

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the State Department Basic Authorities Act of 1956 to establish a whistleblower incentive program with respect to defense exports control enforcement.

IN THE HOUSE OF REPRESENTATIVES

Ms. JOHNSON of Texas introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the State Department Basic Authorities Act of 1956 to establish a whistleblower incentive program with respect to defense exports control enforcement.

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 “Whistleblowers Aiding
5 National Security Act of 2025”.

1 **SEC. 2. DEFENSE EXPORTS CONTROL WHISTLEBLOWER IN-**
2 **CENTIVE PROGRAM.**

3 (a) ESTABLISHMENT.—The State Department Basic
4 Authorities Act of 1956 (22 U.S.C. 2651a et seq.) is
5 amended by inserting after section 36A the following new
6 section:

7 **“SEC. 36B. DEFENSE EXPORTS CONTROL WHISTLEBLOWER**
8 **INCENTIVE PROGRAM.**

9 “(a) ESTABLISHMENT.—

10 “(1) IN GENERAL.—With respect to a whistle-
11 blower incentive program (hereinafter the ‘Pro-
12 gram’) to reward an individual who voluntarily pro-
13 vides original information that leads to the imposi-
14 tion of any civil penalty with respect to a covered
15 violation—

16 “(A) the Secretary shall issue an interim
17 rule establishing such Program not later than
18 120 days after the date of the enactment of this
19 section;

20 “(B) the Secretary shall issue a final rule
21 establishing such Program not later than 270
22 days after the date of the enactment of this sec-
23 tion.

24 “(2) PUBLIC NOTICE.—Not later than the date
25 on which the online portal is established under sub-

1 section (b)(2), the Secretary shall provide public no-
2 tice of the Program in the Federal Register.

3 “(b) SUBMISSION OF ORIGINAL INFORMATION.—

4 “(1) SUBMISSION PROCEDURES.—The Sec-
5 retary shall by regulation establish procedures for an
6 individual to submit original information.

7 “(2) ONLINE PORTAL.—Not later than 120
8 days after the date of the enactment of this section,
9 the Secretary shall develop, implement, and maintain
10 a secure online portal, on a website accessible to the
11 public, for the reporting of original information.

12 “(3) ANONYMOUS SUBMISSIONS.—

13 “(A) IN GENERAL.—In establishing the
14 procedures under paragraph (1), the Secretary
15 shall include a procedure for an individual to
16 anonymously submit original information, in-
17 cluding through counsel.

18 “(B) IDENTITY DISCLOSURE.—The Sec-
19 retary may require an individual to disclose
20 their identity, directly or through counsel, at
21 anytime prior to issuing an award under the
22 Program.

23 “(c) REVIEW OF ORIGINAL INFORMATION.—

24 “(1) IN GENERAL.—Not later than 60 days
25 after the date that original information is submitted

1 under subsection (b), the Secretary shall determine
2 whether the original information is credible.

3 “(2) INVESTIGATION.—Not later than 180 days
4 after the date on which the Secretary determines
5 under paragraph (1) that original information is
6 credible, the Secretary shall, unless the Secretary de-
7 termines impracticable, complete an investigation
8 into the allegations contained in the original infor-
9 mation.

10 “(3) DUTY TO UPDATE.—

11 “(A) IN GENERAL.—The Secretary shall
12 update the individual who submitted original in-
13 formation under subsection (b) not later than
14 30 days after the date on which the original
15 was submitted and not less than every 30 days
16 thereafter until the original information is de-
17 termined not credible under paragraph (1) or
18 an investigation is completed under paragraph
19 (2).

20 “(B) SENSITIVE INFORMATION.—The Sec-
21 retary may omit from the updates required by
22 subparagraph (A) any information that the Sec-
23 retary determines could compromise a review of
24 original information under this subsection.

1 “(4) FRIVOLOUS REPORTS.—The Secretary
2 may determine that review of original information
3 under this subsection is not warranted if the indi-
4 vidual who submitted the original information has
5 previously made not less than 2 submissions of origi-
6 nal information that the Secretary determined under
7 paragraph (1) were not credible.

