

115TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To modernize and strengthen the Committee on Foreign Investment in the United States to more effectively guard against the risk to the national security of the United States posed by certain types of foreign investment, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. CORNYN (for himself, Mrs. FEINSTEIN, Mr. BURR, Mr. PETERS, Mr. RUBIO, Ms. KLOBUCHAR, Mr. SCOTT, Mr. BARRASSO, Mr. MANCHIN, and Mr. LANKFORD) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To modernize and strengthen the Committee on Foreign Investment in the United States to more effectively guard against the risk to the national security of the United States posed by certain types of foreign investment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Foreign Investment Risk Review Modernization Act of  
6 2017”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
2 this Act is as follows:

- 3 Sec. 1. Short title; table of contents.
- 4 Sec. 2. Sense of Congress.
- 5 Sec. 3. Definitions.
- 6 Sec. 4. Inclusion of partnership and side agreements in notice.
- 7 Sec. 5. Declarations relating to certain covered transactions.
- 8 Sec. 6. Stipulations regarding transactions.
- 9 Sec. 7. Authority for unilateral initiation of reviews.
- 10 Sec. 8. Timing for reviews and investigations.
- 11 Sec. 9. Monitoring of non-notified and non-declared transactions.
- 12 Sec. 10. Submission of certifications to Congress.
- 13 Sec. 11. Analysis by Director of National Intelligence.
- 14 Sec. 12. Information sharing.
- 15 Sec. 13. Action by the President.
- 16 Sec. 14. Judicial review procedures.
- 17 Sec. 15. Factors to be considered.
- 18 Sec. 16. Actions by the Committee to address national security risks.
- 19 Sec. 17. Modification of annual report.
- 20 Sec. 18. Certification of notices and information.
- 21 Sec. 19. Funding.
- 22 Sec. 20. Centralization of certain Committee functions.
- 23 Sec. 21. Unified budget request.
- 24 Sec. 22. Special hiring authority.
- 25 Sec. 23. Conforming amendments.
- 26 Sec. 24. Assessment of need for additional resources for Committee.
- 27 Sec. 25. Authorization for Defense Advanced Research Projects Agency to limit  
foreign access to technology through contracts and grant agree-  
ments.
- 28 Sec. 26. Effective date.
- 29 Sec. 27. Severability.

30 **SEC. 2. SENSE OF CONGRESS.**

31 It is the sense of Congress that—

- 32 (1) foreign investment provides substantial eco-  
33 nomic benefits to the United States, including the  
34 promotion of economic growth, productivity, com-  
35 petitiveness, and job creation, and the majority of  
36 foreign investment transactions pose little or no risk  
37 to the national security of the United States, espe-  
38 cially when those investments are truly passive in  
39 nature;

1           (2) maintaining the commitment of the United  
2 States to open and fair investment policy also en-  
3 courages other countries to reciprocate and helps  
4 open new foreign markets for United States busi-  
5 nesses and their products;

6           (3) it should continue to be the policy of the  
7 United States to enthusiastically welcome and sup-  
8 port foreign investment, consistent with the protec-  
9 tion of national security;

10          (4) at the same time, the national security land-  
11 scape has shifted in recent years, and so have the  
12 nature of the investments that pose the greatest po-  
13 tential risk to national security, which warrants a  
14 modernization of the processes and authorities of the  
15 Committee on Foreign Investment in the United  
16 States;

17          (5) the Committee on Foreign Investment in  
18 the United States plays a critical role in protecting  
19 the national security of the United States, and,  
20 therefore, it is essential that the member agencies of  
21 the Committee are adequately resourced and able to  
22 hire appropriately qualified individuals in a timely  
23 manner, and that those individuals' security clear-  
24 ances are processed as a high priority;

1           (6) the President should conduct a more robust  
2 international outreach effort to urge and help allies  
3 and partners of the United States to establish proc-  
4 esses that parallel the Committee on Foreign Invest-  
5 ment in the United States to screen foreign invest-  
6 ments for national security risks and to facilitate co-  
7 ordination; and

8           (7) the President should lead a collaborative ef-  
9 fort with allies and partners of the United States to  
10 develop a new, stronger multilateral export control  
11 regime, aimed to address the unprecedented indus-  
12 trial policies of certain countries of special concern,  
13 including aggressive efforts to acquire United States  
14 technology, and the blending of civil and military  
15 programs.

16 **SEC. 3. DEFINITIONS.**

17       Section 721(a) of the Defense Production Act of  
18 1950 (50 U.S.C. 4565(a)) is amended to read as follows:

19       “(a) **DEFINITIONS.**—In this section:

20           “(1) **ACCESS.**—The term ‘access’ means the  
21 ability and opportunity to obtain information, sub-  
22 ject to regulations prescribed by the Committee.

23           “(2) **COMMITTEE; CHAIRPERSON.**—The terms  
24 ‘Committee’ and ‘chairperson’ mean the Committee

1 on Foreign Investment in the United States and the  
2 chairperson thereof, respectively.

3 “(3) CONTROL.—The term ‘control’ means the  
4 power to determine, direct, or decide important mat-  
5 ters affecting an entity, subject to regulations pre-  
6 scribed by the Committee.

7 “(4) COUNTRY OF SPECIAL CONCERN.—

8 “(A) IN GENERAL.—The term ‘country of  
9 special concern’ means a country that poses a  
10 significant threat to the national security inter-  
11 ests of the United States.

12 “(B) RULE OF CONSTRUCTION.—This  
13 paragraph shall not be construed to require the  
14 Committee to maintain a list of countries of  
15 special concern.

16 “(5) COVERED TRANSACTION.—

17 “(A) IN GENERAL.—Except as otherwise  
18 provided, the term ‘covered transaction’ means  
19 any transaction described in subparagraph (B)  
20 that is proposed, pending, or completed on or  
21 after the date of the enactment of the Foreign  
22 Investment Risk Review Modernization Act of  
23 2017.

1           “(B) TRANSACTIONS DESCRIBED.—A  
2 transaction described in this subparagraph is  
3 any of the following:

4           “(i) Any merger, acquisition, or take-  
5 over that is proposed or pending after Au-  
6 gust 23, 1988, by or with any foreign per-  
7 son that could result in foreign control of  
8 any United States business.

9           “(ii) The purchase or lease by a for-  
10 eign person of private or public real estate  
11 that—

12           “(I) is located in the United  
13 States and is in close proximity to a  
14 United States military installation or  
15 to another facility or property of the  
16 United States Government that is  
17 sensitive for reasons relating to na-  
18 tional security; and

19           “(II) meets such other criteria as  
20 the Committee prescribes by regula-  
21 tion.

22           “(iii) Any other investment (other  
23 than passive investment) by a foreign per-  
24 son in any United States critical tech-  
25 nology company or United States critical

1 infrastructure company, subject to regula-  
2 tions prescribed under subparagraph (C).

3 “(iv) Any change in the rights that a  
4 foreign person has with respect to a United  
5 States business in which the foreign person  
6 has an investment, if that change could re-  
7 sult in—

8 “(I) foreign control of the United  
9 States business; or

10 “(II) an investment described in  
11 clause (iii).

12 “(v) The contribution (other than  
13 through an ordinary customer relationship)  
14 by a United States critical technology com-  
15 pany of both intellectual property and as-  
16 sociated support to a foreign person  
17 through any type of arrangement, such as  
18 a joint venture, subject to regulations pre-  
19 scribed under subparagraph (C).

20 “(vi) Any other transaction, transfer,  
21 agreement, or arrangement the structure  
22 of which is designed or intended to evade  
23 or circumvent the application of this sec-  
24 tion, subject to regulations prescribed by  
25 the Committee.

1                   “(C) FURTHER DEFINITION THROUGH  
2 REGULATIONS.—

3                   “(i) CERTAIN INVESTMENTS AND  
4 CONTRIBUTIONS.—The Committee shall  
5 prescribe regulations further defining cov-  
6 ered transactions described in clauses (iii)  
7 and (v) of subparagraph (B) by reference  
8 to the technology, sector, subsector, trans-  
9 action type, or other characteristics of such  
10 transactions.

11                   “(ii) EXEMPTION FOR TRANSACTIONS  
12 FROM IDENTIFIED COUNTRIES.—The Com-  
13 mittee may, by regulation, define cir-  
14 cumstances in which a transaction other-  
15 wise described in clause (ii), (iii), or (v) of  
16 subparagraph (B) is excluded from the def-  
17 inition of ‘covered transaction’ if each for-  
18 eign person that is a party to the trans-  
19 action is organized under the laws of, or  
20 otherwise subject to the jurisdiction of, a  
21 country identified by the Committee for  
22 purposes of this clause based on criteria  
23 such as—

1                   “(I) whether the United States  
2                   has in effect with that country a mu-  
3                   tual defense treaty;

4                   “(II) whether the United States  
5                   has in effect with that country a mu-  
6                   tual arrangement to safeguard na-  
7                   tional security as it pertains to foreign  
8                   investment;

9                   “(III) the national security re-  
10                  view process for foreign investment of  
11                  that country; and

12                  “(IV) any other criteria that the  
13                  Committee determines to be appro-  
14                  priate.

15                  “(iii) EXEMPTION OF CERTAIN CON-  
16                  TRIBUTIONS.—The Committee may, by  
17                  regulation, define circumstances in which  
18                  contributions otherwise described in sub-  
19                  paragraph (B)(v) are excluded from the  
20                  term ‘covered transaction’ on the basis of  
21                  a determination that other provisions of  
22                  law are adequate to identify and address  
23                  any potential national security risks posed  
24                  by such contributions.

