

[~118H5933]

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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

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.

IN THE HOUSE OF REPRESENTATIVES

Mr. BAUMGARTNER introduced the following bill; which was referred to the Committee on _____

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Defending Education
5 Transparency and Ending Rogue Regimes Engaging in

1 Nefarious Transactions Act” or the “DETERRENT
2 Act”.

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

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

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

8 **“(a) DISCLOSURE REPORTS.—**

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

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

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

23 **“(ii)** the value of which is undeter-
24 mined; or

25 **“(B)** the institution—

1 “(i) receives a gift from a foreign
2 country of concern or foreign entity of con-
3 cern; or

4 “(ii) upon receiving a waiver under
5 section 117A to enter into a contract with
6 such a country or entity, enters into such
7 contract, without regard to the value of
8 such gift or contract.

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

18 “(3) TREATMENT OF AFFILIATED ENTITIES.—
19 For purposes of this section, any gift to, or contract
20 with, an affiliated entity of an institution shall be
21 considered a gift to, or contract with, respectively,
22 such institution.

23 “(b) CONTENTS OF REPORT.—

1 “(1) GIFTS AND CONTRACTS.—Each report to
2 the Secretary required under subsection (a)(1) shall
3 contain the following:

4 “(A) With respect to a gift received from,
5 or a contract entered into with, any foreign
6 source—

7 “(i) the terms of such gift or contract,
8 including—

9 “(I) the name of the individual,
10 department, or other entity at the in-
11 stitution receiving the gift or carrying
12 out the contract on behalf of the insti-
13 tution;

14 “(II) the foreign source’s in-
15 tended purpose of such gift or con-
16 tract, or, in the absence of such a
17 purpose, the manner in which the in-
18 stitution intends to use such gift or
19 contract; and

20 “(III) in the case of a restricted
21 or conditional gift or contract, a de-
22 scription of the restrictions or condi-
23 tions of such gift or contract;

24 “(ii) with respect to a gift—

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

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

7 “(iii) with respect to a contract—

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

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

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

16 “(IV) as applicable, the date on
17 which such contract terminates; and

18 “(V) an assurance that the insti-
19 tution will—

20 “(aa) maintain an
21 unredacted copy of the contract
22 until the latest of—

23 “(AA) the date that is
24 5 years after the date on

1 which such contract first
2 takes effect;

3 “(BB) the date on
4 which the contract termi-
5 nates; or

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

11 “(bb) upon request of the
12 Secretary during an investigation
13 under section 117D(a)(1),
14 produce such an unredacted copy
15 of the contract; and

16 “(iv) an assurance that in a case in
17 which information is required to be dis-
18 closed under this section with respect to a
19 gift or contract that is not in English, such
20 information is translated into English in
21 accordance with subsection (c).

22 “(B) With respect to a gift received from,
23 or a contract entered into with, a foreign source
24 that is a foreign government (other than the
25 government of a foreign country of concern)—

1 “(i) the name of such foreign govern-
2 ment;

3 “(ii) the department, agency, office,
4 or division of such foreign government that
5 approved such gift or contract, as applica-
6 ble; and

7 “(iii) the physical mailing address of
8 such department, agency, office, or divi-
9 sion.

10 “(C) With respect to a gift received from,
11 or contract entered into with, a foreign source
12 (other than a foreign government subject to the
13 requirements of subparagraph (B))—

14 “(i) the legal name of the foreign
15 source, or, if such name is not available, a
16 statement certified by the compliance offi-
17 cer in accordance with section 117D(c)
18 that the institution has reasonably at-
19 tempted to obtain such name;

20 “(ii) in the case of a foreign source
21 that is a natural person, the country of
22 citizenship of such person, or, if such coun-
23 try is not known, the principal country of
24 residence of such person;

1 “(iii) in the case of a foreign source
2 that is a legal entity, the country in which
3 such entity is incorporated, or, if such in-
4 formation is not available, the principal
5 place of business of such entity;

6 “(iv) the physical mailing address of
7 such foreign source, or, if such address is
8 not available, a statement certified by the
9 compliance officer in accordance with sec-
10 tion 117D(c) that the institution has rea-
11 sonably attempted to obtain such address;
12 and

13 “(v) any affiliation of the foreign
14 source to an organization that is des-
15 ignated as a foreign terrorist organization
16 pursuant to section 219 of the Immigra-
17 tion and Nationality Act (8 U.S.C. 1189).

