

1 Title: To require reviews of United States investment in foreign countries that may threaten
2 national critical capabilities, and for other purposes.
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5 Be it enacted by the Senate and House of Representatives of the United States of America in
6 Congress assembled,

7 **SECTION 1. SHORT TITLE.**

8 This Act may be cited as the “National Critical Capabilities Defense Act of 2022”.

9 **SEC. 2. NATIONAL CRITICAL CAPABILITIES.**

10 (a) In General.—The Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended by adding at the
11 end the following:

12 **“TITLE X—NATIONAL CRITICAL CAPABILITIES**

13 **“SEC. 1001. DEFINITIONS.**

14 “In this title:

15 “(1) **AFFILIATED WITH A COUNTRY OF CONCERN.**—An entity shall be deemed ‘affiliated
16 with a country of concern’ when—

17 “(A) either the country of concern or an entity influenced by a country of concern
18 directly or indirectly owns, controls, or holds with power to vote, five percent or more
19 of the outstanding voting stock or shares;

20 “(B) any entity that is subject to substantial influence from either the country of
21 concern or an entity influenced by a country of concern;

22 “(C) any entity domiciled in a country of concern and an entity influenced by a
23 country of concern share an employee that is in a position of material decision making;

24 “(D) the country of concern or an entity influenced by a country of concern has the
25 power to direct or decide matters affecting the entity’s management or operations in a
26 manner that could materially affect the commercial decisions or business interests or
27 any important matter of that entity;

28 “(E) any entity that is part of an entity that is headquartered in the country of
29 concern, including a subsidiary, a holding company, an entity that is [tied] through
30 contracts, or a variable interest entity;

31 “(F) any entity domiciled in a country of concern, whether directly or indirectly, that
32 receives, benefits from, transfers, causes to be transferred, allows access to or
33 facilitates access to trade secrets belonging to a United States person, intelligence
34 information, national security information, controlled unclassified information, or
35 sensitive information either to or from the entity domiciled in a country of concern or
36 an entity influenced by a country of concern;

37 “(G) any entity is influenced by a national of the country of concern or an entity
38 domiciled in the country of concern; or

1 “(H) such other factors that the Committee determines allows for influence or
2 control over such entity.

3 “(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional
4 committees’ means—

5 “(A) the Committee on Finance, [the Committee on Banking, Housing, and Urban
6 Affairs], and the Committee on Foreign Relations of the Senate; and

7 “(B) the Committee on Ways and Means, [the Committee on Financial Services],
8 and the Committee on Foreign Affairs of the House of Representatives.

9 “(3) COMMITTEE.—The term ‘Committee’ means the Committee on National Critical
10 Capabilities established under section 1002.

11 “(4) COUNTRY OF CONCERN.—The term ‘country of concern’ has the meaning given the
12 term ‘foreign adversary’ in section 8(c)(2) of the Secure and Trusted Communications
13 Networks Act of 2019 (47 U.S.C. 1607(c)(2)), including the People’s Republic of China,
14 Russia, Iran, North Korea, Cuba, and Venezuela.

15 “(5) COVERED ACTIVITY.—

16 “(A) IN GENERAL.—Except as provided by subparagraph (B), the term ‘covered
17 activity’ means any of the following activities that are ongoing or proposed as of the
18 effective date of this title:

19 “(i) Any activity by a United States person or a foreign entity or an affiliate of a
20 United States person or an affiliate of a foreign person that—

21 “(I) builds, develops, produces, manufactures, fabricates, refurbishes,
22 expands, shifts, services, manages, operates, utilizes, sells, or relocates a
23 national critical capability to or in a country of concern;

24 “(II) shares, discloses, contributes, transfers, or licenses to an entity of
25 concern any design, technology, intellectual property, or know-how,
26 including through open-source technology platforms or research and
27 development, that supports, contributes to, or enables a national critical
28 capability by an entity of concern or in a country of concern; or

29 “(III) invests in, provides capital to, or consults for, or gives any guidance,
30 related to enhancing the capabilities or facilitating access to financial
31 resources for a national critical capability for an entity of concern or a
32 country of concern.

