

1 **DIVISION D—HOMELAND SECU-**  
2 **RITY AND GOVERNMENTAL**  
3 **AFFAIRS COMMITTEE PROVI-**  
4 **SIONS**

5 **SEC. 4001. SHORT TITLE; TABLE OF CONTENTS.**

6 (a) **SHORT TITLE.**—This division may be cited as the  
7 “Securing America’s Future Act”.

8 (b) **TABLE OF CONTENTS.**—The table of contents for  
9 this division is as follows:

DIVISION D—HOMELAND SECURITY AND GOVERNMENTAL  
AFFAIRS COMMITTEE PROVISIONS

Sec. 4001. Short title; table of contents.

TITLE I—ENSURING DOMESTIC MANUFACTURING CAPABILITIES

Subtitle A—Build America, Buy America

Sec. 4101. Short title.

PART I—BUY AMERICA SOURCING REQUIREMENTS

Sec. 4111. Findings.

Sec. 4112. Definitions.

Sec. 4113. Identification of deficient programs.

Sec. 4114. Application of Buy America preference.

Sec. 4115. OMB guidance and standards.

Sec. 4116. Technical assistance partnership and consultation supporting De-  
partment of Transportation Buy America requirements.

Sec. 4117. Application.

PART II—MAKE IT IN AMERICA

Sec. 4121. Regulations relating to Buy American Act.

Sec. 4122. Amendments relating to Buy American Act.

Sec. 4123. Made in America Office.

Sec. 4124. Hollings Manufacturing Extension Partnership activities.

Sec. 4125. United States obligations under international agreements.

Sec. 4126. Definitions.

Sec. 4127. Prospective amendments to internal cross-references.

Subtitle B—BuyAmerican.gov

## 2

- Sec. 4131. Short title.
- Sec. 4132. Definitions.
- Sec. 4133. Sense of Congress on buying American.
- Sec. 4134. Assessment of impact of free trade agreements.
- Sec. 4135. Judicious use of waivers.
- Sec. 4136. Establishment of BuyAmerican.gov website.
- Sec. 4137. Waiver Transparency and Streamlining for contracts.
- Sec. 4138. Comptroller General report.
- Sec. 4139. Rules of construction.
- Sec. 4140. Consistency with international agreements.
- Sec. 4141. Prospective amendments to internal cross-references.

## Subtitle C—Make PPE in America

- Sec. 4151. Short title.
- Sec. 4152. Findings.
- Sec. 4153. Requirement of long-term contracts for domestically manufactured personal protective equipment.

## TITLE II—CYBER AND ARTIFICIAL INTELLIGENCE

## Subtitle A—Advancing American AI

- Sec. 4201. Short title.
- Sec. 4202. Purpose.
- Sec. 4203. Definitions.
- Sec. 4204. Principles and policies for use of artificial intelligence in Government.
- Sec. 4205. Agency inventories and artificial intelligence use cases.
- Sec. 4206. Rapid pilot, deployment and scale of applied artificial intelligence capabilities to demonstrate modernization activities related to use cases.
- Sec. 4207. Enabling entrepreneurs and agency missions.

## Subtitle B—Cyber Response and Recovery

- Sec. 4251. Short title.
- Sec. 4252. Declaration of a significant incident.

## TITLE III—PERSONNEL

## Subtitle A—Facilitating Federal Employee Reskilling

- Sec. 4301. Short title.
- Sec. 4302. Reskilling Federal employees.

## Subtitle B—Federal Rotational Cyber Workforce Program

- Sec. 4351. Short title.
- Sec. 4352. Definitions.
- Sec. 4353. Rotational cyber workforce positions.
- Sec. 4354. Rotational cyber workforce program.
- Sec. 4355. Reporting by GAO.
- Sec. 4356. Sunset.

## TITLE IV—OTHER MATTERS

## Subtitle A—Ensuring Security of Unmanned Aircraft Systems

- Sec. 4401. Short title.
- Sec. 4402. Definitions.
- Sec. 4403. Prohibition on procurement of covered unmanned aircraft systems from covered foreign entities.
- Sec. 4404. Prohibition on operation of covered unmanned aircraft systems from covered foreign entities.
- Sec. 4405. Prohibition on use of Federal funds for purchases and operation of covered unmanned aircraft systems from covered foreign entities.
- Sec. 4406. Prohibition on use of Government-issued Purchase Cards to purchase covered unmanned aircraft systems from covered foreign entities.
- Sec. 4407. Management of existing inventories of covered unmanned aircraft systems from covered foreign entities.
- Sec. 4408. Comptroller General report.
- Sec. 4409. Government-wide policy for procurement of unmanned aircraft systems.
- Sec. 4410. Study.
- Sec. 4411. Sunset.

#### Subtitle B—No TikTok on Government Devices

- Sec. 4431. Short title.
- Sec. 4432. Prohibition on the use of TikTok.

#### Subtitle C—National Risk Management

- Sec. 4461. Short title.
- Sec. 4462. National risk management cycle.

#### Subtitle D—Safeguarding American Innovation

- Sec. 4491. Short title.
- Sec. 4492. Definitions.
- Sec. 4493. Federal Research Security Council.
- Sec. 4494. Federal grant application fraud.
- Sec. 4495. Restricting the acquisition of emerging technologies by certain aliens.
- Sec. 4496. Machine readable visa documents.
- Sec. 4497. Certifications regarding access to export controlled technology in educational and cultural exchange programs.
- Sec. 4498. Privacy and confidentiality.

1     **TITLE I—ENSURING DOMESTIC**  
2     **MANUFACTURING CAPABILITIES**  
3     **Subtitle A—Build America, Buy**  
4             **America**

5     **SEC. 4101. SHORT TITLE.**

6             This subtitle may be cited as the “Build America,  
7 Buy America Act”.

8                     **PART I—BUY AMERICA SOURCING**  
9                             **REQUIREMENTS**

10    **SEC. 4111. FINDINGS.**

11             Congress finds that—

12                     (1) the United States must make significant in-  
13 vestments to install, upgrade, or replace the public  
14 works infrastructure of the United States;

15                     (2) with respect to investments in the infra-  
16 structure of the United States, taxpayers expect that  
17 their public works infrastructure will be produced in  
18 the United States by American workers;

19                     (3) United States taxpayer dollars invested in  
20 public infrastructure should not be used to reward  
21 companies that have moved their operations, invest-  
22 ment dollars, and jobs to foreign countries or foreign  
23 factories, particularly those that do not share or  
24 openly flout the commitments of the United States

1 to environmental, worker, and workplace safety pro-  
2 tectations;

3 (4) in procuring materials for public works  
4 projects, entities using taxpayer-financed Federal as-  
5 sistance should give a commonsense procurement  
6 preference for the materials and products produced  
7 by companies and workers in the United States in  
8 accordance with the high ideals embodied in the en-  
9 vironmental, worker, workplace safety, and other  
10 regulatory requirements of the United States;

11 (5) common construction materials used in pub-  
12 lic works infrastructure projects, including steel,  
13 iron, manufactured products, non-ferrous metals,  
14 plastic and polymer-based products (including  
15 polyvinylchloride, composite building materials, and  
16 polymers used in fiber optic cables), concrete and  
17 other aggregates, glass (including optic glass), lum-  
18 ber, and drywall are not adequately covered by a do-  
19 mestic content procurement preference, thus limiting  
20 the impact of taxpayer purchases to enhance supply  
21 chains in the United States;

22 (6) the benefits of domestic content procure-  
23 ment preferences extend beyond economics;

24 (7) by incentivizing domestic manufacturing,  
25 domestic content procurement preferences reinvest

1 tax dollars in companies and processes using the  
2 highest labor and environmental standards in the  
3 world;

4 (8) strong domestic content procurement pref-  
5 erence policies act to prevent shifts in production to  
6 countries that rely on production practices that are  
7 significantly less energy efficient and far more pol-  
8 luting than those in the United States;

9 (9) for over 75 years, Buy America and other  
10 domestic content procurement preference laws have  
11 been part of the United States procurement policy,  
12 ensuring that the United States can build and re-  
13 build the infrastructure of the United States with  
14 high-quality American-made materials;

15 (10) before the date of enactment of this Act,  
16 a domestic content procurement preference require-  
17 ment may not apply, may apply only to a narrow  
18 scope of products and materials, or may be limited  
19 by waiver with respect to many infrastructure pro-  
20 grams, which necessitates a review of such pro-  
21 grams, including programs for roads, highways, and  
22 bridges, public transportation, dams, ports, harbors,  
23 and other maritime facilities, intercity passenger and  
24 freight railroads, freight and intermodal facilities,  
25 airports, water systems, including drinking water

1 and wastewater systems, electrical transmission fa-  
2 cilities and systems, utilities, broadband infrastruc-  
3 ture, and buildings and real property;

4 (11) Buy America laws create demand for do-  
5 mestically produced goods, helping to sustain and  
6 grow domestic manufacturing and the millions of  
7 jobs domestic manufacturing supports throughout  
8 product supply chains;

9 (12) as of the date of enactment of this Act,  
10 domestic content procurement preference policies  
11 apply to all Federal Government procurement and to  
12 various Federal-aid infrastructure programs;

13 (13) a robust domestic manufacturing sector is  
14 a vital component of the national security of the  
15 United States;

16 (14) as more manufacturing operations of the  
17 United States have moved offshore, the strength and  
18 readiness of the defense industrial base of the  
19 United States has been diminished; and

20 (15) domestic content procurement preference  
21 laws—

22 (A) are fully consistent with the inter-  
23 national obligations of the United States; and

24 (B) together with the government procure-  
25 ments to which the laws apply, are important

1           levers for ensuring that United States manufac-  
2           turers can access the government procurement  
3           markets of the trading partners of the United  
4           States.

5 **SEC. 4112. DEFINITIONS.**

6       In this part:

7           (1) **DEFICIENT PROGRAM.**—The term “deficient  
8           program” means a program identified by the head of  
9           a Federal agency under section 4113(c).

10          (2) **DOMESTIC CONTENT PROCUREMENT PREF-**  
11          **ERENCE.**—The term “domestic content procurement  
12          preference” means a requirement that no amounts  
13          made available through a program for Federal finan-  
14          cial assistance may be obligated for a project un-  
15          less—

16                (A) all iron and steel used in the project  
17                are produced in the United States;

18                (B) the manufactured products used in the  
19                project are produced in the United States; or

20                (C) the construction materials used in the  
21                project are produced in the United States.

22          (3) **FEDERAL AGENCY.**—The term “Federal  
23          agency” means any authority of the United States  
24          that is an “agency” (as defined in section 3502 of  
25          title 44, United States Code), other than an inde-



1       pendent regulatory agency (as defined in that sec-  
2       tion).

3               (4) FEDERAL FINANCIAL ASSISTANCE.—

4                       (A) IN GENERAL.—The term “Federal fi-  
5                       nancial assistance” has the meaning given the  
6                       term in section 200.1 of title 2, Code of Federal  
7                       Regulations (or successor regulations).

8                       (B) INCLUSION.—The term “Federal fi-  
9                       nancial assistance” includes all expenditures by  
10                      a Federal agency to a non-Federal entity for an  
11                      infrastructure project, except that it does not  
12                      include expenditures for assistance authorized  
13                      under section 402, 403, 404, 406, 408, or 502  
14                      of the Robert T. Stafford Disaster Relief and  
15                      Emergency Assistance Act (42 U.S.C. 5170a,  
16                      5170b, 5170c, 5172, 5174, or 5192) relating to  
17                      a major disaster or emergency declared by the  
18                      President under section 401 or 501, respec-  
19                      tively, of such Act (42 U.S.C. 5170, 5191) or  
20                      pre and post disaster or emergency response ex-  
21                      penditures.

22               (5) INFRASTRUCTURE.—The term “infrastruc-  
23               ture” includes, at a minimum, the structures, facili-  
24               ties, and equipment for, in the United States—

25                       (A) roads, highways, and bridges;

1 (B) public transportation;

2 (C) dams, ports, harbors, and other mari-  
3 time facilities;

4 (D) intercity passenger and freight rail-  
5 roads;

6 (E) freight and intermodal facilities;

7 (F) airports;

8 (G) water systems, including drinking  
9 water and wastewater systems;

10 (H) electrical transmission facilities and  
11 systems;

12 (I) utilities;

13 (J) broadband infrastructure; and

14 (K) buildings and real property.

15 (6) PRODUCED IN THE UNITED STATES.—The  
16 term “produced in the United States” means—

17 (A) in the case of iron or steel products,  
18 that all manufacturing processes, from the ini-  
19 tial melting stage through the application of  
20 coatings, occurred in the United States;

21 (B) in the case of manufactured products,  
22 that—

23 (i) the manufactured product was  
24 manufactured in the United States; and

1 (ii) the cost of the components of the  
2 manufactured product that are mined, pro-  
3 duced, or manufactured in the United  
4 States is greater than 55 percent of the  
5 total cost of all components of the manu-  
6 factured product, unless another standard  
7 for determining the minimum amount of  
8 domestic content of the manufactured  
9 product has been established under appli-  
10 cable law or regulation; and

11 (C) in the case of construction materials,  
12 that all manufacturing processes for the con-  
13 struction material occurred in the United  
14 States.

15 (7) PROJECT.—The term “project” means the  
16 construction, alteration, maintenance, or repair of  
17 infrastructure in the United States.

18 **SEC. 4113. IDENTIFICATION OF DEFICIENT PROGRAMS.**

19 (a) IN GENERAL.—Not later than 60 days after the  
20 date of enactment of this Act, the head of each Federal  
21 agency shall—

22 (1) submit to the Office of Management and  
23 Budget and to Congress, including a separate notice  
24 to each appropriate congressional committee, a re-  
25 port that identifies each Federal financial assistance

1 program for infrastructure administered by the Fed-  
2 eral agency; and

3 (2) publish in the Federal Register the report  
4 under paragraph (1).

5 (b) REQUIREMENTS.—In the report under subsection  
6 (a), the head of each Federal agency shall, for each Fed-  
7 eral financial assistance program—

8 (1) identify all domestic content procurement  
9 preferences applicable to the Federal financial as-  
10 sistance;

11 (2) assess the applicability of the domestic con-  
12 tent procurement preference requirements, includ-  
13 ing—

14 (A) section 313 of title 23, United States  
15 Code;

16 (B) section 5323(j) of title 49, United  
17 States Code;

18 (C) section 22905(a) of title 49, United  
19 States Code;

20 (D) section 50101 of title 49, United  
21 States Code;

22 (E) section 603 of the Federal Water Pol-  
23 lution Control Act (33 U.S.C. 1388);

24 (F) section 1452(a)(4) of the Safe Drink-  
25 ing Water Act (42 U.S.C. 300j–12(a)(4));

1 (G) section 5035 of the Water Infrastruc-  
2 ture Finance and Innovation Act of 2014 (33  
3 U.S.C. 3914);

4 (H) any domestic content procurement  
5 preference included in an appropriations Act;  
6 and

7 (I) any other domestic content procure-  
8 ment preference in Federal law (including regu-  
9 lations);

10 (3) provide details on any applicable domestic  
11 content procurement preference requirement, includ-  
12 ing the purpose, scope, applicability, and any excep-  
13 tions and waivers issued under the requirement; and

14 (4) include a description of the type of infra-  
15 structure projects that receive funding under the  
16 program, including information relating to—

17 (A) the number of entities that are partici-  
18 pating in the program;

19 (B) the amount of Federal funds that are  
20 made available for the program for each fiscal  
21 year; and

22 (C) any other information the head of the  
23 Federal agency determines to be relevant.

24 (c) LIST OF DEFICIENT PROGRAMS.—In the report  
25 under subsection (a), the head of each Federal agency

1 shall include a list of Federal financial assistance pro-  
2 grams for infrastructure identified under that subsection  
3 for which a domestic content procurement preference re-  
4 quirement—

5 (1) does not apply in a manner consistent with  
6 section 4114; or

7 (2) is subject to a waiver of general applica-  
8 bility not limited to the use of specific products for  
9 use in a specific project.

10 **SEC. 4114. APPLICATION OF BUY AMERICA PREFERENCE.**

11 (a) IN GENERAL.—Not later than 180 days after the  
12 date of enactment of this Act, the head of each Federal  
13 agency shall ensure that none of the funds made available  
14 for a Federal financial assistance program for infrastruc-  
15 ture, including each deficient program, may be obligated  
16 for a project unless all of the iron, steel, manufactured  
17 products, and construction materials used in the project  
18 are produced in the United States.

19 (b) WAIVER.—The head of a Federal agency that ap-  
20 plies a domestic content procurement preference under  
21 this section may waive the application of that preference  
22 in any case in which the head of the Federal agency finds  
23 that—

1           (1) applying the domestic content procurement  
2 preference would be inconsistent with the public in-  
3 terest;

4           (2) types of iron, steel, manufactured products,  
5 or construction materials are not produced in the  
6 United States in sufficient and reasonably available  
7 quantities or of a satisfactory quality; or

8           (3) the inclusion of iron, steel, manufactured  
9 products, or construction materials produced in the  
10 United States will increase the cost of the overall  
11 project by more than 25 percent.

12       (c) WRITTEN JUSTIFICATION.—Before issuing a  
13 waiver under subsection (b), the head of the Federal agen-  
14 cy shall—

15           (1) make publicly available in an easily acces-  
16 sible location on a website designated by the Office  
17 of Management and Budget and on the website of  
18 the Federal agency a detailed written explanation for  
19 the proposed determination to issue the waiver; and

20           (2) provide a period of not less than 15 days  
21 for public comment on the proposed waiver.

22       (d) AUTOMATIC SUNSET ON WAIVERS OF GENERAL  
23 APPLICABILITY.—

24           (1) IN GENERAL.—A general applicability waiv-  
25 er issued under subsection (b) shall expire not later

1 than 2 years after the date on which the waiver is  
2 issued.

3 (2) REISSUANCE.—The head of a Federal agen-  
4 cy may reissue a general applicability waiver only  
5 after—

6 (A) publishing in the Federal Register a  
7 notice that—

8 (i) describes the justification for re-  
9 issuing a general applicability waiver; and

10 (ii) requests public comments for a  
11 period of not less than 30 days; and

12 (B) publishing in the Federal Register a  
13 second notice that—

14 (i) responds to the public comments  
15 received in response to the first notice; and

16 (ii) provides the final decision on  
17 whether the general applicability waiver  
18 will be reissued.

19 (e) CONSISTENCY WITH INTERNATIONAL AGREE-  
20 MENTS.—This section shall be applied in a manner con-  
21 sistent with United States obligations under international  
22 agreements.

23 **SEC. 4115. OMB GUIDANCE AND STANDARDS.**

24 (a) GUIDANCE.—The Director of the Office of Man-  
25 agement and Budget shall—



1           (1) issue guidance to the head of each Federal  
2 agency—

3                   (A) to assist in identifying deficient pro-  
4 grams under section 4113(e); and

5                   (B) to assist in applying new domestic con-  
6 tent procurement preferences under section  
7 4114; and

8           (2) if necessary, amend subtitle A of title 2,  
9 Code of Federal Regulations (or successor regula-  
10 tions), to ensure that domestic content procurement  
11 preference requirements required by this part or  
12 other Federal law are imposed through the terms  
13 and conditions of awards of Federal financial assist-  
14 ance.

15 (b) STANDARDS FOR CONSTRUCTION MATERIALS.—

16           (1) IN GENERAL.—Not later than 180 days  
17 after the date of enactment of this Act, the Director  
18 of the Office of Management and Budget shall issue  
19 standards that define the term “all manufacturing  
20 processes” in the case of construction materials.

21           (2) CONSIDERATIONS.—In issuing standards  
22 under paragraph (1), the Director shall—

23                   (A) ensure that the standards require that  
24 each manufacturing process required for the  
25 manufacture of the construction material and

1 the inputs of the construction material occurs  
2 in the United States; and

3 (B) take into consideration and seek to  
4 maximize the direct and indirect jobs benefited  
5 or created in the production of the construction  
6 material.

