

116TH CONGRESS
2D SESSION

S. 4324

To facilitate the availability, development, and production of domestic resources to meet national personal protective equipment and material needs, and ensure American leadership in advanced research and development and semiconductor manufacturing.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2020

Mr. GRAHAM (for himself, Mr. BURR, and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To facilitate the availability, development, and production of domestic resources to meet national personal protective equipment and material needs, and ensure American leadership in advanced research and development and semiconductor manufacturing.

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 “Restoring Critical Supply Chains and Intellectual Prop-
6 erty Act”.

1 (b) TABLE OF CONTENTS.—The table of contents is
 2 as follows:

Sec. 1. Short title; table of contents.

TITLE I—U.S. MADE ACT

Sec. 101. Short title.

Sec. 102. Domestic purchasing requirement for personal protective equipment acquisitions for the Strategic National Stockpile.

Sec. 103. Investment credit for qualifying medical personal protective equipment manufacturing projects.

Sec. 104. Special rules for transfers of intangible property relating to medical personal protective equipment to United States shareholders.

TITLE II—SAFEGUARDING AMERICAN INNOVATION

Sec. 201. Short title.

Sec. 202. Definitions.

Sec. 203. Federal Research Security Council.

Sec. 204. Federal grant application fraud.

Sec. 205. Restricting the acquisition of goods, technologies, and sensitive information to certain aliens.

Sec. 206. Limitations on educational and cultural exchange programs.

Sec. 207. Amendments to disclosures of foreign gifts.

TITLE III—CHIPS FOR AMERICA ACT (CREATING HELPFUL INCENTIVES TO PRODUCE SEMICONDUCTORS FOR AMERICA)

Sec. 301. Semiconductor incentive grants.

Sec. 302. Department of Defense.

Sec. 303. Department of Commerce study on status of microelectronics technologies in the United States industrial base.

Sec. 304. Funding for development and adoption of measurably secure microelectronics and measurably secure microelectronics supply chains.

Sec. 305. Advanced semiconductor research and design.

Sec. 306. Prohibition relating to foreign adversaries.

TITLE IV—CRITICAL MINERALS

Sec. 401. Mineral security.

Sec. 402. Rare earth element advanced coal technologies.

3 **TITLE I—U.S. MADE ACT**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “United States Manu-
 6 facturing Availability of Domestic Equipment Act” or the
 7 “U.S. MADE Act of 2020”.

1 **SEC. 102. DOMESTIC PURCHASING REQUIREMENT FOR**
2 **PERSONAL PROTECTIVE EQUIPMENT ACQUI-**
3 **SITIONS FOR THE STRATEGIC NATIONAL**
4 **STOCKPILE.**

5 Section 319F–2(a) of the Public Health Service Act
6 (42 U.S.C. 247d–6b(a)) is amended by adding at the end
7 the following:

8 “(6) DOMESTIC PROCUREMENT REQUIREMENT
9 FOR PERSONAL PROTECTIVE EQUIPMENT.—

10 “(A) REQUIREMENT.—Except as provided
11 in subparagraphs (C) and (D), funds appro-
12 priated or otherwise available to the Secretary
13 for the Strategic National Stockpile may not be
14 used for the procurement of an item described
15 in subparagraph (B) unless the item was
16 grown, reprocessed, reused, or produced in the
17 United States.

18 “(B) COVERED ITEMS.—An item described
19 in this subparagraph is an article or item of—

20 “(i) personal protective equipment
21 and clothing (and the materials and com-
22 ponents thereof), other than sensors, elec-
23 tronics, or other items added to, and not
24 normally associated with, such personal
25 protective equipment;

1 “(ii) sanitizing supplies and ancillary
2 medical supplies such as disinfecting wipes,
3 privacy curtains, beds and bedding, testing
4 swabs, gauze and bandages, tents, tarpau-
5 lins, covers, or bags; or

6 “(iii) any other textile medical sup-
7 plies and textile equipment described in
8 paragraph (1).

9 “(C) AVAILABILITY EXCEPTION.—Sub-
10 paragraph (A) shall not apply to an item de-
11 scribed in subparagraph (B)—

12 “(i) that is, or that includes, a mate-
13 rial listed in section 25.104 of the Federal
14 Acquisition Regulation as one for which a
15 non-availability determination has been
16 made;

17 “(ii) as to which the Secretary deter-
18 mines that a sufficient quantity of a satis-
19 factory quality of such item that is grown,
20 reprocessed, reused, or produced in the
21 United States cannot be procured as, and
22 when, needed; or

23 “(iii) if, after maximizing to the ex-
24 tent feasible sources consistent with sub-
25 paragraph (A), the Secretary certifies

1 every 90 days that it is necessary to pro-
2 cure products under this paragraph under
3 expedited procedures to respond to the im-
4 mediate needs of a public health emergency
5 pursuant to section 319.

6 “(D) EXCEPTION FOR SMALL PROCURE-
7 MENTS.—Subparagraph (A) shall not apply to
8 procurements for amounts that do not exceed
9 \$150,000. A proposed procurement for an
10 amount in excess of \$150,000 may not be di-
11 vided into several procurements or contracts for
12 lesser amounts in order to qualify for the excep-
13 tion under this subparagraph.

14 “(E) CONSULTATION.—The Secretary shall
15 consult with the United States Trade Rep-
16 resentative on a matter under this subsection
17 that concerns an obligation of the United States
18 under any international trade agreement.

19 “(F) NOTIFICATION REQUIRED WITHIN 7
20 DAYS AFTER PROCUREMENT CONTRACT AWARD
21 IF CERTAIN EXCEPTIONS APPLIED.—In the case
22 of any procurement contracts of an item de-
23 scribed in subparagraph (B), if the Secretary
24 applies the exception described in subparagraph
25 (C) with respect to that procurement contract,

1 the Secretary shall, not later than 7 days after
2 the awarding of the procurement contract, post
3 a notification that the exception has been ap-
4 plied on the relevant Internet website main-
5 tained by the General Services Administration,
6 except for any information that is exempt from
7 mandatory disclosure under section 552 of title
8 5, United States Code.

9 “(G) TRAINING DURING FISCAL YEAR
10 2021.—

11 “(i) IN GENERAL.—The Secretary
12 shall ensure that each member of the ac-
13 quisition workforce in the Department of
14 Health and Human Services who partici-
15 pates substantially on a regular basis in
16 procurements related to the maintenance
17 of the Strategic National Stockpile receives
18 training during fiscal year 2021 on the re-
19 quirements of this paragraph.

20 “(ii) INCLUSION OF INFORMATION IN
21 NEW TRAINING PROGRAMS.—The Secretary
22 shall ensure that any training program for
23 the acquisition workforce, as described in
24 clause (i), developed or implemented after
25 fiscal year 2021, includes comprehensive

1 information on the requirements described
2 in subparagraph (A).

3 “(H) EFFECTIVE DATE.—The Secretary
4 shall increase the percentage of contracts by
5 value entered into for products described in
6 subparagraph (B) incrementally to 100 percent
7 as soon as practicable, but in no event later
8 than the end of the 5-year period beginning on
9 the date of enactment of this paragraph. The
10 Secretary shall notify the Committee on Health,
11 Education, Labor, and Pensions of the Senate
12 and the Committee on Energy and Commerce
13 of the House of Representatives within 60 days
14 of such date of enactment regarding the per-
15 centage of products described in subparagraph
16 (B) that meet the requirements of this para-
17 graph.

18 “(I) REPORT.—Not later than 90 days
19 after the date of enactment of this paragraph,
20 the Secretary shall submit to the Committee on
21 Health, Education, Labor, and Pensions of the
22 Senate and the Committee on Energy and Com-
23 merce of the House of Representatives a report
24 assessing the implementation of this paragraph

and the feasibility of applying the requirements
of this paragraph to—

“(i) not less than 50 percent of con-
tracts by value entered into for products
described in subparagraph (B) by Sep-
tember 30, 2021;

“(ii) not less than 75 percent of con-
tracts by value entered into for products
described in subparagraph (B) by March
31, 2022; and

“(iii) not less than 100 percent of
contracts by value entered into for prod-
ucts described in subparagraph (B) by a
date that is not less than 2 years after the
date of enactment of this paragraph.”.

**SEC. 103. INVESTMENT CREDIT FOR QUALIFYING MEDICAL
PERSONAL PROTECTIVE EQUIPMENT MANU-
FACTURING PROJECTS.**

(a) IN GENERAL.—Subpart E of part IV of sub-
chapter A of chapter 1 of the Internal Revenue Code of
1986 is amended by inserting after section 48C the fol-
lowing new section:

1 **“SEC. 48D. QUALIFYING MEDICAL PERSONAL PROTECTIVE**
 2 **EQUIPMENT MANUFACTURING PROJECT**
 3 **CREDIT.**

4 “(a) IN GENERAL.—For purposes of section 46, the
 5 qualifying medical personal protective equipment manu-
 6 facturing project credit for any taxable year is an amount
 7 equal to 30 percent of the qualified investment for such
 8 taxable year with respect to any qualifying medical per-
 9 sonal protective equipment manufacturing project of the
 10 taxpayer.

11 “(b) QUALIFIED INVESTMENT.—

12 “(1) IN GENERAL.—For purposes of subsection
 13 (a), the qualified investment for any taxable year
 14 is—

15 “(A) in the case of any eligible property
 16 placed in service by the taxpayer during such
 17 taxable year, the basis of such property, and

18 “(B) in the case of any property previously
 19 placed in service by the taxpayer during any pe-
 20 riod before such taxable year which qualifies as
 21 eligible property for such taxable year, the ad-
 22 justed basis of such property (as determined as
 23 of the beginning of such taxable year).

24 “(2) CERTAIN QUALIFIED PROGRESS EXPENDI-
 25 TURES RULES MADE APPLICABLE.—Rules similar to
 26 the rules of subsections (c)(4) and (d) of section 46

(as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

“(3) LIMITATION.—The amount which is treated as the qualified investment for all taxable years with respect to any qualifying medical personal protective equipment manufacturing project shall not exceed the amount designated by the Secretary as eligible for the credit under this section.

“(c) DEFINITIONS.—

“(1) QUALIFYING MEDICAL PERSONAL PROTECTIVE EQUIPMENT MANUFACTURING PROJECT.—

“(A) IN GENERAL.—The term ‘qualifying medical personal protective equipment manufacturing project’ means a project—

“(i) which re-equips, expands, establishes, or continues a manufacturing facility for the production of—

“(I) any item described in paragraph (6)(B) of section 319F–2(a) of the Public Health Service Act (42 U.S.C. 247d–6b(a)), or

“(II) any textile products for medical applications which are not described in subclause (I), as identified

1 by the Secretary, in consultation with
 2 the Secretary of Health and Human
 3 Services, and

4 “(ii) any portion of the qualified in-
 5 vestment of which is certified by the Sec-
 6 retary under subsection (d) as eligible for
 7 a credit under this section.

8 “(B) EXCEPTION.—Subclause (I) of sub-
 9 paragraph (A)(i) shall not include sensors, elec-
 10 tronics, or other items added to, and not nor-
 11 mally associated with, equipment or clothing de-
 12 scribed in such subclause.

