

will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or votes objected to under clause 6 of rule XX.

The House will resume proceedings on postponed questions at a later time.

EMBASSY SECURITY AUTHORIZATION ACT, FISCAL YEAR 2019

Mr. ROYCE of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4969) to improve the design and construction of diplomatic posts, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Embassy Security Authorization Act, Fiscal Year 2019”.

SEC. 2. STANDARD DESIGN IN CAPITAL CONSTRUCTION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Department of State’s Bureau of Overseas Building Operations (OBO) or successor office should give appropriate consideration to standard embassy design, in which each new embassy and new consulate starts with a standard design and keeps customization to a minimum.

(b) CONSULTATION.—The Secretary of State shall, in consultation with the appropriate congressional committees, carry out any new embassy compound project or new consulate compound project that is in the design phase or pre-design phase as of the date of the enactment of this Act and that utilizes a non-standard design. The Secretary shall provide such committees, for each such project, the following documentation:

(1) A comparison of the estimated full lifecycle costs of the project at issue to the estimated full lifecycle costs of such project if such project were to use a standard embassy design.

(2) A comparison of the estimated completion date of such project to the estimated completion date of such project if such project were to use a standard embassy design.

(3) A comparison of the security of such completed project to the security of such completed project if such completed project were to use a standard embassy design.

(4) A justification for the Secretary’s selection of a non-standard design over a standard embassy design for such project.

(5) A written explanation if any of the documentation necessary to support the comparisons and justification, as the case may be, described in paragraphs (1) through (4) cannot be provided.

SEC. 3. STATEMENT OF POLICY.

It is the policy of the United States that the Bureau of Overseas Building Operations of the Department of State or its successor office shall continue to balance functionality and security with accessibility as defined by guidelines established by the United States Access Board in constructing embassies and consulates and shall ensure compliance with the Architectural Barriers Act of 1968 to the fullest extent possible.

SEC. 4. CAPITAL CONSTRUCTION TRANSPARENCY.

(a) IN GENERAL.—Section 118 of the Department of State Authorities Act, Fiscal Year 2017 (22 U.S.C. 304) is amended—

(1) in the section heading, by striking “ANNUAL REPORT ON EMBASSY CONSTRUCTION COSTS” and inserting “QUARTERLY REPORT ON OVERSEAS CAPITAL CONSTRUCTION PROJECTS”; and

(2) by amending subsections (a) and (b) to read as follows:

“(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this subsection and every 90 days thereafter, the Secretary shall submit to the appropriate congressional committees a comprehensive report regarding all ongoing overseas capital construction projects and major embassy security upgrade projects.

“(b) CONTENTS.—Each report required under subsection (a) shall include the following with respect to each ongoing overseas capital construction project and major embassy security upgrade project:

“(1) The initial cost estimate as specified in the proposed allocation of capital construction and maintenance funds required by the Committees on Appropriations for Acts making appropriations for the Department of State, foreign operations, and related programs.

“(2) The current cost estimate.

“(3) The value of each request for equitable adjustment received by the Department of State to date.

“(4) The value of each certified claim received by the Department of State to date.

“(5) The value of any usage of the project’s contingency fund to date and the value of the remainder of the project’s contingency fund.

“(6) An enumerated list of each request for adjustment and certified claim that remains outstanding or unresolved.

“(7) An enumerated list of each request for equitable adjustment and certified claim that has been fully adjudicated or that the Department has settled, and the final dollar amount of each adjudication or settlement.

“(8) The date of estimated completion specified in the proposed allocation of capital construction and maintenance funds required by the Committees on Appropriations not later than 45 days after the date of the enactment of an Act making appropriations for the Department of State, foreign operations, and related programs.

“(9) The current date of estimated completion.”

(b) INITIAL REPORT.—The first report required under subsection (a) of section 118 of the Department of State Authorities Act, Fiscal Year 2017 (as amended by this section) shall include an annex regarding all overseas capital construction projects and major embassy security upgrade projects completed during the 10-year period ending on December 31, 2018, including, for each such project, the elements specified in subsection (b) of such section 118 (as amended by this section).

