

117TH CONGRESS
1ST SESSION

S. 1351

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

IN THE SENATE OF THE UNITED STATES

APRIL 22, 2021

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

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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Safeguarding American Innovation Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 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 information to certain aliens.

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

Sec. 7. Amendments to disclosures of foreign gifts.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **FEDERAL SCIENCE AGENCY.**—The term
 4 “Federal science agency” means any Federal depart-
 5 ment or agency to which more than \$100,000,000 in
 6 research and development funds were appropriated
 7 for the previous fiscal year.

8 (2) **RESEARCH AND DEVELOPMENT.**—

9 (A) **IN GENERAL.**—The term “research
 10 and development” means all research activities,
 11 both basic and applied, and all development ac-
 12 tivities.

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

15 (C) **EXPERIMENTAL DEVELOPMENT.**—The
 16 term “experimental development” means cre-
 17 ative and systematic work, drawing upon knowl-
 18 edge gained from research and practical experi-
 19 ence, which—

20 (i) is directed toward the production
 21 of new products or processes or improving
 22 existing products or processes; and

1 (ii) like research, will result in gaining
2 additional knowledge.

3 (D) RESEARCH.—The term “research”—

4 (i) means a systematic study directed
5 toward fuller scientific knowledge or under-
6 standing of the subject studied; and

7 (ii) includes activities involving the
8 training of individuals in research tech-
9 niques if such activities—

10 (I) utilize the same facilities as
11 other research and development activi-
12 ties; and

13 (II) are not included in the in-
14 struction function.

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

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

19 **“CHAPTER 79—FEDERAL RESEARCH**
20 **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.

21 **“§ 7901. Definitions**

22 “In this chapter:

1 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term ‘appropriate congressional com-
3 mittees’ means—

4 “(A) the Committee on Homeland Security
5 and Governmental Affairs of the Senate;

6 “(B) the Committee on Commerce,
7 Science, and Transportation of the Senate;

8 “(C) the Select Committee on Intelligence
9 of the Senate;

10 “(D) the Committee on Foreign Relations
11 of the Senate;

12 “(E) the Committee on Armed Services of
13 the Senate;

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

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

18 “(H) the Committee on Homeland Security
19 of the House of Representatives;

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

22 “(J) the Permanent Select Committee on
23 Intelligence of the House of Representatives;

24 “(K) the Committee on Foreign Affairs of
25 the House of Representatives;

1 “(L) the Committee on Armed Services of
2 the House of Representatives; and

3 “(M) the Committee on Education and
4 Labor of the House of Representatives.

5 “(2) COUNCIL.—The term ‘Council’ means the
6 Federal Research Security Council established under
7 section 7902(a).

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

11 “(4) FEDERAL RESEARCH SECURITY RISK.—
12 The term ‘Federal research security risk’ means the
13 risk posed by malign state actors and other persons
14 to the security and integrity of research and develop-
15 ment conducted using grants awarded by Executive
16 agencies.

17 “(5) INSIDER.—The term ‘insider’ means any
18 person with authorized access to any United States
19 Government resource, including personnel, facilities,
20 information, research, equipment, networks, or sys-
21 tems.

22 “(6) INSIDER THREAT.—The term ‘insider
23 threat’ means the threat that an insider will use his
24 or her authorized access (wittingly or unwittingly) to
25 harm the national and economic security of the

1 United States or negatively affect the integrity of a
 2 Federal agency's normal processes, including dam-
 3 aging the United States through espionage, sabo-
 4 tage, unauthorized disclosure of national security in-
 5 formation or non-public information, or through the
 6 loss or degradation of departmental resources, capa-
 7 bilities, and functions.

8 “(7) RESEARCH AND DEVELOPMENT.—

9 “(A) IN GENERAL.—The term ‘research
 10 and development’ means all research activities,
 11 both basic and applied, and all development ac-
 12 tivities.

