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(Original Signature of Member)

114TH CONGRESS
2D SESSION

H. R. _____

To amend title 10, United States Code, to provide for modular open system architecture in major defense acquisition programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. THORNBERRY introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 10, United States Code, to provide for modular open system architecture in major defense acquisition programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Acquisition Agility Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Modular open system architecture in development of major weapon systems.

Sec. 3. Weapon system component development, prototyping, and deployment.

Sec. 4. Cost, schedule, and performance of major defense acquisition programs.

Sec. 5. Transparency in major defense acquisition programs.

Sec. 6. Amendments relating to technical data rights.

1 **SEC. 2. MODULAR OPEN SYSTEM ARCHITECTURE IN DE-**
2 **VELOPMENT OF MAJOR WEAPON SYSTEMS.**

3 (a) IN GENERAL.—Part IV of subtitle A of title 10,
4 United States Code, is amended by inserting after chapter
5 144A the following new chapter:

6 **“CHAPTER 144B—WEAPON SYSTEMS**
7 **DEVELOPMENT AND RELATED MATTERS**

“Subchapter	Sec.
“I. Modular Open System Architecture in Development of Weapon Systems	2446a
“II. Weapon System Component Development, Prototyping, and Deployment	2447a
“III. Cost, Schedule, and Performance of Major Defense Acquisition Programs	2448a

8 **“SUBCHAPTER I—MODULAR OPEN SYSTEM AR-**
9 **CHITECTURE IN DEVELOPMENT OF WEAP-**
10 **ON SYSTEMS**

- “Sec.
- “2446a. Requirement for modular open system architecture in major defense acquisition programs; definitions.
 - “2446b. Requirement to address modular open system architecture in program capabilities development and acquisition weapon system design.
 - “2446c. Requirements relating to availability of major system interfaces and support for modular open system architecture.
 - “2446d. Requirement to include modular open system architecture in Selected Acquisition Reports.

1 **“§ 2446a. Requirement for modular open system ar-**
2 **chitecture in major defense acquisition**
3 **programs; definitions**

4 “(a) MODULAR OPEN SYSTEM ARCHITECTURE RE-
5 QUIREMENT.—A major defense acquisition program initi-
6 ated after October 1, 2018, shall be designed and devel-
7 oped with a modular open system architecture to enable
8 incremental development.

9 “(b) DEFINITIONS.—In this chapter:

10 “(1) The term ‘modular open system architec-
11 ture’ means, with respect to a major defense acquisi-
12 tion program, an integrated business and technical
13 strategy that—

14 “(A) employs a modular design and uses,
15 if available and suitable, widely supported and
16 consensus-based standards for major system
17 interfaces between the major system platform
18 being developed under the program and its
19 major system components;

20 “(B) is subjected to testing to ensure
21 major system interfaces comply with widely
22 supported and consensus-based standards; and

23 “(C) uses a system architecture that allows
24 major system components to be incrementally
25 added, removed, or replaced throughout the life
26 cycle of the major system platform to afford op-

1 portunities for enhanced competition and inno-
2 vation while yielding—

3 “(i) significant cost savings or avoid-
4 ance;

5 “(ii) schedule reduction; or

6 “(iii) increased interoperability.

7 “(2) The term ‘major system platform’ means
8 the structure of a major weapon system on which a
9 major system component can be mounted or inte-
10 grated.

11 “(3) The term ‘major system component’—

12 “(A) means a subsystem or assembly that
13 can be mounted or installed on a major system
14 platform through well-defined, open major sys-
15 tem interfaces; and

16 “(B) includes a subsystem or assembly
17 that is likely to have additional capability re-
18 quirements, is likely to change because of evol-
19 ving technology or threat, is needed for inter-
20 operability, facilitates incremental deployment
21 of capabilities, or is expected to be replaced.

22 “(4) The term ‘major system interface’ means
23 a shared boundary between a major system platform
24 and its major system components, defined by various
25 characteristics pertaining to—

1 “(A) physical standards for mounting
2 major system components;

3 “(B) functional standards for integrating
4 major system components, such as electrical,
5 radio frequency, data, or software elements; and

6 “(C) open intellectual property rights con-
7 sistent with section 2320 of this title.

