CYBERSECURITY ACT OF 2015[1]

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Cybersecurity Act of 2015''.
(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

[1] Consolidated Appropriations Act, 2016, Division N.

TITLE I—CYBERSECURITY INFORMATION SHARING

SEC. 101. SHORT TITLE.

This title may be cited as the ''Cybersecurity Information Sharing Act of 2015''.

SEC. 102. DEFINITIONS.

In this title:

(1) **AGENCY**.—The term ''agency'' has the meaning given the term in section 3502 of title 44, United States Code.

(2) **ANTITRUST LAWS**.—The term ''antitrust laws''—

(A) has the meaning given the term in the first section of the Clayton Act (15 U.S.C. 12);

(B) includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that section 5 of that Act applies to unfair methods of competition; and

(C) includes any State antitrust law, but only to the extent that such law is consistent with the law referred to in subparagraph (A) or the law referred to in subparagraph (B).

(3) **APPROPRIATE FEDERAL ENTITIES**.—The term ''appropriate Federal entities'' means the following:

(A) The Department of Commerce.

(B) The Department of Defense.

(C) The Department of Energy.

(D) The Department of Homeland Security.

(E) The Department of Justice.

(F) The Department of the Treasury.

(G) The Office of the Director of National Intelligence.

(4) **CYBERSECURITY PURPOSE**.—The term ''cybersecurity purpose'' means the purpose of protecting an information system or information that is stored on, processed by, or transiting an information system from a cybersecurity threat or security vulnerability.

(5) **CYBERSECURITY THREAT**.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''cybersecurity threat'' means an action, not protected by the First Amendment to the Constitution of the United States, on or through an information system that may result in an unauthorized effort to adversely impact the security, availability, confidentiality, or integrity of an information system or information that is stored on, processed by, or transiting an information system.

(B) EXCLUSION.—The term ''cybersecurity threat'' does not include any action that solely involves a violation of a consumer term of service or a consumer licensing agreement.

(6) **CYBER THREAT INDICATOR**.—The term ''cyber threat indicator'' means information that is necessary to describe or identify—

(A) malicious reconnaissance, including anomalous patterns of communications that appear to be transmitted for the purpose of gathering technical information related to a cybersecurity threat or security vulnerability;

(B) a method of defeating a security control or exploitation of a security vulnerability;

(C) a security vulnerability, including anomalous activity that appears to indicate the existence of a security vulnerability;

(D) a method of causing a user with legitimate access to an information system or information that is stored on, processed by, or transiting an information system to unwittingly enable the defeat of a security control or exploitation of a security vulnerability;

(E) malicious cyber command and control;

(F) the actual or potential harm caused by an incident, including a description of the information exfiltrated as a result of a particular cybersecurity threat;

(G) any other attribute of a cybersecurity threat, if disclosure of such attribute is not otherwise prohibited by law; or

(H) any combination thereof.

(7) **DEFENSIVE MEASURE**.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''defensive measure'' means an action, device, procedure, signature, technique, or other measure applied to an information system or information that is stored on, processed by, or transiting an information system that detects, prevents, or mitigates a known or suspected cybersecurity threat or security vulnerability.

(B) EXCLUSION.—The term ''defensive measure'' does not include a measure that destroys, renders unusable, provides unauthorized access to, or substantially harms an information system or information stored on, processed by, or transiting such information system not owned by—

(i) the private entity operating the measure; or

(ii) another entity or Federal entity that is authorized to provide consent and has provided consent to that private entity for operation of such measure.

(8) **FEDERAL ENTITY**.—The term ''Federal entity'' means a department or agency of the United States or any component of such department or agency.

(9) **INFORMATION SYSTEM**.—The term ''information system''—

(A) has the meaning given the term in section 3502 of title 44, United States Code; and

(B) includes industrial control systems, such as supervisory control and data acquisition systems, distributed control systems, and programmable logic controllers.

(10) LOCAL GOVERNMENT.—The term ''local government'' means any borough, city, county, parish, town, township, village, or other political subdivision of a State.

(11) **MALICIOUS CYBER COMMAND AND CONTROL**.—The term ''malicious cyber command and control'' means a method for unauthorized remote identification of, access to, or use of, an information system or information that is stored on, processed by, or transiting an information system.

(12) **MALICIOUS RECONNAISSANCE**.—The term ''malicious reconnaissance'' means a method for actively probing or passively monitoring an information system for the purpose of discerning security vulnerabilities of the information system, if such method is associated with a known or suspected cybersecurity threat.

(13) **MONITOR**.—The term ''monitor'' means to acquire, identify, or scan, or to possess, information that is stored on, processed by, or transiting an information system.

(14) **NON-FEDERAL ENTITY**.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term ''non-Federal entity'' means any private entity, non-Federal government agency or department, or State, tribal, or local government (including a political subdivision, department, or component thereof).

(B) INCLUSIONS.—The term ''non-Federal entity'' includes a government agency or department of the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

(C) EXCLUSION.—The term ''non-Federal entity'' does not include a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(15) **PRIVATE ENTITY**.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term ''private entity'' means any person or private group, organization, proprietorship, partnership, trust, cooperative, corporation, or other commercial or nonprofit entity, including an officer, employee, or agent thereof.

(B) INCLUSION.—The term ''private entity'' includes a State, tribal, or local government performing utility services, such as electric, natural gas, or water services.

(C) EXCLUSION.—The term ''private entity'' does not include a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(16) **SECURITY CONTROL**.—The term ''security control'' means the management, operational, and technical controls used to protect against an unauthorized effort to adversely affect the confidentiality, integrity, and availability of an information system or its information.

(17) **SECURITY VULNERABILITY**.—The term ''security vulnerability'' means any attribute of hardware, software, process, or procedure that could enable or facilitate the defeat of a security control.

(18) **TRIBAL**.—The term ''tribal'' has the meaning given the term ''Indian tribe'' in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 103. SHARING OF INFORMATION BY THE FEDERAL GOVERNMENT.

(a) IN GENERAL.—Consistent with the protection of classified information, intelligence sources and methods, and privacy and civil liberties, the Director of National Intelligence, the Secretary of Homeland Security, the Secretary of Defense, and the Attorney General, in consultation with the heads of the appropriate Federal entities, shall jointly develop and issue procedures to facilitate and promote—

(1) the timely sharing of classified cyber threat indicators and defensive measures in the possession of the Federal Government with representatives of relevant Federal entities and non-Federal entities that have appropriate security clearances;

(2) the timely sharing with relevant Federal entities and non-Federal entities of cyber threat indicators, defensive measures, and information relating to cybersecurity threats or authorized uses under this title, in the possession of the Federal Government that may be declassified and shared at an unclassified level;

(3) the timely sharing with relevant Federal entities and non-Federal entities, or the public if appropriate, of unclassified, including controlled unclassified, cyber threat indicators and defensive measures in the possession of the Federal Government;

(4) the timely sharing with Federal entities and non-Federal entities, if appropriate, of information relating to cybersecurity threats or authorized uses under this title, in the possession of the Federal Government about cybersecurity threats to such entities to prevent or mitigate adverse effects from such cybersecurity threats; and

(5) the periodic sharing, through publication and targeted outreach, of cybersecurity best practices that are developed based on ongoing analyses of cyber threat indicators, defensive measures, and information relating to cybersecurity threats or authorized uses under this title, in the possession of the Federal Government, with attention to accessibility and implementation challenges faced by small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)).

(b) DEVELOPMENT OF PROCEDURES.—

(1) IN GENERAL.—The procedures developed under subsection (a) shall—

(A) ensure the Federal Government has and maintains the capability to share cyber threat indicators and defensive measures in real time consistent with the protection of classified information;

(B) incorporate, to the greatest extent practicable, existing processes and existing roles and responsibilities of Federal entities and non-Federal entities for information sharing by the Federal Government, including sector specific information sharing and analysis centers;

(C) include procedures for notifying, in a timely manner, Federal entities and non-Federal entities that have received a cyber threat indicator or defensive measure from a Federal entity under this title that is known or determined to be in error or in contravention of the requirements of this title or another provision of Federal law or policy of such error or contravention;

(D) include requirements for Federal entities sharing cyber threat indicators or defensive measures to implement and utilize security controls to protect against unauthorized access to or acquisition of such cyber threat indicators or defensive measures;

(E) include procedures that require a Federal entity, prior to the sharing of a cyber threat indicator—

(i) to review such cyber threat indicator to assess whether such cyber threat indicator contains any information not directly related to a cybersecurity threat that such Federal entity knows at the time of sharing to be personal information of a specific individual or information that identifies a specific individual and remove such information; or

(ii) to implement and utilize a technical capability configured to remove any information not directly related to a cybersecurity threat that the Federal entity knows at the time of sharing to be personal information of a specific individual or information that identifies a specific individual; and

(F) include procedures for notifying, in a timely manner, any United States person whose personal information is known or determined to have been shared by a Federal entity in violation of this title.

(2) CONSULTATION.—In developing the procedures required under this section, the Director of National Intelligence, the Secretary of Homeland Security, the Secretary of Defense, and the Attorney General shall consult with appropriate Federal entities, including the Small Business Administration and the National Laboratories (as defined in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801)), to ensure that effective protocols are implemented that will facilitate and promote the sharing of cyber threat indicators by the Federal Government in a timely manner.

(c) SUBMITTAL TO CONGRESS.—Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence, in consultation with the heads of the appropriate Federal entities, shall submit to Congress the procedures required by subsection (a).

SEC. 104. AUTHORIZATIONS FOR PREVENTING, DETECTING, ANALYZING, AND MITIGATING CYBERSECURITY THREATS.

(a) AUTHORIZATION FOR MONITORING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a private entity may, for cybersecurity purposes, monitor—

(A) an information system of such private entity;

(B) an information system of another non-Federal entity, upon the authorization and written consent of such other entity;

(C) an information system of a Federal entity, upon the authorization and written consent of an authorized representative of the Federal entity; and

(D) information that is stored on, processed by, or transiting an information system monitored by the private entity under this paragraph.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed—

(A) to authorize the monitoring of an information system, or the use of any information obtained through such monitoring, other than as provided in this title; or

(B) to limit otherwise lawful activity.

(b) AUTHORIZATION FOR OPERATION OF DEFENSIVE MEASURES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a private entity may, for cybersecurity purposes, operate a defensive measure that is applied to—

(A) an information system of such private entity in order to protect the rights or property of the private entity;

(B) an information system of another non-Federal entity upon written consent of such entity for operation of such defensive measure to protect the rights or property of such entity; and

(C) an information system of a Federal entity upon written consent of an authorized representative of such Federal entity for operation of such defensive measure to protect the rights or property of the Federal Government.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed—

(A) to authorize the use of a defensive measure other than as provided in this subsection; or

(B) to limit otherwise lawful activity.

(c) AUTHORIZATION FOR SHARING OR RECEIVING CYBER THREAT INDICATORS OR DEFENSIVE MEASURES.—

(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, a non-Federal entity may, for a cybersecurity purpose and consistent with the protection of classified information, share with, or receive from, any other non-Federal entity or the Federal Government a cyber threat indicator or defensive measure.

(2) LAWFUL RESTRICTION.—A non-Federal entity receiving a cyber threat indicator or defensive measure from another non-Federal entity or a Federal entity shall comply with otherwise lawful restrictions placed on the sharing or use of such cyber threat indicator or defensive measure by the sharing non-Federal entity or Federal entity.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed—

(A) to authorize the sharing or receiving of a cyber threat indicator or defensive measure other than as provided in this subsection; or

(B) to limit otherwise lawful activity.

(d) PROTECTION AND USE OF INFORMATION.—

(1) SECURITY OF INFORMATION.—A non-Federal entity monitoring an information system, operating a defensive measure, or providing or receiving a cyber threat indicator or defensive measure under this section shall implement and utilize a security control to protect against unauthorized access to or acquisition of such cyber threat indicator or defensive measure.

(2) REMOVAL OF CERTAIN PERSONAL INFORMATION.—A non-Federal entity sharing a cyber threat indicator pursuant to this title shall, prior to such sharing—

(A) review such cyber threat indicator to assess whether such cyber threat indicator contains any information not directly related to a cybersecurity threat that the non-Federal entity knows at the time of sharing to be personal information of a specific individual or information that identifies a specific individual and remove such information; or

(B) implement and utilize a technical capability configured to remove any information not directly related to a cybersecurity threat that the non-Federal entity knows at the time of sharing to be personal information of a specific individual or information that identifies a specific individual.

(3) USE OF CYBER THREAT INDICATORS AND DEFENSIVE MEASURES BY NON-FEDERAL ENTITIES.—

(A) IN GENERAL.—Consistent with this title, a cyber threat indicator or defensive measure shared or received under this section may, for cybersecurity purposes—

(i) be used by a non-Federal entity to monitor or operate a defensive measure that is applied to—

(I) an information system of the non-Federal entity; or

(II) an information system of another non-Federal entity or a Federal entity upon the written consent of that other non-Federal entity or that Federal entity; and

(ii) be otherwise used, retained, and further shared by a non-Federal entity subject to—

(I) an otherwise lawful restriction placed by the sharing non-Federal entity or Federal entity on such cyber threat indicator or defensive measure; or

(II) an otherwise applicable provision of law.

