

(2) affect any other provision of law or regulation applicable to an entity that is not included in a waiver provided under this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office to carry out this section an amount that is not more than the amount of funds deposited into the Treasury from the fees collected under subsection (c)(3).

**SA 5181.** Mr. COTTON submitted an amendment intended to be proposed to amendment SA 5135 proposed by Mr. SCHUMER to the bill H.R. 4346, making appropriations for Legislative Branch for the fiscal year ending September 30, 2022, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 41, strike line 17 and all that follows through line 5 on page 84, and insert the following:

“(ii) includes semiconductor fabrication, assembly, testing, packaging, research and development, and any additional process identified by the Secretary.

“(C) REQUIRED AGREEMENT.—

“(i) IN GENERAL.—On or before the date on which the Secretary awards Federal financial assistance to a covered entity under this section, the covered entity shall enter into an agreement with the Secretary specifying that, during the 10-year period beginning on the date of the award, the covered entity may not engage in any transaction, as defined in the agreement, involving the expansion of semiconductor manufacturing capacity in the People’s Republic of China or any other foreign country of concern.

“(ii) AFFILIATED GROUP.—For the purpose of applying the requirements in an agreement required under clause (i), a covered entity shall include the covered entity receiving financial assistance under this section, as well as any member of the covered entity’s affiliated group under section 1504(a) of the Internal Revenue Code of 1986, without regard to section 1504(b)(3) of such Code.

“(D) NOTIFICATION REQUIREMENTS.—During the applicable term of the agreement of a covered entity required under subparagraph (C)(i), the covered entity shall notify the Secretary of any planned transactions of the covered entity involving the expansion of semiconductor manufacturing capacity in the People’s Republic of China or any other foreign country of concern.

“(E) VIOLATION OF AGREEMENT.—

“(i) NOTIFICATION TO COVERED ENTITIES.—Not later than 90 days after the date of receipt of a notification described in subparagraph (D) from a covered entity, the Secretary, in consultation with the Secretary of Defense and the Director of National Intelligence, shall—

“(I) determine whether the transaction described in the notification would be a violation of the agreement of the covered entity required under subparagraph (C)(i); and

“(II) notify the covered entity of the Secretary’s decision under subclause (I).

“(ii) OPPORTUNITY TO REMEDY.—Upon a notification under clause (i)(II) that a planned transaction of a covered entity is a violation of the agreement of the covered entity required under subparagraph (C)(i), the Secretary shall—

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

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

“(iii) FAILURE BY THE COVERED ENTITY TO CEASE OR REMEDY THE ACTIVITY.—If a covered entity fails to remedy a violation as set forth under clause (ii), the Secretary shall

recover the full amount of the Federal financial assistance provided to the covered entity under this section.

“(F) SUBMISSION OF RECORDS.—

“(i) IN GENERAL.—The Secretary may request from a covered entity records and other necessary information to review the compliance of the covered entity with the agreement required under subparagraph (C)(i).

“(ii) ELIGIBILITY.—In order to be eligible for Federal financial assistance under this section, a covered entity shall agree to provide records and other necessary information requested by the Secretary under clause (i).

“(G) CONFIDENTIALITY OF RECORDS.—

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

“(I) shall be exempt from disclosure under section 552(b)(3) of title 5, United States Code; and

“(II) shall not be made public.

“(ii) EXCEPTIONS.—Clause (i) shall not prevent the disclosure of any of the following by the Secretary:

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

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

“(III) Information necessary to fulfill the requirement of the congressional notification under subparagraph (H).

“(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—

“(i) a notification of the violation;

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

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

“(I) REGULATIONS.—The Secretary may issue regulations implementing this paragraph.”; and

(6) by adding at the end the following:

“(d) SENSE OF CONGRESS.—It is the sense of Congress that, in carrying out subsection (a), the Secretary should allocate funds in a manner that—

“(1) strengthens the security and resilience of the semiconductor supply chain, including by mitigating gaps and vulnerabilities;

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

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

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

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

“(6) promotes the inclusion of economically disadvantaged individuals and small businesses; and

“(7) improves the resiliency of the semiconductor supply chains of critical manufacturing industries.

