

AMENDMENT TO RULES COMMITTEE PRINT 118–

36

OFFERED BY MRS. STEEL OF CALIFORNIA

At the end of title XVII, add the following new sub-
title

1 **Subtitle D—DETERRENT Act**

2 **SEC. 17____. SHORT TITLE.**

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

7 **SEC. 17____. DISCLOSURES OF FOREIGN GIFTS.**

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

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

12 “(a) DISCLOSURE REPORTS.—

13 “(1) AGGREGATE GIFTS AND CONTRACT DIS-
14 CLOSURES.—An institution shall file a disclosure re-
15 port in accordance with subsection (b)(1) with the
16 Secretary on July 31 of the calendar year imme-
17 diately following any calendar year in which—

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

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

10 “(ii) the value of which is undeter-
11 mined; or

12 “(B) the institution receives a gift from a
13 foreign country of concern or foreign entity of
14 concern, or, upon receiving a waiver under sec-
15 tion 117A to enter into a contract with such a
16 country or entity, enters into such contract,
17 without regard to the value of such gift or con-
18 tract.

19 “(2) FOREIGN SOURCE OWNERSHIP OR CON-
20 TROL DISCLOSURES.—In the case of an institution
21 that is substantially controlled (as described in sec-
22 tion 668.174(c)(3) of title 34, Code of Federal Reg-
23 ulations) (or successor regulations)) by a foreign
24 source, the institution shall file a disclosure report

1 in accordance with subsection (b)(2) with the Sec-
2 retary on July 31 of each year.

3 “(3) TREATMENT OF AFFILIATED ENTITIES.—

4 For purposes of this section, any gift to, or contract
5 with, an affiliated entity of an institution shall be
6 considered a gift to or contract with, respectively,
7 such institution.

8 “(b) CONTENTS OF REPORT.—

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

12 “(A) With respect to a gift received from,
13 or a contract entered into with, any foreign
14 source—

15 “(i) the terms of such gift or contract,
16 including—

17 “(I) the name of the individual,
18 department, or benefactor at the insti-
19 tution receiving the gift or carrying
20 out the contract on behalf of the insti-
21 tution;

22 “(II) the intended purpose of
23 such gift or contract, as provided to
24 the institution by such foreign source,
25 or if no such purpose is provided by

1 such foreign source, the intended use
2 of such gift or contract, as provided
3 by the institution; and

4 “(III) in the case of a restricted
5 or conditional gift or contract, a de-
6 scription of the restrictions or condi-
7 tions of such gift or contract;

8 “(ii) with respect to a gift—

9 “(I) the total fair market dollar
10 amount or dollar value of the gift, as
11 of the date of submission of such re-
12 port; and

13 “(II) the date on which the insti-
14 tution received such gift;

15 “(iii) with respect to a contract—

16 “(I) the total fair market dollar
17 amount or dollar value of the con-
18 tract, as of the date of submission of
19 such report;

20 “(II) the date on which such con-
21 tract commences;

22 “(III) as applicable, the date on
23 which such contract terminates; and

24 “(IV) an assurance that the in-
25 stitution will—

1 “(aa) maintain an
2 unredacted copy of the contract
3 until the latest of—

4 “(AA) the date that is
5 5 years after the date on
6 which the contract com-
7 mences;

8 “(BB) the date on
9 which the contract termi-
10 nates; or

11 “(CC) the last day of
12 any period that applicable
13 State law requires a copy of
14 such contract to be main-
15 tained; and

16 “(bb) upon request of the
17 Secretary during an investigation
18 under subsection section
19 117D(a)(1), produce such an
20 unredacted copy of the contract;
21 and

22 “(iv) an assurance that in a case in
23 which information is required to be dis-
24 closed under this section with respect to a
25 gift or contract that is not in English, such

1 information is translated into English in
2 compliance with the requirements of sub-
3 section (c).

