

118TH CONGRESS
1ST SESSION

S. 3339

To prohibit former members of the Armed Forces from accepting employment in positions involving training, consulting, advising, or instructing any government-associated individual or entity from the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, or the Syrian Arab Republic.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 15, 2023

Mrs. SHAHEEN (for herself, Mr. COTTON, and Mr. KELLY) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To prohibit former members of the Armed Forces from accepting employment in positions involving training, consulting, advising, or instructing any government-associated individual or entity from the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, or the Syrian Arab Republic.

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 Against Ad-
3 versary Recruitment Efforts Act” or the “DAARE Act”.

4 **SEC. 2. PROHIBITION ON FORMER MEMBERS OF THE**
5 **ARMED FORCES ACCEPTING POST-SERVICE**
6 **EMPLOYMENT WITH CERTAIN FOREIGN GOV-**
7 **ERNMENTS.**

8 (a) IN GENERAL.—Chapter 49 of title 10, United
9 States Code, is amended by adding at the end the fol-
10 lowing new section:

11 **“§ 989. Prohibition on former members of the armed**
12 **forces accepting post-service employment**
13 **with certain foreign governments**

14 “(a) IN GENERAL.—Except as provided by subsection
15 (b), a covered individual may not occupy a covered post-
16 service position.

17 “(b) TEMPORARY WAIVER.—

18 “(1) IN GENERAL.—The Secretary of Defense
19 shall establish a process under which a covered indi-
20 vidual may be granted a temporary waiver of the
21 prohibition under subsection (a) if—

22 “(A) the individual, or a Federal agency on
23 behalf of, and with the consent of, the indi-
24 vidual, submits to the Secretary a written appli-
25 cation for a waiver in such form and manner as
26 the Secretary determines appropriate; and

1 “(B) the Secretary determines that the
2 waiver is necessary to advance the national se-
3 curity interests of the United States.

4 “(2) PERIOD OF WAIVER.—A waiver issued
5 under paragraph (1) shall apply for a period not ex-
6 ceeding 5 years. The Secretary may renew such a
7 waiver.

8 “(3) REVOCATION.—The Secretary may revoke
9 a waiver issued under paragraph (1) to a covered in-
10 dividual with respect to a covered-post service posi-
11 tion if the Secretary determines that the employ-
12 ment of the individual in the covered-post service po-
13 sition poses a threat to national security.

14 “(4) NOTIFICATION.—

15 “(A) IN GENERAL.—Not later than 30
16 days after the date on which the Secretary
17 issues a waiver under paragraph (1) or revokes
18 a waiver under paragraph (3), the Secretary
19 shall submit to the Committees on Armed Serv-
20 ices of the Senate and the House of Represent-
21 atives written notification of the waiver or rev-
22 ocation, as the case may be.

23 “(B) ELEMENTS.—A notification required
24 by subparagraph (A) shall include the following:

1 “(i) With respect to a waiver issued to
2 a covered individual—

3 “(I) the details of the applica-
4 tion, including the position held by the
5 individual in the armed forces;

6 “(II) the nature of the post-serv-
7 ice position of the individual;

8 “(III) a description of the na-
9 tional security interests that will be
10 advanced by reason of issuing such a
11 waiver; and

12 “(IV) the specific reasons why
13 the Secretary determines that issuing
14 the waiver will advance such interests.

15 “(ii) With respect to a revocation of a
16 waiver issued to a covered individual—

17 “(I) the details of the waiver, in-
18 cluding any renewals of the waiver,
19 and the dates of such waiver and re-
20 newals; and

21 “(II) the specific reasons why the
22 Secretary determined that the revoca-
23 tion is warranted.

24 “(c) CERTIFICATION OF PROHIBITION.—In imple-
25 menting the prohibition under subsection (a), the Sec-

1 retary shall establish a process under which each member
2 of the armed forces is, before the member retires or is
3 otherwise separated from the armed forces—

4 “(1) informed in writing of the prohibition, and
5 the penalties for violations of the prohibition; and

6 “(2) is required to certify that the member un-
7 derstands the prohibition and those penalties.

8 “(d) PENALTIES.—In the case of a covered individual
9 who knowingly and willfully fails to comply with the prohi-
10 bition under subsection (a), the Secretary shall, as applica-
11 ble—

12 “(1) withhold any pay, allowances, or benefits
13 that would otherwise be provided to the individual by
14 the Department of Defense; and

15 “(2) revoke any security clearance of the indi-
16 vidual.

17 “(e) ANNUAL REPORTS.—

18 “(1) REQUIREMENT.—Not later than March
19 31, 2024, and annually thereafter, the Secretary
20 shall submit to the congressional defense committees
21 a report on covered post-service employment occur-
22 ring during the year covered by the report.

