

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R. \_\_\_\_\_**  
**OFFERED BY MRS. CAROLYN B. MALONEY OF**  
**NEW YORK**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Made in America Pan-  
3 demic Preparedness Act”.

**4 SEC. 2. REQUIREMENT TO MAINTAIN SUFFICIENT PER-**  
**5                   SONAL PROTECTIVE EQUIPMENT STOCKPILE**  
**6                   AND DOMESTIC SUPPLY CHAINS FOR NA-**  
**7                   TIONAL SECURITY PURPOSES.**

8       (a) IN GENERAL.—Chapter 83 of title 41, United  
9 States Code, is amended by adding after section 8302 the  
10 following:

**11 “§ 8302A. Made in America personal protective equip-**  
**12                   ment stockpile and domestic supply**  
**13                   chains**

14       “(a) DOMESTIC CONTENT REQUIREMENT.—

15               “(1) IN GENERAL.—To ensure strategic domes-  
16 tic supply chain capabilities for national security  
17 purposes, all personal protective equipment procured

1 for the Strategic National Stockpile shall be per-  
2 sonal protective equipment that is produced in the  
3 United States.

4 “(2) EXCEPTION.—Paragraph (1) shall not  
5 apply with respect to the procurement of an item  
6 that is personal protective equipment if the Sec-  
7 retary determines that—

8 “(A) applying such paragraph would be in-  
9 consistent with the public interest or national  
10 security interest;

11 “(B) such item is not produced in the  
12 United States in sufficient and reasonably  
13 available quantities and of a satisfactory qual-  
14 ity;

15 “(C) applying paragraph (1)—

16 “(i) with respect to a contract, cooper-  
17 ative agreement, or transaction to be en-  
18 tered into on or before the date that is 5  
19 years after the date of the enactment of  
20 the Made in America Pandemic Prepared-  
21 ness Act, will increase the cost of such con-  
22 tract, cooperative agreement, or trans-  
23 action by more than 50 percent; and

24 “(ii) with respect to a contract, coop-  
25 erative agreement, or transaction to be en-

1           tered into after the date that is 5 years  
2           after the date of the enactment of the  
3           Made in America Pandemic Preparedness  
4           Act, will increase the cost of such contract,  
5           cooperative agreement, or transaction by  
6           more than 25 percent; or

7           “(D) such item is, or includes, materials  
8           determined to be nonavailable in accordance  
9           with section 25.104 of the Federal Acquisition  
10          Regulation.

11          “(3) NOTIFICATION OF NONCOMPLIANCE RE-  
12          QUIRED.—If the Secretary determines that the re-  
13          quirement in paragraph (1) is not satisfied, the Sec-  
14          retary shall—

15                 “(A) submit to the Committee on Home-  
16                 land Security and Governmental Affairs of the  
17                 Senate and the Committee on Oversight and  
18                 Reform of the House of Representatives quar-  
19                 terly—

20                         “(i) a notification stating that such  
21                         requirement has not been satisfied; and

22                         “(ii) a report on—

23                                 “(I) the personal protective  
24                                 equipment in the Strategic National  
25                                 Stockpile;

1                   “(II) any contract, cooperative  
2                   agreement, or other transaction en-  
3                   tered into in the prior quarter for the  
4                   procurement of personal protective  
5                   equipment not produced in the United  
6                   States, including the exception under  
7                   subsection (a)(5) applied with respect  
8                   to such contract; and

9                   “(III) any actions taken by the  
10                  Secretary to ensure that the require-  
11                  ment under paragraph (1) is satisfied;  
12                  and

13                  “(B) post on the website maintained by the  
14                  Administrator of General Services at SAM.gov  
15                  (or any successor site) each notification re-  
16                  quired by subparagraph (A)(i), except for any  
17                  information that is exempt from mandatory dis-  
18                  closure under section 552 of title 5, United  
19                  States Code.

20                  “(b) SUFFICIENCY OF STRATEGIC NATIONAL STOCK-  
21                  PILE.—The Director shall work with the Secretary to  
22                  issue a biannual report to Congress that includes the fol-  
23                  lowing:

24                         “(1) The state of personal protective equipment  
25                         inventory in the Strategic National Stockpile.

1           “(2) The state of personal protective equipment  
2           inventory in stockpiles of other Federal agencies.

3           “(3) Estimates of the state of personal protec-  
4           tive equipment inventory of non-Federal entities.

5           “(4) Estimates of the quantities of personal  
6           protective equipment that would be required for an  
7           array of possible emergencies, including a pandemic  
8           or other emergency declared under section 319 of  
9           the Public Health Service Act (42 U.S.C. 247d) and  
10          that could last at least a year.

