DIVISION D—HOMELAND SECURITY PROVISIONS

SEC. 4001. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This division may be cited as the “Securing America’s Future Act”.

(b) Table of Contents.—The table of contents for this division is as follows:

DIVISION D—HOMELAND SECURITY PROVISIONS

Sec. 4001. Short title; table of contents.

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TITLE I—ENSURING DOMESTIC MANUFACTURING CAPABILITIES

Subtitle A—Build America, Buy America

SEC. 4101. SHORT TITLE.

This subtitle may be cited as the “Build America, Buy America Act”.

PART I—BUY AMERICA SOURCING REQUIREMENTS

SEC. 4111. FINDINGS.

Congress finds that—

(1) the United States must make significant investments to install, upgrade, or replace the public works infrastructure of the United States;
(2) with respect to investments in the infrastructure of the United States, taxpayers expect that their public works infrastructure will be produced in the United States by American workers;

(3) United States taxpayer dollars invested in public infrastructure should not be used to reward companies that have moved their operations, investment dollars, and jobs to foreign countries or foreign factories, particularly those that do not share or openly flout the commitments of the United States to environmental, worker, and workplace safety protections;

(4) in procuring materials for public works projects, entities using taxpayer-financed Federal assistance should give a commonsense procurement preference for the materials and products produced by companies and workers in the United States in accordance with the high ideals embodied in the environmental, worker, workplace safety, and other regulatory requirements of the United States;

(5) common construction materials used in public works infrastructure projects, including steel, iron, manufactured products, non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and
polymers used in fiber optic cables), concrete and 
other aggregates, glass (including optic glass), lum-
ber, and drywall are not adequately covered by a do-
mestic content procurement preference, thus limiting 
the impact of taxpayer purchases to enhance supply 
chains in the United States;

(6) the benefits of domestic content procure-
ment preferences extend beyond economics;

(7) by incentivizing domestic manufacturing, 
domestic content procurement preferences reinvest 
tax dollars in companies and processes using the 
highest labor and environmental standards in the 
world;

(8) strong domestic content procurement pref-
erence policies act to prevent shifts in production to 
countries that rely on production practices that are 
significantly less energy efficient and far more pol-
luting than those in the United States;

(9) for over 75 years, Buy America and other 
domestic content procurement preference laws have 
been part of the United States procurement policy, 
ensuring that the United States can build and re-
buid the infrastructure of the United States with 
high-quality American-made materials;
(10) before the date of enactment of this Act, a domestic content procurement preference requirement may not apply, may apply only to a narrow scope of products and materials, or may be limited by waiver with respect to many infrastructure programs, which necessitates a review of such programs, including programs for roads, highways, and bridges, public transportation, dams, ports, harbors, and other maritime facilities, intercity passenger and freight railroads, freight and intermodal facilities, airports, water systems, including drinking water and wastewater systems, electrical transmission facilities and systems, utilities, broadband infrastructure, and buildings and real property;

(11) Buy America laws create demand for domestically produced goods, helping to sustain and grow domestic manufacturing and the millions of jobs domestic manufacturing supports throughout product supply chains;

(12) as of the date of enactment of this Act, domestic content procurement preference policies apply to all Federal Government procurement and to various Federal-aid infrastructure programs;
(13) a robust domestic manufacturing sector is a vital component of the national security of the United States;

(14) as more manufacturing operations of the United States have moved offshore, the strength and readiness of the defense industrial base of the United States has been diminished; and

(15) domestic content procurement preference laws—

(A) are fully consistent with the international obligations of the United States; and

(B) together with the government procurements to which the laws apply, are important levers for ensuring that United States manufacturers can access the government procurement markets of the trading partners of the United States.

SEC. 4112. DEFINITIONS.

In this part:

(1) DEFICIENT PROGRAM.—The term “deficient program” means a program identified by the head of a Federal agency under section 4113(c).

(2) DOMESTIC CONTENT PROCUREMENT PREFERENCE.—The term “domestic content procurement preference” means a requirement that no amounts
made available through a program for Federal financial assistance may be obligated for a project unless—

(A) all iron and steel used in the project are produced in the United States;

(B) the manufactured products used in the project are produced in the United States; or

(C) the construction materials used in the project are produced in the United States.

(3) FEDERAL AGENCY.—The term “Federal agency” means any authority of the United States that is an “agency” (as defined in section 3502 of title 44, United States Code), other than an independent regulatory agency (as defined in that section).

(4) FEDERAL FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—The term “Federal financial assistance” has the meaning given the term in section 200.1 of title 2, Code of Federal Regulations (or successor regulations).

(B) INCLUSION.—The term “Federal financial assistance” includes all expenditures by a Federal agency to a non-Federal entity for an infrastructure project, except that it does not include expenditures for assistance authorized
under section 402, 403, 404, 406, 408, or 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a, 5170b, 5170c, 5172, 5174, or 5192) relating to a major disaster or emergency declared by the President under section 401 or 501, respectively, of such Act (42 U.S.C. 5170, 5191) or pre and post disaster or emergency response expenditures.

(5) INFRASTRUCTURE.—The term “infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States—

(A) roads, highways, and bridges;

(B) public transportation;

(C) dams, ports, harbors, and other maritime facilities;

(D) intercity passenger and freight railroads;

(E) freight and intermodal facilities;

(F) airports;

(G) water systems, including drinking water and wastewater systems;

(H) electrical transmission facilities and systems;

(I) utilities;
(J) broadband infrastructure; and

(K) buildings and real property.

(6) PRODUCED IN THE UNITED STATES.—The term “produced in the United States” means—

(A) in the case of iron or steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

(B) in the case of manufactured products, that—

(i) the manufactured product was manufactured in the United States; and

(ii) the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

(C) in the case of construction materials,
construction material occurred in the United States.

(7) PROJECT.—The term “project” means the construction, alteration, maintenance, or repair of infrastructure in the United States.

SEC. 4113. IDENTIFICATION OF DEFICIENT PROGRAMS.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the head of each Federal agency shall—

(1) submit to the Office of Management and Budget and to Congress, including a separate notice to each appropriate congressional committee, a report that identifies each Federal financial assistance program for infrastructure administered by the Federal agency; and

(2) publish in the Federal Register the report under paragraph (1).

(b) REQUIREMENTS.—In the report under subsection (a), the head of each Federal agency shall, for each Federal financial assistance program—

(1) identify all domestic content procurement preferences applicable to the Federal financial assistance;
(2) assess the applicability of the domestic content procurement preference requirements, including—

(A) section 313 of title 23, United States Code;

(B) section 5323(j) of title 49, United States Code;

(C) section 22905(a) of title 49, United States Code;

(D) section 50101 of title 49, United States Code;

(E) section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1388);

(F) section 1452(a)(4) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(4));

(G) section 5035 of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3914);

(H) any domestic content procurement preference included in an appropriations Act; and

(I) any other domestic content procurement preference in Federal law (including regulations);
(3) provide details on any applicable domestic content procurement preference requirement, including the purpose, scope, applicability, and any exceptions and waivers issued under the requirement; and

(4) include a description of the type of infrastructure projects that receive funding under the program, including information relating to—

(A) the number of entities that are participating in the program;

(B) the amount of Federal funds that are made available for the program for each fiscal year; and

(C) any other information the head of the Federal agency determines to be relevant.

(c) LIST OF DEFICIENT PROGRAMS.—In the report under subsection (a), the head of each Federal agency shall include a list of Federal financial assistance programs for infrastructure identified under that subsection for which a domestic content procurement preference requirement—

(1) does not apply in a manner consistent with section 4114; or

(2) is subject to a waiver of general applicability not limited to the use of specific products for use in a specific project.
SEC. 4114. APPLICATION OF BUY AMERICA PREFERENCE.

(a) In General.—Not later than 180 days after the date of enactment of this Act, the head of each Federal agency shall ensure that none of the funds made available for a Federal financial assistance program for infrastructure, including each deficient program, may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.

(b) Waiver.—The head of a Federal agency that applies a domestic content procurement preference under this section may waive the application of that preference in any case in which the head of the Federal agency finds that—

(1) applying the domestic content procurement preference would be inconsistent with the public interest;

(2) types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or

(3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.
(c) Written Justification.—Before issuing a waiver under subsection (b), the head of the Federal agency shall—

(1) make publicly available in an easily accessible location on a website designated by the Office of Management and Budget and on the website of the Federal agency a detailed written explanation for the proposed determination to issue the waiver; and

(2) provide a period of not less than 15 days for public comment on the proposed waiver.

(d) Automatic Sunset on Waivers of General Applicability.—

(1) In general.—A general applicability waiver issued under subsection (b) shall expire not later than 2 years after the date on which the waiver is issued.

(2) Reissuance.—The head of a Federal agency may reissue a general applicability waiver only after—

(A) publishing in the Federal Register a notice that—

(i) describes the justification for reissuing a general applicability waiver; and

(ii) requests public comments for a period of not less than 30 days; and
(B) publishing in the Federal Register a second notice that—

(i) responds to the public comments received in response to the first notice; and

(ii) provides the final decision on whether the general applicability waiver will be reissued.

(e) **Consistency With International Agreements.**—This section shall be applied in a manner consistent with United States obligations under international agreements.

**SEC. 4115. OMB GUIDANCE AND STANDARDS.**

(a) **Guidance.**—The Director of the Office of Management and Budget shall—

(1) issue guidance to the head of each Federal agency—

(A) to assist in identifying deficient programs under section 4113(e); and

(B) to assist in applying new domestic content procurement preferences under section 4114; and

(2) if necessary, amend subtitle A of title 2, Code of Federal Regulations (or successor regulations), to ensure that domestic content procurement preference requirements required by this part or
other Federal law are imposed through the terms and conditions of awards of Federal financial assistance.

(b) Standards for Construction Materials.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall issue standards that define the term “all manufacturing processes” in the case of construction materials.

(2) Considerations.—In issuing standards under paragraph (1), the Director shall—

(A) ensure that the standards require that each manufacturing process required for the manufacture of the construction material and the inputs of the construction material occurs in the United States; and

(B) take into consideration and seek to maximize the direct and indirect jobs benefited or created in the production of the construction material.

SEC. 4116. TECHNICAL ASSISTANCE PARTNERSHIP AND CONSULTATION SUPPORTING DEPARTMENT OF TRANSPORTATION BUY AMERICA REQUIREMENTS.

(a) Definitions.—In this section:
(1) **Buy America law.**—The term “Buy America law” means—

(A) section 313 of title 23, United States Code;

(B) section 5323(j) of title 49, United States Code;

(C) section 22905(a) of title 49, United States Code;

(D) section 50101 of title 49, United States Code; and

(E) any other domestic content procurement preference for an infrastructure project under the jurisdiction of the Secretary.

(2) **Secretary.**—The term “Secretary” means the Secretary of Transportation.

(b) **Technical Assistance Partnership.**—Not later than 90 days after the date of the enactment of this Act, the Secretary shall enter into a technical assistance partnership with the Secretary of Commerce, acting through the Director of the National Institute of Standards and Technology—

(1) to ensure the development of a domestic supply base to support intermodal transportation in the United States, such as intercity high speed rail transportation, public transportation systems, high-
way construction or reconstruction, airport improvement projects, and other infrastructure projects under the jurisdiction of the Secretary;

(2) to ensure compliance with Buy America laws that apply to a project that receives assistance from the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration, the Federal Aviation Administration, or another office or modal administration of the Secretary of Transportation;

(3) to encourage technologies developed with the support of and resources from the Secretary to be transitioned into commercial market and applications; and

(4) to establish procedures for consultation under subsection (e).

(c) CONSULTATION.—Before granting a written waiver under a Buy America law, the Secretary shall consult with the Director of the Hollings Manufacturing Extension Partnership regarding whether there is a domestic entity that could provide the iron, steel, manufactured product, or construction material that is the subject of the proposed waiver.

(d) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter,
the Secretary shall submit to the Committee on Commerce, Science, and Transportation, the Committee on Banking, Housing, and Urban Affairs, the Committee on Environment and Public Works, and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure and the Committee on Oversight and Reform of the House of Representatives a report that includes—

(1) a detailed description of the consultation procedures developed under subsection (b)(4);

(2) a detailed description of each waiver requested under a Buy America law in the preceding year that was subject to consultation under subsection (c), and the results of the consultation;

(3) a detailed description of each waiver granted under a Buy America law in the preceding year, including the type of waiver and the reasoning for granting the waiver; and

(4) an update on challenges and gaps in the domestic supply base identified in carrying out subsection (b)(1), including a list of actions and policy changes the Secretary recommends be taken to address those challenges and gaps.
SEC. 4117. APPLICATION.

(a) IN GENERAL.—This part shall apply to a Federal financial assistance program for infrastructure only to the extent that a domestic content procurement preference as described in section 4114 does not already apply to iron, steel, manufactured products, and construction materials.