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

15 “(C) EXPERIMENTAL DEVELOPMENT.—
 16 The term ‘experimental development’ means
 17 creative and systematic work, drawing upon
 18 knowledge gained from research and practical
 19 experience, which—

20 “(i) is directed toward the production
 21 of new products or processes or improving
 22 existing products or processes; and

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

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

1 “(i) means a systematic study directed
 2 toward fuller scientific knowledge or under-
 3 standing of the subject studied; and

4 “(ii) includes activities involving the
 5 training of individuals in research tech-
 6 niques if such activities—

7 “(I) utilize the same facilities as
 8 other research and development activi-
 9 ties; and

10 “(II) are not included in the in-
 11 struction function.

12 “(8) UNITED STATES RESEARCH COMMU-
 13 NITY.—The term ‘United States research commu-
 14 nity’ means—

15 “(A) research and development centers of
 16 Executive agencies;

17 “(B) private research and development
 18 centers in the United States, including for-prof-
 19 it and nonprofit research institutes;

20 “(C) research and development centers at
 21 institutions of higher education (as defined in
 22 section 101(a) of the Higher Education Act of
 23 1965 (20 U.S.C. 1001(a)));

1 “(D) research and development centers of
2 States, United States territories, Indian tribes,
3 and municipalities;

4 “(E) government-owned, contractor-oper-
5 ated United States Government research and
6 development centers; and

7 “(F) any person conducting federally fund-
8 ed research or receiving Federal research grant
9 funding.

10 **“§ 7902. Federal Research Security Council establish-**
11 **ment and membership**

12 “(a) ESTABLISHMENT.—There is established, in the
13 Office of Management and Budget, a Federal Research
14 Security Council, which shall develop federally funded re-
15 search and development grant making policy and manage-
16 ment guidance to protect the national and economic secu-
17 rity interests of the United States.

18 “(b) MEMBERSHIP.—

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

21 “(A) The Office of Management and
22 Budget.

23 “(B) The Office of Science and Technology
24 Policy.

25 “(C) The Department of Defense.

1 “(D) The Department of Homeland Secu-
2 rity.

3 “(E) The Office of the Director of Na-
4 tional Intelligence, including the National Coun-
5 terintelligence and Security Center.

6 “(F) The Department of Justice, including
7 the Federal Bureau of Investigation.

8 “(G) The Department of Energy.

9 “(H) The Department of Commerce, in-
10 cluding the National Institute of Standards and
11 Technology.

12 “(I) The Department of Health and
13 Human Services, including the National Insti-
14 tutes of Health.

15 “(J) The Department of State.

16 “(K) The Department of Transportation.

17 “(L) The National Aeronautics and Space
18 Administration.

19 “(M) The National Science Foundation.

20 “(N) The Department of Education.

21 “(O) The Small Business Administration.

22 “(P) The Council of Inspectors General on
23 Integrity and Efficiency.

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

1 “(2) LEAD REPRESENTATIVES.—

2 “(A) DESIGNATION.—Not later than 45
3 days after the date of the enactment of this
4 chapter, the head of each agency represented on
5 the Council shall designate a representative of
6 that agency as the lead representative of the
7 agency on the Council.

8 “(B) FUNCTIONS.—The lead representa-
9 tive of an agency designated under subpara-
10 graph (A) shall ensure that appropriate per-
11 sonnel, including leadership and subject matter
12 experts of the agency, are aware of the business
13 of the Council.

14 “(c) CHAIRPERSON.—

15 “(1) DESIGNATION.—Not later than 45 days
16 after the date of the enactment of this chapter, the
17 Director of the Office of Management and Budget
18 shall designate a senior-level official from the Office
19 of Management and Budget to serve as the Chair-
20 person of the Council.

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

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

1 “(B) designating Executive agencies to be
 2 represented on the Council under subsection
 3 (b)(1)(Q);

4 “(C) in consultation with the lead rep-
 5 resentative of each agency represented on the
 6 Council, developing a charter for the Council;
 7 and

8 “(D) not later than 7 days after comple-
 9 tion of the charter, submitting the charter to
 10 the appropriate congressional committees.

