

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.

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 “Our Nation’s Supply
5 chain for Healthcare has Over Reliance Elsewhere Act”
6 or the “ONSHORE Manufacturing Act”.

7 **SEC. 2. DOMESTIC MEDICAL AND DRUG MANUFACTURING**
8 **CREDIT.**

9 (a) IN GENERAL.—Subpart D of part IV of sub-
10 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new
2 section:

3 **“SEC. 45BB. DOMESTIC MEDICAL AND DRUG MANUFAC-**
4 **TURING CREDIT.**

5 “(a) IN GENERAL.—For purposes of section 38, the
6 domestic medical and drug manufacturing credit deter-
7 mined under this section for any taxable year is an amount
8 equal to 10.5 percent of the lesser of—

9 “(1) the qualified medical and drug manufac-
10 turing income of the taxpayer for the taxable year,
11 or

12 “(2) taxable income of the taxpayer for the tax-
13 able year.

14 “(b) CREDIT LIMITED TO WAGES PAID.—

15 “(1) IN GENERAL.—The amount of the credit
16 allowable under subsection (a) for any taxable year
17 shall not exceed 50 percent of the W-2 wages of the
18 taxpayer for the taxable year.

19 “(2) W-2 WAGES.—For purposes of this sec-
20 tion—

21 “(A) IN GENERAL.—The term ‘W-2
22 wages’ means, with respect to any person for
23 any taxable year of such person, the sum of the
24 amounts described in paragraphs (3) and (8) of
25 section 6051(a) paid by such person with re-

1 spect to employment of employees by such per-
2 son during the calendar year ending during
3 such taxable year.

4 “(B) LIMITATION TO WAGES ATTRIB-
5 UTABLE TO DOMESTIC PRODUCTION.—Such
6 term shall not include any amount which is not
7 properly allocable to domestic medical and drug
8 manufacturing gross receipts for purposes of
9 subsection (c)(1).

10 “(C) RETURN REQUIREMENT.—Such term
11 shall not include any amount which is not prop-
12 erly included in a return filed with the Social
13 Security Administration on or before the 60th
14 day after the due date (including extensions)
15 for such return.

16 “(3) ACQUISITIONS, DISPOSITIONS, AND SHORT
17 TAXABLE YEARS.—The Secretary shall provide for
18 the application of this subsection in cases of a short
19 taxable year or where the taxpayer acquires, or dis-
20 poses of, the major portion of a trade or business or
21 the major portion of a separate unit of a trade or
22 business during the taxable year.

23 “(c) QUALIFIED MEDICAL AND DRUG MANUFAC-
24 TURING INCOME.—For purposes of this section—

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

5 “(A) the taxpayer’s domestic medical and
6 drug manufacturing gross receipts for the tax-
7 able year, over

8 “(B) the sum of—

9 “(i) the cost of goods sold that are al-
10 locable to such receipts, and

11 “(ii) other expenses, losses, or deduc-
12 tions which are properly allocable to such
13 receipts.

14 “(2) ALLOCATION METHOD.—The Secretary
15 shall prescribe rules for the proper allocation of
16 items described in paragraph (1)(B) for purposes of
17 determining qualified medical and drug manufac-
18 turing income. Such rules shall provide for the prop-
19 er allocation of items whether or not such items are
20 directly allocable to domestic medical and drug man-
21 ufacturing gross receipts.

22 “(3) SPECIAL RULES FOR DETERMINING
23 COSTS.—

24 “(A) IN GENERAL.—For purposes of deter-
25 mining costs under clause (i) of paragraph

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

6 “(B) EXPORTS FOR FURTHER MANUFAC-
7 TURE.—In the case of any property described
8 in subparagraph (A) that had been exported by
9 the taxpayer for further manufacture, the in-
10 crease in cost or adjusted basis under subpara-
11 graph (A) shall not exceed the difference be-
12 tween the value of the property when exported
13 and the value of the property when brought
14 back into the United States after the further
15 manufacture.

16 “(4) DOMESTIC MEDICAL AND DRUG MANUFAC-
17 TURING GROSS RECEIPTS.—

18 “(A) IN GENERAL.—The term ‘domestic
19 medical and drug manufacturing gross receipts’
20 means the gross receipts of the taxpayer which
21 are derived from any sale, exchange, or other
22 disposition of a specified medical product.

23 “(B) SPECIFIED MEDICAL PRODUCT.—The
24 term ‘specified medical product’ means any of
25 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

1 “(IV) a list prepared by the De-
2 fense Logistics Agency of drugs re-
3 quired for military readiness.

