

118TH CONGRESS
1ST SESSION

S. 2368

To direct the Secretary of Commerce, in coordination with the heads of other relevant Federal departments and agencies, to conduct an inter-agency review of and report to Congress on ways to increase the global competitiveness of the United States in attracting foreign direct investment.

IN THE SENATE OF THE UNITED STATES

JULY 19, 2023

Mr. YOUNG (for himself and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To direct the Secretary of Commerce, in coordination with the heads of other relevant Federal departments and agencies, to conduct an interagency review of and report to Congress on ways to increase the global competitiveness of the United States in attracting foreign direct investment.

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 “Global Investment in
5 American Jobs Act of 2023”.

1 **SEC. 2. SENSE OF CONGRESS.**

2 It is the sense of Congress that—

3 (1) the ability of the United States to attract
4 foreign direct investment from responsible private-
5 sector entities based in trusted countries is directly
6 linked to the long-term economic prosperity, global
7 competitiveness, and security of the United States;

8 (2) it is a top national priority to enhance the
9 global competitiveness, economic prosperity, and se-
10 curity of the United States by—

11 (A) removing unnecessary barriers to for-
12 eign direct investment from responsible private-
13 sector entities based in trusted countries and
14 the jobs that such investment creates through-
15 out the United States;

16 (B) promoting policies to ensure the
17 United States remains the premier global des-
18 tination to invest, hire, innovate, provide serv-
19 ices, and manufacture products;

20 (C) promoting policies to ensure the
21 United States remains the global leader in de-
22 veloping and deploying cutting-edge tech-
23 nologies, such as self-driving vehicle technology,
24 artificial intelligence, Internet of Things, quan-
25 tum computing, blockchain; and

1 (D) promoting policies that maintain and
2 expand resilient supply chains and reduce the
3 dependence of the United States on supply
4 chains from China and other foreign adver-
5 saries;

6 (3) maintaining the United States commitment
7 to an open investment policy with private-sector en-
8 tities based in trusted countries encourages other
9 countries to reciprocate and enable the United
10 States to open new markets abroad for United
11 States companies and their products;

12 (4) while foreign direct investment by respon-
13 sible private-sector entities based in trusted coun-
14 tries can enhance the United States economic
15 strength, policies regarding foreign direct investment
16 should reflect security interests and should not dis-
17 advantage domestic investors, companies, or the
18 workforce;

19 (5) United States efforts to attract foreign di-
20 rect investment from responsible private-sector enti-
21 ties based in trusted countries should be consistent
22 with efforts to maintain and improve the domestic
23 standard-of-living, including for the workforce;

24 (6) as digital information becomes increasingly
25 important to the United States economy and the de-

1 velopment of new technologies and services that will
2 be crucial to the country’s competitiveness in the
3 21st century global economy, barriers including data
4 localization and infringement of intellectual property
5 rights must be further addressed;

6 (7) foreign direct investment by companies or
7 other entities owned, directed, supported, or influ-
8 enced by the Chinese Communist Party is a threat
9 to United States security and merits an aggressive
10 policy framework to protect United States interests,
11 jobs, intellectual property, and security;

12 (8) foreign direct investment from any source
13 should not result in the net loss of United States
14 economic activity, productive capabilities, and supply
15 chain resilience; and

16 (9) foreign direct investment from any source
17 should strengthen United States security and sup-
18 port United States workforce, health and safety,
19 consumer, and financial standards.

20 **SEC. 3. DEFINITIONS.**

21 In this Act:

22 (1) AGENCY.—The term “agency” has the
23 meaning given such term in section 551 of title 5,
24 United States Code.

1 (2) FOREIGN ADVERSARY.—The term “foreign
2 adversary” has the meaning given such term in part
3 7.2 of title 15, Code of Federal Regulations.

4 (3) RESPONSIBLE PRIVATE-SECTOR ENTITY.—
5 The term “responsible private-sector entity” means
6 an entity that the Secretary determines is—

7 (A) not organized under the laws of a for-
8 eign adversary; and

9 (B) not owned, controlled, or otherwise
10 subject to the influence of, a foreign adversary.

11 (4) SECRETARY.—The term “Secretary” means
12 the Secretary of Commerce.

13 (5) STATE.—The term “State” means—

14 (A) each State of the United States;

15 (B) the District of Columbia;

16 (C) each commonwealth, territory, or pos-
17 session of the United States; and

18 (D) each federally recognized Indian Tribe.

19 (6) TRUSTED COUNTRY.—The term “trusted
20 country” means a country or economy that is not
21 determined by the Secretary to be a foreign adver-
22 sary of the United States.

23 **SEC. 4. FOREIGN DIRECT INVESTMENT REVIEW.**

24 (a) REVIEW.—The Secretary, in consultation with the
25 Federal Interagency Investment Working Group estab-

lished pursuant to Executive Order 13577 (76 Fed. Reg. 35715; relating to establishment of the SelectUSA Initiative) and in consultation with the heads of other relevant agencies, shall conduct an interagency review of the global competitiveness of the United States in—

(1) attracting foreign direct investment from responsible private-sector entities based in trusted countries; and

(2) addressing key foreign trade barriers that firms in advanced technology sectors face in the global digital economy.

