

Calendar No. 620116TH CONGRESS
2D SESSION**S. 3997****[Report No. 116-317]**

To strengthen the security and integrity of the United States scientific and research enterprise.

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2020

Mr. PORTMAN (for himself, Mr. CARPER, Mr. BARRASSO, Mrs. BLACKBURN, Mr. BRAUN, Mr. COONS, Ms. CORTEZ MASTO, Ms. HASSAN, Mr. HAWLEY, Mr. MANCHIN, Mr. RISCH, Mr. RUBIO, Mr. SCOTT of Florida, Mrs. SHAHEEN, Mr. TILLIS, Mr. GRASSLEY, Mr. JOHNSON, Ms. MCSALLY, Mr. LANKFORD, and Mr. ROMNEY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

DECEMBER 14, 2020

Reported by Mr. JOHNSON, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To strengthen the security and integrity of the United States scientific and research enterprise.

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

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

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Safeguarding American Innovation Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Federal Research Security Council.

Sec. 4. Federal grant application fraud.

Sec. 5. Restricting the transfer of goods, technologies, and sensitive information
to certain aliens.

Sec. 6. Limitations on educational and cultural exchange programs.

Sec. 7. Amendments to disclosures of foreign gifts.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **FEDERAL SCIENCE AGENCY.**—The term
9 “Federal science agency” means any Federal depart-
10 ment or agency to which more than \$100,000,000 in
11 research and development funds were appropriated
12 for fiscal year 2020.

13 (2) **RESEARCH AND DEVELOPMENT.**—

14 (A) **IN GENERAL.**—The term “research
15 and development” means all research activities,
16 both basic and applied, and all development ac-
17 tivities.

18 (B) **DEVELOPMENT.**—The term “develop-
19 ment” means experimental development.

20 (C) **EXPERIMENTAL DEVELOPMENT.**—The
21 term “experimental development” means ere-
22 tive and systematic work, drawing upon knowl-

1 edge gained from research and practical experi-
 2 ence, which—

3 (i) is directed toward the production
 4 of new products or processes or improving
 5 existing products or processes; and

6 (ii) like research, will result in gaining
 7 additional knowledge.

8 (D) RESEARCH.—The term “research”—

9 (i) means a systematic study directed
 10 toward fuller scientific knowledge or under-
 11 standing of the subject studied; and

12 (ii) includes activities involving the
 13 training of individuals in research tech-
 14 niques if such activities—

15 (I) utilize the same facilities as
 16 other research and development activi-
 17 ties; and

18 (II) are not included in the in-
 19 struction function.

20 **SEC. 3. FEDERAL RESEARCH SECURITY COUNCIL.**

21 (a) IN GENERAL.—Subtitle V of title 31, United
 22 States Code, is amended by adding at the end the fol-
 23 lowing:

1 **“CHAPTER 79—FEDERAL RESEARCH**
 2 **SECURITY COUNCIL**

“Sec.

“7901. Definitions.

“7902. Federal Research Security Council establishment and membership.

“7903. Functions and authorities.

“7904. Strategic plan.

“7905. Annual report.

“7906. Requirements for Executive agencies.

3 **“§ 7901. Definitions**

4 “In this chapter:

5 “(1) **APPROPRIATE CONGRESSIONAL COMMIT-**
 6 **TEES.**—The term ‘appropriate congressional com-

7 mittees’ means—

8 “(A) the Committee on Homeland Security
 9 and Governmental Affairs of the Senate;

10 “(B) the Committee on Commerce,
 11 Science, and Transportation of the Senate;

12 “(C) the Select Committee on Intelligence
 13 of the Senate;

14 “(D) the Committee on Foreign Relations
 15 of the Senate;

16 “(E) the Committee on Armed Services of
 17 the Senate;

18 “(F) the Committee on Health, Education,
 19 Labor, and Pensions of the Senate;

20 “(G) the Committee on Oversight and Re-
 21 form of the House of Representatives;

1 “(H) the Committee on Homeland Security
2 of the House of Representatives;

3 “(I) the Committee on Energy and Com-
4 merce of the House of Representatives;

5 “(J) the Permanent Select Committee on
6 Intelligence of the House of Representatives;

7 “(K) the Committee on Foreign Affairs of
8 the House of Representatives;

9 “(L) the Committee on Armed Services of
10 the House of Representatives; and

11 “(M) the Committee on Education and
12 Labor of the House of Representatives.

13 “(2) COUNCIL.—The term ‘Council’ means the
14 Federal Research Security Council established under
15 section 7902(a).

16 “(3) EXECUTIVE AGENCY.—The term ‘Execu-
17 tive agency’ has the meaning given that term in sec-
18 tion 105 of title 5.

19 “(4) FEDERAL RESEARCH SECURITY RISK.—
20 The term ‘Federal research security risk’ means the
21 risk posed by malign state actors and other persons
22 to the security and integrity of research and develop-
23 ment conducted using grants awarded by Executive
24 agencies.

1 “(5) INSIDER.—The term ‘insider’ means any
2 person with authorized access to any United States
3 Government resource, including personnel, facilities,
4 information, research, equipment, networks, or sys-
5 tems.

6 “(6) INSIDER THREAT.—The term ‘insider
7 threat’ means the threat that an insider will use his
8 or her authorized access (wittingly or unwittingly) to
9 harm the national and economic security of the
10 United States or negatively affect the integrity of a
11 Federal agency’s normal processes, including dam-
12 aging the United States through espionage, sabo-
13 tage, unauthorized disclosure of national security in-
14 formation or non-public information, or through the
15 loss or degradation of departmental resources, capa-
16 bilities, and functions.

17 “(7) RESEARCH AND DEVELOPMENT.—

18 “(A) IN GENERAL.—The term ‘research
19 and development’ means all research activities,
20 both basic and applied, and all development ac-
21 tivities.

22 “(B) DEVELOPMENT.—The term ‘develop-
23 ment’ means experimental development.

24 “(C) EXPERIMENTAL DEVELOPMENT.—
25 The term ‘experimental development’ means

1 creative and systematic work, drawing upon
 2 knowledge gained from research and practical
 3 experience, which—

4 “(i) is directed toward the production
 5 of new products or processes or improving
 6 existing products or processes; and

7 “(ii) like research, will result in gain-
 8 ing additional knowledge.

9 “(D) RESEARCH.—The term ‘research’—

10 “(i) means a systematic study directed
 11 toward fuller scientific knowledge or under-
 12 standing of the subject studied; and

13 “(ii) includes activities involving the
 14 training of individuals in research tech-
 15 niques if such activities—

16 “(I) utilize the same facilities as
 17 other research and development activi-
 18 ties; and

19 “(II) are not included in the in-
 20 struction function.

21 “(S) UNITED STATES RESEARCH COMMU-
 22 NITY.—The term ‘United States research commu-
 23 nity’ means—

24 “(A) research and development centers of
 25 Executive agencies;

1 “(B) private research and development
2 centers in the United States, including for-prof-
3 it and nonprofit research institutes;

4 “(C) research and development centers at
5 institutions of higher education (as defined in
6 section 101(a) of the Higher Education Act of
7 1965 (20 U.S.C. 1001(a));

8 “(D) research and development centers of
9 States, United States territories, Indian tribes,
10 and municipalities;

11 “(E) government-owned, contractor-oper-
12 ated United States Government research and
13 development centers; and

14 “(F) any person conducting federally fund-
15 ed research or receiving Federal research grant
16 funding.

17 **“§ 7902. Federal Research Security Council establish-**
18 **ment and membership**

19 “(a) ESTABLISHMENT.—There is established, in the
20 Office of Management and Budget, a Federal Research
21 Security Council, which shall develop federally funded re-
22 search and development grant making policy and manage-
23 ment guidance to protect the national and economic secu-
24 rity interests of the United States.

25 “(b) MEMBERSHIP.—

1 “(1) IN GENERAL.—The following agencies
2 shall be represented on the Council:

3 “(A) The Office of Management and
4 Budget.

5 “(B) The Office of Science and Technology
6 Policy.

7 “(C) The Department of Defense.

8 “(D) The Department of Homeland Secu-
9 rity.

10 “(E) The Office of the Director of Na-
11 tional Intelligence, including the National Coun-
12 terintelligence and Security Center.

13 “(F) The Department of Justice, including
14 the Federal Bureau of Investigation.

15 “(G) The Department of Energy.

16 “(H) The Department of Commerce, in-
17 cluding the National Institute of Standards and
18 Technology.

19 “(I) The Department of Health and
20 Human Services, including the National Insti-
21 tutes of Health.

22 “(J) The Department of State.

23 “(K) The Department of Transportation.

24 “(L) The National Aeronautics and Space
25 Administration.

1 “(M) The National Science Foundation.

2 “(N) The Department of Education.

3 “(O) The Small Business Administration.

4 “(P) The Council of Inspectors General on
5 Integrity and Efficiency.

6 “(Q) Other Executive agencies, as deter-
7 mined by the Chairperson of the Council.

8 “(2) LEAD REPRESENTATIVES.—

9 “(A) DESIGNATION.—Not later than 45
10 days after the date of the enactment of this
11 chapter, the head of each agency represented on
12 the Council shall designate a representative of
13 that agency as the lead representative of the
14 agency on the Council.

15 “(B) FUNCTIONS.—The lead representa-
16 tive of an agency designated under subpara-
17 graph (A) shall ensure that appropriate per-
18 sonnel, including leadership and subject matter
19 experts of the agency, are aware of the business
20 of the Council.

21 “(c) CHAIRPERSON.—

22 “(1) DESIGNATION.—Not later than 45 days
23 after the date of the enactment of this chapter, the
24 Director of the Office of Management and Budget
25 shall designate a senior-level official from the Office

1 of Management and Budget to serve as the Chair-
2 person of the Council.

3 “(2) FUNCTIONS.—The Chairperson shall per-
4 form functions that include—

5 “(A) subject to subsection (d), developing
6 a schedule for meetings of the Council;

7 “(B) designating Executive agencies to be
8 represented on the Council under subsection
9 (b)(1)(Q);

10 “(C) in consultation with the lead rep-
11 resentative of each agency represented on the
12 Council, developing a charter for the Council;
13 and

14 “(D) not later than 7 days after comple-
15 tion of the charter, submitting the charter to
16 the appropriate congressional committees.

17 “(3) LEAD SCIENCE ADVISOR.—The Director of
18 the Office of Science and Technology Policy shall be
19 the lead science advisor to the Chairperson for pur-
20 poses of this chapter.

21 “(4) LEAD SECURITY ADVISOR.—The Director
22 of the National Counterintelligence and Security
23 Center shall be the lead security advisor to the
24 Chairperson for purposes of this chapter.

1 “(d) MEETINGS.—The Council shall meet not later
2 than 60 days after the date of the enactment of this chap-
3 ter and not less frequently than quarterly thereafter.

