

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—116th Cong., 2d Sess.

S. 3997

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

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. PORTMAN (for himself and Mr.
CARPER)

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

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 informa-
tion 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 fiscal year 2020.

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

23 (ii) like research, will result in gaining
24 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 **SEC. 3. FEDERAL RESEARCH SECURITY COUNCIL.**

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

16 **“CHAPTER 79—FEDERAL RESEARCH**
17 **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.

18 **“§ 7901. Definitions**

19 “In this chapter:

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

1 “(A) the Committee on Homeland Security
2 and Governmental Affairs of the Senate;

3 “(B) the Committee on Commerce,
4 Science, and Transportation of the Senate;

5 “(C) the Select Committee on Intelligence
6 of the Senate;

7 “(D) the Committee on Foreign Relations
8 of the Senate;

9 “(E) the Committee on Armed Services of
10 the Senate;

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

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

15 “(H) the Committee on Homeland Security
16 of the House of Representatives;

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

19 “(J) the Permanent Select Committee on
20 Intelligence of the House of Representatives;

21 “(K) the Committee on Foreign Affairs of
22 the House of Representatives;

23 “(L) the Committee on Armed Services of
24 the House of Representatives; and

1 “(M) the Committee on Education and
2 Labor of the House of Representatives.

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

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

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

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

20 “(6) INSIDER THREAT.—The term ‘insider
21 threat’ means the threat that an insider will use his
22 or her authorized access (wittingly or unwittingly) to
23 harm the national and economic security of the
24 United States or negatively affect the integrity of a
25 Federal agency’s normal processes, including dam-

1 aging the United States through espionage, sabo-
2 tage, unauthorized disclosure of national security in-
3 formation or non-public information, or through the
4 loss or degradation of departmental resources, capa-
5 bilities, and functions.

6 “(7) RESEARCH AND DEVELOPMENT.—

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

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

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

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

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

23 “(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) IN GENERAL.—The Chairperson of the Council
24 shall consider the missions and responsibilities of Council
25 members in determining the lead agencies for Council

1 functions. The Council shall perform the following func-
2 tions:

3 “(1) Developing and implementing, across all
4 Executive agencies that award research and develop-
5 ment grants, a uniform application process for
6 grants in accordance with subsection (b).

7 “(2) Developing and implementing a uniform
8 and regular reporting process for identifying persons
9 participating in federally funded research and devel-
10 opment or that have access to nonpublic federally
11 funded information, data, research findings, and re-
12 search and development grant proposals.

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

17 “(A) members of the United States re-
18 search community; and

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

21 “(4) Identifying an appropriate Executive agen-
22 cy—

23 “(A) to accept and protect information
24 submitted by Executive agencies and non-Fed-

1 eral entities based on the processes established
2 under paragraphs (1) and (2); and

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

6 “(i) oversight of federally funded re-
7 search and development;

8 “(ii) criminal and civil investigations
9 of misappropriated Federal funds, re-
10 sources, and information; and

11 “(iii) counterintelligence investiga-
12 tions.

13 “(5) Identifying, as appropriate, Executive
14 agencies to provide—

15 “(A) shared services, such as support for
16 conducting Federal research security risk as-
17 sessments, activities to mitigate such risks, and
18 oversight and investigations with respect to
19 grants awarded by Executive agencies; and

20 “(B) common contract solutions to support
21 enhanced information collection and sharing
22 and the verification of the identities of persons
23 participating in federally funded research and
24 development.

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

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

19 “(A) a grantee’s support from foreign
20 sources and affiliations with foreign funding in-
21 stitutions or laboratories; and

22 “(B) the impact of such support and affili-
23 ations on United States national security and
24 economic interests.

1 “(8) Assessing and making recommendations
2 with respect to whether openly sharing certain types
3 of federally funded research and development is in
4 the economic and national security interests of the
5 United States.

6 “(9) Identifying and issuing guidance to the
7 United States research community, and other recipi-
8 ents of Federal research and development funding,
9 to ensure that such institutions and recipients adopt
10 existing best practices to reduce the risk of mis-
11 appropriation of research data.

