

117TH CONGRESS  
1ST SESSION

# S. 1245

To combat the theft of trade secrets by China, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 20, 2021

Mr. GRAHAM introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To combat the theft of trade secrets by China, 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 “Combating Chinese Purloining of Trade Secrets Act” or  
6 the “CCP Trade Secrets Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—INCREASED PENALTIES FOR VIOLATIONS OF SECTION  
2512 OF TITLE 18, UNITED STATES CODE, INVOLVING A FOR-  
EIGN GOVERNMENT

Sec. 101. Manufacture, distribution, possession, and advertising of wire, oral,  
or electronic communication intercepting devices prohibited.

TITLE II—PROTECTING U.S. BUSINESSES FROM FOREIGN TRADE  
SECRET THEFT

Sec. 201. Short title.

Sec. 202. Prohibition on misappropriating U.S. trade secrets.

TITLE III—COMBATING CYBERCRIME

Sec. 301. Short title.

Sec. 302. Predicate offenses.

Sec. 303. Forfeiture.

Sec. 304. Shutting down botnets.

Sec. 305. Aggravated damage to a critical infrastructure computer.

Sec. 306. Stopping trafficking in botnets; fraud and related activity in connec-  
tion with computers.

TITLE IV—ESPIONAGE, THEFT OF TRADE SECRETS, AND  
IMPROPER INTERFERENCE IN UNITED STATES ELECTIONS

Sec. 401. Espionage, theft of trade secrets, theft of intellectual property, in-  
volvement in commercial fraud schemes, and improper inter-  
ference in United States elections.

Sec. 402. Visa and nonimmigrant status restrictions.

TITLE V—GOVERNMENT-FUNDED RESEARCH PROJECTS

Sec. 501. Findings.

Sec. 502. Definitions.

Sec. 503. Approval of covered persons in sensitive Government-funded research  
projects.

Sec. 504. Disclosure of research assistance from foreign governments.

1 **TITLE I—INCREASED PENALTIES**  
2 **FOR VIOLATIONS OF SECTION**  
3 **2512 OF TITLE 18, UNITED**  
4 **STATES CODE, INVOLVING A**  
5 **FOREIGN GOVERNMENT**

6 **SEC. 101. MANUFACTURE, DISTRIBUTION, POSSESSION,**  
7 **AND ADVERTISING OF WIRE, ORAL, OR ELEC-**  
8 **TRONIC COMMUNICATION INTERCEPTING**  
9 **DEVICES PROHIBITED.**

10 (a) IN GENERAL.—Section 2512 of title 18, United  
11 States Code, is amended by adding at the end the fol-  
12 lowing:

13 “(4) Any person who violates this section with the  
14 intent to benefit any government of a foreign country (as  
15 defined in section 1 of the Foreign Agents Registration  
16 Act of 1938, as amended (22 U.S.C. 611)), agency or in-  
17 strumentality of a foreign state (as defined in section  
18 1603(b) of title 28, United States Code), or agent of a  
19 foreign principal (as defined in section 1 of the Foreign  
20 Agents Registration Act of 1938, as amended (22 U.S.C.  
21 611)) shall be fined under this title, imprisoned for not  
22 more than 20 years, or both.”.

23 (b) SENTENCING ENHANCEMENT FOR FOREIGN IN-  
24 VOLVEMENT IN VIOLATIONS OF SECTION 2512 OF TITLE  
25 18, UNITED STATES CODE.—Pursuant to its authority

1 under section 994 of title 28, United States Code, the  
 2 United States Sentencing Commission shall review and  
 3 amend the Federal sentencing guidelines to ensure that  
 4 the guidelines provide an additional penalty increase of not  
 5 fewer than 4 offense levels if the defendant violated section  
 6 2512 of title 18, United States Code, with the intent to  
 7 benefit any government of a foreign country, agency or  
 8 instrumentality of a foreign state, or agent of a foreign  
 9 principal.

10 **TITLE II—PROTECTING U.S.**  
 11 **BUSINESSES FROM FOREIGN**  
 12 **TRADE SECRET THEFT**

13 **SEC. 201. SHORT TITLE.**

14 This title may be cited as the “Protecting U.S. Busi-  
 15 nesses from Foreign Trade Secrets Theft Act of 2021”.

16 **SEC. 202. PROHIBITION ON MISAPPROPRIATING U.S. TRADE**  
 17 **SECRETS.**

18 (a) IN GENERAL.—Chapter 90 of title 18, United  
 19 States Code, is amended by adding at the end the fol-  
 20 lowing:

21 **“§ 1840. Applicability to foreign persons**

22 “(a) DEFINITIONS.—In this section—

23 “(1) the term ‘critical technology’ has the  
 24 meaning given the term ‘critical technologies’ in sec-

1 tion 721 of the Defense Production Act of 1950 (50  
2 U.S.C. 4565);

3 “(2) the term ‘designated Federal agency’  
4 means—

5 “(A) the Department of Homeland Secu-  
6 rity;

7 “(B) U.S. Customs and Border Protection;

8 “(C) the Department of Commerce;

9 “(D) the Securities and Exchange Com-  
10 mission;

11 “(E) the Export-Import Bank of the  
12 United States;

13 “(F) the Department of State; and

14 “(G) the United States Patent and Trade-  
15 mark Office;

16 “(3) the term ‘foreign person’ means a person  
17 that is not a United States person;

18 “(4) the term ‘International Trade Commission’  
19 means the United States International Trade Com-  
20 mission;

21 “(5) the term ‘offending foreign person’ means  
22 a foreign person—

23 “(A) who misappropriates a trade secret;

24 and

1           “(B) with respect to whom a petition sub-  
2           mitted under subsection (b)(1) satisfies the re-  
3           quirements under that subsection, as deter-  
4           mined by the Attorney General;

5           “(6) the term ‘person’ means—

6           “(A) an individual; and

7           “(B) a corporation, business association,  
8           partnership, society, or trust, any other non-  
9           governmental entity, organization, or group,  
10          and any governmental entity operating as a  
11          business enterprise; and

12          “(7) the term ‘United States person’ means—

13          “(A) a United States citizen or an alien  
14          lawfully admitted for permanent residence to  
15          the United States;

16          “(B) a corporation or other legal entity  
17          that is organized under the laws of the United  
18          States, any State or territory thereof, or the  
19          District of Columbia; and

20          “(C) a corporation or other legal entity—

21                  “(i) organized under the laws of a ju-  
22                  risdiction outside of the United States; and

23                  “(ii) with respect to which a United  
24                  States person described in subparagraph  
25                  (A) or (B)—

1                   “(I) holds more than 50 percent  
2                   of the equity interest by vote or value;

3                   “(II) holds a majority of seats on  
4                   the board of directors; or

5                   “(III) otherwise controls the ac-  
6                   tions, policies, or personnel decisions.

7           “(b) PETITION FOR RELIEF.—

8                   “(1) DEMONSTRATION OF MISAPPROPRIA-  
9                   TION.—If an owner of a trade secret, who is a  
10                  United States person, wishes to have the Attorney  
11                  General or the head of the applicable designated  
12                  Federal agency apply a penalty under subsection (c)  
13                  to a foreign person who has misappropriated the  
14                  trade secret, the owner shall submit to the Attorney  
15                  General a petition demonstrating that—

16                       “(A)(i) a court has entered a temporary  
17                       restraining order, preliminary injunction, or  
18                       final judgment under section 1836 of this title  
19                       against the foreign person for misappropriating  
20                       a trade secret of the owner;

21                       “(ii) the International Trade Commission  
22                       has issued a temporary exclusion order or final  
23                       exclusion order under section 337 of the Tariff  
24                       Act of 1930 (19 U.S.C. 1337) against the for-

1           eign person for misappropriating a trade secret  
2           of the owner; or

3           “(iii) an indictment has been issued under  
4           section 1831 or 1832 of this title against the  
5           foreign person for misappropriating a trade se-  
6           cret of the owner;

7           “(B) the trade secret described in the ap-  
8           plicable clause of subparagraph (A) involves or  
9           is a component of critical technology; and

10          “(C) the remedies available to the owner  
11          under section 1836 of this title or section 337  
12          of the Tariff Act of 1930 (19 U.S.C. 1337), as  
13          applicable, are unlikely to provide complete re-  
14          lief to the owner because the foreign person has  
15          used or is reasonably likely to use the misappro-  
16          priated trade secret in the home country of the  
17          foreign person or a third country, such that ac-  
18          tivities of the foreign person relevant to the de-  
19          terminations under subparagraph (A) take  
20          place outside the United States.

21          “(2) REVIEW.—Not later than 60 days after  
22          the date on which an owner who is a United States  
23          person submits a petition to the Attorney General  
24          under paragraph (1), the Attorney General shall de-



1       termine whether the petition satisfies the require-  
2       ments under that paragraph.

3               “(3) NOTIFICATION.—If the Attorney General  
4       determines under paragraph (2) that a petition sat-  
5       isfies the requirements under paragraph (1), the At-  
6       torney General shall so notify the head of each des-  
7       ignated Federal agency not later than 30 days after  
8       the date of the determination.

