

DOMAINS CRITICAL TO HOMELAND SECURITY ACT

JUNE 1, 2021.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMPSON of Mississippi, from the Committee on Homeland Security, submitted the following

R E P O R T

[To accompany H.R. 3264]

The Committee on Homeland Security, to whom was referred the bill (H.R. 3264) to amend the Homeland Security Act of 2002 to require research and development to identify and evaluate the extent to which critical domain risks within the United States supply chain pose a substantial threat to homeland security, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 3264, the “Domains Critical to Homeland Security Act” authorizes the Department of Homeland Security (DHS) to conduct research and development into supply chain risks for critical do-

mains of the United States economy. The research shall include a risk analysis for each critical domain to determine potential homeland security threats caused by disruption, corruption, exploitation, or dysfunction of the domain. Based on the results of the risk analysis, DHS is authorized to do further research into those critical domains considered highest risk to analyze the industries within the domains, examine performance under varying conditions, and identify ways to establish supply chain resiliency, among other things. The Secretary of Homeland Security is required to report annually to Congress through fiscal year 2026 on the results of the Department's research, along with actions the Secretary has taken or plans to take in response to the results.

#### BACKGROUND AND NEED FOR LEGISLATION

America's economic and homeland security depends on diverse and resilient supply chains that facilitate an uninterrupted flow of goods, services, information, and technology across the Nation's physical and virtual borders. Disruptions caused by natural or manmade phenomena, such as extreme weather events, cyber attacks, geopolitical and economic competition, and other conditions can reduce critical manufacturing capacity and the availability and integrity of critical goods, products, and services.

For example, the COVID-19 pandemic revealed vulnerabilities in the Nation's medical supply chain. Persistent shortages of personal protective equipment and testing supplies due to limited domestic production and high global demand hampered America's ability to combat and contain the virus.<sup>1</sup> The May 2021 ransomware attack on the Colonial Pipeline Company demonstrated the fragility of the Nation's energy supply chain when a brief shutdown of the company's 5,550-mile pipeline—the largest conduit of gasoline in the country—drove up gas prices and spurred gas shortages in the southeastern and mid-Atlantic States.<sup>2</sup> An increasing global shortage of microchips has also impacted a variety of industries, from car manufacturing to household appliances, resulting in production delays and reduced innovation.<sup>3</sup>

Identifying and mitigating vulnerabilities in critical U.S. supply chain domains is paramount to ensuring America's economic security. In 2020, DHS conducted an assessment of the current state of the global economy and identified trends that, if unaddressed, could endanger the future prosperity of the U.S. economy.<sup>4</sup> The Committee notes that the Office of Trade and Economic Security within the DHS Office of Strategy, Policy, and Plans has been responsible for leading this effort and would expect the Secretary to engage with the Committee should the Secretary choose to direct

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<sup>1</sup>U.S. Government Accountability Office, *COVID-19: Key Insights from GAO's Oversight of the Federal Public Health Response*, (Feb. 24, 2021), available at <https://www.gao.gov/products/GAO-21-396T>.

<sup>2</sup>Will Englund and Ellen Nakashima, "Panic buying strikes Southeastern United States as shuttered pipeline resumes operations," *The Washington Post*, (May 12, 2021), available at <https://www.washingtonpost.com/business/2021/05/12/gas-shortage-colonial-pipeline-live-updates>.

<sup>3</sup>Sam Shead, "The global chip shortage is starting to have major real-world consequences," CNBC, (May 7, 2021), available at <https://www.cnbc.com/2021/05/07/chip-shortage-is-starting-to-have-major-real-world-consequences.html>.

<sup>4</sup>U.S. Department of Homeland Security, Office of Strategy, Policy, and Plans, and Office of Trade and Economic Security, "2020 Economic Security Assessment," available at [https://www.dhs.gov/sites/default/files/publications/21\\_0111\\_economic-security-assessment-annual-report.pdf](https://www.dhs.gov/sites/default/files/publications/21_0111_economic-security-assessment-annual-report.pdf).

this effort to be carried out elsewhere in the Department. H.R. 3264 authorizes DHS to expand upon the 2020 assessment by further researching and analyzing the risks to critical U.S. supply chain domains. The annual report required by this bill will identify and prioritize those supply chains most critical to our homeland. This will enable the public and private sectors to take meaningful action to mitigate risks and ensure the long-term economic security of the United States.

