

Federal Government who are eminent in the fields of technology, defense, and economic development.

(D) One of the members appointed under subparagraph (C), as designated by the President at the time of appointment, shall be chairman of the Committee.

(2) Funding and administrative support for the Committee shall be provided to the Office of Science and Technology Policy through an arrangement with an appropriate agency or organization designated by the Committee, in accordance with a memorandum of understanding entered into between them.

(3) Members of the Committee, other than full-time employees of the Federal Government, while attending meetings of the Committee or otherwise performing duties at the request of the Chairman while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5.

(4) The Chairman shall call the first meeting of the Committee not later than 90 days after August 23, 1988.

(5) At the close of each fiscal year the Committee shall submit to the President and the Congress a report on its activities conducted during such year and its planned activities for the coming year, including specific findings and recommendations with respect to the national semiconductor strategy devised and promulgated under subsection (b)(2)(B). The first report shall include an analysis of those technical areas, including manufacturing, which are of importance to the United States semiconductor industry, and shall make specific recommendations regarding the appropriate Federal role in correcting any deficiencies identified by the analysis. Each report shall include an estimate of the length of time the Committee must continue before the achievement of its purposes and the issuance of its final report.

#### (f) Authorization of appropriations

There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary for the fiscal years 1988, 1989, 1990, 1991, 1992, and 1993.

(Pub. L. 100-418, title V, §5142, Aug. 23, 1988, 102 Stat. 1444; Pub. L. 102-245, title I, §105(f), Feb. 14, 1992, 106 Stat. 12.)

#### Editorial Notes

##### CODIFICATION

Section was enacted as part of the Technology Competitiveness Act and as part of the Omnibus Trade and Competitiveness Act of 1988, and not as part of part D of title I of division C of Pub. L. 100-180 which comprises this subchapter.

##### AMENDMENTS

1992—Subsec. (f). Pub. L. 102-245 substituted “1990, 1991, 1992, and 1993” for “and 1990”.

#### Statutory Notes and Related Subsidiaries

##### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (e)(5) of this section relating to submitting annual report to Congress, see section 3003 of Pub. L.

104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 178 of House Document No. 103-7.

##### TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

#### CHAPTER 72A—CREATING HELPFUL INCENTIVES TO PRODUCE SEMICONDUCTORS FOR AMERICA

Sec. 4651. 4652. 4653. 4654.  4655.  4656. 4657. 4658.	Definitions. Semiconductor incentives. Department of Defense. Department of Commerce study on status of microelectronics technologies in the United States industrial base. Funding for development and adoption of measurably secure semiconductors and measurably secure semiconductors supply chains. Advanced microelectronics research and development. Prohibition relating to foreign entities of concern. Defense Production Act of 1950 efforts.
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#### § 4651. Definitions

In this chapter:

(1) The term “appropriate committees of Congress” means—

(A) the Select Committee on Intelligence, the Committee on Energy and Natural Resources, the Committee on Commerce, Science, and Transportation, the Committee on Foreign Relations, the Committee on Armed Services, the Committee on Appropriations, the Committee on Banking, Housing, and Urban Affairs, the Committee on Homeland Security and Governmental Affairs, and the Committee on Finance of the Senate; and

(B) the Permanent Select committee<sup>1</sup> on Intelligence, the Committee on Energy and Commerce, the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on Science, Space, and Technology, the Committee on Appropriations, the Committee on Financial Services, the Committee on Homeland Security, and the Committee on Ways and Means of the House of Representatives.<sup>2</sup>

(2) The term “covered entity” means a private entity, a consortium of private entities, or a consortium of public and private entities with a demonstrated ability to substantially finance, construct, expand, or modernize a facility relating to fabrication, assembly, testing, advanced packaging, or research and development of semiconductors.

<sup>1</sup> So in original. Probably should be “Committee”.

<sup>2</sup> So in original.

(3) The term “covered incentive”:

(A) means an incentive offered by a governmental entity to a covered entity for the purposes of constructing within the jurisdiction of the governmental entity, or expanding or modernizing an existing facility within that jurisdiction, a facility described in paragraph (2); and

(B) a workforce-related incentive (including a grant agreement relating to workforce training or vocational education), any concession with respect to real property, funding for research and development with respect to semiconductors, and any other incentive determined appropriate by the Secretary, in consultation with the Secretary of State.

(4) The term “person” includes an individual, partnership, association, corporation, organization, or any other combination of individuals.

(5) The term “foreign entity”—

(A) means—

(i) a government of a foreign country and a foreign political party;

(ii) a natural person who is not a lawful permanent resident of the United States, citizen of the United States, or any other protected individual (as such term is defined in section 1324b(a)(3) of title 8; or

(iii) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country; and

(B) includes—

(i) any person owned by, controlled by, or subject to the jurisdiction or direction of an entity listed in subparagraph (A);

(ii) any person, wherever located, who acts as an agent, representative, or employee of an entity listed in subparagraph (A);

(iii) any person who acts in any other capacity at the order, request, or under the direction or control, of an entity listed in subparagraph (A), or of a person whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in majority part by an entity listed in subparagraph (A);

(iv) any person who directly or indirectly through any contract, arrangement, understanding, relationship, or otherwise, owns 25 percent or more of the equity interests of an entity listed in subparagraph (A);

(v) any person with significant responsibility to control, manage, or direct an entity listed in subparagraph (A);

(vi) any person, wherever located, who is a citizen or resident of a country controlled by an entity listed in subparagraph (A); or

(vii) any corporation, partnership, association, or other organization organized under the laws of a country controlled by an entity listed in subparagraph (A).

