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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

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Safeguarding American Innovation Act''.

(b) TABLE OF CONTENTS.—The table of contents for 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.

SEC. 2. DEFINITIONS.

In this Act:

(1) FEDERAL SCIENCE AGENCY.—The term ''Federal science agency'' means any Federal department or agency to which more than $100,000,000 in research and development funds were appropriated for the previous fiscal year.

(2) RESEARCH AND DEVELOPMENT.—

(A) IN GENERAL.—The term ''research and development'' means all research activities, both basic and applied, and all development activities.

(B) DEVELOPMENT.—The term ''development'' means experimental development.

(C) EXPERIMENTAL DEVELOPMENT.—The term ''experimental development'' means creative and systematic work, drawing upon knowledge gained from research and practical experience, which—

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

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

(D) RESEARCH.—The term ''research''—

(i) means a systematic study directed toward fuller scientific knowledge or understanding of the subject studied; and

(ii) includes activities involving the training of individuals in research techniques if such activities—

(I) utilize the same facilities as other research and development activities; and

(II) are not included in the instruction function.

SEC. 3. FEDERAL RESEARCH SECURITY COUNCIL.

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

''CHAPTER 79—FEDERAL RESEARCH 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.

''§ 7901. Definitions

''In this chapter:

''(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

''(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(B) the Committee on Commerce, Science, and Transportation of the Senate;

''(C) the Select Committee on Intelligence of the Senate;

''(D) the Committee on Foreign Relations of the Senate;

''(E) the Committee on Armed Services of the Senate;

''(F) the Committee on Health, Education, Labor, and Pensions of the Senate;

''(G) the Committee on Oversight and Reform of the House of Representatives;

''(H) the Committee on Homeland Security of the House of Representatives;

''(I) the Committee on Energy and Commerce of the House of Representatives;

''(J) the Permanent Select Committee on Intelligence of the House of Representatives;

''(K) the Committee on Foreign Affairs of the House of Representatives;

''(L) the Committee on Armed Services of the House of Representatives; and

''(M) the Committee on Education and Labor of the House of Representatives.

''(2) COUNCIL.—The term 'Council' means the Federal Research Security Council established under section 7902(a).

''(3) EXECUTIVE AGENCY.—The term 'Executive agency' has the meaning given that term in section 105 of title 5.

''(4) FEDERAL RESEARCH SECURITY RISK.—The term 'Federal research security risk' means the risk posed by malign state actors and other persons to the security and integrity of research and development conducted using grants awarded by Executive agencies.

''(5) INSIDER.—The term 'insider' means any person with authorized access to any United States Government resource, including personnel, facilities, information, research, equipment, networks, or systems.

''(6) INSIDER THREAT.—The term 'insider threat' means the threat that an insider will use his or her authorized access (wittingly or unwittingly) to harm the national and economic security of the

United States or negatively affect the integrity of a Federal agency's normal processes, including damaging the United States through espionage, sabotage, unauthorized disclosure of national security information or non-public information, or through the loss or degradation of departmental resources, capabilities, and functions.

''(7) RESEARCH AND DEVELOPMENT.—

''(A) IN GENERAL.—The term 'research and development' means all research activities, both basic and applied, and all development activities.

''(B) DEVELOPMENT.—The term 'development' means experimental development.

''(C) EXPERIMENTAL DEVELOPMENT.—The term 'experimental development' means creative and systematic work, drawing upon knowledge gained from research and practical experience, which—

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

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

''(D) RESEARCH.—The term 'research'—

''(i) means a systematic study directed toward fuller scientific knowledge or understanding of the subject studied; and

''(ii) includes activities involving the training of individuals in research techniques if such activities—

''(I) utilize the same facilities as other research and development activities; and

''(II) are not included in the instruction function.

''(8) UNITED STATES RESEARCH COMMUNITY.—The term 'United States research community' means—

''(A) research and development centers of Executive agencies;

''(B) private research and development centers in the United States, including for-profit and nonprofit research institutes;

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

''(D) research and development centers of States, United States territories, Indian tribes, and municipalities;

''(E) government-owned, contractor-operated United States Government research and development centers; and

''(F) any person conducting federally funded research or receiving Federal research grant funding.