(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to authorize the use of a cyber threat indicator or defensive measure other than as provided in this section.

(4) USE OF CYBER THREAT INDICATORS BY STATE, TRIBAL, OR LOCAL GOVERNMENT.—

(A) LAW ENFORCEMENT USE.—A State, tribal, or local government that receives a cyber threat indicator or defensive measure under this title may use such cyber threat indicator or defensive measure for the purposes described in section 105(d)(5)(A).

(B) EXEMPTION FROM DISCLOSURE.—A cyber threat indicator or defensive measure shared by or with a State, tribal, or local government, including a component of a State, tribal, or local government that is a private entity, under this section shall be—

(i) deemed voluntarily shared information; and

(ii) exempt from disclosure under any provision of State, tribal, or local freedom of information law, open government law, open meetings law, open records law, sunshine law, or similar law requiring disclosure of information or records.

(C) STATE, TRIBAL, AND LOCAL REGULATORY AUTHORITY.—

(i) IN GENERAL.—Except as provided in clause (ii), a cyber threat indicator or defensive measure shared with a State, tribal, or local government under this title shall not be used by any State, tribal, or local government to regulate, including an enforcement action, the lawful activity of any non-Federal entity or any activity taken by a non-Federal entity pursuant to mandatory standards, including an activity relating to monitoring, operating a defensive measure, or sharing of a cyber threat indicator.

(ii) REGULATORY AUTHORITY SPECIFICALLY RELATING TO PREVENTION OR MITIGATION OF CYBERSECURITY THREATS.—A cyber threat indicator or defensive measure shared as described in clause (i) may, consistent with a State, tribal, or local government regulatory authority specifically relating to the prevention or mitigation of cybersecurity threats to information systems, inform the development or implementation of a regulation relating to such information systems.

(e) ANTITRUST EXEMPTION.—

(1) IN GENERAL.—Except as provided in section 108(e), it shall not be considered a violation of any provision of antitrust laws for 2 or more private entities to exchange or provide a cyber threat indicator or defensive measure, or assistance relating to the prevention, investigation, or mitigation of a cybersecurity threat, for cybersecurity purposes under this title.

(2) APPLICABILITY.—Paragraph (1) shall apply only to information that is exchanged or assistance provided in order to assist with—

(A) facilitating the prevention, investigation, or mitigation of a cybersecurity threat to an information system or information that is stored on, processed by, or transiting an information system; or

(B) communicating or disclosing a cyber threat indicator to help prevent, investigate, or mitigate the effect of a cybersecurity threat to an information system or information that is stored on, processed by, or transiting an information system.

(f) NO RIGHT OR BENEFIT.—The sharing of a cyber threat indicator or defensive measure with a non-Federal entity under this title shall not create a right or benefit to similar information by such non-Federal entity or any other non-Federal entity.

SEC. 105. SHARING OF CYBER THREAT INDICATORS AND DEFENSIVE MEASURES WITH THE FEDERAL GOVERNMENT.

(a) REQUIREMENT FOR POLICIES AND PROCEDURES.—

(1) INTERIM POLICIES AND PROCEDURES.—Not later than 60 days after the date of the enactment of this Act, the Attorney General and the Secretary of Homeland Security shall, in consultation with the heads of the appropriate Federal entities, jointly develop and submit to Congress interim policies and procedures relating to the receipt of cyber threat indicators and defensive measures by the Federal Government.

(2) FINAL POLICIES AND PROCEDURES.—Not later than 180 days after the date of the enactment of this Act, the Attorney General and the Secretary of Homeland Security shall, in consultation with the heads of the appropriate Federal entities, jointly issue and make publicly available final policies and procedures relating to the receipt of cyber threat indicators and defensive measures by the Federal Government.

(3) REQUIREMENTS CONCERNING POLICIES AND PROCEDURES.—Consistent with the guidelines required by subsection (b), the policies and procedures developed or issued under this subsection shall—

(A) ensure that cyber threat indicators shared with the Federal Government by any non-Federal entity pursuant to section 104(c) through the real-time process described in subsection (c) of this section—

(i) are shared in an automated manner with all of the appropriate Federal entities;

(ii) are only subject to a delay, modification, or other action due to controls established for such real-time process that could impede real-time receipt by all of the appropriate Federal entities when the delay, modification, or other action is due to controls—

(I) agreed upon unanimously by all of the heads of the appropriate Federal entities;

(II) carried out before any of the appropriate Federal entities retains or uses the cyber threat indicators or defensive measures; and

(III) uniformly applied such that each of the appropriate Federal entities is subject to the same delay, modification, or other action; and

(iii) may be provided to other Federal entities;

(B) ensure that cyber threat indicators shared with the Federal Government by any non-Federal entity pursuant to section 104 in a manner other than the real-time process described in subsection (c) of this section—

(i) are shared as quickly as operationally practicable with all of the appropriate Federal entities;

(ii) are not subject to any unnecessary delay, interference, or any other action that could impede receipt by all of the appropriate Federal entities; and

(iii) may be provided to other Federal entities; and

(C) ensure there are—

(i) audit capabilities; and

(ii) appropriate sanctions in place for officers, employees, or agents of a Federal entity who knowingly and willfully conduct activities under this title in an unauthorized manner.

(4) GUIDELINES FOR ENTITIES SHARING CYBER THREAT INDICATORS WITH FEDERAL GOVERNMENT.—

(A) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Attorney General and the Secretary of Homeland Security shall jointly develop and make publicly available guidance to assist entities and promote sharing of cyber threat indicators with Federal entities under this title.

(B) CONTENTS.—The guidelines developed and made publicly available under subparagraph (A) shall include guidance on the following:

(i) Identification of types of information that would qualify as a cyber threat indicator under this title that would be unlikely to include information that—

(I) is not directly related to a cybersecurity threat; and

(II) is personal information of a specific individual or information that identifies a specific individual.

(ii) Identification of types of information protected under otherwise applicable privacy laws that are unlikely to be directly related to a cybersecurity threat.

(iii) Such other matters as the Attorney General and the Secretary of Homeland Security consider appropriate for entities sharing cyber threat indicators with Federal entities under this title.

(b) PRIVACY AND CIVIL LIBERTIES.—

(1) INTERIM GUIDELINES.—Not later than 60 days after the date of the enactment of this Act, the Attorney General and the Secretary of Homeland Security shall, in consultation with heads of the appropriate Federal entities and in consultation with officers designated under section 1062 of the National Security Intelligence Reform Act of 2004 (42 U.S.C. 2000ee–1), jointly develop, submit to Congress, and make available to the public interim guidelines relating to privacy and civil liberties which shall govern the receipt, retention, use, and dissemination of cyber threat indicators by a Federal entity obtained in connection with activities authorized in this title.

(2) FINAL GUIDELINES.—

(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Attorney General and the Secretary of Homeland Security shall, in coordination with heads of the appropriate Federal entities and in consultation with officers designated under section 1062 of the National Security Intelligence Reform Act of 2004 (42 U.S.C. 2000ee–1) and such private entities with industry expertise as the Attorney General and the Secretary consider relevant, jointly issue and make publicly available final guidelines relating to privacy and civil liberties which shall govern the receipt, retention, use, and dissemination of cyber threat indicators by a Federal entity obtained in connection with activities authorized in this title.

(B) PERIODIC REVIEW.—The Attorney General and the Secretary of Homeland Security shall, in coordination with heads of the appropriate Federal entities and in consultation with officers and private entities described in subparagraph (A), periodically, but not less frequently than once every 2 years, jointly review the guidelines issued under subparagraph (A).

(3) CONTENT.—The guidelines required by paragraphs (1) and (2) shall, consistent with the need to protect information systems from cybersecurity threats and mitigate cybersecurity threats—

(A) limit the effect on privacy and civil liberties of activities by the Federal Government under this title;

(B) limit the receipt, retention, use, and dissemination of cyber threat indicators containing personal information of specific individuals or information that identifies specific individuals, including by establishing—

(i) a process for the timely destruction of such information that is known not to be directly related to uses authorized under this title; and

(ii) specific limitations on the length of any period in which a cyber threat indicator may be retained;

(C) include requirements to safeguard cyber threat indicators containing personal information of specific individuals or information that identifies specific individuals from unauthorized access or acquisition, including appropriate sanctions for activities by officers, employees, or agents of the Federal Government in contravention of such guidelines;

(D) consistent with this title, any other applicable provisions of law, and the fair information practice principles set forth in appendix A of the document entitled ‘‘National Strategy for Trusted Identities in

Cyberspace'' and published by the President in April 2011, govern the retention, use, and dissemination by the Federal Government of cyber threat indicators shared with the Federal Government under this title, including the extent, if any, to which such cyber threat indicators may be used by the Federal Government;

(E) include procedures for notifying entities and Federal entities if information received pursuant to this section is known or determined by a Federal entity receiving such information not to constitute a cyber threat indicator;

(F) protect the confidentiality of cyber threat indicators containing personal information of specific individuals or information that identifies specific individuals to the greatest extent practicable and require recipients to be informed that such indicators may only be used for purposes authorized under this title; and

(G) include steps that may be needed so that dissemination of cyber threat indicators is consistent with the protection of classified and other sensitive national security information.

(c) CAPABILITY AND PROCESS WITHIN THE DEPARTMENT OF HOMELAND SECURITY.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security, in coordination with the heads of the appropriate Federal entities, shall develop and implement a capability and process within the Department of Homeland Security that—

(A) shall accept from any non-Federal entity in real time cyber threat indicators and defensive measures, pursuant to this section;

(B) shall, upon submittal of the certification under paragraph (2) that such capability and process fully and effectively operates as described in such paragraph, be the process by which the Federal Government receives cyber threat indicators and defensive measures under this title that are shared by a non-Federal entity with the Federal Government through electronic mail or media, an interactive form on an Internet website, or a real time, automated process between information systems except—

(i) consistent with section 104, communications between a Federal entity and a non-Federal entity regarding a previously shared cyber threat indicator to describe the relevant cybersecurity threat or develop a defensive measure based on such cyber threat indicator; and

(ii) communications by a regulated non-Federal entity with such entity's Federal regulatory authority regarding a cybersecurity threat;

(C) ensures that all of the appropriate Federal entities receive in an automated manner such cyber threat indicators and defensive measures shared through the real-time process within the Department of Homeland Security;

(D) is in compliance with the policies, procedures, and guidelines required by this section; and

(E) does not limit or prohibit otherwise lawful disclosures of communications, records, or other information, including—

(i) reporting of known or suspected criminal activity, by a non-Federal entity to any other non-Federal entity or a Federal entity, including cyber threat indicators or defensive measures shared with a Federal entity in furtherance of opening a Federal law enforcement investigation;

(ii) voluntary or legally compelled participation in a Federal investigation; and

(iii) providing cyber threat indicators or defensive measures as part of a statutory or authorized contractual requirement.

(2) CERTIFICATION AND DESIGNATION.—

(A) CERTIFICATION OF CAPABILITY AND PROCESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall, in consultation with the heads of the appropriate Federal entities, submit to Congress a certification as to whether the capability and process required by paragraph (1) fully and effectively operates—

(i) as the process by which the Federal Government receives from any non-Federal entity a cyber threat indicator or defensive measure under this title; and

(ii) in accordance with the interim policies, procedures, and guidelines developed under this title.

(B) DESIGNATION.—

(i) IN GENERAL.—At any time after certification is submitted under subparagraph (A), the President may designate an appropriate Federal entity, other than the Department of Defense (including the National Security Agency), to develop and implement a capability and process as described in paragraph (1) in addition to the capability and process developed under such paragraph by the Secretary of Homeland Security, if, not fewer than 30 days before making such designation, the President submits to Congress a certification and explanation that—

(I) such designation is necessary to ensure that full, effective, and secure operation of a capability and process for the Federal Government to receive from any non-Federal entity cyber threat indicators or defensive measures under this title;

(II) the designated appropriate Federal entity will receive and share cyber threat indicators and defensive measures in accordance with the policies, procedures, and guidelines developed under this title, including subsection (a)(3)(A); and

(III) such designation is consistent with the mission of such appropriate Federal entity and improves the ability of the Federal Government to receive, share, and use cyber threat indicators and defensive measures as authorized under this title.

(ii) APPLICATION TO ADDITIONAL CAPABILITY AND PROCESS.—If the President designates an appropriate Federal entity to develop and implement a capability and process under clause (i), the provisions of this title that apply to the capability and process required by paragraph (1) shall also be construed to apply to the capability and process developed and implemented under clause (i).

(3) PUBLIC NOTICE AND ACCESS.—The Secretary of Homeland Security shall ensure there is public notice of, and access to, the capability and process developed and implemented under paragraph (1) so that—

(A) any non-Federal entity may share cyber threat indicators and defensive measures through such process with the Federal Government; and

(B) all of the appropriate Federal entities receive such cyber threat indicators and defensive measures in real time with receipt through the process within the Department of Homeland Security consistent with the policies and procedures issued under subsection (a).

