

AMENDMENT TO H.R. 7900
OFFERED BY MR. PHILLIPS OF MINNESOTA

At the end of subtitle C of title XIII, add the following:

1 **SEC. 13 . NATIONAL GRAY ZONE DIRECTOR.**

2 (a) ESTABLISHMENT.—There is established, within
3 the Executive Office of the President, the Office of the
4 National Gray Zone Director (in this section referred to
5 as the “Office”).

6 (b) NATIONAL GRAY ZONE DIRECTOR.—

7 (1) IN GENERAL.—The Office shall be headed
8 by the National Gray Zone Director (in this section
9 referred to as the “Director”) who shall be ap-
10 pointed by the President, by and with the advice and
11 consent of the Senate.

12 (2) POSITION.—The Director shall hold office
13 at the pleasure of the President.

14 (3) PAY AND ALLOWANCES.—The Director shall
15 be entitled to receive the same pay and allowances
16 as are provided for level II of the Executive Schedule
17 under section 5313 of title 5, United States Code.

18 (c) DUTIES OF THE NATIONAL GRAY ZONE DIREC-
19 TOR.—

1 (1) IN GENERAL.—Subject to the authority, di-
2 rection, and control of the President, the Director
3 shall—

4 (A) serve as the principal advisor to the
5 President on gray zone policy and strategy re-
6 lating to the coordination of—

7 (i) programs and policies intended to
8 counter adversaries’ and competitors’ ac-
9 tions which operate below the threshold of
10 open military conflict and at the edges of
11 international law, actions that are cal-
12 culated to achieve maximum effect without
13 provoking a direct military response from
14 the United States;

15 (ii) programs and policies intended to
16 improve national security posture of the
17 United States as it relates to the gray
18 zone, which shall include developing a cam-
19 paign plan that shall include—

20 (I) a clear assessment of the
21 global threats and opportunities posed
22 by gray zone activities;

23 (II) actions the United States
24 should take to compete in the gray
25 zone when necessary; and

1 (III) actions to ultimately deter
2 adversaries from using gray zone tac-
3 tics;

4 (iii) diplomatic and other efforts to
5 develop norms and international consensus
6 around responsible state behavior with re-
7 gards to the gray zone;

8 (iv) awareness and adoption of emerg-
9 ing technology that may enhance, aug-
10 ment, or degrade the gray zone posture of
11 the United States; and

12 (v) such other matters as the Presi-
13 dent considers appropriate;

14 (B) offer advice and consultation to the
15 National Security Council and its staff, the
16 Homeland Security Council and its staff, and
17 relevant Federal departments and agencies, for
18 their consideration, relating to the development
19 and coordination of national gray zone policy
20 and strategy, including the National Grand
21 Strategy for the Gray Zone;

22 (C) lead the coordination of implementa-
23 tion of national gray zone policy and strategy,
24 including the National Grand Strategy for the
25 Gray Zone, by—

1 (i) in coordination with the heads of
2 relevant Federal departments or agencies,
3 monitoring and assessing the effectiveness,
4 including cost-effectiveness, of the imple-
5 mentation of such national gray zone pol-
6 icy and strategy by Federal departments
7 and agencies;

8 (ii) making recommendations, relevant
9 to changes in the organization, personnel,
10 and resource allocation and to policies of
11 Federal departments and agencies, to the
12 heads of relevant Federal departments and
13 agencies in order to implement such na-
14 tional gray zone policy and strategy;

15 (iii) reviewing the annual budget pro-
16 posals for relevant Federal departments
17 and agencies and advising the heads of
18 such departments and agencies whether
19 such proposals are consistent with such na-
20 tional gray zone policy and strategy;

21 (iv) continuously assessing and mak-
22 ing relevant recommendations to the Presi-
23 dent on the appropriate level of integration
24 and interoperability across the Federal
25 agencies as it relates to the gray zone;

1 (v) reporting annually to the Presi-
2 dent, the Assistant to the President for
3 National Security Affairs, and Congress on
4 the state of the gray zone posture of the
5 United States, the effectiveness of such na-
6 tional gray zone policy and strategy, and
7 the status of the implementation of such
8 national gray zone policy and strategy by
9 Federal departments and agencies; and

