CRUZ) was added as a cosponsor of S. Res. 279, a resolution reaffirming the commitment of the United States to promote democracy, human rights, and the rule of law in Cambodia.

S. RES. 323

At the request of Mr. GRASSLEY, the names of the Senator from Nevada (Ms. CORTEZ MASTO), the Senator from Illinois (Ms. DUCKWORTH) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. Res. 323, a resolution requiring sexual harassment training for Members, officers, employees, interns, and fellows of the Senate and a periodic survey of the Senate.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORNYN (for himself, Mrs. FEINSTEIN, Mr. BURR, Mr. PETERS, Mr. RUBIO, Ms. KLOBUCHAR, Mr. SCOTT, Mr. BARRASSO, Mr. MANCHIN, and Mr. LANKFORD):

S. 2098. 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; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORNYN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2098

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Foreign Investment Risk Review Modernization Act of 2017''.

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

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) foreign investment provides substantial economic benefits to the United States, including the promotion of economic growth, productivity, competitiveness, and job creation, and the majority of foreign investment transactions pose little or no risk to the national security of the United States, especially when those investments are truly passive in nature;

(2) maintaining the commitment of the United States to open and fair investment policy also encourages other countries to reciprocate and helps open new foreign markets for United States businesses and their products;

(3) it should continue to be the policy of the United States to enthusiastically welcome and support foreign investment, consistent with the protection of national security;

(4) at the same time, the national security landscape has shifted in recent years, and so have the nature of the investments that pose the greatest potential risk to national security, which warrants a modernization of the processes and authorities of the Committee on Foreign Investment in the United States;

(5) the Committee on Foreign Investment in the United States plays a critical role in protecting the national security of the United States, and, therefore, it is essential that the member agencies of the Committee are adequately resourced and able to hire appropriately qualified individuals in a timely manner, and that those individuals' security clearances are processed as a high priority;

(6) the President should conduct a more robust international outreach effort to urge and help allies and partners of the United States to establish processes that parallel the Committee on Foreign Investment in the United States to screen foreign investments for national security risks and to facilitate coordination; and

(7) the President should lead a collaborative effort with allies and partners of the United States to develop a new, stronger multilateral export control regime, aimed to address the unprecedented industrial policies of certain countries of special concern, including aggressive efforts to acquire United States technology, and the blending of civil and military programs.

SEC. 3. DEFINITIONS.

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

''(a) DEFINITIONS.—In this section:

''(1) ACCESS.—The term 'access' means the ability and opportunity to obtain information, subject to regulations prescribed by the Committee.

''(2) COMMITTEE; CHAIRPERSON.—The terms 'Committee' and 'chairperson' mean the Committee on Foreign Investment in the United States and the chairperson thereof, respectively.

''(3) CONTROL.—The term 'control' means the power to determine, direct, or decide important matters affecting an entity, subject to regulations prescribed by the Committee.

''(4) COUNTRY OF SPECIAL CONCERN.—

''(A) IN GENERAL.—The term 'country of special concern' means a country that poses a significant threat to the national security interests of the United States.

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

''(5) COVERED TRANSACTION.—

''(A) IN GENERAL.—Except as otherwise provided, the term 'covered transaction' means any transaction described in subparagraph (B) that is proposed, pending, or completed on or after the date of the enactment of the Foreign Investment Risk Review Modernization Act of 2017.

''(B) TRANSACTIONS DESCRIBED.—A transaction described in this subparagraph is any of the following:

''(i) Any merger, acquisition, or takeover that is proposed or pending after August 23, 1988, by or with any foreign person that could result in foreign control of any United States business.

''(ii) The purchase or lease by a foreign person of private or public real estate that—

''(I) is located in the United States and is in close proximity to a United States military installation or to another facility or property of the United States Government that is sensitive for reasons relating to national security; and

''(II) meets such other criteria as the Committee prescribes by regulation.

''(iii) Any other investment (other than passive investment) by a foreign person in any United States critical technology company or United States critical infrastructure company, subject to regulations prescribed under subparagraph (C).

''(iv) Any change in the rights that a foreign person has with respect to a United States business in which the foreign person has an investment, if that change could result in—

''(I) foreign control of the United States business; or

''(II) an investment described in clause (iii).

''(v) The contribution (other than through an ordinary customer relationship) by a United States critical technology company of both intellectual property and associated support to a foreign person through any type of arrangement, such as a joint venture, subject to regulations prescribed under subparagraph (C).

''(vi) Any other transaction, transfer, agreement, or arrangement the structure of which is designed or intended to evade or circumvent the application of this section, subject to regulations prescribed by the Committee.

''(C) FURTHER DEFINITION THROUGH REGULATIONS.—

''(i) CERTAIN INVESTMENTS AND CONTRIBUTIONS.—The Committee shall prescribe regulations further defining covered transactions described in clauses (iii) and (v) of subparagraph (B) by reference to the technology, sector, subsector, transaction type, or other characteristics of such transactions.

''(ii) EXEMPTION FOR TRANSACTIONS FROM IDENTIFIED COUNTRIES.—The Committee may, by regulation, define circumstances in which a transaction otherwise described in clause (ii), (iii), or (v) of subparagraph (B) is excluded from the definition of 'covered transaction' if each foreign person that is a party to the transaction is organized under the laws of, or otherwise subject to the jurisdiction of, a country identified by the Committee for purposes of this clause based on criteria such as—

''(I) whether the United States has in effect with that country a mutual defense treaty;

''(II) whether the United States has in effect with that country a mutual arrangement to safeguard national security as it pertains to foreign investment;

''(III) the national security review process for foreign investment of that country; and

''(IV) any other criteria that the Committee determines to be appropriate.

''(iii) EXEMPTION OF CERTAIN CONTRIBUTIONS.—The Committee may, by regulation, define circumstances in which contributions otherwise described in subparagraph (B)(v) are excluded from the term 'covered transaction' on the basis of a determination that other provisions of law are adequate to identify and address any potential national security risks posed by such contributions.

''(iv) TRANSFERS OF CERTAIN ASSETS PURSUANT TO BANKRUPTCY PROCEEDINGS OR OTHER DEFAULTS.—The Committee shall prescribe regulations to clarify that the term 'covered transaction' includes any transaction described in subparagraph (B) that arises pursuant to a bankruptcy proceeding or other form of default on debt.

''(D) PASSIVE INVESTMENT DEFINED.—

''(i) IN GENERAL.—For purposes of subparagraph (B)(iii), the term 'passive investment' means an investment by a foreign person in a United States business—

''(I) that is not described in subparagraph (B)(i);

''(II) that does not afford the foreign person—

''(aa) access to any nonpublic technical information in the possession of the United States business;

''(bb) access to any nontechnical information in the possession of the United States business that is not available to all investors;

''(cc) membership or observer rights on the board of directors or equivalent governing body of the United States business or the right to nominate an individual to such a position; or

''(dd) any involvement, other than through voting of shares, in substantive decision-making pertaining to any matter involving the United States business;

''(III) under which the foreign person and the United States business do not have a parallel strategic partnership or other material financial relationship, as described in regulations prescribed by the Committee; and

''(IV) that meets such other criteria as the Committee may prescribe by regulation.

''(ii) NONPUBLIC TECHNICAL INFORMATION DEFINED.—For purposes of clause (i)(II)(aa), the term 'nonpublic technical information'—

''(I) has the meaning given that term in regulations prescribed by the Committee; and

''(II) includes information (either by itself or in conjunction with other information to which a foreign person may have access)—

''(aa) without which critical technologies cannot be designed, developed, tested, produced, or manufactured; and

''(bb) in a quantity sufficient to permit the design, development, testing, production, or manufacturing of such technologies.

''(iii) NONTECHNICAL INFORMATION DEFINED.—For purposes of clause (i)(II)(bb), the term 'nontechnical information' has the meaning given that term in regulations prescribed by the Committee.