(b) SAVINGS PROVISION.—Nothing in this part affects a domestic content procurement preference for a Federal financial assistance program for infrastructure that is in effect and that meets the requirements of section 4114.

PART II—MAKE IT IN AMERICA

SEC. 4121. REGULATIONS RELATING TO BUY AMERICAN ACT.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Director of the Office of Management and Budget ("Director"), acting through the Administrator for Federal Procurement Policy and, in consultation with the Federal Acquisition Regulatory Council, shall promulgate final regulations or other policy or management guidance, as appropriate, to standardize and simplify how Federal agencies comply with, report on, and enforce the Buy American Act. The regulations or other policy or management guidance shall include, at a minimum, the following:
(1) Guidelines for Federal agencies to determine, for the purposes of applying sections 8302(a) and 8303(b)(3) of title 41, United States Code, the circumstances under which the acquisition of articles, materials, or supplies mined, produced, or manufactured in the United States is inconsistent with the public interest.

(2) Guidelines to ensure Federal agencies base determinations of non-availability on appropriate considerations, including anticipated project delays and lack of substitutable articles, materials, and supplies mined, produced, or manufactured in the United States, when making determinations of non-availability under section 8302(a)(1) of title 41, United States Code.

(3)(A) Uniform procedures for each Federal agency to make publicly available, in an easily identifiable location on the website of the agency, and within the following time periods, the following information:

(i) A written description of the circumstances in which the head of the agency may waive the requirements of the Buy American Act.
(ii) Each waiver made by the head of the agency within 30 days after making such waiver, including a justification with sufficient detail to explain the basis for the waiver.

(B) The procedures established under this paragraph shall ensure that the head of an agency may limit the publication of classified information.

(4) Guidelines for Federal agencies to ensure that a project is not disaggregated for purposes of avoiding the applicability of the requirements under the Buy American Act.

(5) An increase to the price preferences for domestic end products and domestic construction materials.

(6) Amending the definitions of “domestic end product” and “domestic construction material” to ensure that iron and steel products are, to the greatest extent possible, made with domestic components.

(b) GUIDELINES RELATING TO WAIVERS.—

(1) INCONSISTENCY WITH PUBLIC INTEREST.—

(A) IN GENERAL.—With respect to the guidelines developed under subsection (a)(1), the Administrator shall seek to minimize waivers related to contract awards that—
(i) result in a decrease in employment in the United States, including employment among entities that manufacture the articles, materials, or supplies; or

(ii) result in awarding a contract that would decrease domestic employment.

(B) COVERED EMPLOYMENT.—For purposes of subparagraph (A), employment refers to positions directly involved in the manufacture of articles, materials, or supplies, and does not include positions related to management, research and development, or engineering and design.

(2) ASSESSMENT ON USE OF DUMPED OR SUBSIDIZED FOREIGN PRODUCTS.—

(A) IN GENERAL.—To the extent otherwise permitted by law, before granting a waiver in the public interest to the guidelines developed under subsection (a)(1) with respect to a product sourced from a foreign country, a Federal agency shall assess whether a significant portion of the cost advantage of the product is the result of the use of dumped steel, iron, or manufactured goods or the use of injuriously subsidized steel, iron, or manufactured goods.
(B) CONSULTATION.—The Federal agency conducting the assessment under subparagraph (A) shall consult with the International Trade Administration in making the assessment if the agency considers such consultation to be helpful.

(C) USE OF FINDINGS.—The Federal agency conducting the assessment under subparagraph (A) shall integrate any findings from the assessment into its waiver determination.

(c) SENSE OF CONGRESS ON INCREASING DOMESTIC CONTENT REQUIREMENTS.—It is the sense of Congress that the Federal Acquisition Regulatory Council should amend the Federal Acquisition Regulation to increase the domestic content requirements for domestic end products and domestic construction material to 75 percent, or, in the event of no qualifying offers, 60 percent.

(d) DEFINITION OF END PRODUCT MANUFACTURED IN THE UNITED STATES.—Not later than 1 year after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall amend part 25 of the Federal Acquisition Regulation to provide a definition for “end product manufactured in the United States,” including guidelines to ensure that manufacturing processes involved in production of the end product occur domestically.
1 SEC. 4122. AMENDMENTS RELATING TO BUY AMERICAN ACT.

(a) Special Rules Relating to American Materials Required for Public Use.—Section 8302 of title 41, United States Code, is amended by adding at the end the following new subsection:

“(c) Special Rules.—The following rules apply in carrying out the provisions of subsection (a):

“(1) Iron and steel manufactured in the United States.—For purposes of this section, manufactured articles, materials, and supplies of iron and steel are deemed manufactured in the United States only if all manufacturing processes involved in the production of such iron and steel, from the initial melting stage through the application of coatings, occurs in the United States.

“(2) Limitation on exception for commercially available off-the-shelf items.—Notwithstanding any law or regulation to the contrary, including section 1907 of this title and the Federal Acquisition Regulation, the requirements of this section apply to all iron and steel articles, materials, and supplies.”.

(b) Production of Iron and Steel for Purposes of Contracts for Public Works.—Section 8303 of title 41, United States Code, is amended—
(1) by redesignating subsection (c) as subsection (d); and

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

“(c) Special Rules.—

“(1) Production of Iron and Steel.—For purposes of this section, manufactured articles, materials, and supplies of iron and steel are deemed manufactured in the United States only if all manufacturing processes involved in the production of such iron and steel, from the initial melting stage through the application of coatings, occurs in the United States.

“(2) Limitation on Exception for Commercially Available Off-the-Shelf Items.—Notwithstanding any law or regulation to the contrary, including section 1907 of this title and the Federal Acquisition Regulation, the requirements of this section apply to all iron and steel articles, materials, and supplies used in contracts described in subsection (a).”.

(c) Annual Report.—Subsection (b) of section 8302 of title 41, United States Code, is amended to read as follows:

“(b) Reports.—
“(1) IN GENERAL.—Not later than 180 days after the end of the fiscal year during which the Build America, Buy America Act is enacted, and annually thereafter for 4 years, the Director of the Office of Management and Budget, in consultation with 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 Reform of the House of Representatives a report on the total amount of acquisitions made by Federal agencies in the relevant fiscal year of articles, materials, or supplies acquired from entities that mine, produce, or manufacture the articles, materials, or supplies outside the United States.

“(2) EXCEPTION FOR INTELLIGENCE COMMUNITY.—This subsection does not apply to acquisitions made by an agency, or component of an agency, that is an element of the intelligence community as specified in, or designated under, section 3 of the National Security Act of 1947 (50 U.S.C. 3003).”.

(d) DEFINITION.—Section 8301 of title 41, United States Code, is amended by adding at the end the following new paragraph:
“(3) Federal agency.—The term ‘Federal agency’ has the meaning given the term ‘executive agency’ in section 133 of this title.”.

(e) Conforming Amendments.—Title 41, United States Code, is amended—

(1) in section 8302(a)—

(A) in paragraph (1)—

(i) by striking “department or independent establishment” and inserting “Federal agency”; and

(ii) by striking “their acquisition to be inconsistent with the public interest or their cost to be unreasonable” and inserting “their acquisition to be inconsistent with the public interest, their cost to be unreasonable, or that the articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality”; and

(B) in paragraph (2), by amending sub-paragraph (B) to read as follows:
“(B) to any articles, materials, or supplies procured pursuant to a reciprocal defense procurement memorandum of understanding (as described in section 8304 of this title), or a trade agreement or least developed country designation described in subpart 25.400 of the Federal Acquisition Regulation; and”; and

(2) in section 8303—

(A) in subsection (b)—

(i) by striking “department or independent establishment” each place it appears and inserting “Federal agency”; 

(ii) by amending subparagraph (B) of paragraph (1) to read as follows:

“(B) to any articles, materials, or supplies procured pursuant to a reciprocal defense procurement memorandum of understanding (as described in section 8304), or a trade agreement or least developed country designation described in subpart 25.400 of the Federal Acquisition Regulation; and”; and

(iii) in paragraph (3)—

(I) in the heading, by striking

“INCONSISTENT WITH PUBLIC INTER-
(II) by striking “their purchase to be inconsistent with the public interest or their cost to be unreasonable” and inserting “their acquisition to be inconsistent with the public interest, their cost to be unreasonable, or that the articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality”; and

(B) in subsection (d), as redesignated by subsection (b)(1) of this section, by striking “department, bureau, agency, or independent establishment” each place it appears and inserting “Federal agency”.

(f) Exclusion From Inflation Adjustment of Acquisition-Related Dollar Thresholds.—Subparagraph (A) of section 1908(b)(2) of title 41, United
States Code, is amended by striking “chapter 67” and inserting “chapters 67 and 83”.

SEC. 4123. MADE IN AMERICA OFFICE.

(a) Establishment.—The Director of the Office of Management and Budget shall establish within the Office of Management and Budget an office to be known as the “Made in America Office”. The head of the office shall be appointed by the Director of the Office of Management and Budget (in this section referred to as the “Made in America Director”).

(b) Duties.—The Made in America Director shall have the following duties:

(1) Maximize and enforce compliance with domestic preference statutes.

(2) Develop and implement procedures to review waiver requests or inapplicability requests related to domestic preference statutes.

(3) Prepare the reports required under subsections (c) and (e).

(4) Ensure that Federal contracting personnel, financial assistance personnel, and non-Federal recipients are regularly trained on obligations under the Buy American Act and other agency-specific domestic preference statutes.
(5) Conduct the review of reciprocal defense agreements required under subsection (d).

(6) Ensure that Federal agencies, Federal financial assistance recipients, and the Hollings Manufacturing Extension Partnership partner with each other to promote compliance with domestic preference statutes.

(7) Support executive branch efforts to develop and sustain a domestic supply base to meet Federal procurement requirements.

(c) **Office of Management and Budget Report.**—Not later than 1 year after the date of the enactment of this Act, the Director of the Office of Management and Budget, working through the Made in America Director, shall report to the relevant congressional committees on the extent to which, in each of the three fiscal years prior to the date of enactment of this Act, articles, materials, or supplies acquired by the Federal Government were mined, produced, or manufactured outside the United States. Such report shall include for each Federal agency the following:

(1) A summary of total procurement funds expended on articles, materials, and supplies mined, produced, or manufactured—

(A) inside the United States;
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(B) outside the United States; and

(C) outside the United States—

(i) under each category of waiver under the Buy American Act;

(ii) under each category of exception under such chapter; and

(iii) for each country that mined, produced, or manufactured such articles, materials, and supplies.

(2) For each fiscal year covered by the report—

(A) the dollar value of any articles, materials, or supplies that were mined, produced, or manufactured outside the United States, in the aggregate and by country;

(B) an itemized list of all waivers made under the Buy American Act with respect to articles, materials, or supplies, where available, and the country where such articles, materials, or supplies were mined, produced, or manufactured;

(C) if any articles, materials, or supplies were acquired from entities that mine, produce, or manufacture such articles, materials, or supplies outside the United States due to an exception (that is not the micro-purchase threshold
exception described under section 8302(a)(2)(C) of title 41, United States Code), the specific exception that was used to purchase such articles, materials, or supplies; and

(D) if any articles, materials, or supplies were acquired from entities that mine, produce, or manufacture such articles, materials, or supplies outside the United States pursuant to a reciprocal defense procurement memorandum of understanding (as described in section 8304 of title 41, United States Code), or a trade agreement or least developed country designation described in subpart 25.400 of the Federal Acquisition Regulation, a citation to such memorandum of understanding, trade agreement, or designation.

(3) A description of the methods used by each Federal agency to calculate the percentage domestic content of articles, materials, and supplies mined, produced, or manufactured in the United States.

(d) REVIEW OF RECIPROCAL DEFENSE AGREEMENTS.—

(1) REVIEW OF PROCESS.—Not later than 180 days after the date of the enactment of this Act, the Made in America Director shall review the Depart-
ment of Defense’s use of reciprocal defense agree-
ments to determine if domestic entities have equal
and proportional access and report the findings of
the review to the Director of the Office of Manage-
ment and Budget, the Secretary of Defense, and the
Secretary of State.

(2) **REVIEW OF RECIPROCAL PROCUREMENT**

MEMORANDA OF UNDERSTANDING.—The Made in
America Director shall review reciprocal procure-
ment memoranda of understanding entered into
after the date of the enactment of this Act between
the Department of Defense and its counterparts in
foreign governments to assess whether domestic enti-
ties will have equal and proportional access under
the memoranda of understanding and report the
findings of the review to the Director of the Office
of Management and Budget, the Secretary of De-
fense, and the Secretary of State.

(e) **REPORT ON USE OF MADE IN AMERICA LAWS.**—
The Made in America Director shall submit to the relevant
congressional committees a summary of each report on the
use of Made in America Laws received by the Made in
America Director pursuant to section 11 of Executive
Order 14005, dated January 25, 2021 (relating to ensur-
ing the future is made in all of America by all of America’s
workers) not later than 90 days after the date of the enactment of this Act or receipt of the reports required under section 11 of such Executive Order, whichever is later.