4 **“§ 7903. Functions and authorities**

5 “(a) IN GENERAL.—The Chairperson of the Council
6 shall consider the missions and responsibilities of Council
7 members in determining the lead agencies for Council
8 functions. The Council shall perform the following func-
9 tions:

10 “(1) Developing and implementing, across all
11 Executive agencies that award research and develop-
12 ment grants, a uniform application process for
13 grants in accordance with subsection (b).

14 “(2) Developing and implementing a uniform
15 and regular reporting process for identifying persons
16 participating in federally funded research and devel-
17 opment or that have access to nonpublic federally
18 funded information, data, research findings, and re-
19 search and development grant proposals.

20 “(3) Identifying or developing criteria, in ac-
21 cordance with subsection (c), for sharing and receiv-
22 ing information with respect to Federal research se-
23 curity risks in order to mitigate such risks with—

24 “(A) members of the United States re-
25 search community; and

1 ~~“(B) other persons participating in feder-~~
2 ~~ally funded research and development.~~

3 ~~“(4) Identifying an appropriate Executive agen-~~
4 ~~cy—~~

5 ~~“(A) to accept and protect information~~
6 ~~submitted by Executive agencies and non-Fed-~~
7 ~~eral entities based on the processes established~~
8 ~~under paragraphs (1) and (2); and~~

9 ~~“(B) to facilitate the sharing of informa-~~
10 ~~tion received under subparagraph (A) to sup-~~
11 ~~port, as necessary and appropriate—~~

12 ~~“(i) oversight of federally funded re-~~
13 ~~search and development;~~

14 ~~“(ii) criminal and civil investigations~~
15 ~~of misappropriated Federal funds, re-~~
16 ~~sources, and information; and~~

17 ~~“(iii) counterintelligence investiga-~~
18 ~~tions.~~

19 ~~“(5) Identifying, as appropriate, Executive~~
20 ~~agencies to provide—~~

21 ~~“(A) shared services, such as support for~~
22 ~~conducting Federal research security risk as-~~
23 ~~sessments, activities to mitigate such risks, and~~
24 ~~oversight and investigations with respect to~~
25 ~~grants awarded by Executive agencies; and~~

1 “(B) common contract solutions to support
2 enhanced information collection and sharing
3 and the verification of the identities of persons
4 participating in federally funded research and
5 development.

6 “(6) Identifying and issuing guidance, in ac-
7 cordance with subsection (d) and in coordination
8 with the National Insider Threat Task Force estab-
9 lished by Executive Order 13587 (50 U.S.C. 3161
10 note) for developing and implementing insider threat
11 programs for Executive agencies to deter, detect,
12 and mitigate insider threats, including the safe-
13 guarding of sensitive information from exploitation,
14 compromise, or other unauthorized disclosure, taking
15 into account risk levels and the distinct needs, mis-
16 sions, and systems of each such agency.

17 “(7) Identifying and issuing guidance for devel-
18 oping compliance and oversight programs for Execu-
19 tive agencies to ensure that research and develop-
20 ment grant recipients accurately report conflicts of
21 interest and conflicts of commitment in accordance
22 with subsection (b)(1). Such programs shall include
23 an assessment of—

1 “(A) a grantee’s support from foreign
2 sources and affiliations with foreign funding in-
3 stitutions or laboratories; and

4 “(B) the impact of such support and affili-
5 ations on United States national security and
6 economic interests.

7 “(8) Assessing and making recommendations
8 with respect to whether openly sharing certain types
9 of federally funded research and development is in
10 the economic and national security interests of the
11 United States.

12 “(9) Identifying and issuing guidance to the
13 United States research community, and other recipi-
14 ents of Federal research and development funding,
15 to ensure that such institutions and recipients adopt
16 existing best practices to reduce the risk of mis-
17 appropriation of research data.

18 “(10) Identifying and issuing guidance on addi-
19 tional steps that may be necessary to address Fed-
20 eral research security risks arising in the course of
21 Executive agencies providing shared services and
22 common contract solutions under paragraph (5)(B).

23 “(11) Engaging with the United States re-
24 search community in performing the functions de-
25 scribed in paragraphs (1), (2), and (3) and with re-

1 spect to issues relating to Federal research security
2 risks.

3 ~~“(12) Carrying out such other functions, as de-~~
4 ~~termined by the Council, that are necessary to re-~~
5 ~~duce Federal research security risks.~~

6 ~~“(b) REQUIREMENTS FOR UNIFORM GRANT APPLI-~~
7 ~~CATION PROCESS.—In developing the uniform application~~
8 ~~process for Federal research and development grants re-~~
9 ~~quired under subsection (a)(1), the Council shall—~~

10 ~~“(1) ensure that the process—~~

11 ~~“(A) requires principal investigators, co-~~
12 ~~principal investigators, and senior personnel as-~~
13 ~~sociated with the proposed Federal research or~~
14 ~~development grant project—~~

15 ~~“(i) to disclose biographical informa-~~
16 ~~tion, all affiliations, including any foreign~~
17 ~~military and foreign government-related or-~~
18 ~~ganizations, and all current and pending~~
19 ~~support, including affiliations with foreign~~
20 ~~funding institutions or laboratories, and all~~
21 ~~support received from foreign sources; and~~

22 ~~“(ii) to certify the accuracy of the re-~~
23 ~~quired disclosures under penalty of per-~~
24 ~~jury; and~~

1 “(B) uses a machine-readable application
2 form to assist in identifying fraud and ensuring
3 the eligibility of applicants;

4 “(2) design the process—

5 “(A) to reduce the administrative burden
6 on persons applying for Federal research and
7 development funding; and

8 “(B) to promote information sharing
9 across the United States research community,
10 while safeguarding sensitive information; and

11 “(3) complete the process not later than 1 year
12 after the date of the enactment of the Safeguarding
13 American Innovation Act.

14 “(e) REQUIREMENTS FOR INFORMATION SHARING
15 CRITERIA.—In identifying or developing criteria and pro-
16 cedures for sharing information with respect to Federal
17 research security risks under subsection (a)(3), the Coun-
18 cil shall ensure that such criteria address, at a min-
19 imum—

20 “(1) the information to be shared;

21 “(2) the circumstances under which sharing is
22 mandated or voluntary;

23 “(3) the circumstances under which it is appro-
24 priate for an Executive agency to rely on informa-
25 tion made available through such sharing in exer-

1 eising the responsibilities and authorities of the
 2 agency under applicable laws relating to the award
 3 of grants;

4 “(4) the procedures for protecting intellectual
 5 capital that may be present in such information; and

6 “(5) appropriate privacy protections for persons
 7 involved in Federal research and development.

8 “(d) REQUIREMENTS FOR INSIDER THREAT PRO-
 9 GRAM GUIDANCE.—In identifying or developing guidance
 10 with respect to insider threat programs under subsection
 11 (a)(6), the Council shall ensure that such guidance pro-
 12 vides for, at a minimum—

13 “(1) such programs—

14 “(A) to deter, detect, and mitigate insider
 15 threats; and

16 “(B) to leverage counterintelligence, secu-
 17 rity, information assurance, and other relevant
 18 functions and resources to identify and counter
 19 insider threats;

20 “(2) the development of an integrated capability
 21 to monitor and audit information for the detection
 22 and mitigation of insider threats, including
 23 through—

24 “(A) monitoring user activity on computer
 25 networks controlled by Executive agencies;

1 “(B) providing employees of Executive
2 agencies with awareness training with respect
3 to insider threats and the responsibilities of em-
4 ployees to report such threats;

5 “(C) gathering information for a central-
6 ized analysis, reporting, and response capa-
7 bility; and

8 “(D) information sharing to aid in track-
9 ing the risk individuals may pose while moving
10 across programs and affiliations;

11 “(3) the development and implementation of
12 policies and procedures under which the insider
13 threat program of an Executive agency accesses,
14 shares, and integrates information and data derived
15 from offices within the agency;

16 “(4) the designation of senior officials with au-
17 thority to provide management, accountability, and
18 oversight of the insider threat program of an Execu-
19 tive agency and to make resource recommendations
20 to the appropriate officials; and

21 “(5) such additional guidance as is necessary to
22 reflect the distinct needs, missions, and systems of
23 each Executive agency.

1 “(e) ISSUANCE OF WARNINGS RELATING TO RISKS
2 AND VULNERABILITIES IN INTERNATIONAL SCIENTIFIC
3 COOPERATION.—

4 “(1) IN GENERAL.—The Council, in conjunction
5 with the lead security advisor under section
6 7902(e)(4), shall establish a process for informing
7 members of the United States research community
8 and the public, through the issuance of warnings de-
9 scribed in paragraph (2), of potential risks and
10 vulnerabilities in international scientific cooperation
11 that may undermine the integrity and security of the
12 United States research community or place at risk
13 any federally funded research and development.

14 “(2) CONTENT.—A warning described in this
15 paragraph shall include, to the extent the Council
16 considers appropriate, a description of—

17 “(A) activities by the national government,
18 local governments, research institutions, or uni-
19 versities of a foreign country—

20 “(i) to exploit, interfere, or undermine
21 research and development by the United
22 States research community; or

23 “(ii) to misappropriate scientific
24 knowledge resulting from federally funded
25 research and development;

1 “(B) efforts by strategic competitors to ex-
2 ploit the research enterprise of a foreign coun-
3 try that may place at risk—

4 “(i) the science and technology of that
5 foreign country; or

6 “(ii) federally funded research and de-
7 velopment; and

8 “(C) practices within the research enter-
9 prise of a foreign country that do not adhere to
10 the United States scientific values of openness,
11 transparency, reciprocity, integrity, and merit-
12 based competition.

13 “(f) PROGRAM OFFICE AND COMMITTEES.—The
14 interagency working group established under section 1746
15 of the National Defense Authorization Act for Fiscal Year
16 2020 (Public Law 116–92) shall be a working group under
17 the Council performing duties authorized under such sec-
18 tion and as directed by the Council. The Council may also
19 establish a program office and any committees, working
20 groups, or other constituent bodies the Council deems ap-
21 propriate, in its sole and unreviewable discretion, to carry
22 out its functions.

23 “(g) EXCLUSION ORDERS.—To reduce Federal re-
24 search security risk, the Interagency Suspension and De-

1 barment Committee shall provide quarterly reports to the
2 Council that detail—

3 “(1) the number of ongoing investigations by
4 Council Members related to Federal research secu-
5 rity that may result, or have resulted, in agency pre-
6 notice letters, suspensions, proposed debarments,
7 and debarments;

8 “(2) Federal agencies’ performance and compli-
9 ance with interagency suspensions and debarments;

10 “(3) efforts by the Interagency Suspension and
11 Debarment Committee to mitigate Federal research
12 security risk;

13 “(4) proposals for developing a unified Federal
14 policy on suspensions and debarments; and

15 “(5) other current suspension and debarment
16 related issues.

