

117TH CONGRESS  
2D SESSION

# S. 4404

To authorize certain actions to address domestic industrial base shortfalls,  
and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 14, 2022

Ms. ERNST (for herself, Mr. MANCHIN, Mr. DAINES, Mrs. BLACKBURN, Mr. SCOTT of Florida, Mr. KING, and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To authorize certain actions to address domestic industrial  
base shortfalls, 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 “Homeland Acceleration  
5 of Recovering Deposits and Renewing Onshore Critical  
6 Keystones Act of 2022” or the “HARD ROCK Act of  
7 2022”.

1 **SEC. 2. AUTHORITY TO ACQUIRE MATERIALS FOR NA-**  
2 **TIONAL DEFENSE STOCKPILE TO ADDRESS**  
3 **SHORTFALLS.**

4 (a) MODIFICATION OF ACQUISITION AUTHORITY.—  
5 Section 5 of the Strategic and Critical Materials Stock Pil-  
6 ing Act (50 U.S.C. 98d) is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (1)—

9 (i) in the first sentence, by inserting  
10 “under the authority of paragraph (3) or”  
11 after “Except for acquisitions made”; and

12 (ii) in the second sentence, by striking  
13 “for such acquisition” and inserting “for  
14 any acquisition of materials under this  
15 Act”;

16 (B) in paragraph (2), by striking “any  
17 such transaction” and inserting “any trans-  
18 action”; and

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

20 “(3) Using funds available in the National Defense  
21 Stockpile Transaction Fund established under section 9,  
22 the National Defense Stockpile Manager may acquire ma-  
23 terials determined to be strategic and critical under sec-  
24 tion 3(a) without regard to the requirement of the first  
25 sentence of paragraph (1) if the Stockpile Manager deter-

1 mines there is a shortfall of such materials in the stock-  
2 pile.”; and

3 (2) in subsection (c), by striking “to carry out  
4 the purposes for which appropriated for a period of  
5 two fiscal years, if so provided in the appropriations  
6 Acts” and inserting “until expended, unless other-  
7 wise provided in appropriations Acts”.

8 (b) CLARIFICATION THAT STOCKPILE MAY NOT BE  
9 USED FOR BUDGETARY PURPOSES.—Section 2(c) of the  
10 Strategic and Critical Materials Stock Piling Act (50  
11 U.S.C. 98(c)) is amended by striking “is not to be used”  
12 and inserting “shall not be used”.

13 (c) ANNUAL BRIEFINGS.—Section 11 of the Strategic  
14 and Critical Materials Stock Piling Act (50 U.S.C. 98h–  
15 2) is amended by adding at the end the following:

16 “(c)(1) Not later than 30 days after submitting a re-  
17 port required by subsection (a), the National Defense  
18 Stockpile Manager shall brief the committees specified in  
19 paragraph (2) on the state of the stockpile and the acqui-  
20 sitions intended to be made within the next fiscal year.

21 “(2) The committees specified in this paragraph  
22 are—

23 “(A) the Committee on Armed Services, the  
24 Committee on Foreign Relations, the Committee on  
25 Energy and Natural Resources, the Committee on

1 Commerce, Science, and Transportation, and the Se-  
 2 lect Committee on Intelligence of the Senate; and

3 “(B) the Committee on Armed Services, the  
 4 Committee on Foreign Affairs, the Committee on  
 5 Natural Resources, the Committee on Energy and  
 6 Commerce, and the Permanent Select Committee on  
 7 Intelligence of the House of Representatives.”.