9               “(4) SENSE OF CONGRESS.—It is the sense of  
10       Congress that if the Attorney General determines  
11       under paragraph (2) that a petition relating to a  
12       foreign person satisfies the requirements under  
13       paragraph (1), the Attorney General and the head of  
14       each designated Federal agency should impose 1 or  
15       more penalties on the foreign person under sub-  
16       section (c), to the extent that the penalties are appli-  
17       cable.

18              “(c) PENALTIES.—

19               “(1) IN GENERAL.—Subject to paragraphs (2)  
20       and (3), not later than 90 days after the date on  
21       which the Attorney General provides notice to the  
22       head of each designated Federal agency under sub-  
23       section (b)(3) with respect to an offending foreign  
24       person, the Attorney General or the head of a des-  
25       ignated Federal agency, as applicable, may impose 1

1 or more of the following penalties on the offending  
2 foreign person:

3 “(A) IMPORT RESTRICTION.—The Com-  
4 missioner of U.S. Customs and Border Protec-  
5 tion may exclude from entry into the United  
6 States any articles produced by the offending  
7 foreign person.

8 “(B) EXPORT LICENSES.—

9 “(i) DUAL-USE EXPORTS.—The Sec-  
10 retary of Commerce may refuse to issue  
11 any specific license, or grant any other  
12 specific permission or authority, for the ex-  
13 port, reexport, or in-country transfer of  
14 items to the offending foreign person  
15 under the Export Control Reform Act of  
16 2018 (50 U.S.C. 4801 et seq.).

17 “(ii) DEFENSE ARTICLES AND DE-  
18 FENSE SERVICES.—The Secretary of State  
19 may refuse to issue any license or other  
20 approval for the export of defense articles  
21 or defense services to the offending foreign  
22 person under the Arms Export Control Act  
23 (22 U.S.C. 2751 et seq.).

24 “(C) RESTRICTED PARTIES.—

1           “(i) COMMERCE LISTS.—The Sec-  
2           retary of Commerce may add the offending  
3           foreign person to one of the following lists  
4           maintained by the Bureau of Industry and  
5           Secretary of the Department of Commerce:

6                   “(I) The Entity List set forth in  
7                   Supplement No. 4 to part 744 of the  
8                   Export Administration Regulations  
9                   under subchapter C of chapter VII of  
10                  title 15, Code of Federal Regulations.

11                  “(II) The Denied Persons List  
12                  maintained pursuant to section 764.3  
13                  of the Export Administration Regula-  
14                  tions.

15           “(ii) TREASURY LIST.—The Secretary  
16           of the Treasury may add the offending for-  
17           eign person to the list of specially des-  
18           ignated nationals and blocked persons  
19           maintained by the Office of Foreign Assets  
20           Control of the Department of the Treas-  
21           ury.

22           “(D) SECURITIES REPORTING.—The Secu-  
23           rities and Exchange Commission may determine  
24           whether the use by the offending foreign person  
25           of the misappropriated trade secret is a report-

1           able material condition in any filing by the of-  
2           fending foreign person required under applica-  
3           ble securities laws of the United States.

4           “(E) PATENT PROTECTION.—The Under  
5           Secretary of Commerce for Intellectual Property  
6           and Director of the United States Patent and  
7           Trademark Office may prohibit the offending  
8           foreign person from applying for patent protec-  
9           tion, being listed as an inventor on a patent ap-  
10          plication, or continuing a patent application  
11          under title 35, United States Code.

12          “(F) EXPORT-IMPORT BANK ASSISTANCE  
13          FOR EXPORTS TO FOREIGN PERSON.—The Ex-  
14          port-Import Bank of the United States may  
15          refuse to approve the issuance of any guar-  
16          antee, insurance, extension of credit, or partici-  
17          pation in the extension of credit in connection  
18          with the export of any goods or services to the  
19          offending foreign person.

20          “(G) EXCLUSION OF CORPORATE OFFI-  
21          CERS.—The Secretary of State may deny a visa  
22          application, and the Secretary of Homeland Se-  
23          curity may deny an application for admission to  
24          the United States, of any alien that the applica-  
25          ble Secretary determines is a corporate officer

1 or principal of, or a shareholder with a control-  
2 ling interest in, the offending foreign person.

3 “(H) OTHER PENALTIES.—The Attorney  
4 General or the head of a designated Federal  
5 agency—

6 “(i) may not procure, or enter into a  
7 contract for the procurement of, any goods  
8 or services from the offending foreign per-  
9 son;

10 “(ii) may prohibit, pursuant to notice  
11 issued by the Attorney General, a United  
12 States person from knowingly investing in  
13 or purchasing significant amounts of eq-  
14 uity or debt instruments of the offending  
15 foreign person;

16 “(iii) may impose on a principal execu-  
17 tive officer of the offending foreign per-  
18 son, or on an individual performing similar  
19 functions and with similar authorities as  
20 such an officer, any penalty under this  
21 subsection that could be imposed on the of-  
22 fending foreign person; and

23 “(iv) may impose on the offending  
24 foreign person any other penalty author-

1            ized under any provision of Federal law, as  
2            determined appropriate.

3            “(2) DURATION OF PENALTIES.—

4            “(A) TEMPORARY PENALTY.—If a court  
5            enters a temporary restraining order or prelimi-  
6            nary injunction under section 1836 of this title  
7            against an offending foreign person for mis-  
8            appropriating a trade secret, the International  
9            Trade Commission issues a temporary exclusion  
10           order under section 337 of the Tariff Act of  
11           1930 (19 U.S.C. 1337) against an offending  
12           foreign person for misappropriating a trade se-  
13           cret, or an indictment is issued under section  
14           1831 or 1832 of this title against an offending  
15           foreign person for misappropriating a trade se-  
16           cret, the Attorney General or the head of a des-  
17           ignated Federal agency may impose a penalty  
18           under paragraph (1) on the offending foreign  
19           person during the period during which the tem-  
20           porary restraining order, preliminary injunc-  
21           tion, temporary exclusion order, or indictment  
22           remains in effect.

23           “(B) PERMANENT PENALTY.—If a court  
24           enters a final judgment under section 1836 of  
25           this title against an offending foreign person for

1 misappropriating a trade secret, the Inter-  
2 national Trade Commission issues a final exclu-  
3 sion order under section 337 of the Tariff Act  
4 of 1930 (19 U.S.C. 1337) against an offending  
5 foreign person for misappropriating a trade se-  
6 cret, or an offending foreign person is convicted  
7 under section 1831 or 1832 of this title of mis-  
8 appropriating a trade secret, the Attorney Gen-  
9 eral or the head of a designated Federal agency  
10 may permanently impose a penalty under para-  
11 graph (1) on the foreign person.

12 “(3) PETITION FOR REVIEW.—

13 “(A) IN GENERAL.—If the Attorney Gen-  
14 eral or the head of a designated Federal agency  
15 imposes a temporary penalty under paragraph  
16 (2)(A) or a permanent penalty under paragraph  
17 (2)(B) on an offending foreign person, the of-  
18 fending foreign person may submit to the At-  
19 torney General or the head of the designated  
20 Federal agency a petition for the revocation or  
21 modification of the penalty—

22 “(i) not later 45 days after the date  
23 on which the penalty is imposed; or

24 “(ii) in the case of a permanent pen-  
25 alty, if the final judgment, final exclusion

1 order, or conviction upon which the perma-  
2 nent penalty is based is reversed on appeal  
3 or otherwise vacated, not later than 45  
4 days after the date of the reversal or  
5 vacatur.

6 “(B) CONTENTS OF PETITION.—

7 “(i) IN GENERAL.—An offending for-  
8 eign person shall include in a petition sub-  
9 mitted under subparagraph (A) a full writ-  
10 ten statement in support of the position of  
11 the offending foreign person, including a  
12 precise statement of why—

13 “(I) an insufficient basis exists  
14 for the penalty; or

15 “(II) the circumstances resulting  
16 in the penalty no longer apply.

17 “(ii) REMEDIAL STEPS.—An offending  
18 foreign person may, in a petition submitted  
19 under subparagraph (A), propose remedial  
20 steps that would negate the basis for the  
21 penalty.

22 “(C) DETERMINATION.—The Attorney  
23 General or the head of a designated Federal  
24 agency, as applicable, shall make a determina-



1           tion with respect to a petition submitted under  
2           subparagraph (A).

3           “(d) REPORT.—

4           “(1) IN GENERAL.—Not later than 1 year after  
5           the date of enactment of this section, and each year  
6           thereafter, the Attorney General, in coordination  
7           with the head of each designated Federal agency,  
8           shall submit to the Committee on the Judiciary of  
9           the Senate and the Committee on the Judiciary of  
10          the House of Representatives a report that—

11                   “(A) with respect to the preceding year—

12                           “(i) identifies foreign countries, state-  
13                           owned and state-controlled entities, and  
14                           other persons that engaged in the mis-  
15                           appropriation of trade secrets owned by  
16                           United States persons;

17                           “(ii) describes any strategy used by a  
18                           foreign country to undertake misappropria-  
19                           tion of trade secrets owned by United  
20                           States persons;

21                           “(iii) identifies categories of tech-  
22                           nologies developed by, or trade secrets  
23                           owned by, United States persons that were  
24                           targeted for misappropriation;

1           “(iv) lists legal actions taken under  
2           section 1836 of this title, section 337 of  
3           the Tariff Act of 1930 (19 U.S.C. 1337),  
4           or section 1831 or 1832 of this title—

5                   “(I) against an offending foreign  
6                   person who misappropriated a trade  
7                   secret owned by a United States per-  
8                   son; and

9                   “(II) as a result of which the  
10                  products of the offending foreign per-  
11                  son described in subclause (I) may  
12                  never enter the United States; and

13                  “(v) describes progress made in de-  
14                  creasing the prevalence of misappropria-  
15                  tion of trade secrets owned by United  
16                  States persons; and

17                  “(B) recommends strategies to the Com-  
18                  mittee on the Judiciary of the Senate and the  
19                  Committee on the Judiciary of the House of  
20                  Representatives to decrease the misappropria-  
21                  tion by foreign persons of trade secrets owned  
22                  by United States persons.

