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S. 1879

To call on the Secretary of Homeland Security to lead a task force to address the threat of foreign government influence and threats to academic research integrity on college campuses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2019

Mr. HAWLEY introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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A BILL

To call on the Secretary of Homeland Security to lead a task force to address the threat of foreign government influence and threats to academic research integrity on college campuses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protect Our Universities Act of 2019''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The United States enjoys one of the most vibrant and open education systems in the world. The free flow of ideas has led to the development of innovative technologies and new modes of thinking. The openness of the system also puts it at risk. Adversaries of the United States take advantage of access to federally funded sensitive research that takes place on the campuses of institutions of higher education.

(2) According to Alex Joske of the Australian Strategic Policy Institute, there are thousands of scientists with links to China's People's Liberation Army who have traveled to American universities over the last several years. In his report, Joske described the Chinese military's tactic as ''picking flowers in foreign lands to make honey in China''.

(3) As stated in the January 2018 China's Technology Transfer Strategy report by the Defense Innovation Unit, ''Academia is an opportune environment for learning about science and technology since the cultural values of U.S. educational institutions reflect an open and free exchange of ideas. As a result, Chinese science and engineering students frequently master technologies that later become critical to key military systems, amounting over time

to unintentional violations of U.S. export control laws.''.

(4) In Federal Bureau of Investigation (FBI) Director Wray's view, Chinese nontraditional intelligence collectors ''are exploiting the very open research and development environment that we have, which we all revere. But they're taking advantage of it, so one of the things we're trying to do is view the China threat as not just the whole-of-government threat, but a whole-of-society threat on their end, and I think it's going to take a whole-of-society response by us.''.

(5) Russia has also attempted to exploit the openness of our university system for intelligence purposes. In 2012, for instance, the Russian Foreign Intelligence Service (SVR) tasked an undercover officer at Columbia University with recruiting classmates or professors who might have access to sensitive information.

(6) Iran poses a similar threat. In 2012, President Barack Obama signed into law the Iran Threat Reduction and Syria Human Rights Act of 2012 (Public Law 112–158), which prohibited issuance of a student visa to any Iranian who wished to pursue coursework in preparation for a career in the Ira-

nian energy, nuclear science, or nuclear engineering sectors, or related fields.

(7) The United States recognizes the great value of appropriate openness and the security need of striking a balance with asset protection.

(8) However, technology and information that could be deemed sensitive to the national security interests of the United States should be given increased scrutiny to determine if access should be restricted in a research environment.

(9) An open federally funded research environment exposes the United States to the possibility of exchanging research affiliated with current or future critical military technological systems.

(10) This Act preserves the openness of America's higher education system, while preventing adversaries from exploiting that very system in furtherance of their own repressive agendas.

SEC. 3. TASK FORCE AND SENSITIVE RESEARCH PROJECT DESIGNATION.

(a) TASK FORCE ESTABLISHED.—Not later than one year after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, shall establish the National Security Technology Task Force

(hereinafter referred to as the ''Task Force'') to address the threat of espionage, targeting research and development at institutions of higher education that is funded in part or whole by any member agency of the Task Force.

(b) MEMBERSHIP.—

(1) DESIGNATION.—

(A) PARTICIPATION.—The Task Force shall include not more than 30 members as follows:

(i) At least 1 representative shall be from the Department of Homeland Security, designated by the Secretary of Homeland Security.

(ii) The Secretary of Homeland Security shall coordinate with the following in order to secure their participation on the Task Force:

(I) The Director of National Intelligence for at least 1 representative from the intelligence community.

(II) The United States Attorney General for at least 1 representative from the Department of Justice.

(III) The Director of the Federal Bureau of Investigation for at least 1

representative from the Federal Bureau of Investigation.

(IV) The Secretary of Energy for at least 1 representative from the Department of Energy.

(V) The Secretary of Education for at least 1 representative from each of the following offices of the Department of Education:

(aa) The Office of Postsecondary Education.

(bb) The Office of the General Counsel.

(cc) Any other office the Secretary of Homeland Security determines to be appropriate.

(VI) The Secretary of State for at least 1 representative from the Department of State.

(VII) The Secretary of Defense for at least 1 representative from the Department of Defense.

(VIII) The Director of the National Institutes of Health for at least

1 representative from the National In-
2 stitutes of Health.
3 (IX) The Director of the Office
4 of Science and Technology Policy.
5 (B) EQUAL REPRESENTATION.—Each
6 agency represented on the Task Force shall
7 maintain equal representation with the other
8 agencies on the Task Force.
9 (2) MEMBERSHIP LIST.—Not later than 10
10 days after the first meeting of the Task Force, the
11 Task Force shall submit to Congress a list identi-
12 fying each member agency of the Task Force.
13 (c) SENSITIVE RESEARCH TOPICS LIST.—The Task
14 Force shall maintain a list of topics determined sensitive
15 by one or more Task Force member agencies. Such list
16 shall be referred to as the ''Sensitive Research Topics
17 List'' and be populated and maintained in accordance with
18 the following:
19 (1) Not later than 90 days after the date of en-
20 actment of this Act, each Task Force member agen-
21 cy shall generate an initial list of research topics de-
22 termined sensitive for national security reasons and
23 submit such list to the Office of the Director of Na-
24 tional Intelligence.

