

**AMENDMENT TO RULES COMMITTEE PRINT**

**119–33**

**OFFERED BY MR. BAUMGARTNER OF**

**WASHINGTON**

Add at the end of title XVII the following:

1 **Subtitle C—Defending Education**  
2 **Transparency and Ending**  
3 **Rogue Regimes Engaging in Ne-**  
4 **farious Transactions Act**

5 **SECTION 17\_\_\_\_. SHORT TITLE.**

6 This subtitle may be cited as the “Defending Edu-  
7 cation Transparency and Ending Rogue Regimes Engag-  
8 ing in Nefarious Transactions Act” or the “DETER-  
9 RENT Act”.

10 **SEC. 17\_\_\_\_. DISCLOSURES OF FOREIGN GIFTS.**

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

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

15 **“(a) DISCLOSURE REPORTS.—**

16 **“(1) AGGREGATE GIFTS AND CONTRACT DIS-**  
17 **CLOSURES.—**An institution shall file with the Sec-  
18 retary, in accordance with subsection (b)(1), a dis-

1 closure report on July 31 of the calendar year imme-  
2 diately following any calendar year in which—

3 “(A) the institution receives a gift from, or  
4 enters into a contract with, a foreign source  
5 (other than a foreign country of concern or for-  
6 eign entity of concern)—

7 “(i) the value of which is \$50,000 or  
8 more, considered alone or in combination  
9 with all other gifts from, or contracts with,  
10 that foreign source within the calendar  
11 year; or

12 “(ii) the value of which is indetermi-  
13 nate; or

14 “(B) the institution—

15 “(i) receives a gift from a foreign  
16 country of concern or foreign entity of con-  
17 cern, without regard to the value of such  
18 gift; or

19 “(ii) upon receiving a waiver under  
20 section 117A to enter into a contract with  
21 such a country or entity, enters into such  
22 contract, without regard to the value of  
23 such contract.

24 “(2) FOREIGN SOURCE OWNERSHIP OR CON-  
25 TROL DISCLOSURES.—Notwithstanding paragraph

1 (1), in the case of an institution that is substantially  
2 controlled (as described in section 668.174(e)(3) of  
3 title 34, Code of Federal Regulations) (or successor  
4 regulations)) by a foreign source, the institution  
5 shall file with the Secretary, in accordance with sub-  
6 section (b)(2), a disclosure report on July 31 of each  
7 year.

8 “(3) TREATMENT OF AFFILIATED ENTITIES.—  
9 For purposes of this section, any gift to, or contract  
10 with, an affiliated entity of an institution shall be  
11 considered a gift to, or contract with, respectively,  
12 such institution.

13 “(b) CONTENTS OF REPORT.—

14 “(1) GIFTS AND CONTRACTS.—Each report to  
15 the Secretary required under subsection (a)(1) shall  
16 include the following:

17 “(A) With respect to a gift received from,  
18 or a contract entered into with, any foreign  
19 source—

20 “(i) the name of the individual, de-  
21 partment, or other entity at the institution,  
22 or the affiliated entity of the institution,  
23 receiving the gift or carrying out the con-  
24 tract on behalf of the institution;

1           “(ii) any intended purpose of the gift  
2           or contract communicated to the institu-  
3           tion by the foreign source, and, as of the  
4           date of filing such report, the manner in  
5           which the institution intends to use such  
6           gift or contract;

7           “(iii) in the case of a restricted or  
8           conditional gift or contract, a description  
9           of each restriction or condition that meets  
10          the definition of the term ‘restricted or  
11          conditional gift or contract’ in subsection  
12          (f);

13          “(iv) with respect to such a gift—

14                 “(I) the total fair market dollar  
15                 amount or dollar value of the gift, as  
16                 of the date of submission of such re-  
17                 port; and

18                 “(II) the date on which the insti-  
19                 tution received such gift;

20          “(v) with respect to such a contract—

21                 “(I) the total fair market dollar  
22                 amount or dollar value of the con-  
23                 tract, as of the date of submission of  
24                 such report;

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

3 “(III) the date on which such  
4 contract first takes effect;

5 “(IV) if the contract has a termi-  
6 nation date, such termination date;  
7 and

8 “(V) an assurance that the insti-  
9 tution will—

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

13 “(AA) the date that is  
14 5 years after the date on  
15 which such contract first  
16 takes effect;

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 section 117D(a)(1),  
4                   produce such an unredacted copy  
5                   of the contract.

6                   “(B) With respect to a gift received from,  
7                   or a contract entered into with, a foreign source  
8                   that is a foreign government (other than the  
9                   government of a foreign country of concern)—

10                   “(i) the name of such foreign govern-  
11                   ment;

12                   “(ii) the department, agency, office,  
13                   or division of such foreign government that  
14                   approved such gift or contract, as applica-  
15                   ble; and

16                   “(iii) the physical address and mailing  
17                   address of such department, agency, office,  
18                   or division.

