(3) A comparison between each of the processes described in paragraphs (1) and (2) and generally accepted accounting principles.

(4) A description of the costs and requirements associated with implementing proposed alternatives to the processes described in paragraphs (1) and (2) for more effectively separating expenditures of amounts appropriated for overseas contingency operations from expenditures of all other amounts appropriated for the Department of Defense.

(5) Any related information the Comptroller General considers appropriate.

SEC. 1524. GUIDELINES FOR BUDGET ITEMS TO BE COVERED BY OVERSEAS CONTINGENCY OPERATIONS ACCOUNTS.

Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Director of Management and Budget, shall update the guidelines regarding the budget items that may be covered by overseas contingency operations accounts.

TITLE XVI—STRATEGIC PROGRAMS, CYBER, AND INTELLIGENCE MATTERS

Subtitle A—Space Activities

Subtitle B—Defense Intelligence and Intelligence-Related Activities

Subtitle A—Space Activities

SEC. 1601. SPACE ACQUISITION AND MANAGEMENT AND OVERSIGHT.

(a) AIR FORCE SPACE COMMAND.—

(1) IN GENERAL.—Chapter 135 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2279c. Air Force Space Command

10/2279c new *

"(a) COMMANDER.—(1) The head of the Air Force Space Command shall be the Commander of the Air Force Space Command, who shall be appointed in accordance with section 601 of this title. The officer serving as Commander, while so serving, has the grade of general without vacating the permanent grade of the officer.

"(2) The Commander shall be appointed to serve a term of six years. The Secretary may propose to promote the individual serving as the Commander during that term of appointment.

*Another 10/2279c added by sec. 1602(a) - JW

"(3) The incumbent Commander may serve as the first Commander after the date of the enactment of this Act.

"(b) AUTHORITIES.—In addition to the authorities and responsibilities assigned to the Commander before the date of the enactment of this section, the Commander has the sole authority with respect to each of the following:

10/2279c new

"(1) Organizing, training, and equipping personnel and operations of the space forces of the Air Force.

"(2) Subject to the direction of the Secretary of the Air Force, serving as the service acquisition executive under section 1704 of this title for defense space acquisitions.

"(3) In consultation with the Chief Information Officer of the Department of Defense, procurement of commercial satellite communications services for the Department of Defense for such services entered into on or after the date that is one year after the date of the enactment of this section.".

10/2271 prec

(2) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 2279b the following new item:

"2279c. Air Force Space Command.".

10/2279c note new

(3) RULE OF CONSTRUCTION.—Nothing in subsection (b)(1) of section 2279c of title 10, United States Code, as added by paragraph (1), may be construed to prohibit or otherwise affect the authority of the Secretary of the Air Force to provide to the space forces of the Air Force the services of the Department of the Air Force relating to basic personnel functions, the United States Air Force Academy, recruitment, and basic training.

* (b) TERMINATION OF CERTAIN POSITIONS AND ENTITIES.—

(1) IN GENERAL.—Effective 30 days after the date of the enactment of this Act—

10/2279a note new

(A) the position, and the office of, the Principal Department of Defense Space Advisor (previously known as the Department of Defense Executive Agent for Space) shall be terminated;

(B) the duties, responsibilities, and personnel of such office specified in subparagraph (A) shall be transferred to a single official selected by the Deputy Secretary of Defense, without delegation, except the Deputy Secretary may not select the Secretary of the Air Force nor the Under Secretary of Defense for Intelligence;

(C) any reference in Federal law, regulations, guidance, instructions, or other documents of the Federal Government to the Principal Department of Defense Space Advisor or the Department of Defense Executive Agent for Space shall be deemed to be a reference to the official selected by the Deputy Secretary under subparagraph (B);

(D) the position, and the office of, the Deputy Chief of Staff of the Air Force for Space Operations shall be terminated; and

(E) the Defense Space Council shall be terminated.

(2) PRINCIPAL ADVISOR ON SPACE CONTROL.—

10/2279a Rep.

(A) REPEAL.—Section 2279a of title 10, United States Code, is repealed.

*Sec. 1601 has 2 subsecs. (b) - JW

corrected page 12/20/2017

10/2271 prec

(B) CLERICAL AMENDMENT.—The table of sections for chapter 135 of such title is amended by striking the item relating to section 2279a.

(b) REDESIGNATION OF OPERATIONALLY RESPONSIVE SPACE PROGRAM OFFICE AS SPACE RAPID CAPABILITIES OFFICE; REPORTING TO AIR FORCE SPACE COMMAND.—

(1) IN GENERAL.—Section 2273a of title 10, United States Code, is amended—

10/2273a

(A) in the section heading, by striking "**Operationally Responsive Space Program**" and inserting "**Space Rapid Capabilities**";

(B) in subsection (a)—

10/2273a(a)

(i) by striking "Air Force Space and Missile Systems Center of the Department of Defense" and inserting "Air Force Space Command"; and

(ii) by striking "Operationally Responsive Space Program" and inserting "Space Rapid Capabilities";

10/2273a(b)

(C) in subsection (b), by striking "Air Force Space and Missile Systems Center" and inserting "Air Force Space Command";

10/2273a(c), (f)

(D) in subsections (c) and (f), by striking "operationally responsive space" each place it appears and inserting "space rapid capabilities";

(E) in subsection (d)—

10/2273a(d)

(i) in the matter preceding paragraph (1), by striking "operationally responsive space" and inserting "space rapid capabilities";

10/2273a(d)(1)

(ii) in paragraph (1), by striking "capabilities for operationally responsive space" and inserting "space rapid capabilities";

10/2273a(d)(2), (3)

(iii) in paragraphs (2) and (3), by striking "operationally responsive space" each place it appears and inserting "space rapid capabilities"; and

10/2273a(d)(4)

(iv) in paragraph (4), by striking "operationally responsive space capabilities" and inserting "space rapid capabilities".

10/2273a(g)(1)

(F) in subsection (g)(1), by striking "Operationally Responsive Space" and inserting "Space Rapid Capabilities".

10/2271 prec

(2) CLERICAL AMENDMENT.—The table of sections for chapter 135 of such title is amended by striking the item relating to section 2273a and inserting the following new item:

"2273a. Space Rapid Capabilities Office.".

(c) REVIEW OF STRUCTURE.—

(1) REVIEW.—The Deputy Secretary of Defense shall conduct a review and identify a recommended organizational and management structure for the national security space components of the Department of Defense, including the Air Force Space Command, that implements the organizational policy guidance expressed in this section and the amendments made by this section.

(2) INTERIM REPORT.—Not later than March 1, 2018, the Deputy Secretary of Defense shall submit to the congressional defense committees an interim report on the review and recommended organizational and management structure for the national security space components of the Department of

Defense, including the Air Force Space Command, under paragraph (1).

(3) FINAL REPORT.—Not later than August 1, 2018, the Deputy Secretary of Defense shall submit to the congressional defense committees a final report on the review and recommended organizational and management structure for the national security space components of the Department of Defense, including the Air Force Space Command, under paragraph (1), including—

(A) a proposed implementation plan for how the Deputy Secretary would implement the recommendations;

(B) recommendations for revisions to appointments and qualifications, duties and powers, and precedent in the Department;

(C) recommendations for such legislative and administrative action, including conforming and other amendments to law, as the Deputy Secretary considers appropriate to implement the plan; and

(D) any other matters that the Deputy Secretary considers appropriate.

(4) PROHIBITION ON DELEGATION.—The Deputy Secretary of Defense may not delegate the authority to carry out this subsection.

(d) INDEPENDENT PLAN TO ESTABLISH MILITARY DEPARTMENT.—

(1) PLAN.—Not later than 45 days after the date of the enactment of this Act, the Deputy Secretary of Defense shall seek to enter into a contract with a federally funded research and development center that is not closely affiliated with the Department of the Air Force to develop a plan to establish a separate military department responsible for the national security space activities of the Department of Defense. Such plan shall include recommendations for legislative language.

(2) INTERIM REPORT.—Not later than August 1, 2018, the Deputy Secretary shall submit to the congressional defense committees an interim report on the plan developed under paragraph (1).

(3) FINAL REPORT.—Not later than December 31, 2018, the Deputy Secretary shall submit to the congressional defense committees a final report containing the plan developed under paragraph (1), without change.

SEC. 1602. CODIFICATION, EXTENSION, AND MODIFICATION OF LIMITATION ON CONSTRUCTION ON UNITED STATES TERRITORY OF SATELLITE POSITIONING GROUND MONITORING STATIONS OF FOREIGN GOVERNMENTS.

(a) CODIFICATION, EXTENSION, AND MODIFICATION.—Chapter 135 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2279c. Limitation on construction on United States territory of satellite positioning ground monitoring stations of certain foreign governments.

10/2279c new *

"(b) EXCEPTION.—The limitation in subsection (a) shall not apply to foreign governments that are allies of the United States.

"(c) SUNSET.—The limitation in subsection (a) shall terminate on December 31, 2023.".

*Another 10/2279c added by sec. 1601(a)(1) - JW

(b) TRANSFER OF PROVISION.—Subsection (b) of section 1602 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 10 U.S.C. 2281 note) is—

10/2279c(a)
10/2281 note

(1) transferred to section 2279c of title 10, United States Code, as added by subsection (a);

(2) inserted as the first subsection of such section;

(3) redesignated as subsection (a); and

10/2279c

(4) amended—

(A) by amending the subsection heading to read as follows: "LIMITATION"; and

(B) by striking paragraph (6).

SEC. 1603. FOREIGN COMMERCIAL SATELLITE SERVICES: CYBERSECURITY THREATS AND LAUNCHES.

(a) CYBERSECURITY RISKS.—Subsection (a) of section 2279 of title 10, United States Code, is amended—

10/2279(a)(1)

(1) in paragraph (1), by striking "; or" and inserting a semicolon;

10/2279(a)(2)

(2) in paragraph (2), by striking the period at the end and inserting: "; or"; and

10/2279(a)(3)

(3) by adding at the end the following new paragraph:

"(3) entering into such contract would create an unacceptable cybersecurity risk for the Department of Defense.".

(b) LAUNCHES.—Such section is amended—

10/2279(b) to (f)

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) LAUNCHES AND MANUFACTURERS.—

"(1) LIMITATION.—In addition to the prohibition in subsection (a), and except as provided in paragraph (2) and in subsection (c), the Secretary may not enter into a contract for satellite services with any entity if the Secretary reasonably believes that such satellite services will be provided using satellites that will be—

10/2279(b)

"(A) designed or manufactured in a covered foreign country, or by an entity controlled in whole or in part by, or acting on behalf of, the government of a covered foreign country; or

"(B) launched using a launch vehicle that is designed or manufactured in a covered foreign country, or that is provided by the government of a covered foreign country or by an entity controlled in whole or in part by, or acting on behalf of, the government of a covered foreign country, regardless of the location of the launch (unless such location is in the United States).

"(2) EXCEPTION.—The limitation in paragraph (1) shall not apply with respect to—

"(A) a launch that occurs prior to December 31, 2022; or

"(B) a contract or other agreement relating to launch services that, prior to the date that is 180 days after the date of the enactment of this subsection, was either fully paid for by the contractor or covered by a legally binding commitment of the contractor to pay for such services.

10/2279(b)

"(3) LAUNCH VEHICLE DEFINED.—In this subsection, the term 'launch vehicle' means a fully integrated space launch vehicle.".

(c) DEFINITIONS.—Subsection (f) of section 2279 of title 10, United States Code, as redesignated by subsection (b)(1)(A), is amended to read as follows:

"(f) DEFINITIONS.—In this section:

"(1) The term 'covered foreign country' means any of the following:

10/2279(f)

"(A) A country described in section 1261(c)(2) of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239; 126 Stat. 2019).

"(B) The Russian Federation.

"(2) The term 'cybersecurity risk' means threats to and vulnerabilities of information or information systems and any related consequences caused by or resulting from unauthorized access, use, disclosure, degradation, disruption, modification, or destruction of such information or information systems, including such related consequences caused by an act of terrorism.".

(d) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CONFORMING AMENDMENTS.—Such section 2279 is further amended—

10/2279

(A) in the section heading, by striking "**services**" and inserting "**services and foreign launches**";

10/2279

(B) by striking "subsection (b)" each place it appears and inserting "subsection (c)";

10/2279(a)(2)

(C) in subsection (a)(2), by striking "launch or other";

10/2279(c)

(D) in subsection (c), as redesignated by subsection (b)(1), by striking "prohibition in subsection (a)" and inserting "prohibitions in subsection (a) and (b)"; and

10/2279(d)

(E) in subsection (d), as so redesignated, by striking "prohibition under subsection (a)" and inserting "prohibition under subsection (a) or (b)".

10/2271 prec

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 135 of title 10, United States Code, is amended by striking the item relating to section 2279 and inserting the following:

"2279. Foreign commercial satellite services and foreign launches.".

10/2279 note new

(e) APPLICATION.—Except as otherwise specifically provided, the amendments made by this section shall apply with respect to contracts for satellite services awarded by the Secretary of Defense on or after the date of the enactment of this Act.

SEC. 1604. EXTENSION OF PILOT PROGRAM ON COMMERCIAL WEATHER DATA.

Section 1613 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328) is amended—

(1) in subsection (b), by striking "one year" and inserting "two years";

(2) in subsection (c)—

(A) by striking "Committees on Armed Services of the House of Representatives and the Senate" each place it appears and inserting "appropriate congressional committees"; and

(B) by adding at the end the following new paragraph:

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

"(A) the Committees on Armed Services of the Senate and the House of Representatives; and

"(B) the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.".

SEC. 1605. EVOLVED EXPENDABLE LAUNCH VEHICLE MODERNIZATION AND SUSTAINMENT OF ASSURED ACCESS TO SPACE.

(a) DEVELOPMENT.—

(1) EVOLVED EXPENDABLE LAUNCH VEHICLE.—Using funds described in paragraph (3), the Secretary of Defense may only obligate or expend funds to carry out the evolved expendable launch vehicle program to—

(A) develop a domestic rocket propulsion system to replace non-allied space launch engines;

(B) develop the necessary interfaces to, or integration of, such domestic rocket propulsion system with an existing or planned launch vehicle; and

(C) develop capabilities necessary to enable existing or planned commercially available space launch vehicles or infrastructure that are primarily for national security space missions to meet the assured access to space requirements pursuant to section 2273 of title 10, United States Code.

(2) PROHIBITION.—Except as provided in this section, none of the funds described in paragraph (3) shall be obligated or expended for the evolved expendable launch vehicle program.

(3) FUNDS DESCRIBED.—The funds described in this paragraph are the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2018 for research, development, test, and evaluation, Air Force, for the evolved expendable launch vehicle program.

(4) TERMINATION.—The authority to carry out subparagraphs (A) and (B) of paragraph (1) shall terminate on the date on which the Secretary of the Air Force certifies to the congressional defense committees that a successful full-scale test of a domestic rocket engine has occurred.

(b) OTHER AUTHORITIES.—Nothing in this section shall affect or prohibit the Secretary from procuring launch services of evolved expendable launch vehicle launch systems, including with respect to any associated operation and maintenance of capabilities and infrastructure relating to such systems.

(c) NOTIFICATION.—Not later than 30 days before any date on which the Secretary publishes a draft or final request for proposals, or obligates funds, for the development under subsection (a)(1), the Secretary shall notify the congressional defense committees of such proposed draft or final request for proposals or proposed obligation, as the case may be. If such proposed draft or final request for proposals or proposed obligation relates to intelligence requirements, the Secretary shall also notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(d) ASSESSMENT.—Not later than 120 days after the date of the enactment of this Act, the Secretary, in coordination with the

Director of Cost Assessment and Program Evaluation, shall submit to the congressional defense committees, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate a report containing an assessment of the most cost-effective method to meet the assured access to space requirements pursuant to section 2273 of title 10, United States Code, with respect to each of the following periods:

(1) The five-year period beginning on the date of the report.

(2) The 10-year period beginning on the date of the report.

(3) The period consisting of the full lifecycle of the evolved expendable launch vehicle program.

(e) ROCKET PROPULSION SYSTEM DEFINED.—In this section, the term "rocket propulsion system" means, with respect to the development authorized by subsection (a)(1), a main booster, first-stage rocket engine (including such an engine using kerosene or methane-based or other propellant) or motor. The term does not include a launch vehicle, an upper stage, a strap-on motor, or related infrastructure.

SEC. 1606. DEMONSTRATION OF BACKUP AND COMPLEMENTARY POSITIONING, NAVIGATION, AND TIMING CAPABILITIES OF GLOBAL POSITIONING SYSTEM.

(a) PLAN.—During fiscal year 2018, the Secretary of Defense, the Secretary of Transportation, and the Secretary of Homeland Security (referred to in this section as the "Secretaries") shall jointly develop a plan for carrying out a backup GPS capability demonstration. The plan shall—

(1) be based on the results of the study conducted under section 1618 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2595); and

(2) include the activities that the Secretaries determine necessary to carry out such demonstration.

(b) BRIEFING.—Not later than 120 days after the date of the enactment of this Act, the Secretaries shall provide to the appropriate congressional committees a briefing on the plan developed under subsection (a). The briefing shall include—

(1) identification of the sectors that would be expected to participate in the backup GPS capability demonstration described in the plan;

(2) an estimate of the costs of implementing the demonstration in each sector identified in paragraph (1); and

(3) an explanation of the extent to which the demonstration may be carried out with the funds appropriated for such purpose.

(c) IMPLEMENTATION.—

(1) IN GENERAL.—Subject to the availability of appropriations and beginning not earlier than the day after the date on which the briefing is provided under subsection (b), the Secretaries shall jointly initiate the backup GPS capability demonstration to the extent described under subsection (b)(3).

(2) TERMINATION.—The authority to carry out the backup GPS capability demonstration under paragraph (1) shall terminate on the date that is 18 months after the date of the enactment of this Act.

(d) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretaries shall submit to the appropriate congressional committees a report on the backup GPS capability demonstration carried out under subsection (c) that includes—

(1) a description of the opportunities and challenges learned from such demonstration; and

(2) a description of the next actions the Secretaries determine appropriate to backup and complement the positioning, navigation, and timing capabilities of the Global Positioning System for national security and critical infrastructure, including, at a minimum, the timeline and funding required to issue a request for proposals for such capabilities.

(e) NSPD–39.—

(1) JOINT FUNDING.—The costs to carry out this section shall be consistent with the responsibilities established in National Security Presidential Directive 39 titled "U.S. Space-Based Positioning, Navigation, and Timing Policy".

(2) CONSTRUCTION.—Nothing in this section may be construed to modify the roles or responsibilities established in such National Security Presidential Directive 39.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section for fiscal year 2018 not more than $10,000,000 for the Department of Defense, as specified in the funding tables in division D.

(g) DEFINITIONS.—In this section:

(1) The term "appropriate congressional committees" means—

(A) the congressional defense committees;

(B) the Committee on Science, Space, and Technology, the Committee on Transportation and Infrastructure, and the Committee on Homeland Security of the House of Representatives; and

(C) the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate.

(2) The term "backup GPS capability demonstration" means a proof-of-concept demonstration of capabilities to backup and complement the positioning, navigation, and timing capabilities of the Global Positioning System for national security and critical infrastructure.

SEC. 1607. ENHANCEMENT OF POSITIONING, NAVIGATION, AND TIMING CAPACITY.

(a) PLAN.—The Secretary of Defense, acting through the Council on Oversight of the Department of Defense Positioning, Navigation, and Timing Enterprise established by section 2279b of title 10, United States Code, shall develop a plan to increase the positioning, navigation, and timing capacity of the Department of Defense to provide resilience to the positioning, navigation, and timing capabilities of the Department. Such plan shall—

(1) ensure that military Global Positioning System user equipment terminals have the capability, including with appropriate mitigation efforts, to receive trusted signals from the Galileo satellites of the European Union and the QZSS satellites of Japan, beginning with increment 2 of the acquisition of such terminals;

(2) evaluate the risks and benefits with respect to ensuring the capability described in paragraph (1);

(3) include an assessment of the feasibility, benefits, and risks of military Global Positioning System user equipment terminals having the capability to receive non-allied positioning, navigation, and timing signals, beginning with increment 2 of the acquisition of such terminals;

(4) include an assessment of options to use hosted payloads to provide redundancy for the Global Positioning System signal;

(5) ensure that the Secretary, with the concurrence of the Secretary of State, engages with relevant allies of the United States to—

(A) enable military Global Positioning System user equipment terminals to receive the positioning, navigation, and timing signals of such allies; and

(B) negotiate other potential agreements relating to the enhancement of positioning, navigation, and timing;

(6) include any other options the Secretary of Defense determines appropriate and a determination by the Secretary regarding whether the plan should be implemented; and

(7) include an evaluation by the Director of National Intelligence of the benefits and risks of using non-allied positioning, navigation, and timing signals.

(b) SUBMISSION.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall—

(1) submit to the congressional defense committees, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate the plan under subsection (a); and

(2) submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate the evaluation described in paragraph (6) of such subsection.

SEC. 1608. COMMERCIAL SATELLITE COMMUNICATIONS PATHFINDER PROGRAM.

(a) REPORT.—Not later than March 1, 2018, the Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that includes the views and plans of the Secretary with respect to using the transaction authority provided by section 2371 of title 10, United States Code, to acquire from commercial providers a portion of the satellite bandwidth, ground services, and advanced services for the pathfinder program.

(b) DEFINITION.—In this section, the term "pathfinder program" means the commercial satellite communications programs of the Air Force designed to demonstrate the feasibility of new, alternative acquisition and procurement models for commercial satellite communications.

SEC. 1609. LAUNCH SUPPORT AND INFRASTRUCTURE MODERNIZATION.

10/2273 note new*

(a) IN GENERAL.—In support of the policy specified in section 2273 of title 10, United States Code, the Secretary of Defense shall carry out a program to modernize infrastructure and improve support activities for the processing and launch of United States national security space vehicles launching from Federal ranges.

*DT (sec. 3) - JW

(b) ELEMENTS.—The program under subsection (a) shall include—

(1) investments in infrastructure to improve operations at the Eastern and Western Ranges that may benefit all users, to enhance the overall capabilities of ranges, to improve safety, and to reduce the long-term cost of operations and maintenance;

(2) measures to normalize processes, systems, and products across the Eastern and Western ranges to minimize the burden on launch providers; and

10/2273 note new

(3) improvements in transparency, flexibility, and, responsiveness for launch scheduling.

(c) CONSULTATION.—In carrying out the program under subsection (a), the Secretary may consult with current and anticipated users of the Eastern and Western Ranges.

(d) COOPERATION.—In carrying out the program under subsection (a), the Secretary may consider partnerships authorized under section 2276 of title 10, United States Code.

(e) REPORT.—

(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the plan for the implementation of the program under subsection (a).

(2) ELEMENTS.—The report under paragraph (1) shall include—

(A) a description of plans and the resources needed to improve launch support infrastructure, utilities, support equipment, and range operations;

(B) a description of plans to streamline and normalize processes, systems, and products at the Eastern and Western ranges, to ensure consistency for range users; and

(C) recommendations for improving transparency, flexibility, and responsiveness in launch scheduling.

SEC. 1610. LIMITATION ON AVAILABILITY OF FUNDING FOR JOINT SPACE OPERATIONS CENTER MISSION SYSTEM.

10/2274 note new

(a) LIMITATION.—Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2018 for the Joint Space Operations Center mission system, not more than 75 percent may be obligated or expended until the date on which the Secretary of the Air Force certifies to the congressional defense committees that the Secretary has developed the plan under subsection (b).

(b) PLAN.—The Secretary shall develop and implement a plan to operationalize existing commercial space situational awareness capabilities to address warfighter requirements, consistent with the best-in-breed concept. Except as provided by subsection (c), the Secretary shall commence such implementation by not later than May 30, 2018.

(c) WAIVER.—The Secretary may waive the implementation of the plan developed under subsection (b) if the Secretary determines that existing commercial capabilities will not address national security requirements or existing space situational awareness capability gaps. The authority under this subsection may not be delegated below the Deputy Secretary of Defense.

SEC. 1611. LIMITATION ON USE OF FUNDS FOR DELTA IV LAUNCH VEHICLE.

None of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2018 or any fiscal year thereafter for the Air Force may be obligated or expended to maintain infrastructure, system engineering, critical skills, base and range support, depreciation, or sustainment commodities for the Delta IV launch vehicle until the date on which the Secretary of the Air Force submits to the congressional defense committees a certification that the Air Force plans to launch a satellite procured by the Air Force on a Delta IV launch vehicle during the three-year period beginning on the date of the certification.

SEC. 1612. AIR FORCE SPACE CONTRACTOR RESPONSIBILITY WATCH LIST.

(a) IN GENERAL.—The Commander of the Air Force Space and Missile Systems Center shall establish and maintain a watch list of contractors with a history of poor performance on space procurement contracts or research, development, test, and evaluation space program contracts.

(b) BASIS FOR INCLUSION ON LIST.—

10/2271 note new

(1) DETERMINATION.—The Commander may place a contractor on the watch list established under subsection (a) upon determining that the ability of the contractor to perform a contract specified in such subsection is uncertain because of any of the following issues:

(A) Poor performance or award fee scores below 50 percent.

(B) Financial concerns.

(C) Felony convictions or civil judgements.

(D) Security or foreign ownership and control issues.

(2) DISCRETION OF THE COMMANDER.—The Commander shall be responsible for determining which contractors to place on the watch list, whether an entire company or a specific division should be included, and when to remove a contractor from the list.

(c) EFFECT OF LISTING.—

(1) PRIME CONTRACTS.—The Commander may not solicit an offer from, award a contract to, execute an engineering change proposal with, or exercise an option on any space program of the Air Force with a contractor included on the list established under subsection (a) without the prior approval of the Commander.

(2) SUBCONTRACTS.—A prime contractor on a contract entered into with the Air Force Space and Missile Systems Center may not enter into a subcontract valued in excess of $3,000,000 or five percent of the prime contract value, whichever is lesser, with a contractor included on the watch list established under subsection (a) without the prior approval of the Commander.

(d) REQUEST FOR REMOVAL FROM LIST.—A contractor may submit to the Commander a written request for removal from the watch list, including evidence that the contractor has resolved the issue that was the basis for inclusion on the list.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as preventing the suspension or debarment of a contractor, but inclusion on the watch list shall not be construed

10/2271 note new

as a punitive measure or de facto suspension or debarment of a contractor.

SEC. 1613. CERTIFICATION AND BRIEFING ON OPERATIONAL AND CONTINGENCY PLANS FOR LOSS OR DEGRADATION OF SPACE CAPABILITIES.

(a) CERTIFICATION.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall jointly certify to the appropriate congressional committees that appropriate contingency plans exist in the event of a loss or degradation of space capabilities of the United States.

(b) BRIEFING.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall jointly provide to the appropriate congressional committees a briefing on the mitigation of any loss or degradation of space capabilities pursuant to contingency plans described in subsection (a).

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means the following:

(1) The Committees on Armed Services of the House of Representatives and the Senate.

(2) The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

SEC. 1614. REPORT ON PROTECTED SATELLITE COMMUNICATIONS.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on protected satellite communications that contains each of the following:

(1) A joint certification by the Commander of the United States Strategic Command and the Commander of the United States Northern Command that a protected satellite communications system other than the advanced extremely high frequency program will meet all applicable requirements for the nuclear command, control, and communications mission of the Department of Defense, the continuity of government mission of the Department, and all other functions relating to protected communications of the national command authority and the combatant commands, including with respect to operational forces in a peer-near-peer jamming environment.