(f) **Domestic Preference Statute Defined.**—In this section, the term “domestic preference statute” means any of the following:

1. the Buy American Act;
2. a Buy America law (as that term is defined in section 4116(a));
3. the Berry Amendment;
5. section 2533b of title 10 (commonly referred to as the “specialty metals clause”);
6. laws requiring domestic preference for maritime transport, including the Merchant Marine Act, 1920 (Public Law 66–261), commonly known as the “Jones Act”; and
7. any other law, regulation, rule, or executive order relating to Federal financial assistance awards or Federal procurement, that requires, or provides a preference for, the purchase or acquisition of goods, products, or materials produced in the United
States, including iron, steel, construction material, and manufactured goods offered in the United States.

SEC. 4124. HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP ACTIVITIES.

(a) Use of Hollings Manufacturing Extension Partnership to Refer New Businesses to Contracting Opportunities.—The head of each Federal agency shall work with the Director of the Hollings Manufacturing Extension Partnership, as necessary, to ensure businesses participating in this Partnership are aware of their contracting opportunities.

(b) Automatic Enrollment in GSA Advantage!.—The Administrator of the General Services Administration and the Secretary of Commerce, acting through the Under Secretary of Commerce for Standards and Technology, shall jointly ensure that each business that participates in the Hollings Manufacturing Extension Partnership is automatically enrolled in General Services Administration Advantage!.

SEC. 4125. UNITED STATES OBLIGATIONS UNDER INTERNATIONAL AGREEMENTS.

This part, and the amendments made by this part, shall be applied in a manner consistent with United States obligations under international agreements.
SEC. 4126. DEFINITIONS.

In this part:

(1) BERRY AMENDMENT.—The term “Berry Amendment” means section 2533a of title 10, United States Code.

(2) BUY AMERICAN ACT.—The term “Buy American Act” means chapter 83 of title 41, United States Code.

(3) FEDERAL AGENCY.—The term “Federal agency” has the meaning given the term “executive agency” in section 133 of title 41, United States Code.

(4) RELEVANT CONGRESSIONAL COMMITTEES.—The term “relevant congressional committees” means—

(A) the Committee on Homeland Security and Governmental Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Armed Services of the Senate; and

(B) the Committee on Oversight and Reform, the Committee on Armed Services, and the Committee on Transportation and Infrastructure of the House of Representatives.
(5) WAIVER.—The term “waiver”, with respect to the acquisition of an article, material, or supply for public use, means the inapplicability of chapter 83 of title 41, United States Code, to the acquisition by reason of any of the following determinations under section 8302(a)(1) or 8303(b) of such title:

(A) A determination by the head of the Federal agency concerned that the acquisition is inconsistent with the public interest.

(B) A determination by the head of the Federal agency concerned that the cost of the acquisition is unreasonable.

(C) A determination by the head of the Federal agency concerned that the article, material, or supply is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

SEC. 4127. PROSPECTIVE AMENDMENTS TO INTERNAL CROSS-REFERENCES.

(a) SPECIALTY METALS CLAUSE REFERENCE.—Section 4123(f)(5) is amended by striking “section 2533b” and inserting “section 4863”.
(b) Berry Amendment Reference.—Section 4126(1) is amended by striking “section 2533a” and inserting “section 4862”.

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 2022.

Subtitle B—BuyAmerican.gov

SEC. 4131. SHORT TITLE.

This subtitle may be cited as the “BuyAmerican.gov Act of 2021”.

SEC. 4132. DEFINITIONS.

In this subtitle:

(1) Buy American Law.—The term “Buy American law” means any law, regulation, Executive order, or rule relating to Federal contracts, grants, or financial assistance that requires or provides a preference for the purchase or use of goods, products, or materials mined, produced, or manufactured in the United States, including—

(A) chapter 83 of title 41, United States Code (commonly referred to as the “Buy American Act”);

(B) section 5323(j) of title 49, United States Code;

(C) section 313 of title 23, United States Code;
(D) section 50101 of title 49, United States Code;

(E) section 24405 of title 49, United States Code;

(F) section 608 of the Federal Water Pollution Control Act (33 U.S.C. 1388);

(G) section 1452(a)(4) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(4));

(H) section 5035 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 3914);

(I) section 2533a of title 10, United States Code (commonly referred to as the “Berry Amendment”); and

(J) section 2533b of title 10, United States Code.

(2) EXECUTIVE AGENCY.—The term “executive agency” has the meaning given the term “agency” in paragraph (1) of section 3502 of title 44, United States Code, except that it does not include an independent regulatory agency, as that term is defined in paragraph (5) of such section.

(3) BUY AMERICAN WAIVER.—The term “Buy American waiver” refers to an exception to or waiver of any Buy American law, or the terms and condi-
tions used by an agency in granting an exception to
or waiver from Buy American laws.

SEC. 4133. SENSE OF CONGRESS ON BUYING AMERICAN.

It is the sense of Congress that—

(1) every executive agency should maximize,
through terms and conditions of Federal financial
assistance awards and Federal procurements, the
use of goods, products, and materials produced in
the United States and contracts for outsourced gov-
ernment service contracts to be performed by United
States nationals;

(2) every executive agency should scrupulously
monitor, enforce, and comply with Buy American
laws, to the extent they apply, and minimize the use
of waivers; and

(3) every executive agency should use available
data to routinely audit its compliance with Buy
American laws.

SEC. 4134. ASSESSMENT OF IMPACT OF FREE TRADE
AGREEMENTS.

Not later than 150 days after the date of the enact-
ment of this Act, the Secretary of Commerce, the United
States Trade Representative, and the Director of the Of-
fice of Management and Budget shall assess the impacts
in a publicly available report of all United States free
trade agreements, the World Trade Organization Agreement on Government Procurement, and Federal permitting processes on the operation of Buy American laws, including their impacts on the implementation of domestic procurement preferences.

SEC. 4135. JUDICIOUS USE OF WAIVERS.

(a) In General.—To the extent permitted by law, a Buy American waiver that is determined by an agency head or other relevant official to be in the public interest shall be construed to ensure the maximum utilization of goods, products, and materials produced in the United States.

(b) Public Interest Waiver Determinations.—To the extent permitted by law, determination of public interest waivers shall be made by the head of the agency with the authority over the Federal financial assistance award or Federal procurement under consideration.

SEC. 4136. ESTABLISHMENT OF BUYAMERICAN.GOV WEBSITE.

(a) In General.—Not later than one year after the date of the enactment of this Act, the Administrator of General Services shall establish an Internet website with the address BuyAmerican.gov that will be publicly available and free to access. The website shall include information on all waivers of and exceptions to Buy American laws
since the date of the enactment of this Act that have been requested, are under consideration, or have been granted by executive agencies and be designed to enable manufacturers and other interested parties to easily identify waivers. The website shall also include the results of routine audits to determine data errors and Buy American law violations after the award of a contract. The website shall provide publicly available contact information for the relevant contracting agencies.

(b) Utilization of Existing Website.—The requirements of subsection (a) may be met by utilizing an existing website, provided that the address of that website is BuyAmerican.gov.

SEC. 4137. WAIVER TRANSPARENCY AND STREAMLINING FOR CONTRACTS.

(a) Collection of Information.—The Administrator of General Services, in consultation with the heads of relevant agencies, shall develop a mechanism to collect information on requests to invoke a Buy American waiver for a Federal contract, utilizing existing reporting requirements whenever possible, for purposes of providing early notice of possible waivers via the website established under section 4136.

(b) Waiver Transparency and Streamlining.—
(1) Requirement.—Prior to granting a request to waive a Buy American law, the head of an executive agency shall submit a request to invoke a Buy American waiver to the Administrator of General Services, and the Administrator of General Services shall make the request available on or through the public website established under section 4136 for public comment for not less than 15 days.

(2) Exception.—The requirement under paragraph (1) does not apply to a request for a Buy American waiver to satisfy an urgent contracting need in an unforeseen and exigent circumstance.

(e) Information Available to the Executive Agency Concerning the Request.—

(1) Requirement.—No Buy American waiver for purposes of awarding a contract may be granted if, in contravention of subsection (b)—

(A) information about the waiver was not made available on the website under section 4136; or

(B) no opportunity for public comment concerning the request was granted.

(2) Scope.—Information made available to the public concerning the request included on the website described in section 4136 shall properly and
adequately document and justify the statutory basis cited for the requested waiver. Such information shall include—

(A) a detailed justification for the use of goods, products, or materials mined, produced, or manufactured outside the United States;

(B) for requests citing unreasonable cost as the statutory basis of the waiver, a comparison of the cost of the domestic product to the cost of the foreign product or a comparison of the overall cost of the project with domestic products to the overall cost of the project with foreign-origin products or services, pursuant to the requirements of the applicable Buy American law, except that publicly available cost comparison data may be provided in lieu of proprietary pricing information;

(C) for requests citing the public interest as the statutory basis for the waiver, a detailed written statement, which shall include all appropriate factors, such as potential obligations under international agreements, justifying why the requested waiver is in the public interest; and
(D) a certification that the procurement official or assistance recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor.

(d) **NONAVAIlABILITY WAIvERS.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), for a request citing nonavailability as the statutory basis for a Buy American waiver, an executive agency shall provide an explanation of the procurement official’s efforts to procure a product from a domestic source and the reasons why a domestic product was not available from a domestic source. Those explanations shall be made available on BuyAmerican.gov prior to the issuance of the waiver, and the agency shall consider public comments regarding the availability of the product before making a final determination.

(2) **EXCEPTION.**—An explanation under paragraph (1) is not required for a product the nonavailability of which is established by law or regulation.

**SEC. 4138. COMPTROLLER GENERAL REPORT.**

Not later than two years after the date of the enactment of this Act, the Comptroller General of the United
States shall submit to Congress a report describing the implementation of this subtitle, including recommendations for any legislation to improve the collection and reporting of information regarding waivers of and exceptions to Buy American laws.

SEC. 4139. RULES OF CONSTRUCTION.

(a) Disclosure Requirements.—Nothing in this subtitle shall be construed as preempting, superseding, or otherwise affecting the application of any disclosure requirement or requirements otherwise provided by law or regulation.

(b) Establishment of Successor Information Systems.—Nothing in this subtitle shall be construed as preventing or otherwise limiting the ability of the Administrator of General Services to move the data required to be included on the website established under subsection (a) to a successor information system. Any such information system shall include a reference to BuyAmerican.gov.

SEC. 4140. CONSISTENCY WITH INTERNATIONAL AGREEMENTS.

This subtitle shall be applied in a manner consistent with United States obligations under international agreements.
SEC. 4141. PROSPECTIVE AMENDMENTS TO INTERNAL CROSS-REFERENCES.

(a) In General.—Section 4132(1) is amended—

(1) in subparagraph (I), by striking “section 2533a” and inserting “section 4862”; and

(2) in subparagraph (J), by striking “section 2533b” and inserting “section 4863”.

(b) Effective Date.—The amendments made by subsection (a) shall take effect on January 1, 2022.

Subtitle C—Make PPE in America

SEC. 4151. SHORT TITLE.

This subtitle may be cited as the “Make PPE in America Act”.

SEC. 4152. FINDINGS.

Congress makes the following findings:

(1) The COVID–19 pandemic has exposed the vulnerability of the United States supply chains for, and lack of domestic production of, personal protective equipment (PPE).

(2) The United States requires a robust, secure, and wholly domestic PPE supply chain to safeguard public health and national security.

(3) Issuing a strategy that provides the government’s anticipated needs over the next three years will enable suppliers to assess what changes, if any,
are needed in their manufacturing capacity to meet expected demands.

(4) In order to foster a domestic PPE supply chain, United States industry needs a strong and consistent demand signal from the Federal Government providing the necessary certainty to expand production capacity investment in the United States.

(5) In order to effectively incentivize investment in the United States and the re-shoring of manufacturing, long-term contracts must be no shorter than three years in duration.

(6) To accomplish this aim, the United States should seek to ensure compliance with its international obligations, such as its commitments under the World Trade Organization’s Agreement on Government Procurement and its free trade agreements, including by invoking any relevant exceptions to those agreements, especially those related to national security and public health.

(7) The United States needs a long-term investment strategy for the domestic production of PPE items critical to the United States national response to a public health crisis, including the COVID–19 pandemic.
SEC. 4153. REQUIREMENT OF LONG-TERM CONTRACTS FOR DOMESTICALLY MANUFACTURED PERSONAL PROTECTIVE EQUIPMENT.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Homeland Security and Governmental Affairs, the Committee on Health, Education, Labor, and Pensions, the Committee on Finance, and the Committee on Veterans’ Affairs of the Senate; and

(B) the Committee on Homeland Security, the Committee on Oversight and Reform, the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Veterans’ Affairs of the House of Representatives.

(2) COVERED SECRETARY.—The term “covered Secretary” means the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Secretary of Veterans Affairs.