19                   “(C) With respect to a gift received from,  
20                   or contract entered into with, a foreign source  
21                   other than a foreign government subject to the  
22                   requirements of subparagraph (B)—

23                   “(i)(I) the legal name of the foreign  
24                   source; or

1 “(II) in the case of a gift received  
2 from a foreign source that awarded such  
3 gift to the institution as an agent de-  
4 scribed in subsection (f)(4)(G) on behalf of  
5 another foreign source—

6 “(aa) the legal name of the for-  
7 eign source that awarded such gift;  
8 and

9 “(bb) the legal name of the for-  
10 eign source on whose behalf the gift  
11 was awarded, or a statement certified  
12 by a compliance officer in accordance  
13 with section 117D(c) that the institu-  
14 tion has reasonably attempted to ob-  
15 tain such name;

16 “(ii) in the case of a foreign source  
17 that is a natural person, each country of  
18 citizenship of such person, or, if no such  
19 country is 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 address and mailing  
2           address of such foreign source, or, if either  
3           or both of such addresses are not available,  
4           a statement certified by a compliance offi-  
5           cer in accordance with section 117D(c)  
6           that the institution has reasonably at-  
7           tempted to obtain the physical address or  
8           mailing address, as applicable; and

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

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

18                 “(i) a complete and unredacted copy  
19                 of the original contract, and if such origi-  
20                 nal contract is not in English, a translated  
21                 copy in accordance with subsection (c);

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

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

4                   “(E) With respect to a gift received from  
5                   a foreign source that is a foreign country of  
6                   concern or a foreign entity of concern, an as-  
7                   surance that the institution will—

8                   “(i) in a case in which the institution  
9                   received documentation relating to such  
10                  gift, maintain such documentation until  
11                  the latest of—

12                  “(I) the date that is 5 years after  
13                  the date such gift was received by the  
14                  institution; or

15                  “(II) the last day of any period  
16                  that applicable State law requires a  
17                  copy of such documentation to be  
18                  maintained; and

19                  “(ii) upon request of the Secretary  
20                  during an investigation under section  
21                  117D(a)(1), produce such documentation;

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

1           “(A) the information required under para-  
2 graph (1) of this subsection;

3           “(B) the legal name, the physical address,  
4 and the mailing address of the foreign source  
5 that substantially controls the institution as de-  
6 scribed in such subsection;

7           “(C) the date on which the foreign source  
8 assumed such substantial control; and

9           “(D) any changes in program or structure  
10 of the institution of higher education resulting  
11 from such substantial control.

12       “(c) TRANSLATION REQUIREMENTS.—Any informa-  
13 tion required to be disclosed under this section, or re-  
14 quested by the Secretary pursuant to an investigation  
15 under section 117D(a)(1), with respect to a gift or con-  
16 tract that is not in English shall be translated into  
17 English, for purposes of such disclosure or such investiga-  
18 tion, by a person that is not—

19           “(1) a foreign source that awarded such gift or  
20 entered into such contract; or

21           “(2) any other foreign source from an attrib-  
22 utable country of a foreign source referred to in  
23 paragraph (1).

24       “(d) PUBLIC INSPECTION.—

1           “(1) DATABASE REQUIREMENT.—Beginning not  
2 later than May 31 of the calendar year following the  
3 date of enactment of the DETERRENT Act, the  
4 Secretary shall—

5           “(A) establish and maintain a searchable  
6 database on a website of the Department, under  
7 which—

8           “(i) all reports submitted under this  
9 section (including any report submitted  
10 under this section before the date of enact-  
11 ment of the DETERRENT Act)—

12           “(I) are made publicly available  
13 (in electronic and downloadable for-  
14 mat), including any information pro-  
15 vided in such reports (other than the  
16 information prohibited from being  
17 publicly disclosed pursuant to para-  
18 graph (2));

19           “(II) can be individually identi-  
20 fied and compared; and

21           “(III) are searchable and sort-  
22 able—

23           “(aa) by the institution that  
24 filed such report;

1                   “(bb) by the date on which  
2 the institution filed such report;

3                   “(cc) by the date of the  
4 most recent amendment made to  
5 such report, as applicable;

6                   “(dd) by the date on which  
7 the institution received the gift  
8 which is the subject of the report;

9                   “(ee) by the date on which  
10 the institution enters into the  
11 contract which is the subject of  
12 the report;

13                   “(ff) by the date on which  
14 such contract first takes effect;

15                   “(gg) by the attributable  
16 country of such gift or contract;

17                   “(hh) by the name of the  
18 foreign source;

19                   “(ii) by the information de-  
20 scribed in subparagraph (C)(i);  
21 and

22                   “(jj) by the information de-  
23 scribed in subparagraph (C)(ii);  
24 and

1 “(ii) all reports submitted under sec-  
2 tion 117B(b)—

3 “(I) are made publicly available  
4 (in electronic and downloadable for-  
5 mat), including any information pro-  
6 vided in such reports (other than the  
7 information prohibited from being  
8 publicly disclosed pursuant to para-  
9 graph (2)); and

10 “(II) are searchable and sort-  
11 able—

12 “(aa) if the subject of the  
13 disclosure is a gift, by the date  
14 on which the gift is received;

15 “(bb) if the subject of the  
16 disclosure is a contract—

17 “(AA) by the date on  
18 which such contract is en-  
19 tered into; and

20 “(BB) by the date on  
21 which such contract first  
22 takes effect;

23 “(cc) by the attributable  
24 country with respect to which in-  
25 formation is being disclosed;

1                   “(dd)(AA) if the covered in-  
2                   dividual at an institution is mak-  
3                   ing the disclosure, by the most  
4                   specific division of the institution  
5                   (such as the department, school,  
6                   or college) that the covered indi-  
7                   vidual is at; and

8                   “(BB) if the covered indi-  
9                   vidual at the affiliated entity of  
10                  the institution is making the dis-  
11                  closure, by the name of such af-  
12                  filiated entity; and

13                  “(ee) by the name of the  
14                  foreign source;

15                  “(B) not later than 30 days after receipt  
16                  of a disclosure report under this section or a re-  
17                  port under section 117B(b), include such report  
18                  in such database;

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

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

1                   “(ii) a foreign source that is not a for-  
2                   eign government;

3                   “(D) with respect to a disclosure report  
4                   under this section or a report under section  
5                   117B(b) that does not include the name, phys-  
6                   ical address, or mailing address of a foreign  
7                   source, indicate, as part of the public record of  
8                   such report included in such database, that  
9                   such report did not include such name, physical  
10                  address, or mailing address, as applicable; and

11                  “(E) provide access to such database, in  
12                  accordance with subsection (e), to the Director  
13                  of the Federal Bureau of Investigation, the Di-  
14                  rector of National Intelligence, the Director of  
15                  the Central Intelligence Agency, the Secretary  
16                  of State, the Secretary of Defense, the Attorney  
17                  General, the Secretary of Commerce, the Sec-  
18                  retary of Homeland Security, the Secretary of  
19                  Energy, the Director of the National Science  
20                  Foundation, and the Director of the National  
21                  Institutes of Health.