“(e) ADDITIONAL ASSISTANCE FOR MATURE TECHNOLOGY NODES.—

“(1) IN GENERAL.—The Secretary shall establish within the program established under subsection (a) an additional program that provides Federal financial assistance to covered entities to incentivize investment in facilities and equipment in the United States for the fabrication, assembly, testing, or packaging of semiconductors at mature technology nodes.

“(2) ELIGIBILITY AND REQUIREMENTS.—In order for an entity to qualify to receive Federal financial assistance under this subsection, the covered entity shall agree to—

“(A) submit an application under subsection (a)(2)(A);

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

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

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

“(D) commit to using any Federal financial assistance received under this section to increase the production of semiconductors at mature technology nodes; and

“(E) be subject to the considerations described in subsection (a)(2)(C).

“(3) PROCEDURES.—In granting Federal financial assistance to covered entities under this subsection, the Secretary may use the procedures established under subsection (a).

“(4) CONSIDERATIONS.—In addition to the considerations described in subsection (a)(2)(C), in granting Federal financial assistance under this subsection, the Secretary may consider whether a covered entity produces or supplies equipment or materials used in the fabrication, assembly, testing, or packaging of semiconductors at mature technology nodes that are necessary to support a critical manufacturing industry.

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

“(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this subsection \$2,000,000,000, which shall remain available until expended.

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

“(g) LOANS AND LOAN GUARANTEES.—

“(1) IN GENERAL.—Subject to the requirements of subsection (a) and this subsection, the Secretary may make or guarantee loans to covered entities as financial assistance under this section.

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

“(A) the covered entity—

“(i) has a reasonable prospect of repaying the principal and interest on the loan; and

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

“(B) the amount of the loan (when combined with amounts available to the loan recipient from other sources) will be sufficient to carry out the project.

“(3) REASONABLE PROSPECT OF REPAYMENT.—The Secretary shall base a determination of whether there is a reasonable prospect of repayment of the principal and interest on a loan under paragraph (2)(A)(i) on a comprehensive evaluation of whether the covered entity has a reasonable prospect of repaying the principal and interest, including, as applicable, an evaluation of—

“(A) the strength of the contractual terms of the project the covered entity plans to perform (if commercially reasonably available);

“(B) the forecast of noncontractual cash flows supported by market projections from

reputable sources, as determined by the Secretary;

“(C) cash sweeps and other structure enhancements;

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

“(i) at the time of loan close; and

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

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

“(F) other financial metrics and analyses that the private lending community and nationally recognized credit rating agencies rely on, as determined appropriate by the Secretary; and

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

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

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

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

“(5) ADDITIONAL TERMS.—A loan or guarantee provided under this subsection may include any other terms and conditions that the Secretary determines to be appropriate.

“(6) RESPONSIBLE LENDER.—No loan may be guaranteed under this subsection, unless the Secretary determines that—

“(A) the lender is responsible; and

“(B) adequate provision is made for servicing the loan on reasonable terms and protecting the financial interest of the United States.

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

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

“(h) OVERSIGHT.—Not later than 4 years after disbursement of the first financial award under subsection (a), the Inspector General of the Department of Commerce shall audit the program under this section to assess—

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

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

“(3) whether the covered entities receiving financial assistance under this program have carried out the commitments made to worker and community investment under subsection (a)(2)(B)(i)(II) by the target date for completion set by the Secretary under subsection (a)(5)(A);

“(4) whether the required agreement entered into by covered entities and the Secretary under subsection (a)(6)(C)(i), including the notification process, has been carried out to provide covered entities sufficient guidance about a violation of the required agreement; and

“(5) whether the Secretary has provided timely Congressional notification about violations of the required agreement under subsection (a)(6)(C)(i), including the required information on how the Secretary reached a

determination of whether a covered entity was in violation under subsection (a)(6)(E).

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

(C) ADVANCED MICROELECTRONICS RESEARCH AND DEVELOPMENT.—Section 9906 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (15 U.S.C. 4656) is amended—

(1) in subsection (a)(3)(A)(ii)—

(A) in subclause (II), by inserting “, including for technologies based on organic and inorganic materials” after “components”; and

(B) in subclause (V), by striking “and supply chain integrity” and inserting “supply chain integrity, and workforce development”;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting “and grow the domestic semiconductor workforce” after “prototyping of advanced semiconductor technology”; and

(ii) by adding at the end the following: “The Secretary may make financial assistance awards, including construction awards, in support of the national semiconductor technology center.”; and