SEC. 5. CONTRACTOR PERFORMANCE INFORMATION.

(a) DEADLINE FOR COMPLETION.—The Secretary of State shall complete by October 1, 2020, all contractor performance evaluations required by subpart 42.15 of the Federal Acquisition Regulation.

(b) PRIORITIZATION SYSTEM.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall develop a prioritization system for clearing the current backlog of required evaluations referred to in subsection (a).

(2) ELEMENTS.—The system required under paragraph (1) should prioritize such evaluations as follows:

(A) Project completion evaluations should be prioritized over annual evaluations.

(B) Evaluations for relatively large contracts should have priority.

(C) Evaluations that would be particularly informative for the awarding of government contracts should have priority.

(c) BRIEFING.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall brief the appropriate congressional committees on the Department of State’s plan for completing all evaluations by October 1, 2020, and the prioritization system developed pursuant to this section.

(d) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) contractors deciding whether to bid on Department of State contracts would benefit from greater understanding of the Department as a client; and

(2) the Department should develop a forum through which contractors can rate the Department’s project management performance.

SEC. 6. GROWTH PROJECTIONS FOR NEW EMBASSIES AND CONSULATES.

(a) IN GENERAL.—For each new embassy compound project (NEC) and new consulate compound project (NCC) in or not yet in the design phase as of the date of the enactment of this Act, the Office of Management Policy, Rightsizing, and Innovation of the Department of State shall project growth over the estimated life of the facility at issue using all available and relevant data, including the following:

(1) Relevant historical trends for Department personnel and personnel from other agencies represented at the NEC or NCC that is to be constructed.

(2) An analysis of the tradeoffs between risk and the needs of United States Government policy conducted as part of the most recent Vital Presence Validation Process, if applicable.

(3) Reasonable assumptions about the strategic importance of the NEC or NCC, as the case may be, over the life of the building at issue.

(4) Any other data that would be helpful in projecting the future growth of NEC or NCC.

(b) OTHER AGENCIES.—Each Federal agency represented at an embassy or consulate shall provide to the Department of State, upon request, growth projections for the personnel of such agency over the estimated life of such embassy or consulate, as the case may be.

(c) BASIS FOR ESTIMATES.—The Department of State shall base growth assumption for all NECs and NCCs on the estimates required under subsections (a) and (b).

(d) CONGRESSIONAL NOTIFICATION.—Any congressional notification of site selection for a NEC or NCC submitted after the date of the enactment of this Act shall include the growth assumption used pursuant to subsection (c).

SEC. 7. LONG-RANGE PLANNING PROCESS.

(a) PLANS REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act and annually thereafter for five years, the Secretary of State shall develop—

(A) a comprehensive six-year Long-Range Overseas Buildings Plan (LROBP) documenting the Department of State’s overseas building program for the replacement of overseas diplomatic facilities taking into account security factors under the Secure Embassy Construction and Counterterrorism Act of 1999 and other relevant statutes and regulations, as well as occupational safety and health factors pursuant to the Occupational Safety and Health Act of 1970 and other relevant statutes and regulations, including environmental factors such as indoor air quality that impact employee health and safety; and

(B) a comprehensive six-year plan detailing the Department’s long-term planning for the

maintenance and sustainment of completed facilities, known as a Long-Range Overseas Maintenance Plan (LROMP), which takes into account security factors under the Secure Embassy Construction and Counterterrorism Act of 1999 and other relevant statutes and regulations, as well as occupational safety and health factors pursuant to the Occupational Safety and Health Act of 1970 and other relevant statutes and regulations, including environmental factors such as indoor air quality that impact employee health and safety.