33 “(ii) Any activity by a recipient or beneficiary of financial assistance, including
34 grants, tax incentives, or other types of funding, under [the Bipartisan Innovation
35 Act/placeholder for short title of larger package] with respect to an entity of
36 concern or in a country of concern.

37 “(iii) Any activity by an entity that benefits from annual procurement of more
38 than [\$___] in goods or services by a United States national security agency with
39 respect to an entity of concern or in a country of concern.

40 “(B) EXCEPTIONS.—

1 “(i) IN GENERAL.—The term ‘covered activity’ does not include—

2 “(I) any transaction the value of which the Committee determines is [de
3 minimis];

4 [“(II) an ordinary business transaction; or]

5 [“(III) any transaction that occurred before the effective date of this title.]

6 [“(ii) ORDINARY BUSINESS TRANSACTION DEFINED.—For purposes of clause (i),
7 the term ‘ordinary business transaction’ means—]

8 [“(I) the sale or license of a finished item and the provision of associated
9 support to a customer, distributor, or reseller;]

10 [“(II) the sale or license to a customer of a product and the provision of
11 integration or similar services, if the United States person generally makes
12 such services available to all of its customers;]

13 [“(III) the transfer of equipment and the provision of associated support to
14 operate such equipment that could not result in a foreign person using the
15 equipment to produce a critical technology;]

16 [“(IV) the procurement by the United States person of goods and services,
17 including manufacturing services, from a foreign person that has no rights to
18 exploit any intellectual property contributed by the United States person
19 other than to supply goods and services to the United States person; or]

20 [“(V) a transaction identified as an ordinary business transaction in
21 regulations prescribed by the Committee.]

22 “(C) REGULATIONS.—

23 “(i) IN GENERAL.—The Committee shall prescribe regulations further defining
24 the term ‘covered activity’ in accordance with subchapter II of chapter 5 and
25 chapter 7 of title 5, United States Code (commonly known as the ‘Administrative
26 Procedure Act’).

27 [“(ii) INCLUSIONS.—The regulations prescribed by the Committee under clause
28 (i) shall—]

29 [“(I) identify the national critical capabilities subject to this paragraph
30 based on criteria intended to limit application of this paragraph to the subset
31 of national critical capabilities that is likely to pose an unacceptable risk to
32 the national security of the United States; and]

33 [“(II) enumerate, quantify, prioritize, and set forth sufficient allowances of
34 specific types and examples of such capabilities.]

35 “(iii) COORDINATION.—In prescribing regulations under clause (i), the
36 Committee shall coordinate with the United States Trade Representative, the
37 Under Secretary of Commerce for Industry and Security, the Committee on
38 Foreign Investment in the United States, and other Federal agencies as appropriate
39 to avoid duplication of effort and regulation.

40 “(6) CRITICAL INFRASTRUCTURE.—The term ‘critical infrastructure’ has the meaning

1 given that term in the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195c).

2 “(7) ENTITY OF CONCERN.—The term ‘entity of concern’ means an entity—

3 “(A) that is influenced by a country of concern; or

4 “(B) that is directly or indirectly affiliated with a country of concern.

5 “(8) FOREIGN ENTITY.—

6 “(A) IN GENERAL.—Except as provided by subparagraph (B), the term ‘foreign
7 entity’ means any branch, partnership, group or sub-group, association, estate, trust,
8 corporation or division of a corporation, or organization organized under the laws of a
9 foreign country if—

10 “(i) its principal place of business is outside the United States; or

11 “(ii) its equity securities are primarily traded on one or more foreign exchanges.

12 “(B) EXCEPTION.—The term ‘foreign entity’ does not include any entity described in
13 subparagraph (A) that can demonstrate that—

14 “(i) a majority of the equity interest in such entity is ultimately owned by
15 nationals of the United States; and

16 “(ii) the entity is not an entity of concern.

17 “(9) FOREIGN PERSON.—The term ‘foreign person’ means—

18 “(A) any foreign national, foreign government, or foreign entity; or

19 “(B) any entity that is subject to the control of a foreign national, foreign
20 government, or foreign entity.