(3) PERSONAL PROTECTIVE EQUIPMENT.—The term “personal protective equipment” means surgical masks, respirator masks and powered air purifying respirators and required filters, face shields
and protective eyewear, gloves, disposable and reus-
able surgical and isolation gowns, head and foot cov-
erings, and other gear or clothing used to protect an
individual from the transmission of disease.

(4) UNITED STATES.—The term “United
States” means the 50 States, the District of Colum-
bia, and the possessions of the United States.

(b) CONTRACT REQUIREMENTS FOR DOMESTIC PRO-
DUCTION.—Beginning 90 days after the date of the enact-
ment of this Act, in order to ensure the sustainment and
expansion of personal protective equipment manufacturing
in the United States and meet the needs of the current
pandemic response, any contract for the procurement of
personal protective equipment entered into by a covered
Secretary, or a covered Secretary’s designee, shall—

(1) be issued for a duration of at least 2 years,
plus all option periods necessary, to incentivize in-
vestment in the production of personal protective
equipment and the materials and components there-
of in the United States; and

(2) be for personal protective equipment, in-
cluding the materials and components thereof, that
is grown, reprocessed, reused, or produced in the
United States.
(c) ALTERNATIVES TO DOMESTIC PRODUCTION.—

The requirement under subsection (b) shall not apply to an item of personal protective equipment, or component or material thereof if, after maximizing to the extent feasible sources consistent with subsection (b), the covered Secretary—

(1) maximizes sources for personal protective equipment that is assembled outside the United States containing only materials and components that are grown, reprocessed, reused, or produced in the United States; and

(2) certifies every 120 days that it is necessary to procure personal protective equipment under alternative procedures to respond to the immediate needs of a public health emergency.

(d) AVAILABILITY EXCEPTION.—

(1) IN GENERAL.—Subsections (b) and (c) shall not apply to an item of personal protective equipment, or component or material thereof—

(A) that is, or that includes, a material listed in section 25.104 of the Federal Acquisition Regulation as one for which a non-availability determination has been made; or

(B) as to which the covered Secretary determines that a sufficient quantity of a satisfac-
tory quality that is grown, reprocessed, reused, or produced in the United States cannot be procured as, and when, needed at United States market prices.

(2) Certification requirement.—The covered Secretary shall certify every 120 days that the exception under paragraph (1) is necessary to meet the immediate needs of a public health emergency.

(e) Report.—

(1) 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 covered Secretaries, shall submit to the chairs and ranking members of the appropriate congressional committees a report on the procurement of personal protective equipment.

(2) Elements.—The report required under paragraph (1) shall include the following elements:

(A) The United States long-term domestic procurement strategy for PPE produced in the United States, including strategies to incentivize investment in and maintain United States supply chains for all PPE sufficient to meet the needs of the United States during a public health emergency.
(B) An estimate of long-term demand quantities for all PPE items procured by the United States.

(C) Recommendations for congressional action required to implement the United States Government’s procurement strategy.

(D) A determination whether all notifications, amendments, and other necessary actions have been completed to bring the United States existing international obligations into conformity with the statutory requirements of this subtitle.

(f) **Authorization of Transfer of Equipment.**——

(1) **In General.**——A covered Secretary may transfer to the Strategic National Stockpile established under section 319F–2 of the Public Health Service Act (42 U.S.C. 247d–6b) any excess personal protective equipment acquired under a contract executed pursuant to subsection (b).

(2) **Transfer of Equipment During a Public Health Emergency.**——

(A) **Amendment.**——Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et
seq.) is amended by adding at the end the follow-

“SEC. 529. TRANSFER OF EQUIPMENT DURING A PUBLIC
HEALTH EMERGENCY.

“(a) AUTHORIZATION OF TRANSFER OF EQUIP-
MENT.—During a public health emergency declared by the
Secretary of Health and Human Services under section
319(a) of the Public Health Service Act (42 U.S.C.
247d(a)), the Secretary, at the request of the Secretary
of Health and Human Services, may transfer to the De-
partment of Health and Human Services, on a reimburs-
able basis, excess personal protective equipment or medi-
cally necessary equipment in the possession of the Depart-
ment.

“(b) DETERMINATION BY SECRETARIES.—

“(1) IN GENERAL.—In carrying out this sec-
tion—

“(A) before requesting a transfer under
subsection (a), the Secretary of Health and
Human Services shall determine whether the
personal protective equipment or medically nec-
essary equipment is otherwise available; and

“(B) before initiating a transfer under
subsection (a), the Secretary, in consultation
with the heads of each component within the Department, shall—

“(i) determine whether the personal protective equipment or medically necessary equipment requested to be transferred under subsection (a) is excess equipment; and

“(ii) certify that the transfer of the personal protective equipment or medically necessary equipment will not adversely impact the health or safety of officers, employees, or contractors of the Department.

“(2) NOTIFICATION.—The Secretary of Health and Human Services and the Secretary shall each submit to Congress a notification explaining the determination made under subparagraphs (A) and (B), respectively, of paragraph (1).

“(3) REQUIRED INVENTORY.—

“(A) IN GENERAL.—The Secretary shall—

“(i) acting through the Chief Medical Officer of the Department, maintain an inventory of all personal protective equipment and medically necessary equipment in the possession of the Department; and
“(ii) make the inventory required under clause (i) available, on a continual basis, to—

“(I) the Secretary of Health and Human Services; and

“(II) the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Appropriations and the Committee on Homeland Security of the House of Representatives.

“(B) FORM.—Each inventory required to be made available under subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.”.

(B) TABLE OF CONTENTS AMENDMENT.—
The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135) is amended by inserting after the item relating to section 528 the following:

“Sec. 529. Transfer of equipment during a public health emergency.”.

(3) STRATEGIC NATIONAL STOCKPILE.—Section 319F–2(a) of the Public Health Service Act (42
U.S.C. 247d–6b(a)) is amended by adding at the end the following:

“(6) TRANSFERS OF ITEMS.—The Secretary, in coordination with the Secretary of Homeland Security, may sell drugs, vaccines and other biological products, medical devices, or other supplies maintained in the stockpile under paragraph (1) to a Federal agency or private, nonprofit, State, local, tribal, or territorial entity for immediate use and distribution, provided that any such items being sold are—

“(A) within 1 year of their expiration date;

or

“(B) determined by the Secretary to no longer be needed in the stockpile due to advances in medical or technical capabilities.”.

(g) COMPLIANCE WITH INTERNATIONAL AGREEMENTS.—The President or the President’s designee shall take all necessary steps, including invoking the rights of the United States under Article III of the World Trade Organization’s Agreement on Government Procurement and the relevant exceptions of other relevant agreements to which the United States is a party, to ensure that the international obligations of the United States are consistent with the provisions of this subtitle.
TITLE II—CYBER AND ARTIFICIAL INTELLIGENCE
Subtitle A—Advancing American AI

SEC. 4201. SHORT TITLE.
This subtitle may be cited as the “Advancing American AI Act”.

SEC. 4202. PURPOSE.
The purposes of this subtitle are to—

(1) encourage agency artificial intelligence-related programs and initiatives that enhance the competitiveness of the United States and foster an approach to artificial intelligence that builds on the strengths of the United States in innovation and entrepreneurialism;

(2) enhance the ability of the Federal Government to translate research advances into artificial intelligence applications to modernize systems and assist agency leaders in fulfilling their missions;

(3) promote adoption of modernized business practices and advanced technologies across the Federal Government that align with the values of the United States, including the protection of privacy, civil rights, and civil liberties; and
(4) test and harness applied artificial intelligence to enhance mission effectiveness and business
practice efficiency.

SEC. 4203. DEFINITIONS.

In this subtitle:

(1) AGENCY.—The term “agency” has the meaning given the term in section 3502 of title 44,
United States Code.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional com-
mittees” means—

(A) the Committee on Homeland Security
and Governmental Affairs of the Senate; and

(B) the Committee on Oversight and Reform of the House of Representatives.

(3) ARTIFICIAL INTELLIGENCE.—The term “art-
ficial intelligence” has the meaning given the term in section 238(g) of the John S. McCain National

(4) ARTIFICIAL INTELLIGENCE SYSTEM.—The term “artificial intelligence system”—

(A) means any data system, software, application, tool, or utility that operates in whole
or in part using dynamic or static machine
learning algorithms or other forms of artificial intelligence, whether—

(i) the data system, software, application, tool, or utility is established primarily for the purpose of researching, developing, or implementing artificial intelligence technology; or

(ii) artificial intelligence capability is integrated into another system or agency business process, operational activity, or technology system; and

(B) does not include any common commercial product within which artificial intelligence is embedded, such as a word processor or map navigation system.

(5) Department.—The term “Department” means the Department of Homeland Security.

(6) Director.—The term “Director” means the Director of the Office of Management and Budget.

SEC. 4204. PRINCIPLES AND POLICIES FOR USE OF ARTIFICIAL INTELLIGENCE IN GOVERNMENT.

(a) Guidance.—The Director shall, when developing the guidance required under section 104(a) of the AI in
(b) DEPARTMENT POLICIES AND PROCESSES FOR PROCUREMENT AND USE OF ARTIFICIAL INTELLIGENCE—
ENABLED SYSTEMS.—Not later than 180 days after the
date of enactment of this Act—

(1) the Secretary of Homeland Security, with
the participation of the Chief Procurement Officer,
the Chief Information Officer, the Chief Privacy Of-

cier, and the Officer for Civil Rights and Civil Lib-

cies of the Department and any other person de-
termined to be relevant by the Secretary of Home-

land Security, shall issue policies and procedures for
the Department related to—

(A) the acquisition and use of artificial in-
telligence; and

(B) considerations for the risks and im-
pacts related to artificial intelligence-enabled
systems, including associated data of machine
learning systems, to ensure that full consider-
ation is given to—

(i) the privacy, civil rights, and civil

liberties impacts of artificial intelligence-

enabled systems; and

(ii) security against misuse, degrada-
tion, or rending inoperable of artificial in-
telligence-enabled systems; and

(2) the Chief Privacy Officer and the Officer
for Civil Rights and Civil Liberties of the Depart-
ment shall report to Congress on any additional staffing or funding resources that may be required to carry out the requirements of this subsection.

(c) INSPECTOR GENERAL.—Not later than 180 days after the date of enactment of this Act, the Inspector General of the Department shall identify any training and investments needed to enable employees of the Office of the Inspector General to continually advance their understanding of—

(1) artificial intelligence systems;

(2) best practices for governance, oversight, and audits of the use of artificial intelligence systems; and

(3) how the Office of the Inspector General is using artificial intelligence to enhance audit and investigative capabilities, including actions to—

(A) ensure the integrity of audit and investigative results; and

(B) guard against bias in the selection and conduct of audits and investigations.

(d) ARTIFICIAL INTELLIGENCE HYGIENE AND PROTECTION OF GOVERNMENT INFORMATION, PRIVACY, CIVIL RIGHTS, AND CIVIL LIBERTIES.—

(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Director,
in consultation with a working group consisting of members selected by the Director from appropriate interagency councils, shall develop an initial means by which to—

(A) ensure that contracts for the acquisition of an artificial intelligence system or service—

(i) align with the guidance issued to the head of each agency under section 104(a) of the AI in Government Act of 2020 (title I of division U of Public Law 116–260);

(ii) address protection of privacy, civil rights, and civil liberties;

(iii) address the ownership and security of data and other information created, used, processed, stored, maintained, disseminated, disclosed, or disposed of by a contractor or subcontractor on behalf of the Federal Government; and

(iv) include considerations for securing the training data, algorithms, and other components of any artificial intelligence system against misuse, unauthor-
ized alteration, degradation, or rendering inoperable; and

(B) address any other issue or concern determined to be relevant by the Director to ensure appropriate use and protection of privacy and Government data and other information.

(2) CONSULTATION.—In developing the considerations under paragraph (1)(A)(iv), the Director shall consult with the Secretary of Homeland Security, the Director of the National Institute of Standards and Technology, and the Director of National Intelligence.

(3) REVIEW.—The Director—

(A) should continuously update the means developed under paragraph (1); and

(B) not later than 2 years after the date of enactment of this Act and not less frequently than every 2 years thereafter, shall update the means developed under paragraph (1).

(4) BRIEFING.—The Director shall brief the appropriate congressional committees—

(A) not later than 90 days after the date of enactment of this Act and thereafter on a quarterly basis until the Director first imple-
ments the means developed under paragraph 
(1); and 
(B) annually thereafter on the implementa-
tion of this subsection.

(5) SUNSET.—This subsection shall cease to be 
effective on the date that is 5 years after the date 
of enactment of this Act.

SEC. 4205. AGENCY INVENTORIES AND ARTIFICIAL INTEL-
LIGENCE USE CASES.

