

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To establish the Office of Supply Chain Resiliency within the Department of Commerce to provide expansion support to companies and supply chains in the United States that are vulnerable to shortages and price increases, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Ms. BALDWIN (for herself, Mr. BROWN, Mr. COONS, Ms. CORTEZ MASTO, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Mr. PADILLA, Ms. ROSEN, Mr. VAN HOLLEN, Mr. WARNOCK, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To establish the Office of Supply Chain Resiliency within the Department of Commerce to provide expansion support to companies and supply chains in the United States that are vulnerable to shortages and price increases, 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 “Supply Chain Resil-

5 iency Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ASSISTANT SECRETARY.—The term “Assist-  
4 ant Secretary” means the Assistant Secretary of  
5 Commerce for Supply Chain Resiliency.

6 (2) CRITICAL PRODUCT.—The term “critical  
7 product” means a product that is critical to the na-  
8 tional security, economic security, or public health of  
9 the United States.

10 (3) ELIGIBLE ENTITY.—The term “eligible enti-  
11 ty”—

12 (A) means a manufacturer that—

13 (i) produces not less than 1 good at a  
14 facility in the United States; and

15 (ii) is a small business concern; and

16 (B) may include a manufacturer that is  
17 not a small business concern if the Secretary  
18 determines that providing expansion support to  
19 the manufacturer under section 4 would be in  
20 the public interest.

21 (4) OFFICE.—The term “Office” means the Of-  
22 fice of Supply Chain Resiliency.

23 (5) PROGRAM.—The term “Program” means  
24 the Supply Chain Monitoring and Resiliency Pro-  
25 gram established under section 4(a).

1           (6) SECRETARY.—The term “Secretary” means  
2           the Secretary of Commerce.

3           (7) SMALL BUSINESS CONCERN.—The term  
4           “small business concern” has the meaning given the  
5           term in section 3 of the Small Business Act (15  
6           U.S.C. 632).

7   **SEC. 3. OFFICE OF SUPPLY CHAIN RESILIENCY.**

8           (a) ESTABLISHMENT.—The Secretary shall establish  
9           within the Department of Commerce the Office of Supply  
10          Chain Resiliency.

11          (b) ASSISTANT SECRETARY.—The Office shall be  
12          headed by the Assistant Secretary of Commerce for Sup-  
13          ply Chain Resiliency, who shall be appointed by the Sec-  
14          retary.

15          (c) RESPONSIBILITIES OF THE ASSISTANT SEC-  
16          RETARY.—The Assistant Secretary shall—

17                 (1) administer the Supply Chain Monitoring  
18                 and Resiliency Program;

19                 (2) hire each employee of the Office; and

20                 (3) issue regulations necessary to carry out this  
21          Act.

1 **SEC. 4. SUPPLY CHAIN MONITORING AND RESILIENCY PRO-**  
2 **GRAM.**

3 (a) ESTABLISHMENT.—The Assistant Secretary shall  
4 establish within the Office the Supply Chain Resiliency  
5 Program.

6 (b) OBJECTIVES.—The objectives of the Program  
7 shall be to—

8 (1) monitor and research interstate commerce  
9 and supply chains in the United States to identify  
10 vulnerabilities in supply chains that—

11 (A) produce products that are critical to  
12 the national security, economic security, and  
13 public health of the United States; and

14 (B) produce products in emerging tech-  
15 nologies; and

16 (2) improve the supply in the United States of  
17 critical products in supply chains identified under  
18 paragraph (1) by providing expansion support to eli-  
19 gible entities.

20 (c) SUPPLY CHAIN RESEARCH.—

21 (1) IN GENERAL.—Under the Program, the As-  
22 sistant Secretary shall conduct research and analysis  
23 to identify supply chains that are—

24 (A) experiencing supply shortages; or

25 (B) vulnerable to experiencing supply  
26 shortages.