8 “(5) The term ‘program capability document’
9 means, with respect to a major defense acquisition
10 program, a document that specifies capability re-
11 quirements for the program, such as a capability de-
12 velopment document or a capability production docu-
13 ment.

14 “(6) The terms ‘program cost target’ and ‘field-
15 ing target’ have the meanings provided in section
16 2448a(a) of this title.

17 “(7) The term ‘major defense acquisition pro-
18 gram’ has the meaning provided in section 2430 of
19 this title.

20 “(8) The term ‘major weapon system’ has the
21 meaning provided in section 2379(f) of this title.

1 **“§ 2446b. Requirement to address modular open sys-**
2 **tem architecture in program capabilities**
3 **development and acquisition weapon sys-**
4 **tem design**

5 “(a) PROGRAM CAPABILITY DOCUMENT.—A program
6 capability document for a major defense acquisition pro-
7 gram shall identify and characterize—

8 “(1) the extent to which requirements for sys-
9 tem performance are likely to evolve during the life
10 cycle of the system because of evolving technology,
11 threat, or interoperability needs; and

12 “(2) for requirements that are expected to
13 evolve, the minimum acceptable capability that will
14 be available upon initial operating capability of the
15 major defense acquisition program.

16 “(b) ANALYSIS OF ALTERNATIVES.—The Director of
17 Cost Assessment and Performance Evaluation, in formu-
18 lating study guidance for analyses of alternatives for
19 major defense acquisition programs and performing such
20 analyses under section 139a(d)(4) of this title, shall en-
21 sure that any such analysis for a major defense acquisition
22 program includes consideration of an incremental develop-
23 ment approach and modular open system architecture.

24 “(c) ACQUISITION STRATEGY.—An acquisition strat-
25 egy for a major defense acquisition program, as required
26 under section 2431a of this title, shall—

1 “(1) clearly describe the modular open system
2 architecture to be used for the program;

3 “(2) differentiate between the major system
4 platform and major system components being devel-
5 oped under the program;

6 “(3) clearly describe the incremental approach
7 to major system components that are anticipated to
8 meet requirements for system performance;

9 “(4) identify additional major system compo-
10 nents that may be added later in the life cycle of the
11 major system platform; and

12 “(5) clearly describe how intellectual property
13 and related issues, such as data deliverables and li-
14 cense rights, that are necessary to support a mod-
15 ular open system architecture will be addressed.

16 “(d) REQUEST FOR PROPOSALS.—The milestone de-
17 cision authority for a major defense acquisition program
18 shall ensure that a request for proposals for the develop-
19 ment or production phases of the program shall address
20 the modular open system architecture to be used.

21 “(e) MILESTONE B.—A major defense acquisition
22 program may not receive Milestone B approval under sec-
23 tion 2366b of this title until the milestone decision author-
24 ity determines in writing that—

1 “(1) the program incorporates a modular open
2 system architecture with clearly defined major sys-
3 tem interfaces between the major system platform
4 and major system components to be developed under
5 the program;

6 “(2) such major system interfaces are con-
7 sistent with the widely supported and consensus-
8 based standards that exist at the time of the mile-
9 stone decision, unless such standards are unavailable
10 or unsuitable for particular major system interfaces;
11 and

12 “(3) the Government has arranged to obtain
13 appropriate and necessary intellectual property
14 rights with respect to such major system interfaces
15 upon completion of the development of the major
16 system platform.

17 **“§ 2446c. Requirements relating to availability of**
18 **major system interfaces and support for**
19 **modular open system architecture**

20 “The Secretary of each military department shall—

21 “(1) coordinate with the other military depart-
22 ments, the Defense Agencies, defense and other pri-
23 vate sector entities, and national standards-setting
24 organizations with respect to the identification, de-
25 velopment, and maintenance of major system inter-

1 faces and standards for use in major system plat-
2 forms, where practicable;

3 “(2) ensure that major system interfaces incor-
4 porate commercial standards to the maximum extent
5 practicable;

6 “(3) ensure sufficient systems engineering and
7 development expertise and resources are available to
8 support modular open system architecture in re-
9 quirements development and acquisition program
10 planning;

11 “(4) ensure that necessary planning, program-
12 ming, and budgeting resources are provided to iden-
13 tify, develop, and maintain modular open system ar-
14 chitecture and associated major system interfaces;
15 and

16 “(5) ensure adequate training in modular open
17 system architecture is provided to members of the
18 requirements and acquisition workforce.

