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(Original Signature of Member)

116TH CONGRESS
2D SESSION

H. R. _____

To amend the Higher Education Act of 1965 to improve protections against foreign influence at institutions of higher education, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MURPHY of North Carolina introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Higher Education Act of 1965 to improve protections against foreign influence at institutions of higher education, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Intelligence on Nefar-
5 ious Foreign Leaders Using Education Networks for Cor-
6 rupt Enrichment Act” or the “INFLUENCE Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1 (1) Schools in the United States, especially in-
2 stitutions of higher education overseeing either sen-
3 sitive research or critical military technology sys-
4 tems, have provided a level of access to the Chinese
5 government that the Chinese government has re-
6 fused to provide to the United States.

7 (2) China's control over the flow of information
8 means the American people have an incomplete pic-
9 ture of Chinese government actions and policies that
10 run counter to the interest of the United States at
11 home and abroad.

12 (3) In the last 15 years, the Chinese govern-
13 ment has opened over 100 Confucius Institutes on
14 college and university campuses in the United States
15 to increase their cultural standing in popular cul-
16 ture. While there are currently more than 500 Con-
17 fucius Institutes worldwide, the United States has
18 more Confucius Institutes than any other country.

19 (4) Federal Government officials have expressed
20 concerns about Confucius Institutes. Christopher
21 Wray, Director of the Federal Bureau of Investiga-
22 tion, testified that the FBI is "watching warily"
23 Confucius Institutes and "in certain instances have
24 developed appropriate investigative steps".

1 (5) The Department of Education has not con-
2 ducted regular oversight of the compliance of institu-
3 tions of higher education with foreign gift reporting
4 requirements and, until recently, has failed to ade-
5 quately enforce the requirements of section 117 of
6 the Higher Education Act of 1965 (relating to dis-
7 closures of foreign gifts). The Department of Edu-
8 cation maintains a database detailing the reporting
9 of foreign gifts received by institutions, but relies
10 solely on the institutions to self-report gifts.

11 (6) The Department of Education is updating
12 the reporting requirements applicable to institutions
13 of higher education. Previously, the Department of
14 Education had not issued guidance on foreign gift
15 reporting by institutions of higher education since
16 2004. As a result, institution's informed Congress
17 that the reporting requirements were unclear and
18 confusing. Institutions also informed Congress that
19 the Department of Education website used to report
20 foreign gifts was dated and difficult to use.

21 (7) Absent full transparency regarding how
22 Confucius Institutes operate and full reciprocity for
23 the cultural outreach efforts of the United States on
24 college campuses in China, Confucius Institutes

1 should not continue in the United States unchecked
2 or unsupervised.

3 **SEC. 3. ENHANCED DISCLOSURE OF CERTAIN FOREIGN**
4 **GIFTS AND CONTRACTS.**

5 Section 117 of the Higher Education Act of 1965 (20
6 U.S.C. 1011f) is amended—

7 (1) by amending subsection (a) to read as fol-
8 lows:

9 “(a) DISCLOSURE REPORT.—An institution shall file
10 a disclosure report with the Secretary on January 31 or
11 July 31, whichever is sooner, whenever one or more of the
12 following occurs:

13 “(1) The institution is owned or controlled by
14 a foreign source.

15 “(2) The institution receives a gift from or en-
16 ters into a contract with a foreign source determined
17 by the Secretary to be acting directly or indirectly
18 on behalf of a foreign government that is adversarial
19 to the United States, regardless of the value of the
20 gift or contract.

21 “(3) The institution receives a gift from or en-
22 ters into a contract with a foreign source not de-
23 scribed in paragraph (2), the value of which is—

24 “(A) \$50,000 considered alone; or

1 “(B) \$100,000 or more in combination
2 with all other gifts from or contracts with that
3 foreign source within a calendar year.”;

4 (2) by amending subsection (e) to read as fol-
5 lows:

6 “(e) PUBLIC AVAILABILITY OF INFORMATION.—

7 “(1) PUBLIC INSPECTION.—Subject to para-
8 graph (4), all disclosure reports required by this sec-
9 tion shall be public records open to inspection and
10 copying during business hours.