7 **SEC. 4116. TECHNICAL ASSISTANCE PARTNERSHIP AND**  
8 **CONSULTATION SUPPORTING DEPARTMENT**  
9 **OF TRANSPORTATION BUY AMERICA RE-**  
10 **QUIREMENTS.**

11 (a) DEFINITIONS.—In this section:

12 (1) BUY AMERICA LAW.—The term “Buy Amer-  
13 ica law” means—

14 (A) section 313 of title 23, United States  
15 Code;

16 (B) section 5323(j) of title 49, United  
17 States Code;

18 (C) section 22905(a) of title 49, United  
19 States Code;

20 (D) section 50101 of title 49, United  
21 States Code; and

22 (E) any other domestic content procure-  
23 ment preference for an infrastructure project  
24 under the jurisdiction of the Secretary.

1           (2) SECRETARY.—The term “Secretary” means  
2           the Secretary of Transportation.

3           (b) TECHNICAL ASSISTANCE PARTNERSHIP.—Not  
4 later than 90 days after the date of the enactment of this  
5 Act, the Secretary shall enter into a technical assistance  
6 partnership with the Secretary of Commerce, acting  
7 through the Director of the National Institute of Stand-  
8 ards and Technology—

9           (1) to ensure the development of a domestic  
10 supply base to support intermodal transportation in  
11 the United States, such as intercity high speed rail  
12 transportation, public transportation systems, high-  
13 way construction or reconstruction, airport improve-  
14 ment projects, and other infrastructure projects  
15 under the jurisdiction of the Secretary;

16           (2) to ensure compliance with Buy America  
17 laws that apply to a project that receives assistance  
18 from the Federal Highway Administration, the Fed-  
19 eral Transit Administration, the Federal Railroad  
20 Administration, the Federal Aviation Administra-  
21 tion, or another office or modal administration of  
22 the Secretary of Transportation;

23           (3) to encourage technologies developed with  
24 the support of and resources from the Secretary to

1 be transitioned into commercial market and applica-  
2 tions; and

3 (4) to establish procedures for consultation  
4 under subsection (c).

5 (c) CONSULTATION.—Before granting a written waiv-  
6 er under a Buy America law, the Secretary shall consult  
7 with the Director of the Hollings Manufacturing Exten-  
8 sion Partnership regarding whether there is a domestic en-  
9 tity that could provide the iron, steel, manufactured prod-  
10 uct, or construction material that is the subject of the pro-  
11 posed waiver.

12 (d) ANNUAL REPORT.—Not later than 1 year after  
13 the date of enactment of this Act, and annually thereafter,  
14 the Secretary shall submit to the Committee on Com-  
15 merce, Science, and Transportation, the Committee on  
16 Banking, Housing, and Urban Affairs, the Committee on  
17 Environment and Public Works, and the Committee on  
18 Homeland Security and Governmental Affairs of the Sen-  
19 ate and the Committee on Transportation and Infrastruc-  
20 ture and the Committee on Oversight and Reform of the  
21 House of Representatives a report that includes—

22 (1) a detailed description of the consultation  
23 procedures developed under subsection (b)(4);

24 (2) a detailed description of each waiver re-  
25 quested under a Buy America law in the preceding

1 year that was subject to consultation under sub-  
2 section (c), and the results of the consultation;

3 (3) a detailed description of each waiver grant-  
4 ed under a Buy America law in the preceding year,  
5 including the type of waiver and the reasoning for  
6 granting the waiver; and

7 (4) an update on challenges and gaps in the do-  
8 mestic supply base identified in carrying out sub-  
9 section (b)(1), including a list of actions and policy  
10 changes the Secretary recommends be taken to ad-  
11 dress those challenges and gaps.

12 **SEC. 4117. APPLICATION.**

13 (a) IN GENERAL.—This part shall apply to a Federal  
14 financial assistance program for infrastructure only to the  
15 extent that a domestic content procurement preference as  
16 described in section 4114 does not already apply to iron,  
17 steel, manufactured products, and construction materials.

18 (b) SAVINGS PROVISION.—Nothing in this part af-  
19 fects a domestic content procurement preference for a  
20 Federal financial assistance program for infrastructure  
21 that is in effect and that meets the requirements of section  
22 4114.

1                   **PART II—MAKE IT IN AMERICA**  
2   **SEC. 4121. REGULATIONS RELATING TO BUY AMERICAN**  
3                   **ACT.**

4           (a) **IN GENERAL.**—Not later than 1 year after the  
5 date of the enactment of this Act, the Director of the Of-  
6 fice of Management and Budget (“Director”), acting  
7 through the Administrator for Federal Procurement Pol-  
8 icy and, in consultation with the Federal Acquisition Reg-  
9 ulatory Council, shall promulgate final regulations or  
10 other policy or management guidance, as appropriate, to  
11 standardize and simplify how Federal agencies comply  
12 with, report on, and enforce the Buy American Act. The  
13 regulations or other policy or management guidance shall  
14 include, at a minimum, the following:

15                   (1) Guidelines for Federal agencies to deter-  
16 mine, for the purposes of applying sections 8302(a)  
17 and 8303(b)(3) of title 41, United States Code, the  
18 circumstances under which the acquisition of arti-  
19 cles, materials, or supplies mined, produced, or man-  
20 ufactured in the United States is inconsistent with  
21 the public interest.

22                   (2) Guidelines to ensure Federal agencies base  
23 determinations of non-availability on appropriate  
24 considerations, including anticipated project delays  
25 and lack of substitutable articles, materials, and  
26 supplies mined, produced, or manufactured in the

1 United States, when making determinations of non-  
2 availability under section 8302(a)(1) of title 41,  
3 United States Code.

4 (3)(A) Uniform procedures for each Federal  
5 agency to make publicly available, in an easily iden-  
6 tifiable location on the website of the agency, and  
7 within the following time periods, the following infor-  
8 mation:

9 (i) A written description of the cir-  
10 cumstances in which the head of the agency  
11 may waive the requirements of the Buy Amer-  
12 ican Act.

13 (ii) Each waiver made by the head of the  
14 agency within 30 days after making such waiv-  
15 er, including a justification with sufficient detail  
16 to explain the basis for the waiver.

17 (B) The procedures established under this para-  
18 graph shall ensure that the head of an agency, in  
19 consultation with the head of the Made in America  
20 Office established under section 4123(a), may limit  
21 the publication of classified information, trade se-  
22 crets, or other information that could damage the  
23 United States.

24 (4) Guidelines for Federal agencies to ensure  
25 that a project is not disaggregated for purposes of

1       avoiding the applicability of the requirements under  
2       the Buy American Act.

3           (5) An increase to the price preferences for do-  
4       mestic end products and domestic construction ma-  
5       terials.

6           (6) Amending the definitions of “domestic end  
7       product” and “domestic construction material” to  
8       ensure that iron and steel products are, to the great-  
9       est extent possible, made with domestic components.

10       (b) GUIDELINES RELATING TO WAIVERS.—

11           (1) INCONSISTENCY WITH PUBLIC INTEREST.—

12           (A) IN GENERAL.—With respect to the  
13       guidelines developed under subsection (a)(1),  
14       the Administrator shall seek to minimize waiv-  
15       ers related to contract awards that—

16           (i) result in a decrease in employment  
17       in the United States, including employ-  
18       ment among entities that manufacture the  
19       articles, materials, or supplies; or

20           (ii) result in awarding a contract that  
21       would decrease domestic employment.

22           (B) COVERED EMPLOYMENT.—For pur-  
23       poses of subparagraph (A), employment refers  
24       to positions directly involved in the manufacture  
25       of articles, materials, or supplies, and does not



1 include positions related to management, re-  
2 search and development, or engineering and de-  
3 sign.

4 (2) ASSESSMENT ON USE OF DUMPED OR SUB-  
5 SIDIZED FOREIGN PRODUCTS.—

6 (A) IN GENERAL.—To the extent otherwise  
7 permitted by law, before granting a waiver in  
8 the public interest to the guidelines developed  
9 under subsection (a)(1) with respect to a prod-  
10 uct sourced from a foreign country, a Federal  
11 agency shall assess whether a significant por-  
12 tion of the cost advantage of the product is the  
13 result of the use of dumped steel, iron, or man-  
14 ufactured goods or the use of injuriously sub-  
15 sidized steel, iron, or manufactured goods.

16 (B) CONSULTATION.—The Federal agency  
17 conducting the assessment under subparagraph  
18 (A) shall consult with the International Trade  
19 Administration in making the assessment if the  
20 agency considers such consultation to be help-  
21 ful.

22 (C) USE OF FINDINGS.—The Federal  
23 agency conducting the assessment under sub-  
24 paragraph (A) shall integrate any findings from  
25 the assessment into its waiver determination.

1           (c) SENSE OF CONGRESS ON INCREASING DOMESTIC  
2 CONTENT REQUIREMENTS.—It is the sense of Congress  
3 that the Federal Acquisition Regulatory Council should  
4 amend the Federal Acquisition Regulation to increase the  
5 domestic content requirements for domestic end products  
6 and domestic construction material to 75 percent, or, in  
7 the event of no qualifying offers, 60 percent.

8           (d) DEFINITION OF END PRODUCT MANUFACTURED  
9 IN THE UNITED STATES.—Not later than 1 year after the  
10 date of the enactment of this Act, the Federal Acquisition  
11 Regulatory Council shall amend part 25 of the Federal  
12 Acquisition Regulation to provide a definition for “end  
13 product manufactured in the United States,” including  
14 guidelines to ensure that manufacturing processes in-  
15 volved in production of the end product occur domestically.

16 **SEC. 4122. AMENDMENTS RELATING TO BUY AMERICAN**  
17 **ACT.**

18           (a) SPECIAL RULES RELATING TO AMERICAN MATE-  
19 RIALS REQUIRED FOR PUBLIC USE.—Section 8302 of title  
20 41, United States Code, is amended by adding at the end  
21 the following new subsection:

22           “(c) SPECIAL RULES.—The following rules apply in  
23 carrying out the provisions of subsection (a):

24                   “(1) IRON AND STEEL MANUFACTURED IN THE  
25 UNITED STATES.—For purposes of this section,

1 manufactured articles, materials, and supplies of  
2 iron and steel are deemed manufactured in the  
3 United States only if all manufacturing processes in-  
4 volved in the production of such iron and steel, from  
5 the initial melting stage through the application of  
6 coatings, occurs in the United States.

7 “(2) LIMITATION ON EXCEPTION FOR COMMER-  
8 CIALY AVAILABLE OFF-THE-SHELF ITEMS.—Not-  
9 withstanding any law or regulation to the contrary,  
10 including section 1907 of this title and the Federal  
11 Acquisition Regulation, the requirements of this sec-  
12 tion apply to all iron and steel articles, materials,  
13 and supplies.”.

14 (b) PRODUCTION OF IRON AND STEEL FOR PUR-  
15 POSES OF CONTRACTS FOR PUBLIC WORKS.—Section  
16 8303 of title 41, United States Code, is amended—

17 (1) by redesignating subsection (c) as sub-  
18 section (d); and

19 (2) by inserting after subsection (b) the fol-  
20 lowing new subsection:

21 “(c) SPECIAL RULES.—

22 “(1) PRODUCTION OF IRON AND STEEL.—For  
23 purposes of this section, manufactured articles, ma-  
24 terials, and supplies of iron and steel are deemed  
25 manufactured in the United States only if all manu-

1 facturing processes involved in the production of  
2 such iron and steel, from the initial melting stage  
3 through the application of coatings, occurs in the  
4 United States.

5 “(2) LIMITATION ON EXCEPTION FOR COMMER-  
6 CIALY AVAILABLE OFF-THE-SHELF ITEMS.—Not-  
7 withstanding any law or regulation to the contrary,  
8 including section 1907 of this title and the Federal  
9 Acquisition Regulation, the requirements of this sec-  
10 tion apply to all iron and steel articles, materials,  
11 and supplies used in contracts described in sub-  
12 section (a).”.

13 (c) ANNUAL REPORT.—Subsection (b) of section  
14 8302 of title 41, United States Code, is amended to read  
15 as follows:

16 “(b) REPORTS.—

17 “(1) IN GENERAL.—Not later than 180 days  
18 after the end of the fiscal year during which the  
19 Build America, Buy America Act is enacted, and an-  
20 nually thereafter for 4 years, the Director of the Of-  
21 fice of Management and Budget, in consultation  
22 with the Administrator of General Services, shall  
23 submit to the Committee on Homeland Security and  
24 Governmental Affairs of the Senate and the Com-  
25 mittee on Oversight and Reform of the House of

1       Representatives a report on the total amount of ac-  
2       quisitions made by Federal agencies in the relevant  
3       fiscal year of articles, materials, or supplies acquired  
4       from entities that mine, produce, or manufacture the  
5       articles, materials, or supplies outside the United  
6       States.

7               “(2) EXCEPTION FOR INTELLIGENCE COMMU-  
8       NITY.—This subsection does not apply to acquisi-  
9       tions made by an agency, or component of an agen-  
10      cy, that is an element of the intelligence community  
11      as specified in, or designated under, section 3 of the  
12      National Security Act of 1947 (50 U.S.C. 3003).”.

13      (d) DEFINITION.—Section 8301 of title 41, United  
14      States Code, is amended by adding at the end the fol-  
15      lowing new paragraph:

16              “(3) FEDERAL AGENCY.—The term ‘Federal  
17      agency’ has the meaning given the term ‘executive  
18      agency’ in section 133 of this title.”.

19      (e) CONFORMING AMENDMENTS.—Title 41, United  
20      States Code, is amended—

21              (1) in section 8302(a)—

22                      (A) in paragraph (1)—

23                              (i) by striking “department or inde-  
24                              pendent establishment” and inserting  
25                              “Federal agency”; and

1 (ii) by striking “their acquisition to be  
2 inconsistent with the public interest or  
3 their cost to be unreasonable” and insert-  
4 ing “their acquisition to be inconsistent  
5 with the public interest, their cost to be  
6 unreasonable, or that the articles, mate-  
7 rials, or supplies of the class or kind to be  
8 used, or the articles, materials, or supplies  
9 from which they are manufactured, are not  
10 mined, produced, or manufactured in the  
11 United States in sufficient and reasonably  
12 available commercial quantities and of a  
13 satisfactory quality”; and

14 (B) in paragraph (2), by amending sub-  
15 paragraph (B) to read as follows:

16 “(B) to any articles, materials, or supplies  
17 procured pursuant to a reciprocal defense pro-  
18 curement memorandum of understanding (as  
19 described in section 8304 of this title), or a  
20 trade agreement or least developed country des-  
21 ignation described in subpart 25.400 of the  
22 Federal Acquisition Regulation; and”;

23 (2) in section 8303—

24 (A) in subsection (b)—

1 (i) by striking “department or inde-  
2 pendent establishment” each place it ap-  
3 pears and inserting “Federal agency”;

4 (ii) by amending subparagraph (B) of  
5 paragraph (1) to read as follows:

6 “(B) to any articles, materials, or supplies  
7 procured pursuant to a reciprocal defense pro-  
8 curement memorandum of understanding (as  
9 described in section 8304), or a trade agree-  
10 ment or least developed country designation de-  
11 scribed in subpart 25.400 of the Federal Acqui-  
12 sition Regulation; and”;

13 (iii) in paragraph (3)—

14 (I) in the heading, by striking  
15 “INCONSISTENT WITH PUBLIC INTER-  
16 EST” and inserting “WAIVER AU-  
17 THORITY”; and

18 (II) by striking “their purchase  
19 to be inconsistent with the public in-  
20 terest or their cost to be unreason-  
21 able” and inserting “their acquisition  
22 to be inconsistent with the public in-  
23 terest, their cost to be unreasonable,  
24 or that the articles, materials, or sup-  
25 plies of the class or kind to be used,

1 or the articles, materials, or supplies  
2 from which they are manufactured,  
3 are not mined, produced, or manufac-  
4 tured in the United States in suffi-  
5 cient and reasonably available com-  
6 mercial quantities and of a satisfac-  
7 tory quality”; and

8 (B) in subsection (d), as redesignated by  
9 subsection (b)(1) of this section, by striking  
10 “department, bureau, agency, or independent  
11 establishment” each place it appears and insert-  
12 ing “Federal agency”.

13 (f) EXCLUSION FROM INFLATION ADJUSTMENT OF  
14 ACQUISITION-RELATED DOLLAR THRESHOLDS.—Sub-  
15 paragraph (A) of section 1908(b)(2) of title 41, United  
16 States Code, is amended by striking “chapter 67” and in-  
17 serting “chapters 67 and 83”.

18 **SEC. 4123. MADE IN AMERICA OFFICE.**

19 (a) ESTABLISHMENT.—The Director of the Office of  
20 Management and Budget shall establish within the Office  
21 of Management and Budget an office to be known as the  
22 “Made in America Office”. The head of the office shall  
23 be appointed by the Director of the Office of Management  
24 and Budget (in this section referred to as the “Made in  
25 America Director”).



1 (b) DUTIES.—The Made in America Director shall  
2 have the following duties:

3 (1) Maximize and enforce compliance with do-  
4 mestic preference statutes.

5 (2) Develop and implement procedures to re-  
6 view waiver requests or inapplicability requests re-  
7 lated to domestic preference statutes.

8 (3) Prepare the reports required under sub-  
9 sections (c) and (e).

10 (4) Ensure that Federal contracting personnel,  
11 financial assistance personnel, and non-Federal re-  
12 cipients are regularly trained on obligations under  
13 the Buy American Act and other agency-specific do-  
14 mestic preference statutes.

15 (5) Conduct the review of reciprocal defense  
16 agreements required under subsection (d).

17 (6) Ensure that Federal agencies, Federal fi-  
18 nancial assistance recipients, and the Hollings Man-  
19 ufacturing Extension Partnership partner with each  
20 other to promote compliance with domestic pref-  
21 erence statutes.

22 (7) Support executive branch efforts to develop  
23 and sustain a domestic supply base to meet Federal  
24 procurement requirements.

1           (c) OFFICE OF MANAGEMENT AND BUDGET RE-  
2 PORT.—Not later than 1 year after the date of the enact-  
3 ment of this Act, the Director of the Office of Manage-  
4 ment and Budget, working through the Made in America  
5 Director, shall report to the relevant congressional com-  
6 mittees on the extent to which, in each of the three fiscal  
7 years prior to the date of enactment of this Act, articles,  
8 materials, or supplies acquired by the Federal Government  
9 were mined, produced, or manufactured outside the  
10 United States. Such report shall include for each Federal  
11 agency the following:

12           (1) A summary of total procurement funds ex-  
13           pended on articles, materials, and supplies mined,  
14           produced, or manufactured—

15                   (A) inside the United States;

16                   (B) outside the United States; and

17                   (C) outside the United States—

18                           (i) under each category of waiver  
19                           under the Buy American Act;

20                           (ii) under each category of exception  
21                           under such chapter; and

22                           (iii) for each country that mined, pro-  
23                           duced, or manufactured such articles, ma-  
24                           terials, and supplies.

25           (2) For each fiscal year covered by the report—

1 (A) the dollar value of any articles, mate-  
2 rials, or supplies that were mined, produced, or  
3 manufactured outside the United States, in the  
4 aggregate and by country;

5 (B) an itemized list of all waivers made  
6 under the Buy American Act with respect to ar-  
7 ticles, materials, or supplies, where available,  
8 and the country where such articles, materials,  
9 or supplies were mined, produced, or manufac-  
10 tured;

11 (C) if any articles, materials, or supplies  
12 were acquired from entities that mine, produce,  
13 or manufacture such articles, materials, or sup-  
14 plies outside the United States due to an excep-  
15 tion (that is not the micro-purchase threshold  
16 exception described under section 8302(a)(2)(C)  
17 of title 41, United States Code), the specific ex-  
18 ception that was used to purchase such articles,  
19 materials, or supplies; and

20 (D) if any articles, materials, or supplies  
21 were acquired from entities that mine, produce,  
22 or manufacture such articles, materials, or sup-  
23 plies outside the United States pursuant to a  
24 reciprocal defense procurement memorandum of  
25 understanding (as described in section 8304 of

1 title 41, United States Code), or a trade agree-  
2 ment or least developed country designation de-  
3 scribed in subpart 25.400 of the Federal Acqui-  
4 sition Regulation, a citation to such memo-  
5 randum of understanding, trade agreement, or  
6 designation.

7 (3) A description of the methods used by each  
8 Federal agency to calculate the percentage domestic  
9 content of articles, materials, and supplies mined,  
10 produced, or manufactured in the United States.

