

## Union Calendar No.

116<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1709

[Report No. 116-]

To amend the America COMPETES Act to establish certain scientific integrity policies for Federal agencies that fund, conduct, or oversee scientific research, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2019

Mr. TONKO (for himself, Ms. JOHNSON of Texas, Ms. STEVENS, and Mr. LOWENTHAL) introduced the following bill; which was referred to the Committee on Science, Space, and Technology

OCTOBER --, 2019

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on March 13, 2019]

# **A BILL**

To amend the America COMPETES Act to establish certain scientific integrity policies for Federal agencies that fund, conduct, or oversee scientific research, 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 “Scientific Integrity Act”.*

5 **SEC. 2. SENSE OF CONGRESS.**

6        *It is the sense of Congress that—*

7            (1) *science and the scientific process should help*  
8 *inform and guide public policy decisions on a wide*  
9 *range of issues, including improvement of public*  
10 *health, protection of the environment, and protection*  
11 *of national security;*

12            (2) *the public must be able to trust the science*  
13 *and scientific process informing public policy deci-*  
14 *sions;*

15            (3) *science, the scientific process, and the com-*  
16 *munication of science should be free from politics, ide-*  
17 *ology, and financial conflicts of interest;*

18            (4) *policies and procedures that ensure the integ-*  
19 *egrity of the conduct and communication of publicly*  
20 *funded science are critical to ensuring public trust;*

21            (5) *a Federal agency that funds, conducts, or*  
22 *oversees research should not suppress, alter, interfere*  
23 *with, or otherwise impede the timely communication*  
24 *and open exchange of data and findings to other*  
25 *agencies, policymakers, and the public of research*

1       *conducted by a scientist or engineer employed or con-*  
2       *tracted by a Federal agency that funds, conducts, or*  
3       *oversees scientific research;*

4             (6) *Federal agencies that fund, conduct, or over-*  
5       *see research should work to prevent the suppression or*  
6       *distortion of the data and findings;*

7             (7) *under the First Amendment to the Constitu-*  
8       *tion, citizens of the United States have the right to*  
9       *“petition the government for a redress of grievances”;*  
10       *and*

11            (8) *Congress has further protected those rights*  
12       *under section 7211 of title 5, United States Code,*  
13       *which states, “the right of employees, individually or*  
14       *collectively, to petition Congress or a member of Con-*  
15       *gress . . . may not be interfered with or denied”.*

16   **SEC. 3. AMENDMENT TO AMERICA COMPETES ACT.**

17       *Section 1009 of the America COMPETES Act (42*  
18       *U.S.C. 6620) is amended by striking subsections (a) and*  
19       *(b) and inserting the following:*

20            “(a) **SCIENTIFIC INTEGRITY POLICIES.**—

21                “(1) **IN GENERAL.**—*Not later than 90 days after*  
22       *the date of enactment of the Scientific Integrity Act,*  
23       *the head of each covered agency shall—*

1           “(A) adopt and enforce a scientific integrity  
2 policy in accordance with subsections (b) and  
3 (c); and

4           “(B) submit such policy to the Director of  
5 the Office of Science and Technology Policy for  
6 approval.

7           “(2) PUBLICATION.—Not later than 30 days  
8 after the Director of the Office of Science and Tech-  
9 nology Policy approves the scientific integrity policy  
10 under paragraph (1), the head of each covered agency  
11 shall—

12           “(A) make such policy available to the pub-  
13 lic on the website of the agency; and

14           “(B) submit such policy to the relevant  
15 Committees of Congress.

16           “(b) REQUIREMENTS.—A scientific integrity policy  
17 under subsection (a)—

18           “(1) shall prohibit any covered individual  
19 from—

20           “(A) engaging in dishonesty, fraud, deceit,  
21 misrepresentation, coercive manipulation, or  
22 other scientific or research misconduct;

23           “(B) suppressing, altering, interfering with,  
24 delaying without scientific merit, or otherwise

1           *impeding the release and communication of, sci-*  
2           *entific or technical findings;*

3           “(C) *intimidating or coercing an individual*  
4           *to alter or censor, attempting to intimidate or*  
5           *coerce an individual to alter or censor, or retali-*  
6           *ating against an individual for failure to alter*  
7           *or censor, scientific or technical findings; or*

8           “(D) *implementing an institutional barrier*  
9           *to cooperation with scientists outside the covered*  
10           *agency and the timely communication of sci-*  
11           *entific or technical findings;*

12           “(2) *shall allow a covered individual to—*

13           “(A) *disseminate scientific or technical*  
14           *findings, subject to existing law, by—*

15           “(i) *participating in scientific con-*  
16           *ferences; and*

17           “(ii) *seeking publication in online and*  
18           *print publications through peer-reviewed,*  
19           *professional, or scholarly journals;*

20           “(B) *sit on scientific advisory or governing*  
21           *boards;*

22           “(C) *join or hold leadership positions on*  
23           *scientific councils, societies, unions, and other*  
24           *professional organizations;*