23                  “(2) FORM OF REPORT.— A report submitted  
24                  under paragraph (1) shall be submitted in unclassi-  
25                  fied form but may contain a classified annex.”.

1 (b) TABLE OF SECTIONS.—The table of sections for  
2 chapter 90 of title 18, United States Code, is amended  
3 by adding at the end the following:

“1840. Applicability to foreign persons.”.

4 **TITLE III—COMBATING**  
5 **CYBERCRIME**

6 **SEC. 301. SHORT TITLE.**

7 This title may be cited as the “International  
8 Cybercrime Prevention Act”.

9 **SEC. 302. PREDICATE OFFENSES.**

10 Part I of title 18, United States Code, is amended—

11 (1) in section 1956(c)(7)(D)—

12 (A) by striking “or section 2339D” and in-  
13 serting “section 2339D”; and

14 (B) by striking “of this title, section  
15 46502” and inserting “, or section 2512 (relat-  
16 ing to the manufacture, distribution, possession,  
17 and advertising of wire, oral, or electronic com-  
18 munication intercepting devices) of this title,  
19 section 46502”; and

20 (2) in section 1961(1), by inserting “section  
21 1030 (relating to fraud and related activity in con-  
22 nection with computers) if the act indictable under  
23 section 1030 is felonious,” before “section 1084”.

1 **SEC. 303. FORFEITURE.**

2 (a) IN GENERAL.—Section 2513 of title 18, United  
3 States Code, is amended to read as follows:

4 **“SEC. 2513. CONFISCATION OF WIRE, ORAL, OR ELEC-**  
5 **TRONIC COMMUNICATION INTERCEPTING**  
6 **DEVICES AND OTHER PROPERTY.**

7 “(a) CRIMINAL FORFEITURE.—

8 “(1) IN GENERAL.—The court, in imposing a  
9 sentence on any person convicted of a violation of  
10 section 2511 or 2512, or convicted of conspiracy to  
11 violate section 2511 or 2512, shall order, in addition  
12 to any other sentence imposed and irrespective of  
13 any provision of State law, that such person forfeit  
14 to the United States—

15 “(A) such person’s interest in any prop-  
16 erty, real or personal, that was used or intended  
17 to be used to commit or to facilitate the com-  
18 mission of such violation; and

19 “(B) any property, real or personal, consti-  
20 tuting or derived from any gross proceeds, or  
21 any property traceable to such property, that  
22 such person obtained or retained directly or in-  
23 directly as a result of such violation.

24 “(2) FORFEITURE PROCEDURES.—Pursuant to  
25 section 2461(c) of title 28, the provisions of section  
26 413 of the Controlled Substances Act (21 U.S.C.

1 853), other than subsection (d) thereof, shall apply  
2 to criminal forfeitures under this subsection.

3 “(b) CIVIL FORFEITURE.—

4 “(1) IN GENERAL.—The following shall be sub-  
5 ject to forfeiture to the United States in accordance  
6 with provisions of chapter 46 and no property right  
7 shall exist in them:

8 “(A) Any property, real or personal, used  
9 or intended to be used, in any manner, to com-  
10 mit, or facilitate the commission of a violation  
11 of section 2511 or 2512, or a conspiracy to vio-  
12 late section 2511 or 2512.

13 “(B) Any property, real or personal, con-  
14 stituting, or traceable to the gross proceeds  
15 taken, obtained, or retained in connection with  
16 or as a result of a violation of section 2511 or  
17 2512, or a conspiracy to violate section 2511 or  
18 2512.

19 “(2) FORFEITURE PROCEDURES.—Seizures and  
20 forfeitures under this subsection shall be governed  
21 by the provisions of chapter 46 relating to civil for-  
22 feitures, except that such duties as are imposed on  
23 the Secretary of the Treasury under the customs  
24 laws described in section 981(d) shall be performed  
25 by such officers, agents, and other persons as may

1 be designated for that purpose by the Secretary of  
 2 Homeland Security or the Attorney General.”.

3 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—

4 The table of sections for chapter 119 is amended by strik-  
 5 ing the item relating to section 2513 and inserting the  
 6 following:

“2513. Confiscation of wire, oral, or electronic communication intercepting de-  
 vices and other property.”.

7 **SEC. 304. SHUTTING DOWN BOTNETS.**

8 (a) **IN GENERAL.**—Section 1345 of title 18, United  
 9 States Code, is amended—

10 (1) in the heading, by inserting “**AND ABUSE**”  
 11 after “**FRAUD**”;

12 (2) in subsection (a)—

13 (A) in paragraph (1)—

14 (i) in subparagraph (B), by striking  
 15 “or” at the end;

16 (ii) in subparagraph (C), by inserting  
 17 “or” after the semicolon; and

18 (iii) by inserting after subparagraph  
 19 (C) the following:

20 “(D) violating or about to violate section  
 21 1030(a)(5) of this title where such conduct has  
 22 caused or would cause damage (as defined in  
 23 section 1030) without authorization to 100 or

1 more protected computers (as defined in section  
2 1030) during any 1-year period, including by—

3 “(i) impairing the availability or in-  
4 tegrity of the protected computers without  
5 authorization; or

6 “(ii) installing or maintaining control  
7 over malicious software on the protected  
8 computers that, without authorization, has  
9 caused or would cause damage to the pro-  
10 tected computers;”; and

11 (B) in paragraph (2), in the matter pre-  
12 ceding subparagraph (A), by inserting “, a vio-  
13 lation described in subsection (a)(1)(D),” before  
14 “or a Federal”; and

15 (3) by adding at the end the following:

16 “(c) A restraining order, prohibition, or other action  
17 described in subsection (b), if issued in circumstances de-  
18 scribed in subsection (a)(1)(D), may, upon application of  
19 the Attorney General—

20 “(1) specify that no cause of action shall lie in  
21 any court against a person for complying with the  
22 restraining order, prohibition, or other action; and

23 “(2) provide that the United States shall pay to  
24 such person a fee for reimbursement for such costs  
25 as are reasonably necessary and which have been di-

1 rectly incurred in complying with the restraining  
 2 order, prohibition, or other action.”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—

4 The table of sections for chapter 63 of title 18, United  
 5 States Code, is amended by striking the item relating to  
 6 section 1345 and inserting the following:

“1345. Injunctions against fraud and abuse.”.

7 **SEC. 305. AGGRAVATED DAMAGE TO A CRITICAL INFRA-**  
 8 **STRUCTURE COMPUTER.**

9 (a) IN GENERAL.—Chapter 47 of title 18, United  
 10 States Code, is amended by inserting after section 1030  
 11 the following:

12 **“§ 1030A. Aggravated damage to a critical infrastruc-**  
 13 **ture computer**

14 “(a) OFFENSE.—It shall be unlawful, during and in  
 15 relation to a felony violation of section 1030, to knowingly  
 16 cause or attempt to cause damage to a critical infrastruc-  
 17 ture computer, if such damage results in (or, in the case  
 18 of an attempted offense, would, if completed, have resulted  
 19 in) the substantial impairment—

20 “(1) of the operation of the critical infrastruc-  
 21 ture computer; or

22 “(2) of the critical infrastructure associated  
 23 with such computer.

24 “(b) PENALTY.—Any person who violates subsection  
 25 (a) shall, in addition to the term of punishment provided



1 for the felony violation of section 1030, be fined under  
2 this title, imprisoned for not more than 20 years, or both.

3 “(c) CONSECUTIVE SENTENCE.—Notwithstanding  
4 any other provision of law—

5 “(1) a court shall not place any person con-  
6 victed of a violation of this section on probation;

7 “(2) except as provided in paragraph (4), no  
8 term of imprisonment imposed on a person under  
9 this section shall run concurrently with any term of  
10 imprisonment imposed on the person under any  
11 other provision of law, including any term of impris-  
12 onment imposed for the felony violation of section  
13 1030;

14 “(3) in determining any term of imprisonment  
15 to be imposed for the felony violation of section  
16 1030, a court shall not in any way reduce the term  
17 to be imposed for such violation to compensate for,  
18 or otherwise take into account, any separate term of  
19 imprisonment imposed or to be imposed for a viola-  
20 tion of this section; and

21 “(4) a term of imprisonment imposed on a per-  
22 son for a violation of this section may, in the discre-  
23 tion of the court, run concurrently, in whole or in  
24 part, only with another term of imprisonment that  
25 is imposed by the court at the same time on that

1 person for an additional violation of this section, if  
2 such discretion shall be exercised in accordance with  
3 any applicable guidelines and policy statements  
4 issued by the United States Sentencing Commission  
5 pursuant to section 994 of title 28.