11 (d) REVIEW OF RECIPROCAL DEFENSE AGREE-  
12 MENTS.—

13 (1) REVIEW OF PROCESS.—Not later than 180  
14 days after the date of the enactment of this Act, the  
15 Made in America Director shall review the Depart-  
16 ment of Defense's use of reciprocal defense agree-  
17 ments to determine if domestic entities have equal  
18 and proportional access and report the findings of  
19 the review to the Director of the Office of Manage-  
20 ment and Budget, the Secretary of Defense, and the  
21 Secretary of State.

22 (2) REVIEW OF RECIPROCAL PROCUREMENT  
23 MEMORANDA OF UNDERSTANDING.—The Made in  
24 America Director shall review reciprocal procure-  
25 ment memoranda of understanding entered into

1 after the date of the enactment of this Act between  
2 the Department of Defense and its counterparts in  
3 foreign governments to assess whether domestic enti-  
4 ties will have equal and proportional access under  
5 the memoranda of understanding and report the  
6 findings of the review to the Director of the Office  
7 of Management and Budget, the Secretary of De-  
8 fense, and the Secretary of State.

9 (e) REPORT ON USE OF MADE IN AMERICA LAWS.—

10 The Made in America Director shall submit to the relevant  
11 congressional committees a summary of each report on the  
12 use of Made in America Laws received by the Made in  
13 America Director pursuant to section 11 of Executive  
14 Order 14005, dated January 25, 2021 (relating to ensur-  
15 ing the future is made in all of America by all of America’s  
16 workers) not later than 90 days after the date of the en-  
17 actment of this Act or receipt of the reports required  
18 under section 11 of such Executive Order, whichever is  
19 later.

20 (f) DOMESTIC PREFERENCE STATUTE DEFINED.—

21 In this section, the term “domestic preference statute”  
22 means any of the following:

- 23 (1) the Buy American Act;
- 24 (2) a Buy America law (as that term is defined  
25 in section 4116(a));

1 (3) the Berry Amendment;

2 (4) section 604 of the American Recovery and  
3 Reinvestment Act of 2009 (6 U.S.C. 453b) (com-  
4 monly referred to as the “Kissell amendment”);

5 (5) section 2533b of title 10 (commonly re-  
6 ferred to as the “specialty metals clause”);

7 (6) laws requiring domestic preference for mari-  
8 time transport, including the Merchant Marine Act,  
9 1920 (Public Law 66–261), commonly known as the  
10 “Jones Act”; and

11 (7) any other law, regulation, rule, or executive  
12 order relating to Federal financial assistance awards  
13 or Federal procurement, that requires, or provides a  
14 preference for, the purchase or acquisition of goods,  
15 products, or materials produced in the United  
16 States, including iron, steel, construction material,  
17 and manufactured goods offered in the United  
18 States.

19 **SEC. 4124. HOLLINGS MANUFACTURING EXTENSION PART-**  
20 **nership ACTIVITIES.**

21 (a) USE OF HOLLINGS MANUFACTURING EXTENSION  
22 PARTNERSHIP TO REFER NEW BUSINESSES TO CON-  
23 TRACTING OPPORTUNITIES.—The head of each Federal  
24 agency shall work with the Director of the Hollings Manu-  
25 facturing Extension Partnership, as necessary, to ensure

1 businesses participating in this Partnership are aware of  
2 their contracting opportunities.

3 (b) AUTOMATIC ENROLLMENT IN GSA ADVAN-  
4 TAGE!.—The Administrator of the General Services Ad-  
5 ministration and the Secretary of Commerce, acting  
6 through the Under Secretary of Commerce for Standards  
7 and Technology, shall jointly ensure that each business  
8 that participates in the Hollings Manufacturing Extension  
9 Partnership is automatically enrolled in General Services  
10 Administration Advantage!.

11 **SEC. 4125. UNITED STATES OBLIGATIONS UNDER INTER-**  
12 **NATIONAL AGREEMENTS.**

13 This part, and the amendments made by this part,  
14 shall be applied in a manner consistent with United States  
15 obligations under international agreements.

16 **SEC. 4126. DEFINITIONS.**

17 In this part:

18 (1) BERRY AMENDMENT.—The term “Berry  
19 Amendment” means section 2533a of title 10,  
20 United States Code.

21 (2) BUY AMERICAN ACT.—The term “Buy  
22 American Act” means chapter 83 of title 41, United  
23 States Code.

24 (3) FEDERAL AGENCY.—The term “Federal  
25 agency” has the meaning given the term “executive

1       agency” in section 133 of title 41, United States  
2       Code.

3           (4)   RELEVANT   CONGRESSIONAL   COMMIT-  
4       TEES.—The term “relevant congressional commit-  
5       tees” means—

6           (A) the Committee on Homeland Security  
7           and Governmental Affairs, the Committee on  
8           Commerce, Science, and Transportation, the  
9           Committee on Environment and Public Works,  
10          the Committee on Banking, Housing, and  
11          Urban Affairs, and the Committee on Armed  
12          Services of the Senate; and

13          (B) the Committee on Oversight and Re-  
14          form, the Committee on Armed Services, and  
15          the Committee on Transportation and Infra-  
16          structure of the House of Representatives.

17          (5) WAIVER.—The term “waiver”, with respect  
18       to the acquisition of an article, material, or supply  
19       for public use, means the inapplicability of chapter  
20       83 of title 41, United States Code, to the acquisition  
21       by reason of any of the following determinations  
22       under section 8302(a)(1) or 8303(b) of such title:

23           (A) A determination by the head of the  
24           Federal agency concerned that the acquisition  
25           is inconsistent with the public interest.



1 (B) A determination by the head of the  
2 Federal agency concerned that the cost of the  
3 acquisition is unreasonable.

4 (C) A determination by the head of the  
5 Federal agency concerned that the article, ma-  
6 terial, or supply is not mined, produced, or  
7 manufactured in the United States in sufficient  
8 and reasonably available commercial quantities  
9 of a satisfactory quality.

10 **SEC. 4127. PROSPECTIVE AMENDMENTS TO INTERNAL**  
11 **CROSS-REFERENCES.**

12 (a) **SPECIALTY METALS CLAUSE REFERENCE.**—Sec-  
13 tion 4123(f)(5) is amended by striking “section 2533b”  
14 and inserting “section 4863”.

15 (b) **BERRY AMENDMENT REFERENCE.**—Section  
16 4126(1) is amended by striking “section 2533a” and in-  
17 serting “section 4862”.

18 (c) **EFFECTIVE DATE.**—The amendments made by  
19 this section shall take effect on January 1, 2022.

20 **Subtitle B—BuyAmerican.gov**

21 **SEC. 4131. SHORT TITLE.**

22 This subtitle may be cited as the “BuyAmerican.gov  
23 Act of 2021”.

24 **SEC. 4132. DEFINITIONS.**

25 In this subtitle:

1           (1) BUY AMERICAN LAW.—The term “Buy  
2 American law” means any law, regulation, Executive  
3 order, or rule relating to Federal contracts, grants,  
4 or financial assistance that requires or provides a  
5 preference for the purchase or use of goods, prod-  
6 ucts, or materials mined, produced, or manufactured  
7 in the United States, including—

8           (A) chapter 83 of title 41, United States  
9 Code (commonly referred to as the “Buy Amer-  
10 ican Act”);

11           (B) section 5323(j) of title 49, United  
12 States Code;

13           (C) section 313 of title 23, United States  
14 Code;

15           (D) section 50101 of title 49, United  
16 States Code;

17           (E) section 24405 of title 49, United  
18 States Code;

19           (F) section 608 of the Federal Water Pol-  
20 lution Control Act (33 U.S.C. 1388);

21           (G) section 1452(a)(4) of the Safe Drink-  
22 ing Water Act (42 U.S.C. 300j–12(a)(4));

23           (H) section 5035 of the Water Resources  
24 Reform and Development Act of 2014 (33  
25 U.S.C. 3914);

1 (I) section 2533a of title 10, United States  
2 Code (commonly referred to as the “Berry  
3 Amendment”); and

4 (J) section 2533b of title 10, United  
5 States Code.

6 (2) EXECUTIVE AGENCY.—The term “executive  
7 agency” has the meaning given the term “agency”  
8 in paragraph (1) of section 3502 of title 44, United  
9 States Code, except that it does not include an inde-  
10 pendent regulatory agency, as that term is defined  
11 in paragraph (5) of such section.

12 (3) BUY AMERICAN WAIVER.—The term “Buy  
13 American waiver” refers to an exception to or waiver  
14 of any Buy American law, or the terms and condi-  
15 tions used by an agency in granting an exception to  
16 or waiver from Buy American laws.

17 **SEC. 4133. SENSE OF CONGRESS ON BUYING AMERICAN.**

18 It is the sense of Congress that—

19 (1) every executive agency should maximize,  
20 through terms and conditions of Federal financial  
21 assistance awards and Federal procurements, the  
22 use of goods, products, and materials produced in  
23 the United States and contracts for outsourced gov-  
24 ernment service contracts to be performed by United  
25 States nationals;

1 (2) every executive agency should scrupulously  
2 monitor, enforce, and comply with Buy American  
3 laws, to the extent they apply, and minimize the use  
4 of waivers; and

5 (3) every executive agency should use available  
6 data to routinely audit its compliance with Buy  
7 American laws.

8 **SEC. 4134. ASSESSMENT OF IMPACT OF FREE TRADE**  
9 **AGREEMENTS.**

10 Not later than 150 days after the date of the enact-  
11 ment of this Act, the Secretary of Commerce, the United  
12 States Trade Representative, and the Director of the Of-  
13 fice of Management and Budget shall assess the impacts  
14 in a publicly available report of all United States free  
15 trade agreements, the World Trade Organization Agree-  
16 ment on Government Procurement, and Federal permit-  
17 ting processes on the operation of Buy American laws, in-  
18 cluding their impacts on the implementation of domestic  
19 procurement preferences.

20 **SEC. 4135. JUDICIOUS USE OF WAIVERS.**

21 (a) IN GENERAL.—To the extent permitted by law,  
22 a Buy American waiver that is determined by an agency  
23 head or other relevant official to be in the public interest  
24 shall be construed to ensure the maximum utilization of

1 goods, products, and materials produced in the United  
2 States.

3 (b) PUBLIC INTEREST WAIVER DETERMINATIONS.—

4 To the extent permitted by law, determination of public  
5 interest waivers shall be made by the head of the agency  
6 with the authority over the Federal financial assistance  
7 award or Federal procurement under consideration.

8 **SEC. 4136. ESTABLISHMENT OF BUYAMERICAN.GOV**  
9 **WEBSITE.**

10 (a) IN GENERAL.—Not later than one year after the  
11 date of the enactment of this Act, the Administrator of  
12 General Services shall establish an Internet website with  
13 the address BuyAmerican.gov that will be publicly avail-  
14 able and free to access. The website shall include informa-  
15 tion on all waivers of and exceptions to Buy American laws  
16 since the date of the enactment of this Act that have been  
17 requested, are under consideration, or have been granted  
18 by executive agencies and be designed to enable manufac-  
19 turers and other interested parties to easily identify waiv-  
20 ers. The website shall also include the results of routine  
21 audits to determine data errors and Buy American law  
22 violations after the award of a contract. The website shall  
23 provide publicly available contact information for the rel-  
24 evant contracting agencies.

1 (b) UTILIZATION OF EXISTING WEBSITE.—The re-  
2 quirements of subsection (a) may be met by utilizing an  
3 existing website, provided that the address of that website  
4 is BuyAmerican.gov.

5 **SEC. 4137. WAIVER TRANSPARENCY AND STREAMLINING**  
6 **FOR CONTRACTS.**

7 (a) COLLECTION OF INFORMATION.—The Adminis-  
8 trator of General Services, in consultation with the heads  
9 of relevant agencies, shall develop a mechanism to collect  
10 information on requests to invoke a Buy American waiver  
11 for a Federal contract, utilizing existing reporting require-  
12 ments whenever possible, for purposes of providing early  
13 notice of possible waivers via the website established under  
14 section 4136.

15 (b) WAIVER TRANSPARENCY AND STREAMLINING.—

16 (1) REQUIREMENT.—Prior to granting a re-  
17 quest to waive a Buy American law, the head of an  
18 executive agency shall submit a request to invoke a  
19 Buy American waiver to the Administrator of Gen-  
20 eral Services, and the Administrator of General  
21 Services shall make the request available on or  
22 through the public website established under section  
23 4136 for public comment for not less than 15 days.

24 (2) EXCEPTION.—The requirement under para-  
25 graph (1) does not apply to a request for a Buy

1 American waiver to satisfy an urgent contracting  
2 need in an unforeseen and exigent circumstance.

3 (c) INFORMATION AVAILABLE TO THE EXECUTIVE  
4 AGENCY CONCERNING THE REQUEST.—

5 (1) REQUIREMENT.—No Buy American waiver  
6 for purposes of awarding a contract may be granted  
7 if, in contravention of subsection (b)—

8 (A) information about the waiver was not  
9 made available on the website under section  
10 4136; or

11 (B) no opportunity for public comment  
12 concerning the request was granted.

13 (2) SCOPE.—Information made available to the  
14 public concerning the request included on the  
15 website described in section 4136 shall properly and  
16 adequately document and justify the statutory basis  
17 cited for the requested waiver. Such information  
18 shall include—

19 (A) a detailed justification for the use of  
20 goods, products, or materials mined, produced,  
21 or manufactured outside the United States;

22 (B) for requests citing unreasonable cost  
23 as the statutory basis of the waiver, a compari-  
24 son of the cost of the domestic product to the  
25 cost of the foreign product or a comparison of

1 the overall cost of the project with domestic  
2 products to the overall cost of the project with  
3 foreign-origin products or services, pursuant to  
4 the requirements of the applicable Buy Amer-  
5 ican law, except that publicly available cost  
6 comparison data may be provided in lieu of pro-  
7 prietary pricing information;

8 (C) for requests citing the public interest  
9 as the statutory basis for the waiver, a detailed  
10 written statement, which shall include all appro-  
11 priate factors, such as potential obligations  
12 under international agreements, justifying why  
13 the requested waiver is in the public interest;  
14 and

15 (D) a certification that the procurement  
16 official or assistance recipient made a good  
17 faith effort to solicit bids for domestic products  
18 supported by terms included in requests for  
19 proposals, contracts, and nonproprietary com-  
20 munications with the prime contractor.

21 (d) NONAVAILABILITY WAIVERS.—

22 (1) IN GENERAL.—Except as provided under  
23 paragraph (2), for a request citing nonavailability as  
24 the statutory basis for a Buy American waiver, an  
25 executive agency shall provide an explanation of the



1 procurement official's efforts to procure a product  
2 from a domestic source and the reasons why a do-  
3 mestic product was not available from a domestic  
4 source. Those explanations shall be made available  
5 on BuyAmerican.gov prior to the issuance of the  
6 waiver, and the agency shall consider public com-  
7 ments regarding the availability of the product be-  
8 fore making a final determination.

9 (2) EXCEPTION.—An explanation under para-  
10 graph (1) is not required for a product the nonavail-  
11 ability of which is established by law or regulation.

12 **SEC. 4138. COMPTROLLER GENERAL REPORT.**

13 Not later than two years after the date of the enact-  
14 ment of this Act, the Comptroller General of the United  
15 States shall submit to Congress a report describing the  
16 implementation of this subtitle, including recommenda-  
17 tions for any legislation to improve the collection and re-  
18 porting of information regarding waivers of and exceptions  
19 to Buy American laws.

20 **SEC. 4139. RULES OF CONSTRUCTION.**

21 (a) DISCLOSURE REQUIREMENTS.—Nothing in this  
22 subtitle shall be construed as preempting, superseding, or  
23 otherwise affecting the application of any disclosure re-  
24 quirement or requirements otherwise provided by law or  
25 regulation.

1 (b) ESTABLISHMENT OF SUCCESSOR INFORMATION  
2 SYSTEMS.—Nothing in this subtitle shall be construed as  
3 preventing or otherwise limiting the ability of the Adminis-  
4 trator of General Services to move the data required to  
5 be included on the website established under subsection  
6 (a) to a successor information system. Any such informa-  
7 tion system shall include a reference to BuyAmerican.gov.

8 **SEC. 4140. CONSISTENCY WITH INTERNATIONAL AGREE-**  
9 **MENTS.**

10 This subtitle shall be applied in a manner consistent  
11 with United States obligations under international agree-  
12 ments.

13 **SEC. 4141. PROSPECTIVE AMENDMENTS TO INTERNAL**  
14 **CROSS-REFERENCES.**

15 (a) IN GENERAL.—Section 4132(1) is amended—

16 (1) in subparagraph (I), by striking “section  
17 2533a” and inserting “section 4862”; and

18 (2) in subparagraph (J), by striking “section  
19 2533b” and inserting “section 4863”.

20 (b) EFFECTIVE DATE.—The amendments made by  
21 subsection (a) shall take effect on January 1, 2022.

22 **Subtitle C—Make PPE in America**

23 **SEC. 4151. SHORT TITLE.**

24 This subtitle may be cited as the “Make PPE in  
25 America Act”.

1 **SEC. 4152. FINDINGS.**

2 Congress makes the following findings:

3 (1) The COVID–19 pandemic has exposed the  
4 vulnerability of the United States supply chains for,  
5 and lack of domestic production of, personal protec-  
6 tive equipment (PPE).

7 (2) The United States requires a robust, secure,  
8 and wholly domestic PPE supply chain to safeguard  
9 public health and national security.

10 (3) Issuing a strategy that provides the govern-  
11 ment’s anticipated needs over the next three years  
12 will enable suppliers to assess what changes, if any,  
13 are needed in their manufacturing capacity to meet  
14 expected demands.

15 (4) In order to foster a domestic PPE supply  
16 chain, United States industry needs a strong and  
17 consistent demand signal from the Federal Govern-  
18 ment providing the necessary certainty to expand  
19 production capacity investment in the United States.

20 (5) In order to effectively incentivize investment  
21 in the United States and the re-shoring of manufac-  
22 turing, long-term contracts must be no shorter than  
23 three years in duration.

24 (6) To accomplish this aim, the United States  
25 should seek to ensure compliance with its inter-  
26 national obligations, such as its commitments under

1 the World Trade Organization’s Agreement on Gov-  
2 ernment Procurement and its free trade agreements,  
3 including by invoking any relevant exceptions to  
4 those agreements, especially those related to national  
5 security and public health.

6 (7) The United States needs a long-term invest-  
7 ment strategy for the domestic production of PPE  
8 items critical to the United States national response  
9 to a public health crisis, including the COVID–19  
10 pandemic.

11 **SEC. 4153. REQUIREMENT OF LONG-TERM CONTRACTS FOR**  
12 **DOMESTICALLY MANUFACTURED PERSONAL**  
13 **PROTECTIVE EQUIPMENT.**

14 (a) DEFINITIONS.—In this section:

15 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
16 TEES.—The term “appropriate congressional com-  
17 mittees” means—

18 (A) the Committee on Homeland Security  
19 and Governmental Affairs, the Committee on  
20 Health, Education, Labor, and Pensions, the  
21 Committee on Finance, and the Committee on  
22 Veterans’ Affairs of the Senate; and

23 (B) the Committee on Homeland Security,  
24 the Committee on Oversight and Reform, the  
25 Committee on Energy and Commerce, the Com-

1           mittee on Ways and Means, and the Committee  
2           on Veterans' Affairs of the House of Represent-  
3           atives.

4           (2) COVERED SECRETARY.—The term “covered  
5           Secretary” means the Secretary of Homeland Secu-  
6           rity, the Secretary of Health and Human Services,  
7           and the Secretary of Veterans Affairs.

8           (3) PERSONAL PROTECTIVE EQUIPMENT.—The  
9           term “personal protective equipment” means sur-  
10          gical masks, respirator masks and powered air puri-  
11          fying respirators and required filters, face shields  
12          and protective eyewear, gloves, disposable and reus-  
13          able surgical and isolation gowns, head and foot cov-  
14          erings, and other gear or clothing used to protect an  
15          individual from the transmission of disease.

16          (4) UNITED STATES.—The term “United  
17          States” means the 50 States, the District of Colum-  
18          bia, and the possessions of the United States.

