



October 24, 2025

The Honorable Roger Wicker
Chairman
Committee on Armed Services
United States Senate

The Honorable Mike Rogers
Chairman
Committee on Armed Services
U.S. House of Representatives

The Honorable Jack Reed
Ranking Member
Committee on Armed Services
United States Senate

The Honorable Adam Smith
Ranking Member
Committee on Armed Services
U.S. House of Representatives

Re: NDIA FY26 NATIONAL DEFENSE AUTHORIZATION ACT CONFERENCE RECOMMENDATIONS

Dear Chairman Wicker, Ranking Member Reed, Chairman Rogers, and Ranking Member Smith:

The National Defense Industrial Association (NDIA) is the nation's largest defense industry association, representing nearly 1,500 corporate and over 67,000 individual members from small, medium, and large contractors, a majority of which are small businesses. NDIA members design, manufacture, apply, and maintain the cutting-edge technologies, systems, and platforms that our armed forces rely upon to deter aggression and defend our nation and its interests.

NDIA deeply appreciates your dedication to our nation's security and to the U.S. Armed Forces with your collective efforts drafting and advancing both versions of the Fiscal Year 2026 (FY26) National Defense Authorization Act (NDAA), S. 2296 and H.R. 3838, which also include key provisions from the FoRGED and SPEED Acts. To support your discussions, attached, please find an executive overview of NDIA's analysis of the provisions and a comprehensive technical review of NDIA's position on 57 key issues impacting the U.S. defense industrial base (U.S. DIB). The technical review also includes recommended language changes, where appropriate. In this dynamic legislative process, if it is helpful, NDIA would be pleased to convene industry members to discuss the comments provided and review updated legislative text at the committees' convenience.

There are significant policy debates impacting the U.S. DIB in this year's conference deliberations. Consistent with our membership's views throughout the year, NDIA applauds efforts to reform acquisition processes to be more responsive and agile in the modern era of warfare. At the same time, NDIA strongly encourages the committees to adopt reform efforts that are equitable for both traditional defense companies and nontraditional defense companies. It is important to note that many small- and medium-sized businesses would not benefit from pending exceptions for nontraditional defense companies, nor would many suppliers in the U.S. DIB.

On behalf of NDIA's members, we thank you for your shared commitment to unleash the full power of the U.S. DIB, which is essential for strengthening our nation's deterrence.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Norquist", is placed above the printed name.

Hon. David L. Norquist
NDIA President and CEO



Analysis of FY26 National Defense Authorization Acts, S. 2296 and H.R. 3838

Overview:

NDIA represents the full spectrum of the U.S. DIB, which is reflected in its review and analysis of S. 2296 and H.R. 3838. NDIA also organized the feedback from our members under five strategic pillars that are essential to building a modern, diverse, and resilient U.S. DIB: (1) a balanced approach to open competition; (2) restoring industrial readiness powerhouses; (3) advancing DoD digital modernization and transformation; (4) ensuring resilient supply chains; and (5) modernizing foreign defense trade and international technological cooperation.

To accurately reflect the breadth of technical feedback from our membership to the greatest extent possible, NDIA developed a color-coded methodology to precisely capture the input from our members. Of the 57 key issues identified in this letter, NDIA is pleased to note NDIA supports 37 provisions (or 65%), which are represented in green. Provisions for which NDIA does not concur are represented in red (19%). NDIA opposes 1 provision where we offer technical edits to address concerns (2%). Finally, due to NDIA's diverse membership, provisions denoted in purple represent areas where there is a split among NDIA's member companies (14%). It is important to note that the purple split, in general, is between traditional and nontraditional defense contractors.

An overall summary of NDIA's initial analysis is represented in the chart below:

Strategic Pillar	Provision(s) ¹	Green (Support or Neutral)	Orange (Oppose w/o Changes)	Red (Oppose)	Purple (Members Split)
Balanced Approach for Open Competition	H.R. 3838, Section 1825. S. 2296, Sections 821, 823, 824, 825, 826, 827, & 828.	N/A	N/A	N/A	8
Restoring Industrial Readiness Powerhouses	H.R. 3838, Sections 801, 802, 803, 804, 805, 806, 808, 811, 813, 818, 833, 835, 836, 1602, 1821, 1822, 1823, 1824, 1831, 1842, & 2809. S. 2296 Sections 822, 831, 832, 833, 835, 838, 839, 867, 868, 875, & 6027.	19	N/A	6	N/A
Advancing DoD Digital Modernization and Transformation	H. R. 3838, Sections 863, 892, 1832, & 1833. S. 2296, Sections 804, 836, & 1564. ²	5	N/A	2	N/A

¹ See full list of provisions in table starting on page 10.

² The text and attachment below includes supporting an extension of the SBIR/STTR programs not reflected in this table.

Ensuring Resilient Supply Chains	H. R. 3838 Sections 815, 852, 855, 864, 870, 873 1843, & 1844. S. 2296 Sections 843, 846, 861, 863, 867, 869, & 879.	9	1	3	N/A
Modernizing Foreign Defense Trade and International Technological Competition	H.R. 3838 Sections 1077 & 1703. S. 2296 Sections 874 & 908.	4	N/A	N/A	N/A
Total	57	37	1	11	8

Balanced Approach for Open Competition

Multiple NDIA member companies support most, and some members support all, of the proposals in both the “Fostering Reform and Government Efficiency in Defense (FoRGED) Act” and the “Streamlining Procurement for Effective Execution and Deliver (SPEED) Act,” which were incorporated into S.2296 and H.R. 3838 and are critical to remove regulatory burdens. However, the foundational concern for other NDIA member companies remains a commitment to uniform application and implementation of certain pending proposals to ensure open competition for all companies and to avoid structuring proposals based on corporate models.

The original intent of establishing unique rules for nontraditional defense contractors (NTDCs) was to expand the U.S. DIB by making it easier for innovative companies and small businesses, particularly high-tech firms who may have been reluctant to engage DoD. NDIA supports this policy objective and recommends the removal of unnecessary compliance requirements on NTDCs. However, the establishment of separate long-term guidelines for traditional defense contractors (TDCs) and NTDCs may lead to unbalanced competition opportunities. It also does not make sense to maintain regulatory burdens for TDCs simply because they have demonstrated their ability to comply. Compliance-driven behavior has not achieved the outcomes bipartisan policymakers seek for the U.S. DIB.

