

§ 2502. National Defense Technology and Industrial Base Council

(a) ESTABLISHMENT.—There is a National Defense Technology and Industrial Base Council.

(b) COMPOSITION.—The Council is composed of the following members:

- (1) The Secretary of Defense, who shall serve as chairman.
- (2) The Secretary of Energy.
- (3) The Secretary of Commerce.
- (4) The Secretary of Labor.
- (5) Such other officials as may be determined by the President.

(c) RESPONSIBILITIES.—The Council shall have the responsibility to ensure effective cooperation among departments and agencies of the Federal Government, and to provide advice and recommendations to the President, the Secretary of Defense, the Secretary of Energy, the Secretary of Commerce, and the Secretary of Labor, concerning—

- (1) the capabilities of the national technology and industrial base to meet the national security objectives set forth in section 2501(a) of this title;
- (2) programs for achieving such national security objectives;
- (3) changes in acquisition policy that strengthen the national technology and industrial base; and
- (4) collaboration with government officials of member countries of the national technology and industrial base in order to strengthen the national technology and industrial base.

(d) ALTERNATIVE PERFORMANCE OF RESPONSIBILITIES.—Notwithstanding subsection (c), the President may assign the responsibilities of the Council to another interagency organization of the executive branch that includes among its members the officials specified in paragraphs (1) through (4) of subsection (b).

(Added Pub. L. 102-484, div. D, title XLII, §4212(a), Oct. 23, 1992, 106 Stat. 2664; amended Pub. L. 103-160, div. A, title XIII, §1312(b), Nov. 30, 1993, 107 Stat. 1786; Pub. L. 103-337, div. A, title X, §1070(a)(12), Oct. 5, 1994, 108 Stat. 2856; Pub. L. 104-106, div. A, title X, §1081(b), Feb. 10, 1996, 110 Stat. 452; Pub. L. 104-201, div. A, title VIII, §829(c)(2), formerly §829(c)(2), (3), Sept. 23, 1996, 110 Stat. 2613, renumbered Pub. L. 105-85, div. A, title X, §1073(c)(7)(B), Nov. 18, 1997, 111 Stat. 1904; Pub. L. 105-85, div. A, title X, §1073(c)(7)(A), Nov. 18, 1997, 111 Stat. 1904; Pub. L. 116-283, div. A, title VIII, §846(c), Jan. 1, 2021, 134 Stat. 3768.)

TRANSFER OF SECTION

Pub. L. 116-283, div. A, title XVIII, §§1801(d), 1867(b), Jan. 1, 2021, 134 Stat. 4151, 4281, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is transferred to chapter 382 of this title, as added by section 1867(a) of Pub. L. 116-283, inserted after section 4811, and redesignated as section 4812 of this title. See Effective Date of 2021 Amendment note below.

PRIOR PROVISIONS

A prior section 2502, added Pub. L. 100-456, div. A, title VIII, §821(b)(1)(B), Sept. 29, 1988, 102 Stat. 2015, related to defense industrial base policies, prior to repeal by Pub. L. 102-484, §4202(a).

Another prior section 2502 was renumbered section 2534 of this title.

AMENDMENTS

2021—Subsec. (c)(4). Pub. L. 116-283 added par. (4).

1997—Subsec. (c). Pub. L. 105-85, §1073(c)(7)(A), made technical correction to directory language of Pub. L. 104-201, §829(c)(2). See 1996 Amendment note below.

1996—Subsec. (c). Pub. L. 104-201, §829(c)(2), formerly §829(c)(2), (3), as renumbered and amended by Pub. L. 105-85, substituted “the responsibility to ensure effective cooperation” for “the following responsibilities:”, struck out “(1) To ensure the effective cooperation” before “among departments”, struck out par. (2), redesignated subpars. (A), (B), and (C) as pars. (1), (2), and (3), respectively, and adjusted margins of such pars. Prior to repeal, par. (2) read as follows: “To prepare the periodic assessment and the periodic plan required by sections 2505 and 2506 of this title, respectively.”

Subsec. (c)(1)(B). Pub. L. 104-106, §1081(b)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: “programs for achieving, during a period of reduction in defense expenditures, the defense reinvestment, diversification, and conversion objectives set forth in section 2501(b) of this title; and”.

Subsec. (c)(2), (3). Pub. L. 104-106, §1081(b)(2), (3), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “To provide overall policy guidance to ensure effective implementation by agencies of the Federal Government of defense reinvestment and conversion activities during a period of reduction in defense expenditures.”

1994—Subsec. (d). Pub. L. 103-337 substituted “executive” for “Executive”.

1993—Subsec. (d). Pub. L. 103-160 added subsec. (d).

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1867(b) of Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-85, div. A, title X, §1073(c), Nov. 18, 1997, 111 Stat. 1904, provided that the amendment made by that section is effective as of Sept. 23, 1996, and as if included in the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104-201, as enacted.

§ 2503. National defense program for analysis of the technology and industrial base

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a program for analysis of the national technology and industrial base.

(b) SUPERVISION OF PROGRAM.—The Secretary of Defense shall carry out the program through the Under Secretary of Defense for Research and Engineering and the Under Secretary of Defense for Acquisition and Sustainment. In carrying out the program, the Under Secretaries shall consult with the Secretary of Energy, the Secretary of Commerce, and the Secretary of Labor.