19          (b) CONTRACT REQUIREMENTS FOR DOMESTIC PRO-  
20          DUCTION.—Beginning 90 days after the date of the enact-  
21          ment of this Act, in order to ensure the sustainment and  
22          expansion of personal protective equipment manufacturing  
23          in the United States and meet the needs of the current  
24          pandemic response, any contract for the procurement of

1 personal protective equipment entered into by a covered  
2 Secretary, or a covered Secretary's designee, shall—

3 (1) be issued for a duration of at least 2 years,  
4 plus all option periods necessary, to incentivize in-  
5 vestment in the production of personal protective  
6 equipment and the materials and components there-  
7 of in the United States; and

8 (2) be for personal protective equipment, in-  
9 cluding the materials and components thereof, that  
10 is grown, reprocessed, reused, or produced in the  
11 United States.

12 (c) ALTERNATIVES TO DOMESTIC PRODUCTION.—  
13 The requirement under subsection (b) shall not apply to  
14 an item of personal protective equipment, or component  
15 or material thereof if, after maximizing to the extent fea-  
16 sible sources consistent with subsection (b), the covered  
17 Secretary—

18 (1) maximizes sources for personal protective  
19 equipment that is assembled outside the United  
20 States containing only materials and components  
21 that are grown, reprocessed, reused, or produced in  
22 the United States; and

23 (2) certifies every 120 days that it is necessary  
24 to procure personal protective equipment under al-

1           ternative procedures to respond to the immediate  
2           needs of a public health emergency.

3           (d) AVAILABILITY EXCEPTION.—

4                 (1) IN GENERAL.—Subsections (b) and (c) shall  
5           not apply to an item of personal protective equip-  
6           ment, or component or material thereof—

7                         (A) that is, or that includes, a material  
8                         listed in section 25.104 of the Federal Acquisi-  
9                         tion Regulation as one for which a non-avail-  
10                        ability determination has been made; or

11                       (B) as to which the covered Secretary de-  
12                       termines that a sufficient quantity of a satisfac-  
13                       tory quality that is grown, reprocessed, reused,  
14                       or produced in the United States cannot be pro-  
15                       cured as, and when, needed at United States  
16                       market prices.

17                 (2) CERTIFICATION REQUIREMENT.—The cov-  
18           ered Secretary shall certify every 120 days that the  
19           exception under paragraph (1) is necessary to meet  
20           the immediate needs of a public health emergency.

21           (e) REPORT.—

22                 (1) IN GENERAL.—Not later than 180 days  
23           after the date of the enactment of this Act, the Di-  
24           rector of the Office of Management and Budget, in  
25           consultation with the covered Secretaries, shall sub-

1       mit to the chairs and ranking members of the appro-  
2       priate congressional committees a report on the pro-  
3       curement of personal protective equipment.

4               (2) ELEMENTS.—The report required under  
5       paragraph (1) shall include the following elements:

6               (A) The United States long-term domestic  
7       procurement strategy for PPE produced in the  
8       United States, including strategies to  
9       incentivize investment in and maintain United  
10      States supply chains for all PPE sufficient to  
11      meet the needs of the United States during a  
12      public health emergency.

13              (B) An estimate of long-term demand  
14      quantities for all PPE items procured by the  
15      United States.

16              (C) Recommendations for congressional ac-  
17      tion required to implement the United States  
18      Government's procurement strategy.

19              (D) A determination whether all notifica-  
20      tions, amendments, and other necessary actions  
21      have been completed to bring the United States  
22      existing international obligations into con-  
23      formity with the statutory requirements of this  
24      subtitle.



1 (f) AUTHORIZATION OF TRANSFER OF EQUIP-  
2 MENT.—

3 (1) IN GENERAL.—A covered Secretary may  
4 transfer to the Strategic National Stockpile estab-  
5 lished under section 319F–2 of the Public Health  
6 Service Act (42 U.S.C. 247d–6b) any excess per-  
7 sonal protective equipment acquired under a con-  
8 tract executed pursuant to subsection (b).

9 (2) TRANSFER OF EQUIPMENT DURING A PUB-  
10 LIC HEALTH EMERGENCY.—

11 (A) AMENDMENT.—Title V of the Home-  
12 land Security Act of 2002 (6 U.S.C. 311 et  
13 seq.) is amended by adding at the end the fol-  
14 lowing:

15 **“SEC. 529. TRANSFER OF EQUIPMENT DURING A PUBLIC**  
16 **HEALTH EMERGENCY.**

17 “(a) AUTHORIZATION OF TRANSFER OF EQUIP-  
18 MENT.—During a public health emergency declared by the  
19 Secretary of Health and Human Services under section  
20 319(a) of the Public Health Service Act (42 U.S.C.  
21 247d(a)), the Secretary, at the request of the Secretary  
22 of Health and Human Services, may transfer to the De-  
23 partment of Health and Human Services, on a reimburs-  
24 able basis, excess personal protective equipment or medi-

1 cally necessary equipment in the possession of the Depart-  
2 ment.

3 “(b) DETERMINATION BY SECRETARIES.—

4 “(1) IN GENERAL.—In carrying out this sec-  
5 tion—

6 “(A) before requesting a transfer under  
7 subsection (a), the Secretary of Health and  
8 Human Services shall determine whether the  
9 personal protective equipment or medically nec-  
10 essary equipment is otherwise available; and

11 “(B) before initiating a transfer under  
12 subsection (a), the Secretary, in consultation  
13 with the heads of each component within the  
14 Department, shall—

15 “(i) determine whether the personal  
16 protective equipment or medically nec-  
17 essary equipment requested to be trans-  
18 ferred under subsection (a) is excess equip-  
19 ment; and

20 “(ii) certify that the transfer of the  
21 personal protective equipment or medically  
22 necessary equipment will not adversely im-  
23 pact the health or safety of officers, em-  
24 ployees, or contractors of the Department.

1           “(2) NOTIFICATION.—The Secretary of Health  
2           and Human Services and the Secretary shall each  
3           submit to Congress a notification explaining the de-  
4           termination made under subparagraphs (A) and (B),  
5           respectively, of paragraph (1).

6           “(3) REQUIRED INVENTORY.—

7           “(A) IN GENERAL.—The Secretary shall—

8           “(i) acting through the Chief Medical  
9           Officer of the Department, maintain an in-  
10          ventory of all personal protective equip-  
11          ment and medically necessary equipment in  
12          the possession of the Department; and

13          “(ii) make the inventory required  
14          under clause (i) available, on a continual  
15          basis, to—

16                  “(I) the Secretary of Health and  
17                  Human Services; and

18                  “(II) the Committee on Appro-  
19                  priations and the Committee on  
20                  Homeland Security and Governmental  
21                  Affairs of the Senate and the Com-  
22                  mittee on Appropriations and the  
23                  Committee on Homeland Security of  
24                  the House of Representatives.

1           “(B) FORM.—Each inventory required to  
2           be made available under subparagraph (A) shall  
3           be submitted in unclassified form, but may in-  
4           clude a classified annex.”.

5           (B) TABLE OF CONTENTS AMENDMENT.—  
6           The table of contents in section 1(b) of the  
7           Homeland Security Act of 2002 (Public Law  
8           107–296; 116 Stat. 2135) is amended by in-  
9           serting after the item relating to section 528  
10          the following:

“Sec. 529. Transfer of equipment during a public health emergency.”.

11          (3) STRATEGIC NATIONAL STOCKPILE.—Section  
12          319F–2(a) of the Public Health Service Act (42  
13          U.S.C. 247d–6b(a)) is amended by adding at the  
14          end the following:

15          “(6) TRANSFERS OF ITEMS.—The Secretary, in  
16          coordination with the Secretary of Homeland Secu-  
17          rity, may sell drugs, vaccines and other biological  
18          products, medical devices, or other supplies main-  
19          tained in the stockpile under paragraph (1) to a  
20          Federal agency or private, nonprofit, State, local,  
21          tribal, or territorial entity for immediate use and  
22          distribution, provided that any such items being sold  
23          are—

24                  “(A) within 1 year of their expiration date;  
25                  or

1                   “(B) determined by the Secretary to no  
2                   longer be needed in the stockpile due to ad-  
3                   vances in medical or technical capabilities.”.

4           (g) COMPLIANCE WITH INTERNATIONAL AGREE-  
5 MENTS.—The President or the President’s designee shall  
6 take all necessary steps, including invoking the rights of  
7 the United States under Article III of the World Trade  
8 Organization’s Agreement on Government Procurement  
9 and the relevant exceptions of other relevant agreements  
10 to which the United States is a party, to ensure that the  
11 international obligations of the United States are con-  
12 sistent with the provisions of this subtitle.

13                   **TITLE II—CYBER AND**  
14                   **ARTIFICIAL INTELLIGENCE**  
15           **Subtitle A—Advancing American**  
16                   **AI**

17   **SEC. 4201. SHORT TITLE.**

18           This subtitle may be cited as the “Advancing Amer-  
19 ican AI Act”.

20   **SEC. 4202. PURPOSE.**

21           The purposes of this subtitle are to—

22                   (1) encourage agency artificial intelligence-re-  
23                   lated programs and initiatives that enhance the com-  
24                   petitiveness of the United States and foster an ap-  
25                   proach to artificial intelligence that builds on the

1 strengths of the United States in innovation and  
2 entrepreneurialism;

3 (2) enhance the ability of the Federal Govern-  
4 ment to translate research advances into artificial  
5 intelligence applications to modernize systems and  
6 assist agency leaders in fulfilling their missions;

7 (3) promote adoption of modernized business  
8 practices and advanced technologies across the Fed-  
9 eral Government that align with the values of the  
10 United States, including the protection of privacy,  
11 civil rights, and civil liberties; and

12 (4) test and harness applied artificial intel-  
13 ligence to enhance mission effectiveness and business  
14 practice efficiency.

15 **SEC. 4203. DEFINITIONS.**

16 In this subtitle:

17 (1) AGENCY.—The term “agency” has the  
18 meaning given the term in section 3502 of title 44,  
19 United States Code.

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

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

1 (B) the Committee on Oversight and Re-  
2 form of the House of Representatives.

3 (3) ARTIFICIAL INTELLIGENCE.—The term “ar-  
4 tificial intelligence” has the meaning given the term  
5 in section 238(g) of the John S. McCain National  
6 Defense Authorization Act for Fiscal Year 2019 (10  
7 U.S.C. 2358 note).

8 (4) ARTIFICIAL INTELLIGENCE SYSTEM.—The  
9 term “artificial intelligence system”—

10 (A) means any data system, software, ap-  
11 plication, tool, or utility that operates in whole  
12 or in part using dynamic or static machine  
13 learning algorithms or other forms of artificial  
14 intelligence, whether—

15 (i) the data system, software, applica-  
16 tion, tool, or utility is established primarily  
17 for the purpose of researching, developing,  
18 or implementing artificial intelligence tech-  
19 nology; or

20 (ii) artificial intelligence capability is  
21 integrated into another system or agency  
22 business process, operational activity, or  
23 technology system; and

24 (B) does not include any common commer-  
25 cial product within which artificial intelligence

1 is embedded, such as a word processor or map  
2 navigation system.

3 (5) DEPARTMENT.—The term “Department”  
4 means the Department of Homeland Security.

5 (6) DIRECTOR.—The term “Director” means  
6 the Director of the Office of Management and Budg-  
7 et.

8 **SEC. 4204. PRINCIPLES AND POLICIES FOR USE OF ARTIFI-**  
9 **CIAL INTELLIGENCE IN GOVERNMENT.**

10 (a) GUIDANCE.—The Director shall, when developing  
11 the guidance required under section 104(a) of the AI in  
12 Government Act of 2020 (title I of division U of Public  
13 Law 116–260), consider—

14 (1) the considerations and recommended prac-  
15 tices identified by the National Security Commission  
16 on Artificial Intelligence in the report entitled “Key  
17 Considerations for the Responsible Development and  
18 Fielding of AI”, as updated in April 2021;

19 (2) the principles articulated in Executive  
20 Order 13960 (85 Fed. Reg. 78939; relating to pro-  
21 moting the use of trustworthy artificial intelligence  
22 in Government); and

23 (3) the input of—

24 (A) the Privacy and Civil Liberties Over-  
25 sight Board;



1 (B) relevant interagency councils, such as  
2 the Federal Privacy Council, the Chief Informa-  
3 tion Officers Council, and the Chief Data Offi-  
4 cers Council;

5 (C) other governmental and nongovern-  
6 mental privacy, civil rights, and civil liberties  
7 experts; and

8 (D) any other individual or entity the Di-  
9 rector determines to be appropriate.

10 (b) DEPARTMENT POLICIES AND PROCESSES FOR  
11 PROCUREMENT AND USE OF ARTIFICIAL INTELLIGENCE-  
12 ENABLED SYSTEMS.—Not later than 180 days after the  
13 date of enactment of this Act—

14 (1) the Secretary of Homeland Security, with  
15 the participation of the Chief Procurement Officer,  
16 the Chief Information Officer, the Chief Privacy Of-  
17 ficer, and the Officer for Civil Rights and Civil Lib-  
18 erties of the Department and any other person de-  
19 termined to be relevant by the Secretary of Home-  
20 land Security, shall issue policies and procedures for  
21 the Department related to—

22 (A) the acquisition and use of artificial in-  
23 telligence; and

24 (B) considerations for the risks and im-  
25 pacts related to artificial intelligence-enabled

1 systems, including associated data of machine  
2 learning systems, to ensure that full consider-  
3 ation is given to—

4 (i) the privacy, civil rights, and civil  
5 liberties impacts of artificial intelligence-  
6 enabled systems; and

7 (ii) security against misuse, degrada-  
8 tion, or rendering inoperable of artificial in-  
9 telligence-enabled systems; and

10 (2) the Chief Privacy Officer and the Officer  
11 for Civil Rights and Civil Liberties of the Depart-  
12 ment shall report to Congress on any additional  
13 staffing or funding resources that may be required  
14 to carry out the requirements of this subsection.

15 (c) INSPECTOR GENERAL.—Not later than 180 days  
16 after the date of enactment of this Act, the Inspector Gen-  
17 eral of the Department shall identify any training and in-  
18 vestments needed to enable employees of the Office of the  
19 Inspector General to continually advance their under-  
20 standing of—

21 (1) artificial intelligence systems;

22 (2) best practices for governance, oversight, and  
23 audits of the use of artificial intelligence systems;  
24 and

1           (3) how the Office of the Inspector General is  
2           using artificial intelligence to enhance audit and in-  
3           vestigative capabilities, including actions to—

4                   (A) ensure the integrity of audit and inves-  
5                   tigative results; and

6                   (B) guard against bias in the selection and  
7                   conduct of audits and investigations.

8           (d) ARTIFICIAL INTELLIGENCE HYGIENE AND PRO-  
9           TECTION OF GOVERNMENT INFORMATION, PRIVACY,  
10          CIVIL RIGHTS, AND CIVIL LIBERTIES.—

11           (1) ESTABLISHMENT.—Not later than 1 year  
12           after the date of enactment of this Act, the Director,  
13           in consultation with a working group consisting of  
14           members selected by the Director from appropriate  
15           interagency councils, shall develop an initial means  
16           by which to—

17                   (A) ensure that contracts for the acquisi-  
18                   tion of an artificial intelligence system or serv-  
19                   ice—

20                           (i) align with the guidance issued to  
21                           the head of each agency under section  
22                           104(a) of the AI in Government Act of  
23                           2020 (title I of division U of Public Law  
24                           116–260);

1 (ii) address protection of privacy, civil  
2 rights, and civil liberties;

3 (iii) address the ownership and secu-  
4 rity of data and other information created,  
5 used, processed, stored, maintained, dis-  
6 seminated, disclosed, or disposed of by a  
7 contractor or subcontractor on behalf of  
8 the Federal Government; and

9 (iv) include considerations for secur-  
10 ing the training data, algorithms, and  
11 other components of any artificial intel-  
12 ligence system against misuse, unauthor-  
13 ized alteration, degradation, or rendering  
14 inoperable; and

15 (B) address any other issue or concern de-  
16 termined to be relevant by the Director to en-  
17 sure appropriate use and protection of privacy  
18 and Government data and other information.

19 (2) CONSULTATION.—In developing the consid-  
20 erations under paragraph (1)(A)(iv), the Director  
21 shall consult with the Secretary of Homeland Secu-  
22 rity, the Director of the National Institute of Stand-  
23 ards and Technology, and the Director of National  
24 Intelligence.

25 (3) REVIEW.—The Director—

1 (A) should continuously update the means  
2 developed under paragraph (1); and

3 (B) not later than 2 years after the date  
4 of enactment of this Act and not less frequently  
5 than every 2 years thereafter, shall update the  
6 means developed under paragraph (1).

7 (4) BRIEFING.—The Director shall brief the ap-  
8 propriate congressional committees—

9 (A) not later than 90 days after the date  
10 of enactment of this Act and thereafter on a  
11 quarterly basis until the Director first imple-  
12 ments the means developed under paragraph  
13 (1); and

14 (B) annually thereafter on the implementa-  
15 tion of this subsection.

16 (5) SUNSET.—This subsection shall cease to be  
17 effective on the date that is 5 years after the date  
18 of enactment of this Act.

19 **SEC. 4205. AGENCY INVENTORIES AND ARTIFICIAL INTEL-**  
20 **LIGENCE USE CASES.**

21 (a) INVENTORY.—Not later than 60 days after the  
22 date of enactment of this Act, and continuously thereafter  
23 for a period of 5 years, the Director, in consultation with  
24 the Chief Information Officers Council, the Chief Data Of-  
25 ficers Council, and other interagency bodies as determined

1 to be appropriate by the Director, shall require the head  
2 of each agency to—

3 (1) prepare and maintain an inventory of the  
4 artificial intelligence use cases of the agency, includ-  
5 ing current and planned uses;

6 (2) share agency inventories with other agen-  
7 cies, to the extent practicable and consistent with  
8 applicable law and policy, including those concerning  
9 protection of privacy and of sensitive law enforce-  
10 ment, national security, and other protected infor-  
11 mation; and

12 (3) make agency inventories available to the  
13 public, in a manner determined by the Director, and  
14 to the extent practicable and in accordance with ap-  
15 plicable law and policy, including those concerning  
16 the protection of privacy and of sensitive law en-  
17 forcement, national security, and other protected in-  
18 formation.

19 (b) CENTRAL INVENTORY.—The Director is encour-  
20 aged to designate a host entity and ensure the creation  
21 and maintenance of an online public directory to—

22 (1) make agency artificial intelligence use case  
23 information available to the public and those wishing  
24 to do business with the Federal Government; and

25 (2) identify common use cases across agencies.

1 (c) SHARING.—The sharing of agency inventories de-  
2 scribed in subsection (a)(2) may be coordinated through  
3 the Chief Information Officers Council, the Chief Data Of-  
4 ficers Council, the Chief Financial Officers Council, the  
5 Chief Acquisition Officers Council, or other interagency  
6 bodies to improve interagency coordination and informa-  
7 tion sharing for common use cases.

8 **SEC. 4206. RAPID PILOT, DEPLOYMENT AND SCALE OF AP-**  
9 **PLIED ARTIFICIAL INTELLIGENCE CAPABILI-**  
10 **TIES TO DEMONSTRATE MODERNIZATION AC-**  
11 **TIVITIES RELATED TO USE CASES.**

12 (a) IDENTIFICATION OF USE CASES.—Not later than  
13 270 days after the date of enactment of this Act, the Di-  
14 rector, in consultation with the Chief Information Officers  
15 Council, the Chief Data Officers Council, and other inter-  
16 agency bodies as determined to be appropriate by the Di-  
17 rector, shall identify 4 new use cases for the application  
18 of artificial intelligence-enabled systems to support inter-  
19 agency or intra-agency modernization initiatives that re-  
20 quire linking multiple siloed internal and external data  
21 sources, consistent with applicable laws and policies, in-  
22 cluding those relating to the protection of privacy and of  
23 sensitive law enforcement, national security, and other  
24 protected information.

25 (b) PILOT PROGRAM.—

1           (1) PURPOSES.—The purposes of the pilot pro-  
2           gram under this subsection include—

3                   (A) to enable agencies to operate across or-  
4                   ganizational boundaries, coordinating between  
5                   existing established programs and silos to im-  
6                   prove delivery of the agency mission; and

7                   (B) to demonstrate the circumstances  
8                   under which artificial intelligence can be used  
9                   to modernize or assist in modernizing legacy  
10                  agency systems.

