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HOUSE OF REPRESENTATIVES
REPORT
118–298

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 4468) TO PROHIBIT THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY FROM FINALIZING, IMPLEMENTING, OR ENFORCING A PROPOSED RULE WITH RESPECT TO EMISSIONS FROM VEHICLES, AND FOR OTHER PURPOSES; PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 5933) TO AMEND THE HIGHER EDUCATION ACT OF 1965 TO REQUIRE ADDITIONAL INFORMATION IN DISCLOSURES OF FOREIGN GIFTS AND CONTRACTS FROM FOREIGN SOURCES, RESTRICT CONTRACTS WITH CERTAIN FOREIGN ENTITIES AND FOREIGN COUNTRIES OF CONCERN, REQUIRE CERTAIN STAFF AND FACULTY TO REPORT FOREIGN GIFTS AND CONTRACTS, AND REQUIRE DISCLOSURE OF CERTAIN FOREIGN INVESTMENTS WITHIN ENDOWMENTS; AND PROVIDING FOR CONSIDERATION OF THE JOINT RESOLUTION (H.J. RES. 88) PROVIDING FOR CONGRESSIONAL DISAPPROVAL UNDER CHAPTER 8 OF TITLE 5, UNITED STATES CODE, OF THE RULE SUBMITTED BY THE DEPARTMENT OF EDUCATION RELATING TO "IMPROVING INCOME DRIVEN REPAYMENT FOR THE WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM AND THE FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM"

DECEMBER 4, 2023.—Referred to the House Calendar and ordered to be printed

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Mrs. HOUCHIN, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 906]

The Committee on Rules, having had under consideration House Resolution 906, by a record vote of 9 to 4, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 4468, the Choice in Automobile Retail Sales Act of 2023, under a structured rule. The resolution waives all points of order against consideration of the bill. The resolution provides that the bill shall be considered as read. The resolution waives all points of order against provisions in the bill. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce or their respective designees. The resolution makes in order only the amendment printed in part A of the report. Each amendment shall be considered only in the order printed in the report, may be offered

only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. All points of order against the amendment printed in part A of the report are waived. The resolution provides one motion to recommit. The resolution further provides for consideration of H.R. 5933, the DETERRENT Act, under a structured rule. The resolution waives all points of order against consideration of the bill. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Education and the Workforce or their respective designees. The resolution provides that the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill shall be considered as adopted and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution makes in order only those amendments printed in part B of the report. Each amendment shall be considered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. All points of order against the amendments printed in part B of the report are waived. The resolution provides one motion to recommit. The resolution further provides for consideration of H.J. Res. 88, Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Education relating to "Improving Income Driven Repayment for the William D. Ford Federal Direct Loan Program and the Federal Family Education Loan (FFEL) Program", under a closed rule. The resolution waives all points of order against consideration of the joint resolution. The resolution provides that the joint resolution shall be considered as read. The resolution waives all points of order against provisions in the joint resolution. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Education and the Workforce or their respective designees. The resolution provides one motion to recommit.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of H.R. 4468 includes:

—Clause 3(d) of rule XIII, which requires the inclusion of committee cost estimate in a committee report.

Although the resolution waives all points of order against provisions in H.R. 4468, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendment printed in part A of the report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of H.R. 5933, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in H.R. 5933, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments printed in part B of the report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of H.J. Res. 88, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in H.J. Res. 88, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 173

Motion by Mrs. Houchin to report the rule. Adopted: 9–4

Majority Members	Vote	Minority Members	Vote
Mr. Burgess	Yea	Mr. McGovern	Nay
Mr. Reschenthaler	Yea	Ms. Scanlon	Nay
Mrs. Fischbach	Yea	Mr. Neguse	Nay
Mr. Massie	Yea	Ms. Leger Fernandez	Nay
Mr. Norman	Yea		
Mr. Roy	Yea		
Mrs. Houchin	Yea		
Mr. Langworthy	Yea		
Mr. Cole, Chairman	Yea		