''(iv) EFFECT OF LEVEL OF OWNERSHIP INTEREST.—A determination of whether an investment is a passive investment under clause (i) shall be made without regard to how low the level of ownership interest a foreign person would hold or acquire in a United States business would be as a result of the investment. The Committee may prescribe regulations specifying that any investment greater than a certain level or amount would not be considered a passive investment.

''(v) REGULATIONS.—The Committee shall prescribe regulations providing guidance on the types of transactions that the Committee considers to be passive investment.

''(E) ASSOCIATED SUPPORT DEFINED.—For purposes of subparagraph (B)(v), the term 'associated support' has the meaning given that term in regulations prescribed by the Committee.

''(F) UNITED STATES CRITICAL INFRASTRUCTURE COMPANY DEFINED.—For purposes of subparagraph (B), the term 'United States critical infrastructure company' means a United States business that is, owns, operates, or primarily provides services to, an entity or entities that operate within a critical infrastructure sector or subsector, as defined by regulations prescribed by the Committee.

''(G) UNITED STATES CRITICAL TECHNOLOGY COMPANY.—For purposes of subparagraph (B), the term 'United States critical technology company' means a United States business that produces, trades in, designs, tests, manufactures, services, or develops one or more critical technologies, or a subset of such technologies, as defined by regulations prescribed by the Committee.

''(6) CRITICAL INFRASTRUCTURE.—The term 'critical infrastructure' means, subject to regulations prescribed by the Committee, systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems or assets would have a debilitating impact on national security.

''(7) CRITICAL MATERIALS.—The term 'critical materials' means physical materials essential to national security, subject to regulations prescribed by the Committee.

''(8) CRITICAL TECHNOLOGIES.—

''(A) IN GENERAL.—The term 'critical technologies' means technology, components, or technology items that are essential or could be essential to national security, identified for purposes of this section pursuant to regulations prescribed by the Committee.

''(B) INCLUSION OF CERTAIN ITEMS.—The term 'critical technologies' includes the following:

''(i) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations.

''(ii) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled—

''(I) pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

''(II) for reasons relating to regional stability or surreptitious listening.

''(iii) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities).

''(iv) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material).

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

''(vi) Other emerging technologies that could be essential for maintaining or increasing the technological advantage of the United States over countries of special concern with respect to national defense, intelligence, or other areas of national security, or gaining such an advantage over such countries in areas where such an advantage may not currently exist.

''(9) FOREIGN GOVERNMENT-CONTROLLED TRANSACTION.—The term 'foreign government-controlled transaction' means any covered transaction that could result in the control of any United States business by a foreign government or an entity controlled by or acting on behalf of a foreign government.

''(10) INTELLECTUAL PROPERTY.—The term 'intellectual property' has the meaning given that term in regulations prescribed by the Committee.

''(11) INTELLIGENCE COMMUNITY.—The term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

''(12) INVESTMENT.—The term 'investment' means the acquisition of equity interest, including contingent equity interest, as further defined in regulations prescribed by the Committee.

''(13) LEAD AGENCY.—The term 'lead agency' means the agency or agencies designated as the lead agency or agencies pursuant to subsection (k)(5).

''(14) MALICIOUS CYBER-ENABLED ACTIVITIES.—The term 'malicious cyber-enabled activities' means any acts—

''(A) primarily accomplished through or facilitated by computers or other electronic devices;

''(B) that are reasonably likely to result in, or materially contribute to, a significant threat to the national security of the United States; and

''(C) that have the purpose or effect of—

''(i) significantly compromising the provision of services by one or more entities in a critical infrastructure sector;

''(ii) harming, or otherwise significantly compromising the provision of services by, a computer or network of computers that support one or more such entities;

''(iii) causing a significant disruption to the availability of a computer or network of computers; or

''(iv) causing a significant misappropriation of funds or economic resources, trade secrets, personally identifiable information, or financial information.

''(15) NATIONAL SECURITY.—The term 'national security' shall be construed so as to include those issues relating to 'homeland security', including its application to critical infrastructure.

''(16) PARTY.—The term 'party' has the meaning given that term in regulations prescribed by the Committee.

''(17) UNITED STATES.—The term 'United States' means the several States, the District of Columbia, and any territory or possession of the United States.

''(18) UNITED STATES BUSINESS.—The term 'United States business' means a person engaged in interstate commerce in the United States.''.

SEC. 4. INCLUSION OF PARTNERSHIP AND SIDE AGREEMENTS IN NOTICE.

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

''(iv) INCLUSION OF PARTNERSHIP AND SIDE AGREEMENTS.—A written notice submitted under clause (i) by a party to a covered transaction shall include a copy of any partnership agreements, integration agreements, or other side agreements relating to the transaction, including any such agreements relating to the transfer of intellectual property, as specified in regulations prescribed by the Committee.''.

SEC. 5. DECLARATIONS RELATING TO CERTAIN COVERED TRANSACTIONS.

Section 721(b)(1)(C) of the Defense Production Act of 1950 (50 U.S.C. 4565(b)(1)(C)), as

amended by section 4, is further amended by adding at the end the following:

''(v) DECLARATIONS RELATING TO CERTAIN COVERED TRANSACTIONS.—

''(I) VOLUNTARY DECLARATIONS.—Except as provided in this clause, a party to any covered transaction may submit to the Committee a declaration with basic information regarding the transaction instead of a written notice under clause (i).

''(II) MANDATORY DECLARATIONS.—

''(aa) CERTAIN COVERED TRANSACTIONS WITH FOREIGN GOVERNMENT INTERESTS.—The parties to a covered transaction shall submit a declaration described in subclause (I) with respect to the transaction if the transaction involves the acquisition of a voting interest of at least 25 percent in a United States business by a foreign person in which a foreign government owns, directly or indirectly, at least a 25 percent voting interest.

''(bb) OTHER DECLARATIONS REQUIRED BY COMMITTEE.—The Committee shall require the submission of a declaration described in subclause (I) with respect to any covered transaction identified under regulations prescribed by the Committee for purposes of this item, at the discretion of the Committee and based on appropriate factors, such as—

''(AA) the technology, industry, economic sector, or economic subsector in which the United States business that is a party to the transaction trades or of which it is a part;

''(BB) the difficulty of remedying the harm to national security that may result from completion of the transaction; and

''(CC) the difficulty of obtaining information on the type of covered transaction through other means.

''(cc) SUBMISSION OF WRITTEN NOTICE AS AN ALTERNATIVE.—Parties to a covered transaction for which a declaration is required under this subclause may instead elect to submit a written notice under clause (i).

''(dd) TIMING OF SUBMISSION.—

''(AA) IN GENERAL.—A declaration required to be submitted with respect to a covered transaction by item (aa) or (bb) shall be submitted not later than 45 days before the completion of the transaction.

''(BB) WRITTEN NOTICE.—If, pursuant to item (cc), the parties to a covered transaction elect to submit a written notice under clause (i) instead of a declaration under this subclause, the written notice shall be filed not later than 90 days before the completion of the transaction.

''(III) PENALTIES.—The Committee may impose a penalty pursuant to subsection (h)(3) with respect to a party that fails to comply with this clause.

''(IV) COMMITTEE RESPONSE TO DECLARATION.—

''(aa) IN GENERAL.—Upon receiving a declaration under this clause with respect to a transaction, the Committee may, at its discretion—

''(AA) request that the parties to the transaction file a written notice under clause (i);

''(BB) inform the parties to the transaction that the Committee is not able to complete action under this section with respect to the transaction on the basis of the declaration and that the parties may file a written notice under clause (i) to seek written notification from the Committee that the Committee has completed all action under this section with respect to the transaction;

''(CC) initiate a unilateral review of the transaction under subparagraph (D); or

''(DD) notify the parties in writing that the Committee has completed all action under this section with respect to the transaction.

''(bb) TIMING.—The Committee shall endeavor to take action under item (aa) within 30 days of receiving a declaration under this clause.

''(cc) RULE OF CONSTRUCTION.—Nothing in this subclause (other than item (aa)(CC)) shall be construed to affect the authority of the President or the Committee to take any action authorized by this section with respect to a covered transaction.

