

118TH CONGRESS
1ST SESSION

H. R. 1438

To require certain nonprofit and not-for-profit social welfare organizations to submit disclosure reports on foreign funding to the Attorney General; and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2023

Mr. BERGMAN introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To require certain nonprofit and not-for-profit social welfare organizations to submit disclosure reports on foreign funding to the Attorney General; 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 “Think Tank Trans-
5 parency Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Think tanks have provided Congress and
9 the Administration with a wealth of research and

1 scholarship that largely has benefitted the American
2 public by improving the drafting, enactment, and en-
3 forcement of U.S. policy.

4 (2) There is broad bipartisan agreement that
5 think tanks possess enormous influence on the pas-
6 sage and enforcement of policies, particularly those
7 that relate to foreign policy.

8 (3) In recent years, foreign funding of think
9 tanks has increased substantially.

10 (4) Congress, the Administration, and especially
11 the American people have a right to know which
12 think tanks receive foreign funds and to assess for
13 themselves the extent that foreign influence should
14 be considered when analyzing the credibility and
15 value of research and scholarship produced by such
16 organizations that receive foreign funds.

17 (5) The House has already recognized the na-
18 tional security issues inherent in undue foreign in-
19 fluence of entities with covert sources of foreign
20 funding who testify before Congress. Since 2015, in-
21 dividuals who testify before the U.S. House of Rep-
22 resentatives have been required to disclose relevant
23 foreign funding sources directed to them or their
24 employers in Truth in Testimony disclosure forms.

1 (The original looser requirement was enacted in
2 1997).

3 (6) Over 30 years ago, Congress enacted section
4 117 of the Higher Education Act of 1965 (HEA) in
5 light of concerns about the growing financial rela-
6 tionship between U.S. universities and foreign
7 sources. Congress balanced academic freedom and
8 national security by mandating financial trans-
9 parency through required reporting of contracts with
10 and gifts from a foreign source.

11 (7) Section 117 does not prohibit institutions
12 from taking foreign money; it mandates accurate
13 and transparent disclosures of sources and amounts
14 to the Department of Education. In 2019, the De-
15 partment took concrete steps to enforce section 117
16 by ensuring the integrity of reporting requirements,
17 confirming the correct reporting and categorization
18 of donations, and prohibiting the use of domestic
19 conduits and intermediaries to avoid the disclosures
20 of foreign gifts.

21 (8) Between 2011 and 2021, Russia has given
22 at least \$160 million to U.S. universities. China
23 alone has given at least \$2.7 billion during the same
24 time frame. And during that span, the State of

1 Qatar has given at least \$5 billion to U.S. univer-
2 sities.

3 (9) Each of these nations has a repressive and
4 deeply troubling record on human rights, and all
5 three have engaged in cyber espionage targeting
6 Americans.

7 (10) Russia, China, and Qatar all pose grave
8 threats to U.S. national security interests, yet they
9 have successfully lavished billions of dollars to cul-
10 tivate strong ties with institutions of higher edu-
11 cation and research across the United States.

12 (11) There is also evidence suggesting that
13 Qatar encouraged and potentially facilitated U.S.
14 universities receiving its largess to flout U.S. disclo-
15 sure requirements under section 117 of the Higher
16 Education Act.

17 (12) Although the Center for International Pol-
18 icy conducted a study in 2020 that concluded that
19 think tanks focused on Federal policy received at
20 least \$174 million in funding from foreign govern-
21 mental entities between 2014 and 2018, there is cur-
22 rently no means to determine the actual level or ex-
23 tent of foreign influence on such think tanks.

24 (13) While the exact amount of foreign funding
25 that U.S. based think tanks receive is unknown, it

1 is clear that the foreign sources would not provide
2 that level of funding unless it impacted think tanks'
3 policy recommendations.

4 (14) One prominent think tank, the East West
5 Institute, received substantial funding from China's
6 People's Liberation Army, which conducts cyber es-
7 pionage attacks, including against Americans. After
8 the East West Institute was dissolved in 2021, the
9 Stimson Center took over several of the think tank's
10 key programs involving China.