SUMMARY OF THE AMENDMENT TO H.R. 4468 IN PART A MADE IN ORDER

1. Rodgers (WA): Clarifies the time-frame in which the bill's requirements apply. (10 minutes)

SUMMARY OF THE AMENDMENTS TO H.R. 5933 IN PART B MADE IN ORDER

1. Foxx (NC): Makes technical edits to fix citations and adjust punctuation. Clarifies language on gifts, enforcement, and the mandated GAO study. (10 minutes)

2. Carey (OH): Revises the public, searchable database under Sec. 117b (2) to remove the personally identifiable information of staff or faculty required to disclose gifts and contracts in the bill. It would require Universities to include in the database the department, School, or college of the institution for the individual who is disclosing. Allows the names of the individuals making disclosures to be requested under the Freedom of Information Act. (10 minutes)

3. Fallon (TX): Prohibits institutions that commit three violations under this Act from obtaining a waiver or a renewal of a waiver. (10 minutes)

4. Fallon (TX): Strikes 4 years on page 6, line 17 and replaces it with 5 years. Strikes 4 years on page 26, line 14, and replaces it with 5 years. (10 minutes)

5. Molinaro (NY): Includes a requirement that foreign entities disclose any ties to designated foreign terrorist organizations, which includes Hamas. (10 minutes)

6. Ogles (TN): Reduces the threshold value at which gifts must be reported from $50,000 to $1. (10 minutes)

7. Perry (PA), Ogles (TN): Adds international organizations to the definition of foreign sources for the purposes of Section 117, Disclosures of Foreign Gifts. (10 minutes)

8. Scott (VA): Strikes and replaces bill language with a Democratic Amendment in the Nature of a Substitute. (10 minutes)

PART A—TEXT OF AMENDMENT TO H.R. 4468 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE RODGERS OF WASHINGTON OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, strike lines 1 through 6, and insert the following:

"(B) Any regulation proposed or prescribed, including any revision to a regulation, under paragraph (1) on or after January 1, 2021, shall not—

PART B—TEXT OF AMENDMENTS TO H.R. 5933 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FOXX OF NORTH CAROLINA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, line 4, strike "subsection (f)(1)" and insert "section 117D(a)(1)".

Page 17, beginning on line 3, strike "identified as" and all that follows through "Code" on line 7, and insert "associated with a category listed in the Commerce Control List maintained by the Bureau of Industry and Security of the Department of Commerce and set forth in Supplement No. 1 to part 774 of title 15, Code of Federal Regulations".

Page 19, beginning on line 12, strike "point of contact of the institution described in section 117(h)" and insert "compliance officer of the institution designated in accordance with section 117(f)".

Page 27, line 10, insert "and" after the semicolon.

Page 27, line 11, strike "a plan effectively to identify" and insert "an effective plan to identify".

Page 29, line 11, insert "and" after the semicolon.

Page 29, strike "; and" and insert a period.

Page 30, beginning on line 1, strike paragraph (4).

Page 36, line 8, before the period insert the following: "and, whenever it appears that an institution has knowingly or willfully failed to comply with a requirement of any of such sections (including any rule or regulation promulgated under any such section), shall request that the Attorney General bring a civil action in accordance with paragraph (2)."

Page 49, beginning on line 1, strike subsection (c) and insert the following:

(c) GAO STUDY AND REPORT.—

(1) STUDY.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States

shall initiate a study to identify ways to improve intergovernmental agency coordination regarding implementation and enforcement of sections 117, 117A, 117B, and 117C of the Higher Education Act of 1965 (20 U.S.C. 1011f), as amended or added by this Act, including increasing information sharing, increasing compliance rates, and establishing processes for enforcement.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress, and make public, a report containing the results of the study described in paragraph (1).

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2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CAREY OF OHIO OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 26, line 8, insert "(other than the name or any other personally identifiable information of a covered individual)" after "paragraph (1)".