10 (vi) such other activity as the Presi-
11 dent considers appropriate to further such
12 national gray zone policy and strategy;

13 (D) lead coordination of the development
14 and ensuring implementation by the Federal
15 Government of integrated incident response to
16 gray zone attacks and gray zone campaigns of
17 significant consequence, including—

18 (i) ensuring and facilitating coordina-
19 tion among relevant Federal departments
20 and agencies in the development of inte-
21 grated operational plans, processes, and
22 playbooks, including for incident response,
23 that feature—

1 (I) clear lines of authority and
2 lines of effort across the Federal Gov-
3 ernment;

4 (II) authorities that have been
5 delegated to an appropriate level to
6 facilitate effective operational re-
7 sponses across the Federal Govern-
8 ment; and

9 (III) support for the integration
10 of plans and capabilities with offensive
11 plans and capabilities in a manner
12 consistent with improving the gray
13 zone posture of the United States;

14 (ii) ensuring the exercising of defen-
15 sive operational plans, processes, and play-
16 books for incident response;

17 (iii) ensuring the updating of defen-
18 sive operational plans, processes, and play-
19 books for incident response as needed to
20 keep them updated; and

21 (iv) reviewing and ensuring that de-
22 fensive operational plans, processes, and
23 playbooks improve coordination with rel-
24 evant private sector entities, as appro-
25 priate;

1 (E) preparing the response by the Federal
2 Government to gray zone attacks and gray zone
3 campaigns of significant consequence across
4 Federal departments and agencies with respon-
5 sibilities pertaining to national security and
6 with the relevant private sector entities, includ-
7 ing—

8 (i) developing for the approval of the
9 President, in coordination with the Assist-
10 ant to the President for National Security
11 Affairs and the heads of relevant Federal
12 departments and agencies, operational pri-
13 orities, requirements, and plans;

14 (ii) ensuring incident response is exe-
15 cuted consistent with the plans described
16 in clause (i); and

17 (iii) ensuring relevant Federal depart-
18 ment and agency consultation with rel-
19 evant private sector entities in incident re-
20 sponse;

21 (F) annually report to Congress on gray
22 zone threats and issues facing the United
23 States, including any new or emerging tactics
24 and technologies that may affect national secu-

1 rity, economic prosperity, or enforcing the rule
2 of law; and

3 (G) be responsible for such other functions
4 as the President may direct.

5 (2) DELEGATION OF AUTHORITY.—

6 (A) IN GENERAL.—The Director may—

7 (i) serve as the senior representative
8 to any organization that the President may
9 establish for the purpose of providing the
10 President advice on the gray zone;

11 (ii) subject to subparagraph (B), be
12 included as a participant in preparations
13 for and, when appropriate, execution of do-
14 mestic and international summits and
15 other international meetings at which the
16 gray zone is a major topic;

17 (iii) delegate any of the Director's
18 functions, powers, and duties to such offi-
19 cers and employees of the Office as the Di-
20 rector considers appropriate; and

21 (iv) authorize such successive re-dele-
22 gations of such functions, powers, and du-
23 ties to such officers and employees of the
24 Office as the Director considers appro-
25 priate.

1 (B) COORDINATION.—In acting under sub-
2 paragraph (A)(ii) in the case of a summit or a
3 meeting with an international partner, the Di-
4 rector shall act in coordination with the Sec-
5 retary of State.

6 (d) ATTENDANCE AND PARTICIPATION IN NATIONAL
7 SECURITY COUNCIL MEETINGS.—Section 101(c)(2) of the
8 National Security Act of 1947 (50 U.S.C. 3021(c)(2)) is
9 amended by striking “and the National Cyber Director”
10 and inserting “the National Cyber Director, and the Na-
11 tional Gray Zone Director”.

