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(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

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.

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IN THE HOUSE OF REPRESENTATIVES

Mrs. STEEL introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

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 1 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) by a foreign source, the institution shall  
15                  file a disclosure report in accordance with subsection  
16                  (b)(2) with the Secretary on July 1 of each year.

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

22                  “(b) CONTENTS OF REPORT.—

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

1           “(A) With respect to a gift received from,  
2           or a contract entered into with, any foreign  
3           source—

4                   “(i) the terms of such gift or contract,  
5           including—

6                           “(I) the name of the individual,  
7                           department, or benefactor at the insti-  
8                           tution receiving the gift or carrying  
9                           out the contract;

10                           “(II) the intended purpose of  
11                           such gift or contract, as provided to  
12                           the institution by such foreign govern-  
13                           ment, or if no such purpose is pro-  
14                           vided by such government, the in-  
15                           tended use of such gift or contract, as  
16                           provided by the institution; and

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

21                           “(ii) with respect to a gift—

22                                   “(I) the total fair market dollar  
23                                   amount or value of the gift, as of the  
24                                   date of submission of such report; and

1                   “(II) the date on which the insti-  
2                   tution received such gift;

3                   “(iii) with respect to a contract—

4                   “(I) the date on which such con-  
5                   tract commences;

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

8                   “(III) an assurance that the in-  
9                   stitution will—

10                   “(aa)           maintain        an  
11                   unredacted copy of the contract  
12                   until the latest of—

13                   “(AA) the date that is  
14                   4 years after the date on  
15                   which the contract com-  
16                   mences;

17                   “(BB) the date on  
18                   which the contract termi-  
19                   nates; or

20                   “(CC) the last day of  
21                   any period that applicable  
22                   State law requires a copy of  
23                   such contract to be main-  
24                   tained; and

1                   “(bb) upon request of the  
2                   Secretary during an investigation  
3                   under subsection (f)(1), produce  
4                   such a copy of the contract; and

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

12                  “(B) With respect to a gift received from,  
13                  or a contract entered into with, a foreign source  
14                  that is a foreign government (other than the  
15                  government of a foreign country of concern)—

16                         “(i) the name of such foreign govern-  
17                         ment;

18                         “(ii) the department, agency, office,  
19                         or division of such foreign government that  
20                         approved such gift or contract, as applica-  
21                         ble; and

22                         “(iii) the physical mailing address of  
23                         such department, agency, office, or divi-  
24                         sion.

1           “(C) With respect to a gift received from,  
2 or contract entered into with, a foreign source  
3 (other than a foreign government subject to the  
4 requirements of subparagraph (B))—

5           “(i) the legal name of the foreign  
6 source, or, if such name is not available, a  
7 statement certified by the compliance offi-  
8 cer in accordance with subsection (f)(2)  
9 that the institution has reasonably at-  
10 tempted to obtain such name;

11           “(ii) in the case of a foreign source  
12 that is a natural person, the country of  
13 citizenship of such person, or, if such coun-  
14 try is not known, the principal country of  
15 residence of such person;

16           “(iii) in the case of a foreign source  
17 that is a legal entity, the country in which  
18 such entity is incorporated, or if such in-  
19 formation is not available, the principal  
20 place of business of such entity; and

21           “(iv) the physical mailing address of  
22 such foreign source, or if such address is  
23 not available, a statement certified by the  
24 compliance officer in accordance with sub-

1 section (f)(2) that the institution has rea-  
2 sonably attempted to obtain such address.

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

7 “(i) a complete and unredacted text of  
8 the original contract, and if such original  
9 contract is not in English, a translated  
10 copy of the text into English;

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

13 “(iii) the statement submitted by the  
14 institution for purposes of receiving such a  
15 waiver under section 117A(b)(1).

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

19 “(A) the legal name and address of the  
20 foreign source that owns or controls the institu-  
21 tion;

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

1           “(C) any changes in program or structure  
2           resulting from the change in ownership or con-  
3           trol.