''(V) REGULATIONS.—The Committee shall prescribe regulations establishing requirements for declarations submitted under this clause. In prescribing such regulations, the Committee shall ensure that such declarations are submitted as abbreviated notifications that would not generally exceed 5 pages in length.''.

SEC. 6. STIPULATIONS REGARDING TRANSACTIONS.

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

''(vi) STIPULATIONS REGARDING TRANSACTIONS.—

''(I) IN GENERAL.—In a written notice submitted under clause (i) or a declaration submitted under clause (v) with respect to a transaction, a party to the transaction may—

''(aa) stipulate that the transaction is a covered transaction; and

''(bb) if the party stipulates that the transaction is a covered transaction under item (aa), stipulate that the transaction is a foreign government-controlled transaction.

''(II) BASIS FOR STIPULATION.—A written notice submitted under clause (i) or a declaration submitted under clause (v) that includes a stipulation under subclause (I) shall include a description of the basis for the stipulation.''.

SEC. 7. AUTHORITY FOR UNILATERAL INITIATION OF REVIEWS.

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

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

(2) in subparagraph (D)—

(A) in clause (i), by inserting ''(other than a covered transaction described in subparagraph (E))'' after ''any covered transaction'';

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

''(ii) any covered transaction described in subparagraph (E), if any party to the transaction submitted false or misleading material information to the Committee in connection with the Committee's consideration of the transaction or omitted material information, including material documents, from information submitted to the Committee; or''; and

(C) in clause (iii)—

(i) in the matter preceding subclause (I), by striking ''any covered transaction that has previously been reviewed or investigated under this section,'' and inserting ''any covered transaction described in subparagraph (E),'';

(ii) in subclause (I), by striking ''intentionally'';

(iii) in subclause (II), by striking ''an intentional'' and inserting ''a''; and

(iv) in subclause (III), by inserting ''adequate and appropriate'' before ''remedies or enforcement tools''; and

(3) by inserting after subparagraph (D) the following:

''(E) COVERED TRANSACTIONS DESCRIBED.—A covered transaction is described in this subparagraph if—

''(i) the Committee has informed the parties to the transaction in writing that the Committee has completed all action under this section with respect to the transaction; or

''(ii) the President has announced a decision not to exercise the President's authority under subsection (d) with respect to the transaction.''.

SEC. 8. TIMING FOR REVIEWS AND INVESTIGATIONS.

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

(1) in paragraph (1)(F), by striking ''30'' and inserting ''45'';

(2) in paragraph (2), by striking subparagraph (C) and inserting the following:

''(C) TIMING.—

''(i) IN GENERAL.—Except as provided in clause (ii), any investigation under subparagraph (A) shall be completed before the end of the 45-day period beginning on the date on which the investigation commenced.

''(ii) EXTENSION FOR EXTRAORDINARY CIRCUMSTANCES.—

''(I) IN GENERAL.—In extraordinary circumstances (as defined by the Committee in regulations), the chairperson may, at the request of the head of the lead agency, extend an investigation under subparagraph (A) for one 30-day period.

''(II) NONDELEGATION.—The authority of the chairperson and the head of the lead agency referred to in subclause (I) may not be delegated to any person other than the Deputy Secretary of the Treasury or the deputy head (or equivalent thereof) of the lead agency, as the case may be.

''(III) NOTIFICATION TO PARTIES.—If the Committee extends the deadline under subclause (I) with respect to a covered transaction, the Committee shall notify the parties to the transaction of the extension.''; and

(3) by adding at the end the following:

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

SEC. 9. MONITORING OF NON-NOTIFIED AND NON-DECLARED TRANSACTIONS.

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

''(H) MONITORING OF NON-NOTIFIED AND NON-DECLARED TRANSACTIONS.—The Committee shall establish a mechanism to identify covered transactions for which—

''(i) a notice under clause (i) of subparagraph (C) or a declaration under clause (v) of that subparagraph is not submitted to the Committee; and

''(ii) information is reasonably available.''.

SEC. 10. SUBMISSION OF CERTIFICATIONS TO CONGRESS.

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

(1) in clause (iii)—

(A) in subclause (II), by inserting ''and the Select Committee on Intelligence'' after ''Urban Affairs''; and

(B) in subclause (IV), by inserting ''and the Permanent Select Committee on Intelligence'' after ''Financial Services'';

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

''(II) DELEGATION OF CERTIFICATIONS.—

''(aa) IN GENERAL.—Subject to item (bb), the chairperson, in consultation with the Committee, may determine the level of official to whom the signature requirement under subclause (I) for the chairperson and the head of the lead agency may be delegated. The level of official to whom the signature requirement may be delegated may differ based on any factor relating to a transaction that the chairperson, in consultation with the Committee, deems appropriate, including the type or value of the transaction.

''(bb) LIMITATIONS.—The signature requirement under subclause (I) may be delegated—

''(AA) in the case of a covered transaction assessed by the Director of National Intelligence under paragraph (4) as more likely than not to threaten the national security of the United States, not below the level of the Assistant Secretary of the Treasury or an equivalent official of another agency or department represented on the Committee; and

''(BB) in the case of any other covered transaction, not below the level of a Deputy Assistant Secretary of the Treasury or an equivalent official of another agency or department represented on the Committee.''; and

(3) by adding at the following:

''(v) AUTHORITY TO CONSOLIDATE DOCUMENTS.—Instead of transmitting a separate certified notice or certified report under subparagraph (A) or (B) with respect to each covered transaction, the Committee may, on a monthly basis, transmit such notices and reports in a consolidated document to the Members of Congress specified in clause (iii).''.

SEC. 11. ANALYSIS BY DIRECTOR OF NATIONAL INTELLIGENCE.

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

(1) by striking subparagraph (A) and inserting the following:

''(A) ANALYSIS REQUIRED.—

''(i) IN GENERAL.—The Director of National Intelligence shall expeditiously carry out a thorough analysis of any threat to the national security of the United States posed by any covered transaction, which shall include the identification of any recognized gaps in the collection of intelligence relevant to the analysis.

''(ii) VIEWS OF INTELLIGENCE AGENCIES.—The Director shall seek and incorporate into the analysis required by clause (i) the views of all affected or appropriate intelligence agencies with respect to the transaction.

''(iii) UPDATES.—At the request of the lead agency, the Director shall update the analysis conducted under clause (i) with respect to a covered transaction with respect to which an agreement was entered into under subsection (l)(3)(A).

''(iv) INDEPENDENCE AND OBJECTIVITY.—The Committee shall ensure that its processes under this section preserve the ability of the Director to conduct analysis under clause (i) that is independent, objective, and consistent with all applicable directives, policies, and analytic tradecraft standards of the intelligence community.'';

(2) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively;

(3) by inserting after subparagraph (A) the following:

''(B) BASIC THREAT INFORMATION.—

''(i) IN GENERAL.—The Director of National Intelligence may provide the Committee with basic information regarding any threat to the national security of the United States posed by a covered transaction described in clause (ii) instead of conducting the analysis required by subparagraph (A).

''(ii) COVERED TRANSACTION DESCRIBED.—A covered transaction is described in this clause if—

''(I) the transaction is described in subsection (a)(5)(B)(ii);

''(II) the Director of National Intelligence has completed an analysis pursuant to subparagraph (A) involving each foreign person that is a party to the transaction during the 12 months preceding the review or investigation of the transaction under this section; or

''(III) the transaction otherwise meets criteria agreed upon by the Committee and the Director of National Intelligence for purposes of this subparagraph.'';

(4) in subparagraph (C), as redesignated by paragraph (2), by striking ''20'' and inserting ''30''; and

(5) by adding at the end the following:

''(F) ASSESSMENT OF OPERATIONAL IMPACT.—The Director may provide to the Committee an assessment, separate from the analyses under subparagraphs (A) and (B), of any operational impact of a covered transaction on the intelligence community and a description of any actions that have been or will be taken to mitigate any such impact.