(4) OTHER FEDERAL ENTITIES.—The process developed and implemented under paragraph (1) shall ensure that other Federal entities receive in a timely manner any cyber threat indicators and defensive measures shared with the Federal Government through such process.

(d) INFORMATION SHARED WITH OR PROVIDED TO THE FEDERAL GOVERNMENT.—

(1) NO WAIVER OF PRIVILEGE OR PROTECTION.— The provision of cyber threat indicators and defensive measures to the Federal Government under this title shall not constitute a waiver of any applicable privilege or protection provided by law, including trade secret protection.

(2) PROPRIETARY INFORMATION.—Consistent with section 104(c)(2) and any other applicable provision of law, a cyber threat indicator or defensive measure provided by a non-Federal entity to the Federal Government under this title shall be considered the commercial, financial, and proprietary information of such non-Federal entity when so designated by the originating non-Federal entity or a third party acting in accordance with the written authorization of the originating non-Federal entity.

(3) EXEMPTION FROM DISCLOSURE.—A cyber threat indicator or defensive measure shared with the Federal Government under this title shall be—

(A) deemed voluntarily shared information and exempt from disclosure under section 552 of title 5, United States Code, and any State, tribal, or local provision of law requiring disclosure of information or records; and

(B) withheld, without discretion, from the public under section 552(b)(3)(B) of title 5, United States Code, and any State, tribal, or local provision of law requiring disclosure of information or records.

(4) EX PARTE COMMUNICATIONS.—The provision of a cyber threat indicator or defensive measure to the Federal Government under this title shall not be subject to a rule of any Federal agency or department or any judicial doctrine regarding ex parte communications with a decision-making official.

(5) DISCLOSURE, RETENTION, AND USE.—

(A) AUTHORIZED ACTIVITIES.—Cyber threat indicators and defensive measures provided to the Federal Government under this title may be disclosed to, retained by, and used by, consistent with otherwise applicable provisions of Federal law, any Federal agency or department, component, officer, employee, or agent of the Federal Government solely for—

(i) a cybersecurity purpose;

(ii) the purpose of identifying—

(I) a cybersecurity threat, including the source of such cybersecurity threat; or

(II) a security vulnerability;

(iii) the purpose of responding to, or otherwise preventing or mitigating, a specific threat of death, a specific threat of serious bodily harm, or a specific threat of serious economic harm, including a terrorist act or a use of a weapon of mass destruction;

(iv) the purpose of responding to, investigating, prosecuting, or otherwise preventing or mitigating, a serious threat to a minor, including sexual exploitation and threats to physical safety; or

(v) the purpose of preventing, investigating, disrupting, or prosecuting an offense arising out of a threat described in clause (iii) or any of the offenses listed in—

(I) sections 1028 through 1030 of title 18, United States Code (relating to fraud and identity theft);

(II) chapter 37 of such title (relating to espionage and censorship); and

(III) chapter 90 of such title (relating to protection of trade secrets).

(B) PROHIBITED ACTIVITIES.—Cyber threat indicators and defensive measures provided to the Federal Government under this title shall not be disclosed to, retained by, or used by any Federal agency or department for any use not permitted under subparagraph (A).

(C) PRIVACY AND CIVIL LIBERTIES.— Cyber threat indicators and defensive measures provided to the Federal Government under this title shall be retained, used, and disseminated by the Federal Government—

(i) in accordance with the policies, procedures, and guidelines required by subsections (a) and (b);

(ii) in a manner that protects from unauthorized use or disclosure any cyber threat indicators that may contain—

(I) personal information of a specific individual; or

(II) information that identifies a specific individual; and

(iii) in a manner that protects the confidentiality of cyber threat indicators containing—

(I) personal information of a specific individual; or

(II) information that identifies a specific individual.

(D) FEDERAL REGULATORY AUTHORITY.—

(i) IN GENERAL.—Except as provided in clause (ii), cyber threat indicators and defensive measures provided to the Federal Government under this title shall not be used by any Federal, State, tribal, or local government to regulate, including an enforcement action, the lawful activities of any non-Federal entity or any activities taken by a non-Federal entity pursuant to mandatory standards, including activities relating to monitoring, operating defensive measures, or sharing cyber threat indicators.

(ii) EXCEPTIONS.—

(I) REGULATORY AUTHORITY SPECIFICALLY RELATING TO PREVENTION OR MITIGATION OF CYBERSECURITY THREATS.—Cyber threat indicators and defensive measures provided to the Federal Government under this title may, consistent with Federal or State regulatory authority specifically relating to the prevention or mitigation of cybersecurity threats to information systems, inform the development or implementation of regulations relating to such information systems.

(II) PROCEDURES DEVELOPED AND IMPLEMENTED UNDER THIS TITLE.—Clause (i) shall not apply to procedures developed and implemented under this title.

SEC. 106. PROTECTION FROM LIABILITY.

(a) MONITORING OF INFORMATION SYSTEMS.—No cause of action shall lie or be maintained in any court against any private entity, and such action shall be promptly dismissed, for the monitoring of an information system and information under section 104(a) that is conducted in accordance with this title.

(b) SHARING OR RECEIPT OF CYBER THREAT INDICATORS.—No cause of action shall lie or be maintained in any court against any private entity, and such action shall be promptly dismissed, for the sharing or receipt of a cyber threat indicator or defensive measure under section 104(c) if—

(1) such sharing or receipt is conducted in accordance with this title; and

(2) in a case in which a cyber threat indicator or defensive measure is shared with the Federal Government, the cyber threat indicator or defensive measure is shared in a manner that is consistent with section 105(c)(1)(B) and the sharing or receipt, as the case may be, occurs after the earlier of—

(A) the date on which the interim policies and procedures are submitted to Congress under section 105(a)(1) and guidelines are submitted to Congress under section 105(b)(1); or

(B) the date that is 60 days after the date of the enactment of this Act.

(c) CONSTRUCTION.—Nothing in this title shall be construed—

(1) to create—

(A) a duty to share a cyber threat indicator or defensive measure; or

(B) a duty to warn or act based on the receipt of a cyber threat indicator or defensive measure; or

(2) to undermine or limit the availability of otherwise applicable common law or statutory defenses.

SEC. 107. OVERSIGHT OF GOVERNMENT ACTIVITIES.

(a) REPORT ON IMPLEMENTATION.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this title, the heads of the appropriate Federal entities shall jointly submit to Congress a detailed report concerning the implementation of this title.

(2) CONTENTS.—The report required by paragraph (1) may include such recommendations as the heads of the appropriate Federal entities may have for improvements or modifications to the authorities, policies, procedures, and guidelines under this title and shall include the following:

(A) An evaluation of the effectiveness of real-time information sharing through the capability and process developed under section 105(c), including any impediments to such real-time sharing.

(B) An assessment of whether cyber threat indicators or defensive measures have been properly classified and an accounting of the number of security clearances authorized by the Federal Government for the purpose of sharing cyber threat indicators or defensive measures with the private sector.

(C) The number of cyber threat indicators or defensive measures received through the capability and process developed under section 105(c).

(D) A list of Federal entities that have received cyber threat indicators or defensive measures under this title.

(b) BIENNIAL REPORT ON COMPLIANCE.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act and not less frequently than once every 2 years thereafter, the inspectors general of the appropriate Federal entities, in consultation with the Inspector General of the Intelligence Community and the Council of Inspectors General on Financial Oversight, shall jointly submit to Congress an interagency report on the actions of the executive branch of the Federal Government to carry out this title during the most recent 2-year period.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include, for the period covered by the report, the following:

(A) An assessment of the sufficiency of the policies, procedures, and guidelines relating to the sharing of cyber threat indicators within the Federal Government, including those policies, procedures, and guidelines relating to the removal of information not directly related to a cybersecurity threat that is personal information of a specific individual or information that identifies a specific individual.

(B) An assessment of whether cyber threat indicators or defensive measures have been properly classified and an accounting of the number of security clearances authorized by the Federal Government for the purpose of sharing cyber threat indicators or defensive measures with the private sector.

(C) A review of the actions taken by the Federal Government based on cyber threat indicators or defensive measures shared with the Federal Government under this title, including a review of the following:

(i) The appropriateness of subsequent uses and disseminations of cyber threat indicators or defensive measures.

(ii) Whether cyber threat indicators or defensive measures were shared in a timely and adequate manner with appropriate entities, or, if appropriate, were made publicly available.

(D) An assessment of the cyber threat indicators or defensive measures shared with the appropriate Federal entities under this title, including the following:

(i) The number of cyber threat indicators or defensive measures shared through the capability and process developed under section 105(c).

(ii) An assessment of any information not directly related to a cybersecurity threat that is personal information of a specific individual or information identifying a specific individual and was shared by a non-Federal government entity with the Federal government in contravention of this title, or was shared within the Federal Government in contravention of the guidelines required by this title, including a description of any significant violation of this title.

(iii) The number of times, according to the Attorney General, that information shared under this title was used by a Federal entity to prosecute an offense listed in section 105(d)(5)(A).

(iv) A quantitative and qualitative assessment of the effect of the sharing of cyber threat indicators or defensive measures with the Federal Government on privacy and civil liberties of specific individuals, including the number of notices that were issued with respect to a failure to remove information not directly related to a cybersecurity threat that was personal information of a specific individual or information that identified a specific individual in accordance with the procedures required by section 105(b)(3)(E).

(v) The adequacy of any steps taken by the Federal Government to reduce any adverse effect from activities carried out under this title on the privacy and civil liberties of United States persons.

(E) An assessment of the sharing of cyber threat indicators or defensive measures among Federal entities to identify inappropriate barriers to sharing information.

(3) RECOMMENDATIONS.—Each report submitted under this subsection may include such recommendations as the inspectors general may have for improvements or modifications to the authorities and processes under this title.

(c) INDEPENDENT REPORT ON REMOVAL OF PERSONAL INFORMATION.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the actions taken by the Federal Government to remove personal information from cyber threat indicators or defensive measures pursuant to this title. Such report shall include an assessment of the sufficiency of the policies, procedures, and guidelines established under this title in addressing concerns relating to privacy and civil liberties.

(d) FORM OF REPORTS.—Each report required under this section shall be submitted in an unclassified form, but may include a classified annex.

(e) PUBLIC AVAILABILITY OF REPORTS.—The unclassified portions of the reports required under this section shall be made available to the public.

SEC. 108. CONSTRUCTION AND PREEMPTION.

(a) OTHERWISE LAWFUL DISCLOSURES.—Nothing in this title shall be construed—

(1) to limit or prohibit otherwise lawful disclosures of communications, records, or other information, including reporting of known or suspected criminal activity, by a non-Federal entity to any other non-Federal entity or the Federal Government under this title; or

(2) to limit or prohibit otherwise lawful use of such disclosures by any Federal entity, even when such otherwise lawful disclosures duplicate or replicate disclosures made under this title.

(b) WHISTLE BLOWER PROTECTIONS.—Nothing in this title shall be construed to prohibit or limit the disclosure of information protected under section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats), section 7211 of title 5, United States Code (governing disclosures to Congress), section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military), section 1104 of the National Security Act of 1947 (50 U.S.C. 3234) (governing disclosure by employees of elements of the intelligence community), or any similar provision of Federal or State law.

(c) PROTECTION OF SOURCES AND METHODS.— Nothing in this title shall be construed—

(1) as creating any immunity against, or otherwise affecting, any action brought by the Federal Government, or any agency or department thereof, to enforce any law, executive order, or procedure governing the appropriate handling, disclosure, or use of classified information;

(2) to affect the conduct of authorized law enforcement or intelligence activities; or

(3) to modify the authority of a department or agency of the Federal Government to protect classified information and sources and methods and the national security of the United States.

(d) RELATIONSHIP TO OTHER LAWS.—Nothing in this title shall be construed to affect any requirement under any other provision of law for a non-Federal entity to provide information to the Federal Government.

(e) PROHIBITED CONDUCT.—Nothing in this title shall be construed to permit price-fixing, allocating a market between competitors, monopolizing or attempting to monopolize a market, boycotting, or exchanges of price or cost information, customer lists, or information regarding future competitive planning.

(f) INFORMATION SHARING RELATIONSHIPS.—Nothing in this title shall be construed—

(1) to limit or modify an existing information sharing relationship;

(2) to prohibit a new information sharing relationship;

(3) to require a new information sharing relationship between any non-Federal entity and a Federal entity or another non-Federal entity; or

(4) to require the use of the capability and process within the Department of Homeland Security developed under section 105(c).

(g) PRESERVATION OF CONTRACTUAL OBLIGATIONS AND RIGHTS.—Nothing in this title shall be construed—

(1) to amend, repeal, or supersede any current or future contractual agreement, terms of service agreement, or other contractual relationship between any non-Federal entities, or between any non-Federal entity and a Federal entity; or

(2) to abrogate trade secret or intellectual property rights of any non-Federal entity or Federal entity.

