

117TH CONGRESS
2D SESSION

S. 4033

To require the Secretary of Energy to establish a program to incentivize investment in facilities that carry out the metallurgy of rare earth elements and the production of finished rare earth products, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2022

Mr. RUBIO (for himself and Mrs. HYDE-SMITH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To require the Secretary of Energy to establish a program to incentivize investment in facilities that carry out the metallurgy of rare earth elements and the production of finished rare earth products, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Obtaining National
5 and Secure Homeland Operations for Rare Earth Manu-
6 facturing Act” or the “ONSHORE Manufacturing Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **APPROPRIATE COMMITTEES OF CON-**
4 **GRESS.**—The term “appropriate committees of Con-
5 gress” means—

6 (A) the Select Committee on Intelligence,
7 the Committee on Energy and Natural Re-
8 sources, the Committee on Commerce, Science,
9 and Transportation, the Committee on Foreign
10 Relations, the Committee on Armed Services,
11 the Committee on Appropriations, the Com-
12 mittee on Banking, Housing, and Urban Af-
13 fairs, the Committee on Homeland Security and
14 Governmental Affairs, and the Committee on
15 Finance of the Senate; and

16 (B) the Permanent Select Committee on
17 Intelligence, the Committee on Energy and
18 Commerce, the Committee on Foreign Affairs,
19 the Committee on Armed Services, the Com-
20 mittee on Science, Space, and Technology, the
21 Committee on Appropriations, the Committee
22 on Financial Services, the Committee on Home-
23 land Security, and the Committee on Ways and
24 Means of the House of Representatives.

25 (2) **CONCENTRATED RARE EARTH ELEMENT.**—
26 The term “concentrated rare earth element” means

1 a rare earth element that has been extracted or sep-
2 arated from raw materials and concentrated.

3 (3) COVERED ENTITY.—The term “covered en-
4 tity” means a private entity, a consortium of private
5 entities, or a consortium of public and private enti-
6 ties with a demonstrated ability to substantially fi-
7 nance, construct, expand, or technologically upgrade
8 a covered facility.

9 (4) COVERED FACILITY.—The term “covered
10 facility” means a facility located in a State that car-
11 ries out the metallurgy of rare earth elements for
12 the production of finished rare earth products.

13 (5) COVERED INCENTIVE.—The term “covered
14 incentive” means—

15 (A) an incentive offered by a Federal,
16 State, local, or Tribal governmental entity to a
17 covered entity for the purposes of—

18 (i) constructing within the jurisdiction
19 of the governmental entity a covered facil-
20 ity; or

21 (ii) expanding or technologically up-
22 grading an existing facility within that ju-
23 risdiction to be a covered facility; and

24 (B) a workforce-related incentive (includ-
25 ing a grant agreement relating to workforce

1 training or vocational education), any conces-
 2 sion with respect to real property, funding for
 3 research and development with respect to rare
 4 earth elements and finished rare earth prod-
 5 ucts, and any other incentive determined appro-
 6 priate by the Secretary, in consultation with the
 7 Secretary of State.

8 (6) FINISHED RARE EARTH PRODUCT.—The
 9 term “finished rare earth product” means—

10 (A) a product composed of—

11 (i) metal powders, such as rare earth
 12 oxides and rare earth salts, including
 13 chlorides and nitrates;

14 (ii) metals containing rare earth ele-
 15 ments;

16 (iii) alloys; or

17 (iv) magnets; and

18 (B) any other value-added product that is
 19 composed fully or partially of rare earth ele-
 20 ments.

21 (7) FOREIGN ENTITY.—

22 (A) IN GENERAL.—The term “foreign enti-
 23 ty” means—

24 (i) a government of a foreign country
 25 and a foreign political party;

1 (ii) a natural person who is not—

2 (I) a lawful permanent resident
3 of the United States;

4 (II) a citizen or national of the
5 United States; or

6 (III) any other protected indi-
7 vidual (as defined in section
8 274B(a)(3) of the Immigration and
9 Nationality Act (8 U.S.C.
10 1324b(a)(3))); and

11 (iii) a partnership, association, cor-
12 poration, organization, or other combina-
13 tion of persons organized under the laws of
14 or having its principal place of business in
15 a foreign country.

