

118TH CONGRESS
1ST SESSION

H. R. 5933

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2023

Received

AN ACT

To amend the Higher Education Act of 1965 to require additional information in disclosures of foreign gifts and contracts from foreign sources, restrict contracts with certain foreign entities and foreign countries of concern, require certain staff and faculty to report foreign gifts and contracts, and require disclosure of certain foreign investments within endowments.

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 a disclosure re-
14 port in accordance with subsection (b)(1) with the
15 Secretary 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 undeter-
2 mined; or

3 “(B) the institution receives a gift from a
4 foreign country of concern or foreign entity of
5 concern, or, upon receiving a waiver under sec-
6 tion 117A to enter into a contract with such a
7 country or entity, enters into such contract,
8 without regard to the value of such gift or con-
9 tract.

10 “(2) FOREIGN SOURCE OWNERSHIP OR CON-
11 TROL DISCLOSURES.—In the case of an institution
12 that is substantially controlled (as described in sec-
13 tion 668.174(c)(3) of title 34, Code of Federal Reg-
14 ulations) (or successor regulations)) by a foreign
15 source, the institution shall file a disclosure report
16 in accordance with subsection (b)(2) with the Sec-
17 retary on July 31 of each 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 benefactor at the insti-
11 tution receiving the gift or carrying
12 out the contract;

13 “(II) the intended purpose of
14 such gift or contract, as provided to
15 the institution by such foreign source,
16 or if no such purpose is provided by
17 such foreign source, the intended use
18 of such gift or contract, as provided
19 by the institution; 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 date on which such con-
9 tract commences;

10 “(II) as applicable, the date on
11 which such contract terminates; and

12 “(III) an assurance that the in-
13 stitution will—

14 “(aa) maintain an
15 unredacted copy of the contract
16 until the latest of—

17 “(AA) the date that is
18 5 years after the date on
19 which the contract com-
20 mences;

21 “(BB) the date on
22 which the contract termi-
23 nates; or

24 “(CC) the last day of
25 any period that applicable

1 State law requires a copy of
2 such contract to be main-
3 tained; and

4 “(bb) upon request of the
5 Secretary during an investigation
6 under subsection section
7 117D(a)(1), produce such an
8 unredacted copy of the contract;
9 and

10 “(iv) an assurance that in a case in
11 which information is required to be dis-
12 closed under this section with respect to a
13 gift or contract that is not in English, such
14 information is translated into English in
15 compliance with the requirements of sub-
16 section (c)(1).

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

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

23 “(ii) the department, agency, office,
24 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) the legal name of the foreign
11 source, or, if such name is not available, a
12 statement certified by the compliance offi-
13 cer in accordance with subsection (f)(2)
14 that the institution has reasonably at-
15 tempted to obtain such name;

16 “(ii) in the case of a foreign source
17 that is a natural person, the country of
18 citizenship of such person, or, if such coun-
19 try is not known, the principal country of
20 residence of such person;

21 “(iii) in the case of a foreign source
22 that is a legal entity, the country in which
23 such entity is incorporated, or if such in-
24 formation is not available, the principal
25 place of business of such entity;

1 “(iv) the physical mailing address of
2 such foreign source, or if such address is
3 not available, a statement certified by the
4 compliance officer in accordance with sub-
5 section (f)(2) that the institution has rea-
6 sonably attempted to obtain such address;
7 and

8 “(v) any affiliation of the foreign
9 source to an organization that is des-
10 ignated as a foreign terrorist organization
11 pursuant to section 219 of the Immigra-
12 tion and Nationality Act (8 U.S.C. 1189).

13 “(D) With respect to a contract entered
14 into with a foreign source that is a foreign
15 country of concern or a foreign entity of con-
16 cern—

17 “(i) a complete and unredacted text of
18 the original contract, and if such original
19 contract is not in English, a translated
20 copy of the text into English;

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

23 “(iii) the statement submitted by the
24 institution for purposes of receiving such a
25 waiver under section 117A(b)(1).