1           “(D) contribute to the academic peer-review  
2           process as reviewers or editors; and

3           “(E) participate and engage with the sci-  
4           entific community;

5           “(3) may require a covered individual to, before  
6           disseminating scientific or technical findings as de-  
7           scribed in paragraph (2)(A), submit such findings to  
8           the agency for the purpose of review by the agency of  
9           the data and findings for technical accuracy if the  
10          scientific integrity policy outlines a clear and con-  
11          sistent process for such review; and

12          “(4) shall require that—

13               “(A) scientific conclusions are not made  
14               based on political considerations;

15               “(B) the selection and retention of can-  
16               didates for science and technology positions in  
17               the covered agency are based primarily on the  
18               candidate’s expertise, scientific credentials, expe-  
19               rience, and integrity;

20               “(C) personnel actions regarding covered in-  
21               dividuals, except for political appointees, are not  
22               taken on the basis of political consideration or  
23               ideology;

24               “(D) covered individuals adhere to the high-  
25               est ethical and professional standards in con-

1           *ducting their research and disseminating their*  
2           *findings;*

3           *“(E) the appropriate rules, procedures, and*  
4           *safeguards are in place to ensure the integrity of*  
5           *the scientific process within the covered agency;*

6           *“(F) scientific or technological information*  
7           *considered in policy decisions is subject to well-*  
8           *established scientific processes, including peer re-*  
9           *view where appropriate;*

10          *“(G) procedures, including procedures with*  
11          *respect to applicable whistleblower protections,*  
12          *are in place as are necessary to ensure the integ-*  
13          *egrity of scientific and technological information*  
14          *and processes on which the covered agency relies*  
15          *in its decision making or otherwise uses; and*

16          *“(H) enforcement of such policy is con-*  
17          *sistent with the processes for an administrative*  
18          *hearing and an administrative appeal.*

19          *“(c) IMPLEMENTATION.—In carrying out subsection*  
20          *(a), the head of each covered agency shall—*

21                 *“(1) design the scientific integrity policy to*  
22                 *apply with respect to the covered agency;*

23                 *“(2) ensure that such policy is clear with respect*  
24                 *to what activities are permitted and what activities*  
25                 *are not permitted;*



1           “(3) ensure that there is a process for individ-  
2           uals not employed or contracted by the agency, in-  
3           cluding grantees, collaborators, partners, and volun-  
4           teers, to report violations of the scientific integrity  
5           policy;

6           “(4) enforce such policy uniformly throughout  
7           the covered agency; and

8           “(5) make such policy available to the public,  
9           employees, private contractors, and grantees of the  
10          covered agency.

11          “(d) *SCIENTIFIC INTEGRITY OFFICER.*—Not later than  
12          90 days after the date of enactment of this Act, each covered  
13          agency shall appoint a Scientific Integrity Officer, who  
14          shall—

15                 “(1) be a career employee at the covered agency  
16                 in a professional position;

17                 “(2) have technical knowledge and expertise in  
18                 conducting and overseeing scientific research;

19                 “(3) direct the activities and duties described in  
20                 subsections (e), (f), and (g); and

21                 “(4) work closely with the inspector general of  
22                 the covered agency, as appropriate.

23          “(e) *ADMINISTRATIVE PROCESS AND TRAINING.*—Not  
24          later than 180 days after the date of enactment of this Act,  
25          the head of each covered agency shall establish—

1           “(1) *an administrative process and administra-*  
2           *tive appeal process for dispute resolution consistent*  
3           *with the scientific integrity policy of the covered*  
4           *agency adopted under subsection (a); and*

5           “(2) *a training program to provide—*

6                   “(A) *regular scientific integrity and ethics*  
7                   *training to employees and contractors of the cov-*  
8                   *ered agency;*

9                   “(B) *new covered employees with training*  
10                   *within one month of commencing employment;*

11                   “(C) *information to ensure that covered in-*  
12                   *dividuals are fully aware of their rights and re-*  
13                   *sponsibilities regarding the conduct of scientific*  
14                   *research, publication of scientific research, and*  
15                   *communication with the media and the public*  
16                   *regarding scientific research; and*

17                   “(D) *information to ensure that covered in-*  
18                   *dividuals are fully aware of their rights and re-*  
19                   *sponsibilities for administrative hearings and*  
20                   *appeals established in the covered agency’s sci-*  
21                   *entific integrity policy.*

22           “(f) *REPORTING.—*

23                   “(1) *ANNUAL REPORT.—Each year, each Sci-*  
24                   *entific Integrity Officer appointed by a covered agen-*  
25                   *cy under subsection (d) shall post an annual report*

1        *on the public website of the covered agency that in-*  
2        *cludes, for the year covered by the report—*

3                *“(A) the number of complaints of mis-*  
4                *conduct with respect to the scientific integrity*  
5                *policy adopted under subsection (a)—*

6                        *“(i) filed for administrative redress;*

7                        *“(ii) petitioned for administrative ap-*  
8                        *peal; and*

9                        *“(iii) still pending from years prior to*  
10                        *the year covered by the report, if any;*