This is no longer a theoretical debate. As the U.S. saw through military operations this year and activities by global competitors, the ability to scale and sustain production capacity is an equally important policy priority. Reducing barriers for all companies is the most expeditious and clear path to realizing Congress’s priority to increase innovation and resilience in the DIB.

Cost, schedule, and performance constraints – to include workforce challenges – are ubiquitous and must be mitigated to improve the delivery of defense capabilities. NDIA supports efforts to remove unnecessary bureaucracy and to simplify the language of defense acquisition for traditional and nontraditional companies. Removing compliance burdens and increasing reasonable risk-sharing between government and industry are critical aspects of successful delivery of capability.

NDIA Members Have **Split Views** on the Following Sections:

Note: Member companies that support these provisions do not support the included technical edits.

H.R. 3838 Section 1825 treats major weapons systems as commercial items if purchased using commercial procedures. This provision supports nontraditional contractors but does not apply to traditional contractors, including small- and medium-sized traditional contractors. It also creates an acquisition gate for other pending provisions in this year's conference negotiations which could lead to vendor lock and a closed competition system. In addition, some members request that the committees instead re-emphasize the current authorities contracting officers already have in the statutory definition of commercial products and to utilize these authorities equitably across all of industry (as opposed to just nontraditional contractors).

S. 2296 Section 821 codifies changes to the definition of NTDCs by setting a limit of independent research and development (IR&D) costs to \$1,100,000. This limit benefits contractors that utilize private capital for IR&D to remain a NTDC in perpetuity. The provision focuses on a contractor's corporate structure, rather than the amount of actual IR&D spend, or the amount in contracts received.

S. 2296 Section 823 exempts NTDCs from ten separate acquisition regulations. These exemptions in effect create a separate ecosystem for NTDCs to operate under a reduced compliance regime. NDIA agrees with minimizing regulatory requirements for NTDCs. In fact, Section 823 makes the case that not minimizing burdens for all contractors may one day graduate NTDCs into the same morass of requirements that these policy exceptions are seeking to address. Therefore, NDIA continues to recommend removing unnecessary compliance burdens on NTDCs and TDCs alike to create an equal and competitive environment. Finally, please note NDIA also offers technical edits to H.R. 3838 Section 1824 that mirror the DFARS provisions included in Section 823 as a step in this direction.

S. 2296 Section 824 codifies the treatment of products and services provided by NTDCs as commercial products and commercial services by default. The challenge is NTDCs, but not TDCs, would benefit from this classification regardless of the size of the contract, even if there is no commercial market for the item or if it is purchased on a sole source basis.

S. 2296 Section 825 codifies the preference for commercial products and commercial services in defense acquisitions. Section 825 also directs the head of an agency to establish a process for determining the non-availability of commercial products and commercial services. This provision would prohibit DoD from purchasing a military-unique item unless the head of the agency determines there is no commercial item available. This level of approval does not create an open and balanced competition because a NTDC would have all their items deemed commercial while a TDC would need the head of an agency's approval to compete.

S. 2296 Section 826 allows the sole-source follow-on acquisition of commercial products and commercial services, and non-developmental items without further justification or competition. It compounds the challenges with Section 825.

S. 2296 Section 827 authorizes DoD to move from a prototype OTA to production OTA without competition – even if the prototype were awarded without competition. Under this authority there is no requirement for DoD to conduct market research or to seek other input from other entities that may offer a competitive product. Some NDIA members support H.R. 3838 Section 1831 in lieu of S. 2296 Section 827.

S. 2296 Section 828 waives most acquisition rules when the Department purchases an item for experimentation, prototyping, or demonstration, which could enable misuse and abuse.

Restoring Industrial Readiness Powerhouses

The capacity of the U.S. DIB to grow its output, fulfill a surge in military demands, and reconstitute in a major conflict stands as a key test of its health and readiness. The House and Senate versions of the FY2026 NDAA include multiple provisions affecting contracting, the workforce, and other challenges facing the U.S. DIB.

NDIA opposes H.R. 3838 Section 802 and S. 2296 Section 838, which would make the late submission of cost and pricing data an invalid defense for cost increases. The creation of contract vehicles, particularly for complex, major defense acquisition programs, depends on pricing that is an amalgamation of numerous subcontractors and is subject to variance within the subcontractor's pricing processes and other factors beyond the control of the prime contractor that may significantly affect when pricing data is available.

NDIA opposes H.R. 3838 Section 803 and S. 2296 Section 835, which increases reporting requirements for price increases above specified prices. H.R. 3838 Section 803 and S. 2296 Section 835 both include the new requirement to report non-compliance in the Federal Awardee Performance and Integrity Information System (FAPIS). This requirement is an additional compliance burden that could lead to negative performance reviews that do not account for factors beyond the control of the prime contractors.

NDIA opposes H.R. 3838 Section 806 which shortens the Nunn-McCurdy Breach reporting timeline and to include life cycle support cost within the reporting process. Currently, life-cycle cost estimates are introduced and evaluated at five separate junctures within the development of a program. The proposed provision is an example of adding a duplicative compliance requirement that parallels existing processes without additional benefits.

NDIA opposes H.R. 3838 Section 813 and S. 2296 Section 875 that requires Federal Funding Accountability and Transparency Act (FFATA) reporting on Other Transactions (OTs). OTs are designed to be vehicles that enable the rapid execution of agreements. Adding additional requirements to the OT environment would also add an additional compliance burden on NTDCs and smaller TDCs that does not add more value than the compliance effort it requires.

NDIA opposes H.R. 3838 Section 818 which, if enacted, will create two negative conditions. First, it introduces the process in which the unsuccessful protester bears the costs of the unsuccessful protest. As written, this provision potentially forces an incumbent contractor to continue to perform work without guarantee of full reimbursement for the value of the work if the incumbent loses the protest while under a bridge contract. This significantly increases the risk and uncertainty on incumbent contractors. Secondly, Section 818 would also make it substantially easier and in some cases actually require DoD to override the stay of award for a contract under a GAO protest. NDIA is particularly concerned that weakening the stay of award will undermine the integrity of the bid protest process and faith in the fairness of government acquisition.

NDIA opposes H.R. 3838 Section 836 and S. 2296 Section 867 that focuses on negative performance reviews only. Companies with commendable past performance should be recognized as such and performance information should be available to enable contracting officers to make selection decisions based on as much past performance information as possible.

NDIA supports H.R. 3838 Section 801 that directs the awarding of one or more multiyear contracts for full-rate production of a covered weapons system that will be in production for five or more consecutive years.

