

119TH CONGRESS
1ST SESSION

H. R. 1048

AN ACT

To amend the Higher Education Act of 1965 to strengthen disclosure requirements relating to foreign gifts and contracts, to prohibit contracts between institutions of higher education and certain foreign entities and 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Defending Education
3 Transparency and Ending Rogue Regimes Engaging in
4 Nefarious Transactions Act” or the “DETERRENT
5 Act”.

6 **SEC. 2. DISCLOSURES OF FOREIGN GIFTS.**

7 (a) IN GENERAL.—Section 117 of the Higher Edu-
8 cation Act of 1965 (20 U.S.C. 1011f) is amended to read
9 as follows:

10 **“SEC. 117. DISCLOSURES OF FOREIGN GIFTS.**

11 “(a) DISCLOSURE REPORTS.—

12 “(1) AGGREGATE GIFTS AND CONTRACT DIS-
13 CLOSURES.—An institution shall file with the Sec-
14 retary, in accordance with subsection (b)(1), a dis-
15 closure report on July 31 of the calendar year imme-
16 diately following any calendar year in which—

17 “(A) the institution receives a gift from, or
18 enters into a contract with, a foreign source
19 (other than a foreign country of concern or for-
20 eign entity of concern)—

21 “(i) the value of which is \$50,000 or
22 more, considered alone or in combination
23 with all other gifts from, or contracts with,
24 that foreign source within the calendar
25 year; or

1 “(ii) the value of which is indetermi-
2 nate; or

3 “(B) the institution—

4 “(i) receives a gift from a foreign
5 country of concern or foreign entity of con-
6 cern, without regard to the value of such
7 gift; or

8 “(ii) upon receiving a waiver under
9 section 117A to enter into a contract with
10 such a country or entity, enters into such
11 contract, without regard to the value of
12 such contract.

13 “(2) FOREIGN SOURCE OWNERSHIP OR CON-
14 TROL DISCLOSURES.—Notwithstanding paragraph
15 (1), in the case of an institution that is substantially
16 controlled (as described in section 668.174(c)(3) of
17 title 34, Code of Federal Regulations) (or successor
18 regulations)) by a foreign source, the institution
19 shall file with the Secretary, in accordance with sub-
20 section (b)(2), a disclosure report on July 31 of each
21 year.

22 “(3) TREATMENT OF AFFILIATED ENTITIES.—
23 For purposes of this section, any gift to, or contract
24 with, an affiliated entity of an institution shall be

1 considered a gift to, or contract with, respectively,
2 such institution.

3 “(b) CONTENTS OF REPORT.—

4 “(1) GIFTS AND CONTRACTS.—Each report to
5 the Secretary required under subsection (a)(1) shall
6 include the following:

7 “(A) With respect to a gift received from,
8 or a contract entered into with, any foreign
9 source—

10 “(i) the name of the individual, de-
11 partment, or other entity at the institution
12 receiving the gift or carrying out the con-
13 tract on behalf of the institution;

14 “(ii) any intended purpose of the gift
15 or contract communicated to the institu-
16 tion by the foreign source, and, as of the
17 date of filing such report, the manner in
18 which the institution intends to use such
19 gift or contract;

20 “(iii) in the case of a restricted or
21 conditional gift or contract, a description
22 of each restriction or condition that meets
23 the definition of the term ‘restricted or
24 conditional gift or contract’ in subsection
25 (f);

1 “(iv) with respect to such a gift—

2 “(I) the total fair market dollar
3 amount or dollar value of the gift, as
4 of the date of submission of such re-
5 port; and

6 “(II) the date on which the insti-
7 tution received such gift;

8 “(v) with respect to such a contract—

9 “(I) the total fair market dollar
10 amount or dollar value of the con-
11 tract, as of the date of submission of
12 such report;

13 “(II) the date on which the insti-
14 tution enters into such contract;

15 “(III) the date on which such
16 contract first takes effect;

17 “(IV) if the contract has a termi-
18 nation date, such termination date;
19 and

20 “(V) an assurance that the insti-
21 tution will—

22 “(aa) maintain an
23 unredacted copy of the contract
24 until the latest of—

1 “(AA) the date that is
2 5 years after the date on
3 which such contract first
4 takes effect;

5 “(BB) the date on
6 which the contract termi-
7 nates; or

8 “(CC) the last day of
9 any period that applicable
10 State law requires a copy of
11 such contract to be main-
12 tained; and

13 “(bb) upon request of the
14 Secretary during an investigation
15 under section 117D(a)(1),
16 produce such an unredacted copy
17 of the contract.

18 “(B) With respect to a gift received from,
19 or a contract entered into with, a foreign source
20 that is a foreign government (other than the
21 government of a foreign country of concern)—

22 “(i) the name of such foreign govern-
23 ment;

24 “(ii) the department, agency, office,
25 or division of such foreign government that

1 approved such gift or contract, as applica-
2 ble; and

3 “(iii) the physical mailing address of
4 such department, agency, office, or divi-
5 sion.

6 “(C) With respect to a gift received from,
7 or contract entered into with, a foreign source
8 other than a foreign government subject to the
9 requirements of subparagraph (B)—

10 “(i)(I) the legal name of the foreign
11 source; or

12 “(II) in the case of a gift received
13 from a foreign source that awarded such
14 gift to the institution as an agent de-
15 scribed in subsection (f)(4)(G) on behalf of
16 another foreign source—

17 “(aa) the legal name of the for-
18 eign source that awarded such gift;
19 and

20 “(bb) the legal name of the for-
21 eign source on whose behalf the gift
22 was awarded, or a statement certified
23 by a compliance officer in accordance
24 with section 117D(c) that the institu-

1 tion has reasonably attempted to ob-
2 tain such name;

3 “(ii) in the case of a foreign source
4 that is a natural person, each country of
5 citizenship of such person, or, if no such
6 country is known, the principal country of
7 residence of such person;

8 “(iii) in the case of a foreign source
9 that is a legal entity, the country in which
10 such entity is incorporated, or, if such in-
11 formation is not available, the principal
12 place of business of such entity;

13 “(iv) the physical mailing address of
14 such foreign source, or, if such address is
15 not available, a statement certified by a
16 compliance officer in accordance with sec-
17 tion 117D(c) that the institution has rea-
18 sonably attempted to obtain such address;
19 and

20 “(v) any affiliation of the foreign
21 source to an organization that is des-
22 ignated as a foreign terrorist organization
23 pursuant to section 219 of the Immigra-
24 tion and Nationality Act (8 U.S.C. 1189).

1 “(D) With respect to a contract entered
2 into with a foreign source that is a foreign
3 country of concern or a foreign entity of con-
4 cern—

5 “(i) a complete and unredacted copy
6 of the original contract, and if such origi-
7 nal contract is not in English, a translated
8 copy in accordance with subsection (c);

9 “(ii) a copy of the waiver received
10 under section 117A for such contract; and

11 “(iii) the statement submitted by the
12 institution for purposes of receiving such a
13 waiver under section 117A(b)(2).

