

118TH CONGRESS
1ST SESSION

S. _____

To enhance the research security protocols of the Department of Energy for the purpose of preventing theft of government research by nationals of foreign countries of concern, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To enhance the research security protocols of the Department of Energy for the purpose of preventing theft of government research by nationals of foreign countries of concern, 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.**

4 This Act may be cited as the “Securing American Re-
5 search from Foreign Adversaries Act” or the “SARFA
6 Act”.

1 **SEC. 2. RESEARCH SECURITY.**

2 Section 10114(a)(2) of the Research and Develop-
3 ment, Competition, and Innovation Act (42 U.S.C.
4 18912(a)(2)) is amended by striking “authorized” and all
5 that follows through the period at the end and inserting
6 “administered or provided, as applicable, by the Depart-
7 ment of Energy, including National Laboratories (as de-
8 fined in section 2 of the Energy Policy Act of 2005 (42
9 U.S.C. 15801)).”.

10 **SEC. 3. POLYGRAPH EXAMINATIONS FOR CERTAIN FOR-**
11 **IGN NATIONALS WITH ACCESS TO NON-**
12 **PUBLIC NATIONAL LABORATORY AREAS OR**
13 **INFORMATION.**

14 (a) DEFINITIONS.—In this section:

15 (1) COVERED FOREIGN NATIONAL.—

16 (A) IN GENERAL.—The term “covered for-
17 eign national” means a foreign national who—

18 (i) is a citizen or national of, or other-
19 wise owes allegiance to, a country that, as
20 of the date described in subparagraph (B),
21 is a foreign country of concern (as defined
22 in section 10612(a) of the Research and
23 Development, Competition, and Innovation
24 Act (42 U.S.C. 19221(a))); and

25 (ii) is not—

1 (I) a national of the United
2 States; or

3 (II) lawfully admitted for perma-
4 nent residence.

5 (B) DATE DESCRIBED.—The date referred
6 to in subparagraph (A)(i) is, as applicable—

7 (i) the date on which the foreign na-
8 tional begins work—

9 (I) in a position at a National
10 Laboratory; or

11 (II) in any other position at the
12 Department in which the foreign na-
13 tional will have access to nonpublic
14 areas, data, or information of a Na-
15 tional Laboratory; or

16 (ii) the date on which the foreign na-
17 tional is initially granted access to non-
18 public areas, data, or information of a Na-
19 tional Laboratory under a contract or
20 agreement with the Department.

21 (2) DEPARTMENT.—The term “Department”
22 means the Department of Energy.

23 (3) LAWFULLY ADMITTED FOR PERMANENT
24 RESIDENCE.—The term “lawfully admitted for per-
25 manent residence” has the meaning given the term

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

3 (4) NATIONAL OF THE UNITED STATES.—The
4 term “national of the United States” has the mean-
5 ing given the term in section 101(a) of the Immigra-
6 tion and Nationality Act (8 U.S.C. 1101(a)).

7 (5) NATIONAL LABORATORY.—The term “Na-
8 tional Laboratory” has the meaning given the term
9 in section 2 of the Energy Policy Act of 2005 (42
10 U.S.C. 15801).

11 (6) QUALIFYING POLYGRAPH EXAMINATION.—
12 The term “qualifying polygraph examination” means
13 a polygraph examination that is carried out in a
14 manner that, as determined by the Secretary, is con-
15 sistent with Intelligence Community Policy Guidance
16 704.6 published by the Director of National Intel-
17 ligence and entitled “Conduct of Polygraph Exami-
18 nations for Personnel Security Vetting” (or suc-
19 cessor guidance).

20 (7) SECRETARY.—The term “Secretary” means
21 the Secretary of Energy, acting through the Director
22 of the Office of Intelligence and Counterintelligence.

23 (b) QUALIFYING POLYGRAPH EXAMINATIONS.—

24 (1) POTENTIAL EMPLOYEES OF THE DEPART-
25 MENT.—Before a covered foreign national is hired

1 by the Department to work in a position at a Na-
2 tional Laboratory or in any position in which the
3 covered foreign national will have access to non-
4 public areas, data, or information of a National Lab-
5 oratory, the Secretary shall administer a qualifying
6 polygraph examination to the covered foreign na-
7 tional.

8 (2) EXISTING EMPLOYEES OF THE DEPART-
9 MENT.—

10 (A) IN GENERAL.—Before an employee of
11 the Department who is a covered foreign na-
12 tional may be transferred to a position at a Na-
13 tional Laboratory or to any other position at
14 the Department in which the employee will have
15 access to nonpublic areas, data, or information
16 of a National Laboratory, the Secretary shall
17 administer a qualifying polygraph examination
18 to the employee.

19 (B) CERTAIN EXISTING EMPLOYEES WITH
20 ACCESS TO NONPUBLIC INFORMATION.—

21 (i) EXISTING EMPLOYEES WHO ARE
22 COVERED FOREIGN NATIONALS.—Each em-
23 ployee of the Department who, as of the
24 date of enactment of this Act, is a covered
25 foreign national who works in a position at

1 a National Laboratory or in any other po-
2 sition at the Department in which the em-
3 ployee has access to nonpublic areas, data,
4 or information of a National Laboratory
5 shall be required to submit to a qualifying
6 polygraph examination by a date deter-
7 mined by the Secretary, but not later than
8 1 year after the date of enactment of this
9 Act, to remain in that position.