1                   “(iv) TRANSFERS OF CERTAIN ASSETS  
2                   PURSUANT TO BANKRUPTCY PROCEEDINGS  
3                   OR OTHER DEFAULTS.—The Committee  
4                   shall prescribe regulations to clarify that  
5                   the term ‘covered transaction’ includes any  
6                   transaction described in subparagraph (B)  
7                   that arises pursuant to a bankruptcy pro-  
8                   ceeding or other form of default on debt.

9                   “(D) PASSIVE INVESTMENT DEFINED.—

10                   “(i) IN GENERAL.—For purposes of  
11                   subparagraph (B)(iii), the term ‘passive in-  
12                   vestment’ means an investment by a for-  
13                   eign person in a United States business—

14                   “(I) that is not described in sub-  
15                   paragraph (B)(i);

16                   “(II) that does not afford the  
17                   foreign person—

18                   “(aa) access to any non-  
19                   public technical information in  
20                   the possession of the United  
21                   States business;

22                   “(bb) access to any nontech-  
23                   nical information in the posses-  
24                   sion of the United States busi-

1                   ness that is not available to all  
2                   investors;

3                   “(cc) membership or ob-  
4                   server rights on the board of di-  
5                   rectors or equivalent governing  
6                   body of the United States busi-  
7                   ness or the right to nominate an  
8                   individual to such a position; or

9                   “(dd) any involvement, other  
10                  than through voting of shares, in  
11                  substantive decisionmaking per-  
12                  taining to any matter involving  
13                  the United States business;

14                  “(III) under which the foreign  
15                  person and the United States business  
16                  do not have a parallel strategic part-  
17                  nership or other material financial re-  
18                  lationship, as described in regulations  
19                  prescribed by the Committee; and

20                  “(IV) that meets such other cri-  
21                  teria as the Committee may prescribe  
22                  by regulation.

23                  “(ii) NONPUBLIC TECHNICAL INFOR-  
24                  MATION DEFINED.—For purposes of clause

1 (i)(II)(aa), the term ‘nonpublic technical  
2 information’—

3 “(I) has the meaning given that  
4 term in regulations prescribed by the  
5 Committee; and

6 “(II) includes information (either  
7 by itself or in conjunction with other  
8 information to which a foreign person  
9 may have access)—

10 “(aa) without which critical  
11 technologies cannot be designed,  
12 developed, tested, produced, or  
13 manufactured; and

14 “(bb) in a quantity suffi-  
15 cient to permit the design, devel-  
16 opment, testing, production, or  
17 manufacturing of such tech-  
18 nologies.

19 “(iii) NONTECHNICAL INFORMATION  
20 DEFINED.—For purposes of clause  
21 (i)(II)(bb), the term ‘nontechnical informa-  
22 tion’ has the meaning given that term in  
23 regulations prescribed by the Committee.

24 “(iv) EFFECT OF LEVEL OF OWNER-  
25 SHIP INTEREST.—A determination of

1           whether an investment is a passive invest-  
2           ment under clause (i) shall be made with-  
3           out regard to how low the level of owner-  
4           ship interest a foreign person would hold  
5           or acquire in a United States business  
6           would be as a result of the investment. The  
7           Committee may prescribe regulations speci-  
8           fying that any investment greater than a  
9           certain level or amount would not be con-  
10          sidered a passive investment.

11           “(v) REGULATIONS.—The Committee  
12          shall prescribe regulations providing guid-  
13          ance on the types of transactions that the  
14          Committee considers to be passive invest-  
15          ment.

16           “(E) ASSOCIATED SUPPORT DEFINED.—  
17          For purposes of subparagraph (B)(v), the term  
18          ‘associated support’ has the meaning given that  
19          term in regulations prescribed by the Com-  
20          mittee.

21           “(F) UNITED STATES CRITICAL INFRA-  
22          STRUCTURE COMPANY DEFINED.—For purposes  
23          of subparagraph (B), the term ‘United States  
24          critical infrastructure company’ means a United  
25          States business that is, owns, operates, or pri-

1           marily provides services to, an entity or entities  
2           that operate within a critical infrastructure sec-  
3           tor or subsector, as defined by regulations pre-  
4           scribed by the Committee.

5           “(G) UNITED STATES CRITICAL TECH-  
6           NOLOGY COMPANY.—For purposes of subpara-  
7           graph (B), the term ‘United States critical  
8           technology company’ means a United States  
9           business that produces, trades in, designs, tests,  
10          manufactures, services, or develops one or more  
11          critical technologies, or a subset of such tech-  
12          nologies, as defined by regulations prescribed by  
13          the Committee.

14          “(6) CRITICAL INFRASTRUCTURE.—The term  
15          ‘critical infrastructure’ means, subject to regulations  
16          prescribed by the Committee, systems and assets,  
17          whether physical or virtual, so vital to the United  
18          States that the incapacity or destruction of such sys-  
19          tems or assets would have a debilitating impact on  
20          national security.

21          “(7) CRITICAL MATERIALS.—The term ‘critical  
22          materials’ means physical materials essential to na-  
23          tional security, subject to regulations prescribed by  
24          the Committee.

25          “(8) CRITICAL TECHNOLOGIES.—

1           “(A) IN GENERAL.—The term ‘critical  
2 technologies’ means technology, components, or  
3 technology items that are essential or could be  
4 essential to national security, identified for pur-  
5 poses of this section pursuant to regulations  
6 prescribed by the Committee.

7           “(B) INCLUSION OF CERTAIN ITEMS.—The  
8 term ‘critical technologies’ includes the fol-  
9 lowing:

10           “(i) Defense articles or defense serv-  
11 ices included on the United States Muni-  
12 tions List set forth in the International  
13 Traffic in Arms Regulations under sub-  
14 chapter M of chapter I of title 22, Code of  
15 Federal Regulations.

16           “(ii) Items included on the Commerce  
17 Control List set forth in Supplement No. 1  
18 to part 774 of the Export Administration  
19 Regulations under subchapter C of chapter  
20 VII of title 15, Code of Federal Regula-  
21 tions, and controlled—

22           “(I) pursuant to multilateral re-  
23 gimes, including for reasons relating  
24 to national security, chemical and bio-  
25 logical weapons proliferation, nuclear

1 nonproliferation, or missile tech-  
2 nology; or

3 “(II) for reasons relating to re-  
4 gional stability or surreptitious listen-  
5 ing.

6 “(iii) Specially designed and prepared  
7 nuclear equipment, parts and components,  
8 materials, software, and technology covered  
9 by part 810 of title 10, Code of Federal  
10 Regulations (relating to assistance to for-  
11 eign atomic energy activities).

12 “(iv) Nuclear facilities, equipment,  
13 and material covered by part 110 of title  
14 10, Code of Federal Regulations (relating  
15 to export and import of nuclear equipment  
16 and material).

17 “(v) Select agents and toxins covered  
18 by part 331 of title 7, Code of Federal  
19 Regulations, part 121 of title 9 of such  
20 Code, or part 73 of title 42 of such Code.

21 “(vi) Other emerging technologies  
22 that could be essential for maintaining or  
23 increasing the technological advantage of  
24 the United States over countries of special  
25 concern with respect to national defense,

1 intelligence, or other areas of national se-  
2 curity, or gaining such an advantage over  
3 such countries in areas where such an ad-  
4 vantage may not currently exist.

5 “(9) FOREIGN GOVERNMENT-CONTROLLED  
6 TRANSACTION.—The term ‘foreign government-con-  
7 trolled transaction’ means any covered transaction  
8 that could result in the control of any United States  
9 business by a foreign government or an entity con-  
10 trolled by or acting on behalf of a foreign govern-  
11 ment.

12 “(10) INTELLECTUAL PROPERTY.—The term  
13 ‘intellectual property’ has the meaning given that  
14 term in regulations prescribed by the Committee.

15 “(11) INTELLIGENCE COMMUNITY.—The term  
16 ‘intelligence community’ has the meaning given that  
17 term in section 3(4) of the National Security Act of  
18 1947 (50 U.S.C. 3003(4)).

19 “(12) INVESTMENT.—The term ‘investment’  
20 means the acquisition of equity interest, including  
21 contingent equity interest, as further defined in reg-  
22 ulations prescribed by the Committee.

23 “(13) LEAD AGENCY.—The term ‘lead agency’  
24 means the agency or agencies designated as the lead  
25 agency or agencies pursuant to subsection (k)(5).



1 trade secrets, personally identifiable infor-  
2 mation, or financial information.

3 “(15) NATIONAL SECURITY.—The term ‘na-  
4 tional security’ shall be construed so as to include  
5 those issues relating to ‘homeland security’, includ-  
6 ing its application to critical infrastructure.

7 “(16) PARTY.—The term ‘party’ has the mean-  
8 ing given that term in regulations prescribed by the  
9 Committee.

10 “(17) UNITED STATES.—The term ‘United  
11 States’ means the several States, the District of Co-  
12 lumbia, and any territory or possession of the  
13 United States.

14 “(18) UNITED STATES BUSINESS.—The term  
15 ‘United States business’ means a person engaged in  
16 interstate commerce in the United States.”.

17 **SEC. 4. INCLUSION OF PARTNERSHIP AND SIDE AGREE-**  
18 **MENTS IN NOTICE.**

19 Section 721(b)(1)(C) of the Defense Production Act  
20 of 1950 (50 U.S.C. 4565(b)(1)(C)) is amended by adding  
21 at the end the following:

22 “(iv) INCLUSION OF PARTNERSHIP  
23 AND SIDE AGREEMENTS.—A written notice  
24 submitted under clause (i) by a party to a  
25 covered transaction shall include a copy of

1 any partnership agreements, integration  
2 agreements, or other side agreements relat-  
3 ing to the transaction, including any such  
4 agreements relating to the transfer of in-  
5 tellectual property, as specified in regula-  
6 tions prescribed by the Committee.”.