1           (2) SUPPLY CHAIN VULNERABILITIES.—For the  
2           purpose of paragraph (1), a supply chain that is ex-  
3           periencing a supply shortage or vulnerable to experi-  
4           encing a supply shortage shall include a supply chain  
5           within which there is—

6                   (A) a critical product—

7                           (i) of which there is a supply shortage  
8                           or price spike due to a limited supply of  
9                           the critical product; or

10                          (ii) that is in danger of experiencing  
11                          a supply shortage or price spike due to a  
12                          limited supply of the product;

13                   (B) a manufacturer in the United States  
14                   that is the sole supplier, or that is in danger of  
15                   becoming the sole supplier, in the supply chain  
16                   of a critical product;

17                   (C) a manufacturer in the United States of  
18                   a critical product that cannot make investments  
19                   in property, a plant, and equipment necessary  
20                   to expand the production of the critical product  
21                   due to a lack of access to low-cost, long-term  
22                   capital;

23                   (D) a manufacturer in the United States  
24                   that has reduced output of a critical product  
25                   because—

1 (i) the necessary inputs to manufac-  
2 ture the critical product are unavailable  
3 due to a supply shortage or transportation  
4 disruption;

5 (ii) the cost of necessary inputs to  
6 manufacture the critical product have in-  
7 creased because of a supply shortage; or

8 (iii) the critical product cannot be de-  
9 livered due to a transportation disruption;  
10 and

11 (E) any other supply chain disruption  
12 identified by the Assistant Secretary that re-  
13 sults in, or could result in, increased prices and  
14 supply shortages for a critical product.

15 (3) METHODS.—In conducting the research and  
16 analysis required under paragraph (1), the Assistant  
17 Secretary may—

18 (A) conduct surveys of industry;

19 (B) analyze market data, including con-  
20 sumer price indices and the components of  
21 those indices; and

22 (C) convene meetings with manufacturers,  
23 suppliers, consumers, retailers, labor organiza-  
24 tions, and other constituents of supply chains in  
25 the United States.

1           (4) SUPPLY SHOCK STRESS TESTS.—The As-  
2           sistant Secretary may conduct stress tests to simu-  
3           late the impact of hypothetical supply chain shocks  
4           on—

5                   (A) supply chains for critical products in  
6           the United States; and

7                   (B) manufacturers in the United States  
8           that comprise the supply chains described in  
9           subparagraph (A) by—

10                           (i) producing critical products;

11                           (ii) supplying inputs to critical prod-  
12           ucts; or

13                           (iii) buying critical products as an  
14           input for the manufactured goods of the  
15           manufacturer.

16           (5) ELIGIBILITY FOR EXPANSION SUPPORT.—In  
17           identifying entities that may be eligible to receive ex-  
18           pansion support under subsection (d)(1), the Assist-  
19           ant Secretary—

20                   (A) shall use data gathered from the re-  
21           search conducted under paragraph (1); and

22                   (B) may use results of the stress tests con-  
23           ducted under paragraph (4).

24           (d) SUPPLY CHAIN RESILIENCY EXPANSION SUP-  
25           PORT.—

1           (1) IN GENERAL.—Under the Program, the As-  
2           sistant Secretary shall provide expansion support to  
3           eligible entities in the form of—

4                     (A) loans;

5                     (B) loan guaranties on private markets;

6           and

7                     (C) grants.

8           (2) USE OF EXPANSION SUPPORT.—An eligible  
9           entity that receives expansion support under para-  
10          graph (1) shall use the expansion support to expand  
11          production of a product that is part of a supply  
12          chain identified under subsection (c)(1).

13          (3) TERMS AND CONDITIONS OF EXPANSION  
14          SUPPORT.—

15                    (A) IN GENERAL.—An eligible entity that  
16                    receives expansion support under paragraph (1)  
17                    shall agree to—

18                           (i) maintain production of a critical  
19                           product in the United States;

20                           (ii) comply with the labor standards  
21                           required under subparagraph (B); and

22                           (iii) any other terms or conditions the  
23                           Assistant Secretary may require in order  
24                           to achieve the objectives of the Program.