19 **“§ 2446d. Requirement to include modular open sys-**
20 **tem architecture in Selected Acquisition**
21 **Reports**

22 “For each major defense acquisition program that re-
23 ceives Milestone B approval after October 1, 2018, a de-
24 scription of the key elements of the modular open system
25 architecture or, if a modular open system architecture was

1 not used, the rationale for not using such an architecture,
2 shall be submitted to the congressional defense committees
3 with the first Selected Acquisition Report required under
4 section 2432 of this title for the program.”.

5 (b) CLERICAL AMENDMENT.—The table of chapters
6 for title 10, United States Code, is amended by adding
7 after the item relating to chapter 144A the following new
8 item:

**“144B. Weapon Systems Development and Related Mat-
ters2446a”.**

9 (c) CONFORMING AMENDMENT.—Section
10 2366b(a)(3) of such title is amended—

11 (1) by striking “and” at the end of subpara-
12 graph (K); and

13 (2) by inserting after subparagraph (L) the fol-
14 lowing new subparagraph:

15 “(M) the requirements of section 2446b(e)
16 of this title are met; and”.

17 (d) EFFECTIVE DATE.—Subchapter I of chapter
18 144B of title 10, United States Code, as added by sub-
19 section (a), shall take effect on October 1, 2016.

20 **SEC. 3. WEAPON SYSTEM COMPONENT DEVELOPMENT,
21 PROTOTYPING, AND DEPLOYMENT.**

22 (a) IN GENERAL.—Chapter 144B of title 10, United
23 States Code, as added by section 2, is further amended
24 by adding at the end the following new subchapter:

1 “SUBCHAPTER II—WEAPON SYSTEM COMPO-
2 NENT DEVELOPMENT, PROTOTYPING, AND
3 DEPLOYMENT

“Sec.

“2447a. Technology development in the acquisition of major weapon systems.

“2447b. Weapon system component prototype projects: display of budget information.

“2447c. Weapon system component prototype projects: oversight.

“2447d. Requirements and limitations for weapon system component prototype projects.

“2447e. Mechanisms to speed deployment of successful weapon system component prototypes.

“2447f. Definition of weapon system component.

4 **“§ 2447a. Technology development in the acquisition**
5 **of major weapon systems**

6 “Technology shall be developed in a major defense
7 acquisition program that is initiated after October 1,
8 2018, only if the milestone decision authority for the pro-
9 gram determines with a high degree of confidence that
10 such development will not delay the fielding target of the
11 program. If the milestone decision authority does not
12 make such determination for a major system component
13 being developed under the program, the milestone decision
14 authority shall ensure that technology related to the major
15 system component shall be sufficiently matured separate
16 from the major defense acquisition program using the
17 prototyping authorities of this section or other authorities,
18 as appropriate.

1 **“§ 2447b. Weapon system component prototype**
2 **projects: display of budget information**

3 “(a) REQUIREMENTS FOR BUDGET DISPLAY.—In the
4 defense budget materials for any fiscal year after fiscal
5 year 2017, the Secretary of Defense shall, with respect
6 to advanced component development and prototype activi-
7 ties (within the research, development, test, and evaluation
8 budget), set forth separately the amounts requested for
9 each of the following:

10 “(1) Acquisition programs of record.

11 “(2) Experimentation and rapid prototyping of
12 weapon system components or other technologies
13 and subsystems.

14 “(3) Other budget line items as determined by
15 the Secretary of Defense.

16 “(b) ADDITIONAL REQUIREMENTS.—For purposes of
17 subsection (a)(2), the amounts requested for experimen-
18 tation and rapid prototyping of weapon system compo-
19 nents or other technologies and subsystems shall be—

20 “(1) displayed in separate budget lines struc-
21 tured into either capability or weapon system compo-
22 nent portfolios that reflect the priority areas for pro-
23 totype projects; and

24 “(2) justified with general descriptions of the
25 types of capability areas and technologies being

1 funded or expected to be funded during the fiscal
2 year concerned.

3 “(c) DEFINITIONS.—In this section, the terms ‘budg-
4 et’ and ‘defense budget materials’ have the meaning given
5 those terms in section 234 of this title.