''§ 7902. Federal Research Security Council establishment and membership

''(a) ESTABLISHMENT.—There is established, in the Office of Management and Budget, a Federal Research Security Council, which shall develop federally funded research and development grant making policy and management guidance to protect the national and economic security interests of the United States.

''(b) MEMBERSHIP.—

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

''(A) The Office of Management and Budget.

''(B) The Office of Science and Technology Policy.

''(C) The Department of Defense.

''(D) The Department of Homeland Security.

''(E) The Office of the Director of National Intelligence, including the National Counterintelligence and Security Center.

''(F) The Department of Justice, including the Federal Bureau of Investigation.

''(G) The Department of Energy.

''(H) The Department of Commerce, including the National Institute of Standards and Technology.

''(I) The Department of Health and Human Services, including the National Institutes of Health.

''(J) The Department of State.

''(K) The Department of Transportation.

''(L) The National Aeronautics and Space Administration.

''(M) The National Science Foundation.

''(N) The Department of Education.

''(O) The Small Business Administration.

''(P) The Council of Inspectors General on Integrity and Efficiency.

''(Q) Other Executive agencies, as determined by the Chairperson of the Council.

''(2) LEAD REPRESENTATIVES.—

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

''(B) FUNCTIONS.—The lead representative of an agency designated under subparagraph (A) shall ensure that appropriate personnel, including leadership and subject matter experts of the agency, are aware of the business of the Council.

''(c) CHAIRPERSON.—

''(1) DESIGNATION.—Not later than 45 days after the date of the enactment of this chapter, the Director of the Office of Management and Budget shall designate a senior-level official from the Office of Management and Budget to serve as the Chairperson of the Council.

''(2) FUNCTIONS.—The Chairperson shall perform functions that include—

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

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

''(C) in consultation with the lead representative of each agency represented on the Council, developing a charter for the Council; and

''(D) not later than 7 days after completion of the charter, submitting the charter to the appropriate congressional committees.

''(3) LEAD SCIENCE ADVISOR.—The Director of the Office of Science and Technology Policy shall be the lead science advisor to the Chairperson for purposes of this chapter.

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

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

''§ 7903. Functions and authorities

''(a) DEFINITIONS.—In this section:

''(1) IMPLEMENTING.—The term 'implementing' means working with the relevant Federal

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

''(2) UNIFORM APPLICATION PROCESS.—The term 'uniform application process' means a process employed by Federal science agencies to maximize the collection of information regarding applicants and applications, as determined by the Council.

''(b) IN GENERAL.—The Chairperson of the Council shall consider the missions and responsibilities of Council members in determining the lead agencies for Council functions. The Council shall perform the following functions:

''(1) Developing and implementing, across all Executive agencies that award research and development grants, a uniform application process for grants in accordance with subsection (c).

''(2) Developing and implementing a uniform and regular reporting process for identifying persons participating in federally funded research and development or that have access to nonpublic federally funded information, data, research findings, and research and development grant proposals.

''(3) Identifying or developing criteria, in accordance with subsection (d), for sharing and receiv-

ing information with respect to Federal research security risks in order to mitigate such risks with—

"(A) members of the United States research community; and

"(B) other persons participating in federally funded research and development.

"(4) Identifying an appropriate Executive agency—

"(A) to accept and protect information submitted by Executive agencies and non-Federal entities based on the processes established under paragraphs (1) and (2); and

"(B) to facilitate the sharing of information received under subparagraph (A) to support, as necessary and appropriate—

"(i) oversight of federally funded research and development;

"(ii) criminal and civil investigations of misappropriated Federal funds, resources, and information; and

"(iii) counterintelligence investigations.

"(5) Identifying, as appropriate, Executive agencies to provide—

''(A) shared services, such as support for conducting Federal research security risk assessments, activities to mitigate such risks, and oversight and investigations with respect to grants awarded by Executive agencies; and

''(B) common contract solutions to support enhanced information collection and sharing and the verification of the identities of persons participating in federally funded research and development.