21 [“(10) NATIONAL CRITICAL CAPABILITIES.—]

22 [“(A) IN GENERAL.—The term ‘national critical capabilities’ means—]

23 [“(i) supply chains identified under Executive Order 14017 (86 Fed. Reg.
24 11849; relating to America’s supply chains), as amended on or after the date of
25 the enactment of this title, including—]

26 [“(I) semiconductor manufacturing and advanced packaging;]

27 [“(II) large-capacity batteries;]

28 [“(III) critical minerals and materials;]

29 [“(IV) pharmaceuticals and active pharmaceutical ingredients;]

30 [“(ii) technologies identified by the Director of National Intelligence as critical
31 and emerging technologies, including—]

32 [“(I) artificial intelligence;]

33 [“(II) bioeconomy; and]

34 [“(III) quantum information science and technology;]

35 [“(iii) the manufacturing and other capabilities necessary to produce critical
36 goods and materials and other essential goods and materials, as defined in section

1 6 of Executive Order 14017, underlying supply chains identified under that
2 Executive Order;]

3 [“(iv) sectors specified in the Critical and Emerging Technologies List Update
4 of the National Science and Technology Council, dated February 2022; and]

5 [“(v) industries, technologies, and supply chains the Committee identifies as
6 national critical capabilities under subparagraph (B).]

7 [“(B) INCLUSION OF ADDITIONAL INDUSTRIES, TECHNOLOGIES, AND SUPPLY
8 CHAINS.—]

9 [“(i) REGULATIONS.—Not later than 180 days after the date of the enactment of
10 this title, the Committee shall prescribe regulations to identify industries,
11 technologies, and supply chains for purposes of subparagraph (A)(v).]

12 [“(ii) REPORT REQUIRED.—Not less frequently than annually, the Committee
13 shall submit to the appropriate congressional committees a report describing all of
14 the industries, technologies, and supply chains that the Committee considered
15 identifying for purposes of subparagraph (A)(v) and the reasons why each such
16 industry, technology, or supply chain was or was not so identified.]

17 “(11) NATIONAL SECURITY.—The term ‘national security’ includes—

18 “(A) national security, as defined in section 721(a) of the Defense Production Act of
19 1950 (50 U.S.C. 4565(a));

20 “(B) national defense, as defined in section 702 of that Act (c).

21 “(12) PARTY.—The term ‘party’, with respect to an activity, has the meaning given that
22 term in regulations prescribed by the Committee.

23 “(13) UNACCEPTABLE RISK.—The term ‘unacceptable risk’ includes—

24 “(A) sabotage to or subversion of the design, integrity, manufacturing, production,
25 distribution, installation, operation, or maintenance of information and
26 communications technology or services in the United States;

27 “(B) catastrophic effects on the security or resiliency of United States critical
28 infrastructure or the digital economy of the United States;

29 “(C) the national security of the United States or the security and safety of United
30 States persons; or

31 “(D) the development of a critical capability in a country of concern by a United
32 States person that has resulted or would result in—

33 “(i) the country of concern possessing dependence, advantage, or concentration
34 over the United States in the case of a conflict; or

35 “(ii) the threat of trade-restrictive measures between the country of concern and
36 the United States.

37 “(14) UNITED STATES.—The term ‘United States’ means the several States, the District of
38 Columbia, and any territory or possession of the United States.

39 “(15) UNITED STATES PERSON.—The term ‘United States person’ means—

1 “(A) an individual who is a citizen or national of the United States or alien admitted
2 for permanent residence in the United States; and

3 “(B) any corporation, partnership, or entity organized under the laws of the United
4 States or the laws of any jurisdiction within the United States.

5 **“SEC. 1002. COMMITTEE ON NATIONAL CRITICAL**
6 **CAPABILITIES.**

7 “(a) In General.—There is established a committee, to be known as the ‘Committee on
8 National Critical Capabilities’, which shall carry out this title and such other assignments as the
9 President may designate.

10 “(b) Membership.—

11 “(1) IN GENERAL.—The Committee shall be comprised of the head, or a designee of the
12 head, of each of the following:

13 “(A) The Office of the United States Trade Representative.

14 “(B) The Department of Commerce.

15 “(C) The Department of State.

16 “(D) The Department of the Treasury.

17 “(E) The Department of Homeland Security.

18 “(F) The Department of Defense.

19 “(G) The Office of Science and Technology Policy.

20 “(H) The Department of Justice.

21 “(I) The Department of Energy.