22                  “(2) APPLICATION OF FEDERAL PRIVACY LAW;  
23                  PROTECTIONS FOR NATURAL PERSONS.—

24                  “(A) APPLICATION OF FEDERAL PRIVACY  
25                  LAW.—Except as provided in subparagraph (B),

1 a report filed pursuant to this section or sub-  
2 mitted pursuant to section 117B is not subject  
3 to Federal privacy law (including any exemption  
4 from disclosure described in section 552(b) of  
5 title 5, United States Code)).

6 “(B) PROTECTIONS FOR NATURAL PER-  
7 SONS.—

8 “(i) IN GENERAL.—

9 “(I) EXEMPTION FROM DISCLO-  
10 SURE.—Except as provided in clause  
11 (ii), the information described in sub-  
12 clause (II)—

13 “(aa) may not be publicly  
14 disclosed; and

15 “(bb) is exempt from disclo-  
16 sure under subsection (b)(3) of  
17 section 552 of title 5, United  
18 States Code (commonly referred  
19 to as the Freedom of Information  
20 Act).

21 “(II) PROTECTED INFORMA-  
22 TION.—The information described in  
23 this subclause is the following:

24 “(aa) With respect to a re-  
25 port filed under this section or

1 submitted pursuant to section  
2 117B(b), a name or address  
3 (other than the attributable  
4 country) of a foreign source that  
5 is a natural person.

6 “(bb) With respect to a re-  
7 port submitted pursuant to sec-  
8 tion 117B(b), a name or any  
9 other personally identifiable in-  
10 formation of a covered individual  
11 making a disclosure included in  
12 such report.

13 “(ii) EXCEPTIONS FOR CONTRACTS  
14 WITH A FOREIGN COUNTRY OF CONCERN  
15 OR FOREIGN ENTITY OF CONCERN.—  
16 Clause (i) shall not apply to—

17 “(I) information with respect to a  
18 contract described in subsection  
19 (a)(1)(B)(ii) entered into with a for-  
20 eign country of concern or foreign en-  
21 tity of concern that is contained in a  
22 disclosure report filed pursuant to this  
23 section; or

24 “(II) information with respect to  
25 a contract described in section

1 117B(a)(1)(D) entered into with a  
2 foreign country of concern or foreign  
3 entity of concern that is contained in  
4 a report submitted pursuant to sec-  
5 tion 117B(b).

6 “(e) INFORMATION SHARING.—

7 “(1) DATABASE ACCESS.—

8 “(A) IN GENERAL.—Access to the data-  
9 base established under paragraph (1) of sub-  
10 section (d) by the individuals listed in subpara-  
11 graph (E) of such paragraph—

12 “(i) includes access to an unredacted  
13 copy of each report (including any name or  
14 address of a foreign source disclosed in  
15 such report) submitted to the Secretary  
16 pursuant to this section and section 117B  
17 and made available on such database; and

18 “(ii) does not include the ability to—

19 “(I) edit such a report; or

20 “(II) submit a report to such  
21 database.

22 “(B) NOTICE.—By not later than the date  
23 on which the database is established under  
24 paragraph (1) of subsection (d), the Secretary  
25 shall notify each individual listed in subpara-

1 graph (E) of such paragraph of their ability to  
2 access the database.

3 “(2) INFORMATION RELATED TO AN INVESTIGA-  
4 TION.—Notwithstanding any other provision of law,  
5 not later than 90 days after the date of the enact-  
6 ment of this section, the Secretary shall transmit to  
7 each individual listed in subsection (d)(1)(E) any re-  
8 port, document, or other record generated by the  
9 Department in the course of an investigation of an  
10 institution with respect to the compliance of such in-  
11 stitution with this section that was initiated prior to  
12 the date of enactment of this section.

13 “(f) DEFINITIONS.—In this section:

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

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

22 “(A) the country of citizenship of a foreign  
23 source who is a natural person, or, if such  
24 country is unknown, the principal residence of  
25 such foreign source; or

1           “(B) the country of incorporation of a for-  
2           foreign source that is a legal entity, or, if such  
3           country is unknown, the principal place of busi-  
4           ness (as applicable) of such foreign source.