16 (B) INCLUSIONS.—The term “foreign enti-
17 ty” includes—

18 (i) any person owned by, controlled
19 by, or subject to the jurisdiction or direc-
20 tion of an entity described in subparagraph
21 (A);

22 (ii) any person, wherever located, who
23 acts as an agent, representative, or em-
24 ployee of an entity described in subpara-
25 graph (A);

1 (iii) any person who acts in any other
2 capacity at the order, request, or under the
3 influence, direction, or control, of—

4 (I) an entity described in sub-
5 paragraph (A); or

6 (II) a person the activities of
7 which are directly or indirectly super-
8 vised, directed, controlled, financed, or
9 subsidized in whole or in majority
10 part by an entity described in sub-
11 paragraph (A);

12 (iv) any person who directly or indi-
13 rectly through any contract, arrangement,
14 understanding, relationship, or otherwise,
15 owns 25 percent or more of the equity in-
16 terests of an entity described in subpara-
17 graph (A);

18 (v) any person with significant re-
19 sponsibility to control, manage, or direct
20 an entity described in subparagraph (A);

21 (vi) any person, wherever located, who
22 is a citizen or resident of a country con-
23 trolled by an entity described in subpara-
24 graph (A); and

1 (vii) any corporation, partnership, as-
2 sociation, or other organization organized
3 under the laws of a country controlled by
4 an entity described in subparagraph (A).

5 (8) FOREIGN ENTITY OF CONCERN.—The term
6 “foreign entity of concern” means any foreign entity
7 that is—

8 (A) designated as a foreign terrorist orga-
9 nization by the Secretary of State under section
10 219 of the Immigration and Nationality Act (8
11 U.S.C. 1189);

12 (B) included on the list of specially des-
13 ignated nationals and blocked persons main-
14 tained by the Office of Foreign Assets Control
15 of the Department of the Treasury;

16 (C) owned by, controlled by, or subject to
17 the jurisdiction, direction, or otherwise under
18 the undue influence of a government of a cov-
19 ered nation (as defined in section 2533c(d) of
20 title 10, United States Code);

21 (D) alleged by the Attorney General to
22 have been involved in activities for which a con-
23 viction was obtained under—

- 1 (i) chapter 37 of title 18, United
2 States Code (commonly known as the “Es-
3 pionage Act”);
- 4 (ii) section 951 or 1030 of title 18,
5 United States Code;
- 6 (iii) chapter 90 of title 18, United
7 States Code (commonly known as the
8 “Economic Espionage Act of 1996”);
- 9 (iv) the Arms Export Control Act (22
10 U.S.C. 2751 et seq.);
- 11 (v) section 224, 225, 226, 227, or 236
12 of the Atomic Energy Act of 1954 (42
13 U.S.C. 2274–2278; 2284);
- 14 (vi) the Export Control Reform Act of
15 2018 (50 U.S.C. 4801 et seq.); or
- 16 (vii) the International Emergency
17 Economic Powers Act (50 U.S.C. 1701 et
18 seq.); or
- 19 (E) determined by the Secretary, in con-
20 sultation with the Secretary of Defense and the
21 Director of National Intelligence, to be engaged
22 in unauthorized conduct that is detrimental to
23 the national security or foreign policy of the
24 United States under this Act.

1 (9) GOVERNMENTAL ENTITY.—The term “gov-
2 ernmental entity” means—

3 (A) a State; and

4 (B) a local government of a State.

5 (10) INTELLIGENCE COMMUNITY.—The term
6 “intelligence community” has the meaning given the
7 term in section 3 of the National Security Act of
8 1947 (50 U.S.C. 3003).

9 (11) METALLURGY.—The term “metallurgy”
10 means the process of producing finished rare earth
11 products from concentrated rare earth elements.

12 (12) PERSON.—The term “person” includes an
13 individual, partnership, association, corporation, or-
14 ganization, or any other combination of individuals.