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

8 “(i) the name of such foreign govern-
9 ment;

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

14 “(iii) the physical mailing address of
15 such department, agency, office, or divi-
16 sion.

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

21 “(i) the legal name of the foreign
22 source, or, if such name is not available, a
23 statement certified by the compliance offi-
24 cer in accordance with subsection (f)(2)

1 that the institution has reasonably at-
2 tempted to obtain such name;

3 “(ii) in the case of a foreign source
4 that is a natural person, the country of
5 citizenship of such person, or, if such coun-
6 try is not known, the principal country of
7 residence of such person;

8 “(iii) in the case of a foreign source
9 that is a legal entity, the country in which
10 such entity is incorporated, or if such in-
11 formation is not available, the principal
12 place of business of such entity;

13 “(iv) the physical mailing address of
14 such foreign source, or if such address is
15 not available, a statement certified by the
16 compliance officer in accordance with sub-
17 section (f)(2) that the institution has rea-
18 sonably attempted to obtain such address;
19 and

20 “(v) any affiliation of the foreign
21 source to an organization that is des-
22 ignated as a foreign terrorist organization
23 pursuant to section 219 of the Immigra-
24 tion and Nationality Act (8 U.S.C. 1189).

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

5 “(i) a complete and unredacted text of
6 the original contract, and if such original
7 contract is not in English, a translated
8 copy of the text into English in compliance
9 with the requirements of subsection (c);

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

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

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

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

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

23 “(C) any changes in program or structure
24 resulting from the change in ownership or con-
25 trol.

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

7 “(d) PUBLIC INSPECTION.—

8 “(1) DATABASE REQUIREMENT.—Beginning not
9 later than 60 days before the July 31 immediately
10 following the date of the enactment of the DETER-
11 RENT Act, the Secretary shall—

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

18 “(i) are made publicly available (in
19 electronic and downloadable format), in-
20 cluding any information provided in such
21 reports (other than the information prohib-
22 ited from being publicly disclosed pursuant
23 to paragraph (2));

24 “(ii) can be individually identified and
25 compared; and

1 “(iii) are searchable and sortable by—

2 “(I) the date the institution filed
3 such report;

4 “(II) the date on which the insti-
5 tution received the gift, or entered
6 into the contract, which is the subject
7 of the report;

8 “(III) the attributable country of
9 such gift or contract; and

10 “(IV) the name of the foreign
11 source (other than a foreign source
12 that is a natural person);

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

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

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

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

24 “(D) with respect to a disclosure report
25 that does not include the name or address of a

1 foreign source, indicate, as part of the public
2 record of such report included in such database,
3 that such report did not include such informa-
4 tion.

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

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

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

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

1 torney General, the Secretary of Commerce, the Secretary
2 of Homeland Security, the Secretary of Energy, the Direc-
3 tor of the National Science Foundation, and the Director
4 of the National Institutes of Health.

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

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

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

15 “(g) DEFINITIONS.—In this section:

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

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

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

5 “(B) the country of incorporation of a for-
6 eign source that is a legal entity, or, if such
7 country is unknown, the principal place of busi-
8 ness (as applicable) of such foreign source.

9 “(3) CONTRACT.—The term ‘contract’—

10 “(A) means—

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

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

19 “(iii) any agreement for the acquisi-
20 tion by purchase, lease, or barter, of prop-
21 erty or services from a foreign source
22 (other than an arms-length agreement for
23 such acquisition from a foreign source that
24 is not a foreign country of concern or a
25 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 legal entity, governmental or other-
16 wise, substantially controlled (as described in
17 section 668.174(c)(3) of title 34, Code of Fed-
18 eral Regulations) (or successor regulations)) by
19 a foreign source;

20 “(D) a natural person who is not a citizen
21 or a national of the United States or a trust
22 territory or protectorate thereof;

23 “(E) an agent of a foreign source, includ-
24 ing—

1 “(i) a subsidiary or affiliate of a for-
2 eign legal entity, acting on behalf of a for-
3 eign source;