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

4 “(A) the legal name and address of the
5 foreign source that owns or controls the institu-
6 tion;

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

9 “(C) any changes in program or structure
10 resulting from the change in ownership or con-
11 trol.

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

18 “(d) PUBLIC INSPECTION.—

19 “(1) DATABASE REQUIREMENT.—Beginning not
20 later than 60 days before the July 31 immediately
21 following the date of the enactment of the DETER-
22 RENT Act, the Secretary shall—

23 “(A) establish and maintain a searchable
24 database on a website of the Department, under
25 which all reports submitted under this section

1 (including any report submitted under this sec-
2 tion before the date of the enactment of the
3 DETERRENT Act)—

4 “(i) are made publicly available (in
5 electronic and downloadable format), in-
6 cluding any information provided in such
7 reports (other than the information prohib-
8 ited from being publicly disclosed pursuant
9 to paragraph (2));

10 “(ii) can be individually identified and
11 compared; and

12 “(iii) are searchable and sortable by—

13 “(I) the date the institution filed
14 such report;

15 “(II) the date on which the insti-
16 tution received the gift, or entered
17 into the contract, which is the subject
18 of the report;

19 “(III) the attributable country of
20 such gift or contract; and

21 “(IV) the name of the foreign
22 source (other than a foreign source
23 that is a natural person);

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) NAME AND ADDRESS OF FOREIGN
19 SOURCE.—The Secretary shall not disclose the name
20 or address of a foreign source that is a natural per-
21 son (other than the attributable country of such for-
22 eign source) included in a disclosure report—

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

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

6 “(e) INTERAGENCY INFORMATION SHARING.—Not
7 later than 30 days after receiving a disclosure report from
8 an institution in compliance with this section, the Sec-
9 retary shall transmit an unredacted copy of such report
10 (that includes the name and address of a foreign source
11 disclosed in such report) to the Director of the Federal
12 Bureau of Investigation, the Director of National Intel-
13 ligence, the Director of the Central Intelligence Agency,
14 the Secretary of State, the Secretary of Defense, the At-
15 torney General, the Secretary of Commerce, the Secretary
16 of Homeland Security, the Secretary of Energy, the Direc-
17 tor of the National Science Foundation, and the Director
18 of the National Institutes of Health.

19 “(f) COMPLIANCE OFFICER.—Any institution that is
20 required to file a disclosure report under subsection (a)
21 shall designate, before the filing deadline for such report,
22 and maintain a compliance officer, who shall—

23 “(1) be a current employee or legally authorized
24 agent of such institution; and

1 “(2) be responsible, on behalf of the institution,
2 for personally certifying accurate compliance with
3 the foreign gift reporting requirement under this
4 section.

5 “(g) DEFINITIONS.—In this section:

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

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

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

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

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

24 “(A) means—

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

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

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

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

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 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

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) SUBMISSION.—

18 “(A) FIRST WAIVER REQUESTS.—

19 “(i) IN GENERAL.—An institution
 20 that desires to enter into a contract with
 21 a foreign entity of concern or a foreign
 22 country of concern may submit to the Sec-
 23 retary, not later than 120 days before the
 24 institution enters into such a contract, a

1 request to waive the prohibition under sub-
2 section (a) with respect to such contract.

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

6 “(I) the complete and unredacted
7 text of the proposed contract for
8 which the waiver is being requested,
9 and if such original contract is not in
10 English, a translated copy of the text
11 into English (in a manner that com-
12 plies with section 117(c)); and

13 “(II) a statement that—

14 “(aa) is signed by the com-
15 pliance officer of the institution
16 designated in accordance with
17 section 117(f); and

18 “(bb) includes information
19 that demonstrates that such con-
20 tract is for the benefit of the in-
21 stitution’s mission and students
22 and will promote the security,
23 stability, and economic vitality of
24 the United States.

25 “(B) RENEWAL WAIVER REQUESTS.—

1 “(i) IN GENERAL.—An institution
2 that has entered into a contract pursuant
3 to a waiver issued under this section, the
4 term of which is longer than the 1-year
5 waiver period and the terms and conditions
6 of which remain the same as the proposed
7 contract submitted as part of the request
8 for such waiver may submit, not later than
9 120 days before the expiration of such
10 waiver period, a request for a renewal of
11 such waiver for an additional 1-year period
12 (which shall include any information re-
13 quested by the Secretary).

