



May 3, 2022

As the Senate votes on Motions to Instruct (MTIs) for the Senate Amendment to H.R. 4521, the America COMPETES Act of 2022, NTU wishes to share its views on these measures which variously offer prospects to mitigate or worsen the prospects for damage that the underlying legislation could cause. NTU previously encouraged Representatives to [vote against the America COMPETES Act](#), and Senators to [vote against the U.S. Innovation and Competition Act \(USICA\)](#). Each piece of legislation would appropriate tens of billions of new, deficit-financed dollars to federal agencies, without any corresponding offsets in the federal budget. NTU also noted that the America COMPETES Act included proposed spending for coral reef conservation, wildlife trafficking, antitrust enforcement, and other initiatives that appear to have little (or nothing) to do with the underlying chips shortage and supply-chain issues lawmakers are seeking to address with this legislation.

NTU urges all Senators to SUPPORT the following MTIs on the Senate Amendment to H.R. 4521:

- **Sen. Toomey’s Motion to Instruct, Regarding Sec. 73001 of USICA:** This provision of USICA would require the U.S. Trade Representative (USTR) to set up an exclusion process for the Trump administration’s Sec. 301 tariffs on China, which remain in place under the Biden administration, and would require USTR to set up exclusion processes for any future Sec. 301 tariffs. The section would also require the USTR to “analyze the impact” of Sec. 301 tariffs on U.S. businesses, particularly small businesses, and U.S. consumers. NTU and NTU Foundation have written extensively about the pernicious effects of tariffs, and of the Trump and Biden administrations’ trade actions against China, on U.S. businesses and consumers. Establishing a better process for exclusions from these tariffs would likely boost U.S. economic output, job creation, and wage growth.
- **Sen. Hassan’s Motion to Instruct, Regarding the Tax Treatment of Research and Development Expenditures:** This bipartisan MTI would likely allow for the conference legislation to include a crucial tax law fix for how U.S. businesses must treat their research and development (R&D) expenditures. Historically, businesses have been able to fully and immediately recover their R&D costs, a policy also known as full expensing. The Tax Cuts and Jobs Act (TCJA) scheduled a switch in the tax treatment of R&D, from full expensing to five-year amortization, which took effect this calendar year. This change would raise the costs for businesses to invest in R&D, with potential negative effects on U.S. innovation and economic growth in the long run. Lawmakers should restore full R&D expensing, and we applaud Sens. Hassan and Young (R-IN) for leading this bipartisan MTI.
- **Sen. Rick Scott’s Motion to Instruct, Regarding Return on Investment Analysis:** If lawmakers move forward with significant, deficit-financed investments in this legislation, taxpayers should be sure they are seeing a strong return on these investments (ROI). Sen. Scott’s MTI would provide for ROI analysis of the provisions in the final conference legislation, and would allow for more reporting requirements from the federal agencies tasked with disbursing any funds in the final bill.

- **Sen. Capito’s Motion to Instruct, Regarding National Emergency Declarations:** Though NTU takes no firm position on the particular reasons a President may declare a national emergency, we remain deeply concerned about National Emergencies Act (NEA) abuse in the executive branch and have advocated for bipartisan reforms to Presidential powers under the NEA. We were alarmed when the Senate Majority Leader encouraged President Biden to declare a national emergency on climate change so that the President could do “[many, many things under the emergency powers.](#)” NTU appreciates Sen. Capito’s effort to limit the circumstances under which a President may use broad, and sometimes troubling, emergency powers, and we encourage Congress to pass [NEA reform legislation](#) this session.
- **Sen. Barrasso’s Motion to Instruct, Regarding Federal Oil and Gas Leasing:** While federal oil and gas leasing in the 2022-2027 period may not provide immediate relief for high gas prices in the U.S., such efforts may provide relief from future price pressures that disproportionately impact low- and middle-income households. NTU appreciates Sen. Barrasso’s MTI to encourage a speedy and deliberate federal government effort to develop a five-year federal oil and gas program.
- **Sen. Lee’s Motion to Instruct, Regarding Green Climate Fund Authorizations:** Though NTU takes no particular position on Secs. 30601 and 30610 of the America COMPETES Act, nor on the spending choices underlying Secs. 30607 and 30609 of COMPETES, we support Sen. Lee’s efforts to reduce authorization levels in the bill by a combined \$28 billion over the next 10 years. Sec. 30609 would authorize \$8 billion for the Green Climate Fund in fiscal years 2023 and 2024 alone, while Sec. 30607 would authorize \$2 billion in spending per year in perpetuity. These authorizations, without corresponding spending offsets, are irresponsible.
- **Sen. Sanders’s Motion to Instruct, Regarding NASA Funding:** NTU generally supports efforts to expand competition and build public-private partnerships ahead of federal procurement decisions that may be expensive to taxpayers. However, with NASA already [announcing competition](#) for a second lunar lander earlier this year, we believe that the \$10 billion authorized by Sec. 2614(c) of USICA is outside the appropriate scope of this legislation. We also remain concerned about any new spending authorizations in this legislation that do not contain offsets. Though NTU takes no particular position on the spending choices underlying Sec. 2614(c) of USICA, we support Sen. Sanders’s effort to reduce authorization levels in the bill by \$10 billion over the next four years.
- **Sen. Daines’s Motion to Instruct, Regarding All-of-the-Above Energy Policy:** Though NTU takes no position on U.S. participation in international climate discussions, we support the provisions of Sen. Daines’s MTI to ensure that the U.S. continues to pursue an all-of-the-above energy policy, and reduces regulatory barriers to energy development and delivery, at a time of high energy costs and high inflation for American consumers.

NTU urges Senators to OPPOSE the following MTIs on the Senate Amendment to H.R. 4521:

- **Sen. Sanders’s Motion to Instruct, Regarding Recipients of Federal Semiconductor Funding:** NTU opposes Sen. Sanders’s MTI banning recipients of federal semiconductor funding from outsourcing any employment opportunities to non-U.S. countries. While NTU does not support the underlying funding in either USICA or COMPETES, we are concerned that Sen. Sanders’s MTI would place a straitjacket on recipients of federal funds that could ultimately raise costs for taxpayers and/or reduce the ROI for deficit-financed investments in the semiconductor industry. NTU also believes it is improper to require business recipients of federal funds to remain neutral in any future unionization effort.

- **Sen. Kelly’s Motion to Instruct, Regarding Incentives to Invest in Semiconductor Manufacturing:** This MTI is likely to put upward pressure on spending authorizations (or appropriations) in the conference legislation, by encouraging the conferees to “include incentives to support investments in semiconductor manufacturing and innovation.”
- **Sen. Bennet’s Motion to Instruct, Regarding Incentives to Invest in Semiconductor Manufacturing:** This MTI is likely to put upward pressure on spending authorizations (or appropriations) in the conference legislation, by encouraging the conferees to “reinvigorate [U.S.] semiconductor manufacturing.”

Roll call votes on the MTIs will be included in NTU’s annual Rating of Congress.

If you have any questions, please contact NTU Director of Federal Policy Andrew Lautz at alautz@ntu.org.