17 **“§ 7904. Strategic plan**

18 “(a) IN GENERAL.—Not later than 180 days after
19 the date of the enactment of this chapter, the Council shall
20 develop a strategic plan for addressing Federal research
21 security risks and for managing such risks, that in-
22 cludes—

23 “(1) the criteria and processes required under
24 section 7903(a), including a threshold and require-
25 ments for sharing relevant information about such

1 risks with all Executive agencies and, as appro-
2 priate, with other Federal entities, foreign govern-
3 ments, and non-Federal entities;

4 “(2) an identification of existing authorities for
5 addressing such risks;

6 “(3) an identification and promulgation of best
7 practices and procedures, and an identification of
8 available resources, for Executive agencies to assess
9 and mitigate such risks;

10 “(4) recommendations for any legislative, regu-
11 latory, or other policy changes to improve efforts to
12 address such risks;

13 “(5) recommendations for any legislative, regu-
14 latory, or other policy changes to incentivize the
15 adoption of best practices for avoiding and miti-
16 gating Federal research security risks by the United
17 States research community and key United States
18 foreign research partners;

19 “(6) an evaluation of the effect of implementing
20 new policies or procedures on existing Federal grant
21 processes, regulations, and disclosures of conflicts of
22 interest and conflicts of commitment;

23 “(7) a plan for engaging with Executive agen-
24 cies, the private sector, and other nongovernmental
25 stakeholders to address such risks and share infor-

1 mation between Executive agencies, the private sec-
2 tor, and nongovernmental stakeholders; and

3 “(8) a plan for identification, assessment, miti-
4 gation, and vetting of Federal research security
5 risks.

6 “(b) SUBMISSION TO CONGRESS.—Not later than 7
7 calendar days after completion of the strategic plan re-
8 quired by subsection (a), the Chairperson of the Council
9 shall submit the plan to the appropriate congressional
10 committees.

11 **“§ 7905. Annual report**

12 “Not later than December 15 of each year, the Chair-
13 person of the Council shall submit a report to the appro-
14 priate congressional committees that describes—

15 “(1) the activities of the Council during the
16 preceding fiscal year; and

17 “(2) the progress made toward implementing
18 the strategic plan required under section 7904 after
19 such plan has been submitted to Congress.

20 **“§ 7906. Requirements for Executive agencies**

21 “(a) IN GENERAL.—The head of each Executive
22 agency on the Council shall be responsible for—

23 “(1) assessing Federal research security risks
24 posed by persons participating in federally funded
25 research and development;

1 “(2) avoiding or mitigating such risks, as ap-
2 propriate and consistent with the standards, guide-
3 lines, requirements, and practices identified by the
4 Council under section 7903(a);

5 “(3) prioritizing Federal research security risk
6 assessments conducted under paragraph (1) based
7 on the applicability and relevance of the research
8 and development to the national security and eco-
9 nomic competitiveness of the United States; and

10 “(4) ensuring that all agency initiatives impact-
11 ing federally funded research grant making policy
12 and management to protect the national and eco-
13 nomic security interests of the United States are in-
14 tegrated with the activities of the Council.

15 “(b) INCLUSIONS.—The responsibility of the head of
16 an Executive agency for assessing Federal research secu-
17 rity risk described in subsection (a) includes—

18 “(1) developing an overall Federal research se-
19 curity risk management strategy and implementation
20 plan and policies and processes to guide and govern
21 Federal research security risk management activities
22 by the Executive agency;

23 “(2) integrating Federal research security risk
24 management practices throughout the lifecycle of the
25 grant programs of the Executive agency;

1 “(3) sharing relevant information with other
2 Executive agencies, as determined appropriate by
3 the Council in a manner consistent with section
4 7903; and

5 “(4) reporting on the effectiveness of the Fed-
6 eral research security risk management strategy of
7 the Executive agency consistent with guidance issued
8 by the Office of Management and Budget and the
9 Council.”.

10 (b) CLERICAL AMENDMENT.—The table of chapters
11 at the beginning of title 31, United States Code, is amend-
12 ed by inserting after the item relating to chapter 77 the
13 following new item:

“79. Federal Research Security Council 7901.”.

14 **SEC. 4. FEDERAL GRANT APPLICATION FRAUD.**

15 (a) IN GENERAL.—Chapter 47 of title 18, United
16 States Code, is amended by adding at the end the fol-
17 lowing:

18 **“§ 1041. Federal grant application fraud**

19 “(a) DEFINITIONS.—In this section:

20 “(1) FEDERAL AGENCY.—The term ‘Federal
21 agency’ has the meaning given the term ‘agency’ in
22 section 551 of title 5, United States Code.

23 “(2) FEDERAL GRANT.—The term ‘Federal
24 grant’—

1 “(A) means a grant awarded by a Federal
2 agency;

3 “(B) includes a subgrant awarded by a
4 non-Federal entity to carry out a Federal grant
5 program; and

6 “(C) does not include—

7 “(i) direct United States Government
8 cash assistance to an individual;

9 “(ii) a subsidy;

10 “(iii) a loan;

11 “(iv) a loan guarantee; or

12 “(v) insurance.

13 “(3) FEDERAL GRANT APPLICATION.—The
14 term ‘Federal grant application’ means an applica-
15 tion for a Federal grant.

16 “(4) FOREIGN COMPENSATION.—The term ‘for-
17 eign compensation’ means a title, monetary com-
18 pensation, access to a laboratory or other resource,
19 or other benefit received from—

20 “(A) a foreign government;

21 “(B) a foreign government institution; or

22 “(C) a foreign public enterprise.

23 “(5) FOREIGN GOVERNMENT.—The term ‘for-
24 eign government’ includes a person acting or pur-
25 porting to act on behalf of—

1 “(A) a faction, party, department, agency,
2 bureau, subnational administrative entity, or
3 military of a foreign country; or

4 “(B) a foreign government or a person
5 purporting to act as a foreign government, re-
6 gardless of whether the United States recog-
7 nizes the government.

8 “(6) FOREIGN GOVERNMENT INSTITUTION.—
9 The term ‘foreign government institution’ means a
10 foreign entity owned by, subject to the control of, or
11 subject to regulation by a foreign government.

12 “(7) FOREIGN PUBLIC ENTERPRISE.—The term
13 ‘foreign public enterprise’ means an enterprise over
14 which a foreign government directly or indirectly ex-
15 ercises a dominant influence.

16 “(8) LAW ENFORCEMENT AGENCY.—The term
17 ‘law enforcement agency’—

18 “(A) means a Federal, State, local, or
19 Tribal law enforcement agency; and

20 “(B) includes—

21 “(i) the Office of Inspector General of
22 an establishment (as defined in section 12
23 of the Inspector General Act of 1978 (5
24 U.S.C. App.)) or a designated Federal en-
25 tity (as defined in section 8G(a) of the In-

1 spectator General Act of 1978 (5 U.S.C.
2 App.)); and

3 “(ii) the Office of Inspector General,
4 or similar office, of a State or unit of local
5 government.

6 “(9) OUTSIDE COMPENSATION.—The term ‘out-
7 side compensation’ means any compensation that is
8 not received from the primary employer of an indi-
9 vidual.

10 “(b) PROHIBITION.—It shall be unlawful for any in-
11 dividual to knowingly—

12 “(1) prepare or submit a Federal grant applica-
13 tion that fails to disclose the receipt of any outside
14 compensation, including foreign compensation, by
15 the individual;

16 “(2) forge, counterfeit, or otherwise falsify a
17 document for the purpose of obtaining a Federal
18 grant; or

19 “(3) prepare, submit, or assist in the prepara-
20 tion or submission of a Federal grant application or
21 document in connection with a Federal grant appli-
22 cation that—

23 “(A) contains a false statement;

24 “(B) contains a material misrepresenta-
25 tion;

1 “(C) has no basis in law or fact; or

2 “(D) fails to disclose a material fact.

3 “(e) EXCEPTION.—Subsection (b) does not apply to
4 an activity—

5 “(1) carried out in connection with a lawfully
6 authorized investigative, protective, or intelligence
7 activity of—

8 “(A) a law enforcement agency; or

9 “(B) a Federal intelligence agency; or

10 “(2) authorized under chapter 224.

11 “(d) PENALTY.—Any individual who violates sub-
12 section (b)—

13 “(1) shall be fined in accordance with this title,
14 imprisoned for not more than 5 years, or both; and

15 “(2) shall be prohibited from receiving a Fed-
16 eral grant during the 5-year period beginning on the
17 date on which a sentence is imposed on the indi-
18 vidual under paragraph (1).”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for chapter 47 of title 18, United States Code, is amended
21 by adding at the end the following:

“1041. Federal grant application fraud.”.

1 **SEC. 5. RESTRICTING THE TRANSFER OF GOODS, TECH-**
2 **NOLOGIES, AND SENSITIVE INFORMATION TO**
3 **CERTAIN ALIENS.**

4 (a) **GROUND**S OF INADMISSIBILITY.—Section
5 212(a)(3)(A)(i) of the Immigration and Nationality Act
6 (8 U.S.C. 1182(a)(3)(A)(i)) is amended to read as follows:

7 “(i) any activity—

8 “(I) to violate any law of the
9 United States relating to espionage or
10 sabotage;

11 “(II) to violate or evade any law
12 prohibiting the export from the
13 United States of goods, technologies,
14 or sensitive information; or

15 “(III) to acquire export-con-
16 trolled goods, technologies, or sen-
17 sitive information (notwithstanding
18 any exclusions for items not normally
19 subject to export controls) if the Sec-
20 retary of State has determined that
21 the acquisition of those goods, tech-
22 nologies, or sensitive information by a
23 category of aliens that includes such
24 alien would be contrary to an
25 articulable national security (including

1 economic security) interest of the
2 United States;”.

3 ~~(b) DETERMINING FACTORS.—~~

4 ~~(1) IN GENERAL.—~~In establishing criteria for
5 determining whether an alien is included in a cat-
6 egory of aliens that may be inadmissible under sec-
7 tion ~~212(a)(3)(A)(i)(III)~~ of the Immigration and
8 Nationality Act, as amended by subsection (a), offi-
9 cials of the Department of State shall—

10 ~~(A)~~ seek advice and assistance from offi-
11 cials at the Office of the Director of National
12 Intelligence; the Office of Science and Tech-
13 nology Policy; the Department of Health and
14 Human Services; the Department of Defense;
15 the Department of Homeland Security; the De-
16 partment of Energy; the Department of Com-
17 merce; and other appropriate Federal agencies;

18 ~~(B)~~ consider factors such as the alien’s
19 past or likely employment or cooperation with—

20 ~~(i)~~ foreign military and security re-
21 lated organizations that are adversarial to
22 the United States;

23 ~~(ii)~~ foreign institutions involved in the
24 theft of United States research;

1 (iii) entities involved in export control
 2 violations or the theft of intellectual prop-
 3 erty; and

4 (iv) a government that seeks to under-
 5 mine the integrity and security of the
 6 United States research community; and

7 (C) weigh the proportionality of risk for
 8 the factors listed in subparagraph (B).

