

numbered § 4815, Pub. L. 116-283, div. A, title XVIII, § 1867(b), Jan. 1, 2021, 134 Stat. 4281.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2504a of this title as this section.

Statutory Notes and Related Subsidiaries

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.

§ 4816. National technology and industrial base: periodic defense capability assessments

(a) PERIODIC ASSESSMENT.—Each fiscal year, the Secretary of Defense shall prepare selected assessments of the capability of the national technology and industrial base to attain the national security objectives set forth in section 4811(a) of this title. The Secretary of Defense shall prepare such assessments in consultation with the Secretary of Commerce and the Secretary of Energy.

(b) ASSESSMENT PROCESS.—The Secretary of Defense shall ensure that technology and industrial capability assessments—

(1) describe sectors or capabilities, their underlying infrastructure and processes;

(2) analyze present and projected financial performance of industries supporting the sectors or capabilities in the assessment;

(3) determine the extent to which the requirements associated with defense acquisition programs can be satisfied by the present and projected performance capacities of industries supporting the sectors or capabilities in the assessment, evaluate the reasons for any variance from applicable preceding determinations, and identify the extent to which those industries are comprised of only one potential source in the national technology and industrial base or have multiple potential sources;

(4) determine the extent to which the requirements associated with defense acquisition programs can be satisfied by the present and projected performance capacities of industries that do not actively support Department of Defense acquisition programs and identify the barriers to the participation of those industries;

(5) identify technological and industrial capabilities and processes for which there is potential for the national industrial and technology base not to be able to support the achievement of national security objectives; and

(6) consider the effects of the termination of major defense acquisition programs (as the term is defined in section 2430¹ of this title) or major automated information system programs (as defined in section 2445a¹ of this title) in the previous fiscal year on the sectors and capabilities in the assessment.

(c) ASSESSMENT OF EXTENT OF DEPENDENCY ON FOREIGN SOURCE ITEMS.—Each assessment under

subsection (a) shall include a separate discussion and presentation regarding the extent to which the national technology and industrial base is dependent on items for which the source of supply, manufacture, or technology is outside of the United States and Canada and for which there is no immediately available source in the United States or Canada. The discussion and presentation regarding foreign dependency shall—

(1) identify cases that pose an unacceptable risk of foreign dependency, as determined by the Secretary; and

(2) present actions being taken or proposed to be taken to remedy the risk posed by the cases identified under paragraph (1), including efforts to develop a domestic source for the item in question.

(d) ASSESSMENT OF EXTENT OF EFFECTS OF FOREIGN BOYCOTTS.—Each assessment under subsection (a) shall include an examination of the extent to which the national technology and industrial base is affected by foreign boycotts. If it is determined that a foreign boycott (other than a boycott addressed in a previous assessment) is subjecting the national technology and industrial base to significant harm, the assessment shall include a separate discussion and presentation regarding that foreign boycott that shall, at a minimum—

(1) identify the sectors that are subject to such harm;

(2) describe the harm resulting from such boycott; and

(3) identify actions necessary to minimize the effects of such boycott on the national technology and industrial base.

(e) INTEGRATED PROCESS.—The Secretary of Defense shall ensure that consideration of the technology and industrial base assessments is integrated into the overall budget, acquisition, and logistics support decision processes of the Department of Defense.

(Added Pub. L. 102-484, div. D, title XLII, § 4215, Oct. 23, 1992, 106 Stat. 2667, § 2505; amended Pub. L. 103-35, title II, § 201(g)(7), May 31, 1993, 107 Stat. 100; Pub. L. 104-201, div. A, title VIII, § 829(c)(1), Sept. 23, 1996, 110 Stat. 2612; Pub. L. 111-23, title III, § 303(b), May 22, 2009, 123 Stat. 1731; Pub. L. 111-383, div. A, title VIII, § 895(c), Jan. 7, 2011, 124 Stat. 4314; Pub. L. 112-239, div. A, title XVI, § 1602, Jan. 2, 2013, 126 Stat. 2062; Pub. L. 114-92, div. A, title VIII, § 876, Nov. 25, 2015, 129 Stat. 941; renumbered § 4816 and amended Pub. L. 116-283, div. A, title XVIII, §§ 1867(b), (d)(4), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4281, 4282, 4294.)

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REFERENCES IN TEXT

Section 2430 of this title, referred to in subsec. (b)(6), was transferred to sections 4201, 4202(a), and 4204 of this title by Pub. L. 116-283, div. A, title XVIII, § 1846(c)(1), (d)(1), (f)(1), Jan. 1, 2021, 134 Stat. 4248-4250. Section 4201 of this title defines “major defense acquisition program”.

Section 2445a of this title, referred to in subsec. (b)(6), was repealed by Pub. L. 114-328, div. A, title VIII, § 846(1), Dec. 23, 2016, 130 Stat. 2292, effective Sept. 30, 2017.

¹ See References in Text note below.

AMENDMENTS

2021—Pub. L. 116-283, §1867(b), renumbered section 2505 of this title as this section.

Subsec. (a). Pub. L. 116-283, §1867(d)(4), substituted “section 4811(a)” for “section 2501(a)”.

Subsec. (b)(6). Pub. L. 116-283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116-283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to “section 2430”, which was redesignated as multiple sections.

