

CRITICAL INFRASTRUCTURE MANUFACTURING
FEASIBILITY ACT

MAY 10, 2024.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mrs. RODGERS of Washington, from the Committee on Energy and
Commerce, submitted the following

R E P O R T

[To accompany H.R. 5390]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred
the bill (H.R. 5390) to direct the Secretary of Commerce to conduct
a study on the feasibility of manufacturing in the United States
products for critical infrastructure sectors, and for other purposes,
having considered the same, reports favorably thereon without
amendment and recommends that the bill do pass.

CONTENTS

	Page
Purpose and Summary	2
Background and Need for Legislation	2
Committee Action	2
Committee Votes	2
Oversight Findings and Recommendations	4
New Budget Authority, Entitlement Authority, and Tax Expenditures	4
Congressional Budget Office Estimate	4
Federal Mandates Statement	9
Statement of General Performance Goals and Objectives	9
Duplication of Federal Programs	9
Related Committee and Subcommittee Hearings	9
Committee Cost Estimate	9
Earmark, Limited Tax Benefits, and Limited Tariff Benefits	10
Advisory Committee Statement	10
Applicability to Legislative Branch	10
Section-by-Section Analysis of the Legislation	10
Changes in Existing Law Made by the Bill, as Reported	10

PURPOSE AND SUMMARY

H.R. 5390, the Critical Infrastructure Manufacturing Feasibility Act, was introduced by Representative Miller-Meeks on September 12, 2023, and referred to the Committee on Energy and Commerce. H.R. 5390 requires the Secretary of Commerce to study and report on products that are in high demand across the critical infrastructure sectors. The study must (1) identify the products in high demand across those sectors that are being imported due to manufacturing, material, or supply chain constraints; and (2) analyze the costs, benefits, and feasibility of manufacturing those products in the United States.

BACKGROUND AND NEED FOR LEGISLATION

Manufacturing is an essential component for the U.S., not only in terms of economic stability and creating American jobs, but also to ensure global leadership in spaces like developing and deploying emerging technologies. The U.S. should examine where the impediments exist for manufacturing in the U.S. and, in particular, manufacturing critical products that are in high demand in the U.S. Failure to do so may cause companies offering products and services to become reliant upon countries like China for critical components and goods necessary for those products and services. H.R. 5390 can help the United States establish the pathway to secure American leadership in domestic manufacturing and innovation and protect economic and national security.

COMMITTEE ACTION

On September 20, 2023, the Subcommittee on Innovation, Data, and Commerce held a hearing on H.R. 5390. The title of the hearing was “Mapping America’s Supply Chains: Solutions to Unleash Innovation, Boost Economic Resilience, and Beat China.” The Subcommittee received testimony from:

- Chris Griswold, Policy Director, American Compass;
- Deena Ghazarian, Founder and Chief Executive Officer, Austere;
- Justin Slaughter, Policy Director, Paradigm; and,
- Scott Paul, President, Alliance for American Manufacturing.

On November 2, 2023, the Subcommittee on Innovation, Data, and Commerce met in open markup session and forwarded H.R. 5390, without amendment, to the full Committee by a voice vote.

On December 5 and 6, 2023, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 5390, without amendment, favorably reported to the House by a record vote of 45 yeas and 0 nays.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

**COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE # 14**

BILL: H.R. 5390, Critical Infrastructure Manufacturing Feasibility Act

AMENDMENT: A motion by Chair Rodgers to order H.R. 5390 favorably reported to the House, without amendment (Final Passage).