9 ~~(2) MACHINE-READABLE DOCUMENTS.—~~Not
 10 later than 1 year after the date of the enactment of
 11 this Act, the Secretary of State shall—

12 ~~(A) use a machine-readable visa applica-~~
 13 ~~tion form; and~~

14 ~~(B) make available documents submitted in~~
 15 ~~support of a visa application in a machine read-~~
 16 ~~able format to assist in—~~

17 ~~(i) identifying fraud;~~

18 ~~(ii) conducting lawful law enforcement~~
 19 ~~activities; and~~

20 ~~(iii) determining the eligibility of ap-~~
 21 ~~plicants for a visa under the Immigration~~
 22 ~~and Nationality Act (8 U.S.C. 1101 et~~
 23 ~~seq.).~~

24 ~~(c) REPORTING REQUIREMENT.—~~Not later than 180
 25 days after the date of the enactment of this Act, and annu-

1 ally thereafter, the Secretary of State, in coordination with
2 the Director of National Intelligence, the Director of the
3 Office of Science and Technology Policy, the Secretary of
4 Homeland Security, the Secretary of Defense, the Sec-
5 retary of Energy, the Secretary of Commerce, and the
6 heads of other appropriate Federal agencies, shall submit
7 a report to Congress that identifies—

8 (1) the criteria used to describe the category of
9 aliens to which such section 212(a)(3)(A)(i)(III)
10 may apply; and

11 (2) the number of individuals determined to be
12 inadmissible under such section 212(a)(3)(A)(i)(III),
13 including the nationality of each such individual.

14 (d) CLASSIFICATION OF ANNUAL REPORT.—Each
15 annual report required under subsection (c) shall be sub-
16 mitted, to the extent practicable, in an unclassified form,
17 but may be accompanied by a classified appendix detailing
18 the criteria used to describe the category of aliens to which
19 such section 212(a)(3)(A)(i)(III) applies if the Secretary
20 of State determines that such action—

21 (1) is in the national security and economic se-
22 curity interests of the United States; or

23 (2) is necessary to further the purposes of this
24 Act.

1 (e) REPORT.—Not later than 45 days after date of
2 the enactment of this Act, the Secretary of State shall sub-
3 mit a report to the Committee on Homeland Security and
4 Governmental Affairs of the Senate, the Committee on
5 Commerce, Science, and Transportation of the Senate, the
6 Select Committee on Intelligence of the Senate, the Com-
7 mittee on Foreign Relations of the Senate, the Committee
8 on Oversight and Reform of the House of Representatives,
9 the Committee on Homeland Security of the House of
10 Representatives, the Committee on Energy and Commerce
11 of the House of Representatives, the Permanent Select
12 Committee on Intelligence of the House of Representa-
13 tives, and the Committee on Foreign Affairs of the House
14 of Representatives that—

15 (1) describes how supplementary documents
16 provided by a visa applicant in support of a visa ap-
17 plication are stored and shared by the Department
18 of State with authorized Federal agencies;

19 (2) identifies the sections of a visa application
20 that are machine-readable and the sections that are
21 not machine-readable;

22 (3) provides cost estimates, including personnel
23 costs and a cost-benefit analysis for adopting dif-
24 ferent technologies, including optical character rec-
25 ognition, for—

1 (A) making every element of a visa appli-
 2 cation, and documents submitted in support of
 3 a visa application, machine-readable; and

4 (B) ensuring that such system—

5 (i) protects personally-identifiable in-
 6 formation; and

7 (ii) permits the sharing of visa infor-
 8 mation with Federal agencies in accord-
 9 ance with existing law; and

10 (4) includes an estimated timeline for com-
 11 pleting the implementation of subsection (b)(2).

12 **SEC. 6. LIMITATIONS ON EDUCATIONAL AND CULTURAL EX-**
 13 **CHANGE PROGRAMS.**

14 Section 102(b)(5) of the Mutual Educational and
 15 Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)(5))
 16 is amended by striking the semicolon at the end and in-
 17 serting the following: “by developing exchange programs
 18 for foreign researchers and scientists, while protecting
 19 technologies regulated by export control laws important to
 20 the national security and economic interests of the United
 21 States, including requiring sponsors—

22 “(A) to disclose to the Department of
 23 State whether an exchange visitor, as a primary
 24 part of his or her exchange program, will have
 25 released to them controlled technology or tech-

1 nical data regulated by export control laws at
2 sponsor organizations through research activi-
3 ties, lectures, course work, sponsor employees,
4 officers, agents, third parties at which the spon-
5 sor places the exchange visitor, volunteers, or
6 other individuals or entities associated with a
7 sponsor's administration of the exchange visitor
8 program;

9 “(B) to provide a plan to the Department
10 of State that establishes appropriate program
11 safeguards to prevent the unauthorized release
12 of controlled technology or technical data regu-
13 lated by export control laws at sponsor organi-
14 zations or through their employees, officers,
15 agents, third parties, volunteers, or other indi-
16 viduals or entities associated with a sponsor's
17 administration of the exchange visitor program;
18 and

19 “(C) to demonstrate, to the satisfaction of
20 the Secretary of State, that programs that will
21 release controlled technology or technical data
22 to an exchange visitor at the sponsor organiza-
23 tion through exchange visitor programs have re-
24 ceived appropriate authorization from the De-
25 partment of State, the Department of Com-

1 merce, other cognizant Federal agency before
2 the sponsor releases controlled technology or
3 technical data;”.

4 **SEC. 7. AMENDMENTS TO DISCLOSURES OF FOREIGN**
5 **GIFTS.**

6 Section 117 of the Higher Education Act of 1965 (20
7 U.S.C. 1011f) is amended—

8 (1) by amending subsection (a) to read as fol-
9 lows:

10 “(a) DISCLOSURE REPORT.—

11 “(1) IN GENERAL.—An institution shall file a
12 disclosure report with the Secretary not later than
13 the sooner of the first March 31 or September 30
14 occurring after the date on which—

15 “(A) a foreign source gains ownership of,
16 or control over, the institution; or

17 “(B) the institution receives a gift from, or
18 enters into a contract with, a foreign source,
19 the value of which is \$50,000 or more, consid-
20 ered alone or in combination with all other gifts
21 from or contracts with that foreign source with-
22 in a calendar year.

23 “(2) REVISIONS; UPDATES.—The Secretary
24 shall permit institutions to revise and update disclo-
25 sure reports previously filed to ensure that such re-

1 ports are accurate and in compliance with applicable
2 requirements.”;

3 ~~(2)~~ by amending subsection (e) to read as fol-
4 lows:

5 “(e) PUBLIC INSPECTION.—Not later than 30 days
6 after receiving a disclosure report under this section, the
7 Secretary shall make such report electronically available
8 to the public for downloading on a searchable database
9 under which institutions can be individually identified and
10 compared.”;

11 ~~(3)~~ in subsection (f), by adding at the end the
12 following:

13 “~~(3)~~ WARNINGS; FINES.—

14 “(A) WARNINGS.—The Secretary shall
15 issue a warning to any institution that fails to
16 file a disclosure report for a receipt of a gift
17 from or contract with a foreign source.

18 “(B) FINES.—The Secretary may impose a
19 fine on any institution that repeatedly fails to
20 file a disclosure report for a receipt of a gift
21 from or contract with a foreign source in ac-
22 cordance with subsection (a) in an amount that
23 is not more than 3 times the amount of the gift
24 or contract with the foreign source.”;

1 (4) by amending subsection (g) to read as fol-
2 lows:

3 “~~(g)~~ RULEMAKING.—

4 “~~(1)~~ IN GENERAL.—Not later than 1 year after
5 the date of enactment of the Safeguarding American
6 Innovation Act, the Secretary shall issue regulations
7 to carry out this section using the negotiated rule-
8 making procedure set forth in section 492(b).

9 “~~(2)~~ ELEMENTS.—Regulations issued pursuant
10 to paragraph ~~(1)~~ shall—

11 “~~(A)~~ incorporate instructions for—

12 “~~(i)~~ reporting structured gifts and
13 contracts; and

14 “~~(ii)~~ reporting contracts that balances
15 the need for transparency, while protecting
16 the proprietary information of institutes of
17 higher education; and

18 “~~(B)~~ clarify the definition of ‘subunit’, for
19 purposes of subsection ~~(i)(4)(C)~~.”;

20 ~~(5)~~ by redesignating subsection ~~(h)~~ as sub-
21 section ~~(i)~~;

22 ~~(6)~~ by inserting after subsection ~~(g)~~ the fol-
23 lowing:

24 “~~(h)~~ TREATMENT OF TUITION PAYMENT.—A tuition
25 and related fees and expenses payment to an institution

1 by a foreign source made on behalf of a student enrolled
 2 at such institution shall not be considered a gift from or
 3 contract with a foreign source under this section.”; and

4 (7) in subsection (i), as redesignated—

5 (A) in paragraph (3), by striking “or prop-
 6 erty” and inserting “, property, human re-
 7 sources, or payment of any staff”; and

8 (B) in paragraph (5)(B), by inserting “in-
 9 stitutes, instructional programs,” after “cen-
 10 ters,”.

11 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

12 (a) *SHORT TITLE.*—*This Act may be cited as the*
 13 *“Safeguarding American Innovation Act”.*

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Federal Research Security Council.

Sec. 4. Federal grant application fraud.

*Sec. 5. Restricting the acquisition of goods, technologies, and sensitive informa-
 tion to certain aliens.*

Sec. 6. Limitations on educational and cultural exchange programs.

Sec. 7. Amendments to disclosures of foreign gifts.

16 **SEC. 2. DEFINITIONS.**

17 *In this Act:*

18 (1) *FEDERAL SCIENCE AGENCY.*—*The term “Fed-*
 19 *eral science agency” means any Federal department*
 20 *or agency to which more than \$100,000,000 in re-*

1 *search and development funds were appropriated for*
2 *fiscal year 2020.*

3 (2) *RESEARCH AND DEVELOPMENT.*—

4 (A) *IN GENERAL.*—*The term “research and*
5 *development” means all research activities, both*
6 *basic and applied, and all development activi-*
7 *ties.*

8 (B) *DEVELOPMENT.*—*The term “develop-*
9 *ment” means experimental development.*

10 (C) *EXPERIMENTAL DEVELOPMENT.*—*The*
11 *term “experimental development” means creative*
12 *and systematic work, drawing upon knowledge*
13 *gained from research and practical experience,*
14 *which—*

15 (i) *is directed toward the production of*
16 *new products or processes or improving ex-*
17 *isting products or processes; and*

18 (ii) *like research, will result in gaining*
19 *additional knowledge.*

20 (D) *RESEARCH.*—*The term “research”—*

21 (i) *means a systematic study directed*
22 *toward fuller scientific knowledge or under-*
23 *standing of the subject studied; and*

1 (ii) includes activities involving the
2 training of individuals in research tech-
3 niques if such activities—

4 (I) utilize the same facilities as
5 other research and development activi-
6 ties; and

7 (II) are not included in the in-
8 struction function.

