

TO AMEND THE RESEARCH AND DEVELOPMENT, COMPETITION, AND INNOVATION ACT TO CLARIFY THE DEFINITION OF FOREIGN COUNTRY FOR PURPOSES OF MALIGN FOREIGN TALENT RECRUITMENT RESTRICTION, AND FOR OTHER PURPOSES

SEPTEMBER 9, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. LUCAS, from the Committee on Science, Space, and Technology, submitted the following

R E P O R T

[To accompany H.R. 7686]

The Committee on Science, Space, and Technology, to whom was referred the bill (H.R. 7686) to amend the Research and Development, Competition, and Innovation Act to clarify the definition of foreign country for purposes of malign foreign talent recruitment restriction, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. CLARIFICATION OF DEFINITION OF FOREIGN COUNTRY FOR PURPOSES OF MALIGN FOREIGN TALENT RECRUITMENT RESTRICTION.**

Paragraph (4) of section 10638 of title VI of division B of the Research and Development, Competition, and Innovation Act is amended—

- (1) by inserting “of concern” after “foreign country” each place such term appears;
- (2) by striking “means—” and all that follows through “any program, position, or activity” and inserting “means any program, position, or activity”;
- (3) by striking subparagraph (B);
- (4) by redesignating clauses (i) through (ix) as subparagraphs (A) through (I), respectively, and moving such subparagraphs, as so redesignated, two ems to the left;
- (5) in the matter preceding subparagraph (A), as so redesignated, by striking “directly provided” and inserting “whether directly or indirectly provided”; and
- (6) in subparagraph (I), as so redesignated, by striking “; and” and inserting a period.

**PURPOSE AND SUMMARY**

H.R. 7686 amends Section 10638 of title VI of division B of the Research and Development, Competition, and Innovation Act (P.L. 117–167) by merging the two-part definition of ‘malign foreign talent recruitment program’ into one and specifically addressing foreign countries of concern.

**BACKGROUND AND NEED FOR LEGISLATION**

U.S. research agencies have worked for decades to foster openness, transparency, and reciprocal international collaboration on basic research. However, in recent years, several incidents have led to the concern that other countries are taking advantage of the openness of the academic research environment in the United States. This sense of unfair competition is entwined with concerns about U.S. economic and national security. Examining threats to research security is difficult without robust disclosure policies mandating that applicants for federal funding disclose foreign affiliations, commitments, and sources of funding that may present a conflict of interest. Foreign talent recruitment programs have been found to incentivize or coerce participants to acquire “through illicit as well as licit means, proprietary technology or software, unpublished data and methods, and intellectual property to further the military modernization goals and/or economic goals of a foreign government.”<sup>1</sup>

Since 2019, the Administration and Congress have worked diligently to enact research security policies across federal research agencies to protect federally funded research from undue foreign influence, including through the Fiscal Years 2020 and 2021 National Defense Authorization Acts. The 2022 CHIPS and Science Act includes several provisions to combat security threats that undermine the integrity of our federal research enterprise. Section 10638 of the bill requires a prohibition of federally funded research grantees from being members of a malign foreign talent program or participating in similar activities. Two years later, it has come to Congress’ attention that the way this provision was written has created unnecessary and unintended confusion. H.R. 7686 amends this section to provide clarity by merging the two-part definition of

<sup>1</sup>National Science & Technology Council, Joint Committee on the Research Environment, “Recommended Practices for Strengthening the Security and Integrity of America’s Science and Technology Enterprise,” January 2021, available at <https://trumpwhitehouse.archives.gov/wp-content/uploads/2021/01/NSTC-Research-Security-Best-Practices-Jan2021.pdf>.

‘malign foreign talent recruitment program’ into one and specifically address foreign countries of concern.

#### LEGISLATIVE HISTORY

H.R. 7686 was introduced on March 15, 2024, by Representative Garcia (R–CA) and cosponsored by Representative Stevens (D–MI).

#### SECTION-BY-SECTION

##### *Section 1. Clarification of definition of foreign country for purposes of malign foreign talent recruitment restriction*

This section adds “of concern” following every mention of “foreign country” within section 10638 of title VI of division B of the Research and Development, Competition, and Innovation Act. Additionally, it combines the two-part definition into a single subsection by striking subparagraph (B) and redesignating clauses (i) through (ix) as subparagraphs (A) through (I) respectively. Lastly, this section strikes “directly provided” and replaces it with “whether directly or indirectly provided”.

#### RELATED COMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following hearings were used to develop or consider H.R. 7686.