13 “(2) ELIGIBLE PROPERTY.—The term ‘eligible
 14 property’ means any property—

15 “(A) which is necessary for the production
 16 of property described in paragraph (1)(A)(i),

17 “(B) which is—

18 “(i) tangible personal property, or

19 “(ii) other tangible property (not in-
 20 cluding a building or its structural compo-
 21 nents), but only if such property is used as
 22 an integral part of the manufacturing fa-
 23 cility described in such paragraph,

1 “(C) with respect to which depreciation (or
2 amortization in lieu of depreciation) is allow-
3 able, and

4 “(D) which is part of a qualifying medical
5 personal protective equipment manufacturing
6 project.

7 “(d) QUALIFYING MEDICAL PERSONAL PROTECTIVE
8 EQUIPMENT MANUFACTURING PROJECT PROGRAM.—

9 “(1) ESTABLISHMENT.—

10 “(A) IN GENERAL.—Not later than 90
11 days after the date of enactment of this section,
12 the Secretary, in consultation with the Sec-
13 retary of Health and Human Services, shall es-
14 tablish a qualifying medical personal protective
15 equipment manufacturing project program to
16 consider and award certifications for qualified
17 investments eligible for credits under this sec-
18 tion to qualifying medical personal protective
19 equipment manufacturing project sponsors.

20 “(B) LIMITATION.—The total amount of
21 credits that may be allocated under the pro-
22 gram shall not exceed \$7,500,000,000.

23 “(2) CERTIFICATION.—

24 “(A) APPLICATION PERIOD.—Each appli-
25 cant for certification under this paragraph shall

1 submit an application (containing such informa-
2 tion as the Secretary may require) during the
3 1-year period beginning on the date the Sec-
4 retary establishes the program under paragraph
5 (1).

6 “(B) TIME TO MEET CRITERIA FOR CER-
7 TIFICATION.—Each applicant for certification
8 shall have 1 year from the date of acceptance
9 by the Secretary of the application during
10 which to provide to the Secretary evidence that
11 the requirements of the certification have been
12 met.

13 “(C) PERIOD OF ISSUANCE.—An applicant
14 which receives a certification shall have 2 years
15 from the date of issuance of the certification in
16 order to place the project in service and if such
17 project is not placed in service by that time pe-
18 riod, then the certification shall no longer be
19 valid.

20 “(3) SELECTION CRITERIA.—In determining
21 which qualifying medical personal protective equip-
22 ment manufacturing projects to certify under this
23 section, the Secretary shall take into consideration
24 which projects—

1 “(A) will provide the greatest net increase
2 in job creation (both direct and indirect) within
3 the United States (as defined in section
4 4612(a)(4)) during the credit period,

5 “(B) will provide the largest net increase
6 in the amount of medical personal protective
7 equipment for which there is the greatest need
8 for purposes of the Strategic National Stockpile
9 (as described in section 319F–2(a) of the Pub-
10 lic Health Service Act (42 U.S.C. 247d–6b(a))),

11 “(C) have the greatest potential to help
12 achieve medical manufacturing independence
13 for the United States, and

14 “(D) have the greatest potential to meet
15 current demand or sudden surges in demand
16 for personal protective equipment.

17 “(4) REVIEW AND REDISTRIBUTION.—

18 “(A) REVIEW.—Not later than 3 years
19 after the date of enactment of this section, the
20 Secretary shall review the credits allocated
21 under this section as of such date.

22 “(B) REDISTRIBUTION.—The Secretary
23 may reallocate credits awarded under this sec-
24 tion if the Secretary determines that—

1 “(i) there is an insufficient quantity
2 of qualifying applications for certification
3 pending at the time of the review, or

4 “(ii) any certification made pursuant
5 to paragraph (2) has been revoked pursu-
6 ant to paragraph (2)(B) because the
7 project subject to the certification has been
8 delayed as a result of third party opposi-
9 tion or litigation to the proposed project.

10 “(C) REALLOCATION.—If the Secretary de-
11 termines that credits under this section are
12 available for reallocation pursuant to the re-
13 quirements set forth in paragraph (2), the Sec-
14 retary is authorized to conduct an additional
15 program for applications for certification.

16 “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-
17 retary shall, upon making a certification under this
18 subsection, publicly disclose the identity of the appli-
19 cant and the amount of the credit with respect to
20 such applicant.

21 “(e) DENIAL OF DOUBLE BENEFIT.—No credit shall
22 be allowed under any provision of this chapter with respect
23 to any amount taken in account in determining the credit
24 allowed to a taxpayer under this section.”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 46 of the Internal Revenue Code of
2 1986 is amended—

3 (A) by striking “and” at the end of para-
4 graph (5);

5 (B) by striking the period at the end of
6 paragraph (6) and inserting “, and”; and

7 (C) by adding at the end the following:

8 “(7) the qualifying medical personal protective
9 equipment manufacturing project credit.”.

10 (2) Section 49(a)(1)(C) of such Code is amend-
11 ed—

12 (A) by striking “and” at the end of clause
13 (iv);

14 (B) by striking the period at the end of
15 clause (v) and inserting “, and”; and

16 (C) by adding at the end the following:

17 “(vi) the basis of any property which
18 is part of a qualifying medical personal
19 protective equipment manufacturing
20 project under section 48D.”.

21 (3) Section 50(a)(2)(E) of such Code is amend-
22 ed by striking “or 48C(b)(2)” and inserting “,
23 48C(b)(2), or 48D(b)(2)”.

24 (4) The table of sections for subpart E of part
25 IV of subchapter A of chapter 1 of such Code is

1 amended by inserting after the item relating to sec-
 2 tion 48C the following new item:

“Sec. 48D. Qualifying medical personal protective equipment manufacturing project credit.”.

3 (c) TREATMENT UNDER BASE EROSION TAX.—Sec-
 4 tion 59A(b)(1)(B)(ii) of the Internal Revenue Code of
 5 1986 is amended by striking “plus” at the end of sub-
 6 clause (I), by redesignating subclause (II) as subclause
 7 (III), and by inserting after subclause (I) the following
 8 new subclause:

9 “(II) the credit allowed under
 10 section 38 for the taxable year which
 11 is properly allocable to the portion of
 12 the investment credit determined
 13 under section 46 that is properly allo-
 14 cable to section 48D(a), plus”.

15 (d) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to projects certified after the date
 17 of enactment of this Act.

18 **SEC. 104. SPECIAL RULES FOR TRANSFERS OF INTANGIBLE**
 19 **PROPERTY RELATING TO MEDICAL PER-**
 20 **SONAL PROTECTIVE EQUIPMENT TO UNITED**
 21 **STATES SHAREHOLDERS.**

22 (a) IN GENERAL.—Subpart F of part III of sub-
 23 chapter N of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new
2 section:

3 **“SEC. 966. TRANSFERS OF INTANGIBLE PROPERTY RELAT-**
4 **ING TO MEDICAL PERSONAL PROTECTIVE**
5 **EQUIPMENT TO UNITED STATES SHARE-**
6 **HOLDERS.**

7 “(a) IN GENERAL.—Except as otherwise provided by
8 the Secretary, if a controlled foreign corporation holds
9 qualified intangible property on the date of the enactment
10 of this section and thereafter distributes such property to
11 a domestic corporation which is a United States share-
12 holder with respect to such controlled foreign corpora-
13 tion—

14 “(1) for purposes of part I of subchapter C and
15 any other provision of this title specified by the Sec-
16 retary, the fair market value of such property on the
17 date of such distribution shall be treated as not ex-
18 ceeding the adjusted basis of such property imme-
19 diately before such distribution, and

20 “(2) if any portion of such distribution is not
21 a dividend—

22 “(A) no gain shall be recognized by such
23 United States shareholder with respect to such
24 distribution, and

1 “(B) the adjusted basis of such property in
 2 the hands of such United States shareholder
 3 immediately after such distribution shall be the
 4 adjusted basis of such property in the hands of
 5 such controlled foreign corporation immediately
 6 before such distribution reduced by the amount
 7 (if any) of gain not recognized by reason of
 8 subparagraph (A) (determined after the appli-
 9 cation of paragraph (1)).

10 “(b) QUALIFIED INTANGIBLE PROPERTY.—For pur-
 11 poses of this section, the term ‘qualified intangible prop-
 12 erty’ means any property described in section
 13 367(d)(4)(A)—

14 “(1) the principal purpose of which is use in
 15 connection with—

16 “(A) any eligible property, as defined in
 17 section 48D(c)(2), or

18 “(B) any item or product described in sub-
 19 clause (I) or (II) of section 48D(c)(1)(A)(i), or

20 “(2) substantially all of the income from which
 21 is derived in connection with any eligible property
 22 (as defined in section 48D(c)(2)) or any item or
 23 product described in paragraph (1)(B).

24 “(c) REGULATIONS AND GUIDANCE.—The Secretary
 25 shall prescribe such regulations or other guidance as may

1 be necessary to carry out the purposes of this section, in-
 2 cluding to prevent abuse by taxpayers related to distribu-
 3 tions of qualified intangible property.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 197(f)(2)(B)(i) of the Internal Rev-
 6 enue Code of 1986 is amended by inserting
 7 “966(a),” after “731,”.

8 (2) The table of sections for subpart F of part
 9 III of subchapter N of chapter 1 of such Code is
 10 amended by adding at the end the following new
 11 item:

“Sec. 966. Transfers of intangible property relating to medical personal protec-
 tive equipment to United States shareholders.”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to distributions made on or after
 14 the date of enactment of this Act.

15 **TITLE II—SAFEGUARDING** 16 **AMERICAN INNOVATION**

17 **SEC. 201. SHORT TITLE.**

18 This title may be cited as the “Safeguarding Amer-
 19 ican Innovation Act”.

20 **SEC. 202. DEFINITIONS.**

21 In this title:

22 (1) FEDERAL SCIENCE AGENCY.—The term
 23 “Federal science agency” means any Federal depart-
 24 ment or agency to which more than \$100,000,000 in

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

3 (2) RESEARCH AND DEVELOPMENT.—

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

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

10 (C) EXPERIMENTAL DEVELOPMENT.—The
11 term “experimental development” means cre-
12 ative and systematic work, drawing upon knowl-
13 edge gained from research and practical experi-
14 ence, which—

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

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

20 (D) RESEARCH.—The term “research”—

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

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

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

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

9 **SEC. 203. FEDERAL RESEARCH SECURITY COUNCIL.**

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

13 **“CHAPTER 79—FEDERAL RESEARCH**
 14 **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.

15 **“§ 7901. Definitions**

16 “In this chapter:

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

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

1 “(B) the Committee on Commerce,
2 Science, and Transportation of the Senate;

3 “(C) the Select Committee on Intelligence
4 of the Senate;

5 “(D) the Committee on Foreign Relations
6 of the Senate;

7 “(E) the Committee on Armed Services of
8 the Senate;

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

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

13 “(H) the Committee on Homeland Security
14 of the House of Representatives;

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

17 “(J) the Permanent Select Committee on
18 Intelligence of the House of Representatives;

19 “(K) the Committee on Foreign Affairs of
20 the House of Representatives;

21 “(L) the Committee on Armed Services of
22 the House of Representatives; and

23 “(M) the Committee on Education and
24 Labor of the House of Representatives.

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

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

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

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

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

formation 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

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

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

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

9 “(8) UNITED STATES RESEARCH COMMU-
10 NITY.—The term ‘United States research commu-
11 nity’ means—

12 “(A) research and development centers of
13 Executive agencies;

14 “(B) private research and development
15 centers in the United States, including for-prof-
16 it and nonprofit research institutes;

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

21 “(D) research and development centers of
22 States, United States territories, Indian tribes,
23 and municipalities;

1 “(E) government-owned, contractor-oper-
2 ated United States Government research and
3 development centers; and

4 “(F) any person conducting federally fund-
5 ed research or receiving Federal research grant
6 funding.

