119TH CONGRESS
2D SESSION

S. _____

To amend the Internal Revenue Code of 1986 to provide for credits against tax for domestic manufacturing of critical medical supplies and drugs.

IN THE SENATE OF THE UNITED STATES

Mrs. BLACKBURN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to provide for credits against tax for domestic manufacturing of critical medical supplies and drugs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Our Nation's Supply chain for Healthcare has Over Reliance Elsewhere Act'' or the ''ONSHORE Manufacturing Act''.

SEC. 2. DOMESTIC MEDICAL AND DRUG MANUFACTURING CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of

1986 is amended by adding at the end the following new section:

"SEC. 45BB. DOMESTIC MEDICAL AND DRUG MANUFACTURING CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the domestic medical and drug manufacturing credit determined under this section for any taxable year is an amount equal to 10.5 percent of the lesser of—

"(1) the qualified medical and drug manufacturing income of the taxpayer for the taxable year, or

"(2) taxable income of the taxpayer for the taxable year.

"(b) CREDIT LIMITED TO WAGES PAID.—

"(1) IN GENERAL.—The amount of the credit allowable under subsection (a) for any taxable year shall not exceed 50 percent of the W–2 wages of the taxpayer for the taxable year.

"(2) W–2 WAGES.—For purposes of this section—

"(A) IN GENERAL.—The term 'W–2 wages' means, with respect to any person for any taxable year of such person, the sum of the amounts described in paragraphs (3) and (8) of section 6051(a) paid by such person with re-

spect to employment of employees by such person during the calendar year ending during such taxable year.

''(B) LIMITATION TO WAGES ATTRIBUTABLE TO DOMESTIC PRODUCTION.—Such term shall not include any amount which is not properly allocable to domestic medical and drug manufacturing gross receipts for purposes of subsection (c)(1).

''(C) RETURN REQUIREMENT.—Such term shall not include any amount which is not properly included in a return filed with the Social Security Administration on or before the 60th day after the due date (including extensions) for such return.

''(3) ACQUISITIONS, DISPOSITIONS, AND SHORT TAXABLE YEARS.—The Secretary shall provide for the application of this subsection in cases of a short taxable year or where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

''(c) QUALIFIED MEDICAL AND DRUG MANUFACTURING INCOME.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified medical and drug manufacturing income' for any taxable year means an amount equal to the excess (if any) of—

''(A) the taxpayer's domestic medical and drug manufacturing gross receipts for the taxable year, over

''(B) the sum of—

''(i) the cost of goods sold that are allocable to such receipts, and

''(ii) other expenses, losses, or deductions which are properly allocable to such receipts.

''(2) ALLOCATION METHOD.—The Secretary shall prescribe rules for the proper allocation of items described in paragraph (1)(B) for purposes of determining qualified medical and drug manufacturing income. Such rules shall provide for the proper allocation of items whether or not such items are directly allocable to domestic medical and drug manufacturing gross receipts.

''(3) SPECIAL RULES FOR DETERMINING COSTS.—

''(A) IN GENERAL.—For purposes of determining costs under clause (i) of paragraph

(1)(B), any item or service brought into the United States shall be treated as acquired by purchase, and its cost shall be treated as not less than its value immediately after it entered the United States.

''(B) EXPORTS FOR FURTHER MANUFACTURE.—In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost or adjusted basis under subparagraph (A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

''(4) DOMESTIC MEDICAL AND DRUG MANUFACTURING GROSS RECEIPTS.—

''(A) IN GENERAL.—The term 'domestic medical and drug manufacturing gross receipts' means the gross receipts of the taxpayer which are derived from any sale, exchange, or other disposition of a specified medical product.