''(G) SUBMISSION TO CONGRESS.—The Committee shall submit the analysis required by subparagraph (A) with respect to a covered transaction to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives upon the conclusion of action under this section (other than compliance reviews under subsection (l)(6)) with respect to the transaction.''.

SEC. 12. INFORMATION SHARING.

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

(1) by striking ''Any information'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), any information'';

(2) by striking '', except as may be relevant'' and all that follows and inserting a period; and

(3) by adding at the end the following:

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

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

''(B) Information to either House of Congress or to any duly authorized committee or subcommittee of Congress.

''(C) Information to any domestic or foreign governmental entity, under the direction of the chairperson, to the extent necessary for national security purposes and pursuant to appropriate confidentiality and classification arrangements.

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

SEC. 13. ACTION BY THE PRESIDENT.

(a) IN GENERAL.—Section 721(d) of the Defense Production Act of 1950 (50 U.S.C. 4565(d)) is amended—

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

''(1) IN GENERAL.—Subject to paragraph (4), the President may, with respect to a covered transaction that threatens to impair the national security of the United States—

''(A) take such action for such time as the President considers appropriate to suspend or prohibit the transaction or to require divestment; and

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

(2) in paragraph (2), by striking ''not later than 15 days'' and all that follows and inserting the following: ''with respect to a covered transaction not later than 15 days after the earlier of—

''(A) the date on which the investigation of the transaction under subsection (b) is completed; or

''(B) the date on which the Committee otherwise refers the transaction to the President under subsection (l)(2).''.

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

SEC. 14. JUDICIAL REVIEW PROCEDURES.

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

''(e) ACTIONS AND FINDINGS NONREVIEWABLE.—

''(1) ACTIONS AND FINDINGS OF THE PRESIDENT.—The actions and findings of the President or the President's designee under this section shall not be subject to judicial review, including claims under chapter 7 of title 5, United States Code.

''(2) ACTIONS AND FINDINGS OF THE COMMITTEE.—

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

''(B) PETITIONS.—

''(i) DEFINITION.—In this subparagraph, the term 'classified information' means any information or material that has been determined by the United States Government pursuant to an Executive order, statute, or regulation to require protection against unauthorized disclosure for reasons of national security and any restricted data, as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

''(ii) PETITION.—

''(I) IN GENERAL.—Except as provided in subclause (II), not later than 60 days after the date on which the President or the Committee takes an action with respect to the covered transaction, any party to the covered transaction may file a petition under this subparagraph alleging that the action of the Committee is a violation of a constitutional right, power, privilege, or immunity.

''(II) NOTIFICATION.—No party to a covered transaction shall be permitted to file a petition or any claim related to a petition under subclause (I) unless—

''(aa) the party initiated the review of the transaction pursuant to a written notice filed under clause (i) of subsection (b)(1)(C) or a declaration filed under clause (v) of that subsection or the Committee determines that such a notice or declaration was not required; and

''(bb) the Committee has completed all action under this section with respect to the transaction.

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

''(iii) EXCLUSIVE JURISDICTION.—

''(I) IN GENERAL.—The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction over claims arising under this subparagraph, subject to review by the Supreme Court of the United States under section 1254 of title 28, United States Code, only—

''(aa) to affirm the action of the Committee; or

''(bb) to remand the case to the Committee for further consideration.

''(II) STANDARD OF REVIEW.—The court shall uphold an action challenged under this subparagraph unless the court finds that the action was contrary to a constitutional right, power, privilege, or immunity.

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

''(v) ADMINISTRATIVE RECORD AND PROCEDURES.—

''(I) IN GENERAL.—Notwithstanding any other provision of law, the procedures described in this clause shall apply to the review of a petition under this subparagraph.

''(II) ADMINISTRATIVE RECORD.—

''(aa) FILING OF RECORD.—The United States shall file with the court an administrative record, which shall consist of the information that the parties submitted to the Committee and that the Committee relied upon in support of the action of the Committee under review.

''(bb) UNCLASSIFIED, NONPRIVILEGED INFORMATION.—All unclassified information contained in the administrative record that is not otherwise privileged or subject to statutory protections shall be provided to the petitioner with appropriate protections for any privileged or confidential trade secrets and commercial or financial information.

''(cc) DISCOVERY BAR.—Other than the provision of information in the administrative record described in subparagraph (II)(bb), no discovery shall be permitted.

''(dd) IN CAMERA AND EX PARTE.—The following information may be included in the administrative record and shall be submitted only to the court ex parte and in camera:

''(AA) Unclassified information subject to privilege or statutory protections.

''(BB) Classified information.

''(CC) Sensitive security information.

''(DD) Sensitive law enforcement information.

''(EE) Information obtained or derived from any activity authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), except that, with respect to such information, subsections (c), (e), (f), (g), and (h) of section 106 (50 U.S.C. 1806), subsections (d), (f), (g), (h), and (i) of section 305 (50 U.S.C. 1825), subsections (c), (e), (f), (g), and (h) of section 405 (50 U.S.C. 1845), and section 706 (50 U.S.C. 1881e) of that Act shall not apply.

''(ee) UNDER SEAL.—Any classified information, sensitive security information, law enforcement sensitive information, or information that is otherwise privileged or subject to statutory protections, that is part of the administrative record filed ex parte and in camera, or cited by the court in any decision, shall be treated by the court consistent with the provisions of this subparagraph, and shall remain under seal and preserved in the records of the court to be made available in the event of further proceedings. In no event shall such information be released to the claimant or as part of the public record.

''(ff) RETURN.—After the expiration of the time to seek further review, or the conclusion of further proceedings, the court shall return the administrative record, including any and all copies, to the United States.

''(gg) CONSIDERATION OF CLAIM WITHOUT INFORMATION IN ADMINISTRATIVE RECORD.—If, on motion or sua sponte, the court determines that the claim may be considered without any of the information in the administrative record, the court shall require that only the necessary information, if any, from the record be provided to the parties.

''(vi) EXCLUSIVE REMEDY.—A determination by the court under this subparagraph shall be the exclusive judicial remedy for any claim described in this subparagraph against the United States, any United States department or agency, or any component or official of any such department or agency.

''(vii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed as limiting, superseding, or preventing the invocation of, any privileges or defenses that are otherwise available at law or in equity to protect against the disclosure of information.''.

SEC. 15. FACTORS TO BE CONSIDERED.

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

(1) in paragraph (1), by inserting ''including whether the covered transaction is likely to result in the increased reliance by the United States on foreign suppliers to meet national defense requirements;'' after ''defense requirements,'';

(2) in paragraph (4), by striking ''proposed or pending'';

(3) by striking paragraph (5) and insert the following:

''(5) the potential effects of the covered transaction on United States international technological and industrial leadership in areas affecting United States national security, including whether the transaction is likely to reduce the technological and industrial advantage of the United States relative to any country of special concern;'';

(4) in paragraph (6), by inserting ''and transportation assets, as defined in Presidential Policy Directive 21 (February 12, 2013; relating to critical infrastructure security and resilience) or any successor directive'' after ''energy assets'';

(5) in paragraph (7), by inserting '', including whether the covered transaction is likely to contribute to the loss of or other adverse effects on technologies that provide a strategic national security advantage to the United States'' after ''critical technologies'';

(6) in paragraph (10), by striking ''; and'' and inserting a semicolon;

(7) by redesignating paragraph (11) as paragraph (20); and

(8) by inserting after paragraph (10) the following:

''(11) the degree to which the covered transaction is likely to increase the cost to the United States Government of acquiring or maintaining the equipment and systems that are necessary for defense, intelligence, or other national security functions;

''(12) the potential national security-related effects of the cumulative market share of any one type of infrastructure, energy asset, critical material, or critical technology by foreign persons;

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

''(A) complying with United States laws and regulations, including laws and regulations pertaining to exports, the protection of intellectual property, and immigration; and

''(B) adhering to contracts or other agreements with entities of the United States Government;

''(14) the extent to which the covered transaction is likely to expose, either directly or indirectly, personally identifiable information, genetic information, or other sensitive data of United States citizens to access by a foreign government or foreign person that may exploit that information in a manner that threatens national security;

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

''(16) whether the covered transaction is likely to result in a foreign government gaining a significant new capability to engage in malicious cyber-enabled activities against the United States, including such activities designed to affect the outcome of any election for Federal office;

''(17) whether the covered transaction involves a country of special concern that has a demonstrated or declared strategic goal of acquiring a type of critical technology that a United States business that is a party to the transaction possesses;

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

''(19) whether the covered transaction is likely to expose any information regarding sensitive national security matters or sensitive procedures or operations of a Federal law enforcement agency with national security responsibilities to a foreign person not authorized to receive that information; and''.