7 **“§ 7902. Federal Research Security Council establish-**
8 **ment and membership**

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

15 “(b) MEMBERSHIP.—

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

18 “(A) The Office of Management and
19 Budget.

20 “(B) The Office of Science and Technology
21 Policy.

22 “(C) The Department of Defense.

23 “(D) The Department of Homeland Secu-
24 rity.

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

4 “(F) The Department of Justice, including
5 the Federal Bureau of Investigation.

6 “(G) The Department of Energy.

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

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

13 “(J) The Department of State.

14 “(K) The Department of Transportation.

15 “(L) The National Aeronautics and Space
16 Administration.

17 “(M) The National Science Foundation.

18 “(N) The Department of Education.

19 “(O) The Small Business Administration.

20 “(P) The Council of Inspectors General on
21 Integrity and Efficiency.

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

24 “(2) LEAD REPRESENTATIVES.—

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

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

13 “(c) CHAIRPERSON.—

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

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

22 “(A) subject to subsection (d), developing
 23 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 priate, 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. 204. 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. 205. RESTRICTING THE ACQUISITION OF GOODS,**
 5 **TECHNOLOGIES, AND SENSITIVE INFORMA-**
 6 **TION TO 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 title.

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. 206. LIMITATIONS ON EDUCATIONAL AND CULTURAL**
 15 **EXCHANGE 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-

ceived 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. 207. 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.

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,”.

1 **TITLE III—CHIPS FOR AMERICA**
2 **ACT (CREATING HELPFUL IN-**
3 **CENTIVES TO PRODUCE SEMI-**
4 **CONDUCTORS FOR AMERICA)**

5 **SEC. 301. SEMICONDUCTOR INCENTIVE GRANTS.**

6 (a) DEFINITIONS.—In this section—

7 (1) the term “appropriate committees of Con-
8 gress” means—

9 (A) the Select Committee on Intelligence,
10 the Committee on Commerce, Science, and
11 Transportation, the Committee on Foreign Re-
12 lations, the Committee on Armed Services, the
13 Committee on Appropriations, the Committee
14 on Banking, Housing, and Urban Affairs, and
15 the Committee on Homeland Security and Gov-
16 ernmental Affairs of the Senate; and

17 (B) the Permanent Select Committee on
18 Intelligence, the Committee on Energy and
19 Commerce, the Committee on Foreign Affairs,
20 the Committee on Armed Services, the Com-
21 mittee on Science, Space, and Technology, the
22 Committee on Appropriations, the Committee
23 on Financial Services, and the Committee on
24 Homeland Security of the House of Representa-
25 tives;

1 (2) the term “covered entity” means a private
2 entity, a consortium of private entities, or a consor-
3 tium of public and private entities with a dem-
4 onstrated ability to construct, expand, or modernize
5 a facility relating to the fabrication, assembly, test-
6 ing, advanced packaging, or advanced research and
7 development of semiconductors;

8 (3) the term “covered incentive”—

9 (A) means an incentive offered by a gov-
10 ernmental entity to a covered entity for the pur-
11 poses of constructing within the jurisdiction of
12 the governmental entity, or expanding or mod-
13 ernizing an existing facility within that jurisdic-
14 tion, a facility described in paragraph (2); and

15 (B) includes any tax incentive (such as an
16 incentive or reduction with respect to employ-
17 ment or payroll taxes or a tax abatement with
18 respect to personal or real property), a work-
19 force-related incentive (including a grant agree-
20 ment relating to workforce training or voca-
21 tional education), any concession with respect
22 to real property, funding for research and devel-
23 opment with respect to semiconductors, and any
24 other incentive determined appropriate by the

1 Secretary, in consultation with the Secretary of
2 State;

3 (4) the term “foreign adversary” means any
4 foreign government or foreign nongovernment person
5 that is engaged in a long-term pattern, or is involved
6 in a serious instance, of conduct that is significantly
7 adverse to—

8 (A) the national security of the United
9 States or an ally of the United States; or

10 (B) the security and safety of United
11 States persons;

12 (5) the term “governmental entity” means a
13 State or local government;

14 (6) the term “Secretary” means the Secretary
15 of Commerce; and

16 (7) the term “semiconductor” has the meaning
17 given the term by the Secretary.

18 (b) GRANT PROGRAM.—

19 (1) IN GENERAL.—The Secretary shall establish
20 in the Department of Commerce a program that, in
21 accordance with the requirements of this section,
22 provides grants to covered entities.

23 (2) PROCEDURE.—

24 (A) IN GENERAL.—A covered entity shall
25 submit to the Secretary an application that de-

1 scribes the project for which the covered entity
2 is seeking a grant under this section.

3 (B) ELIGIBILITY.—In order for a covered
4 entity to qualify for a grant under this section,
5 the covered entity shall demonstrate to the Sec-
6 retary, in the application submitted by the cov-
7 ered entity under subparagraph (A), that—

8 (i) the covered entity has a docu-
9 mented interest in constructing, expanding,
10 or modernizing a facility described in sub-
11 section (a)(2); and

12 (ii) with respect to the project de-
13 scribed in clause (i), the covered entity
14 has—

15 (I) been offered a covered incen-
16 tive;

17 (II) made commitments to work-
18 er and community investment, includ-
19 ing through—

20 (aa) training and education
21 benefits paid by the covered enti-
22 ty; and

23 (bb) programs to expand
24 employment opportunity for eco-

1 nominically disadvantaged individ-
2 uals; and

3 (III) secured commitments from
4 regional educational and training enti-
5 ties and institutions of higher edu-
6 cation to provide workforce training,
7 including programming for training
8 and job placement of economically dis-
9 advantaged individuals.

10 (C) CONSIDERATIONS FOR REVIEW.—With
11 respect to the review by the Secretary of an ap-
12 plication submitted by a covered entity under
13 subparagraph (A)—

14 (i) the Secretary may not approve the
15 application unless the Secretary—

16 (I) confirms that the covered en-
17 tity has satisfied the eligibility criteria
18 under subparagraph (B); and

19 (II) determines that the project
20 to which the application relates is in
21 the interest of the United States; and

22 (ii) the Secretary may consider wheth-
23 er—

1 (I) the covered entity has pre-
2 viously received a grant made under
3 this subsection; and

4 (II) the governmental entity of-
5 fering the applicable covered incentive
6 has benefitted from a grant previously
7 made under this subsection.

8 (3) AMOUNT.—The amount of a grant made by
9 the Secretary to a covered entity under this sub-
10 section shall be in an amount that is not more than
11 \$3,000,000,000.

12 (4) USE OF FUNDS.—A covered entity that re-
13 ceives a grant under this subsection may only use
14 the grant amounts to—

15 (A) finance the construction, expansion, or
16 modernization of a facility described in sub-
17 section (a)(2), as documented in the application
18 submitted by the covered entity under para-
19 graph (2)(A), or for similar uses in state of
20 practice and legacy facilities, as determined
21 necessary by the Secretary for purposes relating
22 to the national security and economic competi-
23 tiveness of the United States;

24 (B) support workforce development for the
25 facility described in subparagraph (A); or

1 (C) support site development for the facil-
2 ity described in subparagraph (A).

3 (5) CLAWBACK.—The Secretary shall recover
4 the full amount of a grant provided to a covered en-
5 tity under this subsection if—

6 (A) as of the date that is 5 years after the
7 date on which the Secretary makes the grant,
8 the project to which the grant relates has not
9 been completed, except that the Secretary may
10 issue a waiver with respect to the requirement
11 under this subparagraph if the Secretary deter-
12 mines that issuing such a waiver is appropriate
13 and in the interests of the United States; or

14 (B) during the applicable term with re-
15 spect to the grant, the covered entity engages
16 in any joint research or technology licensing ef-
17 fort—

18 (i) with the Government of the Peo-
19 ple’s Republic of China, the Government of
20 the Russian Federation, the Government of
21 Iran, the Government of North Korea, or
22 another foreign adversary; and

23 (ii) that relates to a sensitive tech-
24 nology or product, as determined by the
25 Secretary.

1 (c) CONSULTATION AND COORDINATION RE-
2 QUIRED.—In carrying out the program established under
3 subsection (b), the Secretary shall consult and coordinate
4 with the Secretary of State and the Secretary of Defense.

5 (d) GAO REVIEWS.—The Comptroller General of the
6 United States shall—

7 (1) not later than 2 years after the date of en-
8 actment of this Act, and biennially thereafter until
9 the date that is 10 years after that date of enact-
10 ment, conduct a review of the program established
11 under subsection (b), which shall include, at a min-
12 imum—

13 (A) a determination of the number of in-
14 stances in which grants were provided under
15 that subsection during the period covered by
16 the review in violation of a requirement of this
17 section;

18 (B) an evaluation of how—

19 (i) the program is being carried out,
20 including how recipients of grants are
21 being selected under the program; and

22 (ii) other Federal programs are lever-
23 aged for manufacturing, research, and
24 training to complement the grants awarded
25 under the program; and

1 (C) a description of the outcomes of
2 projects supported by grants made under the
3 program, including a description of—

4 (i) facilities described in subsection
5 (a)(2) that were constructed, expanded, or
6 modernized as a result of grants made
7 under the program;

8 (ii) research and development carried
9 out with grants made under the program;
10 and

11 (iii) workforce training programs car-
12 ried out with grants made under the pro-
13 gram, including efforts to hire individuals
14 from disadvantaged populations; and

15 (2) submit to the appropriate committees of
16 Congress the results of each review conducted under
17 paragraph (1).

18 **SEC. 302. DEPARTMENT OF DEFENSE.**

19 (a) DEPARTMENT OF DEFENSE EFFORTS.—

20 (1) IN GENERAL.—The Secretary of Defense
21 shall, in consultation with the Secretary of Com-
22 merce, the Secretary of Homeland Security, and the
23 Director of National Intelligence, work with the pri-
24 vate sector through a public-private partnership, in-
25 cluding by incentivizing the formation of a consor-

1 tium of United States companies, to ensure the de-
2 velopment and production of advanced, measurably
3 secure microelectronics for use by the Department of
4 Defense, the intelligence community, critical infra-
5 structure sectors, and other national security appli-
6 cations. Such work may include providing incentives
7 for the creation, expansion, or modernization of one
8 or more commercially competitive and sustainable
9 microelectronics manufacturing or advanced research
10 and development facilities.

11 (2) RISK MITIGATION REQUIREMENTS.—A par-
12 ticipant in a consortium formed with incentives
13 under paragraph (1) shall—

14 (A) have the potential to perform fabrica-
15 tion, assembly, package, or test functions for
16 microelectronics deemed critical to national se-
17 curity as defined by export control regulatory
18 agencies in consultation with the National Secu-
19 rity Adviser and the Secretary of Defense;

20 (B) include management processes to iden-
21 tify and mitigate supply chain security risks;
22 and

23 (C) be able to produce microelectronics
24 consistent with applicable measurably secure
25 supply chain and operational security standards

1 established under section 224(b) of the Na-
2 tional Defense Authorization Act for Fiscal
3 Year 2020 (Public Law 116–92).