(h) ANTI-TASKING RESTRICTION.—Nothing in this title shall be construed to permit a Federal entity—

(1) to require a non-Federal entity to provide information to a Federal entity or another non-Federal entity;

(2) to condition the sharing of cyber threat indicators with a non-Federal entity on such entity's provision of cyber threat indicators to a Federal entity or another non-Federal entity; or

(3) to condition the award of any Federal grant, contract, or purchase on the provision of a cyber threat indicator to a Federal entity or another non-Federal entity.

(i) NO LIABILITY FOR NON-PARTICIPATION.—Nothing in this title shall be construed to subject any entity to liability for choosing not to engage in the voluntary activities authorized in this title.

(j) USE AND RETENTION OF INFORMATION.—Nothing in this title shall be construed to authorize, or to modify any existing authority of, a department or agency of the Federal Government to retain or use any information shared under this title for any use other than permitted in this title.

(k) FEDERAL PREEMPTION.—

(1) IN GENERAL.—This title supersedes any statute or other provision of law of a State or political subdivision of a State that restricts or otherwise expressly regulates an activity authorized under this title.

(2) STATE LAW ENFORCEMENT.—Nothing in this title shall be construed to supersede any statute or other provision of law of a State or political subdivision of a State concerning the use of authorized law enforcement practices and procedures.

(l) REGULATORY AUTHORITY.—Nothing in this title shall be construed—

(1) to authorize the promulgation of any regulations not specifically authorized to be issued under this title;

(2) to establish or limit any regulatory authority not specifically established or limited under this title; or

(3) to authorize regulatory actions that would duplicate or conflict with regulatory requirements, mandatory standards, or related processes under another provision of Federal law.

(m) AUTHORITY OF SECRETARY OF DEFENSE TO RESPOND TO MALICIOUS CYBER ACTIVITY CARRIED OUT BY FOREIGN POWERS.—Nothing in this title shall be construed to limit the authority of the Secretary of Defense under section 130g of title 10, United States Code.

(n) CRIMINAL PROSECUTION.—Nothing in this title shall be construed to prevent the disclosure of a cyber threat indicator or defensive measure shared under this title in a case of criminal prosecution, when an applicable provision of Federal, State, tribal, or local law requires disclosure in such case.

SEC. 109. REPORT ON CYBERSECURITY THREATS.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence, in coordination with the heads of other appropriate elements of the intelligence community, shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report on cybersecurity threats, including cyber attacks, theft, and data breaches.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) An assessment of the current intelligence sharing and cooperation relationships of the United States with other countries regarding cybersecurity threats, including cyber attacks, theft, and data breaches, directed against the United States and which threaten the United States national security interests and economy and intellectual property, specifically identifying the relative utility of such relationships, which elements of the intelligence community participate in such relationships, and whether and how such relationships could be improved.

(2) A list and an assessment of the countries and nonstate actors that are the primary threats of carrying out a cybersecurity threat, including a cyber attack, theft, or data breach, against the United States and which threaten the United States national security, economy, and intellectual property.

(3) A description of the extent to which the capabilities of the United States Government to respond to or prevent cybersecurity threats, including cyber attacks, theft, or data breaches, directed against the United States private sector are degraded by a delay in the prompt notification by private entities of such threats or cyber attacks, theft, and data breaches.

(4) An assessment of additional technologies or capabilities that would enhance the ability of the United States to prevent and to respond to cybersecurity threats, including cyber attacks, theft, and data breaches.

(5) An assessment of any technologies or practices utilized by the private sector that could be rapidly fielded to assist the intelligence community in preventing and responding to cybersecurity threats.

(c) FORM OF REPORT.—The report required by subsection (a) shall be made available in classified and unclassified forms.

(d) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term ''intelligence community'' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

SEC. 110. EXCEPTION TO LIMITATION ON AUTHORITY OF SECRETARY OF DEFENSE TO DISSEMINATE CERTAIN INFORMATION.

Notwithstanding subsection (c)(3) of section 393 of title 10, United States Code, the Secretary of Defense may authorize the sharing of cyber threat indicators and defensive measures pursuant to the policies, procedures, and guidelines developed or issued under this title.

SEC. 111. EFFECTIVE PERIOD.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall be effective during the period beginning on the date of the enactment of this Act and ending on September 30, 2025.

(b) EXCEPTION.—With respect to any action authorized by this title or information obtained pursuant to an action authorized by this title, which occurred before the date on which the provisions referred to in subsection (a) cease to have effect, the provisions of this title shall continue in effect.

TITLE II—NATIONAL CYBERSECURITY ADVANCEMENT

Subtitle A—National Cybersecurity and Communications Integration Center

SEC. 201. SHORT TITLE.

This subtitle may be cited as the ''National Cybersecurity Protection Advancement Act of 2015''.

SEC. 202. DEFINITIONS.

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.— The term ''appropriate congressional committees'' means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Homeland Security of the House of Representatives.

(2) CYBERSECURITY RISK; INCIDENT.—The terms ''cybersecurity risk'' and ''incident'' have the meanings given those terms in section 227 of the Homeland Security Act of 2002, as so redesignated by section 223(a)(3) of this division.

(3) CYBER THREAT INDICATOR; DEFENSIVE MEASURE.—The terms ''cyber threat indicator'' and ''defensive measure'' have the meanings given those terms in section 102.

(4) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

SEC. 203. INFORMATION SHARING STRUCTURE AND PROCESSES.

Section 227 of the Homeland Security Act of 2002, as so redesignated by section 223(a)(3) of this division, is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; (B) by striking paragraphs (1) and (2) and inserting the following:

''(1) the term 'cybersecurity risk'—

''(A) means threats to and vulnerabilities of information or information systems and any related consequences caused by or resulting from unauthorized access, use, disclosure, degradation, disruption, modification, or destruction of such information or information systems, including such related consequences caused by an act of terrorism; and

''(B) does not include any action that solely involves a violation of a consumer term of service or a consumer licensing agreement;

''(2) the terms 'cyber threat indicator' and 'defensive measure' have the meanings given those terms in section 102 of the Cybersecurity Act of 2015;

''(3) the term 'incident' means an occurrence that actually or imminently jeopardizes, without lawful authority, the integrity, confidentiality, or availability of information on an information system, or actually or imminently jeopardizes, without lawful authority, an information system;'';

(C) in paragraph (4), as so redesignated, by striking ''and'' at the end;

(D) in paragraph (5), as so redesignated, by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following:

''(6) the term 'sharing' (including all conjugations thereof) means providing, receiving, and disseminating (including all conjugations of each of such terms).'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting '', including the implementation of title I of the Cybersecurity Act of 2015'' before the semicolon at the end; and

(ii) by inserting ''cyber threat indicators, defensive measures,'' before ''cybersecurity risks'';

(B) in paragraph (3), by striking ''cybersecurity risks'' and inserting ''cyber threat indicators, defensive measures, cybersecurity risks,'';

(C) in paragraph (5)(A), by striking ''cybersecurity risks'' and inserting ''cyber threat indicators, defensive measures, cybersecurity risks,'';

(D) in paragraph (6)—

(i) by striking ''cybersecurity risks'' and inserting ''cyber threat indicators, defensive measures, cybersecurity risks,''; and

(ii) by striking ''and'' at the end;

(E) in paragraph (7)—

(i) in subparagraph (A), by striking ''and'' at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(C) sharing cyber threat indicators and defensive measures;''; and

(F) by adding at the end the following:

''(8) engaging with international partners, in consultation with other appropriate agencies, to—

''(A) collaborate on cyber threat indicators, defensive measures, and information related to cybersecurity risks and incidents; and

''(B) enhance the security and resilience of global cybersecurity;

''(9) sharing cyber threat indicators, defensive measures, and other information related to cybersecurity risks and incidents with Federal and non-Federal entities, including across sectors of critical infrastructure and with State and major urban area fusion centers, as appropriate;

''(10) participating, as appropriate, in national exercises run by the Department; and

''(11) in coordination with the Office of Emergency Communications of the Department, assessing and evaluating consequence, vulnerability, and threat information regarding cyber incidents to public safety communications to help facilitate continuous improvements to the security and resiliency of such communications.'';

(3) in subsection (d)(1)—

(A) in subparagraph (B)—

(i) in clause (i), by striking ''and local'' and inserting '', local, and tribal'';

(ii) in clause (ii), by striking ''; and'' and inserting '', including information sharing and analysis centers;'';

(iii) in clause (iii), by adding ''and'' at the end; and

(iv) by adding at the end the following:

'(iv) private entities;''.

(B) in subparagraph (D), by striking ''and'' at the end;

(C) by redesignating subparagraph (E) as subparagraph (F); and

(D) by inserting after subparagraph (D) the following:

''(E) an entity that collaborates with State and local governments on cybersecurity risks and incidents, and has entered into a voluntary information sharing relationship with the Center; and'';

(4) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting ''cyber threat indicators, defensive measures, and'' before ''information'';

(ii) in subparagraph (B), by inserting ''cyber threat indicators, defensive measures, and'' before ''information related'';

(iii) in subparagraph (F)—

(I) by striking ''cybersecurity risks'' and inserting ''cyber threat indicators, defensive measures, cybersecurity risks,''; and

(II) by striking ''and'' at the end;

(iv) in subparagraph (G), by striking ''cybersecurity risks and incidents'' and inserting ''cyber threat indicators, defensive measures, cybersecurity risks, and incidents; and''; and

(v) by adding at the end the following: ''(H) the Center designates an agency contact for non-Federal entities;'';

(B) in paragraph (2)—

(i) by striking ''cybersecurity risks'' and inserting ''cyber threat indicators, defensive measures, cybersecurity risks,''; and

(ii) by inserting ''or disclosure'' after ''access''; and

(C) in paragraph (3), by inserting before the period at the end the following: '', including by working with the Privacy Officer appointed under section 222 to ensure that the Center follows the policies and procedures specified in subsections (b) and (d)(5)(C) of section 105 of the Cybersecurity Act of 2015''; and

(5) by adding at the end the following:

''(g) AUTOMATED INFORMATION SHARING.—

''(1) IN GENERAL.—The Under Secretary appointed under section 103(a)(1)(H), in coordination with industry and other stakeholders, shall develop capabilities making use of existing information technology industry standards and best practices, as appropriate, that support and rapidly advance the development, adoption, and implementation of automated mechanisms for the sharing of cyber threat indicators and defensive measures in accordance with title I of the Cybersecurity Act of 2015.

''(2) ANNUAL REPORT.—The Under Secretary appointed under section 103(a)(1)(H) shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives an annual report on the status and progress of the development of the capabilities described in paragraph (1). Such reports shall be required until such capabilities are fully implemented.

''(h) VOLUNTARY INFORMATION SHARING PROCEDURES.—

''(1) PROCEDURES.—

''(A) IN GENERAL.—The Center may enter into a voluntary information sharing relationship with any consenting non-Federal entity for the sharing of cyber threat indicators and defensive measures for cybersecurity purposes in accordance with this section. Nothing in this subsection may be construed to require any non-Federal entity to enter into any such information sharing relationship with the Center or any other entity. The Center may terminate a voluntary information sharing relationship under this subsection, at the sole

and unreviewable discretion of the Secretary, acting through the Under Secretary appointed under section 103(a)(1)(H), for any reason, including if the Center determines that the non-Federal entity with which the Center has entered into such a relationship has violated the terms of this subsection.

''(B) NATIONAL SECURITY.—The Secretary may decline to enter into a voluntary information sharing relationship under this subsection, at the sole and unreviewable discretion of the Secretary, acting through the Under Secretary appointed under section 103(a)(1)(H), for any reason, including if the Secretary determines that such is appropriate for national security.

''(2) VOLUNTARY INFORMATION SHARING RELATIONSHIPS.—A voluntary information sharing relationship under this subsection may be characterized as an agreement described in this paragraph.

''(A) STANDARD AGREEMENT.—For the use of a non-Federal entity, the Center shall make available a standard agreement, consistent with this section, on the Department's website.

''(B) NEGOTIATED AGREEMENT.—At the request of a non-Federal entity, and if determined appropriate by the Center, at the sole and unreviewable discretion of the Secretary, acting through the Under Secretary appointed under section 103(a)(1)(H), the Department shall negotiate a non-standard agreement, consistent with this section.

''(C) EXISTING AGREEMENTS.—An agreement between the Center and a non-Federal entity that is entered into before the date of enactment of this subsection, or such an agreement that is in effect before such date, shall be deemed in compliance with the requirements of this subsection, notwithstanding any other provision or requirement of this subsection. An agreement under this subsection shall include the relevant privacy protections as in effect under the Cooperative Research and Development Agreement for Cybersecurity Information Sharing and Collaboration, as of December 31, 2014. Nothing in this subsection may be construed to require a non-Federal entity to enter into either a standard or negotiated agreement to be in compliance with this subsection.

''(i) DIRECT REPORTING.—The Secretary shall develop policies and procedures for direct reporting to the Secretary by the Director of the Center regarding significant cybersecurity risks and incidents.

''(j) REPORTS ON INTERNATIONAL COOPERATION.— Not later than 180 days after the date of enactment of this subsection, and periodically thereafter, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the range of efforts underway to bolster cybersecurity collaboration with relevant international partners in accordance with subsection (c)(8).