11 (15) The Stimson Center worked to signifi-
12 cantly alter the Homeland and Cyber Threat Act
13 (H.R. 1607, introduced into the 117th Congress on
14 March 8, 2021). The HACT Act, which would pro-
15 vide an exception to the Foreign Sovereign Immuni-
16 ties Act of 1976 (FSIA) to allow U.S. persons
17 harmed by foreign-government sponsored
18 cyberattacks to bring civil claims for damages,
19 passed in the last Congress with broad bipartisan
20 support. The changes advocated by the Stimson
21 Center would gut the bill and render it completely
22 ineffective in holding foreign nations and their
23 agents responsible for cyberattacks on and in the
24 United States.

1 (16) One of the main sources of the Stimson
2 Center’s funding is the State of Qatar, a major
3 sponsor of terrorism worldwide and one of the most
4 notorious sponsors of cyberattacks against U.S. enti-
5 ties. In 2019 alone, the Stimson Center took over
6 \$600,000 in contributions from the Government of
7 Qatar.

8 (17) The Brookings Institution has received at
9 least \$22 million from the State of Qatar from 2013
10 through 2021, but the exact amount has not been
11 disclosed publicly.

12 (18) There is also significant concern in Con-
13 gress about potential contractual stipulations tied to
14 foreign funding that could be leveraged by foreign
15 powers to exert even greater influence over the re-
16 search and policy recommendations of think tanks
17 that the Federal Government and the American pub-
18 lic would otherwise believe to be independent.

19 (19) In a 2007 “Establishment Agreement” be-
20 tween the Brookings Institution and Qatar’s Min-
21 istry of Foreign Affairs—which appears to have
22 been in place in its original form through the end of
23 2021—the Doha “branch” of the Brookings Institu-
24 tion, called Brookings Doha Center, was effectively
25 owned and controlled by the Emir of Qatar. Under

1 the terms of the contract, the Brookings Institu-
2 tion’s role in the Doha Center was limited to that
3 of a “Promoter”.

4 (20) As only revealed publicly in June 2022,
5 the Brookings Doha Center was a separate and dis-
6 tinct legal entity, specifically a Private Foundation
7 for the Public Benefit, the same incorporation status
8 as the State of Qatar’s propaganda arm, Al Jazeera.

9 (21) Pursuant to the 2007 Establishment
10 Agreement, the Director of the Brookings Doha
11 Center was required to report directly to Qatar’s
12 Ministry of Foreign Affairs, including to “engage in
13 regular consultation . . . regarding the development
14 and ongoing operations” and for prior approval of
15 “programs that will be developed by the [Brookings
16 Doha] Center”.

17 (22) The Brookings Doha Center was renamed
18 the Middle East Council on Global Affairs, and evi-
19 dence indicates that it is now entirely under the con-
20 trol of the Qatari Government. According to a Janu-
21 ary 2022 “Amendment” to the 2007 Articles of In-
22 corporation, the Brookings Institution ceded the
23 “Promoter” role for Brookings Doha Center to a
24 senior employee of Qatar’s Ministry of Foreign Af-
25 fairs, Majed Al-Ansari. This Amendment also called

1 on the Middle East Council to assume control of in-
2 tellectual property rights that had been under the
3 “Brookings” brand, including the content from and
4 followers of the “@BrookingsDoha” Twitter ac-
5 count.

6 (23) Congress currently is unable to determine
7 what other agreements that the Brookings Institu-
8 tion or other influential think tanks have with for-
9 eign governmental entities, a void which has already
10 been exploited by at least the State of Qatar in ob-
11 taining prior approval of budgets and research
12 projects conducted under the branding of the Brook-
13 ings Institution and the Brookings Doha Center in
14 the aforementioned 2007 contract, or the trans-
15 ference of valuable intellectual property to the
16 Qatari Government pursuant to the 2022 amend-
17 ment.

18 (24) There is broad bipartisan agreement that
19 undue foreign influence obscured through the use of
20 proxies—or hidden by the powerful brand of a highly
21 respected think tank—threatens the national secu-
22 rity interests of the United States. There is also
23 broad agreement that transparency is the most im-
24 portant and effective tool for reducing the harm of

1 foreign influence targeting U.S. public policy or pub-
2 lic opinion.