15 (13) RARE EARTH ELEMENT.—The term “rare
16 earth element” means a natural element associated
17 with—

18 (A) the metallic element scandium, with
19 atomic number 21;

20 (B) the metallic element yttrium, with
21 atomic number 39; or

22 (C) any of the series of 15 metallic ele-
23 ments between lanthanum, with atomic number
24 57, and lutetium, with atomic number 71, on
25 the periodic table.

1 (14) SECRETARY.—The term “Secretary”
2 means the Secretary of Energy.

3 (15) STATE.—The term “State” means—

4 (A) each of the several States of the
5 United States;

6 (B) the District of Columbia;

7 (C) the Commonwealth of Puerto Rico;

8 (D) Guam;

9 (E) American Samoa;

10 (F) the Commonwealth of the Northern
11 Mariana Islands;

12 (G) the Federated States of Micronesia;

13 (H) the Republic of the Marshall Islands;

14 (I) the Republic of Palau; and

15 (J) the United States Virgin Islands.

16 **SEC. 3. RARE EARTH METALLURGY FINANCING.**

17 (a) FINANCIAL ASSISTANCE PROGRAM.—

18 (1) IN GENERAL.—The Secretary shall establish
19 in the Department of Energy a program to provide
20 Federal financial assistance to covered entities to
21 incentivize investment in covered facilities, subject to
22 the availability of appropriations for that purpose.

23 (2) PROCEDURE.—

24 (A) IN GENERAL.—A covered entity seek-
25 ing financial assistance under this subsection

1 shall submit to the Secretary an application
2 that describes the project for which the covered
3 entity is seeking financial assistance.

4 (B) ELIGIBILITY.—In order for a covered
5 entity to qualify for financial assistance under
6 this subsection, the covered entity shall dem-
7 onstrate to the Secretary, in the application
8 submitted by the covered entity under subpara-
9 graph (A), that—

10 (i) the covered entity has a docu-
11 mented interest in—

12 (I) constructing a covered facil-
13 ity; or

14 (II) expanding or technologically
15 upgrading a facility owned by the cov-
16 ered entity to be a covered facility;
17 and

18 (ii) with respect to the project for
19 which the covered entity is seeking finan-
20 cial assistance, the covered entity has—

21 (I) been offered a covered incen-
22 tive;

23 (II) made commitments to work-
24 er and community investment, includ-
25 ing through—

1 (aa) training and education
2 benefits paid by the covered enti-
3 ty; and

4 (bb) programs to expand
5 employment opportunity for eco-
6 nomically disadvantaged individ-
7 uals;

8 (III) secured commitments from
9 regional educational and training enti-
10 ties and institutions of higher edu-
11 cation to provide workforce training,
12 including programming for training
13 and job placement of economically dis-
14 advantaged individuals; and

15 (IV) an executable plan to sus-
16 tain a covered facility without addi-
17 tional Federal financial assistance
18 under this subsection for facility sup-
19 port.

20 (C) APPLICATION REVIEW.—

21 (i) IN GENERAL.—The Secretary may
22 not approve an application submitted by a
23 covered entity under subparagraph (A)—

24 (I) unless the Secretary—

1 (aa) confirms that the cov-
2 ered entity has satisfied the eligi-
3 bility criteria under subpara-
4 graph (B);

5 (bb) determines that the
6 project for which the covered en-
7 tity is seeking financial assist-
8 ance is in the interest of the
9 United States; and

10 (cc) has notified the appro-
11 priate committees of Congress
12 not later than 15 days before
13 making any commitment to pro-
14 vide an award of financial assist-
15 ance to any covered entity in an
16 amount that exceeds
17 \$10,000,000; or

18 (II) if the Secretary determines,
19 in consultation with the Director of
20 National Intelligence, that the covered
21 entity is a foreign entity of concern.

