

1 **SEC. ____ . RAPID RESPONSE TO EMERGENT TECHNOLOGY ADVANCEMENTS**
2 **OR THREATS.**

3 (a) **AUTHORITIES.**—Upon approval by the Secretary of Defense of a determination
4 described in subsection (b), the Secretary of a military department may use the rapid acquisition
5 and funding authorities established pursuant to section 3601 of title 10, United States Code, to
6 initiate new start development activities, up to a preliminary design review level of maturity, in
7 order to—

8 (1) leverage an emergent technological advancement of value to the national
9 defense; or

10 (2) provide a rapid response to an emerging threat.

11 (b) **DETERMINATION.**—A determination described in this subsection is a determination by
12 the Secretary of a military department submitted in writing to the Secretary of Defense that
13 provides the following:

14 (1) There is a compelling national security need to immediately initiate
15 development activity up to a preliminary design review level of maturity, in order to
16 leverage an emergent technological advancement or provide a rapid response to an
17 emerging threat.

18 (2) The effort cannot be delayed until the next submission of the budget of the
19 President (under section 1105(a) of title 31, United States Code) without harming the
20 national defense.

21 (3) Funding is identified for the effort in the current fiscal year.

22 (c) **ADDITIONAL PROCEDURES.**—

1 (1) IN GENERAL.—Not later than 180 days after the date of the enactment of this
2 Act, the Secretary of Defense shall amend the procedures for the rapid acquisition and
3 deployment of capabilities needed in response to urgent operational needs prescribed
4 pursuant to such section 3601 to carry out this section.

5 (2) REQUIREMENTS TO BE INCLUDED.—The procedures amended under paragraph
6 (1) shall include the following requirements:

7 (A) FUNDING.—(i) Subject to clause (ii), in any fiscal year in which a
8 determination described in subsection (b) is made, the Secretary of the military
9 department making the determination may initiate the activities authorized under
10 subsection (a) using any funds available to the Secretary for procurement or
11 research, development, test, and evaluation for such fiscal year.

12 (ii) The total cost of all developmental activities within the Department of
13 Defense, funded under this section, may not exceed \$300,000,000 for any fiscal
14 year.

15 (B) WAIVER AUTHORITY. —(i) Subject to clause (ii), the Secretary of the
16 military department making a determination under subsection (b) may issue a
17 waiver under subsection (d) of such section 3601.

18 (ii) Chapter 221 of title 10, United States Code, may not be waived
19 pursuant to clause (i).

20 (C) TRANSITION.—Any acquisition initiated under subsection (a) shall
21 transition to an acquisition pathway after completion and approval of a
22 preliminary design review or its functional equivalent.

1 (d) CONGRESSIONAL NOTIFICATION.—Within 15 days after the Secretary of Defense
2 approves a determination described in subsection (b), the Secretary of the military department
3 making the determination shall provide written notification of such determination to the
4 congressional defense committees following the procedures for notification in subsections
5 (c)(4)(D) and (c)(4)(F) of such section 3601. A notice under this subsection shall be sufficient to
6 fulfill any requirement to provide notification to Congress for a new start program.

Section-by-Section Analysis

The Department of Defense (DoD) must reduce the lead time to fielding a program of record by starting development activities immediately in the year-of-execution, to take advantage of emerging technology or responding to emerging threats, instead of waiting in the 2-year budgeting cycle for funding or new start authorization. Initially the DoD must have the authority to use existing funds for this purpose while awaiting a specific appropriation from a future budget submission.

Our pacing challenge, China, is moving aggressively to field systems designed to defeat the U.S. and our standard practices are not responsive to this threat. Failure to capitalize on emerging technology or respond to emerging threats in a timely manner affords strategic competitors the ability to gain advantage in a given technology or mission, creating future challenges to counter, deter, and defeat new threats. If we want to be competitive with China, we can't cede 2 years of schedule to them.

In prior decades, United States military advantage was built on technological advantage driven primarily by DoD investment. DoD was able to plan, develop, and field technology years before adversaries. Today DoD investment totals less than 3% of all dollars spent globally on research. Therefore, emerging technology is not always predictable and is not confined to the United States. Peer adversaries are able to take advantage of emerging technology at the same time as, or faster than, the United States. Adoption of these emerging technologies will result in adversaries fielding capabilities designed to defeat the United States' ability to project power in the Western Pacific and across the globe. Therefore, the DoD must be able to act quickly in such circumstances.

Under the existing authority for rapid acquisition and deployment, DoD is able to procure urgently needed items that are currently under development or commercially available. However, it does not extend the same flexibility for the Military Departments to initiate not-yet programmed research and development activities to leverage an emergent technological advancement or provide a rapid response to an emerging threat. This proposal aims to leverage and bolster the existing authority by applying it to allow for initial development activities up to a

Preliminary Design Review level of maturity for service-level requirements for future programs of record when the nation is faced with an emergent technological advancement or threat. Akin to rapidly responding to a battle field threat, this gives the Military Departments a tool to respond to unexpected threats from and emergent opportunities against our pacing challenge (China) and other acute threats. The current delay in the Department's response until the next budget cycle and approval of a new start request, particularly given the routine practice of extended continuing resolutions in which new start reprogrammings are not allowed, restricts the Department's ability to rapidly take advantage of technological innovations or respond to new threats where there is a necessity to begin development of a response immediately.

In sum, this proposal would reduce lead time to fielding a program of record by expediting the start of initial development activities. This is done by creating a limited ability for the Service Secretaries to internally initiate section 3601 acquisition in order to start development activities for up to \$300 million dollars for advanced component development and prototypes and system development and demonstration activities up to a Preliminary Design Review level of maturity for a future program of record when the Service Secretary identifies a compelling national security need. Service Secretary determinations must be submitted to the Secretary of Defense for approval. Efforts begun under this authority would transition to an acquisition pathway after completion and approval of a Preliminary Design Review or its functional equivalent. Post-decision notification would be provided to Congress. Expanding use of section 3601 Rapid Acquisition Authority in this way will provide the Department the ability to assess and capitalize on emergent technology and outpace peer R&D advancements.

Subsection (a) of the proposal applies authorities set forth in section 3601 of title 10, United States Code (which was added by the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (FY23 NDAA) (Public Law 117-263) and replaces section 806 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 10 U.S.C. 3201 note prec.)) to initiate new start development activities, up to a Preliminary Design Review level of maturity, when it is determined by a Secretary of a military department, and approved by the Secretary of Defense, that the United States faces an emergent technological advancement or threat. The subsequent subsections place conditions and limits on the use of this authority.

Subsection (b) requires a written determination that: (1) there is a national security requirement that cannot be delayed until submission of the next budget; and (2) identifies funding for current and future years.

Subsection (c) requires the Secretary of Defense to issue updated procedures to effectuate this proposal. This would provide for initiation of new start development activities, up to a Preliminary Design Review level of maturity, within the section 3601 regulations. It also provides additional limitations, such as specifying transition to an acquisition pathway and prohibiting waiver of the Competition in Contracting Act of 1984.

Finally, subsection (d) requires notification to the congressional defense committees in accordance with certain provisions of section 3601.

Resource Information: Resources for this authority are limited to the existing authorized and appropriated Procurement and RDT&E funds available to the Secretary making the determination within the fiscal year.

Changes to Existing Law: No changes to existing law.