SEC. 16. ACTIONS BY THE COMMITTEE TO ADDRESS NATIONAL SECURITY RISKS.

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

(1) in the subsection heading, by striking ''MITIGATION, TRACKING, AND POSTCONSUMMATION MONITORING AND ENFORCEMENT'' and inserting ''ACTIONS BY THE COMMITTEE TO ADDRESS NATIONAL SECURITY RISKS'';

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

(3) by inserting before paragraph (3), as redesignated by paragraph (2), the following:

''(1) SUSPENSION OF TRANSACTIONS.—The Committee, acting through the chairperson, may suspend a proposed or pending covered transaction that may pose a risk to the national security of the United States for such time as the covered transaction is under review or investigation under subsection (b).

''(2) REFERRAL TO PRESIDENT.—The Committee may, at any time during the review or investigation of a covered transaction under subsection (b), complete the action of the Committee with respect to the transaction and refer the transaction to the President for action pursuant to subsection (d).'';

(4) in paragraph (3), as redesignated by paragraph (2)—

(A) in subparagraph (A)—

(i) in the subparagraph heading, by striking ''IN GENERAL'' and inserting ''AGREEMENTS AND CONDITIONS'';

(ii) by striking ''The Committee'' and inserting the following:

''(i) IN GENERAL.—The Committee'';

(iii) by striking ''threat'' and inserting ''risk''; and

(iv) by adding at the end the following:

''(ii) ABANDONMENT OF TRANSACTIONS.—If a party to a covered transaction has voluntarily chosen to abandon the transaction, the Committee or lead agency, as the case may be, may negotiate, enter into or impose, and enforce any agreement or condition with any party to the covered transaction for purposes of effectuating such abandonment and mitigating any risk to the national security of the United States that arises as a result of the covered transaction.

''(iii) AGREEMENTS AND CONDITIONS RELATING TO COMPLETED TRANSACTIONS.—The Committee or lead agency, as the case may be, may negotiate, enter into or impose, and enforce any agreement or condition with any party to a completed covered transaction in order to mitigate any interim risk to the national security of the United States that may arise as a result of the covered transaction until such time that the Committee has completed action pursuant to subsection (b) or the President has taken action pursuant to subsection (d) with respect to the transaction.''; and

(B) by striking subparagraph (B) and inserting the following:

''(B) LIMITATIONS.—An agreement may not be entered into or condition imposed under subparagraph (A) with respect to a covered transaction unless the Committee determines that the agreement or condition resolves the national security concerns posed

by the transaction, taking into consideration whether the agreement or condition is reasonably calculated to—

''(i) be effective;

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

''(iii) enable effective monitoring of compliance with and enforcement of the terms of the agreement or condition.

''(C) JURISDICTION.—The provisions of section 706(b) shall apply to any mitigation agreement entered into or condition imposed under subparagraph (A).'';

(5) by inserting after paragraph (3), as redesignated by paragraph (2), the following:

''(4) RISK-BASED ANALYSIS REQUIRED.—

''(A) IN GENERAL.—Any determination of the Committee to suspend a covered transaction under paragraph (1), to refer a covered transaction to the President under paragraph (2), or to negotiate, enter into or impose, or enforce any agreement or condition under paragraph (3)(A) with respect to a covered transaction, shall be based on a risk-based analysis, conducted by the Committee, of the effects on the national security of the United States of the covered transaction, which shall include—

''(i) an assessment of—

''(I) the national security threat posed by the transaction, taking into account the analysis conducted by the Director of National Intelligence under subsection (b)(4);

''(II) any national security vulnerabilities related to the transaction; and

''(III) the potential national security consequences of the transaction; and

''(ii) an identification of any of the factors described in subsection (f) that the transaction may substantially implicate.

''(B) ACTIONS OF MEMBERS OF THE COMMITTEE.—

''(i) IN GENERAL.—Any member of the Committee who concludes that a covered transaction poses an unresolved national security concern shall recommend to the Committee that the Committee suspend the transaction under paragraph (1), refer the transaction to the President under paragraph (2), or negotiate, enter into or impose, or enforce any agreement or condition under paragraph (3)(A) with respect to the transaction. In making that recommendation, the member shall propose the risk-based analysis required by subparagraph (A).

''(ii) FAILURE TO REACH CONSENSUS.—If the Committee fails to reach consensus with respect to a recommendation under clause (i) regarding a covered transaction, the members of the Committee who support an alternative recommendation shall produce—

''(I) a written statement justifying the alternative recommendation; and

''(II) as appropriate, a risk-based analysis that supports the alternative recommendation.'';

(6) in paragraph (5), as redesignated by paragraph (2), by striking ''(as defined in the National Security Act of 1947)''; and

(7) in paragraph (6), as redesignated by paragraph (2)—

(A) in subparagraph (A)—

(i) by striking ''paragraph (1)'' and inserting ''paragraph (3)''; and

(ii) by striking the second sentence and inserting the following: ''The lead agency may, at its discretion, seek and receive the assistance of other departments or agencies in carrying out the purposes of this paragraph.'';

(B) in subparagraph (B)—

(i) by striking ''DESIGNATED AGENCY'' and all that follows through ''The lead agency in connection'' and inserting ''DESIGNATED AGENCY.—The lead agency in connection'';

(ii) by striking clause (ii); and

(iii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively, and by moving such clauses, as so redesignated, 2 ems to the left; and

(C) by adding at the end the following:

''(C) COMPLIANCE PLANS.—

''(i) IN GENERAL.—In the case of a covered transaction with respect to which an agreement is entered into under paragraph (3)(A), the Committee or lead agency, as the case may be, shall formulate, adhere to, and keep updated a plan for monitoring compliance with the agreement.

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

''(I) which member of the Committee will have primary responsibility for monitoring compliance with the agreement;

''(II) how compliance with the agreement will be monitored;

''(III) how frequently compliance reviews will be conducted;

''(IV) whether an independent entity will be utilized under subparagraph (E) to conduct compliance reviews; and

''(V) what actions will be taken if the parties fail to cooperate regarding monitoring compliance with the agreement.

''(D) EFFECT OF LACK OF COMPLIANCE.—If, at any time after a mitigation agreement or condition is entered into or imposed under paragraph (3)(A), the Committee or lead agency, as the case may be, determines that a party or parties to the agreement or condition are not in compliance with the terms of the agreement or condition, the Committee or lead agency may, in addition to the authority of the Committee to impose penalties pursuant to subsection (h)(3) and to unilaterally initiate a review of any covered transaction under subsection (b)(1)(D)(iii)(I)—

''(i) negotiate a plan of action for the party or parties to remediate the lack of compliance, with failure to abide by the plan or otherwise remediate the lack of compliance serving as the basis for the Committee to find a material breach of the agreement or condition;

''(ii) require that the party or parties submit any covered transaction initiated after the date of the determination of noncompliance and before the date that is 5 years after the date of the determination to the Committee for review under subsection (b); or

''(iii) seek injunctive relief.

''(E) USE OF INDEPENDENT ENTITIES TO MONITOR COMPLIANCE.—If the parties to an agreement entered into under paragraph (3)(A) enter into a contract with an independent entity from outside the United States Government for the purpose of monitoring compliance with the agreement, the Committee shall take such action as is necessary to prevent a conflict of interest from arising by ensuring that the independent entity owes no fiduciary duty to the parties.