22 “(J) The Department of Health and Human Services.

23 “(K) The Department of Agriculture.

24 “(L) The Department of Labor.

25 “(M) Any other Federal department or agency the President determines appropriate,
26 generally, or on a case-by-case basis.

27 “(2) EX OFFICIO MEMBERS.—

28 “(A) IN GENERAL.—In addition to the members of the Committee specified in
29 paragraph (1), the following shall, except as provided in subparagraph (B), be
30 nonvoting, ex officio members of the Committee:

31 “(i) The Director of National Intelligence.

32 “(ii) The Administrator of the Federal Emergency Management Agency.

33 “(iii) The Director of the National Institute of Standards and Technology.

34 “(iv) The Director of the Centers for Disease Control and Prevention.

35 “(v) The Director of the National Institute of Allergy and Infectious Diseases.

1 “(vi) The Chairperson of the Federal Communications Commission.

2 “(vii) The Chairperson of the Securities and Exchange Commission.

3 “(viii) The Chairperson of the Commodity Futures Trading Commission.

4 “(ix) The Administrator of the Federal Aviation Administration.

5 “(B) DESIGNATION AS VOTING MEMBERS.—The chairperson of the Committee may
6 designate any of the officials specified in clauses (ii) through (ix) of subparagraph (A)
7 as voting members of the Committee.

8 “(c) Chairperson.—

9 “(1) IN GENERAL.—The [President or President’s designee/Secretary of ___] shall serve
10 as the chairperson of the Committee.

11 “(2) CONSULTATIONS.—In carrying out the duties of the chairperson of the Committee,
12 the chairperson shall consult with the [United States Trade Representative, the Secretary of
13 Defense, the Secretary of Commerce, the Secretary of State, and the Secretary of the
14 Treasury].

15 “(d) Designation of Officials To Carry Out Duties Related to Committee.—The head of each
16 agency represented on the Committee shall designate an official, at or equivalent to the level of
17 Assistant Secretary in the Department of the Treasury, who is appointed by the President, by and
18 with the advice and consent of the Senate, to carry out such duties related to the Committee as
19 the head of the agency may assign.

20 “SEC. 1003. [MANDATORY NOTIFICATION AND
21 REVIEW] OF COVERED ACTIVITIES.

22 “(a) Mandatory Notification.—Beginning on the day after the date on which the Committee
23 finalizes regulations under this title, a United States person or foreign entity that engages in or
24 plans to engage in a covered activity shall submit a written notification of the activity to the
25 Committee [45 days] before engaging in the covered activity.

26 “(b) Immediate Circulation of Notifications.—

27 “(1) IN GENERAL.—The chairperson of the Committee shall, upon receipt of a notification
28 under subsection (a), promptly inspect and immediately circulate the notification to all
29 members (including ex officio members) of the Committee.

30 “(2) INCOMPLETE NOTIFICATIONS.—If a notification submitted under subsection (a) is
31 incomplete, the chairperson of the Committee shall, at request of any member of the
32 Committee, promptly inform the parties to the covered activity that is the subject of the
33 notification that the notification is not complete and provide an explanation of all material
34 respects in which the notification is not complete.

35 “(c) Review.—

36 “(1) IN GENERAL.—The Committee may—

37 “(A) review an activity to determine if the activity is likely to result in an
38 unacceptable risk to one or more national critical capabilities, including by considering
39 factors specified in section 1005; and

1 “(B) if the Committee determines under subparagraph (A) that the activity poses an
2 unacceptable risk described in that subparagraph, the chairperson shall—

3 “(i) notify the United States person or foreign entity that engages in or plans to
4 engage in a covered activity of that determination not later than [45] days after
5 receiving the notification under subsection (a) with respect to the activity, if
6 applicable; and

7 “(ii) make recommendations—

8 [“(I) to the President for appropriate action that may be taken to address or
9 mitigate that risk—]

10 [“(aa) under existing authorities, including—]

11 [“(AA) the Export Control Reform Act of 2018 (50 U.S.C. 4801)
12 or the Export Administration Regulations;]

13 [“(BB) the International Emergency Economic Powers Act (50
14 U.S.C. 1701 et seq.) or other statutes, regulations, or executive orders
15 providing for the imposition of sanctions; and]

16 [“(CC) the Defense Production Act of 1950 (50 U.S.C. 4501 et
17 seq.); and]

18 “(bb) if the Committee determines such authorities do not provide
19 adequate and appropriate authority to address or mitigate that risk,
20 under this title; and

21 “(II) to Congress for the establishment or expansion of Federal programs
22 to support the production or supply of goods, materials, and technologies
23 described in section 1001(a)(10)(A) in the United States.