6 **“§ 2447c. Weapon system component prototype**
7 **projects: oversight**

8 “(a) ESTABLISHMENT.—The Secretary of each mili-
9 tary department shall establish or appoint an oversight
10 board or similar group of senior advisors for managing
11 prototype projects for weapon system components and
12 other technologies and subsystems, including the use of
13 funds for such projects, within the military department
14 concerned.

15 “(b) MEMBERSHIP.—Each oversight board shall be
16 comprised of senior officials with—

17 “(1) expertise in requirements; research, devel-
18 opment, test, and evaluation; acquisition; or other
19 relevant areas within the military department con-
20 cerned; and

21 “(2) awareness of the component capability re-
22 quirements of major weapon systems, including
23 scheduling and fielding goals for such component ca-
24 pabilities.

1 “(c) FUNCTIONS.—The functions of each oversight
2 board are as follows:

3 “(1) To issue a strategic plan every three years
4 that prioritizes the capability and weapon system
5 component portfolio areas for conducting prototype
6 projects, based on assessments of high priority
7 warfighter needs, capability gaps on existing major
8 weapon systems, opportunities to incrementally inte-
9 grate new components into major weapon systems,
10 and technologies that are expected to be sufficiently
11 mature to prototype within 3 years.

12 “(2) To annually recommend funding levels for
13 weapon system component prototype projects across
14 capability or weapon system component portfolios.

15 “(3) To annually recommend to the service ac-
16 quisition executive of the military department con-
17 cerned specific weapon system component prototype
18 projects, subject to the requirements and limitations
19 in section 2447d of this title.

20 “(4) To ensure projects are managed by experts
21 within the Department of Defense who are knowl-
22 edgeable in research, development, test, and evalua-
23 tion and who are aware of opportunities for incre-
24 mental deployment of component capabilities to
25 major weapon systems.

1 “(5) To ensure projects are conducted in a
2 manner that allows for appropriate experimentation
3 and technology risk.

4 “(6) To ensure necessary technical, contracting,
5 and financial management resources are available to
6 support each project.

7 “(7) To submit to the congressional defense
8 committees a semi-annual notification that includes
9 the following:

10 “(A) A description of each weapon system
11 component prototype project initiated during
12 the preceding six months, including an expla-
13 nation of each project and its required funding.

14 “(B) A description of the results achieved
15 from weapon system component prototype
16 projects completed and tested during the pre-
17 ceding six months.

18 **“§ 2447d. Requirements and limitations for weapon**
19 **system component prototype projects**

20 “(a) LIMITATION ON PROTOTYPE PROJECT DURA-
21 TION.—A prototype project shall be completed within
22 three years of its initiation.

23 “(b) MERIT-BASED SELECTION PROCESS.—A proto-
24 type project shall be selected by the service acquisition ex-
25 ecutive of the military department concerned through a

1 merit-based selection process that identifies the most
2 promising and cost-effective prototypes that address a
3 high priority warfighter need and are expected to be suc-
4 cessfully demonstrated in a relevant environment.

5 “(c) TYPE OF TRANSACTION.—Prototype projects
6 shall be funded through contracts, cooperative agree-
7 ments, or other transactions.

8 “(d) FUNDING LIMIT.—(1) Each prototype project
9 may not exceed a total amount of \$5,000,000 (based on
10 fiscal year 2017 constant dollars), unless—

11 “(A) the Secretary of the military department,
12 or the Secretary’s designee, approves a larger
13 amount of funding for the project, not to exceed
14 \$25,000,000; and

15 “(B) the Secretary, or the Secretary’s designee,
16 submits to the congressional defense committees,
17 within 30 days after approval of such funding for
18 the project, a notification that includes—

19 “(i) a description of the project;

20 “(ii) expected funding for the project; and

21 “(iii) a statement of the anticipated out-
22 come of the project.

23 “(2) The Secretary of Defense may adjust the
24 amounts (and the base fiscal year) provided in paragraph

1 (1) on the basis of Department of Defense escalation
2 rates.