14 “(ii) TERMINATION.—If the institu-
15 tion fails to submit a request under clause
16 (i) or is not granted a renewal under such
17 clause, such institution shall terminate
18 such contract on the last day of the origi-
19 nal 1-year waiver period.

20 “(2) WAIVER ISSUANCE.—The Secretary—

21 “(A) not later than 60 days before an in-
22 stitution enters into a contract pursuant to a
23 waiver request under paragraph (1)(A), or be-
24 fore a contract described in paragraph (1)(B)(i)

1 is renewed pursuant to a renewal request under
2 such paragraph, shall notify the institution—

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

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

8 “(B) may only issue a waiver under this
9 section to an institution if the Secretary deter-
10 mines, in consultation with the heads of each
11 agency and department listed in section 117(e),
12 that the contract for which the waiver is being
13 requested is for the benefit of the institution’s
14 mission and students and will promote the secu-
15 rity, stability, and economic vitality of the
16 United States.

17 “(3) DISCLOSURE.—Not less than 2 weeks
18 prior to issuing a waiver under paragraph (2), the
19 Secretary shall notify the—

20 “(A) the Committee on Education and the
21 Workforce of the House of Representatives; and

22 “(B) the Committee on Health, Education,
23 Labor, and Pensions of the Senate,
24 of the intent to issue the waiver, including a jus-
25 tification for the waiver.

1 “(4) APPLICATION OF WAIVERS.—A waiver
2 issued under this section to an institution with re-
3 spect to a contract shall only—

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

6 “(B) apply to the terms and conditions of
7 the proposed contract submitted as part of the
8 request for such 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 the enactment of the DETERRENT
22 Act—

23 “(A) the institution shall immediately sub-
24 mit to the Secretary a waiver request in accord-
25 ance with subsection (b)(1)(A)(ii); and

1 “(B) the Secretary shall, upon receipt of
2 the request submitted under paragraph (1), im-
3 mediately issue a waiver to the institution for a
4 period beginning on the date on which the waiv-
5 er is issued and ending on the sooner of—

6 “(i) the date that is 1 year after the
7 date of the enactment of the DETER-
8 RENT Act; or

9 “(ii) the date on which the contract
10 terminates.

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

21 “(e) CONTRACT DEFINED.—The term ‘contract’ has
22 the meaning given such term in section 117(g).”.

23 (c) INTERAGENCY INFORMATION SHARING.—Not
24 later than 90 days after the date of the enactment of this
25 Act, the Secretary of Education shall transmit to the

1 heads of each agency and department listed in section
2 117(e) of the Higher Education Act of 1965, as amended
3 by this Act—

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

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

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

14 (B) initiated prior to the date of the enact-
15 ment of this Act.

16 **SEC. 3. POLICY REGARDING CONFLICTS OF INTEREST**
17 **FROM FOREIGN GIFTS AND CONTRACTS.**

18 The Higher Education Act of 1965 (20 U.S.C. 1001
19 et seq.), as amended by section 2 of this Act, is further
20 amended by inserting after section 117A the following:

21 **“SEC. 117B. INSTITUTIONAL POLICY REGARDING FOREIGN**
22 **GIFTS AND CONTRACTS TO FACULTY AND**
23 **STAFF.**

24 “(a) REQUIREMENT TO MAINTAIN POLICY AND
25 DATABASE.—Beginning not later than 90 days after the

1 date of the enactment of the DETERRENT Act, each in-
2 stitution described in subsection (b) shall maintain—

3 “(1) a policy requiring covered individuals em-
4 ployed at the institution to disclose in a report to
5 such institution on July 31 of each calendar year
6 that begins after the year in which such enactment
7 date occurs—

8 “(A) any gift received from a foreign
9 source in the previous calendar year, the value
10 of which is greater than the minimal value (as
11 such term is defined in section 7342(a) of title
12 5, United States Code) or is of undetermined
13 value, and including the date on which the gift
14 was received;