18 “(D) With respect to a contract entered
19 into with a foreign source that is a foreign
20 country of concern or a foreign entity of con-
21 cern—

22 “(i) a complete and unredacted text of
23 the original contract, and if such original
24 contract is not in English, a translated
25 copy in accordance with subsection (c);

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

3 “(iii) the statement submitted by the
4 institution for purposes of receiving such a
5 waiver under section 117A(b)(2).

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

9 “(A) the legal name and address of the
10 foreign source that owns or controls the institu-
11 tion;

12 “(B) the date on which the foreign source
13 assumed ownership or control; and

14 “(C) any changes in program or structure
15 resulting from the change in ownership or con-
16 trol.

17 “(c) TRANSLATION REQUIREMENTS.—Any informa-
18 tion required to be disclosed under this section with re-
19 spect to a gift or contract that is not in English shall be
20 translated, for purposes of such disclosure, by a person
21 that is not an affiliated entity or agent of the foreign
22 source involved with such gift or contract.

23 “(d) PUBLIC INSPECTION.—

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

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

3 “(A) establish and maintain a searchable
4 database on a website of the Department, under
5 which all reports submitted under this section
6 (including any report submitted under this sec-
7 tion before the date of enactment of the DE-
8 TERRENT Act)—

9 “(i) are made publicly available (in
10 electronic and downloadable format), in-
11 cluding any information provided in such
12 reports (other than the information prohib-
13 ited from being publicly disclosed pursuant
14 to paragraph (2));

15 “(ii) can be individually identified and
16 compared; and

17 “(iii) are searchable and sortable—

18 “(I) by the institution that filed
19 such report;

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

22 “(III) by the date on which the
23 institution received the gift which is
24 the subject of the report;

1 “(IV) by the date on which the
2 institution enters into the contract
3 which is the subject of the report;

4 “(V) by the date on which such
5 contract first takes effect;

6 “(VI) by the attributable country
7 of such gift or contract;

8 “(VII) by the name of the foreign
9 source (other than a foreign source
10 that is a natural person);

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

13 “(IX) by the information de-
14 scribed in subparagraph (C)(ii);

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

18 “(C) indicate, as part of the public record
19 of a report included in such database, whether
20 the report is with respect to a gift received
21 from, or a contract entered into with—

22 “(i) a foreign source that is a foreign
23 government; or

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

1 “(D) with respect to a disclosure report
2 that does not include the name or address of a
3 foreign source, indicate, as part of the public
4 record of such report included in such database,
5 that such report did not include such informa-
6 tion.

7 “(2) NAME AND ADDRESS OF FOREIGN
8 SOURCE.—The Secretary shall not disclose the name
9 or address of a foreign source that is a natural per-
10 son (other than the attributable country of such for-
11 eign source) included in a disclosure report—

12 “(A) as part of the public record of such
13 disclosure report described in paragraph (1); or

14 “(B) in response to a request under sec-
15 tion 552 of title 5, United States Code (com-
16 monly known as the ‘Freedom of Information
17 Act’), pursuant to subsection (b)(3) of such sec-
18 tion.

19 “(e) INTERAGENCY INFORMATION SHARING.—Not
20 later than 30 days after receiving a disclosure report from
21 an institution in compliance with this section, the Sec-
22 retary shall transmit an unredacted copy of such report
23 (that includes the name and address of a foreign source
24 disclosed in such report) to the Director of the Federal
25 Bureau of Investigation, the Director of National Intel-

1 ligence, the Director of the Central Intelligence Agency,
2 the Secretary of State, the Secretary of Defense, the At-
3 torney General, the Secretary of Commerce, the Secretary
4 of Homeland Security, the Secretary of Energy, the Direc-
5 tor of the National Science Foundation, and the Director
6 of the National Institutes of Health.

7 “(f) DEFINITIONS.—In this section:

8 “(1) AFFILIATED ENTITY.—The term ‘affiliated
9 entity’, when used with respect to an institution,
10 means an entity or organization that operates pri-
11 marily for the benefit of, or under the auspices of,
12 such institution, including a foundation of the insti-
13 tution or a related entity (such as any educational,
14 cultural, or language entity).

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

17 “(A) the country of citizenship of a foreign
18 source who is a natural person, or, if such
19 country is unknown, the principal residence (as
20 applicable) of such foreign source; or

21 “(B) the country of incorporation of a for-
22 eign source that is a legal entity, or, if such
23 country is unknown, the principal place of busi-
24 ness (as applicable) of such foreign source.