22 (ii) CONSIDERATION.—In reviewing
23 an application submitted by a covered enti-
24 ty under subparagraph (A), the Secretary
25 may consider whether—

1 (I) the covered entity has pre-
2 viously received financial assistance
3 under this subsection;

4 (II) the governmental entity of-
5 fering the applicable covered incentive
6 has benefitted from financial assist-
7 ance previously provided under this
8 subsection;

9 (III) the covered entity has dem-
10 onstrated that the covered entity is re-
11 sponsive to the national security needs
12 or requirements established by the in-
13 telligence community (or an agency
14 thereof), the National Nuclear Secu-
15 rity Administration, or the Depart-
16 ment of Defense;

17 (IV) if practicable, a consortium
18 that is considered a covered entity in-
19 cludes a small business concern (as
20 defined under section 3 of the Small
21 Business Act (15 U.S.C. 632)), not-
22 withstanding section 121.103 of title
23 13, Code of Federal Regulations (or
24 successor regulations); and

1 (V) the covered entity intends to
2 produce finished products for use by
3 the Department of Defense, the de-
4 fense industry of the United States,
5 or critical energy infrastructure.

6 (iii) PRIORITIZATION.—To the max-
7 imum extent practicable, the Secretary
8 shall prioritize awarding financial assist-
9 ance under this subsection to a covered en-
10 tity that—

11 (I) utilizes raw material feedstock
12 sourced from 1 or more offtake agree-
13 ments with entities that are not for-
14 eign entities of concern;

15 (II) utilizes raw material feed-
16 stock sourced from 2 or more—

17 (aa) entities;

18 (bb) offtake agreements; or

19 (cc) geographic locations;

20 (III) utilizes concentrated rare
21 earth elements sourced from 2 or
22 more—

23 (aa) entities;

24 (bb) offtake agreements; or

1 (cc) geographic locations;
2 and

3 (IV) intends to produce finished
4 products for use by the Department of
5 Defense, the defense industry of the
6 United States, or critical energy infra-
7 structure.

8 (D) RECORDS.—

9 (i) IN GENERAL.—The Secretary may
10 request records and information from a
11 covered entity that submitted an applica-
12 tion under subparagraph (A) to review the
13 status of a covered entity.

14 (ii) REQUIREMENT.—The covered en-
15 tity shall provide the records and informa-
16 tion requested by the Secretary under
17 clause (i).

18 (3) AMOUNT.—

19 (A) IN GENERAL.—The Secretary shall de-
20 termine the appropriate amount and funding
21 type for each financial assistance award pro-
22 vided to a covered entity under this subsection.

23 (B) LARGER INVESTMENT.—The total
24 Federal investment in any individual project re-
25 ceiving a financial assistance award under this

1 subsection shall not exceed \$500,000,000, un-
2 less the Secretary, in consultation with the Sec-
3 retary of Defense and the Director of National
4 Intelligence, recommends to the President, and
5 the President certifies and reports to the appro-
6 priate committees of Congress, that a larger in-
7 vestment is necessary—

8 (i) to significantly increase the pro-
9 portion of reliable domestic supply of fin-
10 ished rare earth products relevant for na-
11 tional security and economic competitive-
12 ness that can be met through domestic
13 production; and

14 (ii) to meet the needs of national se-
15 curity.

16 (4) USE OF FUNDS.—A covered entity that re-
17 ceives a financial assistance award under this sub-
18 section may only use the financial assistance award
19 amounts—

20 (A) to finance the construction of a cov-
21 ered facility (including equipment) or the ex-
22 pansion or technological upgrade of a facility
23 (including equipment) of the covered entity to
24 be a covered facility, as documented in the ap-
25 plication submitted by the covered entity under

1 paragraph (2)(A), as determined necessary by
2 the Secretary for purposes relating to the na-
3 tional security and economic competitiveness of
4 the United States;

5 (B) to support workforce development for
6 a covered facility;

7 (C) to support site development and tech-
8 nological upgrade for a covered facility; and

9 (D) to pay reasonable costs relating to the
10 operating expenses for a covered facility, includ-
11 ing specialized workforce, essential materials,
12 and complex equipment maintenance.