11 “(2) PUBLICATION BY DEPARTMENT OF EDU-
12 CATION.—Not later than 180 days after the date of
13 enactment of the INFLUENCE Act, and on an an-
14 nual basis thereafter, the Secretary of Education
15 shall make available, on a publicly accessible website
16 of the Department of Education, a database of the
17 information disclosed to the Secretary under this
18 section during the preceding year.

19 “(3) PUBLICATION BY INSTITUTIONS.—Not
20 later than 180 days after the date of enactment of
21 the INFLUENCE Act, and on an annual basis
22 thereafter, each institution that receives a gift or en-
23 ters into a contract described in subsection (a) shall
24 make available, on a publicly accessible website of
25 the institution—

1 “(A) in the case of a gift described in such
2 subsection, a detailed explanation of the gift,
3 including the amount of the gift, identification
4 of the source of the gift, and any conditions or
5 restrictions on the gift; and

6 “(B) in the case of a contract described in
7 such subsection, a complete and accurate copy
8 of the contract.

9 “(4) RESTRICTION ON PUBLICATION OF SEN-
10 SITIVE INFORMATION.—

11 “(A) IN GENERAL.—Information made
12 publicly available under this section shall not
13 include information that is determined by an in-
14 stitution to be confidential, proprietary, or oth-
15 erwise prohibited from disclosure by law.

16 “(B) ENFORCEMENT AUTHORITY.—If the
17 Secretary determines that an institution of
18 higher education willfully or negligently dis-
19 closed information that is confidential, propri-
20 etary, or otherwise prohibited from disclosure
21 by law in violation of subparagraph (A), the
22 Secretary may declare such institution ineligible
23 to participate in programs authorized under
24 title IV of this Act.”; and

1 (3) in subsection (f)(2), by inserting before the
2 period at the end the following: “, in addition to any
3 other amounts as determined appropriate by the
4 Secretary of Education”.

5 **SEC. 4. FOREIGN INVOLVEMENT IN SENSITIVE PROJECTS.**

6 The Higher Education Act of 1965 (20 U.S.C. 1001
7 et seq) is further amended by inserting after section 117
8 the following:

9 **“SEC. 117a. REQUIREMENTS FOR CERTAIN FOREIGN CON-**
10 **TRACTS.**

11 “(a) FOREIGN INVOLVEMENT IN SENSITIVE
12 PROJECTS.—

13 “(1) IN GENERAL.—In a case in which an insti-
14 tution enters into a contract with a foreign indi-
15 vidual under which the individual will participate in
16 a sensitive project—

17 “(A) the institution shall disclose to the
18 Secretary—

19 “(i) the date on which individual is
20 expected to return to their home country;
21 and

22 “(ii) and the name of the country to
23 which the individual is expected to return;
24 and

25 “(B) such contract shall provide—

1 “(i) that the individual may not dis-
2 close information derived from such project
3 to a foreign government or any other for-
4 eign entity; and

5 “(ii) that the penalties for disclosure
6 of such information shall be the cancella-
7 tion of the contract and a requirement to
8 reimburse the Federal Government as de-
9 scribed in paragraph (2).

10 “(2) LIABILITY FOR DISCLOSURE.—A foreign
11 individual who knowingly or willfully discloses infor-
12 mation in violation of a contract under paragraph
13 (1) shall be required to reimburse the Federal Gov-
14 ernment for the full costs of any investigation or ad-
15 ministrative action resulting from such violation, in
16 addition to any other amounts as determined appro-
17 priate by the Secretary.

18 “(b) CHINA-AFFILIATED CULTURAL OR LANGUAGE
19 PROGRAM.—In a case in which an institution enters into
20 a contract with an individual or entity under which a
21 China-affiliated cultural or language program will be al-
22 lowed to operate at the institution, such contract—

23 “(1) shall include a provision protecting aca-
24 demic freedom at the institution; and

1 “(2) shall not include any provision that would
2 limit the rights of an individual under the Constitu-
3 tion of the United States.

4 “(c) DEFINITIONS.—In this section:

5 “(1) The term ‘China-affiliated cultural or lan-
6 guage program’ means any project, program, or
7 other activity that—

8 “(A) seeks to familiarize students with
9 Chinese language or culture; and

10 “(B) is directly or indirectly funded by the
11 Government of the People’s Republic of China.