NDIA supports H.R. 3838 Section 804 to ensure a contractor is not required to assume risk if they are unable to obtain insurance or process a claim due to the classified nature of performance.

NDIA supports H.R. 3838 Section 805 and S. 2296 Section 833 that directs the maintenance of version control on solicitations and contracts documents. NDIA members prefer S. 2296 Section 833.

NDIA supports H.R. 3838 Section 808 and S. 2296 Section 822 to authorize financing costs for capital expenditures as allocable and allowable in direct or indirect overhead costs. This provision enables defense contractors to pursue material expansion of production capacity, sustainment, or maintenance and appropriately share risk with the Department. NDIA members prefer H.R. 3838 Section 808 as provided a more expansive definition of financing activities and cost.

NDIA supports H.R. 3838 Section 811 to authorize additional allowable profits related to undefinitized contractual actions.

NDIA supports H.R. 3838 Section 833 to establish a working group to identify opportunities to address workforce shortages in advanced manufacturing career fields.

NDIA supports H.R. 3838 Section 835 to identify and develop opportunities to recruit and retain individuals into the acquisition workforce.

NDIA supports H.R. 3838 Section 1602. NDIA supports the authorization of advance payments for commercial satellite communication services to include advance payments for commercial satellites. Advance payments provide contractors with necessary cash flow for large, upfront expenditures, which can result in lower prices, better terms, and a more stable industrial base.

NDIA supports H.R. 3838 Section 1821 and S. 2296 Section 839, which increase the acquisition thresholds for major programs, small purchases, and the Simplified Acquisition Threshold, among others.

NDIA supports H.R. 3838 Section 1822 to clarify that payments for commercial products and services shall not be considered an advanced payment.

NDIA supports H.R. 3838 Section 1823 to authorize the use of alternative capability-based analysis for the acquisition of commercial solutions. NDIA recommends expanding this provision to include both commercial and non-commercial products and services, which is reflected in the technical edits in this document.

NDIA supports H.R. 3838 Section 1824 to reduce burdens associated with the cost accounting standards (CAS). As mentioned above (*see S. 2296 Section 823*), NDIA offers technical edits to further expand this provision and reduce compliance burdens for all affected contractors by requiring the CAS Board to identify actions necessary to streamline the associated requirements for the DFARS provisions listed in S. 2296 Section 823.

NDIA supports H.R. 3838 Section 1831 to amend Other Transaction authority to establish a cap of 500 units of manufactured or developed products that may be acquired using other transaction procedures.

NDIA supports H.R. 3838 Section 1842 to establish the Defense Industrial Resilience Consortium to address challenges facing the U.S. DIB.



NDIA supports H.R. 3838 Section 2809 to authorize the use of cost-plus incentive-fee contracting for military construction projects associated with the Shipyard Infrastructure Optimization Program.

NDIA supports S. 2296 Section 831 to apply defense-unique contract clauses and requirements to subcontracts for commercial products and commercial services. Applying only contract clauses that are based on statute, executive orders, or acquisition policies applicable to commercial products and services increases predictability and reduces the variance and volume of compliance burdens on government contractors.

NDIA supports S. 2296 Section 832 to restrict the application of flowdown clauses in subcontracts for commercial products and services except as proposed in S. 2296 Section 831. Restricting additional flowdown clauses reduces the variance and volume of contract clauses from unique government customers. This restriction increases predictability and reduces the compliance burden on contractors.

NDIA supports S. 2296 Section 868 to repeal several existing laws to streamline the defense acquisition process. NDIA members support Section 3455 of title 10 which allows for the procurement of major weapon systems as a commercial product. However, NDIA requests the technical edit to retain 10 USC 3455 and only strike subsection (d), which includes problematic requirements to furnish commercial cost data that adds complexity to the statute formerly known as TINA.

NDIA supports S. 2296 Section 6027 to extend the Defense Production Act of 1950 by one year.

Advancing DoD Digital Modernization and Transformation

Intellectual Property (IP) and Data Rights

IP and data rights are also crucial to the companies that design, manufacture, apply, and maintain the cutting-edge technologies, systems, and platforms our armed forces rely upon to deter aggression and defend our nation and its interests. Protection of these rights is also essential to the Department's ability to incentivize investment in innovation, to gain access to new suppliers at the prime and subcontractor levels, and to maintain access to the information and technical data necessary to support military equipment throughout its lifecycle. The Pentagon already has powerful, flexible, and underutilized statutory tools to negotiate for the specific data rights it needs for sustainment.

NDIA opposes H.R. 3838 Section 863 and S. 2296 Section 836 which would force the disclosure of companies' sensitive, privately funded IP and trade secrets, that the Department could then share with third parties, including direct competitors. Section 863 and Section 836 will not solve the issues they seek to address but will instead disincentivize research and development (R&D) investment, weaken government-industry partnership models, undermine trade secrets and proprietary design protections, and possibly expand reverse engineering and reproduction.

NDIA supports H.R. 3838 Section 892 to inventory the technical data the Department currently holds for major weapons in order to identify actual, specific gaps in data needed for sustainment. This allows for targeted, cost-effective negotiations rather than a damaging, one-size-fits-all mandate.

NDIA supports H.R. 3838 Section 1832 to implement a Data-as-a-Service models that allows access to data on a cost-saving "pay-per-use" basis, which provides an additional tool to address the perceived concerns of the Department.

NDIA supports H.R. 3838 Section 1833 and opposes S. 2296 Section 804 to modify the modular open system approach (MOSA). Industry sees value in MOSA as it can foster competition, innovation, rapid upgrades, continued industry investment, and DoD access to commercial technologies. Section 1833 seeks to align MOSA with existing commercial practices using widely accepted, consensus-based standards. Alternatively, industry has some concerns with Section 804, including pushing towards the requirement for expanding Government Purpose Rights into developer resources beyond interfaces, which allows the sharing of potentially sensitive technical data with third parties and is contrary to commercial practices.

NDIA supports S. 2296 Section 1564 to confer restrictions on the modification of specific spectrum bands designated for exclusive national security use.

Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs

NDIA has been a long-standing and vocal supporter of the SBIR/STTR programs, which are an effective pathway for smaller high-tech innovators to bring cost-effective and valuable innovations to the Department and, ultimately, to our warfighters.

