

116TH CONGRESS
1ST SESSION

S. 2133

To establish an interagency working group for coordination and development of Federal research protection, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 16, 2019

Mr. CORNYN (for himself, Ms. ROSEN, Mr. RUBIO, Mr. MURPHY, Mr. HOEVEN, Mrs. GILLIBRAND, Mrs. FISCHER, and Mr. LANKFORD) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish an interagency working group for coordination and development of Federal research protection, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Secure American Re-
5 search Act of 2019”.

6 **SEC. 2. SECURING AMERICAN SCIENCE AND TECHNOLOGY.**

7 (a) DEFINITIONS.—In this section—

8 (1) the term “Academies” means the National
9 Academies of Science, Engineering and Medicine;

1 (2) the term “Federal science agency” means
2 any Federal agency with not less than \$100,000,000
3 in basic and applied research obligations in fiscal
4 year 2018;

5 (3) the term “grantee” means an entity that
6 is—

7 (A) a recipient or subrecipient of a Federal
8 grant or cooperative agreement; and

9 (B) an institution of higher education or a
10 nonprofit organization;

11 (4) the term “institution of higher education”
12 has the meaning given the term in section 101 of the
13 Higher Education Act of 1965 (20 U.S.C. 1001);

14 (5) the term “relevant Committees” means—

15 (A) the Committee on Commerce, Science,
16 and Transportation of the Senate;

17 (B) the Committee on Science, Space, and
18 Technology of the House of Representatives;

19 (C) the Committee on Armed Services of
20 the Senate;

21 (D) the Committee on Armed Services of
22 the House of Representatives;

23 (E) the Committee on Homeland Security
24 and Governmental Affairs of the Senate;

1 (F) the Committee on Oversight and Re-
 2 form of the House of Representatives;

3 (G) the Committee on Foreign Relations of
 4 the Senate; and

5 (H) the Committee on Foreign Affairs of
 6 the House of Representatives;

7 (6) the term “roundtable” means the National
 8 Science, Technology, and Security Roundtable estab-
 9 lished under subsection (d); and

10 (7) the term “working group” means the inter-
 11 agency working group established under subsection
 12 (b).

13 (b) INTERAGENCY WORKING GROUP FOR COORDINA-
 14 TION AND DEVELOPMENT OF FEDERAL RESEARCH PRO-
 15 TECTION.—

16 (1) IN GENERAL.—The Director of the Office of
 17 Science and Technology Policy, acting through the
 18 National Science and Technology Council and in
 19 consultation with the National Security Advisor,
 20 shall establish an interagency working group to co-
 21 ordinate activities to protect federally funded re-
 22 search and development from foreign interference,
 23 cyberattacks, theft, or espionage and to develop com-
 24 mon definitions and best practices for Federal
 25 science agencies and grantees, while accounting for

1 the importance of the open exchange of ideas and
2 international talent required for scientific progress
3 and American leadership in science and technology.

4 (2) MEMBERSHIP.—

5 (A) IN GENERAL.—The working group
6 shall include a representative of—

- 7 (i) the National Science Foundation;
- 8 (ii) the Department of Energy;
- 9 (iii) the National Aeronautics and
10 Space Administration;
- 11 (iv) the National Institute of Stand-
12 ards and Technology;
- 13 (v) the Department of Commerce;
- 14 (vi) the National Institutes of Health;
- 15 (vii) the Department of Defense;
- 16 (viii) the Department of Agriculture;
- 17 (ix) the Department of Education;
- 18 (x) the Department of State;
- 19 (xi) the Department of the Treasury;
- 20 (xii) the Department of Justice;
- 21 (xiii) the Department of Homeland
22 Security;
- 23 (xiv) the Central Intelligence Agency;
- 24 (xv) the Federal Bureau of Investiga-
25 tion;

1 (xvi) the Office of the Director of Na-
 2 tional Intelligence;

3 (xvii) the Office of Management and
 4 Budget;

5 (xviii) the National Economic Council;
 6 and

7 (xix) such other Federal department
 8 or agency as the President considers ap-
 9 propriate.

10 (B) CHAIR.—The working group shall be
 11 chaired by the Director of the Office of Science
 12 and Technology Policy, or a designee of the Di-
 13 rector.

