

117TH CONGRESS
1ST SESSION

S. 869

To establish the Office of Supply Chain Preparedness within the Department of Commerce to manage the partnership of the United States with private industry and State and local governments with respect to the manufacturing of critical resources, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 18, 2021

Mr. COONS (for himself, Mr. RUBIO, Ms. HASSAN, and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish the Office of Supply Chain Preparedness within the Department of Commerce to manage the partnership of the United States with private industry and State and local governments with respect to the manufacturing of critical resources, 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 “National Manufac-
5 turing Guard Act”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

1 (1) the COVID–19 pandemic has—

2 (A) exposed significant vulnerabilities in
3 the manufacturing sector of the economy of the
4 United States; and

5 (B) led to equipment shortages, supply
6 chain bottlenecks, and workforce misalignments;

7 (2) the vulnerabilities described in paragraph
8 (1) go largely unnoticed until those vulnerabilities
9 are revealed by crises, such as disease outbreaks,
10 cyber attacks, natural disasters, national security
11 threats, wars, trade wars, embargoes, and other
12 emergencies;

13 (3) the crises described in paragraph (2)
14 produce valuable information, the collection and
15 analysis of which can inform policies to fortify the
16 economy of the United States against future threats;

17 (4) the responsibility for promoting the eco-
18 nomic resilience of the United States lies with the
19 Federal Government, which must not miss the op-
20 portunity presented by the COVID–19 pandemic to
21 learn from that crisis and prepare the United States
22 to better withstand future emergencies; and

23 (5) the Federal Government has an interest in
24 increasing educational and training opportunities for
25 underrepresented minorities, women, and veterans.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) COUNCIL.—The term “Council” means the
4 Supply Chain Advisory Council established under
5 section 5.

6 (2) CRISIS.—The term “crisis” means a situa-
7 tion that threatens the ability of manufacturers and
8 supply chains in the United States to provide suffi-
9 cient critical resources.

10 (3) CRITICAL RESOURCES.—The term “critical
11 resources”—

12 (A) means supplies that—

13 (i) are life-sustaining or otherwise
14 critical to the national security of the
15 United States; and

16 (ii) may be subject to national short-
17 ages during a pandemic, cyber attack, nat-
18 ural disaster, or other catastrophic event;
19 and

20 (B) includes items classified as—

21 (i) personal protective equipment;

22 (ii) pharmaceuticals or biopharma-
23 ceuticals;

24 (iii) medical supplies; or

25 (iv) other resources to be determined
26 by the Director, in consultation with the

1 Council, which may include healthcare-re-
 2 lated supplies or other supplies.

3 (4) DATA EXCHANGE.—The term “Data Ex-
 4 change” means the Supply Chain Data Exchange es-
 5 tablished under section 7.

6 (5) DIRECTOR.—The term “Director” means
 7 the Director of the Office.

8 (6) GUARD.—The term “Guard” means the
 9 National Manufacturing Guard established under
 10 section 6.

11 (7) HOST ORGANIZATION.—The term “host or-
 12 ganization” means an entity that—

13 (A) offers an apprenticeship with respect
 14 to which there is a registered apprenticeship
 15 program (as defined in section 29.2 of title 29,
 16 Code of Federal Regulations, or any successor
 17 regulation); and

18 (B) is—

19 (i) a business;

20 (ii) an industry consortium or trade
 21 group;

22 (iii) a Manufacturing USA institute;

23 (iv) an MEP center;

24 (v) an academic or research institute,

25 or

1 (vi) a labor organization.

2 (8) INDUSTRY PARTNER.—The term “industry
3 partner” means a manufacturer, producer, supplier,
4 or distributor of a critical resource.

5 (9) MANUFACTURING CORPS.—The term “Man-
6 ufacturing Corps” means the Manufacturing Corps
7 established under section 8.

8 (10) MANUFACTURING USA INSTITUTE.—The
9 term “Manufacturing USA institute” means an in-
10 stitute described in section 34(d) of the National In-
11 stitute of Standards and Technology Act (15 U.S.C.
12 278s(d)).

13 (11) MEP CENTER.—The term “MEP center”
14 has the meaning given the term “Center” in section
15 25(a) of the National Institute of Standards and
16 Technology Act (15 U.S.C. 278k(a)).

17 (12) OFFICE.—The term “Office” means the
18 Office of Supply Chain Preparedness established
19 under section 4.

