

117TH CONGRESS
1ST SESSION

H. R. 3619

To provide increased transparency and accountability regarding potential foreign influence in research and development programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 28, 2021

Mr. NORMAN (for himself, Mr. BABIN, Mr. GOSAR, Mr. STEUBE, Mr. DESJARLAIS, Mr. WEBER of Texas, Mr. MURPHY of North Carolina, Mr. DUNCAN, and Mr. PERRY) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide increased transparency and accountability regarding potential foreign influence in research and development programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Safeguarding United States Research Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMMIGRATION PROVISIONS

Sec. 101. Reporting exchange visitor change in field of study.
 Sec. 102. Reporting certain research program participation.
 Sec. 103. Review and revocation of certain nonimmigrant visas.
 Sec. 104. Annual report.

TITLE II—FEDERAL RESEARCH AND DEVELOPMENT AWARDS

Sec. 101. Findings.
 Sec. 102. Disclosure of funding sources in applications for Federal research and development awards.

1 **TITLE I—IMMIGRATION**
 2 **PROVISIONS**
 3 **SEC. 101. REPORTING EXCHANGE VISITOR CHANGE IN**
 4 **FIELD OF STUDY.**

5 With respect to a principal nonimmigrant exchange
 6 visitor admitted into the United States in the J–1 classi-
 7 fication under section 101(a)(15)(J) of the Immigration
 8 and Nationality Act (8 U.S.C. 1101(a)(15)(J)) in order
 9 to study, the Secretary of State shall take such action as
 10 may be necessary to ensure that the applicable program
 11 sponsor is required to use the Student and Exchange Vis-
 12 itor Information System to report any change to the non-
 13 immigrant’s primary field of study. In carrying out this
 14 section, the Secretary of State shall take into account the
 15 record keeping and reporting requirements of the Sec-
 16 retary of Homeland Security with regard to non-
 17 immigrants admitted into the United States in the F–1
 18 and M–1 classifications under subparagraphs (F) and (M)
 19 of section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)).

1 **SEC. 102. REPORTING CERTAIN RESEARCH PROGRAM PAR-**
2 **TICIPATION.**

3 (a) IN GENERAL.—With respect to a principal non-
4 immigrant admitted into the United States in the J–1
5 classification under section 101(a)(15)(J) of the Immigra-
6 tion and Nationality Act (8 U.S.C. 1101(a)(15)(J)), in the
7 F–1 classification under section 101(a)(15)(F) of such
8 Act, or in the M–1 classification under section
9 101(a)(15)(M) of such Act, the Secretary of State and the
10 Secretary of Homeland Security shall take such action as
11 may be necessary to ensure that the applicable program
12 sponsor or academic or nonacademic institution is re-
13 quired to use the Student and Exchange Visitor Informa-
14 tion System to report when the nonimmigrant is partici-
15 pating in a research program funded in whole or in part
16 through a grant, contract, or other similar form of support
17 provided by the Federal Government, as well as program
18 identification information.

19 (b) NOTIFICATIONS.—

20 (1) SECRETARY.—In the case of a non-
21 immigrant described in subsection (a), the Secretary
22 of Homeland Security shall notify the appropriate
23 program manager at an Executive agency (as de-
24 fined in section 105 of title 5, United States Code)
25 if and when the Secretary obtains information that
26 the nonimmigrant is participating in a research pro-

1 gram funded in whole or in part through a grant,
2 contract, or other similar form of support provided
3 by such agency prior to the commencement of that
4 nonimmigrant's participation and not later than 21
5 days after authorizing such participation.

6 (2) SPONSOR OR INSTITUTION.—In the case of
7 a nonimmigrant described in subsection (a), the ap-
8 plicable program sponsor or academic or nonaca-
9 demic institution shall notify the appropriate pro-
10 gram manager at an Executive agency (as defined in
11 section 105 of title 5, United States Code) if and
12 when the sponsor or institution obtains information
13 that the nonimmigrant is participating in a research
14 program funded in whole or in part through a grant,
15 contract, or other similar form of support provided
16 by such agency prior to the commencement of that
17 nonimmigrant's participation and not later than 21
18 days after authorizing such participation.

