

116TH CONGRESS
1ST SESSION

S. 1701

To address foreign threats to higher education in the United States.

IN THE SENATE OF THE UNITED STATES

JUNE 3, 2019

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

A BILL

To address foreign threats to higher education in the United
States.

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 “Stop Higher Education
5 Espionage and Theft Act of 2019”.

6 **SEC. 2. DESIGNATION OF FOREIGN INTELLIGENCE**
7 **THREATS TO HIGHER EDUCATION.**

8 (a) IN GENERAL.—Chapter 33 of title 28, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

1 **“§ 540D. Designation of foreign intelligence threats to**
2 **higher education**

3 “(a) DEFINITIONS.—In this section—

4 “(1) the term ‘classified information’ has the
5 meaning given that term in section 1(a) of the Clas-
6 sified Information Procedures Act (18 U.S.C. App.);

7 “(2) the term ‘Director’ means the Director of
8 the Federal Bureau of Investigation, acting in con-
9 sultation with the Attorney General, the Secretary of
10 Education, and the Director of National Intelligence;

11 “(3) the term ‘foreign actor’ means—

12 “(A) a foreign government or its auxiliary
13 territories, or any component thereof, whether
14 or not recognized by the United States;

15 “(B) a foreign-based political organization,
16 not substantially composed of United States
17 persons;

18 “(C) a faction of a foreign nation or na-
19 tions, not substantially composed of United
20 States persons;

21 “(D) an entity that is openly acknowledged
22 by a foreign government or governments to be
23 directed and controlled by such foreign govern-
24 ment or governments;

25 “(E) any partnership, association, corpora-
26 tion, organization, or other combination of per-

1 sons who acts as an agent, representative, em-
2 ployee, or servant of, or whose activities are di-
3 rectly or indirectly supervised, directed, con-
4 trolled, financed, or subsidized in whole or in
5 major part by a government, organization, fac-
6 tion, or entity described in subparagraph (A)
7 (B), (C), or (D); or

8 “(F) any individual who acts as an agent,
9 representative, employee, or servant of, or
10 whose activities are directly or indirectly super-
11 vised, directed, controlled, financed, or sub-
12 sidized in whole or in major part by a govern-
13 ment, organization, faction, or entity described
14 in subparagraph (A), (B), (C), or (D), unless
15 such individual is a citizen of and domiciled
16 within the United States;

17 “(4) the term ‘institution’ means any institu-
18 tion of higher education, as defined under section
19 101 of the Higher Education Act (20 U.S.C. 1001);

20 “(5) the term ‘national security’ means the na-
21 tional defense, foreign relations, or economic inter-
22 ests of the United States;

23 “(6) the term ‘relevant committees of Congress’
24 means—

1 “(A) the Committee on the Judiciary, the
2 Select Committee on Intelligence, the Com-
3 mittee on Homeland Security and Government
4 Affairs, and the Committee on Health, Edu-
5 cation, Labor, and Pensions of the Senate; and

6 “(B) the Committee on the Judiciary, the
7 Permanent Select Committee on Intelligence,
8 the Committee on Homeland Security, and the
9 Committee on Education and Labor of the
10 House of Representatives; and

11 “(7) the term ‘United States person’ has the
12 meaning given that term in section 101 of the For-
13 eign Intelligence Surveillance Act of 1978 (50
14 U.S.C. 1801).

15 “(b) DESIGNATION.—

16 “(1) IN GENERAL.—The Director shall des-
17 ignate a foreign actor as a foreign intelligence threat
18 to higher education, in accordance with this sub-
19 section, if the Director finds that the foreign actor
20 has committed, attempted to commit, or conspired to
21 commit, in connection with an institution, one or
22 more of the following:

23 “(A) Smuggling goods from the United
24 States, in violation of section 554 of title 18.

1 “(B) Espionage, in violation of sections
2 791 through 799 of title 18.

3 “(C) Kidnapping, in violation of section
4 1201 of title 18.