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

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

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

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

5 “(1) ensure that the process—

6 “(A) requires principal investigators, co-
7 principal investigators, and senior personnel as-
8 sociated with the proposed Federal research or
9 development grant project—

10 “(i) to disclose biographical informa-
11 tion, all affiliations, including any foreign
12 military, foreign government-related orga-
13 nizations, and foreign-funded institutions,
14 and all current and pending support, in-
15 cluding from foreign institutions, foreign
16 governments, or foreign laboratories, and
17 all support received from foreign sources;
18 and

19 “(ii) to certify the accuracy of the re-
20 quired disclosures under penalty of per-
21 jury; and

22 “(B) uses a machine-readable application
23 form to assist in identifying fraud and ensuring
24 the eligibility of applicants;

25 “(2) design the process—

1 “(A) to reduce the administrative burden
2 on persons applying for Federal research and
3 development funding; and

4 “(B) to promote information sharing
5 across the United States research community,
6 while safeguarding sensitive information; and

7 “(3) complete the process not later than 1 year
8 after the date of the enactment of the Safeguarding
9 American Innovation Act.

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

16 “(1) the information to be shared;

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

19 “(3) the circumstances under which it is appro-
20 priate for an Executive agency to rely on informa-
21 tion made available through such sharing in exer-
22 cising the responsibilities and authorities of the
23 agency under applicable laws relating to the award
24 of grants;

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

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

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

10 “(1) such programs—

11 “(A) to deter, detect, and mitigate insider
12 threats; and

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

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

21 “(A) monitoring user activity on computer
22 networks controlled by Executive agencies;

23 “(B) providing employees of Executive
24 agencies with awareness training with respect

1 to insider threats and the responsibilities of em-
2 ployees to report such threats;

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

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

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

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

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

22 “(e) ISSUANCE OF WARNINGS RELATING TO RISKS
23 AND VULNERABILITIES IN INTERNATIONAL SCIENTIFIC
24 COOPERATION.—

1 “(1) IN GENERAL.—The Council, in conjunction
2 with the lead security advisor under section
3 7902(c)(4), shall establish a process for informing
4 members of the United States research community
5 and the public, through the issuance of warnings de-
6 scribed in paragraph (2), of potential risks and
7 vulnerabilities in international scientific cooperation
8 that may undermine the integrity and security of the
9 United States research community or place at risk
10 any federally funded research and development.

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

14 “(A) activities by the national government,
15 local governments, research institutions, or uni-
16 versities of a foreign country—

17 “(i) to exploit, interfere, or undermine
18 research and development by the United
19 States research community; or

20 “(ii) to misappropriate scientific
21 knowledge resulting from federally funded
22 research and development;

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

1 “(i) the science and technology of that
2 foreign country; or

3 “(ii) federally funded research and de-
4 velopment; and

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

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

22 “(g) EXCLUSION ORDERS.—To reduce Federal re-
23 search security risk, the Interagency Suspension and De-
24 barment Committee shall provide quarterly reports to the
25 Council that detail—

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

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

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

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

13 “(5) other current suspension and debarment
14 related issues.

15 **“§ 7904. Strategic plan**

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

21 “(1) the criteria and processes required under
22 section 7903(a), including a threshold and require-
23 ments for sharing relevant information about such
24 risks with all Executive agencies and, as appro-

1 appropriate, with other Federal entities, foreign govern-
2 ments, and non-Federal entities;

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

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

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

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

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

22 “(7) a plan for engaging with Executive agen-
23 cies, the private sector, and other nongovernmental
24 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, re-
8 source, or support regardless of monetary value
9 made available to the applicant in support of or re-
10 lated to any research endeavor, including, but not
11 limited to, a title, research grant, cooperative agree-
12 ment, contract, institutional award, access to a lab-
13 oratory, or other resource, including, but not limited
14 to, materials, travel compensation, or work incen-
15 tives.

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

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

22 “(2) forge, counterfeit, or otherwise falsify a
23 document for the purpose of obtaining a Federal
24 grant; or

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

5 “(A) contains a false statement;

6 “(B) contains a material misrepresenta-
7 tion;

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

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

10 “(c) EXCEPTION.—Subsection (b) does not apply to
11 an activity—

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

15 “(A) a law enforcement agency; or

16 “(B) a Federal intelligence agency; or

17 “(2) authorized under chapter 224.