3 **“§ 2447e. Mechanisms to speed deployment of suc-**
4 **cessful weapon system component proto-**
5 **types**

6 “(a) SELECTION OF PROTOTYPE PROJECT FOR PRO-
7 Duction.—A weapon system component or technology
8 prototype project may be selected by the service acquisi-
9 tion executive of the military department concerned for a
10 follow-on production contract or other transaction without
11 the use of competitive procedures, notwithstanding the re-
12 quirements of section 2304 of this title, if—

13 “(1) a prototype project addresses a high pri-
14 ority warfighter need;

15 “(2) competitive procedures were used for the
16 selection of parties for participation in the prototype
17 project;

18 “(3) the participants in the project successfully
19 completed the project provided for in the trans-
20 action; and

21 “(4) the prototype was demonstrated in a rel-
22 evant environment.

23 “(b) SPECIAL TRANSFER AUTHORITY.—(1) The Sec-
24 retary of a military department may transfer funds that
25 remain available for obligation in procurement appropria-

1 tion accounts of the military department to fund the low-
2 rate initial production of a prototype until required fund-
3 ing for full-rate production can be submitted and approved
4 through the regular budget process of the Department of
5 Defense.

6 “(2) The funds transferred under this subsection to
7 be used for production of a prototype shall be for a period
8 not to exceed two years, the amount for such period may
9 not exceed \$10,000,000, and the special transfer authority
10 provided in this subsection may not be used more than
11 once to fund procurement of a particular prototype.

12 “(3) The special transfer authority provided in this
13 subsection is in addition to any other transfer authority
14 available to the Department of Defense.

15 “(c) NOTIFICATION TO CONGRESS.—Within 30 days
16 after the service acquisition executive of a military depart-
17 ment selects a weapon system component or technology
18 prototype project for a follow-on production contract or
19 other transaction, the service acquisition executive shall
20 notify the congressional defense committees of the selec-
21 tion.

22 **“§ 2447f. Definition of weapon system component**

23 “In this subchapter, the term ‘weapon system compo-
24 nent’ has the meaning provided the term ‘major system
25 component’ in section 2446a of this title.”.

1 (b) EFFECTIVE DATE.—Subchapter II of chapter
2 144B of title 10, United States Code, as added by sub-
3 section (a), shall take effect on October 1, 2016.

4 **SEC. 4. COST, SCHEDULE, AND PERFORMANCE OF MAJOR**
5 **DEFENSE ACQUISITION PROGRAMS.**

6 (a) IN GENERAL.—Chapter 144B of title 10, United
7 States Code, as added by section 2, is amended by adding
8 at the end the following new subchapter:

9 “SUBCHAPTER III—COST, SCHEDULE, AND PER-
10 FORMANCE OF MAJOR DEFENSE ACQUI-
11 TION PROGRAMS

“Sec.

“2448a. Program cost and fielding targets in planning major defense acquisition programs.

“2448b. Independent technical risk assessments.

“2448c. Adherence to requirements and thresholds in major defense acquisition programs.

12 **“§ 2448a. Program cost and fielding targets in plan-**
13 **ning major defense acquisition programs**

14 “(a) PROGRAM COST AND FIELDING TARGETS.—Be-
15 fore Milestone A approval is granted for a major defense
16 acquisition program, the Secretary of Defense shall ensure
17 the program will be affordable and fielded when needed
18 by establishing targets for—

19 “(1) the program acquisition unit cost (referred
20 to in this section as the ‘program cost target’; and

21 “(2) the date for initial operational capability
22 (referred to in this section as the ‘fielding target’).

1 “(b) CONSIDERATIONS.—In establishing targets
2 under subsection (a) for the program, the Secretary of De-
3 fense shall consider each of the following:

4 “(1) The capability needs and timeframe speci-
5 fied in the initial capabilities document, opportuni-
6 ties for incremental deployment of capabilities, and
7 minimum acceptable capability increments.

8 “(2) Resources available to fund the develop-
9 ment, production, and life cycle of the program,
10 using a reasonable estimate of future defense budg-
11 ets.

12 “(3) Procurement quantity objectives.

13 “(4) Trade-offs among cost, schedule, technical
14 risk, and performance objectives identified in the
15 analysis of alternatives required under section 2366a
16 of this title.

17 “(5) The independent cost estimate prepared or
18 approved under section 2334(a)(6) of this title.

19 “(6) The independent technical risk assessment
20 conducted or approved under section 2448b of this
21 title.

22 “(c) DELEGATION.—The responsibilities of the Sec-
23 retary of Defense in subsection (a) may be delegated only
24 to the Deputy Secretary of Defense or the Under Sec-

1 retary of Defense for Acquisition, Technology, and Logis-
2 ties.