4 “(ii) a person that operates primarily
5 for the benefit of, or under the auspices of,
6 a foreign source, including a foundation or
7 a related entity (such as any educational,
8 cultural, or language entity); and

9 “(iii) a person who is an agent of a
10 foreign principal (as such term is defined
11 in section 1 of the Foreign Agents Reg-
12 istration Act of 1938 (22 U.S.C. 611); and

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

16 “(5) GIFT.—The term ‘gift’—

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

19 “(B) does not include—

20 “(i) any payment of one or more ele-
21 ments of a student’s cost of attendance (as
22 such term is defined in section 472) to an
23 institution by, or scholarship from, a for-
24 eign source who is a natural person, acting
25 in their individual capacity and not as an

1 agent for, at the request or direction of, or
2 on behalf of, any person or entity (except
3 the student), made for not more than 15
4 students, and that is not made under a re-
5 stricted or conditional contract with such
6 foreign source; or

7 “(ii) assignment or license of reg-
8 istered industrial and intellectual property
9 rights, such as patents, utility models,
10 trademarks, or copyrights, or technical as-
11 sistance, that are not associated with a
12 category listed in the Commerce Control
13 List maintained by the Bureau of Industry
14 and Security of the Department of Com-
15 merce and set forth in Supplement No. 1
16 to part 774 of title 15, Code of Federal
17 Regulations; or

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

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

1 “(b) WAIVERS.—

2 “(1) SUBMISSION.—

3 “(A) FIRST WAIVER REQUESTS.—

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

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

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

22 “(II) a statement that—

23 “(aa) is signed by the com-
24 pliance officer of the institution

1 designated in accordance with
2 section 117(f); and

3 “(bb) includes information
4 that demonstrates that such con-
5 tract is for the benefit of the in-
6 stitution’s mission and students
7 and will promote the security,
8 stability, and economic vitality of
9 the United States.

10 “(B) RENEWAL WAIVER REQUESTS.—

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

24 “(ii) TERMINATION.—If the institu-
25 tion fails to submit a request under clause

1 (i) or is not granted a renewal under such
2 clause, such institution shall terminate
3 such contract on the last day of the origi-
4 nal 1-year waiver period.

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

6 “(A) not later than 60 days before an in-
7 stitution enters into a contract pursuant to a
8 waiver request under paragraph (1)(A), or be-
9 fore a contract described in paragraph (1)(B)(i)
10 is renewed pursuant to a renewal request under
11 such paragraph, shall notify the institution—

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

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

17 “(B) may only issue a waiver under this
18 section to an institution if the Secretary deter-
19 mines, in consultation with the heads of each
20 agency and department listed in section 117(e),
21 that the contract for which the waiver is being
22 requested is for the benefit of the institution’s
23 mission and students and will promote the secu-
24 rity, stability, and economic vitality of the
25 United States.

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

4 “(A) the Committee on Education and the
5 Workforce of the House of Representatives; and

6 “(B) the Committee on Health, Education,
7 Labor, and Pensions of the Senate,
8 of the intent to issue the waiver, including a jus-
9 tification for the waiver.

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

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

15 “(B) apply to the terms and conditions of
16 the proposed contract submitted as part of the
17 request for such waiver.

18 “(c) DESIGNATION DURING CONTRACT TERM.—In
19 the case of an institution that enters into a contract with
20 a foreign source that is not a foreign country of concern
21 or a foreign entity of concern but which, during the term
22 of such contract, is designated as a foreign country of con-
23 cern or foreign entity of concern, such institution shall ter-
24 minate such contract not later than 60 days after the Sec-
25 retary notifies the institution of such designation.

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

2 “(1) IN GENERAL.—In the case of an institu-
3 tion that has entered into a contract with a foreign
4 country of concern or foreign entity of concern prior
5 to the date of the enactment of the DETERRENT
6 Act—

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

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

15 “(i) the date that is 1 year after the
16 date of the enactment of the DETER-
17 RENT Act; or

18 “(ii) the date on which the contract
19 terminates.