14 “(E) With respect to a gift received from
15 a foreign source that is a foreign country of
16 concern or a foreign entity of concern, an as-
17 surance that the institution will—

18 “(i) in a case in which the institution
19 received documentation relating to such
20 gift, maintain such documentation until
21 the latest of—

22 “(I) the date that is 5 years after
23 the date such gift was received by the
24 institution; or

1 “(II) the last day of any period
2 that applicable State law requires a
3 copy of such documentation to be
4 maintained; and

5 “(ii) upon request of the Secretary
6 during an investigation under section
7 117D(a)(1), produce such documentation;

8 “(2) FOREIGN SOURCE OWNERSHIP OR CON-
9 TROL.—Each report to the Secretary required under
10 subsection (a)(2) shall contain—

11 “(A) the information required under para-
12 graph (1) of this subsection;

13 “(B) the legal name and the mailing ad-
14 dress of the foreign source that substantially
15 controls the institution as described in such
16 subsection;

17 “(C) the date on which the foreign source
18 assumed such substantial control; and

19 “(D) any changes in program or structure
20 of the institution of higher education resulting
21 from such substantial control.

22 “(c) TRANSLATION REQUIREMENTS.—Any informa-
23 tion required to be disclosed under this section, or re-
24 quested by the Secretary pursuant to an investigation
25 under section 117D(a)(1), with respect to a gift or con-

1 tract that is not in English shall be translated into
2 English, for purposes of such disclosure or such investiga-
3 tion, by a person that is not—

4 “(1) a foreign source that awarded such gift or
5 entered into such contract; or

6 “(2) any other foreign source from an attrib-
7 utable country of a foreign source referred to in
8 paragraph (1).

9 “(d) PUBLIC INSPECTION.—

10 “(1) DATABASE REQUIREMENT.—Beginning not
11 later than May 31 of the calendar year following the
12 date of enactment of the DETERRENT Act, the
13 Secretary shall—

14 “(A) establish and maintain a searchable
15 database on a website of the Department, under
16 which all reports submitted under this section
17 (including, to the extent practicable, any report
18 submitted under this section before the date of
19 enactment of the DETERRENT Act)—

20 “(i) are made publicly available (in
21 electronic and downloadable format), in-
22 cluding any information provided in such
23 reports (other than the information prohib-
24 ited from being publicly disclosed pursuant
25 to paragraph (2));

1 “(ii) can be individually identified and
2 compared; and

3 “(iii) to the extent practicable, are
4 searchable and sortable—

5 “(I) by the institution that filed
6 such report;

7 “(II) by the date on which the in-
8 stitution filed such report;

9 “(III) by the date on which the
10 institution received the gift which is
11 the subject of the report;

12 “(IV) by the date on which the
13 institution enters into the contract
14 which is the subject of the report;

15 “(V) by the date on which such
16 contract first takes effect;

17 “(VI) by the attributable country
18 of such gift or contract;

19 “(VII) by the name of the foreign
20 source;

21 “(VIII) by the information de-
22 scribed in subparagraph (C)(i); and

23 “(IX) by the information de-
24 scribed in subparagraph (C)(ii);

1 “(B) not later than 30 days after receipt
2 of a disclosure report under this section, include
3 such report in such database;

4 “(C) indicate, as part of the public record
5 of a report included in such database, whether
6 the report is with respect to a gift received
7 from, or a contract entered into with—

8 “(i) a foreign source that is a foreign
9 government; or

10 “(ii) a foreign source that is not a for-
11 eign government; and

12 “(D) with respect to a disclosure report
13 that does not include the name or address of a
14 foreign source, indicate, as part of the public
15 record of such report included in such database,
16 that such report did not include such informa-
17 tion.

18 “(2) APPLICATION OF FEDERAL PRIVACY LAW;
19 PROTECTIONS FOR NATURAL PERSONS.—

20 “(A) APPLICATION OF FEDERAL PRIVACY
21 LAW.—Except as provided in subparagraph (B),
22 a disclosure report filed pursuant to this section
23 is not subject to Federal privacy law (including
24 any exemption from disclosure described in sec-
25 tion 552(b) of title 5, United States Code)).

1 “(B) PROTECTIONS FOR NATURAL PER-
2 SONS.—

3 “(i) IN GENERAL.—Except as pro-
4 vided in clause (ii), with respect to a dis-
5 closure report filed under this section, the
6 name or address (other than the attrib-
7 utable country) of a foreign source that is
8 a natural person—

9 “(I) may not be publicly dis-
10 closed; and

11 “(II) is exempt from disclosure
12 under subsection (b)(3) of section 552
13 of title 5, United States Code (com-
14 monly referred to as the Freedom of
15 Information Act).

16 “(ii) EXCEPTIONS FOR CONTRACTS
17 WITH A FOREIGN COUNTRY OF CONCERN
18 OR FOREIGN ENTITY OF CONCERN.—
19 Clause (i) shall not apply to a disclosure
20 report filed pursuant to this section that
21 contains information with respect to a con-
22 tract described in subsection (a)(1)(B)(ii)
23 entered into with a foreign country of con-
24 cern or foreign entity of concern.

1 “(e) INTERAGENCY INFORMATION SHARING.—Not-
2 withstanding any other provision of law, not later than
3 30 days after receiving a disclosure report from an institu-
4 tion in compliance with this section, the Secretary shall
5 transmit an unredacted copy of such report (including the
6 name and address of a foreign source disclosed in such
7 report) to the Director of the Federal Bureau of Investiga-
8 tion, the Director of National Intelligence, the Director
9 of the Central Intelligence Agency, the Secretary of State,
10 the Secretary of Defense, the Attorney General, the Sec-
11 retary of Commerce, the Secretary of Homeland Security,
12 the Secretary of Energy, the Director of the National
13 Science Foundation, and the Director of the National In-
14 stitutes of Health.

15 “(f) DEFINITIONS.—In this section:

16 “(1) AFFILIATED ENTITY.—The term ‘affiliated
17 entity’, when used with respect to an institution,
18 means an entity or organization that operates pri-
19 marily for the benefit of, or under the auspices of,
20 such institution, such as a foundation of the institu-
21 tion, or an educational, cultural, or language entity.

22 “(2) ATTRIBUTABLE COUNTRY.—The term ‘at-
23 tributable country’ means—

24 “(A) the country of citizenship of a foreign
25 source who is a natural person, or, if such

1 country is unknown, the principal residence of
2 such foreign source; or

3 “(B) the country of incorporation of a for-
4 eign source that is a legal entity, or, if such
5 country is unknown, the principal place of busi-
6 ness (as applicable) of such foreign source.

7 “(3) CONTRACT.—The term ‘contract’—

8 “(A) means—

9 “(i) any agreement for the acquisition
10 by purchase, lease, or barter of property
11 (including intellectual property) or services
12 by the foreign source;

13 “(ii) except as provided in subpara-
14 graph (B)(ii), any agreement for the acqui-
15 sition by purchase, lease, or barter of prop-
16 erty (including intellectual property) or
17 services from a foreign source; and

18 “(iii) any affiliation, agreement, or
19 similar transaction with a foreign source
20 that involves the use or exchange of an in-
21 stitution’s name, likeness, time, services, or
22 resources; and

23 “(B) does not include—

24 “(i) an agreement made between an
25 institution and a foreign source regarding

1 any payment of one or more elements of a
2 student's cost of attendance (as such term
3 is defined in section 472), unless such an
4 agreement is made for more than 15 stu-
5 dents or is made under a restricted or con-
6 ditional contract;

7 “(ii) an arms-length agreement for
8 the acquisition by purchase, lease, or bar-
9 ter of property (including intellectual prop-
10 erty) or services from a foreign source that
11 is not a foreign country of concern or a
12 foreign entity of concern; or

13 “(iii) any assignment or license of a
14 granted intellectual property right (includ-
15 ing a patent, trademark, or copyright) that
16 is not associated with a category listed in
17 the Commerce Control List maintained by
18 the Bureau of Industry and Security of the
19 Department of Commerce and set forth in
20 Supplement No. 1 to part 774 of title 15,
21 Code of Federal Regulations (or successor
22 regulations).