12 (e) POWERS OF THE DIRECTOR.—The Director may,
13 for the purposes of carrying out the functions of the Direc-
14 tor under this section—

15 (1) subject to the civil service and classification
16 laws, select, appoint, employ, and fix the compensa-
17 tion of such officers and employees as are necessary
18 and prescribe their duties, except that not more than
19 75 individuals may be employed without regard to
20 any provision of law regulating the employment or
21 compensation at rates not to exceed the basic rate
22 of basic pay payable for level IV of the Executive
23 Schedule under section 5315 of title 5, United
24 States Code;

1 (2) employ experts and consultants in accord-
2 ance with section 3109 of title 5, United States
3 Code, and compensate individuals so employed for
4 each day (including travel time) at rates not in ex-
5 cess of the maximum rate of basic pay for grade
6 GS-15 as provided in section 5332 of such title, and
7 while such experts and consultants are so serving
8 away from their homes or regular place of business,
9 to pay such employees travel expenses and per diem
10 in lieu of subsistence at rates authorized by section
11 5703 of such title 5 for persons in Federal Govern-
12 ment service employed intermittently;

13 (3) promulgate such rules and regulations as
14 may be necessary to carry out the functions, powers,
15 and duties vested in the Director;

16 (4) utilize, with their consent, the services, per-
17 sonnel, and facilities of other Federal agencies;

18 (5) enter into and perform such contracts,
19 leases, cooperative agreements, or other transactions
20 as may be necessary in the conduct of the work of
21 the Office and on such terms as the Director may
22 determine appropriate, with any Federal agency, or
23 with any public or private person or entity;

1 (6) accept voluntary and uncompensated serv-
2 ices, notwithstanding the provisions of section 1342
3 of title 31, United States Code;

4 (7) adopt an official seal, which shall be judi-
5 cially noticed; and

6 (8) provide, where authorized by law, copies of
7 documents to persons at cost, except that any funds
8 so received shall be credited to, and be available for
9 use from, the account from which expenditures relat-
10 ing thereto were made.

11 (f) RULES OF CONSTRUCTION.—Nothing in this sec-
12 tion may be construed as—

13 (1) modifying any authority or responsibility,
14 including any operational authority or responsibility
15 of any head of a Federal department or agency;

16 (2) authorizing the Director or any person act-
17 ing under the authority of the Director to interfere
18 with or to direct a criminal or national security in-
19 vestigation, arrest, search, seizure, or disruption op-
20 eration;

21 (3) amending a legal restriction that was in ef-
22 fect on the day before the date of the enactment of
23 this Act that requires a law enforcement agency to
24 keep confidential information learned in the course
25 of a criminal or national security investigation;

1 (4) authorizing the Director or any person act-
2 ing under the authority of the Director to interfere
3 with or to direct a military operation;

4 (5) authorizing the Director or any person act-
5 ing under the authority of the Director to interfere
6 with or to direct any diplomatic or consular activity;

7 (6) authorizing the Director or any person act-
8 ing under the authority of the Director to interfere
9 with or to direct an intelligence activity, resource, or
10 operation; or

11 (7) authorizing the Director or any person act-
12 ing under the authority of the Director to modify
13 the classification of intelligence information.

14 (g) DEFINITIONS.—In this section—

15 (1) the term “gray zone” means an effort or se-
16 ries of efforts intended to advance one’s security ob-
17 jectives at the expense of a rival using means beyond
18 those associated with routine statecraft and below
19 means associated with direct military conflict be-
20 tween rivals;

21 (2) the term “gray zone attack and gray zone
22 campaign of significant consequence” means an inci-
23 dent or series of incidents that has the purpose or
24 effect of—

1 (A) causing a significant disruption to the
2 confidentiality, integrity, or availability of a
3 Federal system;

4 (B) harming, or otherwise significantly
5 compromising the provision of service that sup-
6 ports one or more entities in a critical infra-
7 structure sector;

8 (C) significantly compromising the provi-
9 sion of services by one or more entities in a
10 critical infrastructure sector;

11 (D) causing a significant misappropriation
12 of funds or economic resources, trade secrets,
13 personal identifiers, or financial information for
14 commercial or competitive advantage or private
15 financial gain; or

16 (E) otherwise constituting a significant
17 threat to the national security, foreign policy, or
18 economic health or financial stability of the
19 United States;

20 (3) the term “incident” has the meaning given
21 such term in section 3552 of title 44, United States
22 Code;

23 (4) the term “incident response” means a gov-
24 ernment or private sector activity that detects, miti-

1 gates, or recovers from a gray zone attack or gray
2 zone campaign of significant consequence; and
3 (5) the term “intelligence” has the meaning
4 given such term in section 3 of the National Security
5 Act of 1947 (50 U.S.C. 3003).

