

119TH CONGRESS
1ST SESSION

S. 418

To prohibit contracts between certain foreign entities and institutions of higher education conducting Department of Defense-funded research and to impose post-employment restrictions for participants in certain research funded by the Department, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 5, 2025

Mr. BANKS introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To prohibit contracts between certain foreign entities and institutions of higher education conducting Department of Defense-funded research and to impose post-employment restrictions for participants in certain research funded by the Department, 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 “Defending Defense Re-
5 search from Chinese Communist Party Espionage Act of
6 2025”.

1 **SEC. 2. PROHIBITION ON CONTRACTS BETWEEN CERTAIN**
2 **FOREIGN ENTITIES AND INSTITUTIONS OF**
3 **HIGHER EDUCATION CONDUCTING DEPART-**
4 **MENT OF DEFENSE-FUNDED RESEARCH.**

5 (a) IN GENERAL.—None of the funds authorized to
6 be appropriated or otherwise made available for any fiscal
7 year for the Department of Defense may be provided to
8 a covered institution of higher education that—

9 (1) fails to comply with the prohibition set forth
10 in subsection (b); and

11 (2) has not received a waiver under subsection
12 (c).

13 (b) PROHIBITION.—Beginning on January 1, 2027,
14 a covered institution of higher education may not enter
15 into a contract with a covered nation or a foreign entity
16 of concern.

17 (c) WAIVERS.—

18 (1) AUTHORITY.—Subject to the provisions of
19 this subsection and subsection (d), the Secretary of
20 Defense may, pursuant to a request submitted under
21 paragraph (2) of this subsection, issue a waiver of
22 the prohibition set forth in subsection (b).

23 (2) SUBMISSION.—

24 (A) FIRST WAIVER REQUESTS.—

25 (i) IN GENERAL.—A covered institu-
26 tion of higher education that desires to

1 enter into a contract with a foreign entity
 2 of concern or a covered nation may submit
 3 to the Secretary of Defense, not later than
 4 120 days before the institution enters into
 5 such a contract, a request to waive the
 6 prohibition set forth in subsection (b) with
 7 respect to such contract.

8 (ii) CONTENTS OF WAIVER RE-
 9 QUEST.—A waiver request submitted by a
 10 covered institution of higher education
 11 under clause (i) shall include—

12 (I) the complete and unredacted
 13 text of the proposed contract for
 14 which the waiver is being requested,
 15 and if such original contract is not in
 16 English, a translated copy of the text
 17 into English (in a manner that com-
 18 plies with subsection (f)); and

19 (II) a statement that—

20 (aa) is signed by the Presi-
 21 dent or compliance officer of the
 22 institution designated in accord-
 23 ance with subsection (g); and

24 (bb) includes information
 25 that demonstrates that such con-

tract is for the benefit of the institution's mission and students and will promote the security, stability, and economic vitality of the United States.

(B) RENEWAL WAIVER REQUESTS.—

(i) IN GENERAL.—A covered institution of higher education that has entered into a contract pursuant to a waiver issued under this section, the term of which is longer than the 1-year waiver period and the terms and conditions of which remain the same as the proposed contract submitted as part of the request for such waiver, may submit, not later than 120 days before the expiration of such waiver period, a request for a renewal of such waiver for an additional 1-year period (which shall include any information requested by the Secretary).

(ii) TERMINATION.—If a covered institution of higher education fails to submit a request under clause (i) or is not granted a renewal under such clause, such institution shall terminate such contract on

1 the last day of the original 1-year waiver
2 period.

3 (3) WAIVER ISSUANCE.—The Secretary of De-
4 fense—

5 (A) not later than 60 days before a covered
6 institution of higher education enters into a
7 contract pursuant to a waiver request under
8 paragraph (2)(A), or before a contract de-
9 scribed in paragraph (2)(B)(i) is renewed pur-
10 suant to a renewal request under such para-
11 graph, shall notify the institution—

12 (i) if the waiver or renewal will be
13 issued by the Secretary; and

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

17 (B) may only issue a waiver under this
18 subsection to an institution if the Secretary of
19 Defense determines, in consultation with the
20 Secretary of Education, that the contract for
21 which the waiver is being requested will both—

22 (i) benefit of the institution’s mission
23 and students; and

1 (ii) promote the security, stability,
2 and economic vitality of the United States;
3 and

4 (C) shall, when making the determination
5 described in subparagraph (B)(ii), base such
6 determination on the following factors:

7 (i) The economic situation of the
8 United States.

9 (ii) The economic situation of the for-
10 eign entity of concern or covered nation
11 with which a contract is sought.