11           (2) DEPLOYMENT AND PILOT.—Not later than  
12           1 year after the date of enactment of this Act, the  
13           Director, in coordination with the heads of relevant  
14           agencies and other officials as the Director deter-  
15           mines to be appropriate, shall ensure the initiation  
16           of the piloting of the 4 new artificial intelligence use  
17           case applications identified under subsection (a),  
18           leveraging commercially available technologies and  
19           systems to demonstrate scalable artificial intel-  
20           ligence-enabled capabilities to support the use cases  
21           identified under subsection (a).

22           (3) RISK EVALUATION AND MITIGATION  
23           PLAN.—In carrying out paragraph (2), the Director  
24           shall require the heads of agencies to—



1 (A) evaluate risks in utilizing artificial in-  
2 telligence systems; and

3 (B) develop a risk mitigation plan to ad-  
4 dress those risks, including consideration of—

5 (i) the artificial intelligence system  
6 not performing as expected;

7 (ii) the lack of sufficient or quality  
8 training data; and

9 (iii) the vulnerability of a utilized arti-  
10 ficial intelligence system to unauthorized  
11 manipulation or misuse.

12 (4) PRIORITIZATION.—In carrying out para-  
13 graph (2), the Director shall prioritize modernization  
14 projects that—

15 (A) would benefit from commercially avail-  
16 able privacy-preserving techniques, such as use  
17 of differential privacy, federated learning, and  
18 secure multiparty computing; and

19 (B) otherwise take into account consider-  
20 ations of civil rights and civil liberties.

21 (5) USE CASE MODERNIZATION APPLICATION  
22 AREAS.—Use case modernization application areas  
23 described in paragraph (2) shall include not less  
24 than 1 from each of the following categories:

1 (A) Applied artificial intelligence to drive  
2 agency productivity efficiencies in predictive  
3 supply chain and logistics, such as—

4 (i) predictive food demand and opti-  
5 mized supply;

6 (ii) predictive medical supplies and  
7 equipment demand and optimized supply;

8 or

9 (iii) predictive logistics to accelerate  
10 disaster preparedness, response, and recov-  
11 ery.

12 (B) Applied artificial intelligence to accel-  
13 erate agency investment return and address  
14 mission-oriented challenges, such as—

15 (i) applied artificial intelligence port-  
16 folio management for agencies;

17 (ii) workforce development and  
18 upskilling;

19 (iii) redundant and laborious analyses;

20 (iv) determining compliance with Gov-  
21 ernment requirements, such as with grants  
22 management; or

23 (v) outcomes measurement to measure  
24 economic and social benefits.

1           (6) REQUIREMENTS.—Not later than 3 years  
2 after the date of enactment of this Act, the Director,  
3 in coordination with the heads of relevant agencies  
4 and other officials as the Director determines to be  
5 appropriate, shall establish an artificial intelligence  
6 capability within each of the 4 use case pilots under  
7 this subsection that—

8                   (A) solves data access and usability issues  
9 with automated technology and eliminates or  
10 minimizes the need for manual data cleansing  
11 and harmonization efforts;

12                   (B) continuously and automatically ingests  
13 data and updates domain models in near real-  
14 time to help identify new patterns and predict  
15 trends, to the extent possible, to help agency  
16 personnel to make better decisions and take  
17 faster actions;

18                   (C) organizes data for meaningful data vis-  
19 ualization and analysis so the Government has  
20 predictive transparency for situational aware-  
21 ness to improve use case outcomes;

22                   (D) is rapidly configurable to support mul-  
23 tiple applications and automatically adapts to  
24 dynamic conditions and evolving use case re-  
25 quirements, to the extent possible;





1           “(A) may, under the authority of para-  
2           graph (1), carry out prototype projects under  
3           section 2371b of title 10, United States Code;  
4           and

5           “(B) in applying the authorities of such  
6           section 2371b, the Secretary shall perform the  
7           functions of the Secretary of Defense as pre-  
8           scribed in such section.”;

9           (2) in subsection (c)(1), by striking “September  
10          30, 2017” and inserting “September 30, 2024”; and

11          (3) in subsection (d), by striking “section  
12          845(e)” and all that follows and inserting “section  
13          2371b(e) of title 10, United States Code.”.

14          (c) **COMMERCIAL OFF THE SHELF SUPPLY CHAIN**  
15 **RISK MANAGEMENT TOOLS.**—The General Services Ad-  
16 ministration is encouraged to pilot commercial off the  
17 shelf supply chain risk management tools to improve the  
18 ability of the Federal Government to characterize, mon-  
19 itor, predict, and respond to specific supply chain threats  
20 and vulnerabilities that could inhibit future Federal acqui-  
21 sition operations.

1       **Subtitle B—Cyber Response and**  
2                                   **Recovery**

3       **SEC. 4251. SHORT TITLE.**

4           This subtitle may be cited as the “Cyber Response  
5 and Recovery Act”.

6       **SEC. 4252. DECLARATION OF A SIGNIFICANT INCIDENT.**

7           (a) IN GENERAL.—Title XXII of the Homeland Se-  
8 curity Act of 2002 (6 U.S.C. 651 et seq.) is amended by  
9 adding at the end the following:

10                   **“Subtitle C—Declaration of a**  
11                                   **Significant Incident**

12       **“SEC. 2231. SENSE OF CONGRESS.**

13           “It is the sense of Congress that—

14                   “(1) the purpose of this subtitle is to authorize  
15 the Secretary to declare that a significant incident  
16 has occurred and to establish the authorities that  
17 are provided under the declaration to respond to and  
18 recover from the significant incident; and

19                   “(2) the authorities established under this sub-  
20 title are intended to enable the Secretary to provide  
21 voluntary assistance to non-Federal entities im-  
22 pacted by a significant incident.

23       **“SEC. 2232. DEFINITIONS.**

24           “For the purposes of this subtitle:

1           “(1) ASSET RESPONSE ACTIVITY.—The term  
2           ‘asset response activity’ means an activity to support  
3           an entity impacted by an incident with the response  
4           to, remediation of, or recovery from, the incident, in-  
5           cluding—

6                   “(A) furnishing technical and advisory as-  
7                   sistance to the entity to protect the assets of  
8                   the entity, mitigate vulnerabilities, and reduce  
9                   the related impacts;

10                   “(B) assessing potential risks to the crit-  
11                   ical infrastructure sector or geographic region  
12                   impacted by the incident, including potential  
13                   cascading effects of the incident on other crit-  
14                   ical infrastructure sectors or geographic re-  
15                   gions;

16                   “(C) developing courses of action to miti-  
17                   gate the risks assessed under subparagraph  
18                   (B);

19                   “(D) facilitating information sharing and  
20                   operational coordination with entities per-  
21                   forming threat response activities; and

22                   “(E) providing guidance on how best to  
23                   use Federal resources and capabilities in a  
24                   timely, effective manner to speed recovery from  
25                   the incident.



1           “(2) DECLARATION.—The term ‘declaration’  
2 means a declaration of the Secretary under section  
3 2233(a)(1).

4           “(3) DIRECTOR.—The term ‘Director’ means  
5 the Director of the Cybersecurity and Infrastructure  
6 Security Agency.

7           “(4) FEDERAL AGENCY.—The term ‘Federal  
8 agency’ has the meaning given the term ‘agency’ in  
9 section 3502 of title 44, United States Code.

10          “(5) FUND.—The term ‘Fund’ means the  
11 Cyber Response and Recovery Fund established  
12 under section 2234(a).

13          “(6) INCIDENT.—The term ‘incident’ has the  
14 meaning given the term in section 3552 of title 44,  
15 United States Code.

16          “(7) RENEWAL.—The term ‘renewal’ means a  
17 renewal of a declaration under section 2233(d).

18          “(8) SIGNIFICANT INCIDENT.—The term ‘sig-  
19 nificant incident’—

20               “(A) means an incident or a group of re-  
21 lated incidents that results, or is likely to re-  
22 sult, in demonstrable harm to—

23                   “(i) the national security interests,  
24 foreign relations, or economy of the United  
25 States; or

1                   “(ii) the public confidence, civil lib-  
2                   erties, or public health and safety of the  
3                   people of the United States; and

4                   “(B) does not include an incident or a por-  
5                   tion of a group of related incidents that occurs  
6                   on—

7                   “(i) a national security system (as de-  
8                   fined in section 3552 of title 44, United  
9                   States Code); or

10                   “(ii) an information system described  
11                   in paragraph (2) or (3) of section 3553(e)  
12                   of title 44, United States Code.

13 **“SEC. 2233. DECLARATION.**

14                   “(a) IN GENERAL.—

15                   “(1) DECLARATION.—The Secretary, in con-  
16                   sultation with the National Cyber Director, may  
17                   make a declaration of a significant incident in ac-  
18                   cordance with this section for the purpose of ena-  
19                   bling the activities described in this subtitle if the  
20                   Secretary determines that—

21                   “(A) a specific significant incident—

22                   “(i) has occurred; or

23                   “(ii) is likely to occur imminently; and

24                   “(B) otherwise available resources, other  
25                   than the Fund, are likely insufficient to respond

1           effectively to, or to mitigate effectively, the spe-  
2           cific significant incident described in subpara-  
3           graph (A).

4           “(2) PROHIBITION ON DELEGATION.—The Sec-  
5           retary may not delegate the authority provided to  
6           the Secretary under paragraph (1).

7           “(b) ASSET RESPONSE ACTIVITIES.—Upon a dec-  
8           laration, the Director shall coordinate—

9           “(1) the asset response activities of each Fed-  
10          eral agency in response to the specific significant in-  
11          cident associated with the declaration; and

12          “(2) with appropriate entities, which may in-  
13          clude—

14                 “(A) public and private entities and State  
15                 and local governments with respect to the asset  
16                 response activities of those entities and govern-  
17                 ments; and

18                 “(B) Federal, State, local, and Tribal law  
19                 enforcement agencies with respect to investiga-  
20                 tions and threat response activities of those law  
21                 enforcement agencies; and

22                 “(3) Federal, State, local, and Tribal emer-  
23                 gency management and response agencies.

24          “(c) DURATION.—Subject to subsection (d), a dec-  
25          laration shall terminate upon the earlier of—

1           “(1) a determination by the Secretary that the  
2           declaration is no longer necessary; or

3           “(2) the expiration of the 120-day period begin-  
4           ning on the date on which the Secretary makes the  
5           declaration.

6           “(d) RENEWAL.—The Secretary, without delegation,  
7           may renew a declaration as necessary.

8           “(e) PUBLICATION.—

9           “(1) IN GENERAL.—Not later than 72 hours  
10          after a declaration or a renewal, the Secretary shall  
11          publish the declaration or renewal in the Federal  
12          Register.

13          “(2) PROHIBITION.—A declaration or renewal  
14          published under paragraph (1) may not include the  
15          name of any affected individual or private company.

16          “(f) ADVANCE ACTIONS.—

17          “(1) IN GENERAL.—The Secretary—

18                 “(A) shall assess the resources available to  
19                 respond to a potential declaration; and

20                 “(B) may take actions before and while a  
21                 declaration is in effect to arrange or procure  
22                 additional resources for asset response activities  
23                 or technical assistance the Secretary determines  
24                 necessary, which may include entering into  
25                 standby contracts with private entities for cy-

1           bersecurity services or incident responders in  
2           the event of a declaration.

3           “(2) EXPENDITURE OF FUNDS.—Any expendi-  
4           ture from the Fund for the purpose of paragraph  
5           (1)(B) shall be made from amounts available in the  
6           Fund, and amounts available in the Fund shall be  
7           in addition to any other appropriations available to  
8           the Cybersecurity and Infrastructure Security Agen-  
9           cy for such purpose.

10 **“SEC. 2234. CYBER RESPONSE AND RECOVERY FUND.**

11           “(a) IN GENERAL.—There is established a Cyber Re-  
12           sponse and Recovery Fund, which shall be available for—

13                   “(1) the coordination of activities described in  
14                   section 2233(b);

15                   “(2) response and recovery support for the spe-  
16                   cific significant incident associated with a declara-  
17                   tion to Federal, State, local, and Tribal, entities and  
18                   public and private entities on a reimbursable or non-  
19                   reimbursable basis, including through asset response  
20                   activities and technical assistance, such as—

21                           “(A) vulnerability assessments and mitiga-  
22                           tion;

23                           “(B) technical incident mitigation;

24                           “(C) malware analysis;

25                           “(D) analytic support;

1 “(E) threat detection and hunting; and

2 “(F) network protections;

3 “(3) as the Director determines appropriate,  
4 grants for, or cooperative agreements with, Federal,  
5 State, local, and Tribal public and private entities to  
6 respond to, and recover from, the specific significant  
7 incident associated with a declaration, such as—

8 “(A) hardware or software to replace, up-  
9 date, improve, harden, or enhance the  
10 functionality of existing hardware, software, or  
11 systems; and

12 “(B) technical contract personnel support;  
13 and

14 “(4) advance actions taken by the Secretary  
15 under section 2233(f)(1)(B).

16 “(b) DEPOSITS AND EXPENDITURES.—

17 “(1) IN GENERAL.—Amounts shall be deposited  
18 into the Fund from—

19 “(A) appropriations to the Fund for activi-  
20 ties of the Fund; and

21 “(B) reimbursement from Federal agencies  
22 for the activities described in paragraphs (1),  
23 (2), and (4) of subsection (a), which shall only  
24 be from amounts made available in advance in  
25 appropriations Acts for such reimbursement.

1           “(2) EXPENDITURES.—Any expenditure from  
2           the Fund for the purposes of this subtitle shall be  
3           made from amounts available in the Fund from a  
4           deposit described in paragraph (1), and amounts  
5           available in the Fund shall be in addition to any  
6           other appropriations available to the Cybersecurity  
7           and Infrastructure Security Agency for such pur-  
8           poses.

9           “(c) SUPPLEMENT NOT SUPPLANT.—Amounts in the  
10          Fund shall be used to supplement, not supplant, other  
11          Federal, State, local, or Tribal funding for activities in  
12          response to a declaration.

13          “(d) REPORTING.—The Secretary shall require an  
14          entity that receives amounts from the Fund to submit a  
15          report to the Secretary that details the specific use of the  
16          amounts.

17          **“SEC. 2235. NOTIFICATION AND REPORTING.**

18          “(a) NOTIFICATION.—Upon a declaration or renewal,  
19          the Secretary shall immediately notify the National Cyber  
20          Director and appropriate congressional committees and in-  
21          clude in the notification—

22                  “(1) an estimation of the planned duration of  
23                  the declaration;

24                  “(2) with respect to a notification of a declara-  
25                  tion, the reason for the declaration, including infor-

1       mation relating to the specific significant incident or  
2       imminent specific significant incident, including—

3               “(A) the operational or mission impact or  
4               anticipated impact of the specific significant in-  
5               cident on Federal and non-Federal entities;

6               “(B) if known, the perpetrator of the spe-  
7               cific significant incident; and

8               “(C) the scope of the Federal and non-  
9               Federal entities impacted or anticipated to be  
10              impacted by the specific significant incident;

11             “(3) with respect to a notification of a renewal,  
12             the reason for the renewal;

13             “(4) justification as to why available resources,  
14             other than the Fund, are insufficient to respond to  
15             or mitigate the specific significant incident; and

16             “(5) a description of the coordination activities  
17             described in section 2233(b) that the Secretary an-  
18             ticipates the Director to perform.

19             “(b) REPORT TO CONGRESS.—Not later than 180  
20             days after the date of a declaration or renewal, the Sec-  
21             retary shall submit to the appropriate congressional com-  
22             mittees a report that includes—

23               “(1) the reason for the declaration or renewal,  
24               including information and intelligence relating to the



1 specific significant incident that led to the declara-  
2 tion or renewal;

3 “(2) the use of any funds from the Fund for  
4 the purpose of responding to the incident or threat  
5 described in paragraph (1);

6 “(3) a description of the actions, initiatives, and  
7 projects undertaken by the Department and State  
8 and local governments and public and private enti-  
9 ties in responding to and recovering from the spe-  
10 cific significant incident described in paragraph (1);

11 “(4) an accounting of the specific obligations  
12 and outlays of the Fund; and

13 “(5) an analysis of—

14 “(A) the impact of the specific significant  
15 incident described in paragraph (1) on Federal  
16 and non-Federal entities;

17 “(B) the impact of the declaration or re-  
18 newal on the response to, and recovery from,  
19 the specific significant incident described in  
20 paragraph (1); and

21 “(C) the impact of the funds made avail-  
22 able from the Fund as a result of the declara-  
23 tion or renewal on the recovery from, and re-  
24 sponse to, the specific significant incident de-  
25 scribed in paragraph (1).

1           “(c) CLASSIFICATION.—Each notification made  
2 under subsection (a) and each report submitted under sub-  
3 section (b)—

4           “(1) shall be in an unclassified form with ap-  
5 propriate markings to indicate information that is  
6 exempt from disclosure under section 552 of title 5,  
7 United States Code (commonly known as the ‘Free-  
8 dom of Information Act’); and

9           “(2) may include a classified annex.

10          “(d) CONSOLIDATED REPORT.—The Secretary shall  
11 not be required to submit multiple reports under sub-  
12 section (b) for multiple declarations or renewals if the Sec-  
13 retary determines that the declarations or renewals sub-  
14 stantively relate to the same specific significant incident.

15          “(e) EXEMPTION.—The requirements of subchapter  
16 I of chapter 35 of title 44 (commonly known as the ‘Pa-  
17 perwork Reduction Act’) shall not apply to the voluntary  
18 collection of information by the Department during an in-  
19 vestigation of, a response to, or an immediate post-re-  
20 sponse review of, the specific significant incident leading  
21 to a declaration or renewal.

22          **“SEC. 2236. RULE OF CONSTRUCTION.**

23          “Nothing in this subtitle shall be construed to impair  
24 or limit the ability of the Director to carry out the author-

1 ized activities of the Cybersecurity and Infrastructure Se-  
2 curity Agency.

3 **“SEC. 2237. AUTHORIZATION OF APPROPRIATIONS.**

4 “There are authorized to be appropriated to the Fund  
5 \$20,000,000 for fiscal year 2022, which shall remain  
6 available until September 30, 2028.

7 **“SEC. 2238. SUNSET.**

8 “The authorities granted to the Secretary or the Di-  
9 rector under this subtitle shall expire on the date that is  
10 7 years after the date of enactment of this subtitle.”.

11 (b) CLERICAL AMENDMENT.—The table of contents  
12 in section 1(b) of the Homeland Security Act of 2002  
13 (Public Law 107–296; 116 Stat. 2135) is amended by  
14 adding at the end the following:

“Subtitle C—Declaration of a Significant Incident

“Sec. 2231. Sense of Congress.

“Sec. 2232. Definitions.

“Sec. 2233. Declaration.

“Sec. 2234. Cyber response and recovery fund.

“Sec. 2235. Notification and reporting.

“Sec. 2236. Rule of construction.

“Sec. 2237. Authorization of appropriations.

“Sec. 2238. Sunset.”.

15 **TITLE III—PERSONNEL**

16 **Subtitle A—Facilitating Federal**  
17 **Employee Reskilling**

18 **SEC. 4301. SHORT TITLE.**

19 This subtitle may be cited as the “Facilitating Fed-  
20 eral Employee Reskilling Act”.

1 **SEC. 4302. RESKILLING FEDERAL EMPLOYEES.**

2 (a) DEFINITIONS.—In this section:

3 (1) AGENCY.—The term “agency” has the  
4 meaning given the term “Executive agency” in sec-  
5 tion 105 of title 5, United States Code.

6 (2) APPROPRIATE COMMITTEES OF CON-  
7 GRESS.—The term “appropriate committees of Con-  
8 gress” means—

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

11 (B) the Committee on Oversight and Re-  
12 form of the House of Representatives.

13 (3) COMPETITIVE SERVICE.—The term “com-  
14 petitive service” has the meaning given the term in  
15 section 2102 of title 5, United States Code.

16 (4) DIRECTOR.—The term “Director” means  
17 the Director of the Office of Personnel Management.

18 (5) EMPLOYEE.—The term “employee” means  
19 an employee serving in a position in the competitive  
20 service or the excepted service.