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

6           “(A) means—

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

11          “(ii) except as provided in subpara-  
12          graph (B)(ii), any agreement for the acqui-  
13          sition by purchase, lease, or barter of prop-  
14          erty (including intellectual property) or  
15          services from a foreign source; and

16          “(iii) any affiliation, agreement, or  
17          similar transaction with a foreign source  
18          that involves the use or exchange of an in-  
19          stitution’s name, likeness, time, services, or  
20          resources; and

21          “(B) does not include—

22          “(i) an agreement made between an  
23          institution and a foreign source regarding  
24          any payment of one or more elements of a  
25          student’s cost of attendance (as such term

1 is defined in section 472), unless such an  
2 agreement is made for more than 15 stu-  
3 dents or is made under a restricted or con-  
4 ditional contract;

5 “(ii) an arms-length agreement for  
6 the acquisition by purchase, lease, or bar-  
7 ter of property (including intellectual prop-  
8 erty) or services from a foreign source that  
9 is not a foreign country of concern or a  
10 foreign entity of concern; or

11 “(iii) any assignment or license of a  
12 granted intellectual property right (includ-  
13 ing a patent, trademark, or copyright) that  
14 is not associated with a category listed in  
15 the Commerce Control List maintained by  
16 the Bureau of Industry and Security of the  
17 Department of Commerce and set forth in  
18 Supplement No. 1 to part 774 of title 15,  
19 Code of Federal Regulations (or successor  
20 regulations).

21 “(4) FOREIGN SOURCE.—The term ‘foreign  
22 source’ means—

23 “(A) a foreign government, including an  
24 agency of a foreign government;

1           “(B) a legal entity, governmental or other-  
2           wise, created under the laws of a foreign state  
3           or states;

4           “(C) a legal entity, governmental or other-  
5           wise, substantially controlled (as described in  
6           section 668.174(e)(3) of title 34, Code of Fed-  
7           eral Regulations) (or successor regulations)) by  
8           a foreign source;

9           “(D) a natural person who is not a citizen  
10          or a national of the United States or a trust  
11          territory or protectorate thereof;

12          “(E) an international organization (as  
13          such term is defined in the International Orga-  
14          nizations Immunities Act (22 U.S.C. 288));

15          “(F) a person who is an agent of a foreign  
16          principal (as such term is defined in section 1  
17          of the Foreign Agents Registration Act of 1938  
18          (22 U.S.C. 611)); and

19          “(G) an agent of any of the entities de-  
20          scribed in subparagraphs (A) through (F), in-  
21          cluding—

22                 “(i) a subsidiary or affiliate of a for-  
23                 eign legal entity, acting on behalf of such  
24                 an entity; and

1           “(ii) a person that operates primarily  
2           for the benefit of, or under the auspices of,  
3           such an entity, such as a foundation of  
4           such entity, or an educational, cultural, or  
5           language entity.

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

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

10          “(B) does not include—

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

23           “(ii) any assignment or license of a  
24           granted intellectual property right (includ-  
25           ing a patent, trademark, or copyright) that

1 is not associated with a category listed in  
2 the Commerce Control List maintained by  
3 the Bureau of Industry and Security of the  
4 Department of Commerce and set forth in  
5 Supplement No. 1 to part 774 of title 15,  
6 Code of Federal Regulations (or successor  
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 (including intellec-  
15 tual property) of any kind which includes provisions  
16 regarding—

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

19 “(B) the establishment of, or the provision  
20 of funding for, departments, centers, institutes,  
21 instructional programs, research or lecture pro-  
22 grams, or new faculty positions;

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

1           “(D) the award of grants, loans, scholar-  
2           ships, fellowships, or other forms of financial  
3           aid restricted to students of a specified country,  
4           religion, sex, ethnic origin, or political opin-  
5           ion.”.

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

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

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

16           “(b) WAIVERS.—

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

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

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

25           “(2) SUBMISSION.—

1 “(A) FIRST WAIVER REQUESTS.—

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

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

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

20 “(II) a statement that—

21 “(aa) is certified by a com-  
22 pliance officer of the institution  
23 designated in accordance with  
24 section 117D(c); and

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

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

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

11                 “(B) RENEWAL WAIVER REQUESTS.—

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

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

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

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

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

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

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

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

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

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

9                   “(c) TREATMENT OF CERTAIN CONTRACTS.—

10                  “(1) IN GENERAL.—In the case of an institu-  
11                  tion that enters into, or has entered into, a covered  
12                  contract—

13                         “(A) the institution shall—

14                                 “(i) terminate such contract; or

15                                 “(ii)(I) with respect to a covered con-  
16                                 tract described in paragraph (3)(A), as  
17                                 soon as practicable, but not later than 30  
18                                 days after the date of enactment of the  
19                                 DETERRENT Act, submit to the Sec-  
20                                 retary a waiver request in accordance with  
21                                 clause (ii) of subsection (b)(2)(A); and

22                                 “(II) with respect to a covered  
23                                 contract described in paragraph  
24                                 (3)(B), as soon as practicable, but not  
25                                 later than 60 days after the date on

1           which the institution is notified by the  
2           Secretary that the foreign source has  
3           been designated as a foreign country  
4           of concern or foreign entity of concern  
5           submit to the Secretary a waiver re-  
6           quest in accordance with clause (ii) of  
7           subsection (b)(2)(A); and

8           “(B) the Secretary shall, upon receipt of a  
9           waiver request submitted pursuant to clause (ii)  
10          of subparagraph (A), issue a waiver to the insti-  
11          tution for a period beginning on the date on  
12          which the waiver is issued and ending on the  
13          sooner of—

14                 “(i) the date that is—

15                         “(I) with respect to a covered  
16                         contract described in paragraph  
17                         (3)(A), 1 year after the date of enact-  
18                         ment of the DETERRENT Act; and

19                         “(II) with respect to a covered  
20                         contract described in paragraph  
21                         (3)(B), 1 year after the date on which  
22                         the institution is notified by the Sec-  
23                         retary that the foreign source has  
24                         been designated as a foreign country

1 of concern or foreign entity of con-  
2 cern; and

3 “(ii) the date on which the contract  
4 terminates.