4 “(ii) Any device (as defined in section
5 201(h) of the Federal Food, Drug, and
6 Cosmetic Act (21 U.S.C. 321(h))) which is
7 included in—

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

13 “(II) the Department of Defense
14 Joint Deployment Formulary.

15 “(iii) Any active pharmaceutical ingre-
16 dient (as defined in section 207.1 of title
17 21, Code of Federal Regulations (or suc-
18 cessor regulations)) which is used in the
19 manufacture of a drug or device described
20 in clause (i) or (ii), respectively.

21 “(iv) Any covered countermeasure (as
22 defined in section 319F–3(i)(1) of the
23 Public Health Service Act (42 U.S.C.
24 247d–6d(i)(1)) which is included in a list
25 described in subclause (I), (II), or (III) of

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

3 “(C) PARTNERSHIPS OWNED BY EX-
4 PANDED AFFILIATED GROUPS.—For purposes
5 of this paragraph, if all of the interests in the
6 capital and profits of a partnership are owned
7 by members of a single expanded affiliated
8 group at all times during the taxable year of
9 such partnership, the partnership and all mem-
10 bers of such group shall be treated as a single
11 taxpayer during such period.

12 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
13 poses of this section—

14 “(1) APPLICATION OF SECTION TO PASS-THRU
15 ENTITIES.—

16 “(A) PARTNERSHIPS AND S CORPORA-
17 TIONS.—In the case of a partnership or S cor-
18 poration—

19 “(i) this section shall be applied at the
20 partner or shareholder level,

21 “(ii) each partner or shareholder shall
22 take into account such person’s allocable
23 share of each item described in subpara-
24 graph (A) or (B) of subsection (c)(1) (de-
25 termined without regard to whether the

1 items described in such subparagraph (A)
2 exceed the items described in such sub-
3 paragraph (B)), and

4 “(iii) each partner or shareholder
5 shall be treated for purposes of subsection
6 (b) as having W-2 wages for the taxable
7 year in an amount equal to such person’s
8 allocable share of the W-2 wages of the
9 partnership or S corporation for the tax-
10 able year (as determined under regulations
11 prescribed by the Secretary).

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

14 “(i) the items referred to in subpara-
15 graph (A)(ii) (as determined therein) and
16 the W-2 wages of the trust or estate for
17 the taxable year, shall be apportioned be-
18 tween the beneficiaries and the fiduciary
19 (and among the beneficiaries) under regu-
20 lations prescribed by the Secretary, and

21 “(ii) for purposes of paragraph (2),
22 adjusted gross income of the trust or es-
23 tate shall be determined as provided in sec-
24 tion 67(e) with the adjustments described
25 in such paragraph.

1 “(C) REGULATIONS.—The Secretary may
2 prescribe rules requiring or restricting the allo-
3 cation of items and wages under this paragraph
4 and may prescribe such reporting requirements
5 as the Secretary determines appropriate.

6 “(2) APPLICATION TO INDIVIDUALS.—In the
7 case of an individual, subsection (a)(2) shall be ap-
8 plied by substituting ‘adjusted gross income’ for
9 ‘taxable income’. For purposes of the preceding sen-
10 tence, adjusted gross income shall be determined
11 after application of sections 86, 135, 137, 219, 221,
12 222, and 469.

13 “(3) SPECIAL RULE FOR AFFILIATED
14 GROUPS.—

15 “(A) IN GENERAL.—All members of an ex-
16 panded affiliated group shall be treated as a
17 single corporation for purposes of this section.

18 “(B) EXPANDED AFFILIATED GROUP.—
19 For purposes of this section, the term ‘ex-
20 panded affiliated group’ means an affiliated
21 group as defined in section 1504(a), deter-
22 mined—

23 “(i) by substituting ‘more than 50
24 percent’ for ‘at least 80 percent’ each place
25 it appears, and

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

3 “(C) ALLOCATION OF CREDIT.—Except as
4 provided in regulations, the credit under sub-
5 section (a) shall be allocated among the mem-
6 bers of the expanded affiliated group in propor-
7 tion to each member’s respective amount (if
8 any) of qualified medical and drug manufac-
9 turing income.

10 “(4) TRADE OR BUSINESS REQUIREMENT.—
11 This section shall be applied by only taking into ac-
12 count items which are attributable to the actual con-
13 duct of a trade or business.

14 “(5) COORDINATION WITH MINIMUM TAX.—For
15 purposes of determining alternative minimum tax-
16 able income under section 55, qualified medical and
17 drug manufacturing income shall be determined
18 without regard to any adjustments under sections 56
19 through 59.

20 “(6) UNRELATED BUSINESS TAXABLE IN-
21 COME.—For purposes of determining the tax im-
22 posed by section 511, subsection (a)(1)(B) shall be
23 applied by substituting ‘unrelated business taxable
24 income’ for ‘taxable income’.