5 “(D) Fraud or misuse of visas, permits, or
6 other documents, in violation of section 1546 of
7 title 18.

8 “(E) Aggravated identity theft, in violation
9 of section 1028A of title 18.

10 “(F) Fraud or related activity in connec-
11 tion with access devices, in violation of section
12 1029 of title 18.

13 “(G) Fraud or related activity in connec-
14 tion with computers, in violation of section
15 1030 of title 18.

16 “(H) Economic espionage, in violation of
17 section 1831 of title 18.

18 “(I) Theft of trade secrets, in violation of
19 section 1832 of title 18.

20 “(J) Terrorism, in violation of sections
21 2331 through 2339D of title 18.

22 “(K) Interception or disclosure of wire,
23 oral, or electronic communications, in violation
24 of section 2511 of title 18.

1 “(L) A violation of any control on the im-
2 port or export of defense articles or defense
3 services imposed under section 38 of the Arms
4 Export Control Act (22 U.S.C. 2778).

5 “(M) A violation of any control on the ex-
6 port, reexport, and in-country transfer of an
7 item imposed under section 1753 of the Export
8 Control Reform Act of 2018 (50 U.S.C. 4812).

9 “(N) An unlawful act described in section
10 206(a) of the International Emergency Eco-
11 nomic Powers Act (50 U.S.C. 1705(a)).

12 “(2) PROCEDURE.—

13 “(A) NOTICE BEFORE DESIGNATION.—

14 “(i) TO CONGRESSIONAL LEADERS.—

15 Not later than 7 days before making a des-
16 ignation under paragraph (1), the Director
17 shall submit to the Speaker and minority
18 leader of the House of Representatives, the
19 President pro tempore, majority leader,
20 and minority leader of the Senate, and the
21 members of the relevant committees of
22 Congress—

23 “(I) written notice of the intent
24 of the Director to designate a foreign
25 actor under paragraph (1); and

1 “(II) the findings made under
2 paragraph (1) with respect to foreign
3 actor and the factual basis therefor.

4 “(ii) TO THE ATTORNEY GENERAL.—
5 Not later than 7 days before making a des-
6 ignation under paragraph (1), the Director
7 shall submit to the Attorney General, for
8 the Attorney General to determine whether
9 further investigation or prosecution is war-
10 ranted—

11 “(I) written notice of the intent
12 of the Director to designate a foreign
13 actor under paragraph (1); and

14 “(II) the findings made under
15 paragraph (1) with respect to the for-
16 eign actor and the factual basis there-
17 for.

18 “(iii) PROTECTION OF CLASSIFIED IN-
19 FORMATION.—The notice and findings sub-
20 mitted under clauses (i) and (ii) may be in
21 classified form.

22 “(B) PUBLICATION IN FEDERAL REG-
23 ISTER.—If the Director makes a designation
24 under paragraph (1), the Director shall publish

1 the designation in the Federal Register on the
2 date of the designation.

3 “(C) EFFECT OF DESIGNATION.—For pur-
4 poses of section 117 of the Higher Education
5 Act of 1965 (20 U.S.C. 1011f), a designation
6 under paragraph (1) shall take effect upon pub-
7 lication under subparagraph (B) of this para-
8 graph.

9 “(D) EFFECT OF DESIGNATION ON LAW-
10 FUL STATUS.—

11 “(i) REVOCATION OF NONIMMIGRANT
12 VISA.—The Secretary of State shall revoke
13 the nonimmigrant visa issued to any for-
14 eign actor present in the United States im-
15 mediately after such foreign actor has been
16 designated under paragraph (1).

17 “(ii) REMOVAL.—The Secretary of
18 Homeland Security shall initiate removal
19 proceedings against any foreign actor de-
20 scribed in clause (i) and expeditiously re-
21 move such foreign actor from the United
22 States.

