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2D SESSION

S. 4264

To require personal protective equipment to be acquired from domestic producers for the Strategic National Stockpile.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2020

Mr. GRAHAM (for himself, Mrs. CAPITO, and Mr. ROUNDS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To require personal protective equipment to be acquired from domestic producers for the Strategic National Stockpile.

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 “United States Manu-
5 facturing Availability of Domestic Equipment Act” or the
6 “U.S. MADE Act of 2020”.

1 **SEC. 2. DOMESTIC PURCHASING REQUIREMENT FOR PER-**
 2 **SONAL PROTECTIVE EQUIPMENT ACQUI-**
 3 **TIONS FOR THE STRATEGIC NATIONAL**
 4 **STOCKPILE.**

5 Section 319F–2(a) of the Public Health Service Act
 6 (42 U.S.C. 247d–6b(a)) is amended by adding at the end
 7 the following:

8 “(6) DOMESTIC PURCHASING REQUIREMENT
 9 FOR PERSONAL PROTECTIVE EQUIPMENT.—

10 “(A) REQUIREMENT.—Except as provided
 11 in subparagraphs (C) and (D), funds appro-
 12 priated or otherwise available to the Secretary
 13 for the Strategic National Stockpile may not be
 14 used for the procurement of an item described
 15 in subparagraph (B) unless the item was
 16 grown, reprocessed, reused, or produced in the
 17 United States.

18 “(B) COVERED ITEMS.—An item described
 19 in this subparagraph is an article or item of—

20 “(i) personal protective equipment (in-
 21 cluding surgical masks, respirator masks,
 22 face shields, surgical and isolation gowns,
 23 and head and foot coverings) or clothing
 24 (and the materials and components there-
 25 of), other than sensors, electronics, or
 26 other items added to, and not normally as-

sociated with, such personal protective equipment or clothing;

“(ii) sanitizing and disinfecting wipes, privacy curtains, beds and bedding, testing swabs, gauze and bandages, tents, tarpaulins, covers, or bags; or

“(iii) any other textile medical supplies and equipment described in paragraph (1).

“(C) AVAILABILITY EXCEPTION.—Subsection (a) shall not apply to an item described in subparagraph (B)—

“(i) that is, or that includes, a material listed in section 25.104 of the Federal Acquisition Regulation as one for which a non-availability determination has been made; or

“(ii) as to which the Secretary determines that a sufficient quantity of a satisfactory quality of such item that is grown, reprocessed, reused, or produced in the United States cannot be procured as, and when, needed at United States market prices.

1 “(D) EXCEPTION FOR SMALL PUR-
2 CHASES.—Subparagraph (A) shall not apply to
3 purchases for amounts that do not exceed
4 \$150,000. A proposed purchase or contract for
5 an amount in excess of \$150,000 may not be
6 divided into several purchases or contracts for
7 lesser amounts in order to qualify for the excep-
8 tion under this subparagraph.

9 “(E) GEOGRAPHIC COVERAGE.—In this
10 section, the term ‘United States’ means the sev-
11 eral states, the District of Columbia, the United
12 States territories and possessions, and the
13 Freely Associated States.

14 “(F) NOTIFICATION REQUIRED WITHIN 7
15 DAYS AFTER CONTRACT AWARD IF CERTAIN EX-
16 CEPTIONS APPLIED.—In the case of any con-
17 tract for the procurement of an item described
18 in subparagraph (B), if the Secretary applies
19 the exception described in subparagraph (C)
20 with respect to that contract, the Secretary
21 shall, not later than 7 days after the awarding
22 of the contract, post a notification that the ex-
23 ception has been applied on the internet website
24 maintained by the General Services Administra-

tion known as FedBizOps.gov (or any successor site).

“(G) TRAINING DURING FISCAL YEAR 2021.—

“(i) IN GENERAL.—The Secretary shall ensure that each member of the acquisition workforce in the Department of Health and Human Services who participates personally and substantially in acquisitions on a regular basis receives training during fiscal year 2021 on the requirements of this paragraph and the regulations implementing this paragraph.

“(ii) INCLUSION OF INFORMATION IN NEW TRAINING PROGRAMS.—The Secretary shall ensure that any training program for the acquisition workforce developed or implemented after fiscal year 2021, includes comprehensive information on the requirements described in subparagraph (A).

“(H) APPLICATION TO OTHER AGENCIES.—If responsibility for maintaining the Strategic National Stockpile is transferred from the Department of Health and Human Services to any other Federal department or agency, the

1 provisions of this paragraph shall apply to the
2 head of such department or agency.