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

10          “(d) PUBLIC INSPECTION.—

11           “(1) DATABASE REQUIREMENT.—Beginning not  
12           later than 60 days before the July 1 immediately fol-  
13           lowing the date of the enactment of the DETER-  
14           RENT Act, the Secretary shall—

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

21           “(i) are made publicly available (in  
22           electronic and downloadable format), in-  
23           cluding any information provided in such  
24           reports (other than the information prohib-

1           ited from being publicly disclosed pursuant  
2           to paragraph (2));

3           “ (ii) can be individually identified and  
4           compared; and

5           “ (iii) are searchable and sortable—

6           “ (I) by the date the institution  
7           filed such report;

8           “ (II) by the date on which the in-  
9           stitution received the gift, or entered  
10          into the contract, which is the subject  
11          of the report; and

12          “ (III) by the attributable country  
13          of such gift or contract;

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

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

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

23          “ (ii) a foreign source that is not a for-  
24          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 (other than the attrib-  
10          utable country of such foreign source) included in a  
11          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 Assistant Attorney General for National Secu-  
2 rity, the Director of the Central Intelligence Agency, and  
3 the Director of the National Science Foundation.

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

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

10 “(2) be responsible, on behalf of the institution,  
11 for personally certifying accurate compliance with  
12 the foreign gift reporting requirement under this  
13 section.

14 “(g) DEFINITIONS.—In this section:

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

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

1           “(A) the country of citizenship or principal  
2 residence (as applicable) of a foreign source  
3 who is a natural person; or

4           “(B) the country of incorporation, or prin-  
5 cipal place of business (as applicable) of a for-  
6 eign source that is a legal entity.

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

8           “(A) means—

9           “(i) any agreement for the acquisition  
10 by purchase, lease, or barter of property or  
11 services by the foreign source, for the di-  
12 rect benefit or use of either of the parties;

13           “(ii) any affiliation, agreement, or  
14 similar transaction with a foreign source  
15 that is based on the use or exchange of an  
16 institution’s name, likeness, time, services,  
17 or resources; and

18           “(iii) any agreement for the acquisi-  
19 tion by purchase, lease, or barter, of prop-  
20 erty or services from a foreign source  
21 (other than an arms-length agreement for  
22 such acquisition from a foreign source that  
23 is not a foreign country of concern or a  
24 foreign entity of concern); and

1           “(B) does not include an agreement made  
2           between an institution and a foreign source re-  
3           garding any payment of one or more elements  
4           of a student’s cost of attendance (as such term  
5           is defined in section 472), unless such an agree-  
6           ment is made for more than 15 students or is  
7           made under a restricted or conditional contract.

8           “(4) FOREIGN SOURCE.—The term ‘foreign  
9           source’ means—

10           “(A) a foreign government, including an  
11           agency of a foreign government;

12           “(B) a legal entity, governmental or other-  
13           wise, created under the laws of a foreign state  
14           or states;

15           “(C) a natural person who is not a citizen  
16           or a national of the United States or a trust  
17           territory or protectorate thereof; and

18           “(D) an agent, including—

19           “(i) a subsidiary or affiliate of a for-  
20           eign legal entity, acting on behalf of a for-  
21           eign source; and

22           “(ii) an entity or organization that op-  
23           erates primarily for the benefit of, or  
24           under the auspices of, a foreign legal enti-  
25           ty, including a foundation or a related en-

1                   tity (such as any educational, cultural, or  
2                   language entity).

3                   “(5) GIFT.—The term ‘gift’—

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

6                   “(B) does not include—

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

19                  “(ii) assignment or license of reg-  
20                  istered industrial and intellectual property  
21                  rights, such as patents, utility models,  
22                  trademarks, or copyrights, or technical as-  
23                  sistance, that are not identified as being  
24                  associated with a national security risk or  
25                  concern by the Federal Research Security

1 Council as described under section 7902 of  
2 title 31, United States Code; or

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

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

11 “(A) the employment, assignment, or ter-  
12 mination of faculty;

13 “(B) the establishment of departments,  
14 centers, institutes, instructional programs, re-  
15 search or lecture programs, or new faculty posi-  
16 tions;

17 “(C) the selection, admission, or education  
18 of students;

19 “(D) the award of grants, loans, scholar-  
20 ships, fellowships, or other forms of financial  
21 aid restricted to students of a specified country,  
22 religion, sex, ethnic origin, or political opinion;  
23 or