(2) **INITIAL REPORT.**—The first plan developed pursuant to paragraph (1)(A) shall also include a one-time status report on existing small diplomatic posts and a strategy for establishing a physical diplomatic presence in countries in which there is no current physical diplomatic presence. Such report, which may include a classified annex, shall include the following:

(A) A description of the extent to which each small diplomatic post furthers the national interest of the United States.

(B) A description of how each small diplomatic post provides American Citizen Services, including data on specific services provided and the number of Americans receiving services over the previous year.

(C) A description of whether each small diplomatic post meets current security requirements.

(D) A description of the full financial cost of maintaining each small diplomatic post.

(E) Input from the relevant chiefs of mission on any unique operational or policy value the small diplomatic post provides.

(3) **UPDATED INFORMATION.**—The annual updates of the plans developed pursuant to paragraph (1) shall highlight any changes from the previous year's plan to the ordering of construction and maintenance projects.

(b) **REPORTING REQUIREMENTS.**—

(1) **SUBMISSION OF PLANS TO CONGRESS.**—Not later than 60 days after the completion of the LROBP and the LROMP, the Secretary of State shall submit such plans to the appropriate congressional committees.

(2) **REFERENCE IN BUDGET JUSTIFICATION MATERIALS.**—In the budget justification materials submitted to the appropriate congressional committees in support of the Department of State's budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code), the plans specified in the LROBP and LROMP shall be referenced to justify funding requested for building and maintenance projects overseas.

(3) **FORM OF REPORT.**—The plans required to be submitted under paragraph (1) shall be submitted in unclassified form but may include classified annexes.

(c) **SMALL DIPLOMATIC POST DEFINED.**—In this section, the term "small diplomatic post" means any consulate that has employed five or fewer United States Government employees on average over the 36 months before the date of the enactment of this Act.

SEC. 8. VALUE ENGINEERING AND RISK ASSESSMENT.

(a) **FINDINGS.**—Congress makes the following findings:

(1) Federal departments and agencies are required to use value engineering (VE) as a management tool, where appropriate, to reduce program and acquisition costs pursuant to OMB Circular A-131, Value Engineering, dated December 31, 2013.

(2) OBO has a Policy Directive and Standard Operation Procedure, dated May 24, 2017, on conducting risk management studies on all international construction projects.

(b) **NOTIFICATION REQUIREMENTS.**—

(1) **SUBMISSION TO AUTHORIZING COMMITTEES.**—The proposed allocation of capital

construction and maintenance funds that is required by the Committees on Appropriations of the House of Representatives and the Senate not later than 45 days after the date of the enactment of an Act making appropriations for the Department of State, foreign operations, and related programs shall also be submitted to the appropriate congressional committees.

(2) **REQUIREMENT TO CONFIRM COMPLETION OF VALUE ENGINEERING AND RISK ASSESSMENT STUDIES.**—The notifications required under paragraph (1) shall include confirmation that the Department of State has completed the requisite VE and risk management studies described in subsection (a).

(c) **REPORTING AND BRIEFING REQUIREMENTS.**—The Secretary of State shall provide to the appropriate congressional committees upon request—

(1) a description of each recommendation from each study described in subsection (a) and a table detailing which recommendations were accepted and which were rejected; and

(2) a report or briefing detailing the rationale for not implementing recommendations made by VE studies that may yield significant cost savings to the Department of State, if implemented.

SEC. 9. BUSINESS VOLUME.

Subparagraph (E) of section 402(c)(2) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4852(c)(2)) is amended by striking "in 3 years" and inserting "cumulatively over 3 years".

SEC. 10. EMBASSY SECURITY REQUESTS AND DEFICIENCIES.

The Secretary of State shall provide to the appropriate congressional committees, upon request, information on security deficiencies at United States diplomatic posts, including—

(1) requests made over the previous year by United States diplomatic posts for security upgrades; and

(2) significant security deficiencies at United States diplomatic posts that are not operating out of a new embassy compound or new consulate compound.