''(F) ADDITIONAL COMPLIANCE MEASURES.—Subject to subparagraphs (A) through (E), the Committee shall develop and agree upon methods for evaluating compliance with any agreement entered into or condition imposed with respect to a covered transaction that will allow the Committee to adequately ensure compliance without unnecessarily diverting Committee resources from assessing any new covered transaction for which a written notice under clause (i) of subsection (b)(1)(C) or declaration under clause (v) of that subsection has been filed, and if necessary, reaching a mitigation agreement with or imposing a condition on a party to such covered transaction or any covered transaction for which a review has been reopened for any reason.''.

SEC. 17. MODIFICATION OF ANNUAL REPORT.

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

(1) in paragraph (1), by striking ''committee'' and all that follows through ''Representatives,'' and inserting ''appropriate congressional committees'';

(2) in paragraph (2)—

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

''(A) A list of all notices filed and all reviews or investigations of covered transactions completed during the period, with—

''(i) a description of the outcome of each review or investigation, including whether an agreement was entered into or condition was imposed under subsection (l)(3)(A) with respect to the transaction being reviewed or investigated, and whether the President took any action under this section with respect to that transaction;

''(ii) basic information on each party to each such transaction;

''(iii) the nature of the business activities or products of the United States business with which the transaction was entered into or intended to be entered into; and

''(iv) information about any withdrawal from the process.'';

(B) by adding at the end the following:

''(G) Statistics on compliance reviews conducted and actions taken by the Committee under subsection (l)(6), including subparagraph (D) of that subsection, during that period and a description of any actions taken by the Committee to impose penalties or initiate a unilateral review pursuant to subsection (b)(1)(D)(iii)(I).'';

(3) in paragraph (3)—

(A) by striking ''CRITICAL TECHNOLOGIES'' and all that follows through ''In order to assist'' and inserting ''CRITICAL TECHNOLOGIES.—In order to assist'';

(B) by striking subparagraph (B); and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and by moving such subparagraphs, as so redesignated, 2 ems to the left; and

(4) by adding at the end the following:

''(4) BIENNIAL INTELLIGENCE COMMUNITY REPORT.—

''(A) IN GENERAL.—The Director of National Intelligence shall transmit to the chairperson, for inclusion in a classified portion of each report required to be submitted under paragraph (1) during calendar year 2018 and every even-numbered year thereafter, the report of the interagency group established under subparagraph (C).

''(B) ELEMENTS.—The report referred to in subparagraph (A) shall include an identification, analysis, and explanation of the following:

''(i) Any current or projected major threats to the national security of the United States with respect to foreign investment.

''(ii) Any strategies used by countries of special concern to utilize foreign investment to target the acquisition of critical technologies, critical materials, or critical infrastructure.

''(iii) Any economic espionage efforts directed at the United States by a foreign country, particularly a country of special concern.

''(C) INTELLIGENCE COMMUNITY INTERAGENCY WORKING GROUP.—The Director of National Intelligence—

''(i) shall establish an interagency working group, composed of representatives of elements of the intelligence community, to prepare the report required under this paragraph;

''(ii) shall serve as the chairperson of the interagency working group; and

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

''(5) CLASSIFICATION; AVAILABILITY OF REPORT.—

''(A) CLASSIFICATION.—All appropriate portions of the annual report required by paragraph (1) may be classified.

''(B) PUBLIC AVAILABILITY OF UNCLASSIFIED VERSION.—An unclassified version of the report required by paragraph (1), as appropriate and consistent with safeguarding national security and privacy, shall be made available to the public. Information regarding trade secrets or business confidential information may be included in the classified version and may not be made available to the public in the unclassified version.

''(C) EXCEPTIONS TO FREEDOM OF INFORMATION ACT.—The exceptions to subsection (a) of section 552 of title 5, United States Code, provided for under subsection (b) of that section shall apply with respect to the report required by paragraph (1).

''(6) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term 'appropriate congressional committees' means—

''(A) the Committee on Banking, Housing, and Urban Affairs, the Select Committee on Intelligence, the Committee on Armed Services, the Committee on the Judiciary, and the Committee on Homeland Security and Governmental Affairs of the Senate; and

''(B) the Committee on Financial Services, the Permanent Select Committee on Intelligence, the Committee on Armed Services, the Committee on the Judiciary, and the Committee on Homeland Security of the House of Representatives.''.

SEC. 18. CERTIFICATION OF NOTICES AND INFORMATION.

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

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

(2) by striking ''Each notice'' and inserting the following:

''(1) IN GENERAL.—Each notice''; and

(3) by adding at the end the following:

''(2) EFFECT OF FAILURE TO SUBMIT.—The Committee may not complete a review under this section of a covered transaction and may recommend to the President that the President suspend or prohibit the transaction or require divestment under subsection (d) if the Committee determines that a party to the transaction has—

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

''(B) included false or misleading information in a notice or information described in paragraph (1) or omitted material information from such notice or information.

''(3) APPLICABILITY OF LAW ON FRAUD AND FALSE STATEMENTS.—The Committee shall prescribe regulations expressly providing for the application of section 1001 of title 18, United States Code, to all information provided to the Committee under this section by any party to a covered transaction.''.

SEC. 19. FUNDING.

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

''(o) FUNDING.—

''(1) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund, to be known as the 'Committee on Foreign Investment in the United States Fund' (in this subsection referred to as the 'Fund').

''(2) APPROPRIATION OF FUNDS FOR THE COMMITTEE.—There are authorized to be appropriated to the Fund such sums as may be necessary to perform the functions of the Committee.

''(3) FILING FEES.—

''(A) IN GENERAL.—The Committee may assess and collect a fee in an amount determined by the Committee in regulations, to the extent provided in advance in appropriations Acts, without regard to section 9701 of title 31, United States Code, and subject to subparagraph (B), with respect to each covered transaction for which a written notice is submitted to the Committee under subsection (b)(1)(C)(i).

''(B) LIMITATION ON AMOUNT OF FEE.—The amount of the fee determined under subparagraph (A) with respect to a covered transaction described in that subparagraph may not exceed an amount equal to the lesser of—

''(i) 1 percent of the value of the transaction; or

''(ii) $300,000, adjusted annually for inflation pursuant to regulations prescribed by the Committee.

''(C) DEPOSIT AND AVAILABILITY OF FEES.—Notwithstanding section 3302 of title 31, United States Code, fees collected under subparagraph (A) shall—

''(i) be deposited as offsetting collections into the Fund for use in carrying out activities under this section;

''(ii) to the extent and in the amounts provided in advance in appropriations Acts, be available to the chairperson;

''(iii) remain available until expended; and

''(iv) be in addition to any appropriations made available to the members of the Committee.

''(4) TRANSFER OF FUNDS.—The chairperson may transfer any amounts in the Fund to any other department or agency represented on the Committee for the purpose of addressing emerging needs in carrying out activities under this section. Amounts so transferred shall be in addition to any other amounts available to that department or agency for that purpose.''.

SEC. 20. CENTRALIZATION OF CERTAIN COMMITTEE FUNCTIONS.

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

''(p) CENTRALIZATION OF CERTAIN COMMITTEE FUNCTIONS.—

''(1) IN GENERAL.—The chairperson, in consultation with the Committee, may centralize certain functions of the Committee within the Department of the Treasury for the purpose of enhancing interagency coordination and collaboration in carrying out the functions of the Committee under this section.

''(2) FUNCTIONS.—Functions that may be centralized under paragraph (1) include monitoring non-notified and non-declared transactions pursuant to subsection (b)(1)(H), and other functions as determined by the chairperson and the Committee.

''(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of any department or agency represented on the Committee to represent its own interests before the Committee.''.

SEC. 21. UNIFIED BUDGET REQUEST.