3 “(d) DEFINITIONS.—In this section:

4 “(1) The term ‘program acquisition unit cost’
5 has the meaning provided in section 2432(a) of this
6 title.

7 “(2) The term ‘initial capabilities document’
8 has the meaning provided in section 2366a(d)(2) of
9 this title.

10 **“§ 2448b. Independent technical risk assessments**

11 “(a) IN GENERAL.—The Under Secretary of Defense
12 for Acquisition, Technology, and Logistics shall conduct
13 or approve an independent technical risk assessment for
14 a major defense acquisition program—

15 “(1) before any decision to grant milestone ap-
16 proval pursuant to section 2366a or 2366b of this
17 title;

18 “(2) before any decision to enter into low-rate
19 initial production or full-rate production; and

20 “(3) at any other time considered appropriate
21 by the Under Secretary.

22 “(b) CATEGORIZATION OF TECHNICAL RISK LEV-
23 ELS.—The Under Secretary shall issue guidance and a
24 framework for categorizing the degree of technical risk in

1 a major defense acquisition program and a major auto-
2 mated information system.

3 **“§ 2448c. Adherence to requirements and thresholds**
4 **in major defense acquisition programs**

5 “(a) CAPABILITIES DETERMINATION.—The Sec-
6 retary of the military department concerned shall ensure
7 that the capability development document supporting a
8 Milestone A or subsequent milestone for a major defense
9 acquisition program may not be submitted to the Joint
10 Requirements Oversight Council for approval until the
11 Chief of the armed force concerned determines in writing
12 that the requirements in the document are necessary and
13 realistic in relation to the program cost and fielding tar-
14 gets established under section 2448a(a) of this title.

15 “(b) COMPLIANCE WITH TARGETS BEFORE MILE-
16 STONE B APPROVAL.—A major defense acquisition pro-
17 gram may not receive Milestone B approval until the mile-
18 stone decision authority for the program determines in
19 writing that the estimated program acquisition unit cost
20 and the estimated date for initial operational capability
21 for the baseline description for the program (established
22 under section 2435) do not exceed the program cost and
23 fielding targets established under section 2448a(a) of this
24 title. If such estimated cost is higher than the program
25 cost target or if such estimated date is later than the field-

1 ing target, the milestone decision authority may request
2 that the Secretary of Defense increase the program cost
3 target or delay the fielding target, as applicable.”.

4 (b) EFFECTIVE DATE.—Subchapter III of chapter
5 144B of title 10, United States Code, as added by sub-
6 section (a), shall apply with respect to major defense ac-
7 quisition programs that reach Milestone A after October
8 1, 2016.

9 (c) MODIFICATION OF MILESTONE DECISION AU-
10 THORITY.—Effective October 1, 2016, subsection (d) of
11 section 2430 of title 10, United States Code, as added by
12 section 825(a) of the National Defense Authorization Act
13 for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 907),
14 is amended—

15 (1) in paragraph (2)(A), by inserting “subject
16 to paragraph (5),” before “the Secretary deter-
17 mines”; and

18 (2) by adding at the end the following new
19 paragraph:

20 “(5) The authority of the Secretary of Defense to
21 designate an alternative milestone decision authority for
22 a program with respect to which the Secretary determines
23 that the program is addressing a joint requirement, as set
24 forth in paragraph (2)(A), shall apply only for a major

1 defense acquisition program that reaches Milestone A
2 after October 1, 2016, and before October 1, 2019.”.

3 **SEC. 5. TRANSPARENCY IN MAJOR DEFENSE ACQUISITION**
4 **PROGRAMS.**

5 (a) REPORTS ON MILESTONE DECISION METRICS.—
6 Subchapter III of chapter 144B of title 10, United States
7 Code, as added by section 2, is amended by adding at the
8 end the following new section:

9 **“§ 2448d. Reports on milestone decision metrics**

10 “(a) REPORT ON MILESTONE A.—Not later than 15
11 days after granting Milestone A approval for a major de-
12 fense acquisition program, the milestone decision author-
13 ity for the program shall provide to the congressional de-
14 fense committees a brief summary report that contains the
15 following:

16 “(1) The program cost and fielding targets es-
17 tablished by the Secretary of Defense under section
18 2448a(a) of this title.