(B) in paragraph (2)—

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

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

“(C) To work with the Secretary of Labor, the Director of the National Science Foundation, the Secretary of Energy, the private sector, institutions of higher education, and workforce training entities to incentivize and expand geographically diverse participation in graduate, undergraduate, and community college programs relevant to microelectronics, including through—

“(i) the development and dissemination of curricula and research training experiences; and

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

“(i) the development and dissemination of curricula and research training experiences; and

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

(3) in subsection (d)—

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

(B) by adding at the end the following: “The Director may make financial assistance awards, including construction awards, in support of the National Advanced Packaging Manufacturing Program.”;

(4) in subsection (f)—

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

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

(ii) by striking “is focused on semiconductor manufacturing.” and inserting “are focused on semiconductor manufacturing. The Secretary of Commerce may award financial assistance to any Manufacturing USA Institute for work relating to semiconductor manufacturing.”; and

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

(5) by adding at the end the following:

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

(d) ADDITIONAL AUTHORITIES.—Division H of title XCIX of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (15 U.S.C. 4651 et seq.) is amended by adding at the end the following:

“SEC. 9909. ADDITIONAL AUTHORITIES.

“(a) IN GENERAL.—In carrying out the responsibilities of the Department of Commerce under this division, the Secretary may—

“(1) enter into agreements, including contracts, grants and cooperative agreements, and other transactions as may be necessary and on such terms as the Secretary considers appropriate;

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

“(3) require a person or other entity to make payments to the Department of Commerce upon application and as a condition for receiving support through an award of assistance or other transaction;

“(4) procure temporary and intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code;

“(5) notwithstanding section 3104 of title 5, United States Code, or the provisions of any other law relating to the appointment, number, classification, or compensation of employees, make appointments of scientific, engineering, and professional personnel, and fix the basic pay of such personnel at a rate to be determined by the Secretary at rates not in excess of the highest total annual compensation payable at the rate determined under section 104 of title 3, United States Code, except that the Secretary shall appoint not more than 25 personnel under this paragraph;

“(6) with the consent of another Federal agency, enter into an agreement with that Federal agency to use, with or without reimbursement, any service, equipment, personnel, or facility of that Federal agency; and

“(7) establish such rules, regulations, and procedures as the Secretary considers appropriate.

“(b) REQUIREMENT.—Any funds received from a payment made by a person or entity pursuant to subsection (a)(3) shall be credited to and merged with the account from which support to the person or entity was made”.

(e) CONFORMING AMENDMENT.—The table of contents for division H of title XCIX of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116-283) is amended by adding after the item relating to section 9908 the following:

“9909. Additional authorities.”.

SEC. 104. OPPORTUNITY AND INCLUSION.

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce shall establish activities in the Department of Commerce, within the program established under section 9902 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (15 U.S.C. 4652), to carry out this section using funds appropriated under this Act.

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

(c) ACTIVITIES.—Personnel assigned by the Secretary to carry out the activities under this section shall—

(1) assess the eligibility of a covered entity, as defined in section 9901 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (15 U.S.C. 4651), for financial assistance for a

project with respect to the requirements under subclauses (II) and (III) of section 9902(a)(2)(B)(ii) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (15 U.S.C. 4652(a)(2)(B)(ii)(II) and (III));

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

(3) increase participation of and outreach to economically disadvantaged individuals, minority-owned businesses, veteran-owned businesses, and women-owned businesses, as defined by the Secretary of Commerce, respectively, in the geographic area of a project under section 9902 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (15 U.S.C. 4652) and serve as a resource for those individuals, businesses, and covered entities.

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

(e) REPORT.—Beginning on the date that is 1 year after the date on which the Secretary of Commerce establishes the activities described in subsection (c), the Secretary of Commerce shall submit to the appropriate committees of Congress, as defined in section 9901(1) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (15 U.S.C. 4651), and make publicly available on the website of the Department of Commerce an annual report regarding the actions taken by the Department of Commerce under this section.