11          “(c) WEBSITE.—The Administrator of General Serv-  
12          ices shall post on the website maintained by the Adminis-  
13          trator at SAM.gov (or any successor site) information that  
14          identifies suppliers that can provide personal protective  
15          equipment that is produced in the United States for the  
16          Strategic National Stockpile.

17          “(d) APPLICATION.—This section shall be applied in  
18          a manner consistent with United States obligations under  
19          international agreements.

20          “(e) DEFINITION.—In this section—

21                  “(1) DIRECTOR.—The term ‘Director’ means  
22                  the Director of the Office of Management and Budg-  
23                  et.

24                  “(2) PERSONAL PROTECTIVE EQUIPMENT.—  
25                  The term ‘personal protective equipment’ means an

1 item designed to protect the wearer or user from the  
2 spread of infection or other health hazard, or to pro-  
3 tect other individuals from possible infection by the  
4 wearer, including a facemask, face covering, face  
5 shield, gown, coverall, glove, goggle, respirator, pro-  
6 tective eyewear, biohazard container, shoe cover,  
7 hood, helmet, sleeve, scrub suit, surgical drape,  
8 human remains bag, towel, disinfecting wipe, triage  
9 tent, medical tent, or hand sanitizer.

10 “(3) PRODUCED IN THE UNITED STATES.—The  
11 term ‘produced in the United States’ means, with re-  
12 spect to an item—

13 “(A) the item that is manufactured or as-  
14 sembled in the United States; and

15 “(B) the total value of the parts or compo-  
16 nents contained in the item that are not grown,  
17 reprocessed, reused, manufactured, or assem-  
18 bled in the United States does not exceed 25  
19 percent of the total purchase price of the item.

20 “(4) STRATEGIC NATIONAL STOCKPILE.—The  
21 term ‘Strategic National Stockpile’ means the Stra-  
22 tegic National Stockpile under section 319F–2 of  
23 the Public Health Service Act (42 U.S.C. 247d–6b).

24 “(5) SECRETARY.—The term ‘Secretary’ means  
25 the Secretary of Health and Human Services.

1           “(f) **RULE OF CONSTRUCTION.**—Nothing in this sec-  
2 tion shall be construed to limit the private distribution,  
3 purchase, or sale of personal protective equipment from  
4 sources other than the Strategic National Stockpile.”.

5           (b) **EFFECTIVE DATE.**—This section, and the amend-  
6 ments made by this section, shall take effect on the date  
7 that is six months after the date on which this section  
8 is enacted.

9           (c) **TECHNICAL AND CONFORMING AMENDMENT.**—  
10 The table of sections at the beginning of chapter 83 of  
11 title 41, United States Code, is amended by adding after  
12 the item related to section 8302 the following new item:  
“8302A. Personal protective equipment stockpile and domestic supply chains.”.

13 **SEC. 3. PANDEMIC PREPARATION TAX CREDIT.**

14           (a) **IN GENERAL.**—Subpart D of part IV of sub-  
15 chapter A of chapter 1 of the Internal Revenue Code of  
16 1986 is amended by adding at the end the following new  
17 section:

18 **“SEC. 45U. PANDEMIC PREPARATION TAX CREDIT.**

19           “(a) **ALLOWANCE OF CREDIT.**—For purposes of sec-  
20 tion 38, the pandemic preparation tax credit determined  
21 under this section for the taxable year is an amount equal  
22 to 20 percent of the expenses paid or incurred by the tax-  
23 payer during such taxable year for purposes of producing  
24 personal protective equipment (including manufacturing  
25 technology upgrades, workforce training expenses, compo-

1 nents, parts, or raw material used to make personal pro-  
2 tective equipment) that qualifies for addition to the Stra-  
3 tegic National Stockpile under section 8302A(a)(1) of title  
4 41, United States Code.

5 “(b) DENIAL OF DOUBLE BENEFIT.—No deduction  
6 or credit shall be allowed under any other provision of this  
7 chapter with respect to any amount taken into account  
8 in determining the credit allowed to a taxpayer under this  
9 section.

10 “(c) REGULATIONS.—The Secretary shall prescribe  
11 such regulations as are necessary or appropriate to carry  
12 out the purpose of this section.”.

13 (b) CREDIT MADE PART OF GENERAL BUSINESS  
14 CREDIT.—Section 38(b) of the Internal Revenue Code of  
15 1986 is amended by striking “plus” at the end of para-  
16 graph (32), striking the period at the end of paragraph  
17 (33) and inserting “, plus”, and adding at the end the  
18 following new paragraph:

19 “(34) the pandemic preparation credit deter-  
20 mined under section 45U.”.

21 (c) CLERICAL AMENDMENT.—The table of sections  
22 for subpart D of part IV of subchapter A of chapter 1  
23 of such Code is amended by adding at the end the fol-  
24 lowing new item:

“Sec. 45U. Pandemic preparation tax credit.”.



1       (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 the date of the enactment of this Act.