19 “(2) The cost and schedule estimates for the
20 program conducted by the military department con-
21 cerned.

22 “(3) The independent cost estimate for the pro-
23 gram conducted or approved under section
24 2334(a)(6) of this title, and any independent sched-
25 ule estimate conducted for the program.

1 “(4) A summary of the technical risks associ-
2 ated with the program, as determined by the mili-
3 tary department concerned.

4 “(5) A summary of the independent technical
5 risk assessment conducted or approved under section
6 2448b of this title.

7 “(6) A summary of the sufficiency review con-
8 ducted by the Director of Cost Assessment and Pro-
9 gram Evaluation of the analysis of alternatives per-
10 formed for the program (as referred to in section
11 2366a(b)(6) of this title).

12 “(7) Any other information the milestone deci-
13 sion authority considers relevant.

14 “(b) REPORT ON MILESTONE B.—Not later than 15
15 days after granting Milestone B approval for a major de-
16 fense acquisition program, the milestone decision author-
17 ity for the program shall provide to the congressional de-
18 fense committees a brief summary report that contains the
19 following:

20 “(1) The program cost and fielding targets es-
21 tablished by the Secretary of Defense under section
22 2448a(a) of this title.

23 “(2) The cost and schedule estimates for the
24 program conducted by the military department con-
25 cerned.

1 “(3) The independent cost estimate for the pro-
2 gram conducted or approved under section
3 2334(a)(6) of this title, and any independent sched-
4 ule estimate conducted for the program.

5 “(4) The cost and schedule estimates approved
6 for the program by the milestone decision authority.

7 “(5) A summary of the technical risks associ-
8 ated with the program, as determined by the mili-
9 tary department concerned.

10 “(6) A summary of the independent technical
11 risk assessment conducted or approved under section
12 2448b of this title.

13 “(7) A list of critical technologies, if any, asso-
14 ciated with the program, that have not been success-
15 fully tested in a relevant environment.

16 “(8) A statement of whether the preliminary
17 design review for the program (referred to in section
18 2366b(a)(1) of this title) has been completed.

19 “(9) A statement of whether a modular open
20 system architecture is being used for the program.

21 “(10) Any other information the milestone deci-
22 sion authority considers relevant.

23 “(c) REPORT ON MILESTONE C.—Not later than 15
24 days after granting Milestone C approval for a major de-
25 fense acquisition program, the milestone decision author-

1 ity for the program shall provide to the congressional de-
2 fense committees a brief summary report that contains the
3 following:

4 “(1) The cost and schedule estimates for the
5 program conducted by the military department con-
6 cerned.

7 “(2) The independent cost estimate for the pro-
8 gram conducted or approved under section
9 2334(a)(6) of this title, and any independent sched-
10 ule estimate conducted for the program.

11 “(3) The cost and schedule estimates approved
12 by the milestone decision authority for the program.

13 “(4) A summary of the production, manufac-
14 turing, and fielding risks associated with the pro-
15 gram.

16 “(d) ADDITIONAL INFORMATION.—At the request of
17 any of the congressional defense committees, the milestone
18 decision authority shall submit to the committee further
19 information or underlying documentation for the informa-
20 tion in a report submitted under subsection (a), (b), or
21 (c), including the independent cost and schedule estimates
22 and the independent technical risk assessments referred
23 to in those subsections.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of such subchapter is amended by adding
3 at the end the following new item:

“2448d. Reports on milestone decision metrics.”.

4 **SEC. 6. AMENDMENTS RELATING TO TECHNICAL DATA**
5 **RIGHTS.**

6 (a) RIGHTS RELATING TO ITEM OR PROCESS DEVEL-
7 OPED EXCLUSIVELY AT PRIVATE EXPENSE.—

8 (1) Subsection (a)(2)(C) of section 2320 of title
9 10, United States Code, is amended—

10 (A) by striking clause (ii) and inserting the
11 following:

12 “(ii) relates to form, fit, function, or the
13 external interface of an item or process with
14 other items or processes, including any major
15 system interface of a major system component
16 with a major system platform or other major
17 system component;”; and

18 (B) in clause (iii), by inserting after “or
19 process data” the following: “, including data
20 pertaining to a major system component”.