DISPOSITION: AGREED TO, by a roll call vote of 45 yeas to 0 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Rodgers	X			Rep. Pallone	X		
Rep. Burgess	X			Rep. Eshoo	X		
Rep. Latta	X			Rep. DeGette	X		
Rep. Guthrie	X			Rep. Schakowsky	X		
Rep. Griffith	X			Rep. Matsui			
Rep. Bilirakis	X			Rep. Castor	X		
Rep. Johnson	X			Rep. Sarbanes	X		
Rep. Bucshon	X			Rep. Tonko	X		
Rep. Hudson	X			Rep. Clarke	X		
Rep. Walberg	X			Rep. Cárdenas	X		
Rep. Carter	X			Rep. Ruiz	X		
Rep. Duncan	X			Rep. Peters	X		
Rep. Palmer	X			Rep. Dingell	X		
Rep. Dunn				Rep. Veasey	X		
Rep. Curtis	X			Rep. Kuster	X		
Rep. Lesko	X			Rep. Kelly	X		
Rep. Pence	X			Rep. Barragán	X		
Rep. Crenshaw				Rep. Blunt Rochester	X		
Rep. Joyce	X			Rep. Soto	X		
Rep. Armstrong				Rep. Craig			
Rep. Weber	X			Rep. Schrier	X		
Rep. Allen	X			Rep. Trahan	X		
Rep. Balderson	X			Rep. Fletcher			
Rep. Fulcher							
Rep. Pfluger	X						
Rep. Harshbarger	X						
Rep. Miller-Meeks	X						
Rep. Cammack	X						
Rep. Obernolte	X						

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 5390 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

At a Glance			
Energy and Commerce Legislation			
As ordered reported by the House Committee on Energy and Commerce on December 6, 2023			
On December 6, 2023, the House Committee on Energy and Commerce ordered reported 41 bills. This single, comprehensive document provides estimates for 7 of those bills.			
<ul style="list-style-type: none"> All of the bills would increase spending subject to appropriation. H.R. 2964, H.R. 3950, H.R. 6125, and H.R. 6543 would each increase revenues by an insignificant amount; thus, pay-as-you-go procedures apply to those bills. None of the bills would affect direct spending. None of the bills would increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2034. H.R. 2964, H.R. 3950, H.R. 6125, and H.R. 6543 would impose intergovernmental or private-sector mandates. 			
Details of the estimated costs of each bill are discussed in the text.			
Bill	Net Increase or Decrease (-) in the Deficit Over the 2024-2034 Period (Millions of Dollars)	Changes in Spending Subject to Appropriation Over the 2024-2029 Period (Outlays, Millions of Dollars)	Mandate Effects?
H.R. 2964	*	4	Yes
H.R. 3950	*	4	Yes
H.R. 5146	0	2	No
H.R. 5390	0	1	No
H.R. 5398	0	2	No
H.R. 6125	*	4	Yes
H.R. 6543	*	4	Yes
* = between -\$500,000 and zero.			

Summary of legislation: On December 6, 2023, the House Committee on Energy and Commerce ordered reported 41 bills. This document provides estimates for 7 of those bills.

The bills would require the Federal Trade Commission (FTC) to enforce new prohibitions and requirements or would direct the Department of Commerce to study various issues and report to the Congress.

Estimated Federal cost: The bills' costs fall within budget function 370 (commerce and housing credit).

Basis of estimate: For this estimate, CBO assumes that the bills will be enacted near the middle of fiscal year 2024. The estimated costs do not include any interaction effects among the bills. If all seven bills were combined and enacted as a single piece of legislation, the estimated costs would be different from the sum of the separate estimates, although CBO expects that any difference would be small.

CBO estimates that implementing each of the seven bills would cost between \$1 million and \$4 million over the 2024–2029 period; that spending would be subject to the availability of appropriated funds.

Four bills—H.R. 2964, H.R. 3950, H.R. 6125, and H.R. 6543—would each increase revenues by an insignificant amount. Entities that fail to meet each of those bills’ new requirements could face civil penalties, which are recorded in the federal budget as revenues. To some extent, collection of any civil fines would depend on the amount of appropriations provided by future appropriation acts to pay for enforcement. In addition, whether the FTC would pursue civil penalties or some other remedy for violations is unclear. In any event, CBO expects that companies would generally comply with the new requirements and that any additional revenues collected over the 2024–2034 period would be insignificant for each bill.

