

Congress of the United States
Washington, DC 20515

October 26, 2023

Senator Jack Reed
Chairman
Senate Armed Services Committee
Washington, D.C. 20510

Congressman Mike Rogers
Chairman
House Armed Services Committee
Washington, D.C. 20515

Senator Roger Wicker
Ranking Member
Senate Armed Services Committee
Washington, D.C. 20510

Congressman Adam Smith
Ranking Member
House Armed Services Committee
Washington, D.C. 20515

Dear Chairman Reed, Chairman Rogers, Ranking Member Wicker, and Ranking Member Smith:

As you finalize the Fiscal Year 2024 (FY24) National Defense Authorization Act (NDAA), we request that you preserve Section 1090G of the Senate-passed bill which is based on the bipartisan and bicameral Building Chips in America Act (S. 2228/H.R. 4549).¹ This provision streamlines National Environmental Policy Act (NEPA) review requirements for semiconductor manufacturing projects related to the CHIPS and Science Act of 2022. To succeed at reshoring critical semiconductor supply chains, we cannot impose years-long delays to semiconductor projects important to national and economic security.

Historically, NEPA reviews apply to projects that receive a significant portion of federal funding, giving the Federal government sufficient control over the project's outcome. This is not the case for the CHIPS program. The Commerce Department expects grants to comprise a minimal share of total project cost, between 5-15%, to spur additional private investment in the United States. Importantly, semiconductor manufacturing facilities have been privately constructed in the United States for decades and have not been required to undergo NEPA reviews.

The Commerce Department will require a NEPA review by considering CHIPS Act projects to be "major federal actions." This could include projects that have already received all environmental permits required under federal and state law,² and have begun construction. This could halt or delay commencement of new projects, impacting the United States' ability to bolster its national security interests, economic growth, competitiveness, and technological leadership.

¹ A modified version of the Building Chips in America Act was included in the Senate-version of the National Defense Authorization Act (S. 2226) as a part of a manager's amendment adopted on the floor of the Senate by a vote of 94-3. See: https://www.senate.gov/legislative/LIS/roll_call_votes/vote1181/vote_118_1_00211.htm

² Like any other manufacturing facility constructed in the United States, construction on a new semiconductor manufacturing facility must comply with all federal, state, and local permitting and environmental protection laws – including the federal Clean Air Act, the Clean Water Act, and the Endangered Species Act.

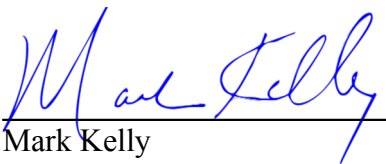
To address this challenge, Section 1090G of the Senate-passed NDAA and the Building Chips in America Act would clarify the scope of NEPA reviews required under the CHIPS Act. Under this amendment, a limited scope of projects receiving funding under the CHIPS Act would be deemed as non-major federal actions. These include projects that have already begun construction within the next year; projects for which federal funding represents a minimal amount (10% or less) of total capital investment; and projects that will simply expand or modernize an existing semiconductor facility. Furthermore, Section 1090G of the Senate-passed version ensures all states are equally attractive for semiconductor investments.

As Secretary of Commerce Gina Raimondo recently testified to the Senate Committee on Commerce, Science, and Transportation: “These are national security imperative projects. [...] Environmental concerns matter. We are not in any way suggesting we should do anything that hurts the environment or is unsustainable. That being said, we do need to [...] streamline the process, speed the process, make the process more efficient and user friendly. [...] But without the [amendment] it’s very difficult.”³

Interruptions and delays to semiconductor manufacturing projects would undermine the goals of the CHIPS Act and exacerbate risks to our economic and national security, without providing additional benefits for environmental protection. Therefore, we urge you to retain Section 1090G of S. 2226 in the final FY24 NDAA.

Thank you for your consideration of this request and for your ongoing leadership.