15 “(B) any contract entered into with a for-
16 eign source in the previous calendar year, the
17 value of which is \$5,000 or more, considered
18 alone or in combination with all other contracts
19 with that foreign source within the calendar
20 year, and including the date on which such con-
21 tract commences and, as applicable, the date on
22 which such contract terminates;

23 “(C) any contract with a foreign source in
24 force during the previous calendar year that has
25 an undetermined monetary value, and including

1 the date on which such contract commences
2 and, as applicable, the date on which such con-
3 tract terminates; and

4 “(D) any contract entered into with a for-
5 eign country of concern or foreign entity of con-
6 cern in the previous calendar year, the value of
7 which is \$0 or more, and including the begin-
8 ning and ending dates of such contract and the
9 full text of such contract and any addenda;

10 “(2) a publicly available and searchable data-
11 base (in electronic and downloadable format), on a
12 website of the institution, of the information re-
13 quired to be disclosed under paragraph (1) (other
14 than the name or any other personally identifiable
15 information of a covered individual) that—

16 “(A) makes available the information dis-
17 closed under paragraph (1) (other than the
18 name or any other personally identifiable infor-
19 mation of a covered individual) beginning on
20 the date that is 30 days after receipt of the re-
21 port under such paragraph containing such in-
22 formation and until the latest of—

23 “(i) the date that is 5 years after the
24 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) begins; or

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

9 “(B) is searchable and sortable by—

10 “(i) the date received (if a gift) or the
11 date commenced (if a contract);

12 “(ii) the attributable country with re-
13 spect to which information is being dis-
14 closed;

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

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

22 “(3) an effective plan to identify and manage
23 potential information gathering by foreign sources
24 through espionage targeting covered individuals that
25 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’), the
13 names of the individuals making disclosures under
14 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 ‘foreign source’ and ‘gift’ have
4 the meanings given such terms in section 117(g);

5 “(2) the term ‘contract’—

6 “(A) means any—

7 “(i) agreement for the acquisition, by
8 purchase, lease, or barter, of property or
9 services by a foreign source;

10 “(ii) affiliation, agreement, or similar
11 transaction with a foreign source involving
12 the use or exchange of the name, likeness,
13 time, services, or resources of covered indi-
14 viduals employed at an institution de-
15 scribed in subsection (b); or

16 “(iii) purchase, lease, or barter of
17 property or services from a foreign source
18 that is a foreign country of concern or a
19 foreign entity of concern; and

20 “(B) does not include any fair-market,
21 arms-length agreement made by covered indi-
22 viduals for the acquisition, by purchase, lease,
23 or barter of property or services from a foreign
24 source other than such a foreign source that is

1 a foreign country of concern or a foreign entity
 2 of concern; and

3 “(3) the term ‘covered individual’—

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

8 “(B) shall be interpreted in accordance
 9 with the Guidance for Implementing National
 10 Security Presidential Memorandum 33 (NSPM–
 11 33) on National Security Strategy for United
 12 States Government-supported Research and De-
 13 velopment published by the Subcommittee on
 14 Research Security and the Joint Committee on
 15 the Research Environment in January 2022.”.

16 **SEC. 4. INVESTMENT DISCLOSURE REPORT.**

17 The Higher Education Act of 1965 (20 U.S.C. 1001
 18 et seq.), as amended by section 3 of this Act, is further
 19 amended by inserting after section 117B the following:

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

21 “(a) INVESTMENT DISCLOSURE REPORT.—A speci-
 22 fied institution shall file a disclosure report in accordance
 23 with subsection (b) with the Secretary on July 31 imme-
 24 diately following any calendar year in which the specified
 25 institution purchases, sells, or holds (directly or indirectly

1 through any chain of ownership) one or more investments
2 of concern.