25 “(3) CONTRACT.—The term ‘contract’—

1 “(A) means—

2 “(i) any agreement for the acquisition
3 by purchase, lease, or barter of property or
4 services by the foreign source;

5 “(ii) any affiliation, agreement, or
6 similar transaction with a foreign source
7 that involves the use or exchange of an in-
8 stitution’s name, likeness, time, services, or
9 resources; and

10 “(iii) any agreement for the acqui-
11 sition by purchase, lease, or barter, of prop-
12 erty or services from a foreign source
13 (other than an arms-length agreement for
14 such acquisition from a foreign source that
15 is not a foreign country of concern or a
16 foreign entity of concern); and

17 “(B) does not include an agreement made
18 between an institution and a foreign source re-
19 garding any payment of one or more elements
20 of a student’s cost of attendance (as such term
21 is defined in section 472), unless such an agree-
22 ment is made for more than 15 students or is
23 made under a restricted or conditional contract.

24 “(4) FOREIGN SOURCE.—The term ‘foreign
25 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 agent of a foreign source, includ-
15 ing—

16 “(i) a subsidiary or affiliate of a for-
17 eign legal entity, acting on behalf of a for-
18 eign source;

19 “(ii) a person that operates primarily
20 for the benefit of, or under the auspices of,
21 a foreign source, including a foundation or
22 a related entity (such as any educational,
23 cultural, or language entity); and

24 “(iii) a person who is an agent of a
25 foreign principal (as such term is defined

1 in section 1 of the Foreign Agents Reg-
2 istration Act of 1938 (22 U.S.C. 611); and

3 “(F) an international organization (as such
4 term is defined in the International Organiza-
5 tions Immunities Act (22 U.S.C. 288)).

6 “(5) GIFT.—The term ‘gift’—

7 “(A) means any gift of money, property,
8 resources, staff, or services; and

9 “(B) does not include—

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

22 “(ii) assignment or license of reg-
23 istered industrial and intellectual property
24 rights, such as patents, utility models,
25 trademarks, or copyrights, or technical as-

1 sistance, that are not associated with a
2 category listed in the Commerce Control
3 List maintained by the Bureau of Industry
4 and Security of the Department of Com-
5 merce and set forth in Supplement No. 1
6 to part 774 of title 15, Code of Federal
7 Regulations (or successor regulations); or
8 “(iii) decorations (as such term is de-
9 fined in section 7342(a) of title 5, United
10 States Code).

11 “(6) RESTRICTED OR CONDITIONAL GIFT OR
12 CONTRACT.—The term ‘restricted or conditional gift
13 or contract’ means any endowment, gift, grant, con-
14 tract, award, present, or property of any kind which
15 includes provisions regarding—

16 “(A) the employment, assignment, or ter-
17 mination of faculty;

18 “(B) the establishment of departments,
19 centers, institutes, instructional programs, re-
20 search or lecture programs, or new faculty posi-
21 tions;

22 “(C) the selection, admission, or education
23 of students;

24 “(D) the award of grants, loans, scholar-
25 ships, fellowships, or other forms of financial

1 aid restricted to students of a specified country,
2 religion, sex, ethnic origin, or political opinion;
3 or

4 “(E) any other restriction on the use of a
5 gift or contract.”.

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

11 **“SEC. 117A. PROHIBITION ON CONTRACTS WITH CERTAIN**
12 **FOREIGN ENTITIES AND COUNTRIES.**

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

16 “(b) WAIVERS.—

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

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

22 “(B) apply to the terms and conditions of
23 the proposed contract submitted as part of the
24 request for such waiver.

25 “(2) SUBMISSION.—

1 “(A) FIRST WAIVER REQUESTS.—

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

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

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

20 “(II) a statement that—

21 “(aa) is certified by the
22 compliance officer of the institu-
23 tion designated in accordance
24 with section 117D(c); and

1 “(bb) includes information
2 that demonstrates that such con-
3 tract—

4 “(AA) is for the benefit
5 of the institution’s mission
6 and students; and

7 “(BB) will promote the
8 security, stability, and eco-
9 nomic vitality of the United
10 States.

11 “(B) RENEWAL WAIVER REQUESTS.—

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

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

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

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

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

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

19 “(B) may only issue a waiver under this
20 section to an institution if the Secretary deter-
21 mines, in consultation with each individual list-
22 ed in section 117(e), that the contract for which
23 the waiver is being requested—

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

1 “(ii) will promote the security, sta-
2 bility, and economic vitality of the United
3 States.