23 “(iii) INELIGIBILITY.—Any foreign
24 actor who has been designated under para-
25 graph (1) shall be inadmissible to the

1 United States and ineligible to receive a
2 United States visa or be admitted to the
3 United States.

4 “(iv) APPEAL.—If a foreign actor ap-
5 peals a designation under paragraph (1),
6 the consequences described in clauses (i)
7 through (iii) shall be stayed until such ap-
8 peal has been fully adjudicated.

9 “(3) RECORD.—

10 “(A) IN GENERAL.—In making a designa-
11 tion under paragraph (1), the Director shall
12 create an administrative record.

13 “(B) CLASSIFIED INFORMATION.—The Di-
14 rector may consider classified information in
15 making a designation under paragraph (1).
16 Classified information shall not be subject to
17 disclosure for such time as it remains classified,
18 except that such information may be disclosed
19 to a court ex parte and in camera for purposes
20 of judicial review under subsection (d).

21 “(4) PERIOD OF DESIGNATION.—

22 “(A) IN GENERAL.—A designation under
23 paragraph (1) shall be effective for all purposes
24 until revoked under paragraph (5) or (6) or set
25 aside under subsection (d).

1 “(B) REVIEW OF DESIGNATION UPON PE-
2 TITION.—

3 “(i) IN GENERAL.—The Director shall
4 review the designation of a foreign actor as
5 a foreign intelligence threat to higher edu-
6 cation under the procedures set forth in
7 clauses (iii) and (iv) if the designated for-
8 eign actor files a petition for revocation
9 within the petition period described in
10 clause (ii).

11 “(ii) PETITION PERIOD.—For pur-
12 poses of clause (i)—

13 “(I) if the designated foreign
14 actor has not previously filed a peti-
15 tion for revocation under this sub-
16 paragraph, the petition period begins
17 2 years after the date on which the
18 designation was made; or

19 “(II) if the designated foreign
20 actor has previously filed a petition
21 for revocation under this subpara-
22 graph, the petition period begins 2
23 years after the date of the determina-
24 tion made under clause (iv) with re-
25 spect to that petition.

1 “(iii) PROCEDURES.—Any foreign
2 actor designated as a foreign intelligence
3 threat to higher education that submits a
4 petition for revocation under this subpara-
5 graph shall provide evidence in the petition
6 that the relevant circumstances described
7 in paragraph (1) are sufficiently different
8 from the circumstances that were the basis
9 for the designation such that a revocation
10 with respect to the foreign actor is war-
11 ranted.

12 “(iv) DETERMINATION.—

13 “(I) IN GENERAL.—Not later
14 than 180 days after receiving a peti-
15 tion for revocation submitted under
16 this subparagraph, the Director shall
17 make a determination as to such rev-
18 ocation.

19 “(II) CLASSIFIED INFORMA-
20 TION.—The Director may consider
21 classified information in making a de-
22 termination in response to a petition
23 for revocation. Classified information
24 shall not be subject to disclosure for
25 such time as it remains classified, ex-

1 cept that such information may be
2 disclosed to a court ex parte and in
3 camera for purposes of judicial review
4 under subsection (d).

5 “(III) PUBLICATION OF DETER-
6 MINATION.—A determination made by
7 the Director under this clause shall be
8 published in the Federal Register.

9 “(IV) PROCEDURES.—Any rev-
10 ocation of a designation by the Direc-
11 tor shall be made in accordance with
12 paragraph (6).

13 “(C) OTHER REVIEW OF DESIGNATION.—

14 “(i) IN GENERAL.—If no review has
15 taken place under subparagraph (B) dur-
16 ing any 5-year period, the Director shall
17 review the designation of a foreign actor as
18 a foreign intelligence threat to higher edu-
19 cation under paragraph (1) in order to de-
20 termine whether such designation should
21 be revoked pursuant to paragraph (6).

22 “(ii) PROCEDURES.—If a review does
23 not take place pursuant to subparagraph
24 (B) in response to a petition for revocation
25 that is filed in accordance with that sub-

1 paragraph, the review shall be conducted
2 pursuant to procedures established by the
3 Director. The results of such review and
4 the applicable procedures shall not be re-
5 viewable in any court.