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

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

6 **“SEC. 117A. PROHIBITION ON CONTRACTS WITH CERTAIN**  
7 **FOREIGN ENTITIES AND COUNTRIES.**

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

11 “(b) WAIVERS.—

12 “(1) SUBMISSION.—

13 “(A) FIRST WAIVER REQUESTS.—

14 “(i) IN GENERAL.—An institution  
15 that desires to enter into a contract with  
16 a foreign entity of concern or a foreign  
17 country of concern may submit to the Sec-  
18 retary, not later than 60 days before the  
19 institution enters into such a contract, a  
20 request to waive the prohibition under sub-  
21 section (a) with respect to such contract.

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

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

8 “(II) a statement that—  
9 “(aa) is signed by the point  
10 of contact of the institution de-  
11 scribed in section 117(h); and

12 “(bb) includes information  
13 that demonstrates that such con-  
14 tract is for the benefit of the in-  
15 stitution’s mission and students  
16 and will promote the security,  
17 stability, and economic vitality of  
18 the United States.

19 “(B) RENEWAL WAIVER REQUESTS.—

20 “(i) IN GENERAL.—An institution  
21 that has entered into a contract pursuant  
22 to a waiver issued under this section, the  
23 term of which is longer than the 1-year  
24 waiver period and the terms and conditions  
25 of which remain the same as the proposed

1 contract submitted as part of the request  
2 for such waiver may submit, not later than  
3 60 days before the expiration of such waiv-  
4 er period, a request for a renewal of such  
5 waiver for an additional 1-year period  
6 (which shall include any information re-  
7 quested by the Secretary).

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

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

15 “(A) not later than 60 days after receiving  
16 a request for a waiver or renewal of a waiver  
17 under this section from an institution, shall no-  
18 tify the institution—

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

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

24 “(B) may only issue a waiver under this  
25 section to an institution if the Secretary deter-

1 mines, in consultation with the Director of the  
2 Federal Bureau of Investigation, the Director  
3 of National Intelligence, the Assistant Attorney  
4 General for National Security, the Director of  
5 the Central Intelligence Agency, and the Direc-  
6 tor of the National Science Foundation, that  
7 the contract for which the waiver is being re-  
8 quested is for the benefit of the institution’s  
9 mission and students and will promote the secu-  
10 rity, stability, and economic vitality of the  
11 United States.

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

15 “(A) the Committee on Education and the  
16 Workforce of the House of Representatives; and

17 “(B) the Committee on Health, Education,  
18 Labor, and Pensions of the Senate,

19 of the intent to issue the waiver, including a jus-  
20 tification for the waiver.

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

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

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

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

12          “(d) CONTRACT DEFINED.—The term ‘contract’ has  
13 the meaning given such term in section 117(g).”.

14          (c) INTERAGENCY INFORMATION SHARING.—Not  
15 later than 90 days after the date of the enactment of this  
16 Act, the Secretary of Education shall transmit to the Di-  
17 rector of the Federal Bureau of Investigation, the Director  
18 of National Intelligence, the Assistant Attorney General  
19 for National Security, the Director of the Central Intel-  
20 ligence Agency, and the Director of the National Science  
21 Foundation—

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

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

4                   (A) of an institution with respect to the  
5           compliance of such institution with such sec-  
6           tion; and

7                   (B) initiated prior to the date of the enact-  
8           ment of this Act.

9   **SEC. 3. POLICY REGARDING CONFLICTS OF INTEREST**  
10                   **FROM FOREIGN GIFTS AND CONTRACTS.**

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

14   **“SEC. 117B. INSTITUTIONAL POLICY REGARDING FOREIGN**  
15                   **GIFTS AND CONTRACTS TO FACULTY AND**  
16                   **STAFF.**

17           “(a) REQUIREMENT TO MAINTAIN POLICY AND  
18   DATABASE.—Beginning not later than 90 days after the  
19   date of the enactment of the DETERRENT Act, each in-  
20   stitution described in subsection (b) shall maintain—