13 (5) CLAWBACK.—

14 (A) MAJOR AWARDS.—

15 (i) IN GENERAL.—For all financial as-
16 sistance awards of more than \$10,000,000
17 provided to covered entities under this sub-
18 section, the Secretary shall, at the time of
19 making the award, determine the target
20 dates by which a covered entity shall com-
21 mence and complete the applicable project.

22 (ii) PROGRESSIVE RECOVERY FOR
23 DELAYS.—If the covered entity receiving a
24 financial assistance award of more than
25 \$10,000,000 under this subsection does

1 not complete the applicable project by the
2 applicable target date determined under
3 clause (i), the Secretary shall progressively
4 recover up to the full amount of the award.

5 (iii) WAIVER.—In the case of projects
6 that do not meet the applicable target date
7 determined under clause (i), the Secretary
8 may waive the requirement to recover the
9 financial award provided for the project
10 under clause (ii) after making a formal de-
11 termination that circumstances beyond the
12 ability of the covered entity to foresee or
13 control are responsible for the delay.

14 (iv) CONGRESSIONAL NOTIFICA-
15 TION.—

16 (I) IN GENERAL.—Not later than
17 15 days after making a determination
18 to recover an award under clause (ii),
19 the Secretary shall notify the appro-
20 priate committees of Congress of the
21 intent of the Secretary to recover the
22 award.

23 (II) WAIVERS.—Not later than
24 15 days after the date on which the
25 Secretary provides a waiver under

1 clause (iii), the Secretary shall notify
2 the appropriate committees of Con-
3 gress of the waiver.

4 (B) JOINT RESEARCH, TECHNOLOGY LI-
5 CENSING, AND INTELLECTUAL PROPERTY RE-
6 PORTING.—

7 (i) IN GENERAL.—Before entering
8 into an agreement with a foreign entity to
9 conduct joint research or technology licens-
10 ing, or to share intellectual property, a
11 covered entity that has received a financial
12 assistance award under this subsection—

13 (I) shall notify the Secretary of
14 the intent to enter into such an agree-
15 ment; and

16 (II) may only enter into such an
17 agreement if the Secretary determines
18 the foreign entity is not a foreign en-
19 tity of concern.

20 (ii) DETERMINATION.—On receiving a
21 notification under clause (i), the Secretary,
22 in consultation with the Director of Na-
23 tional Intelligence, the Director of the Na-
24 tional Counterintelligence and Security
25 Center, and the Director of the Federal

1 Bureau of Investigation, shall make a de-
2 termination of whether the applicable for-
3 eign entity is a foreign entity of concern.

4 (iii) TECHNOLOGY CLAWBACK.—The
5 Secretary shall recover the full amount of
6 a financial assistance award provided to a
7 covered entity under this subsection if,
8 during the applicable term of the award,
9 the covered entity knowingly engages in
10 any joint research, technology licensing, or
11 intellectual property sharing effort with a
12 foreign entity of concern that relates to a
13 technology or product that raises national
14 security concerns, as determined by the
15 Secretary, in consultation with the Direc-
16 tor of National Intelligence, the Director of
17 the National Counterintelligence and Secu-
18 rity Center, and the Director of the Fed-
19 eral Bureau of Investigation, on the condi-
20 tion that the determination of the Sec-
21 retary shall have been communicated to
22 the covered entity before the covered entity
23 engaged in the joint research, technology
24 licensing, or intellectual property sharing.

1 (6) CONDITION OF RECEIPT.—A covered entity
2 to which the Secretary awards Federal financial as-
3 sistance under this subsection shall enter into an
4 agreement that specifies that, during the 5-year pe-
5 riod immediately following the award of the Federal
6 financial assistance, the covered entity will not make
7 shareholder distributions in excess of profits.

8 (b) COORDINATION REQUIRED.—In carrying out the
9 program established under subsection (a), the Secretary
10 shall coordinate with the Secretary of State, the Secretary
11 of Defense, the Secretary of Homeland Security, and the
12 Director of National Intelligence.