(2) With respect to such a protected satellite communications system other than the advanced extremely high frequency program, a certification by the Chairman of the Joint Chiefs of Staff that there is a validated military requirement that meets requirements for resilience, mission assurance, and the nuclear command, control, and communications mission of the Department of Defense.

(3) An assessment by the Chairman of the Joint Chiefs of Staff on the effect of developing and fielding all the waveforms and terminals required to use such a protected satellite communications system other than the advanced extremely high frequency program.

(4) A detailed plan by the Secretary of the Air Force for the ground control system and all user terminals developed and acquired by the Air Force to be synchronized through

development and deployment to meet all applicable requirements specified in paragraph (1).

SEC. 1615. SENSE OF CONGRESS ON ESTABLISHMENT OF SPACE FLAG TRAINING EVENT.

It is the sense of Congress that—

(1) the Secretary of Defense should establish an annual capstone training event titled "Space Flag" for space professionals to—

(A) develop and test doctrine, concepts of operation, and tactics, techniques, and procedures, for—

(i) protecting and defending assets and interests of the United States through the spectrum of space control activities;

(ii) operating in the event of degradation or loss of space capabilities;

(iii) conducting space operations in a conflict that extends to space;

(iv) deterring conflict in space; and

(v) other areas the Secretary determines necessary; and

(B) inform and develop the appropriate design of the operational training infrastructure of the space domain, including with respect to appropriate and dedicated ranges, threat replication, test community support, advanced space training requirements, training simulators, and multi-domain force packaging; and

(2) such a training event should—

(A) be modeled on the Red Flag and Cyber Flag exercises; and

(B) include live, virtual, and constructive training and on-orbit threat replication, as appropriate.

SEC. 1616. SENSE OF CONGRESS ON COORDINATING EFFORTS TO PREPARE FOR SPACE WEATHER EVENTS.

It is the sense of Congress that the Secretary of Defense should ensure the timely provision of operational space weather observations, analyses, forecasts, and other products to support the mission of the Department of Defense and coalition partners, including the provision of alerts and warnings for space weather phenomena that may affect weapons systems, military operations, or the defense of the United States.

SEC. 1617. SENSE OF CONGRESS ON NATIONAL SPACE DEFENSE CENTER.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the National Space Defense Center is critical to defending and securing the space domain in order to protect all United States assets in space;

(2) integration between the intelligence community and the Department of Defense within the National Space Defense Center is essential to detecting, assessing, and reacting to evolving space threats; and

(3) the Department of Defense, including the military departments, and the elements of the intelligence community should seek ways to bolster integration with respect to space threats through work at the National Space Defense Center.

(b) INTELLIGENCE COMMUNITY DEFINED.—In this section, 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)).

Subtitle B—Defense Intelligence and Intelligence-Related Activities

SEC. 1621. SECURITY CLEARANCES FOR FACILITIES OF CERTAIN COMPANIES.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

10/2410s new

"§ 2410s. Security clearances for facilities of certain companies.

"(a) AUTHORITY.—If the senior management official of a covered company does not have a security clearance, the Secretary of Defense may grant a security clearance to a facility of such company only if the following criteria are met:

"(1) The company has appointed a senior officer, director, or employee of the company who has a security clearance at the level of the security clearance of the facility to act as the senior management official of the company with respect to such facility.

"(2) Any senior management official, senior officer, or director of the company who does not have such a security clearance will not have access to any classified information, including with respect to such facility.

"(3) The company has certified to the Secretary that the senior officer, director, or employee appointed under paragraph (1) has the authority to act on behalf of the company with respect to such facility independent of any senior management official, senior officer, or director described in paragraph (2).

"(4) The facility meets all of the requirements to be granted a security clearance other than any requirement relating to the senior management official of the company having an appropriate security clearance.

"(b) COVERED COMPANY.—In this section, the term 'covered company' means a company that has entered into a contract or agreement with the Department of Defense, assists the Department, or requires a facility to process classified information.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

10/2381 prec

"2410s. Security clearances for facilities of certain companies".

SEC. 1622. EXTENSION OF AUTHORITY TO ENGAGE IN CERTAIN COMMERCIAL ACTIVITIES.

10/431(a)

Section 431(a) of title 10, United States Code, is amended by striking "December 31, 2017" and inserting "December 31, 2023".

SEC. 1623. SUBMISSION OF AUDITS OF COMMERCIAL ACTIVITY FUNDS.

10/432(b)(2)

Section 432(b)(2) of title 10, United States Code, is amended—

(1) by striking "promptly"; and

(2) by inserting before the period at the end the following: "by not later than December 31 of each year".

SEC. 1624. CLARIFICATION OF ANNUAL BRIEFING ON THE INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE REQUIREMENTS OF THE COMBATANT COMMANDS.

Section 1626 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 128 Stat. 3635) is amended—

(1) by inserting "(including with respect to space-based intelligence, surveillance, and reconnaissance)" after "intelligence, surveillance, and reconnaissance requirements" both places it appears; and

(2) in paragraph (2), by striking "critical intelligence, surveillance and reconnaissance requirements" and inserting "critical intelligence, surveillance, and reconnaissance requirements (including with respect to space-based intelligence, surveillance, and reconnaissance)".

SEC. 1625. CONSIDERATION OF SERVICE BY RECIPIENTS OF BOREN SCHOLARSHIPS AND FELLOWSHIPS IN EXCEPTED SERVICE POSITIONS AS SERVICE BY SUCH RECIPIENTS UNDER CAREER APPOINTMENTS FOR PURPOSES OF CAREER TENURE.

50/1902(k)(3), (4)

Section 802(k) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902(k)) is amended—

(1) by redesignating paragraph (3) as paragraph (4);

50/1902(k)(2

(2) in paragraph (2), in the matter before subparagraph (A), by striking "(3)(C)" and inserting "(4)(C)"; and

(3) by inserting after paragraph (2) the following:

50/1902(k)(3)

"(3) CAREER TENURE.—In the case of an individual whose appointment to a position in the excepted service is converted to a career or career-conditional appointment under paragraph (1)(B), the period of service described in such paragraph shall be treated, for purposes of the service requirements for career tenure under title 5, United States Code, as if it were service in a position under a career or career-conditional appointment.".

SEC. 1626. REVIEW OF SUPPORT PROVIDED BY DEFENSE INTELLIGENCE ELEMENTS TO ACQUISITION ACTIVITIES OF THE DEPARTMENT.

10/221 note new*

(a) REVIEW.—The Secretary of Defense shall review the support provided by Defense intelligence elements to the acquisition activities conducted by the Secretary, with a specific focus on such support—

(1) consisting of planning, prioritizing, and resourcing relating to developmental weapon systems; and

(2) for existing weapon systems throughout the program lifecycle of such systems.

(b) BUDGET STRUCTURE.—The Secretary shall develop a specific budget structure for a sustainable funding profile to ensure the support provided by Defense intelligence elements described in subsection (a). The Secretary shall implement such structure beginning with the defense budget materials for fiscal year 2020.

(c) BRIEFING.—Not later than May 1, 2018, the Secretary of Defense shall provide to the appropriate congressional committees a briefing on the results of the review under subsection (a) and a plan to carry out subsection (b).

(d) CONSTRUCTION.—Nothing in this section may be construed to relieve the Director of National Intelligence of the responsibility

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to support the acquisition activities of the Department of Defense through the National Intelligence Program.

(e) DEFINITIONS.—In this section:

(1) The term "appropriate congressional committees" means—

10/221 note new

(A) the congressional defense committees; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(2) The term "defense budget materials" has the meaning given that term in section 231(f) of title 10, United States Code.

(3) The term "Defense intelligence element" means any of the agencies, offices, and elements of the Department of Defense included within the definition of "intelligence community" under section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

SEC. 1627. ESTABLISHMENT OF CHAIRMAN'S CONTROLLED ACTIVITY WITHIN JOINT STAFF FOR INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE.

(a) CHAIRMAN'S CONTROLLED ACTIVITY.—The Chairman of the Joint Chiefs of Staff shall—

(1) undertake the roles, missions, and responsibilities of, and preserve an equal or greater number of personnel billets than the amount of such billets previously prescribed for, the Joint Functional Component Command for Intelligence, Surveillance, and Reconnaissance of the United States Strategic Command; and

10/155 note new

(2) not later than 30 days after the date of the enactment of this Act, establish an organization within the Joint Staff—

(A) that is designated as the Joint Staff Intelligence, Surveillance, and Reconnaissance Directorate and Supporting Chairman's Controlled Activity;

(B) for which the Chairman of the Joint Chiefs of Staff shall serve as the joint functional manager; and

(C) that shall synchronize cross-combatant command intelligence, surveillance, and reconnaissance plans and develop strategies integrating all intelligence, surveillance, and reconnaissance capabilities provided by joint services, the National Reconnaissance Office, combat support intelligence agencies of the Department of Defense, and allies, to satisfy the intelligence needs of the combatant commands for the Department of Defense.

(b) LEAD AGENT.—The Secretary of Defense shall designate the Secretary of the Air Force as the lead agent and sponsor for funding for the organization established under subsection (a)(2).

(c) DATA COLLECTION AND ANALYSIS TO SUPPORT ISR ALLOCATION AND SYNCHRONIZATION PROCESSES.—In coordination with the Director of Cost Analysis and Program Evaluation, the Chairman of the Joint Chiefs of Staff shall issue guidance to the commanders of the geographical combatant commands that requires the commanders to collect sufficient and relevant data regarding the effectiveness of intelligence, surveillance, and reconnaissance measures in a manner that will—

(1) enable the standardized, objective evaluation and analysis of that data with respect to the use and effectiveness

of the intelligence, surveillance, and reconnaissance capabilities provided to the commanders; and

10/155 note new

(2) support recommendations made by the organization established under subsection (a)(2) to the Secretary of Defense regarding the allocation of intelligence, surveillance, and reconnaissance resources of the Department of Defense.

SEC. 1628. REQUIREMENTS RELATING TO MULTI-USE SENSITIVE COMPARTMENTED INFORMATION FACILITIES.

10/2302 note new

(a) IN GENERAL.—In order to facilitate access for small business concerns and nontraditional defense contractors to affordable secure spaces, the Secretary of Defense, in consultation with the Director of National Intelligence, shall develop processes and procedures necessary to build, certify, and maintain certifications for multi-use sensitive compartmented information facilities not tied to a single contract and where multiple companies can securely work on multiple projects at different security levels.

(b) DEFINITIONS.—In this section:

(1) The term "small business concern" has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

(2) The term "nontraditional defense contractors" has the meaning given that term in section 2302 of title 10, United States Code.

SEC. 1629. LIMITATION ON AVAILABILITY OF FUNDS FOR CERTAIN COUNTERINTELLIGENCE ACTIVITIES.

(a) LIMITATION ON COUNTERINTELLIGENCE ACTIVITIES.—Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2018 under the Military Intelligence Program for operation and maintenance, Defense-wide, for the Defense Intelligence Agency for counterintelligence activities, not more than 75 percent may be obligated or expended until the date on which the Director of the Defense Intelligence Agency submits to the appropriate congressional committees the report under subsection (b).

(b) REPORT ON CERTAIN RESOURCES.—Not later than March 1, 2018, the Director of the Defense Intelligence Agency shall submit to the appropriate congressional committees a report that includes an accounting of the counterintelligence enterprise management resources transferred from the Counterintelligence Field Activity to the Defense Intelligence Agency that identifies such resources that are no longer dedicated to counterintelligence activities, as of the date of the report.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the congressional defense committees; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

Subtitle C—Cyberspace-Related Matters

PART I—GENERAL CYBER MATTERS

SEC. 1631. NOTIFICATION REQUIREMENTS FOR SENSITIVE MILITARY CYBER OPERATIONS AND CYBER WEAPONS.

(a) NOTIFICATION.—Chapter 3 of title 10, United States Code, is amended by adding at the end the following new sections:

"§ 130j. Notification requirements for sensitive military cyber operations

10/130j new

"(a) IN GENERAL.—Except as provided in subsection (d), the Secretary of Defense shall promptly submit to the congressional defense committees notice in writing of any sensitive military cyber operation conducted under this title no later than 48 hours following such operation.

"(b) PROCEDURES.—(1) The Secretary of Defense shall establish and submit to the congressional defense committees procedures for complying with the requirements of subsection (a) consistent with the national security of the United States and the protection of operational integrity. The Secretary shall promptly notify the congressional defense committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes.

"(2) The congressional defense committees shall ensure that committee procedures designed to protect from unauthorized disclosure classified information relating to national security of the United States are sufficient to protect the information that is submitted to the committees pursuant to this section.

"(3) In the event of an unauthorized disclosure of a sensitive military cyber operation covered by this section, the Secretary shall ensure, to the maximum extent practicable, that the congressional defense committees are notified immediately of the sensitive military cyber operation concerned. The notification under this paragraph may be verbal or written, but in the event of a verbal notification a written notification shall be provided by not later than 48 hours after the provision of the verbal notification.

"(c) SENSITIVE MILITARY CYBER OPERATION DEFINED.—(1) In this section, the term 'sensitive military cyber operation' means an action described in paragraph (2) that—

"(A) is carried out by the armed forces of the United States; and

"(B) is intended to cause cyber effects outside a geographic location—

"(i) where the armed forces of the United States are involved in hostilities (as that term is used in section 1543 of title 50, United States Code); or

"(ii) with respect to which hostilities have been declared by the United States.

"(2) The actions described in this paragraph are the following:

"(A) An offensive cyber operation.

"(B) A defensive cyber operation outside the Department of Defense Information Networks to defeat an ongoing or imminent threat.

"(d) EXCEPTIONS.—The notification requirement under subsection (a) does not apply—

"(1) to a training exercise conducted with the consent of all nations where the intended effects of the exercise will occur; or

10/130j new

"(2) to a covert action (as that term is defined in section 3093 of title 50, United States Code).

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide any new authority or to alter or otherwise affect the War Powers Resolution (50 U.S.C. 1541 et seq.), the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note), or any requirement under the National Security Act of 1947 (50 U.S.C. 3001 et seq.).

"§ 130k. Notification requirements for cyber weapons

10/130k new

"(a) IN GENERAL.—Except as provided in subsection (c), the Secretary of Defense shall promptly submit to the congressional defense committees notice in writing of the following:

"(1) With respect to a cyber capability that is intended for use as a weapon, on a quarterly basis, the aggregated results of all reviews of the capability for legality under international law pursuant to Department of Defense Directive 5000.01 carried out by any military department concerned.

"(2) The use as a weapon of any cyber capability that has been approved for such use under international law by a military department no later than 48 hours following such use.

"(b) PROCEDURES.—(1) The Secretary of Defense shall establish and submit to the congressional defense committees procedures for complying with the requirements of subsection (a) consistent with the national security of the United States and the protection of operational integrity. The Secretary shall promptly notify the congressional defense committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes.

"(2) The congressional defense committees shall ensure that committee procedures designed to protect from unauthorized disclosure classified information relating to national security of the United States are sufficient to protect the information that is submitted to the committees pursuant to this section.

"(3) In the event of an unauthorized disclosure of a cyber capability covered by this section, the Secretary shall ensure, to the maximum extent practicable, that the congressional defense committees are notified immediately of the cyber capability concerned. The notification under this paragraph may be verbal or written, but in the event of a verbal notification a written notification shall be provided by not later than 48 hours after the provision of the verbal notification.

"(c) EXCEPTIONS.—The notification requirement under subsection (a) does not apply—

"(1) to a training exercise conducted with the consent of all nations where the intended effects of the exercise will occur; or

"(2) to a covert action (as that term is defined in section 3093 of title 50, United States Code).

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide any new authority or to alter or otherwise affect the War Powers Resolution (50 U.S.C. 1541 et seq.), the Authorization for Use of Military Force (Public Law 107–40; 50

10/130k new

U.S.C. 1541 note), or any requirement under the National Security Act of 1947 (50 U.S.C. 3001 et seq.).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

10/121 prec

"130j. Notification requirements for sensitive military cyber operations
"130k. Notification requirements for cyber weapons".

SEC. 1632. MODIFICATION TO QUARTERLY CYBER OPERATIONS BRIEFINGS.

(a) IN GENERAL.—Section 484 of title 10, United States Code, is amended—

10/484(a)

(1) by striking "The Secretary of Defense shall provide to the Committees on Armed Services of the House of Representatives and the Senate" and inserting the following:

"(a) BRIEFINGS REQUIRED.—The Secretary of Defense shall provide to the congressional defense committees"; and

(2) by adding at the end the following:

"(b) ELEMENTS.—Each briefing under subsection (a) shall include, with respect to the military operations in cyberspace described in such subsection, the following:

10/484(b)

"(1) An update, set forth separately for each geographic and functional command, that describes the operations carried out by the command and any hostile cyber activity directed at the command.

"(2) An overview of authorities and legal issues applicable to the operations, including any relevant legal limitations.

"(3) An outline of any interagency activities and initiatives relating to the operations.

"(4) Any other matters the Secretary determines to be appropriate.".

10/484 note new

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to briefings required be provided under section 484 of title 10, United States Code, on or after that date.

SEC. 1633. POLICY OF THE UNITED STATES ON CYBERSPACE, CYBERSECURITY, AND CYBER WARFARE.

10/130g note new*

(a) IN GENERAL.—The President shall—

(1) develop a national policy for the United States relating to cyberspace, cybersecurity, and cyber warfare; and

(2) submit to the appropriate congressional committees a report on the policy.

(b) ELEMENTS.—The national policy required under subsection (a) shall include the following elements:

(1) Delineation of the instruments of national power available to deter or respond to cyber attacks or other malicious cyber activities by a foreign power or actor that targets United States interests.

(2) Available or planned response options to address the full range of potential cyber attacks on United States interests that could be conducted by potential adversaries of the United States.

(3) Available or planned denial options that prioritize the defensibility and resiliency against cyber attacks and malicious

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cyber activities that are carried out against infrastructure critical to the political integrity, economic security, and national security of the United States.

(4) Available or planned cyber capabilities that may be used to impose costs on any foreign power targeting the United States or United States persons with a cyber attack or malicious cyber activity.

(5) Development of multi-prong response options, such as—

10/130g note new

(A) boosting the cyber resilience of critical United States strike systems (including cyber, nuclear, and non-nuclear systems) in order to ensure the United States can credibly threaten to impose unacceptable costs in response to even the most sophisticated large-scale cyber attack;

(B) developing offensive cyber capabilities and specific plans and strategies to put at risk targets most valued by adversaries of the United States and their key decision makers; and

(C) enhancing attribution capabilities and developing intelligence and offensive cyber capabilities to detect, disrupt, and potentially expose malicious cyber activities.

(c) LIMITATION ON AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2018 for procurement, research, development, test and evaluation, and operations and maintenance, for the covered activities of the Defense Information Systems Agency, not more than 60 percent may be obligated or expended until the date on which the President submits to the appropriate congressional committees the report under subsection (a)(2).

(2) COVERED ACTIVITIES DESCRIBED.—The covered activities referred to in paragraph (1) are the activities of the Defense Information Systems Agency in support of—

(A) the White House Communication Agency; and

(B) the White House Situation Support Staff.

(d) DEFINITIONS.—In this section:

(1) The term "foreign power" has the meaning given that term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(2) The term "appropriate congressional committees" means—

(A) the congressional defense committees;

(B) the Committee on Foreign Affairs, the Committee on Homeland Security, and the Committee on the Judiciary of the House of Representatives; and

(C) the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on the Judiciary of the Senate.

SEC. 1634. PROHIBITION ON USE OF PRODUCTS AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB.

(a) PROHIBITION.—No department, agency, organization, or other element of the Federal Government may use, whether directly or through work with or on behalf of another department, agency, organization, or element of the Federal Government, any hardware, software, or services developed or provided, in whole or in part, by—

(1) Kaspersky Lab (or any successor entity);

(2) any entity that controls, is controlled by, or is under common control with Kaspersky Lab; or

(3) any entity of which Kaspersky Lab has majority ownership.

(b) EFFECTIVE DATE.—The prohibition in subsection (a) shall take effect on October 1, 2018.

(c) REVIEW AND REPORT.—

(1) REVIEW.—The Secretary of Defense, in consultation with the Secretary of Energy, the Secretary of Homeland Security, the Attorney General, the Administrator of the General Services Administration, and the Director of National Intelligence, shall conduct a review of the procedures for removing suspect products or services from the information technology networks of the Federal Government.

(2) REPORT.—

(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, Secretary of Defense shall submit to the appropriate congressional committees a report on the review conducted under paragraph (1).

(B) ELEMENTS.—The report under subparagraph (A) shall include the following:

(i) A description of the Federal Government-wide authorities that may be used to prohibit, exclude, or prevent the use of suspect products or services on the information technology networks of the Federal Government, including—

(I) the discretionary authorities of agencies to prohibit, exclude, or prevent the use of such products or services;

(II) the authorities of a suspension and debarment official to prohibit, exclude, or prevent the use of such products or services;

(III) authorities relating to supply chain risk management;

(IV) authorities that provide for the continuous monitoring of information technology networks to identify suspect products or services; and

(V) the authorities provided under the Federal Information Security Management Act of 2002.

(ii) Assessment of any gaps in the authorities described in clause (i), including any gaps in the enforcement of decisions made under such authorities.

(iii) An explanation of the capabilities and methodologies used to periodically assess and monitor the information technology networks of the Federal Government for prohibited products or services.

(iv) An assessment of the ability of the Federal Government to periodically conduct training and exercises in the use of the authorities described in clause (i)—

(I) to identify recommendations for streamlining process; and

(II) to identify recommendations for education and training curricula, to be integrated into existing training or certification courses.

(v) A description of information sharing mechanisms that may be used to share information about suspect products or services, including mechanisms for the sharing of such information among the Federal Government, industry, the public, and international partners.

(vi) Identification of existing tools for business intelligence, application management, and commerce due-diligence that are either in use by elements of the Federal Government, or that are available commercially.

(vii) Recommendations for improving the authorities, processes, resourcing, and capabilities of the Federal Government for the purpose of improving the procedures for identifying and removing prohibited products or services from the information technology networks of the Federal Government.

(viii) Any other matters the Secretary determines to be appropriate.

(C) FORM.—The report under subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means the following:

(A) The Committee on Armed Services, the Committee on Energy and Commerce, the Committee on Homeland Security, the Committee on the Judiciary, the Committee on Oversight and Government Reform, and the Permanent Select Committee on Intelligence of the House of Representatives.

(B) The Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate.

SEC. 1635. MODIFICATION OF AUTHORITIES RELATING TO ESTABLISHMENT OF UNIFIED COMBATANT COMMAND FOR CYBER OPERATIONS.

10/167b(d)

Section 167b of title 10, United States Code, is amended—

(1) by striking subsection (d); and

10/167b(d) to (f)

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 1636. MODIFICATION OF DEFINITION OF ACQUISITION WORKFORCE TO INCLUDE PERSONNEL CONTRIBUTING TO CYBERSECURITY SYSTEMS.

Section 1705(h)(2)(A) of title 10, United States Code, is amended—

10/1705(h)(2)(A)(i)

(1) by inserting "(i)" after "(A)";

(2) by striking "; and" and inserting "; or"; and

10/1705(h)(2)(A)(i)

(3) by adding at the end the following new clause:

10/1705(h)(2)(A)(ii)

"(ii) contribute significantly to the acquisition or development of systems relating to cybersecurity; and".

SEC. 1637. INTEGRATION OF STRATEGIC INFORMATION OPERATIONS AND CYBER-ENABLED INFORMATION OPERATIONS.

(a) PROCESSES AND PROCEDURES FOR INTEGRATION.—

(1) IN GENERAL.—The Secretary of Defense shall—

(A) establish processes and procedures to integrate strategic information operations and cyber-enabled information operations across the elements of the Department of Defense responsible for such operations, including the elements of the Department responsible for military deception, public affairs, electronic warfare, and cyber operations; and

(B) ensure that such processes and procedures provide for integrated Defense-wide strategy, planning, and budgeting with respect to the conduct of such operations by the Department, including activities conducted to counter and deter such operations by malign actors.

10/2224 note new*

(2) DESIGNATED SENIOR OFFICIAL.—The Secretary of Defense shall designate a senior official of the Department of Defense (in this section referred to as the "designated senior official") who shall implement and oversee the processes and procedures established under paragraph (1). The designated senior official shall be selected by the Secretary from among individuals serving in the Department of Defense at or below the level of an Under Secretary of Defense.

(3) RESPONSIBILITIES.—The designated senior official shall have, with respect to the implementation and oversight of the processes and procedures established under paragraph (1), the following responsibilities:

(A) Oversight of strategic policy and guidance.

(B) Overall resource management for the integration of information operations and cyber-enabled information operations of the Department.

(C) Coordination with the head of the Global Engagement Center to support the purpose of the Center (as described section 1287(a)(2) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 22 U.S.C. 2656 note)) and liaison with the Center and other relevant Federal Government entities to support such purpose.

(D) Development of a strategic framework for the conduct of information operations by the Department of Defense, including cyber-enabled information operations, coordinated across all relevant elements of the Department of Defense, including both near-term and long-term guidance for the conduct of such coordinated operations.

(E) Development and dissemination of a common operating paradigm across the elements of the Department of Defense specified in paragraph (1) to counter the influence, deception, and propaganda activities of key malign actors, including in cyberspace.

(F) Development of guidance for, and promotion of, the capability of the Department of Defense to liaison with the private sector, including social media, on matters relating to the influence activities of malign actors.

(b) REQUIREMENTS AND PLANS FOR INFORMATION OPERATIONS.—

(1) COMBATANT COMMAND PLANNING AND REGIONAL STRATEGY.—(A) The Secretary shall require each commander

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of a combatant command to develop, in coordination with the relevant regional Assistant Secretary of State or Assistant Secretaries of State and with the assistance of the Coordinator of the Global Engagement Center and the designated senior official, a regional information strategy and interagency coordination plan for carrying out the strategy, where applicable.

10/2224 note new

(B) The Secretary shall require each commander of a combatant command to develop such requirements and specific plans as may be necessary for the conduct of information operations in support of the strategy required under subparagraph (A), including plans for deterring information operations, including deterrence in the cyber domain, by malign actors against the United States, allies of the United States, and interests of the United States.

(2) IMPLEMENTATION PLAN FOR DOD STRATEGY FOR OPERATIONS IN THE INFORMATION ENVIRONMENT.—

(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the designated senior official shall—

(i) review the strategy of the Department of Defense titled "Department of Defense Strategy for Operations in the Information Environment" and dated June 2016; and

(ii) submit to the congressional defense committees a plan for implementation of such strategy.

(B) ELEMENTS.—The plan required under subparagraph (A) shall include, at a minimum, the following:

(i) An accounting of the efforts undertaken in support of the strategy described in subparagraph (A)(i) in the period since it was issued in June 2016.

(ii) A description of any updates or changes to such strategy that have been made since it was first issued, as well as any expected updates or changes resulting from the designation of the designated senior official.

(iii) A description of the role of the Department of Defense as part of a broader whole-of-Government strategy for strategic communications, including a description of any assumptions about the roles and contributions of other departments and agencies of the Federal Government with respect to such a strategy.