20 “(2) RENEWAL.—An institution that has en-
21 tered into a contract described in paragraph (1), the
22 term of which is longer than the waiver period de-
23 scribed in subparagraph (B) of such paragraph and
24 the terms and conditions of which remain the same
25 as the contract submitted as part of the request re-

1 quired under subparagraph (A) of such paragraph,
2 may submit a request for renewal of the waiver
3 issued under such paragraph in accordance with
4 subsection (b)(1)(B).

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

7 (c) INTERAGENCY INFORMATION SHARING.—Not
8 later than 90 days after the date of the enactment of this
9 Act, the Secretary of Education shall transmit to the
10 heads of each agency and department listed in section
11 117(e) of the Higher Education Act of 1965, as amended
12 by this subtitle—

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

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

20 (A) of an institution with respect to the
21 compliance of such institution with such sec-
22 tion; and

23 (B) initiated prior to the date of the enact-
24 ment of this Act.

1 **SEC. 17_____ . POLICY REGARDING CONFLICTS OF INTER-**
2 **EST FROM FOREIGN GIFTS AND CONTRACTS.**

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

6 **“SEC. 117B. INSTITUTIONAL POLICY REGARDING FOREIGN**
7 **GIFTS AND CONTRACTS TO FACULTY AND**
8 **STAFF.**

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

13 “(1) a policy requiring covered individuals em-
14 ployed at the institution to disclose in a report to
15 such institution on July 31 of each calendar year
16 that begins after the year in which such enactment
17 date occurs—

18 “(A) any gift received from a foreign
19 source in the previous calendar year, the value
20 of which is greater than the minimal value (as
21 such term is defined in section 7342(a) of title
22 5, United States Code) or is of undetermined
23 value, and including the date on which the gift
24 was received;

25 “(B) any contract entered into with a for-
26 eign source in the previous calendar year, the

1 value of which is \$5,000 or more, considered
2 alone or in combination with all other contracts
3 with that foreign source within the calendar
4 year, and including the date on which such con-
5 tract commences and, as applicable, the date on
6 which such contract terminates;

7 “(C) any contract with a foreign source in
8 force during the previous calendar year that has
9 an undetermined monetary value, and including
10 the date on which such contract commences
11 and, as applicable, the date on which such con-
12 tract terminates; and

13 “(D) any contract entered into with a for-
14 eign country of concern or foreign entity of con-
15 cern in the previous calendar year, the value of
16 which is \$0 or more, and including the begin-
17 ning and ending dates of such contract and the
18 full text of such contract and any addenda;

19 “(2) a publicly available and searchable data-
20 base (in electronic and downloadable format), on a
21 website of the institution, of the information re-
22 quired to be disclosed under paragraph (1) (other
23 than the name or any other personally identifiable
24 information of a covered individual) that—

1 “(A) makes available the information dis-
2 closed under paragraph (1) (other than the
3 name or any other personally identifiable infor-
4 mation of a covered individual) beginning on
5 the date that is 30 days after receipt of the re-
6 port under such paragraph containing such in-
7 formation and until the latest of—

8 “(i) the date that is 5 years after the
9 date on which—

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

12 “(II) a contract referred to in
13 subparagraph (B), (C) or (D) of para-
14 graph (1) begins; or

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

18 “(B) is searchable and sortable by—

19 “(i) the date received (if a gift) or the
20 date commenced (if a contract);

21 “(ii) the attributable country with re-
22 spect to which information is being dis-
23 closed;

24 “(iii) the narrowest of the depart-
25 ment, school, or college of the institution,

1 as applicable, for which the individual
2 making the disclosure works; and

3 “(iv) the name of the foreign source
4 (other than a foreign source who is a nat-
5 ural person); and

6 “(3) an effective plan to identify and manage
7 potential information gathering by foreign sources
8 through espionage targeting covered individuals that
9 may arise from gifts received from, or contracts en-
10 tered into with, a foreign source, including through
11 the use of—

12 “(A) periodic communications;

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

16 “(C) enforcement of the policy described in
17 paragraph (1); and

18 “(4) for purposes of investigations under sec-
19 tion 117D(a)(1) or responses to requests under sec-
20 tion 552 of title 5, United States Code (commonly
21 known as the ‘Freedom of Information Act’), the
22 names of the individuals making disclosures under
23 paragraph (1).