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

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

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

18 “(1) IN GENERAL.—In the case of an institu-
19 tion that has entered into a contract with a foreign
20 country of concern or foreign entity of concern prior
21 to the date of enactment of the DETERRENT
22 Act—

23 “(A) the institution shall as soon as prac-
24 ticable, but not later than 30 days after such
25 date of enactment, submit to the Secretary a

1 waiver request in accordance with clause (ii) of
2 subsection (b)(2)(A); and

3 “(B) the Secretary shall, upon receipt of
4 the request submitted under such clause, issue
5 a waiver to the institution for a period begin-
6 ning on the date on which the waiver is issued
7 and ending on the sooner of—

8 “(i) the date that is 1 year after the
9 date of enactment of the DETERRENT
10 Act; or

11 “(ii) the date on which the contract
12 terminates.

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

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

1 (c) INTERAGENCY INFORMATION SHARING.—Not
2 later than 90 days after the date of enactment of this Act,
3 the Secretary of Education shall transmit to each indi-
4 vidual listed in section 117(e) of the Higher Education
5 Act of 1965, as amended by this Act—

6 (1) any report received by the Department of
7 Education under section 117 of the Higher Edu-
8 cation Act of 1965 (20 U.S.C. 1011f) prior to the
9 date of enactment of this Act; and

10 (2) any report, document, or other record gen-
11 erated by the Department of Education in the
12 course of an investigation—

13 (A) of an institution with respect to the
14 compliance of such institution with such sec-
15 tion; and

16 (B) initiated prior to the date of enactment
17 of this Act.

18 **SEC. 3. POLICY REGARDING CONFLICTS OF INTEREST**
19 **FROM FOREIGN GIFTS AND CONTRACTS.**

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

1 **“SEC. 117B. INSTITUTIONAL POLICY REGARDING FOREIGN**
2 **GIFTS AND CONTRACTS TO FACULTY AND**
3 **STAFF.**

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

8 “(1) a policy requiring covered individuals em-
9 ployed at the institution to disclose in a report to
10 such institution on July 31 of each calendar year
11 that begins after the year in which such enactment
12 date occurs—

13 “(A) any gift received from a foreign
14 source in the previous calendar year, the value
15 of which is greater than the minimal value (as
16 such term is defined in section 7342(a) of title
17 5, United States Code) or is of undetermined
18 value, and including the date on which the gift
19 was received;

20 “(B) any contract with a foreign source
21 (other than a foreign country of concern or for-
22 eign entity of concern) entered into or in effect
23 during the previous calendar year, the value of
24 which is \$5,000 or more, considered alone or in
25 combination with all other contracts with that
26 foreign source within the calendar year, and in-

1 including the date on which such contract is en-
2 tered into, the date on which the contract first
3 takes effect, and, as applicable, the date on
4 which such contract terminates;

5 “(C) any contract with a foreign source
6 (other than a foreign country of concern or for-
7 eign entity of concern) entered into or in effect
8 during the previous calendar year that has an
9 undetermined monetary value, and including
10 the date on which such contract is entered into,
11 the date on which the contract first takes ef-
12 fect, and, as applicable, the date on which such
13 contract terminates; and

14 “(D) any contract entered into or in effect
15 with a foreign country of concern or foreign en-
16 tity of concern during the previous calendar
17 year, the value of which is \$0 or more or which
18 has an undetermined monetary value, and in-
19 cluding—

20 “(i) the date on which such contract
21 is entered into;

22 “(ii) the date on which the contract
23 first takes effect;

24 “(iii) as applicable, the date on which
25 such contract terminates; and

1 “(iv) the full text of such contract and
2 any addenda;

3 “(2) a publicly available and searchable data-
4 base (in electronic and downloadable format), on a
5 website of the institution, of the information re-
6 quired to be disclosed under paragraph (1) (other
7 than the name or any other personally identifiable
8 information of a covered individual) that—

9 “(A) makes available the information dis-
10 closed under paragraph (1) (other than the
11 name or any other personally identifiable infor-
12 mation of a covered individual) beginning on
13 the date that is 30 days after receipt of the re-
14 port under such paragraph containing such in-
15 formation and until the latest of—

16 “(i) the date that is 5 years after the
17 date on which—

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

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

23 “(ii) the date on which a contract re-
24 ferred to in subparagraph (B), (C) or (D)
25 of paragraph (1) terminates; and

1 “(B) is searchable and sortable—

2 “(i) if the subject of the disclosure is
3 a gift, by the date on which the gift is re-
4 ceived;