7 **SEC. 5. DECLARATIONS RELATING TO CERTAIN COVERED**  
8 **TRANSACTIONS.**

9 Section 721(b)(1)(C) of the Defense Production Act  
10 of 1950 (50 U.S.C. 4565(b)(1)(C)), as amended by section  
11 4, is further amended by adding at the end the following:

12 “(v) DECLARATIONS RELATING TO  
13 CERTAIN COVERED TRANSACTIONS.—

14 “(I) VOLUNTARY DECLARA-  
15 TIONS.—Except as provided in this  
16 clause, a party to any covered trans-  
17 action may submit to the Committee a  
18 declaration with basic information re-  
19 garding the transaction instead of a  
20 written notice under clause (i).

21 “(II) MANDATORY DECLARA-  
22 TIONS.—

23 “(aa) CERTAIN COVERED  
24 TRANSACTIONS WITH FOREIGN  
25 GOVERNMENT INTERESTS.—The

1 parties to a covered transaction  
2 shall submit a declaration de-  
3 scribed in subclause (I) with re-  
4 spect to the transaction if the  
5 transaction involves the acquisi-  
6 tion of a voting interest of at  
7 least 25 percent in a United  
8 States business by a foreign per-  
9 son in which a foreign govern-  
10 ment owns, directly or indirectly,  
11 at least a 25 percent voting inter-  
12 est.

13 “(bb) OTHER DECLARA-  
14 TIONS REQUIRED BY COM-  
15 MITTEE.—The Committee shall  
16 require the submission of a dec-  
17 laration described in subclause  
18 (I) with respect to any covered  
19 transaction identified under regu-  
20 lations prescribed by the Com-  
21 mittee for purposes of this item,  
22 at the discretion of the Com-  
23 mittee and based on appropriate  
24 factors, such as—

1                   “(AA) the technology,  
2                   industry, economic sector, or  
3                   economic subsector in which  
4                   the United States business  
5                   that is a party to the trans-  
6                   action trades or of which it  
7                   is a part;

8                   “(BB) the difficulty of  
9                   remedying the harm to na-  
10                  tional security that may re-  
11                  sult from completion of the  
12                  transaction; and

13                  “(CC) the difficulty of  
14                  obtaining information on the  
15                  type of covered transaction  
16                  through other means.

17                  “(cc) SUBMISSION OF WRIT-  
18                  TEN NOTICE AS AN ALTER-  
19                  NATIVE.—Parties to a covered  
20                  transaction for which a declara-  
21                  tion is required under this sub-  
22                  clause may instead elect to sub-  
23                  mit a written notice under clause  
24                  (i).

1                   “(dd) TIMING OF SUBMIS-  
2                   SION.—

3                   “(AA) IN GENERAL.—A  
4                   declaration required to be  
5                   submitted with respect to a  
6                   covered transaction by item  
7                   (aa) or (bb) shall be sub-  
8                   mitted not later than 45  
9                   days before the completion  
10                  of the transaction.

11                  “(BB) WRITTEN NO-  
12                  TICE.—If, pursuant to item  
13                  (cc), the parties to a covered  
14                  transaction elect to submit a  
15                  written notice under clause  
16                  (i) instead of a declaration  
17                  under this subclause, the  
18                  written notice shall be filed  
19                  not later than 90 days be-  
20                  fore the completion of the  
21                  transaction.

22                  “(III) PENALTIES.—The Com-  
23                  mittee may impose a penalty pursuant  
24                  to subsection (h)(3) with respect to a

1 party that fails to comply with this  
2 clause.

3 “(IV) COMMITTEE RESPONSE TO  
4 DECLARATION.—

5 “(aa) IN GENERAL.—Upon  
6 receiving a declaration under this  
7 clause with respect to a trans-  
8 action, the Committee may, at its  
9 discretion—

10 “(AA) request that the  
11 parties to the transaction  
12 file a written notice under  
13 clause (i);

14 “(BB) inform the par-  
15 ties to the transaction that  
16 the Committee is not able to  
17 complete action under this  
18 section with respect to the  
19 transaction on the basis of  
20 the declaration and that the  
21 parties may file a written  
22 notice under clause (i) to  
23 seek written notification  
24 from the Committee that the  
25 Committee has completed all

1 action under this section  
2 with respect to the trans-  
3 action;

4 “(CC) initiate a unilat-  
5 eral review of the trans-  
6 action under subparagraph  
7 (D); or

8 “(DD) notify the par-  
9 ties in writing that the Com-  
10 mittee has completed all ac-  
11 tion under this section with  
12 respect to the transaction.

13 “(bb) TIMING.—The Com-  
14 mittee shall endeavor to take ac-  
15 tion under item (aa) within 30  
16 days of receiving a declaration  
17 under this clause.

18 “(cc) RULE OF CONSTRUC-  
19 TION.—Nothing in this subclause  
20 (other than item (aa)(CC)) shall  
21 be construed to affect the author-  
22 ity of the President or the Com-  
23 mittee to take any action author-  
24 ized by this section with respect  
25 to a covered transaction.

1                   “(V) REGULATIONS.—The Com-  
2                   mittee shall prescribe regulations es-  
3                   tablishing requirements for declara-  
4                   tions submitted under this clause. In  
5                   prescribing such regulations, the Com-  
6                   mittee shall ensure that such declara-  
7                   tions are submitted as abbreviated no-  
8                   tifications that would not generally ex-  
9                   ceed 5 pages in length.”.

10 **SEC. 6. STIPULATIONS REGARDING TRANSACTIONS.**

11           Section 721(b)(1)(C) of the Defense Production Act  
12 of 1950 (50 U.S.C. 4565(b)(1)(C)), as amended by section  
13 5, is further amended by adding at the end the following:

14                   “(vi)    STIPULATIONS    REGARDING  
15                   TRANSACTIONS.—

16                   “(I) IN GENERAL.—In a written  
17                   notice submitted under clause (i) or a  
18                   declaration submitted under clause (v)  
19                   with respect to a transaction, a party  
20                   to the transaction may—

21                   “(aa) stipulate that the  
22                   transaction is a covered trans-  
23                   action; and

24                   “(bb) if the party stipulates  
25                   that the transaction is a covered

1 transaction under item (aa), stip-  
2 ulate that the transaction is a  
3 foreign government-controlled  
4 transaction.

5 “(II) BASIS FOR STIPULATION.—  
6 A written notice submitted under  
7 clause (i) or a declaration submitted  
8 under clause (v) that includes a stipu-  
9 lation under subclause (I) shall in-  
10 clude a description of the basis for the  
11 stipulation.”.

12 **SEC. 7. AUTHORITY FOR UNILATERAL INITIATION OF RE-**  
13 **VIEWS.**

14 Section 721(b)(1) of the Defense Production Act of  
15 1950 (50 U.S.C. 4565(b)(1)) is amended—

16 (1) by redesignating subparagraphs (E) and  
17 (F) as subparagraphs (F) and (G), respectively;

18 (2) in subparagraph (D)—

19 (A) in clause (i), by inserting “(other than  
20 a covered transaction described in subpara-  
21 graph (E))” after “any covered transaction”;

22 (B) by striking clause (ii) and inserting the  
23 following:

24 “(ii) any covered transaction described  
25 in subparagraph (E), if any party to the

1 transaction submitted false or misleading  
2 material information to the Committee in  
3 connection with the Committee’s consider-  
4 ation of the transaction or omitted mate-  
5 rial information, including material docu-  
6 ments, from information submitted to the  
7 Committee; or”; and  
8 (C) in clause (iii)—  
9 (i) in the matter preceding subclause  
10 (I), by striking “any covered transaction  
11 that has previously been reviewed or inves-  
12 tigated under this section,” and inserting  
13 “any covered transaction described in sub-  
14 paragraph (E),”;  
15 (ii) in subclause (I), by striking “in-  
16 tentionally”;  
17 (iii) in subclause (II), by striking “an  
18 intentional” and inserting “a”; and  
19 (iv) in subclause (III), by inserting  
20 “adequate and appropriate” before “rem-  
21 edies or enforcement tools”; and  
22 (3) by inserting after subparagraph (D) the fol-  
23 lowing:



1                   ning on the date on which the investigation  
2                   commenced.

3                   “(ii) EXTENSION FOR EXTRAOR-  
4                   DINARY CIRCUMSTANCES.—

5                   “(I) IN GENERAL.—In extraor-  
6                   dinary circumstances (as defined by  
7                   the Committee in regulations), the  
8                   chairperson may, at the request of the  
9                   head of the lead agency, extend an in-  
10                  vestigation under subparagraph (A)  
11                  for one 30-day period.

12                  “(II) NONDELEGATION.—The  
13                  authority of the chairperson and the  
14                  head of the lead agency referred to in  
15                  subclause (I) may not be delegated to  
16                  any person other than the Deputy  
17                  Secretary of the Treasury or the dep-  
18                  uty head (or equivalent thereof) of the  
19                  lead agency, as the case may be.

20                  “(III) NOTIFICATION TO PAR-  
21                  TIES.—If the Committee extends the  
22                  deadline under subclause (I) with re-  
23                  spect to a covered transaction, the  
24                  Committee shall notify the parties to  
25                  the transaction of the extension.”; and

1 (3) by adding at the end the following:

2 “(8) TOLLING OF DEADLINES DURING LAPSE IN  
3 APPROPRIATIONS.—Any deadline or time limitation  
4 under this subsection shall be tolled during a lapse  
5 in appropriations.”.