''(k) OUTREACH.—Not later than 60 days after the date of enactment of this subsection, the Secretary, acting through the Under Secretary appointed under section 103(a)(1)(H), shall—

''(1) disseminate to the public information about how to voluntarily share cyber threat indicators and defensive measures with the Center; and

''(2) enhance outreach to critical infrastructure owners and operators for purposes of such sharing.

''(l) COORDINATED VULNERABILITY DISCLOSURE.— The Secretary, in coordination with industry and other stakeholders, may develop and adhere to Department policies and procedures for coordinating vulnerability disclosures.''.

SEC. 204. INFORMATION SHARING AND ANALYSIS ORGANIZATIONS.

Section 212 of the Homeland Security Act of 2002 (6 U.S.C. 131) is amended—

(1) in paragraph (5)—

(A) in subparagraph (A)—

(i) by inserting '', including information related to cybersecurity risks and incidents,'' after ''critical infrastructure information''; and

(ii) by inserting '', including cybersecurity risks and incidents,'' after ''related to critical infrastructure'';

(B) in subparagraph (B)—

(i) by inserting '', including cybersecurity risks and incidents,'' after ''critical infrastructure information''; and

(ii) by inserting '', including cybersecurity risks and incidents,'' after ''related to critical infrastructure''; and

(C) in subparagraph (C), by inserting '', including cybersecurity risks and incidents,'' after ''critical infrastructure information''; and

(2) by adding at the end the following:

''(8) CYBERSECURITY RISK; INCIDENT.—The terms 'cybersecurity risk' and 'incident' have the meanings given those terms in section 227.''.

SEC. 205. NATIONAL RESPONSE FRAMEWORK.

Section 228 of the Homeland Security Act of 2002, as added by section 223(a)(4) of this division, is amended by adding at the end the following:

''(d) NATIONAL RESPONSE FRAMEWORK.—The Secretary, in coordination with the heads of other appropriate Federal departments and agencies, and in accordance with the National Cybersecurity Incident Response Plan required under subsection (c), shall regularly update, maintain, and exercise the Cyber Incident Annex to the National Response Framework of the Department.''.

SEC. 206. REPORT ON REDUCING CYBERSECURITY RISKS IN DHS DATA CENTERS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the feasibility of the Department creating an environment for the reduction in cybersecurity risks in Department data centers, including by increasing compartmentalization between systems, and providing a mix of security controls between such compartments.

SEC. 207. ASSESSMENT.

Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees a report that includes—

(1) an assessment of the implementation by the Secretary of this title and the amendments made by this title; and

(2) to the extent practicable, findings regarding increases in the sharing of cyber threat indicators, defensive measures, and information relating to cybersecurity risks and incidents at the center established under section 227 of the Homeland Security Act of 2002, as redesignated by section 223(a) of this division, and throughout the United States.

SEC. 208. MULTIPLE SIMULTANEOUS CYBER INCIDENTS AT CRITICAL INFRASTRUCTURE.

Not later than 1 year after the date of enactment of this Act, the Under Secretary appointed under section 103(a)(1)(H) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)(1)(H)) shall provide information to the appropriate congressional committees on the feasibility of producing a risk-informed plan to address the risk of multiple simultaneous cyber incidents affecting critical infrastructure, including cyber incidents that may have a cascading effect on other critical infrastructure.

SEC. 209. REPORT ON CYBERSECURITY VULNERABILITIES OF UNITED STATES PORTS.

Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees, the Committee on Commerce, Science and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report on cybersecurity vulnerabilities for the 10 United States ports that the Secretary determines are at greatest risk of a cybersecurity incident and provide recommendations to mitigate such vulnerabilities.

SEC. 210. PROHIBITION ON NEW REGULATORY AUTHORITY.

Nothing in this subtitle or the amendments made by this subtitle may be construed to grant the Secretary any authority to promulgate regulations or set standards relating to the cybersecurity of non-Federal entities, not including State, local, and tribal governments, that was not in effect on the day before the date of enactment of this Act.

SEC. 211. TERMINATION OF REPORTING REQUIREMENTS.

Any reporting requirements in this subtitle shall terminate on the date that is 7 years after the date of enactment of this Act.

Subtitle B—Federal Cybersecurity Enhancement

SEC. 221. SHORT TITLE.

This subtitle may be cited as the ''Federal Cybersecurity Enhancement Act of 2015''.

SEC. 222. DEFINITIONS.

In this subtitle:

(1) AGENCY.—The term ''agency'' has the meaning given the term in section 3502 of title 44, United States Code.

(2) AGENCY INFORMATION SYSTEM.—The term ''agency information system'' has the meaning given the term in section 228 of the Homeland Security Act of 2002, as added by section 223(a)(4) of this division.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES.— The term ''appropriate congressional committees'' means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Homeland Security of the House of Representatives.

(4) CYBERSECURITY RISK; INFORMATION SYSTEM.—The terms ''cybersecurity risk'' and ''information system'' have the meanings given those terms in section 227 of the Homeland Security Act of 2002, as so redesignated by section 223(a)(3) of this division.

(5) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(6) INTELLIGENCE COMMUNITY.—The term ''intelligence community'' has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

(7) NATIONAL SECURITY SYSTEM.—The term ''national security system'' has the meaning given the term in section 11103 of title 40, United States Code.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

SEC. 223. IMPROVED FEDERAL NETWORK SECURITY.

(a) IN GENERAL.—Subtitle C of title II of the Homeland Security Act of 2002 (6 U.S.C. 141 et seq.) is amended—

(1) by redesignating section 228 as section 229;

(2) by redesignating section 227 as subsection (c) of section 228, as added by paragraph (4), and adjusting the margins accordingly;

(3) by redesignating the second section designated as section 226 (relating to the national cybersecurity and communications integration center) as section 227;

(4) by inserting after section 227, as so redesignated, the following:

''SEC. 228. CYBERSECURITY PLANS.

''(a) DEFINITIONS.—In this section—

''(1) the term 'agency information system' means an information system used or operated by an agency or by another entity on behalf of an agency;

''(2) the terms 'cybersecurity risk' and 'information system' have the meanings given those terms in section 227;

''(3) the term 'intelligence community' has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)); and

''(4) the term 'national security system' has the meaning given the term in section 11103 of title 40, United States Code.

''(b) INTRUSION ASSESSMENT PLAN.—

''(1) REQUIREMENT.—The Secretary, in coordination with the Director of the Office of Management and Budget, shall—

''(A) develop and implement an intrusion assessment plan to proactively detect, identify, and remove intruders in agency information systems on a routine basis; and

''(B) update such plan as necessary.

''(2) EXCEPTION.—The intrusion assessment plan required under paragraph (1) shall not apply to the Department of Defense, a national security system, or an element of the intelligence community.'';

(5) in section 228(c), as so redesignated, by striking ''section 226'' and inserting ''section 227''; and

(6) by inserting after section 229, as so redesignated, the following:

''SEC. 230. FEDERAL INTRUSION DETECTION AND PREVENTION SYSTEM.

''(a) DEFINITIONS.—In this section—

''(1) the term 'agency' has the meaning given the term in section 3502 of title 44, United States Code;

''(2) the term 'agency information' means information collected or maintained by or on behalf of an agency;

''(3) the term 'agency information system' has the meaning given the term in section 228; and

''(4) the terms 'cybersecurity risk' and 'information system' have the meanings given those terms in section 227.

''(b) REQUIREMENT.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall deploy, operate, and maintain, to make available for use by any agency, with or without reimbursement—

''(A) a capability to detect cybersecurity risks in network traffic transiting or traveling to or from an agency information system; and

''(B) a capability to prevent network traffic associated with such cybersecurity risks from transiting or traveling to or from an agency information system or modify such network traffic to remove the cybersecurity risk.

''(2) REGULAR IMPROVEMENT.—The Secretary shall regularly deploy new technologies and modify existing technologies to the intrusion detection and prevention capabilities described in paragraph (1) as appropriate to improve the intrusion detection and prevention capabilities.

''(c) ACTIVITIES.—In carrying out subsection (b), the Secretary—

''(1) may access, and the head of an agency may disclose to the Secretary or a private entity providing assistance to the Secretary under paragraph (2), information transiting or traveling to or from an agency information system, regardless of the location from which the Secretary or a private entity providing assistance to the Secretary under paragraph (2) accesses such information, notwithstanding any other provision of law that would otherwise restrict or prevent the head of an agency from disclosing such information to the Secretary or a private entity providing assistance to the Secretary under paragraph (2);

''(2) may enter into contracts or other agreements with, or otherwise request and obtain the assistance of, private entities to deploy, operate, and maintain technologies in accordance with subsection (b);

''(3) may retain, use, and disclose information obtained through the conduct of activities authorized under this section only to protect information and information systems from cybersecurity risks;

''(4) shall regularly assess through operational test and evaluation in real world or simulated environments available advanced protective technologies to improve detection and prevention capabilities, including commercial and noncommercial technologies and detection technologies beyond signature-based detection, and acquire, test, and deploy such technologies when appropriate;

''(5) shall establish a pilot through which the Secretary may acquire, test, and deploy, as rapidly as possible, technologies described in paragraph (4); and

''(6) shall periodically update the privacy impact assessment required under section 208(b) of the E-Government Act of 2002 (44 U.S.C. 3501 note).

''(d) PRINCIPLES.—In carrying out subsection (b), the Secretary shall ensure that—

''(1) activities carried out under this section are reasonably necessary for the purpose of protecting agency information and agency information systems from a cybersecurity risk;

''(2) information accessed by the Secretary will be retained no longer than reasonably necessary for the purpose of protecting agency information and agency information systems from a cybersecurity risk;

''(3) notice has been provided to users of an agency information system concerning access to communications of users of the agency information system for the purpose of protecting agency information and the agency information system; and

''(4) the activities are implemented pursuant to policies and procedures governing the operation of the intrusion detection and prevention capabilities.

''(e) PRIVATE ENTITIES.—

''(1) CONDITIONS.—A private entity described in subsection (c)(2) may not—

''(A) disclose any network traffic transiting or traveling to or from an agency information system to any entity other than the Department or the agency that disclosed the information under subsection (c)(1), including personal in formation of a specific individual or information that identifies a specific individual not directly related to a cybersecurity risk; or

''(B) use any network traffic transiting or traveling to or from an agency information system to which the private entity gains access in accordance with this section for any purpose other than to protect agency information and agency information systems against cybersecurity risks or to administer a contract or other agreement entered into pursuant to subsection (c)(2) or as part of another contract with the Secretary.

''(2) LIMITATION ON LIABILITY.—No cause of action shall lie in any court against a private entity for assistance provided to the Secretary in accordance with this section and any contract or agreement entered into pursuant to subsection (c)(2).

''(3) RULE OF CONSTRUCTION.—Nothing in paragraph (2) shall be construed to authorize an Internet service provider to break a user agreement with a customer without the consent of the customer.

''(f) PRIVACY OFFICER REVIEW.—Not later than 1 year after the date of enactment of this section, the Privacy Officer appointed under section 222, in consultation with the Attorney General, shall review the policies and guidelines for the program carried out under this section to ensure that the policies and guidelines are consistent with applicable privacy laws, including those governing the acquisition, interception, retention, use, and disclosure of communications.''.

(b) AGENCY RESPONSIBILITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2)—

(A) not later than 1 year after the date of enactment of this Act or 2 months after the date on which the Secretary makes available the intrusion detection and prevention capabilities under section 230(b)(1) of the Homeland Security Act of 2002, as added by subsection (a), whichever is later, the head of each agency shall apply and continue to utilize the capabilities to all information traveling between an agency information system and any information system other than an agency information system; and

(B) not later than 6 months after the date on which the Secretary makes available improvements to the intrusion detection and prevention capabilities pursuant to section 230(b)(2) of the Homeland Security Act of 2002, as added by subsection (a), the head of each agency shall apply and continue to utilize the improved intrusion detection and prevention capabilities.

(2) EXCEPTION.—The requirements under paragraph (1) shall not apply to the Department of Defense, a national security system, or an element of the intelligence community.

(3) DEFINITION.—Notwithstanding section 222, in this subsection, the term ''agency information system'' means an information system owned or operated by an agency.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit an agency from applying the intrusion detection and prevention capabilities to an information system other than an agency information system under section 230(b)(1) of the Homeland Security Act of 2002, as added by subsection (a), at the discretion of the head of the agency or as provided in relevant policies, directives, and guidelines.

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 note) is amended by striking the items relating to the first section designated as section 226, the second section designated as section 226 (relating to the national cybersecurity and communications integration center), section 227, and section 228 and inserting the following:

''Sec. 226. Cybersecurity recruitment and retention.

''Sec. 227. National cybersecurity and communications integration center.

''Sec. 228. Cybersecurity plans.

''Sec. 229. Clearances.

''Sec. 230. Federal intrusion detection and prevention system.''.

SEC. 224. ADVANCED INTERNAL DEFENSES.