13 (c) GAO REVIEWS.—The Comptroller General of the
14 United States shall—

15 (1) not later than 2 years after the date of dis-
16 bursement of the first financial award under the
17 program established under subsection (a), and bien-
18 nially thereafter for 10 years, conduct a review of
19 the program, which shall include, at a minimum—

20 (A) a determination of the number of fi-
21 nancial assistance awards provided under the
22 program during the period covered by the re-
23 view;

24 (B) an evaluation of how—

1 (i) the program is being carried out,
2 including how recipients of financial assist-
3 ance awards are being selected under the
4 program; and

5 (ii) other Federal programs are lever-
6 aged for manufacturing, research, and
7 training to complement the financial assist-
8 ance awards provided under the program;
9 and

10 (C) a description of the outcomes of
11 projects supported by financial assistance
12 awards provided under the program, including a
13 description of—

14 (i) covered facilities that were con-
15 structed or facilities that were expanded or
16 technologically upgraded to be covered fa-
17 cilities as a result of financial assistance
18 awards provided under the program;

19 (ii) workforce training programs car-
20 ried out with financial assistance awards
21 provided under the program, including ef-
22 forts to hire individuals from disadvan-
23 taged populations; and

24 (iii) the impact of projects receiving
25 financial assistance awards under the pro-

1 gram on the United States share of global
2 finished rare earth product production; and

3 (2) submit to the appropriate committees of
4 Congress the results of each review conducted under
5 paragraph (1).

6 (d) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to carry out this sec-
8 tion—

9 (1) \$1,500,000,000 for fiscal year 2023; and

10 (2) \$200,000,000 for each of fiscal years 2024
11 through 2027.

12 **SEC. 4. FUNDING FOR DEVELOPMENT OF SECURE RARE**
13 **EARTH SUPPLY CHAINS.**

14 (a) MULTILATERAL RARE EARTH SECURITY
15 FUND.—

16 (1) ESTABLISHMENT OF FUND.—The Secretary
17 of the Treasury may establish a trust fund, to be
18 known as the “Multilateral Rare Earth Security
19 Fund” (in this section referred to as the “Fund”),
20 consisting of such amounts as are appropriated to
21 the Fund or credited to the Fund under paragraph
22 (3).

23 (2) REPORTING REQUIREMENT.—If the Fund is
24 not established by not later than 180 days after the
25 date of the enactment of this Act, on that date, and

1 annually thereafter until the Fund is established, the
2 Secretary of the Treasury, in coordination with the
3 Secretary of State, shall provide, in writing, to the
4 appropriate committees of Congress a rationale for
5 not establishing the Fund.

6 (3) INVESTMENT OF AMOUNTS.—

7 (A) INVESTMENT OF AMOUNTS.—If the
8 Fund is established, the Secretary of the Treas-
9 ury may invest such portion of the Fund as is
10 not required to meet current withdrawals in in-
11 terest-bearing obligations of the United States
12 or in obligations guaranteed as to both prin-
13 cipal and interest by the United States.

14 (B) INTEREST AND PROCEEDS.—The in-
15 terest on, and the proceeds from the sale or re-
16 demption of, any obligations held in the Fund
17 shall be credited to and form a part of the
18 Fund.

19 (4) USE OF FUND.—

20 (A) IN GENERAL.—Subject to subpara-
21 graph (B), amounts in the Fund shall be avail-
22 able, as provided in advance in an appropria-
23 tions Act, to the Secretary of State—

24 (i) to provide funding through the
25 common funding mechanism described in

1 subsection (b)(1) to support the develop-
2 ment and adoption of secure rare earth
3 supply chains; and

4 (ii) to otherwise carry out this section.

5 (B) AVAILABILITY CONTINGENT ON INTER-
6 NATIONAL ARRANGEMENT OR AGREEMENT.—

7 (i) IN GENERAL.—Amounts in the
8 Fund shall be available to the Secretary of
9 State, as provided in advance in an appro-
10 priations Act, on and after the date on
11 which the Secretary of State enters into an
12 arrangement or agreement with the gov-
13 ernments of countries that are partners of
14 the United States, as determined by the
15 Secretary of State, to participate in the
16 common funding mechanism under sub-
17 section (b)(1).