23 “(4) FOREIGN SOURCE.—The term ‘foreign
24 source’ means—

1 “(A) a foreign government, including an
2 agency of a foreign government;

3 “(B) a legal entity, governmental or other-
4 wise, created under the laws of a foreign state
5 or states;

6 “(C) a legal entity, governmental or other-
7 wise, substantially controlled (as described in
8 section 668.174(c)(3) of title 34, Code of Fed-
9 eral Regulations) (or successor regulations)) by
10 a foreign source;

11 “(D) a natural person who is not a citizen
12 or a national of the United States or a trust
13 territory or protectorate thereof;

14 “(E) an international organization (as
15 such term is defined in the International Orga-
16 nizations Immunities Act (22 U.S.C. 288));

17 “(F) a person who is an agent of a foreign
18 principal (as such term is defined in section 1
19 of the Foreign Agents Registration Act of 1938
20 (22 U.S.C. 611)); and

21 “(G) an agent of any of the entities de-
22 scribed in subparagraphs (A) through (F), in-
23 cluding—

1 “(i) a subsidiary or affiliate of a for-
2 foreign legal entity, acting on behalf of such
3 an entity; and

4 “(ii) a person that operates primarily
5 for the benefit of, or under the auspices of,
6 such an entity, such as a foundation of
7 such entity, or an educational, cultural, or
8 language entity.

9 “(5) GIFT.—The term ‘gift’—

10 “(A) means any gift of money, property
11 (including intellectual property), resources,
12 staff, or services; and

13 “(B) does not include—

14 “(i) any payment of one or more ele-
15 ments of a student’s cost of attendance (as
16 such term is defined in section 472) to an
17 institution by, or scholarship from, a for-
18 eign source who is a natural person, acting
19 in their individual capacity and not as an
20 agent for, at the request or direction of, or
21 on behalf of, any person or entity (except
22 the student), made for not more than 15
23 students, and that is not made under a re-
24 stricted or conditional contract with such
25 foreign source;

1 “(ii) any assignment or license of a
2 granted intellectual property right (includ-
3 ing a patent, trademark, or copyright) that
4 is not associated with a category listed in
5 the Commerce Control List maintained by
6 the Bureau of Industry and Security of the
7 Department of Commerce and set forth in
8 Supplement No. 1 to part 774 of title 15,
9 Code of Federal Regulations (or successor
10 regulations); or

11 “(iii) decorations (as such term is de-
12 fined in section 7342(a) of title 5, United
13 States Code).

14 “(6) RESTRICTED OR CONDITIONAL GIFT OR
15 CONTRACT.—The term ‘restricted or conditional gift
16 or contract’ means any endowment, gift, grant, con-
17 tract, award, present, or property (including intellec-
18 tual property) of any kind which includes provisions
19 regarding—

20 “(A) the employment, assignment, or ter-
21 mination of faculty;

22 “(B) the establishment of, or the provision
23 of funding for, departments, centers, institutes,
24 instructional programs, research or lecture pro-
25 grams, or new faculty positions;

1 “(C) the selection, admission, or education
2 of students; or

3 “(D) the award of grants, loans, scholar-
4 ships, fellowships, or other forms of financial
5 aid restricted to students of a specified country,
6 religion, sex, ethnic origin, or political opin-
7 ion.”.

8 (b) PROHIBITION ON CONTRACTS WITH CERTAIN
9 FOREIGN ENTITIES AND COUNTRIES.—Part B of title I
10 of the Higher Education Act of 1965 (20 U.S.C. 1011
11 et seq.) is amended by inserting after section 117 the fol-
12 lowing:

13 **“SEC. 117A. PROHIBITION ON CONTRACTS WITH CERTAIN**
14 **FOREIGN ENTITIES AND COUNTRIES.**

15 “(a) IN GENERAL.—An institution shall not enter
16 into a contract with a foreign country of concern or a for-
17 eign entity of concern.

18 “(b) WAIVERS.—

19 “(1) IN GENERAL.—A waiver issued under this
20 section to an institution with respect to a contract
21 shall only—

22 “(A) waive the prohibition under sub-
23 section (a) for a 1-year period; and

1 “(B) apply to the terms and conditions of
2 the proposed contract submitted as part of the
3 request for such waiver.

4 “(2) SUBMISSION.—

5 “(A) FIRST WAIVER REQUESTS.—

6 “(i) IN GENERAL.—An institution
7 that desires to enter into a contract with
8 a foreign entity of concern or a foreign
9 country of concern may submit to the Sec-
10 retary, not later than 120 days before the
11 institution enters into such a contract, a
12 request to waive the prohibition under sub-
13 section (a) with respect to such contract.

14 “(ii) CONTENTS OF WAIVER RE-
15 QUEST.—A waiver request submitted by an
16 institution under clause (i) shall include—

17 “(I) the complete and unredacted
18 text of the proposed contract for
19 which the waiver is being requested,
20 and if such original contract is not in
21 English, a translated copy of the text
22 into English (in a manner that com-
23 plies with section 117(c)); and

24 “(II) a statement that—

1 “(aa) is certified by a com-
2 pliance officer of the institution
3 designated in accordance with
4 section 117D(c); and

5 “(bb) includes information
6 that demonstrates that such con-
7 tract—

8 “(AA) is for the benefit
9 of the institution’s mission
10 and students; and

11 “(BB) will promote the
12 security, stability, and eco-
13 nomic vitality of the United
14 States.

15 “(B) RENEWAL WAIVER REQUESTS.—

16 “(i) IN GENERAL.—An institution
17 that, pursuant to a waiver issued under
18 this section, has entered into a contract,
19 the term of which is longer than the 1-year
20 waiver period and the terms and conditions
21 of which remain the same as the proposed
22 contract submitted as part of the request
23 for such waiver may submit, not later than
24 120 days before the expiration of such
25 waiver period, a request for a renewal of

1 such waiver for an additional 1-year period
2 (which shall include any information re-
3 quested by the Secretary).

4 “(ii) TERMINATION.—If the institu-
5 tion fails to submit a request under clause
6 (i) or is not granted a renewal under such
7 clause, such institution shall terminate
8 such contract on the last day of the origi-
9 nal 1-year waiver period.

10 “(3) WAIVER ISSUANCE.—The Secretary—

11 “(A) not later than 60 days before an in-
12 stitution enters into a contract pursuant to a
13 waiver request under paragraph (2)(A), or be-
14 fore a contract described in paragraph (2)(B)(i)
15 is renewed pursuant to a renewal request under
16 such paragraph, shall notify the institution—

17 “(i) if the waiver or renewal will be
18 issued by the Secretary; and

19 “(ii) in a case in which the waiver or
20 renewal will be issued, the date on which
21 the 1-year waiver period starts; and

22 “(B) may only issue a waiver under this
23 section to an institution if the Secretary deter-
24 mines, in consultation with each individual list-

1 ed in section 117(e), that the contract for which
2 the waiver is being requested—

3 “(i) is for the benefit of the institu-
4 tion’s mission and students; and

5 “(ii) will promote the security, sta-
6 bility, and economic vitality of the United
7 States.