9 **SEC. 3. FEDERAL RESEARCH SECURITY COUNCIL.**

10 (a) *IN GENERAL.*—Subtitle V of title 31, United States
11 Code, is amended by adding at the end the following:

12 **“CHAPTER 79—FEDERAL RESEARCH**
13 **SECURITY COUNCIL**

“Sec.

“7901. Definitions.

“7902. Federal Research Security Council establishment and membership.

“7903. Functions and authorities.

“7904. Strategic plan.

“7905. Annual report.

“7906. Requirements for Executive agencies.

14 **“§ 7901. Definitions**

15 *“In this chapter:*

16 “(1) *APPROPRIATE CONGRESSIONAL COMMIT-*
17 *TEES.*—The term ‘appropriate congressional commit-
18 tees’ means—

19 “(A) *the Committee on Homeland Security*
20 *and Governmental Affairs of the Senate;*

21 “(B) *the Committee on Commerce, Science,*
22 *and Transportation of the Senate;*

1 “(C) *the Select Committee on Intelligence of*
2 *the Senate;*

3 “(D) *the Committee on Foreign Relations of*
4 *the Senate;*

5 “(E) *the Committee on Armed Services of*
6 *the Senate;*

7 “(F) *the Committee on Health, Education,*
8 *Labor, and Pensions of the Senate;*

9 “(G) *the Committee on Oversight and Re-*
10 *form of the House of Representatives;*

11 “(H) *the Committee on Homeland Security*
12 *of the House of Representatives;*

13 “(I) *the Committee on Energy and Com-*
14 *merce of the House of Representatives;*

15 “(J) *the Permanent Select Committee on*
16 *Intelligence of the House of Representatives;*

17 “(K) *the Committee on Foreign Affairs of*
18 *the House of Representatives;*

19 “(L) *the Committee on Armed Services of*
20 *the House of Representatives; and*

21 “(M) *the Committee on Education and*
22 *Labor of the House of Representatives.*

23 “(2) COUNCIL.—*The term ‘Council’ means the*
24 *Federal Research Security Council established under*
25 *section 7902(a).*

1 “(3) *EXECUTIVE AGENCY*.—*The term ‘Executive*
2 *agency’ has the meaning given that term in section*
3 *105 of title 5.*

4 “(4) *FEDERAL RESEARCH SECURITY RISK*.—*The*
5 *term ‘Federal research security risk’ means the risk*
6 *posed by malign state actors and other persons to the*
7 *security and integrity of research and development*
8 *conducted using grants awarded by Executive agen-*
9 *cies.*

10 “(5) *INSIDER*.—*The term ‘insider’ means any*
11 *person with authorized access to any United States*
12 *Government resource, including personnel, facilities,*
13 *information, research, equipment, networks, or sys-*
14 *tems.*

15 “(6) *INSIDER THREAT*.—*The term ‘insider*
16 *threat’ means the threat that an insider will use his*
17 *or her authorized access (wittingly or unwittingly) to*
18 *harm the national and economic security of the*
19 *United States or negatively affect the integrity of a*
20 *Federal agency’s normal processes, including dam-*
21 *aging the United States through espionage, sabotage,*
22 *unauthorized disclosure of national security informa-*
23 *tion or non-public information, or through the loss or*
24 *degradation of departmental resources, capabilities,*
25 *and functions.*

1 “(7) *RESEARCH AND DEVELOPMENT.*—

2 “(A) *IN GENERAL.*—*The term ‘research and*
3 *development’ means all research activities, both*
4 *basic and applied, and all development activi-*
5 *ties.*

6 “(B) *DEVELOPMENT.*—*The term ‘develop-*
7 *ment’ means experimental development.*

8 “(C) *EXPERIMENTAL DEVELOPMENT.*—*The*
9 *term ‘experimental development’ means creative*
10 *and systematic work, drawing upon knowledge*
11 *gained from research and practical experience,*
12 *which—*

13 “(i) *is directed toward the production*
14 *of new products or processes or improving*
15 *existing products or processes; and*

16 “(ii) *like research, will result in gain-*
17 *ing additional knowledge.*

18 “(D) *RESEARCH.*—*The term ‘research’—*

19 “(i) *means a systematic study directed*
20 *toward fuller scientific knowledge or under-*
21 *standing of the subject studied; and*

22 “(ii) *includes activities involving the*
23 *training of individuals in research tech-*
24 *niques if such activities—*

1 “(I) utilize the same facilities as
2 other research and development activi-
3 ties; and

4 “(II) are not included in the in-
5 struction function.

6 “(8) UNITED STATES RESEARCH COMMUNITY.—
7 The term ‘United States research community’
8 means—

9 “(A) research and development centers of
10 Executive agencies;

11 “(B) private research and development cen-
12 ters in the United States, including for-profit
13 and nonprofit research institutes;

14 “(C) research and development centers at
15 institutions of higher education (as defined in
16 section 101(a) of the Higher Education Act of
17 1965 (20 U.S.C. 1001(a)));

18 “(D) research and development centers of
19 States, United States territories, Indian tribes,
20 and municipalities;

21 “(E) government-owned, contractor-operated
22 United States Government research and develop-
23 ment centers; and

1 “(F) any person conducting federally fund-
2 ed research or receiving Federal research grant
3 funding.

4 **“§ 7902. Federal Research Security Council establish-**
5 **ment and membership**

6 “(a) *ESTABLISHMENT.*—*There is established, in the*
7 *Office of Management and Budget, a Federal Research Se-*
8 *curity Council, which shall develop federally funded re-*
9 *search and development grant making policy and manage-*
10 *ment guidance to protect the national and economic secu-*
11 *rity interests of the United States.*

12 “(b) *MEMBERSHIP.*—

13 “(1) *IN GENERAL.*—*The following agencies shall*
14 *be represented on the Council:*

15 “(A) *The Office of Management and Budget.*

16 “(B) *The Office of Science and Technology*
17 *Policy.*

18 “(C) *The Department of Defense.*

19 “(D) *The Department of Homeland Secu-*
20 *rity.*

21 “(E) *The Office of the Director of National*
22 *Intelligence, including the National Counterintel-*
23 *ligence and Security Center.*

24 “(F) *The Department of Justice, including*
25 *the Federal Bureau of Investigation.*

1 “(G) *The Department of Energy.*

2 “(H) *The Department of Commerce, includ-*
3 *ing the National Institute of Standards and*
4 *Technology.*

5 “(I) *The Department of Health and Human*
6 *Services, including the National Institutes of*
7 *Health.*

8 “(J) *The Department of State.*

9 “(K) *The Department of Transportation.*

10 “(L) *The National Aeronautics and Space*
11 *Administration.*

12 “(M) *The National Science Foundation.*

13 “(N) *The Department of Education.*

14 “(O) *The Small Business Administration.*

15 “(P) *The Council of Inspectors General on*
16 *Integrity and Efficiency.*

17 “(Q) *Other Executive agencies, as deter-*
18 *mined by the Chairperson of the Council.*

19 “(2) *LEAD REPRESENTATIVES.—*

20 “(A) *DESIGNATION.—Not later than 45*
21 *days after the date of the enactment of this chap-*
22 *ter, the head of each agency represented on the*
23 *Council shall designate a representative of that*
24 *agency as the lead representative of the agency*
25 *on the Council.*

1 “(B) *FUNCTIONS.*—*The lead representative*
2 *of an agency designated under subparagraph (A)*
3 *shall ensure that appropriate personnel, includ-*
4 *ing leadership and subject matter experts of the*
5 *agency, are aware of the business of the Council.*

6 “(c) *CHAIRPERSON.*—

7 “(1) *DESIGNATION.*—*Not later than 45 days*
8 *after the date of the enactment of this chapter, the Di-*
9 *rector of the Office of Management and Budget shall*
10 *designate a senior-level official from the Office of*
11 *Management and Budget to serve as the Chairperson*
12 *of the Council.*

13 “(2) *FUNCTIONS.*—*The Chairperson shall per-*
14 *form functions that include—*

15 “(A) *subject to subsection (d), developing a*
16 *schedule for meetings of the Council;*

17 “(B) *designating Executive agencies to be*
18 *represented on the Council under subsection*
19 *(b)(1)(Q);*

20 “(C) *in consultation with the lead rep-*
21 *resentative of each agency represented on the*
22 *Council, developing a charter for the Council;*
23 *and*

1 “(D) not later than 7 days after completion
2 of the charter, submitting the charter to the ap-
3 propriate congressional committees.

4 “(3) *LEAD SCIENCE ADVISOR.*—The Director of
5 the Office of Science and Technology Policy shall be
6 the lead science advisor to the Chairperson for pur-
7 poses of this chapter.

8 “(4) *LEAD SECURITY ADVISOR.*—The Director of
9 the National Counterintelligence and Security Center
10 shall be the lead security advisor to the Chairperson
11 for purposes of this chapter.

12 “(d) *MEETINGS.*—The Council shall meet not later
13 than 60 days after the date of the enactment of this chapter
14 and not less frequently than quarterly thereafter.

15 **“§ 7903. Functions and authorities**

16 “(a) *IN GENERAL.*—The Chairperson of the Council
17 shall consider the missions and responsibilities of Council
18 members in determining the lead agencies for Council func-
19 tions. The Council shall perform the following functions:

20 “(1) *Developing and implementing, across all*
21 *Executive agencies that award research and develop-*
22 *ment grants, a uniform application process for grants*
23 *in accordance with subsection (b).*

24 “(2) *Developing and implementing a uniform*
25 *and regular reporting process for identifying persons*

1 *participating in federally funded research and devel-*
2 *opment or that have access to nonpublic federally*
3 *funded information, data, research findings, and re-*
4 *search and development grant proposals.*

5 *“(3) Identifying or developing criteria, in ac-*
6 *cordance with subsection (c), for sharing and receiv-*
7 *ing information with respect to Federal research secu-*
8 *urity risks in order to mitigate such risks with—*

9 *“(A) members of the United States research*
10 *community; and*

11 *“(B) other persons participating in feder-*
12 *ally funded research and development.*

13 *“(4) Identifying an appropriate Executive agen-*
14 *cy—*

15 *“(A) to accept and protect information sub-*
16 *mitted by Executive agencies and non-Federal*
17 *entities based on the processes established under*
18 *paragraphs (1) and (2); and*

19 *“(B) to facilitate the sharing of information*
20 *received under subparagraph (A) to support, as*
21 *necessary and appropriate—*

22 *“(i) oversight of federally funded re-*
23 *search and development;*

1 “(ii) *criminal and civil investigations*
2 *of misappropriated Federal funds, resources,*
3 *and information; and*

4 “(iii) *counterintelligence investiga-*
5 *tions.*

6 “(5) *Identifying, as appropriate, Executive agen-*
7 *cies to provide—*

8 “(A) *shared services, such as support for*
9 *conducting Federal research security risk assess-*
10 *ments, activities to mitigate such risks, and over-*
11 *sight and investigations with respect to grants*
12 *awarded by Executive agencies; and*