4 (3) NATIONAL SECURITY CONSIDERATIONS.—

5 The Secretary of Defense and the Director of Na-
6 tional Intelligence shall select participants for the
7 consortium formed with incentives under paragraph
8 (1). In selecting such participants, the Secretary and
9 the Director may jointly consider whether the
10 United States companies—

11 (A) have participated in previous programs
12 and projects of the Department of Defense, De-
13 partment of Energy, or the intelligence commu-
14 nity, including—

15 (i) the Trusted Integrated Circuit pro-
16 gram of the Intelligence Advanced Re-
17 search Projects Activity;

18 (ii) trusted and assured microelec-
19 tronics projects, as administered by the
20 Department of Defense;

21 (iii) the Electronics Resurgence Initia-
22 tive (ERI) program of the Defense Ad-
23 vanced Research Projects Agency; or

1 (iv) relevant semiconductor research
2 programs of Advanced Research Projects
3 Agency–Energy;

4 (B) have demonstrated an ongoing com-
5 mitment to performing contracts for the De-
6 partment of Defense and the intelligence com-
7 munity;

8 (C) are approved by the Defense Counter-
9 intelligence and Security Agency or the Office
10 of the Director of National Intelligence as pre-
11 senting an acceptable security risk, taking into
12 account supply chain assurance vulnerabilities,
13 counterintelligence risks, and any risks pre-
14 sented by companies whose owners are located
15 outside the United States; and

16 (D) are evaluated periodically for foreign
17 ownership, control, or influence by foreign ad-
18 versaries.

19 (4) NONTRADITIONAL DEFENSE CONTRACTORS
20 AND COMMERCIAL ENTITIES.—Arrangements en-
21 tered into to carry out paragraph (1) shall be in
22 such form as the Secretary of Defense determines
23 appropriate to encourage industry participation of
24 nontraditional defense contractors or commercial en-
25 tities and may include a contract, a grant, a cooper-

1 ative agreement, a commercial agreement, the use of
2 other transaction authority under section 2371 of
3 title 10, United States Code, or another such ar-
4 rangement.

5 (5) DISCHARGE.—The Secretary of Defense
6 shall carry out paragraph (1) jointly through the Of-
7 fice of the Under Secretary of Defense for Research
8 and Engineering and the Office of the Under Sec-
9 retary of Defense for Acquisition and Sustainment,
10 or such other component of the Department of De-
11 fense as the Secretary considers appropriate.

12 (6) OTHER INITIATIVES.—The Secretary of De-
13 fense shall dedicate initiatives within the Depart-
14 ment of Defense to advance radio frequency, mixed
15 signal, radiation tolerant, and radiation hardened
16 microelectronics that support national security and
17 dual-use applications.

18 (7) REPORTS.—

19 (A) REPORT BY SECRETARY OF DE-
20 FENSE.—Not later than 90 days after the date
21 of the enactment of this Act, the Secretary of
22 Defense shall submit to Congress a report on
23 the plans of the Secretary to carry out para-
24 graph (1).

1 (B) BIENNIAL REPORTS BY COMPTROLLER
2 GENERAL OF THE UNITED STATES.—Not later
3 than 1 year after the date on which the Sec-
4 retary submits the report required by subpara-
5 graph (A) and not less frequently than once
6 every 2 years thereafter for a period of 10
7 years, the Comptroller General of the United
8 States shall submit to Congress a report on the
9 activities carried out under this subsection.

10 (b) DEFENSE PRODUCTION ACT OF 1950 EF-
11 FORTS.—

12 (1) IN GENERAL.—Not later than 120 days
13 after the date of the enactment of this Act, the
14 President shall submit to Congress a report on a
15 plan for use by the Department of Defense of au-
16 thorities available in title III of the Defense Produc-
17 tion Act of 1950 (50 U.S.C. 4531 et seq.) to estab-
18 lish and enhance a domestic production capability
19 for microelectronics technologies and related tech-
20 nologies, subject to the availability of appropriations
21 for that purpose.

22 (2) CONSULTATION.—The President shall de-
23 velop the plan required by paragraph (1) in coordi-
24 nation with the Secretary of Defense, and in con-
25 sultation with the Secretary of State, the Secretary

1 of Commerce, and appropriate stakeholders in the
2 private sector.

3 (c) DEPARTMENT OF DEFENSE REQUIREMENTS FOR
4 SOURCING FROM DOMESTIC MICROELECTRONICS DESIGN
5 AND FOUNDRY SERVICES.—

6 (1) REQUIREMENTS REQUIRED.—Not later
7 than 1 year after the date of the enactment of this
8 Act, the Secretary of Defense, in coordination with
9 the Secretary of Energy, the Secretary of Homeland
10 Security, and the Director of National Intelligence,
11 shall establish requirements, standards, and a
12 timeline for enforcement of such requirements, to
13 the extent possible, for domestic sourcing for micro-
14 electronics design and foundry services, and for com-
15 mercial microelectronics products, by programs, con-
16 tractors, subcontractors, and other recipients of
17 funding from the Department of Defense, Depart-
18 ment of Energy, Department of Homeland Security,
19 and the Director of National Intelligence.

20 (2) PROCESSES FOR WAIVERS.—The require-
21 ments established under paragraph (1) shall include
22 processes to permit waivers for specific contracts or
23 transactions for domestic sourcing requirements
24 based on cost, availability, severity of technical and
25 mission requirements, emergency requirements and

1 operational needs, other legal or international treaty
 2 obligations, or other factors.

3 (3) UPDATES.—Not less frequently than once
 4 each year, the Secretary shall—

5 (A) update the requirements and timelines
 6 established under paragraph (1) and the proc-
 7 esses under paragraph (2); and

8 (B) submit to Congress a report on the up-
 9 dates made under subparagraph (A).

10 **SEC. 303. DEPARTMENT OF COMMERCE STUDY ON STATUS**
 11 **OF MICROELECTRONICS TECHNOLOGIES IN**
 12 **THE UNITED STATES INDUSTRIAL BASE.**

13 (a) IN GENERAL.—Commencing not later than 120
 14 days after the date of the enactment of this Act, the Sec-
 15 retary of Commerce and the Secretary of Homeland Secu-
 16 rity, in consultation with the Secretary of Defense and the
 17 heads of other appropriate Federal departments and agen-
 18 cies, shall undertake a review, which shall include a sur-
 19 vey, using authorities in section 705 of the Defense Pro-
 20 duction Act (50 U.S.C. 4555), to assess the capabilities
 21 of the United States industrial base to support the na-
 22 tional defense in light of the global nature of the supply
 23 chain and significant interdependencies between the
 24 United States industrial base and the industrial base of

1 foreign countries with respect to the manufacture, design,
2 and end use of microelectronics.

3 (b) RESPONSE TO SURVEY.—The Secretary shall en-
4 sure compliance with the survey from among all relevant
5 potential respondents, including the following:

6 (1) Corporations, partnerships, associations, or
7 any other organized groups domiciled and with sub-
8 stantial operations in the United States.

9 (2) Corporations, partnerships, associations, or
10 any other organized groups domiciled in the United
11 States with operations outside the United States.

12 (3) Foreign domiciled corporations, partner-
13 ships, associations, or any other organized groups
14 with substantial operations or business presence in,
15 or substantial revenues derived from, the United
16 States.

17 (4) Foreign domiciled corporations, partner-
18 ships, associations, or any other organized groups in
19 defense treaty or assistance countries where the pro-
20 duction of the entity concerned involves critical tech-
21 nologies covered by section 2.

22 (c) INFORMATION REQUESTED.—The information
23 sought from a responding entity pursuant to the survey
24 required by subsection (a) shall include, at minimum, in-

1 formation on the following with respect to the manufac-
2 ture, design, or end use of microelectronics by such entity:

3 (1) An identification of the geographic scope of
4 operations.

5 (2) Information on relevant cost structures.

6 (3) An identification of types of microelec-
7 tronics development, manufacture, assembly, test,
8 and packaging equipment in operation at such enti-
9 ty.

10 (4) An identification of all relevant intellectual
11 property, raw materials, and semi-finished goods and
12 components sourced domestically and abroad by
13 such entity.

14 (5) Specifications of the microelectronics manu-
15 factured or designed by such entity, descriptions of
16 the end-uses of such microelectronics, and a descrip-
17 tion of any technical support provided to end-users
18 of such microelectronics by such entity.

19 (6) Information on domestic and export market
20 sales by such entity.

21 (7) Information on the financial performance,
22 including income and expenditures, of such entity.

23 (8) A list of all foreign and domestic subsidies,
24 and any other financial incentives, received by such
25 entity in each market in which such entity operates.

1 (9) A list of information requests from the Peo-
2 ple's Republic of China to such entity, and a de-
3 scription of the nature of each request and the type
4 of information provided.

5 (10) Information on any joint ventures, tech-
6 nology licensing agreements, and cooperative re-
7 search or production arrangements of such entity.

8 (11) A description of efforts by such entity to
9 evaluate and control supply chain risks it faces.

10 (12) A list and description of any sales, licens-
11 ing agreements, or partnerships between such entity
12 and the People's Liberation Army or People's Armed
13 Police, including any business relationships with en-
14 tities through which such sales, licensing agree-
15 ments, or partnerships may occur.

16 (d) REPORT.—

17 (1) IN GENERAL.—The Secretary of Commerce
18 shall, in consultation with the Secretary of Defense,
19 the Secretary of Homeland Security, and the heads
20 of other appropriate Federal departments and agen-
21 cies, submit to Congress a report on the results of
22 the review required by subsection (a). The report
23 shall include the following:

24 (A) An assessment of the results of the
25 survey.

(B) A list of critical technology areas impacted by potential disruptions in production of microelectronics, and a detailed description and assessment of the impact of such potential disruptions on such areas.

(C) A description and assessment of gaps and vulnerabilities in the microelectronics supply chain and the national industrial supply base.

(2) FORM.—The report required by paragraph (1) may be submitted in classified form.

**SEC. 304. FUNDING FOR DEVELOPMENT AND ADOPTION OF
MEASURABLY SECURE MICROELECTRONICS
AND MEASURABLY SECURE MICROELEC-
TRONICS SUPPLY CHAINS.**

(a) MULTILATERAL MICROELECTRONICS SECURITY
FUND.—

(1) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund, to be known as the “Multilateral Microelectronics Security Fund” (in this section referred to as the “Fund”), consisting of such amounts as may be appropriated to such Fund and any amounts that may be credited to the Fund under paragraph (2).

1 (2) INVESTMENT OF AMOUNTS.—

2 (A) INVESTMENT OF AMOUNTS.—The Sec-
3 retary of the Treasury shall invest such portion
4 of the Fund as is not required to meet current
5 withdrawals in interest-bearing obligations of
6 the United States or in obligations guaranteed
7 as to both principal and interest by the United
8 States.

9 (B) INTEREST AND PROCEEDS.—The in-
10 terest on, and the proceeds from the sale or re-
11 demption of, any obligations held in the Fund
12 shall be credited to and form a part of the
13 Fund.

14 (3) USE OF FUND.—

15 (A) IN GENERAL.—Subject to subpara-
16 graph (B), amounts in the Fund shall be avail-
17 able, as provided in advance in an appropria-
18 tions Act, to the Secretary of State—

19 (i) to provide funding through the
20 common funding mechanism described in
21 subsection (b)(1) to support the develop-
22 ment and adoption of measurably secure
23 microelectronics and measurably secure
24 microelectronics supply chains; and

25 (ii) to otherwise carry out this section.

1 (B) AVAILABILITY CONTINGENT ON INTER-
 2 NATIONAL AGREEMENT.—Amounts in the Fund
 3 shall be available to the Secretary of State on
 4 and after the date on which the Secretary en-
 5 ters into an agreement with the governments of
 6 countries that are partners of the United States
 7 to participate in the common funding mecha-
 8 nism under paragraph (1) of subsection (b) and
 9 the commitments described in paragraph (2) of
 10 that subsection.

