

117TH CONGRESS
1ST SESSION

H. R. 5495

To establish the Supply Chain Resiliency and Crisis Response Office in the Department of Commerce, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 5, 2021

Mr. MALINOWSKI (for himself, Mr. KINZINGER, and Ms. BLUNT ROCHESTER) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To establish the Supply Chain Resiliency and Crisis Response Office in the Department of Commerce, and for other purposes.

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 “Building Resilient Sup-
5 ply Chains Act”.

6 **SEC. 2. CRITICAL SUPPLY CHAIN RESILIENCE PROGRAM.**

7 (a) ESTABLISHMENT.—There is established in the
8 Office of the Secretary of Commerce a Supply Chain Resil-
9 iency and Crisis Response Office to carry out the Critical

1 Supply Chain Resilience Program described in subsection
2 (d).

3 (b) MISSION.—The mission of the Office shall be the
4 following:

5 (1) Help to promote the leadership of the
6 United States with respect to critical industries and
7 supply chains that—

8 (A) strengthen the national security of the
9 United States; and

10 (B) have a significant effect on the eco-
11 nomic security of the United States.

12 (2) Encourage partnerships and collaboration
13 with the Federal Government and the private sector,
14 labor organizations, the governments of countries
15 that are allies or key international partners of the
16 United States, State governments and other political
17 subdivisions of a State, and Tribal governments in
18 order to—

19 (A) promote the resilience of supply
20 chains; and

21 (B) respond to supply chain shocks to—

22 (i) critical industries; and

23 (ii) supply chains.

24 (3) Support the development, maintenance, im-
25 provement, competitiveness, restoration, and expan-

1 sion of the productive capacities, efficiency, and
2 workforce of critical industries and domestic manu-
3 facturers of critical goods and services, industrial
4 equipment, and manufacturing technology.

5 (4) Prepare for and take appropriate steps to
6 minimize the effects of supply chain shocks on crit-
7 ical industries and supply chains.

8 (5) Support the creation of jobs with competi-
9 tive wages in the manufacturing sector.

10 (6) Encourage manufacturing growth and op-
11 portunities in economically distressed areas and
12 communities of color.

13 (7) Promote the health of the economy of the
14 United States and the competitiveness of manufac-
15 turing in the United States.

16 (8) Coordinate executive branch actions nec-
17 essary to carry out the functions described in para-
18 graphs (1) through (7).

19 (c) UNDER SECRETARY OF THE OFFICE.—

20 (1) APPOINTMENT AND TERM.—The head of
21 the Office shall be the Under Secretary of the Office
22 of Supply Chain Resiliency and Crisis Response, ap-
23 pointed by the President, by and with the advice and
24 consent of the Senate, for a term of not more than
25 5 years.

1 (2) PAY.—The Under Secretary shall be com-
2 pensated at the rate in effect for level II of the Ex-
3 ecutive Schedule under section 5313 of title 5,
4 United States Code.

5 (3) ADMINISTRATIVE AUTHORITIES.—The
6 Under Secretary may appoint officers and employees
7 in accordance with chapter 51 and subchapter III of
8 chapter 53 of title 5, United States Code.

9 (d) CRITICAL SUPPLY CHAIN RESILIENCE PRO-
10 GRAM.—

11 (1) IN GENERAL.—The Under Secretary shall
12 support the resilience, diversity, security, and
13 strength of supply chains by providing grants, loans,
14 and loan guarantees for eligible activities described
15 under subsection (e) to eligible entities described
16 under subsection (f).

17 (2) APPLICATION.—To be eligible for a grant,
18 loan, or loan guarantee under this section, an eligi-
19 ble entity described in subsection (f) shall submit to
20 the Under Secretary an application at such time, in
21 such form, and containing such information as the
22 Under Secretary may require, including—

23 (A) a description of the proposed activity
24 to be carried out with such a grant, loan, or
25 loan guarantee;

1 (B) a description of the supply chain sup-
2 ported by the proposed activity; and

3 (C) an estimate of the total costs for such
4 activity.

5 (e) ELIGIBLE ACTIVITIES.—The following activities
6 may be carried out with amounts made available under
7 this section:

8 (1) The development, diversification, preserva-
9 tion, improvement, support, restoration, or expan-
10 sion of supply chains and the domestic manufac-
11 turing of critical goods and services, industrial
12 equipment, and manufacturing technology, including
13 activities that support any of the following:

14 (A) The domestic manufacturing of a crit-
15 ical good or service or industrial equipment.