5 “(ii) if the subject of the disclosure is
6 a contract—

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

9 “(II) by the date on which such
10 contract first takes effect;

11 “(iii) by the attributable country with
12 respect to which information is being dis-
13 closed;

14 “(iv) by the narrowest of the depart-
15 ment, school, or college of the institution,
16 as applicable, for which the individual
17 making the disclosure works; and

18 “(v) by the name of the foreign source
19 (other than a foreign source who is a nat-
20 ural person); and

21 “(3) an effective plan to identify and manage
22 potential information gathering by foreign sources
23 through espionage targeting covered individuals that
24 may arise from gifts received from, or contracts en-

1 tered into with, a foreign source, including through
2 the use of—

3 “(A) periodic communications;

4 “(B) accurate reporting under paragraph
5 (2) of the information required to be disclosed
6 under paragraph (1); and

7 “(C) enforcement of the policy described in
8 paragraph (1); and

9 “(4) for purposes of investigations under sec-
10 tion 117D(a)(1) or responses to requests under sec-
11 tion 552 of title 5, United States Code (commonly
12 known as the ‘Freedom of Information Act’), a
13 record of the names of the individuals making disclo-
14 sures under paragraph (1).

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

17 “(1) is an eligible institution for the purposes
18 of any program authorized under title IV; and

19 “(2)(A) received more than \$50,000,000 in
20 Federal funds in any of the previous five calendar
21 years to support (in whole or in part) research and
22 development (as determined by the institution and
23 measured by the Higher Education Research and
24 Development Survey of the National Center for
25 Science and Engineering Statistics); or

1 “(B) receives funds under title VI.

2 “(c) DEFINITIONS.—In this section—

3 “(1) the terms ‘attributable country’, ‘foreign
4 source’, and ‘gift’ have the meanings given such
5 terms in section 117(f);

6 “(2) the term ‘contract’ means—

7 “(A) any agreement for the acquisition by
8 purchase, lease, or barter of property or serv-
9 ices by the foreign source;

10 “(B) any affiliation, agreement, or similar
11 transaction with a foreign source that involves
12 the use or exchange of an institution’s name,
13 likeness, time, services, or resources; and

14 “(C) any agreement for the acquisition by
15 purchase, lease, or barter, of property or serv-
16 ices from a foreign source (other than an arms-
17 length agreement for such acquisition from a
18 foreign source that is not a foreign country of
19 concern or a foreign entity of concern); and

20 “(3) the term ‘covered individual’—

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

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

10 **SEC. 4. INVESTMENT DISCLOSURE REPORT.**

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

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

15 “(a) INVESTMENT DISCLOSURE REPORT.—A speci-
16 fied institution shall file a disclosure report in accordance
17 with subsection (b) with the Secretary on each July 31
18 immediately following any calendar year in which the spec-
19 ified institution purchases, sells, or holds (directly or indi-
20 rectly through any chain of ownership) one or more invest-
21 ments of concern.

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

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

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

6 “(3) The combined value of all investments of
7 concern sold over the course of such calendar year,
8 as measured by the fair market value of such invest-
9 ments at the time of the sale.

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

12 “(c) TREATMENT OF CERTAIN POOLED INVEST-
13 MENTS.—

14 “(1) POOLED INVESTMENT CLASSIFICATION.—

15 “(A) IN GENERAL.—For purposes of this
16 section, except as provided in subparagraph
17 (B), a specified interest acquired by a specified
18 institution in a regulated investment company,
19 exchange traded fund, or any other pooled in-
20 vestment that holds an investment of concern
21 shall be treated as an investment of concern
22 and shall be reported pursuant to paragraph
23 (2)(A).

24 “(B) CERTIFICATION OF POOLED INVEST-
25 MENT.—Notwithstanding subparagraph (A),

1 such specified interest shall not be subject to
2 subparagraph (A) if the Secretary certifies, pur-
3 suant to paragraph (2)(B), that such pooled in-
4 vestment is not holding an investment of con-
5 cern.

6 “(2) PROCEDURES.—The Secretary, after con-
7 sultation with the Secretary of the Treasury and the
8 Securities and Exchange Commission, shall establish
9 procedures under which a pooled investment de-
10 scribed in paragraph (1)—

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

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

15 “(d) TREATMENT OF RELATED ORGANIZATIONS.—
16 For purposes of this section, assets held by any related
17 organization (as defined in section 4968(d)(2) of the In-
18 ternal Revenue Code of 1986) with respect to a specified
19 institution shall be treated as held by such specified insti-
20 tution, except that—

21 “(1) such assets shall not be taken into account
22 with respect to more than 1 specified institution;
23 and

24 “(2) unless such organization is controlled by
25 such institution or is described in section 509(a)(3)

1 of the Internal Revenue Code of 1986 with respect
2 to such institution, assets which are not intended or
3 available for the use or benefit of such specified in-
4 stitution shall not be taken into account.