Although it is not specifically a conference item at this time and NDIA respects the rules regarding air-dropped provisions, **NDIA supports including a clean extension of the SBIR/STTR programs** to allow more time for further negotiations on a long-term reauthorization.

Ensuring Resilient Supply Chains

Both the Senate and House versions of the FY2026 NDAA feature provisions intended to strengthen existing, and develop new sources of, domestic and allied production capacity. Relevant pending legislative provisions include bolstering the approach to supply chain illumination, critical minerals and materials, and addressing the critical challenge in the workforce of the U.S. DIB.

Prohibitions

NDIA opposes H.R. 3838 Section 864, which would prohibit the acquisition of advanced batteries composed of materials from certain foreign sources. Generally, NDIA opposes restrictions on the supply chain in the absence of domestic suppliers. While there have been investments in domestic advanced battery production, the supplier ecosystem is not fully capable of supporting advanced battery requirements at this time.

NDIA opposes H.R. 3838 Section 870 and S. 2296 Section 879. NDIA supports efforts to remove products by Chinese entities from the supply chain, but the broad definitions included in these sections could severely limit the Department's access to hardware as they include any entity that subcontracts with a manufacturer that transforms raw materials, miscellaneous parts, or components into the end item. NDIA offers technical edits below to S. 2296 Section 879 that would address some of these concerns.

Supply Chain Improvements

NDIA opposes H.R. 3838 Section 852. NDIA members generally anticipate development of compliance tools add significant costs to program efforts. For example, the Compliance Map (CMAP) tool used to illuminate PFAS is estimated to add up to \$500,000 per program. Instead, NDIA members recommend the committees focus the

Department on developing supply chain illumination tools against which industry can align. This approach would mitigate anticipated high costs and provide a common operating picture across supply chains. *More information regarding NDIA member views on expedited acceptance procedures is covered in the next two entries.*

NDIA supports S. 2296 Section 863 to establish expedited acceptance procedures if companies are using government-approved supply chain illumination tools.

NDIA supports H.R. 3838 Section 852 on the specific language that outlines the expedited acceptance procedures over the expedited acceptance procedures S. 2296 Section 863. The language in H.R. 3838 Section 852 regarding expedited acceptance procedures clearly articulates that the Department can continue to receive military capability while a waiver is pursued. S. 2296 Section 863 proposes a new process for an expedited interim national security waiver, which could still take considerable time and delay delivery.

NDIA supports H.R. 3838 Section 855 that directs the establishment of registration and attestation process for covered sourcing requirements for covered products.

NDIA supports H.R. 3838 Section 1843 to establish a working group to develop recommendations for improving policies and procedures relating to the qualification, acceptance, and management of the supply chains of products manufactured using advanced manufacturing.

NDIA supports H.R. 3838 Section 1844 to report on surge capacity in the DIB.

Critical Minerals and Materials

NDIA opposes S. 2296 Section 846 to add gallium and germanium to the list of critical minerals eligible for procurement exceptions for a period not exceeding 36 months. NDIA generally opposes designating additional materials to the covered materials list when domestic sources are generally not available. Creating a supply ecosystem for germanium and gallium is anticipated to require significantly more time than the 36-month waiver process allows.

NDIA supports H.R. 3838 Section 815 to create a de minimis exception for small dollar purchases of specialty metals.

NDIA supports H.R. 3838 Section 873 and S. 2296 Section 861 to clarify that specialty metals restrictions effective January 1, 2027, apply to new contracts and not to deliveries of end items already under contract. NDIA members prefer the House version because it does not include the expansive descriptive language of “mined, refined, or separated in any covered nation” found in S. 2296 Section 861.

NDIA supports S. 2296 Section 843 to establish a waiver process for domestic and allied production of critical minerals and materials essential to meeting current and anticipated operational requirements.

Reporting and Approvals

NDIA supports S. 2296 Section 867 to revise subpart 242.15 of the DFARS to establish an objective, fact-based, and simplified system for reporting.

NDIA supports S. 2296 Section 869 to enhance defense supply chain resilience and secondary source qualification.

Modernizing Foreign Defense Trade and Technology Cooperation

The U.S. must focus on updating the policy, legal, regulatory, and technology security framework governing U.S. defense trade to maintain and strengthen our network of global and regional alliances and partnerships. This includes modernizing our Foreign Military Sales (FMS) and direct commercial sales (DCS) processes and deepening our technological cooperation and integration with our closest allies and partners.

NDIA supports H.R. 3838 Section 1077 to revise and update the technology transfer policies of the military departments and the National Disclosure Policy.

NDIA supports H.R. 3838 Section 1703 to annually review the FMS-only list. Identifying defense articles and services that can be appropriately transferred using DCS can accelerate sales to U.S. allies and partners and increase the number of U.S. jobs, while maintaining important safeguards.

NDIA supports S. 2296 NDAA Section 874 to codify the duty-free entry of supplies procured by the Department. This helps to both increase supply chain resilience and bolster relationships with our closest allies and partners.

NDIA offers support for S. 2296 Section 908 to establish the Assistant Secretary of Defense (ASD) for International Armaments Cooperation to address the disaggregation of many agencies and offices, including within the Department, that have responsibilities impacting international defense trade. As such, NDIA supports elevating this position to help drive progress forward. At the same time, NDIA is **neutral** on whether the creation of this position requires the elimination of another.



Attachment 1: Overview of NDIA's Positions

Source, Section Number, and Title	NDIA Position
Balanced Approach for Open Competition	
House Sec. 1825 Review of Commercial Buying Practices	Split
Senate Sec. 821 Modification to Nontraditional Defense Contractor Definitions	Split
Senate Sec. 823 Exemptions for Nontraditional Defense Contractors	Split
Senate Sec. 824 Modifications to Treatment of Certain Products and Services as Commercial Products and Commercial Services	Split
Senate Sec. 825 Modifications to Commercial Products and Commercial Services	Split
Senate Sec. 826 Modifications to Commercial Solutions Openings	Split
Senate Sec. 827 Modifications to Other Transactions	Split
Senate Sec. 828 Modification to Procurement for Experimental Purposes	Split
Restoring Industrial Readiness Powerhouses	
House Sec. 801 Multiyear Procurement Authority for Covered Weapons Systems	Support
House Sec. 802 / Senate Sec. 838 Elimination of Late Cost and Pricing Data Submission Defense	Oppose
House Sec. 803 / Senate Sec. 835 Reporting of Price Increases	Oppose
House Sec. 804 Assumption of Uninsurable Risk on Certain Contracts	Support
House Sec. 805 / Senate Sec 833 Changes to Reference Documents	Support
House Sec. 806 Major System Cost Growth Oversight	Oppose
House Sec. 808 / Senate Sec. 822 Financing for Programs with Priority Ratings Under the Defense Priorities and Allocation System / Financing for Covered Activities	Support
House Sec. 811 Additional Amendments Related to Undefined Contractual Actions	Support
House Sec. 813 / Senate Sec. 875 Other Transaction Authority Reporting	Oppose
House Sec. 818 Government Accountability Office Bid and Protest Process Enhancement	Oppose
House Sec. 833 Development of the Advanced Manufacturing Workforce	Support
House Sec. 835 Development and Employment of Members of the Defense Civilian Training Corps	Support
House Sec. 836 / Senate Sec. 867 Reform of Contractor Performance Information Requirements	Oppose