12 “(2) The term ‘sensitive project’ means any
13 project, program, or other activity carried out by an
14 institution—

15 “(A) that is funded, in whole or in part, by
16 Federal funds;

17 “(B) for which a security clearance is re-
18 quired as a condition of participation.”.

19 **SEC. 5. INTERAGENCY COORDINATION ON ENFORCEMENT**
20 **OF FOREIGN GIFT AND CONTRACT REQUIRE-**
21 **MENTS.**

22 The Higher Education Act of 1965 (20 U.S.C. 1001
23 et seq) is further amended by inserting after section 117a
24 (as added by section 4) the following:

1 **“SEC. 117b. INTERAGENCY COORDINATION ON ENFORCE-**
2 **MENT OF FOREIGN GIFT AND CONTRACT RE-**
3 **QUIREMENTS.**

4 “(a) NOTIFICATION OF VIOLATIONS.—The Secretary
5 of Education shall establish a process to notify appro-
6 priate Federal agencies of any violation of section 117 or
7 section 117a.

8 “(b) CONSIDERATION OF ENFORCEMENT ACTION.—
9 After receiving notice of a violation under subsection (a),
10 the head of the Federal agency that received such notice
11 shall determine—

12 “(1) whether such violation constitutes a viola-
13 tion of a provision of law over which the agency has
14 enforcement authority; and

15 “(2) if such a violation occurred, whether to
16 pursue an enforcement action against the individual
17 or entity responsible for the violation.”.

18 **SEC. 6. REPORTS.**

19 Section 636 of the Higher Education Act of 1965 (20
20 U.S.C. 1132–5) is amended to read as follows:

21 **“SEC. 636. REPORT ON FOREIGN AND NATIONAL SECURITY**
22 **ISSUES AFFECTING INSTITUTIONS OF HIGH-**
23 **ER EDUCATION.**

24 “(a) REPORT REQUIRED.—On an annual basis, the
25 Secretary of Education, in consultation and collaboration
26 with the Secretary of State, the Secretary of Defense, the

1 Director of National Intelligence, the Attorney General,
2 and the heads of other relevant Federal agencies, shall
3 submit to the authorizing committees a report on foreign
4 and national security issues affecting institutions of higher
5 education.

6 “(b) ELEMENTS.—Each report under subsection (a)
7 shall include—

8 “(1) identification of areas of national need in
9 foreign language, area, and international studies as
10 such studies relate to government, education, busi-
11 ness, and nonprofit needs and a plan to address
12 those needs;

13 “(2) a description of any risks associated with
14 allowing foreign students and other foreign individ-
15 uals at institutions of higher education to access
16 classified information, protected intellectual prop-
17 erty, research and development information, and
18 military technology critical to the national security
19 of the United States;

20 “(3) best practices that may be implemented by
21 the Department of Education, the Department of
22 Defense, and other Federal agencies with respon-
23 sibilities relating to national security to strengthen
24 the secrecy of grants, projects, and contracts that
25 involve providing foreign individuals at institutions

1 of higher education with access to classified or sen-
2 sitive information, including recommended enforce-
3 ment actions to respond to the misuse of such infor-
4 mation;

5 “(4) a description of the ongoing efforts of Fed-
6 eral law enforcement organizations, including the
7 Federal Bureau of Investigation, to address the theft
8 of sensitive information by adversarial foreign ac-
9 tors; and

10 “(5) a summary of any information from na-
11 tional security-related projects at institutions of
12 higher education that was stolen, misused, or wrong-
13 fully disclosed during the period covered by the re-
14 port and any actions taken to remedy the theft, mis-
15 use, or disclosure of such information.

16 “(c) FORM OF REPORT.—Each report under sub-
17 section (a) shall be submitted in unclassified form, but
18 may include a classified annex.

19 “(d) PUBLIC AVAILABILITY.—The Secretary of Edu-
20 cation shall make each report under subsection (a) avail-
21 able on a publicly accessible website of the Department
22 of Education, except no report published on such website
23 shall contain classified information.”.