3 (25) As such, this bill aims to provide critical
4 transparency regarding the foreign funding provided
5 to and the related contractual agreements with think
6 tanks whose work includes influencing U.S. policies
7 or public opinion.

8 **SEC. 3. CONTEMPORANEOUS DISCLOSURE REPORTS.**

9 (a) REPORTING CONDITIONS.—

10 (1) GIFTS, DONATIONS, OR CONTRIBUTIONS.—

11 (A) IN GENERAL.—Except as provided in
12 section 6, a covered entity that receives a gift,
13 donation, or contribution from a foreign prin-
14 cipal during a calendar year in an aggregate
15 amount of \$10,000 or greater shall file a disclo-
16 sure report with the Attorney General in ac-
17 cordance with subsection (b) not later than 90
18 days after each disclosure date.

19 (B) DISCLOSURE DATE DEFINED.—In this
20 paragraph, the term “disclosure date” means—

21 (i) the first date during any calendar
22 year by which a covered entity has received
23 a gift, donation, or contribution from a
24 foreign principal in an aggregate amount
25 of \$10,000 or greater; and

1 (ii) any other date during such cal-
2 endar year by which a covered entity has
3 received a gift, donation, or contribution
4 from a foreign principal in an aggregate
5 amount of \$10,000 or greater since the
6 most recent disclosure date for such cal-
7 endar year.

8 (2) CONTRACT, MEMORANDUM OF UNDER-
9 STANDING, OR AGREEMENT.—Except as provided in
10 section 6, a covered entity that enters into or modi-
11 fies a contract, memorandum of understanding, or
12 agreement with a foreign principal shall file a dislo-
13 sure report with the Attorney General in accordance
14 with subsection (b) within 90 days of the formation
15 or modification of such contract, memorandum, or
16 agreement.

17 (b) CONTENTS OF CONTEMPORANEOUS DISCLOSURE
18 REPORT.—

19 (1) GIFTS, DONATIONS, OR CONTRIBUTIONS
20 ONLY.—The report required under subsection (a)(1)
21 shall detail the following:

22 (A) The identities of the foreign principal
23 and the primary point of contact of the foreign
24 principal for engaging with the covered entity,

1 including the name and title of such point of
2 contact.

3 (B) The date on which the foreign prin-
4 cipal provided a gift, donation, or contribution
5 to the covered entity.

6 (C) The aggregate dollar amount of such
7 gift, donation, or contribution attributable to a
8 particular foreign principal.

9 (D) A description of any conditions or re-
10 strictions regarding any of the disclosed gifts,
11 donations, or contributions.

12 (E) The aggregate amount of such gifts,
13 donations, or contributions received from each
14 foreign principal.

15 (F) A description of any decisions made
16 because of the foreign principal to the structure
17 of the organization or to the research, pro-
18 grams, or content intended to be or actually
19 published, disseminated, or promoted by the
20 covered entity.

21 (2) CONTRACT, MEMORANDUM OF UNDER-
22 STANDING, OR AGREEMENT ONLY.—The report re-
23 quired under subsection (a)(2) shall detail the fol-
24 lowing:

1 (A) The identities of the foreign principal
2 and the primary point of contact of the foreign
3 principal for engaging with the covered entity,
4 including the name and title of such point of
5 contact.

6 (B) The date on which the covered entity
7 entered into or modified a contract, memo-
8 randum of understanding, or agreement with a
9 foreign principal.

10 (C) Copies of all written contracts, agree-
11 ments, or memoranda of understanding the cov-
12 ered entity entered into or modified with any
13 foreign principal.

14 (D) Copies of all internal and external doc-
15 uments, research materials and publications
16 produced as a result of the contract, memo-
17 randum of understanding, or agreement.

18 (E) A description of any decisions made
19 because of the foreign principal to the structure
20 of the organization or to the research, pro-
21 grams, or content intended to be or actually
22 published, disseminated, or promoted by the
23 covered entity.