House Sec. 1602 Advance Payments for Commercial Satellite Communication Services	Support
House Sec. 1821/ Senate Sec 839 Adjustments to Certain Acquisition Thresholds	Support
House Sec. 1822 Clarification of Conditions for Payments for Commercial Products and Commercial Services	Support
House Sec. 1823 Alternative Capability-Base Pricing	Support*
House Sec. 1824 Matters Related to Cost Accounting Standards	Support*
House Sec. 1831 Amendment to Other Transaction Authority	Support
House Sec. 1842 Defense Industrial Resilience Consortium	Support
House Sec. 2809 Authorize Cost-Plus Incentive Fee Contracting for SIOP Infrastructure	Support
Senate Sec. 831 Modifications to Relationship of Other Provisions of Law to Procurement of Commercial Products and Commercial Services	Support
Senate Sec. 832 Limitation on Required Flowdown of Contract Clauses to Subcontractors Providing Commercial Products or Commercial Services	Support*
Senate Sec. 868 Repeals of Existing Law to Streamline the Defense Acquisition Process	Support*
Senate Sec. 6027 Extension of Defense Production Act of 1950	Support
Advancing DoD Digital Modernization and Transformation	
House Sec. 863 Requirement for Contractors to Provide Reasonable Access to Repair Materials/ Senate Sec. 836 Instructions for Continued Operational Readiness	Oppose
House Sec. 892 Inventory of Technical Data Rights for Weapon System Sustainment	Support
House Sec. 1832 Data-as-a-Service Solutions for Weapon System Contracts	Support
House Section 1833 Requirements For Modular Open System Approach And Modifications To Rights In Technical Data	Support
Senate Section 804 Modifications To Modular Open Systems Approach	Oppose
Senate Sec. 1564 Limitation on Modification of Certain Electromagnetic Spectrum Relied on by Department of Defense	Support
Extension of SBIR/STTR Programs	Support
Resilient Supply Chains	
House Sec. 815 Acquisition Thresholds for Certain Materials	Support
House Sec. 852 Supply Chain Illumination Incentives (Support expedited acceptance procedures language)	Oppose
House Sec. 855 Voluntary Registration of Compliance with Covered Sourcing Requirements for Covered Products	Support
House Sec. 864 Prohibition On Acquisition Of Advanced Batteries From Certain Foreign Sources	Oppose
House Sec. 870/Senate Sec. 879 Prohibition On Computers Or Printers/Phase-Out Of Computer And Printer Acquisitions Involving Entities Owned or Controlled By China	Oppose^

House Sec. 873 / Senate Sec. 861 Applicability/Clarification of Procurement Prohibition Related to Acquisition of Materials Mined, Refined, and Separated in Certain Countries	Support
House Sec. 1843 Qualification, Acceptance, and Supply Chain Management of Products Manufactured Using Advanced Manufacturing	Support
House Sec. 1844 Report on Surge Capacity in the Defense Industrial Base	Support
Senate Sec. 843 Application of National Security Waiver for Strategic Materials Sourcing Requirements to Sensitive Materials	Support
Senate Sec. 846 Prohibition of Procurement of Molybdenum, Gallium, or Germanium from Non-Aligned Foreign Nations and Authorization for Production from Recovered Material	Oppose
Senate Sec. 863 Expedited Acceptance Program for Supply Chain Illumination	Support
Senate Sec. 867 Reform of Contractor Performance Information Requirements	Support
Senate Sec. 869 Enhancement of Defense Supply Chain Resilience and Secondary Source Qualification	Support
Modernizing Defense Trade and Technology Cooperation	
House Sec. 1077 Framework for Technology Transfer and Foreign Disclosure Policies	Support
House Sec. 1703 Made-In-America Defense Articles and Services Expedited Through Direct Commercial Sales	Support
Senate Sec. 874 Duty-Free Entry of Supplies Procured by Department of Defense	Support
Senate Sec. 908 Modification of Organization and Authorities of Assistant Secretaries of Defense with Duties Relating to Industrial Base Policy and Readiness	Support/Neutral

*NDIA supports the base provision as written. At the same time, NDIA identified additional ways the provision could be beneficial. Therefore, NDIA includes suggested technical edits for the committees' consideration.

^NDIA opposes the provision as written and offers technical edits to address concerns.

Attachment II: Technical Edits

Technical Edits on Provisions Where NDIA Members Have Split Views

Note: Member companies that support these provisions do not support the included technical edits.

S. 2296 Sec. 825 – pg. 14	S. 2296 Sec. 827 – pg. 16
S. 2296 Sec. 826 – pg. 15	

S. 2296 SEC. 825. MODIFICATIONS TO COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES.

(a) IN GENERAL .—Section 3453 of title 10, United States Code, is amended—

(1) in subsection (b), by striking “procurement officials in that agency,” and inserting “acquisition officials in that agency, including consultants, researchers, and any individuals providing advisory services to acquisition officials,”;

(2) in subsection (b)(5), by striking “services” and inserting “services, to include providing guidance that modification of commercial technology to meet a government use case does not alter the commercial nature of the product”;

(3) in subsection (c), by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively;

(4) by inserting after paragraph (2) the following new paragraph:

“(3) The head of an agency shall establish a process for determinations regarding the non-availability of commercial products or services, including that—

“(A) a defense unique-development product or service may not be procured until the head of the agency, ~~or as delegated~~, determines that the market research conducted in accordance with paragraph (2) of this section resulted in no commercial product, commercial service, or nondevelopmental item suitable to meet the agency’s needs; and

~~“(B) prior to acquiring a defense unique-development product or service, a program manager shall, consistent with the policies and regulations of the Department of Defense, submit a written memorandum summarizing why a defense development unique product is required based on results of the determination in subparagraph (A), which shall be signed by the program executive officer.”;~~ and

(5) by adding at the end the following new subsection:

“(f) DEFINITION .—The term ‘defense-unique development’ means a Department of Defense financed product or service to provide a defense-unique capability that does not repurpose a commercial product, commercial service, or nondevelopmental item.”.

