

Congress of the United States

Washington, DC 20510

June 6, 2022

Dear Conferees to the Conference Committee:

As you work to negotiate the differences between the House *America Creating Opportunities for Manufacturing, Pre-Eminence in Technology, and Economic Strength (COMPETES) Act of 2022* and the Senate *United States Innovation and Competition Act (USICA) of 2021*, we write to stress the importance of ensuring that the much-needed investments in our country's productive capacity is accompanied by guardrails that ensure this funding is used to support American manufacturing, jobs, and competitiveness – rather than simply enriching corporate shareholders.

In January 2021, the *Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act* was signed into law as part of the Fiscal Year 2021 National Defense Authorization Act. *CHIPS* has tasked the Department of Commerce with awarding billions of dollars in grant funding “to incentivize investment in facilities and equipment in the United States for semiconductor fabrication, assembly, testing, advanced packaging, or research and development.”¹ Onshoring domestic manufacturing and improving the resilience of our semiconductor supply chains—and that of so many critical products and technologies that rely on semiconductors—is important. We recognize the potential for the government and the private sector to work together to address pressing needs in this industry, including creating good jobs for American workers and a domestic supply of essential materials for many products needed to meet our climate goals.

Under proposed funding levels in *USICA* and *COMPETES*, this would be a significant program, totaling around \$53 billion.² The *CHIPS for America Act* gives the Secretary of Commerce broad discretion in awarding these grants so long as the projects are determined to be “in the interest of the United States.”³ While bolstering our competitiveness internationally is clearly in the national interest of the United States, so are common-sense guardrails that prevent corporate misuse of public funds and ensure this substantial investment achieves its aims of supporting American jobs and the economy.

Congress has previously affirmed the importance of protecting taxpayer investments in private companies. The bipartisan *Coronavirus Aid, Relief, and Economic Security (CARES) Act* included several conditions for companies accepting federal funds, including⁴:

- A prohibition on stock buybacks;

¹ Congress.gov, “H.R. 4521 – United States Innovation and Competition Act of 2021,” <https://www.congress.gov/bill/117th-congress/house-bill/4521/text?q=%7B%22search%22%3A%22competes+act%22%7D&r=1&s=4>.

² Congressional Budget Office, “Estimated Budgetary Effects of H.R. 4521, the America COMPETES Act of 2022, as Passed by the House of Representatives on February 4, 2022,” March 11, 2022, <https://www.cbo.gov/system/files/2022-03/hr4521.pdf>.

³ *Id.*

⁴ Congress.gov, “H.R. 748 - CARES Act,” <https://www.congress.gov/bill/116th-congress/house-bill/748>.

- A prohibition on outsourcing American jobs overseas;
- A prohibition on repealing existing collective bargaining agreements;
- A commitment to remain neutral in any union organizing effort; and
- A commitment to issue warrants or equity interest to the government.

These conditions, which passed the Senate 96-0, were necessary to ensure that public funds were put toward their intended use rather than to provide taxpayer-subsidized shareholder distributions at the expense of workers, productive investment, and economic growth.⁵ While the *CARES Act* provided support for corporations in the height of the economic and public health crisis sparked by the coronavirus disease 2019 pandemic, guardrails should not be limited to emergency bailouts. Indeed, it is always in the national interest – during an emergency or otherwise – to protect the public’s investment in private-sector companies.