Page 26, line 10, insert "(other than the name or any other personally identifiable information of a covered individual)" after "paragraph (1)".

Page 27, beginning line 6, strike "name of the individual making the disclosure" and insert "the narrowest of the department, school, or college of the institution, as applicable, for which the individual making the disclosure works".

Page 27, line 22, strike the period at the end and insert "; and".

Page 27, after line 22, insert the following:

"(4) for purposes of investigations under section 117D(a)(1) or responses to requests under section 552 of title 5, United States Code (commonly known as the 'Freedom of Information Act'), the names of the individuals making disclosures under paragraph (1).".

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FALLON OF TEXAS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 44, after line 4, insert the following:

"(E) INELIGIBILTY FOR WAIVER.——In the case of an institution that has been fined pursuant to subparagraph (A)(i), (B)(i) (C)(i), or (D)(i) with respect to a calendar year, and that knowingly or willfully fails to comply with a requirement of section 117, 117A, 117B, or 117C with respect to any 2 additional calendar years, the Secretary shall prohibit the institution from obtaining a waiver, or a renewal of a waiver, under section 117A.".

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4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FALLON OF TEXAS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 6, line 17, strike "4" and insert "5".

Page 26, line 14, strike "4" and insert "5".

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5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MOLINARO OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, line 22, strike "and".
Page 9, line 3, strike the period and insert "; and".
Page 9, after line 3, insert the following new clause:

"(v) any affiliation of the foreign source to an organization that is designated as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).".

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6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE OGLES OF TENNESSEE OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 22, strike "$50,000" and insert "$1".
Page 38, beginning on line 3, strike "not less than $50,000 but".

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7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE PERRY OF PENNSYLVANIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 15, line 18, strike "and".
Page 16, line 7, strike the period and insert "; and".
Page 16, after line 7, insert the following subparagraph:

"(F) an international organization (as such term is defined in the International Organizations Immunities Act (22 U.S.C. 288)).".

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8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SCOTT OF VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike section 1 and all that follows and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "DETERRENT Act of 2023".

SEC. 2. DISCLOSURES OF FOREIGN GIFTS AND CONTRACTS.

Section 117 of the Higher Education Act of 1965 (20 U.S.C. 1011f) is amended to read as follows:

"SEC. 117. DISCLOSURES OF FOREIGN GIFTS AND CONTRACTS.

"(a) DISCLOSURE REPORTS.—

"(1) AGGREGATE GIFT AND CONTRACT DISCLOSURES.—An institution shall file a disclosure report described in subsection (b) with the Secretary not later than July 31 of the calendar year immediately following any calendar year in which—

"(A) the institution receives a gift from, or enters into a contract with, a foreign source, the value of which is $100,000 or more, considered alone or in combination with all other gifts from, or contracts with, that foreign source within the calendar year; or

"(B) the institution receives a gift from, or enters into a contract with, a foreign source, the value of which totals $250,000 or more, considered alone or in combination with all other gifts from, or contracts with, that foreign source over the previous 3 calendar years.

"(2) FOREIGN SOURCE OWNERSHIP OR CONTROL DISCLOSURES.—In the case of an institution that is substantially

owned or controlled (as described in section 668.174(c)(3) of title 34, Code of Federal Regulations (or successor regulations)) by a foreign source, the institution shall file a disclosure report described in subsection (b) with the Secretary not later than July 31 of every year.

"(b) CONTENTS OF REPORT.—Each report to the Secretary required under subsection (a) shall contain the following:

"(1)(A) In the case of gifts or contracts described in subsection (a)(1)—

"(i) for gifts received from, or contracts entered into with, a foreign government, the aggregate amount of such gifts and contracts received from or entered into with such foreign government;

"(ii) for gifts received from, or contracts entered into with, a foreign source other than a foreign government, the aggregate dollar amount of such gifts and contracts attributable to a particular country and the legal or formal name of the foreign source; and

"(iii) the intended purpose of such gift or contract, as provided to the institution by such foreign source, or if no such purpose is provided by such purpose is provided by such source, the intended use of such gift or contract, as provided by the institution.