6 “(d) DEFINITIONS.—In this section—

7 “(1) the terms ‘computer’ and ‘damage’ have  
8 the meanings given the terms in section 1030; and

9 “(2) the term ‘critical infrastructure’ means  
10 systems and assets, whether physical or virtual, so  
11 vital to the United States that the incapacity or de-  
12 struction of such systems and assets would have cat-  
13 astrophic regional or national effects on public  
14 health or safety, economic security, or national secu-  
15 rity, including voter registration databases, voting  
16 machines, and other communications systems that  
17 manage the election process or report and display  
18 results on behalf of State and local governments.”.

19 (b) TABLE OF SECTIONS.—The table of sections for  
20 chapter 47 of title 18, United States Code, is amended  
21 by inserting after the item relating to section 1030 the  
22 following:

“1030A. Aggravated damage to a critical infrastructure computer.”.

1 **SEC. 306. STOPPING TRAFFICKING IN BOTNETS; FRAUD**  
2 **AND RELATED ACTIVITY IN CONNECTION**  
3 **WITH COMPUTERS.**

4 (a) IN GENERAL.—Section 1030 of title 18, United  
5 States Code, is amended—

6 (1) in subsection (a)—

7 (A) by striking paragraph (2) and insert-  
8 ing the following:

9 “(2)(A) intentionally accesses a computer with-  
10 out authorization or exceeds authorized access, and  
11 thereby obtains information, if—

12 “(i) the conduct was undertaken in fur-  
13 therance of any felony violation of the laws of  
14 the United States or of any State, unless an  
15 element of such violation would require proof  
16 that the information was obtained without au-  
17 thorization or in excess of authorization; or

18 “(ii) the protected computer is owned or  
19 operated by or on behalf of a State or local gov-  
20 ernmental entity responsible for the administra-  
21 tion of justice, public health, or safety, or  
22 owned or operated by or on behalf of the  
23 United States Government; or

24 “(B) intentionally accesses a computer without  
25 authorization, and thereby obtains information from  
26 any protected computer;”;

1 (B) by striking paragraph (6) and insert-  
2 ing the following:

3 “(6) knowing such conduct to be wrongful, in-  
4 tentiously traffics in any password or similar infor-  
5 mation, or any other means of access, further know-  
6 ing or having reason to know that a protected com-  
7 puter would be accessed or damaged without author-  
8 ization in a manner prohibited by this section as the  
9 result of such trafficking;”;

10 (C) in paragraph (7), by adding “or” at  
11 the end; and

12 (D) by inserting after paragraph (7) the  
13 following:

14 “(8) intentionally traffics in the means of ac-  
15 cess to a protected computer, if—

16 “(A) the trafficker knows or has reason to  
17 know the protected computer has been damaged  
18 in a manner prohibited by this section; and

19 “(B) the promise or agreement to pay for  
20 the means of access is made by, or on behalf of,  
21 a person the trafficker knows or has reason to  
22 know intends to use the means of access to—

23 “(i) damage a protected computer  
24 without authorization; or

25 “(ii) violate section 1037 or 1343;”;

1 (2) in subsection (c)—

2 (A) in paragraph (2), by striking “, (a)(3),  
3 or (a)(6)” each place it appears and inserting  
4 “or (a)(3)”;

5 (B) in paragraph (3)—

6 (i) in subparagraph (A), by striking  
7 “(a)(4) or (a)(7)” and inserting “(a)(4),  
8 (a)(7), or (a)(8)”;

9 (ii) in subparagraph (B), by striking  
10 “(a)(4), or (a)(7)” and inserting “(a)(4),  
11 (a)(7), or (a)(8)”;

12 (C) in paragraph (4)—

13 (i) in subparagraph (C)(i), by striking  
14 “or an attempt to commit an offense”;

15 (ii) in subparagraph (D), by striking  
16 clause (ii) and inserting the following:

17 “(ii) an offense, or an attempt to  
18 commit an offense, under subsection  
19 (a)(6);”;

20 (3) in subsection (e)—

21 (A) by striking paragraph (6) and insert-  
22 ing the following:

23 “(6) the term ‘exceeds authorized access’  
24 means—

1           “(A)(i) to access a computer with author-  
2           zation and thereby to knowingly obtain infor-  
3           mation from such computer that the accessor is  
4           not entitled to obtain; or

5           “(ii) to knowingly obtain any information  
6           from such computer for a purpose that is pro-  
7           hibited by the computer owner; and

8           “(B) provided that the limitation on access  
9           to or use of the information is not based solely  
10          on the terms governing use of an online service  
11          by customers or subscribers thereof, including  
12          terms set forth in an acceptable use policy or  
13          terms of service;”;

14          (B) by striking paragraph (10);

15          (C) by redesignating paragraphs (11) and  
16          (12) as paragraphs (10) and (11), respectively;

17          (D) in paragraph (10), as so redesignated,  
18          by striking “and”;

19          (E) in paragraph (11), as so redesignated,  
20          by striking the period at the end and inserting  
21          a semicolon; and

22          (F) by adding at the end the following:

23          “(12) the term ‘online service’—

24                 “(A) means an electronic communication  
25                 service (as defined in section 2510) to the pub-

1           lic, a remote computing service (as defined in  
2           section 2711), or other service that provides  
3           content or computing services to the public over  
4           the Internet; and

5                 “(B) does not include an enterprise serv-  
6           ice;

7                 “(13) the term ‘enterprise service’ means any  
8           electronic communication service (as defined in sec-  
9           tion 2510) to the public, remote computing service  
10          (as defined in section 2711), or other service that  
11          provides content or computing services to the public  
12          for which the user, customer, or subscriber has paid,  
13          or on whose behalf has been paid, more than  
14          \$10,000 in a calendar year in exchange for the right  
15          to access or use the service; and

16                 “(14) the term ‘traffic’, except as provided in  
17          subsection (a)(6), means transfer, or otherwise dis-  
18          pose of, to another as consideration for the receipt  
19          of, or as consideration for a promise or agreement  
20          to pay, anything of pecuniary value.”;

21                 (4) in subsection (g), in the first sentence, by  
22          inserting “, except for a violation of subsection  
23          (a)(6),” after “of this section”; and

24                 (5) by striking subsections (i) and (j) and in-  
25          serting the following:

1 “(i) CRIMINAL FORFEITURE.—

2 “(1) IN GENERAL.—The court, in imposing a  
3 sentence on any person convicted of a violation of  
4 this section, or convicted of conspiracy to violate this  
5 section, shall order, in addition to any other sen-  
6 tence imposed and irrespective of any provision of  
7 State law, that such person forfeit to the United  
8 States—

9 “(A) such person’s interest in any prop-  
10 erty, real or personal, that was used or intended  
11 to be used to commit or to facilitate the com-  
12 mission of such violation; and

13 “(B) any property, real or personal, consti-  
14 tuting or derived from any gross proceeds, or  
15 any property traceable to such property, that  
16 such person obtained or retained, directly or in-  
17 directly, as a result of such violation.

18 “(2) FORFEITURE PROCEDURES.—Pursuant to  
19 section 2461(c) of title 28, the provisions of section  
20 413 of the Controlled Substances Act (21 U.S.C.  
21 853), other than subsection (d) thereof, shall apply  
22 to criminal forfeitures under this subsection.

23 “(j) CIVIL FORFEITURE.—

24 “(1) IN GENERAL.—The following shall be sub-  
25 ject to forfeiture to the United States in accordance



1 with chapter 46, and no property right shall exist in  
2 them:

3 “(A) Any property, real or personal, used  
4 or intended to be used, in any manner—

5 “(i) to commit, or facilitate the com-  
6 mission of, a violation of this section; or

7 “(ii) in a conspiracy to violate this  
8 section.

9 “(B) Any property, real or personal, con-  
10 stituting or traceable to the gross proceeds  
11 taken, obtained, or retained in connection with  
12 or as a result of—

13 “(i) a violation of this section; or

14 “(ii) a conspiracy to violate this sec-  
15 tion.

16 “(2) FORFEITURE PROCEDURES.—Seizures and  
17 forfeitures under this subsection shall be governed  
18 by the provisions of chapter 46 that apply to civil  
19 forfeitures, except that such duties as are imposed  
20 on the Secretary of the Treasury under the customs  
21 laws described in section 981(d) shall be performed  
22 by such officers, agents, and other persons as may  
23 be designated for that purpose by the Secretary of  
24 Homeland Security or the Attorney General.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 2 Section 7431(e)(3) of the Internal Revenue Code of 1986  
 3 is amended by striking “subparagraph (B)” and inserting  
 4 “subparagraph (B)(iii)”.