Sincerely,



Mark Kelly
United States Senator



Jen A. Riggans
Member of Congress



Ted Cruz
United States Senator



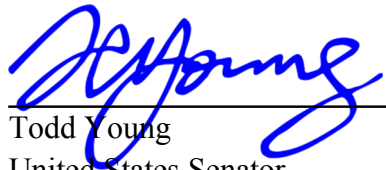
Michael T. McCaul
Member of Congress



Doris Matsui
Member of Congress



Scott H. Peters
Member of Congress



Todd Young
United States Senator



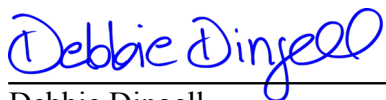
Sherrod Brown
United States Senator



Brandon Williams
Member of Congress



Colin Z. Allred
Member of Congress



Debbie Dingell
Member of Congress



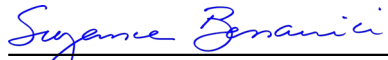
Lori Chavez-DeRemer
Member of Congress



Bill Johnson
Member of Congress



Ruben Gallego
Member of Congress



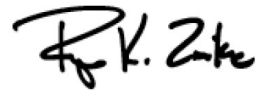
Suzanne Bonamici
Member of Congress



Bill Hagerty
United States Senator



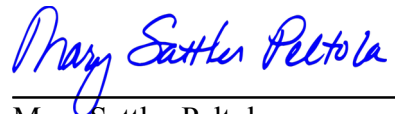
Valerie P. Foushee
Member of Congress



Ryan K. Zinke
Member of Congress



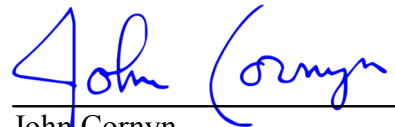
Emilia Strong Sykes
Member of Congress



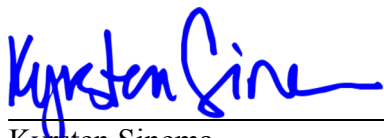
Mary Sattler Peltola
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Greg Stanton
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John Cornyn
United States Senator



Kyrsten Sinema
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Mike Thompson
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Shri Thanedar
Member of Congress



Pete Sessions
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Brad R. Wenstrup, D.P.M.
Member of Congress



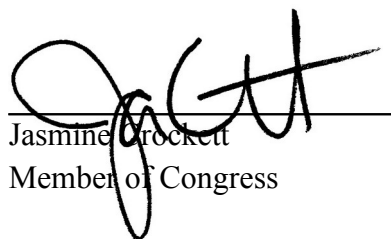
Troy Balderson
Member of Congress



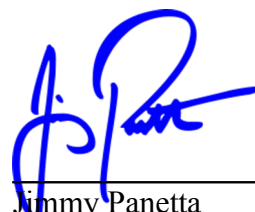
Andrea Salinas
Member of Congress



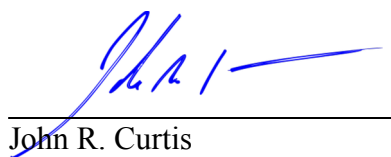
Cliff Bentz
Member of Congress



Jasmine Crockett
Member of Congress



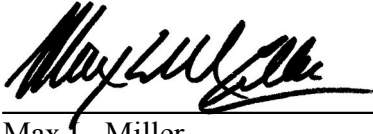
Jimmy Panetta
Member of Congress



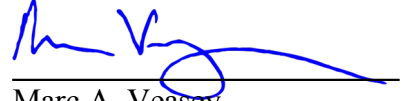
John R. Curtis
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Mike Carey
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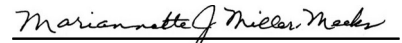
Max L. Miller
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Mariannette Miller-Meeks,
M.D.
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Martin Heinrich
United States Senator



Robert E. Latta
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Debbie Lesko
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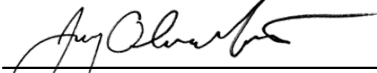
Roger Williams
Member of Congress



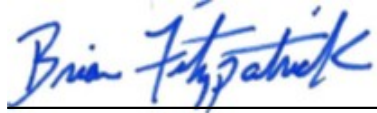
Russ Fulcher
Member of Congress



Kirsten Gillibrand
United States Senator



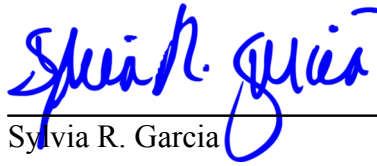
Jay Obernolte
Member of Congress



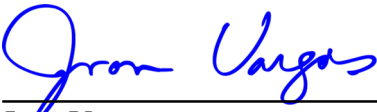
Brian Fitzpatrick
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Juan Ciscomani
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Sylvia R. Garcia
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Juan Vargas
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Gregory W. Meeks
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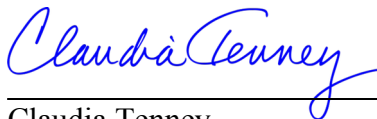
Darren Soto
Member of Congress