6 **SEC. 9. MONITORING OF NON-NOTIFIED AND NON-DE-**  
7 **CLARED TRANSACTIONS.**

8 Section 721(b)(1) of the Defense Production Act of  
9 1950 (50 U.S.C. 4565(b)(1)), as amended by section 7,  
10 is further amended by adding at the end the following:

11 “(H) MONITORING OF NON-NOTIFIED AND  
12 NON-DECLARED TRANSACTIONS.—The Com-  
13 mittee shall establish a mechanism to identify  
14 covered transactions for which—

15 “(i) a notice under clause (i) of sub-  
16 paragraph (C) or a declaration under  
17 clause (v) of that subparagraph is not sub-  
18 mitted to the Committee; and

19 “(ii) information is reasonably avail-  
20 able.”.

21 **SEC. 10. SUBMISSION OF CERTIFICATIONS TO CONGRESS.**

22 Section 721(b)(3)(C) of the Defense Production Act  
23 of 1950 (50 U.S.C. 4565(b)(3)(C)) is amended—

24 (1) in clause (iii)—

1 (A) in subclause (II), by inserting “and the  
2 Select Committee on Intelligence” after “Urban  
3 Affairs”; and

4 (B) in subclause (IV), by inserting “and  
5 the Permanent Select Committee on Intel-  
6 ligence” after “Financial Services”;

7 (2) in clause (iv), by striking subclause (II) and  
8 inserting the following:

9 “(II) DELEGATION OF CERTIFI-  
10 CATIONS.—

11 “(aa) IN GENERAL.—Sub-  
12 ject to item (bb), the chairperson,  
13 in consultation with the Com-  
14 mittee, may determine the level  
15 of official to whom the signature  
16 requirement under subclause (I)  
17 for the chairperson and the head  
18 of the lead agency may be dele-  
19 gated. The level of official to  
20 whom the signature requirement  
21 may be delegated may differ  
22 based on any factor relating to a  
23 transaction that the chairperson,  
24 in consultation with the Com-  
25 mittee, deems appropriate, in-

1 including the type or value of the  
2 transaction.

3 “(bb) LIMITATIONS.—The  
4 signature requirement under sub-  
5 clause (I) may be delegated—

6 “(AA) in the case of a  
7 covered transaction assessed  
8 by the Director of National  
9 Intelligence under paragraph  
10 (4) as more likely than not  
11 to threaten the national se-  
12 curity of the United States,  
13 not below the level of the  
14 Assistant Secretary of the  
15 Treasury or an equivalent  
16 official of another agency or  
17 department represented on  
18 the Committee; and

19 “(BB) in the case of  
20 any other covered trans-  
21 action, not below the level of  
22 a Deputy Assistant Sec-  
23 retary of the Treasury or an  
24 equivalent official of another  
25 agency or department rep-



1 any recognized gaps in the collection of in-  
2 telligence relevant to the analysis.

3 “(ii) VIEWS OF INTELLIGENCE AGEN-  
4 CIES.—The Director shall seek and incor-  
5 porate into the analysis required by clause  
6 (i) the views of all affected or appropriate  
7 intelligence agencies with respect to the  
8 transaction.

9 “(iii) UPDATES.—At the request of  
10 the lead agency, the Director shall update  
11 the analysis conducted under clause (i)  
12 with respect to a covered transaction with  
13 respect to which an agreement was entered  
14 into under subsection (1)(3)(A).

15 “(iv) INDEPENDENCE AND OBJEC-  
16 TIVITY.—The Committee shall ensure that  
17 its processes under this section preserve  
18 the ability of the Director to conduct anal-  
19 ysis under clause (i) that is independent,  
20 objective, and consistent with all applicable  
21 directives, policies, and analytic tradecraft  
22 standards of the intelligence community.”;

23 (2) by redesignating subparagraphs (B), (C),  
24 and (D) as subparagraphs (C), (D), and (E), respec-  
25 tively;

1           (3) by inserting after subparagraph (A) the fol-  
2           lowing:

3           “(B) BASIC THREAT INFORMATION.—

4                   “(i) IN GENERAL.—The Director of  
5           National Intelligence may provide the  
6           Committee with basic information regard-  
7           ing any threat to the national security of  
8           the United States posed by a covered  
9           transaction described in clause (ii) instead  
10          of conducting the analysis required by sub-  
11          paragraph (A).

12                   “(ii) COVERED TRANSACTION DE-  
13          SCRIBED.—A covered transaction is de-  
14          scribed in this clause if—

15                           “(I) the transaction is described  
16                           in subsection (a)(5)(B)(ii);

17                           “(II) the Director of National In-  
18                           telligence has completed an analysis  
19                           pursuant to subparagraph (A) involv-  
20                           ing each foreign person that is a party  
21                           to the transaction during the 12  
22                           months preceding the review or inves-  
23                           tigation of the transaction under this  
24                           section; or

1                   “(III) the transaction otherwise  
2                   meets criteria agreed upon by the  
3                   Committee and the Director of Na-  
4                   tional Intelligence for purposes of this  
5                   subparagraph.”;

6                   (4) in subparagraph (C), as redesignated by  
7                   paragraph (2), by striking “20” and inserting “30”;  
8                   and

9                   (5) by adding at the end the following:

10                   “(F) ASSESSMENT OF OPERATIONAL IM-  
11                   PACT.—The Director may provide to the Com-  
12                   mittee an assessment, separate from the anal-  
13                   yses under subparagraphs (A) and (B), of any  
14                   operational impact of a covered transaction on  
15                   the intelligence community and a description of  
16                   any actions that have been or will be taken to  
17                   mitigate any such impact.

18                   “(G) SUBMISSION TO CONGRESS.—The  
19                   Committee shall submit the analysis required by  
20                   subparagraph (A) with respect to a covered  
21                   transaction to the Select Committee on Intel-  
22                   ligence of the Senate and the Permanent Select  
23                   Committee on Intelligence of the House of Rep-  
24                   resentatives upon the conclusion of action under  
25                   this section (other than compliance reviews

1 under subsection (l)(6)) with respect to the  
2 transaction.”.

3 **SEC. 12. INFORMATION SHARING.**

4 Section 721(c) of the Defense Production Act of 1950  
5 (50 U.S.C. 4565(c)) is amended—

6 (1) by striking “Any information” and inserting  
7 the following:

8 “(1) IN GENERAL.—Except as provided in para-  
9 graph (2), any information”;

10 (2) by striking “, except as may be relevant”  
11 and all that follows and inserting a period; and

12 (3) by adding at the end the following:

13 “(2) EXCEPTIONS.—Paragraph (1) shall not  
14 prohibit the disclosure of the following:

15 “(A) Information relevant to any adminis-  
16 trative or judicial action or proceeding.

17 “(B) Information to either House of Con-  
18 gress or to any duly authorized committee or  
19 subcommittee of Congress.

20 “(C) Information to any domestic or for-  
21 eign governmental entity, under the direction of  
22 the chairperson, to the extent necessary for na-  
23 tional security purposes and pursuant to appro-  
24 priate confidentiality and classification arrange-  
25 ments.

1                   “(D) Information that the parties have  
2                   consented to be disclosed to third parties.”.

3 **SEC. 13. ACTION BY THE PRESIDENT.**

4           (a) IN GENERAL.—Section 721(d) of the Defense  
5 Production Act of 1950 (50 U.S.C. 4565(d)) is amend-  
6 ed—

7                   (1) by striking paragraph (1) and inserting the  
8 following:

9                   “(1) IN GENERAL.—Subject to paragraph (4),  
10 the President may, with respect to a covered trans-  
11 action that threatens to impair the national security  
12 of the United States—

13                   “(A) take such action for such time as the  
14 President considers appropriate to suspend or  
15 prohibit the transaction or to require divest-  
16 ment; and

17                   “(B) in conjunction with taking any such  
18 action, take any additional action the President  
19 considers appropriate to address the risk to the  
20 national security of the United States identified  
21 during the review and investigation of the  
22 transaction under this section.”; and

23                   (2) in paragraph (2), by striking “not later  
24 than 15 days” and all that follows and inserting the

1 following: “with respect to a covered transaction not  
2 later than 15 days after the earlier of—

3 “(A) the date on which the investigation of  
4 the transaction under subsection (b) is com-  
5 pleted; or

6 “(B) the date on which the Committee oth-  
7 erwise refers the transaction to the President  
8 under subsection (l)(2).”.

9 (b) CIVIL PENALTIES.—Section 721(h)(3)(A) of the  
10 Defense Production Act of 1950 (50 U.S.C.  
11 4565(h)(3)(A)) is amended by striking “including any  
12 mitigation” and all that follows through “subsection (l)”  
13 and inserting “including any mitigation agreement entered  
14 into, conditions imposed, or order issued pursuant to this  
15 section”.

16 **SEC. 14. JUDICIAL REVIEW PROCEDURES.**

17 Section 721(e) of the Defense Production Act of 1950  
18 (50 U.S.C. 4565) is amended to read as follows:

19 “(e) ACTIONS AND FINDINGS NONREVIEWABLE.—

20 “(1) ACTIONS AND FINDINGS OF THE PRESI-  
21 DENT.—The actions and findings of the President or  
22 the President’s designee under this section shall not  
23 be subject to judicial review, including claims under  
24 chapter 7 of title 5, United States Code.

1           “(2) ACTIONS AND FINDINGS OF THE COM-  
2           MITTEE.—

3           “(A) IN GENERAL.—Except as provided in  
4           subparagraph (B), the actions and findings of  
5           the Committee under subsection (b) or (l), and  
6           any assessment of penalties or use of enforce-  
7           ment authorities under this section, shall not be  
8           subject to judicial review, including claims  
9           under chapter 7 of title 5, United States Code.