(b) SPECIFIC MATTERS TO BE INCLUDED.—The review conducted pursuant to subsection (a) shall include a review of—

(1) the economic impact of foreign direct investment in the United States, with particular focus on manufacturing, services, trade (with an emphasis on digital trade), and United States jobs;

(2) trends in global cross-border investment and data flows and the underlying factors for such trends;

(3) Federal Government policies, that facilitate foreign direct investment attraction and retention from responsible private-sector entities based in trusted countries;

1 (4) foreign direct investment as compared to di-
2 rect investment by domestic entities;

3 (5) foreign direct investment that takes the
4 form of greenfield investment rather than foreign di-
5 rect investment relating to merger and acquisition
6 activity;

7 (6) the unique challenges posed by foreign di-
8 rect investment, particularly acquisitions, in the
9 United States by State-owned or State-backed enter-
10 prises, especially from State-directed economies, in-
11 cluding companies or other entities owned, directed,
12 supported, or influenced by the Chinese Communist
13 Party;

14 (7) specific information regarding the preva-
15 lence of investments made by State-owned or State-
16 backed enterprises, especially from State-directed
17 economies, including companies or other entities
18 owned, directed, supported, or influenced by the Chi-
19 nese Communist Party, with a particular focus on
20 investments relating to manufacturing, services,
21 trade (with an emphasis on digital trade), and jobs;

22 (8)(A) how other trusted countries are dealing
23 with the challenge, including screening for and pre-
24 venting market distorting investments, of State-di-
25 rected and State-supported investment; and

1 (B) whether there are opportunities to work
2 with like-minded nations to address such challenge;

3 (9) ongoing Federal Government efforts to im-
4 prove the investment climate and facilitate greater
5 levels of foreign direct investment in the United
6 States from responsible private-sector entities based
7 in trusted countries;

8 (10) innovative and noteworthy initiatives by
9 State and local government to attract foreign invest-
10 ment from responsible private-sector entities based
11 in trusted countries;

12 (11) initiatives by other countries to identify
13 best practices for increasing global competitiveness
14 in attracting foreign direct investment from respon-
15 sible private-sector entities based in trusted coun-
16 tries;

17 (12)(A) the impact that protectionist policies by
18 other countries, including forced data localization
19 rules, forced localization of production, industrial
20 subsidies, and the infringement of intellectual prop-
21 erty rights, have on the advanced technology econ-
22 omy of the United States; and

23 (B) the ability for United States located firms
24 to develop innovative technologies;

1 (13) other barriers to the ability of the United
2 States to compete globally in an increasingly con-
3 nected and digital global economy, including the use
4 of technical barriers to trade (such as country-spe-
5 cific standards for technology products and digital
6 services);

7 (14) the adequacy of efforts by the Federal
8 Government to encourage and facilitate foreign di-
9 rect investment in the United States;

10 (15) efforts by the Chinese Communist Party to
11 circumvent existing laws to gain access to United
12 States markets, foreign direct investment responsible
13 private-sector entities based in trusted countries, or
14 intellectual property; and

15 (16) the extent to which foreign direct invest-
16 ment from any source, including the Chinese Com-
17 munist Party, results in displacement, offshoring, or
18 outsourcing, including the impact of such investment
19 on supply chains.

20 (c) LIMITATION.—The review conducted pursuant to
21 subsection (a) may not address laws or policies relating
22 to the Committee on Foreign Investment in the United
23 States.

24 (d) PUBLIC COMMENT.—

1 (1) REVIEW.—Not sooner than 60 days before
2 the date on which the review is commenced pursuant
3 to subsection (a), the Secretary shall—

4 (A) publish notice of the review in the Fed-
5 eral Register; and

6 (B) provide an opportunity for public com-
7 ment on the matters to be covered by the re-
8 view.

9 (2) REPORT.—Not sooner than 60 days before
10 the date on which the report is submitted pursuant
11 to subsection (b), the Secretary shall—

12 (A) publish the proposed findings and rec-
13 ommendations included in the report in the
14 Federal Register; and

15 (B) provide an opportunity for public com-
16 ment.

17 (e) REPORT TO CONGRESS.—Not later than 1 year
18 after the date of the enactment of this Act, the Secretary,
19 in coordination with the Federal Interagency Investment
20 Working Group and the heads of other relevant agencies,
21 shall submit a report to Congress and to the Comptroller
22 General that includes—

23 (1) the findings of the review conducted pursu-
24 ant to subsection (a); and

1 (2) recommendations for increasing the global
2 competitiveness of the United States in attracting
3 foreign direct investment from responsible private-
4 sector entities based in trusted countries in a man-
5 ner that strengthens or maintains the security,
6 workforce, consumer, or financial protections of the
7 United States.

8 (f) COMPTROLLER GENERAL REVIEW.—Not later
9 than 1 year after the date on which the Comptroller Gen-
10 eral of the United States receives the report pursuant to
11 subsection (e), the Comptroller General shall submit a re-
12 view and assessment of the report to Congress.

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