23 “(2) ELEMENTS.—Each report required by
24 paragraph (1) shall include the following:

1 “(A) The number of former covered indi-
2 viduals who occupy a covered post-service posi-
3 tion, broken down by—

4 “(i) the name of the employer;

5 “(ii) the foreign government, includ-
6 ing by the specific foreign individual, agen-
7 cy, or entity, for whom the covered post-
8 service employment is being performed;
9 and

10 “(iii) the nature of the services pro-
11 vided as part of the covered post-service
12 employment.

13 “(B) An assessment by the Secretary of
14 whether—

15 “(i) the Department of Defense main-
16 tains adequate systems and processes for
17 ensuring that former members of the
18 armed forces are submitting required re-
19 ports relating to their employment by for-
20 eign governments;

21 “(ii) all covered individuals who oc-
22 cupy a covered post-service position are in
23 compliance with this section;

24 “(iii) the services provided by the cov-
25 ered individuals who occupy a covered

1 post-service position pose a current or fu-
2 ture threat to the national security of the
3 United States; and

4 “(iv) there is any credible information
5 or reporting that any covered individual
6 who occupies a covered post-service posi-
7 tion has engaged in activities that violate
8 Federal law.

9 “(3) FORM OF REPORT.—Each report required
10 by paragraph (1) shall be submitted in unclassified
11 form, but may include a classified annex.

12 “(f) NOTIFICATIONS OF DETERMINATIONS OF CER-
13 TAIN THREATS.—

14 “(1) REQUIREMENT.—In addition to the annual
15 reports under subsection (d), if the Secretary deter-
16 mines that the services provided by a covered indi-
17 vidual who occupies a covered post-service position
18 pose a threat described in clause (iii) of paragraph
19 (2)(B) of that subsection, or include activities de-
20 scribed in clause (iv) of such paragraph, the Sec-
21 retary shall notify the congressional defense commit-
22 tees of that determination by not later than 30 days
23 after making the determination.

24 “(2) ELEMENTS.—A notification required by
25 paragraph (1) shall include the following:

1 “(A) The name of the covered individual.

2 “(B) The name of the employer.

3 “(C) The foreign government, including
4 the specific foreign individual, agency, or entity,
5 for whom the covered post-service employment
6 is being performed.

7 “(D) As applicable, a description of the
8 risk to national security and the activities that
9 may violate Federal law.

10 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
11 tion may be construed to indemnify or shield covered indi-
12 viduals from prosecution under any relevant provision of
13 title 18.

14 “(h) DEFINITIONS.—In this section:

15 “(1) COVERED INDIVIDUAL.—The term ‘cov-
16 ered individual’ means an individual who has retired
17 or otherwise separated from an active or reserve
18 component of the armed forces.

19 “(2) COVERED POST-SERVICE EMPLOYMENT.—
20 The term ‘covered post-service employment’ means
21 direct or indirect employment by, representation of,
22 or any provision of advice or services relating to na-
23 tional security, intelligence, the military, or internal
24 security to—

25 “(A) the government of—

1 “(i) a country of concern (as defined
 2 in section 1(m) of the State Department
 3 Basic Authorities Act of 1956 (22 U.S.C.
 4 2651a(m))); or

5 “(ii) a country the Secretary of De-
 6 fense determines acts as a proxy or pass-
 7 through for services for a country of con-
 8 cern; or

9 “(B) any company, entity, or other person
 10 the activities of which are directly or indirectly
 11 supervised, directed, controlled, financed, or
 12 subsidized, in whole or in major part, by a gov-
 13 ernment described in subparagraph (A).

14 “(3) COVERED POST-SERVICE POSITION.—The
 15 term ‘covered post-service position’ means a position
 16 of employment described in paragraph (2).”.

17 (b) CLERICAL AMENDMENT.—The table of sections
 18 at the beginning of chapter 49 of such title is amended
 19 by adding at the end the following new item:

“989. Prohibition on former members of the armed forces accepting post-service
 employment with certain foreign governments.”.

20 (c) CONFORMING AMENDMENT.—Section 908 of title
 21 37, United States Code, is amended by adding at the end
 22 the following new subsection:

23 “(f) PROHIBITION ON FORMER MEMBERS OF ARMED
 24 FORCES ACCEPTING EMPLOYMENT WITH CERTAIN FOR-

1 EIGN GOVERNMENTS.—For a provision of law prohibiting
2 former members of the armed forces from accepting post-
3 service employment with certain foreign governments, see
4 section 989 of title 10.”.