#### SEC. 105. ADDITIONAL GAO REPORTING REQUIREMENTS.

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

(1) in paragraph (1)—  
(A) in subparagraph (B)—  
(i) in clause (i), by striking “; and” and inserting a semicolon; and

(ii) by adding at the end the following:  
“(iii) the Federal Government could take specific actions to address shortages in the semiconductor supply chain, including—

“(I) demand-side incentives, including incentives related to the information and communications technology supply chain; and

“(II) additional incentives, at national and global scales, to accelerate utilization of leading-edge semiconductor nodes to address shortages in mature semiconductor nodes; and”;

(B) in subparagraph (C)—  
(i) in clause (iii), by striking “; and” and inserting a semicolon; and

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

“(v) how projects are supporting the semiconductor needs of critical infrastructure industries in the United States, including those industries designated by the Cybersecurity and Infrastructure Security Agency as essential infrastructure industries; and”;

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

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

“(i) semiconductor industry data regarding businesses that are—

“(I) majority owned and controlled by minority individuals;

“(II) majority owned and controlled by women; or

“(III) majority owned and controlled by both women and minority individuals;

“(ii) the number and amount of contracts and subcontracts awarded by each covered entity using funds made available under subsection (a) disaggregated by recipients of each such contract or subcontracts that are majority owned and controlled by minority individuals and majority owned and controlled by women; and

“(iii) aggregated workforce data, including data by race or ethnicity, sex, and job categories.”.

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

#### SEC. 106. APPROPRIATIONS FOR WIRELESS SUPPLY CHAIN INNOVATION.

(a) DIRECT APPROPRIATIONS.—In addition to amounts otherwise available for such purposes, there is appropriated to the Public Wireless Supply Chain Innovation Fund established under section 9202(a)(1) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (15 U.S.C. 4652(a)(1)), out of amounts in the Treasury not otherwise appropriated—

(1) \$150,000,000 for fiscal year 2022, to remain available until September 30, 2031; and

(2) \$1,350,000,000 for fiscal year 2023, to remain available until September 30, 2032.

(b) USE OF FUNDS, ADMINISTRATION, AND OVERSIGHT.—Of the amounts made available under subsection (a)—

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

(2) not less than \$2,000,000 per fiscal year shall be transferred to the Office of Inspector General of the Department of Commerce for oversight related to activities conducted using amounts provided under this section.

(c) ALLOCATION AUTHORITY.—

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

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

(B) for each subsequent fiscal year through 2032, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code.

(2) ALTERNATE ALLOCATION.—

(A) IN GENERAL.—The Committees on Appropriations of the House of Representatives and the Senate may provide for alternate allocation of amounts recommended for allocation in a given fiscal year from amounts made available under subsection (a), including by account, program, and project.

(B) ALLOCATION BY PRESIDENT.—

(i) NO ALTERNATE ALLOCATIONS.—If Congress has not enacted legislation establishing alternate allocations, including by account, program, and project, by the date

on which the Act making full-year appropriations for the Departments of Commerce and Justice, Science, and Related Agencies for the applicable fiscal year is enacted into law, only then shall amounts recommended for allocation for that fiscal year from amounts made available under subsection (a) be allocated by the President or apportioned or allotted by account, program, and project pursuant to title 31, United States Code.

(ii) INSUFFICIENT ALTERNATE ALLOCATION.—If Congress enacts legislation establishing alternate allocations, including by account, program, and project, for amounts recommended for allocation in a given fiscal year from amounts made available under subsection (a) that are less than the full amount recommended for allocation for that fiscal year, the difference between the amount recommended for allocation and the alternate allocation shall be allocated by the President and apportioned and allotted by account, program, and project pursuant to title 31, United States Code.

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

“Public Wireless Supply Chain Innovation Fund.”.

(e) BUDGETARY EFFECTS.—

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

(2) SENATE PAYGO SCORECARDS.—The budgetary effects of this section shall not be entered on any PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).

(3) CLASSIFICATION OF BUDGETARY EFFECTS.—Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217 and section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985, the budgetary effects of this section shall not be estimated—

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

(B) for purposes of an allocation to the Committee on Appropriations pursuant to section 302(a) of the Congressional Budget Act of 1974; and

(C) for purposes of paragraph (4)(C) of section 3 of the Statutory Pay-As-You-Go Act of 2010 as being included in an appropriation Act.

#### SEC. 107. ADVANCED MANUFACTURING INVESTMENT CREDIT.

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 48C the following new section:

##### “SEC. 48D. ADVANCED MANUFACTURING INVESTMENT CREDIT.

“(a) ESTABLISHMENT OF CREDIT.—For purposes of section 46, the advanced manufacturing investment credit for any taxable year is an amount equal to 25 percent of the qualified investment for such taxable year with respect to any advanced manufacturing facility of an eligible taxpayer.