18 “(d) PENALTY.—Any individual who violates sub-
19 section (b)—

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

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

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

“1041. Federal grant application fraud.”.

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

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

10 “(i) any activity—

11 “(I) to violate any law of the
12 United States relating to espionage or
13 sabotage;

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

18 “(III) to acquire export-con-
19 trolled goods, technologies, or sen-
20 sitive information (notwithstanding
21 any exclusions for items not normally
22 subject to export controls) if the Sec-
23 retary of State has determined that
24 the acquisition of those goods, tech-
25 nologies, or sensitive information by a

1 category of aliens that includes such
2 alien would be contrary to an
3 articulable national security (including
4 economic security) interest of the
5 United States;”.

6 (b) DETERMINING FACTORS.—

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

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

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

23 (i) foreign military and security re-
24 lated organizations that are adversarial to
25 the United States;

1 (ii) foreign institutions involved in the
2 theft of United States research;

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

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

9 (C) weigh the proportionality of risk for
10 the factors listed in subparagraph (B).

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

14 (A) use a machine-readable visa applica-
15 tion form; and

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

19 (i) identifying fraud;

20 (ii) conducting lawful law enforcement
21 activities; and

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

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

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

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

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

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

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

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

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

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

24 (3) provides cost estimates, including personnel
25 costs and a cost-benefit analysis for adopting dif-

1 ferent technologies, including optical character rec-
2 ognition, for—

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

6 (B) ensuring that such system—

7 (i) protects personally-identifiable in-
8 formation; and

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

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

14 **SEC. 6. LIMITATIONS ON EDUCATIONAL AND CULTURAL EX-**
15 **CHANGE PROGRAMS.**

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

24 “(A) to disclose to the Department of
25 State whether an exchange visitor, as a primary

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

11 “(B) to provide a plan to the Department
12 of State that establishes appropriate program
13 safeguards to prevent the unauthorized release
14 of controlled technology or technical data regu-
15 lated by export control laws at sponsor organi-
16 zations or through their employees, officers,
17 agents, third parties, volunteers, or other indi-
18 viduals or entities associated with a sponsor's
19 administration of the exchange visitor program;
20 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
24 to an exchange visitor at the sponsor organiza-
25 tion through exchange visitor programs have re-

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

5 (2) by amending subsection (b) to read as fol-
6 lows:

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

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

21 “(2) For gifts received from or contracts en-
22 tered into with a foreign government, the aggregate
23 amount of such gifts and contracts received from
24 each foreign government.

1 “(3) In the case of an institution which is
2 owned or controlled by a foreign source, the identity
3 of the foreign source, the date on which the foreign
4 source assumed ownership or control, and any
5 changes in program or structure resulting from the
6 change in ownership or control.

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

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

16 (3) by amending subsection (e) to read as fol-
17 lows:

18 “(e) PUBLIC INSPECTION.—Not later than 30 days
19 after receiving a disclosure report under this section, the
20 Secretary shall make such report electronically available
21 to the public for downloading on a searchable database
22 under which institutions can be individually identified and
23 compared.”;

24 (4) in subsection (f), by adding at the end the
25 following:

1 “(3) FINES.—

2 “(A) IN GENERAL.—The Secretary may
3 impose a fine on any institution that repeatedly
4 fails to file a disclosure report for a receipt of
5 a gift from or contract with a foreign source in
6 accordance with subsection (a) in an amount
7 that is not more than 3 times the amount of
8 the gift or contract with the foreign source.

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

15 (5) by amending subsection (g) to read as fol-
16 lows:

17 “(g) RULEMAKING.—

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

23 “(2) ELEMENTS.—Regulations issued pursuant
24 to paragraph (1) shall—

25 “(A) incorporate instructions for—

1 “(i) reporting structured gifts and
2 contracts; and

3 “(ii) reporting contracts that balances
4 the need for transparency, while protecting
5 the proprietary information of institutes of
6 higher education; and

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

9 (6) by redesignating subsection (h) as sub-
10 section (i);

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

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

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

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

23 (B) in paragraph (5)(B), by inserting “in-
24 stitutes, instructional programs,” after “cen-
25 ters,”.