11 “(3) LEAD SCIENCE ADVISOR.—The Director of
 12 the Office of Science and Technology Policy shall be
 13 the lead science advisor to the Chairperson for pur-
 14 poses of this chapter.

15 “(4) LEAD SECURITY ADVISOR.—The Director
 16 of the National Counterintelligence and Security
 17 Center shall be the lead security advisor to the
 18 Chairperson for purposes of this chapter.

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

22 **“§ 7903. Functions and authorities**

23 “(a) DEFINITIONS.—In this section:

24 “(1) IMPLEMENTING.—The term ‘imple-
 25 menting’ means working with the relevant Federal

1 agencies, through existing processes and procedures,
2 to enable those agencies to put in place and enforce
3 the measures described in this section.

4 “(2) UNIFORM APPLICATION PROCESS.—The
5 term ‘uniform application process’ means a process
6 employed by Federal science agencies to maximize
7 the collection of information regarding applicants
8 and applications, as determined by the Council.

9 “(b) IN GENERAL.—The Chairperson of the Council
10 shall consider the missions and responsibilities of Council
11 members in determining the lead agencies for Council
12 functions. The Council shall perform the following func-
13 tions:

14 “(1) Developing and implementing, across all
15 Executive agencies that award research and develop-
16 ment grants, a uniform application process for
17 grants in accordance with subsection (c).

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

24 “(3) Identifying or developing criteria, in ac-
25 cordance with subsection (d), for sharing and receiv-

1 ing information with respect to Federal research se-
2 curity risks in order to mitigate such risks with—

3 “(A) members of the United States re-
4 search community; and

5 “(B) other persons participating in feder-
6 ally funded research and development.

7 “(4) Identifying an appropriate Executive agen-
8 cy—

9 “(A) to accept and protect information
10 submitted by Executive agencies and non-Fed-
11 eral entities based on the processes established
12 under paragraphs (1) and (2); and

13 “(B) to facilitate the sharing of informa-
14 tion received under subparagraph (A) to sup-
15 port, as necessary and appropriate—

16 “(i) oversight of federally funded re-
17 search and development;

18 “(ii) criminal and civil investigations
19 of misappropriated Federal funds, re-
20 sources, and information; and

21 “(iii) counterintelligence investiga-
22 tions.

23 “(5) Identifying, as appropriate, Executive
24 agencies to provide—

1 “(A) shared services, such as support for
2 conducting Federal research security risk as-
3 sessments, activities to mitigate such risks, and
4 oversight and investigations with respect to
5 grants awarded by Executive agencies; and

6 “(B) common contract solutions to support
7 enhanced information collection and sharing
8 and the verification of the identities of persons
9 participating in federally funded research and
10 development.

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

22 “(7) Identifying and issuing guidance for devel-
23 oping compliance and oversight programs for Execu-
24 tive agencies to ensure that research and develop-
25 ment grant recipients accurately report conflicts of

1 interest and conflicts of commitment in accordance
2 with subsection (c)(1). Such programs shall include
3 an assessment of—

4 “(A) a grantee’s support from foreign
5 sources and affiliations with foreign funding in-
6 stitutions or laboratories; and

7 “(B) the impact of such support and affili-
8 ations on United States national security and
9 economic interests.

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

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

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

1 “(11) Engaging with the United States re-
2 search community in performing the functions de-
3 scribed in paragraphs (1), (2), and (3) and with re-
4 spect to issues relating to Federal research security
5 risks.

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

9 “(c) REQUIREMENTS FOR UNIFORM GRANT APPLI-
10 CATION PROCESS.—In developing the uniform application
11 process for Federal research and development grants re-
12 quired under subsection (b)(1), the Council shall—

13 “(1) ensure that the process—

14 “(A) requires principal investigators, co-
15 principal investigators, and senior personnel as-
16 sociated with the proposed Federal research or
17 development grant project—

18 “(i) to disclose biographical informa-
19 tion, all affiliations, including any foreign
20 military, foreign government-related orga-
21 nizations, and foreign-funded institutions,
22 and all current and pending support, in-
23 cluding from foreign institutions, foreign
24 governments, or foreign laboratories, and