5 “(e) VALUATION OF DEBT.—For purposes of this
6 section, the fair market value of any debt shall be the prin-
7 cipal amount of such debt.

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

17 “(g) DATABASE REQUIREMENT.—Beginning not
18 later than May 31 of the calendar year following the date
19 of enactment of the DETERRENT Act, the Secretary
20 shall—

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

1 “(A) are made publicly available (in elec-
2 tronic and downloadable format), including any
3 information provided in such reports;

4 “(B) can be individually identified and
5 compared; and

6 “(C) are searchable and sortable; and

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

10 “(h) DEFINITIONS.—In this section:

11 “(1) INVESTMENT OF CONCERN.—

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

15 “(i) A foreign country of concern.

16 “(ii) A foreign entity of concern.

17 “(B) SPECIFIED INTEREST.—The term
18 ‘specified interest’ means, with respect to any
19 entity—

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

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

23 “(iii) any contract or derivative with
24 respect to any property described in clause
25 (i) or (ii).

1 “(2) SPECIFIED INSTITUTION.—

2 “(A) IN GENERAL.—The term ‘specified
3 institution’, as determined with respect to any
4 calendar year, means an institution if—

5 “(i) such institution is not a public in-
6 stitution; and

7 “(ii) the aggregate fair market value
8 of—

9 “(I) the assets held by such insti-
10 tution at the end of such calendar
11 year (other than those assets which
12 are used directly in carrying out the
13 institution’s exempt purpose) is in ex-
14 cess of \$6,000,000,000; or

15 “(II) the investments of concern
16 held by such institution at the end of
17 such calendar year is in excess of
18 \$250,000,000.

19 “(B) REFERENCES TO CERTAIN TERMS.—

20 For the purpose of applying the definition
21 under subparagraph (A), the terms ‘aggregate
22 fair market value’ and ‘assets which are used
23 directly in carrying out the institution’s exempt
24 purpose’ shall be applied in the same manner as
25 such terms are applied for the purposes of sec-

tion 4968(b)(1)(D) of the Internal Revenue Code of 1986.”.

SEC. 5. ENFORCEMENT AND OTHER GENERAL PROVISIONS.

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

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

“(a) ENFORCEMENT.—

“(1) INVESTIGATION.—The Secretary (acting through the General Counsel of the Department) shall conduct investigations of possible violations of sections 117, 117A, 117B, 117C, and subsection (c) by institutions and, whenever it appears that an institution has knowingly or willfully failed to comply with a requirement of any of such sections (including any rule or regulation promulgated under any such section), shall request that the Attorney General bring a civil action in accordance with paragraph (2).

“(2) CIVIL ACTION.—Whenever it appears that an institution has knowingly or willfully failed to comply with a requirement of any of the sections listed in paragraph (1) (including any rule or regula-

tion promulgated under any such section) based on an investigation under such paragraph, a civil action shall be brought by the Attorney General, at the request of the Secretary, in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to request such court to compel compliance with the requirement of the section that has been violated.

“(3) COSTS AND OTHER FINES.—An institution that is compelled to comply with a requirement of a section listed in paragraph (1) pursuant to paragraph (2) shall—

“(A) pay to the Treasury of the United States the full costs to the United States of obtaining compliance with the requirement of such section, including all associated costs of investigation and enforcement; and

“(B) be subject to the applicable fines described in paragraph (4).

“(4) FINES FOR VIOLATIONS.—The Secretary shall impose a fine on an institution that is compelled to comply with a requirement of a section listed in paragraph (1) pursuant to paragraph (2) as follows:

1 “(A) SECTION 117.—

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

11 “(I) In the case of an institution
12 that knowingly or willfully fails to
13 comply with a reporting requirement
14 under subsection (a)(1) of section
15 117, such fine shall be in an amount
16 that is—

17 “(aa) for each gift or con-
18 tract with determinable value
19 that is the subject of such a fail-
20 ure to comply, the greater of—