2015—Subsec. (b)(3) to (6). Pub. L. 114-92 added pars. (3) and (4) and redesignated former pars. (3) and (4) as (5) and (6), respectively.

2013—Subsecs. (d), (e). Pub. L. 112-239 added subsec. (d) and redesignated former subsec. (d) as (e).

2011—Subsec. (b)(4). Pub. L. 111-383 inserted “or major automated information system programs (as defined in section 2445a of this title)” after “section 2430 of this title”.

2009—Subsec. (b)(4). Pub. L. 111-23 added par. (4).

1996—Pub. L. 104-201 reenacted section catchline without change and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (d) providing for National Defense Technology and Industrial Base Council to prepare, at least annually through fiscal year 1997 and biennially thereafter, a comprehensive assessment of capability of the national technology and industrial base to attain national security objectives.

1993—Pub. L. 103-35 substituted “capability” for “capabilty” in section catchline.

Statutory Notes and Related Subsidiaries

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.

PILOT PROGRAM ON STRENGTHENING THE DEFENSE
INDUSTRIAL AND INNOVATION BASE

Pub. L. 115-91, div. A, title XVII, §1711, Dec. 12, 2017, 131 Stat. 1811, as amended by Pub. L. 116-283, div. A, title II, §213(c), Jan. 1, 2021, 134 Stat. 3457, provided that:

“(a) PILOT PROGRAM REQUIRED.—The Secretary of Defense shall carry out a pilot program to assess the feasibility and advisability of increasing the capability of the defense industrial base and the defense innovation base to support—

“(1) development, prototyping, and manufacturing production needs to meet military requirements; and
“(2) development, prototyping, and manufacturing of emerging defense and commercial technologies.

“(b) AUTHORITIES.—The Secretary shall carry out the pilot program under the following:

“(1) [Former] Chapters 137 and 139 and sections 2371, 2371b, and 2373 of title 10, United States Code [now 10 U.S.C. 4021, 4022, 4023].

“(2) Section 230 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232; 10 U.S.C. 2358 note [now 10 U.S.C. 4061 note prec.]).

“(3) Such other legal authorities as the Secretary considers applicable to carrying out the pilot program.

“(c) ACTIVITIES.—Activities under the pilot program may include the following:

“(1) Use of contracts, grants, or other transaction authorities to support development, prototyping, and manufacturing capabilities in small- and medium-sized manufacturers.

“(2) Purchases of goods or equipment for testing and certification purposes.

“(3) Incentives, including purchase commitments and cost sharing with nongovernmental sources, for the private sector to develop capabilities in areas of national security interest.

“(4) Issuing loans or providing loan guarantees to small- and medium-sized companies to support manufacturing and production capabilities in areas of national security interest.

“(5) Giving awards to third party entities to support investments in small- and medium-sized companies working in areas of national security interest, including debt and equity investments that would benefit missions of the Department of Defense.

“(6) Such other activities as the Secretary determines necessary.

“(d) TERMINATION.—The pilot program shall terminate on December 31, 2026.

“(e) BRIEFING REQUIRED.—No later than January 31, 2027, the Secretary of Defense shall provide a briefing to the Committees on Armed Services in the Senate and the House of Representatives on the results of the pilot program.”

§ 4817. Industrial Base Fund

(a) ESTABLISHMENT.—The Secretary of Defense shall establish an Industrial Base Fund (in this section referred to as the “Fund”).

(b) CONTROL OF FUND.—The Fund shall be under the control of the Under Secretary of Defense for Acquisition and Sustainment, acting through the Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy.

(c) AMOUNTS IN FUND.—The Fund shall consist of amounts appropriated or otherwise made available to the Fund.

(d) USE OF FUND.—Subject to subsection (e), the Fund shall be used—

(1) to support the monitoring and assessment of the industrial base required by chapters 381 through 385 and chapter 389;

(2) to address critical issues in the industrial base relating to urgent operational needs;

(3) to support efforts to expand the industrial base; and

(4) to address supply chain vulnerabilities.

(e) USE OF FUND SUBJECT TO APPROPRIATIONS.—The authority of the Secretary of Defense to use the Fund under this section in any fiscal year is subject to the availability of appropriations for that purpose.

(f) EXPENDITURES.—The Secretary shall establish procedures for expending monies in the Fund in support of the uses identified in subsection (d), including the following:

(1) Direct obligations from the Fund.

(2) Transfers of monies from the Fund to relevant appropriations of the Department of Defense.

(Added Pub. L. 111-383, div. A, title VIII, §896(b)(1), Jan. 7, 2011, 124 Stat. 4315, §2508; amended Pub. L. 115-91, div. A, title X, §1081(g)(1), Dec. 12, 2017, 131 Stat. 1601; Pub. L. 116-92, div. A, title IX, §902(75), Dec. 20, 2019, 133 Stat. 1552; renumbered §4817, Pub. L. 116-283, div. A, title XVIII, §1867(b), Jan. 1, 2021, 134 Stat. 4281; Pub. L. 116-283, div. A, title XVIII, §1867(d)(7), as added Pub. L. 117-81, div. A, title XVII, §1701(b)(22)(C), Dec. 27, 2021, 135 Stat. 2135.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2508 of this title as this section.