''(B) SPECIFIED MEDICAL PRODUCT.—The term 'specified medical product' means any of the following which is manufactured or pro-

duced by the taxpayer in whole or in significant part within the United States:

"(i) Any drug (as defined in section 201(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g))), including any biological product (as defined in section 351(i) of the Public Health Service Act (42 U.S.C. 262(i)), which is included in—

"(I) the list of essential medicines, medical countermeasures, and critical inputs maintained by the Commissioner of Food and Drugs pursuant to Executive Order 13944 (85 Fed. Reg. 49929 (August 14, 2020)),

"(II) the list of defense-specific essential medicines, medical countermeasures, and critical inputs maintained by the Secretary of Defense pursuant to Executive Order 13944 (85 Fed. Reg. 49929 (August 14, 2020)),

"(III) the Department of Defense Joint Deployment Formulary, or

''(IV) a list prepared by the Defense Logistics Agency of drugs required for military readiness.

''(ii) Any device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))) which is included in—

''(I) the list of critical medical devices maintained by the Secretary of Health and Human Services pursuant to Executive Order 14001 (86 Fed. Reg. 7219 (January 26, 2021)) , or

''(II) the Department of Defense Joint Deployment Formulary.

''(iii) Any active pharmaceutical ingredient (as defined in section 207.1 of title 21, Code of Federal Regulations (or successor regulations)) which is used in the manufacture of a drug or device described in clause (i) or (ii), respectively.

''(iv) Any covered countermeasure (as defined in section 319F–3(i)(1) of the Public Health Service Act (42 U.S.C. 247d–6d(i)(1)) which is included in a list described in subclause (I), (II), or (III) of

clause (i) or subclause (I) or (II) of clause (ii).

''(C) PARTNERSHIPS OWNED BY EXPANDED AFFILIATED GROUPS.—For purposes of this paragraph, if all of the interests in the capital and profits of a partnership are owned by members of a single expanded affiliated group at all times during the taxable year of such partnership, the partnership and all members of such group shall be treated as a single taxpayer during such period.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) APPLICATION OF SECTION TO PASS-THRU ENTITIES.—

''(A) PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation—

''(i) this section shall be applied at the partner or shareholder level,

''(ii) each partner or shareholder shall take into account such person's allocable share of each item described in subparagraph (A) or (B) of subsection (c)(1) (determined without regard to whether the

items described in such subparagraph (A) exceed the items described in such subparagraph (B)), and

''(iii) each partner or shareholder shall be treated for purposes of subsection (b) as having W–2 wages for the taxable year in an amount equal to such person's allocable share of the W–2 wages of the partnership or S corporation for the taxable year (as determined under regulations prescribed by the Secretary).

''(B) TRUSTS AND ESTATES.—In the case of a trust or estate—

''(i) the items referred to in subparagraph (A)(ii) (as determined therein) and the W–2 wages of the trust or estate for the taxable year, shall be apportioned between the beneficiaries and the fiduciary (and among the beneficiaries) under regulations prescribed by the Secretary, and

''(ii) for purposes of paragraph (2), adjusted gross income of the trust or estate shall be determined as provided in section 67(e) with the adjustments described in such paragraph.

"(C) REGULATIONS.—The Secretary may prescribe rules requiring or restricting the allocation of items and wages under this paragraph and may prescribe such reporting requirements as the Secretary determines appropriate.

"(2) APPLICATION TO INDIVIDUALS.—In the case of an individual, subsection (a)(2) shall be applied by substituting 'adjusted gross income' for 'taxable income'. For purposes of the preceding sentence, adjusted gross income shall be determined after application of sections 86, 135, 137, 219, 221, 222, and 469.

"(3) SPECIAL RULE FOR AFFILIATED GROUPS.—

"(A) IN GENERAL.—All members of an expanded affiliated group shall be treated as a single corporation for purposes of this section.

"(B) EXPANDED AFFILIATED GROUP.—For purposes of this section, the term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined—

"(i) by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears, and

"(ii) without regard to paragraphs (2) and (4) of section 1504(b).

"(C) ALLOCATION OF CREDIT.—Except as provided in regulations, the credit under subsection (a) shall be allocated among the members of the expanded affiliated group in proportion to each member's respective amount (if any) of qualified medical and drug manufacturing income.

"(4) TRADE OR BUSINESS REQUIREMENT.—This section shall be applied by only taking into account items which are attributable to the actual conduct of a trade or business.

"(5) COORDINATION WITH MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, qualified medical and drug manufacturing income shall be determined without regard to any adjustments under sections 56 through 59.