(iv) Defined actions, performance metrics, and projected timelines for achieving each of the 15 tasks specified in the strategy described in subparagraph (A)(i).

(v) An analysis of any personnel, resourcing, capability, authority, or other gaps that will need to be addressed to ensure effective implementation of the strategy described in subparagraph (A)(i) across all relevant elements of the Department of Defense.

(vi) An investment framework and projected timeline for addressing any gaps identified under clause (v).

(vii) Such other matters as the Secretary of Defense considers relevant.

10/2224 note new

(C) PERIODIC STATUS REPORTS.—Not less frequently than once every 90 days during the three-year period beginning on the date on which the implementation plan is submitted under subparagraph (A)(ii), the designated senior official shall submit to the congressional defense committees a report describing the status of the efforts of the Department of Defense in accomplishing the tasks specified under clauses (iv) and (vi) of subparagraph (B).

(c) TRAINING AND EDUCATION.—Consistent with the elements of the implementation plan under paragraph (2), the designated senior official shall recommend the establishment of programs to provide training and education to such members of the Armed Forces and civilian employees of the Department of Defense as the Secretary considers appropriate to ensure that such members and employees understand the role of information in warfare, the central goal of all military operations to affect the perceptions, views, and decision making of adversaries, and the effective management and conduct of operations in the information environment.

SEC. 1638. EXERCISE ON ASSESSING CYBERSECURITY SUPPORT TO ELECTION SYSTEMS OF STATES.

(a) INCLUSION OF CYBER VULNERABILITIES IN ELECTION SYSTEMS IN CYBER GUARD EXERCISES.—Subject to subsection (b), the Secretary of Defense, in consultation with the Secretary of Homeland Security, may carry out exercises relating to the cybersecurity of election systems of States as part of the exercise commonly known as the "Cyber Guard Exercise".

10/2224 note new

(b) AGREEMENT REQUIRED.—The Secretary of Defense may carry out an exercise relating to the cybersecurity of a State's election system under subsection (a) only if the State enters into a written agreement with the Secretary under which the State—

(1) agrees to participate in such exercise; and

(2) agrees to allow vulnerability testing of the components of the State's election system.

(c) REPORT.—Not later than 90 days after the completion of any Cyber Guard Exercise, the Secretary of Defense shall submit to the congressional defense committees a report on the ability of the National Guard to assist States, if called upon, in defending election systems from cyberattacks. Such report shall include a description of the capabilities, readiness levels, and best practices of the National Guard with respect to the prevention of cyber attacks on State election systems.

SEC. 1639. MEASUREMENT OF COMPLIANCE WITH CYBERSECURITY REQUIREMENTS FOR INDUSTRIAL CONTROL SYSTEMS.

10/2224 note new

(a) IN GENERAL.—Not later than January 1, 2018, the Secretary of Defense shall make such changes to the cybersecurity scorecard as are necessary to ensure that the Secretary measures the progress of each element of the Department of Defense in securing the industrial control systems of the Department against cyber threats, including such industrial control systems as supervisory control and data acquisition systems, distributed control systems, programmable logic controllers, and platform information technology.

(b) CYBERSECURITY SCORECARD DEFINED.—In this section, the term "cybersecurity scorecard" means the Department of Defense Cybersecurity Scorecard used by the Department to measure compliance with cybersecurity requirements as described in the plan of

*DT (sec. 3) - JW

10/2224 note new

the Department titled "Department of Defense Cybersecurity Discipline Implementation Plan".

SEC. 1640. STRATEGIC CYBERSECURITY PROGRAM.

10/2224 note new*

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Director of the National Security Agency, shall submit to the congressional defense committees a plan for the establishment of a program to be known as the "Strategic Cybersecurity Program" or "SCP" (in this section referred to as the "Program").

(b) ELEMENTS.—The Program shall be comprised of personnel assigned to the Program by the Secretary of Defense from among personnel, including regular and reserve members of the Armed Forces, civilian employees of the Department, and personnel of the research laboratories of the Department of Defense and the Department of Energy, who have particular expertise in the areas of responsibility described in subsection (c). Any personnel assigned to the Program from among personnel of the Department of Energy shall be so assigned with the concurrence of the Secretary of Energy.

(c) RESPONSIBILITIES.—

(1) IN GENERAL.—Personnel assigned to the Program shall assist the Department of Defense in improving the cybersecurity of the following systems of the Federal Government:

(A) Offensive cyber systems.

(B) Long-range strike systems.

(C) Nuclear deterrent systems.

(D) National security systems.

(E) Critical infrastructure of the Department of Defense (as that term is defined in section 1650(f)(1) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 2224 note)).

(2) REVIEWS OF SYSTEMS AND INFRASTRUCTURE.—In carrying out the activities described in paragraph (1), the personnel assigned to the Program shall conduct appropriate reviews of existing systems and infrastructure and acquisition plans for proposed systems and infrastructure. The review of an acquisition plan for any proposed system or infrastructure shall be carried out before Milestone B approval for such system or infrastructure.

(3) RESULTS OF REVIEWS.—The results of each review carried out under paragraph (2), including any remedial action recommended pursuant to such review, shall be made available to any agencies or organizations of the Department involved in the development, procurement, operation, or maintenance of the system or infrastructure concerned.

(d) INTEGRATION WITH OTHER EFFORTS.—The plan required under subsection (a) shall build upon, and shall not duplicate, other efforts of the Department of Defense relating to cybersecurity, including—

(1) the evaluation of cyber vulnerabilities of major weapon systems of the Department of Defense required under section 1647 of the National Defense Authorization Act for Fiscal Year 2016 (114–92; 129 Stat. 1118);

(2) the evaluation of cyber vulnerabilities of Department of Defense critical infrastructure required under section 1650 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 2224 note); and

*DT (sec. 3) - JW

10/2224 note new

(3) the activities of the cyber protection teams of the Department of Defense.

(e) REPORT.—Not later than one year after the date on which the plan is submitted to the congressional defense committees under subsection (a), the Secretary of Defense shall submit to the congressional defense committees a report on any activities carried out pursuant to such plan. The report shall include the following:

(1) A description of any activities of the Program carried out pursuant to the plan during the time period covered by the report.

(2) A description of particular challenges encountered in the course of the activities of the Program, if any, and of actions taken to address such challenges.

(3) A description of any plans for additional activities under the Program.

SEC. 1641. PLAN TO INCREASE CYBER AND INFORMATION OPERATIONS, DETERRENCE, AND DEFENSE.

(a) PLAN.—The Secretary of Defense shall develop a plan to—

(1) increase inclusion of regional cyber planning within larger joint planning exercises of the United States in the Indo-Asia-Pacific region;

(2) enhance joint, regional, and combined information operations and strategic communication strategies to counter Chinese and North Korean information warfare, malign influence, and propaganda activities; and

(3) identify potential areas of cybersecurity collaboration and partnership capabilities with Asian allies and partners of the United States.

(b) BRIEFING.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall provide to the congressional defense committees a briefing on the plan required under subsection (a).

SEC. 1642. EVALUATION OF AGILE OR ITERATIVE DEVELOPMENT OF CYBER TOOLS AND APPLICATIONS.

(a) EVALUATION REQUIRED.—The Commander of the United States Cyber Command (in this section referred to as the "Commander") shall conduct an evaluation of alternative methods for developing, acquiring, and maintaining software-based cyber tools and applications for the United States Cyber Command, the Army Cyber Command, the Fleet Cyber Command, the Air Force Cyber Command, and the Marine Corps Cyberspace Command.

(b) GOAL.—The goal of the evaluation required by subsection (a) shall be to identify a set of practices that will—

(1) increase the speed of development of cyber capabilities of the Armed Forces;

(2) provide more effective tools and capabilities for developing, acquiring, and maintaining software-based cyber tools and applications for the Armed Forces; and

(3) create a repeatable, disciplined process for developing, acquiring, and maintaining software-based cyber tools and applications for the Armed Forces through which progress and success or failure can be continuously measured.

(c) CONSIDERATION OF AGILE OR ITERATIVE DEVELOPMENT, AND OTHER BEST PRACTICES.—

(1) IN GENERAL.—The evaluation required by subsection (a) shall include, with respect to the development, acquisition,

and maintenance of software-based cyber tools and applications, consideration of agile or iterative development practices, agile acquisition practices, and other similar best practices of commercial industry.

(2) CONSIDERATIONS.—In carrying out the evaluation required by subsection (a), the Commander shall assess requirements for implementing the practices described in paragraph (1) and consider changes to established acquisition practices that may be necessary to implement the practices described in such paragraph, including changes to the following:

(A) The requirements process.
(B) Contracting.
(C) Testing.
(D) User involvement in the development process.
(E) Program management.
(F) Milestone reviews and approvals.
(G) The definitions of "research and development", "procurement", and "sustainment".
(H) The constraints of current appropriations account definitions.

(d) ASSESSMENT OF TRAINING AND EDUCATION REQUIREMENTS.—In carrying out the evaluation required by subsection (a), the Commander shall assess training and education requirements for personnel in all areas and at all levels of management relevant to the successful adoption of new acquisition models and methods for developing, acquiring, and maintaining cyber tools and applications as described in such subsection.

(e) SERVICES AND EXPERTISE.—In carrying out the evaluation required by subsection (a), the Commander shall—

(1) obtain services and expertise from—
(A) the Defense Digital Service; and
(B) federally funded research and development centers, such as the Software Engineering Institute and the MITRE Corporation; and

(2) consult with such commercial software companies as the Commander considers appropriate to learn about relevant commercial best practices.

(f) RECOMMENDATIONS.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Commander shall submit to the Secretary of Defense recommendations for experimenting with or adopting new acquisition methods identified pursuant to the evaluation under subsection (a), including recommendations for any actions that should be carried out to ensure the successful implementation of such methods.

(2) CONGRESSIONAL BRIEFING.—Not later than 14 days after submitting recommendations to the Secretary under paragraph (1), the Commander shall provide to the congressional defense committees a briefing on the recommendations.

(g) PRESERVATION OF EXISTING AUTHORITY.—The evaluation required under subsection (a) is intended to inform future acquisition approaches. Nothing in this section shall be construed to limit or impede the Commander in exercising the authority provided under section 807 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 2224 note).

(h) AGILE OR ITERATIVE DEVELOPMENT DEFINED.—In this section, the term "agile or iterative development", with respect to software—

(1) means acquisition pursuant to a method for delivering multiple, rapid, incremental capabilities to the user for operational use, evaluation, and feedback not exclusively linked to any single, proprietary method or process; and

(2) involves—

(A) the incremental development and fielding of capabilities, commonly called "spirals", "spins", or "sprints", which can be measured in a few weeks or months; and

(B) continuous participation and collaboration by users, testers, and requirements authorities.

SEC. 1643. ASSESSMENT OF DEFENSE CRITICAL ELECTRIC INFRASTRUCTURE.

Section 1650(b)(1) of the National Defense Authorization Act for fiscal year 2017 (114–328; 10 U.S.C. 2224 note) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(E) to assess the strategic benefits derived from, and the challenges associated with, isolating military infrastructure from the national electric grid and the use of microgrids.".

10/2224 note

SEC. 1644. CYBER POSTURE REVIEW.

(a) REQUIREMENT FOR COMPREHENSIVE REVIEW.—In order to clarify the near-term policy and strategy of the United States with respect to cyber deterrence, the Secretary of Defense shall conduct a comprehensive review of the cyber posture of the United States over the posture review period.

(b) CONSULTATION.—The Secretary of Defense shall conduct the review under subsection (a) in consultation with the Director of National Intelligence, the Attorney General, the Secretary of Homeland Security, and the Secretary of State, as appropriate.

(c) ELEMENTS OF REVIEW.—The review conducted under subsection (a) shall include, for the posture review period, the following elements:

(1) The role of cyber forces in the military strategy, planning, and programming of the United States.

(2) Review of the role of cyber operations in combatant commander operational planning, the ability of combatant commanders to respond to hostile acts by adversaries, and the ability of combatant commanders to engage and build capacity with allies.

(3) A review of the law, policies, and authorities relating to, and necessary for the United States to maintain, a safe, reliable, and credible cyber posture for responding to cyber attacks and for deterrence in cyberspace.

(4) A declaratory policy relating to the responses of the United States to cyber attacks of significant consequence.

(5) Proposed norms for the conduct of offensive cyber operations for deterrence and in crisis and conflict.

(6) Guidance for the development of a cyber deterrence strategy (which may include activities, capability efforts, and

operations other than cyber activities, cyber capability efforts, and cyber operations), including—

(A) a review and assessment of various approaches to cyber deterrence, determined in consultation with experts from Government, academia, and industry;

(B) a comparison of the strengths and weaknesses of the approaches identified under subparagraph (A) relative to the threat and to each other; and

(C) an explanation of how the cyber deterrence strategy will inform country-specific deterrence campaign plans focused on key leadership of Russia, China, Iran, North Korea, and any other country the Secretary considers appropriate.

(7) Identification of the steps that should be taken to bolster stability in cyberspace and, more broadly, stability between major powers, taking into account—

(A) the analysis and gaming of escalation dynamics in various scenarios; and

(B) consideration of the spiral escalatory effects of countries developing increasingly potent offensive cyber capabilities.

(8) A determination of whether sufficient personnel are trained and equipped to meet validated cyber requirements.

(9) Such other matters as the Secretary considers appropriate.

(d) REPORT.—

(1) IN GENERAL.—The Secretary of Defense shall submit to the congressional defense committees a report on the results of the cyber posture review conducted under subsection (a).

(2) FORM OF REPORT.—The report under paragraph (1) may be submitted in unclassified form or classified form, as necessary.

(3) LIMITATION ON AVAILABILITY OF FUNDS.—Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2018 for operations and maintenance for the Office of the Assistant Secretary of Defense for Public Affairs, not more than 85 percent may be obligated or expended until the date on which the Secretary of Defense submits to the congressional defense committees the report under paragraph (1).

(e) POSTURE REVIEW PERIOD DEFINED.—In this section, the term "posture review period" means the period beginning on the date that is five years after the date of the enactment of this Act and ending on the date that is 10 years after such date of enactment.

SEC. 1645. BRIEFING ON CYBER CAPABILITY AND READINESS SHORTFALLS.

(a) BRIEFING REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall provide to the Committees on Armed Services of Senate and the House of Representatives a briefing on the ability of the Army Combat Training Centers to provide sufficient cyber training for deploying forces.

(b) ELEMENTS.—The briefing under subsection (a) shall include—

(1) an assessment of the pre-rotational training requirements for all deploying Army forces relating to the conduct of, and response to, cyber electromagnetic activities;

(2) an assessment of the training capabilities of the Army Combat Training Centers with respect to cyber electromagnetic activities; and

(3) recommendations for any improvements to training curricula, exercises, or infrastructure capabilities that may be needed to fill gaps in cyber training capabilities as such gaps are identified in the assessments under paragraphs (1) and (2).

(c) ADDITIONAL CONSIDERATIONS.—In preparing the briefing under subsection (a), the Secretary of the Army shall take into account the resources available within a 10-mile radius of the Army Combat Training Centers that could be used to address potential cyber capability and readiness shortfalls, including resources from other military departments, defense agencies, and field activities.

(d) CYBER ELECTROMAGNETIC ACTIVITIES DEFINED.—In this section, the term "cyber electromagnetic activities" has the meaning given the term in the Army Field Manual 3–38 titled "Cyber Electromagnetic Activities".

SEC. 1646. BRIEFING ON CYBER APPLICATIONS OF BLOCKCHAIN TECHNOLOGY.

(a) BRIEFING REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the heads of such other departments and agencies of the Federal Government as the Secretary considers appropriate, shall provide to the appropriate committees of Congress a briefing on the cyber applications of blockchain technology.

(b) ELEMENTS.—The briefing under subsection (a) shall include—

(1) a description of potential offensive and defensive cyber applications of blockchain technology and other distributed database technologies;

(2) an assessment of efforts by foreign powers, extremist organizations, and criminal networks to utilize such technologies;

(3) an assessment of the use or planned use of such technologies by the Federal Government and critical infrastructure networks; and

(4) an assessment of the vulnerabilities of critical infrastructure networks to cyber attacks.

(c) FORM OF BRIEFING.—The briefing under subsection (a) shall be provided in unclassified form, but may include a classified supplement.

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

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

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

SEC. 1647. BRIEFING ON TRAINING INFRASTRUCTURE FOR CYBER MISSION FORCES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall provide to the congressional defense committees a briefing on the Department of Defense training infrastructure for cyber mission forces. Such briefing shall include the following:

(1) A strategic plan for the growth and expansion of the training infrastructure for cyber mission forces across the Department of Defense commensurate with the projected growth of the cyber mission force.

(2) Identification of the shortcomings in such training infrastructure.

(3) A plan for the management and oversight of such training infrastructure, including management and oversight of the implementation of the strategic plan described in paragraph (1).

(4) Commercial applications that may potentially be used to address the needs identified in the strategic plan described in paragraph (1).

SEC. 1648. REPORT ON TERMINATION OF DUAL-HAT ARRANGEMENT FOR COMMANDER OF THE UNITED STATES CYBER COMMAND.

(a) REPORT.—Not later than May 1, 2018, the Secretary of Defense shall submit to the appropriate congressional committees a report on the progress of the Department of Defense in meeting the requirements of section 1642 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2601).

(b) ELEMENTS.—The report under subsection (a) shall include, with respect to any decision to terminate the dual-hat arrangement as described in section 1642 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2601), the following:

(1) Metrics and milestones for meeting the conditions described in subsection (b)(2)(C) of such section 1642.

(2) Identification of any challenges to meeting such conditions.

(3) Using data and support from the Director of Cost Assessment and Program Evaluation, in consultation with the Commander of the United States Cyber Command and the Director of the National Security Agency, identification of the costs that may be incurred in the effort to meet such conditions.

(4) Identification of entities or persons requiring additional resources as a result of any decision to terminate the dual-hat arrangement.

(5) Identification of any updates to statutory authorities needed as a result of any decision to terminate the dual-hat arrangement.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the congressional defense committees;

(2) the Select Committee on Intelligence of the Senate; and

(3) the Permanent Select Committee on Intelligence of the House of Representatives.

PART II—CYBERSECURITY EDUCATION

SEC. 1649. CYBER SCHOLARSHIP PROGRAM.

10/2200(c) (a) NAME OF PROGRAM.—Section 2200 of title 10, Unites States Code, is amended by adding at the end the following:

"(c) NAME OF PROGRAM.—The programs authorized under this chapter shall be known as the 'Cyber Scholarship Program'.".

10/2200a(f)(1) (b) MODIFICATION TO ALLOCATION OF FUNDING FOR CYBER SCHOLARSHIP PROGRAM.—Section 2200a(f) of title 10, Unites States Code, is amended—

(1) by inserting "(1)" before "Not less"; and

(2) by adding at the end the following new paragraph:

10/2200a(f)(2) "(2) Not less than five percent of the amount available for financial assistance under this section for a fiscal year shall be available for providing financial assistance for the pursuit of an associate degree at an institution described in paragraph (1).".

(c) CYBER DEFINITION.—Section 2200e of title 10, Unites States Code, is amended to read as follows:

"§ 2200e. Definitions

"In this chapter:

10/2200e gen amd "(1) The term 'cyber' includes the following:

"(A) Offensive cyber operations.

"(B) Defensive cyber operations.

"(C) Department of Defense information network operations and defense.

"(D) Any other information technology that the Secretary of Defense considers to be related to the cyber activities of the Department of Defense.

"(2) The term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

"(3) The term 'Center of Academic Excellence in Cyber Education' means an institution of higher education that is designated by the Director of the National Security Agency as a Center of Academic Excellence in Cyber Education.".

(d) CONFORMING AMENDMENTS.—

(1) Chapter 112 of title 10, United States Code, is further amended—

10/2200 prec (A) in the chapter heading, by striking "**INFORMATION SECURITY**" and inserting "**CYBER**";

(B) in section 2200 (as amended by subsection (a))—

10/2200(a) (i) in subsection (a), by striking "Department of Defense information assurance requirements" and inserting "the cyber requirements of the Department of Defense"; and

10/2200(b)(1) (ii) in subsection (b)(1), by striking "information assurance" and inserting "cyber disciplines";

10/2200a(a)(1) (C) in section 2200a (as amended by subsection (b))—

(i) in subsection (a)(1), by striking "an information assurance discipline" and inserting "a cyber discipline";

10/2200a(f)(1) (ii) in subsection (f)(1), by striking "information assurance" and inserting "cyber disciplines"; and

10/2200a(g)(1) (iii) in subsection (g)(1), by striking "an information technology position" and inserting "a cyber position";

10/2200b (D) in section 2200b, by striking "information assurance disciplines" and inserting "cyber disciplines";

10/2200c (E) in the heading of section 2200c, by striking "**Information Assurance**" and inserting "**Cyber**"; and

10/2200c (F) in section 2200c, by striking "Information Assurance" each place it appears and inserting "Cyber".

10/2200 prec (2) The table of sections at the beginning of chapter 112 of title 10, United States Code, is amended by striking the item relating to section 2200c and inserting the following:

"2200c. Centers of Academic Excellence in Cyber Education.".

10/7045 (3) Section 7045 of title 10, United States Code, is amended—

(A) by striking "Information Security Scholarship program" each place it appears and inserting "Cyber Scholarship program"; and

10/7045(a)(2)(B) (B) in subsection (a)(2)(B), by striking "information assurance" and inserting "a cyber discipline".

38/7904(4) (4) Section 7904(4) of title 38, United States Code, is amended by striking "Information Assurance" and inserting "Cyber".

(e) REDESIGNATIONS.—

10/2200 note new (1) SCHOLARSHIP PROGRAM.—The Information Security Scholarship program under chapter 112 of title 10, United States Code, is redesignated as the "Cyber Scholarship program". Any reference in a law (other than this section), map, regulation, document, paper, or other record of the United States to the Information Security Scholarship program shall be deemed to be a reference to the Cyber Scholarship Program.

10/2200c note new (2) CENTERS OF ACADEMIC EXCELLENCE.—Any institution of higher education designated by the Director of the National Security Agency as a Center of Academic Excellence in Information Assurance Education is redesignated as a Center of Academic Excellence in Cyber Education. Any reference in a law (other than this section), map, regulation, document, paper, or other record of the United States to a Center of Academic Excellence in Information Assurance Education shall be deemed to be a reference to a Center of Academic Excellence in Cyber Education.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Defense to provide financial assistance under section 2200a of title 10, United States Code (as amended by this section), and grants under section 2200b of such title (as so amended), $10,000,000 for fiscal year 2018.

SEC. 1649A. COMMUNITY COLLEGE CYBER PILOT PROGRAM AND ASSESSMENT.

15/7442 note new (a) PILOT PROGRAM.—Not later than 1 year after the date of enactment of this subtitle, as part of the Federal Cyber Scholarship-for-Service program established under section 302 of the Cybersecurity Enhancement Act of 2014 (15 U.S.C. 7442), the Director of the National Science Foundation, in coordination with the Director of the Office of Personnel Management, shall develop and implement a pilot program at not more than 10, but at least 5, community colleges to provide scholarships to eligible students who—

(1) are pursuing associate degrees or specialized program certifications in the field of cybersecurity; and

15/7442 note new

(2)(A) have bachelor's degrees; or

(B) are veterans of the Armed Forces.

(b) ASSESSMENT.—Not later than 1 year after the date of enactment of this subtitle, as part of the Federal Cyber Scholarship-for-Service program established under section 302 of the Cybersecurity Enhancement Act of 2014 (15 U.S.C. 7442), the Director of the National Science Foundation, in coordination with the Director of the Office of Personnel Management, shall assess the potential benefits and feasibility of providing scholarships through community colleges to eligible students who are pursuing associate degrees, but do not have bachelor's degrees.

SEC. 1649B. FEDERAL CYBER SCHOLARSHIP-FOR-SERVICE PROGRAM UPDATES.

(a) IN GENERAL.—Section 302 of the Cybersecurity Enhancement Act of 2014 (15 U.S.C. 7442) is amended—

15/7442(b)(2)

(1) in subsection (b)—

(A) in paragraph (2), by striking "and" at the end; and

(B) by striking paragraph (3) and inserting the following:

"(3) prioritize the employment placement of at least 80 percent of scholarship recipients in an executive agency (as defined in section 105 of title 5, United States Code); and

"(4) provide awards to improve cybersecurity education at the kindergarten through grade 12 level—

15/7442(b)(3), (4)

"(A) to increase interest in cybersecurity careers;

"(B) to help students practice correct and safe online behavior and understand the foundational principles of cybersecurity;

"(C) to improve teaching methods for delivering cybersecurity content for kindergarten through grade 12 computer science curricula; and

"(D) to promote teacher recruitment in the field of cybersecurity.";

(2) by amending subsection (d) to read as follows:

"(d) POST-AWARD EMPLOYMENT OBLIGATIONS.—Each scholarship recipient, as a condition of receiving a scholarship under the program, shall enter into an agreement under which the recipient agrees to work for a period equal to the length of the scholarship, following receipt of the student's degree, in the cybersecurity mission of—

"(1) an executive agency (as defined in section 105 of title 5, United States Code);

15/7442(d)

"(2) Congress, including any agency, entity, office, or commission established in the legislative branch;

"(3) an interstate agency;

"(4) a State, local, or Tribal government; or

"(5) a State, local, or Tribal government-affiliated nonprofit that is considered to be critical infrastructure (as defined in section 1016(e) of the USA Patriot Act (42 U.S.C. 5195c(e)).";

(3) in subsection (f)—

15/7442(f)(3)

(A) by amending paragraph (3) to read as follows:

"(3) have demonstrated a high level of competency in relevant knowledge, skills, and abilities, as defined by the national

15/7442(f)(3) cybersecurity awareness and education program under section 401;"; and

(B) by amending paragraph (4) to read as follows:

"(4) be a full-time student in an eligible degree program at a qualified institution of higher education, as determined by the Director of the National Science Foundation, except

15/7442(f)(4) that in the case of a student who is enrolled in a community college, be a student pursuing a degree on a less than full-time basis, but not less than half-time basis; and"; and

(4) by amending subsection (m) to read as follows:

"(m) PUBLIC INFORMATION.—

"(1) EVALUATION.—The Director of the National Science Foundation, in coordination with the Director of the Office of Personnel Management, shall periodically evaluate and make public, in a manner that protects the personally identifiable information of scholarship recipients, information on the success of recruiting individuals for scholarships under this section and on hiring and retaining those individuals in the public sector cyber workforce, including information on—

15/7442(m) "(A) placement rates;

"(B) where students are placed, including job titles and descriptions;

"(C) salary ranges for students not released from obligations under this section;

"(D) how long after graduation students are placed;

"(E) how long students stay in the positions they enter upon graduation;

"(F) how many students are released from obligations; and

"(G) what, if any, remedial training is required.

"(2) REPORTS.—The Director of the National Science Foundation, in coordination with the Office of Personnel Management, shall submit, not less frequently than once every 3 years, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report, including the results of the evaluation under paragraph (1) and any recent statistics regarding the size, composition, and educational requirements of the Federal cyber workforce.

"(3) RESOURCES.—The Director of the National Science Foundation, in coordination with the Director of the Office of Personnel Management, shall provide consolidated and user-friendly online resources for prospective scholarship recipients, including, to the extent practicable—

"(A) searchable, up-to-date, and accurate information about participating institutions of higher education and job opportunities related to the field of cybersecurity; and

"(B) a modernized description of cybersecurity careers.".