20 (13) REGISTERED APPRENTICESHIP.—The term
21 “registered apprenticeship”—

22 (A) means an apprenticeship with a host
23 organization for which there is a registration of
24 an apprenticeship agreement (as defined in sec-

1 tion 29.2 of title 29, Code of Federal Regula-
2 tions, or any successor regulation); and

3 (B) does not include an apprenticeship
4 under an Industry-Recognized Apprenticeship
5 Program under subpart B of part 29 of title
6 29, Code of Federal Regulations, or any suc-
7 cessor regulation.

8 (14) SECRETARY.—The term “Secretary”
9 means the Secretary of Commerce.

10 **SEC. 4. OFFICE OF SUPPLY CHAIN PREPAREDNESS.**

11 (a) ESTABLISHMENT.—There is established within
12 the Department of Commerce the Office of Supply Chain
13 Preparedness.

14 (b) DIRECTOR.—The Office shall be headed by a Di-
15 rector, to be appointed by the Secretary.

16 (c) PURPOSE.—The purpose of the Office shall be
17 to—

18 (1) establish and manage the partnerships of
19 the Federal Government with industry partners and
20 State, local, territorial, and Tribal governments to
21 respond to crises;

22 (2) develop capabilities to—

23 (A) determine which resources qualify as
24 critical resources;

1 (B) make the supply of critical resources
2 more resilient; and

3 (C) coordinate the distribution of critical
4 resources to areas that have the greatest needs
5 during a crisis; and

6 (3) develop contingency plans to ensure a ro-
7 bust supply chain response for potential crises.

8 (d) DUTIES.—The Director shall—

9 (1) determine—

10 (A) the responsibilities of members of the
11 Council; and

12 (B) the procedures governing the service of
13 members of the Council;

14 (2) establish procedures relating to the oper-
15 ation of the Council, including the frequency with
16 which the Council meets;

17 (3) identify critical vulnerabilities in the supply
18 chains of critical resources, including vulnerabilities
19 exacerbated by the COVID–19 pandemic;

20 (4) coordinate the preparedness and response of
21 the supply chains of critical resources during a crisis
22 by—

23 (A) coordinating with Federal agencies;

24 (B) managing partnerships of the Federal
25 Government with industry partners; and

1 (C) directing the Guard;

2 (5) direct the establishment and operations of
3 the Guard, the Data Exchange, and the Manufac-
4 turing Corps; and

5 (6) maintain collaborations with industry part-
6 ners that contribute to the Data Exchange.

7 (e) REPORTS.—

8 (1) REPORT ON DIRECTOR.—Not later than 30
9 days after the date of enactment of this Act, the
10 Secretary shall submit to Congress a report relating
11 to the appointment of the Director.

12 (2) REPORT ON COUNCIL.—Not later than 180
13 days after the date of enactment of this Act, the Di-
14 rector shall submit to Congress a report that—

15 (A) identifies the members of the Council;
16 and

17 (B) states, with respect to the members of
18 the Council—

19 (i) the respective areas of expertise of
20 the members; and

21 (ii) the expected roles of the members.

22 (3) REPORT ON ACTIVITIES.—Not later than 1
23 year after the date of enactment of this Act, the Di-
24 rector shall submit to Congress a report that in-
25 cludes—

1 (A) a summary of the activities of the
2 Council and the Office; and

3 (B) a preliminary plan for—

4 (i) the establishment of the Guard,
5 the Data Exchange, and the Manufac-
6 turing Corps, including cost estimates, pre-
7 liminary timelines, and expected resource
8 needs; and

9 (ii) carrying out the responsibilities of
10 the Director under sections 6, 7, and 8.

11 (4) ANNUAL REPORT.—Not later than 2 years
12 after the date of enactment of this Act, and annually
13 thereafter, the Council shall submit to Congress a
14 report that includes—

15 (A) a list of resources that the Director
16 has determined to be critical resources and the
17 justification for the determination;

18 (B) a list of manufacturing and supply
19 chain vulnerabilities identified under subsection
20 (d)(3); and

21 (C) recommendations for mitigating the
22 vulnerabilities listed under subparagraph (B).

23 (f) STAFF.—The Director may appoint staff to man-
24 age the operations of the Office and the Council.

1 **SEC. 5. SUPPLY CHAIN ADVISORY COUNCIL.**

2 (a) ESTABLISHMENT.—The Secretary shall establish
3 the Supply Chain Advisory Council.

4 (b) PURPOSE.—The purpose of the Council is to ad-
5 vise the Director on manufacturing and supply chain logis-
6 ties that would be necessary to direct the response of the
7 supply chain of the United States during a crisis.

8 (c) COMPOSITION.—

9 (1) IN GENERAL.—The Council shall be com-
10 prised of the following members:

11 (A) A representative of the Department of
12 Health and Human Services, who shall be ap-
13 pointed by the Secretary of Health and Human
14 Services.