24 “(2) UNILATERAL INITIATION OF REVIEW.—The Committee may initiate a review under
25 paragraph (1) of a covered activity for which written notification is not submitted under
26 subsection (a).

27 [“(3) INITIATION OF REVIEW BY REQUEST FROM CONGRESS.—The Committee shall initiate
28 a review under paragraph (1) of a covered activity if the chairperson and the ranking
29 member of one of the appropriate congressional committees jointly request the Committee
30 to review the transaction.]

31 [“(d) Mitigation.—]

32 [“(1) AGREEMENTS AND CONDITIONS.—]

33 [“(A) IN GENERAL.—Before the President takes action under section 1004 with
34 respect to a covered activity, the Committee may, or the agency under whose
35 jurisdiction the covered activity primarily occurs (in this subsection referred to as the
36 ‘lead agency’) may, in coordination with the Committee, negotiate, enter into or
37 impose, and enforce any agreement or condition with any party to the covered activity
38 in order to mitigate any risk to the national security of the United States that arises as a
39 result of the covered activity.]

40 [“(B) ABANDONMENT OF ACTIVITIES.—If a party to a covered activity has voluntarily

1 chosen to abandon the activity, the Committee or lead agency, as the case may be, may
2 negotiate, enter into or impose, and enforce any agreement or condition with any party
3 to the covered activity for purposes of effectuating such abandonment and mitigating
4 any risk to the national security of the United States that arises as a result of the
5 covered activity.]

6 [“(C) AGREEMENTS AND CONDITIONS RELATING TO COMPLETED ACTIVITIES.—The
7 Committee or lead agency, as the case may be, may negotiate, enter into or impose,
8 and enforce any agreement or condition with any party to a completed covered activity
9 in order to mitigate any interim risk to the national security of the United States that
10 may arise as a result of the covered activity until such time that the Committee has
11 completed action.]

12 [“(2) CONGRESSIONAL NOTIFICATION.—Upon entering into or imposing an agreement
13 under paragraph (1) with respect to a covered activity, the Committee or lead agency shall
14 provide to the appropriate congressional committees—]

15 [“(A) the text of the agreement; and]

16 [“(B) upon receiving a request from the chairperson and the ranking member of a
17 committee that initiated a review of the covered activity under subsection (b)(3), any
18 material relevant to the negotiation of the agreement.]

19 “(e) Confidentiality of Information.—

20 “(1) IN GENERAL.—Except as provided in paragraph (2), any information or documentary
21 material and any information or materials derived from such information or documentary
22 materials filed with the Committee pursuant to this section shall be exempt from disclosure
23 under section 552 of title 5, United States Code, and no such information or documentary
24 material may be made public.

25 “(2) EXCEPTIONS.—The exemption from disclosure provided by paragraph (1) shall not
26 prevent the disclosure of the following:

27 “(A) Information relevant to any administrative or judicial action or proceeding.

28 “(B) Information to Congress or any duly authorized committee or subcommittee of
29 Congress.

30 “(C) Information important to the national security analysis or actions of the
31 Committee to any domestic governmental entity, or to any foreign governmental entity
32 of a United States ally or partner, under the exclusive direction and authorization of the
33 chairperson, only to the extent necessary for national security purposes, and subject to
34 appropriate confidentiality and classification requirements.

35 “(D) Information that the parties have consented to be disclosed to third parties.

36 “SEC. 1004. ACTION BY THE PRESIDENT.

37 “(a) In General.—Subject to subsection (d), the President shall take such action for such time
38 as the President considers appropriate to address any unacceptable risk posed by a covered
39 activity to one or more national critical capabilities[, including mitigating, suspending or
40 prohibiting the covered activity].