(b) DETERMINATIONS .—Section 3456 of title 10, United States Code, is amended—

(1) in subsection (a), by amending paragraph (2) to read as follows: “(2) assist military departments and Defense Agencies with performing market research and satisfying the requirements under section 3453 of this title pertaining to market research and the determination regarding the non-availability of commercial products or services and analysis used to determine the reasonableness of price for the purposes of procurements by the Department of Defense, **to include encouraging acquisition officials to rely upon prior determinations as provided in subparts 2(b)(2) of this title.**”; and

(2) in subsection (b)(2), by inserting after the first sentence the following: “The contracting officer should consider the results summarized in the memorandum issued by the program manager **as well as prior commercial item determinations issued for similar use cases** in accordance with the requirement in section 3453(c)(3)(B) of this title when issuing the written commercial or noncommercial determination.”.

S. 2296 SEC. 826. MODIFICATIONS TO COMMERCIAL SOLUTIONS OPENINGS.

Section 3458 of title 10, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

“(a) **AUTHORITY.**—The Secretary of Defense and the Secretaries of the military departments may acquire ~~commercial~~ products, ~~commercial~~ services, and nondevelopmental items through a competitive selection of proposals resulting from a general solicitation and the peer review, technical review, or operational review (as appropriate) of such proposals, and may issue, without further justification, follow-on contract awards or agreements, including sole source awards or agreements, to the recipient.”;

(2) by striking subsection (e);

(3) by redesignating subsection (c) and (d) as subsections (d) and (e), respectively;

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

“(c) **SOLE-SOURCE FOLLOW-ON.**—The Secretary of Defense and the Secretaries of the military departments may issue follow-on contract awards or agreements, including sole source awards, for any products, services, or items acquired through the competitive procedures described under subsection (a) subject to approval requirements in sections 3204 or 4022 of this title.”.

(5) ~~in by striking subsection (d), as redesignated by paragraph (2) of this section—~~

~~(A) by striking paragraph (1); and~~

~~(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.~~

S. 2296 SEC. 827. MODIFICATIONS TO OTHER TRANSACTIONS.

SEC. 827. MODIFICATIONS TO OTHER TRANSACTIONS.

Section 4022 of title 10, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by striking “at least 30 days before” and inserting “at the time”; and

~~(2) by adding at the end the following new subsection:~~

~~“(j) AUTHORITY TO AWARD A PRODUCTION TRANSACTION TO RAPIDLY FIELD AN EXISTING CAPABILITY.—~~

~~A production transaction may be awarded, with or without the use of competitive procedures, to acquire emergent and proven technologies and field production quantities of new or upgraded systems that do not require additional development and have been demonstrated in a relevant environment when the appropriate service or component acquisition executive determines in writing that exceptional circumstances justify the use of such a transaction to address a high priority warfighter need. The Secretary of Defense shall provide the written determination to the congressional defense committees at the time such authority is exercised.”.~~

Technical Edits on Provisions NDIA Supports and Requests Expansion

H.R. 3838 Sec. 1823 – pg. 16	S. 2296 Sec. 832 – pg. 22
H.R. 3838 Sec. 1824 – pg. 17	S. 2296 Sec. 868 – pg. 22

H.R. 3838 SEC. 1823. ALTERNATIVE CAPABILITY-BASED PRICING.

Chapter 287 of title 10, United States Code, is amended by adding at the end the following new section:

“SEC. 3906. ALTERNATIVE CAPABILITY-BASED PRICING.

“(a) In general.—~~Except as provided by subsection (b),~~ the head of an agency may use alternative capability-based analysis ~~for the acquisition of a commercial solution~~ to determine whether the price for a **commercial solution product or service** is fair and reasonable based on the value to the Government as determined under such analysis.

~~“(b) Exception.— Subsection (a) does not apply with respect to the acquisition of a commercial solution under a subcontract.~~

“(b e) Definitions.—In this section:

“(1) The term ‘alternative capability-based analysis’ means an analysis of the value to the Government of a ~~commercial solution~~ **product or service** that determines such value based on one or more of the following criteria:

“(A) The suitability of the ~~commercial solution~~ **product or service** for the particular purpose for which the Government would acquire ~~it such commercial solution~~.

“(B) The benefits obtained by the Government as a result of improvements in capability, effectiveness, efficiency, process, or speed to delivery provided by such **product or service** ~~commercial solution~~.

“(C) The estimated total cost avoidance resulting from the acquisition and use of such **a product or service** ~~commercial solution~~, including the cost avoidance resulting from reductions to operations, sustainment, or risks to mission by replacing fielded capabilities with such **a product or service** ~~commercial solution~~.

“(D) Input from the intended end users ~~of such commercial solution~~ on the potential value of the improvements to capabilities or processes provided by such **a product or service** ~~commercial solution~~.

~~“(2) The term ‘commercial solution’ means a product or service, including an integrated combination of products, services, or products and services—~~

~~“(A) that is sold, leased, or licensed in the commercial marketplace, or offered for sale, lease, or license in the commercial marketplace; and~~

~~“(B) the provider of which contemporaneously offers such solution or a solution that is similar to such solution to the general public or public entities, including State and local governments and foreign governments, under terms and conditions that are similar to the terms and conditions under which such solution is offered to the Federal Government.”.~~

H.R. 3838 SEC. 1824. MATTERS RELATED TO COST ACCOUNTING STANDARDS.