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

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

3 “(2)(A) received more than \$50,000,000 in
4 Federal funds in any of the previous five calendar
5 years to support (in whole or in part) research and
6 development (as determined by the institution and
7 measured by the Higher Education Research and
8 Development Survey of the National Center for
9 Science and Engineering Statistics); or

10 “(B) receives funds under title VI.

11 “(c) DEFINITIONS.—In this section—

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

14 “(2) the term ‘contract’—

15 “(A) means any—

16 “(i) agreement for the acquisition, by
17 purchase, lease, or barter, of property or
18 services by a foreign source;

19 “(ii) affiliation, agreement, or similar
20 transaction with a foreign source involving
21 the use or exchange of the name, likeness,
22 time, services, or resources of covered indi-
23 viduals employed at an institution de-
24 scribed in subsection (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 covered indi-
7 viduals for the acquisition, by purchase, lease,
8 or barter of property or services from a foreign
9 source other than such a foreign source that is
10 a foreign country of concern or a foreign entity
11 of concern; and

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

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

17 “(B) shall be interpreted in accordance
18 with the Guidance for Implementing National
19 Security Presidential Memorandum 33 (NSPM-
20 33) on National Security Strategy for United
21 States Government-supported Research and De-
22 velopment published by the Subcommittee on
23 Research Security and the Joint Committee on
24 the Research Environment in January 2022.”.

1 **SEC. 17_____ . INVESTMENT DISCLOSURE REPORT.**

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

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

6 “(a) INVESTMENT DISCLOSURE REPORT.—A speci-
7 fied institution shall file a disclosure report in accordance
8 with subsection (b) with the Secretary on July 31 imme-
9 diately following any calendar year in which the specified
10 institution purchases, sells, or holds (directly or indirectly
11 through any chain of ownership) one or more investments
12 of concern.

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

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

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

21 “(3) The combined value of all investments of
22 concern sold over the course of such calendar year,
23 as measured by the fair market value of such invest-
24 ments at the time of the sale.

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

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

2 “(1) IN GENERAL.—An investment of concern
3 acquired through a regulated investment company,
4 exchange traded fund, or any other pooled invest-
5 ment shall be treated as acquired through a chain of
6 ownership referred to in subsection (a), unless such
7 pooled investment is certified by the Secretary as
8 not holding any listed investments in accordance
9 with subparagraph (B) of paragraph (2).

10 “(2) CERTIFICATIONS OF POOLED FUNDS.—

11 The Secretary, after consultation with the Secretary
12 of the Treasury, shall establish procedures under
13 which certain regulated investment companies, ex-
14 change traded funds, and other pooled invest-
15 ments—

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

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

20 “(d) TREATMENT OF RELATED ORGANIZATIONS.—

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

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

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

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

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

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

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

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

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

12 “(h) DATABASE REQUIREMENT.—Beginning not
13 later than 60 days before the July 31 immediately fol-
14 lowing the date of the enactment of the DETERRENT
15 Act, the Secretary shall—

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

19 “(A) are made publicly available (in elec-
20 tronic and downloadable format), including any
21 information provided in such reports;

22 “(B) can be individually identified and
23 compared; and

24 “(C) are searchable and sortable; and

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

4 “(i) DEFINITIONS.—In this section:

5 “(1) INVESTMENT OF CONCERN.—

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

9 “(i) A foreign country of concern.