18 (ii) CONSULTATION.—Before entering
19 into an arrangement or agreement as de-
20 scribed in clause (i), the Secretary of
21 State, in consultation with the Secretary of
22 Commerce, shall ensure that any govern-
23 ment that will participate in the arrange-
24 ment or agreement maintains export con-
25 trol licensing policies with respect to ex-

1 ports of finished rare earth products sub-
2 stantively equivalent to the United States
3 with respect to restrictions on such exports
4 to the People’s Republic of China.

5 (b) COMMON FUNDING MECHANISM FOR DEVELOP-
6 MENT OF SECURE RARE EARTH SUPPLY CHAINS.—

7 (1) IN GENERAL.—The Secretary of State, in
8 consultation with the Secretary of Commerce, the
9 Secretary of Defense, the Secretary of Homeland Se-
10 curity, the Secretary of the Treasury, the Secretary
11 of Energy, and the Director of National Intelligence,
12 may establish a common funding mechanism, in co-
13 ordination with the governments of countries that
14 are partners of the United States, that uses amounts
15 from the Fund to support the development and
16 adoption of secure rare earth supply chains, includ-
17 ing for—

18 (A) research and development collabora-
19 tions among countries participating in the
20 mechanism; and

21 (B) supplementing bids by foreign entities
22 that are not foreign entities of concern to se-
23 cure offtake agreements with entities that mine
24 rare earth elements.

1 (2) CONTRIBUTIONS FROM PARTICIPATING
2 COUNTRIES.—In establishing and sustaining a com-
3 mon funding mechanism described in paragraph (1),
4 the Secretary of State shall seek to leverage
5 amounts from the Fund to secure contributions to
6 the mechanism from the governments of countries
7 participating in the mechanism, including with re-
8 spect to cost sharing and other cooperative measures
9 leading to the development and adoption of secure
10 rare earth supply chains.

11 (3) COMMITMENTS.—In creating and sustaining
12 a common funding mechanism described in para-
13 graph (1), the Secretary of State shall promote ef-
14 forts among countries participating in the mecha-
15 nism—

16 (A) to establish transparency requirements
17 for any subsidies or other financial benefits (in-
18 cluding revenue foregone) provided to rare
19 earth firms located in or outside such countries;

20 (B) to establish processes similar to the
21 process of the Committee on Foreign Invest-
22 ment in the United States under section 721 of
23 the Defense Production Act of 1950 (50 U.S.C.
24 4565) for intervening to preempt foreign enti-
25 ties of concern from investing in, purchasing, or

1 assuming control of entities, intellectual prop-
2 erty, and equipment that are created by or ben-
3 efit from investments by the mechanism;

4 (C) to establish consistent policies with re-
5 spect to countries that—

6 (i) are not participating in the mecha-
7 nism; and

8 (ii) do not meet transparency require-
9 ments established under subparagraph (A);

10 (D) to promote harmonized treatment of
11 finished rare earth products and verification
12 processes for raw materials or products being
13 exported to a country considered a national se-
14 curity risk by the government of a country par-
15 ticipating in the mechanism;

16 (E) to establish consistent policies among
17 the governments of countries participating in
18 the mechanism and common policies among
19 countries that are not participating to address
20 nonmarket economy countries as the behavior
21 of such countries pertains to rare earth ele-
22 ments;

23 (F) to align policies with respect to supply
24 chain integrity and security, including with re-

1 spect to protection and enforcement of intellec-
2 tual property rights; and

3 (G) to promote harmonized foreign direct
4 investment screening measures and export con-
5 trol policies with respect to rare earth elements
6 to align with national, multilateral, and
7 plurilateral security priorities.