1 all support received from foreign sources;
 2 and

3 “(ii) to certify the accuracy of the re-
 4 quired disclosures under penalty of per-
 5 jury; and

6 “(B) uses a machine-readable application
 7 form to assist in identifying fraud and ensuring
 8 the eligibility of applicants;

9 “(2) design the process—

10 “(A) to reduce the administrative burden
 11 on persons applying for Federal research and
 12 development funding; and

13 “(B) to promote information sharing
 14 across the United States research community,
 15 while safeguarding sensitive information; and

16 “(3) complete the process not later than 1 year
 17 after the date of the enactment of the Safeguarding
 18 American Innovation Act.

19 “(d) REQUIREMENTS FOR INFORMATION SHARING
 20 CRITERIA.—In identifying or developing criteria and pro-
 21 cedures for sharing information with respect to Federal
 22 research security risks under subsection (b)(3), the Coun-
 23 cil shall ensure that such criteria address, at a min-
 24 imum—

25 “(1) the information to be shared;

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

3 “(3) the circumstances under which it is appro-
4 priate for an Executive agency to rely on informa-
5 tion made available through such sharing in exer-
6 cising the responsibilities and authorities of the
7 agency under applicable laws relating to the award
8 of grants;

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

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

13 “(e) REQUIREMENTS FOR INSIDER THREAT PRO-
14 GRAM GUIDANCE.—In identifying or developing guidance
15 with respect to insider threat programs under subsection
16 (b)(6), the Council shall ensure that such guidance pro-
17 vides for, at a minimum—

18 “(1) such programs—

19 “(A) to deter, detect, and mitigate insider
20 threats; and

21 “(B) to leverage counterintelligence, secu-
22 rity, information assurance, and other relevant
23 functions and resources to identify and counter
24 insider threats;

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

5 “(A) monitoring user activity on computer
6 networks controlled by Executive agencies;

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

11 “(C) gathering information for a central-
12 ized analysis, reporting, and response capa-
13 bility; and

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

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

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

1 tive agency and to make resource recommendations
2 to 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 “(f) ISSUANCE OF WARNINGS RELATING TO RISKS
7 AND VULNERABILITIES IN INTERNATIONAL SCIENTIFIC
8 COOPERATION.—

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 coun-
 9 try 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 enter-
 15 prise of a foreign country that do not adhere to
 16 the United States scientific values of openness,
 17 transparency, reciprocity, integrity, and merit-
 18 based competition.

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

1 such working group. The Council may also establish a pro-
 2 gram office and any committees, working groups, or other
 3 constituent bodies the Council deems appropriate, in its
 4 sole and unreviewable discretion, to carry out its func-
 5 tions.

6 “(h) EXCLUSION ORDERS.—To reduce Federal re-
 7 search security risk, the Interagency Suspension and De-
 8 barment Committee shall provide quarterly reports to the
 9 Council that detail—

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

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

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

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

22 “(5) other current suspension and debarment
 23 related issues.

24 “(i) SAVINGS PROVISION.—Nothing in this section
 25 may be construed to alter or diminish the authority of any

1 Federal agency or to alter any procedural requirements
2 or remedies that were in place before the date of the enact-
3 ment of this chapter.

4 **“§ 7904. Strategic plan**

5 “(a) IN GENERAL.—Not later than 180 days after
6 the date of the enactment of this chapter, the Council shall
7 develop a strategic plan for addressing Federal research
8 security risks and for managing such risks, that in-
9 cludes—

10 “(1) the criteria and processes required under
11 section 7903(b), including a threshold and require-
12 ments for sharing relevant information about such
13 risks with all Executive agencies and, as appro-
14 priate, with other Federal entities, foreign govern-
15 ments, and non-Federal entities;

16 “(2) an identification of existing authorities for
17 addressing such risks;

18 “(3) an identification and promulgation of best
19 practices and procedures, and an identification of
20 available resources, for Executive agencies to assess
21 and mitigate such risks;