5 “(2) RENEWAL.—An institution that enters  
6 into, or has entered into, a covered contract, the  
7 term of which is longer than the waiver period de-  
8 scribed in paragraph (1)(B) and the terms and con-  
9 ditions of which remain the same as the contract  
10 submitted as part of the request submitted pursuant  
11 to clause (ii) of paragraph (1)(A), may submit a re-  
12 quest for renewal of the waiver issued under such  
13 clause in accordance with subsection (b)(2)(B).

14 “(3) COVERED CONTRACT.—In this subsection,  
15 the term ‘covered contract’ means—

16 “(A) a contract with a foreign country of  
17 concern or foreign entity of concern entered  
18 into prior to the date of enactment of the DE-  
19 TERRENT Act; and

20 “(B) a contract with a foreign source that  
21 is not a foreign country of concern or a foreign  
22 entity of concern but which, during the term of  
23 such contract, is designated as a foreign coun-  
24 try of concern or foreign entity of concern,  
25 without regard to whether such contract was

1 entered into prior to the date of enactment of  
2 the DETERRENT Act.

3 “(d) CONTRACT DEFINED.—In this section, the term  
4 ‘contract’ has the meaning given such term in section  
5 117(f).”.

6 **SEC. 17\_\_ . POLICY REGARDING CONFLICTS OF INTEREST**  
7 **FROM FOREIGN GIFTS AND CONTRACTS.**

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

11 **“SEC. 117B. INSTITUTIONAL POLICY REGARDING FOREIGN**  
12 **GIFTS AND CONTRACTS TO FACULTY AND**  
13 **STAFF.**

14 “(a) REQUIREMENT TO MAINTAIN POLICY.—Begin-  
15 ning not later than 90 days after the date of enactment  
16 of the DETERRENT Act, each institution described in  
17 subsection (c) shall maintain—

18 “(1) a policy requiring covered individuals at  
19 the institution and covered individuals at affiliated  
20 entities of the institution to disclose in a report to  
21 such institution by July 31 of each calendar year  
22 that begins after the year in which such enactment  
23 date occurs—

24 “(A) any gift received from a foreign  
25 source in the previous calendar year, the value

1 of which is greater than the minimal value (as  
2 such term is defined in section 7342(a) of title  
3 5, United States Code) or is of indeterminate  
4 value, and including the date on which the gift  
5 was received;

6 “(B) any contract with a foreign source  
7 (other than a foreign country of concern or for-  
8 eign entity of concern) entered into or in effect  
9 during the previous calendar year, the value of  
10 which is \$5,000 or more, considered alone or in  
11 combination with all other contracts with that  
12 foreign source within the calendar year, and in-  
13 cluding the date on which such contract is en-  
14 tered into, the date on which the contract first  
15 takes effect, and, as applicable, the date on  
16 which such contract terminates;

17 “(C) any contract with a foreign source  
18 (other than a foreign country of concern or for-  
19 eign entity of concern) entered into or in effect  
20 during the previous calendar year that has an  
21 indeterminate monetary value, and including  
22 the date on which such contract is entered into,  
23 the date on which the contract first takes ef-  
24 fect, and, as applicable, the date on which such  
25 contract terminates;

1           “(D) any contract entered into or in effect  
2           with a foreign country of concern or foreign en-  
3           tity of concern during the previous calendar  
4           year, the value of which is \$0 or more or which  
5           has an indeterminate monetary value, and in-  
6           cluding—

7                   “(i) the date on which such contract  
8                   is entered into;

9                   “(ii) the date on which the contract  
10                  first takes effect;

11                  “(iii) if the contract has a termination  
12                  date, such termination date; and

13                  “(iv) the full text of such contract and  
14                  any addenda; and

15           “(E) with respect to subparagraphs (A)  
16           through (D), the name and addresses of the ap-  
17           plicable foreign source in the same manner as  
18           the disclosure of the name and addresses of  
19           such foreign source would be required under  
20           section 117;

21           “(2) on a publicly available website of the insti-  
22           tution, a link to the database established under sec-  
23           tion 117(a)(1);

24           “(3) an effective plan to identify and manage  
25           potential information gathering by foreign sources

1 through espionage targeting covered individuals that  
2 may arise from gifts received from, or contracts en-  
3 tered into with, a foreign source, including through  
4 the use of—

5 “(A) periodic communications;

6 “(B) accurate reporting under subsection  
7 (b) of the information required to be disclosed  
8 under paragraph (1); and

9 “(C) enforcement of the policy described in  
10 paragraph (1); and

11 “(4) for purposes of investigations under sec-  
12 tion 117D(a)(1), a record of the name of each indi-  
13 vidual who makes a disclosure under paragraph (1)  
14 and each report disclosed under such paragraph.

15 “(b) SUBMISSION TO SECRETARY.—An institution  
16 shall file with the Secretary a report for each calendar  
17 year in which the institution is subject to the requirements  
18 of this section (as determined under subsection (c)) that  
19 includes the information reported to the institution under  
20 paragraph (1) of subsection (a).

21 “(c) INSTITUTIONS.—An institution shall be subject  
22 to the requirements of this section if such institution—

23 “(1) received more than \$50,000,000 in Fed-  
24 eral funds in any of the previous five calendar years  
25 to support (in whole or in part) research and devel-

1       opment (as determined by the institution and meas-  
2       ured by the Higher Education Research and Devel-  
3       opment Survey of the National Center for Science  
4       and Engineering Statistics); or

5               “(2) receives funds under title VI.