10          “(B) PETITIONS.—

11           “(i) DEFINITION.—In this subpara-  
12           graph, the term ‘classified information’  
13           means any information or material that  
14           has been determined by the United States  
15           Government pursuant to an Executive  
16           order, statute, or regulation to require pro-  
17           tection against unauthorized disclosure for  
18           reasons of national security and any re-  
19           stricted data, as defined in section 11 of  
20           the Atomic Energy Act of 1954 (42 U.S.C.  
21           2014).

22           “(ii) PETITION.—

23           “(I) IN GENERAL.—Except as  
24           provided in subclause (II), not later  
25           than 60 days after the date on which

1 the President or the Committee takes  
2 an action with respect to the covered  
3 transaction, any party to the covered  
4 transaction may file a petition under  
5 this subparagraph alleging that the  
6 action of the Committee is a violation  
7 of a constitutional right, power, privi-  
8 lege, or immunity.

9 “(II) NOTIFICATION.—No party  
10 to a covered transaction shall be per-  
11 mitted to file a petition or any claim  
12 related to a petition under subclause  
13 (I) unless—

14 “(aa) the party initiated the  
15 review of the transaction pursu-  
16 ant to a written notice filed  
17 under clause (i) of subsection  
18 (b)(1)(C) or a declaration filed  
19 under clause (v) of that sub-  
20 section or the Committee deter-  
21 mines that such a notice or dec-  
22 laration was not required; and

23 “(bb) the Committee has  
24 completed all action under this

1 section with respect to the trans-  
2 action.

3 “(III) RELATED CLAIMS.—Any  
4 claims related to a petition filed under  
5 this clause shall be filed before the  
6 date described in subclause (I).

7 “(iii) EXCLUSIVE JURISDICTION.—

8 “(I) IN GENERAL.—The United  
9 States Court of Appeals for the Dis-  
10 trict of Columbia Circuit shall have  
11 exclusive jurisdiction over claims aris-  
12 ing under this subparagraph, subject  
13 to review by the Supreme Court of the  
14 United States under section 1254 of  
15 title 28, United States Code, only—

16 “(aa) to affirm the action of  
17 the Committee; or

18 “(bb) to remand the case to  
19 the Committee for further consid-  
20 eration.

21 “(II) STANDARD OF REVIEW.—  
22 The court shall uphold an action chal-  
23 lenged under this subparagraph unless  
24 the court finds that the action was

1                   contrary to a constitutional right,  
2                   power, privilege, or immunity.

3                   “(iv) SCOPE OF REVIEW.—In a claim  
4                   under this subparagraph, the court shall  
5                   decide all relevant questions based solely  
6                   on any administrative record submitted by  
7                   the United States under clause (v).

8                   “(v) ADMINISTRATIVE RECORD AND  
9                   PROCEDURES.—

10                   “(I) IN GENERAL.—Notwith-  
11                   standing any other provision of law,  
12                   the procedures described in this clause  
13                   shall apply to the review of a petition  
14                   under this subparagraph.

15                   “(II) ADMINISTRATIVE  
16                   RECORD.—

17                   “(aa) FILING OF RECORD.—  
18                   The United States shall file with  
19                   the court an administrative  
20                   record, which shall consist of the  
21                   information that the parties sub-  
22                   mitted to the Committee and  
23                   that the Committee relied upon  
24                   in support of the action of the  
25                   Committee under review.

1                   “(bb) UNCLASSIFIED, NON-  
2 PRIVILEGED INFORMATION.—All  
3 unclassified information con-  
4 tained in the administrative  
5 record that is not otherwise privi-  
6 leged or subject to statutory pro-  
7 tectations shall be provided to the  
8 petitioner with appropriate pro-  
9 tectations for any privileged or con-  
10 fidential trade secrets and com-  
11 mercial or financial information.

12                   “(cc) DISCOVERY BAR.—  
13 Other than the provision of infor-  
14 mation in the administrative  
15 record described in subparagraph  
16 (II)(bb), no discovery shall be  
17 permitted.

18                   “(dd) IN CAMERA AND EX  
19 PARTE.—The following informa-  
20 tion may be included in the ad-  
21 ministrative record and shall be  
22 submitted only to the court ex  
23 parte and in camera:

1                   “(AA) Unclassified in-  
2                   formation subject to privi-  
3                   lege or statutory protections.

4                   “(BB) Classified infor-  
5                   mation.

6                   “(CC) Sensitive secu-  
7                   rity information.

8                   “(DD) Sensitive law en-  
9                   forcement information.

10                  “(EE) Information ob-  
11                  tained or derived from any  
12                  activity authorized under the  
13                  Foreign Intelligence Surveil-  
14                  lance Act of 1978 (50  
15                  U.S.C. 1801 et seq.), except  
16                  that, with respect to such in-  
17                  formation, subsections (c),  
18                  (e), (f), (g), and (h) of sec-  
19                  tion 106 (50 U.S.C. 1806),  
20                  subsection (d), (f), (g), (h),  
21                  and (i) of section 305 (50  
22                  U.S.C. 1825), subsections  
23                  (c), (e), (f), (g), and (h) of  
24                  section 405 (50 U.S.C.  
25                  1845), and section 706 (50

1 U.S.C. 1881e) of that Act  
2 shall not apply.

3 “(ee) UNDER SEAL.—Any  
4 classified information, sensitive  
5 security information, law enforce-  
6 ment sensitive information, or in-  
7 formation that is otherwise privi-  
8 leged or subject to statutory pro-  
9 tections, that is part of the ad-  
10 ministrative record filed ex parte  
11 and in camera, or cited by the  
12 court in any decision, shall be  
13 treated by the court consistent  
14 with the provisions of this sub-  
15 paragraph, and shall remain  
16 under seal and preserved in the  
17 records of the court to be made  
18 available in the event of further  
19 proceedings. In no event shall  
20 such information be released to  
21 the claimant or as part of the  
22 public record.

23 “(ff) RETURN.—After the  
24 expiration of the time to seek  
25 further review, or the conclusion

1 of further proceedings, the court  
2 shall return the administrative  
3 record, including any and all cop-  
4 ies, to the United States.

5 “(gg) CONSIDERATION OF  
6 CLAIM WITHOUT INFORMATION  
7 IN ADMINISTRATIVE RECORD.—  
8 If, on motion or sua sponte, the  
9 court determines that the claim  
10 may be considered without any of  
11 the information in the adminis-  
12 trative record, the court shall re-  
13 quire that only the necessary in-  
14 formation, if any, from the  
15 record be provided to the parties.

16 “(vi) EXCLUSIVE REMEDY.—A deter-  
17 mination by the court under this subpara-  
18 graph shall be the exclusive judicial remedy  
19 for any claim described in this subpara-  
20 graph against the United States, any  
21 United States department or agency, or  
22 any component or official of any such de-  
23 partment or agency.

24 “(vii) RULE OF CONSTRUCTION.—  
25 Nothing in this subparagraph shall be con-

1                   strued as limiting, superseding, or pre-  
2                   venting the invocation of, any privileges or  
3                   defenses that are otherwise available at law  
4                   or in equity to protect against the disclo-  
5                   sure of information.”.

6 **SEC. 15. FACTORS TO BE CONSIDERED.**

7           Section 721(f) of the Defense Production Act of 1950  
8 (50 U.S.C. 4565(f)) is amended—

9                   (1) in paragraph (1), by inserting “including  
10                   whether the covered transaction is likely to result in  
11                   the increased reliance by the United States on for-  
12                   eign suppliers to meet national defense require-  
13                   ments;” after “defense requirements;”;

14                   (2) in paragraph (4), by striking “proposed or  
15                   pending”;

16                   (3) by striking paragraph (5) and insert the fol-  
17                   lowing:

18                   “(5) the potential effects of the covered trans-  
19                   action on United States international technological  
20                   and industrial leadership in areas affecting United  
21                   States national security, including whether the  
22                   transaction is likely to reduce the technological and  
23                   industrial advantage of the United States relative to  
24                   any country of special concern;”;

1           (4) in paragraph (6), by inserting “and trans-  
2           portation assets, as defined in Presidential Policy  
3           Directive 21 (February 12, 2013; relating to critical  
4           infrastructure security and resilience) or any suc-  
5           cessor directive” after “energy assets”;

6           (5) in paragraph (7), by inserting “, including  
7           whether the covered transaction is likely to con-  
8           tribute to the loss of or other adverse effects on  
9           technologies that provide a strategic national secu-  
10          rity advantage to the United States” after “critical  
11          technologies”;

12          (6) in paragraph (10), by striking “; and” and  
13          inserting a semicolon;

14          (7) by redesignating paragraph (11) as para-  
15          graph (20); and

16          (8) by inserting after paragraph (10) the fol-  
17          lowing:

18                 “(11) the degree to which the covered trans-  
19                 action is likely to increase the cost to the United  
20                 States Government of acquiring or maintaining the  
21                 equipment and systems that are necessary for de-  
22                 fense, intelligence, or other national security func-  
23                 tions;

24                 “(12) the potential national security-related ef-  
25                 fects of the cumulative market share of any one type

1 of infrastructure, energy asset, critical material, or  
2 critical technology by foreign persons;

3 “(13) whether any foreign person that would  
4 acquire an interest in a United States business or its  
5 assets as a result of the covered transaction has a  
6 history of—

7 “(A) complying with United States laws  
8 and regulations, including laws and regulations  
9 pertaining to exports, the protection of intellec-  
10 tual property, and immigration; and

11 “(B) adhering to contracts or other agree-  
12 ments with entities of the United States Gov-  
13 ernment;

14 “(14) the extent to which the covered trans-  
15 action is likely to expose, either directly or indirectly,  
16 personally identifiable information, genetic informa-  
17 tion, or other sensitive data of United States citizens  
18 to access by a foreign government or foreign person  
19 that may exploit that information in a manner that  
20 threatens national security;

21 “(15) whether the covered transaction is likely  
22 to have the effect of creating any new cybersecurity  
23 vulnerabilities in the United States or exacerbating  
24 existing cybersecurity vulnerabilities;

1           “(16) whether the covered transaction is likely  
2           to result in a foreign government gaining a signifi-  
3           cant new capability to engage in malicious cyber-en-  
4           abled activities against the United States, including  
5           such activities designed to affect the outcome of any  
6           election for Federal office;

7           “(17) whether the covered transaction involves  
8           a country of special concern that has a demonstrated  
9           or declared strategic goal of acquiring a type of crit-  
10          ical technology that a United States business that is  
11          a party to the transaction possesses;

12          “(18) whether the covered transaction is likely  
13          to facilitate criminal or fraudulent activity affecting  
14          the national security of the United States;

15          “(19) whether the covered transaction is likely  
16          to expose any information regarding sensitive na-  
17          tional security matters or sensitive procedures or op-  
18          erations of a Federal law enforcement agency with  
19          national security responsibilities to a foreign person  
20          not authorized to receive that information; and”.