8 “(4) DISCLOSURE.—Not less than 2 weeks
9 prior to issuing a waiver under paragraph (2), the
10 Secretary shall notify the authorizing committees of
11 the intent to issue the waiver, including a justifica-
12 tion for the waiver.

13 “(c) DESIGNATION DURING CONTRACT TERM.—In
14 the case of an institution that enters into a contract with
15 a foreign source that is not a foreign country of concern
16 or a foreign entity of concern but which, during the term
17 of such contract, is designated as a foreign country of con-
18 cern or foreign entity of concern, such institution shall ter-
19 minate such contract not later than 60 days after the Sec-
20 retary notifies the institution of such designation.

21 “(d) CONTRACTS PRIOR TO DATE OF ENACTMENT.—

22 “(1) IN GENERAL.—In the case of an institu-
23 tion that has entered into a contract with a foreign
24 country of concern or foreign entity of concern prior

1 to the date of enactment of the DETERRENT
2 Act—

3 “(A) the institution shall as soon as prac-
4 ticable, but not later than 30 days after such
5 date of enactment, submit to the Secretary a
6 waiver request in accordance with clause (ii) of
7 subsection (b)(2)(A); and

8 “(B) the Secretary shall, upon receipt of
9 the request submitted under such clause, issue
10 a waiver to the institution for a period begin-
11 ning on the date on which the waiver is issued
12 and ending on the sooner of—

13 “(i) the date that is 1 year after the
14 date of enactment of the DETERRENT
15 Act; or

16 “(ii) the date on which the contract
17 terminates.

18 “(2) RENEWAL.—An institution that has en-
19 tered into a contract described in paragraph (1), the
20 term of which is longer than the waiver period de-
21 scribed in subparagraph (B) of such paragraph and
22 the terms and conditions of which remain the same
23 as the contract submitted as part of the request re-
24 quired under subparagraph (A) of such paragraph,
25 may submit a request for renewal of the waiver

1 issued under such paragraph in accordance with
2 subsection (b)(2)(B).

3 “(e) CONTRACT DEFINED.—The term ‘contract’ has
4 the meaning given such term in section 117(f).”.

5 (c) INTERAGENCY INFORMATION SHARING.—Not-
6 withstanding any other provision of law, not later than
7 90 days after the date of enactment of this Act, the Sec-
8 retary of Education shall transmit to each individual listed
9 in section 117(e) of the Higher Education Act of 1965,
10 as amended by this Act—

11 (1) an unredacted copy of each report (includ-
12 ing the name and address of a foreign source dis-
13 closed in such report) received by the Department of
14 Education under section 117 of the Higher Edu-
15 cation Act of 1965 (20 U.S.C. 1011f) prior to the
16 date of enactment of this Act); and

17 (2) any report, document, or other record gen-
18 erated by the Department of Education in the
19 course of an investigation—

20 (A) of an institution with respect to the
21 compliance of such institution with such sec-
22 tion; and

23 (B) initiated prior to the date of enactment
24 of this Act.

1 **SEC. 3. POLICY REGARDING CONFLICTS OF INTEREST**
2 **FROM FOREIGN GIFTS AND CONTRACTS.**

3 The Higher Education Act of 1965 (20 U.S.C. 1001
4 et seq.), as amended by the preceding section, is further
5 amended by inserting after section 117A the following:

6 **“SEC. 117B. INSTITUTIONAL POLICY REGARDING FOREIGN**
7 **GIFTS AND CONTRACTS TO FACULTY AND**
8 **STAFF.**

9 “(a) **REQUIREMENT TO MAINTAIN POLICY AND**
10 **DATABASE.**—Beginning not later than 90 days after the
11 date of enactment of the DETERRENT Act, each institu-
12 tion described in subsection (b) shall maintain—

13 “(1) a policy requiring covered individuals at
14 the institution and covered individuals at affiliated
15 entities of the institution to disclose in a report to
16 such institution by July 31 of each calendar year
17 that begins after the year in which such enactment
18 date occurs—

19 “(A) any gift received from a foreign
20 source in the previous calendar year, the value
21 of which is greater than the minimal value (as
22 such term is defined in section 7342(a) of title
23 5, United States Code) or is of indeterminate
24 value, and including the date on which the gift
25 was received;

1 “(B) any contract with a foreign source
2 (other than a foreign country of concern or for-
3 eign entity of concern) entered into or in effect
4 during the previous calendar year, the value of
5 which is \$5,000 or more, considered alone or in
6 combination with all other contracts with that
7 foreign source within the calendar year, and in-
8 cluding the date on which such contract is en-
9 tered into, the date on which the contract first
10 takes effect, and, as applicable, the date on
11 which such contract terminates;

12 “(C) any contract with a foreign source
13 (other than a foreign country of concern or for-
14 eign entity of concern) entered into or in effect
15 during the previous calendar year that has an
16 indeterminate monetary value, and including
17 the date on which such contract is entered into,
18 the date on which the contract first takes ef-
19 fect, and, as applicable, the date on which such
20 contract terminates; and

21 “(D) any contract entered into or in effect
22 with a foreign country of concern or foreign en-
23 tity of concern during the previous calendar
24 year, the value of which is \$0 or more or which

1 has an indeterminate monetary value, and in-
2 cluding—

3 “(i) the date on which such contract
4 is entered into;

5 “(ii) the date on which the contract
6 first takes effect;

7 “(iii) if the contract has a termination
8 date, such termination date; and

9 “(iv) the full text of such contract and
10 any addenda;

11 “(2) a publicly available and searchable data-
12 base (in electronic and downloadable format), on a
13 website of the institution, of the information re-
14 quired to be disclosed under paragraph (1) (other
15 than the information prohibited from public disclo-
16 sure pursuant to subsection (c)) that—

17 “(A) makes available the information dis-
18 closed under paragraph (1) (other than the in-
19 formation prohibited from public disclosure pur-
20 suant to subsection (c)) beginning on the date
21 that is 30 days after receipt of the report under
22 such paragraph containing such information
23 and until the latest of—

24 “(i) the date that is 5 years after the
25 date on which—

1 “(I) a gift referred to in para-
2 graph (1)(A) is received; or

3 “(II) a contract referred to in
4 subparagraph (B), (C) or (D) of para-
5 graph (1) first takes effect;

6 “(ii) the date on which a contract re-
7 ferred to in subparagraph (B), (C) or (D)
8 of paragraph (1) terminates; or

9 “(iii) the last day of any period that
10 applicable State law requires a copy of
11 such contract to be maintained; and

12 “(B) is searchable and sortable—

13 “(i) if the subject of the disclosure is
14 a gift, by the date on which the gift is re-
15 ceived;

16 “(ii) if the subject of the disclosure is
17 a contract—

18 “(I) by the date on which such
19 contract is entered into; and

20 “(II) by the date on which such
21 contract first takes effect;

22 “(iii) by the attributable country with
23 respect to which information is being dis-
24 closed;

1 “(iv)(I) if the covered individual at an
2 institution is making the disclosure, by the
3 most specific division of the institution
4 (such as the department, school, or college)
5 that the covered individual is at; and

6 “(II) if the covered individual at the
7 affiliated entity of the institution is making
8 the disclosure, by the name of such affili-
9 ated entity;

10 “(v) by the name of the foreign
11 source; and

12 “(3) an effective plan to identify and manage
13 potential information gathering by foreign sources
14 through espionage targeting covered individuals that
15 may arise from gifts received from, or contracts en-
16 tered into with, a foreign source, including through
17 the use of—

18 “(A) periodic communications;

19 “(B) accurate reporting under paragraph
20 (2) of the information required to be disclosed
21 under paragraph (1); and

22 “(C) enforcement of the policy described in
23 paragraph (1); and

24 “(4) for purposes of investigations under sec-
25 tion 117D(a)(1), a record of the name of each indi-

1 vidual who makes a disclosure under paragraph (1)
2 and each report disclosed under such paragraph.