21 (6) EXCEPTED SERVICE.—The term “excepted  
22 service” has the meaning given the term in section  
23 2103 of title 5, United States Code.

24 (7) FEDERAL RESKILLING PROGRAM.—The  
25 term “Federal reskilling program” means a program  
26 established by the head of an agency or the Director

1 to provide employees with the technical skill or ex-  
2 pertise that would qualify the employees to serve in  
3 a different position in the competitive service or the  
4 excepted service that requires such technical skill or  
5 expertise.

6 (b) REQUIREMENTS.—With respect to a Federal  
7 reskilling program established by the head of an agency  
8 or by the Director before, on, or after the date of enact-  
9 ment of this Act, the agency head or the Director, as ap-  
10 plicable, shall ensure that the Federal reskilling pro-  
11 gram—

12 (1) is implemented in a manner that is in ac-  
13 cordance with the bar on prohibited personnel prac-  
14 tices under section 2302 of title 5, United States  
15 Code, and consistent with the merit system prin-  
16 ciples under section 2301 of title 5, United States  
17 Code, including by using merit-based selection proce-  
18 dures for participation by employees in the Federal  
19 reskilling program;

20 (2) includes appropriate limitations or restric-  
21 tions associated with implementing the Federal  
22 reskilling program, which shall be consistent with  
23 any regulations prescribed by the Director under  
24 subsection (e);

1           (3) provides that any new position to which an  
2           employee who participates in the Federal reskilling  
3           program is transferred will utilize the technical skill  
4           or expertise that the employee acquired by partici-  
5           pating in the Federal reskilling program;

6           (4) includes the option for an employee partici-  
7           pating in the Federal reskilling program to return to  
8           the original position of the employee, or a similar  
9           position, particularly if the employee is unsuccessful  
10          in the position to which the employee transfers after  
11          completing the Federal reskilling program;

12          (5) provides that an employee who successfully  
13          completes the Federal reskilling program and trans-  
14          fers to a position that requires the technical skill or  
15          expertise provided through the Federal reskilling  
16          program shall be entitled to have the grade of the  
17          position held immediately before the transfer in a  
18          manner in accordance with section 5362 of title 5,  
19          United States Code;

20          (6) provides that an employee serving in a posi-  
21          tion in the excepted service may not transfer to a  
22          position in the competitive service solely by reason of  
23          the completion of the Federal reskilling program by  
24          the employee; and

1           (7) includes a mechanism to track outcomes of  
2           the Federal reskilling program in accordance with  
3           the metrics established under subsection (c).

4           (c) REPORTING AND METRICS.—Not later than 1  
5           year after the date of enactment of this Act, the Director  
6           shall establish reporting requirements for, and standard-  
7           ized metrics and procedures for agencies to track out-  
8           comes of, Federal reskilling programs, which shall include,  
9           with respect to each Federal reskilling program—

10           (1) providing a summary of the Federal  
11           reskilling program;

12           (2) collecting and reporting demographic and  
13           employment data with respect to employees who  
14           have applied for, participated in, or completed the  
15           Federal reskilling program;

16           (3) attrition of employees who have completed  
17           the Federal reskilling program; and

18           (4) any other measures or outcomes that the  
19           Director determines to be relevant.

20           (d) GAO REPORT.—Not later than 3 years after the  
21           date of enactment of this Act, the Comptroller General  
22           of the United States shall conduct a comprehensive study  
23           of, and submit to Congress a report on, Federal reskilling  
24           programs that includes—

1           (1) a summary of each Federal reskilling pro-  
2           gram and methods by which each Federal reskilling  
3           program recruits, selects, and retrain employees;

4           (2) an analysis of the accessibility of each Fed-  
5           eral reskilling program for a diverse set of can-  
6           didates;

7           (3) an evaluation of the effectiveness, costs, and  
8           benefits of the Federal reskilling programs; and

9           (4) recommendations to improve Federal  
10          reskilling programs to accomplish the goal of  
11          reskilling the Federal workforce.

12         (e) REGULATIONS.—The Director—

13           (1) not later than 1 year after the date of en-  
14           actment of this Act, shall prescribe regulations for  
15           the reporting requirements and metrics and proce-  
16           dures under subsection (c);

17           (2) may prescribe additional regulations, as the  
18           Director determines necessary, to provide for re-  
19           quirements with respect to, and the implementation  
20           of, Federal reskilling programs; and

21           (3) with respect to any regulation prescribed  
22           under this subsection, shall brief the appropriate  
23           committees of Congress with respect to the regula-  
24           tion not later than 30 days before the date on which  
25           the final version of the regulation is published.



1 (f) RULE OF CONSTRUCTION.—Nothing in this sec-  
2 tion may be construed to require the head of an agency  
3 or the Director to establish a Federal reskilling program.

4 (g) USE OF FUNDS.—Any Federal reskilling program  
5 established by the head of an agency or the Director shall  
6 be carried out using amounts otherwise made available to  
7 that agency head or the Director, as applicable.

## 8 **Subtitle B—Federal Rotational** 9 **Cyber Workforce Program**

### 10 **SEC. 4351. SHORT TITLE.**

11 This subtitle may be cited as the “Federal Rotational  
12 Cyber Workforce Program Act of 2021”.

### 13 **SEC. 4352. DEFINITIONS.**

14 In this subtitle:

15 (1) AGENCY.—The term “agency” has the  
16 meaning given the term “Executive agency” in sec-  
17 tion 105 of title 5, United States Code, except that  
18 the term does not include the Government Account-  
19 ability Office.

20 (2) COMPETITIVE SERVICE.—The term “com-  
21 petitive service” has the meaning given that term in  
22 section 2102 of title 5, United States Code.

23 (3) COUNCILS.—The term “Councils” means—

24 (A) the Chief Human Capital Officers  
25 Council established under section 1303 of the

1 Chief Human Capital Officers Act of 2002 (5  
2 U.S.C. 1401 note); and

3 (B) the Chief Information Officers Council  
4 established under section 3603 of title 44,  
5 United States Code.

6 (4) CYBER WORKFORCE POSITION.—The term  
7 “cyber workforce position” means a position identi-  
8 fied as having information technology, cybersecurity,  
9 or other cyber-related functions under section 303 of  
10 the Federal Cybersecurity Workforce Assessment  
11 Act of 2015 (5 U.S.C. 301 note).

12 (5) DIRECTOR.—The term “Director” means  
13 the Director of the Office of Personnel Management.

14 (6) EMPLOYEE.—The term “employee” has the  
15 meaning given the term in section 2105 of title 5,  
16 United States Code.

17 (7) EMPLOYING AGENCY.—The term “employ-  
18 ing agency” means the agency from which an em-  
19 ployee is detailed to a rotational cyber workforce po-  
20 sition.

21 (8) EXCEPTED SERVICE.—The term “excepted  
22 service” has the meaning given that term in section  
23 2103 of title 5, United States Code.

24 (9) ROTATIONAL CYBER WORKFORCE POSI-  
25 TION.—The term “rotational cyber workforce posi-

1       tion” means a cyber workforce position with respect  
2       to which a determination has been made under sec-  
3       tion 4353(a)(1).

4           (10) ROTATIONAL CYBER WORKFORCE PRO-  
5       GRAM.—The term “rotational cyber workforce pro-  
6       gram” means the program for the detail of employ-  
7       ees among rotational cyber workforce positions at  
8       agencies.

9           (11) SECRETARY.—The term “Secretary”  
10       means the Secretary of Homeland Security.

11 **SEC. 4353. ROTATIONAL CYBER WORKFORCE POSITIONS.**

12       (a) DETERMINATION WITH RESPECT TO ROTA-  
13       TIONAL SERVICE.—

14           (1) IN GENERAL.—The head of each agency  
15       may determine that a cyber workforce position in  
16       that agency is eligible for the rotational cyber work-  
17       force program, which shall not be construed to mod-  
18       ify the requirement under section 4354(b)(3) that  
19       participation in the rotational cyber workforce pro-  
20       gram by an employee shall be voluntary.

21           (2) NOTICE PROVIDED.—The head of an agency  
22       shall submit to the Director—

23           (A) notice regarding any determination  
24       made by the head of the agency under para-  
25       graph (1); and

1 (B) for each position with respect to which  
2 the head of the agency makes a determination  
3 under paragraph (1), the information required  
4 under subsection (b)(1).

5 (b) PREPARATION OF LIST.—The Director, with as-  
6 sistance from the Councils and the Secretary, shall develop  
7 a list of rotational cyber workforce positions that—

8 (1) with respect to each such position, to the  
9 extent that the information does not disclose sen-  
10 sitive national security information, includes—

11 (A) the title of the position;

12 (B) the occupational series with respect to  
13 the position;

14 (C) the grade level or work level with re-  
15 spect to the position;

16 (D) the agency in which the position is lo-  
17 cated;

18 (E) the duty location with respect to the  
19 position; and

20 (F) the major duties and functions of the  
21 position; and

22 (2) shall be used to support the rotational cyber  
23 workforce program.

24 (c) DISTRIBUTION OF LIST.—Not less frequently  
25 than annually, the Director shall distribute an updated list

1 developed under subsection (b) to the head of each agency  
2 and other appropriate entities.

3 **SEC. 4354. ROTATIONAL CYBER WORKFORCE PROGRAM.**

4 (a) OPERATION PLAN.—

5 (1) IN GENERAL.—Not later than 270 days  
6 after the date of enactment of this Act, and in con-  
7 sultation with the Councils, the Secretary, represent-  
8 atives of other agencies, and any other entity as the  
9 Director determines appropriate, the Director shall  
10 develop and issue a Federal Rotational Cyber Work-  
11 force Program operation plan providing policies,  
12 processes, and procedures for a program for the de-  
13 tailing of employees among rotational cyber work-  
14 force positions at agencies, which may be incor-  
15 porated into and implemented through mechanisms  
16 in existence on the date of enactment of this Act.

17 (2) UPDATING.—The Director may, in consulta-  
18 tion with the Councils, the Secretary, and other enti-  
19 ties as the Director determines appropriate, periodi-  
20 cally update the operation plan developed and issued  
21 under paragraph (1).

22 (b) REQUIREMENTS.—The operation plan developed  
23 and issued under subsection (a) shall, at a minimum—

24 (1) identify agencies for participation in the ro-  
25 tational cyber workforce program;

1           (2) establish procedures for the rotational cyber  
2 workforce program, including—

3                   (A) any training, education, or career de-  
4 velopment requirements associated with partici-  
5 pation in the rotational cyber workforce pro-  
6 gram;

7                   (B) any prerequisites or requirements for  
8 participation in the rotational cyber workforce  
9 program; and

10                   (C) appropriate rotational cyber workforce  
11 program performance measures, reporting re-  
12 quirements, employee exit surveys, and other  
13 accountability devices for the evaluation of the  
14 program;

15           (3) provide that participation in the rotational  
16 cyber workforce program by an employee shall be  
17 voluntary;

18           (4) provide that an employee shall be eligible to  
19 participate in the rotational cyber workforce pro-  
20 gram if the head of the employing agency of the em-  
21 ployee, or a designee of the head of the employing  
22 agency of the employee, approves of the participation  
23 of the employee;

24           (5) provide that the detail of an employee to a  
25 rotational cyber workforce position under the rota-

1           tional cyber workforce program shall be on a non-re-  
2           imbursable basis;

3           (6) provide that agencies may agree to partner  
4           to ensure that the employing agency of an employee  
5           who participates in the rotational cyber workforce  
6           program is able to fill the position vacated by the  
7           employee;

8           (7) require that an employee detailed to a rota-  
9           tional cyber workforce position under the rotational  
10          cyber workforce program, upon the end of the period  
11          of service with respect to the detail, shall be entitled  
12          to return to the position held by the employee, or an  
13          equivalent position, in the employing agency of the  
14          employee without loss of pay, seniority, or other  
15          rights or benefits to which the employee would have  
16          been entitled had the employee not been detailed;

17          (8) provide that discretion with respect to the  
18          assignment of an employee under the rotational  
19          cyber workforce program shall remain with the em-  
20          ploying agency of the employee;

21          (9) require that an employee detailed to a rota-  
22          tional cyber workforce position under the rotational  
23          cyber workforce program in an agency that is not  
24          the employing agency of the employee shall have all  
25          the rights that would be available to the employee if

1 the employee were detailed under a provision of law  
2 other than this subtitle from the employing agency  
3 to the agency in which the rotational cyber work-  
4 force position is located;

5 (10) provide that participation by an employee  
6 in the rotational cyber workforce program shall not  
7 constitute a change in the conditions of the employ-  
8 ment of the employee; and

9 (11) provide that an employee participating in  
10 the rotational cyber workforce program shall receive  
11 performance evaluations relating to service in the ro-  
12 tational cyber workforce program in a participating  
13 agency that are—

14 (A) prepared by an appropriate officer, su-  
15 pervisor, or management official of the employ-  
16 ing agency, acting in coordination with the su-  
17 pervisor at the agency in which the employee is  
18 performing service in the rotational cyber work-  
19 force position;

20 (B) based on objectives identified in the  
21 operation plan with respect to the employee;  
22 and

23 (C) based in whole or in part on the con-  
24 tribution of the employee to the agency in which  
25 the employee performed such service, as com-



1           municated from that agency to the employing  
2           agency of the employee.

3           (c) PROGRAM REQUIREMENTS FOR ROTATIONAL  
4 SERVICE.—

5           (1) IN GENERAL.—An employee serving in a  
6           cyber workforce position in an agency may, with the  
7           approval of the head of the agency, submit an appli-  
8           cation for detail to a rotational cyber workforce posi-  
9           tion that appears on the list developed under section  
10          4353(b).

11          (2) OPM APPROVAL FOR CERTAIN POSI-  
12          TIONS.—An employee serving in a position in the ex-  
13          pected service may only be selected for a rotational  
14          cyber workforce position that is in the competitive  
15          service with the prior approval of the Office of Per-  
16          sonnel Management, in accordance with section  
17          300.301 of title 5, Code of Federal Regulations, or  
18          any successor thereto.

19          (3) SELECTION AND TERM.—

20                (A) SELECTION.—The head of an agency  
21                shall select an employee for a rotational cyber  
22                workforce position under the rotational cyber  
23                workforce program in a manner that is con-  
24                sistent with the merit system principles under  
25                section 2301(b) of title 5, United States Code.

1           (B) TERM.—Except as provided in sub-  
2 paragraph (C), and notwithstanding section  
3 3341(b) of title 5, United States Code, a detail  
4 to a rotational cyber workforce position shall be  
5 for a period of not less than 180 days and not  
6 more than 1 year.

7           (C) EXTENSION.—The Chief Human Cap-  
8 ital Officer of the agency to which an employee  
9 is detailed under the rotational cyber workforce  
10 program may extend the period of a detail de-  
11 scribed in subparagraph (B) for a period of 60  
12 days unless the Chief Human Capital Officer of  
13 the employing agency of the employee objects to  
14 that extension.

15 (4) WRITTEN SERVICE AGREEMENTS.—

16           (A) IN GENERAL.—The detail of an em-  
17 ployee to a rotational cyber workforce position  
18 shall be contingent upon the employee entering  
19 into a written service agreement with the em-  
20 ploying agency under which the employee is re-  
21 quired to complete a period of employment with  
22 the employing agency following the conclusion  
23 of the detail that is equal in length to the pe-  
24 riod of the detail.

1 (B) OTHER AGREEMENTS AND OBLIGA-  
2 TIONS.—A written service agreement under  
3 subparagraph (A) shall not supersede or modify  
4 the terms or conditions of any other service  
5 agreement entered into by the employee under  
6 any other authority or relieve the obligations  
7 between the employee and the employing agency  
8 under such a service agreement. Nothing in this  
9 subparagraph prevents an employing agency  
10 from terminating a service agreement entered  
11 into under any other authority under the terms  
12 of such agreement or as required by law or reg-  
13 ulation.

14 **SEC. 4355. REPORTING BY GAO.**

15 Not later than the end of the third fiscal year after  
16 the fiscal year in which the operation plan under section  
17 4354(a) is issued, the Comptroller General of the United  
18 States shall submit to Congress a report assessing the op-  
19 eration and effectiveness of the rotational cyber workforce  
20 program, which shall address, at a minimum—

21 (1) the extent to which agencies have partici-  
22 pated in the rotational cyber workforce program, in-  
23 cluding whether the head of each such participating  
24 agency has—

1 (A) identified positions within the agency  
2 that are rotational cyber workforce positions;

3 (B) had employees from other partici-  
4 pating agencies serve in positions described in  
5 subparagraph (A); and

6 (C) had employees of the agency request to  
7 serve in rotational cyber workforce positions  
8 under the rotational cyber workforce program  
9 in participating agencies, including a descrip-  
10 tion of how many such requests were approved;  
11 and

12 (2) the experiences of employees serving in ro-  
13 tational cyber workforce positions under the rota-  
14 tional cyber workforce program, including an assess-  
15 ment of—

16 (A) the period of service;

17 (B) the positions (including grade level and  
18 occupational series or work level) held by em-  
19 ployees before completing service in a rotational  
20 cyber workforce position under the rotational  
21 cyber workforce program;

22 (C) the extent to which each employee who  
23 completed service in a rotational cyber work-  
24 force position under the rotational cyber work-  
25 force program achieved a higher skill level, or

1           attained a skill level in a different area, with re-  
2           spect to information technology, cybersecurity,  
3           or other cyber-related functions; and

4           (D) the extent to which service in rota-  
5           tional cyber workforce positions has affected  
6           intra-agency and interagency integration and  
7           coordination of cyber practices, functions, and  
8           personnel management.

9 **SEC. 4356. SUNSET.**

10          Effective 5 years after the date of enactment of this  
11 Act, this subtitle is repealed.

12           **TITLE IV—OTHER MATTERS**  
13           **Subtitle A—Ensuring Security of**  
14           **Unmanned Aircraft Systems**

15 **SEC. 4401. SHORT TITLE.**

16          This subtitle may be cited as the “American Security  
17 Drone Act of 2021”.

18 **SEC. 4402. DEFINITIONS.**

19          In this subtitle:

20           (1) **COVERED FOREIGN ENTITY.**—The term  
21           “covered foreign entity” means an entity included on  
22           a list developed and maintained by the Federal Ac-  
23           quisition Security Council. This list will include enti-  
24           ties in the following categories:

1 (A) An entity included on the Consolidated  
2 Screening List.

3 (B) Any entity that is subject to  
4 extrajudicial direction from a foreign govern-  
5 ment, as determined by the Secretary of Home-  
6 land Security.

7 (C) Any entity the Secretary of Homeland  
8 Security, in coordination with the Director of  
9 National Intelligence and the Secretary of De-  
10 fense, determines poses a national security risk.

11 (D) Any entity domiciled in the People's  
12 Republic of China or subject to influence or  
13 control by the Government of the People's Re-  
14 public of China or the Communist Party of the  
15 People's Republic of China, as determined by  
16 the Secretary of Homeland Security.

17 (E) Any subsidiary or affiliate of an entity  
18 described in subparagraphs (A) through (D).

19 (2) COVERED UNMANNED AIRCRAFT SYSTEM.—  
20 The term “covered unmanned aircraft system” has  
21 the meaning given the term “unmanned aircraft sys-  
22 tem” in section 44801 of title 49, United States  
23 Code.

1 **SEC. 4403. PROHIBITION ON PROCUREMENT OF COVERED**  
2 **UNMANNED AIRCRAFT SYSTEMS FROM COV-**  
3 **ERED FOREIGN ENTITIES.**

4 (a) IN GENERAL.—Except as provided under sub-  
5 sections (b) through (f), the head of an executive agency  
6 may not procure any covered unmanned aircraft system  
7 that are manufactured or assembled by a covered foreign  
8 entity, which includes associated elements (consisting of  
9 communication links and the components that control the  
10 unmanned aircraft) that are required for the operator to  
11 operate safely and efficiently in the national airspace sys-  
12 tem. The Federal Acquisition Security Council, in coordi-  
13 nation with the Secretary of Transportation, shall develop  
14 and update a list of associated elements.