11 (4) AVAILABILITY OF AMOUNTS.—

12 (A) IN GENERAL.—Amounts in the Fund
 13 shall remain available through the end of the
 14 tenth fiscal year beginning after the date of the
 15 enactment of this Act.

16 (B) REMAINDER TO TREASURY.—Any
 17 amounts remaining in the Fund after the end
 18 of the fiscal year described in subparagraph (A)
 19 shall be deposited in the general fund of the
 20 Treasury.

21 (b) COMMON FUNDING MECHANISM FOR DEVELOP-
 22 MENT AND ADOPTION OF MEASURABLY SECURE MICRO-
 23 ELECTRONICS AND MEASURABLY SECURE MICROELEC-
 24 TRONICS SUPPLY CHAINS.—

1 (1) IN GENERAL.—The Secretary of State, in
2 consultation with the Secretary of Commerce, the
3 Secretary of Defense, the Secretary of Homeland Se-
4 curity, the Secretary of the Treasury, and the Direc-
5 tor of National Intelligence, shall seek to establish a
6 common funding mechanism, in coordination with
7 the governments of countries that are partners of
8 the United States, that uses amounts from the
9 Fund, and amounts committed by such governments,
10 to support the development and adoption of secure
11 microelectronics and secure microelectronics supply
12 chains, including for use in research and develop-
13 ment collaborations among countries participating in
14 the common funding mechanism.

15 (2) MUTUAL COMMITMENTS.—The Secretary of
16 State, in consultation with the United States Trade
17 Representative, the Secretary of the Treasury, and
18 the Secretary of Commerce, shall seek to negotiate
19 a set of mutual commitments with the governments
20 of countries that are partners of the United States
21 upon which to condition any expenditure of funds
22 pursuant to the common funding mechanism de-
23 scribed in paragraph (1). Such commitments shall,
24 at a minimum—

1 (A) establish transparency requirements
2 for any subsidies or other financial benefits (in-
3 cluding revenue foregone) provided to microelec-
4 tronics firms located in or outside such coun-
5 tries;

6 (B) establish consistent policies with re-
7 spect to countries that—

8 (i) are not participating in the com-
9 mon funding mechanism; and

10 (ii) do not meet transparency require-
11 ments established under subparagraph (A);

12 (C) promote harmonized treatment of
13 microelectronics and verification processes for
14 items being exported to a country considered a
15 national security risk by a country participating
16 in the common funding mechanism;

17 (D) establish consistent policies and com-
18 mon external policies to address nonmarket
19 economies as the behavior of such countries
20 pertains to microelectronics;

21 (E) align policies on supply chain integrity
22 and microelectronics security, including with re-
23 spect to protection and enforcement of intellec-
24 tual property rights; and

1 (F) promote harmonized foreign direct in-
2 vestment screening measures with respect to
3 microelectronics to align with national and mul-
4 tilateral security priorities.

5 (c) ANNUAL REPORT TO CONGRESS.—Not later than
6 one year after the date of the enactment of this Act, and
7 annually thereafter for each fiscal year during which
8 amounts in the Fund are available under subsection
9 (a)(4), the Secretary of State shall submit to Congress a
10 report on the status of the implementation of this section
11 that includes a description of—

12 (1) any commitments made by the governments
13 of countries that are partners of the United States
14 to providing funding for the common funding mecha-
15 nism described in subsection (b)(1) and the specific
16 amount so committed;

17 (2) the criteria established for expenditure of
18 funds through the common funding mechanism;

19 (3) how, and to whom, amounts have been ex-
20 pended from the Fund;

21 (4) amounts remaining in the Fund;

22 (5) the progress of the Secretary of State to-
23 ward entering into an agreement with the govern-
24 ments of countries that are partners of the United
25 States to participate in the common funding mecha-

1 nism and the commitments described in subsection
 2 (b)(2); and

3 (6) any additional authorities needed to en-
 4 hance the effectiveness of the Fund in achieving the
 5 security goals of the United States.

6 **SEC. 305. ADVANCED SEMICONDUCTOR RESEARCH AND DE-**
 7 **SIGN.**

8 (a) APPROPRIATE COMMITTEES OF CONGRESS.—In
 9 this section, the term “appropriate committees of Con-
 10 gress” means—

11 (1) the Committee on Intelligence, the Com-
 12 mittee on Commerce, Science, and Transportation,
 13 the Committee on Foreign Relations, the Committee
 14 on Armed Services, the Committee on Energy and
 15 Natural Resources, the Committee on Appropria-
 16 tions, the Committee on Banking, Housing, and
 17 Urban Affairs, and the Committee on Homeland Se-
 18 curity and Governmental Affairs of the Senate; and

19 (2) the Permanent Select Committee on Intel-
 20 ligence, the Committee on Energy and Commerce,
 21 the Committee on Foreign Affairs, the Committee
 22 on Armed Services, the Committee on Science,
 23 Space, and Technology, the Committee on Financial
 24 Services, and the Committee on Homeland Security
 25 of the House of Representatives.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that the leadership of the United States in semicon-
3 ductor technology and innovation is critical to the eco-
4 nomic growth and national security of the United States.

5 (c) SUBCOMMITTEE ON SEMICONDUCTOR LEADER-
6 SHIP.—

7 (1) ESTABLISHMENT REQUIRED.—The Presi-
8 dent shall establish in the National Science and
9 Technology Council a subcommittee on matters re-
10 lating to leadership of the United States in semicon-
11 ductor technology and innovation.

12 (2) DUTIES.—The duties of the subcommittee
13 established under paragraph (1) are as follows:

14 (A) NATIONAL STRATEGY ON SEMICON-
15 DUCTOR RESEARCH.—

16 (i) DEVELOPMENT.—In coordination
17 with the Secretary of Defense, the Sec-
18 retary of Energy, the Secretary of State,
19 the Secretary of Commerce, the Secretary
20 of Homeland Security, the Director of the
21 National Science Foundation, and the Di-
22 rector of the National Institute of Stand-
23 ards and Technology and in consultation
24 with the semiconductor industry and aca-
25 demia, develop a national strategy on semi-

1 conductor research, development, manufac-
 2 turing, and supply chain security, includ-
 3 ing guidance for the funding of research,
 4 and strengthening of the domestic micro-
 5 electronics workforce.

6 (ii) REPORTING AND UPDATES.—Not
 7 less frequently than once every 5 years, to
 8 update the strategy developed under clause
 9 (i) and to submit the revised strategy to
 10 the appropriate committees of Congress.

11 (iii) IMPLEMENTATION.—In coordina-
 12 tion with the Secretary of Defense, the
 13 Secretary of Energy, the Secretary of
 14 State, the Secretary of Commerce, the Sec-
 15 retary of Homeland Security, the Director
 16 of the National Science Foundation, and
 17 the Director of the National Institute of
 18 Standards and Technology, on an annual
 19 basis coordinate and recommend each
 20 agency's semiconductor related research
 21 and development programs and budgets to
 22 ensure consistency with the National Semi-
 23 conductor Strategy.

24 (B) FOSTERING COORDINATION OF RE-
 25 SEARCH AND DEVELOPMENT.—To foster the co-

1 ordination of semiconductor research and devel-
2 opment.

3 (3) SUNSET.—The subcommittee established
4 under paragraph (1) shall terminate on the date
5 that is 10 years after the date of enactment of this
6 Act.

7 (d) INDUSTRIAL ADVISORY COMMITTEE.—The Presi-
8 dent shall establish a standing subcommittee of the Presi-
9 dent’s Council of Advisors on Science and Technology to
10 advise the United States Government on matters relating
11 to microelectronics policy.

12 (e) NATIONAL SEMICONDUCTOR TECHNOLOGY CEN-
13 TER.—

14 (1) ESTABLISHMENT.—The Secretary of Com-
15 merce shall establish a national semiconductor tech-
16 nology center to conduct research and prototyping of
17 advanced semiconductor technology to strengthen
18 the economic competitiveness and security of the do-
19 mestic supply chain, which will be operated as a
20 public private-sector consortium with participation
21 from the private sector, the Department of Defense,
22 the Department of Energy, the Department of
23 Homeland Security, the National Science Founda-
24 tion, and the National Institute of Standards and
25 Technology.

1 (2) FUNCTIONS.—The functions of the center
2 established under paragraph (1) shall be as follows:

3 (A) To conduct advanced semiconductor
4 manufacturing, design research and prototyping
5 that strengthens the entire domestic ecosystem
6 and is aligned with the National Strategy on
7 Semiconductor Research.

8 (B) To establish a National Advanced
9 Packaging Manufacturing Program led by the
10 National Institute of Standards and Tech-
11 nology, in coordination with the Center, to
12 strengthen semiconductor advanced test, assem-
13 bly, and packaging capability in the domestic
14 ecosystem, and which shall coordinate with the
15 Manufacturing USA institute established under
16 paragraph (4).

17 (C) To establish an investment fund, in
18 partnership with the private sector, to support
19 startups in the domestic semiconductor eco-
20 system.

21 (D) To establish a Semiconductor Manu-
22 facturing Program through the Director of the
23 National Institute of Standards and Technology
24 to enable advances and breakthroughs in meas-
25 urement science, standards, material character-

1 ization, instrumentation, testing, and manufac-
2 turing capabilities that will accelerate the un-
3 derlying research and development for metrol-
4 ogy of next generation semiconductors and en-
5 sure the competitiveness and leadership of the
6 United States within this sector.

7 (E) To work with the Secretary of Labor,
8 the private sector, educational institutions, and
9 workforce training entities to develop workforce
10 training programs and apprenticeships in ad-
11 vanced microelectronic packaging capabilities.

12 (3) COMPONENTS.—The fund established under
13 paragraph (2)(C) shall cover the following:

14 (A) Advanced metrology and characteriza-
15 tion for manufacturing of microchips using 3
16 nanometer transistor processes or more ad-
17 vanced processes.

18 (B) Metrology for security and supply
19 chain verification.

20 (4) CREATION OF A MANUFACTURING USA IN-
21 STITUTE.—The fund established under paragraph
22 (2)(C) may also cover the creation of a Manufac-
23 turing USA institute described in section 34(d) of
24 the National Institute of Standards and Technology
25 Act (15 U.S.C. 278s(d)) that is focused on semicon-

(A) Research to support the virtualization and automation of maintenance of semiconductor machinery.

6 (B) Development of new advanced test, as-
7 sembly and packaging capabilities.

(C) Developing and deploying educational and skills training curricula needed to support the industry sector and ensure the U.S. can build and maintain a trusted and predictable talent pipeline.

(f) DOMESTIC PRODUCTION REQUIREMENTS.—The head of any executive agency receiving funding under this section shall develop policies to require domestic production, to the extent possible, for any intellectual property resulting from microelectronics research and development conducted as a result of these funds and domestic control requirements to protect any such intellectual property from foreign adversaries.

21 SEC. 306. PROHIBITION RELATING TO FOREIGN ADVER-
22 SARIES.

23 None of the funds appropriated pursuant to an au-
24 thorization in this title may be provided to an entity—

1 (1) under the foreign ownership, control, or in-
 2 fluence of the Government of the People’s Republic
 3 of China or the Chinese Communist Party, or other
 4 foreign adversary (as defined in section 301(a)(4));
 5 or

6 (2) determined to have beneficial ownership
 7 from foreign individuals subject to the jurisdiction,
 8 direction, or influence of foreign adversaries (as so
 9 defined).