21 **SEC. 16. ACTIONS BY THE COMMITTEE TO ADDRESS NA-**  
22 **TIONAL SECURITY RISKS.**

23          Section 721(l) of the Defense Production Act of 1950  
24          (50 U.S.C. 4565(l)) is amended—

1           (1) in the subsection heading, by striking  
2           “MITIGATION, TRACKING, AND POSTCONSUMMATION  
3           MONITORING AND ENFORCEMENT” and inserting  
4           “ACTIONS BY THE COMMITTEE TO ADDRESS NA-  
5           TIONAL SECURITY RISKS”;

6           (2) by redesignating paragraphs (1), (2), and  
7           (3) as paragraphs (3), (5), and (6), respectively;

8           (3) by inserting before paragraph (3), as redesi-  
9           gnated by paragraph (2), the following:

10           “(1) SUSPENSION OF TRANSACTIONS.—The  
11           Committee, acting through the chairperson, may  
12           suspend a proposed or pending covered transaction  
13           that may pose a risk to the national security of the  
14           United States for such time as the covered trans-  
15           action is under review or investigation under sub-  
16           section (b).

17           “(2) REFERRAL TO PRESIDENT.—The Com-  
18           mittee may, at any time during the review or inves-  
19           tigation of a covered transaction under subsection  
20           (b), complete the action of the Committee with re-  
21           spect to the transaction and refer the transaction to  
22           the President for action pursuant to subsection  
23           (d).”;

24           (4) in paragraph (3), as redesignated by para-  
25           graph (2)—

1 (A) in subparagraph (A)—

2 (i) in the subparagraph heading, by  
3 striking “IN GENERAL” and inserting  
4 “AGREEMENTS AND CONDITIONS”;

5 (ii) by striking “The Committee” and  
6 inserting the following:

7 “(i) IN GENERAL.—The Committee”;

8 (iii) by striking “threat” and inserting  
9 “risk”; and

10 (iv) by adding at the end the fol-  
11 lowing:

12 “(ii) ABANDONMENT OF TRANS-  
13 ACTIONS.—If a party to a covered trans-  
14 action has voluntarily chosen to abandon  
15 the transaction, the Committee or lead  
16 agency, as the case may be, may negotiate,  
17 enter into or impose, and enforce any  
18 agreement or condition with any party to  
19 the covered transaction for purposes of ef-  
20 fectuating such abandonment and miti-  
21 gating any risk to the national security of  
22 the United States that arises as a result of  
23 the covered transaction.

24 “(iii) AGREEMENTS AND CONDITIONS  
25 RELATING TO COMPLETED TRANS-

1           ACTIONS.—The Committee or lead agency,  
2           as the case may be, may negotiate, enter  
3           into or impose, and enforce any agreement  
4           or condition with any party to a completed  
5           covered transaction in order to mitigate  
6           any interim risk to the national security of  
7           the United States that may arise as a re-  
8           sult of the covered transaction until such  
9           time that the Committee has completed ac-  
10          tion pursuant to subsection (b) or the  
11          President has taken action pursuant to  
12          subsection (d) with respect to the trans-  
13          action.”; and

14           (B) by striking subparagraph (B) and in-  
15          serting the following:

16           “(B) LIMITATIONS.—An agreement may  
17          not be entered into or condition imposed under  
18          subparagraph (A) with respect to a covered  
19          transaction unless the Committee determines  
20          that the agreement or condition resolves the na-  
21          tional security concerns posed by the trans-  
22          action, taking into consideration whether the  
23          agreement or condition is reasonably calculated  
24          to—

25           “(i) be effective;

1                   “(ii) allow for compliance with the  
2                   terms of the agreement or condition in an  
3                   appropriately verifiable way; and

4                   “(iii) enable effective monitoring of  
5                   compliance with and enforcement of the  
6                   terms of the agreement or condition.

7                   “(C) JURISDICTION.—The provisions of  
8                   section 706(b) shall apply to any mitigation  
9                   agreement entered into or condition imposed  
10                  under subparagraph (A).”;

11                  (5) by inserting after paragraph (3), as redesign-  
12                  nated by paragraph (2), the following:

13                  “(4) RISK-BASED ANALYSIS REQUIRED.—

14                         “(A) IN GENERAL.—Any determination of  
15                         the Committee to suspend a covered transaction  
16                         under paragraph (1), to refer a covered trans-  
17                         action to the President under paragraph (2), or  
18                         to negotiate, enter into or impose, or enforce  
19                         any agreement or condition under paragraph  
20                         (3)(A) with respect to a covered transaction,  
21                         shall be based on a risk-based analysis, con-  
22                         ducted by the Committee, of the effects on the  
23                         national security of the United States of the  
24                         covered transaction, which shall include—

25                                 “(i) an assessment of—



1 or condition under paragraph (3)(A) with  
2 respect to the transaction. In making that  
3 recommendation, the member shall propose  
4 the risk-based analysis required by sub-  
5 paragraph (A).

6 “(ii) FAILURE TO REACH CON-  
7 SENSUS.—If the Committee fails to reach  
8 consensus with respect to a recommenda-  
9 tion under clause (i) regarding a covered  
10 transaction, the members of the Committee  
11 who support an alternative recommenda-  
12 tion shall produce—

13 “(I) a written statement justi-  
14 fying the alternative recommendation;  
15 and

16 “(II) as appropriate, a risk-based  
17 analysis that supports the alternative  
18 recommendation.”;

19 (6) in paragraph (5), as redesignated by para-  
20 graph (2), by striking “(as defined in the National  
21 Security Act of 1947)”; and

22 (7) in paragraph (6), as redesignated by para-  
23 graph (2)—

24 (A) in subparagraph (A)—

1 (i) by striking “paragraph (1)” and  
2 inserting “paragraph (3)”; and

3 (ii) by striking the second sentence  
4 and inserting the following: “The lead  
5 agency may, at its discretion, seek and re-  
6 ceive the assistance of other departments  
7 or agencies in carrying out the purposes of  
8 this paragraph.”;

9 (B) in subparagraph (B)—

10 (i) by striking “DESIGNATED AGEN-  
11 CY” and all that follows through “The lead  
12 agency in connection” and inserting “DES-  
13 IGNATED AGENCY.—The lead agency in  
14 connection”;

15 (ii) by striking clause (ii); and

16 (iii) by redesignating subclauses (I)  
17 and (II) as clauses (i) and (ii), respec-  
18 tively, and by moving such clauses, as so  
19 redesignated, 2 ems to the left; and

20 (C) by adding at the end the following:

21 “(C) COMPLIANCE PLANS.—

22 “(i) IN GENERAL.—In the case of a  
23 covered transaction with respect to which  
24 an agreement is entered into under para-  
25 graph (3)(A), the Committee or lead agen-

1 cy, as the case may be, shall formulate, ad-  
2 here to, and keep updated a plan for moni-  
3 toring compliance with the agreement.

4 “(ii) ELEMENTS.—Each plan required  
5 by clause (i) with respect to an agreement  
6 entered into under paragraph (3)(A) shall  
7 include an explanation of—

8 “(I) which member of the Com-  
9 mittee will have primary responsibility  
10 for monitoring compliance with the  
11 agreement;

12 “(II) how compliance with the  
13 agreement will be monitored;

14 “(III) how frequently compliance  
15 reviews will be conducted;

16 “(IV) whether an independent  
17 entity will be utilized under subpara-  
18 graph (E) to conduct compliance re-  
19 views; and

20 “(V) what actions will be taken if  
21 the parties fail to cooperate regarding  
22 monitoring compliance with the agree-  
23 ment.

24 “(D) EFFECT OF LACK OF COMPLIANCE.—

25 If, at any time after a mitigation agreement or

1 condition is entered into or imposed under  
2 paragraph (3)(A), the Committee or lead agen-  
3 cy, as the case may be, determines that a party  
4 or parties to the agreement or condition are not  
5 in compliance with the terms of the agreement  
6 or condition, the Committee or lead agency  
7 may, in addition to the authority of the Com-  
8 mittee to impose penalties pursuant to sub-  
9 section (h)(3) and to unilaterally initiate a re-  
10 view of any covered transaction under sub-  
11 section (b)(1)(D)(iii)(I)—

12 “(i) negotiate a plan of action for the  
13 party or parties to remediate the lack of  
14 compliance, with failure to abide by the  
15 plan or otherwise remediate the lack of  
16 compliance serving as the basis for the  
17 Committee to find a material breach of the  
18 agreement or condition;

19 “(ii) require that the party or parties  
20 submit any covered transaction initiated  
21 after the date of the determination of non-  
22 compliance and before the date that is 5  
23 years after the date of the determination  
24 to the Committee for review under sub-  
25 section (b); or

1 “(iii) seek injunctive relief.