3 “(b) INSTITUTIONS.—An institution shall be subject
4 to the requirements of this section if such institution—

5 “(1) received more than \$50,000,000 in Fed-
6 eral funds in any of the previous five calendar years
7 to support (in whole or in part) research and devel-
8 opment (as determined by the institution and meas-
9 ured by the Higher Education Research and Devel-
10 opment Survey of the National Center for Science
11 and Engineering Statistics); or

12 “(2) receives funds under title VI.

13 “(c) APPLICATION OF FEDERAL PRIVACY LAW; PRO-
14 TECTIONS FOR NATURAL PERSONS.—

15 “(1) APPLICATION OF FEDERAL PRIVACY
16 LAW.—Except as provided in paragraph (2), a dis-
17 closure made pursuant to this section is not subject
18 to Federal privacy law.

19 “(2) PROTECTIONS FOR NATURAL PERSONS.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B), with respect to a disclosure
22 made pursuant to this section, the following
23 may not be publicly disclosed:

1 “(i) The name or address (other than
2 the attributable country) of a foreign
3 source that is a natural person.

4 “(ii) The name or any other person-
5 ally identifiable information of a covered
6 individual making such disclosure.

7 “(B) EXCEPTIONS FOR CONTRACTS WITH
8 A FOREIGN COUNTRY OF CONCERN OR FOREIGN
9 ENTITY OF CONCERN.—Subparagraph (A) shall
10 not apply to a disclosure made pursuant to this
11 section that contains information with respect
12 to a contract entered into with a foreign coun-
13 try of concern or foreign entity of concern.

14 “(d) DEFINITIONS.—In this section—

15 “(1) the terms ‘affiliated entity’, ‘attributable
16 country’, ‘foreign source’, and ‘gift’ have the mean-
17 ings given such terms in section 117(f);

18 “(2) the term ‘contract’—

19 “(A) means—

20 “(i) any agreement for the acquisition
21 by purchase, lease, or barter of property
22 (including intellectual property) or services
23 by the foreign source;

24 “(ii) except as provided in subpara-
25 graph (B), any agreement for the acquisi-

1 tion by purchase, lease, or barter of prop-
2 erty (including intellectual property) or
3 services from a foreign source; and

4 “(iii) any affiliation, agreement, or
5 similar transaction with a foreign source
6 that involves the use or exchange of a cov-
7 ered individual’s name, likeness, time, serv-
8 ices, or resources; and

9 “(B) does not include—

10 “(i) an arms-length agreement for the
11 acquisition by purchase, lease, or barter of
12 property (including intellectual property)
13 or services from a foreign source that is
14 not a foreign country of concern or a for-
15 eign entity of concern; and

16 “(ii) any assignment or license of a
17 granted intellectual property right (includ-
18 ing a patent, trademark, or copyright) that
19 is not associated with a category listed in
20 the Commerce Control List maintained by
21 the Bureau of Industry and Security of the
22 Department of Commerce and set forth in
23 Supplement No. 1 to part 774 of title 15,
24 Code of Federal Regulations (or successor
25 regulations); and

1 “(3) the term ‘covered individual’—

2 “(A) has the meaning given such term in
3 section 223(d) of the William M. (Mac) Thorn-
4 berry National Defense Authorization Act for
5 Fiscal Year 2021 (42 U.S.C. 6605); and

6 “(B) shall be interpreted in accordance
7 with the Guidance for Implementing National
8 Security Presidential Memorandum 33 (NSPM–
9 33) on National Security Strategy for United
10 States Government-Supported Research and
11 Development published by the Subcommittee on
12 Research Security and the Joint Committee on
13 the Research Environment in January 2022 (or
14 any successor guidance).”.

15 **SEC. 4. INVESTMENT DISCLOSURE REPORT.**

16 The Higher Education Act of 1965 (20 U.S.C. 1001
17 et seq.), as amended by this Act, is further amended by
18 inserting after section 117B the following:

19 **“SEC. 117C. INVESTMENT DISCLOSURE REPORT.**

20 “(a) INVESTMENT DISCLOSURE REPORT.—A speci-
21 fied institution shall file a disclosure report in accordance
22 with subsection (b) with the Secretary on each July 31
23 immediately following any calendar year in which the spec-
24 ified institution purchases, sells, or holds (directly or indi-

1 rectly through any chain of ownership) one or more invest-
2 ments of concern.

3 “(b) CONTENTS OF REPORT.—Each report to the
4 Secretary required by subsection (a) shall contain, with
5 respect to the calendar year preceding the calendar year
6 in which such report is filed, the following information:

7 “(1) A list of the investments of concern pur-
8 chased, sold, or held during such calendar year.

9 “(2) The aggregate fair market value of all in-
10 vestments of concern held as of the close of such cal-
11 endar year.

12 “(3) The combined value of all investments of
13 concern sold over the course of such calendar year,
14 as measured by the fair market value of such invest-
15 ments at the time of the sale.

16 “(4) The combined value of all capital gains
17 from such sales of investments of concern.

18 “(c) TREATMENT OF CERTAIN POOLED INVEST-
19 MENTS.—

20 “(1) POOLED INVESTMENT CLASSIFICATION.—

21 “(A) IN GENERAL.—For purposes of this
22 section, except as provided in subparagraph
23 (B), a specified interest acquired by a specified
24 institution in a regulated investment company,
25 exchange traded fund, or any other pooled in-

1 investment that holds an investment of concern
2 shall be treated as an investment of concern
3 and shall be reported pursuant to paragraph
4 (2)(A).

5 “(B) CERTIFICATION OF POOLED INVEST-
6 MENT.—Notwithstanding subparagraph (A),
7 such specified interest shall not be subject to
8 subparagraph (A) if the Secretary certifies, pur-
9 suant to paragraph (2)(B), that such pooled in-
10 vestment is not holding an investment of con-
11 cern.

12 “(2) PROCEDURES.—The Secretary, after con-
13 sultation with the Secretary of the Treasury and the
14 Securities and Exchange Commission, shall establish
15 procedures under which a pooled investment de-
16 scribed in paragraph (1)—

17 “(A) shall be reported in accordance with
18 the requirements of subsection (b); and

19 “(B) may be certified under paragraph
20 (1)(B) as not holding an investment of concern.

21 “(d) TREATMENT OF RELATED ORGANIZATIONS.—
22 For purposes of this section, assets held by any related
23 organization (as defined in section 4968(d)(2) of the In-
24 ternal Revenue Code of 1986) with respect to a specified

1 institution shall be treated as held by such specified insti-
2 tution, except that—

3 “(1) such assets shall not be taken into account
4 with respect to more than 1 specified institution;
5 and

6 “(2) unless such organization is controlled by
7 such institution or is described in section 509(a)(3)
8 of the Internal Revenue Code of 1986 with respect
9 to such institution, assets which are not intended or
10 available for the use or benefit of such specified in-
11 stitution shall not be taken into account.