10 **TITLE IV—CRITICAL MINERALS**

11 **SEC. 401. MINERAL SECURITY.**

12 (a) DEFINITIONS.—In this section:

13 (1) BYPRODUCT.—The term “byproduct”
 14 means a critical mineral—

15 (A) the recovery of which depends on the
 16 production of a host mineral that is not des-
 17 ignated as a critical mineral; and

18 (B) that exists in sufficient quantities to
 19 be recovered during processing or refining.

20 (2) CRITICAL MINERAL.—

21 (A) IN GENERAL.—The term “critical min-
 22 eral” means any mineral, element, substance, or
 23 material designated as critical by the Secretary
 24 under subsection (c).

1 (B) EXCLUSIONS.—The term “critical
2 mineral” does not include—

3 (i) fuel minerals, including oil, natural
4 gas, or any other fossil fuels; or

5 (ii) water, ice, or snow.

6 (3) INDIAN TRIBE.—The term “Indian tribe”
7 has the meaning given the term in section 4 of the
8 Indian Self-Determination and Education Assistance
9 Act (25 U.S.C. 5304).

10 (4) SECRETARY.—The term “Secretary” means
11 the Secretary of the Interior.

12 (5) STATE.—The term “State” means—

13 (A) a State;

14 (B) the District of Columbia;

15 (C) the Commonwealth of Puerto Rico;

16 (D) Guam;

17 (E) American Samoa;

18 (F) the Commonwealth of the Northern
19 Mariana Islands; and

20 (G) the United States Virgin Islands.

21 (b) POLICY.—

22 (1) IN GENERAL.—Section 3 of the National
23 Materials and Minerals Policy, Research and Devel-
24 opment Act of 1980 (30 U.S.C. 1602) is amended
25 in the second sentence—

1 (A) by striking paragraph (3) and insert-
2 ing the following:

3 “(3) establish an analytical and forecasting ca-
4 pability for identifying critical mineral demand, sup-
5 ply, and other factors to allow informed actions to
6 be taken to avoid supply shortages, mitigate price
7 volatility, and prepare for demand growth and other
8 market shifts;”;

9 (B) in paragraph (6), by striking “and”
10 after the semicolon at the end; and

11 (C) by striking paragraph (7) and insert-
12 ing the following:

13 “(7) facilitate the availability, development, and
14 environmentally responsible production of domestic
15 resources to meet national material or critical min-
16 eral needs;

17 “(8) avoid duplication of effort, prevent unnec-
18 essary paperwork, and minimize delays in the ad-
19 ministration of applicable laws (including regula-
20 tions) and the issuance of permits and authoriza-
21 tions necessary to explore for, develop, and produce
22 critical minerals and to construct critical mineral
23 manufacturing facilities in accordance with applica-
24 ble environmental and land management laws;

25 “(9) strengthen—

1 “(A) educational and research capabilities
 2 at not lower than the secondary school level;
 3 and

4 “(B) workforce training for exploration
 5 and development of critical minerals and critical
 6 mineral manufacturing;

7 “(10) bolster international cooperation through
 8 technology transfer, information sharing, and other
 9 means;

10 “(11) promote the efficient production, use, and
 11 recycling of critical minerals;

12 “(12) develop alternatives to critical minerals;
 13 and

14 “(13) establish contingencies for the production
 15 of, or access to, critical minerals for which viable
 16 sources do not exist within the United States.”.

17 (2) CONFORMING AMENDMENT.—Section 2(b)
 18 of the National Materials and Minerals Policy, Re-
 19 search and Development Act of 1980 (30 U.S.C.
 20 1601(b)) is amended by striking “(b) As used in this
 21 Act, the term” and inserting the following:

22 “(b) DEFINITIONS.—In this Act:

23 “(1) CRITICAL MINERAL.—The term ‘critical
 24 mineral’ means any mineral, element, substance, or
 25 material designated as critical by the Secretary

under section 401(c) of the Restoring Critical Supply Chains and Intellectual Property Act.

“(2) MATERIALS.—The term”.

(c) CRITICAL MINERAL DESIGNATIONS.—

(1) DRAFT METHODOLOGY AND LIST.—The Secretary, acting through the Director of the United States Geological Survey (referred to in this subsection as the “Secretary”), shall publish in the Federal Register for public comment—

(A) a description of the draft methodology used to identify a draft list of critical minerals;

(B) a draft list of minerals, elements, substances, and materials that qualify as critical minerals; and

(C) a draft list of critical minerals recovered as byproducts.

(2) AVAILABILITY OF DATA.—If available data is insufficient to provide a quantitative basis for the methodology developed under this subsection, qualitative evidence may be used to the extent necessary.

(3) FINAL METHODOLOGY AND LIST.—After reviewing public comments on the draft methodology and the draft lists published under paragraph (1) and updating the methodology and lists as appropriate, not later than 45 days after the date on

1 which the public comment period with respect to the
2 draft methodology and draft lists closes, the Sec-
3 retary shall publish in the Federal Register—

4 (A) a description of the final methodology
5 for determining which minerals, elements, sub-
6 stances, and materials qualify as critical min-
7 erals;

8 (B) the final list of critical minerals; and

9 (C) the final list of critical minerals recov-
10 ered as byproducts.

11 (4) DESIGNATIONS.—

12 (A) IN GENERAL.—For purposes of car-
13 rying out this subsection, the Secretary shall
14 maintain a list of minerals, elements, sub-
15 stances, and materials designated as critical,
16 pursuant to the final methodology published
17 under paragraph (3), that the Secretary deter-
18 mines—

19 (i) are essential to the economic or
20 national security of the United States;

21 (ii) the supply chain of which is vul-
22 nerable to disruption (including restrictions
23 associated with foreign political risk, ab-
24 rupt demand growth, military conflict, vio-
25 lent unrest, anti-competitive or protec-

1 tionist behaviors, and other risks through-
2 out the supply chain); and

3 (iii) serve an essential function in the
4 manufacturing of a product (including en-
5 ergy technology-, defense-, currency-, agri-
6 culture-, consumer electronics-, and health
7 care-related applications), the absence of
8 which would have significant consequences
9 for the economic or national security of the
10 United States.

11 (B) INCLUSIONS.—Notwithstanding the
12 criteria under paragraph (3), the Secretary may
13 designate and include on the list any mineral,
14 element, substance, or material determined by
15 another Federal agency to be strategic and crit-
16 ical to the defense or national security of the
17 United States.

18 (C) REQUIRED CONSULTATION.—The Sec-
19 retary shall consult with the Secretaries of De-
20 fense, Commerce, Agriculture, and Energy and
21 the United States Trade Representative in des-
22 ignating minerals, elements, substances, and
23 materials as critical under this paragraph.

24 (5) SUBSEQUENT REVIEW.—

1 (A) IN GENERAL.—The Secretary, in con-
2 sultation with the Secretaries of Defense, Com-
3 merce, Agriculture, and Energy and the United
4 States Trade Representative, shall review the
5 methodology and list under paragraph (3) and
6 the designations under paragraph (4) at least
7 every 3 years, or more frequently as the Sec-
8 retary considers to be appropriate.

9 (B) REVISIONS.—Subject to paragraph
10 (4)(A), the Secretary may—

11 (i) revise the methodology described in
12 this subsection;

13 (ii) determine that minerals, elements,
14 substances, and materials previously deter-
15 mined to be critical minerals are no longer
16 critical minerals; and

17 (iii) designate additional minerals, ele-
18 ments, substances, or materials as critical
19 minerals.

20 (6) NOTICE.—On finalization of the method-
21 ology and the list under paragraph (3), or any revi-
22 sion to the methodology or list under paragraph (5),
23 the Secretary shall submit to Congress written no-
24 tice of the action.

25 (d) RESOURCE ASSESSMENT.—

1 (1) IN GENERAL.—Not later than 4 years after
2 the date of enactment of this Act, in consultation
3 with applicable State (including geological surveys),
4 local, academic, industry, and other entities, the Sec-
5 retary (acting through the Director of the United
6 States Geological Survey) or a designee of the Sec-
7 retary, shall complete a comprehensive national as-
8 sessment of each critical mineral that—

9 (A) identifies and quantifies known critical
10 mineral resources, using all available public and
11 private information and datasets, including ex-
12 ploration histories; and

13 (B) provides a quantitative and qualitative
14 assessment of undiscovered critical mineral re-
15 sources throughout the United States, including
16 probability estimates of tonnage and grade,
17 using all available public and private informa-
18 tion and datasets, including exploration his-
19 tories.

20 (2) SUPPLEMENTARY INFORMATION.—In car-
21 rying out this subsection, the Secretary may carry
22 out surveys and field work (including drilling, re-
23 mote sensing, geophysical surveys, topographical and
24 geological mapping, and geochemical sampling and
25 analysis) to supplement existing information and

1 datasets available for determining the existence of
2 critical minerals in the United States.

3 (3) PUBLIC ACCESS.—Subject to applicable law,
4 to the maximum extent practicable, the Secretary
5 shall make all data and metadata collected from the
6 comprehensive national assessment carried out
7 under paragraph (1) publically and electronically ac-
8 cessible.

9 (4) TECHNICAL ASSISTANCE.—At the request of
10 the Governor of a State or the head of an Indian
11 tribe, the Secretary may provide technical assistance
12 to State governments and Indian tribes conducting
13 critical mineral resource assessments on non-Federal
14 land.

15 (5) PRIORITIZATION.—

16 (A) IN GENERAL.—The Secretary may se-
17 quence the completion of resource assessments
18 for each critical mineral such that critical min-
19 erals considered to be most critical under the
20 methodology established under subsection (c)
21 are completed first.

22 (B) REPORTING.—During the period be-
23 ginning not later than 1 year after the date of
24 enactment of this Act and ending on the date
25 of completion of all of the assessments required

1 under this subsection, the Secretary shall sub-
 2 mit to Congress on an annual basis an interim
 3 report that—

4 (i) identifies the sequence and sched-
 5 ule for completion of the assessments if the
 6 Secretary sequences the assessments; or

7 (ii) describes the progress of the as-
 8 sessments if the Secretary does not se-
 9 quence the assessments.

10 (6) UPDATES.—The Secretary may periodically
 11 update the assessments conducted under this sub-
 12 section based on—

13 (A) the generation of new information or
 14 datasets by the Federal Government; or

15 (B) the receipt of new information or
 16 datasets from critical mineral producers, State
 17 geological surveys, academic institutions, trade
 18 associations, or other persons.

19 (7) ADDITIONAL SURVEYS.—The Secretary
 20 shall complete a resource assessment for each addi-
 21 tional mineral or element subsequently designated as
 22 a critical mineral under subsection (c)(5)(B) not
 23 later than 2 years after the designation of the min-
 24 eral or element.

1 (8) REPORT.—Not later than 2 years after the
2 date of enactment of this Act, the Secretary shall
3 submit to Congress a report describing the status of
4 geological surveying of Federal land for any mineral
5 commodity—

6 (A) for which the United States was de-
7 pendent on a foreign country for more than 25
8 percent of the United States supply, as depicted
9 in the report issued by the United States Geo-
10 logical Survey entitled “Mineral Commodity
11 Summaries 2020”; but

12 (B) that is not designated as a critical
13 mineral under subsection (c).