8 “(d) AWARD AMOUNT.—

9 “(1) IN GENERAL.—An award issued under the
10 Program shall be in an amount equal to—

11 “(A) not less than 10 percent of the cov-
12 ered civil penalty; and

13 “(B) not more than 30 percent of the cov-
14 ered civil penalty.

15 “(2) DETERMINATION OF AWARD AMOUNT.—To
16 determine the amount of an award issued under the
17 Program, the Secretary—

18 “(A) shall consider—

19 “(i) how significant the original infor-
20 mation provided by the individual was with
21 respect to a final determination that a cov-
22 ered violation occurred;

23 “(ii) the degree of assistance, other
24 than providing original information, pro-

1 vided by the individual, or any legal rep-
2 resentative of the individual; and

3 “(iii) any other additional factor the
4 Secretary determines relevant, including—

5 “(I) accuracy;

6 “(II) relevance;

7 “(III) timeliness; and

8 “(IV) usefulness; and

9 “(B) shall not consider the balance of the
10 account established under subsection (g) for the
11 Program in the Treasury of the United States.

12 “(3) JOINT SUBMISSIONS.—In the case of origi-
13 nal information submitted under subsection (b)
14 jointly by not less than 2 individuals, any award
15 issued under the Program shall be equally distrib-
16 uted among each individual.

17 “(e) DENIAL OF AWARD.—

18 “(1) IN GENERAL.—Notwithstanding subsection
19 (a), and except as provided in paragraph (2), the
20 Secretary may not issue an award to an individual
21 to whom an award otherwise would be issued, if such
22 individual acquired the original information sub-
23 mitted under the Program—

24 “(A) though such individual’s role as—

1 “(i) an officer, director, trustee, or
2 partner of an entity that handles internal
3 processes for legal violations for the person
4 or persons; or

5 “(ii) an employee of an entity that
6 conducts compliance or internal audits for
7 the person or persons; or

8 “(B) any means that violates Federal or
9 State criminal law.

10 “(2) EXCEPTION.—The prohibition on issuing
11 an award to certain individuals under paragraph
12 (1)(A) shall not apply if—

13 “(A) the individual had a reasonable basis
14 to believe that disclosing the original informa-
15 tion to the Secretary was necessary to stop con-
16 duct likely to cause significant harm to national
17 security;

18 “(B) the individual had a reasonable basis
19 to believe that the relevant entity was obstruct-
20 ing an investigation into the misconduct; or

21 “(C) not less than 120 days have passed
22 since the individual provided the information to
23 the audit committee, chief legal officer, chief
24 compliance officer of the relevant entity or the
25 supervisor of the individual, or their equivalent.

1 “(f) REPRESENTATION BY COUNSEL.—

2 “(1) IN GENERAL.—Subject to paragraph (2),
3 an individual may choose to be represented by coun-
4 sel at any time while cooperating with the Program.

5 “(2) REQUIRED REPRESENTATION FOR ANONY-
6 MOUS CLAIMS.—An individual who, under subsection
7 (b)(2)(A), anonymously provides original information
8 shall be represented by counsel while cooperating
9 with the Program.

10 “(g) DEFENSE EXPORT COMPLIANCE ACCOUNT-
11 ABILITY FUND.—

12 “(1) ESTABLISHMENT.—The Secretary shall es-
13 tablish in the Treasury of the United States an ac-
14 count with respect to the Program to be known as
15 the ‘Defense Export Compliance Accountability
16 Fund’.

17 “(2) DEPOSITS AND CREDITS.—There shall be
18 deposited into or credited to the fund an amount
19 equal to any fine collected by the Secretary on or
20 after the date of the enactment of this section in any
21 judicial or administrative action brought by the Sec-
22 retary that depends on or was initiated because of
23 original information submitted by an individual.

24 “(3) USE OF FUNDS.—The amounts deposited
25 in the fund—

1 “(A) shall be used to pay each award
2 issued under the Program; and

3 “(B) may be used for the administrative
4 costs of the Program.

5 “(4) INSUFFICIENT AMOUNTS.—If there are in-
6 sufficient amounts to pay an award issued under the
7 Program, the Secretary shall deposit into the ac-
8 count established under paragraph (1), or credit to
9 such account, an amount equal to the remaining bal-
10 ance of such award from any monetary sanctions
11 collected by the Secretary pursuant to the final de-
12 termination of a covered violation.