21                   “(1) a policy requiring faculty, professional  
22           staff, and other staff engaged in research and devel-  
23           opment (as determined by the institution and meas-  
24           ured by the Higher Education Research and Devel-  
25           opment Survey of the National Center for Science

1 and Engineering Statistics) employed at the institu-  
2 tion to disclose in a report to such institution on  
3 July 1 of each calendar year that begins after the  
4 year in which such enactment date occurs—

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

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

20 “(C) any contract with a foreign source in  
21 force during the previous calendar year that has  
22 an undetermined monetary value, and including  
23 the date on which such contract commences  
24 and, as applicable, the date on which such con-  
25 tract terminates; and

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

7           “(2) a publicly available and searchable data-  
8           base (in electronic and downloadable format), on a  
9           website of the institution, of the information re-  
10          quired to be disclosed under paragraph (1), sortable  
11          and searchable by the date received (if a gift) or the  
12          date commenced (if a contract), the attributable  
13          country with respect to which information is being  
14          disclosed, and name of the individual making the  
15          disclosure, and until the latest of—

16                 “(A) the date that is 4 years after the date  
17                 on which—

18                         “(i) a gift referred to in paragraph  
19                         (1)(A) is received; or

20                         “(ii) a contract referred to in sub-  
21                         paragraph (B), (C) or (D) of paragraph  
22                         (1) begins; or

23                         “(B) the date on which a contract referred  
24                         to in subparagraph (B), (C) or (D) of para-  
25                         graph (1) terminates; and

1           “(3) a plan effectively to identify and manage  
2 potential information gathering by foreign sources  
3 through espionage targeting faculty, professional  
4 staff, and other staff engaged in research and devel-  
5 opment (as determined by the institution and meas-  
6 ured by the Higher Education Research and Devel-  
7 opment Survey of the National Center for Science  
8 and Engineering Statistics) that may arise from  
9 gifts received from, or contracts entered into with, a  
10 foreign source, including through the use of—

11                   “(A) periodic communications;

12                   “(B) accurate reporting under paragraph  
13 (2) of the information required to be disclosed  
14 under paragraph (1); and

15                   “(C) enforcement of the policy described in  
16 paragraph (1).

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

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

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

1 Development Survey of the National Center for  
2 Science and Engineering Statistics); or

3 “(B) receives funds under title VI.

4 “(c) DEFINITIONS.—In this section—

5 “(1) the terms ‘foreign source’ and ‘gift’ have  
6 the meanings given such terms in section 117(g);

7 “(2) the term ‘contract’—

8 “(A) means any—

9 “(i) agreement for the acquisition, by  
10 purchase, lease, or barter, of property or  
11 services by a foreign source for the direct  
12 benefit or use of any of the parties to the  
13 agreement;

14 “(ii) affiliation, agreement, or similar  
15 transaction with a foreign source based on  
16 the use or exchange of the name, likeness,  
17 time, services, or resources of faculty, pro-  
18 fessional staff, or other staff engaged in  
19 research and development (as determined  
20 by the institution and measured by the  
21 Higher Education Research and Develop-  
22 ment Survey of the National Center for  
23 Science and Engineering Statistics) em-  
24 ployed at an institution described in sub-  
25 section (b); or

1                   “(iii) purchase, lease, or barter of  
2                   property or services from a foreign source  
3                   that is a foreign country of concern or a  
4                   foreign entity of concern; and

5                   “(B) does not include any fair-market,  
6                   arms-length agreement made by faculty, profes-  
7                   sional staff, and other staff engaged in research  
8                   and development (as determined by the institu-  
9                   tion and measured by the Higher Education  
10                  Research and Development Survey of the Na-  
11                  tional Center for Science and Engineering Sta-  
12                  tistics) for the acquisition, by purchase, lease,  
13                  or barter of property or services from a foreign  
14                  source other than such a foreign source that is  
15                  a foreign country of concern or a foreign entity  
16                  of concern; and

17                  “(3) the term ‘professional staff’ means profes-  
18                  sional employees, as defined in section 3 of the Fair  
19                  Labor Standards Act of 1938 (29 U.S.C. 203).”.

