

119TH CONGRESS
1ST SESSION

H. R. 938

To amend the Higher Education Act of 1965 to restrict contracts with foreign countries of concern and foreign entities of concern.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2025

Mr. HARRIS of North Carolina (for himself and Mr. OWENS) introduced the following bill; which was referred to the Committee on Education and Workforce

A BILL

To amend the Higher Education Act of 1965 to restrict contracts with foreign countries of concern and foreign entities of concern.

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 “No Contracts with
5 Foreign Adversaries Act”.

1 **SEC. 2. PROHIBITION ON CONTRACTS WITH CERTAIN FOR-**
2 **EIGN ENTITIES AND COUNTRIES.**

3 (a) IN GENERAL.—Part B of title I of the Higher
4 Education Act of 1965 (20 U.S.C. 1011 et seq.) is amend-
5 ed by inserting after section 117 the following:

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

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

11 “(b) WAIVERS.—

12 “(1) IN GENERAL.—A waiver issued under this
13 section to an institution with respect to a contract
14 shall only—

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

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

20 “(2) SUBMISSION.—

21 “(A) FIRST WAIVER REQUESTS.—

22 “(i) IN GENERAL.—An institution
23 that desires to enter into a contract with
24 a foreign entity of concern or a foreign
25 country of concern may submit to the Sec-
26 retary, not later than 120 days before the

1 institution enters into such a contract, a
2 request to waive the prohibition under sub-
3 section (a) with respect to such contract.

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

7 “(I) the complete and unredacted
8 text of the proposed contract for
9 which the waiver is being requested,
10 and if such original contract is not in
11 English, a translated copy of the text
12 into English by a person that is not
13 an affiliated entity or agent of the for-
14 eign source involved with such con-
15 tract; and

16 “(II) a statement that—

17 “(aa) is certified by the
18 compliance officer of the institu-
19 tion designated in accordance
20 with subsection (e); and

21 “(bb) includes information
22 that demonstrates that such con-
23 tract—

1 “(AA) is for the benefit
2 of the institution’s mission
3 and students; and

4 “(BB) will promote the
5 security, stability, and eco-
6 nomic vitality of the United
7 States.

8 “(B) RENEWAL WAIVER REQUESTS.—

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

22 “(ii) TERMINATION.—If the institu-
23 tion fails to submit a request under clause
24 (i) or is not granted a renewal under such
25 clause, such institution shall terminate

1 such contract on the last day of the origi-
2 nal 1-year waiver period.

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

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

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

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

15 “(B) may only issue a waiver under this
16 section to an institution if the Secretary deter-
17 mines, in consultation with the Director of the
18 Federal Bureau of Investigation, the Director
19 of National Intelligence, the Director of the
20 Central Intelligence Agency, the Secretary of
21 State, the Secretary of Defense, the Attorney
22 General, the Secretary of Commerce, the Sec-
23 retary of Homeland Security, the Secretary of
24 Energy, the Director of the National Science
25 Foundation, and the Director of the National

1 Institutes of Health, that the contract for which
2 the waiver is being requested—

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

5 “(ii) will promote the security, sta-
6 bility, and economic vitality of the United
7 States.

8 “(4) DISCLOSURE.—Not less than 2 weeks
9 prior to issuing a waiver under paragraph (2), the
10 Secretary shall notify the—

11 “(A) the Committee on Education and
12 Workforce of the House of Representatives; and

13 “(B) the Committee on Health, Education,
14 Labor, and Pensions of the Senate,

15 of the intent to issue the waiver, including a jus-
16 tification for the waiver.

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

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

1 “(1) IN GENERAL.—In the case of an institu-
2 tion that has entered into a contract with a foreign
3 country of concern or foreign entity of concern prior
4 to the date of enactment of the No Contracts with
5 Foreign Adversaries Act—

6 “(A) the institution shall as soon as prac-
7 ticable, but not later than 30 days after such
8 date of enactment, submit to the Secretary a
9 waiver request in accordance with clause (ii) of
10 subsection (b)(2)(A); and

11 “(B) the Secretary shall, upon receipt of
12 the request submitted under such clause, issue
13 a waiver to the institution for a period begin-
14 ning on the date on which the waiver is issued
15 and ending on the sooner of—

16 “(i) the date that is 1 year after the
17 date of enactment of the No Contracts
18 with Foreign Adversaries Act; or

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

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

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

6 “(e) COMPLIANCE OFFICER.—Any institution that
7 submits a waiver under this section shall designate, before
8 the submission of such waiver, and maintain, a compliance
9 officer, who shall—

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

12 “(2) be responsible, on behalf of the institution,
13 for personally certifying accurate compliance with
14 the waiver requirements under this section.