5 **TITLE IV—ESPIONAGE, THEFT**  
 6 **OF TRADE SECRETS, AND IM-**  
 7 **PROPER INTERFERENCE IN**  
 8 **UNITED STATES ELECTIONS**

9 **SEC. 401. ESPIONAGE, THEFT OF TRADE SECRETS, THEFT**  
 10 **OF INTELLECTUAL PROPERTY, INVOLVE-**  
 11 **MENT IN COMMERCIAL FRAUD SCHEMES,**  
 12 **AND IMPROPER INTERFERENCE IN UNITED**  
 13 **STATES ELECTIONS.**

14 (a) DEFINITIONS.—Section 101(a) of the Immigra-  
 15 tion and Nationality Act (8 U.S.C. 1101(a)) is amended  
 16 by adding at the end the following:

17 “(53)(A) The term ‘espionage’ means con-  
 18 duct—

19 “(i) in violation of—

20 “(I) the Act of June 15, 1917 (40  
 21 Stat. 217, chapter 30) (commonly known  
 22 as the ‘Espionage Act of 1917’);

23 “(II) chapter 90 of title 18, United  
 24 States Code (commonly known as the ‘Eco-  
 25 nomic Espionage Act of 1996’); or

1           “(III) any other Federal criminal law  
2 relating to an activity described in clause  
3 (ii); or

4           “(ii)(I) by an alien who is under the direc-  
5 tion of—

6           “(aa) a foreign government; or

7           “(bb) an intermediary individual or  
8 entity that seeks to serve, support, or ben-  
9 efit a foreign government; and

10          “(II) with respect to confidential informa-  
11 tion, that constitutes—

12          “(aa) stealing or, without authoriza-  
13 tion, appropriating, taking, carrying away,  
14 concealing, or, by fraud, artifice, or decep-  
15 tion, obtaining such information;

16          “(bb) without authorization, copying,  
17 duplicating, sketching, drawing,  
18 photographing, downloading, uploading, al-  
19 tering, destroying, photocopying, repli-  
20 cating, transmitting, delivering, sending,  
21 mailing, communicating, or conveying such  
22 information; or

23          “(cc) receiving, buying, or possessing  
24 such information, knowing that the infor-  
25 mation has been stolen or appropriated,

1           obtained, or converted without authoriza-  
2           tion.

3           “(B) The term ‘espionage’ includes economic  
4           espionage.

5           “(54) The term ‘improper interference in a  
6           United States election’ means conduct by an alien  
7           that—

8                 “(A)(i) violates Federal criminal, voting  
9                 rights, or campaign finance law; or

10                “(ii) is under the direction of—

11                         “(I) a foreign government; or

12                         “(II) an intermediary individual or  
13                         entity that seeks to serve, support, or ben-  
14                         efit a foreign government; and

15                 “(B) interferes with a general or primary  
16                 Federal, State, or local election or caucus, in-  
17                 cluding—

18                         “(i) the campaign of a candidate; and

19                         “(ii) a ballot measure, including—

20                                 “(I) an amendment;

21                                 “(II) a bond issue;

22                                 “(III) an initiative;

23                                 “(IV) a recall;

24                                 “(V) a referral; and

25                                 “(VI) a referendum.

1           “(55) The term ‘theft of a trade secret’ means  
2           conduct—

3                   “(A) in violation of—

4                           “(i) chapter 90 of title 18, United  
5                           States Code (commonly known as the ‘Eco-  
6                           nomic Espionage Act of 1996’); or

7                           “(ii) any other Federal criminal law  
8                           relating to an activity described in sub-  
9                           paragraph (B); or

10                   “(B)(i) by an alien who is under the direc-  
11                   tion of—

12                           “(I) a foreign government; or

13                           “(II) an intermediary individual or  
14                           entity that seeks to serve, support, or ben-  
15                           efit a foreign government; and

16                           “(ii) with respect to a trade secret relating  
17                   to a product or service used or intended for use  
18                   in interstate or foreign commerce, that con-  
19                   stitutes—

20                           “(I) stealing or, without authoriza-  
21                           tion, appropriating, taking, carrying away,  
22                           concealing, or, by fraud, artifice, or decep-  
23                           tion, obtaining such trade secret for the  
24                           economic benefit of any person other than  
25                           the owner of the trade secret;

1           “(II) without authorization, copying,  
2           duplicating, sketching, drawing,  
3           photographing, downloading, uploading, al-  
4           tering, destroying, photocopying, repli-  
5           cating, transmitting, delivering, sending,  
6           mailing, communicating, or conveying such  
7           trade secret; or

8           “(III) receiving, buying, or possessing  
9           such trade secret, knowing that the trade  
10          secret has been stolen or appropriated, ob-  
11          tained, or converted without authoriza-  
12          tion.”.

13          (b) INADMISSIBILITY.—Section 212(a)(3) of the Im-  
14          migration and Nationality Act (8 U.S.C. 1182(a)(3)) is  
15          amended by adding at the end the following:

16                 “(H) ESPIONAGE AND THEFT OF TRADE  
17                 SECRETS.—An alien is inadmissible if a con-  
18                 sular officer, the Secretary of Homeland Secu-  
19                 rity, the Secretary of State, or the Attorney  
20                 General knows, or has reasonable grounds to  
21                 believe—

22                         “(i) the alien is seeking admission or  
23                         sought admission to the United States to  
24                         engage in espionage or theft of a trade se-  
25                         cret;

1           “(ii) the alien has engaged or intends  
2           to engage in espionage or theft of a trade  
3           secret; or

4           “(iii) the affiliation or activities of the  
5           alien with, or the control of the alien by,  
6           an individual, an entity, or a funding  
7           mechanism known or reasonably believed  
8           to be engaged in, or to have the intention  
9           of engaging in, espionage or theft of a  
10          trade secret.

11          “(I) IMPROPER INTERFERENCE IN A  
12          UNITED STATES ELECTION.—Any alien who a  
13          consular officer, the Secretary of Homeland Se-  
14          curity, the Secretary of State, or the Attorney  
15          General knows, or has reasonable grounds to  
16          believe, is seeking admission to the United  
17          States to engage in improper interference in a  
18          United States election, or who has engaged in  
19          improper interference in a United States elec-  
20          tion, is inadmissible.”.

21          (c) DEPORTABILITY.—Section 237(a) of the Immi-  
22          gration and Nationality Act (8 U.S.C. 1227(a)) is amend-  
23          ed by adding at the end the following:

24                 “(8) ESPIONAGE AND THEFT OF TRADE SE-  
25                 CRETS.—Any alien who has engaged, is engaged, or

1 at any time after admission engages in espionage or  
 2 theft of a trade secret is deportable.

3 “(9) IMPROPER INTERFERENCE IN A UNITED  
 4 STATES ELECTION.—Any alien who has engaged, is  
 5 engaged, or at any time after admission engages in  
 6 improper interference in a United States election is  
 7 deportable.”.

8 **SEC. 402. VISA AND NONIMMIGRANT STATUS RESTRIC-**  
 9 **TIONS.**

10 (a) PERIOD OF AUTHORIZED STAY FOR CERTAIN  
 11 CITIZENS AND NATIONALS OF THE PEOPLE’S REPUBLIC  
 12 OF CHINA.—Section 214(a)(2) of the Immigration and  
 13 Nationality Act (8 U.S.C. 1184(a)(2)) is amended by add-  
 14 ing at the end the following:

15 “(C)(i) The period of authorized stay for a cit-  
 16 izen or national of the People’s Republic of China  
 17 who seeks admission to the United States as a non-  
 18 immigrant described in subparagraph (F), (J), or  
 19 (M) of section 101(a)(15) to study, research, teach,  
 20 or work in any field described in the most recent  
 21 technology alert list of the Department of State or  
 22 in section 221(j)(1)—

23 “(I) shall be—

24 “(aa) a fixed period of not more than  
 25 4 years; or



1           “(bb) the length of the program iden-  
2           tified on the Form I–20, Certificate of Eli-  
3           gibility for Nonimmigrant Student Status,  
4           or the Form DS–2019, Certificate of Eligi-  
5           bility for Exchange Visitor Status, as ap-  
6           plicable, of such citizen or national of the  
7           People’s Republic of China; and

8           “(II) may be extended by the Secretary of  
9           Homeland Security for 1 or more additional pe-  
10          riods of not more than 2 years.

11          “(ii) This subparagraph shall not apply to any  
12          national of Hong Kong or Macau.”.

13          (b) PROHIBITION ON ISSUANCE OF VISAS TO CER-  
14          TAIN CITIZENS AND NATIONALS OF THE PEOPLE’S RE-  
15          PUBLIC OF CHINA.—Section 221 of the Immigration and  
16          Nationality Act (8 U.S.C. 1201) is amended by adding  
17          at the end the following:

18          “(j) PROHIBITION ON ISSUANCE OF VISAS TO CER-  
19          TAIN CITIZENS AND NATIONALS OF THE PEOPLE’S RE-  
20          PUBLIC OF CHINA.—

21                 “(1) IN GENERAL.—The Secretary of State  
22                 shall deny a visa to, and the Secretary of Homeland  
23                 Security shall not admit into the United States, or  
24                 grant a change of nonimmigrant status to, an alien  
25                 who is a citizen or national of the People’s Republic

1 of China if the Secretary of State or the Secretary  
2 of Homeland Security determines that the alien—

3 “(A) presents a risk to national security;

4 or

5 “(B) otherwise seeks to enter the United  
6 States to participate in graduate-level  
7 coursework or research at an institution of  
8 higher education (as defined in section 101(a)  
9 of the Higher Education Act of 1965 (20  
10 U.S.C. 1001(a))) in a field described in para-  
11 graph (2).