#### HEARINGS

For the purposes of clause 3(c)(6) of rule XIII, the following hearings were used to develop H.R. 3264:

On February 10, 2021, the Committee held a hearing entitled “Homeland Cybersecurity: Assessing Cyber Threats and Building Resilience.” The Committee received testimony from Mr. Christopher Krebs, Former Director of the Cybersecurity and Infrastructure Security Agency, DHS; Ms. Sue Gordon, Former Principal Deputy of National Intelligence, Office of the Director of National Intelligence; Mr. Michael Daniel, President and Chief Executive Officer, Cyber Threat Alliance; and Mr. Dmitri Alperovitch, Executive Chairman, Silverado Policy Accelerator.

On February 24, 2021, the Committee held a hearing entitled “Confronting the Coronavirus: Perspectives on the COVID–19 Pandemic One Year Later.” The Committee received testimony from Ms. A. Nicole Clowers, Managing Director, Health Care Team, U.S. Government Accountability Office; Ms. Crystal Watson, DrPH, Senior Scholar, Johns Hopkins Center for Health Security, Assistant Professor in the Department of Environmental Health and Engineering, Johns Hopkins Bloomberg School of Public Health; Dr. Ngozi O. Ezike, MD, Director, Illinois Department of Public Health; and Mr. J. Ryan McMahan II, County Executive, Onondaga County, New York.

#### COMMITTEE CONSIDERATION

The Committee met on May 18, 2021, with a quorum being present, to consider H.R. 3264 and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by unanimous consent.

No amendments were offered during consideration of H.R. 3264.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 3264.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Rep-

representatives, are incorporated in the descriptive portions of this report.

CONGRESSIONAL BUDGET OFFICE ESTIMATE, NEW BUDGET  
AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and with respect to the requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 3264 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the objective of H.R. 3264 is to authorize DHS to conduct research and development into supply chain risks for critical domains of the United States economy and to annually report on the results of the research and actions to address any identified risks.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED  
TARIFF BENEFITS ADVISORY COMMITTEE STATEMENT

In compliance with rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 3264 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short Title.*

This section states that the Act may be cited as the “Domains Critical to Homeland Security Act.”

*Sec 2. Critical Domain Research and Development.*

This section amends subtitle H of title VIII of the Homeland Security Act of 2002 to authorize the Secretary of Homeland Security to conduct research and development to identify United States critical domains for economic security and evaluate the extent to which disruption, corruption, exploitation, or dysfunction of any such domain poses a substantial threat to homeland security.

This section requires that the research conducted by the Secretary of Homeland Security include a risk analysis of each identified United States critical domain for economic security to determine the degree to which there exists a present or future threat to homeland security in the event of disruption, corruption, exploitation, or dysfunction to such domain. Such analysis shall consider, to the extent possible, the vulnerability and resilience of relevant supply chains, influence of malign economic actors, and asset ownership, among other things.

Based on the identification and risk analysis of United States critical domains for economic security, this section authorizes the Secretary to conduct additional research into those critical domains where there exists the highest degree of a present or future threat to homeland security. For each such high-risk domain, the additional research shall analyze the industries within the domain, examine performance under varying conditions, and identify ways to establish supply chain resiliency, among other things.

This section allows the Secretary to consult with appropriate Federal agencies, State agencies, and private sector stakeholders when conducting the authorized research. It also directs the Secretary to publish a report annually through fiscal year 2026 containing information relating to the Department’s research, including findings, evidence, analysis, and recommendations. The section also directs the Secretary to transmit the required annual reports to Congress along with a description of the actions the Secretary will take or has taken in response to the research results.

Lastly, this section defines the terms “United States critical domains for economic security” and “economic security,” and authorizes \$1 million to be appropriated for each of fiscal years 2022 through 2026 for the purpose of conducting the research and producing the required reports.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

## HOMELAND SECURITY ACT OF 2002

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Homeland Security Act of 2002”.

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

Sec. 1. Short title; table of contents.