H.R. 2964, WIPPE Act: The bill would require manufacturers and suppliers of disposable wipes to clearly mark their products with a “do not flush” label and symbol. The FTC would enforce those requirements.

Based on the cost of similar provisions, CBO estimates that implementing H.R. 2964 would cost the FTC \$4 million to issue guidance and to monitor and enforce violations. In addition, CBO estimates that enacting the bill could increase civil penalty collections, which are recorded in the federal budget as revenues, by an insignificant amount.

H.R. 3950, TICKET Act: The bill would require companies that issue tickets or that sell tickets on the secondary market to clearly display the total price of any ticket, including itemizing any fees not included in the base ticket price. That requirement would apply to live events at venues with an attendance capacity of 200 people or more. The FTC would enforce those requirements.

Based on the cost of similar provisions, CBO estimates that implementing H.R. 3950 would cost the FTC \$4 million to issue guidance and to monitor and enforce violations. In addition, CBO estimates that enacting the bill could increase civil penalty collections, which are recorded in the federal budget as revenues, by an insignificant amount.

H.R. 5146, Advancing Gig Economy Act: The bill would require the Department of Commerce to study and report to the Congress within two years of enactment on how the gig economy affects U.S. businesses.

Based on the cost of similar studies, CBO estimates that implementing H.R. 5146 would cost \$2 million over two years for the work of four employees, at an annual cost of about \$220,000 each, along with purchases of data and survey contracts.

H.R. 5390, Critical Infrastructure Manufacturing Feasibility Act: The bill would require the Department of Commerce to study and

report to the Congress within one year of enactment on the feasibility of manufacturing in the United States products in critical infrastructure sectors that now are imported because of supply chain constraints.

Based on the cost of similar studies, CBO estimates that implementing H.R. 5390 would cost \$1 million for one year for the work of four employees, at a cost of about \$220,000 each, along with purchases of data and survey contracts.

H.R. 5398, Advancing Tech Startups Act: The bill would require the Department of Commerce to study and report to the Congress within two years of enactment on how technology startup companies affect the U.S. economy.

Based on the cost of similar studies, CBO estimates that implementing H.R. 5398 would cost \$2 million over two years for the work of four employees, at an annual cost of about \$220,000 each, along with purchases of data and survey contracts.

H.R. 6125, Online Dating Safety Act of 2023: The bill would require providers of online dating services to notify a user if they are contacted by a member whose account was suspended or terminated because of fraudulent activity. The FTC would enforce those requirements.

Based on the cost of similar provisions, CBO estimates that implementing H.R. 6125 would cost the FTC \$4 million to issue guidance and to monitor and enforce violations. In addition, CBO estimates that enacting the bill could increase civil penalty collections, which are recorded in the federal budget as revenues, by an insignificant amount.

H.R. 6543, No Hidden FEES Act of 2023: The bill would require providers of short-term lodging and websites that advertise or offer such lodging to display each mandatory fee required to complete a booking. The FTC would enforce those requirements.

Based on the cost of similar provisions, CBO estimates that implementing H.R. 6543 would cost the FTC \$4 million to issue guidance and to monitor and enforce violations. In addition, CBO estimates that enacting the bill could increase civil penalty collections, which are recorded in the federal budget as revenues, by an insignificant amount.

Pay-As-You-Go considerations: CBO estimates that enacting H.R. 2964, H.R. 3950, H.R. 6125, and H.R. 6543 would each increase revenues by less than \$500,000 over the 2024–2034 period; therefore, pay-as-you-go procedures apply to those bills.

Increase in long-term net direct spending and deficits: None of the bills would increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2035.

Mandates: The following bills—H.R. 2964, H.R. 3950, H.R. 6125, and H.R. 6543—would impose mandates as defined in the Unfunded Mandates Reform Act (UMRA).