1 “(b) Seeking Alternate Enforcement.—The President shall consider other existing measures to
2 address unacceptable risk before taking action [to mitigate, prohibit, or suspend an activity]
3 described in subsection (a).

4 “(c) Report.—The President shall report to the appropriate congressional committees the
5 manner and extent to which, if action is not taken [to mitigate, prohibit, or suspend an activity]
6 described in subsection (a), other existing measures could be used to mitigate the unacceptable
7 risk described in such subsection.

8 “(d) Announcement by the President.—The President shall announce the decision on whether
9 or not to take action pursuant to subsection (a) with respect to a covered activity not later than 15
10 days after the date on which the review of the activity under section 1003 is completed.

11 “(e) Enforcement.—The President may direct the Attorney General of the United States to
12 seek appropriate relief, including divestment relief, in the district courts of the United States, in
13 order to implement and enforce this section.

14 “(f) Findings of the President.—The President may exercise the authority conferred by
15 subsection (a) [to mitigate, suspend, or prohibit a covered activity] only if the President finds
16 that—

17 “(1) there is credible evidence that leads the President to believe that the covered activity
18 poses an unacceptable risk to one or more national critical capabilities; and

19 “(2) provisions of law (other than this section) do not, in the judgment of the President,
20 provide adequate and appropriate authority for the President to protect such capabilities.

21 “(g) Factors To Be Considered.—For purposes of determining whether to take action under
22 subsection (a), the President shall consider, among other factors, each of the factors described in
23 section 1005, as appropriate.

24 “(h) Public Disclosure.—Each exercise of the authority conferred by subsection (a) shall be
25 published in the Federal Register.

26 “SEC. 1005. FACTORS TO BE CONSIDERED.

27 “The Committee, in reviewing and making a determination with respect to a covered activity
28 under section 1003, and the President, in determining whether to take action under section 1004
29 with respect to a covered activity, shall consider any factors relating to national critical
30 capabilities that the Committee or the President considers relevant, including—

31 “(1) the economic, national security, intelligence, military, health, and agricultural
32 interests of the United States;

33 “(2) the history of distortive or predatory trade practices in each country in which a
34 covered activity occurs;

35 “(3) control and beneficial ownership (as determined in accordance with section 847 of
36 the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10
37 U.S.C. 4819 note)) of each foreign person that is a party to the transaction;

38 “(4) impact on the domestic industry and resulting resiliency, including the domestic
39 skills base, taking into consideration any pattern of foreign investment in the domestic
40 industry; and

1 “(5) if the activity could, directly or indirectly, support, enhance, or enable the
2 capabilities of a country of concern or entity of concern.

3 “SEC. 1006. SUPPLY CHAIN SENSITIVITIES.

4 “The Committee shall determine the sensitivities and risks for sourcing of goods, materials,
5 and technologies described in section 1001(a)(10)(A), in accordance with the following:

6 “(1) The sourcing of least concern shall be for goods, materials, and technologies
7 sourced, and supply chains housed, in whole within countries that are allies of the United
8 States.

9 “(2) The sourcing of greater concern shall be for goods, materials, and technologies
10 sourced, and supply chains housed, in part within countries of concern or from an entity of
11 concern but for which substitute production is available from elsewhere at required scale to
12 meet United States needs, including in terms of surge capacity.

13 “(3) The sourcing of greatest concern shall be for goods, materials, and technologies
14 sourced, and supply chains housed, wholly or in part in countries of concern or from an
15 entity of concern and for which substitute production is unavailable elsewhere at required
16 scale.

17 “SEC. 1007. ANNUAL REPORT.

18 “(a) In General.—Not later than 90 days after the date of the enactment of the National
19 Critical Capabilities Defense Act of 2022, and annually thereafter, the Committee shall submit to
20 the appropriate congressional committees a report—

21 “(1) on the determination under section 1006 with respect to sensitivities and risks for
22 sourcing of goods, materials, and technologies described in section 1001(a)(10)(A);

23 “(2) describing, for the year preceding submission of the report—

24 “(A) the notifications received under subsection (a) of section 1003 and reviews
25 conducted pursuant to such notifications;

26 “(B) reviews initiated under paragraph (2) or (3) of subsection (b) of that section;

27 “(C) actions recommended by the Committee under subsection (b)(1)(B) of that
28 section as a result of such reviews; and

29 “(D) reviews during which the Committee determined no action was required; and

30 “(3) assessing the overall impact of such reviews on national critical capabilities
31 including recommendations on—

32 “(A) expansion of Federal programs to support or protect the production or supply
33 of national critical capabilities in the United States, including the potential of existing
34 legal authorities to address any related national security concerns;

35 “(B) investments to enhance national critical capabilities and reduce dependency on
36 countries of concern; and

37 “(C) regarding the continuation, expansion, or modification of the Committee
38 established under this title.