''(6) Identifying and issuing guidance, in accordance with subsection (e) and in coordination with the National Insider Threat Task Force established by Executive Order 13587 (50 U.S.C. 3161 note) for developing and implementing insider threat programs for Executive agencies to deter, detect, and mitigate insider threats, including the safeguarding of sensitive information from exploitation, compromise, or other unauthorized disclosure, taking into account risk levels and the distinct needs, missions, and systems of each such agency.

''(7) Identifying and issuing guidance for developing compliance and oversight programs for Executive agencies to ensure that research and development grant recipients accurately report conflicts of

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

"(A) a grantee's support from foreign sources and affiliations with foreign funding institutions or laboratories; and

"(B) the impact of such support and affiliations on United States national security and economic interests.

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

"(9) Identifying and issuing guidance to the United States research community, and other recipients of Federal research and development funding, to ensure that such institutions and recipients adopt existing best practices to reduce the risk of misappropriation of research data.

"(10) Identifying and issuing guidance on additional steps that may be necessary to address Federal research security risks arising in the course of Executive agencies providing shared services and common contract solutions under paragraph (5)(B).

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

"(12) Carrying out such other functions, as determined by the Council, that are necessary to reduce Federal research security risks.

"(c) REQUIREMENTS FOR UNIFORM GRANT APPLICATION PROCESS.—In developing the uniform application process for Federal research and development grants required under subsection (b)(1), the Council shall—

"(1) ensure that the process—

"(A) requires principal investigators, co-principal investigators, and senior personnel associated with the proposed Federal research or development grant project—

"(i) to disclose biographical information, all affiliations, including any foreign military, foreign government-related organizations, and foreign-funded institutions, and all current and pending support, including from foreign institutions, foreign governments, or foreign laboratories, and

all support received from foreign sources; and

''(ii) to certify the accuracy of the required disclosures under penalty of perjury; and

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

''(2) design the process—

''(A) to reduce the administrative burden on persons applying for Federal research and development funding; and

''(B) to promote information sharing across the United States research community, while safeguarding sensitive information; and

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

''(d) REQUIREMENTS FOR INFORMATION SHARING CRITERIA.—In identifying or developing criteria and procedures for sharing information with respect to Federal research security risks under subsection (b)(3), the Council shall ensure that such criteria address, at a minimum—

''(1) the information to be shared;

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

''(3) the circumstances under which it is appropriate for an Executive agency to rely on information made available through such sharing in exercising the responsibilities and authorities of the agency under applicable laws relating to the award of grants;

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

''(5) appropriate privacy protections for persons involved in Federal research and development.

''(e) REQUIREMENTS FOR INSIDER THREAT PROGRAM GUIDANCE.—In identifying or developing guidance with respect to insider threat programs under subsection (b)(6), the Council shall ensure that such guidance provides for, at a minimum—

''(1) such programs—

''(A) to deter, detect, and mitigate insider threats; and

''(B) to leverage counterintelligence, security, information assurance, and other relevant functions and resources to identify and counter insider threats;

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

''(A) monitoring user activity on computer networks controlled by Executive agencies;

''(B) providing employees of Executive agencies with awareness training with respect to insider threats and the responsibilities of employees to report such threats;

''(C) gathering information for a centralized analysis, reporting, and response capability; and

''(D) information sharing to aid in tracking the risk individuals may pose while moving across programs and affiliations;

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

''(4) the designation of senior officials with authority to provide management, accountability, and oversight of the insider threat program of an Execu-

tive agency and to make resource recommendations to the appropriate officials; and

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

''(f) ISSUANCE OF WARNINGS RELATING TO RISKS AND VULNERABILITIES IN INTERNATIONAL SCIENTIFIC COOPERATION.—

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

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

''(A) activities by the national government, local governments, research institutions, or universities of a foreign country—

"(i) to exploit, interfere, or undermine research and development by the United States research community; or

"(ii) to misappropriate scientific knowledge resulting from federally funded research and development;

"(B) efforts by strategic competitors to exploit the research enterprise of a foreign country that may place at risk—

"(i) the science and technology of that foreign country; or

"(ii) federally funded research and development; and

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

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

such working group. The Council may also establish a program office and any committees, working groups, or other constituent bodies the Council deems appropriate, in its sole and unreviewable discretion, to carry out its functions.