3 “(b) CONTENTS OF REPORT.—Each report to the
4 Secretary required by subsection (a) with respect to any
5 calendar year shall contain the following:

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

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

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

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

17 “(c) INCLUSION OF CERTAIN POOLED FUNDS.—

18 “(1) IN GENERAL.—An investment of concern
19 acquired through a regulated investment company,
20 exchange traded fund, or any other pooled invest-
21 ment shall be treated as acquired through a chain of
22 ownership referred to in subsection (a), unless such
23 pooled investment is certified by the Secretary as
24 not holding any listed investments in accordance
25 with subparagraph (B) of paragraph (2).

1 “(2) CERTIFICATIONS OF POOLED FUNDS.—

2 The Secretary, after consultation with the Secretary
3 of the Treasury, shall establish procedures under
4 which certain regulated investment companies, ex-
5 change traded funds, and other pooled invest-
6 ments—

7 “(A) shall be reported in accordance with
8 the requirements under subsection (b); and

9 “(B) may be certified by the Secretary as
10 not holding any listed investments.

11 “(d) TREATMENT OF RELATED ORGANIZATIONS.—

12 For purposes of this section, assets held by any related
13 organization (as defined in section 4968(d)(2) of the In-
14 ternal Revenue Code of 1986) with respect to a specified
15 institution shall be treated as held by such specified insti-
16 tution, except that—

17 “(1) such assets shall not be taken into account
18 with respect to more than 1 specified institution;
19 and

20 “(2) unless such organization is controlled by
21 such institution or is described in section 509(a)(3)
22 of the Internal Revenue Code of 1986 with respect
23 to such institution, assets which are not intended or
24 available for the use or benefit of such specified in-
25 stitution shall not be taken into account.

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

4 “(f) REGULATIONS.—The Secretary, after consulta-
5 tion with the Secretary of the Treasury, may issue such
6 regulations or other guidance as may be necessary or ap-
7 propriate to carry out the purposes of this section, includ-
8 ing regulations or other guidance providing for the proper
9 application of this section with respect to certain regulated
10 investment companies, exchange traded funds, and pooled
11 investments.

12 “(g) COMPLIANCE OFFICER.—Any specified institu-
13 tion that is required to submit a report under subsection
14 (a) shall designate, before the submission of such report,
15 and maintain a compliance officer, who shall—

16 “(1) be a current employee or legally authorized
17 agent of such institution;

18 “(2) be responsible, on behalf of the institution,
19 for personally certifying accurate compliance with
20 the reporting requirements under this section; and

21 “(3) certify the institution has, for purposes of
22 filing such report under subsection (a), followed an
23 established institutional policy and conducted good
24 faith efforts and reasonable due diligence to deter-

1 mine the accuracy and valuations of the assets re-
2 ported.

3 “(h) DATABASE REQUIREMENT.—Beginning not
4 later than 60 days before the July 31 immediately fol-
5 lowing the date of the enactment of the DETERRENT
6 Act, the Secretary shall—

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

10 “(A) are made publicly available (in elec-
11 tronic and downloadable format), including any
12 information provided in such reports;

13 “(B) can be individually identified and
14 compared; and

15 “(C) are searchable and sortable; and

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

19 “(i) DEFINITIONS.—In this section:

20 “(1) INVESTMENT OF CONCERN.—

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

24 “(i) A foreign country of concern.

25 “(ii) A foreign entity of concern.

1 “(B) SPECIFIED INTEREST.—The term
2 ‘specified interest’ means, with respect to any
3 entity—

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

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

7 “(iii) any contract or derivative with
8 respect to any property described in clause
9 (i) or (ii).

10 “(2) SPECIFIED INSTITUTION.—

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

14 “(i) such institution is not a public in-
15 stitution; and

16 “(ii) the aggregate fair market value
17 of—

18 “(I) the assets held by such insti-
19 tution at the end of such calendar
20 year (other than those assets which
21 are used directly in carrying out the
22 institution’s exempt purpose) is in ex-
23 cess of \$6,000,000,000; or

24 “(II) the investments of concern
25 held by such institution at the end of

1 such calendar year is in excess of
2 \$250,000,000

3 “(B) REFERENCES TO CERTAIN TERMS.—

4 For the purpose of applying the definition
5 under subparagraph (A), the terms ‘aggregate
6 fair market value’ and ‘assets which are used
7 directly in carrying out the institution’s exempt
8 purpose’ shall be applied in the same manner as
9 such terms are applied for the purposes of sec-
10 tion 4968(b)(1)(D) of the Internal Revenue
11 Code of 1986.”.