19 **SEC. 103. REVIEW AND REVOCATION OF CERTAIN NON-**
20 **IMMIGRANT VISAS.**

21 (a) IN GENERAL.—The Secretary of Homeland Secu-
22 rity shall have the authority to review and revoke a non-
23 immigrant visa granted under subparagraph (F), (J), or
24 (M) of section 101(a)(15) of the Immigration and Nation-

1 ality Act (8 U.S.C. 1101(a)(15)) if, in consultation with
2 the Attorney General, the Secretary finds that—

3 (1) the visa holder has misrepresented his or
4 her intention to pursue a certain program or field of
5 study;

6 (2) following a change to the nonimmigrant's
7 primary field of study as described under section
8 101, that the new primary field of study would have
9 triggered a higher level of scrutiny during the visa
10 application process, and that the visa holder poses a
11 risk to the homeland security of the United States,
12 the national security of the United States, or re-
13 search integrity at their applicable program sponsor
14 or institution; or

15 (3) the visa holder's enrollment in a research
16 program funded in whole or in part through a grant,
17 contract, or other similar form of support provided
18 by the Federal Government poses a risk to the
19 homeland security of the United States, the national
20 security of the United States, or research integrity
21 at their applicable program sponsor or institution.

22 (b) NOTICE.—Thirty days before the commencement
23 of a review under subsection (a), the Secretary of Home-
24 land Security shall provide the applicable program sponsor
25 or institution with a notice containing the specific basis

1 of the forthcoming review. During this 30-day period, the
2 program sponsor or institution may take corrective action
3 to alleviate any concerns raised by the Secretary. At the
4 conclusion of the 30-day period, the Secretary shall deter-
5 mine whether the program sponsor or institution has satis-
6 factorily addressed the concerns or a review remains nec-
7 essary.

8 (c) ADMINISTRATIVE AND JUDICIAL REVIEW.—

9 (1) IN GENERAL.—There shall be no adminis-
10 trative or judicial review of a determination to re-
11 voke a visa under this section except in accordance
12 with this subsection.

13 (2) ADMINISTRATIVE REVIEW.—

14 (A) SINGLE LEVEL OF ADMINISTRATIVE
15 APPELLATE REVIEW.—The Secretary of Home-
16 land Security shall establish an appellate au-
17 thority to provide for a single level of adminis-
18 trative appellate review of such a determination.

19 (B) STANDARD FOR REVIEW.—Such ad-
20 ministrative appellate review shall be based
21 solely upon the administrative record estab-
22 lished at the time of the determination and
23 upon such additional or newly discovered evi-
24 dence as may not have been available at the
25 time of the determination.

1 (3) JUDICIAL REVIEW.—

2 (A) LIMITATION TO REVIEW OF RE-
3 MOVAL.—There shall be judicial review of a de-
4 termination to revoke a visa under this section
5 only in the judicial review of an order of re-
6 moval under section 242 of the Immigration
7 and Nationality Act (8 U.S.C. 1252).

8 (B) STANDARD FOR JUDICIAL REVIEW.—
9 Such judicial review shall be based solely upon
10 the administrative record established at the
11 time of the review by the appellate authority
12 and the findings of fact and determinations
13 contained in such record shall be conclusive un-
14 less the applicant can establish abuse of discre-
15 tion or that the findings are directly contrary to
16 clear and convincing facts contained in the
17 record considered as a whole.