12 “(2) FIELDS DESCRIBED.—The fields described  
13 in this paragraph are—

14 “(A) the military or intelligence sector;

15 “(B) the energy sector;

16 “(C) nuclear science or nuclear engineer-  
17 ing;

18 “(D) high-end numerical control machinery  
19 and robotics;

20 “(E) autonomous systems or machine  
21 learning;

22 “(F) artificial intelligence;

23 “(G) production and application of high-  
24 performance medical devices;

25 “(H) semiconductors;

1 “(I) new energy vehicles;

2 “(J) mobile phone technology;

3 “(K) next-generation information tech-  
4 nology;

5 “(L) aviation, aeronautics, or space;

6 “(M) biomedicine; and

7 “(N) any related field, as determined by  
8 the Secretary of State or the Secretary of  
9 Homeland Security.

10 “(3) TERMINATION OF STATUS.—

11 “(A) IN GENERAL.—With respect to an  
12 alien who is a citizen or national of the People’s  
13 Republic of China who has been admitted to the  
14 United States as a nonimmigrant described in  
15 subparagraph (F), (J), or (M) of section  
16 101(a)(15), the Secretary of Homeland Security  
17 shall terminate the status and employment au-  
18 thorization of, and revoke any petition approval  
19 of or on behalf of, the alien if the Secretary de-  
20 termines that after such admission the alien—

21 “(i) has engaged in an activity or af-  
22 filiation that presents a risk to national se-  
23 curity; or

24 “(ii) has changed his or her program,  
25 course of study, research, or employment

1 to graduate-level coursework or research at  
2 an institution of higher education in a field  
3 described in paragraph (2).

4 “(B) FAILURE TO MAINTAIN NON-  
5 IMMIGRANT STATUS.—Any change or attempted  
6 change described in subparagraph (A) shall be  
7 considered to be a failure to maintain non-  
8 immigrant status under this Act.

9 “(4) INAPPLICABILITY TO NATIONALS OF HONG  
10 KONG AND MACAU.—This subsection shall not apply  
11 to any national of Hong Kong or Macau.”

12 (c) APPLICABILITY.—The amendments made by this  
13 section shall apply with respect to—

14 (1) any visa application filed on or after the  
15 date of the enactment of this Act; and

16 (2) the status of any alien, except for a national  
17 of Hong Kong or Macau, who—

18 (A) is a citizen or national of the People’s  
19 Republic of China, regardless of the country of  
20 the passport presented by, or the country of  
21 residence of, the alien;

22 (B) before, on, or after the date of the en-  
23 actment of this Act, has been or is admitted to  
24 the United States as a nonimmigrant described  
25 in subparagraph (F), (J), or (M) of section

1           101(a)(15) of the Immigration and Nationality  
2           Act (8 U.S.C. 1101(a)(15)); and

3           (C) has changed or changes his or her pro-  
4           gram, course of study, research, or employment  
5           to graduate-level coursework or research at an  
6           institution of higher education (as defined in  
7           section 101(a) of the Higher Education Act of  
8           1965 (20 U.S.C. 1001(a))) in a field described  
9           in section 221(j)(1) of the Immigration and Na-  
10          tionality Act (as added by subsection (b)).

11                   **TITLE V—GOVERNMENT-**  
12           **FUNDED RESEARCH PROJECTS**

13   **SEC. 501. FINDINGS.**

14           Congress find the following:

15           (1) The People’s Republic of China (referred to  
16           in this subsection as “the PRC” or “China”) poses  
17           an existential threat to the economic interests and  
18           national security of the United States, in part due  
19           to the continued efforts of the PRC to steal sensitive  
20           technology and proprietary information from compa-  
21           nies, academic institutions, and other organizations  
22           of the United States through economic espionage  
23           and other forms of nontraditional espionage.

24           (2) The PRC, through the Chinese Communist  
25           Party (referred to in this subsection as the “CCP”),

1 has long had an interest in replacing the United  
2 States as the world’s foremost superpower. China  
3 takes a holistic approach towards achieving its long-  
4 term goals, which are rooted in the concept of a  
5 comprehensive national power, including achieving  
6 dominance in economics, military affairs, science and  
7 technology, education, and global influence.

8 (3) Nontraditional forms of espionage serve as  
9 primary tools to further the goals of the CCP. Those  
10 tools include talent recruitment programs designed  
11 to recruit Chinese nationals to acquire knowledge  
12 about—and, often, steal—valuable and sensitive re-  
13 search at universities and research institutions  
14 abroad, and to lure foreign experts to China to work  
15 on key strategic programs. More broadly, the PRC  
16 uses mergers and acquisitions or joint ventures as a  
17 means to gain access to high-level technology, uses  
18 cyber intrusions to steal information, and uses front  
19 companies for PRC-related entities to acquire ex-  
20 port-controlled technology.

21 (4) In 2015, President Xi Jinping of the PRC  
22 released the “Made in China 2025” initiative, a 10-  
23 year plan to update the manufacturing base of  
24 China by developing the following 10 high-tech in-  
25 dustries:

1           (A) Electric cars and other new energy ve-  
2           hicles.

3           (B) Next-generation information tech-  
4           nology and telecommunications.

5           (C) Advanced robotics and artificial intel-  
6           ligence.

7           (D) Aerospace equipment.

8           (E) Bio-medicine and high-end medical  
9           equipment.

10          (F) Ocean engineering equipment and  
11          high-end vessels.

12          (G) High-end rail transportation equip-  
13          ment.

14          (H) Electrical equipment.

15          (I) Farming machines.

16          (J) New materials, such as polymers.

17          (5) In attempting to overtake the United States  
18          and achieve its Made in China 2025 goals, China  
19          has systematically sought to identify areas of Amer-  
20          ican innovation, education, and technology that  
21          could be replicated, stolen, or appropriated.

22          (6) The very nature of the open society of the  
23          United States—a free market economy that  
24          incentivizes creativity and ingenuity and promotes  
25          the free flow of capital and ideas, a higher education

1 system and scientific research community that en-  
2 courages collaboration domestically and internation-  
3 ally, and a liberal democratic government that lacks  
4 a top-down, authoritarian structure—creates oppor-  
5 tunities for the PRC to target the United States in  
6 ways that are either not adequately protected or not  
7 even anticipated as possible threats.

8 (7) The Director of the Federal Bureau of In-  
9 vestigation has assessed that “there’s no country  
10 that’s even close” to the PRC when it comes to for-  
11 eign espionage, in traditional or nontraditional  
12 forms.

13 (8) As the 2018 Foreign Economic Espionage  
14 in Cyberspace report of the National Counterintel-  
15 ligence and Security Center (commonly known as the  
16 “NCSC”) stated, China has expansive efforts in  
17 place to acquire United States technology, including  
18 sensitive trade secrets and proprietary information.  
19 China continues to use cyber espionage to support  
20 its strategic development goals—science and tech-  
21 nology advancement, military modernization, and  
22 economic policy objectives. Chinese companies and  
23 individuals often acquire United States technology  
24 for commercial and scientific purposes.



1           (9) In April 2020, the Office of the United  
2 States Trade Representative (referred to in this sub-  
3 section as the “USTR”) issued its annual Special  
4 301 Report, in which the USTR reviews the state of  
5 intellectual property protection and enforcement in  
6 trading partners of the United States around the  
7 world. The USTR continues to place China on the  
8 Priority Watch List, which reflects “United States  
9 concerns with China’s system of pressuring and co-  
10 ercing technology transfer, and the continued need  
11 for fundamental structural changes to strengthen IP  
12 protection and enforcement, including as to trade se-  
13 cret theft, obstacles to protecting trademarks, online  
14 piracy and counterfeiting, the high-volume manufac-  
15 turing and export of counterfeit goods, and impedi-  
16 ments to pharmaceutical innovation.”.

17           (10) The theft of intellectual property, trade se-  
18 crets, sensitive technology, and scientific and other  
19 academic research all contribute to China’s goal of  
20 achieving preeminent superpower status. China’s  
21 failure to respect intellectual property rights, failure  
22 to adhere to the rule of law, and efforts to obtain  
23 intellectual property, trade secrets, technology, and  
24 research through improper or illicit means all pose

1 a significant economic and national security threat  
2 to the United States.

3 (11) In recent years, China has increased its  
4 use of nontraditional espionage to target colleges  
5 and universities in the United States, particularly  
6 with respect to cutting edge research and tech-  
7 nologies being developed by such universities, includ-  
8 ing technology that has military applications.

9 (12) The universities of the United States pro-  
10 vide fertile ground for nontraditional espionage given  
11 the open, international, and collaborative nature of  
12 most university research and the legitimate interest  
13 of universities in encouraging international collabo-  
14 ration.

15 (13) While the United States benefits from at-  
16 tracting the top research talent from around the  
17 world, universities nevertheless must take appro-  
18 priate measures to ensure that China is not able to  
19 use academic collaboration to steal United States in-  
20 tellectual property or engage in other activities that  
21 might harm the national security of the United  
22 States.

23 (14) In response to the increased wave of non-  
24 traditional espionage over recent years, the Depart-  
25 ment of Justice launched a China Initiative in 2018.