16 (B) The commercialization, adoption, de-
17 ployment, or use of manufacturing technology
18 by domestic manufacturers.

19 (C) The design, engineering, construction,
20 expansion, improvement, repair, or maintenance
21 of critical infrastructure or a manufacturing fa-
22 cility in the United States.

23 (D) The purchase, lease, enhancement, or
24 retooling of industrial equipment for use in the
25 United States.

1 (E) The purchase, lease, or acquisition of
2 critical goods and services, industrial equip-
3 ment, or manufacturing technology from reli-
4 able sources.

5 (2) The manufacture or acquisition of a sub-
6 stitute for a critical good or service, industrial equip-
7 ment, or manufacturing technology.

8 (3) The establishment, improvement, develop-
9 ment, expansion, or preservation of surge capacity or
10 stockpiling of a critical good or service or industrial
11 equipment, as appropriate and necessary.

12 (4) The establishment, improvement, or preser-
13 vation of diverse, secure, reliable, and strong sources
14 and locations of a critical good or service in the
15 United States.

16 (f) ELIGIBLE ENTITIES.—The following entities are
17 eligible to receive grants, loans, and loan guarantees under
18 this section:

19 (1) A domestic manufacturer.

20 (2) A domestic enterprise.

21 (3) A State, county, city, or other political sub-
22 division of a State.

23 (4) A Tribal government.

1 (5) A manufacturing extension center estab-
2 lished as part of the Hollings Manufacturing Exten-
3 sion Partnership.

4 (6) A Manufacturing USA institute as de-
5 scribed in section 34(d) of the National Institute of
6 Standards and Technology Act (15 U.S.C. 278s(d)).

7 (7) An institution of higher education acting as
8 part of a consortium, partnership, or joint venture
9 with another eligible entity described in paragraphs
10 (1) through (6).

11 (8) A public or private nonprofit organization
12 or association acting as part of a consortium, part-
13 nership, or joint venture with another eligible entity
14 described in paragraphs (1) through (6).

15 (9) A consortium, partnership, or joint venture
16 of two or more eligible entities described under para-
17 graphs (1) through (8).

18 (g) REQUIREMENTS.—The Under Secretary may only
19 make a grant, loan, or loan guarantee available to an eligi-
20 ble entity if the Under Secretary makes a determination
21 of the following:

22 (1) The grant, loan, or loan guarantee is for an
23 activity described under subsection (e).

24 (2) Without a grant, loan, or loan guarantee
25 the eligible entity would not be able to fund or fi-

1 nance the activity under reasonable terms and condi-
2 tions.

3 (3) A grant, loan, or loan guarantee is a cost
4 effective, expedient, and practical financial assist-
5 ance for the activity.

6 (4) There is a reasonable assurance that—

7 (A) the eligible entity will implement the
8 activity in accordance with the application sub-
9 mitted pursuant to paragraph (2) of subsection
10 (d); and

11 (B) the activity will support—

12 (i) the resilience, diversity, security, or
13 strength of a supply chain; or

14 (ii) the national security or economic
15 security of the United States.

16 (5) The eligible entity agrees to provide the in-
17 formation required under paragraph (3) of sub-
18 section (m).

19 (h) CRITERIA.—The Under Secretary shall establish
20 criteria for the awarding of grants, loans, and loan guar-
21 antees that meet the requirements under subsection (g),
22 including the following:

23 (1) The extent to which the activity supports
24 the resilience, diversity, security, and strength of
25 supply chains.

1 (2) The extent to which the activity is funded
2 or financed by non-Federal sources.

3 (3) The extent to which the grant, loan, or loan
4 guarantee will assist small and medium-sized domes-
5 tic manufacturers.

6 (4) The amount of appropriations that are re-
7 quired to fund or finance the grant, loan, or loan
8 guarantee made available under this section.

9 (i) GRANT COST SHARE.—

10 (1) IN GENERAL.—The Federal share of the
11 cost of a grant awarded to an eligible entity under
12 this section may not exceed 80 percent of the total
13 cost of the activity.