6 “(iii) PUBLICATION OF RESULTS OF
7 REVIEW.—The Director shall publish any
8 determination made under this subpara-
9 graph in the Federal Register.

10 “(5) REVOCATION BY ACT OF CONGRESS.—Con-
11 gress, by an Act of Congress, may block or revoke
12 a designation made under paragraph (1).

13 “(6) REVOCATION BASED ON CHANGE IN CIR-
14 CUMSTANCES.—

15 “(A) IN GENERAL.—The Director may re-
16 voke a designation made under paragraph (1)
17 at any time, and shall revoke a designation
18 upon completion of a review conducted pursu-
19 ant to subparagraphs (B) and (C) of paragraph
20 (4) if the Director finds that—

21 “(i) the circumstances that were the
22 basis for the designation have changed in
23 such a manner as to warrant revocation; or

24 “(ii) the national security of the
25 United States warrants a revocation.

1 “(B) PROCEDURE.—The procedural re-
2 quirements of paragraphs (2) and (3) shall
3 apply to a revocation under this paragraph. Any
4 revocation shall take effect on the date specified
5 in the revocation or upon publication in the
6 Federal Register if no effective date is specified.

7 “(7) EFFECT OF REVOCATION.—The revocation
8 of a designation under paragraph (5) or (6) shall
9 not affect any action or proceeding based on conduct
10 committed prior to the effective date of such revoca-
11 tion.

12 “(c) AMENDMENTS TO A DESIGNATION.—

13 “(1) IN GENERAL.—The Director may amend a
14 designation under subsection (b)(1) if the Director
15 finds that the foreign actor has changed its name,
16 adopted a new alias, dissolved and then reconsti-
17 tuted itself under a different name or names, or
18 merged with another foreign actor.

19 “(2) PROCEDURE.—Amendments made to a
20 designation in accordance with paragraph (1) shall
21 be effective upon publication in the Federal Register.
22 Subparagraphs (B) and (C) of subsection (b)(2)
23 shall apply to an amended designation upon such
24 publication. Paragraphs (2)(A)(i), (4), (5), (6), (7),

1 and (8) of subsection (b) shall also apply to an
2 amended designation.

3 “(3) ADMINISTRATIVE RECORD.—The adminis-
4 trative record shall be corrected to include the
5 amendments as well as any additional relevant infor-
6 mation that supports those amendments.

7 “(4) CLASSIFIED INFORMATION.—The Director
8 may consider classified information in amending a
9 designation in accordance with this subsection. Clas-
10 sified information shall not be subject to disclosure
11 for such time as it remains classified, except that
12 such information may be disclosed to a court ex
13 parte and in camera for purposes of judicial review
14 under subsection (d).

15 “(d) JUDICIAL REVIEW OF DESIGNATION.—

16 “(1) IN GENERAL.—Not later than 30 days
17 after publication in the Federal Register of a des-
18 ignation, an amended designation, or a determina-
19 tion in response to a petition for revocation, the for-
20 eign actor designated as a foreign intelligence threat
21 to higher education may seek judicial review in the
22 United States Court of Appeals for the District of
23 Columbia Circuit.

24 “(2) BASIS OF REVIEW.—Review under this
25 subsection shall be based solely upon the administra-

1 tive record, except that the Government may submit,
2 for ex parte and in camera review, classified infor-
3 mation used in making the designation, amended
4 designation, or determination in response to a peti-
5 tion for revocation, in a manner consistent with the
6 Classified Information Procedures Act (18 U.S.C.
7 App.).

8 “(3) SCOPE OF REVIEW.—The Court shall hold
9 unlawful and set aside a designation, amended des-
10 ignation, or determination in response to a petition
11 for revocation the court finds to be—

12 “(A) arbitrary, capricious, an abuse of dis-
13 cretion, or otherwise not in accordance with
14 law;

15 “(B) contrary to constitutional right,
16 power, privilege, or immunity;

17 “(C) in excess of statutory jurisdiction, au-
18 thority, or limitation, or short of statutory
19 right;

20 “(D) lacking substantial support in the ad-
21 ministrative record taken as a whole or in clas-
22 sified information submitted to the court under
23 paragraph (2); or

24 “(E) not in accord with the procedures re-
25 quired by law.