13 “(B) *common contract solutions to support*
14 *enhanced information collection and sharing and*
15 *the verification of the identities of persons par-*
16 *ticipating in federally funded research and devel-*
17 *opment.*

18 “(6) *Identifying and issuing guidance, in ac-*
19 *cordance with subsection (d) and in coordination*
20 *with the National Insider Threat Task Force estab-*
21 *lished by Executive Order 13587 (50 U.S.C. 3161*
22 *note) for developing and implementing insider threat*
23 *programs for Executive agencies to deter, detect, and*
24 *mitigate insider threats, including the safeguarding of*
25 *sensitive information from exploitation, compromise,*

1 *or other unauthorized disclosure, taking into account*
2 *risk levels and the distinct needs, missions, and sys-*
3 *tems of each such agency.*

4 *“(7) Identifying and issuing guidance for devel-*
5 *oping compliance and oversight programs for Execu-*
6 *tive agencies to ensure that research and development*
7 *grant recipients accurately report conflicts of interest*
8 *and conflicts of commitment in accordance with sub-*
9 *section (b)(1). Such programs shall include an assess-*
10 *ment of—*

11 *“(A) a grantee’s support from foreign*
12 *sources and affiliations with foreign funding in-*
13 *stitutions or laboratories; and*

14 *“(B) the impact of such support and affili-*
15 *ations on United States national security and*
16 *economic interests.*

17 *“(8) Assessing and making recommendations*
18 *with respect to whether openly sharing certain types*
19 *of federally funded research and development is in the*
20 *economic and national security interests of the United*
21 *States.*

22 *“(9) Identifying and issuing guidance to the*
23 *United States research community, and other recipi-*
24 *ents of Federal research and development funding, to*
25 *ensure that such institutions and recipients adopt ex-*

1 *isting best practices to reduce the risk of misappro-*
2 *priation of research data.*

3 *“(10) Identifying and issuing guidance on addi-*
4 *tional steps that may be necessary to address Federal*
5 *research security risks arising in the course of Execu-*
6 *tive agencies providing shared services and common*
7 *contract solutions under paragraph (5)(B).*

8 *“(11) Engaging with the United States research*
9 *community in performing the functions described in*
10 *paragraphs (1), (2), and (3) and with respect to*
11 *issues relating to Federal research security risks.*

12 *“(12) Carrying out such other functions, as de-*
13 *termined by the Council, that are necessary to reduce*
14 *Federal research security risks.*

15 *“(b) REQUIREMENTS FOR UNIFORM GRANT APPLICA-*
16 *TION PROCESS.—In developing the uniform application*
17 *process for Federal research and development grants re-*
18 *quired under subsection (a)(1), the Council shall—*

19 *“(1) ensure that the process—*

20 *“(A) requires principal investigators, co-*
21 *principal investigators, and senior personnel as-*
22 *sociated with the proposed Federal research or*
23 *development grant project—*

24 *“(i) to disclose biographical informa-*
25 *tion, all affiliations, including any foreign*

1 *military, foreign government-related organi-*
2 *zations, and foreign-funded institutions,*
3 *and all current and pending support, in-*
4 *cluding from foreign institutions, foreign*
5 *governments, or foreign laboratories, and all*
6 *support received from foreign sources; and*

7 *“(ii) to certify the accuracy of the re-*
8 *quired disclosures under penalty of perjury;*
9 *and*

10 *“(B) uses a machine-readable application*
11 *form to assist in identifying fraud and ensuring*
12 *the eligibility of applicants;*

13 *“(2) design the process—*

14 *“(A) to reduce the administrative burden on*
15 *persons applying for Federal research and devel-*
16 *opment funding; and*

17 *“(B) to promote information sharing across*
18 *the United States research community, while*
19 *safeguarding sensitive information; and*

20 *“(3) complete the process not later than 1 year*
21 *after the date of the enactment of the Safeguarding*
22 *American Innovation Act.*

23 *“(c) REQUIREMENTS FOR INFORMATION SHARING CRI-*
24 *TERIA.—In identifying or developing criteria and proce-*
25 *dures for sharing information with respect to Federal re-*

1 *search security risks under subsection (a)(3), the Council*
2 *shall ensure that such criteria address, at a minimum—*

3 *“(1) the information to be shared;*

4 *“(2) the circumstances under which sharing is*
5 *mandated or voluntary;*

6 *“(3) the circumstances under which it is appro-*
7 *prate for an Executive agency to rely on information*
8 *made available through such sharing in exercising the*
9 *responsibilities and authorities of the agency under*
10 *applicable laws relating to the award of grants;*

11 *“(4) the procedures for protecting intellectual*
12 *capital that may be present in such information; and*

13 *“(5) appropriate privacy protections for persons*
14 *involved in Federal research and development.*

15 *“(d) REQUIREMENTS FOR INSIDER THREAT PROGRAM*
16 *GUIDANCE.—In identifying or developing guidance with re-*
17 *spect to insider threat programs under subsection (a)(6),*
18 *the Council shall ensure that such guidance provides for,*
19 *at a minimum—*

20 *“(1) such programs—*

21 *“(A) to deter, detect, and mitigate insider*
22 *threats; and*

23 *“(B) to leverage counterintelligence, secu-*
24 *rity, information assurance, and other relevant*

1 *functions and resources to identify and counter*
2 *insider threats; and*

3 “(2) *the development of an integrated capability*
4 *to monitor and audit information for the detection*
5 *and mitigation of insider threats, including*
6 *through—*

7 “(A) *monitoring user activity on computer*
8 *networks controlled by Executive agencies;*

9 “(B) *providing employees of Executive*
10 *agencies with awareness training with respect to*
11 *insider threats and the responsibilities of em-*
12 *ployees to report such threats;*

13 “(C) *gathering information for a centralized*
14 *analysis, reporting, and response capability; and*

15 “(D) *information sharing to aid in tracking*
16 *the risk individuals may pose while moving*
17 *across programs and affiliations;*

18 “(3) *the development and implementation of*
19 *policies and procedures under which the insider*
20 *threat program of an Executive agency accesses,*
21 *shares, and integrates information and data derived*
22 *from offices within the agency;*

23 “(4) *the designation of senior officials with au-*
24 *thority to provide management, accountability, and*
25 *oversight of the insider threat program of an Execu-*

1 *tive agency and to make resource recommendations to*
 2 *the appropriate officials; and*

3 *“(5) such additional guidance as is necessary to*
 4 *reflect the distinct needs, missions, and systems of*
 5 *each Executive agency.*

6 *“(e) ISSUANCE OF WARNINGS RELATING TO RISKS AND*
 7 *VULNERABILITIES IN INTERNATIONAL SCIENTIFIC CO-*
 8 *OPERATION.—*

9 *“(1) IN GENERAL.—The Council, in conjunction*
 10 *with the lead security advisor under section*
 11 *7902(c)(4), shall establish a process for informing*
 12 *members of the United States research community*
 13 *and the public, through the issuance of warnings de-*
 14 *scribed in paragraph (2), of potential risks and*
 15 *vulnerabilities in international scientific cooperation*
 16 *that may undermine the integrity and security of the*
 17 *United States research community or place at risk*
 18 *any federally funded research and development.*

19 *“(2) CONTENT.—A warning described in this*
 20 *paragraph shall include, to the extent the Council*
 21 *considers appropriate, a description of—*

22 *“(A) activities by the national government,*
 23 *local governments, research institutions, or uni-*
 24 *versities of a foreign country—*

1 “(i) to exploit, interfere, or undermine
2 research and development by the United
3 States research community; or

4 “(ii) to misappropriate scientific
5 knowledge resulting from federally funded
6 research and development;

7 “(B) efforts by strategic competitors to ex-
8 ploit the research enterprise of a foreign country
9 that may place at risk—

10 “(i) the science and technology of that
11 foreign country; or

12 “(ii) federally funded research and de-
13 velopment; and

14 “(C) practices within the research enterprise
15 of a foreign country that do not adhere to the
16 United States scientific values of openness,
17 transparency, reciprocity, integrity, and merit-
18 based competition.

19 “(f) *PROGRAM OFFICE AND COMMITTEES.*—The inter-
20 agency working group established under section 1746 of the
21 National Defense Authorization Act for Fiscal Year 2020
22 (Public Law 116–92) shall be a working group under the
23 Council performing duties authorized under such section
24 and as directed by the Council. The Council shall use any
25 findings or work product, existing or forthcoming, by such

1 *working group. The Council may also establish a program*
 2 *office and any committees, working groups, or other con-*
 3 *stituent bodies the Council deems appropriate, in its sole*
 4 *and unreviewable discretion, to carry out its functions.*

5 “(g) *EXCLUSION ORDERS.*—*To reduce Federal re-*
 6 *search security risk, the Interagency Suspension and Debar-*
 7 *ment Committee shall provide quarterly reports to the*
 8 *Council that detail—*

9 “(1) *the number of ongoing investigations by*
 10 *Council Members related to Federal research security*
 11 *that may result, or have resulted, in agency pre-notice*
 12 *letters, suspensions, proposed debarments, and*
 13 *debarments;*

14 “(2) *Federal agencies’ performance and compli-*
 15 *ance with interagency suspensions and debarments;*

16 “(3) *efforts by the Interagency Suspension and*
 17 *Debarment Committee to mitigate Federal research*
 18 *security risk;*

19 “(4) *proposals for developing a unified Federal*
 20 *policy on suspensions and debarments; and*

21 “(5) *other current suspension and debarment re-*
 22 *lated issues.*

23 **“§ 7904. Strategic plan**

24 “(a) *IN GENERAL.*—*Not later than 180 days after the*
 25 *date of the enactment of this chapter, the Council shall de-*

1 *velop a strategic plan for addressing Federal research secu-*
2 *rity risks and for managing such risks, that includes—*

3 “(1) *the criteria and processes required under*
4 *section 7903(a), including a threshold and require-*
5 *ments for sharing relevant information about such*
6 *risks with all Executive agencies and, as appropriate,*
7 *with other Federal entities, foreign governments, and*
8 *non-Federal entities;*

9 “(2) *an identification of existing authorities for*
10 *addressing such risks;*

11 “(3) *an identification and promulgation of best*
12 *practices and procedures, and an identification of*
13 *available resources, for Executive agencies to assess*
14 *and mitigate such risks;*

15 “(4) *recommendations for any legislative, regu-*
16 *latory, or other policy changes to improve efforts to*
17 *address such risks;*

18 “(5) *recommendations for any legislative, regu-*
19 *latory, or other policy changes to incentivize the*
20 *adoption of best practices for avoiding and mitigating*
21 *Federal research security risks by the United States*
22 *research community and key United States foreign re-*
23 *search partners;*

24 “(6) *an evaluation of the effect of implementing*
25 *new policies or procedures on existing Federal grant*

1 *processes, regulations, and disclosures of conflicts of*
2 *interest and conflicts of commitment;*