(a) ADVANCED NETWORK SECURITY TOOLS.—

(1) IN GENERAL.—The Secretary shall include, in the efforts of the Department to continuously diagnose and mitigate cybersecurity risks, advanced network security tools to improve visibility of network activity, including through the use of commercial and free or open source tools, and to detect and mitigate intrusions and anomalous activity.

(2) DEVELOPMENT OF PLAN.—The Director shall develop and the Secretary shall implement a plan to ensure that each agency utilizes advanced network security tools, including those described in paragraph (1), to detect and mitigate intrusions and anomalous activity.

(b) PRIORITIZING ADVANCED SECURITY TOOLS.— The Director and the Secretary, in consultation with appropriate agencies, shall—

(1) review and update Government-wide policies and programs to ensure appropriate prioritization and use of network security monitoring tools within agency networks; and

(2) brief appropriate congressional committees on such prioritization and use.

(c) IMPROVED METRICS.—The Secretary, in collaboration with the Director, shall review and update the metrics used to measure security under section 3554 of title 44, United States Code, to include measures of intrusion and incident detection and response times.

(d) TRANSPARENCY AND ACCOUNTABILITY.—The Director, in consultation with the Secretary, shall increase transparency to the public on agency cybersecurity posture, including by increasing the number of metrics available on Federal Government performance websites and, to the greatest extent practicable, displaying metrics for department components, small agencies, and micro-agencies.

(e) MAINTENANCE OF TECHNOLOGIES.—Section 3553(b)(6)(B) of title 44, United States Code, is amended by inserting '', operating, and maintaining'' after ''deploying''.

(f) EXCEPTION.—The requirements under this section shall not apply to the Department of Defense, a national security system, or an element of the intelligence community.

SEC. 225. FEDERAL CYBERSECURITY REQUIREMENTS.

(a) IMPLEMENTATION OF FEDERAL CYBERSECURITY STANDARDS.—Consistent with section 3553 of title 44, United States Code, the Secretary, in consultation with the Director, shall exercise the authority to issue binding operational directives to assist the Director in ensuring timely agency adoption of and compliance with policies and standards promulgated under section 11331 of title 40, United States Code, for securing agency information systems.

(b) CYBERSECURITY REQUIREMENTS AT AGENCIES.—

(1) IN GENERAL.—Consistent with policies, standards, guidelines, and directives on information security under subchapter II of chapter 35 of title 44, United States Code, and the standards and guidelines promulgated under section 11331 of title 40, United States Code, and except as provided in paragraph (2), not later than 1 year after the date of the enactment of this Act, the head of each agency shall—

(A) identify sensitive and mission critical data stored by the agency consistent with the inventory required under the first subsection (c) (relating to the inventory of major information systems) and the second subsection (c) (relating to the inventory of information systems) of section 3505 of title 44, United States Code;

(B) assess access controls to the data described in subparagraph (A), the need for readily accessible storage of the data, and individuals' need to access the data;

(C) encrypt or otherwise render indecipherable to unauthorized users the data described in subparagraph (A) that is stored on or transiting agency information systems;

(D) implement a single sign-on trusted identity platform for individuals accessing each public website of the agency that requires user authentication, as developed by the Administrator of General Services in collaboration with the Secretary; and

(E) implement identity management consistent with section 504 of the Cybersecurity Enhancement Act of 2014 (Public Law 113–274; 15 U.S.C. 7464), including multi-factor authentication, for—

(i) remote access to an agency information system; and

(ii) each user account with elevated privileges on an agency information system.

(2) EXCEPTION.—The requirements under paragraph (1) shall not apply to an agency information system for which—

(A) the head of the agency has personally certified to the Director with particularity that—

(i) operational requirements articulated in the certification and related to the agency information system would make it excessively burdensome to implement the cybersecurity requirement;

(ii) the cybersecurity requirement is not necessary to secure the agency information system or agency information stored on or transiting it; and

(iii) the agency has taken all necessary steps to secure the agency information system and agency information stored on or transiting it; and

(B) the head of the agency or the designee of the head of the agency has submitted the certification described in subparagraph (A) to the appropriate congressional committees and the agency's authorizing committees.

(3) CONSTRUCTION.—Nothing in this section shall be construed to alter the authority of the Secretary, the Director, or the Director of the National Institute of Standards and Technology in implementing subchapter II of chapter 35 of title 44, United States Code. Nothing in this section shall be construed to affect the National Institute of Standards and Technology standards process or the requirement under section 3553(a)(4) of such title or to discourage continued improvements and advancements in the technology, standards, policies, and guidelines used to promote Federal information security.

(c) EXCEPTION.—The requirements under this section shall not apply to the Department of Defense, a national security system, or an element of the intelligence community.

SEC. 226. ASSESSMENT; REPORTS.

(a) DEFINITIONS.—In this section:

(1) AGENCY INFORMATION.—The term ''agency information'' has the meaning given the term in section 230 of the Homeland Security Act of 2002, as added by section 223(a)(6) of this division.

(2) CYBER THREAT INDICATOR; DEFENSIVE MEASURE.—The terms ''cyber threat indicator'' and ''defensive measure'' have the meanings given those terms in section 102.

(3) INTRUSION ASSESSMENTS.—The term ''intrusion assessments'' means actions taken under the intrusion assessment plan to identify and remove intruders in agency information systems.

(4) INTRUSION ASSESSMENT PLAN.—The term ''intrusion assessment plan'' means the plan required under section 228(b)(1) of the Homeland Security Act of 2002, as added by section 223(a)(4) of this division.

(5) INTRUSION DETECTION AND PREVENTION CAPABILITIES.—The term ''intrusion detection and prevention capabilities'' means the capabilities required under section 230(b) of the Homeland Security Act of 2002, as added by section 223(a)(6) of this division.

(b) THIRD-PARTY ASSESSMENT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and publish a report on the effectiveness of the approach and strategy of the Federal Government to securing agency information systems, including the intrusion detection and prevention capabilities and the intrusion assessment plan.

(c) REPORTS TO CONGRESS.—

(1) INTRUSION DETECTION AND PREVENTION CAPABILITIES.—

(A) SECRETARY OF HOMELAND SECURITY REPORT.—Not later than 6 months after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the appropriate congressional committees a report on the status of implementation of the intrusion detection and prevention capabilities, including—

(i) a description of privacy controls;

(ii) a description of the technologies and capabilities utilized to detect cybersecurity risks in network traffic, including the extent to which those technologies and capabilities include existing commercial and noncommercial technologies;

(iii) a description of the technologies and capabilities utilized to prevent network traffic associated with cybersecurity risks from transiting or traveling to or from agency information systems, including the extent to which those technologies and capabilities include existing commercial and noncommercial technologies;

(iv) a list of the types of indicators or other identifiers or techniques used to detect cybersecurity risks in network traffic transiting or traveling to or from agency information systems on each iteration of the intrusion detection and prevention capabilities and the number of each such type of indicator, identifier, and technique;

(v) the number of instances in which the intrusion detection and prevention capabilities detected a cybersecurity risk in network traffic transiting or traveling to or from agency information systems and the number of times the intrusion detection and prevention capabilities blocked network traffic associated with cybersecurity risk; and

(vi) a description of the pilot established under section 230(c)(5) of the Homeland Security Act of 2002, as added by section 223(a)(6) of this division, including the number of new technologies tested and the number of participating agencies.

(B) OMB REPORT.—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director shall submit to Congress, as part of the report required under section 3553(c) of title 44, United States Code, an analysis of agency application of the intrusion detection and prevention capabilities, including—

(i) a list of each agency and the degree to which each agency has applied the intrusion detection and prevention capabilities to an agency information system; and

(ii) a list by agency of—

(I) the number of instances in which the intrusion detection and prevention capabilities detected a cybersecurity risk in network traffic transiting or traveling to or from an agency information system and the types of indicators, identifiers, and techniques used to detect such cybersecurity risks; and

(II) the number of instances in which the intrusion detection and prevention capabilities prevented network traffic associated with a cybersecurity risk from transiting or traveling to or from an agency information system and the types of indicators, identifiers, and techniques used to detect such agency information systems.

(C) CHIEF INFORMATION OFFICER.—Not earlier than 18 months after the date of enactment of this Act and not later than 2 years after the date of enactment of this Act, the Federal Chief Information Officer shall review and submit to the appropriate congressional committees a report assessing the intrusion detection and intrusion prevention capabilities, including—

(i) the effectiveness of the system in detecting, disrupting, and preventing cyber-threat actors, including advanced persistent threats, from accessing agency information and agency information systems;

(ii) whether the intrusion detection and prevention capabilities, continuous diagnostics and mitigation, and other systems deployed under subtitle D of title II of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.) are effective in securing Federal information systems;

(iii) the costs and benefits of the intrusion detection and prevention capabilities, including as compared to commercial technologies and tools and including the value of classified cyber threat indicators; and

(iv) the capability of agencies to protect sensitive cyber threat indicators and defensive measures if they were shared through unclassified mechanisms for use in commercial technologies and tools.

(2) OMB REPORT ON DEVELOPMENT AND IMPLEMENTATION OF INTRUSION ASSESSMENT PLAN, ADVANCED INTERNAL DEFENSES, AND FEDERAL CYBERSECURITY REQUIREMENTS.—The Director shall—

(A) not later than 6 months after the date of enactment of this Act, and 30 days after any update thereto, submit the intrusion assessment plan to the appropriate congressional committees;

(B) not later than 1 year after the date of enactment of this Act, and annually thereafter, submit to Congress, as part of the report required under section 3553(c) of title 44, United States Code—

(i) a description of the implementation of the intrusion assessment plan;

(ii) the findings of the intrusion assessments conducted pursuant to the intrusion assessment plan;

(iii) a description of the advanced network security tools included in the efforts to continuously diagnose and mitigate cybersecurity risks pursuant to section 224(a)(1); and

(iv) a list by agency of compliance with the requirements of section 225(b); and

(C) not later than 1 year after the date of enactment of this Act, submit to the appropriate congressional committees—

(i) a copy of the plan developed pursuant to section 224(a)(2); and

(ii) the improved metrics developed pursuant to section 224(c).

(d) FORM.—Each report required under this section shall be submitted in unclassified form, but may include a classified annex.

SEC. 227. TERMINATION.

(a) IN GENERAL.—The authority provided under section 230 of the Homeland Security Act of 2002, as added by section 223(a)(6) of this division, and the reporting requirements under section 226(c) of this division shall terminate on the date that is 7 years after the date of enactment of this Act.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to affect the limitation of liability of a private entity for assistance provided to the Secretary under section 230(d)(2) of the Homeland Security Act of 2002, as added by section 223(a)(6) of this division, if such assistance was rendered before the termination date under subsection (a) or otherwise during a period in which the assistance was authorized.

SEC. 228. IDENTIFICATION OF INFORMATION SYSTEMS RE LATING TO NATIONAL SECURITY.

(a) IN GENERAL.—Except as provided in subsection (c), not later than 180 days after the date of enactment of this Act—

(1) the Director of National Intelligence and the Director of the Office of Management and Budget, in coordination with the heads of other agencies, shall—

(A) identify all unclassified information systems that provide access to information that may provide an adversary with the ability to derive information that would otherwise be considered classified;

(B) assess the risks that would result from the breach of each unclassified information system identified in subparagraph (A); and

(C) assess the cost and impact on the mission carried out by each agency that owns an unclassified information system identified in subparagraph (A) if the system were to be subsequently designated as a national security system; and

(2) the Director of National Intelligence and the Director of the Office of Management and Budget shall submit to the appropriate congressional committees, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a report that includes the findings under paragraph (1).

(b) FORM.—The report submitted under subsection (a)(2) shall be in unclassified form, and shall include a classified annex.

(c) EXCEPTION.—The requirements under subsection (a)(1) shall not apply to the Department of Defense, a national security system, or an element of the intelligence community.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to designate an information system as a national security system.

SEC. 229. DIRECTION TO AGENCIES.

(a) IN GENERAL.—Section 3553 of title 44, United States Code, is amended by adding at the end the following:

''(h) DIRECTION TO AGENCIES.—

''(1) AUTHORITY.—

''(A) IN GENERAL.—Subject to subparagraph (B), in response to a known or reasonably suspected information security threat, vulnerability, or incident that represents a substantial threat to the information security of an agency, the Secretary may issue an emergency directive to the head of an agency to take any lawful action with respect to the operation of the information system, including such systems used or operated by another entity on behalf of an agency, that collects, processes, stores, transmits, disseminates, or otherwise maintains agency information, for the purpose of protecting the information system from, or mitigating, an information security threat.

''(B) EXCEPTION.—The authorities of the Secretary under this subsection shall not apply to a system described subsection (d) or to a system described in paragraph (2) or (3) of subsection (e).