21 (2) Subsection (a)(2)(D)(i) of such section is
22 amended—

23 (A) by inserting “or” at the end of sub-
24 clause (I);

25 (B) by striking subclause (II); and

1 (C) by redesignating subclause (III) as
2 subclause (II).”.

3 (b) RIGHTS RELATING TO ITEM OR PROCESS DEVEL-
4 OPED IN PART WITH FEDERAL FUNDS AND IN PART AT
5 PRIVATE EXPENSE.—Subsection (a)(2) of section 2320 of
6 such title is further amended—

7 (1) by redesignating subparagraphs (F) and
8 (G) as subparagraphs (G) and (H), respectively;

9 (2) in subparagraph (E), by striking “In the
10 case of” and inserting “Except as provided in sub-
11 paragraph (F), in the case of”; and

12 (3) by inserting after subparagraph (E) the fol-
13 lowing new subparagraph (F):

14 “(F) Notwithstanding subparagraph (E), in the
15 case of an external interface that is developed in
16 part with Federal funds and in part at private ex-
17 pense, the United States shall have unlimited rights
18 to—

19 “(i) use technical data pertaining to such
20 external interface; or

21 “(ii) release or disclose the technical data
22 to persons outside the government or permit the
23 use of the technical data by such persons.”.

24 (c) DEFINITIONS.—Section 2320 of such title is fur-
25 ther amended—

1 (1) in subsection (f), by inserting “COVERED
2 GOVERNMENT SUPPORT CONTRACTOR DEFINED.—”
3 before “In this section”; and

4 (2) by adding at the end the following new sub-
5 section:

6 “(g) ADDITIONAL DEFINITIONS.—In this section, the
7 terms ‘major system platform’, ‘major system component’,
8 and ‘major system interface’ have the meanings provided
9 in section 2446a of this title.”.

10 (d) GOVERNMENT-INDUSTRY ADVISORY PANEL
11 AMENDMENTS.—Section 813(b) of the National Defense
12 Authorization Act for Fiscal Year 2016 (Public Law 114–
13 92; 129 Stat. 892) is amended—

14 (1) by adding at the end of the paragraph (1)
15 the following: “The panel shall develop recommenda-
16 tions for changes to sections 2320 and 2321 of title
17 10, United States Code, and the regulations imple-
18 menting such sections.”;

19 (2) in paragraph (3)—

20 (A) by redesignating subparagraphs (D)
21 and (E) as subparagraphs (E) and (F), respec-
22 tively; and

23 (B) by inserting after subparagraph (C)
24 the following new subparagraph (D):

1 “(D) Ensuring that the Department of De-
2 fense and Department of Defense contractors
3 have the technical data rights necessary to sup-
4 port the modular open system architecture re-
5 quirement set forth in section 2446a of title 10,
6 United States Code, taking into consideration
7 the distinct characteristics of major system
8 platforms, major system interfaces, and major
9 system components developed exclusively with
10 Federal funds, exclusively at private expense,
11 and with a combination of Federal funds and
12 private expense.”; and

13 (3) in paragraph (4), by striking “September
14 30, 2016” and inserting “December 15, 2016”.

15 (e) AMENDMENT RELATING TO NEGOTIATED RIGHTS
16 FOR ITEM OR PROCESS DEVELOPED WITH MIXED FUND-
17 ING.—Subsection (a)(2)(E) of section 2320 of title 10,
18 United States Code, is further amended by striking the
19 period at the end of the first sentence in the matter pre-
20 ceding clause (i) and all that follows through “establish-
21 ment of any such negotiated rights shall” and inserting
22 “and shall be based on negotiations between the United
23 States and the contractor, except in any case in which the
24 Secretary of Defense determines, on the basis of criteria

1 established in the regulations, that negotiations would not
2 be practicable. The establishment of such rights shall”.

3 (f) AMENDMENT RELATING TO DEFERRED ORDER-
4 ING.—Subsection (b)(9) of section 2320 of such title is
5 amended—

6 (1) by striking “at any time” and inserting “,
7 until the date occurring five years after acceptance
8 of the last item (other than technical data) under a
9 contract or the date of contract termination, which-
10 ever is later,”;

11 (2) by striking “or utilized in the performance
12 of a contract” and inserting “in the performance of
13 the contract”; and

14 (3) by striking clause (ii) of subparagraph (B)
15 and inserting the following:

16 “(ii) is described in subsection
17 (a)(2)(C); and”.