3 *“(7) a plan for engaging with Executive agen-*
4 *cies, the private sector, and other nongovernmental*
5 *stakeholders to address such risks and share informa-*
6 *tion between Executive agencies, the private sector,*
7 *and nongovernmental stakeholders; and*

8 *“(8) a plan for identification, assessment, miti-*
9 *gation, and vetting of Federal research security risks.*

10 *“(b) SUBMISSION TO CONGRESS.—Not later than 7*
11 *calendar days after completion of the strategic plan re-*
12 *quired by subsection (a), the Chairperson of the Council*
13 *shall submit the plan to the appropriate congressional com-*
14 *mittees.*

15 **“§ 7905. Annual report**

16 *“Not later than December 15 of each year, the Chair-*
17 *person of the Council shall submit a report to the appro-*
18 *priate congressional committees that describes—*

19 *“(1) the activities of the Council during the pre-*
20 *ceding fiscal year; and*

21 *“(2) the progress made toward implementing the*
22 *strategic plan required under section 7904 after such*
23 *plan has been submitted to Congress.*

1 **“§ 7906. Requirements for Executive agencies**

2 “(a) *IN GENERAL.*—*The head of each Executive agency*
3 *on the Council shall be responsible for—*

4 “(1) *assessing Federal research security risks*
5 *posed by persons participating in federally funded re-*
6 *search and development;*

7 “(2) *avoiding or mitigating such risks, as appro-*
8 *priate and consistent with the standards, guidelines,*
9 *requirements, and practices identified by the Council*
10 *under section 7903(a);*

11 “(3) *prioritizing Federal research security risk*
12 *assessments conducted under paragraph (1) based on*
13 *the applicability and relevance of the research and de-*
14 *velopment to the national security and economic com-*
15 *petitiveness of the United States; and*

16 “(4) *ensuring that all agency initiatives impact-*
17 *ing Federally funded research grant making policy*
18 *and management to protect the national and eco-*
19 *nomical security interests of the United States are inte-*
20 *grated with the activities of the Council.*

21 “(b) *INCLUSIONS.*—*The responsibility of the head of an*
22 *Executive agency for assessing Federal research security*
23 *risk described in subsection (a) includes—*

24 “(1) *developing an overall Federal research secu-*
25 *rity risk management strategy and implementation*
26 *plan and policies and processes to guide and govern*

1 *Federal research security risk management activities*
 2 *by the Executive agency;*

3 “(2) *integrating Federal research security risk*
 4 *management practices throughout the lifecycle of the*
 5 *grant programs of the Executive agency;*

6 “(3) *sharing relevant information with other Ex-*
 7 *ecutive agencies, as determined appropriate by the*
 8 *Council in a manner consistent with section 7903;*
 9 *and*

10 “(4) *reporting on the effectiveness of the Federal*
 11 *research security risk management strategy of the Ex-*
 12 *ecutive agency consistent with guidance issued by the*
 13 *Office of Management and Budget and the Council.”.*

14 (b) *CLERICAL AMENDMENT.—The table of chapters at*
 15 *the beginning of title 31, United States Code, is amended*
 16 *by inserting after the item relating to chapter 77 the fol-*
 17 *lowing new item:*

“**79. Federal Research Security Council 7901.”.**

18 **SEC. 4. FEDERAL GRANT APPLICATION FRAUD.**

19 (a) *IN GENERAL.—Chapter 47 of title 18, United*
 20 *States Code, is amended by adding at the end the following:*

21 **“§ 1041. Federal grant application fraud**

22 “(a) *DEFINITIONS.—In this section:*

23 “(1) *FEDERAL AGENCY.—The term ‘Federal*
 24 *agency’ has the meaning given the term ‘agency’ in*
 25 *section 551 of title 5, United States Code.*

1 “(2) *FEDERAL GRANT.*—*The term ‘Federal*
2 *grant’—*

3 “(A) *means a grant awarded by a Federal*
4 *agency;*

5 “(B) *includes a subgrant awarded by a*
6 *non-Federal entity to carry out a Federal grant*
7 *program; and*

8 “(C) *does not include—*

9 “(i) *direct United States Government*
10 *cash assistance to an individual;*

11 “(ii) *a subsidy;*

12 “(iii) *a loan;*

13 “(iv) *a loan guarantee; or*

14 “(v) *insurance.*

15 “(3) *FEDERAL GRANT APPLICATION.*—*The term*
16 *‘Federal grant application’ means an application for*
17 *a Federal grant.*

18 “(4) *FOREIGN COMPENSATION.*—*The term ‘for-*
19 *foreign compensation’ means a title, monetary com-*
20 *penetration, access to a laboratory or other resource, or*
21 *other benefit received from—*

22 “(A) *a foreign government;*

23 “(B) *a foreign government institution; or*

24 “(C) *a foreign public enterprise.*

1 “(5) *FOREIGN GOVERNMENT*.—The term ‘foreign
2 government’ includes a person acting or purporting to
3 act on behalf of—

4 “(A) a faction, party, department, agency,
5 bureau, subnational administrative entity, or
6 military of a foreign country; or

7 “(B) a foreign government or a person pur-
8 porting to act as a foreign government, regard-
9 less of whether the United States recognizes the
10 government.

11 “(6) *FOREIGN GOVERNMENT INSTITUTION*.—The
12 term ‘foreign government institution’ means a foreign
13 entity owned by, subject to the control of, or subject
14 to regulation by a foreign government.

15 “(7) *FOREIGN PUBLIC ENTERPRISE*.—The term
16 ‘foreign public enterprise’ means an enterprise over
17 which a foreign government directly or indirectly ex-
18 ercises a dominant influence.

19 “(8) *LAW ENFORCEMENT AGENCY*.—The term
20 ‘law enforcement agency’—

21 “(A) means a Federal, State, local, or Trib-
22 al law enforcement agency; and

23 “(B) includes—

24 “(i) the Office of Inspector General of
25 an establishment (as defined in section 12

1 *of the Inspector General Act of 1978 (5*
2 *U.S.C. App.)) or a designated Federal enti-*
3 *ty (as defined in section 8G(a) of the In-*
4 *pector General Act of 1978 (5 U.S.C.*
5 *App.)); and*

6 *“(ii) the Office of Inspector General, or*
7 *similar office, of a State or unit of local*
8 *government.*

9 *“(9) OUTSIDE COMPENSATION.—The term ‘out-*
10 *side compensation’ means any compensation, re-*
11 *source, or support regardless of monetary value made*
12 *available to the applicant in support of or related to*
13 *any research endeavor, including, but not limited to,*
14 *a title, research grant, cooperative agreement, con-*
15 *tract, institutional award, access to a laboratory, or*
16 *other resource, including, but not limited to, mate-*
17 *rials, travel compensation, or work incentives.*

18 *“(b) PROHIBITION.—It shall be unlawful for any indi-*
19 *vidual to knowingly—*

20 *“(1) prepare or submit a Federal grant applica-*
21 *tion that fails to disclose the receipt of any outside*
22 *compensation, including foreign compensation, by the*
23 *individual;*

1 “(2) *forge, counterfeit, or otherwise falsify a doc-*
 2 *ument for the purpose of obtaining a Federal grant;*
 3 *or*

4 “(3) *prepare, submit, or assist in the prepara-*
 5 *tion or submission of a Federal grant application or*
 6 *document in connection with a Federal grant appli-*
 7 *cation that—*

8 “(A) *contains a false statement;*

9 “(B) *contains a material misrepresentation;*

10 “(C) *has no basis in law or fact; or*

11 “(D) *fails to disclose a material fact.*

12 “(c) *EXCEPTION.—Subsection (b) does not apply to an*
 13 *activity—*

14 “(1) *carried out in connection with a lawfully*
 15 *authorized investigative, protective, or intelligence ac-*
 16 *tivity of—*

17 “(A) *a law enforcement agency; or*

18 “(B) *a Federal intelligence agency; or*

19 “(2) *authorized under chapter 224.*

20 “(d) *PENALTY.—Any individual who violates sub-*
 21 *section (b)—*

22 “(1) *shall be fined in accordance with this title,*
 23 *imprisoned for not more than 5 years, or both; and*

24 “(2) *shall be prohibited from receiving a Federal*
 25 *grant during the 5-year period beginning on the date*

1 *on which a sentence is imposed on the individual*
 2 *under paragraph (1).”.*

3 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
 4 *chapter 47 of title 18, United States Code, is amended by*
 5 *adding at the end the following:*

 “1041. *Federal grant application fraud.*”.

6 **SEC. 5. RESTRICTING THE ACQUISITION OF GOODS, TECH-**
 7 **NOLOGIES, AND SENSITIVE INFORMATION TO**
 8 **CERTAIN ALIENS.**

9 (a) *GROUND OF INADMISSIBILITY.*—*Section*
 10 *212(a)(3)(A)(i) of the Immigration and Nationality Act (8*
 11 *U.S.C. 1182(a)(3)(A)(i)) is amended to read as follows:*

12 “(i) *any activity—*

13 “(I) *to violate any law of the*
 14 *United States relating to espionage or*
 15 *sabotage;*

16 “(II) *to violate or evade any law*
 17 *prohibiting the export from the United*
 18 *States of goods, technologies, or sen-*
 19 *sitive information; or*

20 “(III) *to acquire export-controlled*
 21 *goods, technologies, or sensitive infor-*
 22 *mation (notwithstanding any exclu-*
 23 *sions for items not normally subject to*
 24 *export controls) if the Secretary of*
 25 *State has determined that the acquisi-*

1 *tion of those goods, technologies, or sen-*
2 *sitive information by a category of*
3 *aliens that includes such alien would*
4 *be contrary to an articulable national*
5 *security (including economic security)*
6 *interest of the United States;”.*

7 *(b) DETERMINING FACTORS.—*

8 *(1) IN GENERAL.—In establishing criteria for de-*
9 *termining whether an alien is included in a category*
10 *of aliens that may be inadmissible under section*
11 *212(a)(3)(A)(i)(III) of the Immigration and Nation-*
12 *ality Act, as amended by subsection (a), officials of*
13 *the Department of State shall—*

14 *(A) seek advice and assistance from officials*
15 *at the Office of the Director of National Intel-*
16 *ligence, the Office of Science and Technology Pol-*
17 *icy, the Department of Health and Human Serv-*
18 *ices, the Department of Defense, the Department*
19 *of Homeland Security, the Department of En-*
20 *ergy, the Department of Commerce, and other*
21 *appropriate Federal agencies;*

22 *(B) consider factors such as the alien’s past*
23 *or likely employment or cooperation with—*

1 (i) *foreign military and security re-*
2 *lated organizations that are adversarial to*
3 *the United States;*

4 (ii) *foreign institutions involved in the*
5 *theft of United States research;*

6 (iii) *entities involved in export control*
7 *violations or the theft of intellectual prop-*
8 *erty; and*

9 (iv) *a government that seeks to under-*
10 *mine the integrity and security of the*
11 *United States research community; and*

12 (C) *weigh the proportionality of risk for the*
13 *factors listed in subparagraph (B).*

14 (2) *MACHINE-READABLE DOCUMENTS.*—*Not later*
15 *than 1 year after the date of the enactment of this*
16 *Act, the Secretary of State shall—*

17 (A) *use a machine-readable visa application*
18 *form; and*

19 (B) *make available documents submitted in*
20 *support of a visa application in a machine read-*
21 *able format to assist in—*

22 (i) *identifying fraud;*

23 (ii) *conducting lawful law enforcement*
24 *activities; and*

1 (iii) determining the eligibility of ap-
2 plicants for a visa under the Immigration
3 and Nationality Act (8 U.S.C. 1101 et seq.).