13 “(h) REPORTS TO CONGRESS.—Not later than Octo-
14 ber 31st, and annually thereafter, the Commission shall
15 submit to the appropriate congressional committees a re-
16 port on the Program, including a description of the num-
17 ber of awards made under the Program and the types of
18 cases in which such awards were made with respect to the
19 fiscal year preceding submission of such report.

20 “(i) PROHIBITION AGAINST RETALIATION.—

21 “(1) IN GENERAL.—With respect to an indi-
22 vidual who submits original information under sub-
23 section (b) or otherwise participates in the Program,
24 and except as provided in paragraph (2), no em-
25 ployer may, directly or indirectly, discharge, demote,

1 suspend, threaten, harass, such individual, or dis-
2 criminate against such individual in any other man-
3 ner in the terms and conditions of employment, be-
4 cause such individual submitted original information
5 or otherwise participated in the Program.

6 “(2) EXCEPTION.—The protection against re-
7 taliation established by paragraph (1) shall not
8 apply to any individual who reports information
9 under this section knowing that such information is
10 false.

11 “(3) ENFORCEMENT.—

12 “(A) CAUSE OF ACTION.—An individual
13 who alleges a violation of paragraph (1) may
14 bring an action under this subparagraph in the
15 appropriate district court of the United States
16 for the relief provided for in paragraph (4).

17 “(B) SUBPOENAS.—A subpoena requiring
18 the attendance of a witness at a trial or hearing
19 conducted under this clause may be served at
20 any place in the United States.

21 “(C) STATUTE OF LIMITATIONS.—

22 “(i) IN GENERAL.—Subject to clause
23 (ii), an action under paragraph (1) shall
24 not be entertained if commenced more
25 than 6 years after the date on which the

1 violation occurred or 3 years after the date
2 on which facts material to the right of ac-
3 tion are known or reasonably should have
4 been known by the employee alleging such
5 a violation.

6 “(ii) REQUIRED ACTION WITHIN 10
7 YEARS.—An action may not in any cir-
8 cumstance be brought more than 10 years
9 after the date on which the violation oc-
10 curs.

11 “(4) RELIEF.—The relief provided for under
12 this paragraph shall be the following:

13 “(A) Reinstatement with the same senior-
14 ity status that the individual would have had,
15 but for the discrimination.

16 “(B) Back pay in an amount equal to
17 twice the amount otherwise owed to the indi-
18 vidual, with interest.

19 “(C) Compensation for litigation costs, ex-
20 pert witness fees, and reasonable fees for attor-
21 neys.

22 “(j) CONFIDENTIALITY.—

23 “(1) IN GENERAL.—Except as provided in
24 clauses (ii) and (iii), the Secretary and any officer
25 or employee of the Department of Commerce may

1 not disclose any information, including original in-
2 formation submitted under subsection (b), that could
3 reasonably be expected to reveal the identity of any
4 individual who provides original information to the
5 Program, except in accordance with the provisions of
6 section 552a of title 5, United States Code, unless
7 and until required to be disclosed to a defendant or
8 respondent in connection with a public proceeding
9 instituted by the Secretary or any entity described in
10 paragraph (4).

11 “(2) PUBLIC DISCLOSURE EXEMPTION.—For
12 purposes of section 552 of title 5, United States
13 Code, this subparagraph shall be considered a stat-
14 ute described in subsection (b)(3)(B) of such section.

15 “(3) RULE OF CONSTRUCTION.—Nothing in
16 this subsection shall be construed to limit the ability
17 of the Attorney General to present such evidence to
18 a grand jury or to share such evidence with potential
19 witnesses or defendants in the course of an ongoing
20 criminal investigation.

21 “(4) AVAILABILITY TO GOVERNMENT AGEN-
22 CIES.—

23 “(A) IN GENERAL.—When determined by
24 the Secretary to be necessary to accomplish the
25 purposes of the Program, or any regulation,

1 order, license, or other authorization issued
2 under a covered regulation, the Secretary may
3 make any information referred to paragraph (1)
4 available to—

5 “(i) a Federal law enforcement agen-
6 cy;

7 “(ii) a national security agency;

8 “(iii) a State law enforcement or reg-
9 ulatory agency;

10 “(iv) an appropriate regulatory au-
11 thority;

12 “(v) a self-regulatory organization;
13 and

14 “(vi) a foreign law enforcement au-
15 thority.