''(2) PROCEDURES FOR USE OF AUTHORITY.—The Secretary shall—

''(A) in coordination with the Director, and in consultation with Federal contractors as appropriate, establish procedures governing the circumstances under which a directive may be issued under this subsection, which shall include—

''(i) thresholds and other criteria;

''(ii) privacy and civil liberties protections; and

''(iii) providing notice to potentially affected third parties;

''(B) specify the reasons for the required action and the duration of the directive;

''(C) minimize the impact of a directive under this subsection by—

''(i) adopting the least intrusive means possible under the circumstances to secure the agency information systems; and

''(ii) limiting directives to the shortest period practicable;

''(D) notify the Director and the head of any affected agency immediately upon the issuance of a directive under this subsection;

''(E) consult with the Director of the National Institute of Standards and Technology regarding any directive under this subsection that implements standards and guidelines developed by the National Institute of Standards and Technology;

''(F) ensure that directives issued under this subsection do not conflict with the standards and guidelines issued under section 11331 of title 40;

''(G) consider any applicable standards or guidelines developed by the National Institute of Standards and Technology issued by the Secretary of Commerce under section 11331 of title 40; and

''(H) not later than February 1 of each year, submit to the appropriate congressional committees a report regarding the specific actions the Secretary has taken pursuant to paragraph (1)(A).

''(3) IMMINENT THREATS.—

''(A) IN GENERAL.—Notwithstanding section 3554, the Secretary may authorize the use under this subsection of the intrusion detection and prevention capabilities established under section 230(b)(1) of the Homeland Security Act of 2002 for the purpose of ensuring the security of agency information systems, if—

''(i) the Secretary determines there is an imminent threat to agency information systems;

''(ii) the Secretary determines a directive under subsection (b)(2)(C) or paragraph (1)(A) is not reasonably likely to result in a timely response to the threat;

''(iii) the Secretary determines the risk posed by the imminent threat outweighs any adverse consequences reasonably expected to result from the use of the intrusion detection and prevention capabilities under the control of the Secretary;

''(iv) the Secretary provides prior notice to the Director, and the head and chief information officer (or equivalent official) of each agency to which specific actions will be taken pursuant to this paragraph, and notifies the appropriate congressional committees and authorizing committees of each such agency within 7 days of taking an action under this paragraph of—

''(I) any action taken under this paragraph; and

''(II) the reasons for and duration and nature of the action;

''(v) the action of the Secretary is consistent with applicable law; and

''(vi) the Secretary authorizes the use of the intrusion detection and prevention capabilities in accordance with the advance procedures established under subparagraph (C).

''(B) LIMITATION ON DELEGATION.—The authority under this paragraph may not be delegated by the Secretary.

''(C) ADVANCE PROCEDURES.—The Secretary shall, in coordination with the Director, and in consultation with the heads of Federal agencies, establish procedures governing the circumstances under which the Secretary may authorize the use of the intrusion detection and prevention capabilities under subparagraph (A). The Secretary shall submit the procedures to Congress.

''(4) LIMITATION.—The Secretary may direct or authorize lawful action or the use of the intrusion detection and prevention capabilities under this subsection only to—

''(A) protect agency information from unauthorized access, use, disclosure, disruption, modification, or destruction; or

''(B) require the remediation of or protect against identified information security risks with respect to—

''(i) information collected or maintained by or on behalf of an agency; or

''(ii) that portion of an information system used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency.

''(i) ANNUAL REPORT TO CONGRESS.—Not later than February 1 of each year, the Director and the Secretary shall submit to the appropriate congressional committees a report regarding the specific actions the Director and the Secretary have taken pursuant to subsection (a)(5), including any actions taken pursuant to section 11303(b)(5) of title 40.

''(j) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

''(1) the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate; and

''(2) the Committee on Appropriations, the Committee on Homeland Security, the Committee on Oversight and Government Reform, and the Committee on Science, Space, and Technology of the House of Representatives.''.

(b) CONFORMING AMENDMENT.—Section 3554(a)(1)(B) of title 44, United States Code, is amended—

(1) in clause (iii), by striking ''and'' at the end; and

(2) by adding at the end the following:

''(v) emergency directives issued by the Secretary under section 3553(h); and''.

TITLE III—FEDERAL CYBERSECURITY WORKFORCE ASSESSMENT

SEC. 301. SHORT TITLE.

This title may be cited as the ''Federal Cybersecurity Workforce Assessment Act of 2015''.

SEC. 302. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.— The term ''appropriate congressional committees'' means—

(A) the Committee on Armed Services of the Senate;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate;

(C) the Select Committee on Intelligence of the Senate; (D) the Committee on Commerce, Science, and Transportation of the Senate;

(E) the Committee on Armed Services of the House of Representatives;

(F) the Committee on Homeland Security of the House of Representatives;

(G) the Committee on Oversight and Government Reform of the House of Representatives; and

(H) the Permanent Select Committee on Intelligence of the House of Representatives.

(2) DIRECTOR.—The term ''Director'' means the Director of the Office of Personnel Management.

(3) NATIONAL INITIATIVE FOR CYBERSECURITY EDUCATION.—The term ''National Initiative for Cybersecurity Education'' means the initiative under the national cybersecurity awareness and education program, as authorized under section 401 of the Cybersecurity Enhancement Act of 2014 (15 U.S.C. 7451).

(4) WORK ROLES.—The term '' work roles'' means a specialized set of tasks and functions requiring specific knowledge, skills, and abilities.

SEC. 303. NATIONAL CYBERSECURITY WORKFORCE MEASUREMENT INITIATIVE.

(a) IN GENERAL.—The head of each Federal agency shall—

(1) identify all positions within the agency that require the performance of cybersecurity or other cyber-related functions; and

(2) assign the corresponding employment code under the National Initiative for Cybersecurity Education in accordance with subsection (b).

(b) EMPLOYMENT CODES.—

(1) PROCEDURES.—

(A) CODING STRUCTURE.—Not later than 180 days after the date of the enactment of this Act, the Director, in coordination with the National Institute of Standards and Technology, shall develop a coding structure under the National Initiative for Cybersecurity Education.

(B) IDENTIFICATION OF CIVILIAN CYBER PERSONNEL.—Not later than 9 months after the date of enactment of this Act, the Director, in coordination with the Secretary of Homeland Security, the Director of the National Institute of Standards and Technology, and the Director of National Intelligence, shall establish procedures to implement the National Initiative for Cybersecurity Education coding structure to identify all Federal civilian positions that require the performance of information technology, cybersecurity, or other cyber-related functions.

(C) IDENTIFICATION OF NONCIVILIAN CYBER PERSONNEL.—Not later than 18 months after the date of enactment of this Act, the Secretary of Defense shall establish procedures to implement the National

Initiative for Cybersecurity Education's coding structure to identify all Federal noncivilian positions that require the performance of information technology, cybersecurity, or other cyber-related functions.

(D) BASELINE ASSESSMENT OF EXISTING CYBERSECURITY WORKFORCE.—Not later than 3 months after the date on which the procedures are developed under subparagraphs (B) and (C), respectively, the head of each Federal agency shall submit to the appropriate congressional committees of jurisdiction a report that identifies—

(i) the percentage of personnel with information technology, cybersecurity, or other cyber-related job functions who currently hold the appropriate industry-recognized certifications as identified under the National Initiative for Cybersecurity Education;

(ii) the level of preparedness of other civilian and noncivilian cyber personnel without existing credentials to take certification exams; and (iii) a strategy for mitigating any gaps identified in clause (i) or (ii) with the appropriate training and certification for existing personnel.

(E) PROCEDURES FOR ASSIGNING CODES.—Not later than 3 months after the date on which the procedures are developed under subparagraphs (B) and (C), respectively, the head of each Federal agency shall establish procedures—

(i) to identify all encumbered and vacant positions with information technology, cybersecurity, or other cyber-related functions (as defined in the National Initiative for Cybersecurity Education's coding structure); and (ii) to assign the appropriate employment code to each such position, using agreed standards and definitions.

(2) CODE ASSIGNMENTS.—Not later than 1 year after the date after the procedures are established under paragraph (1)(E), the head of each Federal agency shall complete assignment of the appropriate employment code to each position within the agency with information technology, cybersecurity, or other cyber-related functions.

(c) PROGRESS REPORT.—Not later than 180 days after the date of enactment of this Act, the Director shall submit a progress report on the implementation of this section to the appropriate congressional committees.

SEC. 304. IDENTIFICATION OF CYBER-RELATED WORK ROLES OF CRITICAL NEED.

(a) IN GENERAL.—Beginning not later than 1 year after the date on which the employment codes are assigned to employees pursuant to section 303(b)(2), and annually thereafter through 2022, the head of each Federal agency, in consultation with the Director, the Director of the National Institute of Standards and Technology, and the Secretary of Homeland Security, shall—

(1) identify information technology, cybersecurity, or other cyber-related work roles of critical need in the agency's workforce; and

(2) submit a report to the Director that—

(A) describes the information technology, cybersecurity, or other cyber-related roles identified under paragraph (1); and

(B) substantiates the critical need designations.

(b) GUIDANCE.—The Director shall provide Federal agencies with timely guidance for identifying information technology, cybersecurity, or other cyber-related roles of critical need, including—

(1) current information technology, cybersecurity, and other cyber-related roles with acute skill shortages; and

(2) information technology, cybersecurity, or other cyber-related roles with emerging skill shortages.

(c) CYBERSECURITY NEEDS REPORT.—Not later than 2 years after the date of the enactment of this Act, the Director, in consultation with the Secretary of Homeland Security, shall—

(1) identify critical needs for information technology, cybersecurity, or other cyber-related workforce across all Federal agencies; and

(2) submit a progress report on the implementation of this section to the appropriate congressional committees.

SEC. 305. GOVERNMENT ACCOUNTABILITY OFFICE STATUS REPORTS.

The Comptroller General of the United States shall—

(1) analyze and monitor the implementation of sections 303 and 304; and

(2) not later than 3 years after the date of the enactment of this Act, submit a report to the appropriate congressional committees that describes the status of such implementation.

TITLE IV—OTHER CYBER MATTERS

SEC. 401. STUDY ON MOBILE DEVICE SECURITY.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Director of the National Institute of Standards and Technology, shall—

(1) complete a study on threats relating to the security of the mobile devices of the Federal Government; and

(2) submit an unclassified report to Congress, with a classified annex if necessary, that contains the findings of such study, the recommendations developed under paragraph (3) of subsection (b), the deficiencies, if any, identified under (4) of such subsection, and the plan developed under paragraph (5) of such subsection.

(b) MATTERS STUDIED.—In carrying out the study under subsection (a)(1), the Secretary, in consultation with the Director of the National Institute of Standards and Technology, shall—

(1) assess the evolution of mobile security techniques from a desktop-centric approach, and whether such techniques are adequate to meet current mobile security challenges;

(2) assess the effect such threats may have on the cybersecurity of the information systems and networks of the Federal Government (except for national security systems or the information systems and networks of the Department of Defense and the intelligence community);

(3) develop recommendations for addressing such threats based on industry standards and best practices;

(4) identify any deficiencies in the current authorities of the Secretary that may inhibit the ability of the Secretary to address mobile device security throughout the Federal Government (except for national security systems and the information systems and networks of the Department of Defense and intelligence community); and

(5) develop a plan for accelerated adoption of secure mobile device technology by the Department of Homeland Security.

(c) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term ‘‘intelligence community’’ has the meaning given such term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

SEC. 402. DEPARTMENT OF STATE INTERNATIONAL CYBER SPACE POLICY STRATEGY.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall produce a comprehensive strategy relating to United States international policy with regard to cyberspace.

(b) ELEMENTS.—The strategy required by subsection (a) shall include the following:

(1) A review of actions and activities undertaken by the Secretary of State to date to support the goal of the President’s International Strategy for Cyberspace, released in May 2011, to ‘‘work internationally to promote an open, interoperable, secure, and reliable information and communications infrastructure that supports international trade and commerce, strengthens international security, and fosters free expression and innovation.’’.

(2) A plan of action to guide the diplomacy of the Secretary of State, with regard to foreign countries, including conducting bilateral and multilateral activities to develop the norms of responsible international behavior in cyberspace, and status review of existing discussions in multilateral fora to obtain agreements on international norms in cyberspace.

(3) A review of the alternative concepts with regard to international norms in cyberspace offered by foreign countries that are prominent actors, including China, Russia, Brazil, and India.

(4) A detailed description of threats to United States national security in cyberspace from foreign countries, state-sponsored actors, and private actors to Federal and private sector infrastructure of the United States, intellectual property in the United States, and the privacy of citizens of the United States.

(5) A review of policy tools available to the President to deter foreign countries, state-sponsored actors, and private actors, including those outlined in Executive Order 13694, released on April 1, 2015.

(6) A review of resources required by the Secretary, including the Office of the Coordinator for Cyber Issues, to conduct activities to build responsible norms of international cyber behavior.

(c) CONSULTATION.—In preparing the strategy required by subsection (a), the Secretary of State shall consult, as appropriate, with other agencies and departments of the United States and the private sector and nongovernmental organizations in the United States with recognized credentials and expertise in foreign policy, national security, and cybersecurity.

(d) FORM OF STRATEGY.—The strategy required by subsection (a) shall be in unclassified form, but may include a classified annex. (e) AVAILABILITY OF INFORMATION.—The Secretary of State shall—

(1) make the strategy required in subsection (a) available the public; and

(2) brief the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the strategy, including any material contained in a classified annex.