1                   (B)     LABOR-MANAGEMENT     COOPERA-  
2                   TION.—

3                   (i)    IN    GENERAL.—Notwithstanding  
4                   any other provision of law, including the  
5                   National Labor Relations Act (29 U.S.C.  
6                   151 et seq.), this subparagraph shall apply  
7                   with respect to any recipient of funding  
8                   under this section who is an employer and  
9                   any labor organization who represents or  
10                  seeks to represent any employees or only  
11                  those employees who perform or will per-  
12                  form work funded under this section.

13                  (ii)   RECOGNITION.—Any employer re-  
14                  ceiving funds under this section shall re-  
15                  cognize for purposes of collective bargaining  
16                  a labor organization that demonstrates  
17                  that a majority of the employees in a unit  
18                  appropriate for such purposes and who  
19                  perform or will perform work funded under  
20                  this section have signed valid authoriza-  
21                  tions designating the labor organization as  
22                  their collective bargaining representative  
23                  and that no other labor organization is cer-  
24                  tified or recognized pursuant to section 9  
25                  of the National Labor Relations Act (29

1 U.S.C. 159) as the exclusive representative  
2 of any of the employees in the unit who  
3 perform or will perform such work. Upon  
4 such showing of majority status, the em-  
5 ployer shall notify the labor organization  
6 and the National Labor Relations Board  
7 that the employer—

8 (I) has determined that the labor  
9 organization represents a majority of  
10 the employees in such unit who per-  
11 form or will perform such work; and

12 (II) is recognizing the labor orga-  
13 nization as the exclusive representa-  
14 tive of the employees in such unit who  
15 perform or will perform such work for  
16 the purposes of collective bargaining  
17 pursuant to that section.

18 (iii) DISPUTE RESOLUTION AND UNIT  
19 CERTIFICATION.—If a dispute over major-  
20 ity status or the appropriateness of the  
21 unit described in clause (ii) arise between  
22 the employer and the labor organization,  
23 either party may request that the National  
24 Labor Relations Board investigate and re-  
25 solve the dispute. If the Board finds that

1 a majority of the employees in a unit ap-  
2 propriate for purposes of collective bar-  
3 gaining who perform or will perform work  
4 funded under this section has signed valid  
5 authorizations designating the labor orga-  
6 nization as their representative for such  
7 purposes and that no other individual or  
8 labor organization is certified or recognized  
9 as the exclusive representative of any of  
10 the employees in the unit who perform or  
11 will perform such work for such purposes,  
12 the Board shall not direct an election but  
13 shall certify the labor organization as the  
14 representative described in section 9(a) of  
15 the National Labor Relations Act (29  
16 U.S.C. 159(a)).

17 (iv) MEETINGS AND COLLECTIVE BAR-  
18 GAINING AGREEMENTS.—Not later than 10  
19 days after an employer receiving funding  
20 under this section receives a written re-  
21 quest for collective bargaining from a rec-  
22 ognized or certified labor organization rep-  
23 resenting employees who perform or will  
24 perform work funded under this section, or  
25 within such period as the parties agree



1                   ning on the date on which the request  
2                   for mediation is made under clause  
3                   (v), or such additional period as the  
4                   parties may agree upon, the Service is  
5                   not able to bring the parties to agree-  
6                   ment by mediation and conciliation,  
7                   the Service shall refer the dispute to  
8                   a tripartite arbitration panel estab-  
9                   lished in accordance with such regula-  
10                  tions as may be prescribed by the  
11                  Service.