14 (3) RESPONSIBILITIES OF THE WORKING
 15 GROUP.—The working group shall—

16 (A) identify known and potential cyber,
 17 physical, and human intelligence threats and
 18 vulnerabilities within the United States sci-
 19 entific and technological enterprise;

20 (B) coordinate efforts among Federal
 21 agencies to update and share important infor-
 22 mation with grantees, including specific exam-
 23 ples of interference, cyberattacks, theft, or espi-
 24 onage directed at federally funded research and

1 development or the integrity of the United
2 States scientific enterprise;

3 (C) identify effective existing mechanisms
4 for protection of federally funded research and
5 development, including mechanisms grantees
6 are employing to protect federally funded re-
7 search;

8 (D) develop an inventory of—

9 (i) terms and definitions used across
10 Federal science agencies to delineate areas
11 that may require additional protection; and

12 (ii) policies and procedures at Federal
13 science agencies regarding protection of
14 federally funded research;

15 (E) develop and periodically update unclas-
16 sified policy guidance to assist Federal science
17 agencies and grantees in having consistent poli-
18 cies to defend against threats to federally fund-
19 ed research and development and the integrity
20 of the United States scientific enterprise that—

21 (i) includes—

22 (I) descriptions of known and po-
23 tential threats, including organiza-
24 tions of concern, to federally funded
25 research and development and the in-

1 integrity of the United States scientific
2 enterprise;

3 (II) common definitions and ter-
4 minology for categorization of re-
5 search and technologies that are pro-
6 tected;

7 (III) identified areas of research
8 or technology that might require addi-
9 tional protection;

10 (IV) recommendations for how
11 existing frameworks and control
12 mechanisms can be better utilized to
13 protect federally funded research and
14 development from foreign interference,
15 cyberattacks, theft or espionage, in-
16 cluding any recommendations for up-
17 dates to existing frameworks and con-
18 trol mechanisms and any rec-
19 ommendations, as appropriate, for
20 new mechanisms for the protection of
21 federally funded research;

22 (V) recommendations for best
23 practices for Federal science agencies
24 and grantees to defend against threats
25 to federally funded research and de-

1 velopment, including coordination and
2 harmonization of any relevant report-
3 ing requirements that Federal science
4 agencies implement for grantees;

5 (VI) assessments of potential
6 consequences that any proposed prac-
7 tices would have on international col-
8 laboration and United States leader-
9 ship in science and technology; and

10 (VII) a classified addendum as
11 necessary to further inform Federal
12 science agency decisionmaking; and

13 (ii) accounts for the range of needs
14 across different sectors of the United
15 States science and technology enterprise;

16 (F) develop and ensure the implementation
17 of a means for Federal agencies listed in para-
18 graph (2)(A) to aggregate and share Federal
19 agency information regarding completed inves-
20 tigations of researchers that were determined to
21 be knowingly fraudulent in disclosure of foreign
22 interests, investments, or involvement relating
23 to Federal research, which shall—

24 (i) be shared among agencies listed in
25 paragraph (2)(A);

1 (ii) not be made available to the pub-
2 lic; and

3 (iii) not be subject to the require-
4 ments of section 552 of title 5, United
5 States Code (commonly known as the
6 “Freedom of Information Act”); and

7 (G) develop guidelines to create a con-
8 sistent cybersecurity policy across Federal agen-
9 cies to protect federally funded research and de-
10 velopment from foreign interference theft or es-
11 pionage through cybersecurity breaches, which
12 shall—

13 (i) be based on the framework the Na-
14 tional Institute of Standards and Tech-
15 nology entitled “Framework for Improving
16 Critical Infrastructure Cybersecurity,” and
17 in the case of controlled unclassified infor-
18 mation, on Special Publication 800–181 of
19 the National Institutes of Standards and
20 Technology entitled “Protecting Controlled
21 Unclassified Information in Nonfederal
22 Systems and Organizations”, or any suc-
23 cessor thereto;

24 (ii) include guidance on specific means
25 Federal agencies can use to ensure grant-

ees are complying with cybersecurity standards that Federal agencies develop consistent with this subparagraph; and

(iii) incorporate input from grantees, including from—

(I) facility security officers;

(II) chief information officers;

(III) vice presidents for research;

(IV) chief technology officers;

and

(V) other relevant officers as determined by the working group.