SEC. 11. OVERSEAS SECURITY BRIEFINGS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall revise the Foreign Affairs Manual to stipulate that the Bureau of Diplomatic Security of the Department of State shall provide a security briefing or written materials with up-to-date information on the current threat environment in writing or orally to all United States Government employees traveling to a foreign country on official business. To the extent practicable, such briefing or written materials shall be provided to traveling Department employees via teleconference prior to their arrival at a post.

SEC. 12. CONTRACTING METHODS IN CAPITAL CONSTRUCTION.

(a) **DELIVERY.**—Except in cases in which the Secretary of State determines that such would not be appropriate, the Secretary shall make use of the design-build project delivery system at diplomatic posts that have not yet received design or capital construction contracts as of the date of the enactment of this Act.

(b) **NOTIFICATION.**—Not later than 15 days after any determination to make use of a delivery system other than design-build in accordance with subsection (a), the Secretary of State shall notify the appropriate congressional committees in writing of such determination, including the reasons therefor.

(c) **PERFORMANCE EVALUATION.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to the

appropriate congressional committees regarding performance evaluation measures in line with GAO's "Standards for Internal Control in the Federal Government" that will be applicable to design and construction, lifecycle cost, and building maintenance programs of the Bureau of Overseas Building Operations of the Department of State.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated \$2,314,474,000 for fiscal year 2019 for the purposes of the "Embassy Security, Construction, and Maintenance" account of the Department of State, of which \$1,549,015,000 is authorized to be appropriated for the costs of worldwide security upgrades.

SEC. 14. DEFINITIONS.

In this Act:

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

(A) in the House of Representatives—

(i) the Committee on Foreign Affairs; and

(ii) the Committee on Appropriations; and

(B) in the Senate—

(i) the Committee on Foreign Relations; and

(ii) the Committee on Appropriations.

(1) **DESIGN-BUILD.**—The term "design-build" means a method of project delivery in which one entity works under a single contract with the Department of State to provide design and construction services.

(2) **NON-STANDARD DESIGN.**—The term "non-standard design" means—

(A) a design for a new embassy compound project or new consulate compound project that does not utilize a standardized embassy design for the structural, spatial, or security requirements of such embassy compound or consulate compound, as the case may be; or

(B) a new embassy compound project; or new consulate compound project that does not utilize a design-build delivery method.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROYCE) and the gentleman from California (Mr. BERA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROYCE).

GENERAL LEAVE

Mr. ROYCE of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous materials in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROYCE of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me make this observation for my colleagues. The U.S. Department of State operates more than 270 diplomatic posts around the world, often in difficult and sometimes very, very hostile environments. These embassies and consulates project American power and reflect our values. They protect the lives of the Americans who work in and visit those embassies every day. We owe it to the American people and those who serve us overseas to build the most secure, effective, and efficient embassies and consulates that we possibly can.

That is why I want to thank Chairman MIKE MCCAUL, the author of this

bill, who is with us. Each day, there are thousands of brave Americans who serve our country at our embassies and consulates overseas. These facilities are our outposts for democracy. While our diplomats serve overseas, it is our job to ensure that they have the resources and support they need. This bill will do just that, by authorizing critical resources for embassy security, construction, and maintenance; enhancing worldwide security protection; and lastly, improving oversight of embassy design and construction of these consulates and embassies.

The threats facing our embassies and diplomats overseas are real. We need to respond. The reported sonic attacks against our diplomats serving in Havana—and Canadian diplomats serving there, too, as you will recall—serve as a stark reminder of the real and complex security challenges they face on a daily basis. Yet, the last time Congress authorized resources for enhanced embassy security was immediately after al-Qaida bombed the U.S. Embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania. Over 220 people were killed and 4,000 others were injured in these attacks.

On August 7, we solemnly recognized the 20th anniversary of those cowardly attacks. Thus, we must strengthen our resolve to do everything within our power to prevent another Nairobi or Dar es Salaam attack by constructing the safest, most secure, and most appropriate diplomatic posts around the world. That starts with this bill, which, if enacted, will be the first embassy security authorization in 15 years.