4 (c) *REPORTING REQUIREMENT.*—Not later than 180
5 days after the date of the enactment of this Act, and annu-
6 ally thereafter, the Secretary of State, in coordination with
7 the Director of National Intelligence, the Director of the Of-
8 fice of Science and Technology Policy, the Secretary of
9 Homeland Security, the Secretary of Defense, the Secretary
10 of Energy, the Secretary of Commerce, and the heads of
11 other appropriate Federal agencies, shall submit a report
12 to Congress that identifies—

13 (1) the criteria used to describe the category of
14 aliens to which such section 212(a)(3)(A)(i)(III) may
15 apply; and

16 (2) the number of individuals determined to be
17 inadmissible under such section 212(a)(3)(A)(i)(III),
18 including the nationality of each such individual.

19 (d) *CLASSIFICATION OF ANNUAL REPORT.*—Each an-
20 nual report required under subsection (c) shall be sub-
21 mitted, to the extent practicable, in an unclassified form,
22 but may be accompanied by a classified appendix detailing
23 the criteria used to describe the category of aliens to which
24 such section 212(a)(3)(A)(i)(III) applies if the Secretary of
25 State determines that such action—

1 (1) *is in the national security and economic se-*
2 *curity interests of the United States; or*

3 (2) *is necessary to further the purposes of this*
4 *Act.*

5 (e) *REPORT.*—*Not later than 45 days after date of the*
6 *enactment of this Act, the Secretary of State shall submit*
7 *a report to the Committee on Homeland Security and Gov-*
8 *ernmental Affairs of the Senate, the Committee on Com-*
9 *merce, Science, and Transportation of the Senate, the Select*
10 *Committee on Intelligence of the Senate, the Committee on*
11 *Foreign Relations of the Senate; the Committee on Over-*
12 *sight and Reform of the House of Representatives, the Com-*
13 *mittee on Homeland Security of the House of Representa-*
14 *tives, the Committee on Energy and Commerce of the House*
15 *of Representatives, the Permanent Select Committee on In-*
16 *telligence of the House of Representatives, and the Com-*
17 *mittee on Foreign Affairs of the House of Representatives*
18 *that—*

19 (1) *describes how supplementary documents pro-*
20 *vided by a visa applicant in support of a visa appli-*
21 *cation are stored and shared by the Department of*
22 *State with authorized Federal agencies;*

23 (2) *identifies the sections of a visa application*
24 *that are machine-readable and the sections that are*
25 *not machine-readable;*

1 (3) provides cost estimates, including personnel
2 costs and a cost-benefit analysis for adopting different
3 technologies, including optical character recognition,
4 for—

5 (A) making every element of a visa applica-
6 tion, and documents submitted in support of a
7 visa application, machine-readable; and

8 (B) ensuring that such system—

9 (i) protects personally-identifiable in-
10 formation; and

11 (ii) permits the sharing of visa infor-
12 mation with Federal agencies in accordance
13 with existing law; and

14 (4) includes an estimated timeline for completing
15 the implementation of subsection (b)(2).

16 **SEC. 6. LIMITATIONS ON EDUCATIONAL AND CULTURAL EX-**
17 **CHANGE PROGRAMS.**

18 Section 102(b)(5) of the Mutual Educational and Cul-
19 tural Exchange Act of 1961 (22 U.S.C. 2452(b)(5)) is
20 amended by striking the semicolon at the end and inserting
21 the following: “by developing exchange programs for foreign
22 researchers and scientists, while protecting technologies reg-
23 ulated by export control laws important to the national se-
24 curity and economic interests of the United States, includ-
25 ing requiring sponsors—

1 “(A) to disclose to the Department of State
2 whether an exchange visitor, as a primary part
3 of his or her exchange program, will have re-
4 leased to them controlled technology or technical
5 data regulated by export control laws at sponsor
6 organizations through research activities, lec-
7 tures, course work, sponsor employees, officers,
8 agents, third parties at which the sponsor places
9 the exchange visitor, volunteers, or other individ-
10 uals or entities associated with a sponsor’s ad-
11 ministration of the exchange visitor program;

12 “(B) to provide a plan to the Department
13 of State that establishes appropriate program
14 safeguards to prevent the unauthorized release of
15 controlled technology or technical data regulated
16 by export control laws at sponsor organizations
17 or through their employees, officers, agents, third
18 parties, volunteers, or other individuals or enti-
19 ties associated with a sponsor’s administration
20 of the exchange visitor program; and

21 “(C) to demonstrate, to the satisfaction of
22 the Secretary of State, that programs that will
23 release controlled technology or technical data to
24 an exchange visitor at the sponsor organization
25 through exchange visitor programs have received

1 *appropriate authorization from the Department*
2 *of State, the Department of Commerce, other cog-*
3 *nizant Federal agency before the sponsor releases*
4 *controlled technology or technical data;”.*

5 **SEC. 7. AMENDMENTS TO DISCLOSURES OF FOREIGN**
6 **GIFTS.**

7 *Section 117 of the Higher Education Act of 1965 (20*
8 *U.S.C. 1011f) is amended—*

9 *(1) by amending subsection (a) to read as fol-*
10 *lows:*

11 *“(a) DISCLOSURE REPORT.—*

12 *“(1) IN GENERAL.—An institution shall file a*
13 *disclosure report with the Secretary not later than*
14 *March 31 occurring after—*

15 *“(A) the calendar year in which a foreign*
16 *source gains ownership of, or control over, the*
17 *institution; or*

18 *“(B) the calendar year in which the institu-*
19 *tion receives a gift from, or enters into a con-*
20 *tract with, a foreign source, the value of which*
21 *is \$50,000 or more, considered alone or in com-*
22 *ination with all other gifts from or contracts*
23 *with that foreign source within a calendar year.*

24 *“(2) REVISIONS; UPDATES.—The Secretary shall*
25 *permit institutions to revise and update disclosure re-*

1 ports previously filed to ensure accuracy, compliance,
2 and the ability to cure.”;

3 (2) by amending subsection (b) to read as fol-
4 lows:

5 “(b) CONTENTS OF REPORT.—Each report to the Sec-
6 retary required by this section shall contain the following:

7 “(1) For gifts received from or contracts entered
8 into with a foreign source other than a foreign gov-
9 ernment, the aggregate dollar amount of such gifts
10 and contracts attributable to a particular country
11 and the legal or formal name of the foreign source.
12 The country to which a gift is attributable is the
13 country of citizenship, or if unknown, the principal
14 residence for a foreign source who is a natural person,
15 and the country of incorporation, or if unknown, the
16 principal place of business, for a foreign source which
17 is a legal entity.

18 “(2) For gifts received from or contracts entered
19 into with a foreign government, the aggregate amount
20 of such gifts and contracts received from each foreign
21 government.

22 “(3) In the case of an institution which is owned
23 or controlled by a foreign source, the identity of the
24 foreign source, the date on which the foreign source
25 assumed ownership or control, and any changes in

1 *program or structure resulting from the change in*
2 *ownership or control.*

3 *“(4) An assurance that the institution will*
4 *maintain true copies of gift and contract agreements*
5 *subject to the disclosure requirements under this sec-*
6 *tion for at least the duration of the agreement.*

7 *“(5) An assurance that the institution will*
8 *produce true copies of gift and contract agreements*
9 *subject to the disclosure requirements under this sec-*
10 *tion upon request of the Secretary during a compli-*
11 *ance audit or other institutional investigation.”;*

12 *(3) by amending subsection (e) to read as fol-*
13 *lows:*

14 *“(e) PUBLIC INSPECTION.—Not later than 30 days*
15 *after receiving a disclosure report under this section, the*
16 *Secretary shall make such report electronically available to*
17 *the public for downloading on a searchable database under*
18 *which institutions can be individually identified and com-*
19 *pared.”;*

20 *(4) in subsection (f), by adding at the end the*
21 *following:*

22 *“(3) FINES.—*

23 *“(A) IN GENERAL.—The Secretary may im-*
24 *pose a fine on any institution that repeatedly*
25 *fails to file a disclosure report for a receipt of a*

1 *gift from or contract with a foreign source in ac-*
 2 *cordance with subsection (a) in an amount that*
 3 *is not more than 3 times the amount of the gift*
 4 *or contract with the foreign source.*

5 “(B) *DEFINITION OF REPEATEDLY FAILS.—*
 6 *In this paragraph, the term ‘repeatedly fails’*
 7 *means that the institution failed to file a disclo-*
 8 *sure report for a receipt of a gift from or con-*
 9 *tract with a foreign source in 3 consecutive*
 10 *years.’;*

11 (5) *by amending subsection (g) to read as fol-*
 12 *lows:*

13 “(g) *RULEMAKING.—*

14 “(1) *IN GENERAL.—Not later than 1 year after*
 15 *the date of enactment of the Safeguarding American*
 16 *Innovation Act, the Secretary shall issue regulations*
 17 *to carry out this section using the negotiated rule-*
 18 *making procedure set forth in section 492(b).*

19 “(2) *ELEMENTS.—Regulations issued pursuant*
 20 *to paragraph (1) shall—*

21 “(A) *incorporate instructions for—*

22 “(i) *reporting structured gifts and con-*
 23 *tracts; and*

24 “(ii) *reporting contracts that balances*
 25 *the need for transparency, while protecting*

1 the proprietary information of institutes of
2 higher education; and

3 “(B) clarify the definition of ‘subunit’, for
4 purposes of subsection (i)(4)(C).”;

5 (6) by redesignating subsection (h) as subsection
6 (i);

7 (7) by inserting after subsection (g) the fol-
8 lowing:

9 “(h) *TREATMENT OF TUITION PAYMENT.*—A tuition
10 and related fees and expenses payment to an institution by,
11 or a scholarship from, a foreign source made on behalf of
12 a student enrolled at such institution shall not be considered
13 a gift from or contract with a foreign source under this
14 section.”; and

15 (8) in subsection (i), as redesignated—

16 (A) in paragraph (3), by striking “or prop-
17 erty” and inserting “, property, human re-
18 sources, or staff, including staff salaries”; and

19 (B) in paragraph (5)(B), by inserting “in-
20 stitutes, instructional programs,” after “cen-
21 ters,”.

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A BILL

To strengthen the security and integrity of the
United States scientific and research enterprise.

DECEMBER 14, 2020

Reported with an amendment