1 “(4) JUDICIAL REVIEW INVOKED.—The pend-
2 ency of an action for judicial review of a designation,
3 amended designation, or determination in response
4 to a petition for revocation shall not affect the appli-
5 cation of this section, unless the court issues a final
6 order setting aside the designation, amended des-
7 ignation, or determination in response to a petition
8 for revocation.

9 “(e) IMPOSITION OF SANCTIONS UNDER INTER-
10 NATIONAL EMERGENCY ECONOMIC POWERS ACT.—

11 “(1) IN GENERAL.—The President may, pursu-
12 ant to the International Emergency Economic Pow-
13 ers Act (50 U.S.C. 1701 et seq.)—

14 “(A) block and prohibit all transactions in
15 all property and interests in property of a for-
16 eign actor designated as a foreign intelligence
17 threat to higher education under subsection
18 (b)(1), if such property and interests in prop-
19 erty are in the United States, come within the
20 United States, or are or come within the pos-
21 session or control of a United States person; or

22 “(B)(i) prohibit any institution, and all
23 employees of an institution, from—

24 “(I) negotiating or entering into a
25 contract with such a foreign actor; or

1 “(II) transferring information devel-
2 oped through research to such a foreign
3 actor; and

4 “(ii) require any institution that has a con-
5 tract with such a foreign actor in effect as of
6 the date on which the foreign actor is des-
7 ignated as a foreign intelligence threat to high-
8 er education under subsection (b)(1) to termi-
9 nate that contract.

10 “(2) TRANSFER DEFINED.—For purposes of
11 paragraph (1)(B)(i)(II), the term ‘transfer’, with re-
12 spect to information, means—

13 “(A) an actual shipment or transmission of
14 the information out of the United States, in-
15 cluding the sending or taking of information
16 out of the United States, in any manner;

17 “(B) releasing or otherwise transferring
18 the information, including technical data, to a
19 foreign person in the United States (commonly
20 referred to as a ‘deemed export’);

21 “(C) visual or other inspection by a foreign
22 person of the information that reveals informa-
23 tion directly or indirectly related to critical
24 technologies; and

1 “(D) oral or written exchanges with a for-
2 foreign person of information, whether or not in
3 the United States.

4 “(3) INAPPLICABILITY OF NATIONAL EMER-
5 GENCY REQUIREMENT.—The requirements of section
6 202 of the International Emergency Economic Pow-
7 ers Act (50 U.S.C. 1701) shall not apply for pur-
8 poses of this subsection.

9 “(4) IMPLEMENTATION.—The President may
10 exercise all authorities provided under sections 203
11 and 205 of the International Emergency Economic
12 Powers Act (50 U.S.C. 1702 and 1704) to carry out
13 this subsection.

14 “(5) PENALTIES.—A person that violates, at-
15 tempts to violate, conspires to violate, or causes a
16 violation of paragraph (1) or any regulation, license,
17 or order issued to carry out that paragraph shall be
18 subject to the penalties set forth in subsections (b)
19 and (c) of section 206 of the International Emer-
20 gency Economic Powers Act (50 U.S.C. 1705) to the
21 same extent as a person that commits an unlawful
22 act described in subsection (a) of that section.