(a) INVENTORY.—Not later than 60 days after the 
date of enactment of this Act, and continuously thereafter 
for a period of 5 years, the Director, in consultation with 
the Chief Information Officers Council, the Chief Data Of-
ficers Council, and other interagency bodies as determined 
to be appropriate by the Director, shall require the head 
of each agency to—

(1) prepare and maintain an inventory of the 
artificial intelligence use cases of the agency, includ-
ing current and planned uses;

(2) share agency inventories with other agen-
cies, to the extent practicable and consistent with 
applicable law and policy, including those concerning 
protection of privacy and of sensitive law enforce-
ment, national security, and other protected infor-
mation; and
(3) make agency inventories available to the public, in a manner determined by the Director, and to the extent practicable and in accordance with applicable law and policy, including those concerning the protection of privacy and of sensitive law enforcement, national security, and other protected information.

(b) CENTRAL INVENTORY.—The Director is encouraged to designate a host entity and ensure the creation and maintenance of an online public directory to—

(1) make agency artificial intelligence use case information available to the public and those wishing to do business with the Federal Government; and

(2) identify common use cases across agencies.

(c) SHARING.—The sharing of agency inventories described in subsection (a)(2) may be coordinated through the Chief Information Officers Council, the Chief Data Officers Council, the Chief Financial Officers Council, the Chief Acquisition Officers Council, or other interagency bodies to improve interagency coordination and information sharing for common use cases.
SEC. 4206. RAPID PILOT, DEPLOYMENT AND SCALE OF APPLIED ARTIFICIAL INTELLIGENCE CAPABILITIES TO DEMONSTRATE MODERNIZATION ACTIVITIES RELATED TO USE CASES.

(a) IDENTIFICATION OF USE CASES.—Not later than 270 days after the date of enactment of this Act, the Director, in consultation with the Chief Information Officers Council, the Chief Data Officers Council, and other inter-agency bodies as determined to be appropriate by the Director, shall identify 4 new use cases for the application of artificial intelligence-enabled systems to support inter-agency or intra-agency modernization initiatives that require linking multiple siloed internal and external data sources, consistent with applicable laws and policies, including those relating to the protection of privacy and of sensitive law enforcement, national security, and other protected information.

(b) PILOT PROGRAM.—

(1) PURPOSES.—The purposes of the pilot program under this subsection include—

(A) to enable agencies to operate across organizational boundaries, coordinating between existing established programs and silos to improve delivery of the agency mission; and

(B) to demonstrate the circumstances under which artificial intelligence can be used
to modernize or assist in modernizing legacy agency systems.

(2) DEPLOYMENT AND PILOT.—Not later than 1 year after the date of enactment of this Act, the Director, in coordination with the heads of relevant agencies and other officials as the Director determines to be appropriate, shall ensure the initiation of the piloting of the 4 new artificial intelligence use case applications identified under subsection (a), leveraging commercially available technologies and systems to demonstrate scalable artificial intelligence-enabled capabilities to support the use cases identified under subsection (a).

(3) RISK EVALUATION AND MITIGATION PLAN.—In carrying out paragraph (2), the Director shall require the heads of agencies to—

(A) evaluate risks in utilizing artificial intelligence systems; and

(B) develop a risk mitigation plan to address those risks, including consideration of—

(i) the artificial intelligence system not performing as expected;

(ii) the lack of sufficient or quality training data; and
(iii) the vulnerability of a utilized artificial intelligence system to unauthorized manipulation or misuse.

(4) PRIORITIZATION.—In carrying out paragraph (2), the Director shall prioritize modernization projects that—

(A) would benefit from commercially available privacy-preserving techniques, such as use of differential privacy, federated learning, and secure multiparty computing; and

(B) otherwise take into account considerations of civil rights and civil liberties.

(5) USE CASE MODERNIZATION APPLICATION AREAS.—Use case modernization application areas described in paragraph (2) shall include not less than 1 from each of the following categories:

(A) Applied artificial intelligence to drive agency productivity efficiencies in predictive supply chain and logistics, such as—

(i) predictive food demand and optimized supply;

(ii) predictive medical supplies and equipment demand and optimized supply;

or
(iii) predictive logistics to accelerate disaster preparedness, response, and recovery.

(B) Applied artificial intelligence to accelerate agency investment return and address mission-oriented challenges, such as—

(i) applied artificial intelligence portfolio management for agencies;

(ii) workforce development and upskilling;

(iii) redundant and laborious analyses;

(iv) determining compliance with Government requirements, such as with grants management; or

(v) outcomes measurement to measure economic and social benefits.

(6) REQUIREMENTS.—Not later than 3 years after the date of enactment of this Act, the Director, in coordination with the heads of relevant agencies and other officials as the Director determines to be appropriate, shall establish an artificial intelligence capability within each of the 4 use case pilots under this subsection that—

(A) solves data access and usability issues with automated technology and eliminates or
minimizes the need for manual data cleansing
and harmonization efforts;

(B) continuously and automatically ingests
data and updates domain models in near real-
time to help identify new patterns and predict
trends, to the extent possible, to help agency
personnel to make better decisions and take
faster actions;

(C) organizes data for meaningful data vis-
ualization and analysis so the Government has
predictive transparency for situational aware-
ness to improve use case outcomes;

(D) is rapidly configurable to support mul-
tiple applications and automatically adapts to
dynamic conditions and evolving use case re-
quirements, to the extent possible;

(E) enables knowledge transfer and col-
laboration across agencies; and

(F) preserves intellectual property rights to
the data and output for benefit of the Federal
Government and agencies.

(c) BRIEFING.—Not earlier than 270 days but not
later than 1 year after the date of enactment of this Act,
and annually thereafter for 4 years, the Director shall
brief the appropriate congressional committees on the ac-
activities carried out under this section and results of those activities.

(d) SUNSET.—The section shall cease to be effective on the date that is 5 years after the date of enactment of this Act.

SEC. 4207. ENABLING ENTREPRENEURS AND AGENCY MISSIONS.

(a) INNOVATIVE COMMERCIAL ITEMS.—Section 880 of the National Defense Authorization Act for Fiscal Year 2017 (41 U.S.C. 3301 note) is amended—

(1) in subsection (c), by striking "$10,000,000" and inserting "$25,000,000";

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

“(f) DEFINITIONS.—In this section—

“(1) the term ‘commercial product’—

“(A) has the meaning given the term ‘commercial item’ in section 2.101 of the Federal Acquisition Regulation; and

“(B) includes a commercial product or a commercial service, as defined in sections 103 and 103a, respectively, of title 41, United States Code; and

“(2) the term ‘innovative’ means—
“(A) any new technology, process, or method, including research and development; or

“(B) any new application of an existing technology, process, or method.”; and

(3) in subsection (g), by striking “2022” and insert “2027”.

(b) DHS OTHER TRANSACTION AUTHORITY.—Section 831 of the Homeland Security Act of 2002 (6 U.S.C. 391) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “September 30, 2017” and inserting “September 30, 2024”; and

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

“(2) PROTOTYPE PROJECTS.—The Secretary—

“(A) may, under the authority of paragraph (1), carry out prototype projects under section 2371b of title 10, United States Code; and

“(B) in applying the authorities of such section 2371b, the Secretary shall perform the functions of the Secretary of Defense as prescribed in such section.”;
(2) in subsection (c)(1), by striking “September 30, 2017” and inserting “September 30, 2024”; and

(3) in subsection (d), by striking “section 845(e)” and all that follows and inserting “section 2371b(e) of title 10, United States Code.”.

(c) COMMERCIAL OFF THE SHELF SUPPLY CHAIN RISK MANAGEMENT TOOLS.—The General Services Administration is encouraged to pilot commercial off the shelf supply chain risk management tools to improve the ability of the Federal Government to characterize, monitor, predict, and respond to specific supply chain threats and vulnerabilities that could inhibit future Federal acquisition operations.

Subtitle B—Cyber Response and Recovery

SEC. 4251. DECLARATION OF A SIGNIFICANT INCIDENT.

(a) IN GENERAL.—Title XXII of the Homeland Security Act of 2002 (6 U.S.C. 651 et seq.) is amended by adding at the end the following:

“Subtitle C—Declaration of a Significant Incident

SEC. 2231. SENSE OF CONGRESS.

“It is the sense of Congress that—

“(1) the purpose of this subtitle is to authorize the Secretary to declare that a significant incident
has occurred and to establish the authorities that
are provided under the declaration to respond to and
recover from the significant incident; and

“(2) the authorities established under this sub-
title are intended to enable the Secretary to provide
voluntary assistance to non-Federal entities im-
pacted by a significant incident.

“SEC. 2232. DEFINITIONS.

“For the purposes of this subtitle:

“(1) Asset response activity.—The term
‘asset response activity’ means an activity to support
an entity impacted by an incident with the response
to, remediation of, or recovery from, the incident, in-
cluding—

“(A) furnishing technical and advisory as-
sistance to the entity to protect the assets of
the entity, mitigate vulnerabilities, and reduce
the related impacts;

“(B) assessing potential risks to the crit-
ical infrastructure sector or geographic region
impacted by the incident, including potential
cascading effects of the incident on other crit-
ical infrastructure sectors or geographic re-
gions;
“(C) developing courses of action to mitigate the risks assessed under subparagraph (B);”

“(D) facilitating information sharing and operational coordination with entities performing threat response activities; and

“(E) providing guidance on how best to use Federal resources and capabilities in a timely, effective manner to speed recovery from the incident.

“(2) DECLARATION.—The term ‘declaration’ means a declaration of the Secretary under section 2233(a)(1).

“(3) DIRECTOR.—The term ‘Director’ means the Director of the Cybersecurity and Infrastructure Security Agency.

“(4) FEDERAL AGENCY.—The term ‘Federal agency’ has the meaning given the term ‘agency’ in section 3502 of title 44, United States Code.

“(5) FUND.—The term ‘Fund’ means the Cyber Response and Recovery Fund established under section 2234(a).

“(6) INCIDENT.—The term ‘incident’ has the meaning given the term in section 3552 of title 44, United States Code.
“(7) RENEWAL.—The term ‘renewal’ means a renewal of a declaration under section 2233(d).

“(8) SIGNIFICANT INCIDENT.—The term ‘significant incident’—

“(A) means an incident or a group of related incidents that results, or is likely to result, in demonstrable harm to—

“(i) the national security interests, foreign relations, or economy of the United States; or

“(ii) the public confidence, civil liberties, or public health and safety of the people of the United States; and

“(B) does not include an incident or a portion of a group of related incidents that occurs on—

“(i) a national security system (as defined in section 3552 of title 44, United States Code); or

“(ii) an information system described in paragraph (2) or (3) of section 3553(e) of title 44, United States Code.

“SEC. 2233. DECLARATION.

“(a) IN GENERAL.—
“(1) DECLARATION.—The Secretary, in consultation with the National Cyber Director, may make a declaration of a significant incident in accordance with this section for the purpose of enabling the activities described in this subtitle if the Secretary determines that—

“(A) a specific significant incident—

“(i) has occurred; or

“(ii) is likely to occur imminently; and

“(B) otherwise available resources, other than the Fund, are likely insufficient to respond effectively to, or to mitigate effectively, the specific significant incident described in subparagraph (A).

“(2) PROHIBITION ON DELEGATION.—The Secretary may not delegate the authority provided to the Secretary under paragraph (1).

“(b) ASSET RESPONSE ACTIVITIES.—Upon a declaration, the Director shall coordinate—

“(1) the asset response activities of each Federal agency in response to the specific significant incident associated with the declaration; and

“(2) with appropriate entities, which may include—
“(A) public and private entities and State and local governments with respect to the asset response activities of those entities and governments; and

“(B) Federal, State, local, and Tribal law enforcement agencies with respect to investigations and threat response activities of those law enforcement agencies; and

“(3) Federal, State, local, and Tribal emergency management and response agencies.

“(c) DURATION.—Subject to subsection (d), a declaration shall terminate upon the earlier of—

“(1) a determination by the Secretary that the declaration is no longer necessary; or

“(2) the expiration of the 120-day period beginning on the date on which the Secretary makes the declaration.

“(d) RENEWAL.—The Secretary, without delegation, may renew a declaration as necessary.

“(e) PUBLICATION.—

“(1) IN GENERAL.—Not later than 72 hours after a declaration or a renewal, the Secretary shall publish the declaration or renewal in the Federal Register.
“(2) **Prohibition.**—A declaration or renewal published under paragraph (1) may not include the name of any affected individual or private company.

“(f) **Advance Actions.**—

“(1) **In general.**—The Secretary—

“(A) shall assess the resources available to respond to a potential declaration; and

“(B) may take actions before and while a declaration is in effect to arrange or procure additional resources for asset response activities or technical assistance the Secretary determines necessary, which may include entering into standby contracts with private entities for cybersecurity services or incident responders in the event of a declaration.

“(2) **Expenditure of Funds.**—Any expenditure from the Fund for the purpose of paragraph (1)(B) shall be made from amounts available in the Fund, and amounts available in the Fund shall be in addition to any other appropriations available to the Cybersecurity and Infrastructure Security Agency for such purpose.