On February 15, 2024, the Committee held a full committee hearing, “Examining Federal Science Agency Actions to Secure the U.S. Science and Technology Enterprise.”

Witnesses:

- The Honorable Arati Prabhakar, Director, White House Office of Science and Technology Policy; Dr. Rebecca Keiser, Chief of Research Security Strategy and Policy, National Science Foundation.
- The Honorable Geri Richmond, Under Secretary for Science and Innovation, Department of Energy.
- Dr. Michael Lauer, Deputy Director for Extramural Research, National Institutes of Health. The Committee discussed the implementation of the CHIPS and Science Act of 2022 research security mandates and OSTP’s memorandum guidelines for federal research agencies regarding foreign talent recruitment programs.

#### COMMITTEE CONSIDERATION

On March 20, 2024, the Committee on Science, Space, and Technology met to consider H.R. 7686.

Chairman Lucas offered an Amendment in the Nature of a Substitute, which made minor technical changes to the text of the bill. The amendment was adopted by voice vote.

Representative Tenney offered and withdrew an amendment.

Chairman Lucas moved that the Committee favorably report the bill, as amended, to the House of Representatives with the recommendation that the bill be approved. The motion was agreed to by a vote of 38 yeas and 0 nays, as amended, a quorum being present.

ROLL CALL VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

House Committee on Science, Space, and Technology  
118th Congress  
Full Committee Markup

**Bill # HR 7686**

**Motion to report HR 7686 to the House, as amended**

Majority	Aye	No	Present
Frank Lucas, Oklahoma	1		
Bill Posey, Florida	1		
Randy Weber, Texas	1		
Brian Babin, Texas	1		
Jim Baird, Indiana	1		
Daniel Webster, Florida	1		
Mike Garcia, California	1		
Stephanie Bice, Oklahoma	1		
Jay Obernolte, California	1		
Chuck Fleischmann, Tennessee	1		
Darrell Issa, California			
Rick Crawford, Arkansas	1		
Claudia Tenney, New York	1		
Ryan Zinke, Montana	1		
Scott Franklin, Florida	1		
Dale Strong, Alabama	1		
Max Miller, Ohio	1		
Rich McCormick, Georgia	1		
Mike Collins, Georgia	1		
Brandon Williams, New York	1		
Tom Kean, New Jersey	1		
Minority	Aye	No	Present
Zoe Lofgren, California	1		
Suzanne Bonamici, Oregon	1		
Haley Stevens, Michigan	1		
Jamaal Bowman, New York	1		
Deborah Ross, New Carolina	1		
Eric Sorensen, Illinois	1		
Andrea Salinas, Oregon	1		
Val Foushee, North Carolina	1		
Kevin Mullin, California	1		
Jeff Jackson, North Carolina	1		
Emilia Sykes, Ohio	1		
Maxwell Frost, Florida	1		
Yadira Caraveo, Colorado	1		
Summer Lee, Pennsylvania	1		
Jennifer McClellan, Virginia	1		
Gabe Amo, Rhode Island	1		
Sean Casten, Illinois	1		
Paul Tonko	1		
<b>Total</b>	38	0	

Date: 3/20/24

Result?	Agreed To: [ X ]		
	Not Agreed To: [   ]		
	Withdrawn: [   ]		
Voice Vote	Ayes	Nays	Present
	38	0	

## APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

The Committee finds that H.R. 7686 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

## STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X, the Committee’s oversight findings and recommendations are reflected in the descriptive portions of this report.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c)(4) of rule XIII, the goal of H.R. 7686 is to provide clarity by merging the two-part definition of ‘malign foreign talent recruitment program’ in section 10638 of title VI of division B of the Research and Development, Competition, and Innovation Act into one and specifically addressing foreign countries of concern.

## DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, the Committee finds that no provision of H.R. 7686 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance.

## FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of section 5(b) of the Federal Advisory Committee Act.

## UNFUNDED MANDATE STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

## EARMARK IDENTIFICATION

Pursuant to clauses 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 7686 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits.

## COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX  
EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 7686 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, at the time this report was filed, the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**RESEARCH AND DEVELOPMENT, COMPETITION, AND  
INNOVATION ACT**

**DIVISION B—RESEARCH AND  
INNOVATION**

\* \* \* \* \*

**TITLE VI—MISCELLANEOUS SCIENCE  
AND TECHNOLOGY PROVISIONS**

\* \* \* \* \*

**Subtitle D—Research Security**

\* \* \* \* \*

**SEC. 10638. DEFINITIONS.**

In this subtitle:

(1) **COVERED INDIVIDUAL.**—The term “covered individual” means an individual who—

(A) contributes in a substantive, meaningful way to the scientific development or execution of a research and development project proposed to be carried out with a research and development award from a Federal research agency; and

(B) is designated as a covered individual by the Federal research agency concerned.