15 (B) A representative of the Department of
16 Homeland Security, who shall be appointed by
17 the Secretary of Homeland Security.

18 (C) A representative of the Department of
19 Defense, who shall be appointed by the Sec-
20 retary of Defense.

21 (D) A representative of the Department of
22 Energy, who shall be appointed by the Sec-
23 retary of Energy.

24 (E) A representative of the Department of
25 Transportation, who shall be appointed by the
26 Secretary of Transportation.

1 (F) A representative of the United States
2 International Trade Commission, who shall be
3 appointed by the Chair of the United States
4 International Trade Commission.

5 (G) A representative of the Department of
6 State, who shall be appointed by the Secretary
7 of State.

8 (H) A representative of the Office of the
9 Director of National Intelligence, who shall be
10 appointed by the Director of National Intel-
11 ligence.

12 (I) The director of a Manufacturing USA
13 institute, who shall be appointed by the Sec-
14 retary.

15 (J) The director of an MEP center, who
16 shall be appointed by the Secretary.

17 (K) A representative of State governments,
18 who shall be appointed by the Secretary in, con-
19 sultation with Governors of States;

20 (L) Not less than 1 representative of a
21 local, territorial, or Tribal government, who
22 shall be appointed by the Secretary.

23 (M) Not less than 3 manufacturing or sup-
24 ply chain experts, who shall be appointed by the
25 Secretary and represent each of, respectively—

- 1 (i) private industry;
- 2 (ii) labor organizations; and
- 3 (iii) research institutions.

4 (2) **ADDITIONAL MEMBERS.**—The Secretary
5 may appoint additional members to the Council on
6 a rotating or permanent basis.

7 (3) **STATUS.**—The members of the Council ap-
8 pointed under subparagraphs (K), (L), and (M) of
9 paragraph (1) shall serve as special Government em-
10 ployees (as defined in section 202 of title 18, United
11 States Code).

12 (d) **DUTIES.**—The Council shall—

13 (1) convene according to a schedule established
14 by the Director; and

15 (2) advise the Director on carrying out the du-
16 ties of the Director under section 4(d).

17 (e) **PERMANENCE.**—Section 14 of the Federal Advi-
18 sory Committee Act (5 U.S.C. App.) shall not apply to
19 the Council.

20 **SEC. 6. NATIONAL MANUFACTURING GUARD.**

21 (a) **ESTABLISHMENT.**—

22 (1) **IN GENERAL.**—There is established within
23 the Office the National Manufacturing Guard.

1 (2) ELIGIBILITY REQUIREMENTS.—The Direc-
2 tor shall establish eligibility requirements for mem-
3 bership in the Guard, which may include—

4 (A) experience or expertise in manufac-
5 turing or logistics;

6 (B) holding a senior-level position in a
7 manufacturing or supply chain organization;
8 and

9 (C) direct experience in manufacturing and
10 supply chain operations.

11 (3) SIZE AND ORGANIZATION.—The Director, in
12 consultation with the Council, shall establish—

13 (A) the size of the Guard;

14 (B) the organization of the Guard; and

15 (C) the target skillsets of members of the
16 Guard.

17 (b) TRAINING.—

18 (1) IN GENERAL.—The Director, in consulta-
19 tion with the Council, shall establish a training pro-
20 gram for members of the Guard to ensure the readi-
21 ness of members to perform the duties of the Guard.

22 (2) REMOTE TRAINING.—A portion of the train-
23 ing program established under paragraph (1) may
24 be conducted remotely to prepare for crises that may

1 prevent the Guard from convening in a single phys-
2 ical location.

3 (3) CRISIS SIMULATION.—Not less frequently
4 than annually, the Director shall hold a full-time
5 training program during which each member of the
6 Guard, the Director, and the Council simulate a re-
7 sponse to a crisis over a period of not less than 7
8 days.

9 (c) ACTIVATION.—

10 (1) IN GENERAL.—The Director may activate
11 members of the Guard—

12 (A) during a crisis for the purpose of pro-
13 viding expertise and labor to promote the ability
14 of the United States to procure, manufacture,
15 and distribute critical resources; and

16 (B) to perform full-time training programs
17 under subsection (b)(3).

18 (2) FULL-TIME SERVICE.—Upon an activation
19 under subparagraph (A), the Director may compel
20 members of the Guard to active, full-time service.