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

13 (a) ENFORCEMENT AND OTHER GENERAL PROVI-
14 SIONS.—The Higher Education Act of 1965 (20 U.S.C.
15 1001 et seq.), as amended by section 4 of this Act, is fur-
16 ther amended by inserting after section 117C the fol-
17 lowing:

18 **“SEC. 117D. ENFORCEMENT; SINGLE POINT-OF-CONTACT.**

19 “(a) ENFORCEMENT.—

20 “(1) INVESTIGATION.—The Secretary (acting
21 through the General Counsel of the Department)
22 shall conduct investigations of possible violations of
23 sections 117, 117A, 117B, and 117C by institutions
24 and, whenever it appears that an institution has
25 knowingly or willfully failed to comply with a re-

1 requirement of any of such sections (including any
2 rule or regulation promulgated under any such sec-
3 tion), shall request that the Attorney General bring
4 a civil action in accordance with paragraph (2).

5 “(2) CIVIL ACTION.—Whenever it appears that
6 an institution has knowingly or willfully failed to
7 comply with a requirement of any of the sections
8 listed in paragraph (1) (including any rule or regula-
9 tion promulgated under any such section) based on
10 such an investigation, a civil action shall be brought
11 by the Attorney General, at the request of the Sec-
12 retary, in an appropriate district court of the United
13 States, or the appropriate United States court of
14 any territory or other place subject to the jurisdic-
15 tion of the United States, to request such court to
16 compel compliance with the requirement of the sec-
17 tion that has been violated.

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

22 “(A) pay to the Treasury of the United
23 States the full costs to the United States of ob-
24 taining compliance with the requirement of such

1 section, including all associated costs of inves-
2 tigation and enforcement; and

3 “(B) be subject to the applicable fines de-
4 scribed in paragraph (4).

5 “(4) FINES FOR VIOLATIONS.—The Secretary
6 shall impose a fine on an institution that knowingly
7 or willfully fails to comply with a requirement of a
8 section listed in paragraph (1) as follows:

9 “(A) SECTION 117.—

10 “(i) FIRST-TIME VIOLATIONS.—In the
11 case of an institution that knowingly or
12 willfully fails to comply with a requirement
13 of section 117 with respect to a calendar
14 year, and that has not previously know-
15 ingly or willfully failed to comply with such
16 a requirement, the Secretary shall impose
17 a fine on the institution for such violation
18 as follows:

19 “(I) In the case of an institution
20 that knowingly or willfully fails to
21 comply with a reporting requirement
22 under subsection (a)(1) of section
23 117, such fine shall be in an amount
24 that is—

1 “(aa) not less than \$50,000
2 but not more than the monetary
3 value of the gift from, or contract
4 with, the foreign source; or

5 “(bb) in the case of a gift or
6 contract of no value or of inde-
7 terminable 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 been
24 fined pursuant to clause (i) with respect to
25 a calendar year, and that knowingly or

1 willfully fails to comply with a requirement
2 of section 117 with respect to any addi-
3 tional calendar year, the Secretary shall
4 impose a fine on the institution with re-
5 spect to any such additional calendar year
6 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 117
11 with respect to an additional calendar
12 year, such fine shall be in an amount
13 that is—

14 “(aa) not less than
15 \$100,000 but not more than
16 twice the monetary value of the
17 gift from, or contract with, the
18 foreign source; or

19 “(bb) in the case of a gift or
20 contract of no value or of inde-
21 terminable value, not less than 1
22 percent, but not more than 10
23 percent, of the total amount of
24 Federal funds received by the in-

1 stitution under this Act for the
2 most recent fiscal year.