10 “(ii) A foreign entity of concern.

11 “(B) SPECIFIED INTEREST.—The term
12 ‘specified interest’ means, with respect to any
13 entity—

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

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

17 “(iii) any contract or derivative with
18 respect to any property described in clause
19 (i) or (ii).

20 “(2) SPECIFIED INSTITUTION.—

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

24 “(i) such institution is not a public in-
25 stitution; and

1 “(ii) the aggregate fair market value
2 of—

3 “(I) the assets held by such insti-
4 tution at the end of such calendar
5 year (other than those assets which
6 are used directly in carrying out the
7 institution’s exempt purpose) is in ex-
8 cess of \$6,000,000,000; or

9 “(II) the investments of concern
10 held by such institution at the end of
11 such calendar year is in excess of
12 \$250,000,000

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

22 **SEC. 17 ____ . ENFORCEMENT AND OTHER GENERAL PROVI-**
23 **SIONS.**

24 (a) ENFORCEMENT AND OTHER GENERAL PROVI-
25 SIONS.—The Higher Education Act of 1965 (20 U.S.C.

1 1001 et seq.), as amended by this subtitle, is further
2 amended by inserting after section 117C the following:

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

4 “(a) ENFORCEMENT.—

5 “(1) INVESTIGATION.—The Secretary (acting
6 through the General Counsel of the Department)
7 shall conduct investigations of possible violations of
8 sections 117, 117A, 117B, and 117C by institutions
9 and, whenever it appears that an institution has
10 knowingly or willfully failed to comply with a re-
11 quirement of any of such sections (including any
12 rule or regulation promulgated under any such sec-
13 tion), shall request that the Attorney General bring
14 a civil action in accordance with paragraph (2).

15 “(2) CIVIL ACTION.—Whenever it appears that
16 an institution has knowingly or willfully failed to
17 comply with a requirement of any of the sections
18 listed in paragraph (1) (including any rule or regula-
19 tion promulgated under any such section) based on
20 such an investigation, a civil action shall be brought
21 by the Attorney General, at the request of the Sec-
22 retary, in an appropriate district court of the United
23 States, or the appropriate United States court of
24 any territory or other place subject to the jurisdic-
25 tion of the United States, to request such court to

1 compel compliance with the requirement of the sec-
2 tion that has been violated.

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

7 “(A) pay to the Treasury of the United
8 States the full costs to the United States of ob-
9 taining compliance with the requirement of such
10 section, including all associated costs of inves-
11 tigation and enforcement; and

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

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

18 “(A) SECTION 117.—

19 “(i) FIRST-TIME VIOLATIONS.—In the
20 case of an institution that knowingly or
21 willfully fails to comply with a requirement
22 of section 117 with respect to a calendar
23 year, and that has not previously know-
24 ingly or willfully failed to comply with such
25 a requirement, the Secretary shall impose

1 a fine on the institution for such violation
2 as follows:

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

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

13 “(AA) \$50,000; or

14 “(BB) the monetary
15 value of such gift or con-
16 tract; or

17 “(bb) for each gift or con-
18 tract of no value or of indeter-
19 minable 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) for each gift or con-
4 tract with determinable value
5 that is the subject of such a fail-
6 ure to comply, the greater of—

7 “(AA) \$100,000; or

8 “(BB) twice the mone-
9 tary value of such gift or
10 contract; or

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

19 “(II) In the case of an institution
20 that knowingly or willfully fails to
21 comply with a reporting requirement
22 under subsection (a)(2) of section 117
23 with respect to an additional calendar
24 year, such fine shall be in an amount
25 that is not less than 20 percent of the

1 total amount of Federal funds re-
2 ceived by the institution under this
3 Act for the most recent fiscal year.