1 “(7) REGULATIONS.—The Secretary shall pre-
2 scribe such regulations as are necessary to carry out
3 the purposes of this section, including regulations
4 which prevent more than 1 taxpayer from being al-
5 lowed a credit under this section with respect to any
6 activity described in subsection (c)(4)(A).”.

7 (b) TREATMENT UNDER BASE EROSION TAX.—Sec-
8 tion 59A(b)(1)(B)(ii) of such Code is amended by striking
9 “plus” at the end of subclause (I), by redesignating sub-
10 clause (II) as subclause (III), and by inserting after sub-
11 clause (I) the following new subclause:

12 “(II) the credit allowed under
13 section 38 for the taxable year which
14 is properly allocable to the domestic
15 medical and drug manufacturing cred-
16 it determined under section 45BB(a),
17 plus”.

18 (c) PART OF GENERAL BUSINESS CREDIT.—Section
19 38(b) of such Code is amended by striking “plus” at the
20 end of paragraph (40), by striking the period at the end
21 of paragraph (41) and inserting “, plus”, and by adding
22 at the end the following new paragraph:

23 “(42) the domestic medical and drug manufac-
24 turing credit determined under section 45BB(a).”.

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

6 “(x) the credit determined under sec-
7 tion 45BB,”.

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

“Sec. 45BB. Domestic medical and drug manufacturing credit.”.

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

15 **SEC. 3. QUALIFYING ADVANCED MEDICAL MANUFAC-**
16 **TURING EQUIPMENT CREDIT.**

17 (a) IN GENERAL.—Subpart E of part IV of sub-
18 chapter A of chapter 1 of the Internal Revenue Code of
19 1986 is amended by adding at the end the following new
20 section:

21 **“SEC. 48F. QUALIFYING ADVANCED MEDICAL MANUFAC-**
22 **TURING EQUIPMENT CREDIT.**

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

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

4 “(b) APPLICABLE PERCENTAGE.—For purposes of
5 this section, the term ‘applicable percentage’ means—

6 “(1) 30 percent in the case of qualifying ad-
7 vanced medical manufacturing equipment which is
8 placed in service before January 1, 2031,

9 “(2) 20 percent in the case of qualifying ad-
10 vanced medical manufacturing equipment which is
11 placed in service during calendar year 2031,

12 “(3) 10 percent in the case of qualifying ad-
13 vanced medical manufacturing equipment which is
14 placed in service during calendar year 2032, and

15 “(4) 0 percent in the case of qualifying ad-
16 vanced medical manufacturing equipment which is
17 placed in service after December 31, 2032.

18 “(c) QUALIFYING ADVANCED MEDICAL MANUFAC-
19 TURING EQUIPMENT.—For purposes of this section, the
20 term ‘qualifying advanced medical manufacturing equip-
21 ment’ means property—

22 “(1) which is machinery or equipment that is
23 designed and used to manufacture a specified med-
24 ical product (as defined in section 45BB(c)(4)(B)),

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

4 “(A) incorporates novel technology or uses
5 an established technique or technology in a new
6 or innovative way, or

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

10 “(3) which is placed in service in the United
11 States by the taxpayer, and

12 “(4) with respect to which depreciation is allow-
13 able.

14 “(d) CERTAIN QUALIFIED PROGRESS EXPENDI-
15 TURES RULES MADE APPLICABLE.—Rules similar to the
16 rules of subsections (c)(4) and (d) of section 46 (as in
17 effect on the day before the enactment of the Revenue
18 Reconciliation Act of 1990) shall apply for purposes of
19 this section.

20 “(e) REGULATIONS.—The Secretary shall prescribe
21 such regulations or other guidance as may be necessary
22 to carry out the purposes of this section, including regula-
23 tions which prevent abuse or fraud.”.

24 (b) TREATMENT UNDER BASE EROSION TAX.—Sec-
25 tion 59A(b)(1)(B)(ii) of such Code, as amended by the

1 preceding provisions of this Act, is amended by striking
2 “plus” at the end of subclause (II), by redesignating sub-
3 clause (III) as subclause (IV), and by inserting after sub-
4 clause (II) the following new subclause:

5 “(III) the credit allowed under
6 section 46 for the taxable year which
7 is properly allocable to the qualifying
8 advanced medical manufacturing
9 equipment credit determined under
10 section 48F(a), plus”.

11 (c) PART OF INVESTMENT CREDIT.—Section 46 of
12 such Code is amended by striking “and” at the end of
13 paragraph (6), by striking the period at the end of para-
14 graph (7) and inserting “, and”, and by adding at the
15 end the following new paragraph:

16 “(8) the qualifying advanced medical manufac-
17 turing equipment credit.”.