21 (3) DUTIES.—If the Director activates the
22 Guard under paragraph (1), the Guard may—

23 (A) share best practices across industry
24 partners;

1 (B) coordinate the manufacturing efforts
2 of industry partners;

3 (C) provide technical assistance to industry
4 partners;

5 (D) procure raw materials or supplies;

6 (E) facilitate communications between in-
7 dustry partners;

8 (F) provide logistics support in the delivery
9 of critical resources;

10 (G) identify suppliers of scarce critical re-
11 sources;

12 (H) coordinate between private industry,
13 MEP centers, and Manufacturing USA insti-
14 tutes; and

15 (I) conduct any other activities that help
16 provide critical resources to areas of greatest
17 need, as determined by the Director, in con-
18 sultation with the Council.

19 (d) COMPENSATION.—The Director may provide
20 compensation to members of the Guard at rates to be fixed
21 by the Secretary without regard to any other law, includ-
22 ing any provision of title 5, United States Code, and any
23 rule issued under that title.

1 (e) PARTICIPATION INCENTIVES.—The Director may
 2 establish incentives to encourage industry partners to em-
 3 ploy members of the Guard.

4 (f) OFFICE OF PERSONNEL MANAGEMENT.—The
 5 Secretary, in coordination with the Director of the Office
 6 of Personnel and Management, shall establish procedures
 7 with respect to the appointment of members of the Guard
 8 and the conditions of employment with respect to those
 9 members.

10 **SEC. 7. SUPPLY CHAIN DATA EXCHANGE.**

11 (a) ESTABLISHMENT.—

12 (1) IN GENERAL.—Not later than 1 year after
 13 the date of enactment of this Act, the Director shall
 14 develop a plan to establish the Supply Chain Data
 15 Exchange.

16 (2) PURPOSE.—The purpose of the Data Ex-
 17 change shall be to—

18 (A) allow the Director to—

19 (i) take account of—

20 (I) critical resources that have
 21 been recently manufactured, imported,
 22 or distributed; and

23 (II) the ability of industry part-
 24 ners to manufacture critical resources;
 25 and

1 (ii) plan the flow of critical resources
2 during a crisis;

3 (B) provide the Director with an under-
4 standing of the volume of critical resources pro-
5 vided by industry partners to enable the Direc-
6 tor to develop plans to—

7 (i) direct the Guard to assist industry
8 partners in increasing the production ca-
9 pacity of critical resources;

10 (ii) alleviate supply chain bottlenecks;

11 (iii) allocate supplies of the Federal
12 Government to the areas of greatest need;
13 and

14 (iv) coordinate between manufacturers
15 and distributors to mitigate scarcity of
16 critical resources;

17 (C) allow the Director to predict local or
18 national scarcity of critical resources for the du-
19 ration of a crisis; and

20 (D) enable the Director to direct the
21 Guard or collaborate with industry partners or
22 Federal agencies to mitigate scarcities of crit-
23 ical resources.

24 (3) CONTENTS.—The Director shall—

1 (A) solicit data from industry partners re-
2 lating to the manufacturing output of critical
3 resources; and

4 (B) add the data received under subpara-
5 graph (A) to the Data Exchange.

6 (4) DATA PRIVACY.—

7 (A) IN GENERAL.—In consultation with in-
8 dustry partners, the Director may develop secu-
9 rity measures that are necessary to protect in-
10 formation in the Data Exchange, including pro-
11 tocols to ensure that, depending on the nature
12 of information in the Data Exchange, only indi-
13 viduals with the appropriate level of authoriza-
14 tion may access the information.

15 (B) INFORMATION DISCLOSURE.—

16 (i) IN GENERAL.—The Director may
17 withhold information obtained from an in-
18 dustry partner under this section only to
19 the extent permitted by law.

20 (ii) FOIA EXEMPTION.—Unless the
21 disclosure of data described in paragraph
22 (3)(A) would be consistent with security
23 measures developed under subparagraph
24 (A) of this paragraph, the data shall be—

1 (I) withheld from public disclosure;
2 sure; and

3 (II) exempt from disclosure
4 under section 552(b)(3) of title 5,
5 United States Code.

6 (C) USAGE AGREEMENTS.—The Director
7 shall develop a usage agreement for the Data
8 Exchange to ensure that data shared to the
9 Data Exchange by an industry partner is—

10 (i) hosted securely; and

11 (ii) only used for purposes agreed to
12 in advance by the Director and the industry
13 partner.

14 (5) DEVELOPMENT.—

15 (A) IN GENERAL.—The Director, with the
16 consent of a Federal agency, may use the services,
17 equipment, personnel, and facilities of a
18 Federal agency, with or without reimbursement,
19 to—

20 (i) develop the Data Exchange; or

21 (ii) identify a data exchange existing
22 on the date of enactment of this Act that
23 can be modified to have the capacity to
24 host the Data Exchange required under
25 this section that provides—

1 (I) necessary functionality to the
2 Director; and

3 (II) additional functionality to in-
4 dustry partners.