21 “(AA) \$50,000; or

22 “(BB) the monetary
23 value of such gift or con-
24 tract; or

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

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

18 “(ii) SUBSEQUENT VIOLATIONS.—In
19 the case of an institution that has pre-
20 viously been compelled to comply with a re-
21 quirement of section 117 pursuant to a
22 civil action described in paragraph (2), and
23 is subsequently compelled to comply with
24 such a requirement pursuant to a subse-
25 quent civil action described in paragraph

1 (2), the Secretary shall impose a fine on
2 the institution as follows:

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

9 “(aa) for each gift or con-
10 tract with determinable value
11 that is the subject of such a fail-
12 ure to comply, the greater of—

13 “(AA) \$100,000; or

14 “(BB) twice the mone-
15 tary value of such gift or
16 contract; or

17 “(bb) for each gift or con-
18 tract of no value or of indeter-
19 minable value, not less than 5
20 percent and not more than 10
21 percent of the total amount of
22 Federal funds received by the in-
23 stitution under this Act for the
24 most recent fiscal year.

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

10 “(B) SECTION 117A.—

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

24 “(ii) SUBSEQUENT VIOLATIONS.—In
25 the case of an institution that has pre-

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

13 “(C) SECTION 117B.—

14 “(i) FIRST-TIME VIOLATIONS.—In the
15 case of an institution that is compelled to
16 comply with a requirement of section 117B
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 for such violation in an
23 amount that is the greater of—

24 “(I) \$250,000; or

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

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

16 “(I) \$500,000; or

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

21 “(D) SECTION 117C.—

22 “(i) FIRST-TIME VIOLATIONS.—In the
23 case of an institution that is compelled to
24 comply with a requirement of section 117C
25 pursuant to a civil action described in

1 paragraph (2), and that has not previously
2 been compelled to comply with any such
3 requirement pursuant to such a civil ac-
4 tion, the Secretary shall impose a fine on
5 the institution in an amount that is not
6 less than 50 percent and not more than
7 100 percent of the sum of—

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

15 “(II) the combined value of all
16 investments of concern sold over the
17 course of all the calendar years for
18 which the institution is compelled to
19 comply with such requirement pursu-
20 ant to such civil action, as measured
21 by the fair market value of such in-
22 vestments at the time of the sale.

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

1 requirement of section 117C pursuant to a
2 civil action described in paragraph (2), and
3 is subsequently compelled to comply with
4 such a requirement pursuant to a subse-
5 quent civil action described in paragraph
6 (2), the Secretary shall impose a fine on
7 the institution in an amount that is not
8 less than 100 percent and not more than
9 200 percent of the sum of—

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

17 “(II) the combined value of all
18 investments of concern over the course
19 of all the calendar years for which the
20 institution is compelled to comply with
21 such requirement pursuant to such
22 subsequent civil action, as measured
23 by the fair market value of such in-
24 vestments at the time of the sale.

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

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

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

15 “(2) coordinate and implement technical im-
16 provements to the database described in section
17 117(d)(1), including—

18 “(A) improving upload functionality by al-
19 lowing for batch reporting, including by allow-
20 ing institutions to upload one file with all re-
21 quired information into the database;

22 “(B) publishing and maintaining a data-
23 base users guide annually, including informa-
24 tion on how to edit an entry and how to report
25 errors;

1 “(C) creating a standing user group (to
2 which chapter 10 of title 5, United States Code,
3 shall not apply) to discuss possible database im-
4 provements, which group shall—

5 “(i) include at least—

6 “(I) 3 members representing
7 public institutions with high or very
8 high levels of research activity (as de-
9 fined by the National Center for Edu-
10 cation Statistics);

11 “(II) 2 members representing
12 private, nonprofit institutions with
13 high or very high levels of research
14 activity (as so defined);

15 “(III) 2 members representing
16 proprietary institutions of higher edu-
17 cation (as defined in section 102(b));
18 and

19 “(IV) 2 members representing
20 area career and technical education
21 schools (as defined in subparagraph
22 (C) or (D) of section 3(3) of the Carl
23 D. Perkins Career and Technical
24 Education Act of 2006 (20 U.S.C.
25 2302(3)); and

1 “(ii) meet at least twice a year with
2 officials from the Department to discuss
3 possible database improvements;

4 “(D) publishing, on a publicly available
5 website, recommended database improvements
6 following each meeting described in subpara-
7 graph (C)(ii); and

8 “(E) responding, on a publicly available
9 website, to each recommendation published
10 under subparagraph (D) as to whether or not
11 the Department will implement the rec-
12 ommendation, including the rationale for either
13 approving or rejecting the recommendation;