15/7442 note new (b) SAVINGS PROVISION.—Nothing in this section, or an amendment made by this section, shall affect any agreement, scholarship, loan, or repayment, under section 302 of the Cybersecurity Enhancement Act of 2014 (15 U.S.C. 7442), in effect on the day before the date of enactment of this subtitle.

SEC. 1649C. CYBERSECURITY TEACHING.

Section 10(i) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–1(i)) is amended—

(1) by amending paragraph (5) to read as follows:

42/1862n-1(i)(5)

"(5) the term 'mathematics and science teacher' means a science, technology, engineering, mathematics, or computer science, including cybersecurity, teacher at the elementary school or secondary school level;"; and

(2) by amending paragraph (7) to read as follows:

42/1862n-1(i)(7)

"(7) the term 'science, technology, engineering, or mathematics professional' means an individual who holds a baccalaureate, master's, or doctoral degree in science, technology, engineering, mathematics, or computer science, including cybersecurity, and is working in or had a career in such field or a related area; and".

Subtitle D—Nuclear Forces

SEC. 1651. ANNUAL ASSESSMENT OF CYBER RESILIENCY OF NUCLEAR COMMAND AND CONTROL SYSTEM.

(a) IN GENERAL.—Chapter 24 of title 10, United States Code, is amended by adding at the end the following new section:

10/499 new

"§ 499. Annual assessment of cyber resiliency of nuclear command and control system

"(a) IN GENERAL.—Not less frequently than annually, the Commander of the United States Strategic Command and the Commander of the United States Cyber Command (in this section referred to collectively as the 'Commanders') shall jointly conduct an assessment of the cyber resiliency of the nuclear command and control system.

"(b) ELEMENTS.—In conducting the assessment required by subsection (a), the Commanders shall—

"(1) conduct an assessment of the sufficiency and resiliency of the nuclear command and control system to operate through a cyber attack from the Russian Federation, the People's Republic of China, or any other country or entity the Commanders identify as a potential threat; and

"(2) develop recommendations for mitigating any concerns of the Commanders resulting from the assessment.

"(c) REPORT REQUIRED.—(1) The Commanders shall jointly submit to the Chairman of the Joint Chiefs of Staff, for submission to the Council on Oversight of the National Leadership Command, Control, and Communications System established under section 171a of this title, a report on the assessment required by subsection (a) that includes the following:

"(A) The recommendations developed under subsection (b)(2).

"(B) A statement of the degree of confidence of each of the Commanders in the mission assurance of the nuclear deterrent against a top tier cyber threat.

"(C) A detailed description of the approach used to conduct the assessment required by subsection (a) and the technical basis of conclusions reached in conducting that assessment.

"(D) Any other comments of the Commanders.

"(2) The Council shall submit to the Secretary of Defense the report required by paragraph (1) and any comments of the Council on the report.

"(3) The Secretary of Defense shall submit to the congressional defense committees the report required by paragraph (1), any comments of the Council on the report under paragraph (2), and any comments of the Secretary on the report.

10/499 new

"(d) QUARTERLY BRIEFINGS.—Not less than once every quarter, the Deputy Secretary of Defense and the Vice Chairman of the Joint Chiefs of Staff shall jointly provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on any known or suspected critical intelligence parameter breaches that were identified during the previous quarter, including an assessment of any known or suspected impacts of such breaches to the mission effectiveness of military capabilities as of the date of the briefing or thereafter.

"(e) TERMINATION.—The requirements of this section shall terminate on December 31, 2027.".

10/491 prec

(b) CLERICAL AMENDMENT.—The table of sections for chapter 24 of such title is amended by inserting after the item relating to section 498 the following new item:

"499. Annual assessment of cyber resiliency of nuclear command and control system.".

SEC. 1652. COLLECTION, STORAGE, AND SHARING OF DATA RELATING TO NUCLEAR SECURITY ENTERPRISE.

(a) IN GENERAL.—Chapter 24 of title 10, United States Code, as amended by section 1651, is further amended by adding at the end the following new section:

"§ 499a. Collection, storage, and sharing of data relating to nuclear security enterprise and nuclear forces

10/499a new

"(a) IN GENERAL.—The Secretary of Defense, acting through the Director of Cost Assessment and Program Evaluation, and the Administrator for Nuclear Security, acting through the Director for Cost Estimating and Program Evaluation, shall collect and store cost, programmatic, and technical data relating to programs and projects of the nuclear security enterprise and nuclear forces.

"(b) SHARING OF DATA.—If the Director of Cost Assessment and Program Evaluation or the Director for Cost Estimating and Program Evaluation requests data relating to programs or projects from any element of the Department of Defense or from any element of the nuclear security enterprise of the National Nuclear Security Administration, that element shall provide that data in a timely manner.

"(c) STORAGE OF DATA.—(1) Data collected by the Director of Cost Assessment and Program Evaluation and the Director for Cost Estimating and Program Evaluation under this section shall be—

"(A) stored in the data storage system of the Defense Cost and Resource Center, or successor center, or in a data storage system of the National Nuclear Security Administration that is comparable to the data storage system of the Defense Cost and Resource Center; and

"(B) made accessible to other Federal agencies as such Directors consider appropriate.

"(2) The Secretary and the Administrator shall ensure that the Director of Cost Assessment and Program Evaluation and the Director for Cost Estimating and Program Evaluation have sufficient information system support, as determined by such Directors, to facilitate the timely hosting, handling, and sharing of data relating to programs and projects of the nuclear security enterprise under this section at the appropriate level of classification.

10/499a new

"(3) The Deputy Administrator for Naval Reactors of the National Nuclear Security Administration may coordinate with the Director of Cost Assessment and Program Evaluation and the Director for Cost Estimating and Program Evaluation to ensure that, at the discretion of the Deputy Administrator, data relating to programs and projects of the Office of Naval Reactors are correctly represented in the data storage system pursuant to paragraph (1)(A).

"(d) CONTRACT REQUIREMENTS.—The Secretary and the Administrator shall ensure that any relevant contract relating to a program or project of the nuclear security enterprise and nuclear forces that is entered into on or after the date of the enactment of this section appropriately includes—

"(1) requirements and standards for data collection; and

"(2) requirements for reporting on cost, programmatic, and technical data using procedures, standards, and formats approved by the Director of Cost Assessment and Program Evaluation and the Director for Cost Estimating and Program Evaluation.

"(e) NUCLEAR SECURITY ENTERPRISE DEFINED.—In this section, the term 'nuclear security enterprise' has the meaning given that term in section 4002 of the Atomic Energy Defense Act (50 U.S.C. 2501).".

10/491 prec

(b) CLERICAL AMENDMENT.—The table of sections for chapter 24 of such title is amended by inserting after the item relating to section 499, as added by section 1651, the following new item:

"499a. Collection, storage, and sharing of data relating to nuclear security enterprise and nuclear forces.".

SEC. 1653. NOTIFICATIONS REGARDING DUAL-CAPABLE F–35A AIRCRAFT.

10/179(f)(6), (7)

Section 179(f) of title 10, United States Code, is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following new paragraph (6):

10/179(f)(6)

"(6) If a House of Congress adopts a bill authorizing or appropriating funds for the Department of Defense that, as determined by the Council, provides funds in an amount that will result in a delay in the nuclear certification or delivery of F–35A dual-capable aircraft, the Council shall notify the congressional defense committees of the determination.".

SEC. 1654. OVERSIGHT OF DELAYED ACQUISITION PROGRAMS BY COUNCIL ON OVERSIGHT OF THE NATIONAL LEADERSHIP COMMAND, CONTROL, AND COMMUNICATIONS SYSTEM.

10/171a(k), (l)

(a) STATUS UPDATES.—

(1) IN GENERAL.—Section 171a of title 10, United States Code, is amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j) the following new subsection (k):

"(k) STATUS OF ACQUISITION PROGRAMS.—(1) On a quarterly basis, each program manager of a covered acquisition program shall transmit to the co-chairs of the Council, acting through the senior steering group of the Council, a report that identifies—

"(A) the covered acquisition program;

"(B) the requirements of the program;

10/171a(k)

"(C) the development timeline of the program; and

"(D) the status of the program, including whether the program is delayed and, if so, whether such delay will result in a program schedule delay.

"(2) Not later than seven days after the end of each semiannual period, the co-chairs of the Council shall submit to the congressional defense committees a report that identifies, with respect to the reports transmitted to the Council under paragraph (1) for the two quarters in such period—

"(A) each covered acquisition program that is delayed more than 180 days; and

"(B) any covered acquisition program that should have been included in such reports but was excluded, and the reasons for such exclusion.

"(3) In this subsection, the term 'covered acquisition program' means each acquisition program of the Department of Defense that materially contributes to—

"(A) the nuclear command, control, and communications systems of the United States; or

"(B) the continuity of government systems of the United States.".

10/171a note new

(2) INSTRUCTIONS.—The Secretary of Defense shall issue a Department of Defense Instruction, or revise such an Instruction, to ensure that program managers carry out subsection (k)(1) of section 171a of title 10, United States Code, as added by paragraph (1).

(b) EXECUTION AND PROGRAMMATIC OVERSIGHT.—

(1) DATABASE.—Not later than one year after the date of the enactment of this Act, the Chief Information Officer of the Department of Defense, as Executive Secretary of the Council on Oversight of the National Leadership Command, Control, and Communications System established under section 171a of title 10, United States Code (or a successor to the Chief Information Officer assigned responsibility for policy, oversight, guidance, and coordination for nuclear command and control systems), shall, in coordination with the Under Secretary of Defense for Acquisition and Sustainment, develop a database relating to the execution of all nuclear command, control, and communications acquisition programs of the Department of Defense with an approved Materiel Development Decision. The database shall be updated not less frequently than annually and upon completion of a major program element of such a program.

10/171a note new*

(2) DATABASE ELEMENTS.—The database required by paragraph (1) shall include, at a minimum, the following elements for each program described in that paragraph, consistent with Department of Defense Instruction 5000.02:

*DT (sec. 3) - JW

(A) Projected dates for Milestones A, B, and C, including cost thresholds and objectives for major elements of life cycle cost.

10/171a note new

(B) Projected dates for program design reviews and critical design reviews.

(C) Projected dates for developmental and operation tests.

(D) Projected dates for initial operational capability and final operational capability.

(E) An acquisition program baseline.

(F) Program acquisition unit cost and average procurement unit cost.

(G) Contract type.

(H) Key performance parameters.

(I) Key system attributes.

(J) A risk register.

(K) Technology readiness levels.

(L) Manufacturing readiness levels.

(M) Integration readiness levels.

(N) Any other critical elements that affect the stability of the program.

(3) BRIEFINGS.—The co-chairs of the Council on Oversight of the National Leadership Command, Control, and Communications System shall brief the congressional defense committees on the status of the database required by paragraph (1)—

(A) not later than 180 days after the date of the enactment of this Act; and

(B) upon completion of the database.

SEC. 1655. ESTABLISHMENT OF NUCLEAR COMMAND AND CONTROL INTELLIGENCE FUSION CENTER.

10/491 note new*

(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Director of National Intelligence shall jointly establish an intelligence fusion center to effectively integrate and unify the protection of nuclear command, control, and communications programs, systems, and processes and continuity of government programs, systems, and processes.

(b) CHARTER.—In establishing the fusion center under subsection (a), the Secretary and the Director shall develop a charter for the fusion center that includes the following:

(1) To carry out the duties of the fusion center, a description of—

(A) the roles and responsibilities of officials and elements of the Federal Government, including a detailed description of the organizational relationships of such officials and the elements of the Federal Government that are key stakeholders;

(B) the organization reporting chain of the fusion center;

(C) the staffing of the fusion center;

(D) the processes of the fusion center; and

(E) how the fusion center integrates with other elements of the Federal Government.

(2) The management and administration processes required to carry out the fusion center, including with respect to facilities and security authorities.

*DT (sec. 3) - JW

(3) Procedures to ensure that the appropriate number of staff of the fusion center have the security clearance necessary to access information on the programs, systems, and processes that relate, either wholly or substantially, to nuclear command, control, and communications or continuity of government, including with respect to both the programs, systems, and processes that are designated as special access programs (as described in section 4.3 of Executive Order 13526 (50 U.S.C. 3161 note) or any successor Executive order) and the programs, systems, and processes that contain sensitive compartmented information.

10/491 note new

(c) COORDINATION.—In establishing the fusion center under subsection (a), the Secretary and the Director shall coordinate with the elements of the Federal Government that the Secretary and Director determine appropriate.

(d) REPORTS.—

(1) INITIAL REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary and the Director shall jointly submit to the appropriate congressional committees a report containing—

(A) the charter for the fusion center developed under subsection (b); and

(B) a plan on the budget and staffing of the fusion center.

(2) ANNUAL REPORTS.—At the same time as the President submits to Congress the annual budget request under section 1105 of title 31, United States Code, for fiscal year 2019 and each fiscal year thereafter, the Secretary and the Director shall submit to the appropriate congressional committees a report on the fusion center, including, with respect to the period covered by the report—

(A) any updates to the plan on the budget and staffing of the fusion center;

(B) any updates to the charter developed under subsection (b); and

(C) a summary of the activities and accomplishments of the fusion center.

(3) SUNSET.—No report is required under this subsection after December 31, 2021.

(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the congressional defense committees; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

SEC. 1656. SECURITY OF NUCLEAR COMMAND, CONTROL, AND COMMUNICATIONS SYSTEM FROM COMMERCIAL DEPENDENCIES.

10/491 note new

(a) CERTIFICATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall certify to the congressional defense committees whether the Secretary uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, to carry out—

(1) the nuclear deterrence mission of the Department of Defense, including with respect to nuclear command, control,

and communications, integrated tactical warning and attack assessment, and continuity of government; or

10/491 note new

(2) the homeland defense mission of the Department, including with respect to ballistic missile defense.

(b) PROHIBITION AND MITIGATION.—

(1) PROHIBITION.—Except as provided by paragraph (2), beginning on the date that is one year after the date of the enactment of this Act, the Secretary of Defense may not procure or obtain, or extend or renew a contract to procure or obtain, any equipment, system, or service to carry out the missions described in paragraphs (1) and (2) of subsection (a) that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(2) WAIVER.—The Secretary may waive the prohibition in paragraph (1) on a case-by-case basis for a single one-year period if the Secretary—

(A) determines such waiver to be in the national security interests of the United States; and

(B) certifies to the congressional committees that—

(i) there are sufficient mitigations in place to guarantee the ability of the Secretary to carry out the missions described in paragraphs (1) and (2) of subsection (a); and

(ii) the Secretary is removing the use of covered telecommunications equipment or services in carrying out such missions.

(3) DELEGATION.—The Secretary may not delegate the authority to make a waiver under paragraph (2) to any official other than the Deputy Secretary of Defense or the co-chairs of the Council on Oversight of the National Leadership Command, Control, and Communications System established by section 171a of title 10, United States Code.

(c) DEFINITIONS.—In this section:

(1) The term "congressional defense committees" has the meaning given that term in section 101(a)(16) of title 10, United States Code.

(2) The term "covered foreign country" means any of the following:

(A) The People's Republic of China.

(B) The Russian Federation.

(3) The term "covered telecommunications equipment or services" means any of the following:

(A) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(B) Telecommunications services provided by such entities or using such equipment.

(C) Telecommunications equipment or services produced or provided by an entity that the Secretary of Defense reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

SEC. 1657. OVERSIGHT OF AERIAL-LAYER PROGRAMS BY COUNCIL ON OVERSIGHT OF THE NATIONAL LEADERSHIP COMMAND, CONTROL, AND COMMUNICATIONS SYSTEM.

Any analysis of alternatives for the Senior Leader Airborne Operations Center, the executive airlift program of the Air Force, and the E–6B modernization program may not receive final approval by the Joint Requirements Oversight Council, and the Director of Cost Assessment and Program Evaluation may not conduct any sufficiency review of such an analysis of alternatives, unless—

(1) the Council on Oversight of the National Leadership Command, Control, and Communications System established by section 171a of title 10, United States Code, determines that the alternatives for such programs are capable of meeting the requirements for senior leadership communications in support of the nuclear command, control, and communications mission of the Department of Defense and the continuity of government mission of the Department;

(2) the Council submits to the congressional defense committees such determination; and

(3) a period of 30 days elapses following the date of such submission.

SEC. 1658. SECURITY CLASSIFICATION GUIDE FOR PROGRAMS RELATING TO NUCLEAR COMMAND, CONTROL, AND COMMUNICATIONS AND NUCLEAR DETERRENCE.

10/491 note new*

(a) REQUIREMENT FOR SECURITY CLASSIFICATION GUIDE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall require the issuance of a security classification guide for each covered program to ensure the protection of sensitive information from public disclosure.

(b) REQUIREMENTS.—Each security classification guide issued pursuant to subsection (a) shall be—

(1) approved by—

(A) the Council on Oversight of the National Leadership Command, Control, and Communications System with respect to covered programs under paragraph (1) or (2) of subsection (c); or

(B) the Nuclear Weapons Council with respect to covered programs under paragraph (3) of such subsection; and

(2) issued not later than March 19, 2019, with respect to a covered program in existence as of such date.

(c) ANNUAL NOTIFICATIONS.—On an annual basis during the three-year period beginning on the date of the enactment of this Act, the Deputy Secretary of Defense, without delegation, shall notify the congressional defense committees of the status of implementing subsection (a), including a description of any challenges to such implementation.

(d) EXCLUSION.—This section shall not apply with respect to restricted data covered by chapter 12 of the Atomic Energy Act of 1954 (42 U.S.C. 2161 et seq.).

(e) COVERED PROGRAM DEFINED.—In this section, the term "covered program" means programs of the Department of Defense in existence on or after the date of the enactment of this Act relating to any of the following:

(1) Continuity of government.

(2) Nuclear command, control, and communications.

*DT (sec. 3) - JW

10/491 note new

(3) Nuclear deterrence.

SEC. 1659. EVALUATION AND ENHANCED SECURITY OF SUPPLY CHAIN FOR NUCLEAR COMMAND, CONTROL, AND COMMUNICATIONS AND CONTINUITY OF GOVERNMENT PROGRAMS.

10/491 note new*

(a) EVALUATIONS OF SUPPLY CHAIN VULNERABILITIES.—

(1) IN GENERAL.—Not later than December 31, 2019, and in accordance with the plan under paragraph (2)(A), the Secretary of Defense shall conduct evaluations of the supply chain vulnerabilities of each covered program.

(2) PLAN.—

(A) DEVELOPMENT.—The Secretary shall develop a plan to carry out the evaluations under paragraph (1), including with respect to the personnel and resources required to carry out such evaluations.

(B) SUBMISSION.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees the plan under subparagraph (A).

(3) WAIVER.—The Secretary may waive, on a case-by-case basis with respect to a weapons system, a program, or a system of systems, of a covered program, either the requirement to conduct an evaluation under paragraph (1) or the deadline specified in such paragraph if the Secretary certifies to the congressional defense committees before such date that all known supply chain vulnerabilities of such weapons system, program, or system of systems have minimal consequences for the capability of such weapons system, program, or system of systems to meet operational requirements or otherwise satisfy mission requirements.

(4) RISK MITIGATION STRATEGIES.—In carrying out an evaluation under paragraph (1) with respect to a covered program specified in subparagraph (B) or (C) of subsection (c)(2), the Secretary shall develop strategies for mitigating the risks of supply chain vulnerabilities identified in the course of such evaluation.

(b) PRIORITIZATION OF CERTAIN SUPPLY CHAIN RISK MANAGEMENT EFFORTS.—

(1) INSTRUCTIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue a Department of Defense Instruction, or update such an Instruction, establishing the prioritization of supply chain risk management programs, including supply chain risk management threat assessment reporting, to ensure that acquisition and sustainment programs relating to covered programs receive the highest priority of such supply chain risk management programs and reporting.

(2) REQUIREMENTS.—

(A) ESTABLISHMENT.—The Secretary shall establish requirements to carry out supply chain risk management threat assessment collections and analyses under acquisition and sustainment programs relating to covered programs.

(B) SUBMISSION.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees the requirements established under subparagraph (A).

*DT (sec. 3) - JW

10/491 note new

(c) DEFINITIONS.—In this section:

(1) The term "appropriate congressional committees" means—

(A) the congressional defense committees; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(2) The term "covered programs" means programs relating to any of the following:

(A) Nuclear weapons.

(B) Nuclear command, control, and communications.

(C) Continuity of government.

(D) Ballistic missile defense.

SEC. 1660. PROCUREMENT AUTHORITY FOR CERTAIN PARTS OF INTERCONTINENTAL BALLISTIC MISSILE FUZES.

(a) AVAILABILITY OF FUNDS.—Notwithstanding section 1502(a) of title 31, United States Code, of the amount authorized to be appropriated for fiscal year 2018 by section 101 and available for Missile Procurement, Air Force, as specified in the funding table in division D, $6,334,000 shall be available for the procurement of covered parts pursuant to contracts entered into under section 1645(a) of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 128 Stat. 3651).

(b) COVERED PARTS DEFINED.—In this section, the term "covered parts" means commercially available off-the-shelf items as defined in section 104 of title 41, United States Code.

SEC. 1661. PRESIDENTIAL NATIONAL VOICE CONFERENCING SYSTEM AND PHOENIX AIR-TO-GROUND COMMUNICATIONS NETWORK.

(a) CONSOLIDATION OF ELEMENTS.—

(1) PNVCS.—Not later than one year after the date of the enactment of this Act, all program elements and funding for the Presidential National Voice Conferencing System shall be transferred to the Program Executive Office with responsibility for the Family of Advanced Beyond Line-of-Sight Terminals program. The Program Executive Office shall be responsible for approving all such program elements, requests for funding, and contract actions (including regarding contract line items) relating to the Presidential National Voice Conferencing System.

(2) PAGCN.—Not later than one year after the date of the enactment of this Act, all program elements and funding for the Phoenix Air-to-Ground Communications Network shall be transferred to the Program Executive Office with responsibility for the nuclear command, control, and communications systems of the United States. The Program Executive Office shall be responsible for approving all such program elements, requests for funding, and contract actions (including regarding contract line items) relating to the Phoenix Air-to-Ground Communications Network.

(b) SELECTED ACQUISITION REPORTS.—Commencing not later than one year after the date of the enactment of this Act, the Presidential National Voice Conferencing System and the Phoenix Air-to-Ground Communications Network shall each be deemed to

be a program for which a Selected Acquisition Report is required pursuant to section 2432 of title 10, United States Code.

SEC. 1662. LIMITATION ON PURSUIT OF CERTAIN COMMAND AND CONTROL CONCEPT.

(a) LIMITATION ON COMMAND AND CONTROL CONCEPT.—The Secretary of the Air Force may not award a contract for engineering and manufacturing development for the ground-based strategic deterrent program that would result in a command and control concept for such program that consists of less than 15 fixed launch control centers per missile wing unless the Commander of the United States Strategic Command—

(1) determines that—

(A) the plans of the Secretary of the Air Force for a command and control concept consisting of less than 15 fixed launch control centers per missile wing are appropriate, meet requirements, and do not contain excessive risk;

(B) the risks to schedules and costs from such concept are minimized and manageable;

(C) the strategy and plan of the Secretary of the Air Force for addressing cyber threats for such concept are robust; and

(D) with respect to such concept, the Secretary of the Air Force has established an appropriate process for considering and managing trade-offs among requirements relating to survivability, long-term operations and sustainment costs, procurement costs, and military personnel needs; and

(2) submits, in writing, to the Secretary of Defense and the congressional defense committees such determination.

(b) INABILITY TO MAKE DETERMINATION.—If the Secretary of the Air Force proposes to award a contract specified in subsection (a) and the Commander is unable to make the determination under such subsection, the Commander shall submit, in writing, to the Secretary of Defense and the congressional defense committees the reasons for not making such determination.

(c) NO EFFECT ON COMPETITION.—Nothing in subsection (a) or (b) shall be construed to affect or prohibit the ability of the Secretary of the Air Force to use fair and open competition procedures in soliciting, evaluating, and awarding contracts for the ground-based strategic deterrent program.

SEC. 1663. PROHIBITION ON AVAILABILITY OF FUNDS FOR MOBILE VARIANT OF GROUND-BASED STRATEGIC DETERRENT MISSILE.

Section 1664 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2615) is amended by striking "or 2018" and inserting "through 2019".

SEC. 1664. PROHIBITION ON REDUCTION OF THE INTERCONTINENTAL BALLISTIC MISSILES OF THE UNITED STATES.

(a) PROHIBITION.—Except as provided by subsection (b), none of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2018 for the Department of Defense shall be obligated or expended for—

(1) reducing, or preparing to reduce, the responsiveness or alert level of the intercontinental ballistic missiles of the United States; or

(2) reducing, or preparing to reduce, the quantity of deployed intercontinental ballistic missiles of the United States to a number less than 400.

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply to any of the following activities:

(1) The maintenance or sustainment of intercontinental ballistic missiles.

(2) Ensuring the safety, security, or reliability of intercontinental ballistic missiles.

(3) Reduction in the number of deployed intercontinental ballistic missiles that are carried out in compliance with—

(A) the limitations of the New START Treaty (as defined in section 494(a)(2)(D) of title 10, United States Code); and

(B) section 1644 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 128 Stat. 3651; 10 U.S.C. 494 note).

SEC. 1665. MODIFICATION TO ANNUAL REPORT ON PLAN FOR THE NUCLEAR WEAPONS STOCKPILE, NUCLEAR WEAPONS COMPLEX, NUCLEAR WEAPONS DELIVERY SYSTEMS, AND NUCLEAR WEAPONS COMMAND AND CONTROL SYSTEM.

Subsection (a)(2)(F) of section 1043 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1576), as most recently amended by section 1643 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 128 Stat. 3650), is further amended by inserting after the period at the end the following: "The Secretary may include information and data for a period beyond such 10-year period if the Secretary determines that such information and data is accurate and useful in understanding the long-term nuclear modernization plan.".

SEC. 1666. ESTABLISHMENT OF PROCEDURES FOR IMPLEMENTATION OF NUCLEAR ENTERPRISE REVIEW.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall issue a final Department of Defense Instruction establishing procedures for the long-term implementation of the recommendations contained in the Independent Review of the Department of Defense Nuclear Enterprise, dated June 2, 2014, and the Internal Assessment of the Department of Defense Nuclear Enterprise, dated September 2014.

(b) SUBMISSION.—The Secretary shall submit to the congressional defense committees the final instruction under subsection (a) by not later than 30 days after issuing the instruction.

SEC. 1667. REPORT ON IMPACTS OF NUCLEAR PROLIFERATION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) nuclear proliferation continues to be a serious threat to the security of the United States;

(2) it is critical for the United States to understand the impacts of nuclear proliferation and ensure the necessary policies and resources are in place to prevent the proliferation of nuclear materials and weapons;

(3) effectively addressing the danger of states and non-state actors acquiring nuclear weapons or nuclear-weapons-usable material should be a clear priority for United States national security; and

(4) Secretary of Defense James Mattis testified before Congress on June 12, 2017, that "nuclear nonproliferation has not received enough attention over quite a few years".