''(h) EXCLUSION ORDERS.—To reduce Federal research security risk, the Interagency Suspension and Debarment Committee shall provide quarterly reports to the Council that detail—

''(1) the number of ongoing investigations by Council Members related to Federal research security that may result, or have resulted, in agency prenotice letters, suspensions, proposed debarments, and debarments;

''(2) Federal agencies' performance and compliance with interagency suspensions and debarments;

''(3) efforts by the Interagency Suspension and Debarment Committee to mitigate Federal research security risk;

''(4) proposals for developing a unified Federal policy on suspensions and debarments; and

''(5) other current suspension and debarment related issues.

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

Federal agency or to alter any procedural requirements or remedies that were in place before the date of the enactment of this chapter.

"§ 7904. Strategic plan

''(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this chapter, the Council shall develop a strategic plan for addressing Federal research security risks and for managing such risks, that includes—

''(1) the criteria and processes required under section 7903(b), including a threshold and requirements for sharing relevant information about such risks with all Executive agencies and, as appropriate, with other Federal entities, foreign governments, and non-Federal entities;

''(2) an identification of existing authorities for addressing such risks;

''(3) an identification and promulgation of best practices and procedures, and an identification of available resources, for Executive agencies to assess and mitigate such risks;

''(4) recommendations for any legislative, regulatory, or other policy changes to improve efforts to address such risks;

''(5) recommendations for any legislative, regulatory, or other policy changes to incentivize the adoption of best practices for avoiding and mitigating Federal research security risks by the United States research community and key United States foreign research partners;

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

''(7) a plan for engaging with Executive agencies, the private sector, and other nongovernmental stakeholders to address such risks and share information between Executive agencies, the private sector, and nongovernmental stakeholders; and

''(8) a plan for identification, assessment, mitigation, and vetting of Federal research security risks.

''(b) SUBMISSION TO CONGRESS.—Not later than 7 calendar days after completion of the strategic plan required by subsection (a), the Chairperson of the Council shall submit the plan to the appropriate congressional committees.

"§ 7905. Annual report

''Not later than December 15 of each year, the Chairperson of the Council shall submit a report to the appropriate congressional committees that describes—

''(1) the activities of the Council during the preceding fiscal year; and

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

"§ 7906. Requirements for Executive agencies

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

''(1) assessing Federal research security risks posed by persons participating in federally funded research and development;

''(2) avoiding or mitigating such risks, as appropriate and consistent with the standards, guidelines, requirements, and practices identified by the Council under section 7903(b);

''(3) prioritizing Federal research security risk assessments conducted under paragraph (1) based on the applicability and relevance of the research and development to the national security and economic competitiveness of the United States; and

''(4) ensuring that all agency initiatives impacting federally funded research grant making policy

and management to protect the national and economic security interests of the United States are integrated with the activities of the Council.

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

''(1) developing an overall Federal research security risk management strategy and implementation plan and policies and processes to guide and govern Federal research security risk management activities by the Executive agency;

''(2) integrating Federal research security risk management practices throughout the lifecycle of the grant programs of the Executive agency;

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

''(4) reporting on the effectiveness of the Federal research security risk management strategy of the Executive agency consistent with guidance issued by the Office of Management and Budget and the Council.''.

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

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

"79. Federal Research Security Council ..... 7901.".

SEC. 4. FEDERAL GRANT APPLICATION FRAUD.

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

"§ 1041. Federal grant application fraud

''(a) DEFINITIONS.—In this section:

''(1) FEDERAL AGENCY.—The term 'Federal agency' has the meaning given the term 'agency' in section 551 of title 5, United States Code.

''(2) FEDERAL GRANT.—The term 'Federal grant'—

''(A) means a grant awarded by a Federal agency;

''(B) includes a subgrant awarded by a non-Federal entity to carry out a Federal grant program; and

''(C) does not include—

''(i) direct United States Government cash assistance to an individual;

''(ii) a subsidy;

''(iii) a loan;

''(iv) a loan guarantee; or

''(v) insurance.