12 (iii) The reasons for which the foreign
13 entity of concern or covered nation has
14 been so designated, and why those reasons
15 do not apply to the contract for which
16 waiver is being sought.

17 (iv) The foreign entity of concern or
18 covered nation's interest in being involved
19 with covered institutions of higher edu-
20 cation.

21 (v) The foreign entity of concern or
22 covered nation's history of involvement
23 with covered institutions of higher edu-
24 cation.

1 (vi) The degree to which such a con-
 2 tract could provide access to information
 3 or technology which could materially ben-
 4 efit the national security of a covered na-
 5 tion or harm the national security of the
 6 United States.

7 (4) NOTIFICATION TO CONGRESS.—Not later
 8 than 2 weeks prior to issuing a waiver under this
 9 subsection, the Secretary of Defense shall submit to
 10 the Committee on Armed Services of the Senate and
 11 the Committee on Armed Services of the House of
 12 Representatives written notice of the intent of the
 13 Secretary to issue such waiver together with a jus-
 14 tification for such waiver.

15 (5) APPLICATION OF WAIVERS.—A waiver
 16 issued under this subsection to a covered institution
 17 of higher education with respect to a contract shall
 18 only—

19 (A) waive the prohibition under subsection

20 (b) for a 1-year period; and

21 (B) apply to the terms and conditions of
 22 the proposed contract submitted as part of the
 23 request for such waiver.

24 (d) CONTRACTS PRIOR TO DATE OF ENACTMENT.—

1 (1) IN GENERAL.—In the case of a covered in-
 2 stitution of higher education that entered into con-
 3 tract with a covered nation or foreign entity of con-
 4 cern prior to January 1, 2026, and which contract
 5 remains in effect on such date—

6 (A) the institution shall, not later than
 7 120 days before such date, submit to the Sec-
 8 retary a waiver request in accordance with sub-
 9 section (c)(2)(A)(ii); and

10 (B) the Secretary shall, upon receipt of the
 11 request submitted under subparagraph (A), im-
 12 mediately issue a waiver under subsection (c) to
 13 the institution for a period beginning on the
 14 date on which the waiver is issued and ending
 15 on the sooner of—

16 (i) January 1, 2028; or

17 (ii) the date on which the contract
 18 terminates.

19 (2) RENEWAL.—A covered institution of higher
 20 education that has entered into a contract described
 21 in paragraph (1), the term of which is longer than
 22 the waiver period described in subparagraph (B) of
 23 such paragraph and the terms and conditions of
 24 which remain the same as the contract submitted as
 25 part of the request required under subparagraph (A)

1 of such paragraph, may submit a request for re-
 2 newal of the waiver issued under such paragraph in
 3 accordance with subsection (c)(2)(B).

4 (e) DESIGNATION DURING CONTRACT TERM.—In the
 5 case of a covered institution of higher education that en-
 6 ters into a contract with a foreign source that is not a
 7 covered nation or a foreign entity of concern but which,
 8 during the term of such contract, is designated as a cov-
 9 ered nation or foreign entity of concern, such institution
 10 shall terminate such contract not later than 120 days after
 11 the Secretary notifies the institution of such designation.

12 (f) TRANSLATION REQUIREMENT.—Any information
 13 required to be disclosed under this section with respect
 14 to a contract that is not in English shall be translated,
 15 for purposes of such disclosure, by a person that is not
 16 an affiliated entity or agent of the covered nation or for-
 17 eign entity of concern involved with such contract.

18 (g) COMPLIANCE OFFICER.—Each covered institu-
 19 tion of higher education applying for a waiver under sub-
 20 section (c), shall identify a compliance officer, who shall—

21 (1) be a current employee or legally authorized
 22 agent of such institution; and

23 (2) be responsible, on behalf of such institution,
 24 for personally certifying—

1 (A) compliance with the prohibition under
2 this section; and

3 (B) the truth and accuracy of any informa-
4 tion contained in such a waiver request.

5 (h) PUBLIC DATABASE.—Not later than 90 days
6 after issuing a waiver under subsection (c), the Secretary
7 of Defense shall publish a copy of the order granting the
8 waiver and the contents of the waiver request on a publicly
9 available website of the Department of Defense. Such in-
10 formation shall be made available on such website in the
11 form of a searchable database that includes links to the
12 text of all contracts to which the waiver pertains.

13 (i) ANNUAL REPORTS.—Not later than June 1, 2027,
14 and on an annual basis thereafter, the Secretary of De-
15 fense shall submit to the Committee on Armed Services
16 of the Senate and the Committee on Armed Services of
17 the House of Representatives a report that includes a de-
18 scription of—

19 (1) the terms and contents of any waivers
20 issued under this section in the period covered by
21 the report;

22 (2) any trends in—

23 (A) the number of waivers issued under
24 this section over time; and

1 (B) the types of contracts to which such
2 waivers pertain; and

3 (3) the processes used by the Secretary to
4 verify that covered institutions of higher education
5 are in compliance with the requirements of this sec-
6 tion.