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**TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS**

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Subtitle H—Miscellaneous Provisions

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*Sec. 890B. Homeland security critical domain research and development.*

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## TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

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### Subtitle H—Miscellaneous Provisions

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#### **SEC. 890B. HOMELAND SECURITY CRITICAL DOMAIN RESEARCH AND DEVELOPMENT.**

(a) **IN GENERAL.**—

(1) **RESEARCH AND DEVELOPMENT.**—*The Secretary is authorized to conduct research and development to—*

(A) *identify United States critical domains for economic security and homeland security; and*

(B) *evaluate the extent to which disruption, corruption, exploitation, or dysfunction of any of such domain poses a substantial threat to homeland security.*

(2) **REQUIREMENTS.**—

(A) **RISK ANALYSIS OF CRITICAL DOMAINS.**—*The research under paragraph (1) shall include a risk analysis of each identified United States critical domain for economic security to determine the degree to which there exists a present or future threat to homeland security in the event of disruption, corruption, exploitation, or dysfunction to such domain. Such research shall consider, to the extent possible, the following:*

(i) *The vulnerability and resilience of relevant supply chains.*

(ii) Foreign production, processing, and manufacturing methods.

(iii) Influence of malign economic actors.

(iv) Asset ownership.

(v) Relationships within the supply chains of such domains.

(vi) The degree to which the conditions referred to in clauses (i) through (v) would place such a domain at risk of disruption, corruption, exploitation, or dysfunction.

(B) *ADDITIONAL RESEARCH INTO HIGH-RISK CRITICAL DOMAINS.*—Based on the identification and risk analysis of United States critical domains for economic security pursuant to paragraph (1) and subparagraph (A) of this paragraph, respectively, the Secretary may conduct additional research into those critical domains, or specific elements thereof, with respect to which there exists the highest degree of a present or future threat to homeland security in the event of disruption, corruption, exploitation, or dysfunction to such a domain. For each such high-risk domain, or element thereof, such research shall—

(i) describe the underlying infrastructure and processes;

(ii) analyze present and projected performance of industries that comprise or support such domain;

(iii) examine the extent to which the supply chain of a product or service necessary to such domain is concentrated, either through a small number of sources, or if multiple sources are concentrated in one geographic area;

(iv) examine the extent to which the demand for supplies of goods and services of such industries can be fulfilled by present and projected performance of other industries, identify strategies, plans, and potential barriers to expand the supplier industrial base, and identify the barriers to the participation of such other industries;

(v) consider each such domain's performance capacities in stable economic environments, adversarial supply conditions, and under crisis economic constraints;

(vi) identify and define needs and requirements to establish supply resiliency within each such domain; and

(vii) consider the effects of sector consolidation, including foreign consolidation, either through mergers or acquisitions, or due to recent geographic realignment, on such industries' performances.

(3) *CONSULTATION.*—In conducting the research under paragraph (1) and subparagraph (B) of paragraph (2), the Secretary may consult with appropriate Federal agencies, State agencies, and private sector stakeholders.

(4) *PUBLICATION.*—Beginning one year after the date of the enactment of this section, the Secretary shall publish a report containing information relating to the research under paragraph (1) and subparagraph (B) of paragraph (2), including

*findings, evidence, analysis, and recommendations. Such report shall be updated annually through 2026.*

*(b) SUBMISSION TO CONGRESS.—Not later than 90 days after the publication of each report required under paragraph (4) of subsection (a), the Secretary shall transmit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate each such report, together with a description of actions the Secretary, in consultation with appropriate Federal agencies, will undertake or has undertaken in response to each such report.*

*(c) DEFINITIONS.—In this section:*

*(1) UNITED STATES CRITICAL DOMAINS FOR ECONOMIC SECURITY.—The term “United States critical domains for economic security” means the critical infrastructure and other associated industries, technologies, and intellectual property, or any combination thereof, that are essential to the economic security of the United States.*

*(2) ECONOMIC SECURITY.—The term “economic security” means the condition of having secure and resilient domestic production capacity, combined with reliable access to the global resources necessary to maintain an acceptable standard of living and to protect core national values.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$1,000,000 for each of fiscal years 2022 through 2026 to carry out this section.*

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