4 “(B) SECTION 117A.—

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

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

1 “(C) SECTION 117B.—

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 117B with respect to a calendar
6 year, and that has not previously know-
7 ingly or willfully failed to comply with such
8 a requirement, the Secretary shall impose
9 a fine on the institution in an amount that
10 is the greater of—

11 “(I) \$250,000; or

12 “(II) the total amount of gifts or
13 contracts reported by such institution
14 in the database required under section
15 117B(a)(2).

16 “(ii) SUBSEQUENT VIOLATIONS.—In
17 the case of an institution that has been
18 fined pursuant to clause (i) with respect to
19 a calendar year, and that knowingly or
20 willfully fails to comply with a requirement
21 of section 117B with respect to any addi-
22 tional calendar year, the Secretary shall
23 impose a fine on the institution with re-
24 spect to any such additional calendar year
25 in an amount that is the greater of—

1 “(I) \$500,000; or

2 “(II) twice the total amount of
3 gifts or contracts reported by such in-
4 stitution in the database required
5 under section 117B(a)(2).

6 “(D) SECTION 117C.—

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

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

22 “(II) the combined value of all
23 investments of concern sold over the
24 course of such calendar year, as meas-

1 ured by the fair market value of such
2 investments at the time of the sale.

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

15 “(I) the aggregate fair market
16 value of all investments of concern
17 held by such institution as of the close
18 of such additional calendar year; and

19 “(II) the combined value of all
20 investments of concern sold over the
21 course of such additional calendar
22 year, as measured by the fair market
23 value of such investments at the time
24 of the sale.

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

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

14 “(1) receive and respond to inquiries and re-
15 quests for technical assistance from institutions re-
16 garding compliance with the requirements of sec-
17 tions 117, 117A, 117B, and 117C;

18 “(2) coordinate and implement technical im-
19 provements to the database described in section
20 117(d)(1), including—

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

1 “(B) publishing and maintaining a data-
2 base users guide annually, including informa-
3 tion on how to edit an entry and how to report
4 errors;

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

9 “(i) include at least—

10 “(I) 3 members representing
11 public institutions with high or very
12 high levels of research activity (as de-
13 fined by the National Center for Edu-
14 cation Statistics);

15 “(II) 2 members representing
16 private, nonprofit institutions with
17 high or very high levels of research
18 activity (as so defined);

19 “(III) 2 members representing
20 proprietary institutions of higher edu-
21 cation (as defined in section 102(b));
22 and

23 “(IV) 2 members representing
24 area career and technical education
25 schools (as defined in subparagraph

1 (C) or (D) of section 3(3) of the Carl
2 D. Perkins Career and Technical
3 Education Act of 2006 (20 U.S.C.
4 2302(3)); and

5 “(ii) meet at least twice a year with
6 officials from the Department to discuss
7 possible database improvements;

8 “(D) publishing, on a publicly available
9 website, recommended database improvements
10 following each meeting described in subpara-
11 graph (C)(ii); and

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

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

22 “(A) the authorizing committees; and

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

1 “(4) maintain, on a publicly accessible
2 website—

3 “(A) a full comprehensive list of all foreign
4 countries of concern and foreign entities of con-
5 cern; and

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

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

12 “(c) DEFINITIONS.—For purposes of sections 117,
13 117A, 117B, 117C, and this section:

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

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

20 “(B) Any country that the Secretary, in
21 consultation with the Secretary of Defense, the
22 Secretary of State, and the Director of National
23 Intelligence, determines to be engaged in con-
24 duct that is detrimental to the national security
25 or foreign policy of the United States.

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

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

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

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

20 “(B) An institution that, for 3 consecutive in-
21 stitutional fiscal years, violates any requirement of
22 any of the sections listed in subparagraph (A),
23 shall—

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

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

10 (c) GAO STUDY AND REPORT.—

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

21 (2) REPORT.—Not later than 3 years after the
22 date of enactment of this Act, the Comptroller Gen-
23 eral of the United States shall submit to Congress,

- 1 and make public, a report containing the results of
- 2 the study described in paragraph (1).