23 “(f) ACTIVITIES WITH NATIONAL SECURITY IMPLI-
24 CATIONS.—

1 “(1) IN GENERAL.—The Director shall provide
2 the Secretary of Homeland Security with informa-
3 tion about any foreign actor who has not been des-
4 ignated under subsection (b) if the foreign actor has
5 engaged in any practice with national security impli-
6 cations, including—

7 “(A) transferring uncontrolled, but sen-
8 sitive technology acquired during the foreign ac-
9 tor’s interactions with academic institutions;

10 “(B) significantly changing the nature or
11 type of academic study initially reported by the
12 foreign actor, such as changing his or her
13 major from a nonsensitive field of study to a
14 sensitive field of study;

15 “(C) significantly deviating from the terms
16 of a nonimmigrant visa related to the study of
17 technology deemed sensitive in nature; and

18 “(D) misrepresenting, omitting, or fal-
19 sifying any information provided to the Depart-
20 ment of State or the Department of Homeland
21 Security regarding the purpose of the foreign
22 actor’s presence in the United States.

23 “(2) EFFECT OF REVOCATION OF VISA.—If the
24 Secretary of Homeland Security orders the revoca-

1 tion of a visa issued to a foreign actor described in
2 paragraph (1), the foreign actor—

3 “(A) shall be permitted to voluntarily de-
4 part the United States within 10 days; and

5 “(B) may be given the opportunity to re-
6 apply for a visa outside of the United States.

7 “(3) EFFECT OF FAILURE TO VOLUNTARILY
8 DEPART.—If a foreign actor described in paragraph
9 (2) chooses not to voluntarily depart the United
10 States, the Secretary of Homeland Security shall
11 provide for the expedited removal of the foreign
12 actor from the United States in accordance with sec-
13 tion 238(a)(3)(B) of the Immigration and Nation-
14 ality Act (8 U.S.C. 1228(a)(3)(B)).

15 “(g) REPORTS.—

16 “(1) IN GENERAL.—Not later than 180 days
17 after the date of enactment of this section, and every
18 year thereafter, the Director shall submit to the rel-
19 evant committees of Congress a detailed report con-
20 taining the following:

21 “(A) A description and assessment of for-
22 eign actors who engage in activities listed in
23 subsection (b)(1).

24 “(B) An assessment of the impact of for-
25 eign actors who engage in activities listed in

1 subsection (b)(1) on scholarship and research
2 and development in connection with institu-
3 tions.

4 “(C) An assessment of the implementation
5 and operation of the designation process for
6 foreign intelligence threats to higher education
7 established under this section.

8 “(D) An assessment of the likely effects of
9 the designation of foreign intelligence threats to
10 higher education on activities listed in sub-
11 section (b)(1) in connection with institutions.

12 “(2) FORM OF REPORTS.—The reports required
13 under paragraph (1) shall be submitted in an un-
14 classified form, but may contain a classified annex.”.

15 (b) DEPORTABILITY; EXPEDITED REMOVAL.—

16 (1) DEPORTABILITY.—Section 237(a)(2)(A) of
17 the Immigration and Nationality Act (8 U.S.C.
18 1227(a)(2)(A)) is amended—

19 (A) by redesignating clause (vi) as clause
20 (vii); and

21 (B) by inserting after clause (v) the fol-
22 lowing:

23 “(vi) FOREIGN INTELLIGENCE
24 THREAT TO HIGHER EDUCATION.—Any
25 alien who has been designated as a foreign

1 intelligence threat to higher education
2 under section 540D(b) of title 28, United
3 States Code, is deportable.”.

4 (2) EXPEDITED REMOVAL.—Section 238(a)(3)
5 of the Immigration and Nationality Act (8 U.S.C.
6 1228(a)(3)) is amended—

7 (A) by redesignating subparagraph (B) as
8 subparagraph (C); and

9 (B) by inserting after subparagraph (A)
10 the following:

11 “(B) The Secretary of Homeland Security
12 shall provide for the expedited removal of aliens
13 who have been designated as a foreign intel-
14 ligence threat to higher education under section
15 540D(b) of title 28, United States Code, in the
16 interest of national security.”.

17 (c) TECHNICAL AND CONFORMING AMENDMENT.—
18 The table of sections for chapter 33 of title 28, United
19 States Code, is amended by adding at the end the fol-
20 lowing:

“540D. Designation of foreign intelligence threats to higher education.”.