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report containing—

(1) a description of the impacts of nuclear proliferation on the security of the United States;

(2) a description of how the Department of Defense is contributing to the current strategy to respond to the threat of nuclear proliferation, and what resources are being applied to this effort, including whether there are any funding gaps; and

(3) if and how nuclear proliferation is being addressed in the Nuclear Posture Review and other pertinent strategy reviews.

SEC. 1668. CERTIFICATION THAT THE NUCLEAR POSTURE REVIEW ADDRESSES DETERRENT EFFECT AND OPERATION OF UNITED STATES NUCLEAR FORCES IN CURRENT AND FUTURE SECURITY ENVIRONMENTS.

(a) CERTIFICATION REQUIRED.—Not later than 30 days after completing the first Nuclear Posture Review after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a certification that the Nuclear Posture Review accounts for—

(1) with respect to the nuclear capabilities of the United States as of such date of enactment—

(A) the ability of such capabilities to deter adversaries of the United States that possess nuclear weapons or may possess such weapons in the future;

(B) the ability of the United States to operate in a major regional conflict that involves nuclear weapons;

(C) the ability and preparedness of forward-deployed members of the Armed Forces to operate in a nuclear environment; and

(D) weapons, equipment, and training or conduct that would improve the abilities described in subparagraphs (A), (B), and (C);

(2) with respect to the nuclear capabilities of the United States projected over the 10-year period beginning on such date of enactment—

(A) the projected ability of such capabilities to deter adversaries of the United States that possess nuclear weapons or may possess such weapons in the future;

(B) the projected ability of the United States to operate in a major regional conflict that involves nuclear weapons;

(C) the projected ability and preparedness of forward-deployed members of the Armed Forces to operate in a nuclear environment; and

(D) weapons, equipment, and training or conduct that would improve the abilities described in subparagraphs (A), (B), and (C); and

(3) any actions that could be taken by the Secretary of Defense or the Administrator for Nuclear Security in the near and medium terms to decrease the risk posed by possible additional changes to the security environment related to nuclear weapons in the future.

(b) FORM.—The certification under subsection (a) may be submitted in classified form.

SEC. 1669. PLAN TO MANAGE INTEGRATED TACTICAL WARNING AND ATTACK ASSESSMENT SYSTEM AND MULTI-DOMAIN SENSORS.

(a) PLAN REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of the Air Force shall develop a plan to manage the Air Force missile warning elements of the Integrated Tactical Warning and Attack Assessment System as a weapon system consistent with Air Force Policy Directive 10–9, entitled "Lead Command Designation and Responsibilities for Weapon Systems" and dated March 8, 2007.

(b) MULTI-DOMAIN SENSOR MANAGEMENT AND EXPLOITATION.—

(1) IN GENERAL.—The plan required by subsection (a) shall include a long-term plan to manage all available sensors for multi-domain exploitation against modern and emergent threats in order to provide comprehensive support for integrated tactical warning and attack assessment, missile defense, and space situational awareness.

(2) COORDINATION WITH OTHER AGENCIES.—In developing the plan required by paragraph (1), the Secretary shall—

(A) coordinate with the Secretary of the Army, the Secretary of the Navy, the Director of the Missile Defense Agency, and the Director of the National Reconnaissance Office; and

(B) solicit comments on the plan, if any, from the Commander of the United States Strategic Command and the Commander of the United States Northern Command.

(c) SUBMISSION TO CONGRESS.—Not later than 14 months after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees—

(1) the plan required by subsection (a); and

(2) the comments from the Commander of the United States Strategic Command and the Commander of the United States Northern Command, if any, on the plan required by subsection (b)(1).

SEC. 1670. CERTIFICATION REQUIREMENT WITH RESPECT TO STRATEGIC RADIATION HARDENED TRUSTED MICROELECTRONICS.

Not later than December 31, 2020, the Secretary of Defense shall submit to the congressional defense committees a certification that an assured capability to produce or acquire strategic radiation hardened trusted microelectronics, consistent with Department of Defense Instruction 5200.44, is operational and available to supply necessary microelectronic components for necessary radiation

environments involved with the acquisition of delivery systems for nuclear weapons.

SEC. 1671. NUCLEAR POSTURE REVIEW.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Nuclear Posture Review should—

(1) take into account the obligations of the United States under treaties ratified by and with the advice and consent of the Senate;

(2) examine the tools required to sustain the stockpile stewardship program under section 4201 of the Atomic Energy Defense Act (50 U.S.C. 2521) in the future to ensure the safety, security, and effectiveness of the nuclear arsenal of the United States; and

(3) consider input and views from all relevant stakeholders in the United States Government, including the Secretary of Energy, the Secretary of State, and the Administrator for Nuclear Security, on issues pertaining to nuclear deterrence, nuclear nonproliferation, and nuclear arms control.

(b) AVAILABILITY.—The Secretary of Defense shall ensure that—

(1) the Nuclear Posture Review is submitted, in its entirety, to the President and the congressional defense committees; and

(2) an unclassified version of the Nuclear Posture Review is made available to the public.

SEC. 1672. SENSE OF CONGRESS ON IMPORTANCE OF INDEPENDENT NUCLEAR DETERRENT OF UNITED KINGDOM.

It is the sense of Congress that—

(1) nuclear deterrence is foundational to the defense and security of the United States and the security of the United States is enhanced by a nuclear-armed ally with common values and security priorities;

(2) the United States sees the nuclear deterrent of the United Kingdom as central to transatlantic security and welcomes the commitment of the United Kingdom to the North Atlantic Treaty Organization (NATO) to continue to spend two percent of gross domestic product on defense;

(3) in the face of increasing threats, the presence of credible nuclear deterrent forces of the United Kingdom is essential to international stability and for NATO;

(4) the commitment of the United Kingdom to sustaining an independent nuclear deterrent, deployed continuously at sea, provides a vital second decision-making point within the deterrent capability of NATO, creating essential uncertainty in the mind of any potential adversary;

(5) the United States Navy must continue to execute the Columbia-class submarine program on time and within budget to ensure that the sea-based leg of the nuclear triad of the United States is sustained and the program delivers a Common Missile Compartment, the Trident II (D5) Strategic Weapon System, and associated equipment and production capabilities, to support the successful development and deployment of the Dreadnought submarines of the United Kingdom;

(6) the support that the United Kingdom provides to deployments of strategic ships and aircraft of the United States at specialized facilities enables a vital part of the deterrence posture of the United States as well as mutual deterrence of

adversaries and assurance to the allies and partners of the United States; and

(7) the collaboration of the United Kingdom with the United States on the military use of atomic energy ensures a peer in the technology and science of nuclear weapons and provides independent expert peer review of the nuclear programs of the United States, ensuring resilience and cost effectiveness to the nuclear defense programs of both nations.

Subtitle E—Missile Defense Programs

SEC. 1676. ADMINISTRATION OF MISSILE DEFENSE AND DEFEAT PROGRAMS.

10/239a new

(a) MAJOR FORCE PROGRAM.—

(1) IN GENERAL.—Chapter 9 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 239a. Missile defense and defeat programs: major force program and budget assessment

"(a) ESTABLISHMENT OF MAJOR FORCE PROGRAM.—The Secretary of Defense shall establish a unified major force program for missile defense and defeat programs pursuant to section 222(b) of this title to prioritize missile defense and defeat programs in accordance with the requirements of the Department of Defense and national security.

"(b) BUDGET ASSESSMENT.—(1) The Secretary shall include with the defense budget materials for each of fiscal years 2019 through 2023 a report on the budget for missile defense and defeat programs of the Department of Defense.

"(2) Each report on the budget for missile defense and defeat programs of the Department under paragraph (1) shall include the following:

"(A) An overview of the budget, including—

"(i) a comparison between that budget, the previous budget, the most recent and prior future-years defense program submitted to Congress under section 221 of this title (such comparison shall exclude the responsibility for research and development of the continuing improvement of such missile defense and defeat program), and the amounts appropriated for such missile defense and defeat programs during the previous fiscal year; and

"(ii) the specific identification, as a budgetary line item, for the funding under such programs.

"(B) An assessment of the budget, including significant changes, priorities, challenges, and risks.

"(C) Any additional matters the Secretary determines appropriate.

"(3) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

"(c) DEFINITIONS.—In this section:

"(1) The term 'budget', with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

"(2) The term 'defense budget materials', with respect to a fiscal year, means the materials submitted to Congress by

the Secretary of Defense in support of the budget for that fiscal year.

10/239a new

"(3) The term 'missile defense and defeat programs' means active and passive ballistic missile defense programs, cruise missile defense programs for the homeland, and missile defeat programs.".

10/221 prec

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 239 the following new item:

"239a. Missile defense and defeat programs: major force program and budget assessment.".

(b) TRANSITION OF BALLISTIC MISSILE DEFENSE PROGRAMS TO MILITARY DEPARTMENTS.—

10/2431 note new*

(1) REQUIREMENT.—Not later than the date on which the budget of the President for fiscal year 2021 is submitted under section 1105 of title 31, United States Code, the Secretary of Defense shall transfer the acquisition authority and the total obligational authority for each missile defense program described in paragraph (2) from the Missile Defense Agency to a military department.

(2) MISSILE DEFENSE PROGRAM DESCRIBED.—A missile defense program described in this paragraph is a missile defense program of the Missile Defense Agency that, as of the date specified in paragraph (1), has received Milestone C approval (as defined in section 2366 of title 10, United States Code).

(3) REPORT.—

(A) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the plans of the Department of Defense for the transition of missile defense programs from the Missile Defense Agency to the military departments pursuant to paragraph (1).

(B) SCOPE.—The report under subparagraph (A) shall cover the period covered by the future-years defense program that is submitted under section 221 of title 10, United States Code, in the year in which such report is submitted.

(C) MATTERS INCLUDED.—The report under subparagraph (A) shall include the following:

(i) An identification of—

(I) the missile defense programs planned to be transitioned from the Missile Defense Agency to the military departments; and

(II) the missile defense programs, if any, not planned for transition to the military departments.

(ii) The schedule for transition of each missile defense program planned to be transitioned to a military department, and an explanation of such schedule.

(iii) A description of—

(I) the status of the plans of the Missile Defense Agency and the military departments for the transition of missile defense programs from that agency to the military departments; and

(II) the status of any agreement between the Missile Defense Agency and one or more of the

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10/2431 note new

military departments on the transition of any such program from that agency to the military departments, including any agreement on the operational test criteria that must be achieved before such transition.

(iv) An identification of the element of the Department of Defense (whether the Missile Defense Agency, a military department, or both) that will be responsible for funding each missile defense program to be transitioned to a military department, and at what date.

(v) A description of the type of funds that will be used (whether funds for research, development, test, and evaluation, procurement, military construction, or operation and maintenance) for each missile defense program to be transitioned to a military department.

(vi) An explanation of the number of systems planned for procurement for each missile defense program to be transitioned to a military department, and the schedule for procurement of each such system.

(vii) A description of how the Missile Defense Agency will continue the responsibility for the research and development of improvements to missile defense programs.

(c) ROLE OF MISSILE DEFENSE AGENCY.—

(1) IN GENERAL.—Chapter 8 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 205. Missile Defense Agency

10/205 new

"(a) TERM OF DIRECTOR.—The Director of the Missile Defense Agency shall be appointed for a six-year term.

"(b) REPORTING.—The Missile Defense Agency shall be under the authority, direction, and control of the Under Secretary of Defense for Research and Engineering.".

10/201 prec

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of such chapter is amended by adding at the end the following new item:

"205. Missile Defense Agency.".

10/205 note new

(3) APPLICATION.—

(A) TERMS.—Subsection (a) of section 205 of title 10, United States Code, as added by paragraph (1), shall apply the day following the date on which the present incumbent in the office of the Director of the Missile Defense Agency, as of the date of the enactment of this Act, ceases to serve as such.

(B) REPORTING.—Subsection (b) of such section 205 shall apply beginning on February 1, 2018. In carrying out such subsection, the Missile Defense Agency shall be under the authority, direction, and control of the Under Secretary of Defense for Research and Engineering in the same manner as the Missile Defense Agency was under the authority, direction, and control of the Under Secretary of Defense for Acquisition, Technology, and Logistics pursuant to Department of Defense Directive 5134.09. Any reference in such Instruction to the Under Secretary of Defense for Acquisition, Technology, and Logistics shall

10/205 note new

be deemed to be a reference to the Under Secretary of Defense for Research and Engineering, including with respect to the Under Secretary serving as the chairman of the Missile Defense Executive Board.

SEC. 1677. CONDITION FOR PROCEEDING BEYOND LOW-RATE INITIAL PRODUCTION.

10/2399(a)(1)

(a) INCLUSION OF BALLISTIC MISSILE DEFENSE SYSTEM.—Section 2399(a)(1) of title 10, United States Code, is amended—

(1) by striking "or a covered designated major subprogram" and inserting ", a covered designated major subprogram, or an element of the ballistic missile defense system"; and

(2) by striking "program or subprogram" and inserting "program, subprogram, or element".

10/2431 note

(b) RULE OF CONSTRUCTION.—Section 1662(e) of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 10 U.S.C. 2431 note) is amended by inserting before the period at the end the following: ", or to diminish the authority of the Secretary of Defense to deploy a missile defense system at the date on which the Secretary determines appropriate".

SEC. 1678. PRESERVATION OF THE BALLISTIC MISSILE DEFENSE CAPACITY OF THE ARMY.

(a) LIMITATION.—None of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2018 or any fiscal year thereafter for the Army may be obligated or expended to demilitarize any GEM–T interceptor or remove any such interceptor from the operational inventory of the Army until the date on which the Secretary of the Army submits to the congressional defense committees the plan under subsection (b).

(b) PLAN.—Not later than 120 days after the date of the enactment of this Act, the Secretary and the Chief of Staff of the Army shall jointly submit to the congressional defense committees a plan to maintain an inventory of interceptors necessary to retain the capability provided by GEM–T interceptors, including the costs, milestones, and timelines to carry out such plan.

(c) EXCEPTION.—The limitation in subsection (a) shall not apply to activities that the Secretary determines are critical to the safety of GEM–T interceptors.

(d) GEM–T INTERCEPTOR DEFINED.—In this section, the term "GEM–T interceptor" means the Patriot guidance enhanced missile TBM.

SEC. 1679. MODERNIZATION OF ARMY LOWER TIER AIR AND MISSILE DEFENSE SENSOR.

(a) APPROVAL OF ACQUISITION STRATEGY.—

(1) IN GENERAL.—Not later than September 15, 2018, the Secretary of the Army shall issue an acquisition strategy for a 360-degree lower tier air and missile defense sensor that achieves initial operating capability by not later than December 31, 2023.

(2) REQUIREMENTS.—The acquisition strategy under paragraph (1) shall—

(A) ensure the use of competitive procedures;

(B) clearly describe the open-architecture design to be used;

(C) provide a comprehensive fielding plan that provides 360-degree lower tier air and missile defense sensor capability to all units of the Army;

(D) define the operation and sustainment cost savings of the acquisition strategy and other acquisition options of the Army;

(E) identify any programmatic cost avoidance that could be achieved through co-production, co-development, or foreign military sales;

(F) ensure the fielding of an interim gap-filler capability to the highest priority forces (consisting of not less than three battalions) for imminent threats; and

(G) identify the estimated cost to field both the 360-degree lower tier air and missile defense sensor capability and the interim capability pursuant to subparagraph (E).

(3) LIMITATION.—If the Secretary of the Army does not issue the acquisition strategy under subsection (a) by September 15, 2018, none of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2018 for the lower tier air and missile defense sensor of the Army that are unobligated as of such date may be obligated or expended.

(b) CONDITIONAL TRANSFER.—

(1) MDA.—If the Secretary of the Army does not issue the acquisition strategy under subsection (a) by September 15, 2018, the Secretary of Defense shall transfer from the Secretary of the Army to the Director of the Missile Defense Agency—

(A) the responsibility to issue the acquisition strategy described in subsection (a) by not later than August 15, 2019; and

(B) the responsibility to implement such acquisition strategy to procure a 360-degree lower tier air and missile defense sensor.

(2) ARMY.—If the Secretary of Defense carries out the transfer under paragraph (1), after the 360-degree lower tier air and missile defense sensor achieves Milestone B approval (or equivalent), but before such sensor achieves Milestone C approval (or equivalent), the Secretary of Defense shall transfer from the Director of the Missile Defense Agency to the Secretary of the Army the responsibility to procure such sensor.

(c) DEFINITIONS.—The terms "Milestone B approval" and "Milestone C approval" have the meanings given those terms in section 2366 of title 10, United States Code.

SEC. 1680. DEFENSE OF HAWAII FROM NORTH KOREAN BALLISTIC MISSILE ATTACK.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) expanding persistent midcourse and terminal ballistic missile defense system discrimination capability is critically important to the defense of the United States; and

(2) the Department of Defense should take all appropriate steps to ensure Hawaii has missile defense coverage against the evolving ballistic missile threat, including from North Korea.

(b) SEQUENCED APPROACH.—The Secretary of Defense shall—

(1) protect the test and training operations of the Pacific Missile Range Facility; and

(2) assess the siting and functionality of a discrimination radar for homeland defense throughout the Hawaiian Islands before assessing the feasibility of improving the missile defense of Hawaii by using existing missile defense assets that could materially improve the defense of Hawaii.

(c) TEST.—The Director of the Missile Defense Agency shall—

(1) not later than December 31, 2020, conduct a test to evaluate and demonstrate, if technologically feasible, the capability to defeat a simple intercontinental ballistic missile threat using the standard missile 3 block IIA missile interceptor; and

(2) as part of the integrated master test plan for the ballistic missile defense system, develop a plan to demonstrate a capability to defeat a complex intercontinental ballistic missile threat, including a complex threat posed by the intercontinental ballistic missiles of North Korea.

(d) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report—

(1) that indicates whether demonstrating an intercontinental ballistic missile defense capability against North Korean ballistic missiles by the standard missile 3 block IIA missile interceptor poses any risks to strategic stability; and

(2) if the Secretary determines under paragraph (1) that such demonstration poses such risks to strategic stability, a description of the plan developed and implemented by the Secretary to address and mitigate such risks, as determined appropriate by the Secretary.

SEC. 1681. DESIGNATION OF LOCATION OF CONTINENTAL UNITED STATES INTERCEPTOR SITE.

If consistent with the direction or recommendations of the Ballistic Missile Defense Review that commenced in 2017, not later than 60 days after the date on which the Ballistic Missile Defense Review is published, the Secretary of Defense shall—

(1) designate the preferred location of a potential additional continental United States interceptor site;

(2) in making such designation, consider—

(A) strategic and operational effectiveness, including with respect to the location that is the most advantageous site to the continental United States, including by having the capability to provide shoot-assess-shoot coverage to the entire continental United States;

(B) existing infrastructure at the location; and

(C) costs to construct, equip, and operate; and

(3) submit to the congressional defense committees a report on the designation made under paragraph (1) with respect to each factor specified in subparagraphs (A), (B), and (C) of such paragraph.

SEC. 1682. AEGIS ASHORE ANTI-AIR WARFARE CAPABILITY.

(a) AUTHORIZATION.—Subject to the availability of funds authorized to be appropriated by sections 101 and 201 of this Act or otherwise made available for fiscal year 2018 for procurement and research, development, test, and evaluation, as specified in the funding tables in division D, the Secretary of Defense shall continue

the development, procurement, and deployment of anti-air warfare capabilities at each Aegis Ashore site in Romania and Poland. The Secretary shall ensure the deployment of such capabilities—

(1) at such sites in Romania by not later than one year after the date of the enactment of this Act; and

(2) at such sites in Poland by not later than one year after the declaration of operational status for such sites.

(b) REPROGRAMMING AND TRANSFERS.—Any reprogramming or transfer made to carry out subsection (a) shall be carried out in accordance with established procedures for reprogramming or transfers.

SEC. 1683. DEVELOPMENT OF PERSISTENT SPACE-BASED SENSOR ARCHITECTURE.

10/2431 note new*

(a) IN GENERAL.—If consistent with the direction or recommendations of the Ballistic Missile Defense Review that commenced in 2017, the Director of the Missile Defense Agency shall develop, using sound acquisition practices, a highly reliable and cost-effective persistent space-based sensor architecture capable of supporting the ballistic missile defense system.

(b) TESTING AND DEPLOYMENT.—The Director shall ensure that the sensor architecture developed under subsection (a) is rigorously tested before final production decisions or operational deployment.

(c) FUNCTIONS.—The sensor architecture developed under subsection (a) shall include one or more of the following functions:

(1) Control of increased raid sizes.

(2) Precision tracking of threat missiles.

(3) Fire-control-quality tracks of evolving threat missiles.

(4) Enabling of launch-on-remote and engage-on-remote capabilities.

(5) Discrimination of warheads.

(6) Effective kill assessment.

(7) Enhanced shot doctrine.

(8) Integration with the command, control, battle management, and communication program of the ballistic missile defense system.

(9) Integration with all other elements of the current ballistic missile defense system, including the Terminal High Altitude Area Defense, Aegis Ballistic Missile Defense, Aegis Ashore, and Patriot Air and Missile Defense systems.

(10) Such additional functions as determined by the Ballistic Missile Defense Review.

(d) COST ESTIMATES.—Whenever the Director develops a cost estimate for the sensor architecture required by subsection (a), the Director shall use—

(1) the cost-estimating and assessment guide of the Comptroller General of the United States titled "GAO Cost Estimating and Assessment Guide" (GAO–09–3SP), or a successor guide; or

(2) the most current operating and support cost-estimating guide of the Office of Cost Assessment and Program Evaluation.

(e) PLAN.—Not later than one year after the date of the enactment of this Act, the Director shall submit to the appropriate congressional committees a plan that includes—

(1) how the Director will develop the sensor architecture under subsection (a), including with respect to the estimated costs (in accordance with subsection (d)) to develop, acquire,

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and deploy, and the lifecycle costs to operate and sustain, the sensor architecture;

10/2431 note new

(2) an assessment of the maturity of critical technologies necessary to make operational such sensor architecture, and recommendations for any research and development activities to rapidly mature such technologies;

(3) an assessment of what capabilities such sensor architecture can contribute that other sensor architectures do not contribute;

(4) how the Director will leverage the use of national technical means, commercially available space and terrestrial capabilities, hosted payloads, small satellites, and other capabilities to carry out subsection (a); and

(5) any other matters the Director determines appropriate.

(f) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the congressional defense committees; and

(2) the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 1684. IRON DOME SHORT-RANGE ROCKET DEFENSE SYSTEM AND ISRAELI COOPERATIVE MISSILE DEFENSE PROGRAM CO-DEVELOPMENT AND CO-PRODUCTION.

(a) IRON DOME SHORT-RANGE ROCKET DEFENSE SYSTEM.—

(1) AVAILABILITY OF FUNDS.—Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2018 for procurement, Defense-wide, and available for the Missile Defense Agency, not more than $92,000,000 may be provided to the Government of Israel to procure Tamir interceptors for the Iron Dome short-range rocket defense system through co-production of such interceptors in the United States by industry of the United States.

(2) CONDITIONS.—

(A) AGREEMENT.—Funds described in paragraph (1) for the Iron Dome short-range rocket defense program shall be available subject to the terms and conditions in the Agreement Between the Department of Defense of the United States of America and the Ministry of Defense of the State of Israel Concerning Iron Dome Defense System Procurement, signed on March 5, 2014, as amended to include co-production for Tamir interceptors. In negotiations by the Missile Defense Agency and the Missile Defense Organization of the Government of Israel regarding such production, the goal of the United States is to maximize opportunities for co-production of the Tamir interceptors described in paragraph (1) in the United States by industry of the United States.

(B) CERTIFICATION.—Not later than 30 days prior to the initial obligation of funds described in paragraph (1), the Director of the Missile Defense Agency and the Under Secretary of Defense for Acquisition and Sustainment shall jointly submit to the appropriate congressional committees—

(i) a certification that the amended bilateral international agreement specified in subparagraph (A) is

being implemented as provided in such agreement; and

(ii) an assessment detailing any risks relating to the implementation of such agreement.

(b) ISRAELI COOPERATIVE MISSILE DEFENSE PROGRAM, DAVID'S SLING WEAPON SYSTEM CO-PRODUCTION.—

(1) IN GENERAL.—Subject to paragraph (2), of the funds authorized to be appropriated for fiscal year 2018 for procurement, Defense-wide, and available for the Missile Defense Agency not more than $120,000,000 may be provided to the Government of Israel to procure the David's Sling Weapon System, including for co-production of parts and components in the United States by United States industry.

(2) CERTIFICATION.—The Under Secretary of Defense for Acquisition and Sustainment shall submit to the appropriate congressional committees a certification that—

(A) the Government of Israel has demonstrated the successful completion of the knowledge points, technical milestones, and production readiness reviews required by the research, development, and technology agreement and the bilateral co-production agreement for the David's Sling Weapon System;

(B) funds specified in paragraph (1) will be provided on the basis of a one-for-one cash match made by Israel or in another matching amount that otherwise meets best efforts (as mutually agreed to by the United States and Israel); and

(C) the level of co-production of parts, components, and all-up rounds (if appropriate) in the United States by United States industry for the David's Sling Weapon System is not less than 50 percent.

(c) ISRAELI COOPERATIVE MISSILE DEFENSE PROGRAM, ARROW 3 UPPER TIER INTERCEPTOR PROGRAM CO-PRODUCTION.—

(1) IN GENERAL.—Subject to paragraph (2), of the funds authorized to be appropriated for fiscal year 2018 for procurement, Defense-wide, and available for the Missile Defense Agency not more than $120,000,000 may be provided to the Government of Israel for the Arrow 3 Upper Tier Interceptor Program, including for co-production of parts and components in the United States by United States industry.

(2) CERTIFICATION.—Except as provided by paragraph (3), the Under Secretary of Defense for Acquisition and Sustainment shall submit to the appropriate congressional committees a certification that—

(A) the Government of Israel has demonstrated the successful completion of the knowledge points, technical milestones, and production readiness reviews required by the research, development, and technology agreements for the Arrow 3 Upper Tier Development Program;

(B) funds specified in paragraph (1) will be provided on the basis of a one-for-one cash match made by Israel or in another matching amount that otherwise meets best efforts (as mutually agreed to by the United States and Israel);

(C) the United States has entered into a bilateral international agreement with Israel that establishes, with respect to the use of such funds—

(i) in accordance with subparagraph (D), the terms of co-production of parts and components on the basis of the greatest practicable co-production of parts, components, and all-up rounds (if appropriate) by United States industry and minimizes nonrecurring engineering and facilitization expenses to the costs needed for co-production;

(ii) complete transparency on the requirement of Israel for the number of interceptors and batteries that will be procured, including with respect to the procurement plans, acquisition strategy, and funding profiles of Israel;

(iii) technical milestones for co-production of parts and components and procurement;

(iv) a joint affordability working group to consider cost reduction initiatives; and

(v) joint approval processes for third-party sales; and

(D) the level of co-production described in subparagraph (C)(i) for the Arrow 3 Upper Tier Interceptor Program is not less than 50 percent.

(3) WAIVER.—The Under Secretary may waive the certification required by paragraph (2) if the Under Secretary certifies to the appropriate congressional committees that the Under Secretary has received sufficient data from the Government of Israel to demonstrate—

(A) the funds specified in paragraph (1) are provided to Israel solely for funding the procurement of long-lead components and critical hardware in accordance with a production plan, including a funding profile detailing Israeli contributions for production, including long-lead production, of the Arrow 3 Upper Tier Interceptor Program;

(B) such long-lead components have successfully completed knowledge points, technical milestones, and production readiness reviews; and

(C) the long-lead procurement will be conducted in a manner that maximizes co-production in the United States without incurring nonrecurring engineering activity or cost other than such activity or cost required for suppliers of the United States to start or restart production in the United States.