**SEC. 2234. CYBER RESPONSE AND RECOVERY FUND.**

“(a) **In general.**—There is established a Cyber Response and Recovery Fund, which shall be available for—
“(1) the coordination of activities described in section 2233(b);

“(2) response and recovery support for the specific significant incident associated with a declaration to Federal, State, local, and Tribal, entities and public and private entities on a reimbursable or non-reimbursable basis, including through asset response activities and technical assistance, such as—

“(A) vulnerability assessments and mitigation;

“(B) technical incident mitigation;

“(C) malware analysis;

“(D) analytic support;

“(E) threat detection and hunting; and

“(F) network protections;

“(3) as the Director determines appropriate, grants for, or cooperative agreements with, Federal, State, local, and Tribal public and private entities to respond to, and recover from, the specific significant incident associated with a declaration, such as—

“(A) hardware or software to replace, update, improve, harden, or enhance the functionality of existing hardware, software, or systems; and
“(B) technical contract personnel support;
and
“(4) advance actions taken by the Secretary
under section 2233(f)(1)(B).
“(b) Deposits and Expenditures.—
“(1) In general.—Amounts shall be deposited
into the Fund from—
“(A) appropriations to the Fund for activi-
ties of the Fund; and
“(B) reimbursement from Federal agencies
for the activities described in paragraphs (1),
(2), and (4) of subsection (a), which shall only
be from amounts made available in advance in
appropriations Acts for such reimbursement.
“(2) Expenditures.—Any expenditure from
the Fund for the purposes of this subtitle shall be
made from amounts available in the Fund from a
deposit described in paragraph (1), and amounts
available in the Fund shall be in addition to any
other appropriations available to the Cybersecurity
and Infrastructure Security Agency for such pur-
poses.
“(c) Supplement Not Supplant.—Amounts in the
Fund shall be used to supplement, not supplant, other
Federal, State, local, or Tribal funding for activities in response to a declaration.

“(d) REPORTING.—The Secretary shall require an entity that receives amounts from the Fund to submit a report to the Secretary that details the specific use of the amounts.

“SEC. 2235. NOTIFICATION AND REPORTING.

“(a) NOTIFICATION.—Upon a declaration or renewal, the Secretary shall immediately notify the National Cyber Director and appropriate congressional committees and include in the notification—

“(1) an estimation of the planned duration of the declaration;

“(2) with respect to a notification of a declaration, the reason for the declaration, including information relating to the specific significant incident or imminent specific significant incident, including—

“(A) the operational or mission impact or anticipated impact of the specific significant incident on Federal and non-Federal entities;

“(B) if known, the perpetrator of the specific significant incident; and

“(C) the scope of the Federal and non-Federal entities impacted or anticipated to be impacted by the specific significant incident;
“(3) with respect to a notification of a renewal, the reason for the renewal;

“(4) justification as to why available resources, other than the Fund, are insufficient to respond to or mitigate the specific significant incident; and

“(5) a description of the coordination activities described in section 2233(b) that the Secretary anticipates the Director to perform.

“(b) REPORT TO CONGRESS.—Not later than 180 days after the date of a declaration or renewal, the Secretary shall submit to the appropriate congressional committees a report that includes—

“(1) the reason for the declaration or renewal, including information and intelligence relating to the specific significant incident that led to the declaration or renewal;

“(2) the use of any funds from the Fund for the purpose of responding to the incident or threat described in paragraph (1);

“(3) a description of the actions, initiatives, and projects undertaken by the Department and State and local governments and public and private entities in responding to and recovering from the specific significant incident described in paragraph (1);
“(4) an accounting of the specific obligations and outlays of the Fund; and

“(5) an analysis of—

“(A) the impact of the specific significant incident described in paragraph (1) on Federal and non-Federal entities;

“(B) the impact of the declaration or renewal on the response to, and recovery from, the specific significant incident described in paragraph (1); and

“(C) the impact of the funds made available from the Fund as a result of the declaration or renewal on the recovery from, and response to, the specific significant incident described in paragraph (1).

“(c) Classification.—Each notification made under subsection (a) and each report submitted under subsection (b)—

“(1) shall be in an unclassified form with appropriate markings to indicate information that is exempt from disclosure under section 552 of title 5, United States Code (commonly known as the ‘Freedom of Information Act’); and

“(2) may include a classified annex.
“(d) CONSOLIDATED REPORT.—The Secretary shall not be required to submit multiple reports under subsection (b) for multiple declarations or renewals if the Secretary determines that the declarations or renewals substantively relate to the same specific significant incident.

“(e) EXEMPTION.—The requirements of subchapter I of chapter 35 of title 44 (commonly known as the ‘Paperwork Reduction Act’) shall not apply to the voluntary collection of information by the Department during an investigation of, a response to, or an immediate post-response review of, the specific significant incident leading to a declaration or renewal.

“SEC. 2236. RULE OF CONSTRUCTION.

“Nothing in this subtitle shall be construed to impair or limit the ability of the Director to carry out the authorized activities of the Cybersecurity and Infrastructure Security Agency.

“SEC. 2237. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Fund $20,000,000 for fiscal year 2022, which shall remain available until September 30, 2028.

“SEC. 2238. SUNSET.

“The authorities granted to the Secretary or the Director under this subtitle shall expire on the date that is 7 years after the date of enactment of this subtitle.”
(b) **CLERICAL AMENDMENT.**—The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135) is amended by adding at the end the following:

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“Subtitle C—Declaration of a Significant Incident

Sec. 2231. Sense of Congress.
Sec. 2232. Definitions.
Sec. 2233. Declaration.
Sec. 2234. Cyber response and recovery fund.
Sec. 2235. Notification and reporting.
Sec. 2236. Rule of construction.
Sec. 2237. Authorization of appropriations.
Sec. 2238. Sunset.”.
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**TITLE III—PERSONNEL**

Subtitle A—Facilitating Federal Employee Reskilling

**SEC. 4301. RESKILLING FEDERAL EMPLOYEES.**

(a) **DEFINITIONS.**—In this section:

(1) **AGENCY.**—The term “agency” has the meaning given the term “Executive agency” in section 105 of title 5, United States Code.

(2) **APPROPRIATE COMMITTEES OF CONGRESS.**—The term “appropriate committees of Congress” means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Oversight and Reform of the House of Representatives.
(3) **COMPETITIVE SERVICE.**—The term “competitive service” has the meaning given the term in section 2102 of title 5, United States Code.

(4) **DIRECTOR.**—The term “Director” means the Director of the Office of Personnel Management.

(5) **EMPLOYEE.**—The term “employee” means an employee serving in a position in the competitive service or the excepted service.

(6) **EXCEPTED SERVICE.**—The term “excepted service” has the meaning given the term in section 2103 of title 5, United States Code.

(7) **FEDERAL RESKILLING PROGRAM.**—The term “Federal reskilling program” means a program established by the head of an agency or the Director to provide employees with the technical skill or expertise that would qualify the employees to serve in a different position in the competitive service or the excepted service that requires such technical skill or expertise.

(b) **REQUIREMENTS.**—With respect to a Federal reskilling program established by the head of an agency or by the Director before, on, or after the date of enactment of this Act, the agency head or the Director, as applicable, shall ensure that the Federal reskilling program—
(1) is implemented in a manner that is in accordance with the bar on prohibited personnel practices under section 2302 of title 5, United States Code, and consistent with the merit system principles under section 2301 of title 5, United States Code, including by using merit-based selection procedures for participation by employees in the Federal reskilling program;

(2) includes appropriate limitations or restrictions associated with implementing the Federal reskilling program, which shall be consistent with any regulations prescribed by the Director under subsection (e);

(3) provides that any new position to which an employee who participates in the Federal reskilling program is transferred will utilize the technical skill or expertise that the employee acquired by participating in the Federal reskilling program;

(4) includes the option for an employee participating in the Federal reskilling program to return to the original position of the employee, or a similar position, particularly if the employee is unsuccessful in the position to which the employee transfers after completing the Federal reskilling program;
(5) provides that an employee who successfully completes the Federal reskilling program and transfers to a position that requires the technical skill or expertise provided through the Federal reskilling program shall be entitled to have the grade of the position held immediately before the transfer in a manner in accordance with section 5362 of title 5, United States Code;

(6) provides that an employee serving in a position in the excepted service may not transfer to a position in the competitive service solely by reason of the completion of the Federal reskilling program by the employee; and

(7) includes a mechanism to track outcomes of the Federal reskilling program in accordance with the metrics established under subsection (c).

(c) REPORTING AND METRICS.—Not later than 1 year after the date of enactment of this Act, the Director shall establish reporting requirements for, and standardized metrics and procedures for agencies to track outcomes of, Federal reskilling programs, which shall include, with respect to each Federal reskilling program—

(1) providing a summary of the Federal reskilling program;
(2) collecting and reporting demographic and employment data with respect to employees who have applied for, participated in, or completed the Federal reskilling program;

(3) attrition of employees who have completed the Federal reskilling program; and

(4) any other measures or outcomes that the Director determines to be relevant.

(d) GAO REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a comprehensive study of, and submit to Congress a report on, Federal reskilling programs that includes—

(1) a summary of each Federal reskilling program and methods by which each Federal reskilling program recruits, selects, and retrains employees;

(2) an analysis of the accessibility of each Federal reskilling program for a diverse set of candidates;

(3) an evaluation of the effectiveness, costs, and benefits of the Federal reskilling programs; and

(4) recommendations to improve Federal reskilling programs to accomplish the goal of reskilling the Federal workforce.

(e) REGULATIONS.—The Director—
not later than 1 year after the date of enactment of this Act, shall prescribe regulations for the reporting requirements and metrics and procedures under subsection (c);

(2) may prescribe additional regulations, as the Director determines necessary, to provide for requirements with respect to, and the implementation of, Federal reskilling programs; and

(3) with respect to any regulation prescribed under this subsection, shall brief the appropriate committees of Congress with respect to the regulation not later than 30 days before the date on which the final version of the regulation is published.

(f) RULE OF CONSTRUCTION.—Nothing in this section may be construed to require the head of an agency or the Director to establish a Federal reskilling program.

(g) USE OF FUNDS.—Any Federal reskilling program established by the head of an agency or the Director shall be carried out using amounts otherwise made available to that agency head or the Director, as applicable.

**Subtitle B—Federal Rotational Cyber Workforce Program**

**SEC. 4351. SHORT TITLE.**

This subtitle may be cited as the “Federal Rotational Cyber Workforce Program Act of 2021”.
SEC. 4352. DEFINITIONS.

In this subtitle:

1. (1) AGENCY.—The term “agency” has the meaning given the term “Executive agency” in section 105 of title 5, United States Code, except that the term does not include the Government Accountability Office.

2. (2) COMPETITIVE SERVICE.—The term “competitive service” has the meaning given that term in section 2102 of title 5, United States Code.

3. (3) COUNCILS.—The term “Councils” means—

   (A) the Chief Human Capital Officers Council established under section 1303 of the Chief Human Capital Officers Act of 2002 (5 U.S.C. 1401 note); and

   (B) the Chief Information Officers Council established under section 3603 of title 44, United States Code.

4. (4) CYBER WORKFORCE POSITION.—The term “cyber workforce position” means a position identified as having information technology, cybersecurity, or other cyber-related functions under section 303 of the Federal Cybersecurity Workforce Assessment Act of 2015 (5 U.S.C. 301 note).

5. (5) DIRECTOR.—The term “Director” means the Director of the Office of Personnel Management.
(6) **EMPLOYEE.**—The term “employee” has the meaning given the term in section 2105 of title 5, United States Code.

(7) **EMPLOYING AGENCY.**—The term “employing agency” means the agency from which an employee is detailed to a rotational cyber workforce position.

(8) **EXCEPTED SERVICE.**—The term “excepted service” has the meaning given that term in section 2103 of title 5, United States Code.

(9) **ROTATIONAL CYBER WORKFORCE POSITION.**—The term “rotational cyber workforce position” means a cyber workforce position with respect to which a determination has been made under section 4353(a)(1).

(10) **ROTATIONAL CYBER WORKFORCE PROGRAM.**—The term “rotational cyber workforce program” means the program for the detail of employees among rotational cyber workforce positions at agencies.

(11) **SECRETARY.**—The term “Secretary” means the Secretary of Homeland Security.

**SEC. 4353. ROTATIONAL CYBER WORKFORCE POSITIONS.**

(a) **DETERMINATION WITH RESPECT TO ROTATIONAL SERVICE.**—
(1) IN GENERAL.—The head of each agency may determine that a cyber workforce position in that agency is eligible for the rotational cyber workforce program, which shall not be construed to modify the requirement under section 4354(b)(3) that participation in the rotational cyber workforce program by an employee shall be voluntary.

(2) NOTICE PROVIDED.—The head of an agency shall submit to the Director—

(A) notice regarding any determination made by the head of the agency under paragraph (1); and

(B) for each position with respect to which the head of the agency makes a determination under paragraph (1), the information required under subsection (b)(1).