12 “(e) VALUATION OF DEBT.—For purposes of this
13 section, the fair market value of any debt shall be the out-
14 standing principal amount of such debt.

15 “(f) REGULATIONS.—The Secretary, after consulta-
16 tion with the Secretary of the Treasury and the Securities
17 and Exchange Commission, may issue such regulations or
18 other guidance as may be necessary or appropriate to
19 carry out the purposes of this section, including regula-
20 tions or other guidance providing for the proper applica-
21 tion of this section with respect to certain regulated invest-
22 ment companies, exchange traded funds, and pooled in-
23 vestments.

24 “(g) DATABASE REQUIREMENT.—Beginning not
25 later than May 31 of the calendar year following the date

1 of enactment of the DETERRENT Act, the Secretary
2 shall—

3 “(1) establish and maintain a searchable data-
4 base on a website of the Department, under which
5 all reports submitted under this section—

6 “(A) are made publicly available (in elec-
7 tronic and downloadable format), including any
8 information provided in such reports;

9 “(B) can be individually identified and
10 compared; and

11 “(C) are searchable and sortable; and

12 “(2) not later than 30 days after receipt of a
13 disclosure report under this section, include such re-
14 port in such database.

15 “(h) DEFINITIONS.—In this section:

16 “(1) INVESTMENT OF CONCERN.—

17 “(A) IN GENERAL.—The term ‘investment
18 of concern’ means any specified interest with
19 respect to any of the following:

20 “(i) A foreign country of concern.

21 “(ii) A foreign entity of concern.

22 “(B) SPECIFIED INTEREST.—The term
23 ‘specified interest’ means, with respect to any
24 entity—

1 “(i) stock or any other equity or prof-
2 its interest of such entity;

3 “(ii) debt issued by such entity; and

4 “(iii) any contract or derivative with
5 respect to any property described in clause
6 (i) or (ii).

7 “(2) SPECIFIED INSTITUTION.—

8 “(A) IN GENERAL.—The term ‘specified
9 institution’, as determined with respect to any
10 calendar year, means an institution that—

11 “(i) is not a public institution; and

12 “(ii) at the close of such calendar
13 year, holds—

14 “(I) assets (other than those as-
15 sets which are used directly in car-
16 rying out the institution’s exempt pur-
17 pose) the aggregate fair market value
18 of which is in excess of
19 \$6,000,000,000; and

20 “(II) investments of concern the
21 aggregate fair market value of which
22 is in excess of \$250,000,000.

23 “(B) REFERENCES TO CERTAIN TERMS.—

24 For the purpose of applying the definition
25 under subparagraph (A), the terms ‘aggregate

1 fair market value’ and ‘assets which are used
2 directly in carrying out the institution’s exempt
3 purpose’ shall be applied in the same manner as
4 such terms are applied for the purposes of sec-
5 tion 4968(b)(1)(D) of the Internal Revenue
6 Code of 1986.”.

7 **SEC. 5. ENFORCEMENT AND OTHER GENERAL PROVISIONS.**

8 (a) ENFORCEMENT AND OTHER GENERAL PROVI-
9 SIONS.—The Higher Education Act of 1965 (20 U.S.C.
10 1001 et seq.), as amended by this Act, is further amended
11 by inserting after section 117C the following:

12 **“SEC. 117D. ENFORCEMENT; SINGLE POINT-OF-CONTACT;
13 INSTITUTIONAL REQUIREMENTS.**

14 “(a) ENFORCEMENT.—

15 “(1) INVESTIGATION.—The Secretary (acting
16 through the General Counsel of the Department)
17 shall conduct investigations of possible violations of
18 sections 117, 117A, 117B, 117C, and subsection (c)
19 of this section by institutions and, whenever it ap-
20 pears that an institution has knowingly or willfully
21 failed to comply with a requirement of any of such
22 provisions (including any rule or regulation promul-
23 gated under any such provision), shall request that
24 the Attorney General bring a civil action in accord-
25 ance with paragraph (2).

1 “(2) CIVIL ACTION.—Whenever it appears that
2 an institution has knowingly or willfully failed to
3 comply with a requirement of any of the provisions
4 listed in paragraph (1) (including any rule or regula-
5 tion promulgated under any such provision) based
6 on an investigation under such paragraph, a civil ac-
7 tion shall be brought by the Attorney General, at the
8 request of the Secretary, in an appropriate district
9 court of the United States, or the appropriate
10 United States court of any territory or other place
11 subject to the jurisdiction of the United States, to
12 request such court to compel compliance with the re-
13 quirement of the provision that has been violated.

14 “(3) COSTS AND OTHER FINES.—An institution
15 that is compelled to comply with a requirement of a
16 provision listed in paragraph (1) pursuant to para-
17 graph (2) shall—

18 “(A) pay to the Treasury of the United
19 States the full costs to the United States of ob-
20 taining compliance with the requirement of such
21 provision, including all associated costs of inves-
22 tigation and enforcement; and

23 “(B) if applicable, be subject to the appli-
24 cable fines described in paragraph (4).

1 “(4) FINES FOR VIOLATIONS.—The Secretary
2 shall impose a fine on an institution that is com-
3 pelled to comply with a requirement of a section list-
4 ed in paragraph (1) pursuant to paragraph (2) as
5 follows:

6 “(A) SECTION 117.—

7 “(i) FIRST-TIME VIOLATIONS.—In the
8 case of an institution that is compelled to
9 comply with a requirement of section 117
10 pursuant to a civil action described in
11 paragraph (2), and that has not previously
12 been compelled to comply with any such
13 requirement pursuant to such a civil ac-
14 tion, the Secretary shall impose a fine on
15 the institution for such violation as follows:

16 “(I) In the case of an institution
17 that knowingly or willfully fails to
18 comply with a reporting requirement
19 under subsection (a)(1) of section
20 117, such fine shall be in an amount
21 that is—

22 “(aa) for each gift or con-
23 tract with determinable value
24 that is the subject of such a fail-
25 ure to comply, the greater of—

1 “(AA) \$50,000; or

2 “(BB) the monetary
3 value of such gift or con-
4 tract; or

5 “(bb) for each gift or con-
6 tract of no value or of indeter-
7 minable value, not less than 1
8 percent and not more than 10
9 percent of the total amount of
10 Federal funds received by the in-
11 stitution under this Act for the
12 most recent fiscal year.

13 “(II) In the case of an institution
14 that knowingly or willfully fails to
15 comply with the reporting requirement
16 under subsection (a)(2) of section
17 117, such fine shall be in an amount
18 that is not less than 10 percent of the
19 total amount of Federal funds re-
20 ceived by the institution under this
21 Act for the most recent fiscal year.

22 “(ii) SUBSEQUENT VIOLATIONS.—In
23 the case of an institution that has pre-
24 viously been compelled to comply with a re-
25 quirement of section 117 pursuant to a

1 civil action described in paragraph (2), and
2 is subsequently compelled to comply with
3 such a requirement pursuant to a subse-
4 quent civil action described in paragraph
5 (2), the Secretary shall impose a fine on
6 the institution as follows:

7 “(I) In the case of an institution
8 that knowingly or willfully fails to
9 comply with a reporting requirement
10 under subsection (a)(1) of section
11 117, such fine shall be in an amount
12 that is—

13 “(aa) for each gift or con-
14 tract with determinable value
15 that is the subject of such a fail-
16 ure to comply, the greater of—

17 “(AA) \$100,000; or

18 “(BB) twice the mone-
19 tary value of such gift or
20 contract; or

21 “(bb) for each gift or con-
22 tract of no value or of indeter-
23 minable value, not less than 5
24 percent and not more than 10
25 percent of the total amount of

1 Federal funds received by the in-
2 stitution under this Act for the
3 most recent fiscal year.

4 “(II) In the case of an institution
5 that knowingly or willfully fails to
6 comply with a reporting requirement
7 under subsection (a)(2) of section
8 117, such fine shall be in an amount
9 that is not less than 20 percent of the
10 total amount of Federal funds re-
11 ceived by the institution under this
12 Act for the most recent fiscal year.