(d) NUMBER.—In carrying out paragraph (2) of subsection (b) and paragraph (2) of subsection (c), the Under Secretary may submit—

(1) one certification covering both the David's Sling Weapon System and the Arrow 3 Upper Tier Interceptor Program; or

(2) separate certifications for each respective system.

(e) TIMING.—The Under Secretary shall submit to the congressional defense committees the certifications under paragraph (2) of subsection (b) and paragraph (2) of subsection (c) by not later than 60 days before the funds specified in paragraph (1) of subsections (b) and (c) for the respective system covered by the certification are provided to the Government of Israel.

(f) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means the following:

(1) The congressional defense committees.

(2) The Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

SEC. 1685. BOOST PHASE BALLISTIC MISSILE DEFENSE.

10/2431 note new

(a) SENSE OF CONGRESS.—It is the sense of Congress that, if consistent with the direction or recommendations of the Ballistic Missile Defense Review that commenced in 2017—

(1) the Secretary of Defense should rapidly develop and demonstrate a boost phase intercept capability for missile defense as soon as practicable;

(2) existing technologies should be adapted to demonstrate this capability;

(3) the concept of operation for this demonstration should be developed in cooperation with the United States Pacific Command to address emerging threats and heightened tensions in the Asia-Pacific region; and

(4) the Secretary should prioritize funding allocations for the development of boost phase intercept capabilities and coordinate these efforts with the Missile Defense Agency as the Agency develops a space-based missile defense sensor layer.

(b) INITIAL OPERATIONAL DEPLOYMENT.—The Secretary of Defense shall ensure that an effective interim kinetic or directed energy boost phase ballistic missile defense capability is available for initial operational deployment as soon as practicable.

(c) PLAN.—Together with the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code, for fiscal year 2019, the Secretary of Defense shall submit to the congressional defense committees a plan to achieve the requirement in subsection (b). Such plan shall include—

(1) the budget requirements;

(2) a robust test schedule; and

(3) a plan to develop an enduring boost phase ballistic missile defense capability, including cost and test schedule.

SEC. 1686. GROUND-BASED INTERCEPTOR CAPABILITY, CAPACITY, AND RELIABILITY.

10/2431 note new

(a) INCREASE IN CAPACITY AND CONTINUED ADVANCEMENT.—The Secretary of Defense may—

(1) subject to the amounts authorized to be appropriated for national missile defense, increase the number of the ground-based interceptors of the United States by up to 28, if consistent with the direction or recommendations of the Ballistic Missile Defense Review that commenced in 2017;

(2) develop a plan to further increase such number to the currently available missile field capacity of 104 and to plan for any future capacity at any site that may be identified by such Ballistic Missile Defense Review; and

(3) continue to rapidly advance missile defense technologies to improve the capability and reliability of the ground-based midcourse defense element of the ballistic missile defense system.

(b) DEPLOYMENT.—Not later than December 31, 2021, the Secretary of Defense may—

(1) execute any requisite construction to ensure that Missile Field 1 or Missile Field 2 at Fort Greely, Alaska, or alternative missile fields at Fort Greely which may be identified pursuant

10/2431 note new

to subsection (a), are capable of supporting and sustaining additional ground-based interceptors; and

(2) deploy up to 20 additional ground-based interceptors to a missile field at Fort Greely as soon as technically feasible.

(c) REPORT.—

(1) IN GENERAL.—If consistent with the direction or recommendations of the Ballistic Missile Defense Review that commenced in 2017, the Director of the Missile Defense Agency shall submit to the congressional defense committees, not later than 90 days after the date on which the Ballistic Missile Defense Review is published, a report on options to increase the capability, capacity, and reliability of the ground-based midcourse defense element of the ballistic missile defense system and the infrastructure requirements for increasing the number of ground-based interceptors in currently feasible locations across the United States.

(2) CONTENTS.—The report under paragraph (1) shall include the following:

(A) An identification of potential sites in the United States, whether existing or new on the East Coast or in the Midwest, for the deployment of 104 ground-based interceptors.

(B) A cost-benefit analysis of each such site, including with respect to tactical, operational, and cost-to-construct considerations.

(C) A description of any completed and outstanding environmental assessments or impact statements for each such site.

(D) A description of the additional infrastructure and components needed to further outfit missile fields at Fort Greely before emplacing additional ground-based interceptors configured with the redesigned kill vehicle, including with respect to ground excavation, silos, utilities, and support equipment.

(E) A cost estimate of such infrastructure and components.

(F) An estimated schedule for completing such construction as may be required for such infrastructure and components.

(G) An identification of any environmental assessments or impact studies that would need to be conducted to expand such missile fields at Fort Greely beyond current capacity.

(H) A determination of the appropriate fleet mix of ground-based interceptor kill vehicles and boosters to maximize overall system effectiveness and increase its capacity and capability, including the costs and benefits of continued inclusion of capability enhancement II block 1 interceptors after the fielding of the redesigned kill vehicle.

(3) FORM.—The report submitted under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

SEC. 1687. LIMITATION ON AVAILABILITY OF FUNDS FOR GROUND-BASED MIDCOURSE DEFENSE ELEMENT OF THE BALLISTIC MISSILE DEFENSE SYSTEM.

Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2018 for the ground-based midcourse defense element of the ballistic missile defense system, $50,000,000 may not be obligated or expended until the date on which the Director of the Missile Defense Agency submits to the congressional defense committees a written certification that the risk of mission failure of ground-based midcourse interceptor enhanced kill vehicles due to foreign object debris has been minimized.

SEC. 1688. PLAN FOR DEVELOPMENT OF SPACE-BASED BALLISTIC MISSILE INTERCEPT LAYER.

10/2431 note new*

(a) DEVELOPMENT.—If consistent with the direction or recommendations of the Ballistic Missile Defense Review that commenced in 2017, the Director of the Missile Defense Agency shall develop a space-based ballistic missile intercept layer to the ballistic missile defense system that is—

(1) regionally focused;

(2) capable of providing boost-phase defense; and

(3) achieves an operational capability at the earliest practicable date.

(b) SPACE-BASED BALLISTIC MISSILE INTERCEPT LAYER PLAN.—If the Director carries out subsection (a), not later than one year after the date of the enactment of this Act, the Director shall submit to the appropriate congressional committees a plan to carry out subsection (a) during the 10-year period following the date of the plan. Such plan shall include the following:

(1) A concept definition phase consisting of multiple awarded contracts to identify feasible solutions consistent with architectural principles, performance goals, and price points established by the Director, such as contracts relating to—

(A) refined requirements;

(B) conceptual designs;

(C) technology readiness assessments;

(D) critical technical and operational issues;

(E) cost, schedule, performance estimates; and

(F) risk reduction plans.

(2) A technology risk reduction phase consisting of up to three competitively awarded contracts focused on maturing, integrating, and characterizing key technologies, algorithms, components, and subsystems, such as contracts relating to—

(A) refined concepts and designs;

(B) engineering trade studies;

(C) medium-to-high fidelity digital representations of the space-based ballistic missile intercept weapon system; and

(D) a proposed integration and test sequence that could potentially lead to a live-fire boost phase intercept during fiscal year 2022, if the technology has reached sufficient maturity and is economically viable.

(3) During the technology risk reduction phase, contractors will define proposed demonstrations to a preliminary design review level prior to a technology development phase down-select.

*DT (sec. 3) - JW

10/2431 note new

(4) A technology development phase consisting of two competitively awarded contracts to mature the preferred space-based ballistic missile intercept weapon system concepts and to potentially conduct a live-fire boost phase intercept fly-off during fiscal year 2022, if the technology has reached sufficient maturity and is economically viable, with brassboard hardware and prototype software on a path to the operational goal.

(5) A concurrent space-based ballistic missile intercept weapon system fire control test bed activity that incrementally incorporates modeling and simulation elements, real-world data, hardware, algorithms, and systems to evaluate with increasing confidence the performance of evolving designs and concepts of such weapon system from target detection to intercept.

(6) Any other matters the Director determines appropriate.

(c) ESTABLISHMENT OF SPACE TEST BED.—In carrying out subsection (a), the Director of the Missile Defense Agency shall establish a space test bed to—

(1) conduct research and development regarding options for a space-based defensive layer, including with respect to space-based interceptors and directed energy platforms; and

(2) identify the most cost-efficient and promising technological solutions to implementing such layer.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the congressional defense committees; and

(2) the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 1689. SENSE OF CONGRESS ON THE STATE OF THE MISSILE DEFENSE OF THE UNITED STATES.

It is the sense of Congress that—

(1) the Secretary of Defense should use the Ballistic Missile Defense Review that commenced in 2017 to consider accelerating the development of technologies that will increase the capacity, capability, and reliability of the ground-based mid-course defense element of the ballistic missile defense system;

(2) upon completion of the Ballistic Missile Defense Review, the Director of the Missile Defense Agency should, to the extent practicable and with sound acquisition practices, accelerate the development, testing, and fielding of such capabilities as they are prioritized in the Ballistic Missile Defense Review, with respect to the redesigned kill vehicle, the multi-object kill vehicle, the C3 booster, a space-based sensor layer, boost phase sensor and kill technologies, and additional ground-based interceptors; and

(3) in order to achieve these objectives, and to avoid post-production and post-deployment problems, it is essential for the Department of Defense and the Missile Defense Agency to follow a "fly before you buy" approach to adequately test and assess the elements of the ballistic missile defense system before final production decisions or operational deployment.

SEC. 1690. SENSE OF CONGRESS AND REPORT ON GROUND-BASED MID-COURSE DEFENSE TESTING.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) at a minimum, the Missile Defense Agency should continue to flight test the ground-based midcourse defense element at least once each fiscal year;

(2) the Department of Defense should allocate increased funding to homeland missile defense testing to ensure that the defenses of the United States continue to evolve faster than the threats against which they are postured to defend, while pursuing a sound acquisition practice;

(3) in order to rapidly innovate, develop, and field new technologies, the Director of the Missile Defense Agency should continue to focus testing campaigns on delivering increased capabilities to the Armed Forces as quickly as possible; and

(4) the Director should seek to establish a more prudent balance between risk mitigation and the more rapid testing pace needed to quickly develop and deliver new capabilities to the Armed Forces.

(b) REPORT.—

(1) IN GENERAL.—If consistent with the direction or recommendations of the Ballistic Missile Defense Review that commenced in 2017, not later than 90 days after the date on which the Review is published, the Director of the Missile Defense Agency shall submit to the congressional defense committees a revised missile defense testing campaign plan that accelerates the development and deployment of new missile defense technologies.

(2) CONTENTS.—The report under paragraph (1) shall include the following:

(A) A detailed analysis of the acceleration of each of following programs:

(i) Redesigned kill vehicle.

(ii) Multi-object kill vehicle.

(iii) Configuration-3 Booster.

(iv) Such additional technologies as the Director considers appropriate.

(B) A new deployment timeline for each of the programs listed in subparagraph (A) or a detailed description of why the current timeline for deployment technologies under those programs is most suitable.

(C) An identification of any funding or policy restrictions that would slow down the deployment of the technologies under the programs listed in subparagraph (A).

(D) A risk assessment of the potential cost-overruns and deployment delays that may be encountered in the expedited development process of the capabilities under paragraph (1).

(c) REPORT ON FUNDING PROFILE.—The Director shall include with the budget justification materials submitted to Congress in support of the budget of the Department of Defense for fiscal year 2019 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report on the funding profile necessary for the new testing campaign plan required by subsection (b)(1).

Subtitle F—Other Matters

SEC. 1691. COMMISSION TO ASSESS THE THREAT TO THE UNITED STATES FROM ELECTROMAGNETIC PULSE ATTACKS AND SIMILAR EVENTS.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "Commission to Assess the Threat to the United States from Electromagnetic Pulse Attacks and Similar Events" (hereafter in this section referred to as the "Commission"). The purpose of the Commission is to assess and make recommendations with respect to the threat to the United States from electromagnetic pulse attacks and similar events.

(b) COMPOSITION.—

(1) MEMBERSHIP.—The Commission shall be composed of 12 members appointed as follows:

(A) Three members appointed by the chair of the Committee on Armed Services of the House of Representatives.

(B) Three members appointed by the ranking minority member of the Committee on Armed Services of the House of Representatives.

(C) Three members appointed by the chair of the Committee on Armed Services of the Senate.

(D) Three members appointed by the ranking minority member of the Committee on Armed Services of the Senate.

(2) CHAIR AND VICE CHAIR.—

(A) CHAIR.—The chair of the Committee on Armed Services of the House of Representatives and the chair of the Committee on Armed Services of the Senate shall jointly designate one member of the Commission to serve as chair of the Commission.

(B) VICE CHAIR.—The ranking minority member of the Committee on Armed Services of the House of Representatives and the ranking minority member of the Committee on Armed Services of the Senate shall jointly designate one member of the Commission to serve as vice chair of the Commission.

(3) SECURITY CLEARANCE REQUIRED.—Each individual appointed as a member of the Commission shall possess (or have recently possessed before the date of such appointment) the appropriate security clearance necessary to carry out the duties of the Commission.

(4) QUALIFICATION.—Members of the Commission shall be appointed from among private United States citizens with knowledge and expertise in the scientific, technical, and defense aspects of electromagnetic pulse threats, geomagnetic disturbances, and related vulnerabilities.

(5) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(c) DUTIES.—

(1) REVIEW AND ASSESSMENT.—The Commission shall review and assess—

(A) the nature, magnitude, and likelihood of potential electromagnetic pulse (hereafter in section referred to as "EMP") attacks and similar events, including geomagnetic

disturbances, both manmade and natural, that could be directed at or affect the United States within the next 20 years;

(B) the vulnerability of United States military and civilian systems to EMP attacks and similar events, including with respect to emergency preparedness and immediate response;

(C) the capability of the United States to repair and recover from damage inflicted on United States military and civilian systems by EMP attacks and similar events; and

(D) the feasibility and cost of hardening critical military and civilian systems against EMP attack and similar events.

(2) RECOMMENDATIONS.—The Commission shall recommend any actions it believes should be taken by the United States to better prepare, prevent, mitigate, or recover military and civilian systems with respect to EMP attacks and similar events.

(d) COOPERATION FROM GOVERNMENT.—

(1) COOPERATION.—In carrying out its duties, the Commission shall receive the full and timely cooperation of the Secretary of Defense, the Secretary of Energy, the Secretary of Homeland Security, and the pertinent heads of any other Federal agency in providing the Commission with analysis, briefings, and other information necessary for the fulfillment of its responsibilities.

(2) LIAISON.—Each Secretary specified in paragraph (1) shall designate at least one officer or employee of the respective department of the Secretary to serve as a liaison officer between the Department and the Commission.

(e) REPORT.—

(1) FINAL REPORT.—

(A) IN GENERAL.—Not later than April 1, 2019, the Commission shall submit to the President, the Secretary of Defense, the Committee on Armed Services of the House of Representatives, and the Committee on Armed Services of the Senate a report on the findings, conclusions, and recommendations of the Commission.

(B) FORM OF REPORT.—The report submitted to Congress under subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.

(2) VIEWS OF THE SECRETARY.—Not later than 90 days after the submittal of the report under paragraph (1), the Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a report that contains the views of the Secretary with respect to the findings, conclusions, and recommendations of the Commission and any actions the Secretary intends to take as a result.

(3) INTERIM BRIEFING.—Not later than October 1, 2018, the Commission shall provide to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a briefing on the status of the activities of the Commission, including a discussion of any interim recommendations.

(f) FUNDING.—Of the amounts authorized to be appropriated by this Act for the Department of Defense, $3,000,000 is available to fund the activities of the Commission, as specified in the funding tables in division D.

(g) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Commission.

(h) TERMINATION.—The Commission shall terminate on October 1, 2019.

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(i) REPEAL.—Title XIV of Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) is repealed.

SEC. 1692. PROTECTION OF CERTAIN FACILITIES AND ASSETS FROM UNMANNED AIRCRAFT.

Section 130i of title 10, United States Code, is amended to read as follows:

"§ 130i Protection of certain facilities and assets from unmanned aircraft

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"(a) AUTHORITY.—Notwithstanding section 46502 of title 49, or any provision of title 18, the Secretary of Defense may take, and may authorize members of the armed forces and officers and civilian employees of the Department of Defense with assigned duties that include safety, security, or protection of personnel, facilities, or assets, to take, such actions described in subsection (b)(1) that are necessary to mitigate the threat (as defined by the Secretary of Defense, in consultation with the Secretary of Transportation) that an unmanned aircraft system or unmanned aircraft poses to the safety or security of a covered facility or asset.

"(b) ACTIONS DESCRIBED.—(1) The actions described in this paragraph are the following:

"(A) Detect, identify, monitor, and track the unmanned aircraft system or unmanned aircraft, without prior consent, including by means of intercept or other access of a wire communication, an oral communication, or an electronic communication used to control the unmanned aircraft system or unmanned aircraft.

"(B) Warn the operator of the unmanned aircraft system or unmanned aircraft, including by passive or active, and direct or indirect physical, electronic, radio, and electromagnetic means.

"(C) Disrupt control of the unmanned aircraft system or unmanned aircraft, without prior consent, including by disabling the unmanned aircraft system or unmanned aircraft by intercepting, interfering, or causing interference with wire, oral, electronic, or radio communications used to control the unmanned aircraft system or unmanned aircraft.

"(D) Seize or exercise control of the unmanned aircraft system or unmanned aircraft.

"(E) Seize or otherwise confiscate the unmanned aircraft system or unmanned aircraft.

"(F) Use reasonable force to disable, damage, or destroy the unmanned aircraft system or unmanned aircraft.

"(2) The Secretary of Defense shall develop the actions described in paragraph (1) in coordination with the Secretary of Transportation.

"(c) FORFEITURE.—Any unmanned aircraft system or unmanned aircraft described in subsection (a) that is seized by the Secretary of Defense is subject to forfeiture to the United States.

"(d) REGULATIONS AND GUIDANCE.—(1) The Secretary of Defense and the Secretary of Transportation may prescribe regulations and shall issue guidance in the respective areas of each Secretary to carry out this section.

"(2)(A) The Secretary of Defense and the Secretary of Transportation shall coordinate in the development of guidance under paragraph (1).

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"(B) The Secretary of Defense shall coordinate with the Secretary of Transportation and the Administrator of the Federal Aviation Administration before issuing any guidance or otherwise implementing this section if such guidance or implementation might affect aviation safety, civilian aviation and aerospace operations, aircraft airworthiness, or the use of airspace.

"(e) PRIVACY PROTECTION.—The regulations prescribed or guidance issued under subsection (d) shall ensure that—

"(1) the interception or acquisition of, or access to, communications to or from an unmanned aircraft system under this section is conducted in a manner consistent with the fourth amendment to the Constitution and applicable provisions of Federal law;

"(2) communications to or from an unmanned aircraft system are intercepted, acquired, or accessed only to the extent necessary to support a function of the Department of Defense;

"(3) records of such communications are not maintained for more than 180 days unless the Secretary of Defense determines that maintenance of such records—

"(A) is necessary to support one or more functions of the Department of Defense; or

"(B) is required for a longer period to support a civilian law enforcement agency or by any other applicable law or regulation; and

"(4) such communications are not disclosed outside the Department of Defense unless the disclosure—

"(A) would fulfill a function of the Department of Defense;

"(B) would support a civilian law enforcement agency or the enforcement activities of a regulatory agency of the Federal Government in connection with a criminal or civil investigation of, or any regulatory action with regard to, an action described in subsection (b)(1); or

"(C) is otherwise required by law or regulation.

"(f) BUDGET.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for each fiscal year after fiscal year 2018, a consolidated funding display that identifies the funding source for the actions described in subsection (b)(1) within the Department of Defense. The funding display shall be in unclassified form, but may contain a classified annex.

"(g) SEMIANNUAL BRIEFINGS.—(1) On a semiannual basis during the five-year period beginning March 1, 2018, the Secretary of Defense and the Secretary of Transportation, shall jointly provide a briefing to the appropriate congressional committees on the activities carried out pursuant to this section. Such briefings shall include—

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"(A) policies, programs, and procedures to mitigate or eliminate impacts of such activities to the National Airspace System;

"(B) a description of instances where actions described in subsection (b)(1) have been taken;

"(C) how the Secretaries have informed the public as to the possible use of authorities under this section; and

"(D) how the Secretaries have engaged with Federal, State, and local law enforcement agencies to implement and use such authorities.

"(2) Each briefing under paragraph (1) shall be in unclassified form, but may be accompanied by an additional classified briefing.

"(h) RULE OF CONSTRUCTION.—Nothing in this section may be construed to—

"(1) vest in the Secretary of Defense any authority of the Secretary of Transportation or the Administrator of the Federal Aviation Administration under title 49; and

"(2) vest in the Secretary of Transportation or the Administrator of the Federal Aviation Administration any authority of the Secretary of Defense under this title.

"(i) PARTIAL TERMINATION.—(1) Except as provided by paragraph (2), the authority to carry out this section with respect to the covered facilities or assets specified in clauses (iv) through (viii) of subsection (j)(3) shall terminate on December 31, 2020.

"(2) The President may extend by 180 days the termination date specified in paragraph (1) if before November 15, 2020, the President certifies to Congress that such extension is in the national security interests of the United States.

"(j) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the congressional defense committees;

"(B) the Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Commerce, Science, and Transportation of the Senate; and

"(C) the Permanent Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Transportation and Infrastructure of the House of Representatives.

"(2) The term 'budget', with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

"(3) The term 'covered facility or asset' means any facility or asset that—

"(A) is identified by the Secretary of Defense, in consultation with the Secretary of Transportation with respect to potentially impacted airspace, through a risk-based assessment for purposes of this section;

"(B) is located in the United States (including the territories and possessions of the United States); and

"(C) directly relates to the missions of the Department of Defense pertaining to—

"(i) nuclear deterrence, including with respect to nuclear command and control, integrated tactical warning and attack assessment, and continuity of government;

"(ii) missile defense;

"(iii) national security space;

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"(iv) assistance in protecting the President or the Vice President (or other officer immediately next in order of succession to the office of the President) pursuant to the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note);

"(v) air defense of the United States, including air sovereignty, ground-based air defense, and the National Capital Region integrated air defense system;

"(vi) combat support agencies (as defined in paragraphs (1) through (4) of section 193(f) of this title);

"(vii) special operations activities specified in paragraphs (1) through (9) of section 167(k) of this title;

"(viii) production, storage, transportation, or decommissioning of high-yield explosive munitions, by the Department; or

"(ix) a Major Range and Test Facility Base (as defined in section 196(i) of this title).

"(4) The term 'defense budget materials', with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

"(5) The terms 'electronic communication', 'intercept', 'oral communication', and 'wire communication' have the meanings given those terms in section 2510 of title 18.

"(6) The terms 'unmanned aircraft' and 'unmanned aircraft system' have the meanings given those terms in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).".

SEC. 1693. CONVENTIONAL PROMPT GLOBAL STRIKE WEAPONS SYSTEM.

(a) EARLY OPERATIONAL CAPABILITY.—The Secretary of Defense, in coordination with the Chairman of the Joint Chiefs of Staff, shall plan to reach early operational capability for the conventional prompt strike weapon system by not later than September 30, 2022.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Chairman of the Joint Chiefs of Staff, in consultation with the Chief of Staff of the Army, the Commander of the United States European Command, the Commander of the United States Pacific Command, and the Commander of the United States Strategic Command, shall submit to the congressional defense committees a report on the conventional prompt global strike weapons system with respect to—

(1) the required level of resources that is consistent with the level of priority assigned to the associated capability gap;

(2) the estimated period for the delivery of a medium-range early operational capability, the required level of resources necessary to field a medium-range conventional prompt global strike weapon within the United States (including the territories and possessions of the United States), or a similar sea-based system, and a detailed plan consistent with the urgency of the associated capability gap across multiple platforms;

(3) the joint performance requirements that—

(A) ensure interoperability, where appropriate, between and among joint military capabilities; and

(B) are necessary, as designated by the Chairman of the Joint Chiefs of Staff, to fulfill capability gaps of more than one military department, Defense Agency, or other element of the Department; and

(4) in coordination with the Secretary of Defense, any plan (including policy options) considered appropriate to address any potential risks of ambiguity from the launch or employment of such a capability.

SEC. 1694. BUSINESS CASE ANALYSIS REGARDING AMMONIUM PERCHLORATE.

(a) IN GENERAL.—The Secretary of Defense, acting through the Director of Cost Assessment and Program Evaluation, shall conduct a business case analysis regarding the options of the Federal Government to ensure a robust domestic industrial base to supply ammonium perchlorate for use in solid rocket motors. Such analysis should include assessments of the near- and long-term costs, program impacts, opportunities for competition, opportunities for redundant or complementary capabilities, and national security implications of—

(1) continuing to rely on one domestic provider;

(2) supporting development of a second domestic source;

(3) procuring ammonium perchlorate as Government-furnished material and providing it to all necessary programs; and

(4) such other options as the Secretary determines appropriate.

(b) ELEMENTS.—The analysis under subsection (a) shall, at minimum, include—

(1) an estimate of all associated costs, including development costs, procurement costs, and qualification and requalification costs (and types of associated testing for requalification), as applicable;

(2) an assessment of options, under various scenarios, for the quantity of ammonium perchlorate that would be required by the Department of Defense; and

(3) the assessment of the Secretary of how the requirements for ammonium perchlorate of other Federal agencies impact the requirements of the Department of Defense.

(c) REPORT.—The Secretary shall submit the business case analysis required by subsection (a) to the Comptroller General of the United States and the Committees on Armed Services of the Senate and House of Representatives by March 1, 2018, along with any views of the Secretary.

(d) REVIEW.—The Comptroller General of the United States shall conduct a review of the report submitted by the Secretary under subsection (c) and, not later than 30 days after receiving such report, provide a briefing on such review to the Committees on Armed Services of the Senate and House of Representatives.

SEC. 1695. REPORT ON INDUSTRIAL BASE FOR LARGE SOLID ROCKET MOTORS AND RELATED TECHNOLOGIES.

(a) REPORT.—Not later than March 1, 2018, the Secretary of Defense, in consultation with the Administrator of the National Aeronautics and Space Administration, shall submit to the appropriate congressional committees a report on options to ensure a robust domestic industrial base for large solid rocket motors, including with respect to the critical technologies, subsystems,

components, and materials within and relating to such rocket motors.

(b) MATTERS INCLUDED.—The report under subsection (a) shall include the following:

(1) An assessment of options that would sustain not less than two domestic suppliers for—

(A) large solid rocket motors;

(B) small liquid-fueled rocket engines;

(C) aeroshells for reentry vehicles (or reentry bodies);

(D) strategic radiation-hardened microelectronics; and

(E) any other critical technologies, subsystems, components, and materials within and relating to large solid rocket motors that the Secretary determines appropriate.

(2) With respect to the sustainment of domestic suppliers as described in paragraph (1), the views of the Secretary on—

(A) such sustainment of not less than two domestic suppliers for each item specified in subparagraphs (A) through (E) of such paragraph;

(B) the risks within the industrial base for each such item;

(C) the estimated costs for such sustainment; and

(D) the opportunities to ensure or promote competition within the industrial base for each such item.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives; and

(2) the Committee on Armed Services of the Senate.

