SEC. ___. PERMANENT EXTENSION AND CODIFICATION OF AUTHORITY TO CONDUCT TECHNOLOGY PROTECTION FEATURES ACTIVITIES DURING RESEARCH AND DEVELOPMENT OF DEFENSE SYSTEMS.

(a) CODIFICATION AND EXTENSION.—Chapter 139 of title 10, United States Code, is amended by inserting before section 2358 a new section 2357 consisting of—

(1) a heading as follows:

"**§2357. Technology protection features activities**"; and

(2) the text of subsections (a), (b), and (d) of section 243 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (10 U.S.C. 2358 note).

(b) CONFORMING AMENDMENTS.—Section 2357 of title 10, United States Code, as added by subsection (a) of this section, is amended—

(1) in subsection (a)—

(A) in the heading, by striking "PILOT PROGRAM" and inserting "ACTIVITIES"; and

(B) by striking "shall carry out a pilot program" and inserting "may carry out activities";

(2) by redesignating subsection (d) as subsection (c); and

(3) in subsection (c) (as so redesignated), by striking "Under Secretary" and all that follows and inserting "Under Secretary of Defense for Acquisition and Sustainment designates for purposes of this section.".

(c) TABLE OF SECTIONS AMENDMENT.—The table of sections at the beginning of chapter 139 of title 10, United States Code, is amended by inserting before the item relating to section 2358 the following new item:

"2357. Technology protection features activities.

(d) CONFORMING REPEAL.—Section 243 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (10 U.S.C. 2358 note) is repealed.

[Please note: The "Changes to Existing Law" section below sets out in red-line format how the legislative text would amend existing law.]

Section-by-Section Analysis

In support of the National Defense Strategy's second line of effort to strengthen alliances and partnerships by deepening interoperability with coalition partners, this proposal would make permanent the authorities of the Defense Exportability Feature (DEF) Pilot Program as authorized under Section 243 of the Ike Skelton National Defense Authorization Act (NDAA) for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4178; 10 U.S.C. 2358 note). Current DEF Pilot Program authorities expire on October 1, 2020. Making DEF Pilot Program authorities permanent will ensure that over the long term, the Secretary of Defense and Military Departments can expediently and efficiently plan for incorporating technology protection features into DoD acquisition programs to facilitate the export of U.S. defense systems to allies and partners. By facilitating the export of U.S. defense systems, the DoD enhances the U.S. defense industrial base, strengthens the military capabilities of U.S. allies around the world, and increases coalition interoperability. DEF also provides DoD acquisition programs a key mechanism to reduce program protection costs, increase economies of scale, and make U.S. defense products available sooner for foreign sales through the incorporation of technology protection and exportability features early in the acquisition lifecycle.

Conversely, the termination of these Pilot Program authorities without extension would hamper the DoD's ability to meet goals outlined in the National Security Strategy and National Defense Strategy; weaken the U.S. defense industrial base; and hurt the DoD's ability to support allies in building critical military capability impeding partner efforts to increase burden sharing contributions and enhance interoperability. Furthermore, making the Pilot Program authorities permanent removes uncertainty in planning for exportability efforts for the Defense Acquisition Executive and component acquisition executives, and ensures that the DoD continues to provide acquisition policy stability and rationality in support of sound program management decisions.

Section 243 (a) will remove the Pilot Program term from statute and will make permanent the authority of the Secretary of Defense to use technology protection features early in the acquisition cycle to facilitate the exportability of U.S. defense systems.

Section 243 (b), which is unchanged, describes the cost-sharing provisions of exportability features activities. The cost-sharing provision requires that any industry partners participating in the exportability features activities (and benefitting from increased foreign sales) share in the upfront costs of analyzing and designing defense exportability features into U.S. defense systems.

Section 243 (c) describes an October 1, 2020 termination date of the Program. By striking this section OUSD (A&S) is supporting making these authorities available to the DoD on a permanent basis.

Section 243 (d) defines key terms included in this section. The current language states that a "designated system" participating in the Pilot Program is designated for inclusion by the Under Secretary of Defense for Acquisition, Technology, and Logistics (AT&L).

Budget Implications: The table below details resource requirements associated with this proposal – note there is not a change in total appropriated funding allocated to Defense Exportability Features associated with this proposed legislative change. This proposal is funded in the FY 2019 President's Budget:

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2019	**FY 2020**	**FY 2021**	**FY 2022**	**FY 2023**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
USD (A&S)	$1.49M	$3.70M	$3.47M	$2.94M	$2.99M	RDT&E, Defense-Wide	05	126	0605022D8Z
Total	$1.49M	$3.70M	$3.47M	$2.94M	$2.99M	--	--	--	--

The table above details resource requirements related to the DEF Pilot Program. Note that, as stated above, there are no changes in total funding requested for Defense Exportability Features activities that result from this legislative request.

Changes to Existing Law: This proposal would transfer the text of section 243 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (10 U.S.C. 2358 note) into a new section 2357 of title 10, United States Code, and amend such section as follows:

~~SEC. 243. PILOT PROGRAM TO INCLUDE TECHNOLOGY PROTECTION FEATURES DURING RESEARCH AND DEVELOPMENT OF DEFENSE SYSTEMS~~

§2357. Technology protection features activities

(a) ~~PILOT PROGRAM~~ ACTIVITIES.—The Secretary of Defense ~~shall carry out a pilot program~~ may carry out activities to develop and incorporate technology protection features in a designated system during the research and development phase of such system.

(b) COST-SHARING.—Any contract for the design or development of a system resulting from activities under subsection (a) for the purpose of enhancing or enabling the exportability of the system either—

(1) for the development of program protection strategies for the system; or

(2) for the design and incorporation of exportability features into the system,

shall include a cost-sharing provision that requires the contractor to bear half of the cost of such activities, or such other portion of such cost as the Secretary considers appropriate upon showing of good cause.

~~(c) TERMINATION.—The pilot program established under this section shall terminate on October 1, 2020.~~

(~~d~~c) DEFINITIONS.—In this section:

(1) The term 'designated system' means any system (including a major system, as defined in section 2302(5) of title 10, United States Code) that the ~~Under Secretary of Defense for Acquisition, Technology, and Logistics designates as being included in the pilot program established under this section.~~ Under Secretary of Defense for Acquisition and Sustainment designates for purposes of this section.

(2) The term 'technology protection features' means the technical modifications necessary to protect critical program information, including anti-tamper technologies and other systems engineering activities intended to prevent or delay exploitation of critical technologies in a designated system.