14 (2) WAIVER.—Upon providing written justifica-
15 tion for a determination made pursuant to this para-
16 graph, which may be submitted with a classified
17 annex to the Committee on Energy and Commerce
18 of the House of Representatives and the Committee
19 on Commerce, Science, and Transportation of the
20 Senate, the Under Secretary may waive the cost
21 share requirement under paragraph (1)—

22 (A) during a period of national emergency
23 declared by an Act of Congress or the Presi-
24 dent; or

1 (B) upon making a determination that a
2 grant is necessary to avert the disruption,
3 strain, compromise, or elimination of a supply
4 chain that would severely affect the national se-
5 curity or economic security of the United
6 States.

7 (3) MAXIMUM FEDERAL INVOLVEMENT.—Fed-
8 eral assistance other than a grant under this section
9 may be used to satisfy the non-Federal share of the
10 cost of the activity.

11 (j) LOANS AND LOAN GUARANTEES.—

12 (1) IN GENERAL.—The Under Secretary may
13 enter into agreements with one or more eligible enti-
14 ties to make a loan, the proceeds of which shall be
15 used to finance eligible activities.

16 (2) MAXIMUM AMOUNT.—The amount of a loan
17 under this section shall not exceed 80 percent of the
18 reasonably anticipated costs of an activity.

19 (3) WAIVER.—Upon providing written justifica-
20 tion for a determination made pursuant to this para-
21 graph, which may be submitted with a classified
22 annex to the Committee on Energy and Commerce
23 of the House of Representatives and the Committee
24 on Commerce, Science, and Transportation of the

1 Senate, the Under Secretary may waive the require-
2 ment under paragraph (2)—

3 (A) during a period of national emergency
4 declared by an Act of Congress or the Presi-
5 dent; or

6 (B) upon making a determination that a
7 loan or loan guarantee is necessary to avert the
8 disruption, strain, compromise, or elimination
9 of a supply chain that would severely affect the
10 economic security of the United States.

11 (4) MAXIMUM FEDERAL INVOLVEMENT.—The
12 proceeds of a loan under this section may be used
13 to pay any non-Federal share of activity costs re-
14 quired if the loan is repayable from non-Federal
15 funds.

16 (5) LOAN GUARANTEES.—The Under Secretary
17 may provide a loan guarantee to a lender in lieu of
18 making a loan under this subsection.

19 (6) LOAN GUARANTEE TERMS.—The terms of a
20 loan guarantee provided under this subsection shall
21 be consistent with the terms established in this sub-
22 section for a loan.

23 (k) CREDITWORTHINESS.—

24 (1) IN GENERAL.—For a loan or loan guar-
25 antee issued under subsection (j), the eligible activity

1 and eligible entity receiving such loan or loan guar-
2 antee shall be creditworthy, which shall be deter-
3 mined by the Under Secretary.

4 (2) CONSIDERATIONS.—In determining the
5 creditworthiness of an eligible activity and eligible
6 entity, the Under Secretary shall take into consider-
7 ation relevant factors, including the following:

8 (A) The terms, conditions, financial struc-
9 ture, and security features of the proposed fi-
10 nancing.

11 (B) The revenue sources that will secure or
12 fund any note, bond, debenture, or other debt
13 obligation issued in connection with the Federal
14 financing.

15 (C) The financial assumptions upon which
16 the loan or loan guarantee is based.

17 (D) The ability of the eligible entity to suc-
18 cessfully achieve the goal of the activity.

19 (E) The financial soundness and credit his-
20 tory of the eligible entity.

21 (l) CONDITIONS.—The Under Secretary is authorized
22 to prescribe—

23 (1) either specifically or by maximum limits or
24 otherwise, rates of interest, guarantee and commit-
25 ment fees, and other charges which may be made in

1 connection with a loan or loan guarantee made
2 under this section; and

3 (2) regulations governing the forms and proce-
4 dures (which shall be uniform to the extent prac-
5 ticable) to be used in connection with such loans and
6 loan guarantees.

7 (m) PERFORMANCE MEASURES.—For grants, loans,
8 and loan guarantees awarded under this section, the
9 Under Secretary shall—

10 (1) develop metrics to assess the extent to
11 which the activities meet the criteria under sub-
12 section (h);

13 (2) evaluate the extent to which each eligible
14 entity awarded a grant, loan, or loan guarantee is
15 meeting the criteria under subsection (h); and

16 (3) require that any information the Under Sec-
17 retary determines to be necessary for the evaluation
18 described under paragraph (2) be provided by eligi-
19 ble entities awarded a grant, including subawardees.

20 (n) REVOCATION.—The Under Secretary may revoke
21 a grant, loan, or loan guarantee if the eligible entity fails
22 to meet any requirement under this section.