SEC. 1696. PILOT PROGRAM ON ENHANCING INFORMATION SHARING FOR SECURITY OF SUPPLY CHAIN.

(a) ESTABLISHMENT.—Not later than June 1, 2019, the Secretary of Defense shall establish a pilot program to enhance information sharing with cleared defense contractors to ensure all source information is appropriately, singularly, and exclusively shared for the purpose of ensuring the security or integrity of the supply chain of covered programs.

(b) SELECTION.—The Secretary shall select not more than 10 acquisition or sustainment programs of the Department of Defense to participate in the pilot program under subsection (a), of which—

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(1) not fewer than one program shall be related to nuclear weapons;

(2) not fewer than one program shall be related to nuclear command, control, and communications;

(3) not fewer than one program shall be related to continuity of government;

(4) not fewer than one program shall be related to ballistic missile defense;

(5) not fewer than one program shall be related to other command and control systems; and

(6) not fewer than one program shall be related to space systems.

(c) REPORT.—Not later than March 1, 2018, the Secretary shall submit to the congressional defense committees a report that includes—

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(1) details on how the Secretary will establish the pilot program under subsection (a) to ensure all source information is appropriately, singularly, and exclusively shared for the purpose of ensuring the security or integrity of the supply chain of covered programs;

(2) details of any personnel, funding, or statutory constraints in carrying out the pilot program; and

(3) the identification of any legislative action or administrative action required to provide the Secretary with specific additional authorities required to fully implement the pilot program.

(d) CLEARED DEFENSE CONTRACTORS DEFINED.—In this section, the term "cleared defense contractors" means contractors of the Department of Defense who have a security clearance, including contractor facilities that have a security clearance.

SEC. 1697. PILOT PROGRAM ON ELECTROMAGNETIC SPECTRUM MAPPING.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense may establish a pilot program to assess the viability of mapping the electromagnetic spectrum used by the Department of Defense.

(b) DURATION.—The authority of the Secretary to carry out the pilot program under subsection (a) shall terminate on the date that is one year after the date of the enactment of this Act.

(c) INTERIM BRIEFING.—Not later than 60 days after the date of enactment of this Act, the Secretary of Defense shall provide a briefing to the Committees on Armed Services of the House of Representatives and the Senate (and to any other congressional defense committee upon request) demonstrating how the Secretary plans to implement the pilot program under subsection (a).

(d) FINAL BRIEFING.—Not later than 90 days after the pilot program under subsection (a) is completed, the Secretary shall provide a briefing to the Committees on Armed Services of the House of Representatives and the Senate (and to any other congressional defense committee upon request) on the utility, cost, and other considerations regarding the mapping of the electromagnetic spectrum used by the Department of Defense.

SEC. 1698. USE OF COMMERCIAL ITEMS IN DISTRIBUTED COMMON GROUND SYSTEMS.

10/2302 note new*

(a) IN GENERAL.—The procurement process for each covered Distributed Common Ground System shall be carried out in accordance with section 2377 of title 10, United States Code.

(b) CERTIFICATION.—Not later than 30 days after the date of the enactment of this Act, the service acquisition executive responsible for each covered Distributed Common Ground System shall certify to the appropriate congressional committees that the procurement process for increments of the system procured after the date of the enactment of this Act will be carried out in accordance with section 2377 of title 10, United States Code.

(c) DEFINITIONS.—In this section:

(1) The term "appropriate congressional committees" means—

(A) the congressional defense committees; and

(B) the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

*DT (sec. 3) - JW

(2) The term "covered Distributed Common Ground System" includes the following:

10/2302 note new

(A) The Distributed Common Ground System of the Army.

(B) The Distributed Common Ground System of the Navy.

(C) The Distributed Common Ground System of the Marine Corps.

(D) The Distributed Common Ground System of the Air Force.

(E) The Distributed Common Ground System of the Special Operations Forces.

TITLE XVII—SMALL BUSINESS PROCUREMENT AND INDUSTRIAL BASE MATTERS

* **SEC. 1701. AMENDMENTS TO HUBZONE PROVISIONS OF THE SMALL BUSINESS ACT.**

(a) TRANSFER OF HUBZONE DEFINITIONS.—

15/657a(b) to (e)

(1) REDESIGNATION.—Section 31 of the Small Business Act (15 U.S.C. 657a) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively.

15/632(p)
15/657a(b)

(2) TRANSFER.—Subsection (p) of section 3 of the Small Business Act (15 U.S.C. 632(p)) is transferred to section 31 of the Small Business Act (15 U.S.C. 657a), inserted so as to appear after subsection (a), and redesignated as subsection (b), and is amended—

15/657a(b)

(A) by striking "In this Act:" and inserting "In this section:";

15/657a(b)(1)

(B) in paragraph (1)—

(i) by striking "term" and inserting "terms"; and

(ii) by striking "means" and inserting "or 'HUBZone' mean"; and

15/657a(b)(2)

(C) by striking paragraph (2) (and redesignating subsequent paragraphs accordingly).

*Sec. 1701(a)-(h) - Future Amendment - JW

(3) DEFINITION OF QUALIFIED HUBZONE SMALL BUSINESS CONCERN.—Section 3 of the Small Business Act (15 U.S.C. 632), as amended by paragraph (2), is further amended by inserting after subsection (o) the following new subsection (p):

15/632(p)

"(p) QUALIFIED HUBZONE SMALL BUSINESS CONCERN.—In this Act, the term 'qualified HUBZone small business concern' has the meaning given such term in section 31(b).".

(4) CONFORMING AMENDMENTS.—

(A) MENTOR-PROTEGE PROGRAM.—Section 831(n)(2)(G) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1607; 10 U.S.C. 2302 note) is amended by striking "section 3(p) of the Small Business Act (15 U.S.C. 632(p))" and inserting "section 31(b) of the Small Business Act".

10/2302 note

(B) TITLE 10.—Section 2323 of title 10, United States Code, is amended by striking "section 3(p) of the Small Business Act" each place it appears and inserting "section 31(b) of the Small Business Act".

10/2323

(C) SMALL BUSINESS ACT.—Section 8(d)(3)(G) of the Small Business Act (15 U.S.C. 637(d)(3)(G)) is amended by striking "section 3(p) of the Small Business Act" and inserting "section 31(b)".

15/637(d)(3)(G)

(D) COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.—Section 834 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (15 U.S.C. 637 note) is amended by striking "section 3(p)(5) of such Act (15 U.S.C. 632(p)(5))" and inserting "section 31(b) of such Act".

15/637 note

(E) CONTRACTS FOR COLLECTION SERVICES.—Section 3718 of title 31, United States Code, is amended by striking "section 3(p) of the Small Business Act" each place it appears and inserting "section 31(b) of the Small Business Act".

31/3718

(F) TITLE 41.—Title 41, United States Code, is amended—

(i) in section 1122, by striking "section 3(p) of the Small Business Act (15 U.S.C. 632(p))" each place it appears and inserting "section 31(b) of the Small Business Act"; and

41/1122

(ii) in section 1713, by striking "section 3(p) of the Small Business Act (15 U.S.C. 632(p))" and inserting "section 31(b) of the Small Business Act".

41/1713

(G) TITLE 49.—Title 49, United States Code, is amended—

(i) in section 47107, by striking "section 3(p) of the Small Business Act" each place it appears and inserting "section 31(b) of the Small Business Act"; and

49/47107

(ii) in section 47113(a)(3), by striking "section 3(p) of the Small Business Act (15 U.S.C. 632(o))" and inserting "section 31(b) of the Small Business Act".

49/47113(a)(3)

(b) AMENDMENTS TO DEFINITIONS OF QUALIFIED CENSUS TRACT AND QUALIFIED NONMETROPOLITAN COUNTY.—

(1) IN GENERAL.—Paragraph (3) of section 31(b) of the Small Business Act (as transferred and redesignated by subsection (a)) is amended—

15/657a(b)(3)(A)(i)

(A) in subparagraph (A)—

(i) by amending clause (i) to read as follows:

15/657a(b)(3)(A)(i)

"(i) IN GENERAL.—The term 'qualified census tract' means a census tract that is covered by the definition of 'qualified census tract' in section 42(d)(5)(B)(ii) of the Internal Revenue Code of 1986 and that is reflected in an online tool prepared by the Administrator described under subsection (d)(7).''; and

15/657a(b)(3)(A)(ii)

(ii) in clause (ii), by inserting "and that is reflected in the online tool described under clause (i)" after "such section"; and

(B) in subparagraph (B)—

15/657a(b)(3)(B)

(i) in the matter preceding clause (i), by inserting "that is reflected in the online tool described under subparagraph (A)(i) and" after "any county"; and

15/657a(b)(3)(B)(ii)(I)

(ii) in clause (ii)—

(I) in subclause (I), by striking "nonmetropolitan"; and

15/657a(b)(3)(B)(ii)

(II) by striking "the most recent data available" each place it appears and inserting "a 5-year average of the available data".

(2) TECHNICAL AMENDMENTS.—Paragraph (3)(B) of section 31(b) of the Small Business Act (as transferred and redesignated by subsection (a)), as amended by paragraph (1), is further amended—

15/657a(b)(3)(B)(i)

(A) in clause (i), by striking "section 42(d)(5)(C)(ii) of the Internal Revenue Code of 1986" and inserting "section 42(d)(5)(B)(ii) of the Internal Revenue Code of 1986"; and

15/657a(b)(3)(B)(ii)(III)

(B) in clause (ii)(III), by striking "section 42(d)(5)(C)(iii) of the Internal Revenue Code of 1986" and inserting "section 42(d)(5)(B)(iii) of the Internal Revenue Code of 1986".

(c) AMENDMENTS TO DEFINITIONS OF BASE CLOSURE AREA AND QUALIFIED DISASTER AREA.—Paragraph (3) of section 31(b) of the Small Business Act (as transferred and redesignated by subsection (a)), as amended by subsection (b), is further amended—

(1) by amending clause (ii) of subparagraph (D) to read as follows:

15/657a(b)(3)(D)(ii)

"(ii) LIMITATION.—A census tract or nonmetropolitan county described in clause (i) shall be considered to be a base closure area for a period beginning on the date on which the Administrator designates such census tract or nonmetropolitan county as a base closure area and ending on the date on which the base closure area ceases to be a qualified census tract under subparagraph (A) or a qualified nonmetropolitan county under subparagraph (B) in accordance with the online tool prepared by the Administrator described under subsection (d)(7), except that such period may not be less than 8 years."; and

(2) by amending subparagraph (E) to read as follows:

15/657a(b)(3)(E)

"(E) QUALIFIED DISASTER AREA.—

"(i) IN GENERAL.—Subject to clause (ii), the term 'qualified disaster area' means any census tract or nonmetropolitan county located in an area where a major disaster has occurred or an area in which a catastrophic incident has occurred if such census tract or nonmetropolitan county ceased to be qualified under subparagraph (A) or (B), as applicable, during the period beginning 5 years before the date on which

the President declared the major disaster or the catastrophic incident occurred.

"(ii) DURATION.—A census tract or nonmetropolitan county shall be considered to be a qualified disaster area under clause (i) only for the period of time ending on the date the area ceases to be a qualified census tract under subparagraph (A) or a qualified nonmetropolitan county under subparagraph (B), in accordance with the online tool prepared by the Administrator described under subsection (d)(7) and beginning—

15/657a(b)(3)(E)

"(I) in the case of a major disaster, on the date on which the President declared the major disaster for the area in which the census tract or nonmetropolitan county, as applicable, is located; or

"(II) in the case of a catastrophic incident, on the date on which the catastrophic incident occurred in the area in which the census tract or nonmetropolitan county, as applicable, is located.

"(iii) DEFINITIONS.—In this subparagraph:

"(I) MAJOR DISASTER.—The term 'major disaster' means a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

"(II) OTHER DEFINITIONS.—The terms 'census tract' and 'nonmetropolitan county' have the meanings given such terms in subparagraph (D)(iii).".

(d) AMENDMENT TO DEFINITION OF REDESIGNATED AREAS.—Paragraph (3) of section 31(b) of the Small Business Act (as transferred and redesignated by subsection (a)), as amended by subsection (c), is further amended by amending subparagraph (C) to read as follows:

15/657a(b)(3)(C)

"(C) REDESIGNATED AREA.—The term 'redesignated area' means any census tract that ceases to be qualified under subparagraph (A) and any nonmetropolitan county that ceases to be qualified under subparagraph (B) for a period of 3 years after the date on which the census tract or nonmetropolitan county ceased to be so qualified.".

(e) GOVERNOR-DESIGNATED COVERED AREA.—Section 31(b) of the Small Business Act (as transferred and redesignated by subsection (a)), is amended—

(1) in paragraph (1)—

15/657a(b)(1)(E)

(A) in subparagraph (E), by striking "or" at the end;

15/657a(b)(1)(F)

(B) in subparagraph (F), by striking the period at the end and inserting "; or"; and

15/657a(b)(1)(G)

(C) by inserting after subparagraph (F) the following new subparagraph:

"(G) a Governor-designated covered area.";

(2) in paragraph (3) (as amended by subsection (c)), by adding at the end the following new subparagraph:

15/657a(b)(3)(F)

"(F) GOVERNOR-DESIGNATED COVERED AREA.—

"(i) IN GENERAL.—A 'Governor-designated covered area' means a covered area that the Administrator

has designated by approving a petition described under clause (ii).

"(ii) PETITION.—For a covered area to receive a designation as a Governor-designated covered area, the Governor of the State in which the covered area is wholly contained shall include such covered area in a petition to the Administrator requesting such a designation. In reviewing a request for designation included in such a petition, the Administrator may consider—

15/657a(b)(3)(F)

"(I) the potential for job creation and investment in the covered area;

"(II) the demonstrated interest of small business concerns in the covered area to be designated as a Governor-designated covered area;

"(III) how State and local government officials have incorporated the covered area into an economic development strategy; and

"(IV) if the covered area was a HUBZone before becoming the subject of the petition, the impact on the covered area if the Administrator did not approve the petition.

"(iii) LIMITATIONS.—Each calendar year, a Governor may submit not more than 1 petition described under clause (ii). Such petition shall include all covered areas in a State for which the Governor seeks designation as a Governor-designated covered area, except that the total number of covered areas included in such petition may not exceed 10 percent of the total number of covered areas in the State.

"(iv) CERTIFICATION.—If the Administrator grants a petition described under clause (ii), the Governor of the Governor-designated covered area shall, not less frequently than annually, submit data to the Administrator certifying that each Governor-designated covered area continues to meet the requirements of clause (v)(I).

"(v) DEFINITIONS.—In this subparagraph:

"(I) COVERED AREA.—The term 'covered area' means an area in a State—

"(aa) that is located outside of an urbanized area, as determined by the Bureau of the Census;

"(bb) with a population of not more than 50,000; and

"(cc) for which the average unemployment rate is not less than 120 percent of the average unemployment rate of the United States or of the State in which the covered area is located, whichever is less, based on the most recent data available from the American Community Survey conducted by the Bureau of the Census.

"(II) GOVERNOR.—The term 'Governor' means the chief executive of a State.

"(III) STATE.—The term 'State' means each of the several States, the District of Columbia, the

15/657a(b)(3)(F)

Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.".

15/632 note Rep.

(f) REPEAL OF 5-YEAR LIMITATION ON HUBZONE STATUS OF BASE CLOSURE AREAS.—Section 152(a) of title I of division K of the Consolidated Appropriations Act, 2005 (15 U.S.C. 632 note) is amended by repealing paragraph (2).

(g) AMENDMENT TO DEFINITION OF QUALIFIED HUBZONE SMALL BUSINESS CONCERN.—Paragraph (4) of section 31(b) of the Small Business Act (as transferred and redesignated by subsection (a)) is amended to read as follows:

15/657a(b)(4)

"(4) QUALIFIED HUBZONE SMALL BUSINESS CONCERN.—The term 'qualified HUBZone small business concern' means a HUBZone small business concern that has been certified by the Administrator in accordance with the procedures described in this section.".

(h) AMENDMENTS TO HUBZONE PROGRAM.—

(1) CLARIFICATIONS TO ELIGIBILITY FOR HUBZONE PROGRAM.—Section 31(d) of the Small Business Act, as redesignated by subsection (a), is amended to read as follows:

"(d) ELIGIBILITY REQUIREMENTS; ENFORCEMENT.—

"(1) CERTIFICATION.—In order to be eligible for certification by the Administrator as a qualified HUBZone small business concern, a HUBZone small business concern shall submit documentation to the Administrator stating that—

15/657a(d)

"(A) at the time of certification and at each examination conducted pursuant to paragraph (4), the principal office of the concern is located in a HUBZone and not fewer than 35 percent of its employees reside in a HUBZone;

"(B) the concern will attempt to maintain the applicable employment percentage under subparagraph (A) during the performance of any contract awarded to such concern on the basis of a preference provided under subsection (c); and

"(C) the concern will ensure that the requirements of section 46 are satisfied with respect to any subcontract entered into by such concern pursuant to a contract awarded under this section.

"(2) VERIFICATION.—In carrying out this section, the Administrator shall establish procedures relating to—

"(A) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a HUBZone small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of documentation provided to the Administration by such a concern under paragraph (1)); and

"(B) verification by the Administrator of the accuracy of any documentation provided by a HUBZone small business concern under paragraph (1).

"(3) TIMING.—The Administrator shall verify the eligibility of a HUBZone small business concern using the procedures described in paragraph (2) within a reasonable time and not later than 60 days after the date on which the Administrator receives sufficient and complete documentation from a HUBZone small business concern under paragraph (1).

15/657a(d)

"(4) RECERTIFICATION.—Not later than 3 years after the date that such HUBZone small business concern was certified as a qualified HUBZone small business concern, and every 3 years thereafter, the Administrator shall verify the accuracy of any documentation provided by a HUBZone small business concern under paragraph (1) to determine if such HUBZone small business concern remains a qualified HUBZone small business concern.

"(5) EXAMINATIONS.—The Administrator shall conduct program examinations of qualified HUBZone small business concerns, using a risk-based analysis to select which concerns are examined, to ensure that any concern examined meets the requirements of paragraph (1).

"(6) LOSS OF CERTIFICATION.—A HUBZone small business concern that, based on the results of an examination conducted pursuant to paragraph (5) no longer meets the requirements of paragraph (1), shall have 30 days to submit documentation to the Administrator to be eligible to be certified as a qualified HUBZone small business concern. During the 30-day period, such concern may not compete for or be awarded a contract under this section. If such concern fails to meet the requirements of paragraph (1) by the last day of the 30-day period, the Administrator shall not certify such concern as a qualified HUBZone small business concern.

"(7) HUBZONE ONLINE TOOL.—

"(A) IN GENERAL.—The Administrator shall develop a publicly accessible online tool that depicts HUBZones. Such online tool shall be updated—

"(i) with respect to HUBZones described under subparagraphs (A) and (B) of subsection (b)(3), beginning on January 1, 2020, and every 5 years thereafter;

"(ii) with respect to a HUBZone described under subsection (b)(3)(C), immediately after the area becomes, or ceases to be, a redesignated area; and

"(iii) with respect to HUBZones described under subparagraphs (D), (E), and (F) of subsection (b)(3), immediately after an area is designated as a base closure area, qualified disaster area, or Governor-designated covered area, respectively.

"(B) DATA.—The online tool required under subparagraph (A) shall clearly and conspicuously provide access to the data used by the Administrator to determine whether or not an area is a HUBZone in the year in which the online tool was prepared.

"(C) NOTIFICATION OF UPDATE.—The Administrator shall include in the online tool a notification of the date on which the online tool, and the data used to create the online tool, will be updated.

"(8) LIST OF QUALIFIED HUBZONE SMALL BUSINESS CONCERNS.—The Administrator shall establish and publicly maintain on the internet a list of qualified HUBZone small business concerns that shall—

"(A) to the extent practicable, include the name, address, and type of business with respect to such concern;

"(B) be updated by the Administrator not less than annually; and

"(C) be provided upon request to any Federal agency or other entity.

15/657a(d)

"(9) PROVISION OF DATA.—Upon the request of the Administrator, the Secretary of Labor, the Administrator of the Federal Emergency Management Agency, the Secretary of Housing and Urban Development, and the Secretary of the Interior (or the Assistant Secretary for Indian Affairs), shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out this subsection.

"(10) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as a 'qualified HUBZone small business concern' for purposes of this section shall be subject to liability for fraud, including section 1001 of title 18, United States Code, and sections 3729 through 3733 of title 31, United States Code.".

(2) PERFORMANCE METRICS.—Section 31 of the Small Business Act (15 U.S.C. 657a) is amended—

15/657a(a)

(A) in subsection (a)—

(i) by inserting "(to be known as the HUBZone program)" after "program"; and

15/657a(e), (f)

(ii) by inserting ", including promoting economic development in economically distressed areas (as defined in section 7(m)(11))," after "assistance";

(B) by redesignating subsection (e) (as redesignated by subsection (a)) as subsection (f); and

(C) by inserting after subsection (d) the following new subsection:

"(e) PERFORMANCE METRICS.—

"(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall publish performance metrics designed to measure the success of the HUBZone program established under this section in meeting the program's objective of promoting economic development in economically distressed areas (as defined in section 7(m)(11)).

15/657a(e)

"(2) COLLECTING AND MANAGING HUBZONE DATA.—The Administrator shall develop processes to incentivize each regional office of the Administration to collect and manage data on HUBZones within the geographic area served by such regional office.

"(3) REPORT.—Not later than 90 days after the last day of each fiscal year, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report analyzing the data from the performance metrics established under this subsection and including—

"(A) the number of HUBZone small business concerns that lost certification as a qualified HUBZone small business concern because of the results of an examination performed under subsection (d)(5); and

"(B) the number of those concerns that did not submit documentation to be recertified under subsection (d)(6).".

15/657a(f)

(3) AUTHORIZATION OF APPROPRIATIONS.—Section 31(f) of the Small Business Act, as redesignated by paragraph (2),

15/657a(f) is amended by striking "fiscal years 2004 through 2006" and inserting "fiscal years 2020 through 2025".

(i) CURRENT QUALIFIED HUBZONE SMALL BUSINESS CONCERNS.—A HUBZone small business concern that was qualified pursuant to section 3(p)(5) of the Small Business Act on or before December 31, 2019, shall continue to be considered as a qualified HUBZone small business concern during the period beginning on January 1, 2020, and ending on the date that the Administrator of the Small Business Administration prepares the online tool depicting qualified areas described under section 31(d)(7) (as added by subsection (h) of this section).

15/657a note new

(j) EFFECTIVE DATE.—The provisions of this section shall take effect—

(1) with respect to subsection (i), on the date of the enactment of this section; and

10/2323 note new

(2) with respect to subsections (a) through (h), on January 1, 2020.

SEC. 1702. UNIFORMITY IN PROCUREMENT TERMINOLOGY.

(a) IN GENERAL.—Section 15(j)(1) of the Small Business Act (15 U.S.C. 644(j)(1)) is amended by striking "greater than $2,500 but not greater than $100,000" and inserting "greater than the micro-purchase threshold, but not greater than the simplified acquisition threshold".

15/644(j)(1)

(b) AMENDMENT TO CONTRACTING DEFINITIONS.—Section 3(m) of the Small Business Act (15 U.S.C. 632(m)) is amended to read as follows:

"(m) DEFINITIONS RELATING TO CONTRACTING.—In this Act:

"(1) PRIME CONTRACT.—The term 'prime contract' has the meaning given such term in section 8701(4) of title 41, United States Code.

"(2) PRIME CONTRACTOR.—The term 'prime contractor' has the meaning given such term in section 8701(5) of title 41, United States Code.

15/632(m)

"(3) SIMPLIFIED ACQUISITION THRESHOLD.—The term 'simplified acquisition threshold' has the meaning given such term in section 134 of title 41, United States Code.

"(4) MICRO-PURCHASE THRESHOLD.—The term 'micro-purchase threshold' has the meaning given such term in section 1902 of title 41, United States Code.

"(5) TOTAL PURCHASES AND CONTRACTS FOR PROPERTY AND SERVICES.—The term 'total purchases and contracts for property and services' shall mean total number and total dollar amount of contracts and orders for property and services.".

(c) CONFORMING AMENDMENT.—Section 15(a)(1)(C) of the Small Business Act (15 U.S.C. 644(a)(1)(C)) is amended by striking "total purchase and contracts for goods and services" and inserting "total purchases and contracts for goods and services".

15/644(a)(1)(C)

SEC. 1703. IMPROVING REPORTING ON SMALL BUSINESS GOALS.

(a) IN GENERAL.—Section 15(h)(2)(E) of the Small Business Act (15 U.S.C. 644(h)(2)(E)) is amended—

(1) in clause (i)—

(A) in subclause (III), by striking "and" at the end; and

15/644(h)(2)(E)(i)(III)

(B) by adding at the end the following new subclauses:

"(V) that were purchased by another entity after the initial contract was awarded and as a

15/644(h)(2)(E)(i)(V), VI)

result of the purchase, would no longer be deemed to be small business concerns for purposes of the initial contract; and

15/644(h)(2)(E)(i)(V), VI)

"(VI) that were awarded using a procurement method that restricted competition to small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, small business concerns owned and controlled by women, or a subset of any such concerns;";

(2) in clause (ii)—

15/644(h)(2)(E)(ii)(IV)

(A) in subclause (IV), by striking "and" at the end; and

(B) by adding at the end the following new subclauses:

"(VI) that were purchased by another entity after the initial contract was awarded and as a result of the purchase, would no longer be deemed to be small business concerns owned and controlled by service-disabled veterans for purposes of the initial contract; and

15/644(h)(2)(E)(ii)(VI, (VII)

"(VII) that were awarded using a procurement method that restricted competition to qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, small business concerns owned and controlled by women, or a subset of any such concerns;";

(3) in clause (iii)—

15/644(h)(2)(E)(iii)(V)

(A) in subclause (V), by striking "and" at the end; and

(B) by adding at the end the following new subclauses:

"(VII) that were purchased by another entity after the initial contract was awarded and as a result of the purchase, would no longer be deemed to be qualified HUBZone small business concerns for purposes of the initial contract; and

15/644(h)(2)(E)(iii)(VII), (VIII)

"(VIII) that were awarded using a procurement method that restricted competition to small business concerns owned and controlled by service-disabled veterans, small business concerns owned and controlled by socially and economically disadvantaged individuals, small business concerns owned and controlled by women, or a subset of any such concerns;";

(4) in clause (iv)—

15/644(h)(2)(E)(iv)(V)

(A) in subclause (V), by striking "and" at the end; and

(B) by adding at the end the following new subclauses:

"(VII) that were purchased by another entity after the initial contract was awarded and as a result of the purchase, would no longer be deemed to be small business concerns owned and controlled by socially and economically disadvantaged individuals for purposes of the initial contract; and

15/644(h)(2)(E)(iv)(VII, (VIII)

15/644(h)(2)(E)(iv)(VII), (VIII)

"(VIII) that were awarded using a procurement method that restricted competition to small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by women, or a subset of any such concerns;";

15/644(h)(2)(E)(v)(IV)

(5) in clause (v)—

(A) in subclause (IV), by striking "and" at the end;

15/644(h)(2)(E)(v)(V)

(B) in subclause (V), by inserting "and" at the end; and

15/644(h)(2)(E)(v)(VI)

(C) by adding at the end the following new subclause:

"(VI) that were purchased by another entity after the initial contract was awarded and as a result of the purchase, would no longer be deemed to be small business concerns owned by an Indian tribe other than an Alaska Native Corporation for purposes of the initial contract;";

15/644(h)(2)(E)(vi)(IV)

(6) in clause (vi)—

(A) in subclause (IV), by striking "and" at the end;

15/644(h)(2)(E)(vi)(V)

(B) in subclause (V), by inserting "and" at the end; and

15/644(h)(2)(E)(vi)(VI)

(C) by adding at the end the following new subclause:

"(VI) that were purchased by another entity after the initial contract was awarded and as a result of the purchase, would no longer be deemed to be small business concerns owned by a Native Hawaiian Organization for purposes of the initial contract;";

15/644(h)(2)(E)(vii)(IV)

(7) in clause (vii)—

(A) in subclause (IV), by striking "and" at the end; and

15/644(h)(2)(E)(vii)(VI)

(B) by adding at the end the following new subclause:

"(VI) that were purchased by another entity after the initial contract was awarded and as a result of the purchase, would no longer be deemed to be small business concerns owned by an Alaska Native Corporation for purposes of the initial contract; and"; and

15/644(h)(2)(E)(viii)(VII)

(8) in clause (viii)—

(A) in subclause (VII), by striking "and" at the end;

15/644(h)(2)(E)(viii)(VIII)

(B) in subclause (VIII), by striking "and" at the end; and

15/644(h)(2)(E)(viii)(IX), (X)

(C) by adding at the end the following new subclauses:

"(IX) that were purchased by another entity after the initial contract was awarded and as a result of the purchase, would no longer be deemed to be small business concerns owned and controlled by women for purposes of the initial contract; and

"(X) that were awarded using a procurement method that restricted competition to small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, or a subset of any such concerns; and".