22 “(4) recommendations for any legislative, regu-
23 latory, or other policy changes to improve efforts to
24 address such risks;

1 “(5) recommendations for any legislative, regu-
2 latory, or other policy changes to incentivize the
3 adoption of best practices for avoiding and miti-
4 gating Federal research security risks by the United
5 States research community and key United States
6 foreign research partners;

7 “(6) an evaluation of the effect of implementing
8 new policies or procedures on existing Federal grant
9 processes, regulations, and disclosures of conflicts of
10 interest and conflicts of commitment;

11 “(7) a plan for engaging with Executive agen-
12 cies, the private sector, and other nongovernmental
13 stakeholders to address such risks and share infor-
14 mation between Executive agencies, the private sec-
15 tor, and nongovernmental stakeholders; and

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

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

1 **“§ 7905. Annual report**

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

5 “(1) the activities of the Council during the
6 preceding fiscal year; and

7 “(2) the progress made toward implementing
8 the strategic plan required under section 7904 after
9 such plan has been submitted to Congress.

10 **“§ 7906. Requirements for Executive agencies**

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

13 “(1) assessing Federal research security risks
14 posed by persons participating in federally funded
15 research and development;

16 “(2) avoiding or mitigating such risks, as ap-
17 propriate and consistent with the standards, guide-
18 lines, requirements, and practices identified by the
19 Council under section 7903(b);

20 “(3) prioritizing Federal research security risk
21 assessments conducted under paragraph (1) based
22 on the applicability and relevance of the research
23 and development to the national security and eco-
24 nomic competitiveness of the United States; and

25 “(4) ensuring that all agency initiatives impact-
26 ing federally funded research grant making policy

1 and management to protect the national and eco-
2 nomic security interests of the United States are in-
3 tegrated with the activities of the Council.

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

7 “(1) developing an overall Federal research se-
8 curity risk management strategy and implementation
9 plan and policies and processes to guide and govern
10 Federal research security risk management activities
11 by the Executive agency;

12 “(2) integrating Federal research security risk
13 management practices throughout the lifecycle of the
14 grant programs of the Executive agency;

15 “(3) sharing relevant information with other
16 Executive agencies, as determined appropriate by
17 the Council in a manner consistent with section
18 7903; and

19 “(4) reporting on the effectiveness of the Fed-
20 eral research security risk management strategy of
21 the Executive agency consistent with guidance issued
22 by the Office of Management and Budget and the
23 Council.”.

24 (b) CLERICAL AMENDMENT.—The table of chapters
25 at the beginning of title 31, United States Code, is amend-

1 ed by inserting after the item relating to chapter 77 the
 2 following new item:

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

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

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

7 “**§ 1041. Federal grant application fraud**

8 “(a) DEFINITIONS.—In this section:

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

12 “(2) FEDERAL GRANT.—The term ‘Federal
 13 grant’—

14 “(A) means a grant awarded by a Federal
 15 agency;

16 “(B) includes a subgrant awarded by a
 17 non-Federal entity to carry out a Federal grant
 18 program; and

19 “(C) does not include—

20 “(i) direct United States Government
 21 cash assistance to an individual;

22 “(ii) a subsidy;

23 “(iii) a loan;

24 “(iv) a loan guarantee; or

25 “(v) insurance.

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

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

8 “(A) a foreign government;

9 “(B) a foreign government institution; or

10 “(C) a foreign public enterprise.

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

14 “(A) a faction, party, department, agency,
15 bureau, subnational administrative entity, or
16 military of a foreign country; or

17 “(B) a foreign government or a person
18 purporting to act as a foreign government, re-
19 gardless of whether the United States recog-
20 nizes the government.

21 “(6) FOREIGN GOVERNMENT INSTITUTION.—
22 The term ‘foreign government institution’ means a
23 foreign entity owned by, subject to the control of, or
24 subject to regulation by a foreign government.

1 “(7) FOREIGN PUBLIC ENTERPRISE.—The term
2 ‘foreign public enterprise’ means an enterprise over
3 which a foreign government directly or indirectly ex-
4 ercises a dominant influence.