H.R. 2964, WIPPES Act: The bill would impose intergovernmental and private-sector mandates, but CBO estimates that the costs to comply with those mandates would not exceed the thresholds established in UMRA (\$100 million and \$200 million in 2024, respectively, adjusted annually for inflation).

H.R. 2964 would preempt some state and local laws governing the labeling of certain disposable wipes. Although the preemptions would limit the application of state and local laws, they would im-

pose no duty on state or local governments that would result in significant spending or loss of revenues.

The bill would require manufacturers of certain disposable wipes to clearly mark their products with a “do not flush” label and symbol. Because manufacturers already are complying with similar laws enacted in California, Illinois, and several other states, CBO estimates that the cost for manufacturers to comply with the mandate would be small.

H.R. 3950, TICKET Act: The bill would impose private-sector mandates as defined in UMRA on ticket sellers and resellers by requiring certain changes, including new refund policies, to the ticketing process. CBO estimates that the aggregate cost to comply with the mandates would be above the threshold established in UMRA for private-sector mandates (\$200 million in 2024, adjusted annually for inflation).

Under the bill, if an event is canceled, ticket sellers and resellers would be required to refund the full ticket price, including taxes and fees, to purchasers. If an event is postponed, sellers and resellers would be required to offer customers either a full refund or a replacement ticket, if available, subject to the customer’s preference. Sellers also would be required to disclose this refund policy. The bill allows for exceptions to this policy in cases where the cancellation or postponement is beyond the control of the ticket issuer, such as natural disasters. Based on discussions with industry sources, a substantial share of sellers and resellers already provide full refunds for canceled events but few offer refunds for postponed events. Considerable uncertainty surrounds the ways that federal regulations might define what is within the control of a ticket issuer in the event of a cancellation or postponement or what might constitute comparable replacement events. Given the large size of the industry and the amount of revenue generated by ticketed events, CBO estimates that the cost of the mandate would exceed the threshold for private-sector mandates.

H.R. 3950 also would require ticket sellers and resellers to make certain up-front disclosures to consumers. They would need to disclose the total ticket prices, including taxes and fees. Those disclosures would occur when the ticket is first displayed to the consumer and in any advertisements or marketing. The bill also would require sellers and resellers to provide purchasers with an itemized list of the base price and all fees. Information from the industry indicates that most ticket sellers have already begun to provide the total cost to consumers in advance; thus, CBO expects that the additional requirements in the bill would have small costs for ticket sellers and resellers.

The bill also would require ticket resellers to disclose to consumers that they are resellers before any purchase is complete. Sellers and resellers would be prohibited from advertising or selling any ticket that the seller does not actually or constructively possess. In certain instances, sellers also would be prohibited from revealing to consumers and using the names of venues, teams, artists, and events in their online domain names. CBO expects that those disclosures and prohibitions would impose minimal costs on the sellers.

The bill contains no intergovernmental mandates as defined in UMRA.

H.R. 6125, Online Dating Safety Act of 2023: The bill would impose intergovernmental and private-sector mandates, but CBO estimates that the costs to comply with those mandates would not exceed the thresholds established in UMRA (\$100 million and \$200 million in 2024, respectively, adjusted annually for inflation).

The bill would preempt state laws governing fraud notifications issued by online dating services. Although the preemptions would limit the application of state and local laws, they would impose no duty on state or local governments that would result in significant spending or loss of revenues.

H.R. 6125 would require providers of online dating services to send a fraud notification to consumers who receive a message from any member who has been banned by the service. Because some states already require those fraud notifications, most dating services have implemented the policy regardless of the consumer's location. Therefore, CBO expects that the cost to comply with the mandate would be small.

H.R. 6543, No Hidden FEES Act of 2023: The bill would impose intergovernmental and private-sector mandates, but CBO estimates that the costs to comply with those mandates would not exceed the thresholds established in UMRA (\$100 million and \$200 million in 2024, respectively, adjusted annually for inflation).