5 (B) VALUE TO PARTICIPANTS.—In order
6 to encourage the participation of industry part-
7 ners in the Data Exchange, the Director may
8 develop a Data Exchange that provides—

9 (i) value to industry partners outside
10 of a time of crisis; and

11 (ii) access to aggregated data or ana-
12 lytics to industry partners that participate
13 in the Data Exchange that complies with
14 the provisions of the usage agreement de-
15 veloped under paragraph (4)(C).

16 (6) PARTICIPATION INCENTIVES.—The Director
17 may establish incentives to encourage the participa-
18 tion and cooperation of industry partners with the
19 Data Exchange.

20 **SEC. 8. MANUFACTURING CORPS.**

21 (a) ESTABLISHMENT.—There is established within
22 the Office the Manufacturing Corps.

23 (b) DUTIES.—The Manufacturing Corps shall—

24 (1) function as a workforce development pro-
25 gram that prioritizes the training of manufacturing

1 skills determined to be essential to the economic se-
2 curity of the United States by the Director and the
3 Council;

4 (2) support the development of an innovative
5 and flexible manufacturing workforce in the United
6 States;

7 (3) provide on-the-job training to members of
8 the Manufacturing Corps; and

9 (4) provide a qualified base of individuals to
10 join the Guard upon the completion of the Manufac-
11 turing Corps program.

12 (c) MEMBERSHIP.—

13 (1) IN GENERAL.—Not later than 180 days
14 after the date of enactment of this Act, the Director
15 shall develop criteria for membership in the Manu-
16 facturing Corps, which may include a competitive
17 process that evaluates the dedication and enthusiasm
18 of individuals for assisting the public during a crisis.

19 (2) PREFERENCE.—In selecting members of the
20 Manufacturing Corps, the Director shall give pref-
21 erence to an individual who is—

22 (A) an underrepresented racial or ethnic
23 minority;

24 (B) a woman;

1 (C) a veteran (as defined in section 101 of
2 title 38, United States Code); or

3 (D) a resident of an underrepresented geo-
4 graphic region.

5 (3) TERM.—The term of a member in the Man-
6 ufacturing Corps shall be for a period of not less
7 than 1 year and not more than 2 years.

8 (d) ACTIVITIES.—

9 (1) APPRENTICESHIP.—

10 (A) IN GENERAL.—A member of the Man-
11 ufacturing Corps shall participate in a reg-
12 istered apprenticeship with a host organization
13 for a 1-year period.

14 (B) SKILLS.—A registered apprenticeship
15 of a member of the Manufacturing Corps with
16 a host organization shall—

17 (i) provide the member with funda-
18 mental skills necessary to be successful in
19 a manufacturing or supply chain work-
20 force;

21 (ii) qualify the member as a full-time
22 employee of the host organization; and

23 (iii) provide training and career devel-
24 opment opportunities.

25 (2) TRAINING REQUIREMENT.—

1 (A) INITIAL TRAINING.—The Director
2 shall provide individuals who are selected as
3 members of the Guard with initial training
4 that—

5 (i) lasts for not fewer than 2, and not
6 more than 4, weeks;

7 (ii) serves as an orientation for the
8 Guard; and

9 (iii) includes a survey of basic skills in
10 preparation for a registered apprenticeship.

11 (B) PERIODIC TRAINING.—The Director
12 shall provide regular training to members of the
13 Manufacturing Corps that—

14 (i) ensures that the members have the
15 ability to serve as effective members of the
16 Guard; and

17 (ii) enhances the ability of members to
18 contribute to the workforce of the United
19 States and the Guard.

20 (3) COMPENSATION.—The Director may pro-
21 vide supplemental compensation to members of the
22 Manufacturing Corps at rates to be fixed by the Sec-
23 retary without regard to any other law, including
24 any provision of title 5, United States Code, and any
25 rule issued under that title.

1 (e) GRADUATION.—

2 (1) IN GENERAL.—Upon the expiration of the
3 term of a member of the Manufacturing Corps, the
4 Director shall review the performance of the member
5 in—

6 (A) the registered apprenticeship under
7 subsection (d)(1)(A); and

8 (B) the training under subsection (d)(2).

9 (2) INCENTIVES.—The Director may establish
10 incentives to encourage members of the Manufac-
11 turing Corps who receive favorable reviews under
12 paragraph (1) to join the Guard.

13 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

14 There are authorized to be appropriated to carry out
15 this Act \$1,000,000,000 for the 5-fiscal year period begin-
16 ning with fiscal year 2021.

○