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

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

3 (p) CRITICAL SUPPLY CHAIN RESILIENCE FUND.—

4 (1) ESTABLISHMENT.—There is established in
5 the Treasury of the United States a fund to be
6 known as the “Supply Chains for Critical Manufac-
7 turing Industries Fund” (referred to in this section
8 as the “Fund”) which shall solely be used by the
9 Under Secretary to carry out this section.

10 (2) REVOLVING LOAN FUND.—The proceeds of
11 any conditions prescribed under subsection (l)(1)
12 shall be deposited into the Fund.

13 (q) PROGRAM EVALUATION.—Not later than 4 years
14 after the date of enactment of this Act, and every 4 years
15 thereafter, the Inspector General of the Department of
16 Commerce shall conduct an audit of the Office to—

17 (1) evaluate the performance of the activities
18 supported by a grant, loan, or loan guarantee under
19 this section;

20 (2) evaluate the extent to which the require-
21 ments and criteria under this section are met; and

22 (3) provide recommendations on any proposed
23 changes to improve the effectiveness of the Office on
24 meeting the mission under subsection (b).

1 (r) REGULATIONS.—The Under Secretary may pro-
2 mulgate such regulations as the Under Secretary deter-
3 mines to be appropriate to carry out this section.

4 (s) AUTHORIZATION OF APPROPRIATIONS.—There is
5 authorized to be appropriated—

6 (1) to the Fund \$41,000,000,000 for fiscal
7 years 2022 through 2027, to remain available until
8 expended, of which not more than—

9 (A) \$31,000,000,000 may be used for
10 loans and loan guarantees to eligible entities;

11 (B) \$10,000,000,000 may be used for
12 grants; and

13 (C) 2 percent per fiscal year may be used
14 for administrative costs; and

15 (2) to the Inspector General of the Department
16 of Commerce \$5,000,000 for fiscal years 2022
17 through 2027, to remain available until expended, to
18 carry out subsection (q).

19 (t) CONSISTENCY WITH INTERNATIONAL AGREE-
20 MENTS.—This Act shall be applied in a manner consistent
21 with United States obligations under international agree-
22 ments.

23 (u) WORKFORCE PROTECTIONS.—Any eligible entity
24 applying for a grant, loan, or loan guarantee under this

1 section and with 100 or more employees shall make a
2 good-faith certification that—

3 (1) the eligible entity will not abrogate existing
4 collective bargaining agreements for—

5 (A) the term of the grant; or

6 (B) the term of the loan or loan guarantee
7 and 2 years after completing repayment of the
8 loan; and

9 (2) the eligible entity will remain neutral in any
10 union organizing effort for the term of the grant,
11 loan, or loan guarantee.

12 (v) DEFINITIONS.—In this section:

13 (1) ALLY OR KEY INTERNATIONAL PARTNER.—
14 The term “ally or key international partner” does
15 not include countries that pose a significant national
16 security or economic security risk to the United
17 States.

18 (2) CRITICAL GOOD OR SERVICE.—The term
19 “critical good or service” means any raw, in process,
20 or manufactured material (including any mineral,
21 metal, or advanced processed material), article, com-
22 modity, supply, product, or item of supply the ab-
23 sence of which would have a significant effect on—

24 (A) the national security or economic secu-
25 rity of the United States; and

1 (B) critical infrastructure.

2 (3) CRITICAL INDUSTRY.—The term “critical
3 industry” means an industry that is critical for the
4 national security or economic security of the United
5 States, considering key technology focus areas under
6 this section and critical infrastructure.

7 (4) CRITICAL INFRASTRUCTURE.—The term
8 “critical infrastructure” has the meaning given to
9 that term in the Critical Infrastructures Protection
10 Act of 2001 (42 U.S.C. 5195c).

11 (5) DOMESTIC ENTERPRISE.—The term “do-
12 mestic enterprise” means an enterprise that con-
13 ducts business in the United States and procures a
14 critical good or service.

15 (6) DOMESTIC MANUFACTURER.—The term
16 “domestic manufacturer” means a business that—

17 (A) conducts in the United States the re-
18 search and development, engineering, or pro-
19 duction activities necessary or incidental to
20 manufacturing; or

21 (B) if provided a grant, loan, loan guar-
22 antee, or equity investment pursuant to this
23 section, will conduct in the United States the
24 research and development, engineering, or pro-

1 duction activities necessary or incidental to
2 manufacturing.