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

''(q) UNIFIED BUDGET REQUEST.—

''(1) IN GENERAL.—The President may include, in the budget of the Department of the Treasury for a fiscal year (as submitted to Congress with the budget of the President under section 1105(a) of title 31, United States Code), a unified request for funding of all operations under this section conducted by some or all of the departments and agencies represented on the Committee.

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

SEC. 22. SPECIAL HIRING AUTHORITY.

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

''(r) SPECIAL HIRING AUTHORITY.—The heads of the departments and agencies represented on the Committee may appoint, without regard to the provisions of sections 3309 through 3318 of title 5, United States Code, candidates directly to positions in the competitive service (as defined in section 2102 of that title) in their respective departments and agencies to administer this section.''.

SEC. 23. CONFORMING AMENDMENTS.

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

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

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

SEC. 24. ASSESSMENT OF NEED FOR ADDITIONAL RESOURCES FOR COMMITTEE.

The President shall—

(1) determine whether and to what extent the expansion of the responsibilities of the Committee on Foreign Investment in the United States pursuant to the amendments made by this Act necessitates additional resources for the Committee and members of the Committee to perform their functions under section 721 of the Defense Production Act of 1950, as amended by this Act; and

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

SEC. 25. AUTHORIZATION FOR DEFENSE ADVANCED RESEARCH PROJECTS AGENCY TO LIMIT FOREIGN ACCESS TO TECHNOLOGY THROUGH CONTRACTS AND GRANT AGREEMENTS.

(a) IN GENERAL.—The Director of the Defense Advanced Research Projects Agency, or a designee of the Director, may include in any contract or grant agreement that the Director enters into with a person, and that is funded by that Agency, a provision that—

(1) limits access by any foreign person to technology that is the subject of the contract or grant agreement under terms defined by the Director, including by limiting such access to specific periods of time; and

(2) in a case in which the person violates the prohibition described in paragraph (1), requires the person to return all amounts that the person received from the Agency under the contract or grant agreement.

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

(c) EXERCISE OF AUTHORITY.—The Director, or the designee of the Director, may exercise the authority provided by this section without the need for further approval by, or regulatory implementation within, the Department of Defense.

SEC. 26. EFFECTIVE DATE.

(a) IMMEDIATE APPLICABILITY OF CERTAIN PROVISIONS.—The following shall take effect on the date of the enactment of this Act and

apply with respect to any covered transaction the review or investigation of which is initiated under section 721 of the Defense Production Act of 1950 on or after such date of enactment:

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

(2) Section 11 and the amendments made by that section (except for clause (iii) of section 721(b)(4)(A) of the Defense Production Act of 1950, as added by section 11).

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

(4) Section 721(m)(4) of the Defense Production Act of 1950, as amended by section 17.

(b) DELAYED APPLICABILITY OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—Any provision of or amendment made by this Act not specified in subsection (a) shall—

(A) take effect on the date that is 30 days after publication in the Federal Register of a determination by the chairperson of the Committee on Foreign Investment in the United States that the regulations, organizational structure, personnel, and other resources necessary to administer the new provisions are in place; and

(B) apply with respect to any covered transaction the review or investigation of which is initiated under section 721 of the Defense Production Act of 1950 on or after the date described in subparagraph (A).

(2) NONDELEGATION OF DETERMINATION.—The determination of the chairperson of the Committee on Foreign Investment in the United States under paragraph (1)(A) may not be delegated.

(c) AUTHORIZATION FOR PILOT PROGRAMS.—

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

(2) PUBLICATION IN FEDERAL REGISTER.—A pilot program may not commence until the date that is 30 days after publication in the Federal Register of a determination by the chairperson of the Committee of the scope of and procedures for the pilot program. That determination may not be delegated.

SEC. 27. SEVERABILITY.

If any provision of this Act or an amendment made by this Act, or the application of such a provision or amendment to any person or circumstance, is held to be invalid, the application of that provision or amendment to other persons or circumstances and the remainder of the provisions of this Act and the amendments made by this Act, shall not be affected thereby.

By Mrs. FEINSTEIN (for herself, Mr. BLUMENTHAL, Mr. MURPHY, Mr. SCHUMER, Mr. DURBIN, Mrs. MURRAY, Mr. REED, Mr. CARPER, Mr. MENENDEZ, Mr. CARDIN, Ms. KLOBUCHAR, Mr. WHITEHOUSE, Mrs. GILLIBRAND, Mr. FRANKEN, Mr. SCHATZ, Ms. HIRONO, Ms. WARREN, Mr. MARKEY, Mr. BOOKER, Mr. VAN HOLLEN, Ms. DUCKWORTH, Ms. HARRIS, Mr. CASEY, and Mr. SANDERS):

S. 2095. A bill to regulate assault weapons, to ensure that the right to keep and bear arms is not unlimited, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, for the last month, in the wake of the tragedy in Las Vegas, I have been asking my colleagues to show some courage, stand up to the gun lobby, and take weapons of war off of our streets.

Now, we have all had to bear witness to another tragedy. Three days ago, in Sutherland Springs, Texas, a single person armed with an assault rifle murdered 26 people and left another 20 injured. This gunman walked into a church and opened fire on peaceful churchgoers, including children as young as 18-months old. A helpless toddler who barely learned to walk. Eight members of a single family were also lost. Eight.

The shooter had 15 magazine clips of ammunition—almost 450 rounds—and used all of them. Ask yourself: how would you feel in those moments, with hundreds of bullets flying around and not knowing whether you will live or die, or whether you will be able to protect your child? Think about those children—terrified, witnessing their families being shot while in a place of worship. It is time that we ask what this says about us as a country. And what does this say about us to the rest of the world.

In 1996, after a mass shooting where a gunman opened fire on tourists at the sea side in Port Arthur, killing 35 people, Australia acted swiftly. Twelve days later, Australia's government enacted sweeping gun control measures. Since then, there has not been a single mass shooting in that country since. Mass shootings in America, however, have become common place. It is no longer a matter of if, but when, another one will happen.

If there are now mass shootings in churches, where are we safe anymore? Not concerts, not schools, not holiday parties. Just a month ago, we experienced the worst mass shooting in our nation's history in Las Vegas. A gunman opened fire with multiple semi-automatic assault rifles that he had legally transformed into automatic weapons, killing more than fifty people and leaving more than 500 wounded. Among the victims were mothers, fathers, brothers, and sisters.

There was Kelsey Meadows, 28 years old, who after graduating from the University of California, Fresno, returned to her hometown of Taft, California to be a substitute teacher at her alma mater, Taft Union High School. She was described by the high school principal as ''smart, compassionate, and kind'' with a ''sweet spirit and a love for children.'' Her entire family and community was completely devastated. Kelsey could have been any of us attending that concert. My own daughter told me after the Las Vegas shooting that she was supposed to be in the city that evening, but her plans had to change. It was only a little more than a year before the Las Vegas shooting that we experienced what had then been the worst mass shooting in our nation's history.

That was when 49 people who were enjoying an evening of dancing with friends and loved ones were massacred in Orlando. Victims in Orlando included 22-year old Luis Velma who was working at Universal Studios on a Harry Potter ride. There was also Eddie Justice, a 30-year old accountant who texted his mother from the shooting, telling her: ''Mommy I love you.'' ''In club they shooting.'' ''He has us.''

I encourage every member of this chamber to imagine receiving those text messages from their son or daughter.

And just six months before that, 14 people were killed and more than 20 injured in San Bernardino, California at a work holiday party.

Among the victims was a father of six. A mother of three. A woman who was eight when she and her mother left Vietnam for a better life in America. The youngest victim was 26, and the oldest was 60.

The list goes on and on. Eight murdered at the Umpqua Community College in Roseburg, Oregon. A police officer and two innocent citizens brutally murdered by a man with an AK–47 style weapon in Colorado Springs. In 2013, 12 people fatally shot at the Navy Yard, less than two miles from where I stand today. And on December 14, 2012, 20 children had their lives taken at Sandy Hook Elementary School. Children.