(6) The term “foreign entity of concern” means any foreign entity that is—

(A) designated as a foreign terrorist organization by the Secretary of State under section 1189 of title 8;

(B) included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury;

(C) owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is listed in section 2533c<sup>3</sup> of title 10; or

(D) alleged by the Attorney General to have been involved in activities for which a conviction was obtained under—

(i) chapter 37 of title 18 (commonly known as the “Espionage Act”) (18 U.S.C. 792 [791] et seq.);

(ii) section 951 or 1030 of title 18;

(iii) chapter 90 of title 18 (commonly known as the “Economic Espionage Act of 1996”);

(iv) the Arms Export Control Act (22 U.S.C. 2751 et seq.);

(v) sections 2274, 2275, 2276, 2277, or 2284 of title 42;

(vi) the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.); or

(vii) the International Economic Emergency Powers Act<sup>3</sup> (50 U.S.C. 1701 et seq.); or

(E) determined by the Secretary, in consultation with the Secretary of Defense and the Director of National Intelligence, to be engaged in unauthorized conduct that is detrimental to the national security or foreign policy of the United States under this chapter.

(7) The term “governmental entity” means a State or local government.

(8) The term “Secretary” means the Secretary of Commerce.

(9) The term “semiconductor” has the meaning given that term by the Secretary.

(Pub. L. 116–283, div. H, title XCIX, §9901, Jan. 1, 2021, 134 Stat. 4843.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 2533c of title 10, referred to par. (6)(C), was renumbered section 4872 of title 10 by Pub. L. 116–283, div. A, title XVIII, §1870(d)(2), Jan. 1, 2021, 134 Stat. 4286, as amended by Pub. L. 117–81, div. A, title XVII, §1701(t)(2)(B), (C), Dec. 27, 2021, 135 Stat. 2150.

The Arms Export Control Act, referred to in par. (6)(D)(iv), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

The Export Control Reform Act of 2018, referred to in par. (6)(D)(vi), is subtitle B (§§1741–1781) of title XVII of div. A of Pub. L. 115–232, Aug. 13, 2018, 132 Stat. 2208, which is classified principally to chapter 58 (§4801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 4801 of Title 50 and Tables.

The International Economic Emergency Powers Act, referred to in par. (6)(D)(vii), probably should be the

<sup>3</sup> See References in Text note below.

International Emergency Economic Powers Act, which is title II of Pub. L. 95-223, Dec. 28, 1977, 91 Stat. 1626 and is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

This chapter, referred to in par. (6)(E), was in the original “this Act” and was translated as reading “this title”, meaning title XCIX of div. H of Pub. L. 116-283, to reflect the probable intent of Congress.

## § 4652. Semiconductor incentives

### (a) Financial assistance program

#### (1) In general

The Secretary shall establish in the Department of Commerce a program that, in accordance with the requirements of this section and subject to the availability of appropriations for such purposes, provides Federal financial assistance to covered entities to incentivize investment in facilities and equipment in the United States for semiconductor fabrication, assembly, testing, advanced packaging, or research and development.

#### (2) Procedure

##### (A) In general

A covered entity shall submit to the Secretary an application that describes the project for which the covered entity is seeking financial assistance under this section.

##### (B) Eligibility

In order for a covered entity to qualify for financial assistance under this section, the covered entity shall demonstrate to the Secretary, in the application submitted by the covered entity under subparagraph (A), that—

(i) the covered entity has a documented interest in constructing, expanding, or modernizing a facility described in paragraph (1); and

(ii) with respect to the project described in clause (i), the covered entity has—

(I) been offered a covered incentive;

(II) made commitments to worker and community investment, including through—

(aa) training and education benefits paid by the covered entity; and

(bb) programs to expand employment opportunity for economically disadvantaged individuals; and

(III) secured commitments from regional educational and training entities and institutions of higher education to provide workforce training, including programming for training and job placement of economically disadvantaged individuals; and

(IV) an executable plan to sustain the facility described in clause (i) without additional Federal financial assistance under this subsection for facility support.

##### (C) Considerations for review

With respect to the review by the Secretary of an application submitted by a covered entity under subparagraph (A)—

(i) the Secretary may not approve the application unless the Secretary—

(I) confirms that the covered entity has satisfied the eligibility criteria under subparagraph (B);

(II) determines that the project to which the application relates is in the interest of the United States; and

(III) has notified the appropriate committees of Congress not later than 15 days before making any commitment to provide a grant to any covered entity that exceeds \$10,000,000; and

(ii) the Secretary may consider whether—

(I) the covered entity has previously received financial assistance made under this subsection;

(II) the governmental entity offering the applicable covered incentive has benefitted from financial assistance previously provided under this subsection;

(III) the covered entity has demonstrated that they are responsive to the national security needs or requirements established by the Intelligence Community (or an agency thereof), the National Nuclear Security Administration, or the Department of Defense; and

(IV) when practicable, a consortium that is considered a covered entity includes a small business concern, as defined under section 632 of this title, notwithstanding section 121.103 of title 13, Code of Federal Regulations; and

(iii) the Secretary may not approve an application if the Secretary determines that the covered entity is a foreign entity of concern.

#### (D) Records

The Secretary may request records and information from the applicant to review the status of a covered entity. The applicant shall provide the records and information requested by the Secretary.

#### (3) Amount

##### (A) In general

The Secretary shall determine the appropriate amount and funding type for each financial assistance award made to a covered entity under this subsection.

##### (B) Larger investment

Federal investment in any individual project shall not exceed \$3,000,000,000 unless the Secretary, in consultation with the Secretary of Defense and the Director of National Intelligence, recommends to the President, and the President certifies and reports to the appropriate committees of Congress, that a larger investment is necessary to—

(i) significantly increase the proportion of reliable domestic supply of semiconductors relevant for national security and economic competitiveness that can be met through domestic production; and

(ii) meet the needs of national security.