"(B) For purposes of this paragraph, the country to which a gift is attributable is—

"(i) the country of citizenship or, if unknown, the principal residence, for a foreign source who is a natural person; or

"(ii) the country of incorporation or, if unknown, the principal place of business, for a foreign source that is a legal entity.

"(2) In the case of an institution required to file a report under subsection (a)(2)—

"(A) for gifts received from, or contracts entered into with, a foreign source, without regard to the value of such gift or contract, the information described in paragraph (1)(A);

"(B) the identity of the foreign source that owns or controls the institution;

"(C) the date on which the foreign source assumed ownership or control; and

"(D) any changes in program or structure resulting from such ownership or control.

"(3) An assurance that the institution will maintain a true copy of each gift or contract agreement subject to the disclosure requirements under this section, until the latest of—

"(A) the date that is 4 years after the date of the agreement;

"(B) the date on which the agreement terminates; or

"(C) the last day of any period of which applicable State public record law requires a true copy of such agreement to be maintained.

"(4) An assurance that the institution will—

"(A) produce true copies of gift and contract agreements subject to the disclosure requirements under this section

upon request of the Secretary during a compliance audit or other institutional investigation; and

"(B) ensure that all contracts from the foreign source are translated into English, as applicable.

"(c) ADDITIONAL DISCLOSURES FOR RESTRICTED AND CONDITIONAL GIFTS AND CONTRACTS.—Notwithstanding subsection (b), whenever any institution receives a restricted or conditional gift or contract from a foreign source, the institution shall disclose the following to the Secretary, translated into English:

"(1) For such gifts received from, or contracts entered into with, a foreign source other than a foreign government, the amount, the date, and a description of such conditions or restrictions. The report shall also disclose the country of citizenship, or if unknown, the principal residence for a foreign source which is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.

"(2) For gifts received from, or contracts entered into with, a foreign government, the amount, the date, a description of such conditions or restrictions, and the name of the foreign government.

"(d) DATABASE REQUIREMENT.—Beginning not later than 30 days before the July 31 immediately following the date of enactment of the DETERRENT Act of 2023, the Secretary shall—

"(1) establish and maintain a searchable database on a website of the Department, under which each report submitted under this section—

"(A) is, not later than 60 days after the date of the submission of such report, made publicly available (in electronic and downloadable format);

"(B) can be identified and compared to other such reports; and

"(C) is searchable and sortable by—

"(i) the date the institution filed such report;

"(ii) the date on which the institution received the gift, or entered into the contract, which is the subject of the report; and

"(iii) the attributable country of such gift or contract as described in subsection (b)(1)(B); and

"(2) indicate, as part of the public record of a report included in such database, whether the report was submitted by the institution with respect to a gift received from, or a contract entered into with—

"(A) a foreign source that is a foreign government; or

"(B) a foreign source that is not a foreign government.

"(e) RELATION TO OTHER REPORTING REQUIREMENTS.—

"(1) STATE REQUIREMENTS.—If an institution that is required to file a disclosure report under subsection (a) is in a State that has enacted requirements for public disclosure of gifts from. or contracts with, a foreign source that includes all information required under this section for the same or an equivalent time period, the institution may file with the Secretary a copy of the disclosure report filed with the State in lieu of the report required under such subsection. The State in which the institution is located shall provide the Secretary such assur-

ances as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law if the State report is filed.

"(2) USE OF OTHER FEDERAL REPORTS.—If an institution receives a gift from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the executive branch requires a report containing all the information required under this section for the same or an equivalent time period, a copy of the report may be filed with the Secretary in lieu of a report required under subsection (a).

"(f) MODIFICATION OF REPORTS.—The Secretary shall incorporate a process permitting institutions to revise and update previously filed disclosure reports under this section to ensure accuracy, compliance, and ability to cure.