15 “(f) ENFORCEMENT.—

16 “(1) INVESTIGATION.—The Secretary (acting
17 through the General Counsel of the Department)
18 shall conduct investigations of possible violations of
19 this section by institutions and, whenever it appears
20 that an institution has knowingly or willfully failed
21 to comply with a requirement of this section (includ-
22 ing any rule or regulation promulgated under this
23 section), shall request that the Attorney General
24 bring a civil action in accordance with paragraph
25 (2).

1 “(2) CIVIL ACTION.—Whenever it appears that
2 an institution has knowingly or willfully failed to
3 comply with a requirement of this section (including
4 any rule or regulation promulgated under this sec-
5 tion) based on an investigation under such para-
6 graph, a civil action shall be brought by the Attor-
7 ney General, at the request of the Secretary, in an
8 appropriate district court of the United States, or
9 the appropriate United States court of any territory
10 or other place subject to the jurisdiction of the
11 United States, to request such court to compel com-
12 pliance with the requirement of this section that has
13 been violated.

14 “(3) COSTS AND OTHER FINES.—An institution
15 that is compelled to comply with a requirement of
16 this section pursuant to paragraph (2) shall—

17 “(A) pay to the Treasury of the United
18 States the full costs to the United States of ob-
19 taining compliance with such requirement, in-
20 cluding all associated costs of investigation and
21 enforcement; and

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

24 “(4) FINES FOR VIOLATIONS.—The Secretary
25 shall impose a fine on an institution that is com-

1 pelled to comply with a requirement of this section
2 pursuant to paragraph (2) as follows:

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

12 “(B) SUBSEQUENT VIOLATIONS.—In the
13 case of an institution that has been fined pur-
14 suant to subparagraph (A), the Secretary shall
15 impose a fine on the institution for each subse-
16 quent time the institution knowingly or willfully
17 fails to comply with a requirement of this sec-
18 tion in an amount that is not less than 20 per-
19 cent of the total amount of Federal funds re-
20 ceived by the institution under this Act for the
21 most recent fiscal year.

22 “(C) INELIGIBILITY FOR WAIVER.—In the
23 case of an institution that has been fined pur-
24 suant to subparagraph (A) with respect to a
25 calendar year, and that knowingly or willfully

1 fails to comply with a requirement of this sec-
2 tion with respect to any 2 additional calendar
3 years, the Secretary shall prohibit the institu-
4 tion from obtaining a waiver, or a renewal of a
5 waiver, under this section.

6 “(g) DEFINITIONS.—In this section:

7 “(1) CONTRACT.—The term ‘contract’—

8 “(A) means—

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

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

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

24 “(B) does not include an agreement made
25 between an institution and a foreign source re-

1 garding any payment of one or more elements
2 of a student’s cost of attendance (as such term
3 is defined in section 472), unless such an agree-
4 ment is made for more than 15 students or is
5 made under a restricted or conditional contract.

6 “(2) FOREIGN COUNTRY OF CONCERN.—The
7 term ‘foreign country of concern’ means the fol-
8 lowing:

9 “(A) Any covered nation defined in section
10 4872 of title 10, United States Code.

11 “(B) Any country the Secretary, in con-
12 sultation with the Secretary of Defense, the
13 Secretary of State, and the Director of National
14 Intelligence, determines, for purposes of section
15 117 or this section, to be engaged in conduct
16 that is detrimental to the national security or
17 foreign policy of the United States.

18 “(3) FOREIGN ENTITY OF CONCERN.—The
19 term ‘foreign entity of concern’ has the meaning
20 given such term in section 10612(a) of the Research
21 and Development, Competition, and Innovation Act
22 (42 U.S.C. 19221(a)) and includes a foreign entity
23 that is identified on the list published under section
24 1286(c)(8)(A) of the John S. McCain National De-

1 fense Authorization Act for Fiscal Year 2019 (10
2 U.S.C. 22 4001 note; Public Law 115–232).

3 “(4) 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).”.

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

11 “(30)(A) An institution will comply with the re-
12 quirements of section 117A.

13 “(B) An institution that, for 3 consecutive in-
14 stitutional fiscal years, violates any requirement of
15 section 117A shall—

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

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

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