8 **SEC. 3. INCREASED THRESHOLD FOR ACTIONS TO REMEDY**  
 9 **CERTAIN DOMESTIC INDUSTRIAL BASE**  
 10 **SHORTFALLS.**

11 Section 303(a)(6) of the Defense Production Act of  
 12 1950 (50 U.S.C. 4533(a)(6)) is amended—

13 (1) in subparagraph (B)—

14 (A) by striking “If the taking” and insert-  
 15 ing the following:

16 “(i) IN GENERAL.—If the taking”;

17 (B) by striking “\$50,000,000” and insert-  
 18 ing “the amount specified in clause (ii)”; and

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

20 “(ii) AMOUNT SPECIFIED.—The  
 21 amount specified in this clause is—

22 “(I) except as provided in sub-  
 23 clause (II), \$50,000,000; and

24 “(II) in the case of a domestic  
 25 industrial base shortfall relating to an

1 industrial resource described in clause  
2 (iii), \$350,000,000.

3 “(iii) INDUSTRIAL RESOURCES DE-  
4 SCRIBED.—An industrial resource de-  
5 scribed in this clause is any of the fol-  
6 lowing:

7 “(I) A material determined to be  
8 a strategic and critical material under  
9 section 3(a) of the Strategic and Crit-  
10 ical Materials Stock Piling Act (50  
11 U.S.C. 98b(a)) with respect to which  
12 the National Defense Stockpile has a  
13 shortfall of more than \$100,000,000,  
14 as demonstrated by the most recent  
15 report required by section 11 of that  
16 Act (50 U.S.C. 98h–2).

17 “(II) Any industrial resource nec-  
18 essary for the production, separation,  
19 or processing of a critical mineral (as  
20 defined in section 7002(a) of the En-  
21 ergy Act of 2020 (30 U.S.C.  
22 1606(a))).”; and

23 (2) by amending subparagraph (C) to read as  
24 follows:

1           “(C) LIMITATION.—If entering into an ob-  
 2           ligation under this section to correct an indus-  
 3           trial resource shortfall would cause the aggre-  
 4           gate outstanding amount of all such obligations  
 5           for such industrial resource shortfall to exceed  
 6           \$50,000,000, no such obligation may be entered  
 7           until the President provides a briefing to Con-  
 8           gress on the nature of the shortfall and the ac-  
 9           tion or actions necessary to mitigate the short-  
 10          fall.”.

11 **SEC. 4. REPORT ON MODIFICATIONS TO NATIONAL TECH-**  
 12 **NOLOGY AND INDUSTRIAL BASE.**

13          (a) IN GENERAL.—Not later than December 1, 2023,  
 14 the Secretary of Defense shall submit to the congressional  
 15 defense committees a report on the benefits and risks of  
 16 potential legislative proposals to increase the availability  
 17 of strategic and critical materials that are, as of the date  
 18 of the enactment of this Act, sourced primarily from the  
 19 People’s Republic of China or the Russian Federation.

20          (b) ELEMENTS.—The report required by subsection  
 21 (a) shall include an assessment of the following:

22           (1) The implications of modifying the term “do-  
 23           mestic source” for purposes of the Defense Produc-  
 24           tion Act of 1950 (50 U.S.C. 4501 et seq.) to “do-  
 25           mestic and allied source” and including business

1 concerns in Canada, the United Kingdom, and Aus-  
 2 tralia in the definition of that term.

3 (2) The benefits of facilitating more effective  
 4 integration of the national technology and industrial  
 5 base with the technology and industrial bases of  
 6 countries that are allies or partners of the United  
 7 States with respect to technology transfer, socio-  
 8 economic procurement requirements, and export con-  
 9 trols.

10 (c) DEFINITIONS.—In this section:

11 (1) CONGRESSIONAL DEFENSE COMMITTEES.—  
 12 The term “congressional defense committees” has  
 13 the meaning given that term in section 101(a) of  
 14 title 10, United States Code.

15 (2) NATIONAL TECHNOLOGY AND INDUSTRIAL  
 16 BASE.—The term “national technology and indus-  
 17 trial base” has the meaning given that term in sec-  
 18 tion 4801 of title 10, United States Code.

19 (3) STRATEGIC AND CRITICAL MATERIALS.—  
 20 The term “strategic and critical materials” has the  
 21 meaning given that term in section 12 of the Stra-  
 22 tegic and Critical Materials Stock Piling Act (50  
 23 U.S.C. 98h-3).

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