21 **SEC. 3. DISCLOSURE OF FOREIGN GIFTS OR CONTRACTS.**

22 Section 117 of the Higher Education Act of 1965 (20
23 U.S.C. 1011f) is amended—

24 (1) by striking subsection (a) and inserting the
25 following:

1 “(a) DISCLOSURE REPORT.—

2 “(1) IN GENERAL.—An institution described in
3 paragraph (2) for a calendar year shall file a disclo-
4 sure report under subsection (b) with the Secretary
5 by January 31 or July 31, whichever is sooner.

6 “(2) TYPES OF INSTITUTIONS.—An institution
7 described in this paragraph is an institution that—

8 “(A) is owned or controlled by a foreign
9 source;

10 “(B) receives a gift from or enters into a
11 contract with a foreign source, the value of
12 which is \$250,000 or more, considered alone or
13 in combination with all other gifts from or con-
14 tracts with that foreign source within a cal-
15 endar year; or

16 “(C) receives a gift from or enters into a
17 contract with a foreign intelligence threat to
18 higher education, or any agent thereof.”;

19 (2) in subsection (b)—

20 (A) by redesignating paragraphs (1)
21 through (3) as subparagraphs (A) through (C),
22 respectively, and adjusting the margins appro-
23 priately;

24 (B) by striking “REPORT.—Each” and in-
25 serting the following: “REPORT.—

1 “(1) IN GENERAL.—Each”;

2 (C) in subparagraph (A) (as so redesign-
3 nated), by inserting “, as measured by the fair
4 market value of such gifts and contracts” after
5 “particular country”;

6 (D) in subparagraph (B), as so redesign-
7 nated—

8 (i) by inserting “the identity of the
9 foreign government and, if applicable, the
10 foreign government agency, and” after
11 “with a foreign government,”; and

12 (ii) by inserting “, as measured by the
13 fair market value of such gifts and con-
14 tracts” before the period at the end; and

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

16 “(2) REQUIREMENTS RELATING TO FOREIGN
17 INTELLIGENCE THREATS.—For any institution de-
18 scribed in subsection (a)(2)(C), the report required
19 under this section shall contain, in addition to any
20 applicable information required under paragraph
21 (1)—

22 “(A) the identity of the foreign intelligence
23 threat to higher education involved; and

24 “(B) the aggregate dollar amount of such
25 gifts and contracts attributable to the foreign

1 intelligence threat to higher education, as meas-
2 ured by the fair market value of such gifts and
3 contracts.”;

4 (3) in subsection (c), by adding at the end the
5 following:

6 “(3) For any such gift received from, or con-
7 tract entered into with, a foreign intelligence threat
8 to higher education, the fair market value of the gift
9 or contract, the date of the gift or contract, and a
10 description of any such conditions or restrictions on
11 the gift or contract.”;

12 (4) in subsection (e), by inserting “, and shall
13 also be accessible to the public through electronic
14 means” before the period at the end; and

15 (5) in subsection (h)—

16 (A) by redesignating paragraphs (2)
17 through (5) as paragraphs (3) through (6), re-
18 spectively;

19 (B) by inserting after paragraph (1) the
20 following:

21 “(2) the term ‘foreign intelligence threat to
22 higher education’ means any foreign source that is
23 designated as a foreign intelligence threat to higher
24 education in accordance with section 540D of title
25 28, United States Code;”;

1 (C) in paragraph (4) (as so redesignated),
2 by striking “or property” and inserting “, prop-
3 erty, services, or payment to the staff of an in-
4 stitution”;

5 (D) by striking paragraph (5) (as so redesi-
6 gnated) and inserting the following:

7 “(5) the term ‘institution’ means an institution
8 of higher education—

9 “(A) to which Federal financial assistance
10 is extended (directly or indirectly through an-
11 other entity or person); or

12 “(B) that receives support from the exten-
13 sion of Federal financial assistance to any of
14 the institution’s subunits”; and

15 (E) in paragraph (6)(B) (as so redesign-
16 ated), by inserting “institutes, instructional
17 programs,” before “research or lecture”.

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