"(6) UNRELATED BUSINESS TAXABLE INCOME.—For purposes of determining the tax imposed by section 511, subsection (a)(1)(B) shall be applied by substituting 'unrelated business taxable income' for 'taxable income'.

''(7) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section, including regulations which prevent more than 1 taxpayer from being allowed a credit under this section with respect to any activity described in subsection (c)(4)(A).''.

(b) TREATMENT UNDER BASE EROSION TAX.—Section 59A(b)(1)(B)(ii) of such Code is amended by striking ''plus'' at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following new subclause:

''(II) the credit allowed under section 38 for the taxable year which is properly allocable to the domestic medical and drug manufacturing credit determined under section 45BB(a), plus''.

(c) PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code is amended by striking ''plus'' at the end of paragraph (40), by striking the period at the end of paragraph (41) and inserting '', plus'', and by adding at the end the following new paragraph:

''(42) the domestic medical and drug manufacturing credit determined under section 45BB(a).''.

(d) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—Section 38(c)(4)(B) of such Code is amended by redesignating clauses (x) through (xii) as clauses (xi) through (xiii), respectively, and by inserting after clause (ix) the following new clause:

"(x) the credit determined under section 45BB,".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 45BB. Domestic medical and drug manufacturing credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2026.

SEC. 3. QUALIFYING ADVANCED MEDICAL MANUFACTURING EQUIPMENT 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 adding at the end the following new section:

"SEC. 48F. QUALIFYING ADVANCED MEDICAL MANUFACTURING EQUIPMENT CREDIT.

"(a) IN GENERAL.—For purposes of section 46, the qualifying advanced medical manufacturing equipment credit determined under this section for any taxable year

is the applicable percentage of the basis of any qualifying advanced medical manufacturing equipment placed in service during such taxable year.

''(b) APPLICABLE PERCENTAGE.—For purposes of this section, the term 'applicable percentage' means—

''(1) 30 percent in the case of qualifying advanced medical manufacturing equipment which is placed in service before January 1, 2031,

''(2) 20 percent in the case of qualifying advanced medical manufacturing equipment which is placed in service during calendar year 2031,

''(3) 10 percent in the case of qualifying advanced medical manufacturing equipment which is placed in service during calendar year 2032, and

''(4) 0 percent in the case of qualifying advanced medical manufacturing equipment which is placed in service after December 31, 2032.

''(c) QUALIFYING ADVANCED MEDICAL MANUFACTURING EQUIPMENT.—For purposes of this section, the term 'qualifying advanced medical manufacturing equipment' means property—

''(1) which is machinery or equipment that is designed and used to manufacture a specified medical product (as defined in section 45BB(c)(4)(B)),

''(2) which has been identified by the Secretary (after consultation with the Secretary of Health and Human Services) as machinery or equipment that—

''(A) incorporates novel technology or uses an established technique or technology in a new or innovative way, or

''(B) that can improve medical product quality, address shortages of medicines, and speed time-to-market,

''(3) which is placed in service in the United States by the taxpayer, and

''(4) with respect to which depreciation is allowable.

''(d) CERTAIN QUALIFIED PROGRESS EXPENDITURES 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 enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including regulations which prevent abuse or fraud.''.

(b) TREATMENT UNDER BASE EROSION TAX.—Section 59A(b)(1)(B)(ii) of such Code, as amended by the

preceding provisions of this Act, is amended by striking ''plus'' at the end of subclause (II), by redesignating subclause (III) as subclause (IV), and by inserting after subclause (II) the following new subclause:

> ''(III) the credit allowed under section 46 for the taxable year which is properly allocable to the qualifying advanced medical manufacturing equipment credit determined under section 48F(a), plus''.

(c) PART OF INVESTMENT CREDIT.—Section 46 of such Code is amended by striking ''and'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting '', and'', and by adding at the end the following new paragraph:

> ''(8) the qualifying advanced medical manufacturing equipment credit.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 48F. Qualifying advanced medical manufacturing equipment credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this section under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986

(as in effect on the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 4. MEDICAL MANUFACTURING EPA COMPLIANCE CREDIT.