Recent experience demonstrates the necessity of corporate guardrails in the semiconductor industry. Over the last decade, the 19 publicly listed semiconductor firms that lobbied President Biden for *CHIPS* funding in a February 2021 letter⁶ collectively conducted \$287 billion in stock buybacks, more than five times the nearly \$53 billion CHIPS investment.⁷ The five largest repurchasers – Intel, IBM, Qualcomm, Texas Instruments, and Broadcom – accounted for nearly 90 percent of those buybacks, or \$249 billion, equal to 71 percent of their collective profits.⁸ While Intel’s CEO pledged last year that “we will not be anywhere near as focused on buybacks going forward as we have in past,” strong conditions on the *CHIPS* funding would ensure that the company keeps its promise and that all of the recipients use the taxpayer dollars they are awarded to invest in workers and communities as intended.⁹ This is particularly important as stock buybacks are on track to reach record levels this year.¹⁰

Moreover, guardrails are needed to create and defend American jobs. The semiconductor industry first began offshoring its operations in the 1960s, a practice that has continued through the 2000s.¹¹ As Intel’s former CEO noted, offshoring isn’t “a recent phenomenon. This has been happening for decades.”¹² Intel eliminated thousands of jobs even as it spent \$149 billion on stock buybacks and dividends since 1991.¹³

⁵ *Id.*

⁶ Letter from the Semiconductor Industry Association to President Biden, February 11, 2021, <https://www.semiconductors.org/wp-content/uploads/2021/02/SIA-Letter-to-Pres-Biden-re-CHIPS-Act-Funding.pdf>.

⁷ Institute for New Economic Thinking, “Why the CHIPS Are Down: Stock Buybacks and Subsidies in the U.S. Semiconductor Industry,” William Lazonick and Matt Hopkins, November 1, 2021, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3952144.

⁸ *Id.*

⁹ Reuters, “Intel will ‘focus’ less on buying back company stock –CEO,” Elizabeth Dilts Marshall, May 2, 2021, <https://www.reuters.com/business/finance/intel-will-focus-less-buying-back-company-stock-ceo-2021-05-02/>.

¹⁰ The Wall Street Journal, “Share Buybacks On Track for Record Amid Market Turbulence,” Gunjan Banerji, March 7, 2022, <https://www.wsj.com/livecoverage/russia-ukraine-latest-news-2022-03-07/card/share-buybacks-on-track-for-record-amid-market-turbulence-vCDgHhMtqHndmTpEiY2e>.

¹¹ Government Accountability Office, “Offshoring: U.S. Semiconductor and Software Industries Increasingly Produce in China and India,” September 2006, <https://www.gao.gov/assets/gao-06-423.pdf>.

¹² NBC News, “Intel CEO defends offshoring,” April 6, 2004, <https://www.nbcnews.com/id/wbna4675963>.

¹³ Institute for New Economic Thinking, “Why the CHIPS Are Down: Stock Buybacks and Subsidies in the U.S. Semiconductor Industry,” William Lazonick and Matt Hopkins, November 1, 2021, p. 7, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3952144.

It is vital that the *CHIPS* funds are used to invest in American manufacturing, strengthen the supply chain, and create jobs here in the United States. We urge the conferees to include conditions that prohibit recipients from buying back their stock, outsourcing jobs, and repealing existing collective bargaining agreements; that require them to remain neutral in any union organizing efforts; and that require them to issue warrants or equity interest to the U.S. government to the extent possible.

While opponents have argued that such conditions would deter companies from accepting *CHIPS* funds, it is our view that taxpayer money should not be used to subsidize corporate shareholders, to offshore American jobs, or to impede on workers' rights to organize. The firms that accept *CHIPS* funding should be willing to agree to minimal conditions that protect the public's investment, bolster accountability, and guarantee that the *CHIPS* program is not working counter to other national priorities.

We need strong guardrails to ensure that the tens of billions in taxpayer dollars being awarded to semiconductor firms are invested in workers and communities, the kind of investment that results in real, durable American competitiveness. The American people deserve these protections on the investment they are making in the *CHIPS* program, and we look forward to engaging in the conference process to ensure they receive this protection.

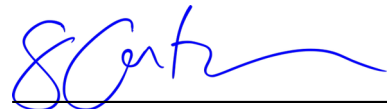
Sincerely,



Elizabeth Warren
United States Senator



Bernard Sanders
United States Senator



Sean Casten
Member of Congress