8 (c) ANNUAL REPORT TO CONGRESS.—Not later than
9 1 year after the date on which the Fund is established,
10 and annually thereafter for each fiscal year during which
11 amounts in the Fund are available under subsection
12 (a)(4), the Secretary of State shall submit to the appro-
13 priate committees of Congress a report on the status of
14 the implementation of this section that includes a descrip-
15 tion of—

16 (1) any commitments made by the governments
17 of countries that have entered into an arrangement
18 or agreement with the United States to provide
19 funding for the common funding mechanism de-
20 scribed in subsection (b)(1) and the specific amount
21 so committed and other cooperative measures being
22 taken by such countries as part of the mechanism;

23 (2) the criteria established for expenditure of
24 funds through the mechanism;

1 (3) how, and to whom, amounts have been ex-
2 pended from the Fund and a description of progress
3 made in utilizing the Fund to support the objectives
4 described in subsection (b)(1);

5 (4) amounts remaining in the Fund;

6 (5) the progress of the Secretary of State to-
7 ward entering into an arrangement or agreement
8 with the governments of countries that are partners
9 of the United States to participate in the common
10 funding mechanism and the commitments described
11 in subsection (b)(2); and

12 (6) any additional authorities needed to en-
13 hance the effectiveness of the Fund in achieving the
14 security goals of the United States.

15 (d) NOTIFICATIONS TO BE PROVIDED BY THE
16 FUND.—

17 (1) IN GENERAL.—Not later than 15 days prior
18 to the Fund making a financial commitment associ-
19 ated with the provision of expenditures under sub-
20 section (a)(4)(A) in an amount in excess of
21 \$1,000,000, the Secretary of State shall submit to
22 the appropriate committees of Congress a report in
23 writing that includes the information described in
24 paragraph (2).

1 (2) INFORMATION REQUIRED.—The information
2 described in this paragraph is—

3 (A) the amount of each expenditure de-
4 scribed in paragraph (1);

5 (B) an identification of the recipient or
6 beneficiary of each such expenditure; and

7 (C) a description of the project or activity
8 to be carried out and the purpose to be
9 achieved by each such expenditure.

10 (3) ARRANGEMENTS OR AGREEMENTS.—The
11 Secretary of State shall notify the appropriate com-
12 mittees of Congress not later than 30 days after en-
13 tering into a new bilateral or multilateral arrange-
14 ment or agreement described in subsection
15 (a)(4)(B).

16 **SEC. 5. WORKFORCE DEVELOPMENT INITIATIVE.**

17 As soon as practicable after the date of enactment
18 of this Act, the Secretary shall establish an initiative
19 under which the Secretary shall work with the Secretary
20 of Labor, the Director of the National Science Founda-
21 tion, the Critical Minerals Subcommittee of the National
22 Science and Technology Council, the private sector, insti-
23 tutions of higher education, and workforce training enti-
24 ties to incentivize and expand participation in graduate
25 and undergraduate programs, and to develop workforce

1 training programs and apprenticeships, relating to ad-
2 vanced rare earth element mining, separation, processing,
3 metallurgy, and advanced equipment maintenance capa-
4 bilities.

5 **SEC. 6. PROHIBITION RELATING TO FOREIGN ENTITIES OF**
6 **CONCERN.**

7 None of the funds authorized to be appropriated to
8 carry out this Act may be provided to a foreign entity of
9 concern.

10 **SEC. 7. DEFENSE PRODUCTION ACT OF 1950 EFFORTS.**

11 (a) IN GENERAL.—Not later than 180 days after the
12 date of enactment of this Act, the President shall submit
13 to Congress a report on a plan of action for any use of
14 authorities available in title III of the Defense Production
15 Act of 1950 (50 U.S.C. 4531 et seq.) to establish or en-
16 hance a domestic production capability for finished rare
17 earth products and related technologies, subject to—

18 (1) the availability of appropriations for that
19 purpose; and

20 (2) a determination made under the plan pursu-
21 ant to that title that—

22 (A) finished rare earth products and re-
23 lated technologies are essential to the national
24 defense; and

1 (B) domestic industrial capabilities are in-
2 sufficient to meet those needs.

3 (b) COORDINATION.—The President shall develop the
4 plan of action required by subsection (a) in consultation
5 with any relevant head of a Federal agency, an advisory
6 committee established under section 708(d) of the Defense
7 Production Act of 1950 (50 U.S.C. 4558(d)), and appro-
8 priate stakeholders in the private sector.

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