

S.L.C.  
*Mc*  
*352 pm*  
*7-21-22*  
*MB*  
*AG*

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To improve the bill.

IN THE SENATE OF THE UNITED STATES 117th Cong. 2d Sess.

**AMENDMENT N<sup>o</sup> 5155**

By *Rubio*

Makin To: *Amndt. No. 5135* scal  
year es.

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Page(s)

GPO: 2016 22-945 (mac)

AMENDMENT intended to be proposed by Mr. RUBIO to the amendment (No. 5135) proposed by Mr. SCHUMER

Viz:

1 Beginning on page 40, strike line 5 and all that fol-  
2 lows through line 23 on page 42, and insert the following:

3 “(ii) UPDATES.—

4 “(I) APPROPRIATE CONGRES-  
5 SIONAL COMMITTEES.—For purposes  
6 of this clause, the term ‘appropriate  
7 congressional committees’ means—

8 “(aa) the Committee on  
9 Commerce, Science and Trans-  
10 portation, the Select Committee  
11 on Intelligence, and the Com-

1 mittee on Armed Services of the  
2 Senate; and

3 “(bb) the Committee on En-  
4 ergy and Commerce, the Perma-  
5 nent Select Committee on Intel-  
6 ligence, and the Committee on  
7 Armed Services of the House of  
8 Representatives.

9 “(II) IN GENERAL.—Subject to  
10 subclause (III), not later than 2 years  
11 after the date of enactment of the  
12 CHIPS Act of 2022, and not less fre-  
13 quently than once every 2 years there-  
14 after for the 8-year period after the  
15 last award under this section is made,  
16 the Secretary, after public notice and  
17 an opportunity for comment and if  
18 applicable and necessary, shall issue a  
19 public notice identifying any addi-  
20 tional semiconductor technology in-  
21 cluded in the meaning of the term  
22 ‘legacy semiconductor’ under clause  
23 (i).

1                   “(III) NOTICE TO THE APPRO-  
2                   PRIATE CONGRESSIONAL COMMIT-  
3                   TEES.—

4                   “(aa) NOTICE.—Not later  
5                   than 10 days after the Secretary  
6                   determines that any additional  
7                   semiconductor technology should  
8                   be included in the meaning of the  
9                   term ‘legacy semiconductor’  
10                  under clause (i) and before the  
11                  Secretary issues the initial public  
12                  notice described in subclause (II),  
13                  the Secretary—

14                  “(AA) shall notify the  
15                  appropriate congressional  
16                  committees of that deter-  
17                  mination; and

18                  “(BB) shall not issue  
19                  the initial public notice de-  
20                  scribed in subclause (II) un-  
21                  less each of the appropriate  
22                  congressional committees af-  
23                  firmatively agrees in writing  
24                  in accordance with item (bb)  
25                  to the proposed inclusion of

1 the additional semiconductor  
2 technology in the meaning of  
3 the term 'legacy semicon-  
4 ductor'.

5 “(bb) AGREEMENT.—Upon  
6 receipt of a notice described in  
7 item (aa) by an appropriate con-  
8 gressional committee, the appro-  
9 priate congressional committee—

10 “(AA) shall review the  
11 notice; and

12 “(BB) if the appro-  
13 priate congressional com-  
14 mittee agrees to the inclu-  
15 sion, not later than 30 days  
16 after the date of receipt of  
17 the notice, shall submit to  
18 the Secretary a written af-  
19 firmative agreement that the  
20 relevant additional semicon-  
21 ductor technology should be  
22 included in the meaning of  
23 the term 'legacy semicon-  
24 ductor'.

1                   “(iii) FUNCTIONS OF THE SEC-  
2                   RETARY.—The functions of the Secretary  
3                   under this paragraph shall not be subject  
4                   to sections 551, 553 through 559, and 701  
5                   through 706 of title 5, United States Code.

6                   “(iv) CONSULTATION.—In carrying  
7                   out clause (ii), the Secretary shall consult  
8                   with the Director of National Intelligence  
9                   and the Secretary of Defense.

10                   “(v) CONSIDERATIONS.—In carrying  
11                   out clause (ii), the Secretary shall con-  
12                   sider—

13                   “(I) state-of-the-art semicon-  
14                   ductor technologies in the United  
15                   States and internationally, including  
16                   in foreign countries of concern; and

17                   “(II) consistency with export con-  
18                   trols relating to semiconductors.

19                   “(B) DEFINITION OF SEMICONDUCTOR  
20                   MANUFACTURING.—In this paragraph, the term  
21                   ‘semiconductor manufacturing’—

22                   “(i) has the meaning given the term  
23                   by the Secretary, in consultation with the  
24                   Secretary of Defense and the Director of  
25                   National Intelligence; and

1           “(ii) includes front-end semiconductor  
2 fabrication.

3           “(C) REQUIRED AGREEMENT.—

4           “(i) IN GENERAL.—On or before the  
5 date on which the Secretary awards Fed-  
6 eral financial assistance to a covered entity  
7 under this section, the covered entity shall  
8 enter into an agreement with the Secretary  
9 specifying that, during the 10-year period  
10 beginning on the date of the award, sub-  
11 ject to clause (ii), the covered entity may  
12 not engage in any transaction, as defined  
13 in the agreement, involving the expansion  
14 of semiconductor manufacturing capacity  
15 in the People’s Republic of China or any  
16 other foreign country of concern.

17           “(ii) EXCEPTIONS.—

18           “(I) APPROPRIATE CONGRES-  
19 SIONAL COMMITTEES.—For purposes  
20 of this clause, the term ‘appropriate  
21 congressional committees’ means—

22           “(aa) the Committee on  
23 Commerce, Science, and Trans-  
24 portation, the Select Committee  
25 on Intelligence, and the Com-

1 mittee on Armed Services of the  
2 Senate; and

3 “(bb) the Committee on En-  
4 ergy and Commerce, the Perma-  
5 nent Select Committee on Intel-  
6 ligence, and the Committee on  
7 Armed Services of the House of  
8 Representatives.

9 “(II) APPLICATION OF EXCEP-  
10 TIONS.—The prohibition in the agree-  
11 ment required under clause (i) shall  
12 not apply to—

13 “(aa) existing facilities or  
14 equipment of a covered entity for  
15 manufacturing legacy semi-  
16 conductors; or

17 “(bb) significant trans-  
18 actions involving the material ex-  
19 pansion of semiconductor manu-  
20 facturing capacity that—

21 “(AA) produces legacy  
22 semiconductors; and

23 “(BB) predominately  
24 serves the market of a for-  
25 eign country of concern.

1                   “(III) NOTIFICATION.—If the  
2                   Secretary grants an exception or oth-  
3                   erwise becomes aware of any facility,  
4                   equipment, or significant transaction  
5                   that qualifies for an exception under  
6                   subclause (II), the Secretary shall  
7                   submit notice of the exception to the  
8                   appropriate congressional committees  
9                   not later than 10 days after the date  
10                  on which the Secretary grants or be-  
11                  comes aware of the exception.”.