14 (e) PERMITTING.—

15 (1) SENSE OF CONGRESS.—It is the sense of
16 Congress that—

17 (A) critical minerals are fundamental to
18 the economy, competitiveness, and security of
19 the United States;

20 (B) to the maximum extent practicable,
21 the critical mineral needs of the United States
22 should be satisfied by minerals responsibly pro-
23 duced and recycled in the United States; and

24 (C) the Federal permitting process has
25 been identified as an impediment to mineral

1 production and the mineral security of the
2 United States.

3 (2) PERFORMANCE IMPROVEMENTS.—To im-
4 prove the quality and timeliness of decisions, the
5 Secretary (acting through the Director of the Bu-
6 reau of Land Management) and the Secretary of Ag-
7 riculture (acting through the Chief of the Forest
8 Service) (referred to in this subsection as the “Sec-
9 retaries”) shall, to the maximum extent practicable,
10 with respect to critical mineral production on Fed-
11 eral land, complete Federal permitting and review
12 processes with maximum efficiency and effectiveness,
13 while supporting vital economic growth, by—

14 (A) establishing and adhering to timelines
15 and schedules for the consideration of, and final
16 decisions regarding, applications, operating
17 plans, leases, licenses, permits, and other use
18 authorizations for mineral-related activities on
19 Federal land;

20 (B) establishing clear, quantifiable, and
21 temporal permitting performance goals and
22 tracking progress against those goals;

23 (C) engaging in early collaboration among
24 agencies, project sponsors, and affected stake-
25 holders—

1 (i) to incorporate and address the in-
2 terests of those parties; and

3 (ii) to minimize delays;

4 (D) ensuring transparency and account-
5 ability by using cost-effective information tech-
6 nology to collect and disseminate information
7 regarding individual projects and agency per-
8 formance;

9 (E) engaging in early and active consulta-
10 tion with State, local, and Indian tribal govern-
11 ments to avoid conflicts or duplication of effort,
12 resolve concerns, and allow for concurrent,
13 rather than sequential, reviews;

14 (F) providing demonstrable improvements
15 in the performance of Federal permitting and
16 review processes, including lower costs and
17 more timely decisions;

18 (G) expanding and institutionalizing per-
19 mitting and review process improvements that
20 have proven effective;

21 (H) developing mechanisms to better com-
22 municate priorities and resolve disputes among
23 agencies at the national, regional, State, and
24 local levels; and

1 (I) developing other practices, such as
2 preapplication procedures.

3 (3) REVIEW AND REPORT.—Not later than 1
4 year after the date of enactment of this Act, the
5 Secretaries shall submit to Congress a report that—

6 (A) identifies additional measures (includ-
7 ing regulatory and legislative proposals, as ap-
8 propriate) that would increase the timeliness of
9 permitting activities for the exploration and de-
10 velopment of domestic critical minerals;

11 (B) identifies options (including cost recov-
12 ery paid by permit applicants) for ensuring ade-
13 quate staffing and training of Federal entities
14 and personnel responsible for the consideration
15 of applications, operating plans, leases, licenses,
16 permits, and other use authorizations for crit-
17 ical mineral-related activities on Federal land;

18 (C) quantifies the amount of time typically
19 required (including range derived from min-
20 imum and maximum durations, mean, median,
21 variance, and other statistical measures or rep-
22 resentations) to complete each step (including
23 those aspects outside the control of the execu-
24 tive branch, such as judicial review, applicant
25 decisions, or State and local government in-

1 involvement) associated with the development and
2 processing of applications, operating plans,
3 leases, licenses, permits, and other use author-
4 izations for critical mineral-related activities on
5 Federal land, which shall serve as a baseline for
6 the performance metric under paragraph (4);
7 and

8 (D) describes actions carried out pursuant
9 to paragraph (2).

10 (4) PERFORMANCE METRIC.—Not later than 90
11 days after the date of submission of the report
12 under paragraph (3), the Secretaries, after providing
13 public notice and an opportunity to comment, shall
14 develop and publish a performance metric for evalu-
15 ating the progress made by the executive branch to
16 expedite the permitting of activities that will in-
17 crease exploration for, and development of, domestic
18 critical minerals, while maintaining environmental
19 standards.

20 (5) ANNUAL REPORTS.—Beginning with the
21 first budget submission by the President under sec-
22 tion 1105 of title 31, United States Code, after pub-
23 lication of the performance metric required under
24 paragraph (4), and annually thereafter, the Secre-
25 taries shall submit to Congress a report that—

1 (A) summarizes the implementation of rec-
2 ommendations, measures, and options identified
3 in subparagraphs (A) and (B) of paragraph (3);

4 (B) using the performance metric under
5 paragraph (4), describes progress made by the
6 executive branch, as compared to the baseline
7 established pursuant to paragraph (3)(C), on
8 expediting the permitting of activities that will
9 increase exploration for, and development of,
10 domestic critical minerals; and

11 (C) compares the United States to other
12 countries in terms of permitting efficiency and
13 any other criteria relevant to the globally com-
14 petitive critical minerals industry.

15 (6) INDIVIDUAL PROJECTS.—Using data from
16 the Secretaries generated under paragraph (5), the
17 Director of the Office of Management and Budget
18 shall prioritize inclusion of individual critical mineral
19 projects on the website operated by the Office of
20 Management and Budget in accordance with section
21 1122 of title 31, United States Code.

22 (7) REPORT OF SMALL BUSINESS ADMINISTRA-
23 TION.—Not later than 1 year and 300 days after the
24 date of enactment of this Act, the Administrator of
25 the Small Business Administration shall submit to

1 the applicable committees of Congress a report that
2 assesses the performance of Federal agencies with
3 respect to—

4 (A) complying with chapter 6 of title 5,
5 United States Code (commonly known as the
6 “Regulatory Flexibility Act”), in promulgating
7 regulations applicable to the critical minerals
8 industry; and

9 (B) performing an analysis of regulations
10 applicable to the critical minerals industry that
11 may be outmoded, inefficient, duplicative, or ex-
12 cessively burdensome.

13 (f) FEDERAL REGISTER PROCESS.—

14 (1) DEPARTMENTAL REVIEW.—Absent any ex-
15 traordinary circumstance, and except as otherwise
16 required by law, the Secretary and the Secretary of
17 Agriculture shall ensure that each Federal Register
18 notice described in paragraph (2) shall be—

19 (A) subject to any required reviews within
20 the Department of the Interior or the Depart-
21 ment of Agriculture; and

22 (B) published in final form in the Federal
23 Register not later than 45 days after the date
24 of initial preparation of the notice.

1 (2) PREPARATION.—The preparation of Federal
2 Register notices required by law associated with the
3 issuance of a critical mineral exploration or mine
4 permit shall be delegated to the organizational level
5 within the agency responsible for issuing the critical
6 mineral exploration or mine permit.

7 (3) TRANSMISSION.—All Federal Register no-
8 tices regarding official document availability, an-
9 nouncements of meetings, or notices of intent to un-
10 dertake an action shall be originated in, and trans-
11 mitted to the Federal Register from, the office in
12 which, as applicable—

13 (A) the documents or meetings are held; or

14 (B) the activity is initiated.

15 (g) RECYCLING, EFFICIENCY, AND ALTERNATIVES.—

16 (1) ESTABLISHMENT.—The Secretary of En-
17 ergy (referred to in this subsection as the “Sec-
18 retary”) shall conduct a program of research and de-
19 velopment—

20 (A) to promote the efficient production,
21 use, and recycling of critical minerals through-
22 out the supply chain; and

23 (B) to develop alternatives to critical min-
24 erals that do not occur in significant abundance
25 in the United States.

1 (2) COOPERATION.—In carrying out the pro-
2 gram, the Secretary shall cooperate with appro-
3 priate—

4 (A) Federal agencies and National Labora-
5 tories;

6 (B) critical mineral producers;

7 (C) critical mineral processors;

8 (D) critical mineral manufacturers;

9 (E) trade associations;

10 (F) academic institutions;

11 (G) small businesses; and

12 (H) other relevant entities or individuals.

13 (3) ACTIVITIES.—Under the program, the Sec-
14 retary shall carry out activities that include the iden-
15 tification and development of—

16 (A) advanced critical mineral extraction,
17 production, separation, alloying, or processing
18 technologies that decrease the energy consump-
19 tion, environmental impact, and costs of those
20 activities, including—

21 (i) efficient water and wastewater
22 management strategies;

23 (ii) technologies and management
24 strategies to control the environmental im-
25 pacts of radionuclides in ore tailings;

1 (iii) technologies for separation and
2 processing; and

3 (iv) technologies for increasing the re-
4 covery rates of byproducts from host metal
5 ores;

6 (B) technologies or process improvements
7 that minimize the use, or lead to more efficient
8 use, of critical minerals across the full supply
9 chain;

10 (C) technologies, process improvements, or
11 design optimizations that facilitate the recycling
12 of critical minerals, and options for improving
13 the rates of collection of products and scrap
14 containing critical minerals from post-con-
15 sumer, industrial, or other waste streams;

16 (D) commercial markets, advanced storage
17 methods, energy applications, and other bene-
18 ficial uses of critical minerals processing by-
19 products;

20 (E) alternative minerals, metals, and mate-
21 rials, particularly those available in abundance
22 within the United States and not subject to po-
23 tential supply restrictions, that lessen the need
24 for critical minerals; and

1 (F) alternative energy technologies or al-
2 ternative designs of existing energy tech-
3 nologies, particularly those that use minerals
4 that—

5 (i) occur in abundance in the United
6 States; and

7 (ii) are not subject to potential supply
8 restrictions.

9 (4) REPORTS.—Not later than 2 years after the
10 date of enactment of this Act, and annually there-
11 after, the Secretary shall submit to Congress a re-
12 port summarizing the activities, findings, and
13 progress of the program.

14 (h) ANALYSIS AND FORECASTING.—

15 (1) CAPABILITIES.—In order to evaluate exist-
16 ing critical mineral policies and inform future ac-
17 tions that may be taken to avoid supply shortages,
18 mitigate price volatility, and prepare for demand
19 growth and other market shifts, the Secretary (act-
20 ing through the Director of the United States Geo-
21 logical Survey) or a designee of the Secretary, in
22 consultation with the Energy Information Adminis-
23 tration, academic institutions, and others in order to
24 maximize the application of existing competencies re-
25 lated to developing and maintaining computer-mod-

1 els and similar analytical tools, shall conduct and
2 publish the results of an annual report that in-
3 cludes—

4 (A) as part of the annually published Min-
5 eral Commodity Summaries from the United
6 States Geological Survey, a comprehensive re-
7 view of critical mineral production, consump-
8 tion, and recycling patterns, including—

9 (i) the quantity of each critical min-
10 eral domestically produced during the pre-
11 ceding year;

12 (ii) the quantity of each critical min-
13 eral domestically consumed during the pre-
14 ceding year;

15 (iii) market price data or other price
16 data for each critical mineral;

17 (iv) an assessment of—

18 (I) critical mineral requirements
19 to meet the national security, energy,
20 economic, industrial, technological,
21 and other needs of the United States
22 during the preceding year;

23 (II) the reliance of the United
24 States on foreign sources to meet

1 those needs during the preceding year;

2 and

3 (III) the implications of any sup-
4 ply shortages, restrictions, or disrup-
5 tions during the preceding year;

6 (v) the quantity of each critical min-
7 eral domestically recycled during the pre-
8 ceding year;

9 (vi) the market penetration during the
10 preceding year of alternatives to each crit-
11 ical mineral;

