry  
6 National Defense Authorization Act for Fiscal Year 2021  
7 (47 U.S.C. 906(a)(1)(G)(ii)(I)) is amended by inserting  
8 “(including whether recipients are majority owned and  
9 controlled by minority individuals and majority owned and  
10 controlled by women)” after “to whom”.

11 **SEC. 106. APPROPRIATIONS FOR WIRELESS SUPPLY CHAIN**  
12 **INNOVATION.**

13 (a) DIRECT APPROPRIATIONS.—In addition to  
14 amounts otherwise available for such purposes, there is  
15 appropriated to the Public Wireless Supply Chain Innova-  
16 tion Fund established under section 9202(a)(1) of the Wil-  
17 liam M. (Mac) Thornberry National Defense Authoriza-  
18 tion Act for Fiscal Year 2021 (15 U.S.C. 4652(a)(1)), out  
19 of amounts in the Treasury not otherwise appropriated—

20 (1) \$150,000,000 for fiscal year 2022, to re-  
21 main available until September 30, 2031; and

22 (2) \$1,350,000,000 for fiscal year 2023, to re-  
23 main available until September 30, 2032.

1 (b) USE OF FUNDS, ADMINISTRATION, AND OVER-  
2 SIGHT.—Of the amounts made available under subsection  
3 (a)—

4 (1) not more than 5 percent of the amounts al-  
5 located pursuant to subsection (c) in a given fiscal  
6 year may be used by the Assistant Secretary of  
7 Commerce for Communications and Information to  
8 administer the programs funded from the Public  
9 Wireless Supply Chain Innovation Fund; and

10 (2) not less than \$2,000,000 per fiscal year  
11 shall be transferred to the Office of Inspector Gen-  
12 eral of the Department of Commerce for oversight  
13 related to activities conducted using amounts pro-  
14 vided under this section.

15 (c) ALLOCATION AUTHORITY.—

16 (1) SUBMISSION OF COST ESTIMATES.—The  
17 President shall submit to Congress detailed account,  
18 program, and project allocations of the amount rec-  
19 ommended for allocation in a fiscal year from  
20 amounts made available under subsection (a)—

21 (A) for fiscal years 2022 and 2023, not  
22 later than 60 days after the date of enactment  
23 of this Act; and

24 (B) for each subsequent fiscal year  
25 through 2032, as part of the annual budget

1 submission of the President under section  
2 1105(a) of title 31, United States Code.

3 (2) ALTERNATE ALLOCATION.—

4 (A) IN GENERAL.—The Committees on  
5 Appropriations of the House of Representatives  
6 and the Senate may provide for alternate allo-  
7 cation of amounts recommended for allocation  
8 in a given fiscal year from amounts made avail-  
9 able under subsection (a), including by account,  
10 program, and project.

11 (B) ALLOCATION BY PRESIDENT.—

12 (i) NO ALTERNATE ALLOCATIONS.—If  
13 Congress has not enacted legislation estab-  
14 lishing alternate allocations, including by  
15 account, program, and project, by the date  
16 on which the Act making full-year appro-  
17 priations for the Departments of Com-  
18 merce and Justice, Science, and Related  
19 Agencies for the applicable fiscal year is  
20 enacted into law, only then shall amounts  
21 recommended for allocation for that fiscal  
22 year from amounts made available under  
23 subsection (a) be allocated by the Presi-  
24 dent or apportioned or allotted by account,

1 program, and project pursuant to title 31,  
2 United States Code.

3 (ii) INSUFFICIENT ALTERNATE ALLO-  
4 CATION.—If Congress enacts legislation es-  
5 tablishing alternate allocations, including  
6 by account, program, and project, for  
7 amounts recommended for allocation in a  
8 given fiscal year from amounts made avail-  
9 able under subsection (a) that are less  
10 than the full amount recommended for al-  
11 location for that fiscal year, the difference  
12 between the amount recommended for allo-  
13 cation and the alternate allocation shall be  
14 allocated by the President and apportioned  
15 and allotted by account, program, and  
16 project pursuant to title 31, United States  
17 Code.