''(3) FEDERAL GRANT APPLICATION.—The term 'Federal grant application' means an application for a Federal grant.

''(4) FOREIGN COMPENSATION.—The term 'foreign compensation' means a title, monetary compensation, access to a laboratory or other resource, or other benefit received from—

''(A) a foreign government;

''(B) a foreign government institution; or

''(C) a foreign public enterprise.

''(5) FOREIGN GOVERNMENT.—The term 'foreign government' includes a person acting or purporting to act on behalf of—

''(A) a faction, party, department, agency, bureau, subnational administrative entity, or military of a foreign country; or

''(B) a foreign government or a person purporting to act as a foreign government, regardless of whether the United States recognizes the government.

''(6) FOREIGN GOVERNMENT INSTITUTION.—The term 'foreign government institution' means a foreign entity owned by, subject to the control of, or subject to regulation by a foreign government.

''(7) FOREIGN PUBLIC ENTERPRISE.—The term 'foreign public enterprise' means an enterprise over which a foreign government directly or indirectly exercises a dominant influence.

''(8) LAW ENFORCEMENT AGENCY.—The term 'law enforcement agency'—

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

''(B) includes—

''(i) the Office of Inspector General of an establishment (as defined in section 12 of the Inspector General Act of 1978 (5 U.S.C. App.)) or a designated Federal entity (as defined in section 8G(a) of the Inspector General Act of 1978 (5 U.S.C. App.)); and

''(ii) the Office of Inspector General, or similar office, of a State or unit of local government.

''(9) OUTSIDE COMPENSATION.—The term 'outside compensation' means any compensation, resource, or support regardless of monetary value made available to the applicant in support of or related to any research endeavor, including, but not limited to, a title, research grant, cooperative agree-

ment, contract, institutional award, access to a laboratory, or other resource, including, but not limited to, materials, travel compensation, or work incentives.

''(b) PROHIBITION.—It shall be unlawful for any individual to knowingly—

''(1) prepare or submit a Federal grant application that fails to disclose the receipt of any outside compensation, including foreign compensation, by the individual;

''(2) forge, counterfeit, or otherwise falsify a document for the purpose of obtaining a Federal grant; or

''(3) prepare, submit, or assist in the preparation or submission of a Federal grant application or document in connection with a Federal grant application that—

''(A) contains a false statement;

''(B) contains a material misrepresentation;

''(C) has no basis in law or fact; or

''(D) fails to disclose a material fact.

''(c) EXCEPTION.—Subsection (b) does not apply to an activity—

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

''(A) a law enforcement agency; or

''(B) a Federal intelligence agency; or

''(2) authorized under chapter 224.

''(d) PENALTY.—Any individual who violates subsection (b)—

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

''(2) shall be prohibited from receiving a Federal grant during the 5-year period beginning on the date on which a sentence is imposed on the individual under paragraph (1).''.

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

''1041. Federal grant application fraud.''.

SEC. 5. RESTRICTING THE ACQUISITION OF GOODS, TECHNOLOGIES, AND SENSITIVE INFORMATION TO CERTAIN ALIENS.

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

''(i) any activity—

''(I) to violate any law of the United States relating to espionage or sabotage;

''(II) to violate or evade any law prohibiting the export from the United States of goods, technologies, or sensitive information; or

''(III) to acquire export-controlled goods, technologies, or sensitive information through any exclusions for items normally subject to export controls if the Secretary of State has determined that the acquisition of those goods, technologies, or sensitive information by that alien would be contrary to an articulable national security (including economic security) interest of the United States;''.