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

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

9 “(B) includes—

10 “(i) the Office of Inspector General of
11 an establishment (as defined in section 12
12 of the Inspector General Act of 1978 (5
13 U.S.C. App.)) or a designated Federal en-
14 tity (as defined in section 8G(a) of the In-
15 specter General Act of 1978 (5 U.S.C.
16 App.)); and

17 “(ii) the Office of Inspector General,
18 or similar office, of a State or unit of local
19 government.

20 “(9) OUTSIDE COMPENSATION.—The term ‘out-
21 side compensation’ means any compensation, re-
22 source, or support regardless of monetary value
23 made available to the applicant in support of or re-
24 lated to any research endeavor, including, but not
25 limited to, a title, research grant, cooperative agree-

1 ment, contract, institutional award, access to a lab-
2 oratory, or other resource, including, but not limited
3 to, materials, travel compensation, or work incen-
4 tives.

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

7 “(1) prepare or submit a Federal grant applica-
8 tion that fails to disclose the receipt of any outside
9 compensation, including foreign compensation, by
10 the individual;

11 “(2) forge, counterfeit, or otherwise falsify a
12 document for the purpose of obtaining a Federal
13 grant; or

14 “(3) prepare, submit, or assist in the prepara-
15 tion or submission of a Federal grant application or
16 document in connection with a Federal grant appli-
17 cation that—

18 “(A) contains a false statement;

19 “(B) contains a material misrepresenta-
20 tion;

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

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

23 “(c) EXCEPTION.—Subsection (b) does not apply to
24 an activity—

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

4 “(A) a law enforcement agency; or

5 “(B) a Federal intelligence agency; or

6 “(2) authorized under chapter 224.

7 “(d) PENALTY.—Any individual who violates sub-
 8 section (b)—

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

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

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

“1041. Federal grant application fraud.”.

18 **SEC. 5. RESTRICTING THE ACQUISITION OF GOODS, TECH-**
 19 **NOLOGIES, AND SENSITIVE INFORMATION TO**
 20 **CERTAIN ALIENS.**

21 (a) GROUNDS OF INADMISSIBILITY.—Section
 22 212(a)(3)(A)(i) of the Immigration and Nationality Act
 23 (8 U.S.C. 1182(a)(3)(A)(i)) is amended to read as follows:

24 “(i) any activity—

1 “(I) to violate any law of the
2 United States relating to espionage or
3 sabotage;

4 “(II) to violate or evade any law
5 prohibiting the export from the
6 United States of goods, technologies,
7 or sensitive information; or

8 “(III) to acquire export-con-
9 trolled goods, technologies, or sen-
10 sitive information through any exclu-
11 sions for items normally subject to ex-
12 port controls if the Secretary of State
13 has determined that the acquisition of
14 those goods, technologies, or sensitive
15 information by that alien would be
16 contrary to an articulable national se-
17 curity (including economic security)
18 interest of the United States;”.

19 (b) DETERMINING FACTORS.—

20 (1) IN GENERAL.—To determine whether an
21 alien is inadmissible under section
22 212(a)(3)(A)(i)(III) of the Immigration and Nation-
23 ality Act, as amended by subsection (a), officials of
24 the Department of State shall—

1 (A) seek advice and assistance from offi-
2 cials at the Office of the Director of National
3 Intelligence, the Office of Science and Tech-
4 nology Policy, the Department of Health and
5 Human Services, the Department of Defense,
6 the Department of Homeland Security, the De-
7 partment of Energy, the Department of Com-
8 merce, and other appropriate Federal agencies;

9 (B) make a determination of the alien's
10 past, current, or intended employment or co-
11 operation with—

12 (i) foreign military and security re-
13 lated organizations that are adversarial to
14 the United States;

15 (ii) foreign institutions involved in the
16 theft of United States research;

17 (iii) entities involved in export control
18 violations or the theft of intellectual prop-
19 erty;

20 (iv) a government that seeks to under-
21 mine the integrity and security of the
22 United States research community; or

23 (v) other associations or collaborations
24 that pose a national or economic security

1 threat based on intelligence assessments;
2 and

3 (C) weigh the proportionality of risk for
4 the factors listed in subparagraph (B).