13 “(B) SECTION 117A.—

14 “(i) FIRST-TIME VIOLATIONS.—In the
15 case of an institution that is compelled to
16 comply with a requirement of section 117A
17 pursuant to a civil action described in
18 paragraph (2), and that has not previously
19 been compelled to comply with any such
20 requirement pursuant to such a civil ac-
21 tion, the Secretary shall impose a fine on
22 the institution in an amount that is not
23 less than 5 percent and not more than 10
24 percent of the total amount of Federal

1 funds received by the institution under this
2 Act for the most recent fiscal year.

3 “(ii) SUBSEQUENT VIOLATIONS.—In
4 the case of an institution that has pre-
5 viously been compelled to comply with a re-
6 quirement of section 117A pursuant to a
7 civil action described in paragraph (2), and
8 is subsequently compelled to comply with
9 such a requirement pursuant to a subse-
10 quent civil action described in paragraph
11 (2), the Secretary shall impose a fine on
12 the institution in an amount that is not
13 less than 20 percent of the total amount of
14 Federal funds received by the institution
15 under this Act for the most recent fiscal
16 year.

17 “(C) SECTION 117B.—

18 “(i) FIRST-TIME VIOLATIONS.—In the
19 case of an institution that is compelled to
20 comply with a requirement of section 117B
21 pursuant to a civil action described in
22 paragraph (2), and that has not previously
23 been compelled to comply with any such
24 requirement pursuant to such a civil ac-
25 tion, the Secretary shall impose a fine on

1 the institution for such violation in an
2 amount that is the greater of—

3 “(I) \$250,000; or

4 “(II) the total amount of gifts or
5 contracts that the institution is com-
6 pelled to report pursuant to such civil
7 action.

8 “(ii) SUBSEQUENT VIOLATIONS.—In
9 the case of an institution that has pre-
10 viously been compelled to comply with a re-
11 quirement of section 117B pursuant to a
12 civil action described in paragraph (2), and
13 is subsequently compelled to comply with
14 such a requirement pursuant to a subse-
15 quent civil action described in paragraph
16 (2), the Secretary shall impose a fine on
17 the institution in an amount that is the
18 greater of—

19 “(I) \$500,000; or

20 “(II) twice the total amount of
21 gifts or contracts that the institution
22 is compelled to report pursuant to
23 such civil action.

24 “(D) SECTION 117C.—

1 “(i) FIRST-TIME VIOLATIONS.—In the
2 case of an institution that is compelled to
3 comply with a requirement of section 117C
4 pursuant to a civil action described in
5 paragraph (2), and that has not previously
6 been compelled to comply with any such
7 requirement pursuant to such a civil ac-
8 tion, the Secretary shall impose a fine on
9 the institution in an amount that is not
10 less than 50 percent and not more than
11 100 percent of the sum of—

12 “(I) the aggregate fair market
13 value of all investments of concern
14 held by such institution as of the close
15 of the final calendar year for which
16 the institution is compelled to comply
17 with such requirement pursuant to
18 such civil action; and

19 “(II) the combined value of all
20 investments of concern sold over the
21 course of all the calendar years for
22 which the institution is compelled to
23 comply with such requirement pursu-
24 ant to such civil action, as measured

1 by the fair market value of such in-
2 vestments at the time of the sale.

3 “(ii) SUBSEQUENT VIOLATIONS.—In
4 the case of an institution that has pre-
5 viously been compelled to comply with a re-
6 quirement of section 117C pursuant to a
7 civil action described in paragraph (2), and
8 is subsequently compelled to comply with
9 such a requirement pursuant to a subse-
10 quent civil action described in paragraph
11 (2), the Secretary shall impose a fine on
12 the institution in an amount that is not
13 less than 100 percent and not more than
14 200 percent of the sum of—

15 “(I) the aggregate fair market
16 value of all investments of concern
17 held by such institution as of the close
18 of the final calendar year for which
19 the institution is compelled to comply
20 with such requirement pursuant to
21 such subsequent civil action; and

22 “(II) the combined value of all
23 investments of concern over the course
24 of all the calendar years for which the
25 institution is compelled to comply with

1 such requirement pursuant to such
2 subsequent civil action, as measured
3 by the fair market value of such in-
4 vestments at the time of the sale.

5 “(E) INELIGIBILITY FOR WAIVER.—In the
6 case of an institution that is fined pursuant to
7 subparagraph (A)(ii), (B)(ii), (C)(ii), or (D)(ii),
8 the Secretary shall prohibit the institution from
9 obtaining a waiver, or a renewal of a waiver,
10 under section 117A.

11 “(b) SINGLE POINT-OF-CONTACT AT THE DEPART-
12 MENT.—The Secretary shall maintain a single point-of-
13 contact at the Department to—

14 “(1) receive and respond to inquiries and re-
15 quests for technical assistance from institutions re-
16 garding compliance with the requirements of sec-
17 tions 117, 117A, 117B, 117C, and subsection (c) of
18 this section;

19 “(2) coordinate and implement technical im-
20 provements to the database described in section
21 117(d)(1), including—

22 “(A) improving upload functionality by al-
23 lowing for batch reporting, including by allow-
24 ing institutions to upload one file with all re-
25 quired information into the database;

1 “(B) publishing and maintaining a data-
2 base users guide, which shall be reviewed and
3 updated as practicable but not less than annu-
4 ally, including information on how to edit an
5 entry and how to report errors;

6 “(C) creating a standing user group (to
7 which chapter 10 of title 5, United States Code,
8 shall not apply) to discuss possible database im-
9 provements, which group shall—

10 “(i) include at least—

11 “(I) 3 members representing
12 public institutions with high or very
13 high levels of research activity (as de-
14 fined by the National Center for Edu-
15 cation Statistics);

16 “(II) 2 members representing
17 private, nonprofit institutions with
18 high or very high levels of research
19 activity (as so defined);

20 “(III) 2 members representing
21 proprietary institutions of higher edu-
22 cation (as defined in section 102(b));
23 and

24 “(IV) 2 members representing
25 area career and technical education

1 schools (as defined in subparagraph
2 (C) or (D) of section 3(3) of the Carl
3 D. Perkins Career and Technical
4 Education Act of 2006 (20 U.S.C.
5 2302(3))); and

6 “(ii) meet at least twice a year with
7 officials from the Department to discuss
8 possible database improvements;

9 “(D) publishing, on a publicly available
10 website, recommended database improvements
11 following each meeting described in subpara-
12 graph (C)(ii); and

13 “(E) responding, on a publicly available
14 website, to each recommendation published
15 under subparagraph (D) as to whether or not
16 the Department will implement the rec-
17 ommendation, including the rationale for either
18 approving or rejecting the recommendation;

19 “(3) provide, every 90 days after the date of en-
20 actment of the DETERRENT Act, status updates
21 on any pending or completed investigations and civil
22 actions under subsection (a)(1) to—

23 “(A) the authorizing committees; and

24 “(B) any institution that is the subject of
25 such investigation or action;

1 “(4) maintain, on a publicly accessible
2 website—

3 “(A) a full comprehensive list of all foreign
4 countries of concern and foreign entities of con-
5 cern; and

6 “(B) the date on which the last update was
7 made to such list; and

8 “(5) not later than 7 days after making an up-
9 date to the list maintained under paragraph (4)(A),
10 notify each institution required to comply with the
11 sections listed in paragraph (1) of such update.