3 “(II) In the case of an institution
4 that knowingly or willfully fails to
5 comply with a reporting requirement
6 under subsection (a)(2) of section 117
7 with respect to an additional calendar
8 year, 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 knowingly or
16 willfully fails to comply with a requirement
17 of section 117A for the first time, the Sec-
18 retary shall impose a fine on the institu-
19 tion in an amount that is not less than 5
20 percent, but not more than 10 percent, of
21 the total amount of Federal funds received
22 by the institution under this Act for the
23 most recent fiscal year.

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

1 fined pursuant to clause (i), the Secretary
2 shall impose a fine on the institution for
3 each subsequent time the institution know-
4 ingly or willfully fails to comply with a re-
5 quirement of section 117A in an amount
6 that is not less than 20 percent of the total
7 amount of Federal funds received by the
8 institution under this Act for the most re-
9 cent fiscal year.

10 “(C) SECTION 117B.—

11 “(i) FIRST-TIME VIOLATIONS.—In the
12 case of an institution that knowingly or
13 willfully fails to comply with a requirement
14 of section 117B with respect to a calendar
15 year, and that has not previously know-
16 ingly or willfully failed to comply with such
17 a requirement, the Secretary shall impose
18 a fine on the institution of not less than
19 \$250,000, but not more than the total
20 amount of gifts or contracts reported by
21 such institution in the database required
22 under section 117B(a)(2).

23 “(ii) SUBSEQUENT VIOLATIONS.—In
24 the case of an institution that has been
25 fined pursuant to clause (i) with respect to

1 a calendar year, and that knowingly or
2 willfully fails to comply with a requirement
3 of section 117B with respect to any addi-
4 tional calendar year, the Secretary shall
5 impose a fine on the institution with re-
6 spect to any such additional calendar year
7 in an amount that is not less than
8 \$500,000, but not more than twice the
9 total amount of gifts or contracts reported
10 by such institution in the database re-
11 quired under section 117B(a)(2).

12 “(D) SECTION 117C.—

13 “(i) FIRST-TIME VIOLATIONS.—In the
14 case of a specified institution that know-
15 ingly or willfully fails to comply with a re-
16 quirement of section 117C with respect to
17 a calendar year, and that has not pre-
18 viously knowingly or willfully failed to com-
19 ply with such a requirement, the Secretary
20 shall impose a fine on the institution in an
21 amount that is not less than 50 percent
22 and not more than 100 percent of the sum
23 of—

24 “(I) the aggregate fair market
25 value of all investments of concern

1 held by such institution as of the close
2 of such calendar year; and

3 “(II) the combined value of all
4 investments of concern sold over the
5 course of such calendar year, as meas-
6 ured by the fair market value of such
7 investments at the time of the sale.

8 “(ii) SUBSEQUENT VIOLATIONS.—In
9 the case of a specified institution that has
10 been fined pursuant to clause (i) with re-
11 spect to a calendar year, and that know-
12 ingly or willfully fails to comply with a re-
13 quirement of section 117C with respect to
14 any additional calendar year, the Secretary
15 shall impose a fine on the institution with
16 respect to any such additional calendar
17 year in an amount that is not less than
18 100 percent and not more than 200 per-
19 cent of the sum of—

20 “(I) the aggregate fair market
21 value of all investments of concern
22 held by such institution as of the close
23 of such additional calendar year; and

24 “(II) the combined value of all
25 investments of concern sold over the

1 course of such additional calendar
2 year, as measured by the fair market
3 value of such investments at the time
4 of the sale.

5 “(E) INELIGIBILITY FOR WAIVER.—In
6 the case of an institution that has been fined
7 pursuant to subparagraph (A)(i), (B)(i) (C)(i),
8 or (D)(i) with respect to a calendar year, and
9 that knowingly or willfully fails to comply with
10 a requirement of section 117, 117A, 117B, or
11 117C with respect to any 2 additional calendar
12 years, the Secretary shall prohibit the institu-
13 tion from obtaining a waiver, or a renewal of a
14 waiver, under section 117A.