5 (2) MACHINE-READABLE DOCUMENTS.—Not
6 later than 1 year after the date of the enactment of
7 this Act, the Secretary of State shall—

8 (A) use a machine-readable visa applica-
9 tion form; and

10 (B) make available documents submitted in
11 support of a visa application in a machine read-
12 able format to assist in—

13 (i) identifying fraud;

14 (ii) conducting lawful law enforcement
15 activities; and

16 (iii) determining the eligibility of ap-
17 plicants for a visa under the Immigration
18 and Nationality Act (8 U.S.C. 1101 et
19 seq.).

20 (c) REPORTING REQUIREMENT.—Not later than 180
21 days after the date of the enactment of this Act, and annu-
22 ally thereafter, the Secretary of State, in coordination with
23 the Director of National Intelligence, the Director of the
24 Office of Science and Technology Policy, the Secretary of
25 Homeland Security, the Secretary of Defense, the Sec-

1 retary of Energy, the Secretary of Commerce, and the
2 heads of other appropriate Federal agencies, shall submit
3 a report to Congress that identifies—

4 (1) any criteria used to describe the aliens to
5 which such section 212(a)(3)(A)(i)(III) may apply;
6 and

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

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

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

19 (2) is necessary to further the purposes of this
20 Act.

21 (e) REPORT.—Not later than 45 days after the date
22 of the enactment of this Act, the Secretary of State shall
23 submit a report to the Committee on Homeland Security
24 and Governmental Affairs of the Senate, the Committee
25 on Commerce, Science, and Transportation of the Senate,

1 the Select Committee on Intelligence of the Senate, the
2 Committee on Foreign Relations of the Senate, the Com-
3 mittee on Oversight and Reform of the House of Rep-
4 resentatives, the Committee on Homeland Security of the
5 House of Representatives, the Committee on Energy and
6 Commerce of the House of Representatives, the Perma-
7 nent Select Committee on Intelligence of the House of
8 Representatives, and the Committee on Foreign Affairs of
9 the House of Representatives that—

10 (1) describes how supplementary documents
11 provided by a visa applicant in support of a visa ap-
12 plication are stored and shared by the Department
13 of State with authorized Federal agencies;

14 (2) identifies the sections of a visa application
15 that are machine-readable and the sections that are
16 not machine-readable;

17 (3) provides cost estimates, including personnel
18 costs and a cost-benefit analysis for adopting dif-
19 ferent technologies, including optical character rec-
20 ognition, for—

21 (A) making every element of a visa appli-
22 cation, and documents submitted in support of
23 a visa application, machine-readable; and

24 (B) ensuring that such system—

1 (i) protects personally identifiable in-
 2 formation; and

3 (ii) permits the sharing of visa infor-
 4 mation with Federal agencies in accord-
 5 ance with existing law; and

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

8 **SEC. 6. LIMITATIONS ON EDUCATIONAL AND CULTURAL EX-**
 9 **CHANGE PROGRAMS.**

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

18 “(A) to disclose to the Department of
 19 State whether an exchange visitor, as a primary
 20 part of his or her exchange program, will have
 21 released to them controlled technology or tech-
 22 nical data regulated by export control laws at
 23 sponsor organizations through research activi-
 24 ties, lectures, course work, sponsor employees,
 25 officers, agents, third parties at which the spon-

1 sor places the exchange visitor, volunteers, or
2 other individuals or entities associated with a
3 sponsor's administration of the exchange visitor
4 program;

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

15 “(C) to demonstrate, to the satisfaction of
16 the Secretary of State, that programs that will
17 release controlled technology or technical data
18 to an exchange visitor at the sponsor organiza-
19 tion through exchange visitor programs have re-
20 ceived appropriate authorization from the De-
21 partment of State, the Department of Com-
22 merce, other cognizant Federal agency before
23 the sponsor releases controlled technology or
24 technical data;”.