12 “(c) INSTITUTIONAL REQUIREMENTS FOR COMPLI-
13 ANCE OFFICERS AND INSTITUTIONAL POLICY REQUIRE-
14 MENTS.—

15 “(1) IN GENERAL.—An institution that is re-
16 quired to file a report under section 117 or 117C,
17 that is seeking a waiver under section 117A, or that
18 is subject to the requirements of section 117B, shall,
19 not later than the earlier of the date on which the
20 institution files the first report under section 117 or
21 117C, requests the institution’s first waiver under
22 section 117A, or first fulfills the requirements of
23 section 117B—

24 “(A) establish an institutional policy that
25 the institution shall follow in meeting the re-

1 requirements of sections 117, 117A, 117B, and
2 117C; and

3 “(B) designate and maintain at least one,
4 but not more than three, current employees or
5 legally authorized agents of such institution to
6 serve as compliance officers to carry out the re-
7 quirements listed in paragraph (2).

8 “(2) DUTIES OF COMPLIANCE OFFICERS.—A
9 compliance officer designated by an institution under
10 paragraph (1)(B) shall certify—

11 “(A) whenever the institution is required
12 to file a report under section 117 or 117C—

13 “(i) the institution’s accurate compli-
14 ance with the reporting requirements
15 under such section;

16 “(ii) that the institution, in filing such
17 report under section 117 or 117C—

18 “(I) followed the institutional
19 policy established under paragraph
20 (1)(A) applicable to such section; and

21 “(II) conducted good faith efforts
22 and reasonable due diligence to ensure
23 that accurate information is provided
24 in such report, including with respect
25 to the valuations of any assets that

1 are disclosed in a report submitted
2 under section 117C; and

3 “(iii) in the case of a report under
4 section 117, any statements by the institu-
5 tion required to be certified by such an of-
6 ficer under clause (i) or (iv) of section
7 117(b)(1)(C); and

8 “(B) whenever the institution requests a
9 waiver under section 117A—

10 “(i) that the institution—

11 “(I) is in compliance with the re-
12 quirements of such section; and

13 “(II) followed the institutional
14 policy established under paragraph
15 (1)(A) applicable to such section; and

16 “(ii) the statement by the institution
17 required to be certified by such an officer
18 under section 117A(b)(2)(A)(ii)(II); and

19 “(C) whenever the institution is subject to
20 the requirements of section 117B, that the in-
21 stitution—

22 “(i) is in compliance with the require-
23 ments of such section; and

1 “(ii) followed the institutional policy
2 established under paragraph (1)(A) appli-
3 cable to such section.

4 “(d) DEFINITIONS.—For purposes of sections 117,
5 117A, 117B, 117C, and this section:

6 “(1) FOREIGN COUNTRY OF CONCERN.—The
7 term ‘foreign country of concern’ means the fol-
8 lowing:

9 “(A) Any covered nation defined in section
10 4872 of title 10, United States Code, including
11 any special administrative region within such a
12 covered nation or any other territory that the
13 United States recognizes as being under the
14 control of such a covered nation on or after the
15 date of the enactment of this subsection.

16 “(B) Any country the Secretary, in con-
17 sultation with the Secretary of Defense, the
18 Secretary of State, and the Director of National
19 Intelligence, determines, for purposes of sec-
20 tions 117, 117A, 117B, 117C, or this section,
21 to be engaged in conduct that is detrimental to
22 the national security or foreign policy of the
23 United States.

24 “(2) FOREIGN ENTITY OF CONCERN.—The
25 term ‘foreign entity of concern’ has the meaning

1 given such term in section 10612(a) of the Research
2 and Development, Competition, and Innovation Act
3 (42 U.S.C. 19221(a)) and includes—

4 “(A) a foreign entity that is identified on
5 the list published under section 1286(c)(9)(A)
6 of the John S. McCain National Defense Au-
7 thorization Act for Fiscal Year 2019 (10 U.S.C.
8 4001 note; Public Law 115–232); and

9 “(B) a Chinese military company that is
10 identified on the list required by section 1260H
11 of the William M. (Mac) Thornberry National
12 Defense Authorization Act for Fiscal Year 2021
13 (10 U.S.C. 113 note; Public Law 116–283).

14 “(3) INSTITUTION.—The term ‘institution’
15 means an institution of higher education (as such
16 term is defined in section 102, other than an institu-
17 tion described in subsection (a)(1)(C) of such sec-
18 tion) with a program participation agreement under
19 section 487.”.

20 (b) PROGRAM PARTICIPATION AGREEMENT.—Section
21 487(a) of the Higher Education Act of 1965 (20 U.S.C.
22 1094) is amended by adding at the end the following:

23 “(30)(A) An institution will comply with the re-
24 quirements of sections 117, 117A, 117B, 117C, and
25 117D(c).

1 “(B) In the case of an institution described in
2 subparagraph (C), the institution will—

3 “(i) be ineligible to participate in the pro-
4 grams authorized by this title for a period of
5 not less than 2 institutional fiscal years; and

6 “(ii) in order to regain eligibility to partici-
7 pate in such programs, demonstrate compliance
8 with all requirements of each such section for
9 not less than 2 institutional fiscal years after
10 the institutional fiscal year in which such insti-
11 tution became ineligible.

12 “(C) An institution described in this subpara-
13 graph is an institution—

14 “(i) against which judgment has been
15 granted in 3 separate civil actions described in
16 section 117D(a)(2) that have each resulted in
17 the institution being compelled to comply with
18 one or more requirements of section 117, 117A,
19 117B, 117C, or 117D(e); and

20 “(ii) that pursuant to section
21 117D(a)(4)(E), is prohibited from obtaining a
22 waiver, or a renewal of a waiver, under section
23 117A.”.

24 (c) GAO STUDY AND REPORT.—

1 (1) STUDY.—Not later than January 31 of the
2 second calendar year that begins after the date of
3 enactment of this Act, the Comptroller General of
4 the United States shall initiate a study to identify
5 ways to improve intergovernmental agency coordina-
6 tion regarding implementation and enforcement of
7 sections 117, 117A, 117B, 117C, and 117D(c) of
8 the Higher Education Act of 1965 (20 U.S.C.
9 1011f), as amended or added by this Act, including
10 increasing information sharing, increasing compli-
11 ance rates, and establishing processes for enforce-
12 ment.

13 (2) REPORT.—Not later than 3 years after the
14 date of the initiation of the study under paragraph
15 (1), the Comptroller General of the United States
16 shall submit to Congress, and make public, a report
17 containing the results of the study described in para-
18 graph (1).

Passed the House of Representatives March 27,
2025.

Attest:

Clerk.

119TH CONGRESS
1ST SESSION

H. R. 1048

AN ACT

To amend the Higher Education Act of 1965 to strengthen disclosure requirements relating to foreign gifts and contracts, to prohibit contracts between institutions of higher education and certain foreign entities and countries of concern, and for other purposes.