20 **SEC. 4. INVESTMENT DISCLOSURE REPORT.**

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

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

2 “(a) INVESTMENT DISCLOSURE REPORT.—A speci-  
3 fied institution shall file a disclosure report in accordance  
4 with subsection (b) with the Secretary on July 1 imme-  
5 diately following any calendar year in which the specified  
6 institution purchases, sells, or holds (directly or indirectly  
7 through any chain of ownership) one or more investments  
8 of concern.

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

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

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

17 “(3) The combined value of all investments of  
18 concern sold over the course of such calendar year,  
19 as measured by the fair market value of such invest-  
20 ments at the time of the sale.

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

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

24 “(1) IN GENERAL.—An investment of concern  
25 acquired through a regulated investment company,  
26 exchange traded fund, or any other pooled invest-

1       ment shall be treated as acquired through a chain of  
2       ownership referred to in subsection (a), unless such  
3       pooled investment is certified by the Secretary as  
4       not holding any listed investments in accordance  
5       with subparagraph (B) of paragraph (2).

6               “(2) CERTIFICATIONS OF POOLED FUNDS.—  
7       The Secretary, after consultation with the Secretary  
8       of the Treasury, shall establish procedures under  
9       which certain regulated investment companies, ex-  
10      change traded funds, and other pooled invest-  
11      ments—

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

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

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

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

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

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

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

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

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

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

4           “(3) certify the institution has, for purposes of  
5           filing such report under subsection (a), followed an  
6           established institutional policy and conducted good  
7           faith efforts and reasonable due diligence to deter-  
8           mine the accuracy and valuations of the assets re-  
9           ported.

10          “(h) DATABASE.—Not later than 30 days after re-  
11          ceipt of a disclosure report under this section, the Sec-  
12          retary shall include such report in the database established  
13          under section 117(d)(1)(A).

14          “(i) DEFINITIONS.—In this section:

15               “(1) INVESTMENT OF CONCERN.—

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

19                               “(i) A foreign country of concern.

20                               “(ii) A foreign entity of concern.

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

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

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

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

5 “(2) SPECIFIED INSTITUTION.—

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

9 “(i) such institution is not a public in-  
10 stitution; and

11 “(ii) the aggregate fair market value  
12 of—

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

19 “(II) the investments of concern  
20 held by such institution at the end of  
21 such calendar year is in excess of  
22 \$250,000,000

23 “(B) REFERENCES TO CERTAIN TERMS.—

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

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

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

8 (a) ENFORCEMENT AND OTHER GENERAL PROVI-  
9 SIONS.—The Higher Education Act of 1965 (20 U.S.C.  
10 1001 et seq.), as amended by section 4 of this Act, is fur-  
11 ther amended by inserting after section 117C the fol-  
12 lowing:

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

14 “(a) ENFORCEMENT.—

15 “(1) INVESTIGATION.—The Secretary (acting  
16 through the General Counsel of the Department)  
17 may conduct investigations of possible violations of  
18 sections 117, 117A, 117B, and 117C by institutions.

19 “(2) CIVIL ACTION.—Whenever it appears that  
20 an institution has knowingly or willfully failed to  
21 comply with a requirement of any of the sections  
22 listed in paragraph (1) (including any rule or regula-  
23 tion promulgated under any such section) based on  
24 such an investigation, a civil action may be brought  
25 by the Attorney General, at the request of the Sec-

1       retary, in an appropriate district court of the United  
2       States, or the appropriate United States court of  
3       any territory or other place subject to the jurisdic-  
4       tion of the United States, to request such court to  
5       compel compliance with the requirement of the sec-  
6       tion that has been violated.

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

11              “(A) pay to the Treasury of the United  
12              States the full costs to the United States of ob-  
13              taining compliance with the requirement of such  
14              section, including all associated costs of inves-  
15              tigation and enforcement; and

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

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

22              “(A) SECTION 117.—

23              “(i) FIRST-TIME VIOLATIONS.—In the  
24              case of an institution that knowingly or  
25              willfully fails to comply with a requirement

1 of section 117 with respect to a calendar  
2 year, and that has not previously know-  
3 ingly or willfully failed to comply with such  
4 a requirement, the Secretary shall impose  
5 a fine on the institution for such violation  
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  
11 117, such fine shall be in an amount  
12 that is—