(b) DETERMINING FACTORS.—

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

(A) seek advice and assistance from officials at the Office of the Director of National Intelligence, the Office of Science and Technology Policy, the Department of Health and Human Services, the Department of Defense, the Department of Homeland Security, the Department of Energy, the Department of Commerce, and other appropriate Federal agencies;

(B) make a determination of the alien's past, current, or intended employment or cooperation with—

(i) foreign military and security related organizations that are adversarial to the United States;

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

(iii) entities involved in export control violations or the theft of intellectual property;

(iv) a government that seeks to undermine the integrity and security of the United States research community; or

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

threat based on intelligence assessments; and

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

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

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

(B) make available documents submitted in support of a visa application in a machine readable format to assist in—

(i) identifying fraud;

(ii) conducting lawful law enforcement activities; and

(iii) determining the eligibility of applicants for a visa under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

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

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

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

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

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

(1) is in the national security and economic security interests of the United States; or

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

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

the Select Committee on Intelligence of the Senate, the Committee on Foreign Relations of the Senate, the Committee on Oversight and Reform of the House of Representatives, the Committee on Homeland Security of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, the Permanent Select Committee on Intelligence of the House of Representatives, and the Committee on Foreign Affairs of the House of Representatives that—

(1) describes how supplementary documents provided by a visa applicant in support of a visa application are stored and shared by the Department of State with authorized Federal agencies;

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

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

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

(B) ensuring that such system—

(i) protects personally identifiable information; and

(ii) permits the sharing of visa information with Federal agencies in accordance with existing law; and

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

SEC. 6. LIMITATIONS ON EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.

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

''(A) to disclose to the Department of State whether an exchange visitor, as a primary part of his or her exchange program, will have released to them controlled technology or technical data regulated by export control laws at sponsor organizations through research activities, lectures, course work, sponsor employees, officers, agents, third parties at which the spon-

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

''(B) to provide a plan to the Department of State that establishes appropriate program safeguards to prevent the unauthorized release of controlled technology or technical data regulated by export control laws at sponsor organizations or through their employees, officers, agents, third parties, volunteers, or other individuals or entities associated with a sponsor's administration of the exchange visitor program; and

''(C) to demonstrate, to the satisfaction of the Secretary of State, that programs that will release controlled technology or technical data to an exchange visitor at the sponsor organization through exchange visitor programs have received appropriate authorization from the Department of State, the Department of Commerce, other cognizant Federal agency before the sponsor releases controlled technology or technical data;''.

SEC. 7. AMENDMENTS TO DISCLOSURES OF FOREIGN GIFTS.

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

(1) by amending subsection (a) to read as follows:

''(a) DISCLOSURE REPORT.—

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

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

''(B) the calendar year in which the institution receives a gift from, or enters into a contract with, a foreign source, the value of which is $50,000 or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year.

''(2) REVISIONS; UPDATES.—The Secretary shall permit institutions to revise and update disclosure reports previously filed to ensure accuracy, compliance, and the ability to cure.'';

(2) by amending subsection (b) to read as follows:

''(b) CONTENTS OF REPORT.—Each report to the Secretary required by this section shall contain the following:

''(1) For gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of such gifts and contracts attributable to a particular country and the legal or formal name of the foreign source. The country to which a gift is attributable is the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business, for a foreign source which is a legal entity.

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

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

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

''(5) An assurance that the institution will produce true copies of gift and contract agreements subject to the disclosure requirements under this section upon request of the Secretary during a compliance audit or other institutional investigation.'';

(3) by amending subsection (e) to read as follows:

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

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

''(3) FINES.—

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

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

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

(5) by amending subsection (g) to read as follows:

''(g) RULEMAKING.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Safeguarding American Innovation Act, the Secretary shall issue regulations to carry out this section using the negotiated rulemaking procedure set forth in section 492(b).

''(2) ELEMENTS.—Regulations issued pursuant to paragraph (1) shall—

''(A) incorporate instructions for—

''(i) reporting structured gifts and contracts; and

''(ii) reporting contracts that balances the need for transparency, while protecting the proprietary information of institutes of higher education; and

''(B) clarify the definition of 'subunit', for purposes of subsection (i)(4)(C).'';

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

(7) by inserting after subsection (g) the following:

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

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

(A) in paragraph (3), by striking ''or property'' and inserting '', property, resources, or staff, including any funds provided to the institution and used to pay, or designated for the payment of, staff''; and

(B) in paragraph (5)(B), by inserting ''institutes, instructional programs,'' after ''centers,''.

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