15 (b) EXEMPTION.—The Secretary of Homeland Secu-  
16 rity, the Secretary of Defense, and the Attorney General  
17 are exempt from the restriction under subsection (a) if the  
18 operation or procurement—

19 (1) is for the sole purposes of research, evalua-  
20 tion, training, testing, or analysis for—

21 (A) electronic warfare;

22 (B) information warfare operations;

23 (C) development of UAS or counter-UAS  
24 technology;

25 (D) counterterrorism or counterintelligence  
26 activities; or

1                   (E) Federal criminal or national security  
2                   investigations, including forensic examinations;  
3                   and  
4                   (2) is required in the national interest of the  
5                   United States.

6           (c) FEDERAL AVIATION ADMINISTRATION CENTER  
7 OF EXCELLENCE FOR UNMANNED AIRCRAFT SYSTEMS  
8 EXEMPTION.—The Secretary of Transportation, in con-  
9 sultation with the Secretary of Homeland Security, is ex-  
10 empt from the restriction under subsection (a) if the oper-  
11 ation or procurement is for the sole purposes of research,  
12 evaluation, training, testing, or analysis for the Federal  
13 Aviation Administration’s Alliance for System Safety of  
14 UAS through Research Excellence (ASSURE) Center of  
15 Excellence (COE) for Unmanned Aircraft Systems.

16           (d) NATIONAL TRANSPORTATION SAFETY BOARD  
17 EXEMPTION.—The National Transportation Safety Board  
18 (NTSB), in consultation with the Secretary of Homeland  
19 Security, is exempt from the restriction under subsection  
20 (a) if the operation or procurement is necessary for the  
21 sole purpose of conducting safety investigations.

22           (e) NATIONAL OCEANIC ATMOSPHERIC ADMINISTRA-  
23 TION EXEMPTION.—The Administrator of the National  
24 Oceanic Atmospheric Administration (NOAA), in con-  
25 sultation with the Secretary of Homeland Security, is ex-



1   empt from the restriction under subsection (a) if the oper-  
2   ation or procurement is necessary for the sole purpose of  
3   marine or atmospheric science or management.

4       (f) WAIVER.—The head of an executive agency may  
5   waive the prohibition under subsection (a) on a case-by-  
6   case basis—

7           (1) with the approval of the Secretary of Home-  
8       land Security or the Secretary of Defense; and

9           (2) upon notification to Congress.

10 **SEC. 4404. PROHIBITION ON OPERATION OF COVERED UN-**  
11 **MANNED AIRCRAFT SYSTEMS FROM COV-**  
12 **ERED FOREIGN ENTITIES.**

13       (a) PROHIBITION.—

14           (1) IN GENERAL.—Beginning on the date that  
15       is 2 years after the date of the enactment of this  
16       Act, no Federal department or agency may operate  
17       a covered unmanned aircraft system manufactured  
18       or assembled by a covered foreign entity.

19           (2) APPLICABILITY TO CONTRACTED SERV-  
20       ICES.—The prohibition under paragraph (1) applies  
21       to any covered unmanned aircraft systems that are  
22       being used by any executive agency through the  
23       method of contracting for the services of covered un-  
24       manned aircraft systems.

1 (b) EXEMPTION.—The Secretary of Homeland Secu-  
2 rity, the Secretary of Defense, and the Attorney General  
3 are exempt from the restriction under subsection (a) if the  
4 operation or procurement—

5 (1) is for the sole purposes of research, evalua-  
6 tion, training, testing, or analysis for—

7 (A) electronic warfare;

8 (B) information warfare operations;

9 (C) development of UAS or counter-UAS  
10 technology;

11 (D) counterterrorism or counterintelligence  
12 activities; or

13 (E) Federal criminal or national security  
14 investigations, including forensic examinations;  
15 and

16 (2) is required in the national interest of the  
17 United States.

18 (c) FEDERAL AVIATION ADMINISTRATION CENTER  
19 OF EXCELLENCE FOR UNMANNED AIRCRAFT SYSTEMS  
20 EXEMPTION.—The Secretary of Transportation, in con-  
21 sultation with the Secretary of Homeland Security, is ex-  
22 empt from the restriction under subsection (a) if the oper-  
23 ation or procurement is for the sole purposes of research,  
24 evaluation, training, testing, or analysis for the Federal  
25 Aviation Administration’s Alliance for System Safety of

1 UAE through Research Excellence (ASSURE) Center of  
2 Excellence (COE) for Unmanned Aircraft Systems.

3 (d) NATIONAL TRANSPORTATION SAFETY BOARD  
4 EXEMPTION.—The National Transportation Safety Board  
5 (NTSB), in consultation with the Secretary of Homeland  
6 Security, is exempt from the restriction under subsection  
7 (a) if the operation or procurement is necessary for the  
8 sole purpose of conducting safety investigations.

9 (e) NATIONAL OCEANIC ATMOSPHERIC ADMINISTRA-  
10 TION EXEMPTION.—The Administrator of the National  
11 Oceanic Atmospheric Administration (NOAA), in con-  
12 sultation with the Secretary of Homeland Security, is ex-  
13 empt from the restriction under subsection (a) if the oper-  
14 ation or procurement is necessary for the sole purpose of  
15 marine or atmospheric science or management.

16 (f) WAIVER.—The head of an executive agency may  
17 waive the prohibition under subsection (a) on a case-by-  
18 case basis—

19 (1) with the approval of the Secretary of Home-  
20 land Security or the Secretary of Defense; and

21 (2) upon notification to Congress.

22 (g) REGULATIONS AND GUIDANCE.—Not later than  
23 180 days after the date of the enactment of this Act, the  
24 Secretary of Homeland Security shall prescribe regula-  
25 tions or guidance to implement this section.

1 **SEC. 4405. PROHIBITION ON USE OF FEDERAL FUNDS FOR**  
2 **PURCHASES AND OPERATION OF COVERED**  
3 **UNMANNED AIRCRAFT SYSTEMS FROM COV-**  
4 **ERED FOREIGN ENTITIES.**

5 (a) IN GENERAL.—Beginning on the date that is 2  
6 years after the date of the enactment of this Act, except  
7 as provided in subsection (b), no Federal funds awarded  
8 through a contract, grant, or cooperative agreement, or  
9 otherwise made available may be used—

10 (1) to purchase a covered unmanned aircraft  
11 system, or a system to counter unmanned aircraft  
12 systems, that is manufactured or assembled by a  
13 covered foreign entity; or

14 (2) in connection with the operation of such a  
15 drone or unmanned aircraft system.

16 (b) EXEMPTION.—A Federal department or agency  
17 is exempt from the restriction under subsection (a) if—

18 (1) the contract, grant, or cooperative agree-  
19 ment was awarded prior to the date of the enact-  
20 ment of this Act; or

21 (2) the operation or procurement is for the sole  
22 purposes of research, evaluation, training, testing, or  
23 analysis, as determined by the Secretary of Home-  
24 land Security, the Secretary of Defense, or the At-  
25 torney General, for—

26 (A) electronic warfare;

- 1 (B) information warfare operations;
- 2 (C) development of UAS or counter-UAS
- 3 technology;
- 4 (D) counterterrorism or counterintelligence
- 5 activities; or
- 6 (E) Federal criminal or national security
- 7 investigations, including forensic examinations;
- 8 or
- 9 (F) the safe integration of UAS in the na-
- 10 tional airspace (as determined in consultation
- 11 with the Secretary of Transportation); and
- 12 (3) is required in the national interest of the
- 13 United States.

14 (c) WAIVER.—The head of an executive agency may

15 waive the prohibition under subsection (a) on a case-by-

16 case basis—

17 (1) with the approval of the Secretary of Home-

18 land Security or the Secretary of Defense; and

19 (2) upon notification to Congress.

20 (d) REGULATIONS.—Not later than 180 days after

21 the date of the enactment of this Act, the Federal Acquisi-

22 tion Regulatory Council shall prescribe regulations or

23 guidance, as necessary, to implement the requirements of

24 this section pertaining to Federal contracts.

1 **SEC. 4406. PROHIBITION ON USE OF GOVERNMENT-ISSUED**  
2 **PURCHASE CARDS TO PURCHASE COVERED**  
3 **UNMANNED AIRCRAFT SYSTEMS FROM COV-**  
4 **ERED FOREIGN ENTITIES.**

5 Effective immediately, Government-issued Purchase  
6 Cards may not be used to procure any covered unmanned  
7 aircraft system from a covered foreign entity.

8 **SEC. 4407. MANAGEMENT OF EXISTING INVENTORIES OF**  
9 **COVERED UNMANNED AIRCRAFT SYSTEMS**  
10 **FROM COVERED FOREIGN ENTITIES.**

11 (a) IN GENERAL.—Effective immediately, all execu-  
12 tive agencies must account for existing inventories of cov-  
13 ered unmanned aircraft systems manufactured or assem-  
14 bled by a covered foreign entity in their personal property  
15 accounting systems, regardless of the original procurement  
16 cost, or the purpose of procurement due to the special  
17 monitoring and accounting measures necessary to track  
18 the items' capabilities.

19 (b) CLASSIFIED TRACKING.—Due to the sensitive na-  
20 ture of missions and operations conducted by the United  
21 States Government, inventory data related to covered un-  
22 manned aircraft systems manufactured or assembled by  
23 a covered foreign entity may be tracked at a classified  
24 level.

25 (c) EXCEPTIONS.—The Department of Defense and  
26 Department of Homeland Security may exclude from the

1 full inventory process, covered unmanned aircraft systems  
2 that are deemed expendable due to mission risk such as  
3 recovery issues or that are one-time-use covered unmanned  
4 aircraft due to requirements and low cost.

5 **SEC. 4408. COMPTROLLER GENERAL REPORT.**

6 Not later than 275 days after the date of the enact-  
7 ment of this Act, the Comptroller General of the United  
8 States shall submit to Congress a report on the amount  
9 of commercial off-the-shelf drones and covered unmanned  
10 aircraft systems procured by Federal departments and  
11 agencies from covered foreign entities.

12 **SEC. 4409. GOVERNMENT-WIDE POLICY FOR PROCURE-**  
13 **MENT OF UNMANNED AIRCRAFT SYSTEMS.**

14 (a) IN GENERAL.—Not later than 180 days after the  
15 date of the enactment of this Act, the Director of the Of-  
16 fice of Management and Budget, in coordination with the  
17 Department of Homeland Security, Department of Trans-  
18 portation, the Department of Justice, and other Depart-  
19 ments as determined by the Director of the Office of Man-  
20 agement and Budget, and in consultation with the Na-  
21 tional Institute of Standards and Technology, shall estab-  
22 lish a government-wide policy for the procurement of  
23 UAS—

24 (1) for non-Department of Defense and non-in-  
25 telligence community operations; and

1           (2) through grants and cooperative agreements  
2 entered into with non-Federal entities.

3           (b) INFORMATION SECURITY.—The policy developed  
4 under subsection (a) shall include the following specifica-  
5 tions, which to the extent practicable, shall be based on  
6 industry standards and technical guidance from the Na-  
7 tional Institute of Standards and Technology, to address  
8 the risks associated with processing, storing and transmit-  
9 ting Federal information in a UAS:

10           (1) Protections to ensure controlled access of  
11 UAS.

12           (2) Protecting software, firmware, and hard-  
13 ware by ensuring changes to UAS are properly man-  
14 aged, including by ensuring UAS can be updated  
15 using a secure, controlled, and configurable mecha-  
16 nism.

17           (3) Cryptographically securing sensitive col-  
18 lected, stored, and transmitted data, including prop-  
19 er handling of privacy data and other controlled un-  
20 classified information.

21           (4) Appropriate safeguards necessary to protect  
22 sensitive information, including during and after use  
23 of UAS.



1           (5) Appropriate data security to ensure that  
2           data is not transmitted to or stored in non-approved  
3           locations.

4           (6) The ability to opt out of the uploading,  
5           downloading, or transmitting of data that is not re-  
6           quired by law or regulation and an ability to choose  
7           with whom and where information is shared when it  
8           is required.

9           (c) REQUIREMENT.—The policy developed under sub-  
10          section (a) shall reflect an appropriate risk-based ap-  
11          proach to information security related to use of UAS.

12          (d) REVISION OF ACQUISITION REGULATIONS.—Not  
13          later than 180 days after the date on which the policy  
14          required under subsection (a) is issued—

15                (1) the Federal Acquisition Regulatory Council  
16                shall revise the Federal Acquisition Regulation, as  
17                necessary, to implement the policy; and

18                (2) any Federal department or agency or other  
19                Federal entity not subject to, or not subject solely  
20                to, the Federal Acquisition Regulation shall revise  
21                applicable policy, guidance, or regulations, as nec-  
22                essary, to implement the policy.

23          (e) EXEMPTION.—In developing the policy required  
24          under subsection (a), the Director of the Office of Man-

1 agement and Budget shall incorporate an exemption to the  
2 policy for the following reasons:

3 (1) In the case of procurement for the purposes  
4 of training, testing, or analysis for—

5 (A) electronic warfare; or

6 (B) information warfare operations.

7 (2) In the case of researching UAS technology,  
8 including testing, evaluation, research, or develop-  
9 ment of technology to counter UAS.

10 (3) In the case of a head of the procuring de-  
11 partment or agency determining, in writing, that no  
12 product that complies with the information security  
13 requirements described in subsection (b) is capable  
14 of fulfilling mission critical performance require-  
15 ments, and such determination—

16 (A) may not be delegated below the level of  
17 the Deputy Secretary of the procuring depart-  
18 ment or agency;

19 (B) shall specify—

20 (i) the quantity of end items to which  
21 the waiver applies, the procurement value  
22 of which may not exceed \$50,000 per waiv-  
23 er; and

1 (ii) the time period over which the  
2 waiver applies, which shall not exceed 3  
3 years;

4 (C) shall be reported to the Office of Man-  
5 agement and Budget following issuance of such  
6 a determination; and

7 (D) not later than 30 days after the date  
8 on which the determination is made, shall be  
9 provided to the Committee on Homeland Secu-  
10 rity and Governmental Affairs of the Senate  
11 and the Committee on Oversight and Reform of  
12 the House of Representatives.

13 **SEC. 4410. STUDY.**

14 (a) INDEPENDENT STUDY.—Not later than 3 years  
15 after the date of the enactment of this Act, the Director  
16 of the Office of Management and Budget shall seek to  
17 enter into a contract with a federally funded research and  
18 development center under which the center will conduct  
19 a study of—

20 (1) the current and future unmanned aircraft  
21 system global and domestic market;

22 (2) the ability of the unmanned aircraft system  
23 domestic market to keep pace with technological ad-  
24 vancements across the industry;

1           (3) the ability of domestically made unmanned  
2           aircraft systems to meet the network security and  
3           data protection requirements of the national security  
4           enterprise;

5           (4) the extent to which unmanned aircraft sys-  
6           tem component parts, such as the parts described in  
7           section 4403, are made domestically; and

8           (5) an assessment of the economic impact, in-  
9           cluding cost, of excluding the use of foreign-made  
10          UAS for use across the Federal Government.

11          (b) SUBMISSION TO OMB.—Upon completion of the  
12          study in subsection (a), the federally funded research and  
13          development center shall submit the study to the Director  
14          of the Office of Management and Budget.

15          (c) SUBMISSION TO CONGRESS.—Not later than 30  
16          days after the date on which the Director of the Office  
17          of Management and Budget receives the study under sub-  
18          section (b), the Director shall submit the study to—

19                 (1) the Committee on Homeland Security and  
20                 Governmental Affairs and the Select Committee on  
21                 Intelligence of the Senate; and

22                 (2) the Committee on Homeland Security and  
23                 the Committee on Oversight and Reform and the  
24                 Permanent Select Committee on Intelligence of the  
25                 House of Representatives.

1 **SEC. 4411. SUNSET.**

2 Sections 4403, 4404, and 4405 shall cease to have  
3 effect on the date that is 5 years after the date of the  
4 enactment of this Act.

5 **Subtitle B—No TikTok on**  
6 **Government Devices**

7 **SEC. 4431. SHORT TITLE.**

8 This subtitle may be cited as the “No TikTok on Gov-  
9 ernment Devices Act”.

10 **SEC. 4432. PROHIBITION ON THE USE OF TIKTOK.**

11 (a) DEFINITIONS.—In this section—

12 (1) the term “covered application” means the  
13 social networking service TikTok or any successor  
14 application or service developed or provided by  
15 ByteDance Limited or an entity owned by  
16 ByteDance Limited;

17 (2) the term “executive agency” has the mean-  
18 ing given that term in section 133 of title 41, United  
19 States Code; and

20 (3) the term “information technology” has the  
21 meaning given that term in section 11101 of title  
22 40, United States Code.

23 (b) PROHIBITION ON THE USE OF TIKTOK.—

24 (1) IN GENERAL.—Not later than 60 days after  
25 the date of the enactment of this Act, the Director  
26 of the Office of Management and Budget, in con-

1 sultation with the Administrator of General Services,  
2 the Director of the Cybersecurity and Infrastructure  
3 Security Agency, the Director of National Intel-  
4 ligence, and the Secretary of Defense, and consistent  
5 with the information security requirements under  
6 subchapter II of chapter 35 of title 44, United  
7 States Code, shall develop standards and guidelines  
8 for executive agencies requiring the removal of any  
9 covered application from information technology.

10 (2) NATIONAL SECURITY AND RESEARCH EX-  
11 CEPTIONS.—The standards and guidelines developed  
12 under paragraph (1) shall include—

13 (A) exceptions for law enforcement activi-  
14 ties, national security interests and activities,  
15 and security researchers; and

16 (B) for any authorized use of a covered ap-  
17 plication under an exception, requirements for  
18 executive agencies to develop and document risk  
19 mitigation actions for such use.

20 **Subtitle C—National Risk**  
21 **Management**

22 **SEC. 4461. SHORT TITLE.**

23 This subtitle may be cited as the “National Risk  
24 Management Act of 2021”.

1 **SEC. 4462. NATIONAL RISK MANAGEMENT CYCLE.**

2 (a) IN GENERAL.—Subtitle A of title XXII of the  
3 Homeland Security Act of 2002 (6 U.S.C. 651 et seq.)  
4 is amended by adding at the end the following:

5 **“SEC. 2218. NATIONAL RISK MANAGEMENT CYCLE.**

6 “(a) NATIONAL CRITICAL FUNCTIONS DEFINED.—In  
7 this section, the term ‘national critical functions’ means  
8 the functions of government and the private sector so vital  
9 to the United States that their disruption, corruption, or  
10 dysfunction would have a debilitating effect on security,  
11 national economic security, national public health or safe-  
12 ty, or any combination thereof.

13 “(b) NATIONAL RISK MANAGEMENT CYCLE.—

14 “(1) RISK IDENTIFICATION AND ASSESS-  
15 MENT.—

16 “(A) IN GENERAL.—The Secretary, acting  
17 through the Director, shall establish a recurring  
18 process by which to identify, assess, and  
19 prioritize risks to critical infrastructure, consid-  
20 ering both cyber and physical threats, the asso-  
21 ciated likelihoods, vulnerabilities, and con-  
22 sequences, and the resources necessary to ad-  
23 dress them.

24 “(B) CONSULTATION.—In establishing the  
25 process required under subparagraph (A), the  
26 Secretary shall consult with, and request and

1 collect information to support analysis from,  
2 Sector Risk Management Agencies, critical in-  
3 frastructure owners and operators, the Assist-  
4 ant to the President for National Security Af-  
5 fairs, the Assistant to the President for Home-  
6 land Security, and the National Cyber Director.

7 “(C) PUBLICATION.—Not later than 180  
8 days after the date of enactment of this section,  
9 the Secretary shall publish in the Federal Reg-  
10 ister procedures for the process established  
11 under subparagraph (A), subject to any  
12 redactions the Secretary determines are nec-  
13 essary to protect classified or other sensitive in-  
14 formation.

15 “(D) REPORT.—The Secretary shall sub-  
16 mit to the President, the Committee on Home-  
17 land Security and Governmental Affairs of the  
18 Senate, and the Committee on Homeland Secu-  
19 rity of the House of Representatives a report on  
20 the risks identified by the process established  
21 under subparagraph (A)—

22 “(i) not later than 1 year after the  
23 date of enactment of this section; and

24 “(ii) not later than 1 year after the  
25 date on which the Secretary submits a



1 periodic evaluation described in section  
2 9002(b)(2) of title XC of division H of the  
3 William M. (Mac) Thornberry National  
4 Defense Authorization Act for Fiscal Year  
5 2021 (Public Law 116–283).