"(g) SANCTIONS FOR NONCOMPLIANCE.—

"(1) IN GENERAL.—As a sanction for noncompliance with the requirements under this section, the Secretary may impose a fine on an institution that in any year knowingly or willfully violates this section, that is—

"(A) in the case of a failure to disclose a gift or contract with a foreign source as required under this section, or to comply with the requirements of subparagraphs (A) and (B) of subsection (b)(4) pursuant to the assurances made under such subsection, in an amount that is not less than $250 but not more than 50 percent of the amount of the gift or contract with the foreign source; or

"(B) in the case of any violation of the requirements of subsection (a)(2), in an amount that is not more than 25 percent of the total amount of funding received by the institution under this Act (other than funds received under title IV of this Act).

"(2) REPEATED FAILURES.—

"(A) KNOWING AND WILLFUL FAILURES.—In addition to a fine for a violation in any year under paragraph (1), the Secretary may impose a fine on an institution that knowingly or willfully violates this section for 3 consecutive years, that is—

"(i) in the case of a failure to disclose a gift or contract with a foreign source as required under this section or to comply with the requirements of subparagraphs (A) and (B) of subsection (b)(4) pursuant to the assurances made under such subsection, in an amount that is not less than $100,000 but not more than the amount of the gift or contract with the foreign source; or

"(ii) in the case of any violation of the requirements of subsection (a)(2), in an amount that is not more than 25 percent of the total amount of funding received by the institution under this Act (other than funds received under title IV of this Act).

"(B) ADMINISTRATIVE FAILURES.—The Secretary may impose a fine on an institution that fails to comply with the requirements of this section due to administrative errors for 3 consecutive years, in an amount that is not less than

$250 but not more than 50 percent of the amount of the gift or contract with the foreign source.

"(C) COMPLIANCE PLAN REQUIREMENT.—If an institution fails to file a disclosure report for a receipt of a gift from or contract with a foreign source for 2 consecutive years, the Secretary may require the institution to submit a compliance plan.

"(h) COMPLIANCE OFFICER.—Any institution that is required to report a gift or contract under this section shall designate and maintain a compliance officer who—

"(1) shall be a current employee (including such an employee with another job title or duties other than the duties described in paragraph (2)) or legally authorized agent of such institution; and

"(2) shall be responsible, on behalf of the institution, for compliance with the foreign gift reporting requirement under this section.

"(i) SINGLE POINT OF CONTACT.—The Secretary shall appoint and maintain a single point of contact to—

"(1) receive and respond to inquiries and requests for technical assistance from institutions of higher education regarding compliance with the requirements of this section; and

"(2) coordinate and implement technical improvements to the database described in subsection (d), including—

"(A) improving upload functionality by allowing for batch reporting, including by allowing institutions to upload to the database one file with all required information;

"(B) publishing and maintaining, on an annual basis, a database user guide that includes information on how to edit an entry and how to report errors;

"(C) creating a user group (to which chapter 10 of title 5, United States Code, shall not apply) to discuss possible database improvements, which shall—

"(i) include at least—

"(I) 3 members representing public institutions with high or very high levels of research activity (as defined by the National Center for Education Statistics);

"(II) 2 members representing private, nonprofit institutions with high or very high levels of research activity (as so defined);

"(III) 2 members representing proprietary institutions of higher education (as defined in section 102(b)); and

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

"(ii) meet at least twice a year with officials from the Department to discuss possible database improvements; and

"(D) publishing, on a publicly available website—

"(i) following each meeting described in subparagraph (C)(ii), recommended database improvements; and

"(ii) with respect to each recommended improvement described in clause (i)—

"(I) the decision of the Department as to whether such recommended improvement will be implemented; and

"(II) the rationale for such decision.