6       “(d) DEFINITIONS.—In this section—

7               “(1) the terms ‘affiliated entity’, ‘attributable  
8       country’, ‘foreign source’, and ‘gift’ have the mean-  
9       ings given such terms in section 117(f);

10              “(2) the term ‘contract’—

11                      “(A) means—

12                              “(i) any agreement for the acquisition  
13                              by purchase, lease, or barter of property  
14                              (including intellectual property) or services  
15                              by the foreign source;

16                              “(ii) except as provided in subpara-  
17                              graph (B), any agreement for the acquisi-  
18                              tion by purchase, lease, or barter of prop-  
19                              erty (including intellectual property) or  
20                              services from a foreign source; and

21                              “(iii) any affiliation, agreement, or  
22                              similar transaction with a foreign source  
23                              that involves the use or exchange of a cov-  
24                              ered individual’s name, likeness, time, serv-  
25                              ices, or resources; and

1 “(B) does not include—

2 “(i) an arms-length agreement for the  
3 acquisition by purchase, lease, or barter of  
4 property (including intellectual property)  
5 or services from a foreign source that is  
6 not a foreign country of concern or a for-  
7 eign entity of concern; and

8 “(ii) any assignment or license of a  
9 granted intellectual property right (includ-  
10 ing a patent, trademark, or copyright) that  
11 is not associated with a category listed in  
12 the Commerce Control List maintained by  
13 the Bureau of Industry and Security of the  
14 Department of Commerce and set forth in  
15 Supplement No. 1 to part 774 of title 15,  
16 Code of Federal Regulations (or successor  
17 regulations); and

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

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

23 “(B) shall be interpreted in accordance  
24 with the Guidance for Implementing National  
25 Security Presidential Memorandum 33 (NSPM—

1           33) on National Security Strategy for United  
2           States Government-Supported Research and  
3           Development published by the Subcommittee on  
4           Research Security and the Joint Committee on  
5           the Research Environment in January 2022 (or  
6           any successor guidance).”.

7 **SEC. 17\_\_\_ . INVESTMENT DISCLOSURE REPORT.**

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

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

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

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

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

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

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

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

10          “(c) TREATMENT OF CERTAIN POOLED INVEST-  
11          MENTS.—

12           “(1) POOLED INVESTMENT CLASSIFICATION.—

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

22           “(B) CERTIFICATION OF POOLED INVEST-  
23           MENT.—Notwithstanding subparagraph (A),  
24           such specified interest shall not be subject to  
25           subparagraph (A) if the Secretary certifies, pur-

1           suant to paragraph (2)(B), that such pooled in-  
2           vestment is not holding an investment of con-  
3           cern.

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

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

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

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

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

22                   “(2) unless such organization is controlled by  
23                  such institution or is described in section 509(a)(3)  
24                  of the Internal Revenue Code of 1986 with respect  
25                  to such institution, assets which are not intended or

1 available for the use or benefit of such specified in-  
2 stitution shall not be taken into account.

3 “(e) VALUATION OF DEBT.—For purposes of this  
4 section, the fair market value of any debt shall be the out-  
5 standing principal amount of such debt.

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

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

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

22 “(A) are made publicly available (in elec-  
23 tronic and downloadable format), including any  
24 information provided in such reports;

1           “(B) can be individually identified and  
2 compared; and

3           “(C) are searchable and sortable; and

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

7           “(h) DEFINITIONS.—In this section:

8           “(1) INVESTMENT OF CONCERN.—

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

12           “(i) A foreign country of concern.

13           “(ii) A foreign entity of concern.

14           “(B) SPECIFIED INTEREST.—The term  
15 ‘specified interest’ means, with respect to any  
16 entity—

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

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

20           “(iii) any contract or derivative with  
21 respect to any property described in clause  
22 (i) or (ii).

23           “(2) SPECIFIED INSTITUTION.—

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

4                   “(i) is not a public institution; and

5                   “(ii) at the close of such calendar  
6 year, holds—

7                           “(I) assets (other than those as-  
8 sets which are used directly in car-  
9 rying out the institution’s exempt pur-  
10 pose) the aggregate fair market value  
11 of which is in excess of  
12 \$6,000,000,000; and

13                           “(II) investments of concern the  
14 aggregate fair market value of which  
15 is in excess of \$250,000,000.

16           “(B) REFERENCES TO CERTAIN TERMS.—  
17 For the purpose of applying the definition  
18 under subparagraph (A), the terms ‘aggregate  
19 fair market value’ and ‘assets which are used  
20 directly in carrying out the institution’s exempt  
21 purpose’ shall be applied in the same manner as  
22 such terms are applied for the purposes of sec-  
23 tion 4968(b)(1)(D) of the Internal Revenue  
24 Code of 1986.”.

1 **SEC. 17\_\_\_\_. ENFORCEMENT AND OTHER GENERAL PROVI-**  
2 **SIONS.**

3 (a) ENFORCEMENT AND OTHER GENERAL PROVI-  
4 SIONS.—The Higher Education Act of 1965 (20 U.S.C.  
5 1001 et seq.), as amended by this Act, is further amended  
6 by inserting after section 117C the following:

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

9 “(a) ENFORCEMENT.—

10 “(1) INVESTIGATION.—The Secretary (acting  
11 through the General Counsel of the Department)  
12 shall conduct investigations of possible violations of  
13 sections 117, 117A, 117B, 117C, and subsection (c)  
14 of this section by institutions and, whenever it ap-  
15 pears that an institution has knowingly or willfully  
16 failed to comply with a requirement of any of such  
17 provisions (including any rule or regulation promul-  
18 gated under any such provision), shall request that  
19 the Attorney General bring a civil action in accord-  
20 ance with paragraph (2).