Since the East African Embassy bombings, the State Department has used several different approaches to design and construct new posts quickly and efficiently. This is no small task, but what has become clear is that effective congressional oversight of these projects is essential to ensuring their success.

That is why this bill promotes efficient contracting methods, ensures the facilities meet security and safety standards, and engages with the State Department in an effective, long-range planning process for the new projects.

Mr. Speaker, I urge my colleagues to support H.R. 4969, which will improve the security, effectiveness, and efficiency of our embassies and consulates.

Mr. Speaker, I reserve the balance of my time.

□ 1345

Mr. BERA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this measure, and let me thank Mr. McCAUL and Ms. KELLY, both members of the Foreign Affairs Committee, for authorizing this important legislation and Chairman ROYCE for bringing it to the floor.

One of the most important things that we deal with on our committee is protecting the lives of the brave American citizens working at our embassies

and consulates abroad. This legislation will help us improve the way we provide embassy security.

This bill would also authorize the embassy security, construction, and maintenance account for the next year at \$2.3 billion, the same level appropriated for the account this year.

Now, what has me concerned is the Trump administration has asked Congress to slash embassy security by \$700 million. That just isn't right.

Mr. Speaker, the clearest indication of an administration's priorities is its annual budget. Frankly, it is astounding to me that the Trump administration has proposed such massive cuts to embassy security funding for 2 years in a row.

On the campaign trail, President Trump spent a lot of time blaming Secretary Clinton for the tragic attacks on our consulate in Benghazi. He did so with little regard for the facts. Secretary Pompeo, as a Member of this body, especially during the time of the absurd Benghazi Select Committee, expressed a great deal of outrage over the handling of diplomatic security. Now they have tried to cut funding for embassy security at every opportunity.

My message for them is simple: There is no cost too high to protect the lives of our diplomats and their families. I wish the President and the Secretary understood that.

Fortunately, Congress has the last word on these issues. We have come together in a bipartisan way for the past 2 years and rejected President Trump's draconian cuts to embassy security funding. This bill represents another rejection of the Trump administration's dangerous proposal.

Additionally, I would like to highlight two provisions in the bill. The first requires that all U.S. Government employees traveling abroad on official business receive a written or oral security briefing from the State Department on potential threats. This is a commonsense measure, and it is, honestly, bizarre that it isn't already required.

Second, I also want to thank Mr. McCAUL and Ms. KELLY for including language that requires the State Department to provide our committee with a strategy for establishing a physical diplomatic presence in countries in which we currently have no physical diplomatic presence.

Lastly, I strongly support a universal approach to U.S. representation abroad, and I continue to be disappointed that we have no embassies in several countries in the Eastern Caribbean where Venezuela, Cuba, and others are present and active. Being absent significantly weakens U.S. leadership in the Caribbean and elsewhere around the globe.

Finally, let me say, while I am pleased that we are advancing this legislation, I am disappointed that it is moving as a standalone bill and not as it was originally intended, as the title of our committee's State Department

authorization bill. Given the chairman's hard work on the State Department authorization bill, I am sure that the gentleman shares my concern. I hope that we can breathe new life into the legislative effort by the end of this Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. ROYCE of California. Mr. Speaker, let me thank the gentleman for mentioning the State Department authorization. We are still working on that measure. We hope to move that.

In the interim, though, the ability to move on the floor now with the embassy security measure is important.

Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. McCAUL), the chairman of the Committee on Homeland Security, of course, a senior member of the Committee on Foreign Affairs, and he is the author of this bill.

Mr. McCAUL. Mr. Speaker, I rise in strong support of my bill, the Embassy Security Authorization Act.