"(j) TREATMENT OF CERTAIN PAYMENTS AND GIFTS.—

"(1) EXCLUSIONS.—The following shall not be considered a gift from, or contract with, a foreign source under this section:

"(A) Any payment of one or more elements of a student's cost of attendance (as defined in section 472) to an institution by, or scholarship from, a foreign source who is a natural person, acting in their individual capacity and not as an agent for, at the request or direction of, or on behalf of, any person or entity (except the student), made on behalf of students that is not made under contract with such foreign source, except for the agreement between the institution and such student covering one or more elements of such student's cost of attendance.

"(B) Assignment or license of registered industrial and intellectual property rights, such as patents, utility models, trademarks, or copy-rights, or technical assistance, that are not identified as being associated with a national security risk or concern.

"(C) Any payment from a foreign source that is solely for the purpose of conducting one or more clinical trials.

"(2) INCLUSIONS.—Any gift to, or contract with, an entity or organization, such as a research foundation, that operates substantially for the benefit or under the auspices of an institution shall be considered a gift to, or contract with, such institution.

"(k) DEFINITIONS.—In this section—

"(1) the term 'clinical trial' means a research study in which one or more human subjects are prospectively assigned to one or more interventions to evaluate the effects of those interventions on health-related biomedical or behavioral outcomes;

"(2) the term 'contract'—

"(A) means any—

"(i) agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties, except as provided in subparagraph (B); or

"(ii) affiliation, agreement, or similar transaction with a foreign source that is based on the use or exchange of an institution's name, likeness, time, services, or resources, except as provided in subparagraph (B); and

"(B) does not include any agreement made by an institution located in the United States for the acquisition, by purchase, lease, or barter, of property or services from a foreign source;

"(3) the term 'foreign source' means—

"(A) a foreign government, including an agency of a foreign government;

"(B) a legal entity, governmental or otherwise, created under the laws of a foreign state or states;

"(C) an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and

"(D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

"(4) the term 'gift'—

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

"(B) does not include anything described in section 487(e)(2)(B)(ii);

"(5) the term 'institution' means an institution of higher education, as defined in section 102, or, if a multicampus institution, any single campus of such institution, in any State; and

"(6) the term 'restricted or conditional gift or contract' means any endowment, gift, grant, contract, award, present, or property of any kind that includes provisions regarding—

"(A) the employment, assignment, or termination of faculty;

"(B) the establishment of departments, centers, institutes, instructional programs, research or lecture programs, or faculty positions;

"(C) the selection or admission of students; or

"(D) the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.".

SEC. 3. REGULATIONS.

(a) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Education shall begin the negotiated rulemaking process under section 492 of the Higher Education Act of 1965 (20 U.S.C. 1098a) to carry out the amendment made by section 2.

(b) ISSUES.—Regulations issued pursuant to subsection (a) to carry out the amendment made by section 2 shall, at a minimum, address the following issues:

(1) Instructions on reporting structured gifts and contracts.

(2) The inclusion in institutional reports of gifts received from, and contracts entered into with, foreign sources by entities and organizations, such as research foundations, that operate substantially for the benefit or under the auspices of the institution.

(3) Procedures to protect confidential or proprietary information included in gifts and contracts.

(4) The alignment of such regulations with the reporting and disclosure of foreign gifts or contracts required by Federal agencies other than the Department of Education, including with respect to—

(A) the CHIPS Act of 2022 (Division A of Public Law 117–167; 15 U.S.C. 4651 note);

(B) the Research and Development, Competition, and Innovation Act (Division B of Public Law 117–167; 42 U.S.C. 18901 note); and

(C) any guidance released by the White House Office of Science and Technology Policy, including the Guidance for Implementing National Security Presidential Memorandum 33 (NSPM–33) on National Security Strategy for United States Government-supported Research and Development published by the Subcommittee on Research Security and the Joint Committee on the Research Environment in January 2022.

(5) The treatment of foreign gifts or contracts involving research or technologies identified as being associated with a national security risk or concern.

(c) EFFECTIVE DATE.—The amendment made by section 2 shall take effect on the date on which the regulations issued under subsection (a) take effect.

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