21 “(2) CIVIL ACTION.—Whenever it appears that  
22 an institution has knowingly or willfully failed to  
23 comply with a requirement of any of the provisions  
24 listed in paragraph (1) (including any rule or regula-  
25 tion promulgated under any such provision) based  
26 on an investigation under such paragraph, a civil ac-

1       tion shall be brought by the Attorney General, at the  
2       request of the Secretary, in an appropriate district  
3       court of the United States, or the appropriate  
4       United States court of any territory or other place  
5       subject to the jurisdiction of the United States, to  
6       request such court to compel compliance with the re-  
7       quirement of the provision that has been violated.

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

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

17              “(B) if applicable, be subject to the appli-  
18      cable fines described in paragraph (4).

19              “(4) FINES FOR VIOLATIONS.—The Secretary  
20      shall impose a fine on an institution that is com-  
21      pelled to comply with a requirement of a section list-  
22      ed in paragraph (1) pursuant to paragraph (2) as  
23      follows:

24              “(A) SECTION 117.—

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

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

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

20                   “(AA) \$50,000 (ad-  
21 justed annually for inflation  
22 beginning 1 year after the  
23 date of the enactment of  
24 this section based on the  
25 Consumer Price Index for

1 all Urban Consumers for the  
2 previous calendar year); or

3 “(BB) the monetary  
4 value of such gift or con-  
5 tract; or

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

14 “(II) In the case of an institution  
15 that knowingly or willfully fails to  
16 comply with the reporting requirement  
17 under subsection (a)(2) of section  
18 117, such fine shall be in an amount  
19 that is not less than 10 percent of the  
20 total amount of Federal funds re-  
21 ceived by the institution under this  
22 Act for the most recent fiscal year.

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

1           requirement of section 117 pursuant to a  
2           civil action described in paragraph (2), and  
3           is subsequently compelled to comply with  
4           such a requirement pursuant to a subse-  
5           quent civil action described in paragraph  
6           (2), the Secretary shall impose a fine on  
7           the institution as follows:

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

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

18                      “(AA) \$100,000 (ad-  
19                      justed annually for inflation  
20                      beginning 1 year after the  
21                      date of the enactment of  
22                      this section based on the  
23                      Consumer Price Index for  
24                      all Urban Consumers for the  
25                      previous calendar year); or

1                   “(BB) twice the mone-  
2                   tary value of such gift or  
3                   contract; or

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

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

21                  “(B) SECTION 117A.—

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

1 paragraph (2), and that has not previously  
2 been compelled to comply with any such  
3 requirement pursuant to such a civil ac-  
4 tion, the Secretary shall impose a fine on  
5 the institution in an amount that is not  
6 less than 5 percent and not more than 10  
7 percent of the total amount of Federal  
8 funds received 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 pre-  
12 viously been compelled to comply with a re-  
13 quirement of section 117A pursuant to a  
14 civil action described in paragraph (2), and  
15 is subsequently compelled to comply with  
16 such a requirement pursuant to a subse-  
17 quent civil action described in paragraph  
18 (2), the Secretary shall impose a fine on  
19 the institution in an amount that is not  
20 less than 20 percent of the total amount of  
21 Federal funds received by the institution  
22 under this Act for the most recent fiscal  
23 year.

24 “(C) SECTION 117B.—

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

11                   “(I) \$250,000 (adjusted annually  
12 for inflation beginning 1 year after  
13 the date of the enactment of this sec-  
14 tion based on the Consumer Price  
15 Index for all Urban Consumers for  
16 the previous calendar year); or

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

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

1 is subsequently compelled to comply with  
2 such a requirement pursuant to a subse-  
3 quent civil action described in paragraph  
4 (2), the Secretary shall impose a fine on  
5 the institution in an amount that is the  
6 greater of—

7 “(I) \$500,000 (adjusted annually  
8 for inflation beginning 1 year after  
9 the date of the enactment of this sec-  
10 tion based on the Consumer Price  
11 Index for all Urban Consumers for  
12 the previous calendar year); or

13 “(II) twice the total amount of  
14 gifts or contracts that the institution  
15 is compelled to report pursuant to  
16 such civil action.

17 “(D) SECTION 117C.—

18 “(i) FIRST-TIME VIOLATIONS.—In the  
19 case of an institution that is compelled to  
20 comply with a requirement of section 117C  
21 pursuant to a civil action described in  
22 paragraph (2), and that has not previously  
23 been compelled to comply with any such  
24 requirement pursuant to such a civil ac-  
25 tion, the Secretary shall impose a fine on

1 the institution in an amount that is not  
2 less than 50 percent and not more than  
3 100 percent of the sum of—

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

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

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

1                   quent civil action described in paragraph  
2                   (2), the Secretary shall impose a fine on  
3                   the institution in an amount that is not  
4                   less than 100 percent and not more than  
5                   200 percent of the sum of—

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

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

21                  “**(E) INELIGIBILITY FOR WAIVER.**—In the  
22                  case of an institution that is fined pursuant to  
23                  subparagraph (A)(ii), (B)(ii), (C)(ii), or (D)(ii),  
24                  the Secretary shall prohibit the institution from

1           obtaining a waiver, or a renewal of a waiver,  
2           under section 117A.

