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(Original Signature of Member)

116TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to provide for credits against tax for domestic medical and drug manufacturing and advanced medical manufacturing equipment.

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IN THE HOUSE OF REPRESENTATIVES

Mr. WENSTRUP introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend the Internal Revenue Code of 1986 to provide for credits against tax for domestic medical and drug manufacturing and advanced medical manufacturing equipment.

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. DOMESTIC MEDICAL AND DRUG MANUFAC-**  
4 **TURING CREDIT.**

5 (a) IN GENERAL.—Subpart D of part IV of sub-  
6 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. 45U. 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—

23 “(i) any active pharmaceutical ingre-  
24 dient, or

25 “(ii) any qualified countermeasure,

1           which was manufactured or produced by the  
2           taxpayer in whole or in significant part within  
3           the United States.

4           “(B) ACTIVE PHARMACEUTICAL INGREDIENT.—The term ‘active pharmaceutical ingre-  
5           dient’ means any substance or mixture of sub-  
6           stances intended to be used in the manufacture  
7           of a drug product and (when so used) becomes  
8           an active ingredient in the drug product.  
9

10           “(C) QUALIFIED COUNTERMEASURE.—The  
11           term ‘qualified countermeasure’ has the mean-  
12           ing given such term in section 319F-1(a)(2) of  
13           the Public Health Service Act (42 U.S.C. 247d-  
14           6a(a)(2)).”

15           “(D) PARTNERSHIPS OWNED BY EX-  
16           PANDED AFFILIATED GROUPS.—For purposes  
17           of this paragraph, if all of the interests in the  
18           capital and profits of a partnership are owned  
19           by members of a single expanded affiliated  
20           group at all times during the taxable year of  
21           such partnership, the partnership and all mem-  
22           bers of such group shall be treated as a single  
23           taxpayer during such period.

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

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

3           “(A) PARTNERSHIPS AND S CORPORA-  
4 TIONS.—In the case of a partnership or S cor-  
5 poration—

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

8           “(ii) each partner or shareholder shall  
9 take into account such person’s allocable  
10 share of each item described in subpara-  
11 graph (A) or (B) of subsection (c)(1) (de-  
12 termined without regard to whether the  
13 items described in such subparagraph (A)  
14 exceed the items described in such sub-  
15 paragraph (B)), and

16           “(iii) each partner or shareholder  
17 shall be treated for purposes of subsection  
18 (b) as having W-2 wages for the taxable  
19 year in an amount equal to such person’s  
20 allocable share of the W-2 wages of the  
21 partnership or S corporation for the tax-  
22 able year (as determined under regulations  
23 prescribed by the Secretary).

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

1           “(i) the items referred to in subpara-  
2           graph (A)(ii) (as determined therein) and  
3           the W-2 wages of the trust or estate for  
4           the taxable year, shall be apportioned be-  
5           tween the beneficiaries and the fiduciary  
6           (and among the beneficiaries) under regu-  
7           lations prescribed by the Secretary, and

8           “(ii) for purposes of paragraph (2),  
9           adjusted gross income of the trust or es-  
10          tate shall be determined as provided in sec-  
11          tion 67(e) with the adjustments described  
12          in such paragraph.

13          “(C) REGULATIONS.—The Secretary may  
14          prescribe rules requiring or restricting the allo-  
15          cation of items and wages under this paragraph  
16          and may prescribe such reporting requirements  
17          as the Secretary determines appropriate.

18          “(2) APPLICATION TO INDIVIDUALS.—In the  
19          case of an individual, subsection (a)(2) shall be ap-  
20          plied by substituting ‘adjusted gross income’ for  
21          ‘taxable income’. For purposes of the preceding sen-  
22          tence, adjusted gross income shall be determined  
23          after application of sections 86, 135, 137, 219, 221,  
24          222, and 469.

1           “(3) SPECIAL RULE FOR AFFILIATED  
2 GROUPS.—

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

6           “(B) EXPANDED AFFILIATED GROUP.—  
7 For purposes of this section, the term ‘ex-  
8 panded affiliated group’ means an affiliated  
9 group as defined in section 1504(a), deter-  
10 mined—

11           “(i) by substituting ‘more than 50  
12 percent’ for ‘at least 80 percent’ each place  
13 it appears, and

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

16           “(C) ALLOCATION OF CREDIT.—Except as  
17 provided in regulations, the credit under sub-  
18 section (a) shall be allocated among the mem-  
19 bers of the expanded affiliated group in propor-  
20 tion to each member’s respective amount (if  
21 any) of qualified medical and drug manufac-  
22 turing income.