“(b) QUALIFIED INVESTMENT.—

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

“(2) QUALIFIED PROPERTY.—

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

“(i) which is tangible property,  
 “(ii) with respect to which depreciation (or amortization in lieu of depreciation) is allowable,

“(iii) which is—  
 “(I) constructed, reconstructed, or erected by the taxpayer, or

“(II) acquired by the taxpayer if the original use of such property commences with the taxpayer, and

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

“(B) BUILDINGS AND STRUCTURAL COMPONENTS.—

“(i) IN GENERAL.—The term ‘qualified property’ includes any building or its structural components which otherwise satisfy the requirements under subparagraph (A).

“(ii) EXCEPTION.—Clause (i) shall not apply with respect to a building or portion of a building used for offices, administrative services, or other functions unrelated to manufacturing.

“(3) ADVANCED MANUFACTURING FACILITY.—For purposes of this section, the term ‘advanced manufacturing facility’ means a facility for which the primary purpose is the manufacturing of semiconductors or semiconductor manufacturing equipment.

“(4) COORDINATION WITH REHABILITATION CREDIT.—The qualified investment with respect to any advanced manufacturing facility for any taxable year shall not include that portion of the basis of any property which is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)).

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

“(c) ELIGIBLE TAXPAYER.—For purposes of this section, the term ‘eligible taxpayer’ means any taxpayer which—

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

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

“(d) ELECTIVE PAYMENT.—

“(1) IN GENERAL.—Except as otherwise provided in paragraph (2)(A), in the case of a taxpayer making an election (at such time and in such manner as the Secretary may provide) under this subsection with respect to the credit determined under subsection (a) with respect to such taxpayer, such taxpayer shall be treated as making a payment against the tax imposed by subtitle A (for the taxable year with respect to which such credit was determined) equal to the amount of such credit.

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

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

“(i) IN GENERAL.—In the case of the credit determined under subsection (a) with respect to any property held directly by a partnership or S corporation, any election under paragraph (1) shall be made by such partnership or S corporation. If such partnership or S corporation makes an election under such paragraph (in such manner as the Secretary may provide) with respect to such credit—

“(I) the Secretary shall make a payment to such partnership or S corporation equal to the amount of such credit,

“(II) paragraph (3) shall be applied with respect to such credit before determining any partner’s distributive share, or shareholder’s pro rata share, of such credit,

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

“(IV) a partner’s distributive share of such tax exempt income shall be based on such partner’s distributive share of the otherwise applicable credit for each taxable year.

“(ii) COORDINATION WITH APPLICATION AT PARTNER OR SHAREHOLDER LEVEL.—In the case of any property held directly by a partnership or S corporation, no election by any partner or shareholder shall be allowed under paragraph (1) with respect to any credit determined under subsection (a) with respect to such property.

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

“(C) TIMING.—The payment described in paragraph (1) shall be treated as made on the later of the due date (determined without regard to extensions) of the return of tax for the taxable year or the date on which such return is filed.

“(D) TREATMENT OF PAYMENTS TO PARTNERSHIPS AND S CORPORATIONS.—For purposes of section 1324 of title 31, United States Code, the payments under subparagraph (A)(i)(I) shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

“(E) ADDITIONAL INFORMATION.—As a condition of, and prior to, any amount being treated as a payment which is made by the taxpayer under paragraph (1) or any payment being made pursuant to subparagraph (A), the Secretary may require such information or registration as the Secretary deems necessary or appropriate for purposes of preventing duplication, fraud, improper payments, or excessive payments under this section.

“(F) EXCESSIVE PAYMENT.—

“(i) IN GENERAL.—In the case of any amount treated as a payment which is made by the taxpayer under paragraph (1), or any payment made pursuant to subparagraph (A), which the Secretary determines constitutes an excessive payment, the tax imposed on such taxpayer by chapter 1 for the taxable year in which such determination is made shall be increased by an amount equal to the sum of—

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

“(II) an amount equal to 20 percent of such excessive payment.

“(ii) REASONABLE CAUSE.—Clause (i)(II) shall not apply if the taxpayer demonstrates to the satisfaction of the Secretary that the excessive payment resulted from reasonable cause.