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

“Sec. 48F. Qualifying advanced medical manufacturing equipment credit.”.

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

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

3 **SEC. 4. MEDICAL MANUFACTURING EPA COMPLIANCE**
4 **CREDIT.**

5 (a) IN GENERAL.—Subpart E of part IV of sub-
6 chapter A of chapter 1 of the Internal Revenue Code of
7 1986, as amended by the preceding provisions of this Act,
8 is amended by adding at the end the following new section:

9 **“SEC. 48G. MEDICAL MANUFACTURING EPA COMPLIANCE**
10 **CREDIT.**

11 “(a) IN GENERAL.—For purposes of section 46, the
12 medical manufacturing EPA compliance credit determined
13 under this section for any taxable year is the applicable
14 percentage of the basis of any qualifying medical manufac-
15 turing EPA compliance property placed in service during
16 such taxable year.

17 “(b) APPLICABLE PERCENTAGE.—For purposes of
18 this section, the term ‘applicable percentage’ means—

19 “(1) 30 percent in the case of qualifying med-
20 ical manufacturing EPA compliance property which
21 is placed in service before January 1, 2031,

22 “(2) 20 percent in the case of qualifying med-
23 ical manufacturing EPA compliance property which
24 is placed in service during calendar year 2031,

1 “(3) 10 percent in the case of qualifying med-
2 ical manufacturing EPA compliance property which
3 is placed in service during calendar year 2032, and

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

7 “(c) QUALIFYING MEDICAL MANUFACTURING EPA
8 COMPLIANCE PROPERTY.—For purposes of this section,
9 the term ‘qualifying medical manufacturing EPA compli-
10 ance equipment’ means property—

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

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

17 “(3) which is placed in service in the United
18 States by the taxpayer,

19 “(4) with respect to which depreciation is allow-
20 able, and

21 “(5) which is not qualifying advanced medical
22 manufacturing equipment (as defined in section
23 48F).

24 “(d) CERTAIN QUALIFIED PROGRESS EXPENDI-
25 TURES RULES MADE APPLICABLE.—Rules similar to the

1 rules of subsections (c)(4) and (d) of section 46 (as in
2 effect on the day before the enactment of the Revenue
3 Reconciliation Act of 1990) shall apply for purposes of
4 this section.

5 “(e) REGULATIONS.—The Secretary shall prescribe
6 such regulations or other guidance as may be necessary
7 to carry out the purposes of this section, including regula-
8 tions which prevent abuse or fraud.”.

9 (b) TREATMENT UNDER BASE EROSION TAX.—Sec-
10 tion 59A(b)(1)(B)(ii) of such Code, as amended by the
11 preceding provisions of this Act, is further amended by
12 striking “plus” at the end of subclause (III), by redesign-
13 ating subclause (IV) as subclause (V), and by inserting
14 after subclause (III) the following new subclause:

15 “(IV) the credit allowed under
16 section 46 for the taxable year which
17 is properly allocable to the medical
18 manufacturing EPA compliance credit
19 determined under section 48G(a),
20 plus”.

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

1 and inserting “, and”, and by adding at the end the fol-
2 lowing new paragraph:

3 “(9) the medical manufacturing EPA compli-
4 ance credit.”.

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

“Sec. 48G. Medical manufacturing EPA compliance credit.”.

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

16 **SEC. 5. REPORTS TO CONGRESS REGARDING SUPPLY**
17 **CHAIN RESILIENCY.**

18 (a) INTERNAL REVENUE SERVICE.—The Commis-
19 sioner of Internal Revenue shall submit to Congress an
20 annual report (beginning with calendar year 2027) regard-
21 ing the utilization of the credits allowed under sections
22 45BB, 48F, and 48G of the Internal Revenue Code of
23 1986 (as added by this Act).

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

1 annual report (beginning with calendar year 2027) regard-
2 ing the impact of the credits allowed under sections 45BB,
3 48F, and 48G of the Internal Revenue Code of 1986 (as
4 added by this Act) on compliance with procurement of do-
5 mestically manufactured drugs, biologics, active pharma-
6 ceutical ingredients, countermeasures and devices under
7 the Buy American Act of 1933 (41 U.S.C. 8301 et seq.).

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

17 (d) FOOD AND DRUG ADMINISTRATION.—The Com-
18 missioner of Food and Drugs shall submit to Congress an
19 annual report (beginning with calendar year 2027) regard-
20 ing the impact of the credits allowed under sections 45BB,
21 48F, and 48G of the Internal Revenue Code of 1986 (as
22 added by this Act) on drug and device shortages.