(b) PREPARATION OF LIST.—The Director, with assistance from the Councils and the Secretary, shall develop a list of rotational cyber workforce positions that—

(1) with respect to each such position, to the extent that the information does not disclose sensitive national security information, includes—

(A) the title of the position;

(B) the occupational series with respect to the position;
(C) the grade level or work level with respect to the position;

(D) the agency in which the position is located;

(E) the duty location with respect to the position; and

(F) the major duties and functions of the position; and

(2) shall be used to support the rotational cyber workforce program.

(c) DISTRIBUTION OF LIST.—Not less frequently than annually, the Director shall distribute an updated list developed under subsection (b) to the head of each agency and other appropriate entities.

SEC. 4354. ROTATIONAL CYBER WORKFORCE PROGRAM.

(a) Operation Plan.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, and in consultation with the Councils, the Secretary, representatives of other agencies, and any other entity as the Director determines appropriate, the Director shall develop and issue a Federal Rotational Cyber Workforce Program operation plan providing policies, processes, and procedures for a program for the detailing of employees among rotational cyber work-
force positions at agencies, which may be incorporated into and implemented through mechanisms in existence on the date of enactment of this Act.

(2) UPDATING.—The Director may, in consultation with the Councils, the Secretary, and other entities as the Director determines appropriate, periodically update the operation plan developed and issued under paragraph (1).

(b) REQUIREMENTS.—The operation plan developed and issued under subsection (a) shall, at a minimum—

(1) identify agencies for participation in the rotational cyber workforce program;

(2) establish procedures for the rotational cyber workforce program, including—

(A) any training, education, or career development requirements associated with participation in the rotational cyber workforce program;

(B) any prerequisites or requirements for participation in the rotational cyber workforce program; and

(C) appropriate rotational cyber workforce program performance measures, reporting requirements, employee exit surveys, and other
accountability devices for the evaluation of the program;

(3) provide that participation in the rotational cyber workforce program by an employee shall be voluntary;

(4) provide that an employee shall be eligible to participate in the rotational cyber workforce program if the head of the employing agency of the employee, or a designee of the head of the employing agency of the employee, approves of the participation of the employee;

(5) provide that the detail of an employee to a rotational cyber workforce position under the rotational cyber workforce program shall be on a nonreimbursable basis;

(6) provide that agencies may agree to partner to ensure that the employing agency of an employee who participates in the rotational cyber workforce program is able to fill the position vacated by the employee;

(7) require that an employee detailed to a rotational cyber workforce position under the rotational cyber workforce program, upon the end of the period of service with respect to the detail, shall be entitled to return to the position held by the employee, or an
1 equivalent position, in the employing agency of the
2 employee without loss of pay, seniority, or other
3 rights or benefits to which the employee would have
4 been entitled had the employee not been detailed;
5   
6 (8) provide that discretion with respect to the
7 assignment of an employee under the rotational
8 cyber workforce program shall remain with the em-
9 ploying agency of the employee;
10   
11 (9) require that an employee detailed to a rota-
12 tional cyber workforce position under the rotational
13 cyber workforce program in an agency that is not
14 the employing agency of the employee shall have all
15 the rights that would be available to the employee if
16 the employee were detailed under a provision of law
17 other than this subtitle from the employing agency
18 to the agency in which the rotational cyber work-
19 force position is located;
20   
21 (10) provide that participation by an employee
22 in the rotational cyber workforce program shall not
23 constitute a change in the conditions of the employ-
24 ment of the employee; and
25   
26 (11) provide that an employee participating in
27 the rotational cyber workforce program shall receive
28 performance evaluations relating to service in the ro-
tional cyber workforce program in a participating agency that are—

(A) prepared by an appropriate officer, supervisor, or management official of the employing agency, acting in coordination with the supervisor at the agency in which the employee is performing service in the rotational cyber workforce position;

(B) based on objectives identified in the operation plan with respect to the employee; and

(C) based in whole or in part on the contribution of the employee to the agency in which the employee performed such service, as communicated from that agency to the employing agency of the employee.

(c) Program Requirements for Rotational Service.—

(1) In general.—An employee serving in a cyber workforce position in an agency may, with the approval of the head of the agency, submit an application for detail to a rotational cyber workforce position that appears on the list developed under section 4353(b).
(2) OPM APPROVAL FOR CERTAIN POSITIONS.—An employee serving in a position in the excepted service may only be selected for a rotational cyber workforce position that is in the competitive service with the prior approval of the Office of Personnel Management, in accordance with section 300.301 of title 5, Code of Federal Regulations, or any successor thereto.

(3) SELECTION AND TERM.—

(A) SELECTION.—The head of an agency shall select an employee for a rotational cyber workforce position under the rotational cyber workforce program in a manner that is consistent with the merit system principles under section 2301(b) of title 5, United States Code.

(B) TERM.—Except as provided in subparagraph (C), and notwithstanding section 3341(b) of title 5, United States Code, a detail to a rotational cyber workforce position shall be for a period of not less than 180 days and not more than 1 year.

(C) EXTENSION.—The Chief Human Capital Officer of the agency to which an employee is detailed under the rotational cyber workforce program may extend the period of a detail de-
scribed in subparagraph (B) for a period of 60
days unless the Chief Human Capital Officer of
the employing agency of the employee objects to
that extension.

(4) WRITTEN SERVICE AGREEMENTS.—

(A) IN GENERAL.—The detail of an em-
ployee to a rotational cyber workforce position
shall be contingent upon the employee entering
into a written service agreement with the em-
ploying agency under which the employee is re-
quired to complete a period of employment with
the employing agency following the conclusion
of the detail that is equal in length to the pe-
riod of the detail.

(B) OTHER AGREEMENTS AND OBLIGA-
tions.—A written service agreement under
subparagraph (A) shall not supersede or modify
the terms or conditions of any other service
agreement entered into by the employee under
any other authority or relieve the obligations
between the employee and the employing agency
under such a service agreement. Nothing in this
subparagraph prevents an employing agency
from terminating a service agreement entered
into under any other authority under the terms
of such agreement or as required by law or regulation.

SEC. 4355. REPORTING BY GAO.

Not later than the end of the third fiscal year after the fiscal year in which the operation plan under section 4354(a) is issued, the Comptroller General of the United States shall submit to Congress a report assessing the operation and effectiveness of the rotational cyber workforce program, which shall address, at a minimum—

(1) the extent to which agencies have participated in the rotational cyber workforce program, including whether the head of each such participating agency has—

(A) identified positions within the agency that are rotational cyber workforce positions;

(B) had employees from other participating agencies serve in positions described in subparagraph (A); and

(C) had employees of the agency request to serve in rotational cyber workforce positions under the rotational cyber workforce program in participating agencies, including a description of how many such requests were approved; and
(2) the experiences of employees serving in rotational cyber workforce positions under the rotational cyber workforce program, including an assessment of—

(A) the period of service;

(B) the positions (including grade level and occupational series or work level) held by employees before completing service in a rotational cyber workforce position under the rotational cyber workforce program;

(C) the extent to which each employee who completed service in a rotational cyber workforce position under the rotational cyber workforce program achieved a higher skill level, or attained a skill level in a different area, with respect to information technology, cybersecurity, or other cyber-related functions; and

(D) the extent to which service in rotational cyber workforce positions has affected intra-agency and interagency integration and coordination of cyber practices, functions, and personnel management.

**SEC. 4356. SUNSET.**

Effective 5 years after the date of enactment of this Act, this subtitle is repealed.
TITLE IV—OTHER MATTERS
Subtitle A—Ensuring Security of Unmanned Aircraft Systems

SEC. 4401. SHORT TITLE.
This subtitle may be cited as the “American Security Drone Act of 2021”.

SEC. 4402. DEFINITIONS.
In this subtitle:

(1) COVERED FOREIGN ENTITY.—The term “covered foreign entity” means an entity included on a list developed and maintained by the Federal Acquisition Security Council. This list will include entities in the following categories:

(A) An entity included on the Consolidated Screening List.

(B) Any entity that is subject to extrajudicial direction from a foreign government, as determined by the Secretary of Homeland Security.

(C) Any entity the Secretary of Homeland Security, in coordination with the Director of National Intelligence and the Secretary of Defense, determines poses a national security risk.

(D) Any entity domiciled in the People’s Republic of China or subject to influence or
control by the Government of the People Republic of China or the Communist Party of the People’s Republic of China, as determined by the Secretary of Homeland Security.

(E) Any subsidiary or affiliate of an entity described in subparagraphs (A) through (D).

(2) COVERED UNMANNED AIRCRAFT SYSTEM.—
The term “covered unmanned aircraft system” has the meaning given the term “unmanned aircraft system” in section 44801 of title 49, United States Code.

SEC. 4403. PROHIBITION ON PROCUREMENT OF COVERED UNMANNED AIRCRAFT SYSTEMS FROM COVERED FOREIGN ENTITIES.

(a) In General.—Except as provided under subsections (b) through (f), the head of an executive agency may not procure any covered unmanned aircraft system that are manufactured or assembled by a covered foreign entity, which includes associated elements (consisting of communication links and the components that control the unmanned aircraft) that are required for the operator to operate safely and efficiently in the national airspace system. The Federal Acquisition Security Council, in coordination with the Secretary of Transportation, shall develop and update a list of associated elements.
(b) **Exemption.**—The Secretary of Homeland Security, the Secretary of Defense, and the Attorney General are exempt from the restriction under subsection (a) if the operation or procurement—

(1) is for the sole purposes of research, evaluation, training, testing, or analysis for—

(A) electronic warfare;

(B) information warfare operations;

(C) development of UAS or counter-UAS technology;

(D) counterterrorism or counterintelligence activities; or

(E) Federal criminal or national security investigations, including forensic examinations; and

(2) is required in the national interest of the United States.

(c) **Federal Aviation Administration Center of Excellence for Unmanned Aircraft Systems Exemption.**—The Secretary of Transportation, in consultation with the Secretary of Homeland Security, is exempt from the restriction under subsection (a) if the operation or procurement is for the sole purposes of research, evaluation, training, testing, or analysis for the Federal Aviation Administration’s Alliance for System Safety of
UAS through Research Excellence (ASSURE) Center of Excellence (COE) for Unmanned Aircraft Systems.

(d) National Transportation Safety Board Exemption.—The National Transportation Safety Board (NTSB), in consultation with the Secretary of Homeland Security, is exempt from the restriction under subsection (a) if the operation or procurement is necessary for the sole purpose of conducting safety investigations.

(e) National Oceanic Atmospheric Administration Exemption.—The Administrator of the National Oceanic Atmospheric Administration (NOAA), in consultation with the Secretary of Homeland Security, is exempt from the restriction under subsection (a) if the operation or procurement is necessary for the sole purpose of marine or atmospheric science or management.

(f) Waiver.—The head of an executive agency may waive the prohibition under subsection (a) on a case-by-case basis—

(1) with the approval of the Secretary of Homeland Security or the Secretary of Defense; and

(2) upon notification to Congress.

SEC. 4404. PROHIBITION ON OPERATION OF COVERED UNMANNED AIRCRAFT SYSTEMS FROM COVERED FOREIGN ENTITIES.

(a) Prohibition.—
(1) IN GENERAL.—Beginning on the date that is 2 years after the date of the enactment of this Act, no Federal department or agency may operate a covered unmanned aircraft system manufactured or assembled by a covered foreign entity.

(2) APPLICABILITY TO CONTRACTED SERVICES.—The prohibition under paragraph (1) applies to any covered unmanned aircraft systems that are being used by any executive agency through the method of contracting for the services of covered unmanned aircraft systems.

(b) EXEMPTION.—The Secretary of Homeland Security, the Secretary of Defense, and the Attorney General are exempt from the restriction under subsection (a) if the operation or procurement—

(1) is for the sole purposes of research, evaluation, training, testing, or analysis for—

(A) electronic warfare;

(B) information warfare operations;

(C) development of UAS or counter-UAS technology;

(D) counterterrorism or counterintelligence activities; or
(E) Federal criminal or national security investigations, including forensic examinations; and

(2) is required in the national interest of the United States.

(c) Federal Aviation Administration Center of Excellence for Unmanned Aircraft Systems Exemption.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security, is exempt from the restriction under subsection (a) if the operation or procurement is for the sole purposes of research, evaluation, training, testing, or analysis for the Federal Aviation Administration’s Alliance for System Safety of UAE through Research Excellence (ASSURE) Center of Excellence (COE) for Unmanned Aircraft Systems.

(d) National Transportation Safety Board Exemption.—The National Transportation Safety Board (NTSB), in consultation with the Secretary of Homeland Security, is exempt from the restriction under subsection (a) if the operation or procurement is necessary for the sole purpose of conducting safety investigations.

(e) National Oceanic Atmospheric Administration Exemption.—The Administrator of the National Oceanic Atmospheric Administration (NOAA), in consultation with the Secretary of Homeland Security, is ex-
empt from the restriction under subsection (a) if the operation or procurement is necessary for the sole purpose of marine or atmospheric science or management.