18 (d) SEQUESTRATION.—Section 255(g)(1)(A) of the  
19 Balanced Budget and Emergency Deficit Control Act of  
20 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting  
21 after “Postal Service Fund (18–4020–0–3–372).” the fol-  
22 lowing:

23 “Public Wireless Supply Chain Inno-  
24 vation Fund.”.

25 (e) BUDGETARY EFFECTS.—

1           (1) STATUTORY PAYGO SCORECARDS.—The  
2       budgetary effects of this section shall not be entered  
3       on either PAYGO scorecard maintained pursuant to  
4       section 4(d) of the Statutory Pay-As-You-Go Act of  
5       2010.

6           (2) SENATE PAYGO SCORECARDS.—The budg-  
7       etary effects of this section shall not be entered on  
8       any PAYGO scorecard maintained for purposes of  
9       section 4106 of H. Con. Res. 71 (115th Congress).

10          (3) CLASSIFICATION OF BUDGETARY EF-  
11       FECTS.—Notwithstanding Rule 3 of the Budget  
12       Scorekeeping Guidelines set forth in the joint ex-  
13       planatory statement of the committee of conference  
14       accompanying Conference Report 105–217 and sec-  
15       tion 250(c)(8) of the Balanced Budget and Emer-  
16       gency Deficit Control Act of 1985, the budgetary ef-  
17       fects of this section shall not be estimated—

18                (A) for purposes of section 251 of such  
19       Act;

20                (B) for purposes of an allocation to the  
21       Committee on Appropriations pursuant to sec-  
22       tion 302(a) of the Congressional Budget Act of  
23       1974; and

24                (C) for purposes of paragraph (4)(C) of  
25       section 3 of the Statutory Pay-As-You-Go Act

1 of 2010 as being included in an appropriation  
2 Act.

3 **SEC. 107. ADVANCED MANUFACTURING INVESTMENT CRED-**  
4 **IT.**

5 (a) IN GENERAL.—Subpart E of part IV of sub-  
6 chapter A of chapter 1 of the Internal Revenue Code of  
7 1986 is amended by inserting after section 48C the fol-  
8 lowing new section:

9 **“SEC. 48D. ADVANCED MANUFACTURING INVESTMENT**  
10 **CREDIT.**

11 “(a) ESTABLISHMENT OF CREDIT.—For purposes of  
12 section 46, the advanced manufacturing investment credit  
13 for any taxable year is an amount equal to 25 percent  
14 of the qualified investment for such taxable year with re-  
15 spect to any advanced manufacturing facility of an eligible  
16 taxpayer.

17 “(b) QUALIFIED INVESTMENT.—

18 “(1) IN GENERAL.—For purposes of subsection  
19 (a), the qualified investment with respect to any ad-  
20 vanced manufacturing facility for any taxable year is  
21 the basis of any qualified property placed in service  
22 by the taxpayer during such taxable year which is  
23 part of an advanced manufacturing facility.

24 “(2) QUALIFIED PROPERTY.—

1           “(A) IN GENERAL.—For purposes of this  
2 subsection, the term ‘qualified property’ means  
3 property—

4           “(i) which is tangible property,

5           “(ii) with respect to which deprecia-  
6 tion (or amortization in lieu of deprecia-  
7 tion) is allowable,

8           “(iii) which is—

9           “(I) constructed, reconstructed,  
10 or erected by the taxpayer, or

11           “(II) acquired by the taxpayer if  
12 the original use of such property com-  
13 mences with the taxpayer, and

14           “(iv) which is integral to the operation  
15 of the advanced manufacturing facility.

16           “(B) BUILDINGS AND STRUCTURAL COM-  
17 PONENTS.—

18           “(i) IN GENERAL.—The term ‘quali-  
19 fied property’ includes any building or its  
20 structural components which otherwise sat-  
21 isfy the requirements under subparagraph  
22 (A).