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

18 “(A) the authorizing committees; and

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

21 “(4) maintain, on a publicly accessible
22 website—

23 “(A) a full comprehensive list of all foreign
24 countries of concern and foreign entities of con-
25 cern; and

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

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

7 “(c) INSTITUTIONAL REQUIREMENTS FOR COMPLI-
8 ANCE OFFICER AND ESTABLISHED POLICY FOR FILING
9 REPORTS.—

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

19 “(A) establish an institutional policy that
20 the institution shall follow in meeting the re-
21 quirements of section 117, 117A, 117B, and
22 117C; and

23 “(B) designate and maintain a current em-
24 ployee or legally authorized agent of such insti-

1 tution to serve as a compliance officer to carry
2 out the requirements listed in paragraph (2).

3 “(2) DUTIES OF COMPLIANCE OFFICERS.—A
4 compliance officer designated under paragraph (1)
5 shall certify—

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

8 “(i) the institution’s accurate compli-
9 ance with the reporting requirements
10 under such section;

11 “(ii) that the institution, in filing such
12 report—

13 “(I) followed the institutional
14 policy established under paragraph
15 (1)(A); and

16 “(II) conducted good faith efforts
17 and reasonable due diligence to ensure
18 that accurate information is provided
19 in such report, including with respect
20 to the valuations of any assets that
21 are disclosed in a report submitted
22 under section 117C; and

23 “(iii) in the case of a report under
24 section 117, any statements by the institu-
25 tion required to be certified by such officer

1 under clause (i) or (iv) of section
2 117(b)(1)(C); and

3 “(B) whenever the institution requests a
4 waiver under section 117A, the statement by
5 the institution required to be certified by such
6 officer under section 117A(b)(2)(A)(ii)(II); and

7 “(C) in the case of an institution subject
8 to the requirements of section 117B, that the
9 institution is in compliance with such require-
10 ments.

11 “(d) DEFINITIONS.—For purposes of sections 117,
12 117A, 117B, 117C, and this section:

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

16 “(A) Any covered nation defined in section
17 4872 of title 10, United States Code.

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

1 “(2) FOREIGN ENTITY OF CONCERN.—The
2 term ‘foreign entity of concern’ has the meaning
3 given such term in section 10612(a) of the Research
4 and Development, Competition, and Innovation Act
5 (42 U.S.C. 19221(a)) and includes a foreign entity
6 that is identified on the list published under section
7 1286(e)(8)(A) of the John S. McCain National De-
8 fense Authorization Act for Fiscal Year 2019 (10
9 U.S.C. 22 4001 note; Public Law 115–232).

10 “(3) INSTITUTION.—The term ‘institution’
11 means an institution of higher education (as such
12 term is defined in section 102, other than an institu-
13 tion described in subsection (a)(1)(c) of such sec-
14 tion).”.

15 (b) PROGRAM PARTICIPATION AGREEMENT.—Section
16 487(a) of the Higher Education Act of 1965 (20 U.S.C.
17 1094) is amended by adding at the end the following:

18 “(30)(A) An institution will comply with the re-
19 quirements of sections 117, 117A, 117B, 117C, and
20 117D(c).

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

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

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

7 “(C) An institution described in this subpara-
8 graph is an institution that—

9 “(i) has been subject to 3 separate civil ac-
10 tions described in section 117D(a)(2) that have
11 each resulted in the institution being compelled
12 to comply with one or more requirements of
13 section 117, 117A, 117B, 117C, or 117D(c);
14 and

15 “(ii) pursuant to section 117D(a)(4)(E), is
16 prohibited from obtaining a waiver, or a re-
17 newal of a waiver, under section 117A.”.

18 (c) GAO STUDY AND REPORT.—

19 (1) STUDY.—Not later than 180 days after the
20 date of enactment of this Act, the Comptroller Gen-
21 eral of the United States shall initiate a study to
22 identify ways to improve intergovernmental agency
23 coordination regarding implementation and enforce-
24 ment of sections 117, 117A, 117B, 117C, and
25 117D(c) of the Higher Education Act of 1965 (20

1 U.S.C. 1011f), as amended or added by this Act, in-
2 cluding increasing information sharing, increasing
3 compliance rates, and establishing processes for en-
4 forcement.

5 (2) REPORT.—Not later than 3 years after the
6 date of enactment of this Act, the Comptroller Gen-
7 eral of the United States shall submit to Congress,
8 and make public, a report containing the results of
9 the study described in paragraph (1).