2 “(E) USE OF INDEPENDENT ENTITIES TO  
3 MONITOR COMPLIANCE.—If the parties to an  
4 agreement entered into under paragraph (3)(A)  
5 enter into a contract with an independent entity  
6 from outside the United States Government for  
7 the purpose of monitoring compliance with the  
8 agreement, the Committee shall take such ac-  
9 tion as is necessary to prevent a conflict of in-  
10 terest from arising by ensuring that the inde-  
11 pendent entity owes no fiduciary duty to the  
12 parties.

13 “(F) ADDITIONAL COMPLIANCE MEAS-  
14 URES.—Subject to subparagraphs (A) through  
15 (E), the Committee shall develop and agree  
16 upon methods for evaluating compliance with  
17 any agreement entered into or condition im-  
18 posed with respect to a covered transaction that  
19 will allow the Committee to adequately ensure  
20 compliance without unnecessarily diverting  
21 Committee resources from assessing any new  
22 covered transaction for which a written notice  
23 under clause (i) of subsection (b)(1)(C) or dec-  
24 laration under clause (v) of that subsection has  
25 been filed, and if necessary, reaching a mitiga-

1           tion agreement with or imposing a condition on  
2           a party to such covered transaction or any cov-  
3           ered transaction for which a review has been re-  
4           opened for any reason.”.

5 **SEC. 17. MODIFICATION OF ANNUAL REPORT.**

6           Section 721(m) of the Defense Production Act of  
7 1950 (50 U.S.C. 4565(m)) is amended—

8           (1) in paragraph (1), by striking “committee”  
9           and all that follows through “Representatives,” and  
10          inserting “appropriate congressional committees”;

11          (2) in paragraph (2)—

12                (A) by amending subparagraph (A) to read  
13                as follows:

14                   “(A) A list of all notices filed and all re-  
15                   views or investigations of covered transactions  
16                   completed during the period, with—

17                        “(i) a description of the outcome of  
18                        each review or investigation, including  
19                        whether an agreement was entered into or  
20                        condition was imposed under subsection  
21                        (l)(3)(A) with respect to the transaction  
22                        being reviewed or investigated, and wheth-  
23                        er the President took any action under this  
24                        section with respect to that transaction;

1 “(ii) basic information on each party  
2 to each such transaction;

3 “(iii) the nature of the business activi-  
4 ties or products of the United States busi-  
5 ness with which the transaction was en-  
6 tered into or intended to be entered into;  
7 and

8 “(iv) information about any with-  
9 drawal from the process.”;

10 (B) by adding at the end the following:

11 “(G) Statistics on compliance reviews con-  
12 ducted and actions taken by the Committee  
13 under subsection (l)(6), including subparagraph  
14 (D) of that subsection, during that period and  
15 a description of any actions taken by the Com-  
16 mittee to impose penalties or initiate a unilat-  
17 eral review pursuant to subsection  
18 (b)(1)(D)(iii)(I).”;

19 (3) in paragraph (3)—

20 (A) by striking “CRITICAL TECHNOLOGIES”  
21 and all that follows through “In order to as-  
22 sist” and inserting “CRITICAL TECH-  
23 NOLOGIES.—In order to assist”;

24 (B) by striking subparagraph (B); and

1           (C) by redesignating clauses (i) and (ii) as  
2           subparagraphs (A) and (B), respectively, and  
3           by moving such subparagraphs, as so redesign-  
4           ated, 2 ems to the left; and  
5           (4) by adding at the end the following:

6           “(4) BIENNIAL INTELLIGENCE COMMUNITY RE-  
7           PORT.—

8           “(A) IN GENERAL.—The Director of Na-  
9           tional Intelligence shall transmit to the chair-  
10          person, for inclusion in a classified portion of  
11          each report required to be submitted under  
12          paragraph (1) during calendar year 2018 and  
13          every even-numbered year thereafter, the report  
14          of the interagency group established under sub-  
15          paragraph (C).

16          “(B) ELEMENTS.—The report referred to  
17          in subparagraph (A) shall include an identifica-  
18          tion, analysis, and explanation of the following:

19                 “(i) Any current or projected major  
20                 threats to the national security of the  
21                 United States with respect to foreign in-  
22                 vestment.

23                 “(ii) Any strategies used by countries  
24                 of special concern to utilize foreign invest-  
25                 ment to target the acquisition of critical

1 technologies, critical materials, or critical  
2 infrastructure.

3 “(iii) Any economic espionage efforts  
4 directed at the United States by a foreign  
5 country, particularly a country of special  
6 concern.

7 “(C) INTELLIGENCE COMMUNITY INTER-  
8 AGENCY WORKING GROUP.—The Director of  
9 National Intelligence—

10 “(i) shall establish an interagency  
11 working group, composed of representa-  
12 tives of elements of the intelligence com-  
13 munity, to prepare the report required  
14 under this paragraph;

15 “(ii) shall serve as the chairperson of  
16 the interagency working group; and

17 “(iii) may consult with and seek input  
18 from any member of the Committee, as the  
19 Director considers necessary.

20 “(5) CLASSIFICATION; AVAILABILITY OF RE-  
21 PORT.—

22 “(A) CLASSIFICATION.—All appropriate  
23 portions of the annual report required by para-  
24 graph (1) may be classified.

1           “(B) PUBLIC AVAILABILITY OF UNCLASSI-  
2 FIED VERSION.—An unclassified version of the  
3 report required by paragraph (1), as appro-  
4 priate and consistent with safeguarding na-  
5 tional security and privacy, shall be made avail-  
6 able to the public. Information regarding trade  
7 secrets or business confidential information may  
8 be included in the classified version and may  
9 not be made available to the public in the un-  
10 classified version.

11           “(C) EXCEPTIONS TO FREEDOM OF INFOR-  
12 MATION ACT.—The exceptions to subsection (a)  
13 of section 552 of title 5, United States Code,  
14 provided for under subsection (b) of that sec-  
15 tion shall apply with respect to the report re-  
16 quired by paragraph (1).

17           “(6) APPROPRIATE CONGRESSIONAL COMMIT-  
18 TEES DEFINED.—In this subsection, the term ‘ap-  
19 propriate congressional committees’ means—

20           “(A) the Committee on Banking, Housing,  
21 and Urban Affairs, the Select Committee on In-  
22 telligence, the Committee on Armed Services,  
23 the Committee on the Judiciary, and the Com-  
24 mittee on Homeland Security and Govern-  
25 mental Affairs of the Senate; and

1           “(B) the Committee on Financial Services,  
2           the Permanent Select Committee on Intel-  
3           ligence, the Committee on Armed Services, the  
4           Committee on the Judiciary, and the Com-  
5           mittee on Homeland Security of the House of  
6           Representatives.”.

7 **SEC. 18. CERTIFICATION OF NOTICES AND INFORMATION.**

8           Section 721(n) of the Defense Production Act of  
9 1950 (50 U.S.C. 4565(n)) is amended—

10           (1) by redesignating paragraphs (1) and (2) as  
11           subparagraphs (A) and (B), respectively, and by  
12           moving such subparagraphs, as so redesignated, 2  
13           ems to the right;

14           (2) by striking “Each notice” and inserting the  
15           following:

16           “(1) IN GENERAL.—Each notice”; and

17           (3) by adding at the end the following:

18           “(2) EFFECT OF FAILURE TO SUBMIT.—The  
19           Committee may not complete a review under this  
20           section of a covered transaction and may recommend  
21           to the President that the President suspend or pro-  
22           hibit the transaction or require divestment under  
23           subsection (d) if the Committee determines that a  
24           party to the transaction has—

1           “(A) failed to submit a statement required  
2           by paragraph (1); or

3           “(B) included false or misleading informa-  
4           tion in a notice or information described in  
5           paragraph (1) or omitted material information  
6           from such notice or information.

7           “(3) APPLICABILITY OF LAW ON FRAUD AND  
8           FALSE STATEMENTS.—The Committee shall pre-  
9           scribe regulations expressly providing for the appli-  
10          cation of section 1001 of title 18, United States  
11          Code, to all information provided to the Committee  
12          under this section by any party to a covered trans-  
13          action.”.

14 **SEC. 19. FUNDING.**

15          Section 721 of the Defense Production Act of 1950  
16          (50 U.S.C. 4565) is amended by adding at the end the  
17          following:

18          “(o) FUNDING.—

19                 “(1) ESTABLISHMENT OF FUND.—There is es-  
20                 tablished in the Treasury of the United States a  
21                 fund, to be known as the ‘Committee on Foreign In-  
22                 vestment in the United States Fund’ (in this sub-  
23                 section referred to as the ‘Fund’).

24                 “(2) APPROPRIATION OF FUNDS FOR THE COM-  
25                 MITTEE.—There are authorized to be appropriated

1 to the Fund such sums as may be necessary to per-  
2 form the functions of the Committee.

3 “(3) FILING FEES.—

4 “(A) IN GENERAL.—The Committee may  
5 assess and collect a fee in an amount deter-  
6 mined by the Committee in regulations, to the  
7 extent provided in advance in appropriations  
8 Acts, without regard to section 9701 of title 31,  
9 United States Code, and subject to subpara-  
10 graph (B), with respect to each covered trans-  
11 action for which a written notice is submitted to  
12 the Committee under subsection (b)(1)(C)(i).

13 “(B) LIMITATION ON AMOUNT OF FEE.—  
14 The amount of the fee determined under sub-  
15 paragraph (A) with respect to a covered trans-  
16 action described in that subparagraph may not  
17 exceed an amount equal to the lesser of—

18 “(i) 1 percent of the value of the  
19 transaction; or

20 “(ii) \$300,000, adjusted annually for  
21 inflation pursuant to regulations prescribed  
22 by the Committee.