1 **SEC. 4. INITIAL DISCLOSURE REPORTS.**

2 (a) IN GENERAL.—A covered entity shall file an ini-
3 tial disclosure report, in accordance with subsections (b)
4 or (c), with the Attorney General within 180 days of the
5 date of enactment of this Act if, during the period begin-
6 ning on January 1st of the most recent calendar year
7 which ended before the date of enactment of this Act and
8 ending on the effective date of this Act—

9 (1) such covered entity received a gift, dona-
10 tion, or contribution from a foreign principal in an
11 aggregate amount of \$10,000 or greater;

12 (2) such covered entity entered into or modified
13 a contract, memorandum of understanding, or agree-
14 ment with a foreign principal; or

15 (3) such covered entity had previously entered
16 into a contract, agreement or memorandum of un-
17 derstanding with a foreign principal that was still
18 valid or enforceable on or after January 1 of the
19 most recent calendar year which ended before the
20 date of enactment of this Act.

21 (b) PRIOR GIFTS, DONATIONS, OR CONTRIBU-
22 TIONS.—The report required under subsection (a)(1) shall
23 detail the following:

24 (1) The name of the foreign principal.

25 (2) The country of citizenship of the foreign
26 principal.

1 (3) The amount and date of such gifts, dona-
2 tions, or contributions.

3 (4) The description of any conditions or restric-
4 tions attached to, or placed on, the gifts, donations,
5 or contributions.

6 (5) A description of any decisions made because
7 of the foreign principal to the structure of the orga-
8 nization or to the research, programs, or content in-
9 tended to be or actually published, disseminated, or
10 promoted by the covered entity.

11 (c) CONTRACT, MEMORANDUM OF UNDERSTANDING,
12 OR AGREEMENT.—The report required under subsection
13 (a)(2) shall detail the following:

14 (1) The name of the foreign principal.

15 (2) The country of citizenship of the foreign
16 principal.

17 (3) Copies of each written contract, memo-
18 randum of understanding, or agreement.

19 (4) Any modification of each such written con-
20 tract, memorandum, or agreement.

21 (5) The terms and conditions of each oral
22 agreement.

23 (6) Any modification of each such oral agree-
24 ment.

25 (7) A comprehensive statement of—

1 (A) the nature and method of performance
2 of each item described in paragraphs (3)
3 through (6); and

4 (B) the actions taken by the covered entity
5 at the request or suggestion of each such for-
6 eign principal.

7 (8) A description of any decisions made because
8 of the foreign principal to the structure of the orga-
9 nization or to the research, programs, or content in-
10 tended to be or actually published, disseminated, or
11 promoted by the covered entity.

12 **SEC. 5. BRIEFINGS, TESTIMONY, OR SIMILAR FORMS OF**
13 **PRESENTATION OF RESEARCH.**

14 (a) LABELING OF WRITTEN MATERIALS.—If a cov-
15 ered entity provides a briefing, testimony, or similar form
16 of presentation of research to a member or employee of
17 Congress or an executive branch official, such covered en-
18 tity shall identify prominently on any written materials the
19 name of the relevant foreign principal and the country of
20 citizenship, if the foreign principal is not a government,
21 who provided funding for such briefing, testimony, or simi-
22 lar form of presentation of research.

23 (b) ADDENDUM TO BRIEFING, TESTIMONY, PRESEN-
24 TATION.—In the event that no written materials are pro-
25 vided, the covered entity shall convey the information re-

1 quired under subsection (a) in writing to the member or
2 employee of Congress or executive branch official before
3 or within 10 days after the briefing, testimony, or presen-
4 tation.

5 **SEC. 6. RELATION TO OTHER REPORTING REQUIREMENTS.**

6 (a) STATE REPORTS.—

7 (1) REQUIREMENTS OF A COVERED ENTITY.—

8 If a covered entity is within a State which has en-
9 acted requirements for public disclosure of gifts, do-
10 nations, or contributions from or contracts or agree-
11 ments with a foreign principal that are substantially
12 similar to the requirements of this Act, a copy of the
13 disclosure report filed with the State may be filed
14 with the Attorney General in lieu of a report re-
15 quired under this Act.

16 (2) REQUIREMENTS OF THE STATE.—The State
17 in which the covered entity is located shall provide
18 to the Attorney General such assurances as the At-
19 torney General may require to establish that the cov-
20 ered entity has met the requirements for public dis-
21 closure under State law if the State report is filed.