(c) FUNCTIONS.—The functions of the program shall include, with respect to the national technology and industrial base, the following:

- (1) The assembly of timely and authoritative information.
- (2) Initiation of studies and analyses.
- (3) Provision of technical support and assistance to—

(A) the Secretary of Defense for the preparation of the periodic assessments required by section 2505 of this title;

(B) the defense acquisition university structure and its elements; and

(C) other departments and agencies of the Federal Government in accordance with guidance established by the Council.

(4) Dissemination, through the National Technical Information Service of the Department of Commerce, of unclassified information and assessments for further dissemination within the Federal Government and to the private sector.

(Added Pub. L. 102-484, div. D, title XLII, § 4213(a), Oct. 23, 1992, 106 Stat. 2665; amended Pub. L. 104-201, div. A, title VIII, § 829(b), Sept. 23, 1996, 110 Stat. 2612; Pub. L. 107-107, div. A, title X, § 1048(b)(4), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 116-92, div. A, title IX, § 902(74), Dec. 20, 2019, 133 Stat. 1552.)

TRANSFER OF SECTION

Pub. L. 116-283, div. A, title XVIII, §§ 1801(d), 1867(b), Jan. 1, 2021, 134 Stat. 4151, 4281, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is transferred to chapter 382 of this title, as added by section 1867(a) of Pub. L. 116-283, inserted after section 4812, and redesignated as section 4813 of this title. See Effective Date of 2021 Amendment note below.

PRIOR PROVISIONS

A prior section 2503, added Pub. L. 100-456, div. A, title VIII, § 821(b)(1)(B), Sept. 29, 1988, 102 Stat. 2016; amended Pub. L. 101-189, div. A, title VIII, § 842(a), (b), Nov. 29, 1989, 103 Stat. 1514, 1515; Pub. L. 102-25, title VII, § 701(f)(4), Apr. 6, 1991, 105 Stat. 115; Pub. L. 102-484, div. A, title X, § 1052(32), Oct. 23, 1992, 106 Stat. 2501, established defense industrial base office, prior to repeal by Pub. L. 102-484, § 4202(a).

AMENDMENTS

2019—Subsec. (b). Pub. L. 116-92 substituted “the Under Secretary of Defense for Research and Engineering and the Under Secretary of Defense for Acquisition and Sustainment” for “the Under Secretary of Defense for Acquisition, Technology, and Logistics” and “the Under Secretaries shall” for “the Under Secretary shall”.

2001—Subsec. (b). Pub. L. 107-107 substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition”.

1996—Subsec. (a). Pub. L. 104-201, § 829(b)(1), substituted “The Secretary of Defense” for “(1) The Secretary of Defense, in consultation with the National Defense Technology and Industrial Base Council,” and struck out pars. (2) to (4) which read as follows:

“(2) As determined by the Secretary of Defense, the program shall be administered by one of the following:

“(A) An existing federally funded research and development center.

“(B) A consortium of existing federally funded research and development centers and other nonprofit entities.

“(C) A private sector entity (other than a federally funded research and development center).

“(D) The National Defense University.

“(3) A contract may be awarded under subparagraph (A), (B), or (C) of paragraph (2) only through the use of competitive procedures.

“(4) The Secretary of Defense shall ensure that there is appropriate coordination between the program and the Critical Technologies Institute.”

Subsec. (c)(3)(A). Pub. L. 104-201, § 829(b)(2), substituted “the Secretary of Defense for” for “the National Defense Technology and Industrial Base Council in” and struck out “and the periodic plans required by section 2506 of this title” after “section 2505 of this title”.

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

DEADLINE FOR ESTABLISHING PROGRAM

Pub. L. 102-484, div. D, title XLII, § 4213(b), Oct. 23, 1992, 106 Stat. 2666, required the Secretary of Defense to establish the program required by this section not later than six months after Oct. 23, 1992.

§ 2504. National technology and industrial base: annual report and quarterly briefings

(a) ANNUAL REPORT.—The Secretary of Defense shall transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives by March 1 of each year a report which shall include the following information:

(1) A description of the departmental guidance prepared pursuant to section 2506 of this title.

(2) A description of the assessments prepared pursuant to section 2505 of this title and other analyses used in developing the budget submission of the Department of Defense for the next fiscal year.

(3) Based on the strategy required by section 2501 of this title and on the assessments prepared pursuant to Executive order or section 2505 of this title—

(A) a map of the industrial base;

(B) a prioritized list of gaps or vulnerabilities in the national technology and industrial base, including—

(i) a description of mitigation strategies necessary to address such gaps or vulnerabilities;

(ii) the identification of the Secretary concerned or the head of the Defense Agency responsible for addressing such gaps or vulnerabilities; and

(iii) a proposed timeline for action to address such gaps or vulnerabilities; and

(C) any other steps necessary to foster and safeguard the national technology and industrial base.

(4) Identification of each program designed to sustain specific essential technological and industrial capabilities and processes of the national technology and industrial base.

(5) A detailed description of any use by the Secretary of Defense or a Secretary concerned, as applicable, during the prior 12 months of a waiver or exception to the sourcing requirements or prohibitions established by chapter 83 of title 41 or subchapter V of chapter 148 of this title, including—

(A) the type of waiver or exception used; and