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by the preceding provisions of this Act, is amended by adding at the end the following new section:

"SEC. 48G. MEDICAL MANUFACTURING EPA COMPLIANCE CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the medical manufacturing EPA compliance credit determined under this section for any taxable year is the applicable percentage of the basis of any qualifying medical manufacturing EPA compliance property placed in service during such taxable year.

''(b) APPLICABLE PERCENTAGE.—For purposes of this section, the term 'applicable percentage' means—

''(1) 30 percent in the case of qualifying medical manufacturing EPA compliance property which is placed in service before January 1, 2031,

''(2) 20 percent in the case of qualifying medical manufacturing EPA compliance property which is placed in service during calendar year 2031,

''(3) 10 percent in the case of qualifying medical manufacturing EPA compliance property which is placed in service during calendar year 2032, and

''(4) 0 percent in the case of qualifying medical manufacturing EPA compliance property which is placed in service after December 31, 2032.

''(c) QUALIFYING MEDICAL MANUFACTURING EPA COMPLIANCE PROPERTY.—For purposes of this section, the term 'qualifying medical manufacturing EPA compliance equipment' means property—

''(1) which is used by the taxpayer in the trade or business of manufacturing a specified medical product (as defined in section 45BB(c)(4)(B)),

''(2) which is used to meet emissions limits under the Clean Air Act or wastewater standards under the Clean Water Act,

''(3) which is placed in service in the United States by the taxpayer,

''(4) with respect to which depreciation is allowable, and

''(5) which is not qualifying advanced medical manufacturing equipment (as defined in section 48F).

''(d) CERTAIN QUALIFIED PROGRESS EXPENDITURES 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 enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including regulations which prevent abuse or fraud.''.

(b) TREATMENT UNDER BASE EROSION TAX.—Section 59A(b)(1)(B)(ii) of such Code, as amended by the preceding provisions of this Act, is further amended by striking ''plus'' at the end of subclause (III), by redesignating subclause (IV) as subclause (V), and by inserting after subclause (III) the following new subclause:

> ''(IV) the credit allowed under section 46 for the taxable year which is properly allocable to the medical manufacturing EPA compliance credit determined under section 48G(a), plus''.

(c) PART OF INVESTMENT CREDIT.—Section 46 of such Code, as amended by the preceding provisions of this Act, is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8)

and inserting ", and", and by adding at the end the following new paragraph:

"(9) the medical manufacturing EPA compliance credit.".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code, as amended by the preceding provisions of this Act, is amended by adding at the end the following new item:

"Sec. 48G. Medical manufacturing EPA compliance credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this section under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 5. REPORTS TO CONGRESS REGARDING SUPPLY CHAIN RESILIENCY.

(a) INTERNAL REVENUE SERVICE.—The Commissioner of Internal Revenue shall submit to Congress an annual report (beginning with calendar year 2027) regarding the utilization of the credits allowed under sections 45BB, 48F, and 48G of the Internal Revenue Code of 1986 (as added by this Act).

(b) DEPARTMENT OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs shall submit to Congress an

annual report (beginning with calendar year 2027) regarding the impact of the credits allowed under sections 45BB, 48F, and 48G of the Internal Revenue Code of 1986 (as added by this Act) on compliance with procurement of domestically manufactured drugs, biologics, active pharmaceutical ingredients, countermeasures and devices under the Buy American Act of 1933 (41 U.S.C. 8301 et seq.).

(c) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall submit to Congress an annual report (beginning with calendar year 2027) regarding the impact of the credits allowed under sections 45BB, 48F, and 48G of the Internal Revenue Code of 1986 (as added by this Act) on compliance with procurement of domestically manufactured drugs, biologics, active pharmaceutical ingredients, countermeasures and devices under the Buy American Act of 1933 (41 U.S.C. 8301 et seq.).

(d) FOOD AND DRUG ADMINISTRATION.—The Commissioner of Food and Drugs shall submit to Congress an annual report (beginning with calendar year 2027) regarding the impact of the credits allowed under sections 45BB, 48F, and 48G of the Internal Revenue Code of 1986 (as added by this Act) on drug and device shortages.