23           “(ii) EXCEPTION.—Clause (i) shall  
24 not apply with respect to a building or por-  
25 tion of a building used for offices, adminis-

1                   trative services, or other functions unre-  
2                   lated to manufacturing.

3                   “(3) ADVANCED MANUFACTURING FACILITY.—

4                   For purposes of this section, the term ‘advanced  
5                   manufacturing facility’ means a facility for which  
6                   the primary purpose is the manufacturing of semi-  
7                   conductors or semiconductor manufacturing equip-  
8                   ment.

9                   “(4) COORDINATION WITH REHABILITATION  
10                  CREDIT.—The qualified investment with respect to  
11                  any advanced manufacturing facility for any taxable  
12                  year shall not include that portion of the basis of  
13                  any property which is attributable to qualified reha-  
14                  bilitation expenditures (as defined in section  
15                  47(c)(2)).

16                  “(5) CERTAIN PROGRESS EXPENDITURE RULES  
17                  MADE APPLICABLE.—Rules similar to the rules of  
18                  subsections (c)(4) and (d) of section 46 (as in effect  
19                  on the day before the date of the enactment of the  
20                  Revenue Reconciliation Act of 1990) shall apply for  
21                  purposes of subsection (a).

22                  “(c) ELIGIBLE TAXPAYER.—For purposes of this sec-  
23                  tion, the term ‘eligible taxpayer’ means any taxpayer  
24                  which—



1 “(1) is not a foreign entity of concern (as de-  
2 fined in section 9901(6) of the William M. (Mac)  
3 Thornberry National Defense Authorization Act for  
4 Fiscal Year 2021), and

5 “(2) has not made an applicable transaction (as  
6 defined in section 50(a)) during the taxable year.

7 “(d) ELECTIVE PAYMENT.—

8 “(1) IN GENERAL.—Except as otherwise pro-  
9 vided in paragraph (2)(A), in the case of a taxpayer  
10 making an election (at such time and in such man-  
11 ner as the Secretary may provide) under this sub-  
12 section with respect to the credit determined under  
13 subsection (a) with respect to such taxpayer, such  
14 taxpayer shall be treated as making a payment  
15 against the tax imposed by subtitle A (for the tax-  
16 able year with respect to which such credit was de-  
17 termined) equal to the amount of such credit.

18 “(2) SPECIAL RULES.—For purposes of this  
19 subsection—

20 “(A) APPLICATION TO PARTNERSHIPS AND  
21 S CORPORATIONS.—

22 “(i) IN GENERAL.—In the case of the  
23 credit determined under subsection (a)  
24 with respect to any property held directly  
25 by a partnership or S corporation, any

1 election under paragraph (1) shall be made  
2 by such partnership or S corporation. If  
3 such partnership or S corporation makes  
4 an election under such paragraph (in such  
5 manner as the Secretary may provide) with  
6 respect to such credit—

7 “(I) the Secretary shall make a  
8 payment to such partnership or S cor-  
9 poration equal to the amount of such  
10 credit,

11 “(II) paragraph (3) shall be ap-  
12 plied with respect to such credit be-  
13 fore determining any partner’s dis-  
14 tributive share, or shareholder’s pro  
15 rata share, of such credit,

16 “(III) any amount with respect  
17 to which the election in paragraph (1)  
18 is made shall be treated as tax exempt  
19 income for purposes of sections 705  
20 and 1366, and

21 “(IV) a partner’s distributive  
22 share of such tax exempt income shall  
23 be based on such partner’s distribu-  
24 tive share of the otherwise applicable  
25 credit for each taxable year.

1                   “(ii) COORDINATION WITH APPLICA-  
2                   TION AT PARTNER OR SHAREHOLDER  
3                   LEVEL.—In the case of any property held  
4                   directly by a partnership or S corporation,  
5                   no election by any partner or shareholder  
6                   shall be allowed under paragraph (1) with  
7                   respect to any credit determined under  
8                   subsection (a) with respect to such prop-  
9                   erty.