3 “(I) EFFECTIVE DATE.—This paragraph
4 shall apply with respect to contracts entered
5 into by the Department of Health and Human
6 Services beginning 60 days after the date of en-
7 actment of this paragraph.”.

8 **SEC. 3. INVESTMENT CREDIT FOR QUALIFYING MEDICAL**
9 **PERSONAL PROTECTIVE EQUIPMENT MANU-**
10 **FACTURING PROJECTS.**

11 (a) IN GENERAL.—Subpart E of part IV of sub-
12 chapter A of chapter 1 of the Internal Revenue Code of
13 1986 is amended by inserting after section 48C the fol-
14 lowing new section:

15 **“SEC. 48D. QUALIFYING MEDICAL PERSONAL PROTECTIVE**
16 **EQUIPMENT MANUFACTURING PROJECT**
17 **CREDIT.**

18 “(a) IN GENERAL.—For purposes of section 46, the
19 qualifying medical personal protective equipment manu-
20 facturing project credit for any taxable year is an amount
21 equal to 30 percent of the qualified investment for such
22 taxable year with respect to any qualifying medical per-
23 sonal protective equipment manufacturing project of the
24 taxpayer.

25 “(b) QUALIFIED INVESTMENT.—

1 “(1) IN GENERAL.—For purposes of subsection
 2 (a), the qualified investment for any taxable year is
 3 the basis of eligible property placed in service or
 4 continued in service by the taxpayer during such
 5 taxable year which is part of a qualifying medical
 6 personal protective equipment manufacturing proj-
 7 ect.

8 “(2) CERTAIN QUALIFIED PROGRESS EXPENDI-
 9 TURES RULES MADE APPLICABLE.—Rules similar to
 10 the rules of subsections (c)(4) and (d) of section 46
 11 (as in effect on the day before the enactment of the
 12 Revenue Reconciliation Act of 1990) shall apply for
 13 purposes of this section.

14 “(3) LIMITATION.—The amount which is treat-
 15 ed as the qualified investment for all taxable years
 16 with respect to any qualifying medical personal pro-
 17 tective equipment manufacturing project shall not
 18 exceed the amount designated by the Secretary as el-
 19 igible for the credit under this section.

20 “(c) DEFINITIONS.—

21 “(1) QUALIFYING MEDICAL PERSONAL PROTEC-
 22 TIVE EQUIPMENT MANUFACTURING PROJECT.—

23 “(A) IN GENERAL.—The term ‘qualifying
 24 medical personal protective equipment manufac-
 25 turing project’ means a project—

1 “(i) which re-equips, expands, estab-
 2 lishes, or continues existing medical per-
 3 sonal protective equipment production of—

4 “(I) any item described in para-
 5 graph (6)(B) of section 319F–2(a) of
 6 the Public Health Service Act (42
 7 U.S.C. 247d–6b(a)), or

8 “(II) any textile products for
 9 medical applications which are not de-
 10 scribed in subclause (I), as identified
 11 by the Secretary, in consultation with
 12 the Secretary of Health and Human
 13 Services, and

14 “(ii) any portion of the qualified in-
 15 vestment of which is certified by the Sec-
 16 retary under subsection (d) as eligible for
 17 a credit under this section.

18 “(B) EXCEPTION.—Subclause (I) of sub-
 19 paragraph (A)(i) shall not include sensors, elec-
 20 tronics, or other items added to, and not nor-
 21 mally associated with, equipment or clothing de-
 22 scribed in such subclause.

23 “(2) ELIGIBLE PROPERTY.—The term ‘eligible
 24 property’ means any property—

1 “(A) which is necessary for the production
2 of property described in paragraph (1)(A)(i),

3 “(B) which is—

4 “(i) tangible personal property, or

5 “(ii) other tangible property (not in-
6 cluding a building or its structural compo-
7 nents), but only if such property is used as
8 an integral part of the manufacturing fa-
9 cility described in such paragraph, and

10 “(C) with respect to which depreciation (or
11 amortization in lieu of depreciation) is allow-
12 able.