10 (ii) EXISTING EMPLOYEES WHO BE-
11 COME COVERED FOREIGN NATIONALS.—An
12 employee of the Department who works in
13 a position at a National Laboratory or in
14 any other position at the Department in
15 which the employee has access to nonpublic
16 areas, data, or information of a National
17 Laboratory shall be required to submit to
18 a qualifying polygraph examination—

19 (I) as soon as practicable after
20 becoming a covered foreign national;
21 and

22 (II) before being transferred,
23 promoted, or otherwise hired into an-
24 other position at the Department in
25 which the employee will have access to

1 nonpublic areas, data, or information
2 of a National Laboratory if the em-
3 ployee is a covered foreign national as
4 of the date of the transfer, promotion,
5 or hiring.

6 (3) CONTRACTORS AND OTHER INDIVIDUALS
7 WITH ACCESS TO NONPUBLIC INFORMATION.—Be-
8 fore a covered foreign national is initially granted
9 access to nonpublic areas, data, or information of a
10 National Laboratory under a contract or agreement
11 with the Department, the Secretary shall administer
12 a qualifying polygraph examination to the covered
13 foreign national.

14 (c) SPECIFIC ISSUE POLYGRAPH EXAMINATIONS.—
15 The Secretary may require a covered foreign national to
16 submit to a Specific Issue Polygraph examination (within
17 the meaning of Intelligence Community Policy Guidance
18 704.6 published by the Director of National Intelligence
19 and entitled “Conduct of Polygraph Examinations for Per-
20 sonnel Security Vetting” (or successor guidance)) at any
21 time during which the covered foreign national is employed
22 by the Department.

23 (d) REEXAMINATION.—The Secretary shall require
24 each employee of the Department who is a covered foreign

1 national to be reexamined with an appropriate polygraph
2 examination—

3 (1) not less frequently than once every 5 years
4 while employed by the Department; and

5 (2) in a manner consistent with other members
6 of the intelligence community (as defined in section
7 3 of the National Security Act of 1947 (50 U.S.C.
8 3003)) that require reexamination every 5 years.

9 (e) REFUSAL OF EXAMINATION; TERMINATION OF
10 EMPLOYMENT.—

11 (1) IN GENERAL.—If a covered foreign national
12 refuses to submit to a polygraph examination under
13 this section—

14 (A) the covered foreign national shall not
15 be granted access to any nonpublic areas, data,
16 or information of a National Laboratory, and
17 any existing grant of access to such areas, data,
18 or information shall be immediately revoked;
19 and

20 (B) if the covered foreign national is an
21 employee of the Department, the employment of
22 the covered foreign national at the Department
23 shall be terminated.

24 (2) CERTAIN EMPLOYEES OF THE DEPART-
25 MENT.—

1 (A) EMPLOYEES UNDER CONSIDERATION
2 FOR TRANSFER TO CERTAIN POSITIONS.—Para-
3 graph (1)(B) shall apply to an employee of the
4 Department described in subsection (b)(2)(A)
5 who does not have access to nonpublic areas,
6 data, or information of the Department but is
7 under consideration for a transfer to a position
8 described in that paragraph such that, if the
9 employee refuses to submit to a polygraph ex-
10 amination under this section—

11 (i) the employee shall be ineligible for
12 the transfer; and

13 (ii) the employment of the employee
14 at the Department shall be terminated.

15 (B) EMPLOYEES WITH ACCESS TO NON-
16 PUBLIC AREAS OR INFORMATION.—Paragraph
17 (1)(B) shall apply to any employee of the De-
18 partment who is a covered foreign national and
19 works in a position at a National Laboratory or
20 in any other position at the Department in
21 which the employee has access to nonpublic
22 areas, data, or information of a National Lab-
23 oratory such that, if the employee refuses to
24 submit to a polygraph examination under this
25 section, the employment of the employee at the

1 Department, including at any National Labora-
2 tory, shall be terminated.

3 (3) POTENTIAL EMPLOYEES OF THE DEPART-
4 MENT.—A covered foreign national who is under
5 consideration for employment in a position described
6 in subsection (b)(1) and refuses to submit to a poly-
7 graph examination under this section—

8 (A) shall be removed from consideration
9 for employment in that position; and

10 (B) in accordance with paragraph (4),
11 shall not be eligible for employment at the De-
12 partment, including at any National Labora-
13 tory.

14 (4) SUBSEQUENT EMPLOYMENT AT THE DE-
15 PARTMENT.—

16 (A) IN GENERAL.—A covered foreign na-
17 tional shall not be eligible for employment at
18 the Department, including at any National Lab-
19 oratory, if the covered foreign national pre-
20 viously refused to submit to a polygraph exam-
21 ination under this section.

22 (B) CHANGE IN STATUS.—A foreign na-
23 tional who is lawfully admitted for permanent
24 residence shall not be eligible for employment at
25 the Department, including at any National Lab-

1 oratory, if the foreign national previously re-
2 fused to submit to a polygraph examination
3 under this section at a time when the foreign
4 national was a covered foreign national.

5 (f) SAVINGS PROVISION.—Nothing in this section au-
6 thorizes the Secretary to require an individual who is not
7 a covered foreign national to submit to a polygraph exam-
8 ination.