10                  “(B) ELECTIONS.—Any election under  
11                  paragraph (1) shall be made not later than the  
12                  due date (including extensions of time) for the  
13                  return of tax for the taxable year for which the  
14                  election is made, but in no event earlier than  
15                  270 days after the date of the enactment of this  
16                  section. Any such election, once made, shall be  
17                  irrevocable. Except as otherwise provided in this  
18                  subparagraph, any election under paragraph (1)  
19                  shall apply with respect to any credit for the  
20                  taxable year for which the election is made.

21                  “(C) TIMING.—The payment described in  
22                  paragraph (1) shall be treated as made on the  
23                  later of the due date (determined without re-  
24                  gard to extensions) of the return of tax for the

1 taxable year or the date on which such return  
2 is filed.

3 “(D) TREATMENT OF PAYMENTS TO PART-  
4 NERSHIPS AND S CORPORATIONS.—For pur-  
5 poses of section 1324 of title 31, United States  
6 Code, the payments under subparagraph  
7 (A)(i)(I) shall be treated in the same manner as  
8 a refund due from a credit provision referred to  
9 in subsection (b)(2) of such section.

10 “(E) ADDITIONAL INFORMATION.—As a  
11 condition of, and prior to, any amount being  
12 treated as a payment which is made by the tax-  
13 payer under paragraph (1) or any payment  
14 being made pursuant to subparagraph (A), the  
15 Secretary may require such information or reg-  
16 istration as the Secretary deems necessary or  
17 appropriate for purposes of preventing duplica-  
18 tion, fraud, improper payments, or excessive  
19 payments under this section.

20 “(F) EXCESSIVE PAYMENT.—

21 “(i) IN GENERAL.—In the case of any  
22 amount treated as a payment which is  
23 made by the taxpayer under paragraph  
24 (1), or any payment made pursuant to  
25 subparagraph (A), which the Secretary de-

1 termines constitutes an excessive payment,  
2 the tax imposed on such taxpayer by chap-  
3 ter 1 for the taxable year in which such de-  
4 termination is made shall be increased by  
5 an amount equal to the sum of—

6 “(I) the amount of such excessive  
7 payment, plus

8 “(II) an amount equal to 20 per-  
9 cent of such excessive payment.

10 “(ii) REASONABLE CAUSE.—Clause  
11 (i)(II) shall not apply if the taxpayer dem-  
12 onstrates to the satisfaction of the Sec-  
13 retary that the excessive payment resulted  
14 from reasonable cause.

15 “(iii) EXCESSIVE PAYMENT DE-  
16 FINED.—For purposes of this subpara-  
17 graph, the term ‘excessive payment’ means,  
18 with respect to property for which an elec-  
19 tion is made under this subsection for any  
20 taxable year, an amount equal to the ex-  
21 cess of—

22 “(I) the amount treated as a pay-  
23 ment which is made by the taxpayer  
24 under paragraph (1), or the amount  
25 of the payment made pursuant to sub-

1 paragraph (A), with respect to such  
2 property for such taxable year, over

3 “(II) the amount of the credit  
4 which, without application of this sub-  
5 section, would be otherwise allowable  
6 (determined without regard to section  
7 38(c)) under subsection (a) with re-  
8 spect to such property for such tax-  
9 able year.

10 “(3) DENIAL OF DOUBLE BENEFIT.—In the  
11 case of a taxpayer making an election under this  
12 subsection with respect to the credit determined  
13 under subsection (a), such credit shall be reduced to  
14 zero and shall, for any other purposes under this  
15 title, be deemed to have been allowed to the taxpayer  
16 for such taxable year.

17 “(4) MIRROR CODE POSSESSIONS.—In the case  
18 of any possession of the United States with a mirror  
19 code tax system (as defined in section 24(k)), this  
20 subsection shall not be treated as part of the income  
21 tax laws of the United States for purposes of deter-  
22 mining the income tax law of such possession unless  
23 such possession elects to have this subsection be so  
24 treated.