(f) **Waiver.**—The head of an executive agency may waive the prohibition under subsection (a) on a case-by-case basis—

(1) with the approval of the Secretary of Homeland Security or the Secretary of Defense; and

(2) upon notification to Congress.

(g) **Regulations and Guidance.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall prescribe regulations or guidance to implement this section.

**SEC. 4405. PROHIBITION ON USE OF FEDERAL FUNDS FOR PURCHASES AND OPERATION OF COVERED UNMANNED AIRCRAFT SYSTEMS FROM COVERED FOREIGN ENTITIES.**

(a) **In General.**—Beginning on the date that is 2 years after the date of the enactment of this Act, except as provided in subsection (b), no Federal funds awarded through a contract, grant, or cooperative agreement, or otherwise made available may be used—

(1) to purchase a covered unmanned aircraft system, or a system to counter unmanned aircraft
systems, that is manufactured or assembled by a covered foreign entity; or

(2) in connection with the operation of such a drone or unmanned aircraft system.

(b) EXEMPTION.—A Federal department or agency is exempt from the restriction under subsection (a) if—

(1) the contract, grant, or cooperative agreement was awarded prior to the date of the enactment of this Act; or

(2) the operation or procurement is for the sole purposes of research, evaluation, training, testing, or analysis, as determined by the Secretary of Homeland Security, the Secretary of Defense, or the Attorney General, for—

(A) electronic warfare;

(B) information warfare operations;

(C) development of UAS or counter-UAS technology;

(D) counterterrorism or counterintelligence activities; or

(E) Federal criminal or national security investigations, including forensic examinations; or
the safe integration of UAS in the national airspace (as determined in consultation with the Secretary of Transportation); and

(3) is required in the national interest of the United States.

(c) WAIVER.—The head of an executive agency may waive the prohibition under subsection (a) on a case-by-case basis—

(1) with the approval of the Secretary of Homeland Security or the Secretary of Defense; and

(2) upon notification to Congress.

(d) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall prescribe regulations or guidance, as necessary, to implement the requirements of this section pertaining to Federal contracts.

SEC. 4406. PROHIBITION ON USE OF GOVERNMENT-ISSUED PURCHASE CARDS TO PURCHASE COVERED UNMANNED AIRCRAFT SYSTEMS FROM COVERED FOREIGN ENTITIES.

Effective immediately, Government-issued Purchase Cards may not be used to procure any covered unmanned aircraft system from a covered foreign entity.
SEC. 4407. MANAGEMENT OF EXISTING INVENTORIES OF COVERED UNMANNED AIRCRAFT SYSTEMS FROM COVERED FOREIGN ENTITIES.

(a) In General.—Effective immediately, all executive agencies must account for existing inventories of covered unmanned aircraft systems manufactured or assembled by a covered foreign entity in their personal property accounting systems, regardless of the original procurement cost, or the purpose of procurement due to the special monitoring and accounting measures necessary to track the items’ capabilities.

(b) Classified Tracking.—Due to the sensitive nature of missions and operations conducted by the United States Government, inventory data related to covered unmanned aircraft systems manufactured or assembled by a covered foreign entity may be tracked at a classified level.

(c) Exceptions.—The Department of Defense and Department of Homeland Security may exclude from the full inventory process, covered unmanned aircraft systems that are deemed expendable due to mission risk such as recovery issues or that are one-time-use covered unmanned aircraft due to requirements and low cost.

SEC. 4408. COMPTROLLER GENERAL REPORT.

Not later than 275 days after the date of the enactment of this Act, the Comptroller General of the United
States shall submit to Congress a report on the amount of commercial off-the-shelf drones and covered unmanned aircraft systems procured by Federal departments and agencies from covered foreign entities.

SEC. 4409. GOVERNMENT-WIDE POLICY FOR PROCUREMENT OF UNMANNED AIRCRAFT SYSTEMS.

(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 coordination with the Department of Homeland Security, Department of Transportation, the Department of Justice, and other Departments as determined by the Director of the Office of Management and Budget, and in consultation with the National Institute of Standards and Technology, shall establish a government-wide policy for the procurement of UAS—

(1) for non-Department of Defense and non-intelligence community operations; and

(2) through grants and cooperative agreements entered into with non-Federal entities.

(b) Information Security.—The policy developed under subsection (a) shall include the following specifications, which to the extent practicable, shall be based on industry standards and technical guidance from the National Institute of Standards and Technology, to address
the risks associated with processing, storing and transmitting Federal information in a UAS:

(1) Protections to ensure controlled access of UAS.

(2) Protecting software, firmware, and hardware by ensuring changes to UAS are properly managed, including by ensuring UAS can be updated using a secure, controlled, and configurable mechanism.

(3) Cryptographically securing sensitive collected, stored, and transmitted data, including proper handling of privacy data and other controlled unclassified information.

(4) Appropriate safeguards necessary to protect sensitive information, including during and after use of UAS.

(5) Appropriate data security to ensure that data is not transmitted to or stored in non-approved locations.

(6) The ability to opt out of the uploading, downloading, or transmitting of data that is not required by law or regulation and an ability to choose with whom and where information is shared when it is required.
(c) REQUIREMENT.—The policy developed under subsection (a) shall reflect an appropriate risk-based approach to information security related to use of UAS.

(d) REVISION OF ACQUISITION REGULATIONS.—Not later than 180 days after the date on which the policy required under subsection (a) is issued—

(1) the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation, as necessary, to implement the policy; and

(2) any Federal department or agency or other Federal entity not subject to, or not subject solely to, the Federal Acquisition Regulation shall revise applicable policy, guidance, or regulations, as necessary, to implement the policy.

(e) EXEMPTION.—In developing the policy required under subsection (a), the Director of the Office of Management and Budget shall incorporate an exemption to the policy for the following reasons:

(1) In the case of procurement for the purposes of training, testing, or analysis for—

(A) electronic warfare; or

(B) information warfare operations.

(2) In the case of researching UAS technology, including testing, evaluation, research, or development of technology to counter UAS.
(3) In the case of a head of the procuring department or agency determining, in writing, that no product that complies with the information security requirements described in subsection (b) is capable of fulfilling mission critical performance requirements, and such determination—

(A) may not be delegated below the level of the Deputy Secretary of the procuring department or agency;

(B) shall specify—

(i) the quantity of end items to which the waiver applies, the procurement value of which may not exceed $50,000 per waiver; and

(ii) the time period over which the waiver applies, which shall not exceed 3 years;

(C) shall be reported to the Office of Management and Budget following issuance of such a determination; and

(D) not later than 30 days after the date on which the determination is made, shall be provided to the Committee on Homeland Security and Governmental Affairs of the Senate
and the Committee on Oversight and Reform of
the House of Representatives.

SEC. 4410. STUDY.

(a) INDEPENDENT STUDY.—Not later than 3 years
after the date of the enactment of this Act, the Director
of the Office of Management and Budget shall seek to
enter into a contract with a federally funded research and
development center under which the center will conduct
a study of—

(1) the current and future unmanned aircraft
system global and domestic market;

(2) the ability of the unmanned aircraft system
domestic market to keep pace with technological ad-
vancements across the industry;

(3) the ability of domestically made unmanned
aircraft systems to meet the network security and
data protection requirements of the national security
enterprise;

(4) the extent to which unmanned aircraft sys-
tem component parts, such as the parts described in
section 4403, are made domestically; and

(5) an assessment of the economic impact, in-
cluding cost, of excluding the use of foreign-made
UAS for use across the Federal Government.
(b) Submission to OMB.—Upon completion of the study in subsection (a), the federally funded research and development center shall submit the study to the Director of the Office of Management and Budget.

(c) Submission to Congress.—Not later than 30 days after the date on which the Director of the Office of Management and Budget receives the study under subsection (b), the Director shall submit the study to—

(1) the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate; and

(2) the Committee on Homeland Security and the Committee on Oversight and Reform and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 4411. SUNSET.

Sections 4403, 4404, and 4405 shall cease to have effect on the date that is 5 years after the date of the enactment of this Act.

Subtitle B—No TikTok on Government Devices

SEC. 4431. SHORT TITLE.

This subtitle may be cited as the “No TikTok on Government Devices Act”.
SEC. 4432. PROHIBITION ON THE USE OF TIKTOK.

(a) Definitions.—In this section—

(1) the term “covered application” means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited;

(2) the term “executive agency” has the meaning given that term in section 133 of title 41, United States Code; and

(3) the term “information technology” has the meaning given that term in section 11101 of title 40, United States Code.

(b) Prohibition on the Use of TikTok.—

(1) In general.—Not later than 60 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, the Director of the Cybersecurity and Infrastructure Security Agency, the Director of National Intelligence, and the Secretary of Defense, and consistent with the information security requirements under subchapter II of chapter 35 of title 44, United States Code, shall develop standards and guidelines for executive agencies requiring the removal of any covered application from information technology.
(2) National security and research exceptions.—The standards and guidelines developed under paragraph (1) shall include—

(A) exceptions for law enforcement activities, national security interests and activities, and security researchers; and

(B) for any authorized use of a covered application under an exception, requirements for executive agencies to develop and document risk mitigation actions for such use.

Subtitle C—National Risk Management

SEC. 4461. NATIONAL RISK MANAGEMENT CYCLE.

(a) In General.—Subtitle A of title XXII of the Homeland Security Act of 2002 (6 U.S.C. 651 et seq.) is amended by adding at the end the following:

"SEC. 2218. NATIONAL RISK MANAGEMENT CYCLE.

(a) National Critical Functions Defined.—In this section, the term ‘national critical functions’ means the functions of government and the private sector so vital to the United States that their disruption, corruption, or dysfunction would have a debilitating effect on security, national economic security, national public health or safety, or any combination thereof.

(b) National Risk Management Cycle.—
“(1) Risk identification and assessment.—

“(A) In general.—The Secretary, acting through the Director, shall establish a recurring process by which to identify, assess, and prioritize risks to critical infrastructure, considering both cyber and physical threats, the associated likelihoods, vulnerabilities, and consequences, and the resources necessary to address them.

“(B) Consultation.—In establishing the process required under subparagraph (A), the Secretary shall consult with, and request and collect information to support analysis from, Sector Risk Management Agencies, critical infrastructure owners and operators, the Assistant to the President for National Security Affairs, the Assistant to the President for Homeland Security, and the National Cyber Director.

“(C) Publication.—Not later than 180 days after the date of enactment of this section, the Secretary shall publish in the Federal Register procedures for the process established under subparagraph (A), subject to any redactions the Secretary determines are nec-
necessary to protect classified or other sensitive information.

“(D) REPORT.—The Secretary shall submit to the President, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives a report on the risks identified by the process established under subparagraph (A)—

“(i) not later than 1 year after the date of enactment of this section; and

“(ii) not later than 1 year after the date on which the Secretary submits a periodic evaluation described in section 9002(b)(2) of title XC of division H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283).

“(2) NATIONAL CRITICAL INFRASTRUCTURE RESILIENCE STRATEGY.—

“(A) IN GENERAL.—Not later than 1 year after the date on which the Secretary delivers each report required under paragraph (1), the President shall deliver to majority and minority leaders of the Senate, the Speaker and minority
leader of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives a national critical infrastructure resilience strategy designed to address the risks identified by the Secretary.

“(B) ELEMENTS.—Each strategy delivered under subparagraph (A) shall—

“(i) identify, assess, and prioritize areas of risk to critical infrastructure that would compromise or disrupt national critical functions impacting national security, economic security, or public health and safety;

“(ii) assess the implementation of the previous national critical infrastructure resilience strategy, as applicable;

“(iii) identify and outline current and proposed national-level actions, programs, and efforts to be taken to address the risks identified;

“(iv) identify the Federal departments or agencies responsible for leading each national-level action, program, or effort and
the relevant critical infrastructure sectors
for each; and

“(v) request any additional authorities
necessary to successfully execute the strategy.

“(C) FORM.—Each strategy delivered
under subparagraph (A) shall be unclassified,
but may contain a classified annex.

“(3) CONGRESSIONAL BRIEFING.—Not later
than 1 year after the date on which the President
delivers the first strategy required under paragraph
(2)(A), and every year thereafter, the Secretary, in
coordination with Sector Risk Management Agen-
cies, shall brief the appropriate congressional com-
mittees on—

“(A) the national risk management cycle
activities undertaken pursuant to the strategy;
and

“(B) the amounts and timeline for funding
that the Secretary has determined would be
necessary to address risks and successfully exe-
cute the full range of activities proposed by the
strategy.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—
The table of contents in section 1(b) of the Homeland Se-
curity Act of 2002 (Public Law 107–296; 116 Stat. 2135) is amended by inserting after the item relating to section 2217 the following:

“Sec. 2218. National risk management cycle.”.

Subtitle D—Safeguarding American Innovation [to Be Supplied]