23 “(C) DEPOSIT AND AVAILABILITY OF  
24 FEES.—Notwithstanding section 3302 of title

1           31, United States Code, fees collected under  
2           subparagraph (A) shall—

3                   “(i) be deposited as offsetting collec-  
4                   tions into the Fund for use in carrying out  
5                   activities under this section;

6                   “(ii) to the extent and in the amounts  
7                   provided in advance in appropriations Acts,  
8                   be available to the chairperson;

9                   “(iii) remain available until expended;  
10                  and

11                   “(iv) be in addition to any appropria-  
12                   tions made available to the members of the  
13                   Committee.

14                  “(4) TRANSFER OF FUNDS.—The chairperson  
15                  may transfer any amounts in the Fund to any other  
16                  department or agency represented on the Committee  
17                  for the purpose of addressing emerging needs in car-  
18                  rying out activities under this section. Amounts so  
19                  transferred shall be in addition to any other  
20                  amounts available to that department or agency for  
21                  that purpose.”.

1 **SEC. 20. CENTRALIZATION OF CERTAIN COMMITTEE FUNC-**  
2 **TIONS.**

3 Section 721 of the Defense Production Act of 1950  
4 (50 U.S.C. 4565), as amended by section 19, is further  
5 amended by adding at the end the following:

6 “(p) CENTRALIZATION OF CERTAIN COMMITTEE  
7 FUNCTIONS.—

8 “(1) IN GENERAL.—The chairperson, in con-  
9 sultation with the Committee, may centralize certain  
10 functions of the Committee within the Department  
11 of the Treasury for the purpose of enhancing inter-  
12 agency coordination and collaboration in carrying  
13 out the functions of the Committee under this sec-  
14 tion.

15 “(2) FUNCTIONS.—Functions that may be cen-  
16 tralized under paragraph (1) include monitoring  
17 non-notified and non-declared transactions pursuant  
18 to subsection (b)(1)(H), and other functions as de-  
19 termined by the chairperson and the Committee.

20 “(3) RULE OF CONSTRUCTION.—Nothing in  
21 this section shall be construed as limiting the au-  
22 thority of any department or agency represented on  
23 the Committee to represent its own interests before  
24 the Committee.”

1 **SEC. 21. UNIFIED BUDGET REQUEST.**

2 Section 721 of the Defense Production Act of 1950  
3 (50 U.S.C. 4565), as amended by sections 19 and 20, is  
4 further amended by adding at the end the following:

5 “(q) UNIFIED BUDGET REQUEST.—

6 “(1) IN GENERAL.—The President may include,  
7 in the budget of the Department of the Treasury for  
8 a fiscal year (as submitted to Congress with the  
9 budget of the President under section 1105(a) of  
10 title 31, United States Code), a unified request for  
11 funding of all operations under this section con-  
12 ducted by some or all of the departments and agen-  
13 cies represented on the Committee.

14 “(2) FORM OF BUDGET REQUEST.—A unified  
15 request under paragraph (1) should be detailed and  
16 include the amounts requested for each department  
17 or agency represented on the Committee to carry out  
18 the functions of that department or agency under  
19 this section.”.

20 **SEC. 22. SPECIAL HIRING AUTHORITY.**

21 Section 721 of the Defense Production Act of 1950  
22 (50 U.S.C. 4565), as amended by sections 19, 20, and  
23 21, is further amended by adding at the end the following:

24 “(r) SPECIAL HIRING AUTHORITY.—The heads of  
25 the departments and agencies represented on the Com-  
26 mittee may appoint, without regard to the provisions of

1 sections 3309 through 3318 of title 5, United States Code,  
2 candidates directly to positions in the competitive service  
3 (as defined in section 2102 of that title) in their respective  
4 departments and agencies to administer this section.”.

5 **SEC. 23. CONFORMING AMENDMENTS.**

6 Section 721 of the Defense Production Act of 1950  
7 (50 U.S.C. 4565), as amended by this Act, is further  
8 amended—

9 (1) in subsection (b)(2)(B)(i)(I), by striking  
10 “that threat” and inserting “the risk”; and

11 (2) in subsection (d)(4)(A), by striking “the  
12 foreign interest exercising control” and inserting “a  
13 foreign person that would acquire an interest in a  
14 United States business or its assets as a result of  
15 the covered transaction”.

16 **SEC. 24. ASSESSMENT OF NEED FOR ADDITIONAL RE-**  
17 **SOURCES FOR COMMITTEE.**

18 The President shall—

19 (1) determine whether and to what extent the  
20 expansion of the responsibilities of the Committee on  
21 Foreign Investment in the United States pursuant  
22 to the amendments made by this Act necessitates  
23 additional resources for the Committee and members  
24 of the Committee to perform their functions under

1 section 721 of the Defense Production Act of 1950,  
2 as amended by this Act; and

3 (2) if the President determines that additional  
4 resources are necessary, include in the budget of the  
5 President for fiscal year 2019 submitted to Congress  
6 under section 1105(a) of title 31, United States  
7 Code, a request for such additional resources.

8 **SEC. 25. AUTHORIZATION FOR DEFENSE ADVANCED RE-**  
9 **SEARCH PROJECTS AGENCY TO LIMIT FOR-**  
10 **EIGN ACCESS TO TECHNOLOGY THROUGH**  
11 **CONTRACTS AND GRANT AGREEMENTS.**

12 (a) IN GENERAL.—The Director of the Defense Ad-  
13 vanced Research Projects Agency, or a designee of the Di-  
14 rector, may include in any contract or grant agreement  
15 that the Director enters into with a person, and that is  
16 funded by that Agency, a provision that—

17 (1) limits access by any foreign person to tech-  
18 nology that is the subject of the contract or grant  
19 agreement under terms defined by the Director, in-  
20 cluding by limiting such access to specific periods of  
21 time; and

22 (2) in a case in which the person violates the  
23 prohibition described in paragraph (1), requires the  
24 person to return all amounts that the person re-

1           ceived from the Agency under the contract or grant  
2           agreement.

3           (b) TREATMENT OF RETURNED FUNDS.—Any  
4 amounts returned to the Defense Advanced Research  
5 Projects Agency under subsection (a)(2) shall be credited  
6 to the same appropriations account from which payment  
7 of such amounts was originally made under the contract  
8 or grant agreement described in subsection (a).

9           (c) EXERCISE OF AUTHORITY.—The Director, or the  
10 designee of the Director, may exercise the authority pro-  
11 vided by this section without the need for further approval  
12 by, or regulatory implementation within, the Department  
13 of Defense.

14 **SEC. 26. EFFECTIVE DATE.**

15           (a) IMMEDIATE APPLICABILITY OF CERTAIN PROVI-  
16 SIONS.—The following shall take effect on the date of the  
17 enactment of this Act and apply with respect to any cov-  
18 ered transaction the review or investigation of which is ini-  
19 tiated under section 721 of the Defense Production Act  
20 of 1950 on or after such date of enactment:

21                   (1) Sections 4, 6, 8, 12, 13, 14, 15, 18, 20, 21,  
22                   22, 24, and 25 and the amendments made by those  
23                   sections.

24                   (2) Section 11 and the amendments made by  
25                   that section (except for clause (iii) of section

1       721(b)(4)(A) of the Defense Production Act of  
2       1950, as added by section 11).

3           (3) Paragraphs (5)(C)(iv), (7), and (14) of sub-  
4       section (a) of section 721 of the Defense Production  
5       Act of 1950, as amended by section 3.

6           (4) Section 721(m)(4) of the Defense Produc-  
7       tion Act of 1950, as amended by section 17.

8       (b) DELAYED APPLICABILITY OF CERTAIN PROVI-  
9       SIONS.—

10           (1) IN GENERAL.—Any provision of or amend-  
11       ment made by this Act not specified in subsection  
12       (a) shall—

13           (A) take effect on the date that is 30 days  
14       after publication in the Federal Register of a  
15       determination by the chairperson of the Com-  
16       mittee on Foreign Investment in the United  
17       States that the regulations, organizational  
18       structure, personnel, and other resources nec-  
19       essary to administer the new provisions are in  
20       place; and

21           (B) apply with respect to any covered  
22       transaction the review or investigation of which  
23       is initiated under section 721 of the Defense  
24       Production Act of 1950 on or after the date de-  
25       scribed in subparagraph (A).

1           (2) NONDELEGATION OF DETERMINATION.—

2           The determination of the chairperson of the Com-  
3           mittee on Foreign Investment in the United States  
4           under paragraph (1)(A) may not be delegated.

5           (c) AUTHORIZATION FOR PILOT PROGRAMS.—

6           (1) IN GENERAL.—Beginning on the date of the  
7           enactment of this Act and ending on the date de-  
8           scribed in subsection (b)(1)(A), the Committee on  
9           Foreign Investment in the United States may, at its  
10          discretion, conduct one or more pilot programs to  
11          implement any authority provided pursuant to any  
12          provision of or amendment made by this Act not  
13          specified in subsection (a).

14          (2) PUBLICATION IN FEDERAL REGISTER.—A  
15          pilot program may not commence until the date that  
16          is 30 days after publication in the Federal Register  
17          of a determination by the chairperson of the Com-  
18          mittee of the scope of and procedures for the pilot  
19          program. That determination may not be delegated.

20 **SEC. 27. SEVERABILITY.**

21          If any provision of this Act or an amendment made  
22          by this Act, or the application of such a provision or  
23          amendment to any person or circumstance, is held to be  
24          invalid, the application of that provision or amendment to  
25          other persons or circumstances and the remainder of the

1 provisions of this Act and the amendments made by this  
2 Act, shall not be affected thereby.