16 “(B) PRESERVATION OF CONFIDEN-
17 TIALITY.—If the Secretary makes the informa-
18 tion referred to in paragraph (1) available
19 under subparagraph (A), such information shall
20 remain confidential.

21 “(k) DIRECTED RULEMAKING.—The Secretary shall
22 issue such rules and regulations as are necessary to carry
23 out this section.

24 “(l) DEFINITIONS.—In this section:

1 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term ‘appropriate congressional com-
3 mittees’ means the Committee on Energy and Com-
4 merce of the House of Representatives and the Com-
5 mittee on Commerce, Science, and Transportation of
6 the Senate.

7 “(2) COVERED CIVIL PENALTY.—The term ‘cov-
8 ered civil penalty’ means a civil penalty imposed,
9 with respect to a covered violation, as result of the
10 original information submitted by an individual.

11 “(3) COVERED REGULATION.—The term ‘cov-
12 ered regulation’ means—

13 “(A) any regulation, license, or order
14 under the administrative jurisdiction of the Di-
15 rectorate of Defense Trade Controls of the De-
16 partment; or

17 “(B) the International Traffic in Arms
18 Regulations (parts 120–130 of title 22, Code of
19 Federal Regulations) (or any successor regula-
20 tion).

21 “(4) COVERED VIOLATION.—The term ‘covered
22 violation’—

23 “(A) means a violation, an attempted vio-
24 lation, or a conspiracy to violate a covered regu-
25 lation; and

1 “(B) includes each such violation, at-
2 tempted violation, or conspiracy to violate that
3 occurred before the date of the enactment of
4 this section.

5 “(5) ORIGINAL INFORMATION.—The term
6 ‘original information’—

7 “(A) means information—

8 “(i) derived from the independent
9 knowledge or analysis of an individual;

10 “(ii) not known to the Secretary from
11 any other source;

12 “(iii) not exclusively derived from an
13 allegation made in a judicial or administra-
14 tive proceeding, government report, hear-
15 ing, audit, or investigation, or from news
16 media, unless such individual is the source
17 of such allegation; and

18 “(iv) provided to the Secretary volun-
19 tarily without any request from the Sec-
20 retary or any other Government official;
21 and

22 “(B) includes information that meets the
23 qualifications described in subparagraph (A)
24 and is submitted to the Secretary by such indi-
25 vidual—

1 “(i) after the date of the enactment of
2 this section; and

3 “(ii) before the establishment of the
4 Program under subsection (a).

5 “(6) SECRETARY.—The term ‘Secretary’ means
6 the Secretary of State acting through the Deputy
7 Assistant Secretary for Defense Trade Controls.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) AUTHORIZATION TO MAKE AWARD.—Section
10 36(b) of the State Department Basic Authorities Act
11 of 1956 (22 U.S.C. 2708(b)) is amended—

12 (A) in paragraph (14), by striking “; or”
13 and inserting a semicolon;

14 (B) in paragraph (15), by striking the pe-
15 riod at the end and inserting “; or”; and

16 (C) by adding at the end the following new
17 paragraph:

18 “(16) the imposition of any civil penalty with
19 respect to a covered violation under section 36B.”.

20 (2) EXCLUSION OF FUNDS FROM CRIME VIC-
21 TIMS FUND.—Section 1402(b)(1)(B) of the Victims
22 of Crime Act of 1984 (34 U.S.C. 20101(b)(1)(B)) is
23 amended—

24 (A) in clause (iii), by striking “; and” and
25 inserting a semicolon;

1 (B) in clause (iv), by inserting “and” after
2 the semicolon at the end; and

3 (C) by adding at the end the following new
4 clause:

5 “(v) the Defense Export Compliance
6 Accountability Fund pursuant to the Whis-
7 tleblowers Aiding National Security Act of
8 2025;”.

9 (c) AUTHORIZATION OF APPROPRIATION.—There is
10 authorized such sums as may be necessary for the Sec-
11 retary of State to carry out this section.