“(iii) EXCESSIVE PAYMENT DEFINED.—For purposes of this subparagraph, the term ‘excessive payment’ means, with respect to property for which an election is made under this subsection for any taxable year, an amount equal to the excess of—

“(I) the amount treated as a payment which is made by the taxpayer under paragraph (1), or the amount of the payment made pursuant to subparagraph (A), with respect to such property for such taxable year, over

“(II) the amount of the credit which, without application of this subsection, would be otherwise allowable (determined without regard to section 38(c)) under subsection (a)

with respect to such property for such taxable year.

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

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

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

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

“(B) any payment made pursuant to paragraph (2)(A).

“(6) REGULATIONS.—The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this subsection, including—

“(A) regulations or other guidance providing rules for determining a partner’s distributive share of the tax exempt income described in paragraph (2)(A)(i)(III), and

“(B) guidance to ensure that the amount of the payment or deemed payment made under this subsection is commensurate with the amount of the credit that would be otherwise allowable (determined without regard to section 38(c)).

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

(b) RECAPTURE IN CONNECTION WITH CERTAIN EXPANSIONS.—

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

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

“(A) IN GENERAL.—If there is an applicable transaction by an applicable taxpayer before the close of the 10-year period beginning on the date such taxpayer placed in service investment credit property which is eligible for the advanced manufacturing investment credit under section 48D(a), then the tax under this chapter for the taxable year in which such transaction occurs shall be increased by 100 percent of the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero any credit determined under section 46 which is attributable to the advanced manufacturing investment credit under section 48D(a) with respect to such property.

“(B) EXCEPTION.—Subparagraph (A) shall not apply if the applicable taxpayer demonstrates to the satisfaction of the Secretary that the applicable transaction has been ceased or abandoned within 45 days of a termination and notice by the Secretary.

“(C) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this paragraph, including regulations or other guidance which provide for requirements for recordkeeping or information reporting for purposes of administering the requirements of this paragraph.”

(2) APPLICABLE TRANSACTION; APPLICABLE TAXPAYER.—Section 50(a)(6) of the Internal Revenue Code of 1986, as redesignated by paragraph (1), is amended adding at the end the following new subparagraphs:

“(D) APPLICABLE TRANSACTION.—For purposes of this subsection, the term ‘applicable transaction’ means, with respect to any applicable taxpayer, any transaction (as determined by the Secretary, in coordination with the Secretary of Commerce and the Secretary of Defense) involving the expansion of semiconductor manufacturing capacity of such applicable taxpayer in the People’s Republic of China or a foreign country of concern (as defined in section 9901(7) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021).

**SA 5182.** Mr. SCOTT of South Carolina submitted an amendment intended to be proposed to amendment SA 5140 submitted by Mr. CARPER (for himself, Mrs. CAPITO, Mr. CARDIN, and Mr. CRAMER) and intended to be proposed to the bill H.R. 7776, to provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**SEC. 4. CHARLESTON PENINSULA, SOUTH CAROLINA.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the project for hurricane and storm damage risk reduction, Charleston Peninsula, South Carolina, if authorized by this Act, shall no longer be authorized after the date described in subsection (b) unless, by that date, the non-Federal interest has entered into a project partnership agreement for the project, or a separable element of the project, as described in section 221(a) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(a)).

(b) DATE DESCRIBED.—The date referred to in subsection (a) is the later of—

(1) the last day of the 7-year period beginning on the date of enactment of this Act; and

(2) the date that is 7 years after the date on which a design agreement for the project described in that subsection is executed.

**ORDERS FOR TUESDAY, JULY 26, 2022**

Mr. SCHUMER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Tuesday, July 26; that following the prayer and pledge,

the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and morning business be closed; that upon the conclusion of morning business, the Senate resume consideration of the House message to accompany S. 3373; further, that the Senate recess from 12:30 p.m. to 2:15 p.m. to allow for the weekly caucus meetings.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. The cloture vote in relation to CHIPS and Science is expected at 11 a.m., for the information of Members. Please be here.

**ADJOURNMENT UNTIL 10 A.M. TOMORROW**

Mr. SCHUMER. Mr. President, if there is no further business to come before the Senate, I ask that it stand adjourned under the previous order.

There being no objection, the Senate, at 6:46 p.m., adjourned until Tuesday, July 26, 2022, at 10 a.m.