7 (j) DEFINITIONS.—In this section:

8 (1) The term “contract” means—

9 (A) any agreement or memorandum of un-
10 derstanding for the acquisition, by purchase,
11 lease, or barter, of property or services by or
12 from a covered nation or foreign entity of con-
13 cern; or

14 (B) any affiliation, agreement, or similar
15 transaction with a covered nation or foreign en-
16 tity of concern that involves the use or ex-
17 change of the name, likeness, time, services, or
18 resources of a covered institution of higher edu-
19 cation.

20 (2) The term “covered institution of higher
21 education” means an institution of higher education
22 that conducts research funded by the Department of
23 Defense.

24 (3) The term “foreign entity of concern” has
25 the meaning given that term in section 10612(a) of

1 the Research and Development, Competition, and
 2 Innovation Act (42 U.S.C. 19221(a)) and includes a
 3 foreign entity that is identified on the list published
 4 under section 1286(c)(9)(A) of the John S. McCain
 5 National Defense Authorization Act for Fiscal Year
 6 2019 (Public Law 115–232; 10 U.S.C. 4001 note).

7 (4) The term “covered nation” has the meaning
 8 given that term in section 4872(d) of title 10,
 9 United States Code.

10 (5) The term “institution of higher education”
 11 has the meaning given that term in section 102 of
 12 the Higher Education Act of 1965 (20 U.S.C.
 13 1002).

14 **SEC. 3. POST-EMPLOYMENT RESTRICTIONS FOR PARTICI-**
 15 **PANTS IN CERTAIN RESEARCH FUNDED BY**
 16 **THE DEPARTMENT OF DEFENSE.**

17 (a) IN GENERAL.—Except as provided under sub-
 18 section (c), as a condition of becoming or remaining a
 19 principal investigator of a covered defense research
 20 project, a person shall agree that during the 10-year pe-
 21 riod beginning on the last day the person is a principal
 22 investigator of such research, such person may not seek
 23 or accept employment, or conduct any activity, for which
 24 a foreign entity of concern provides financial compensation
 25 or in-kind benefits.

1 (b) CRITICAL OR EMERGING TECHNOLOGY.—For
2 purposes of subsection (a), a critical or emerging tech-
3 nology is a technology that the Secretary of Defense deter-
4 mines to be critical or emerging. Not later than 270 days
5 after the date of the enactment of this Act, and annually
6 thereafter, the Secretary shall determine which tech-
7 nologies are critical or emerging from among the tech-
8 nologies for which the Department of Defense funds re-
9 search, and shall make the results of such determination
10 publicly available.

11 (c) WAIVER AUTHORITY.—The Secretary may waive
12 the restriction under subsection (a) with respect to a
13 United States person if, not later than 30 days before
14 issuing the waiver, the Secretary submits to the congres-
15 sional defense committees a notice of the waiver that in-
16 cludes—

17 (1) an unclassified justification for the waiver;
18 and

19 (2) a description of any Department of Defense
20 funds provided to the person for which the waiver is
21 issued or to the research in which the person partici-
22 pated.

23 (d) APPLICABILITY.—This section shall apply with
24 respect to research that begins on or after the date that
25 is one year after the date of the enactment of this Act.

1 (e) DEFINITIONS.—

2 (1) FOREIGN ENTITY OF CONCERN.—In this
 3 section, the term “foreign entity of concern” has the
 4 meaning given that term in section 10612(a) of the
 5 Research and Development, Competition, and Inno-
 6 vation Act (42 U.S.C. 19221(a)) and includes a for-
 7 eign entity that is identified on the list published
 8 under section 1286(c)(9)(A) of the John S. McCain
 9 National Defense Authorization Act for Fiscal Year
 10 2019 (Public Law 115–232; 10 U.S.C. 4001 note).

11 (2) COVERED DEFENSE RESEARCH PROJECT.—
 12 The term “covered defense research project” means
 13 a research project that is—

14 (A) operated by an institution of higher
 15 education or a subsidiary of an institution of
 16 higher education;

17 (B) funded, in whole or in part, by the De-
 18 partment of Defense; and

19 (C) which involves a critical or emerging
 20 technology, as defined in subsection (b) of this
 21 section.

22 (3) INSTITUTION OF HIGHER EDUCATION.—The
 23 term “institution of higher education” has the

- 1 meaning given that term in section 102 of the High-
- 2 er Education Act of 1965 (20 U.S.C. 1002).