3 (7) INDUSTRIAL EQUIPMENT.—The term “in-
4 dustrial equipment” means any component, sub-
5 system, system, equipment, tooling, accessory, part,
6 or assembly necessary for the manufacturing of a
7 critical good or service.

8 (8) INSTITUTION OF HIGHER EDUCATION.—The
9 term “institution of higher education” has the
10 meaning given that term under section 101(a) of the
11 Higher Education Act of 1965 (20 U.S.C. 1001(a)).

12 (9) KEY TECHNOLOGY FOCUS AREAS.—The
13 term “key technology focus areas” means the fol-
14 lowing:

15 (A) Artificial intelligence, machine learn-
16 ing, autonomy, and related advances.

17 (B) High performance computing, semi-
18 conductors, and advanced computer hardware
19 and software.

20 (C) Quantum information science and
21 technology.

22 (D) Robotics, automation, and advanced
23 manufacturing.

24 (E) Natural and anthropogenic disaster
25 prevention or mitigation.

1 (F) Advanced communications technology,
2 including optical transmission components.

3 (G) Biotechnology, medical technology,
4 genomics, and synthetic biology.

5 (H) Data storage, data management, dis-
6 tributed ledger technologies, and cybersecurity,
7 including biometrics.

8 (I) Advanced energy and industrial efficacy
9 technologies, such as batteries, advanced nu-
10 clear technologies, and polysilicon for use in
11 solar photovoltaics, including for the purposes
12 of electric generation (consistent with section
13 15 of the National Science Foundation Act of
14 1950 (42 U.S.C. 1874)).

15 (J) Advanced materials science, including
16 composites and 2D materials and equipment,
17 aerospace grade metals, and aerospace specific
18 manufacturing enabling chemicals.

19 (10) LENDER.—The term “lender” means any
20 non-Federal qualified institutional buyer (as defined
21 in section 230.144A(a) of title 17, Code of Federal
22 Regulations or a successor regulation).

23 (11) LOAN.—The term “loan” means a direct
24 loan or other debt obligation issued by an eligible en-
25 tity and funded by the Under Secretary in connec-

1 tion with the financing of an activity under this sec-
2 tion.

3 (12) LOAN GUARANTEE.—The term “loan guar-
4 antee” means any guarantee or other pledge by the
5 Under Secretary to pay all or part of the principal
6 of, and interest on, a loan or other debt obligation
7 entered into by an eligible entity and funded by a
8 lender.

9 (13) MANUFACTURE.—The term “manufac-
10 ture” means any activity that is necessary for or in-
11 cidental to the development, production, processing,
12 distribution, or delivery of any raw, in process, or
13 manufactured material (including minerals, metals,
14 and advanced processed materials), article, com-
15 modity, supply, product, critical good or service, or
16 item of supply.

17 (14) MANUFACTURING FACILITY.—The term
18 “manufacturing facility” means any type of building,
19 structure, or real property necessary or incidental to
20 the manufacturing of a critical good or service.

21 (15) MANUFACTURING TECHNOLOGY.—The
22 term “manufacturing technology” means tech-
23 nologies that are necessary or incidental to the man-
24 ufacturing of a critical good or service.

1 (16) NONPROFIT ORGANIZATION.—The term
2 “nonprofit organization” means an organization that
3 is described in section 501(c)(3) of the Internal Rev-
4 enue Code of 1986 and exempt from taxation under
5 section 501(a) of such Code.

6 (17) OFFICE.—The term “Office” means the
7 Supply Chain Resiliency and Crisis Response Office
8 established under subsection (a).

9 (18) STATE.—The term “State” means each
10 State of the United States, the District of Columbia,
11 American Samoa, Guam, the Commonwealth of the
12 Northern Mariana Islands, the Commonwealth of
13 Puerto Rico, the Virgin Islands of the United States,
14 and any other territory or possession of the United
15 States.

16 (19) SUPPLY CHAIN.—The term “supply chain”
17 means a supply chain for a critical good or service.

18 (20) TRIBAL GOVERNMENT.—The term “Tribal
19 government” means Indian Tribes, Alaska Native
20 Tribal entities, and Native Hawaiian communities.

21 (21) UNDER SECRETARY.—The term “Under
22 Secretary” means the Under Secretary of the Office
23 of Supply Chain Resiliency and Crisis Response ap-
24 pointed pursuant to subsection (c).

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