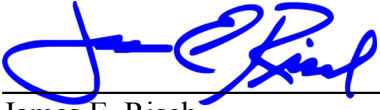
Joyce Beatty
Member of Congress



Michael K. Simpson
Member of Congress



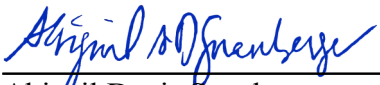
Claudia Tenney
Member of Congress



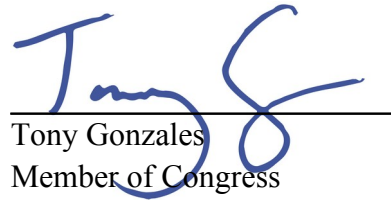
James E. Risch
United States Senator



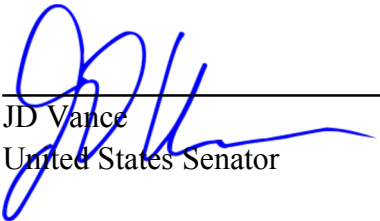
Gerald E. Connolly
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Abigail Davis Spanberger
Member of Congress



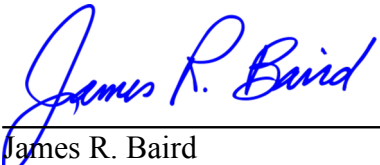
Tony Gonzales
Member of Congress



JD Vance
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Angie Craig
Member of Congress



James R. Baird
Member of Congress



Ann McLane Kuster
Member of Congress



John R. Carter
Member of Congress



Darrell Issa
Member of Congress



Steve Daines
United States Senator



Ted Budd
United States Senator



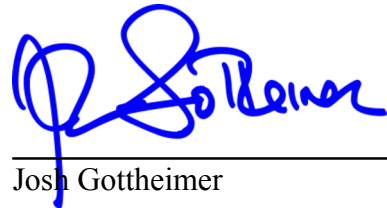
Patrick Ryan
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Jake Ellzey
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Lizzie Fletcher
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Josh Gottheimer
Member of Congress



Thom Tillis
United States Senator



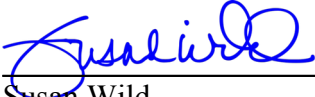
Nick LaLota
Member of Congress



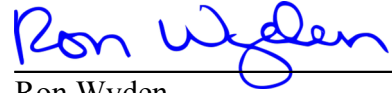
Marsha Blackburn
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Donald G. Davis
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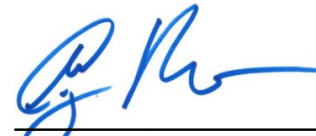
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United States Senator



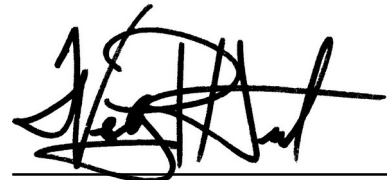
Brian Higgins
Member of Congress



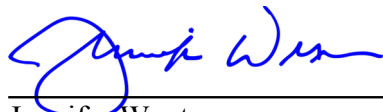
Stephanie Bice
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Jake Auchincloss
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Wesley Hunt
Member of Congress



Jennifer Wexton
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Jim Jordan
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Dan Crenshaw
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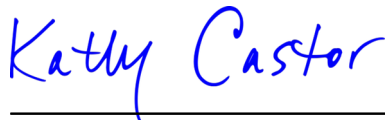
Andy Biggs
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David G. Valadao
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Keith Self
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Kathy Castor
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Aumua Amata Coleman
Radewagen
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Susie Lee
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Kay Granger
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Jennifer González-Colón
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Ami Bera, M.D.
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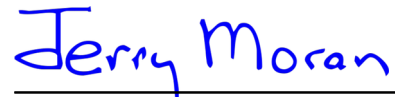
Jon Tester
United States Senator



Doug LaMalfa
Member of Congress



Brian Babin, D.D.S.
Member of Congress



Jerry Moran
United States Senator



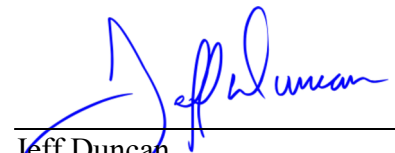
Diana Harshbarger
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Randy K. Weber, Sr.
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Mark R. Warner
United States Senator



Jeff Duncan
Member of Congress



Mike Braun
United States Senator



David P. Joyce
Member of Congress

Vicente Gonzalez
Member of Congress



Rich McCormick, MD, MBA
Member of Congress



Tom Cole
Member of Congress



Jeffrey A. Merkley
United States Senator

Cc:
Congressman Mike Johnson, Speaker of the House
Senator Chuck Schumer, Senate Majority Leader
Senator Mitch McConnell, Senate Minority Leader
Congressman Hakeem Jeffries, House Minority Leader