(b) EFFECTIVE DATE.—The Administrator of the Small Business Administration shall be required to report on the information required by clauses (i)(V), (ii)(VI), (iii)(VII), (iv)(VII), (v)(VI), (vi)(VI), (vii)(VI), and (viii)(IX) of section 15(h)(2)(E) of the Small Business Act (15 U.S.C. 644(h)(2)(E)) beginning on the date that such information is available in the Federal Procurement Data System, the System for Award Management, or any new or successor system.

15/644 note new

SEC. 1704. RESPONSIBILITIES OF BUSINESS OPPORTUNITY SPECIALISTS.

Section 4(g) of the Small Business Act (15 U.S.C. 633(g)) is amended to read as follows:

"(g) BUSINESS OPPORTUNITY SPECIALISTS.—

"(1) DUTIES.—The exclusive duties of a Business Opportunity Specialist employed by the Administrator and reporting to the senior official appointed by the Administrator with responsibilities under sections 8, 15, 31, and 36 (or the designee of such official) shall be to implement sections 7, 8, and 45 and to complete other duties related to contracting programs under this Act. Such duties shall include—

"(A) with respect to small business concerns eligible to receive contracts and subcontracts pursuant to section 8(a)—

15/633(g)

"(i) providing guidance, counseling, and referrals for assistance with technical, management, financial, or other matters that will improve the competitive viability of such concerns;

"(ii) identifying causes of success or failure of such concerns;

"(iii) providing comprehensive assessments of such concerns, including identifying the strengths and weaknesses of such concerns;

"(iv) monitoring and documenting compliance with the requirements of sections 7 and 8 and any regulations implementing those sections;

"(v) explaining the requirements of sections 7, 8, 15, 31, 36, and 45; and

"(vi) advising on compliance with contracting regulations (including the Federal Acquisition Regulation) after award of such a contract or subcontract;

"(B) reviewing and monitoring compliance with mentor-protege agreements under section 45;

"(C) representing the interests of the Administrator and small business concerns in the award, modification, and administration of contracts and subcontracts awarded pursuant to section 8(a); and

"(D) reporting fraud or abuse under section 7, 8, 15, 31, 36, or 45 or any regulations implementing such sections.

"(2) CERTIFICATION REQUIREMENTS.—

"(A) IN GENERAL.—Consistent with the requirements of subparagraph (B), a Business Opportunity Specialist described under section 7(j)(10)(D) shall have a Level I Federal Acquisition Certification in Contracting (or any successor certification) or the equivalent Department of Defense certification.

"(B) DELAY OF CERTIFICATION REQUIREMENT.—The certification described in subparagraph (A) is not required—

15/633(g)

"(i) for any person serving as a Business Opportunity Specialist on the date of the enactment of this subsection, until the date that is one calendar year after the date such person was appointed as a Business Opportunity Specialist; or

"(ii) for any person serving as a Business Opportunity Specialist on or before January 3, 2013, until January 3, 2020.

"(3) JOB POSTING REQUIREMENTS.—The duties and certification requirements described in this subsection shall be included in any initial job posting for the position of a Business Opportunity Specialist.".

SEC. 1705. RESPONSIBILITIES OF COMMERCIAL MARKET REPRESENTATIVES.

Section 4(h) of the Small Business Act (15 U.S.C. 633(h)) is amended to read as follows:

"(h) COMMERCIAL MARKET REPRESENTATIVES.—

15/633(h)

"(1) DUTIES.—The principal duties of a commercial market representative employed by the Administrator and reporting to the senior official appointed by the Administrator with responsibilities under sections 8, 15, 31, and 36 (or the designee of the official) shall be to advance the policies established in section 8(d)(1) relating to subcontracting, including—

"(A) helping prime contractors to find small business concerns that are capable of performing subcontracts;

"(B) for contractors awarded contracts containing the clause described in section 8(d)(3), providing—

"(i) counseling on the responsibility of the contractor to maximize subcontracting opportunities for small business concerns;

"(ii) instruction on methods and tools to identify potential subcontractors that are small business concerns; and

"(iii) assistance to increase awards to subcontractors that are small business concerns through visits, training, and reviews of past performance;

"(C) providing counseling on how a small business concern may promote the capacity of the small business concern to contractors awarded contracts containing the clause described in section 8(d)(3); and

"(D) conducting periodic reviews of contractors awarded contracts containing the clause described in section 8(d)(3) to assess compliance with subcontracting plans required under section 8(d)(6).

"(2) CERTIFICATION REQUIREMENTS.—

"(A) IN GENERAL.—Consistent with the requirements of subparagraph (B), a commercial market representative referred to in section 15(q)(3) shall have a Level I Federal Acquisition Certification in Contracting (or any successor certification) or the equivalent Department of Defense certification.

"(B) DELAY OF CERTIFICATION REQUIREMENT.—The certification described in subparagraph (A) is not required—

"(i) for any person serving as a commercial market representative on the date of enactment of this subsection, until the date that is one calendar year after

the date on which the person was appointed as a commercial market representative; or

15/633(h)

"(ii) for any person serving as a commercial market representative on or before November 25, 2015, until November 25, 2020.

"(3) JOB POSTING REQUIREMENTS.—The duties and certification requirements described in this subsection shall be included in any initial job posting for the position of a commercial market representative.".

SEC. 1706. MODIFICATION OF PAST PERFORMANCE PILOT PROGRAM TO INCLUDE CONSIDERATION OF PAST PERFORMANCE WITH ALLIES OF THE UNITED STATES.

(a) IN GENERAL.—Section 8(d)(17) of the Small Business Act (15 U.S.C. 637(d)(17)) is amended—

(1) in subparagraph (G)—

(A) in clause (i), by inserting "and, set forth separately, the number of small business exporters," after "small business concerns"; and

15/637(d)(17)(G)(i)

(B) in clause (ii), by inserting ", set forth separately by applications from small business concerns and from small business exporters," after "applications"; and

15/637(d)(17)(G)(ii)

(2) by amending subparagraph (H) to read as follows:

"(H) DEFINITIONS.—In this paragraph—

"(i) the term 'appropriate official' means—

"(I) a commercial market representative;

"(II) another individual designated by the senior official appointed by the Administrator with responsibilities under sections 8, 15, 31, and 36; or

"(III) the Office of Small and Disadvantaged Business Utilization of a Federal agency, if the head of the Federal agency and the Administrator agree;

15/637(d)(17)(H)

"(ii) the term 'defense item' has the meaning given that term in section 38(j)(4)(A) of the Arms Export Control Act (22 U.S.C. 2778(j)(4)(A));

"(iii) the term 'major non-NATO ally' means a country designated as a major non-NATO ally under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k);

"(iv) the term 'past performance' includes performance of a contract for a sale of defense items (under section 38 of the Arms Export Control Act (22 U.S.C. 2778)) to the government of a member nation of North Atlantic Treaty Organization, the government of a major non-NATO ally, or the government of a country with which the United States has a defense cooperation agreement (as certified by the Secretary of State); and

"(v) the term 'small business exporter' means a small business concern that exports defense items under section 38 of the Arms Export Control Act (22 U.S.C. 2778) to the government of a member nation of the North Atlantic Treaty Organization, the government of a major non-NATO ally, or the government of a country with which the United States has a defense cooperation agreement (as certified by the Secretary of State).".

(b) TECHNICAL AMENDMENT.—Section 8(d)(17)(A) of the Small Business Act (15 U.S.C. 637(d)(17)(A)) is amended by striking "paragraph 13(A)" and inserting "paragraph (13)(A)".

15/637(d)(17)(A)

SEC. 1707. NOTICE OF COST-FREE FEDERAL PROCUREMENT TECHNICAL ASSISTANCE IN CONNECTION WITH REGISTRATION OF SMALL BUSINESS CONCERNS ON PROCUREMENT WEBSITES OF THE DEPARTMENT OF DEFENSE.

10/2411 note prec. new

(a) IN GENERAL.—The Secretary of Defense shall establish procedures to ensure that any notice or direct communication regarding the registration of a small business concern on a website maintained by the Department of Defense relating to contracting opportunities contains information about cost-free Federal procurement technical assistance services that are available through a procurement technical assistance program established under chapter 142 of title 10, United States Code.

(b) SMALL BUSINESS CONCERN DEFINED.—The term "small business concern" has the meaning given such term under section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 1708. INCLUSION OF SBIR AND STTR PROGRAMS IN TECHNICAL ASSISTANCE.

10/2418(c)(1)

Subsection (c) of section 2418 of title 10, United States Code, is amended—

(1) by striking "issued under" and inserting the following: "issued—

"(1) under";

(2) by striking "and on" and inserting ", and on";

(3) by striking "requirements." and inserting "requirements; and"; and

10/2418(c)(2)

(4) by adding at the end the following new paragraph:

"(2) under section 9 of the Small Business Act (15 U.S.C. 638), and on compliance with those requirements.".

SEC. 1709. REQUIREMENTS RELATING TO COMPETITIVE PROCEDURES AND JUSTIFICATION FOR AWARDS UNDER THE SBIR AND STTR PROGRAMS.

(a) IN GENERAL.—Section 9(r)(4) of the Small Business Act (15 U.S.C. 638(r)(4)) is amended by striking "shall issue Phase III awards" and inserting the following: "shall—

15/638(r)(4)(A), (B)

"(A) consider an award under the SBIR program or the STTR program to satisfy the requirements under section 2304 of title 10, United States Code, and any other applicable competition requirements; and

"(B) issue, without further justification, Phase III awards".

(b) CONFORMING AMENDMENTS.—

(1) SMALL BUSINESS ACT.—Section 9(r) of the Small Business Act (15 U.S.C. 638(r)) is amended—

15/638(r)

(A) in the subsection heading, by inserting ", COMPETITIVE PROCEDURES, AND JUSTIFICATION FOR AWARDS" after "AGREEMENTS"; and

15/638(r)(4)

(B) by amending the heading for paragraph (4) to read as follows: "COMPETITIVE PROCEDURES AND JUSTIFICATION FOR AWARDS".

10/2304(f)(1)

(2) TITLE 10.—Section 2304(f) of title 10, United States Code, is amended—

(A) in paragraph (1), by inserting "and paragraph (6)" after "paragraph (2)"; and

10/2304(f)(6)

(B) by adding at the end the following new paragraph:

10/2304(f)(6)

"(6) The justification and approval required by paragraph (1) is not required in the case of a Phase III award made pursuant to section 9(r)(4) of the Small Business Act (15 U.S.C. 638(r)(4)).".

SEC. 1710. PILOT PROGRAM FOR STREAMLINED TECHNOLOGY TRANSITION FROM THE SBIR AND STTR PROGRAMS OF THE DEPARTMENT OF DEFENSE.

10/2304 note new

(a) DEFINITIONS.—In this section—

(1) the terms "commercialization", "Federal agency", "Phase I", "Phase II", "Phase III", "SBIR", and "STTR" have the meanings given those terms in section 9(e) of the Small Business Act (15 U.S.C. 638(e));

(2) the term "covered small business concern" means—

(A) a small business concern that completed a Phase II award under the SBIR or STTR program of the Department; or

(B) a small business concern that—

(i) completed a Phase I award under the SBIR or STTR program of the Department; and

(ii) a contracting officer for the Department recommended for inclusion in a multiple award contract described in subsection (b);

(1) the term "Department" means the Department of Defense;

(2) the term "military department" has the meaning given the term in section 101 of title 10, United States Code;

(3) the term "multiple award contract" has the meaning given the term in section 3302(a) of title 41, United States Code;

(4) the term "pilot program" means the pilot program established under subsection (b); and

(5) the term "small business concern" has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632).

(b) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall establish a pilot program under which the Department shall award multiple award contracts to covered small business concerns for the purchase of technologies, supplies, or services that the covered small business concern has developed through the SBIR or STTR program.

(c) WAIVER OF COMPETITION IN CONTRACTING ACT REQUIREMENTS.—The Secretary of Defense may establish procedures to waive provisions of section 2304 of title 10, United States Code, for purposes of carrying out the pilot program.

(d) USE OF CONTRACT VEHICLE.—A multiple award contract described in subsection (b) may be used by any military department or component of the Department.

(e) TERMINATION.—The pilot program established under this section shall terminate on September 30, 2023.

(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prevent the commercialization of products and services produced by a small business concern under an SBIR or STTR program of a Federal agency through—

(1) direct awards for Phase III of an SBIR or STTR program; or

(2) any other contract vehicle.

SEC. 1711. PILOT PROGRAM ON STRENGTHENING MANUFACTURING IN THE DEFENSE INDUSTRIAL BASE.

10/2505 note new

(a) PILOT PROGRAM REQUIRED.—The Secretary of Defense shall carry out a pilot program to assess the feasibility and advisability of increasing the capability of the defense industrial base to support—

(1) production needs to meet military requirements; and

(2) manufacturing and production of emerging defense and commercial technologies.

(b) AUTHORITIES.—The Secretary shall carry out the pilot program under the following:

(1) Chapters 137 and 139 and sections 2371, 2371b, and 2373 of title 10, United States Code.

(2) Such other legal authorities as the Secretary considers applicable to carrying out the pilot program.

(c) ACTIVITIES.—Activities under the pilot program may include the following:

(1) Use of contracts, grants, or other transaction authorities to support manufacturing and production capabilities in small- and medium-sized manufacturers.

(2) Purchases of goods or equipment for testing and certification purposes.

(3) Incentives, including purchase commitments and cost sharing with nongovernmental sources, for the private sector to develop manufacturing and production capabilities in areas of national security interest.

(4) Issuing loans or providing loan guarantees to small- and medium-sized manufacturers to support manufacturing and production capabilities in areas of national security interest.

(5) Giving awards to third party entities to support investments in small- and medium-sized manufacturers working in areas of national security interest, including debt and equity investments that would benefit missions of the Department of Defense.

(6) Such other activities as the Secretary determines necessary.

(d) TERMINATION.—The pilot program shall terminate on the date that is four years after the date of the enactment of this Act.

(e) BRIEFING REQUIRED.—No later than January 31, 2022, the Secretary of Defense shall provide a briefing to the Committees on Armed Services in the Senate and the House of Representatives on the results of the pilot program.

SEC. 1712. REVIEW REGARDING APPLICABILITY OF FOREIGN OWNERSHIP, CONTROL, OR INFLUENCE REQUIREMENTS OF NATIONAL INDUSTRIAL SECURITY PROGRAM TO NATIONAL TECHNOLOGY AND INDUSTRIAL BASE COMPANIES.

10/2536 note new

(a) REVIEW.—The Secretary of Defense, with the concurrence of the Secretary of State and after consultation with the Director of the Information Security Oversight Office, shall review whether organizations whose ownership or majority control is based in a country that is part of the national technology and industrial base should be exempted from one or more of the foreign ownership, control, or influence requirements of the National Industrial Security Program.

10/2536 note new

(b) AUTHORITY.—The Secretary of Defense may establish a program to exempt organizations described under subsection (a) from one or more of the foreign ownership, control, or influence requirements of the National Industrial Security Program. Any such program shall comply with the requirements of this subsection.

(1) IN GENERAL.—Under a program established under this subsection, the Secretary, with the concurrence of the Secretary of State and after consultation with the Director of the Information Security Oversight Office, shall maintain a list of organizations owned or controlled by a country that is part of the national technology and industrial base that are eligible for exemption from the requirements described under such subsection.

(2) DETERMINATIONS OF ELIGIBILITY.—Under a program established under this subsection, the Secretary of Defense, with the concurrence of the Secretary of State and after consultation with the Director of the Information Security Oversight Office, may (on a case-by-case basis and for the purpose of supporting specific needs of the Department of Defense) designate an organization whose ownership or majority control is based in a country that is part of the national technology and industrial base as exempt from the requirements described under subsection (a) upon a determination that such exemption—

(A) is beneficial to improving collaboration within countries that are a part of the national technology and industrial base;

(B) is in the national security interest of the United States; and

(C) will not result in a greater risk of the disclosure of classified or sensitive information consistent with the National Industrial Security Program.

(3) EXERCISE OF AUTHORITY.—The authority under this subsection may be exercised beginning on the date that is the later of—

(A) the date that is 60 days after the Secretary of Defense, in consultation with the Secretary of State and the Director of the Information Security Oversight Office, submits to the appropriate congressional committees a report summarizing the review conducted under subsection (a); and

(B) the date that is 30 days after the Secretary of Defense, in consultation with the Secretary of State and the Director of the Information Security Oversight Office, submits to the appropriate congressional committees a written notification of a determination made under paragraph (2), including a discussion of the issues related to the foreign ownership or control of the organization that were considered as part of the determination.

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" has the meaning given the term in section 301 of title 10, United States Code.

(2) NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—the term "national technology and industrial base" has the meaning given the term in section 2500 of title 10, United States Code.

SEC. 1713. REPORT ON SOURCING OF TUNGSTEN AND TUNGSTEN POWDERS FROM DOMESTIC PRODUCERS.

(a) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the procurement of tungsten and tungsten powders for military applications.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) An overview of the quantities and countries of origin of tungsten and tungsten powders that are procured by the Department of Defense or prime contractors of the Department for military applications.

(2) An evaluation of the effects on the Department if the Secretary of Defense prioritizes the procurement of tungsten and tungsten powders from only domestic producers.

(3) An evaluation of the effects on the Department if tungsten and tungsten powders are required to be procured from only domestic producers.

(4) An estimate of any costs associated with domestic sourcing requirements related to tungsten and tungsten powders.

SEC. 1714. REPORT ON UTILIZATION OF SMALL BUSINESS CONCERNS FOR FEDERAL CONTRACTS.

(a) FINDINGS.—Congress finds that—

(1) since the passage of the Budget Control Act of 2011 (Public Law 112–25; 125 Stat. 240), many Federal agencies have started favoring longer-term Federal contracts, including multiple award contracts, over direct individual awards;

(2) these multiple award contracts have grown to more than one-fifth of Federal contract spending, with the fastest growing multiple award contracts each surpassing $100,000,000 in obligations for the first time between 2013 and 2014;

(3) in fiscal year 2017, 17 of the 20 largest Federal contract opportunities are multiple award contracts;

(4) while Federal agencies may choose to use any or all of the various socioeconomic groups on a multiple award contract, the Small Business Administration only examines the performance of socioeconomic groups through the small business procurement scorecard and does not examine potential opportunities for those groups; and

(5) Congress and the Department of Justice have been clear that no individual socioeconomic group shall be given preference over another.

(b) DEFINITIONS.—In this section—

(1) the term "Administrator" means the Administrator of the Small Business Administration;

(2) the term "covered small business concerns" means—

(A) qualified HUBZone small business concerns;

(B) small business concerns owned and controlled by service-disabled veterans;

(C) small business concerns owned and controlled by women; and

(D) small business concerns owned and controlled by socially and economically disadvantaged individuals, as defined under section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)); and

(3) the terms "qualified HUBZone small business concern", "small business concern", "small business concern owned and controlled by service-disabled veterans", and "small business concern owned and controlled by women" have the meanings given those terms in section 3 of the Small Business Act (15 U.S.C. 632).

(c) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report that includes—

(A) a determination as to whether small business concerns and each category of covered small business concern are being utilized in a significant portion of the multiple award contracts awarded by the Federal Government, including—

(i) whether awards are reserved for concerns in 1 or more of those categories; and

(ii) whether concerns in each such category are given the opportunity to perform on multiple award contracts;

(B) a determination as to whether performance requirements for multiple award contracts, as in effect on the day before the date of enactment of this Act, are feasible and appropriate for small business concerns and covered small business concerns; and

(C) any additional information as the Administrator may determine necessary.

(2) REQUIREMENT.—In making the determinations required under paragraph (1), the Administrator shall use information—

(A) from multiple award contracts with varied assigned North American Industry Classification System codes; and

(B) about the awards of multiple award contracts from not less than eight Federal agencies.

TITLE XVIII—GOVERNMENT PURCHASE AND TRAVEL CARDS

SEC. 1801. SHORT TITLE.

31/3321 note new

This title may be cited as the "Saving Federal Dollars Through Better Use of Government Purchase and Travel Cards Act of 2017".

SEC. 1802. DEFINITIONS.

In this title:

(1) IMPROPER PAYMENT.—The term "improper payment" has the meaning given the term in section 2 of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note).

(2) QUESTIONABLE TRANSACTION.—The term "questionable transaction" means a charge card transaction that from initial card data appears to be high risk and may therefore be

31/3321 note new

improper due to non-compliance with applicable law, regulation or policy.

(3) STRATEGIC SOURCING.—The term "strategic sourcing" means analyzing and modifying a Federal agency's spending patterns to better leverage its purchasing power, reduce costs, and improve overall performance.

SEC. 1803. EXPANDED USE OF DATA ANALYTICS.

(a) STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Administrator for General Services, shall develop a strategy to expand the use of data analytics in managing government purchase and travel charge card programs. These analytics may employ existing General Services Administration capabilities, and may be in conjunction with agencies' capabilities, for the purpose of—

(1) identifying examples or patterns of questionable transactions and developing enhanced tools and methods for agency use in—

(A) identifying questionable purchase and travel card transactions; and

(B) recovering improper payments made with purchase and travel cards;

(2) identifying potential opportunities for agencies to further leverage administrative process streamlining and cost reduction from purchase and travel card use, including additional agency opportunities for card-based strategic sourcing;

(3) developing a set of purchase and travel card metrics and benchmarks for high-risk activities, which shall assist agencies in identifying potential emphasis areas for their purchase and travel card management and oversight activities, including those required by the Government Charge Card Abuse Prevention Act of 2012 (Public Law 112–194); and

(4) developing a plan, which may be based on existing capabilities, to create a library of analytics tools and data sources for use by Federal agencies (including inspectors general of those agencies).

SEC. 1804. GUIDANCE ON IMPROVING INFORMATION SHARING TO CURB IMPROPER PAYMENTS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Administrator of General Services and the interagency charge card data management group established under section 1805, shall issue guidance on improving information sharing by government agencies for the purposes of section 1803(a)(1).

(b) ELEMENTS.—The guidance issued under subsection (a) shall—

(1) require relevant officials at Federal agencies to identify high-risk activities and communicate that information to the appropriate management levels within the agencies;

(2) require that appropriate officials at Federal agencies review the reports issued by charge card-issuing banks on questionable transaction activity (such as purchase and travel card pre-suspension and suspension reports, delinquency reports, and exception reports), including transactions that

31/3321 note new

occur with high-risk activities, and suspicious timing or amounts of cash withdrawals or advances;

(3) provide for the appropriate sharing of information related to potential questionable transactions, fraud schemes, and high-risk activities with the General Services Administration and the appropriate officials in Federal agencies;

(4) consider the recommendations made by Inspectors General or the best practices Inspectors General have identified; and

(5) include other requirements determined appropriate by the Director for the purposes of carrying out this title.

SEC. 1805. INTERAGENCY CHARGE CARD DATA MANAGEMENT GROUP.

(a) ESTABLISHMENT.—The Administrator of General Services and the Director of the Office of Management and Budget shall establish a purchase and travel charge card data management group to develop and share best practices for the purposes described in section 1803(a).

(b) ELEMENTS.—The best practices developed under subsection (a) shall—

(1) cover rules, edits, and task order or contract modifications related to charge card-issuing banks;

(2) include the review of accounts payable information and purchase and travel card transaction data of agencies for the purpose of identifying potential strategic sourcing and other additional opportunities (such as recurring payments, utility payments, and grant payments) for which the charge cards or related payment products could be used as a payment method; and

(3) include other best practices as determined by the Administrator and Director.

(c) MEMBERSHIP.—The purchase and travel charge card data management group shall meet regularly as determined by the co-chairs, for a duration of three years, and include those agencies as described in section 2 of the Government Charge Card Abuse Prevention Act of 2012 (Public Law 112–194) and others identified by the Administrator and Director.

SEC. 1806. REPORTING REQUIREMENTS.

(a) GENERAL SERVICES ADMINISTRATION REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator for General Services shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report on the implementation of this title, including the metrics used in determining whether the analytic and benchmarking efforts have reduced, or contributed to the reduction of, questionable transactions or improper payments as well as improved utilization of card-based payment products.

(b) AGENCY REPORTS AND CONSOLIDATED REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the head of each Federal agency described in section 2 of the Government Charge Card Abuse Prevention Act of 2012 (Public Law 112–194) shall submit a report to the Director of the Office of Management and Budget on that agency's activities to implement this title.

(c) OFFICE OF MANAGEMENT AND BUDGET REPORT TO CONGRESS.—The Director of the Office of Management and Budget

31/3321 note new

shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a consolidated report of agency activities to implement this title, which may be included as part of another report submitted by the Director to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives.

(d) REPORT ON ADDITIONAL SAVINGS OPPORTUNITIES.—Not later than one year after the date of the enactment of this Act, the Administrator of General Services shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report identifying and exploring further potential savings opportunities for government agencies under the Federal charge card programs. This report may be combined with the report required under subsection (a).

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 2018".

SEC. 2002. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER FIVE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVII for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment Program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2022; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2023.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2022; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2023 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment Program.

(c) EXTENSION OF AUTHORIZATIONS OF FISCAL YEAR 2016 AND FISCAL YEAR 2017 PROJECTS.—

(1) FISCAL YEAR 2016 PROJECTS.—Section 2002 of the Military Construction Authorization Act for Fiscal Year 2016 (division B of Public Law 114–92; 129 Stat. 1145) is amended—

(A) in subsection (a)—