Embassies are really the physical representation of the United States abroad. An American Embassy is the means in which the United States conducts its foreign policy and advances our interests around the world. Therefore, protecting our embassies and diplomats should be our number one priority. That is why my bill authorizes over \$2.3 billion for embassy security.

If enacted into law, this would be the first embassy security authorization in 15 years. Furthermore, my bill makes critical reforms in how we build future embassies and think about our security.

In 1998, we had to reassess our embassy security when terrorists, at the direction of Osama bin Laden, bombed U.S. embassies in Kenya and Tanzania, killing over 220 people and injuring 4,000 more. In retrospect, these attacks foreshadowed bin Laden's intentions to attack America. At the time, it forced us to reassess how we go about building our embassies and consulates.

A year later, Congress adopted a standard embassy design for our missions abroad. This design improved security, expedited construction, and saved money. However, recently, we have deviated from the standard embassy design in favor of projects prioritizing aesthetics.

Our embassies constantly face threats from hostile actors, even in friendly and allied countries. Our embassies are extensions of the homeland, and we must treat them as such. To that end, my bill would require the State Department to provide Congress with justification should an embassy or consulate project not use a standard design.

While I appreciate the goal of displaying American might through a striking embassy design, we must prevent a repeat of Kenya and Tanzania. My bill, with the \$2.3 billion authorization and standard design reforms, is a good step forward towards achieving that balance.

Mr. Speaker, I want to again thank Ms. KELLY for her leadership on this issue, as well as Chairman ROYCE and Ranking Member ENGEL for their work on this important piece of legislation.

I encourage my colleagues to support this bill.

Mr. BERA. Mr. Speaker, I yield myself the balance of my time.

I will close by again thanking Chairman ROYCE for bringing this legislation to the floor.

We have no greater duty on our committee than to protect Americans serving abroad. I am very pleased that we are making several essential fixes in our approach to embassy security in this legislation and authorizing the embassy security, construction, and maintenance at a robust level.

We live in a dangerous time, and the Trump administration's budget would put our diplomats at even greater risk than what they have already faced on a daily basis, so I am glad that the House is stepping in to do what is needed.

Finally, let me say again, while I am pleased this bill is moving forward, I don't believe the window has closed on getting a comprehensive State Department authorization bill to the President's desk, and I continue to stand ready to work with the chairman to do just that.

Mr. Speaker, I support the chairman's motion; I urge all Members to do the same.

Mr. Speaker, I yield back the balance of my time.

Mr. ROYCE of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, America's embassies obviously are forward operating bases for our democracy, for our system. The brave men and women who serve at those posts represent our country on a daily basis and represent them often in a difficult and increasingly dangerous environment.

As we have tragically seen before, diplomatic posts overseas are often the first and easiest targets our enemies choose to attack. Importantly, this legislation will improve the security, the functionality, and the efficiency of our embassies and our consulates through enhanced oversight and better management of the construction of new diplomatic facilities.

So, again, I want to thank Chairman MIKE MCCAUL of Texas, and I want to thank Representative ROBIN KELLY, as well as Ranking Member ENGEL and the many members of the committee from both sides of the aisle who have worked extensively on this important piece of legislation.

Our embassies project American power. They do reflect our values. We owe it to our diplomats and the American people to build the best embassies possible.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr.

ROYCE) that the House suspend the rules and pass the bill, H.R. 4969, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CYBER DETERRENCE AND RESPONSE ACT OF 2018

Mr. ROYCE of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5576) to address state-sponsored cyber activities against the United States, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cyber Deterrence and Response Act of 2018".

SEC. 2. FINDINGS.

Congress finds the following:

(1) On February 13, 2018, the Director of National Intelligence stated in his testimony before the Senate Select Committee on Intelligence that "Russia, China, Iran, and North Korea will pose the greatest cyber threats to the United States during the next year" through the use of cyber operations as low-cost tools of statecraft, and assessed that these states would "work to use cyber operations to achieve strategic objectives unless they face clear repercussions for their cyber operations".