13 “(aa) not less than \$50,000  
14 but not more than the monetary  
15 value of the gift from, or contract  
16 with, the foreign source; or

17 “(bb) in the case of a gift or  
18 contract of no value or of inde-  
19 terminable value, not less than 1  
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 the reporting requirement  
4                   under subsection (a)(2) of section  
5                   117, such fine shall be in an amount  
6                   that is not less than 10 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                   “(ii) SUBSEQUENT VIOLATIONS.—In  
11                   the case of an institution that has been  
12                   fined pursuant to clause (i) with respect to  
13                   a calendar year, and that knowingly or  
14                   willfully fails to comply with a requirement  
15                   of section 117 with respect to any addi-  
16                   tional calendar year, the Secretary shall  
17                   impose a fine on the institution with re-  
18                   spect to any such additional calendar year  
19                   as follows:

20                   “(I) In the case of an institution  
21                   that knowingly or willfully fails to  
22                   comply with a reporting requirement  
23                   under subsection (a)(1) of section 117  
24                   with respect to an additional calendar

1 year, such fine shall be in an amount  
2 that is—

3 “(aa) not less than  
4 \$100,000 but not more than  
5 twice the monetary value of the  
6 gift from, or contract with, the  
7 foreign source; or

8 “(bb) in the case of a gift or  
9 contract of no value or of inde-  
10 terminable value, not less than 1  
11 percent, but not more than 10  
12 percent, of the total amount of  
13 Federal funds received by the in-  
14 stitution under this Act for the  
15 most recent fiscal year.

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

1 “(B) SECTION 117A.—

2 “(i) FIRST-TIME VIOLATIONS.—In the  
3 case of an institution that knowingly or  
4 willfully fails to comply with a requirement  
5 of section 117A for the first time, the Sec-  
6 retary shall impose a fine on the institu-  
7 tion in an amount that is not less than 5  
8 percent, but not more than 10 percent, of  
9 the total amount of Federal funds received  
10 by the institution under this Act for the  
11 most recent fiscal year.

12 “(ii) SUBSEQUENT VIOLATIONS.—In  
13 the case of an institution that has been  
14 fined pursuant to clause (i), the Secretary  
15 shall impose a fine on the institution for  
16 each subsequent time the institution know-  
17 ingly or willfully fails to comply with a re-  
18 quirement of section 117A in an amount  
19 that is not less than 20 percent of the total  
20 amount of Federal funds received by the  
21 institution under this Act for the most re-  
22 cent fiscal year.

23 “(C) SECTION 117B.—

24 “(i) FIRST-TIME VIOLATIONS.—In the  
25 case of an institution that knowingly or

1 willfully fails to comply with a requirement  
2 of section 117B with respect to a calendar  
3 year, and that has not previously know-  
4 ingly or willfully failed to comply with such  
5 a requirement, the Secretary shall impose  
6 a fine on the institution of not less than  
7 \$250,000, but not more than the total  
8 amount of gifts or contracts reported by  
9 such institution in the database required  
10 under section 117B(a)(2).

11 “(ii) SUBSEQUENT VIOLATIONS.—In  
12 the case of an institution that has been  
13 fined pursuant to clause (i) with respect to  
14 a calendar year, and that knowingly or  
15 willfully fails to comply with a requirement  
16 of section 117B with respect to any addi-  
17 tional calendar year, the Secretary shall  
18 impose a fine on the institution with re-  
19 spect to any such additional calendar year  
20 in an amount that is not less than  
21 \$500,000, but not more than twice the  
22 total amount of gifts or contracts reported  
23 by such institution in the database re-  
24 quired under section 117B(a)(2).

25 “(D) SECTION 117C.—

1           “(i) FIRST-TIME VIOLATIONS.—In the  
2 case of a specified institution that know-  
3 ingly or willfully fails to comply with a re-  
4 quirement of section 117C with respect to  
5 a calendar year, and that has not pre-  
6 viously knowingly or willfully failed to com-  
7 ply with such a requirement, the Secretary  
8 shall impose a fine on the institution in an  
9 amount that is not less than 50 percent  
10 and not more than 100 percent of the sum  
11 of—

12                   “(I) the aggregate fair market  
13 value of all investments of concern  
14 held by such institution as of the close  
15 of such calendar year; and

16                   “(II) the combined value of all  
17 investments of concern sold over the  
18 course of such calendar year, as meas-  
19 ured by the fair market value of such  
20 investments at the time of the sale.