(2) Each Task Force member agency shall update their respective list of sensitive research topics on a 6-month basis and submit changes to the Office of the Director of National Intelligence.

(3) Task Force member agency inputs described in paragraphs (1) and (2) shall be added to—

(A) any item listed on the Commerce Control List (CCL) maintained by the Department of Commerce; and

(B) any item listed on the United States Munitions List maintained by the Department of State.

(4) Not later than 90 days after receipt of Task Force member agency inputs described in paragraphs (1) and (2), the Office of the Director of National Intelligence shall compile the inputs and issue the first Sensitive Research Topics List to all Task Force member agencies. Thereafter, the Office of Directory of National Intelligence shall maintain an updated list of the research topics based on Task Force member agency inputs and any changes to the Commerce Control List and the United States Munitions List, and ensure an updated version of the

Sensitive Research Topic Lists is available to all of the Task Force member agencies.

(d) SENSITIVE RESEARCH PROJECTS LIST.—The Task Force shall maintain a list of projects funded by Task Force member agencies and addressing sensitive research topics. Such list shall be referred to as the ''Sensitive Research Projects List'' and be populated and maintained in accordance with the following:

(1) Not later than 90 days after the first issuance of the Sensitive Research Topics List, each Task Force member agency shall identify any ongoing or scheduled projects that—

(A) receive or are scheduled to receive funding from said agency;

(B) involve personnel from an institution of higher education; and

(C) address one or more topics found on the Sensitive Research Topics List.

(2) The Task Force shall collect the following information relevant to each project identified in paragraph (1):

(A) The Task Force member agency that is funding the project.

(B) Which topic on the Sensitive Research Topics List is addressed by the project.

(C) Contact information for the principal investigator on the project.

(3) The Task Force shall submit the Sensitive Research Projects List, with the required information, to the Office of the Director of National Intelligence, who shall maintain the Sensitive Research Projects List.

(4) The Sensitive Research Projects List shall be updated in response to any changes to the Sensitive Research Topics List, and—

(A) the Office of the Director of National Intelligence shall issue notification to all Task Force member agencies of any changes to the Sensitive Research Topics List resulting from updated inputs from Task Force member agencies or the Commerce Control Lists or United States Munitions List; and

(B) each Task Force member agency shall—

(i) reinitiate the process detailed in paragraph (1); and

(ii) provide an updated list of agency-funded sensitive research projects to the Office of the Director of National Intelligence.

(e) CONSULTATION WITH OIG.—The Task Force shall periodically, but not less frequently than annually, consult with the Office of the Inspector General of the Department of Homeland Security, which shall include annual reports to the Office of the Inspector General on the activities of the Task Force, with an opportunity for the Office of the Inspector General to provide active feedback related to such activities.

(f) INSTRUCTION TO INSTITUTIONS OF HIGHER EDUCATION.—Not less frequently than annually, the Task Force shall provide relevant instruction to institutions of higher education at which research projects on the Sensitive Research Projects List are being carried out. Such instruction shall provide the institutions of higher education with information related to the threat posed by espionage, best practices identified by the Task Force, and, to the extent possible, any specific risks that the intelligence community, the qualified funding agency, or law enforcement entities determine appropriate to share with the institutions.

(g) REPORT TO CONGRESS.—Not later than one year after the date of enactment of this Act, and every 6 months thereafter, the Task Force shall provide a report to the Committee on Homeland Security and Governmental Affairs, the Committee on Health, Education,

Labor, and Pensions, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate and to the Committee on Homeland Security, the Committee on Education and Labor, the Committee on Armed Services, and the Permanent Select Committee on Intelligence of the House of Representatives, regarding the threat of espionage at institutions of higher education. In each such briefing, the Task Force shall identify actions that may be taken to reduce espionage carried out through student participation in sensitive research projects. The Task Force shall also include in this report an assessment of whether the current licensing regulations relating to the International Traffic in Arms Regulations and the Export Administration Regulations are sufficient to protect the security of the projects listed on the Sensitive Research Projects List.

SEC. 4. FOREIGN STUDENT PARTICIPATION IN SENSITIVE RESEARCH PROJECTS.

(a) APPROVAL OF FOREIGN STUDENT PARTICIPATION REQUIRED.—

(1) IN GENERAL.—Beginning on the date that is one year after the date of enactment of this Act, for each project on the Sensitive Research Projects List that is open to student participation, the head

of such project at the institution of higher education at which the project is being carried out shall—

(A) obtain proof of citizenship from any student participating or expected to participate in such project before the student is permitted to participate in such project; and

(B) for any student who is a citizen of a country identified in subsection (b), submit the required information, to be defined in coordination with the office designated by the Task Force to perform the background screening, to their grantmaking agency, who shall transmit that information in a standardized format, to be stipulated in coordination with the office designated by the Task Force to perform the background screening, to the office designated by the Task Force to perform the background screening.