1 “(b) Form of Report.—The report required by paragraph (1) shall be submitted in unclassified
2 form, but may include a classified annex.

3 **“SEC. 1008. REQUIREMENT FOR REGULATIONS.**

4 “(a) In General.—The Committee shall prescribe regulations to carry out this title.

5 “(b) Elements.—Regulations prescribed to carry out this title shall—

6 “(1) provide for the imposition of civil penalties up to \$250,000 for any violation of this
7 title, including for—

8 “(A) any violation of a mitigation agreement entered into under section 1003(c) or
9 conditions imposed pursuant to such an agreement;

10 “(B) any failure to submit a notification under section 1003(a) with respect to a
11 covered activity or to submit information as required by the Committee;

12 “(C) any material omission from or material misstatement included in any
13 information submitted to the Committee under this title; and

14 “(D) related party activities or activities intended to limit the coverage of this title;
15 and

16 “(2) include specific examples of the types of—

17 “(A) the activities that will be considered to be covered activities; and

18 “(B) the supply chains, technologies, goods, materials, sectors, and industries that
19 will be considered to be national critical capabilities.

20 **“SEC. 1009. MULTILATERAL ENGAGEMENT AND**
21 **COORDINATION.**

22 “(a) In General.—The [chairperson of the Committee,] in consultation with the [United States
23 Trade Representative, the Secretary of Commerce, and the Secretary of State] shall—

24 “(1) in coordination and consultation with relevant Federal agencies, conduct multilateral
25 engagement with the governments of countries that are allies and partners of the United
26 States to secure coordination of protocols and procedures with respect to covered activities
27 with countries of concern and entities of concern; and

28 “(2) upon adoption of protocols and procedures described in paragraph (1), work with
29 those governments to establish mechanisms for sharing information with respect to such
30 activities.

31 “(b) Strategy for Development of Outbound Review Mechanisms.—The Committee shall—

32 “(1) develop a strategy to work with countries that are allies and partners of the United
33 States to develop mechanisms comparable to this title [for the review of covered activities];
34 and

35 “(2) provide technical assistance to those countries with respect to the development of
36 those mechanisms.

1 “SEC. 1010. AUTHORIZATION OF APPROPRIATIONS.

2 “There are authorized to be appropriated such sums as may be necessary to carry out this title,
3 including to provide outreach to industry and persons affected by this title.

4 “SEC. 1011. EFFECTIVE DATE.

5 “This title shall take effect on the date that is [180 days] after the date of enactment of this
6 title.

7 “SEC. 1012. RULE OF CONSTRUCTION WITH RESPECT
8 TO FREE AND FAIR COMMERCE.

9 “Nothing in this title is intended to restrain or deter foreign investment in the United States,
10 United States investment abroad, or trade in goods or services, if such investment and trade do
11 not pose an unacceptable risk to a national critical capability.”.

12 (b) Clerical Amendment.—The table of contents for the Trade Act of 1974 is amended by
13 adding at the end the following:

14 “TITLE X—NATIONAL CRITICAL CAPABILITIES

15 “Sec.1001.Definitions.

16 “Sec.1002.Committee on National Critical Capabilities.

17 “Sec.1003.[Mandatory notification and review] of covered activities.

18 “Sec.1004.Action by the President.

19 “Sec.1005.Factors to be considered.

20 “Sec.1006.Supply chain sensitivities.

21 “Sec.1007.Annual report.

22 “Sec.1008.Requirement for regulations.

23 “Sec.1009.Multilateral engagement and coordination.

24 “Sec.1010.Authorization of appropriations.

25 “Sec.1011.Effective date.

26 “Sec.1012.Rule of construction with respect to free and fair commerce.”.