(a) Reduction of CAS compliance.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with Cost Accounting Standards Board established under section 1501 of title 41, United States Code, shall—

(A) identify actions necessary to streamline requirements for compliance with the cost accounting standards established under section 1502 of title 41, United States Code (in this section referred to as “CAS”) **or associated Defense Contractor Business Systems Rules**, in the performance of a contract with the Department of Defense **to include any associated requirements contained in the following:**

(i) **Defense Federal Acquisition Regulation Supplement 252.242-7006, or successor regulation**

(ii) Defense Federal Acquisition Regulation Supplement 252.234-7002, or successor regulation

(iii) Defense Federal Acquisition Regulation Supplement 252.215-7002, or successor regulation

(iv) Defense Federal Acquisition Regulation Supplement 252.242-7004, or successor regulation

(v) Defense Federal Acquisition Regulation Supplement 252.245-7003, or successor regulation

(vi) Defense Federal Acquisition Regulation Supplement 252.244-7001, or successor regulation

(vii) Defense Federal Acquisition Regulation Supplement 252.242-7005, or successor regulation

(viii) Defense Federal Acquisition Regulation Supplement 215.407 , or successor regulation ; and

(B)(1) ~~reduce or eliminate~~ such requirements ~~to the maximum extend practical~~ under the circumstances described in paragraph (2) for contracts entered into after the date that is 180 days after the date of the enactment of this Act and (2) ~~recommend corresponding reductions, eliminations, or sunseting of such requirements upon the next available option exercise for covered contracts issued prior to the date that is 180 days after the date of enactment of this Act.~~

(2) CIRCUMSTANCES DESCRIBED.—The circumstances described in this paragraph are as follows:

(A) With respect to an action to eliminate compliance with CAS ~~or associated Defense Business Systems Rules deemed necessary for purposes of monitoring CAS compliance~~, if reliance on a similar requirement under generally accepted accounting principles (in this section referred to as “GAAP”) would achieve, to the maximum extent possible, the use of commercial accounting standards and systems with respect to such elimination without bias or prejudice to parties to a contract.

(B) If other existing requirements in guidance or regulation will sufficiently protect the interests of the Secretary of Defense in the oversight of cost contracts.

(C) If such requirement is no longer necessary or appropriate.

(b) Changes to applicability of full CAS coverage.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall revise the rules and procedures prescribed pursuant to subsections (a) and (b) of section 1502 of title 41, United States Code, to the extent necessary to increase the thresholds established in section 9903.201-2 of title 48, Code of Federal Regulation, from \$50,000,000 to \$100,000,000.

(2) DEPARTMENT OF DEFENSE.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall update the Department of Defense Supplement to the Federal Acquisition Regulation to require full compliance with CAS only for an entity or subsidiary of an entity that—

(A) received a single contract award under CAS for ACAT-1D Major Weapon Systems with a value equal to or greater than \$100,000,000; or

(B) received contracts for ACAT-1D Major Weapon Systems during the cost accounting period that ended preceding the date of the report with an aggregate value equal to or greater than \$100,000,000.

(c) Amendments to Cost Accounting Standards Board.—

(1) ORGANIZATION.—Subsection (a) of section 1501 of title 41, United States Code, is amended by striking “Office of Federal Procurement Policy” and inserting “Office of Management and Budget”.

(2) MEMBERSHIP.—Subsection (b) of such section 1501 is amended—

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

“(1) MEMBERS, CHAIRMAN, AND APPOINTMENT.—The Board shall consist of 5 voting members and 2 nonvoting members.

“(A) VOTING MEMBERS.—One voting member is the Administrator of Federal Procurement Policy, who serves as Chairman. The other 4 members, all of whom shall have experience in Federal Government contract cost accounting, are as follows:

“(i) 2 representatives of the Federal Government, each of whom has substantial experience in administering and managing covered contracts—

“(I) one of whom is a representative of the Department of Defense appointed by the Secretary of Defense; and

“(II) one of whom is an officer or employee of the General Services Administration appointed by the Administrator of General Services.

“(ii) 2 individuals from the private sector, each of whom is appointed by the Director of the Office of Management and Budget—

“(I) one of whom is a senior employee or retired senior employee of a Government contractor with substantial experience in the private sector involving administration and management of covered contracts; and

“(II) one member of the accounting profession, with substantial experience as an accountant.

“(B) NONVOTING MEMBERS.—The 2 nonvoting members of the Board shall be appointed as follows:

“(i) 1 individual who is a senior employee of the Government Accountability Office with substantial experience in contracting and national security acquisitions, appointed by the Comptroller General of the United States.

“(ii) 1 individual from academia, a nonprofit organization, or a private entity with substantial experience in establishing financial accounting and reporting standards in compliance with Generally Accepted Accounting Principles, appointed by the Director of the Office of Management and Budget.”;

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting “, which may be extended for an additional 4-year period by the individual who appointed such member under paragraph (1)” after “4 years”; and

(ii) in subparagraph (B), by striking “paragraph (1)(A)” and inserting “paragraph (1)(A)(i)”; and

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

“(4) INELIGIBILITY.—Beginning on January 1, 2028⁶, an individual who is a member of an audit entity of an executive agency (excluding an audit entity of the Government Accountability Office) is not eligible to serve as a member of the Board.”.

(3) DUTIES.—Subsection (c) of such section 1501 is amended—

(A) in paragraph (2)—

(i) by striking “within one year” and all that follows through “conform such standards” and inserting the following: “not later than 180 days after the date of enactment of this paragraph, and biennially thereafter, review any cost accounting standards established under section 1502 of this title, ~~and~~ eliminate or conform such standards, ~~and issue recommendations to the FAR council regarding revision or elimination of existing regulations issued for purpose of enforcing eliminated standards~~”; and

(ii) by striking “and” at the end;

(B) in paragraph (3), by striking “disputes.” and inserting the following: “disputes, and take necessary action to clarify or improve such standards if misinterpretation or lack of clarity in a standard was a primary component of such dispute; and”; and

(C) by adding at the end the following:

“(4) ensure that any action taken pursuant to paragraph (3) is not taken solely for the purpose of tailoring such standard to favor a party in the dispute.”.

(4) REPORT.—Subsection (e) of such section 1501 is amended—

(A) in paragraph (1), by striking “and” at the end;

(B) in paragraph (2), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new paragraphs:

“(3) a summary of rulemaking activities related to any changes to such standards and any associated timelines for such activities, and

(4) a summary of any corresponding FAR regulations or agency supplements that may no longer be necessary based upon the elimination, modification, or streamlining of standards.”.

(5) SENIOR STAFF.—Subsection (f)(1)(B) of such section 1501 is amended—

(A) by striking “may appoint” and inserting “shall appoint”; and

(B) by striking “two” and inserting “not less than four”.

(6) COVERED CONTRACT DEFINED.—Such section 1501 is amended by adding at the end the following new subsection:

“(j) Covered contract defined.—In this section, the term ‘covered contract’ means a contract that is subject to the cost accounting standards issued pursuant to section 1502 of title 41, United States Code,”.