(2) **FOREIGN COUNTRY OF CONCERN.**—The term “foreign country of concern” means the People’s Republic of China, the Democratic People’s Republic of Korea, the Russian Federation,

the Islamic Republic of Iran, or any other country determined to be a country of concern by the Secretary of State.

(3) FOREIGN ENTITY OF CONCERN.—The term “foreign entity of concern” means a foreign entity that is—

(A) designated as a foreign terrorist organization by the Secretary of State under section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a));

(B) included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (commonly known as the SDN list);

(C) owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation (as such term is defined in section 4872 of title 10, United States Code);

(D) alleged by the Attorney General to have been involved in activities for which a conviction was obtained under—

(i) chapter 37 of title 18, United States Code (commonly known as the Espionage Act);

(ii) section 951 or 1030 of title 18, United States Code;

(iii) chapter 90 of title 18, United States Code (commonly known as the Economic Espionage Act of 1996);

(iv) the Arms Export Control Act (22 U.S.C. 2751 et seq.);

(v) section 224, 225, 226, 227, or 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2276, 2277, and 2284);

(vi) the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.); or

(vii) the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); or

(E) determined by the Secretary of Commerce, in consultation with the Secretary of Defense and the Director of National Intelligence, to be engaged in unauthorized conduct that is detrimental to the national security or foreign policy of the United States.

(4) MALIGN FOREIGN TALENT RECRUITMENT PROGRAM.—The term “malign foreign talent recruitment program” [means—]

[(A) any program, position, or activity] *means any program, position, or activity* that includes compensation in the form of cash, in-kind compensation, including research funding, promised future compensation, complimentary foreign travel, things of non de minimis value, honorific titles, career advancement opportunities, or other types of remuneration or consideration [directly provided] *whether directly or indirectly provided* by a foreign country of concern at any level (national, provincial, or local) or their designee, or an entity based in, funded by, or affiliated with a foreign country of concern, whether or not directly sponsored by the foreign country of concern, to the targeted individual, whether directly or indirectly stated in the arrangement, contract, or other documentation at issue, in exchange for the individual—



[(i)] (A) engaging in the unauthorized transfer of intellectual property, materials, data products, or other non-public information owned by a United States entity or developed with a Federal research and development award to the government of a foreign country *of concern* or an entity based in, funded by, or affiliated with a foreign country *of concern* regardless of whether that government or entity provided support for the development of the intellectual property, materials, or data products;

[(ii)] (B) being required to recruit trainees or researchers to enroll in such program, position, or activity;

[(iii)] (C) establishing a laboratory or company, accepting a faculty position, or undertaking any other employment or appointment in a foreign country *of concern* or with an entity based in, funded by, or affiliated with a foreign country *of concern* if such activities are in violation of the standard terms and conditions of a Federal research and development award;

[(iv)] (D) being unable to terminate the foreign talent recruitment program contract or agreement except in extraordinary circumstances;

[(v)] (E) through funding or effort related to the foreign talent recruitment program, being limited in the capacity to carry out a research and development award or required to engage in work that would result in substantial overlap or duplication with a Federal research and development award;

[(vi)] (F) being required to apply for and successfully receive funding from the sponsoring foreign government's funding agencies with the sponsoring foreign organization as the recipient;

[(vii)] (G) being required to omit acknowledgment of the recipient institution with which the individual is affiliated, or the Federal research agency sponsoring the research and development award, contrary to the institutional policies or standard terms and conditions of the Federal research and development award;

[(viii)] (H) being required to not disclose to the Federal research agency or employing institution the participation of such individual in such program, position, or activity; or

[(ix)] (I) having a conflict of interest or conflict of commitment contrary to the standard terms and conditions of the Federal research and development award[; and].

[(B) a program that is sponsored by—

[(i) a foreign country of concern or an entity based in a foreign country of concern, whether or not directly sponsored by the foreign country of concern;

[(ii) an academic institution on the list developed under section 1286(c)(8) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. 2358 note; Public Law 115-232); or

[(iii) a foreign talent recruitment program on the list developed under section 1286(c)(9) of the John S.

McCain National Defense Authorization Act for Fiscal  
Year 2019 (10 U.S.C. 2358 note; Public Law 115-232).】

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