23           “(4) TRADE OR BUSINESS REQUIREMENT.—  
24 This section shall be applied by only taking into ac-

1 count items which are attributable to the actual con-  
2 duct of a trade or business.

3 “(5) COORDINATION WITH MINIMUM TAX.—For  
4 purposes of determining alternative minimum tax-  
5 able income under section 55, qualified medical and  
6 drug manufacturing income shall be determined  
7 without regard to any adjustments under sections 56  
8 through 59.

9 “(6) UNRELATED BUSINESS TAXABLE IN-  
10 COME.—For purposes of determining the tax im-  
11 posed by section 511, subsection (a)(1)(B) shall be  
12 applied by substituting ‘unrelated business taxable  
13 income’ for ‘taxable income’.

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

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

1                   “(II) the credit allowed under  
2                   section 38 for the taxable year which  
3                   is properly allocable to the domestic  
4                   medical and drug manufacturing cred-  
5                   it determined under section 45U(a),  
6                   plus”.

7           (c) PART OF GENERAL BUSINESS CREDIT.—Section  
8 38(b) of such Code is amended by striking “plus” at the  
9 end of paragraph (32), by striking the period at the end  
10 of paragraph (33) and inserting “, plus”, and by adding  
11 at the end the following new paragraph:

12                   “(34) the domestic medical and drug manufac-  
13                   turing credit determined under section 45U(a).”.

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

19                   “(x) the credit determined under sec-  
20                   tion 45U,”.

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

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

1 (f) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2020.

4 **SEC. 2. QUALIFYING ADVANCED MEDICAL MANUFAC-**  
5 **TURING EQUIPMENT CREDIT.**

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

10 **“SEC. 48D. QUALIFYING ADVANCED MEDICAL MANUFAC-**  
11 **TURING EQUIPMENT CREDIT.**

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

18 “(b) APPLICABLE PERCENTAGE.—For purposes of  
19 subsection (a), the applicable percentage is—

20 “(1) 30 percent in the case of equipment which  
21 is placed in service before January 1, 2028,

22 “(2) 20 percent in the case of equipment which  
23 is placed in service during calendar year 2028,

24 “(3) 10 percent in the case of equipment which  
25 is placed in service during calendar year 2029, and

1           “(4) 0 percent in the case of equipment which  
2           is placed in service after December 31, 2029.

3           “(c) QUALIFYING ADVANCED MEDICAL MANUFAC-  
4           TURING EQUIPMENT.—For purposes of this section, the  
5           term ‘qualifying advanced medical manufacturing equip-  
6           ment’ means property of a character subject to the allow-  
7           ance for depreciation—

8           “(1) which is machinery or equipment that is  
9           designed and used to manufacture a—

10           “(A) drug (as such term is defined in sec-  
11           tion 201(g)(1) of the Federal Food, Drug, and  
12           Cosmetic Act),

13           “(B) device (as such term is defined in sec-  
14           tion 201(h) of such Act), or

15           “(C) biological product (as such term is  
16           defined in section 351(i) of the Public Health  
17           Service Act),

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

21           “(A) incorporates novel technology or uses  
22           an established technique or technology in a new  
23           or innovative way, or



1 is properly allocable to the qualifying  
2 advanced medical manufacturing  
3 equipment credit determined under  
4 section 48D(a), plus”.

5 (c) PART OF INVESTMENT CREDIT.—Section 46 of  
6 such Code is amended by striking “and” at the end of  
7 paragraph (5), by striking the period at the end of para-  
8 graph (6) and inserting “, and”, and by adding at the  
9 end the following new paragraph:

10 “(7) the qualifying advanced medical manufac-  
11 turing equipment credit.”.

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

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

16 (e) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to periods after the date of the  
18 enactment of this section under rules similar to the rules  
19 of section 48(m) of the Internal Revenue Code of 1986  
20 (as in effect on the date of the enactment fo the Revenue  
21 Reconciliation Act of 1990).