1 The goal of the China Initiative is to identify and  
2 prosecute individuals and entities engaged in eco-  
3 nomic and other nontraditional espionage, trade se-  
4 cret theft, hacking, and other crimes, while pro-  
5 tecting critical infrastructure against external  
6 threats and combating covert efforts to influence the  
7 American public.

8 (15) Several recent criminal and civil enforce-  
9 ment actions taken by the Department of Justice  
10 highlight China’s pervasive and illegal targeting of  
11 intellectual property and valuable research from  
12 United States universities, including the following:

13 (A) Dr. Qing Wang was a former employee  
14 of the Cleveland Clinic Foundation. He had re-  
15 ceived more than \$3,000,000 in grant funding  
16 from the National Institutes of Health (com-  
17 monly known as “NIH”). Dr. Wang was  
18 charged in a criminal complaint with knowingly  
19 failing to disclose to NIH that he was Dean of  
20 the College of Life Sciences and Technology at  
21 the Huazhong University of Science and Tech-  
22 nology (referred to in this subparagraph as  
23 “HUST”) and received grant funds from the  
24 National Natural Science Foundation of China  
25 for some of the same scientific research funded

1 by NIH. Dr. Wang also allegedly participated  
2 in the Thousand Talents Program, for which  
3 China provided \$3,000,000 in research support  
4 to enhance the facilities and operations at  
5 HUST. Federal law enforcement agencies ar-  
6 rested Dr. Wang in May 2020.

7 (B) Dr. James Patrick Lewis was a  
8 tenured professor at West Virginia University  
9 in the physics department from 2006 to 2019.  
10 In July 2017, Dr. Lewis entered into a contract  
11 of employment with the PRC through its Global  
12 Experts Thousand Talents Plan. In March  
13 2020, Dr. Lewis pled guilty to 1 count of Fed-  
14 eral program fraud.

15 (C) Anming Hu, an Associate Professor in  
16 the Department of Mechanical, Aerospace, and  
17 Biomedical Engineering at the University of  
18 Tennessee, Knoxville (commonly known as  
19 “UT”), allegedly engaged in a scheme to de-  
20 fraud the National Aeronautics and Space Ad-  
21 ministration (commonly known as “NASA”) by  
22 concealing his affiliation with Beijing University  
23 of Technology (referred to in this subparagraph  
24 as “BJUT”). Hu’s false representations to UT  
25 about his affiliation with BJUT caused UT to

1 falsely certify to NASA that UT was in compli-  
2 ance with Federal law. In February 2020, Mr.  
3 Hu was indicted on Federal charges of wire  
4 fraud and false statements.

5 (D) Dr. Charles Lieber served as the Prin-  
6 cipal Investigator of the Lieber Research Group  
7 at Harvard University, which specialized in the  
8 area of nanoscience. Dr. Lieber had received  
9 more than \$15,000,000 in grant funding from  
10 NIH and the Department of Defense since  
11 2008. Unbeknownst to Harvard University, be-  
12 ginning in 2011, Lieber allegedly became a  
13 “Strategic Scientist” at Wuhan University of  
14 Technology in China (referred to in this sub-  
15 paragraph as “WUT”) and was a contractual  
16 participant in the Thousand Talents Plan from  
17 2012 to 2017. Under the terms of the Thou-  
18 sand Talents contract, WUT paid Lieber  
19 \$50,000 per month, paid him living expenses of  
20 up to approximately \$158,000, and awarded  
21 him more than \$1,500,000 to establish a re-  
22 search lab at WUT. In return, Lieber was obli-  
23 gated to work for WUT for 9 months per year.  
24 Lieber lied about his involvement with WUT to  
25 both Harvard University and Federal investiga-

1           tors. In January 2020, Lieber was arrested and  
2           charged with making a materially false, ficti-  
3           tious and fraudulent statement.

4           (E) In January 2020, Yanqing Ye, a Chi-  
5           nese national, Lieutenant of the People’s Lib-  
6           eration Army (referred to in this subparagraph  
7           as the “PLA”), and member of the CCP, was  
8           indicted on visa fraud, false statements, and  
9           acting as an agent of a foreign power without  
10          prior notification. Ye allegedly falsely identified  
11          as a student and lied about her ongoing mili-  
12          tary service at the National University of De-  
13          fense Technology. While studying at Boston  
14          University’s Department of Physics, Chemistry,  
15          and Biomedical Engineering, Ye continued to  
16          work as a PLA Lieutenant and completed as-  
17          signments from PLA officers, including con-  
18          ducting research, assessing United States mili-  
19          tary websites, and sending United States docu-  
20          ments and information to China.

21          (F) In January 2020, Zaoson Zheng, a  
22          Chinese national, was arrested at Logan Air-  
23          port in Boston and charged with attempting to  
24          smuggle 21 vials of biological research to  
25          China. Zheng had allegedly entered the United

1 States in 2018 on a J-1 visa and conducted  
2 cancer cell research at Beth Israel Deaconess  
3 Medical Center in Boston. Zheng admitted he  
4 stole the vials from a lab at Beth Israel, and  
5 that he intended to bring the vials to China, use  
6 them to conduct research in his own laboratory,  
7 and publish the results under his own name.

8 (G) In December 2019, the Van Andel Re-  
9 search Institute (referred to in this subpara-  
10 graph as “VARI”) reached a settlement with  
11 the Department of Justice to pay \$5,500,000 to  
12 resolve allegations that it violated the law com-  
13 monly known as the False Claims Act (section  
14 3729 through 3733 of title 31, United States  
15 Code) by failing to disclose, in Federal grant  
16 applications and progress reports submitted to  
17 NIH, that the Chinese government funded 2  
18 VARI researchers through grants. The VARI  
19 researchers were receiving research funding  
20 from Chinese sources while VARI was applying  
21 for and receiving NIH funding on their behalf.

22 (H) In September 2019, Yu Zhou and Li  
23 Chen were charged with crimes related to steal-  
24 ing exosome-related trade secrets. Zhou and  
25 Chen, spouses who worked in separate medical

1 research labs at the Nationwide Children’s Hos-  
2 pital Research Institute, conspired to steal sci-  
3 entific trade secrets related to exosomes and  
4 exosome isolation from the Research Institute.  
5 The couple allegedly founded a company in  
6 China without the hospital’s knowledge. While  
7 employed at the Research Institute, they mar-  
8 keted products and services related to exosome  
9 isolation through their Chinese company. They  
10 also founded an American biotechnology com-  
11 pany advertising products and services related  
12 to exosomes isolation, including a kit developed  
13 from a trade secret created at a Nationwide  
14 Children’s research lab. They eventually re-  
15 ceived more than \$876,000 and stock related to  
16 an asset purchase agreement involving the  
17 American company.

18 (I) In August 2019, Feng Tao, an asso-  
19 ciate professor at Kansas University, was in-  
20 dicted on Federal charges for concealing the  
21 fact that he was a full-time employee for  
22 Fuzhou University in China while doing re-  
23 search at Kansas University funded by the  
24 United States Government. Tao allegedly de-  
25 frauded the United States Government by un-



1 lawfully receiving Federal grant money at the  
2 same time that he was employed and paid by a  
3 Chinese research university.

4 (J) Weiqiang Zhang, a Chinese national  
5 and United States legal permanent resident, ac-  
6 quired, without authorization, hundreds of rice  
7 seeds produced by his employer, Ventria Bio-  
8 science. Ventria is a Kansas biopharmaceutical  
9 research facility that develops genetically pro-  
10 grammed rice to express recombinant human  
11 proteins, which are then extracted for use in the  
12 therapeutic and medical fields. Ventria spent  
13 millions of dollars and years of research devel-  
14 oping its seeds and cost-effective methods to ex-  
15 tract the proteins. Ventria used locked doors  
16 with magnetic card readers to restrict access to  
17 the temperature-controlled environment where  
18 the seeds were stored and processed. Zhang  
19 worked as a rice breeder for Ventria. In 2013,  
20 personnel from a crop research institute in  
21 China visited Zhang at his home in Kansas.  
22 Zhang drove the visitors to tour facilities in sev-  
23 eral States. United States Customs and Border  
24 Protection officers found seeds belonging to  
25 Ventria in the luggage of Zhang's visitors as

1           they prepared to leave the United States for  
2           China. In April 2018, Zhang was sentenced to  
3           121 months in a Federal prison after having  
4           been convicted in February 2017 of 1 count of  
5           conspiracy to steal trade secrets, 1 count of  
6           conspiracy to commit interstate transportation  
7           of stolen property, and 1 count of interstate  
8           transportation of stolen property.

9           (16) It remains a national security priority for  
10          the United States to protect the research and inno-  
11          vation developed in United States colleges and uni-  
12          versities from misappropriation by any country, in-  
13          cluding the PRC.

14 **SEC. 502. DEFINITIONS.**

15          In this title:

16               (1) **AGENCY HEAD.**—The term “agency head”,  
17               with respect to a covered research project, means the  
18               head of the covered agency providing the funding for  
19               the covered research project.

20               (2) **COVERED AGENCY.**—The term “covered  
21               agency” means—

22                       (A) the Department of Defense;

23                       (B) the Department of Energy; and

1 (C) an element of the intelligence commu-  
2 nity, as defined in section 3 of the National Se-  
3 curity Act of 1947 (50 U.S.C. 3003).