The bill would preempt state and local laws governing the display of prices for short-term lodging. Although the preemptions would limit the application of state and local laws, they would impose no duty on state or local governments that would result in significant spending or loss of revenues.

H.R. 6543 would prohibit providers, online booking websites, and advertisers of short-term lodging from displaying prices that do not include all mandatory fees. Information from industry sources and the FTC indicates that several lodging providers already comply with provisions in the bill, and CBO expects the cost for other entities to comply would be small because they already possess the fee information required to be displayed.

Previous CBO estimate: On October 25, 2023, CBO transmitted a cost estimate for S. 1303, the TICKET Act, as reported by the Senate Committee on Commerce, Science, and Transportation on September 12, 2023. Under H.R. 3950, regulated companies would be required to fulfill requirements that are additional to those specified in S. 1303; for example, if an event is canceled or postponed, a ticket seller would need to provide a full refund or replacement ticket. In addition, H.R. 3950 would require the FTC to report to the Congress on its enforcement of the Better Online Ticket Sales Act of 2016. CBO's estimated federal costs for both bills are the same. Because of the additional refund requirements on ticket sellers and resellers in H.R. 3950, CBO has determined that the cost of the private-sector mandates is above the threshold.

Estimate prepared by: Federal Costs: David Hughes; Mandates: Rachel Austin and Grace Watson.

Estimate reviewed by: Justin Humphrey, Chief, Finance, Housing, and Education Cost Estimates Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis.

Estimate approved by: Phillip L. Swagel, Director, Congressional Budget Office.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to promote American manufacturing.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 5390 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

RELATED COMMITTEE AND SUBCOMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following related hearings were used to develop or consider H.R. 5390:

- On September 20, 2023, the Subcommittee on Innovation, Data, and Commerce held a hearing on H.R. 5390. The title of the hearing was “Mapping America’s Supply Chains: Solutions to Unleash Innovation, Boost Economic Resilience, and Beat China.” The Subcommittee received testimony from:
 - Chris Griswold, Policy Director, American Compass;
 - Deena Ghazarian, Founder and Chief Executive Officer, Austere;
 - Justin Slaughter, Policy Director, Paradigm; and,
 - Scott Paul, President, Alliance for American Manufacturing.
- On February 1, 2023, the Subcommittee on Innovation, Data, and Commerce held a hearing on proposals to map and monitor supply chains to decrease reliance on the People’s Republic of China for critical materials and components, The title of the hearing was “Economic Danger Zone: How America Competes to Win the Future Versus China.” The Subcommittee received testimony from:
 - Brandon Pugh, Policy Director and Resident Senior Fellow, R Street Institute;
 - Jeff Farrah, Executive Director, Autonomous Vehicle Industry Association (AVIA);
 - Samm Sacks, Cyber Policy Fellow, International Security Program, New America; and,
 - Marc Jarsulic, Senior Fellow and Chief Economist, Center for American Progress.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 5390 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 provides that the Act may be cited as the “Critical Infrastructure Manufacturing Feasibility Act”.

Section 2. Study on critical infrastructure manufacturing in the United States

Section 2 requires that the Secretary of Commerce conduct a study to: identify, within each critical infrastructure sector, any product that is in high demand and is being imported due to a manufacturing, material, or supply chain constraint in the U.S.; analyze the costs and benefits of manufacturing in the United States any high demand product; and identify and analyze the feasibility of manufacturing high demand products in the U.S., especially in a rural area, an industrial park, or an industrial park in a rural area.

Section 2 requires the Secretary to submit a report to Congress that contains the results of the study with recommendations relating to manufacturing high demand products in the U.S.

Section 2 also defines “critical infrastructure sector” as each of the 16 designated critical infrastructure sectors identified in Presidential Policy Directive 21 of February 12, 2013 (Critical Infrastructure Security and Resilience).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.