Once again, I encourage every member of this body to imagine dropping their young child off at elementary school this morning, only to learn a few hours later that a gunman walked into that school and tried to kill as many people as possible. That is something we could have prevented. But we did not. Instead, we have made it easier for those with mental health issues to get guns. I often remember Sandy Hook and think about how we let these families down. We failed them. And sadly, the mass shootings have continued to get worse in terms of frequency and lives lost. And I will not sit by while these killings continue.

That is why today I am joining with my colleagues to reintroduce legislation to prohibit the sale, transfer, manufacture, and importation of assault weapons and large capacity ammunition feeding devices that can accept more than ten rounds. I will keep doing this. This legislation must constantly be before this body until it is enacted. Every member must make a decision whether to stand up or let the National Rifle Association win again.

This legislation is not perfect. But it is part of the solution. We must start with reducing the supply of the weapons of war that are used to take the lives of our loved ones.

The deadly assault weapons used by the attackers in each of the devastating shootings I have mentioned would have been banned under the Assault Weapons Ban bill that I am introducing today. The new legislation is based off of legislation we previously introduced following the horrific attack committed against young school

children in Newtown, Connecticut. It will provide much needed fixes to the law to keep our communities safer, while also protecting the rights of lawful gun owners.

Back when we enacted the 1994 legislation, that law prohibited semiautomatic weapons with a detachable magazine and at least two military characteristics. The bill we are introducing today tightens this test to prohibit semiautomatic rifles, handguns, and shotguns that can accept a detachable magazine and have one military characteristic. This is the standard employed in my home state of California—and it works.

Based on the 10 years of experience from the 1994 law, we learned that the ''two-characteristic'' test was too easy to ''work around'': a manufacturer could simply remove one of the characteristics, and the firearm was legal. The bill we are introducing today will close that loophole. The bill also prohibits ''bullet buttons'', a feature that certain manufacturers developed to evade restrictions on detachable ammunition magazines. In San Bernardino, the assault rifles originally contained ''bullet buttons'' for their magazine clips—which enabled them to avoid California's assault weapons ban. Our bill contains language to close this loophole.

This bill also prohibits ''bump-fire stocks'', which, as we saw in Las Vegas, allows individuals to convert semi-automatic rifles to function like a machine gun.

Other changes to the 1994 bill include updating the list of specifically-named military-style firearms that are prohibited, to account for new models developed since 1994; prohibiting semiautomatic rifles and handguns with a fixed magazine that can accept more than 10 rounds; adding a ban on the importation of assault weapons and large-capacity magazines; and eliminating the 10-year sunset that allowed the original law to expire. Importantly, our legislation also prohibits large-capacity ammunition feeding devices capable of accepting more than 10 rounds.

Now, let me tell you what the bill will not do.

It will not affect hunting or sporting firearms. Instead, the bill protects hunters and sportsmen by exempting 2,258 firearms used for hunting or sporting purposes and exempting antique, manually-operated, and permanently disabled weapons. The bill protects the rights of existing gun owners by grandfathering weapons legally possessed on the date of enactment. The bill also imposes a safe storage requirement for grandfathered firearms to ensure they don't get into the hands of people who would be prohibited from possessing them.

While the bill permits the continued possession of high-capacity ammunition magazines that are legally possessed on the date of enactment, it would ban the future transfer of these magazines.

Finally, the bill allows local jurisdictions to use existing federal Byrne JAG grant money to support voluntary buyback programs for grandfathered assault weapons and large-capacity ammunition feeding devices.

Opponents charge that this legislation impinges upon rights protected by the Second Amendment. I disagree.

The Supreme Court expressly held in District of Columbia v. Heller that ''the right secured by the Second Amendment is not unlimited.'' The Court made it clear that reasonable regulations are allowable under the Constitution.

This bill is simply establishing reasonable regulations for what types of weapons may be sold and used—individuals should not own a nuclear weapon, they should not own a rocket launcher, and they should not own a military-style assault weapon.

In fact, a number of courts have considered challenges to assault weapons bans. To date, every court that has considered a ban on assault weapons or large capacity magazines has upheld the law as reasonable.

In fact, the D.C. Circuit, the Second Circuit, the Fourth Circuit, the Seventh Circuit, the Ninth Circuit, as well as a number of federal district courts have all upheld laws like the one we are proposing.

Importantly, the Supreme Court let stand the ruling out of the Seventh Circuit upholding a local ban on assault weapons and high capacity magazines from the City of Highland Park, Illinois.

Mr. President, I believe very strongly that the most important duty that government has to its citizens is to protect the nation and the safety of its people.

When 26 churchgoers are killed in cold blood with their loved ones in a Baptist Church on a Sunday morning, we fail them by not making sure that they can worship in peace.

When 58 people attending a concert in Las Vegas lose their lives because a madman was able to use laws on the books to make his semi-automatic rifle into a machinegun, all of those who sit in this chamber have failed them.

When 14 people are gunned down during a holiday party by those with assault rifles that let off 65–75 rounds within minutes, our government has failed them.

When 20 elementary school children are slaughtered by an assault weapon, America has failed them.

The firearms used in these massacres are weapons of war. Let me say it as plainly as I can: weapons of war do not belong on our streets, in our churches, in our schools, in our malls, in our theaters, or in our workplaces.

Now, I am under no illusions—I know that the gun lobby has a stranglehold on this building. I know we got 40 votes in 2013, and I know Republicans control the Senate today. But I also know this was hard-fought in 1994, and we prevailed—with Republican support—and it was a bipartisan vote. I still believe that, at some point, Americans will come together and realize that we can be a nation that protects its people from the savagery of these weapons.

I urge my colleagues to support this bill. I thank the chair, and I yield the floor.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 324—DESIGNATING NOVEMBER 9, 2017, AS ''NATIONAL DIABETES HEART HEALTH AWARENESS DAY'', COINCIDING WITH AMERICAN DIABETES MONTH

Mr. NELSON (for himself and Mr. RUBIO) submitted the following resolution; which was considered and agreed to:

S. RES. 324

Whereas 30,300,000 people in the United States, or 9.4 percent of the population, have diabetes, including an estimated 7,200,000 people who are undiagnosed and an additional 84,100,000 people who have prediabetes;

Whereas adults with diabetes are 2 to 4 times more likely to die from heart disease than adults without diabetes;

Whereas at least 68 percent of people who are 65 or older and who have diabetes die from some form of heart disease;

Whereas, among Medicare fee-for-service beneficiaries, diabetes and cardiovascular disease are common, with cardiovascular disease affecting 31 percent of beneficiaries and diabetes affecting 28 percent of beneficiaries;

Whereas the American Heart Association considers diabetes to be 1 of the 7 major controllable risk factors for cardiovascular disease;

Whereas minority populations are disproportionately affected by both cardiovascular disease and diabetes;

Whereas findings from a recent study reveal that 52 percent of adults living with type 2 diabetes are unaware they are at an increased risk for cardiovascular disease and complications from cardiovascular disease;

Whereas 2 out of 3 deaths in people with type 2 diabetes are attributed to cardiovascular disease;

Whereas obesity, poor diet, and lack of physical activity are all major risk factors for type 2 diabetes and cardiovascular disease;

Whereas 1,250,000 people in the United States have type 1 diabetes and the incidence of type 1 diabetes is increasing by more than an average of 2 percent each year;

Whereas cardiovascular disease is a major cause of mortality for people with type 1 diabetes;

Whereas, according to the American Diabetes Association, diagnosed and undiagnosed diabetes cost the United States $322,000,000,000 in 2012;

Whereas cardiovascular disease accounts for 26 percent of the hospital inpatient costs of treating people with diabetes;

Whereas most of the costs of diabetes, 62 percent, is provided by government insurance, including Medicare, Medicaid, and the military;

Whereas appropriate awareness and education about the cardiovascular risks associated with diabetes can effectively reduce the health and financial burden of illness; and

Whereas the designation of November 9, 2017, as ''National Diabetes Heart Health