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

18 “(1) receive and respond to inquiries and re-
19 quests for technical assistance from institutions re-
20 garding compliance with the requirements of sec-
21 tions 117, 117A, 117B, and 117C;

22 “(2) coordinate and implement technical im-
23 provements to the database described in section
24 117(d)(1), including—

1 “(A) improving upload functionality by al-
2 lowing for batch reporting, including by allow-
3 ing institutions to upload one file with all re-
4 quired information into the database;

5 “(B) publishing and maintaining a data-
6 base users guide annually, including informa-
7 tion on how to edit an entry and how to report
8 errors;

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

13 “(i) include at least—

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

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

23 “(III) 2 members representing
24 proprietary institutions of higher edu-

1 cation (as defined in section 102(b));
2 and

3 “(IV) 2 members representing
4 area career and technical education
5 schools (as defined in subparagraph
6 (C) or (D) of section 3(3) of the Carl
7 D. Perkins Career and Technical
8 Education Act of 2006 (20 U.S.C.
9 2302(3)); and

10 “(ii) meet at least twice a year with
11 officials from the Department to discuss
12 possible database improvements;

13 “(D) publishing, on a publicly available
14 website, recommended database improvements
15 following each meeting described in subpara-
16 graph (C)(ii); and

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

23 “(3) provide, every 90 days after the date of en-
24 actment of the DETERRENT Act, status updates

1 on any pending or completed investigations and civil
2 actions under subsection (a)(1) to—

3 “(A) the authorizing committees; and

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

6 “(4) maintain, on a publicly accessible
7 website—

8 “(A) a full comprehensive list of all foreign
9 countries of concern and foreign entities of con-
10 cern; and

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

13 “(5) not later than 7 days after making an up-
14 date to the list maintained in paragraph (4)(A), no-
15 tify each institution required to comply with the sec-
16 tions listed in paragraph (1) of such update.

17 “(c) DEFINITIONS.—For purposes of sections 117,
18 117A, 117B, 117C, and this section:

19 “(1) FOREIGN COUNTRY OF CONCERN.—The
20 term ‘foreign country of concern’ includes the fol-
21 lowing:

22 “(A) A country that is a covered nation (as
23 defined in section 4872(d) of title 10, United
24 States Code).

1 “(B) Any country that the Secretary, in
2 consultation with the Secretary of Defense, the
3 Secretary of State, and the Director of National
4 Intelligence, determines to be engaged in con-
5 duct that is detrimental to the national security
6 or foreign policy of the United States.

7 “(2) FOREIGN ENTITY OF CONCERN.—The
8 term ‘foreign entity of concern’ has the meaning
9 given such term in section 10612(a) of the Research
10 and Development, Competition, and Innovation Act
11 (42 U.S.C. 19221(a)) and includes a foreign entity
12 that is identified on the list published under section
13 1286(c)(8)(A) of the John S. McCain National De-
14 fense Authorization Act for Fiscal Year 2019 (10
15 U.S.C. 22 4001 note; Public Law 115–232).

16 “(3) INSTITUTION.—The term ‘institution’
17 means an institution of higher education (as such
18 term is defined in section 102, other than an institu-
19 tion described in subsection (a)(1)(c) of such sec-
20 tion).”.

21 (b) PROGRAM PARTICIPATION AGREEMENT.—Section
22 487(a) of the Higher Education Act of 1965 (20 U.S.C.
23 1094) is amended by adding at the end the following:

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

1 “(B) An institution that, for 3 consecutive in-
2 stitutional fiscal years, violates any requirement of
3 any of the sections listed in subparagraph (A),
4 shall—

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

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

14 (c) GAO STUDY AND REPORT.—

15 (1) STUDY.—Not later than 180 days after the
16 date of enactment of this Act, the Comptroller Gen-
17 eral of the United States shall initiate a study to
18 identify ways to improve intergovernmental agency
19 coordination regarding implementation and enforce-
20 ment of sections 117, 117A, 117B, and 117C of the
21 Higher Education Act of 1965 (20 U.S.C. 1011f),
22 as amended or added by this Act, including increas-
23 ing information sharing, increasing compliance rates,
24 and establishing processes for enforcement.

Attest: **KEVIN F. MCCUMBER,**
Clerk.