21           “(ii) SUBSEQUENT VIOLATIONS.—In  
22 the case of a specified institution that has  
23 been fined pursuant to clause (i) with re-  
24 spect to a calendar year, and that know-  
25 ingly or willfully fails to comply with a re-

1           requirement of section 117C with respect to  
2           any additional calendar year, the Secretary  
3           shall impose a fine on the institution with  
4           respect to any such additional calendar  
5           year in an amount that is not less than  
6           100 percent and not more than 200 per-  
7           cent 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 such additional calendar year; and

12                     “(II) the combined value of all  
13                     investments of concern sold over the  
14                     course of such additional calendar  
15                     year, as measured by the fair market  
16                     value of such investments at the time  
17                     of the sale.

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

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

1           “(2) coordinate and implement technical im-  
2           provements to the database described in section  
3           117(d)(1), including—

4                   “(A) improving upload functionality by al-  
5                   lowing for batch reporting;

6                   “(B) publishing and maintaining a data-  
7                   base users guide annually, including areas such  
8                   as how to edit an entry and how to report er-  
9                   rors; and

10                   “(C) creating a user group (to which chap-  
11                   ter 10 of title 5, United States Code, shall not  
12                   apply) to discuss possible database improve-  
13                   ments;

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 in paragraph (4)(A), no-  
5           tify each institution required to comply with the sec-  
6           tions listed in paragraph (1) of such update.

7           “(c) DEFINITIONS.—For purposes of sections 117,  
8           117A, 117B, 117C, and this section:

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

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

15           “(B) Any country that the Secretary, in  
16           consultation with the Secretary of Defense, the  
17           Secretary of State, and the Director of National  
18           Intelligence, determines to be engaged in con-  
19           duct that is detrimental to the national security  
20           or foreign policy of the United States.

21           “(2) FOREIGN ENTITY OF CONCERN.—The  
22           term ‘foreign entity of concern’ has the meaning  
23           given such term in section 10612(a) of the Research  
24           and Development, Competition, and Innovation Act  
25           (42 U.S.C. 19221(a)) and includes a foreign entity

1 that is identified on the list published under section  
2 1286(e)(8)(A) of the John S. McCain National De-  
3 fense Authorization Act for Fiscal Year 2019 (10  
4 U.S.C. 22 4001 note; Public Law 115–232).

5 “(3) INSTITUTION.—The term ‘institution’  
6 means an institution of higher education (as such  
7 term is defined in section 102, other than an institu-  
8 tion described in subsection (a)(1)(c) of such sec-  
9 tion).”.

10 (b) PROGRAM PARTICIPATION AGREEMENT.—Section  
11 487(a) of the Higher Education Act of 1965 (20 U.S.C.  
12 1094) is amended by adding at the end the following:

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

15 “(B) An institution that, for 3 consecutive in-  
16 stitutional fiscal years, violates any requirement of  
17 any of the sections listed in subparagraph (A),  
18 shall—

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

22 “(ii) in order to regain eligibility to partici-  
23 pate in such programs, demonstrate compliance  
24 with all requirements of each such section for  
25 not less than 2 institutional fiscal years after

1           the institutional fiscal year in which such insti-  
2           tution became ineligible.”.

3           (c) GAO STUDY.—Not later than one year after the  
4           date of the enactment of this Act, the Comptroller General  
5           of the United States—

6           (1) shall conduct a study to identify ways to  
7           improve intergovernmental agency coordination re-  
8           garding implementation and enforcement of sections  
9           117, 117A, 117B, and 117C of the Higher Edu-  
10          cation Act of 1965 (20 U.S.C. 1011f), as amended  
11          or added by this Act, including increasing informa-  
12          tion sharing and establishing processes for enforce-  
13          ment; and

14          (2) shall submit to the Congress, and make  
15          public, a report containing the results of such study.