22 (b) FEDERAL REPORTS.—If a covered entity receives
23 a gift, donation, or contribution from, or enters into a con-
24 tract or agreement with, a foreign principal, if any other
25 department, agency, or bureau of the executive branch re-

1 quires a report containing requirements substantially simi-
2 lar to those required under this section, a copy of the re-
3 port may be filed with the Attorney General in lieu of a
4 report required under this Act.

5 **SEC. 7. ADMINISTRATION AND ENFORCEMENT.**

6 (a) BOOKS AND RECORDS.—

7 (1) RETENTION PERIOD.—For a period of not
8 less than 5 years, a covered entity shall retain the
9 necessary materials required to comply with the re-
10 quirements of this Act, including books of account,
11 all communications with the foreign principal, and
12 other records regarding its activities related to any
13 contracts, memorandum of understandings, or agree-
14 ments with or gifts, donations, or contributions from
15 a foreign principal.

16 (2) INSPECTION.—

17 (A) ATTORNEY GENERAL.—Upon request
18 of the Attorney General, each covered entity
19 shall furnish to the Attorney General all infor-
20 mation and records in its possession which the
21 Attorney General may determine to be nec-
22 essary to comply with the requirements under
23 this Act.

24 (B) CONGRESS.—Upon request of Con-
25 gress or a committee of Congress, a covered en-

1 tity shall furnish to Congress or the committee
2 such information and records as Congress or
3 the committee may request to determine the ex-
4 tent to which the covered entity is in compli-
5 ance with the requirements of this Act.

6 (3) PUBLICATION.—Any information or records
7 furnished pursuant to paragraph (2)(A) shall be
8 made available in the database required under sub-
9 section (a).

10 (4) PROHIBITION.—It shall be unlawful for any
11 person willfully to conceal, destroy, obliterate, muti-
12 late, or falsify, or to attempt to conceal, destroy, ob-
13 literate, mutilate, or falsify, or to cause to be con-
14 cealed, destroyed, obliterated, mutilated, or falsified,
15 any books or records required to be kept under the
16 provisions of this section.

17 (b) PUBLICATION.—All disclosure reports required by
18 this Act shall be made available to the public through a
19 database maintained on the official website of the Depart-
20 ment of Justice.

21 (c) CIVIL MONETARY PENALTY.—Any covered entity
22 that fails to comply with the requirements of this Act, in-
23 cluding any rule or regulation promulgated thereunder,
24 shall be subject, in addition to any other penalties that
25 may be prescribed by law, to a civil money penalty of no

1 less than \$1,000 for each day of the failure described by
2 this Act.

3 (d) CIVIL ACTION.—

4 (1) COURT ORDERS.—Whenever it appears that
5 a covered entity has failed to comply with the re-
6 quirements of this Act, including any rule or regula-
7 tion promulgated under this Act, a civil action may
8 be brought by the Attorney General in an appro-
9 priate district court of the United States, or the ap-
10 propriate United States court of any territory or
11 other place subject to the jurisdiction of the United
12 States, to request such court to compel compliance
13 with the requirements of this Act.

14 (2) COSTS.—For knowing or willful failure to
15 comply with the requirements of this Act, including
16 any rule or regulation promulgated thereunder, a
17 covered entity shall pay to the Treasury of the
18 United States the full costs to the United States of
19 obtaining compliance, including all associated costs
20 of investigation and enforcement.

21 (e) REGULATIONS.—The Attorney General may pro-
22 mulgate regulations to carry out this Act.

23 **SEC. 8. DEFINITIONS.**

24 In this Act:

1 (1) CONDUCT INTENDING TO DIRECTLY OR IN-
2 DIRECTLY INFLUENCE PUBLIC POLICY OR PUBLIC
3 OPINION.—The term “conduct intending to directly
4 or indirectly influence public policy or public opin-
5 ion” means, with respect to a covered entity, any ac-
6 tivity that the covered entity engaging in believes
7 will, or that the covered entity intends to, in any
8 way influence any agency or official of the Govern-
9 ment of the United States or any section of the pub-
10 lic within the United States with reference to formu-
11 lating, adopting, or changing the domestic or foreign
12 policies of the United States or with reference to the
13 political or public interests, policies, or relations of
14 a government of a foreign country or a foreign polit-
15 ical party.