(2) BACKGROUND SCREENING.—An office designated by the Task Force shall perform a background screening of a student described in paragraph (1) and approve or deny the student's participation in the relevant project within 90 days of initial receipt of the information described in paragraph (1)(B), and—

(A) the scope of any such screening shall be determined by the designated office in consultation with the Task Force, with reference to the specific project and the requirements of the grantmaking agency;

(B) the Secretary of Homeland Security, as head of the Task Force, shall retain authority to delay approval or denial of a student's participation in a sensitive research project in 30-day increments, as needed in coordination with Task Force member agencies; and

(C) institutions of higher education shall maintain the right to petition findings and contest the outcome of a screening.

(b) LIST OF CITIZENSHIP REQUIRING APPROVAL.—Approval under subsection (a) shall be required for any student who is a citizen of a country that is one of the following:

(1) The People's Republic of China.

(2) The Russian Federation.

(3) The Islamic Republic of Iran.

SEC. 5. FOREIGN ENTITIES.

(a) LIST OF FOREIGN ENTITIES THAT POSE AN INTELLIGENCE THREAT.—Not later than one year after the date of the enactment of this Act, the Secretary of Home-

land Security shall coordinate with the Director of National Intelligence to identify foreign entities, including governments, corporations, nonprofit and for-profit organizations, and any subsidiary or affiliate of such an entity, that the Director determines pose a threat of espionage with respect to sensitive research projects, and shall develop and maintain a list of such entities. The Director may add or remove entities from such list at any time. The initial list developed by the Director shall include the following entities (including any subsidiary or affiliate):

(1) Huawei Technologies Company.

(2) ZTE Corporation.

(3) Hytera Communications Corporation.

(4) Hangzhou Hikvision Digital Technology Company.

(5) Dahua Technology Company.

(6) Kaspersky Lab.

(7) Any entity that is owned or controlled by, or otherwise has demonstrated financial ties to, the government of a country identified under section 4(b).

(b) NOTICE TO INSTITUTIONS OF HIGHER EDUCATION.—The Secretary of Homeland Security shall make the initial list required under subsection (a) in coordination with the Director of National Intelligence, and any

changes to such list, available to the Task Force and the head of each qualified funding agency as soon as practicable. The Secretary of Homeland Security shall provide such initial list and subsequent amendments to each institution of higher education at which a project on the Sensitive Research Projects List is being carried out.

(c) PROHIBITION ON USE OF CERTAIN TECHNOLOGIES.—Beginning on the date that is one year after the date of the enactment of this Act, the head of each sensitive research project shall, as a condition of receipt of funds from the Department of Homeland Security, certify to the Secretary of Homeland Security, beginning on the date that is 2 years after the date of the enactment of this Act, any technology developed by an entity included on the list maintained under subsection (a) shall not be utilized in carrying out the sensitive research project.

SEC. 6. ENFORCEMENT.

The Secretary of Homeland Security shall take such steps as may be necessary to enforce the provisions of sections 4 and 5 of this Act. Upon determination that the head of a sensitive research project has failed to meet the requirements of either section 4 or section 5, the Secretary of Homeland Security may determine the appropriate enforcement action, including—

(1) imposing a probationary period, not to exceed 6 months, on the head of such project, or on the project;

(2) reducing or otherwise limiting the funding for such project until the violation has been remedied;

(3) permanently cancelling the funding for such project; or

(4) any other action the head of the qualified funding agency determines to be appropriate.

SEC. 7. DEFINITIONS.

In this Act:

(1) CITIZEN OF A COUNTRY.—The term ''citizen of a country,'' with respect to a student, includes all countries in which the student has held or holds citizenship or holds permanent residency.

(2) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' means an institution described in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002) that receives Federal funds in any amount and for any purpose.

(3) INTELLIGENCE COMMUNITY.—The term ''intelligence community'' has the meaning given

that term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

(4) QUALIFIED FUNDING AGENCY.—The term ''qualified funding agency'', with respect to a sensitive research project, means—

(A) the Department of Defense, if the sensitive research project is funded in whole or in part by the Department of Defense;

(B) the Department of Energy, if the sensitive research project is funded in whole or in part by the Department of Energy; or

(C) an element of the intelligence community, if the sensitive research project is funded in whole or in part by the element of the intelligence community.

(5) SENSITIVE RESEARCH PROJECT.—The term ''sensitive research project'' means a research project at an institution of higher education that is funded by a Task Force member agency, except that such term shall not include any research project that is classified or that requires the participants in such project to obtain a security clearance.

(6) STUDENT PARTICIPATION.—The term ''student participation'' means any student activity of a

student with access to sensitive research project-specific information for any reason.

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