(4) COORDINATION WITH NATIONAL ACADEMIES

ROUNDTABLE.—The Director of the Office of Science and Technology Policy shall coordinate with the Academies to ensure that not less than 1 member of the working group is also a member of the roundtable.

(5) INTERIM REPORT.—Not later than 6

months after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall provide a report to the relevant Committees that includes—

(A) the inventory required under paragraph (3)(D);

1 (B) an update on progress toward devel-
2 oping the policy guidance required under para-
3 graph (3)(E); and

4 (C) any additional activities undertaken by
5 the working group in that time.

6 (6) BIENNIAL REPORTING.—Not later than 2
7 years after the date of enactment of this Act, and
8 not less frequently than every 2 years thereafter, the
9 Director of the Office of Science and Technology
10 Policy shall provide to the relevant Committees a
11 summary report on the activities of the working
12 group and the most current version of the policy
13 guidance required under subparagraphs (E) and (G)
14 of paragraph (3).

15 (c) CYBER STANDARDS.—

16 (1) IN GENERAL.—Each Federal research agen-
17 cy shall—

18 (A) issue standards consistent with those
19 developed under subsection (b)(3)(G); and

20 (B) ensure that grantees are employing cy-
21 bersecurity practices that meet those agency
22 standards using means consistent with those
23 developed under subsection (b)(3)(G)(ii).

24 (2) COOPERATIVE AGREEMENTS.—Each Fed-
25 eral research agency shall make compliance with the

1 standards described in paragraph (1), as determined
2 by the means described in that paragraph, a require-
3 ment in each grant to or cooperative agreement with
4 a grantee.

5 (d) NATIONAL SCIENCE, TECHNOLOGY, AND SECU-
6 RITY ROUNDTABLE.—

7 (1) IN GENERAL.—The National Science Foun-
8 dation, the Department of Energy, and the Depart-
9 ment of Defense, and any other Federal agency as
10 determined by the Director of the Office of Science
11 and Technology Policy, shall enter into a joint agree-
12 ment with the Academies to create a National
13 Science, Technology, and Security Roundtable.

14 (2) PARTICIPANTS.—The roundtable shall in-
15 clude senior representatives and practitioners from
16 Federal science, intelligence, national security agen-
17 cies, and law enforcement agencies, as well as key
18 stakeholders in the United States scientific enter-
19 prise, including institutions of higher education,
20 Federal research laboratories, industry, and non-
21 profit research organizations.

22 (3) PURPOSE.—The purpose of the roundtable
23 is to facilitate among participants—

24 (A) exploration of critical issues related to
25 protecting United States national and economic

1 security while ensuring the open exchange of
2 ideas and international talent required for sci-
3 entific progress and the leadership of the
4 United States in science and technology;

5 (B) identification and consideration of se-
6 curity threats and risks involving federally
7 funded research and development, including for-
8 eign interference, cyber attacks, theft, or espio-
9 nage;

10 (C) identification of effective approaches
11 for communicating the threats and risks identi-
12 fied in subparagraph (B) to the academic and
13 scientific community, including through the
14 sharing of unclassified data and relevant case
15 studies;

16 (D) sharing of best practices for address-
17 ing and mitigating the threats and risks identi-
18 fied in subparagraph (B); and

19 (E) examination of potential near- and
20 long-term responses by the Federal Government
21 and the academic and scientific community to
22 mitigate and address the risks associated with
23 foreign threats.

24 (4) REPORT AND BRIEFING.—The joint agree-
25 ment under paragraph (1) shall specify that—

1 (A) the roundtable shall periodically orga-
2 nize workshops and issue publicly available re-
3 ports on the topics described in paragraph (3)
4 and the activities of the roundtable; and

5 (B) not later than March 1, 2020, the
6 Academies shall provide a briefing to relevant
7 Committees on the progress and activities of
8 the roundtable.

9 (e) SAVINGS CLAUSE.—Nothing in this Act may be
10 construed to alter the jurisdiction, authority, or procedural
11 responsibilities of any Federal agency.

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