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(Original Signature of Member)

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.

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## IN THE HOUSE OF REPRESENTATIVES

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

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## 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-

1 iency and Crisis Response Office to carry out the Critical  
2 Supply Chain Resilience Program described in subsection  
3 (d).

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

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

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

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

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

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

22 (B) respond to supply chain shocks to—

23 (i) critical industries; and

24 (ii) supply chains.

1           (3) Support the development, maintenance, im-  
2           provement, competitiveness, restoration, and expan-  
3           sion of the productive capacities, efficiency, and  
4           workforce of critical industries and domestic manu-  
5           facturers of critical goods and services, industrial  
6           equipment, and manufacturing technology.

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

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

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

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

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

21          (c) UNDER SECRETARY OF THE OFFICE.—

22                (1) APPOINTMENT AND TERM.—The head of  
23                the Office shall be the Under Secretary of the Office  
24                of Supply Chain Resiliency and Crisis Response, ap-  
25                pointed by the President, by and with the advice and

1 consent of the Senate, for a term of not more than  
2 5 years.

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

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

11 (d) CRITICAL SUPPLY CHAIN RESILIENCE PRO-  
12 GRAM.—

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

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

1 (A) a description of the proposed activity  
2 to be carried out with such a grant, loan, or  
3 loan guarantee;

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

6 (C) an estimate of the total costs for such  
7 activity.

8 (e) ELIGIBLE ACTIVITIES.—The following activities  
9 may be carried out with amounts made available under  
10 this section:

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

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

19 (B) The commercialization, adoption, de-  
20 ployment, or use of manufacturing technology  
21 by domestic manufacturers.

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

1 (D) The purchase, lease, enhancement, or  
2 retooling of industrial equipment for use in the  
3 United States.

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

8 (2) The manufacture or acquisition of a sub-  
9 stitute for a critical good or service, industrial equip-  
10 ment, or manufacturing technology.

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

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

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

22 (1) A domestic manufacturer.

23 (2) A domestic enterprise.

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

1 (4) A Tribal government.

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

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

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

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

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

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

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

1           (2) Without a grant, loan, or loan guarantee  
2           the eligible entity would not be able to fund or fi-  
3           nance the activity under reasonable terms and condi-  
4           tions.

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

8           (4) There is a reasonable assurance that—

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

13                   (B) the activity will support—

14                           (i) the resilience, diversity, security, or  
15                           strength of a supply chain; or

16                           (ii) the national security or economic  
17                           security of the United States.

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

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



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

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

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

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

12       (i) GRANT COST SHARE.—

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

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

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

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

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

14 (j) LOANS AND LOAN GUARANTEES.—

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

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

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

1 of the House of Representatives and the Committee  
2 on Commerce, Science, and Transportation of the  
3 Senate, the Under Secretary may waive the require-  
4 ment under paragraph (2)—

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

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

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

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

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

25 (k) CREDITWORTHINESS.—

1           (1) IN GENERAL.—For a loan or loan guar-  
2           antee issued under subsection (j), the eligible activity  
3           and eligible entity receiving such loan or loan guar-  
4           antee shall be creditworthy, which shall be deter-  
5           mined by the Under Secretary.

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

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

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

17                   (C) The financial assumptions upon which  
18                   the loan or loan guarantee is based.

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

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

23           (l) CONDITIONS.—The Under Secretary is authorized  
24           to prescribe—

1           (1) either specifically or by maximum limits or  
2 otherwise, rates of interest, guarantee and commit-  
3 ment fees, and other charges which may be made in  
4 connection with a loan or loan guarantee made  
5 under this section; and

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

10       (m) PERFORMANCE MEASURES.—For grants, loans,  
11 and loan guarantees awarded under this section, the  
12 Under Secretary shall—

13           (1) develop metrics to assess the extent to  
14 which the activities meet the criteria under sub-  
15 section (h);

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

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

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

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

6           (p) CRITICAL SUPPLY CHAIN RESILIENCE FUND.—

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

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

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

20               (1) evaluate the performance of the activities  
21 supported by a grant, loan, or loan guarantee under  
22 this section;

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

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

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

7           (s) AUTHORIZATION OF APPROPRIATIONS.—There is  
8           authorized to be appropriated—

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

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

14                 (B) \$10,000,000,000 may be used for  
15                 grants; and

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

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

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

1 (u) WORKFORCE PROTECTIONS.—Any eligible entity  
2 applying for a grant, loan, or loan guarantee under this  
3 section and with 100 or more employees shall make a  
4 good-faith certification that—

5 (1) the eligible entity will not abrogate existing  
6 collective bargaining agreements for—

7 (A) the term of the grant; or

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

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

14 (v) DEFINITIONS.—In this section:

15 (1) ALLY OR KEY INTERNATIONAL PARTNER.—

16 The term “ally or key international partner” does  
17 not include countries that pose a significant national  
18 security or economic security risk to the United  
19 States.

20 (2) CRITICAL GOOD OR SERVICE.—The term

21 “critical good or service” means any raw, in process,  
22 or manufactured material (including any mineral,  
23 metal, or advanced processed material), article, com-  
24 modity, supply, product, or item of supply the ab-  
25 sence of which would have a significant effect on—



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

3 (B) critical infrastructure.

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

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

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

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

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

23 (B) if provided a grant, loan, loan guar-  
24 antee, or equity investment pursuant to this  
25 section, will conduct in the United States the

1 research and development, engineering, or pro-  
2 duction activities necessary or incidental to  
3 manufacturing.

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

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

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

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

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

21 (C) Quantum information science and  
22 technology.

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

1 (E) Natural and anthropogenic disaster  
2 prevention or mitigation.

3 (F) Advanced communications technology,  
4 including optical transmission components.

5 (G) Biotechnology, medical technology,  
6 genomics, and synthetic biology.

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

10 (I) Advanced energy and industrial efficacy  
11 technologies, such as batteries, advanced nu-  
12 clear technologies, and polysilicon for use in  
13 solar photovoltaics, including for the purposes  
14 of electric generation (consistent with section  
15 15 of the National Science Foundation Act of  
16 1950 (42 U.S.C. 1874)).

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

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

1           (11) LOAN.—The term “loan” means a direct  
2 loan or other debt obligation issued by an eligible en-  
3 tity and funded by the Under Secretary in connec-  
4 tion with the financing of an activity under this sec-  
5 tion.

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

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

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

24           (15) MANUFACTURING TECHNOLOGY.—The  
25 term “manufacturing technology” means tech-

1 nologies that are necessary or incidental to the man-  
2 ufacturing of a critical good or service.

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

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

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

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

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

23 (21) UNDER SECRETARY.—The term “Under  
24 Secretary” means the Under Secretary of the Office

1 of Supply Chain Resiliency and Crisis Response ap-  
2 pointed pursuant to subsection (c).