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

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

11          “(2) coordinate and implement technical im-  
12          provements to the database described in section  
13          117(d)(1), including—

14                 “(A) improving upload functionality by al-  
15                 lowing for batch reporting, including by allow-  
16                 ing institutions to upload one file with all re-  
17                 quired information into the database;

18                 “(B) publishing and maintaining a data-  
19                 base users guide, which shall be reviewed and  
20                 updated as practicable but not less than annu-  
21                 ally, including information on how to edit an  
22                 entry and how to report errors;

23                 “(C) creating a standing user group (to  
24                 which chapter 10 of title 5, United States Code,

1 shall not apply) to discuss possible database im-  
2 provements, which group shall—

3 “(i) include at least—

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

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

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

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

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

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

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

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

18                         “(A) the authorizing committees; and

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

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

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

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

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

7           “(c) INSTITUTIONAL REQUIREMENTS FOR COMPLI-  
8           ANCE OFFICERS AND INSTITUTIONAL POLICY REQUIRE-  
9           MENTS.—

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

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

23           “(B) designate and maintain at least one,  
24           but not more than three, current employees or  
25           legally authorized agents of such institution to

1           serve as compliance officers to carry out the re-  
2           quirements listed in paragraph (2).

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

6                   “(A) whenever the institution is required  
7                   to file a report under section 117, 117B, or  
8                   117C—

9                           “(i) the institution’s compliance with  
10                           the requirements under such section;

11                           “(ii) that the institution, in filing such  
12                           report under section 117, 117B, or  
13                           117C—

14                                   “(I) followed the institutional  
15                                   policy established under paragraph  
16                                   (1)(A) applicable to such section; and

17                                           “(II) conducted good faith efforts  
18                                           and reasonable due diligence to ensure  
19                                           that complete and accurate informa-  
20                                           tion is provided in such report, includ-  
21                                           ing with respect to the valuations of  
22                                           any assets that are disclosed in a re-  
23                                           port submitted under section 117C;  
24                                           and

1 “(iii) in the case of a report under  
2 section 117, any statements by the institu-  
3 tion required to be certified by such an of-  
4 ficer under clause (i) or (iv) of section  
5 117(b)(1)(C); and

6 “(B) whenever the institution requests a  
7 waiver under section 117A—

8 “(i) that the institution—

9 “(I) is in compliance with the re-  
10 quirements of such section; and

11 “(II) followed the institutional  
12 policy established under paragraph  
13 (1)(A) applicable to such section; and

14 “(ii) the statement by the institution  
15 required to be certified by such an officer  
16 under section 117A(b)(2)(A)(ii)(II).

17 “(d) 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’ means the fol-  
21 lowing:

22 “(A) Any covered nation defined in section  
23 4872 of title 10, United States Code, including  
24 any special administrative region within such a  
25 covered nation or any other territory that the

1 United States recognizes as being under the  
2 control of such a covered nation on or after the  
3 date of the enactment of this subsection.

4 “(B) Any country the Secretary, in con-  
5 sultation with the Secretary of Defense, the  
6 Secretary of State, and the Director of National  
7 Intelligence, determines, for purposes of sec-  
8 tions 117, 117A, 117B, 117C, or this section,  
9 to be engaged in conduct that is detrimental to  
10 the national security or foreign policy of the  
11 United States.

12 “(2) FOREIGN ENTITY OF CONCERN.—The  
13 term ‘foreign entity of concern’ has the meaning  
14 given such term in section 10612(a) of the Research  
15 and Development, Competition, and Innovation Act  
16 (42 U.S.C. 19221(a)) and includes—

17 “(A) a foreign entity that is identified on  
18 the list published under section 1286(c)(9)(A)  
19 of the John S. McCain National Defense Au-  
20 thorization Act for Fiscal Year 2019 (10 U.S.C.  
21 4001 note; Public Law 115–232); and

22 “(B) a Chinese military company that is  
23 identified on the list required by section 1260H  
24 of the William M. (Mac) Thornberry National

1           Defense Authorization Act for Fiscal Year 2021  
2           (10 U.S.C. 113 note; Public Law 116–283).

3           “(3) INSTITUTION.—The term ‘institution’  
4           means an institution of higher education (as such  
5           term is defined in section 102, other than an institu-  
6           tion described in subsection (a)(1)(C) of such sec-  
7           tion) with a program participation agreement under  
8           section 487.”.

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

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

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

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

20           “(ii) in order to regain eligibility to partici-  
21          pate in such programs, demonstrate compliance  
22          with all requirements of each such section for  
23          not less than 2 institutional fiscal years after  
24          the institutional fiscal year in which such insti-  
25          tution became ineligible.

1           “(C) An institution described in this subpara-  
2 graph is an institution—

3           “(i) against which judgment has been  
4 granted in 3 separate civil actions described in  
5 section 117D(a)(2) that have each resulted in  
6 the institution being compelled to comply with  
7 one or more requirements of section 117, 117A,  
8 117B, 117C, or 117D(e); and

9           “(ii) that pursuant to section  
10 117D(a)(4)(E), is prohibited from obtaining a  
11 waiver, or a renewal of a waiver, under section  
12 117A.”.

13 (c) GAO STUDY AND REPORT.—

14           (1) STUDY.—Not later than January 31 of the  
15 second calendar year that begins after the date of  
16 enactment of this Act, the Comptroller General of  
17 the United States shall initiate a study to identify  
18 ways to improve intergovernmental agency coordina-  
19 tion regarding implementation and enforcement of  
20 sections 117, 117A, 117B, 117C, and 117D(e) of  
21 the Higher Education Act of 1965 (20 U.S.C.  
22 1011f), as amended or added by this Act, including  
23 increasing information sharing, increasing compli-  
24 ance rates, and establishing processes for enforce-  
25 ment.

1           (2) REPORT.—Not later than 3 years after the  
2           date of the initiation of the study under paragraph  
3           (1), the Comptroller General of the United States  
4           shall submit to Congress, and make public, a report  
5           containing the results of the study described in para-  
6           graph (1).