SEC. 403. APPREHENSION AND PROSECUTION OF INTERNATIONAL CYBER CRIMINALS.

(a) INTERNATIONAL CYBER CRIMINAL DEFINED.—In this section, the term ''international cyber criminal'' means an individual—

(1) who is believed to have committed a cybercrime or intellectual property crime against the interests of the United States or the citizens of the United States; and

(2) for whom—

(A) an arrest warrant has been issued by a judge in the United States; or

(B) an international wanted notice (commonly referred to as a ''Red Notice'') has been circulated by Interpol.

(b) CONSULTATIONS FOR NONCOOPERATION.—The Secretary of State, or designee, shall consult with the appropriate government official of each country from which extradition is not likely due to the lack of an extradition treaty with the United States or other reasons, in which one or more international cyber criminals are physically present, to determine what actions the government of such country has taken—

(1) to apprehend and prosecute such criminals; and

(2) to prevent such criminals from carrying out cybercrimes or intellectual property crimes against the interests of the United States or its citizens.

(c) ANNUAL REPORT.—

(1) IN GENERAL.—The Secretary of State shall submit to the appropriate congressional committees an annual report that includes—

(A) the number of international cyber criminals located in other countries, disaggregated by country, and indicating from which countries extradition is not likely due to the lack of an extradition treaty with the United States or other reasons;

(B) the nature and number of significant discussions by an official of the Department of State on ways to thwart or prosecute international cyber criminals with an official of another country, including the name of each such country; and

(C) for each international cyber criminal who was extradited to the United States during the most recently completed calendar year—

(i) his or her name;

(ii) the crimes for which he or she was charged;

(iii) his or her previous country of residence; and

(iv) the country from which he or she was extradited into the United States.

(2) FORM.—The report required by this subsection shall be in unclassified form to the maximum extent possible, but may include a classified annex.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—For purposes of this subsection, the term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Relations, the Committee on Appropriations, the Committee on Homeland Security and Governmental Affairs, the Committee on Banking, Housing, and Urban Affairs, the Select Committee on Intelligence, and the Committee on the Judiciary of the Senate; and

(B) the Committee on Foreign Affairs, the Committee on Appropriations, the Committee on Homeland Security, the Committee on Financial Services, the Permanent Select Committee on Intelligence, and the Committee on the Judiciary of the House of Representatives.

SEC. 404. ENHANCEMENT OF EMERGENCY SERVICES.

(a) COLLECTION OF DATA.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security, acting through the center established under section 227 of the Homeland Security Act of 2002, as redesignated by section 223(a)(3) of this division, in coordination with appropriate Federal entities and the Director for Emergency Communications, shall establish a process by which a Statewide Interoperability Coordinator may report data on any cybersecurity risk or incident involving any information system or network used by emergency response providers (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) within the State.

(b) ANALYSIS OF DATA.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security, acting through the Director of the National Cybersecurity and Communications Integration Center, in coordination with appropriate entities and the Director for Emergency Communications, and in consultation with the Secretary of Commerce, acting through the Director of the National Institute of Standards and Technology, shall conduct integration and analysis of the data reported under subsection (a) to develop

information and recommendations on security and resilience measures for any information system or network used by State emergency response providers.

(c) BEST PRACTICES.—

(1) IN GENERAL.—Using the results of the integration and analysis conducted under subsection (b), and any other relevant information, the Director of the National Institute of Standards and Technology shall, on an ongoing basis, facilitate and support the development of methods for reducing cybersecurity risks to emergency response providers using the process described in section 2(e) of the National Institute of Standards and Technology Act (15 U.S.C. 272(e)).

(2) REPORT.—The Director of the National Institute of Standards and Technology shall submit to Congress a report on the result of the activities of the Director under paragraph (1), including any methods developed by the Director under such paragraph, and shall make such report publicly available on the website of the National Institute of Standards and Technology.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require a State to report data under subsection (a); or

(2) require a non-Federal entity (as defined in section 102) to—

(A) adopt a recommended measure developed under subsection (b); or

(B) follow the result of the activities carried out under subsection (c), including any methods developed under such subsection.

SEC. 405. IMPROVING CYBERSECURITY IN THE HEALTHCARE INDUSTRY.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.— The term ‘‘appropriate congressional committees’’ means—

(A) the Committee on Health, Education, Labor, and Pensions, the Committee on Homeland Security and Governmental Affairs, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Energy and Commerce, the Committee on Homeland Security, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) BUSINESS ASSOCIATE.—The term ‘‘business associate’’ has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

(3) COVERED ENTITY.—The term ‘‘covered entity’’ has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

(4) CYBERSECURITY THREAT; CYBER THREAT INDICATOR; DEFENSIVE MEASURE; FEDERAL ENTITY; NON-FEDERAL ENTITY; PRIVATE ENTITY.—The terms ‘‘cybersecurity threat’’, ‘‘cyber threat indicator’’, ‘‘defensive measure’’, ‘‘Federal entity’’, ‘‘non-Federal entity’’, and ‘‘private entity’’ have the meanings given such terms in section 102 of this division.

(5) HEALTH CARE CLEARINGHOUSE; HEALTH CARE PROVIDER; HEALTH PLAN.—The terms ‘‘health care clearinghouse’’, ‘‘health care provider’’, and ‘‘health plan’’ have the meanings given such terms in section 160.103 of title 45, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

(6) HEALTH CARE INDUSTRY STAKEHOLDER.—The term ‘‘health care industry stakeholder’’ means any—

(A) health plan, health care clearinghouse, or health care provider;

(B) advocate for patients or consumers;

(C) pharmacist;

(D) developer or vendor of health information technology;

(E) laboratory;

(F) pharmaceutical or medical device manufacturer; or

(G) additional stakeholder the Secretary determines necessary for purposes of subsection (b)(1), (c)(1), (c)(3), or (d)(1).

(7) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of Health and Human Services.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the preparedness of the Department of Health and Human Services and health care industry stakeholders in responding to cybersecurity threats.

(2) CONTENTS OF REPORT.—With respect to the internal response of the Department of Health and Human Services to emerging cybersecurity threats, the report under paragraph (1) shall include—

(A) a clear statement of the official within the Department of Health and Human Services to be responsible for leading and coordinating efforts of the Department regarding cybersecurity threats in the health care industry; and

(B) a plan from each relevant operating division and subdivision of the Department of Health and Human Services on how such division or subdivision will address cybersecurity threats in the health care industry, including a clear delineation of how each such division or subdivision will divide responsibility among the personnel of such division or subdivision and communicate with other such divisions and sub-divisions regarding efforts to address such threats.

(c) HEALTH CARE INDUSTRY CYBERSECURITY TASK FORCE.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary, in consultation with the Director of the National Institute of Standards and Technology and the Secretary of Homeland Security, shall convene health care industry stakeholders, cybersecurity experts, and any Federal agencies or entities the Secretary determines appropriate to establish a task force to—

(A) analyze how industries, other than the health care industry, have implemented strategies and safeguards for addressing cybersecurity threats within their respective industries;

(B) analyze challenges and barriers private entities (excluding any State, tribal, or local government) in the health care industry face securing themselves against cyber attacks;

(C) review challenges that covered entities and business associates face in securing networked medical devices and other software or systems that connect to an electronic health record;

(D) provide the Secretary with information to disseminate to health care industry stakeholders of all sizes for purposes of improving their preparedness for, and response to, cybersecurity threats affecting the health care industry;

(E) establish a plan for implementing title I of this division, so that the Federal Government and health care industry stakeholders may in real time, share actionable cyber threat indicators and defensive measures; and

(F) report to the appropriate congressional committees on the findings and recommendations of the task force regarding carrying out subparagraphs (A) through (E).

(2) TERMINATION.—The task force established under this subsection shall terminate on the date that is 1 year after the date on which such task force is established.

(3) DISSEMINATION.—Not later than 60 days after the termination of the task force established under this subsection, the Secretary shall disseminate the information described in paragraph (1)(D) to health care industry stakeholders in accordance with such paragraph.

(d) ALIGNING HEALTH CARE INDUSTRY SECURITY APPROACHES.—

(1) IN GENERAL.—The Secretary shall establish, through a collaborative process with the Secretary of Homeland Security, health care industry stakeholders, the Director of the National Institute of Standards and Technology, and any Federal entity or non-Federal entity the Secretary determines appropriate, a common set of voluntary, consensus-based, and industry-led guidelines, best practices, methodologies, procedures, and processes that—

(A) serve as a resource for cost-effectively reducing cybersecurity risks for a range of health care organizations;

(B) support voluntary adoption and implementation efforts to improve safeguards to address cybersecurity threats;

(C) are consistent with—

(i) the standards, guidelines, best practices, methodologies, procedures, and processes developed under section 2(c)(15) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)(15));

(ii) the security and privacy regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note); and

(iii) the provisions of the Health Information Technology for Economic and Clinical Health Act (title XIII of division A, and title IV of division B, of Public Law 111–5), and the amendments made by such Act; and

(D) are updated on a regular basis and applicable to a range of health care organizations.

(2) LIMITATION.—Nothing in this subsection shall be interpreted as granting the Secretary authority to—

(A) provide for audits to ensure that health care organizations are in compliance with this subsection; or

(B) mandate, direct, or condition the award of any Federal grant, contract, or purchase, on compliance with this subsection.

(3) NO LIABILITY FOR NONPARTICIPATION.— Nothing in this section shall be construed to subject a health care industry stakeholder to liability for choosing not to engage in the voluntary activities authorized or guidelines developed under this subsection.

(e) INCORPORATING ONGOING ACTIVITIES.—In carrying out the activities under this section, the Secretary may incorporate activities that are ongoing as of the day before the date of enactment of this Act and that are consistent with the objectives of this section.

(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the antitrust exemption under section 104(e) or the protection from liability under section 106.

SEC. 406. FEDERAL COMPUTER SECURITY.

(a) DEFINITIONS.—In this section:

(1) COVERED SYSTEM.—The term ''covered system'' shall mean a national security system as defined in section 11103 of title 40, United States Code, or a Federal computer system that provides access to personally identifiable information.

(2) COVERED AGENCY.—The term ''covered agency'' means an agency that operates a covered system.

(3) LOGICAL ACCESS CONTROL.—The term ''logical access control'' means a process of granting or denying specific requests to obtain and use information and related information processing services.

(4) MULTI-FACTOR AUTHENTICATION.—The term ''multi-factor authentication'' means the use of not fewer than 2 authentication factors, such as the following:

(A) Something that is known to the user, such as a password or personal identification number.

(B) An access device that is provided to the user, such as a cryptographic identification device or token.

(C) A unique biometric characteristic of the user.

(5) PRIVILEGED USER.—The term ''privileged user'' means a user who has access to system control, monitoring, or administrative functions.

(b) INSPECTOR GENERAL REPORTS ON COVERED SYSTEMS.—

(1) IN GENERAL.—Not later than 240 days after the date of enactment of this Act, the Inspector General of each covered agency shall submit to the appropriate committees of jurisdiction in the Senate and the House of Representatives a report, which shall include information collected from the covered agency for the contents described in paragraph (2) regarding the Federal computer systems of the covered agency.

(2) CONTENTS.—The report submitted by each Inspector General of a covered agency under paragraph (1) shall include, with respect to the covered agency, the following:

(A) A description of the logical access policies and practices used by the covered agency to access a covered system, including whether appropriate standards were followed.

(B) A description and list of the logical access controls and multi-factor authentication used by the covered agency to govern access to covered systems by privileged users.

(C) If the covered agency does not use logical access controls or multi-factor authentication to access a covered system, a description of the reasons for not using such logical access controls or multi-factor authentication.

(D) A description of the following information security management practices used by the covered agency regarding covered systems:

(i) The policies and procedures followed to conduct inventories of the software present on the covered systems of the covered agency and the licenses associated with such software.

(ii) What capabilities the covered agency utilizes to monitor and detect exfiltration and other threats, including—

(I) data loss prevention capabilities;

(II) forensics and visibility capabilities; or

(III) digital rights management capabilities.

(iii) A description of how the covered agency is using the capabilities described in clause (ii).

(iv) If the covered agency is not utilizing capabilities described in clause (ii), a description of the reasons for not utilizing such capabilities.

(E) A description of the policies and procedures of the covered agency with respect to ensuring that entities, including contractors, that provide services to the covered agency are implementing the information security management practices described in subparagraph (D).

(3) EXISTING REVIEW.—The reports required under this subsection may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the covered agency, and may be submitted as part of another report, including the report required under section 3555 of title 44, United States Code.

(4) CLASSIFIED INFORMATION.—Reports submitted under this subsection shall be in unclassified form, but may include a classified annex.

SEC. 407. STOPPING THE FRAUDULENT SALE OF FINANCIAL INFORMATION OF PEOPLE OF THE UNITED STATES.

Section 1029(h) of title 18, United States Code, is amended by striking ''title if—'' and all that follows through ''therefrom.'' and inserting ''title if the offense involves an access device issued, owned, managed, or controlled by a financial institution, account issuer, credit card system member, or other entity organized under the laws of the United States, or any State, the District of Columbia, or other territory of the United States.''.