12 (vii) a discussion of international
13 trends associated with the discovery, pro-
14 duction, consumption, use, costs of produc-
15 tion, prices, and recycling of each critical
16 mineral as well as the development of al-
17 ternatives to critical minerals; and

18 (viii) such other data, analyses, and
19 evaluations as the Secretary finds are nec-
20 essary to achieve the purposes of this sub-
21 section; and

22 (B) a comprehensive forecast, entitled the
23 “Annual Critical Minerals Outlook”, of pro-
24 jected critical mineral production, consumption,
25 and recycling patterns, including—

1 (i) the quantity of each critical min-
2 eral projected to be domestically produced
3 over the subsequent 1-year, 5-year, and
4 10-year periods;

5 (ii) the quantity of each critical min-
6 eral projected to be domestically consumed
7 over the subsequent 1-year, 5-year, and
8 10-year periods;

9 (iii) an assessment of—

10 (I) critical mineral requirements
11 to meet projected national security,
12 energy, economic, industrial, techno-
13 logical, and other needs of the United
14 States;

15 (II) the projected reliance of the
16 United States on foreign sources to
17 meet those needs; and

18 (III) the projected implications of
19 potential supply shortages, restric-
20 tions, or disruptions;

21 (iv) the quantity of each critical min-
22 eral projected to be domestically recycled
23 over the subsequent 1-year, 5-year, and
24 10-year periods;

1 (v) the market penetration of alter-
2 natives to each critical mineral projected to
3 take place over the subsequent 1-year, 5-
4 year, and 10-year periods;

5 (vi) a discussion of reasonably foresee-
6 able international trends associated with
7 the discovery, production, consumption,
8 use, costs of production, and recycling of
9 each critical mineral as well as the develop-
10 ment of alternatives to critical minerals;
11 and

12 (vii) such other projections relating to
13 each critical mineral as the Secretary de-
14 termines to be necessary to achieve the
15 purposes of this subsection.

16 (2) PROPRIETARY INFORMATION.—In preparing
17 a report described in paragraph (1), the Secretary
18 shall ensure, consistent with section 5(f) of the Na-
19 tional Materials and Minerals Policy, Research and
20 Development Act of 1980 (30 U.S.C. 1604(f)),
21 that—

22 (A) no person uses the information and
23 data collected for the report for a purpose other
24 than the development of or reporting of aggre-
25 gate data in a manner such that the identity of

1 the person or firm who supplied the information
2 is not discernible and is not material to the in-
3 tended uses of the information;

4 (B) no person discloses any information or
5 data collected for the report unless the informa-
6 tion or data has been transformed into a statis-
7 tical or aggregate form that does not allow the
8 identification of the person or firm who sup-
9 plied particular information; and

10 (C) procedures are established to require
11 the withholding of any information or data col-
12 lected for the report if the Secretary determines
13 that withholding is necessary to protect propri-
14 etary information, including any trade secrets
15 or other confidential information.

16 (i) EDUCATION AND WORKFORCE.—

17 (1) WORKFORCE ASSESSMENT.—Not later than
18 1 year and 300 days after the date of enactment of
19 this Act, the Secretary of Labor (in consultation
20 with the Secretary, the Director of the National
21 Science Foundation, institutions of higher education
22 with substantial expertise in mining, institutions of
23 higher education with significant expertise in min-
24 erals research, including fundamental research into
25 alternatives, and employers in the critical minerals

1 sector) shall submit to Congress an assessment of
2 the domestic availability of technically trained per-
3 sonnel necessary for critical mineral exploration, de-
4 velopment, assessment, production, manufacturing,
5 recycling, analysis, forecasting, education, and re-
6 search, including an analysis of—

7 (A) skills that are in the shortest supply as
8 of the date of the assessment;

9 (B) skills that are projected to be in short
10 supply in the future;

11 (C) the demographics of the critical min-
12 erals industry and how the demographics will
13 evolve under the influence of factors such as an
14 aging workforce;

15 (D) the effectiveness of training and edu-
16 cation programs in addressing skills shortages;

17 (E) opportunities to hire locally for new
18 and existing critical mineral activities;

19 (F) the sufficiency of personnel within rel-
20 evant areas of the Federal Government for
21 achieving the policies described in section 3 of
22 the National Materials and Minerals Policy, Re-
23 search and Development Act of 1980 (30
24 U.S.C. 1602); and

1 (G) the potential need for new training
2 programs to have a measurable effect on the
3 supply of trained workers in the critical min-
4 erals industry.

5 (2) CURRICULUM STUDY.—

6 (A) IN GENERAL.—The Secretary and the
7 Secretary of Labor shall jointly enter into an
8 arrangement with the National Academy of
9 Sciences and the National Academy of Engi-
10 neering under which the Academies shall co-
11 ordinate with the National Science Foundation
12 on conducting a study—

13 (i) to design an interdisciplinary pro-
14 gram on critical minerals that will support
15 the critical mineral supply chain and im-
16 prove the ability of the United States to
17 increase domestic, critical mineral explo-
18 ration, development, production, manufac-
19 turing, research, including fundamental re-
20 search into alternatives, and recycling;

21 (ii) to address undergraduate and
22 graduate education, especially to assist in
23 the development of graduate level pro-
24 grams of research and instruction that
25 lead to advanced degrees with an emphasis

1 on the critical mineral supply chain or
2 other positions that will increase domestic,
3 critical mineral exploration, development,
4 production, manufacturing, research, in-
5 cluding fundamental research into alter-
6 natives, and recycling;

7 (iii) to develop guidelines for pro-
8 posals from institutions of higher edu-
9 cation with substantial capabilities in the
10 required disciplines for activities to im-
11 prove the critical mineral supply chain and
12 advance the capacity of the United States
13 to increase domestic, critical mineral explo-
14 ration, research, development, production,
15 manufacturing, and recycling; and

16 (iv) to outline criteria for evaluating
17 performance and recommendations for the
18 amount of funding that will be necessary
19 to establish and carry out the program de-
20 scribed in paragraph (3).

21 (B) REPORT.—Not later than 2 years after
22 the date of enactment of this Act, the Secretary
23 shall submit to Congress a description of the re-
24 sults of the study required under subparagraph
25 (A).

1 (3) PROGRAM.—

2 (A) ESTABLISHMENT.—The Secretary and
3 the Secretary of Labor shall jointly conduct a
4 competitive grant program under which institu-
5 tions of higher education may apply for and re-
6 ceive 4-year grants for—

7 (i) startup costs for newly designated
8 faculty positions in integrated critical min-
9 eral education, research, innovation, train-
10 ing, and workforce development programs
11 consistent with paragraph (2);

12 (ii) internships, scholarships, and fel-
13 lowships for students enrolled in programs
14 related to critical minerals;

15 (iii) equipment necessary for inte-
16 grated critical mineral innovation, training,
17 and workforce development programs; and

18 (iv) research of critical minerals and
19 their applications, particularly concerning
20 the manufacture of critical components
21 vital to national security.

22 (B) RENEWAL.—A grant under this para-
23 graph shall be renewable for up to 2 additional
24 3-year terms based on performance criteria out-
25 lined under paragraph (2)(A)(iv).

1 (j) NATIONAL GEOLOGICAL AND GEOPHYSICAL DATA
 2 PRESERVATION PROGRAM.—Section 351(k) of the Energy
 3 Policy Act of 2005 (42 U.S.C. 15908(k)) is amended by
 4 striking “\$30,000,000 for each of fiscal years 2006
 5 through 2010” and inserting “\$5,000,000 for each of fis-
 6 cal years 2021 through 2030, to remain available until ex-
 7 pended”.

8 (k) ADMINISTRATION.—

9 (1) IN GENERAL.—The National Critical Mate-
 10 rials Act of 1984 (30 U.S.C. 1801 et seq.) is re-
 11 pealed.

12 (2) CONFORMING AMENDMENT.—Section 3(d)
 13 of the National Superconductivity and Competitive-
 14 ness Act of 1988 (15 U.S.C. 5202(d)) is amended
 15 in the first sentence by striking “, with the assist-
 16 ance of the National Critical Materials Council as
 17 specified in the National Critical Materials Act of
 18 1984 (30 U.S.C. 1801 et seq.),”.

19 (3) SAVINGS CLAUSES.—

20 (A) IN GENERAL.—Nothing in this section
 21 or an amendment made by this section modifies
 22 any requirement or authority provided by—

23 (i) the matter under the heading “**GE-**
 24 **OLOGICAL SURVEY**” of the first section

1 of the Act of March 3, 1879 (43 U.S.C.
2 31(a)); or

3 (ii) the first section of Public Law
4 87–626 (43 U.S.C. 31(b)).

5 (B) EFFECT ON DEPARTMENT OF DE-
6 FENSE.—Nothing in this section or an amend-
7 ment made by this section affects the authority
8 of the Secretary of Defense with respect to the
9 work of the Department of Defense on critical
10 material supplies in furtherance of the national
11 defense mission of the Department of Defense.

12 (C) SECRETARIAL ORDER NOT AF-
13 FECTED.—This section shall not apply to any
14 mineral described in Secretarial Order No.
15 3324, issued by the Secretary on December 3,
16 2012, in any area to which the order applies.

17 (4) APPLICATION OF CERTAIN PROVISIONS.—

18 (A) IN GENERAL.—Subsections (e) and (f)
19 shall apply to—

20 (i) an exploration project in which the
21 presence of a byproduct is reasonably ex-
22 pected, based on known mineral
23 companionality, geologic formation, min-
24 eralogy, or other factors; and

1 (ii) a project that demonstrates that
 2 the byproduct is of sufficient grade that,
 3 when combined with the production of a
 4 host mineral, the byproduct is economic to
 5 recover, as determined by the applicable
 6 Secretary in accordance with subparagraph
 7 (B).

8 (B) REQUIREMENT.—In making the deter-
 9 mination under subparagraph (A)(ii), the appli-
 10 cable Secretary shall consider the cost effective-
 11 ness of the byproducts recovery.

12 (I) AUTHORIZATION OF APPROPRIATIONS.—There is
 13 authorized to be appropriated to carry out this section
 14 \$50,000,000 for each of fiscal years 2021 through 2030.

15 **SEC. 402. RARE EARTH ELEMENT ADVANCED COAL TECH-**
 16 **NOLOGIES.**

17 (a) PROGRAM FOR EXTRACTION AND RECOVERY OF
 18 RARE EARTH ELEMENTS AND MINERALS FROM COAL
 19 AND COAL BYPRODUCTS.—

20 (1) IN GENERAL.—The Secretary of Energy,
 21 acting through the Assistant Secretary for Fossil
 22 Energy (referred to in this section as the “Sec-
 23 retary”), shall carry out a program under which the
 24 Secretary shall develop advanced separation tech-
 25 nologies for the extraction and recovery of rare earth

1 elements and minerals from coal and coal byprod-
2 ucts.

3 (2) AUTHORIZATION OF APPROPRIATIONS.—

4 There is authorized to be appropriated to the Sec-
5 retary to carry out the program described in para-
6 graph (1) \$23,000,000 for each of fiscal years 2021
7 through 2028.

8 (b) REPORT.—Not later than 1 year after the date
9 of enactment of this Act, the Secretary shall submit to
10 the Committee on Energy and Natural Resources of the
11 Senate and the Committee on Energy and Commerce of
12 the House of Representatives a report evaluating the de-
13 velopment of advanced separation technologies for the ex-
14 traction and recovery of rare earth elements and minerals
15 from coal and coal byproducts, including acid mine drain-
16 age from coal mines.

○