18 **SEC. 104. ANNUAL REPORT.**

19 (a) IN GENERAL.—The Secretary of Homeland Secu-
20 rity shall require the Academic Institutions Subcommittee
21 of the Homeland Security Advisory Council of the Depart-
22 ment of Homeland Security to provide an annual report
23 to the Committee on the Judiciary, the Committee on
24 Homeland Security, and the Committee on Foreign Af-
25 fairs of the House of Representatives, and the Committee

1 on the Judiciary, the Committee on Homeland Security
2 and Governmental Affairs, and the Committee on Foreign
3 Relations of the Senate, on—

4 (1) the implementation and execution of any
5 visa reviews and revocations undertaken under sec-
6 tion 103;

7 (2) the number of alien students enrolled at
8 academic or nonacademic institutions in the United
9 States, disaggregated by—

10 (A) program of study;

11 (B) previous and current nationality; and

12 (C) participation in a research program
13 (which may or may not be classified) funded in
14 whole or in part through a grant, contract, or
15 other similar form of support provided by the
16 Federal Government, differentiated by agency,
17 sub-agency, and program; and

18 (3) the number of alien students who have
19 changed their field of study, including their original
20 and subsequent field of study, disaggregated by the
21 information described in subparagraphs (A), (B),
22 and (C) of paragraph (2).

23 (b) APPENDIX.—Each report under subsection (a)
24 shall include an appendix containing any feedback pro-
25 vided on a voluntary basis by any program sponsor or in-

1 stitution affected by a visa review or revocation under-
2 taken under section 103.

3 **TITLE II—FEDERAL RESEARCH**
4 **AND DEVELOPMENT AWARDS**

5 **SEC. 101. FINDINGS.**

6 Congress finds the following:

7 (1) United States colleges and universities are
8 required publicly to report foreign gifts and con-
9 tracts to the Department of Education. Codified at
10 section 117 of the Higher Education Act of 1965
11 (20 U.S.C. 1011f), this mandate requires nearly all
12 colleges and universities to report, twice each year,
13 foreign gifts and contracts the value of which is
14 \$250,000 or more (considered alone or in combina-
15 tion with other gifts or contracts with a foreign
16 source) and to disclose any foreign ownership or
17 control to the Secretary of Education.

18 (2) Congress applauds the Department of Edu-
19 cation for taking concrete steps to enforce section
20 117, including the opening of 12 compliance inves-
21 tigations yielding important and actionable informa-
22 tion and catalyzed disclosure of \$6,500,000,000 in
23 previously unreported foreign money.

1 (3) On average, fewer than 300 of the approxi-
2 mately 6,000 United States colleges and universities
3 report receiving foreign money each year.

4 (4) It is in the interest of scientific and aca-
5 demic integrity that foreign funding is disclosed by
6 the recipient.

7 (5) Institutions have an obligation to comply
8 with all applicable laws and regulations requiring
9 disclosure of foreign funding.

10 **SEC. 102. DISCLOSURE OF FUNDING SOURCES IN APPLICA-**
11 **TIONS FOR FEDERAL RESEARCH AND DEVEL-**
12 **OPMENT AWARDS.**

13 Section 223 of the William M. (Mac) Thornberry Na-
14 tional Defense Authorization Act for Fiscal Year 2021
15 (Public Law 116–283) is amended—

16 (1) in subsection (a)(1)—

17 (A) in subparagraph (A), by inserting be-
18 fore the semicolon the following: “, including a
19 description of any in-kind contributions and a
20 reasonable estimate of the value of such con-
21 tributions in dollars or man-hours, as applica-
22 ble”;

23 (B) by striking “and” at the end of sub-
24 paragraph (B); and

1 (C) by adding at the end the following new
2 subparagraph:

3 “(D) in the case of a covered individual
4 who is employed by an institution subject to
5 section 117 of the Higher Education Act of
6 1965 (20 U.S.C 1011f), certify that the indi-
7 vidual has provided the institution with the in-
8 formation necessary to comply with such section
9 and include, together with such certification, a
10 statement acknowledging receipt of such infor-
11 mation signed by the head of the office respon-
12 sible for the institution’s compliance with such
13 section; and”;

14 (2) in subsection (d)(2)(B), by striking “in-kind
15 contributions requiring a commitment of time and
16 directly supporting the individual’s research and de-
17 velopment efforts, such as the provision of office or
18 laboratory space, equipment, supplies, employees, or
19 students” and inserting “all in-kind contributions,
20 regardless of whether such contributions are in-
21 tended for use on the project for which the research
22 and development award is sought”.

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