1 **SEC. 7. AMENDMENTS TO DISCLOSURES OF FOREIGN**
2 **GIFTS.**

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

5 (1) by amending subsection (a) to read as fol-
6 lows:

7 “(a) DISCLOSURE REPORT.—

8 “(1) IN GENERAL.—An institution shall file a
9 disclosure report with the Secretary not later than
10 March 31 occurring after—

11 “(A) the calendar year in which a foreign
12 source gains ownership of, or control over, the
13 institution; or

14 “(B) the calendar year in which the insti-
15 tution receives a gift from, or enters into a con-
16 tract with, a foreign source, the value of which
17 is \$50,000 or more, considered alone or in com-
18 bination with all other gifts from or contracts
19 with that foreign source within a calendar year.

20 “(2) REVISIONS; UPDATES.—The Secretary
21 shall permit institutions to revise and update disclo-
22 sure reports previously filed to ensure accuracy,
23 compliance, and the ability to cure.”;

24 (2) by amending subsection (b) to read as fol-
25 lows:

1 “(b) CONTENTS OF REPORT.—Each report to the
2 Secretary required by this section shall contain the fol-
3 lowing:

4 “(1) For gifts received from or contracts en-
5 tered into with a foreign source other than a foreign
6 government, the aggregate dollar amount of such
7 gifts and contracts attributable to a particular coun-
8 try and the legal or formal name of the foreign
9 source. The country to which a gift is attributable
10 is the country of citizenship, or if unknown, the
11 principal residence for a foreign source who is a nat-
12 ural person, and the country of incorporation, or if
13 unknown, the principal place of business, for a for-
14 eign source which is a legal entity.

15 “(2) For gifts received from or contracts en-
16 tered into with a foreign government, the aggregate
17 amount of such gifts and contracts received from
18 each foreign government.

19 “(3) In the case of an institution which is
20 owned or controlled by a foreign source, the identity
21 of the foreign source, the date on which the foreign
22 source assumed ownership or control, and any
23 changes in program or structure resulting from the
24 change in ownership or control.

1 “(4) An assurance that the institution will
2 maintain true copies of gift and contract agreements
3 subject to the disclosure requirements under this
4 section for at least the duration of the agreement.

5 “(5) An assurance that the institution will
6 produce true copies of gift and contract agreements
7 subject to the disclosure requirements under this
8 section upon request of the Secretary during a com-
9 pliance audit or other institutional investigation.”;

10 (3) by amending subsection (e) to read as fol-
11 lows:

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

18 (4) in subsection (f), by adding at the end the
19 following:

20 “(3) FINES.—

21 “(A) IN GENERAL.—The Secretary may
22 impose a fine on any institution that repeatedly
23 fails to file a disclosure report for a receipt of
24 a gift from or contract with a foreign source in
25 accordance with subsection (a) in an amount

1 that is not more than 3 times the amount of
2 the gift or contract with the foreign source.

3 “(B) DEFINITION OF REPEATEDLY
4 FAILS.—In this paragraph, the term ‘repeatedly
5 fails’ means that the institution failed to file a
6 disclosure report for a receipt of a gift from or
7 contract with a foreign source in 3 consecutive
8 years.”;

9 (5) by amending subsection (g) to read as fol-
10 lows:

11 “(g) RULEMAKING.—

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

17 “(2) ELEMENTS.—Regulations issued pursuant
18 to paragraph (1) shall—

19 “(A) incorporate instructions for—

20 “(i) reporting structured gifts and
21 contracts; and

22 “(ii) reporting contracts that balances
23 the need for transparency, while protecting
24 the proprietary information of institutes of
25 higher education; and

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

3 (6) by redesignating subsection (h) as sub-
4 section (i);

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

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

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

14 (A) in paragraph (3), by striking “or prop-
15 erty” and inserting “, property, resources, or
16 staff, including any funds provided to the insti-
17 tution and used to pay, or designated for the
18 payment of, staff”; and

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

○