4 (3) COVERED COUNTRY.—The term “covered  
5 country” means—

6 (A) the People’s Republic of China; and

7 (B) any other country designated by the  
8 Director, based on findings similar to the find-  
9 ings under subsection (a), which shall include  
10 consideration of—

11 (i) whether the country poses an exis-  
12 tential threat to the economic interests and  
13 national security of the United States;

14 (ii) whether the country engages in  
15 persistent efforts to steal sensitive tech-  
16 nology and proprietary information from  
17 companies, academic institutions, and  
18 other organizations of the United States  
19 through economic espionage and other  
20 forms of nontraditional espionage;

21 (iii) whether nontraditional forms of  
22 espionage serve as primary tools to further  
23 the goals of the country;

1 (iv) whether the nontraditional forms  
2 of espionage described in clause (iii) in-  
3 clude—

4 (I) talent recruitment programs  
5 designed to recruit the country's na-  
6 tionals to acquire knowledge about—  
7 and, often, steal—valuable and sen-  
8 sitive research at universities and re-  
9 search institutions abroad;

10 (II) luring foreign experts to the  
11 country to work on key strategic pro-  
12 grams;

13 (III) using mergers and acquisi-  
14 tions or joint ventures as a means to  
15 gain access to high-level technology;

16 (IV) using cyber intrusions to  
17 steal information; and

18 (V) using front companies for  
19 state-affiliated entities to acquire ex-  
20 port-controlled technology;

21 (v) whether the country has system-  
22 atically sought to identify areas of United  
23 States innovation, education, and tech-  
24 nology that could be replicated, stolen, or  
25 appropriated; and

1 (vi) whether the Office of the United  
2 States Trade Representative has placed the  
3 country on the Priority Watch List.

4 (4) COVERED PERSON.—The term “covered  
5 person” means an individual or institution of higher  
6 education that has a financial relationship with—

7 (A) a covered country;

8 (B) a political party within a covered coun-  
9 try;

10 (C) a person who acts as an agent, rep-  
11 resentative, employee, or servant of a covered  
12 country; or

13 (D) a person who acts in any other capac-  
14 ity at the order or request, or under the direc-  
15 tion or control, of a covered country.

16 (5) COVERED RESEARCH PROJECT.—The term  
17 “covered research project” means a research project  
18 at an institution of higher education—

19 (A) that is funded in whole or in part by  
20 a covered agency; and

21 (B) the subject of which is—

22 (i) an item subject to the Export Con-  
23 trol Reform Act of 2018 (20 U.S.C. 4801  
24 et seq.);

1 (ii) an item listed on the Commerce  
2 Control List (commonly known as the  
3 “CCL”) set forth in Supplement No. 1 to  
4 part 774 of title 15, Code of Federal Regu-  
5 lations; or

6 (iii) an item listed on the United  
7 States Munitions List under section  
8 38(a)(1) of the Arms Export Control Act  
9 (22 U.S.C. 2778(a)(1)).

10 (6) DIRECTOR.—The term “Director” means  
11 the Director of National Intelligence.

12 (7) FINANCIAL RELATIONSHIP.—The term “fi-  
13 nancial relationship” means—

14 (A) any arrangement under which com-  
15 pensation is provided, directly or indirectly, by  
16 a covered country, or another entity or person  
17 described in subparagraph (B), (C), or (D) of  
18 paragraph (4), to—

19 (i) a covered person; or

20 (ii) an institution of higher education;

21 or

22 (B) any direct or indirect ownership or in-  
23 vestment interest by a covered country, or an-  
24 other entity or person described in subpara-

1 graph (B), (C), or (D) of paragraph (4), in an  
 2 institution of higher education.

3 (8) INSTITUTION OF HIGHER EDUCATION.—The  
 4 term “institution of higher education” has the  
 5 meaning given the term in section 101(a) of the  
 6 Higher Education Act of 1965 (20 U.S.C. 1001(a)).

7 **SEC. 503. APPROVAL OF COVERED PERSONS IN SENSITIVE**  
 8 **GOVERNMENT-FUNDED RESEARCH**  
 9 **PROJECTS.**

10 (a) APPROVAL REQUIRED.—

11 (1) IN GENERAL.—A covered person may not  
 12 participate in a covered research project unless the  
 13 covered person applies for and receives approval  
 14 from the agency head to participate.

15 (2) REQUIREMENTS.—An agency head may not  
 16 approve a covered person to participate in a covered  
 17 research project unless the agency head—

18 (A) performs a background check on the  
 19 covered person in consultation with the Direc-  
 20 tor; and

21 (B) collects any other relevant information  
 22 about the covered person that the agency head  
 23 determines appropriate, except any information  
 24 pertaining to United States persons that the

1           agency head is prohibited by law from col-  
2           lecting.

3           (b) PENALTY.—If an agency head determines that a  
4 covered person participating in a covered research project  
5 commenced on the date of enactment of this section has  
6 violated subsection (a), the agency head may—

7           (1) impose a probationary period, not to exceed  
8           6 months, on the head of the project or the project;

9           (2) reduce, limit, or eliminate the funding for  
10          the project until the violation is remedied;

11          (3) permanently eliminate the funding for the  
12          project; or

13          (4) take any other action determined appro-  
14          priate by the agency head.

15 **SEC. 504. DISCLOSURE OF RESEARCH ASSISTANCE FROM**  
16 **FOREIGN GOVERNMENTS.**

17          (a) IN GENERAL.—Chapter 45 of title 18, United  
18 States Code, is amended by inserting after section 951 the  
19 following:

20 **“§ 951A. Disclosure of research assistance from for-**  
21 **eign governments**

22          “(a) DEFINITIONS.—In this section—

23                 “(1) the terms ‘agent of a foreign principal’  
24                 and ‘foreign principal’ have the meanings given



1 those terms in section 1 of the Foreign Agents Reg-  
2 istration Act of 1938, as amended (22 U.S.C. 611);

3 “(2) the term ‘covered research project’ has the  
4 meaning given the term in section 502 of the Com-  
5 bating Chinese Purloining of Trade Secrets Act; and

6 “(3) the term ‘institution of higher education’  
7 has the meaning given the term in section 101 of the  
8 Higher Education Act of 1965 (20 U.S.C. 1001).

9 “(b) FUNDING AND OTHER ASSISTANCE.—

10 “(1) FAILURE TO DISCLOSE FOREIGN FUND-  
11 ING.—

12 “(A) OFFENSE.—It shall be unlawful for a  
13 person, while applying for or accepting a grant  
14 or other funding from an agency of the United  
15 States for a covered research project, to know-  
16 ingly and willfully fail to disclose to the agency  
17 any grant or other funding that the person has  
18 received or will receive for the same project  
19 from a foreign principal or an agent of a for-  
20 eign principal, including through an inter-  
21 mediary.

22 “(B) PENALTY.—Any person who violates  
23 subparagraph (A) shall be fined under this title,  
24 imprisoned for not more than 3 years, or both.

1           “(2) FAILURE TO DISCLOSE MATERIAL  
2           FACTS.—

3           “(A) OFFENSE.—It shall be unlawful for a  
4           person, while applying for or accepting a grant  
5           or other funding from an agency of the United  
6           States for a covered research project, to know-  
7           ingly and willfully fail to disclose to the agency  
8           a material fact relating to a connection between  
9           a foreign country and the project that might  
10          substantially impact the decision of the agency  
11          to provide funding to the project, including the  
12          fact that a person providing any assistance, in-  
13          cluding financial assistance, to the project is—

14                   “(i) a national of a foreign country;

15                   “(ii) affiliated with an institution  
16                   comparable to an institution of higher edu-  
17                   cation of higher learning, or another orga-  
18                   nization, that is headquartered in or sub-  
19                   stantially funded by a foreign country; or

20                   “(iii) engaging in research activities  
21                   for the project in a foreign country.

22          “(B) PENALTY.—Any person who violates  
23          subparagraph (A) shall be fined under this title,  
24          imprisoned for not more than 1 year, or both.

1           “(3) INSTITUTIONS OF HIGHER EDUCATION.—

2           Any institution of higher education that knowingly  
3           and willfully fails to disclose to the appropriate  
4           agency of the United States that an officer, agent,  
5           or employee of the institution of higher education  
6           violated this subsection shall be fined not more than  
7           \$1,000,000 for each such violation.

8           “(c) TRANSMISSION OF INFORMATION.—

9           “(1) OFFENSE.—It shall be unlawful for any  
10          person, while applying for or accepting a grant or  
11          other funding from an agency of the United States  
12          for a covered research project, to knowingly transmit  
13          or attempt to transmit information gained in viola-  
14          tion of a contract to which the person is a party, in-  
15          cluding a contract regarding nondisclosure of infor-  
16          mation, employment, or the provision of goods or  
17          services, intending or knowing that the transmission  
18          will benefit a foreign principal or an agent of a for-  
19          eign principal.

20          “(2) PENALTY.—Any person who violates para-  
21          graph (1) shall be fined under this title, imprisoned  
22          for not more than 10 years, or both.”.

23          (b) TECHNICAL AND CONFORMING AMENDMENT.—

24          The table of sections for chapter 45 of title 18, United

- 1 States Code, is amended by inserting after the item relat-
- 2 ing to section 950 the following:

“951A. Disclosure of research assistance from foreign governments.”.

○