11                        *“(B) an anonymized summary of each such*  
12                        *complaint and the results of each such com-*  
13                        *plaint; and*

14                        *“(C) any changes made to the scientific in-*  
15                        *tegrity policy.*

16                *“(2) INCIDENT REPORT.—*

17                        *“(A) IN GENERAL.—Not later than 30 days*  
18                        *after the date on which an incident described in*  
19                        *subparagraph (B) occurs, the head of a covered*  
20                        *agency shall submit a report describing the inci-*  
21                        *dent to the Office of Science and Technology Pol-*  
22                        *icy and the relevant Committees of Congress.*

23                        *“(B) INCIDENT.—An incident described*  
24                        *under this paragraph is an incident in which an*  
25                        *individual, acting outside the channels estab-*

1            *lished under subsection (e), overrules the decision*  
2            *of the Scientific Integrity Officer with respect to*  
3            *a dispute regarding a violation of the scientific*  
4            *integrity policy.*

5            *“(g) OFFICE OF SCIENCE AND TECHNOLOGY POLICY.—*  
6            *The Director of the Office of Science and Technology Policy*  
7            *shall—*

8                    *“(1) collate, organize, and publicly share all in-*  
9                    *formation it receives under subsection (g) in one place*  
10                   *on its own website; and*

11                   *“(2) on an annual basis, convene the Scientific*  
12                   *Integrity Officer of each covered agency appointed*  
13                   *under subsection (d) to discuss best practices for im-*  
14                   *plementing the requirements of this section.*

15            *“(h) PERIODIC REVIEW AND APPROVAL.—*

16                   *“(1) INTERNAL REVIEW.—The head of each cov-*  
17                   *ered agency shall periodically conduct a review of the*  
18                   *scientific integrity policy and change such policy as*  
19                   *appropriate.*

20                   *“(2) REVIEW BY THE OFFICE OF SCIENCE AND*  
21                   *TECHNOLOGY POLICY.—*

22                   *“(A) REVIEW OF SUBSTANTIAL UPDATES.—*  
23                   *The head of each covered agency shall submit to*  
24                   *the Office of Science and Technology Policy for*

1           *approval any substantial changes to the sci-*  
2           *entific integrity policy.*

3           “(B) *QUINQUENNIAL REVIEW.*—*Not later*  
4           *than 5 years after the date of the enactment of*  
5           *the Scientific Integrity Act, and quinquennially*  
6           *thereafter, the head of each covered agency shall*  
7           *submit the scientific integrity policy to the Office*  
8           *of Science and Technology Policy for review and*  
9           *approval.*

10          “(i) *COMPTROLLER GENERAL REVIEW.*—*Not later*  
11          *than 2 years after the date of the enactment of the Scientific*  
12          *Integrity Act, the Comptroller General shall conduct a re-*  
13          *view of the implementation of the scientific integrity policy*  
14          *by each covered agency.*

15          “(j) *DEFINITIONS.*—*In this section:*

16                 “(1) *AGENCY.*—*The term ‘agency’ has the mean-*  
17                 *ing given the term in section 551 of title 5, United*  
18                 *States Code.*

19                 “(2) *COVERED AGENCY.*—*The term ‘covered*  
20                 *agency’ means an agency that funds, conducts, or*  
21                 *oversees scientific research.*

22                 “(3) *COVERED INDIVIDUAL.*—*The term ‘covered*  
23                 *individual’ means a Federal employee or contractor*  
24                 *who—*

1           “(A) is engaged in, supervises, or manages  
2           scientific activities;

3           “(B) analyzes or publicly communicates in-  
4           formation resulting from scientific activities; or

5           “(C) uses scientific information or analyses  
6           in making bureau, office, or agency policy, man-  
7           agement, or regulatory decisions.

8           “(4) *RELEVANT COMMITTEES OF CONGRESS.*—  
9           The term ‘relevant Committees of Congress’ means—

10           “(A) the Committee on Commerce, Science,  
11           and Transportation of the Senate; and

12           “(B) the Committee on Science, Space, and  
13           Technology of the House of Representatives.”.

14 **SEC. 4. EXISTING POLICIES; CLARIFICATION.**

15           (a) *EXISTING SCIENTIFIC INTEGRITY POLICIES.*—Not-  
16           withstanding the amendments made by this Act, a covered  
17           agency’s scientific integrity policy that was in effect on the  
18           day before the date of enactment of this Act may satisfy  
19           the requirements under the amendments made by this Act  
20           if the head of the covered agency—

21           (1) makes a written determination that the pol-  
22           icy satisfies such requirements; and

23           (2) submits the written determination and the  
24           policy to the Director of the Office of Science and  
25           Technology Policy for review and approval.

1       **(b) CLARIFICATION.**—*Nothing in this Act shall affect*  
2 *the application of United States copyright law.*

3       **(c) COVERED AGENCY DEFINED.**—*The term “covered*  
4 *agency” has the meaning given the term in section 1009*  
5 *of the America COMPETES Act (42 U.S.C. 6620).*