12                   (II) MEMBERS.—A tripartite ar-  
13                  bitration panel established under this  
14                  clause with respect to a dispute shall  
15                  be composed of 1 member selected by  
16                  the labor organization, 1 member se-  
17                  lected by the employer, and 1 neutral  
18                  member mutually agreed to by the  
19                  labor organization and the employer.  
20                  Each such member shall be selected  
21                  not later than 14 days after the expi-  
22                  ration of the 30-day period described  
23                  in subclause (I) with respect to such  
24                  dispute. Any member not so selected  
25                  by the date that is 14 days after the

1 expiration of such period shall be se-  
2 lected by the Service.

3 (III) DECISIONS.—A majority of  
4 a tripartite arbitration panel estab-  
5 lished under this clause with respect  
6 to a dispute shall render a decision  
7 settling the dispute as soon as prac-  
8 ticable, and (absent extraordinary cir-  
9 cumstances or by agreement or per-  
10 mission of the parties) not later than  
11 120 days after the establishment of  
12 such panel. Such a decision shall be  
13 binding upon the parties for a period  
14 of 2 years, unless amended during  
15 such period by written consent of the  
16 parties. Such decision shall be based  
17 on—

18 (aa) the financial status and  
19 prospects of the employer;

20 (bb) the size and type of the  
21 operations and business of the  
22 employer;

23 (cc) the cost of living of the  
24 employees;

1 (dd) the ability of the em-  
2 ployees to sustain themselves,  
3 their families, and their depend-  
4 ents on the wages and benefits  
5 they earn from the employer; and

6 (ee) the wages and benefits  
7 other employers in the same busi-  
8 ness provide their employees.

9 (vii) CONTRACTORS AND SUB-  
10 CONTRACTORS.—Any employer receiving  
11 funds under this section to procure goods  
12 or services shall require a contractor or  
13 subcontractor, whose employees perform or  
14 will perform work funded under this sec-  
15 tion, that contracts or subcontracts with  
16 the employer to comply with the require-  
17 ments set forth in clauses (i) through (vi).

18 (viii) DEFINITIONS.—In this subpara-  
19 graph, the terms “employee”, “employer”,  
20 and “labor organization” have the mean-  
21 ings given the terms in section 2 of the  
22 National Labor Relations Act (29 U.S.C.  
23 152).

24 (C) LIMITATION OF FUNDS.—Funds ap-  
25 propriated to carry out this Act shall not be

1           used to assist, promote, or deter organizing of  
2           labor organizations.

3           (e) SUPPLY CHAIN RESILIENCY FUND.—

4           (1) ESTABLISHMENT.—There is established a  
5           Supply Chain Resiliency Fund for the purpose of  
6           funding loans, loan guaranties, and grants under the  
7           Program.

8           (2) FINANCIAL OPERATIONS OF THE SUPPLY  
9           CHAIN RESILIENCY FUND.—

10           (A) IN GENERAL.—The Assistant Sec-  
11           retary shall use the funds in the Supply Chain  
12           Resiliency Fund to finance loans, loan guaran-  
13           ties, and grants to eligible entities under the  
14           Program.

15           (B) RESERVE RATIO.—The Assistant Sec-  
16           retary shall not lend in excess of 10 times the  
17           capital in reserve in the Supply Chain Resil-  
18           iency Fund.

19           (C) INTEREST RATE.—The Assistant Sec-  
20           retary shall establish interest rates for loans,  
21           loan guaranties, and other instruments as the  
22           Secretary considers appropriate, taking into ac-  
23           count—

24                   (i) the objectives of the Program de-  
25                   scribed in section 3(b); and



1                                   (ii) the cost of capital experienced by  
2                                   foreign competitors to the beneficiaries of  
3                                   the support provided under this section.

4       (f) AUTHORIZATION OF APPROPRIATIONS.—There  
5 are authorized to be appropriated to the Assistant Sec-  
6 retary \$5,000,000,000 for each of fiscal years 2023  
7 through 2027 to carry out the Program, of which  
8 \$4,000,000,000 shall be deposited into the Supply Chain  
9 Resiliency Fund established under subsection (e).