16 (2) CONTRACT.—The term “contract” means
17 any agreement for the acquisition by purchase, lease,
18 or barter of property or services by the foreign prin-
19 cipal, for the direct benefit or use of either of the
20 parties.

21 (3) COUNTRY OF CITIZENSHIP.—The term
22 “country of citizenship”, with respect to a foreign
23 principal, includes—

24 (A) the principal residence for a foreign
25 principal who is a natural person; or

1 (B) the country of incorporation or the
2 principal place of business for a foreign prin-
3 cipal which is a legal entity.

4 (4) COVERED ENTITY.—The term “covered en-
5 tity”—

6 (A) means a nonprofit organization or a
7 not-for-profit social welfare organization that—

8 (i) spends more than 20 percent of its
9 resources within any given calendar year
10 on conduct intending to directly or indi-
11 rectly influence public policy or public
12 opinion; or

13 (ii) is affiliated with or is a sub-unit
14 of an “institution” subject to section 117
15 of the Higher Education Act of 1965 (20
16 U.S.C. 1011f) that—

17 (I) engages in or publishes sub-
18 stantial policy-related research or
19 scholarship; or

20 (II) hosts, sponsors, or otherwise
21 promotes annual, or on a more fre-
22 quent basis, events featuring report-
23 ers, journalists, or U.S. or foreign
24 government officials; and

25 (B) excludes—

1 (i) an “institution” subject to section
2 117 of the Higher Education Act of 1965
3 (20 U.S.C. 1011f); and

4 (ii) an entity organized and operated
5 exclusively for religious purposes.

6 (5) FOREIGN PRINCIPAL.—The term “foreign
7 principal” includes—

8 (A) a government of a foreign country and
9 a foreign political party;

10 (B) a person outside of the United States,
11 unless it is established that such person is an
12 individual and a citizen of the United States, or
13 that such person is not an individual and is or-
14 ganized under or created by the laws of the
15 United States or of any State or other place
16 subject to the jurisdiction of the United States
17 and has its principal place of business within
18 the United States; and

19 (C) a partnership, association, corporation,
20 organization, or other combination of persons
21 organized under the laws of or having its prin-
22 cipal place of business in a foreign country.

23 (6) GIFT, DONATION, OR CONTRIBUTION.—The
24 term “gift, donation, or contribution” means any
25 gift of money, property, or in-kind contribution given

1 directly or indirectly to a covered entity by a foreign
2 principal.

3 (7) NOT-FOR-PROFIT SOCIAL WELFARE ORGANI-
4 ZATION.—The term “not-for-profit social welfare or-
5 ganization” means an organization described in sec-
6 tion 501(c)(4) of the Internal Revenue Code of 1986
7 and exempt from tax under section 501(a) of such
8 code.

9 (8) NONPROFIT ORGANIZATION.—The term
10 “nonprofit organization” means an organization de-
11 scribed in section 501(c)(3) of the Internal Revenue
12 Code of 1986 and exempt from tax under section
13 501(a) of such code.

14 (9) RESTRICTED OR CONDITIONAL GIFT OR
15 CONTRACT.—The term “restricted or conditional gift
16 or contract” means any endowment, gift, grant, con-
17 tract, award, present, or property of any kind which
18 includes provisions regarding—

19 (A) the employment, assignment, com-
20 pensation, or termination of researchers, schol-
21 ars, or experts;

22 (B) the earmarking of funds for depart-
23 ments, centers, research or lecture programs, or
24 new positions for researchers, scholars, or ex-
25 perts;

1 (C) the subject matter, nature, or contents
2 of research, analysis or any information pub-
3 lished or disseminated to U.S. government offi-
4 cials, the media, or the public; or

5 (D) any other condition or expectation re-
6 garding either the foreign principal's ability to
7 review in advance, approve, veto, or modify
8 budgets, programs, events, or presentations, or
9 the contents of information or materials to be
10 published or disseminated.

11 **SEC. 9. EFFECTIVE DATE.**

12 This Act shall take effect on the date that is 120 days
13 following the date of enactment.

○