1           “(5) BASIS REDUCTION AND RECAPTURE.—  
2       Rules similar to the rules of subsections (a) and (c)  
3       of section 50 shall apply with respect to—

4           “(A) any amount treated as a payment  
5       which is made by the taxpayer under paragraph  
6       (1), and

7           “(B) any payment made pursuant to para-  
8       graph (2)(A).

9           “(6) REGULATIONS.—The Secretary shall issue  
10      such regulations or other guidance as may be nec-  
11      essary or appropriate to carry out the purposes of  
12      this subsection, including—

13           “(A) regulations or other guidance pro-  
14      viding rules for determining a partner’s dis-  
15      tributive share of the tax exempt income de-  
16      scribed in paragraph (2)(A)(i)(III), and

17           “(B) guidance to ensure that the amount  
18      of the payment or deemed payment made under  
19      this subsection is commensurate with the  
20      amount of the credit that would be otherwise al-  
21      lowable (determined without regard to section  
22      38(c)).

23           “(e) TERMINATION OF CREDIT.—The credit allowed  
24      under this section shall not apply to property the construc-  
25      tion of which begins after December 31, 2026.”.

1 (b) RECAPTURE IN CONNECTION WITH CERTAIN EX-  
2 PANSIONS.—

3 (1) IN GENERAL.—Section 50(a) of the Internal  
4 Revenue Code of 1986 is amended redesignating  
5 paragraphs (3) through (5) as paragraphs (4)  
6 through (6), respectively, and by inserting after  
7 paragraph (2) the following new paragraph:

8 “(3) CERTAIN EXPANSIONS IN CONNECTION  
9 WITH ADVANCED MANUFACTURING FACILITIES.—

10 “(A) IN GENERAL.—If there is a an appli-  
11 cable transaction by an applicable taxpayer be-  
12 fore the close of the 10-year period beginning  
13 on the date such taxpayer placed in service in-  
14 vestment credit property which is eligible for  
15 the advanced manufacturing investment credit  
16 under section 48D(a), then the tax under this  
17 chapter for the taxable year in which such  
18 transaction occurs shall be increased by 100  
19 percent of the aggregate decrease in the credits  
20 allowed under section 38 for all prior taxable  
21 years which would have resulted solely from re-  
22 ducing to zero any credit determined under sec-  
23 tion 46 which is attributable to the advanced  
24 manufacturing investment credit under section  
25 48D(a) with respect to such property.



1                   “(B)   EXCEPTION.—Subparagraph   (A)  
2                   shall not apply if the applicable taxpayer dem-  
3                   onstrates to the satisfaction of the Secretary  
4                   that the applicable transaction has been ceased  
5                   or abandoned within 45 days of a determination  
6                   and notice by the Secretary.

7                   “(C)   REGULATIONS AND GUIDANCE.—The  
8                   Secretary shall issue such regulations or other  
9                   guidance as the Secretary determines necessary  
10                  or appropriate to carry out the purposes of this  
11                  paragraph, including regulations or other guid-  
12                  ance which provide for requirements for record-  
13                  keeping or information reporting for purposes  
14                  of administering the requirements of this para-  
15                  graph.”.

16                  (2)   APPLICABLE TRANSACTION; APPLICABLE  
17                  TAXPAYER.—Section 50(a)(6) of the Internal Rev-  
18                  enue Code of 1986, as redesignated by paragraph  
19                  (1), is amended adding at the end the following new  
20                  subparagraphs:

21                  “(D)   APPLICABLE TRANSACTION.—For  
22                  purposes of this subsection, the term ‘applicable  
23                  transaction’ means, with respect to any applica-  
24                  ble taxpayer, any transaction (as determined by  
25                  the Secretary, in coordination with the Sec-

1           retary of Commerce and the Secretary of De-  
2           fense) involving the expansion of semiconductor  
3           manufacturing capacity of such applicable tax-  
4           payer in the People's Republic of China or a  
5           foreign country of concern (as defined in sec-  
6           tion 9901(7) of the William M. (Mac) Thorn-  
7           berry National Defense Authorization Act for  
8           Fiscal Year 2021).