(7) DEADLINE.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, the Secretary of Defense, the Administrator of General Services, and the Comptroller General of the United States shall implement the amendments made by this subsection, including making the appointments under section 1501(b) of title 41, United States Code, as amended by this subsection.

(d) Amendment to mandatory use of cost accounting standards.—

(1) IN GENERAL.—Section 1502(b)(1) of title 41, United States Code, is amended—

(A) in subparagraph (B), by striking “amount set forth in section 3702(a)(1)(A) of title 10 as the amount is” and inserting “\$10,000,000, as”; and

(B) in subparagraph (C)—

(i) in clause (ii), by inserting “or” at the end;

(ii) in clause (iii), by striking “; or” and inserting a period; and

(iii) by striking clause (iv).

(2) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall issue such regulations as are necessary to implement the amendments made by this subsection.

S.2296 SEC. 832. LIMITATION ON REQUIRED FLOWDOWN OF CONTRACT CLAUSES TO SUBCONTRACTORS PROVIDING COMMERCIAL PRODUCTS OR COMMERCIAL SERVICES.

Chapter 247 of title 10, United States Code, is amended by adding at the end the following new section:

"SEC. 3459. LIMITATION ON REQUIRED FLOWDOWN OF CONTRACT CLAUSES TO SUBCONTRACTORS PROVIDING COMMERCIAL PRODUCTS OR COMMERCIAL SERVICES.

"(a) In general.—The Secretary of Defense may not require that a clause be included in a subcontract for the acquisition of commercial products or commercial services other than a clause required by a provision of law that is on the lists required by section 3452 of this title or unless otherwise applicable pursuant to subsection (e) of such section.

"(b) Applicability to other supply agreements.—The Secretary of Defense shall not require the flowdown of any contract clauses to other supply agreements unless otherwise applicable pursuant to subsection (e) of section 3452 of this title.

"(c) Definitions.—In this section, the terms 'other supply agreement' and 'subcontract' have the meanings provided in subsection (c)(2) of section 3452 of this title."

"(d) Effect on a prime contract.- If the limitations in subsection (a) or subsection (b) prevent a prime contractor from including a clause, contained in the prime contractor's contract with the government, in any subcontract or purchase order under that prime contract, then the government may not enforce the requirements of that clause against the prime contractor."

S. 2296 SEC. 868. REPEALS OF EXISTING LAW TO STREAMLINE THE DEFENSE ACQUISITION PROCESS.

The following provisions are hereby repealed:...

(27) **Subsection (d) of Section 3455 of title 10, United States Code.**

Technical Edits on Provisions That NDIA Members Oppose

S. 2296 Sec. 879 – pg. 22

S. 2296 SEC. 879. PHASE-OUT OF COMPUTER AND PRINTER ACQUISITIONS INVOLVING ENTITIES OWNED OR CONTROLLED BY CHINA.

(a) In general.—The Secretary of Defense may not directly or indirectly acquire any computer or printer if the manufacturer is a covered Chinese entity.

(b) List of covered entities.—The Secretary shall make a list of covered Chinese entities identified under this section available to vendors, manufacturers, and contractors, which may include a classified annex.

(cb) Prohibition on indirect sales.—The Secretary of Defense shall ensure that the prohibition under subsection (a) also applies to indirect sales through exempt subsidiaries. No covered entity may use an exempt subsidiary to circumvent the prohibition on the acquisition of computers, unified communication devices, or printers.

(de) Applicability.—This section shall apply only with respect to contracts or other agreements entered into, renewed, or extended in accordance with the percentage thresholds specified in subsection (d), for end user computing devices such as laptops, desktops, and other physical computing equipment. This section shall not apply to contracts or other agreements for cloud-based services, including virtual desktops, or cellular telephones.

(ed) Required percentages.—The percentage thresholds referred to in subsection (c) are, for both computers and printers, as follows:

- (1) Not less than 10 percent of the Department's total procurement beginning in fiscal year 2026.
- (2) Not less than 25 percent of the Department's total procurement beginning in fiscal year 2027.
- (3) Not less than 50 percent of the Department's total procurement beginning in fiscal year 2028.
- (4) 100 percent of the Department's total procurement beginning in fiscal year 2029.

(fe) Waiver.—The Secretary of Defense may allow acquisition of items not for operational use, to conduct testing, evaluation, exfiltration, and reverse engineering missions on adversarial products and capabilities.

(gf) Definitions.—In this section:

(1) COMPUTER.—The term “computer”—

(A) means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device; and

(B) does not include an automated typewriter or typesetter, a portable handheld calculator, or other similar device.

(2) COUNTRY OF CONCERN.—The term “country of concern” means the Government of the People's Republic of China.

(3) COVERED CHINESE ENTITY.—The term “covered Chinese entity” means an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, determines to be—

(A) an entity whose ultimate parent company is domiciled in the People's Republic of China and therefore required to comply with China's 2015 National Security Law, China's 2017 National Intelligence Law, and other Chinese laws that require such ultimate parent company to cooperate with Chinese national defense and national intelligence agencies; or

(B) an entity or parent company of any entity in which a country of concern has an ownership stake.

(4) MANUFACTURER.—The term “manufacturer” means—

(A) the entity that transforms raw materials, miscellaneous parts, or components into the end item;

~~(B) any entity that subcontracts with the entity described in subparagraph (A) for the entity described in such subparagraph to transform raw materials, miscellaneous parts, or components into the end item;~~

(BE) any entity that otherwise directs the entity described in subparagraph (A) to transform raw materials, miscellaneous parts, or components into the end item; or

(CE) any parent company, subsidiary, or affiliate of the entity described in subparagraph (A).

(5) PRINTER.—The term “printer”—

(A) means desktop printers, multifunction printer copiers, and printer/fax combinations taken out of service that may or may not be designed to reside on a work surface, and include various print technologies, including laser and light-emitting diode (electrographic), ink jet, dot matrix, thermal, and digital sublimation, and “multi-function” or “all-in-one” devices that perform different tasks, including copying, scanning, faxing, and printing;

(B) includes floor-standing printers, printers with optional floor stand, or household printers; and

(C) does not include point of sale (POS) receipt printers, calculators with printing capabilities, label makers, or non-standalone printers that are embedded into products that are not covered by the definition in subparagraphs (A) and (B).