(2) The 2017 Worldwide Threat Assessment of the United States Intelligence Community stated that "The potential for surprise in the cyber realm will increase in the next year and beyond as billions more digital devices are connected—with relatively little built-in security—and both nation states and malign actors become more emboldened and better equipped in the use of increasingly widespread cyber toolkits. The risk is growing that some adversaries will conduct cyber attacks—such as data deletion or localized and temporary disruptions of critical infrastructure—against the United States in a crisis short of war".

(3) On March 29, 2017, President Donald J. Trump deemed it necessary to continue the national emergency declared in Executive Order 13694 as "Significant malicious cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States, continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States."

(4) On January 5, 2017, former Director of National Intelligence, James Clapper, former Undersecretary of Defense for Intelligence, Marcel Lettre, and the Commander of the United States Cyber Command, Admiral Michael Rogers, submitted joint testimony to the Committee on Armed Services of the Senate that stated "As of late 2016 more than 30 nations are developing offensive cyber attack capabilities" and that "Protecting critical infrastructure, such as crucial energy, financial, manufacturing, transportation, communication, and health systems, will become an increasingly complex national security challenge."

(5) There is significant evidence that hackers affiliated with foreign governments have

conducted cyber operations targeting companies and critical infrastructure sectors in the United States as the Department of Justice and the Department of the Treasury have announced that—

(A) on March 15, 2018, five Russian entities and 19 Russian individuals were designated under the Countering America's Adversaries Through Sanctions Act, as well as pursuant to Executive Order 13694, for interference in the 2016 United States elections and other malicious cyber-enabled activities;

(B) on March 24, 2016, seven Iranians working for Iran's Revolutionary Guard Corps-affiliated entities were indicted for conducting distributed denial of service attacks against the financial sector in the United States from 2012 to 2013; and

(C) on May 19, 2014, five Chinese military hackers were charged for hacking United States companies in the nuclear power, metals, and solar products industries, and engaging in economic espionage.

(6) In May 2017, North Korea released "WannaCry" pseudo-ransomware, which posed a significant risk to the economy, national security, and the citizens of the United States and the world, as it resulted in the infection of over 300,000 computer systems in more than 150 countries, including in the healthcare sector of the United Kingdom, demonstrating the global reach and cost of cyber-enabled malicious activity.

(7) In June 2017, Russia carried out the most destructive cyber-enabled operation in history, releasing the NotPetya malware that caused billions of dollars' worth of damage within Ukraine and across Europe, Asia, and the Americas.

(8) In May 2018, the Department of State, pursuant to section 3(b) of Executive Order 13800, prepared recommendations to the President on Deterring Adversaries and Better Protecting the American People From Cyber Threats, which stated "With respect to activities below the threshold of the use of force, the United States should, working with likeminded partners when possible, adopt an approach of imposing swift, costly, and transparent consequences on foreign governments responsible for significant malicious cyber activities aimed at harming U.S. national interests."

SEC. 3. ACTIONS TO ADDRESS STATE-SPONSORED CYBER ACTIVITIES AGAINST THE UNITED STATES.

(a) DESIGNATION AS A CRITICAL CYBER THREAT ACTOR.—

(1) IN GENERAL.—The President, acting through the Secretary of State, and in coordination with other relevant Federal agency heads, shall designate as a critical cyber threat actor—

(A) each foreign person and each agency or instrumentality of a foreign state that the President determines to be knowingly responsible for or complicit in, or have engaged in, directly or indirectly, state-sponsored cyber activities that are reasonably likely to result in, or have contributed to, a significant threat to the national security, foreign policy, or economic health or financial stability of the United States and that have the purpose or effect of—

(i) causing a significant disruption to the availability of a computer or network of computers;

(ii) harming, or otherwise significantly compromising the provision of service by, a computer or network of computers that support one or more entities in a critical infrastructure sector;

(iii) significantly compromising the provision of services by one or more entities in a critical infrastructure sector;