6 “(2) NATIONAL CRITICAL INFRASTRUCTURE RE-  
7 SILIENCE STRATEGY.—

8 “(A) IN GENERAL.—Not later than 1 year  
9 after the date on which the Secretary delivers  
10 each report required under paragraph (1), the  
11 President shall deliver to majority and minority  
12 leaders of the Senate, the Speaker and minority  
13 leader of the House of Representatives, the  
14 Committee on Homeland Security and Govern-  
15 mental Affairs of the Senate, and the Com-  
16 mittee on Homeland Security of the House of  
17 Representatives a national critical infrastruc-  
18 ture resilience strategy designed to address the  
19 risks identified by the Secretary.

20 “(B) ELEMENTS.—Each strategy delivered  
21 under subparagraph (A) shall—

22 “(i) identify, assess, and prioritize  
23 areas of risk to critical infrastructure that  
24 would compromise or disrupt national crit-  
25 ical functions impacting national security,

1 economic security, or public health and  
2 safety;

3 “(ii) assess the implementation of the  
4 previous national critical infrastructure re-  
5 siliance strategy, as applicable;

6 “(iii) identify and outline current and  
7 proposed national-level actions, programs,  
8 and efforts to be taken to address the risks  
9 identified;

10 “(iv) identify the Federal departments  
11 or agencies responsible for leading each na-  
12 tional-level action, program, or effort and  
13 the relevant critical infrastructure sectors  
14 for each; and

15 “(v) request any additional authorities  
16 necessary to successfully execute the strat-  
17 egy.

18 “(C) FORM.—Each strategy delivered  
19 under subparagraph (A) shall be unclassified,  
20 but may contain a classified annex.

21 “(3) CONGRESSIONAL BRIEFING.—Not later  
22 than 1 year after the date on which the President  
23 delivers the first strategy required under paragraph  
24 (2)(A), and every year thereafter, the Secretary, in  
25 coordination with Sector Risk Management Agen-

1       cies, shall brief the appropriate congressional com-  
2       mittees on—

3               “(A) the national risk management cycle  
4               activities undertaken pursuant to the strategy;  
5               and

6               “(B) the amounts and timeline for funding  
7               that the Secretary has determined would be  
8               necessary to address risks and successfully exe-  
9               cute the full range of activities proposed by the  
10              strategy.”.

11       (b) TECHNICAL AND CONFORMING AMENDMENT.—  
12       The table of contents in section 1(b) of the Homeland Se-  
13       curity Act of 2002 (Public Law 107–296; 116 Stat. 2135)  
14       is amended by inserting after the item relating to section  
15       2217 the following:

“Sec. 2218. National risk management cycle.”.

16                               **Subtitle D—Safeguarding**  
17                               **American Innovation**

18       **SEC. 4491. SHORT TITLE.**

19       This subtitle may be cited as the “Safeguarding  
20       American Innovation Act”.

21       **SEC. 4492. DEFINITIONS.**

22       In this subtitle:

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

1       basic and applied research and development funds  
2       were appropriated for the previous fiscal year.

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. 4493. 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 research and development  
12          funds awarded by Executive 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, terrorism, unauthorized disclosure of national

1 security information or nonpublic information, a de-  
2 structive act (which may include physical harm to  
3 another in the workplace), or through the loss or  
4 degradation of departmental resources, capabilities,  
5 and functions.

6 “(7) RESEARCH AND DEVELOPMENT.—

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

18           “(b) MEMBERSHIP.—

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

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

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

25           “(C) The Department of Defense.

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

3           “(E) The Office of the Director of Na-  
4           tional Intelligence.

5           “(F) The Department of Justice.

6           “(G) The Department of Energy.

7           “(H) The Department of Commerce.

8           “(I) The Department of Health and  
9           Human Services.

10          “(J) The Department of State.

11          “(K) The Department of Transportation.

12          “(L) The National Aeronautics and Space  
13          Administration.

14          “(M) The National Science Foundation.

15          “(N) The Department of Education.

16          “(O) The Small Business Administration.

17          “(P) The Council of Inspectors General on  
18          Integrity and Efficiency.

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

21          “(2) LEAD REPRESENTATIVES.—

22                 “(A) DESIGNATION.—Not later than 45  
23                 days after the date of the enactment of the  
24                 Safeguarding American Innovation Act, the  
25                 head of each agency represented on the Council

1 shall designate a representative of that agency  
2 as the lead representative of the agency on the  
3 Council.

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

10 “(c) CHAIRPERSON.—

11 “(1) DESIGNATION.—Not later than 45 days  
12 after the date of the enactment of the Safeguarding  
13 American Innovation Act, the Director of the Office  
14 of Management and Budget shall designate a senior  
15 level official from the Office of Management and  
16 Budget to serve as the Chairperson of the Council.

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

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

21 “(B) designating Executive agencies to be  
22 represented on the Council under subsection  
23 (b)(1)(Q);

24 “(C) in consultation with the lead rep-  
25 resentative of each agency represented on the

1 Council, developing a charter for the Council;  
2 and

3 “(D) not later than 7 days after comple-  
4 tion of the charter, submitting the charter to  
5 the appropriate congressional committees.

6 “(3) LEAD SCIENCE ADVISOR.—The Director of  
7 the Office of Science and Technology Policy shall  
8 designate a senior level official to be the lead science  
9 advisor to the Council for purposes of this chapter.

10 “(4) LEAD SECURITY ADVISOR.—The Director  
11 of the National Counterintelligence and Security  
12 Center shall designate a senior level official from the  
13 National Counterintelligence and Security Center to  
14 be the lead security advisor to the Council for pur-  
15 poses of this chapter.

16 “(d) MEETINGS.—The Council shall meet not later  
17 than 60 days after the date of the enactment of the Safe-  
18 guarding American Innovation Act and not less frequently  
19 than quarterly thereafter.

20 **“§ 7903. Functions and authorities**

21 “(a) DEFINITIONS.—In this section:

22 “(1) IMPLEMENTING.—The term ‘imple-  
23 menting’ means working with the relevant Federal  
24 agencies, through existing processes and procedures,

1 to enable those agencies to put in place and enforce  
2 the measures described in this section.

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

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

13 “(1) Developing and implementing, across all  
14 Executive agencies that award research and develop-  
15 ment grants, awards, and contracts, a uniform appli-  
16 cation process for grants in accordance with sub-  
17 section (c).

18 “(2) Developing and implementing policies and  
19 providing guidance to prevent malign foreign inter-  
20 ference from unduly influencing the peer review  
21 process for federally funded research and develop-  
22 ment.

23 “(3) Identifying or developing criteria for shar-  
24 ing among Executive agencies and with law enforce-  
25 ment and other agencies, as appropriate, informa-

1           tion regarding individuals who violate disclosure poli-  
2           cies and other policies related to research security.

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

5                   “(A) to accept and protect information  
6                   submitted by Executive agencies and non-Fed-  
7                   eral entities based on the process established  
8                   pursuant to paragraph (1); and

9                   “(B) to facilitate the sharing of informa-  
10                  tion received under subparagraph (A) to sup-  
11                  port, consistent with Federal law—

12                           “(i) the oversight of federally funded  
13                           research and development;

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

17                           “(iii) counterintelligence investiga-  
18                           tions.

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

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

1           “(B) common contract solutions to support  
2           the verification of the identities of persons par-  
3           ticipating in federally funded research and de-  
4           velopment.

5           “(6) Identifying and issuing guidance, in ac-  
6           cordance with subsection (e) and in coordination  
7           with the National Insider Threat Task Force estab-  
8           lished by Executive Order 13587 (50 U.S.C. 3161  
9           note) for expanding the scope of Executive agency  
10          insider threat programs, including the safeguarding  
11          of research and development from exploitation, com-  
12          promise, or other unauthorized disclosure, taking  
13          into account risk levels and the distinct needs, mis-  
14          sions, and systems of each such agency.

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

22                 “(A) a grantee’s support from foreign  
23                 sources and affiliations, appointments, or par-  
24                 ticipation in talent programs with foreign fund-  
25                 ing institutions or laboratories; and



1           “(B) the impact of such support and affili-  
2           ations, appointments, or participation in talent  
3           programs on United States national security  
4           and economic interests.

5           “(8) Providing guidance to Executive agencies  
6           regarding appropriate application of consequences  
7           for violations of disclosure requirements.

8           “(9) Developing and implementing a cross-  
9           agency policy and providing guidance related to the  
10          use of digital persistent identifiers for individual re-  
11          searchers supported by, or working on, any Federal  
12          research grant with the goal to enhance trans-  
13          parency and security, while reducing administrative  
14          burden for researchers and research institutions.

15          “(10) Engaging with the United States re-  
16          search community in conjunction with the National  
17          Science and Technology Council and the National  
18          Academies Science, Technology and Security Round-  
19          table created under section 1746 of the National De-  
20          fense Authorization Act for Fiscal Year 2020 (Pub-  
21          lic Law 116–92; 42 U.S.C. 6601 note) in performing  
22          the functions described in paragraphs (1), (2), and  
23          (3) and with respect to issues relating to Federal re-  
24          search security risks.

1           “(11) Carrying out such other functions, con-  
2           sistent with Federal law, that are necessary to re-  
3           duce Federal research security risks.

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

8           “(1) ensure that the process—

9           “(A) requires principal investigators, co-  
10           principal investigators, and key personnel asso-  
11           ciated with the proposed Federal research or  
12           development grant project—

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

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

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

4           “(2) design the process—

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

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

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

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

20                 “(1) the information to be shared;

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

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

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

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

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

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

13 “(1) such programs—

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

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

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

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

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

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

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

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

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

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

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

4           “(1) IN GENERAL.—The Council, in conjunction  
5 with the lead security advisor designated under sec-  
6 tion 7902(c)(4), shall establish a process for inform-  
7 ing members of the United States research commu-  
8 nity and the public, through the issuance of warn-  
9 ings described in paragraph (2), of potential risks  
10 and vulnerabilities in international scientific coopera-  
11 tion that may undermine the integrity and security  
12 of the United States research community or place at  
13 risk any federally funded research and development.

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

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

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

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

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

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

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

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

13          “(g) EXCLUSION ORDERS.—To reduce Federal re-  
14          search security risk, the Interagency Suspension and De-  
15          barment Committee shall provide quarterly reports to the  
16          Director of the Office of Management and Budget and the  
17          Director of the Office of Science and Technology Policy  
18          that detail—

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

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

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

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

6           “(5) other current suspension and debarment  
7           related issues.

8           “(h) SAVINGS PROVISION.—Nothing in this section  
9           may be construed—

10           “(1) to alter or diminish the authority of any  
11           Federal agency; or

12           “(2) to alter any procedural requirements or  
13           remedies that were in place before the date of the  
14           enactment of the Safeguarding American Innovation  
15           Act.

16           **“§ 7904. Annual report**

17           “Not later than November 15 of each year, the Chair-  
18           person of the Council shall submit a report to the appro-  
19           priate congressional committees that describes the activi-  
20           ties of the Council during the preceding fiscal year.

21           **“§ 7905. Requirements for Executive agencies**

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



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

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

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

13          “(4) ensuring that initiatives impacting Feder-  
14          ally funded research grant making policy and man-  
15          agement to protect the national and economic secu-  
16          rity interests of the United States are integrated  
17          with the activities of the Council.

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

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

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

4           “(3) sharing relevant information with other  
5 Executive agencies, as determined appropriate by  
6 the Council in a manner consistent with section  
7 7903; and

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

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

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

17 **SEC. 4494. FEDERAL GRANT APPLICATION FRAUD.**

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

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

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

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

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

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

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

8           “(C) does not include—

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

11           “(ii) a subsidy;

12           “(iii) a loan;

13           “(iv) a loan guarantee; or

14           “(v) insurance.

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

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

22           “(A) a foreign government;

23           “(B) a foreign government institution; or

24           “(C) a foreign public enterprise.

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

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

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

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

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

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

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

23                   “(B) includes—

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

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

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

9 “(9) OUTSIDE COMPENSATION.—The term ‘out-  
10 side compensation’ means any compensation, re-  
11 source, or support (regardless of monetary value)  
12 made available to the applicant in support of, or re-  
13 lated to, any research endeavor, including a title, re-  
14 search grant, cooperative agreement, contract, insti-  
15 tutional award, access to a laboratory, or other re-  
16 source, including materials, travel compensation, or  
17 work incentives.

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

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

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

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

8                   “(A) contains a false statement;

9                   “(B) contains a material misrepresenta-  
10 tion;

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

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

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

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

18                   “(A) a law enforcement agency; or

19                   “(B) a Federal intelligence agency; or

20           “(2) authorized under chapter 224.

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

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

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

5           (b) CLERICAL AMENDMENT.—The analysis for chap-  
6           ter 47 of title 18, United States Code, is amended by add-  
7           ing at the end the following:

“1041. Federal grant application fraud.”.

8       **SEC. 4495. RESTRICTING THE ACQUISITION OF EMERGING**  
9                               **TECHNOLOGIES BY CERTAIN ALIENS.**

10          (a) GROUNDS OF INADMISSIBILITY.—The Secretary  
11       of State may determine that an alien is inadmissible if  
12       the Secretary determines such alien is seeking to enter the  
13       United States to knowingly acquire sensitive or emerging  
14       technologies to undermine national security interests of  
15       the United States by benefitting an adversarial foreign  
16       government’s security or strategic capabilities.

17          (b) RELEVANT FACTORS.—To determine if an alien  
18       is inadmissible under subsection (a), the Secretary of  
19       State shall—

20               (1) take account of information and analyses  
21       relevant to implementing subsection (a) from the Of-  
22       fice of the Director of National Intelligence, the De-  
23       partment of Health and Human Services, the De-  
24       partment of Defense, the Department of Homeland  
25       Security, the Department of Energy, the Depart-

1       ment of Commerce, and other appropriate Federal  
2       agencies;

3           (2) take account of the continual expert assess-  
4       ments of evolving sensitive or emerging technologies  
5       that foreign adversaries are targeting;

6           (3) take account of relevant information con-  
7       cerning the foreign person's employment or collabo-  
8       ration, to the extent known, with—

9           (A) foreign military and security related  
10       organizations that are adversarial to the United  
11       States;

12          (B) foreign institutions involved in the  
13       theft of United States research;

14          (C) entities involved in export control viola-  
15       tions or the theft of intellectual property;

16          (D) a government that seeks to undermine  
17       the integrity and security of the United States  
18       research community; or

19          (E) other associations or collaborations  
20       that pose a national security threat based on in-  
21       telligence assessments; and

22       (4) weigh the proportionality of risks and the  
23       factors listed in paragraphs (1) through (3).

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



1 annually thereafter until the sunset date set forth in sub-  
2 section (e), the Secretary of State, in coordination with  
3 the Director of National Intelligence, the Director of the  
4 Office of Science and Technology Policy, the Secretary of  
5 Homeland Security, the Secretary of Defense, the Sec-  
6 retary of Energy, the Secretary of Commerce, and the  
7 heads of other appropriate Federal agencies, shall submit  
8 a report to the Committee on the Judiciary of the Senate,  
9 the Committee on Foreign Relations of the Senate, the  
10 Committee on Homeland Security and Governmental Af-  
11 fairs of the Senate, the Committee on the Judiciary of the  
12 House of Representatives, the Committee on Foreign Af-  
13 fairs of the House of Representatives, and the Committee  
14 on Oversight and Reform of the House of Representatives  
15 that identifies—

16 (1) any criteria, if relevant used to describe the  
17 aliens to which the grounds of inadmissibility de-  
18 scribed in subsection (a) may apply;

19 (2) the number of individuals determined to be  
20 inadmissible under subsection (a), including the na-  
21 tionality of each such individual and the reasons for  
22 each determination of inadmissibility; and

23 (3) the number of days from the date of the  
24 consular interview until a final decision is issued for  
25 each application for a visa considered under this sec-

1           tion, listed by applicants' country of citizenship and  
2           relevant consulate.

3           (d) CLASSIFICATION OF REPORT.—Each report re-  
4           quired under subsection (c) shall be submitted, to the ex-  
5           tent practicable, in an unclassified form, but may be ac-  
6           panied by a classified annex.

7           (e) SUNSET.—This section shall cease to be effective  
8           on the date that is 2 years after the date of the enactment  
9           of this Act.

10   **SEC. 4496. MACHINE READABLE VISA DOCUMENTS.**

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

14                   (1) use a machine-readable visa application  
15                   form; and

16                   (2) make available documents submitted in sup-  
17                   port of a visa application in a machine readable for-  
18                   mat to assist in—

19                           (A) identifying fraud;

20                           (B) conducting lawful law enforcement ac-  
21                   tivities; and

22                           (C) determining the eligibility of applicants  
23                   for a visa under the Immigration and Nation-  
24                   ality Act (8 U.S.C. 1101 et seq.).

1 (b) WAIVER.—The Secretary of State may waive the  
2 requirement under subsection (a) by providing to Con-  
3 gress, not later than 30 days before such waiver takes ef-  
4 fect—

5 (1) a detailed explanation for why the waiver is  
6 being issued; and

7 (2) a timeframe for the implementation of the  
8 requirement under subsection (a).

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

23 (1) describes how supplementary documents  
24 provided by a visa applicant in support of a visa ap-

1           plication are stored and shared by the Department  
2           of State with authorized Federal agencies;

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

6           (3) provides cost estimates, including personnel  
7           costs and a cost-benefit analysis for adopting dif-  
8           ferent technologies, including optical character rec-  
9           ognition, for—

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

13           (B) ensuring that such system—

14           (i) protects personally-identifiable in-  
15           formation; and

16           (ii) permits the sharing of visa infor-  
17           mation with Federal agencies in accord-  
18           ance with existing law; and

19           (4) includes an estimated timeline for com-  
20           pleting the implementation of subsection (a).

1 **SEC. 4497. CERTIFICATIONS REGARDING ACCESS TO EX-**  
2 **PORT CONTROLLED TECHNOLOGY IN EDU-**  
3 **CATIONAL AND CULTURAL EXCHANGE PRO-**  
4 **GRAMS.**

5 Section 102(b)(5) of the Mutual Educational and  
6 Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)(5))  
7 is amended to read as follows:

8 “(5) promoting and supporting medical, sci-  
9 entific, cultural, and educational research and devel-  
10 opment by developing exchange programs for foreign  
11 researchers and scientists, while protecting tech-  
12 nologies regulated by export control laws important  
13 to the national security and economic interests of  
14 the United States, by requiring—

15 “(A) the sponsor to certify to the Depart-  
16 ment of State that the sponsor, after reviewing  
17 all regulations related to the Export Controls  
18 Act of 2018 (50 U.S.C. 4811 et seq.) and the  
19 Arms Export Control Act (22 U.S.C. 2751 et  
20 seq.), has determined that—

21 “(i) a license is not required from the  
22 Department of Commerce or the Depart-  
23 ment of State to release such technology or  
24 technical data to the exchange visitor; or

25 “(ii)(I) a license is required from the  
26 Department of Commerce or the Depart-

1                   ment of State to release such technology or  
2                   technical data to the exchange visitor; and

3                   “(II) the sponsor will prevent access  
4                   to the controlled technology or technical  
5                   data by the exchange visitor until the spon-  
6                   sor—

7                   “(aa) has received the required  
8                   license or other authorization to re-  
9                   lease it to the visitor; and

10                  “(bb) has provided a copy of  
11                  such license or authorization to the  
12                  Department of State; and

13                  “(B) if the sponsor maintains export con-  
14                  trolled technology or technical data, the sponsor  
15                  to submit to the Department of State the spon-  
16                  sor’s plan to prevent unauthorized export or  
17                  transfer of any controlled items, materials, in-  
18                  formation, or technology at the sponsor organi-  
19                  zation or entities associated with a sponsor’s  
20                  administration of the exchange visitor pro-  
21                  gram.”.

22 **SEC. 4498. PRIVACY AND CONFIDENTIALITY.**

23                  Nothing in this subtitle may be construed as affecting  
24                  the rights and requirements provided in section 552a of  
25                  title 5, United States Code (commonly known as the “Pri-

1 vacy Act of 1974”) or subchapter III of chapter 35 of  
2 title 44, United States Code (commonly known as the  
3 “Confidential Information Protection and Statistical Effi-  
4 ciency Act of 2018”).