13 “(d) QUALIFYING MEDICAL PERSONAL PROTECTIVE
14 EQUIPMENT MANUFACTURING PROJECT PROGRAM.—

15 “(1) ESTABLISHMENT.—

16 “(A) IN GENERAL.—Not later than 90
17 days after the date of enactment of this section,
18 the Secretary, in consultation with the Sec-
19 retary of Health and Human Services, shall es-
20 tablish a qualifying medical personal protective
21 equipment manufacturing project program to
22 consider and award certifications for qualified
23 investments eligible for credits under this sec-
24 tion to qualifying medical personal protective
25 equipment manufacturing project sponsors.

1 “(B) LIMITATION.—The total amount of
2 credits that may be allocated under the pro-
3 gram shall not exceed \$7,500,000,000.

4 “(2) CERTIFICATION.—

5 “(A) APPLICATION PERIOD.—Each appli-
6 cant for certification under this paragraph shall
7 submit an application (containing such informa-
8 tion as the Secretary may require) during the
9 1-year period beginning on the date the Sec-
10 retary establishes the program under paragraph
11 (1).

12 “(B) TIME TO MEET CRITERIA FOR CER-
13 TIFICATION.—Each applicant for certification
14 shall have 1 year from the date of acceptance
15 by the Secretary of the application during
16 which to provide to the Secretary evidence that
17 the requirements of the certification have been
18 met.

19 “(C) PERIOD OF ISSUANCE.—An applicant
20 which receives a certification shall have 2 years
21 from the date of issuance of the certification in
22 order to place the project in service and if such
23 project is not placed in service by that time pe-
24 riod, then the certification shall no longer be
25 valid.

1 “(3) SELECTION CRITERIA.—In determining
2 which qualifying medical personal protective equip-
3 ment manufacturing projects to certify under this
4 section, the Secretary shall take into consideration
5 which projects—

6 “(A) will provide the greatest domestic job
7 creation and retention (both direct and indirect)
8 during the credit period,

9 “(B) will provide the largest amount of
10 medical personal protective equipment for which
11 there is the greatest need for purposes of the
12 Strategic National Stockpile (as described in
13 section 319F–2(a) of the Public Health Service
14 Act (42 U.S.C. 247d–6b(a))),

15 “(C) have the greatest potential for help-
16 ing to achieve medical manufacturing independ-
17 ence for the United States, and

18 “(D) have the greatest potential to meet
19 sudden surges in demand for personal protec-
20 tive equipment.

21 “(4) REVIEW AND REDISTRIBUTION.—

22 “(A) REVIEW.—Not later than 3 years
23 after the date of enactment of this section, the
24 Secretary shall review the credits allocated
25 under this section as of such date.

1 “(B) REDISTRIBUTION.—The Secretary
2 may reallocate credits awarded under this sec-
3 tion if the Secretary determines that—

4 “(i) there is an insufficient quantity
5 of qualifying applications for certification
6 pending at the time of the review, or

7 “(ii) any certification made pursuant
8 to paragraph (2) has been revoked pursu-
9 ant to paragraph (2)(B) because the
10 project subject to the certification has been
11 delayed as a result of third-party opposi-
12 tion or litigation to the proposed project.

13 “(C) REALLOCATION.—If the Secretary de-
14 termines that credits under this section are
15 available for reallocation pursuant to the re-
16 quirements set forth in paragraph (2), the Sec-
17 retary is authorized to conduct an additional
18 program for applications for certification.

19 “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-
20 retary shall, upon making a certification under this
21 subsection, publicly disclose the identity of the appli-
22 cant and the amount of the credit with respect to
23 such applicant.”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 46 of the Internal Revenue Code of
2 1986 is amended—

3 (A) by striking “and” at the end of para-
4 graph (5);

5 (B) by striking the period at the end of
6 paragraph (6) and inserting “, and”; and

7 (C) by adding at the end the following:

8 “(7) the qualifying medical personal protective
9 equipment manufacturing project credit.”.

10 (2) Section 49(a)(1)(C) of such Code is amend-
11 ed—

12 (A) by striking “and” at the end of clause
13 (iv);

14 (B) by striking the period at the end of
15 clause (v) and inserting “, and”; and

16 (C) by adding at the end the following:

17 “(vi) the basis of any property which
18 is part of a qualifying medical personal
19 protective equipment manufacturing proj-
20 ect under section 48D.”.

21 (3) The table of sections for subpart E of part
22 IV of subchapter A of chapter 1 of such Code is
23 amended by inserting after the item relating to sec-
24 tion 48C the following new item:

“Sec. 48D. Qualifying medical personal protective equipment manufacturing
project credit.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to property the construction of
3 which begins after December 31, 2019.

