

119TH CONGRESS
1ST SESSION

S. _____

To provide that no Federal funds may be obligated or expended to award a grant or contract to an institution of higher education for the specific purposes of conducting fundamental research in collaboration with a covered entity.

IN THE SENATE OF THE UNITED STATES

Mr. COTTON (for himself and Mr. SCOTT of Florida) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To provide that no Federal funds may be obligated or expended to award a grant or contract to an institution of higher education for the specific purposes of conducting fundamental research in collaboration with a covered entity.

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 “Protecting American
5 Research and Talent Act”.

1 **SEC. 2. PROHIBITION ON AVAILABILITY OF FUNDS FOR**
2 **FUNDAMENTAL RESEARCH COLLABORATION**
3 **WITH COVERED ENTITIES.**

4 (a) PROHIBITION.—Except as provided in subsection
5 (b), no Federal funds may be obligated or expended to
6 award a grant or contract to an institution of higher edu-
7 cation for the specific purposes of conducting fundamental
8 research in collaboration with a covered entity.

9 (b) WAIVER.—

10 (1) IN GENERAL.—The head of a Federal agen-
11 cy may waive the prohibition described in subsection
12 (a) on a case-by-case basis, with respect to an indi-
13 vidual grant or contract with an eligible institution
14 of higher education described in paragraph (2) if the
15 agency head determines that such a waiver is in the
16 national security interests of the United States.

17 (2) ELIGIBILITY.—

18 (A) IN GENERAL.—An institution of higher
19 education is eligible for a waiver under this sub-
20 section if—

21 (i) the international enrollment rate at
22 the institution is less than 15 percent; and
23 (ii) the enrollment at the institution of
24 students from foreign countries of concern
25 is less than 5 percent of the international
26 student body at the institution.

1 (B) PERSECUTED GROUPS NOT TO BE IN-
2 CLUDED IN CAP.—

3 (i) IN GENERAL.—For purposes of
4 calculating the enrollment at an institution
5 of higher education of students under
6 clauses (i) and (ii) of subparagraph (A), a
7 student from a foreign country of concern
8 who is member of a group on the list de-
9 scribed in clause (ii) for such foreign coun-
10 try of concern shall not count toward the
11 caps provided in such subparagraph.

12 (ii) LIST.—The Secretary of State
13 shall establish a list for each foreign coun-
14 try of concern of groups who are the target
15 of persecution in the foreign country of
16 concern.

17 (3) CONGRESSIONAL NOTICE.—Not later than
18 30 days after the date on which an award is made
19 by a Federal agency involving an institution of high-
20 er education with respect to which a waiver is made
21 under paragraph (1), the head of the agency shall
22 submit to Congress a notice of such waiver.

23 (c) REPORT.—

24 (1) IN GENERAL.—On an annual basis, each
25 head of a Federal agency shall submit to Congress

1 a report on the compliance of the agency and insti-
2 tutions of higher education with the requirements of
3 this section.

4 (2) CONTENTS.—Each report annex submitted
5 pursuant to paragraph (1) shall include—

6 (A) a list of institutions of higher edu-
7 cation that applied for funding that also applied
8 for a waiver under subsection (b) during the pe-
9 riod covered by the report, and for each of
10 these institutions, statistics on domestic, inter-
11 national, and foreign country of concern enroll-
12 ment in each of the institution's undergraduate
13 and graduate schools; and

14 (B) for each waiver made under subsection
15 (b) during the period covered by the report—

16 (i) a justification for the waiver; and

17 (ii) a detailed description of the type
18 and extent of any collaboration between an
19 institution of higher education and a cov-
20 ered entity allowed pursuant to the waiver,
21 including identification of the institution of
22 higher education and the covered entity in-
23 volved, the type of technology involved, the
24 duration of the collaboration, and terms
25 and conditions on intellectual property as-

1 signment, as applicable, under the collabo-
2 ration agreement.

3 (d) DEFINITIONS.—In this Act:

4 (1) COLLABORATION.—The term “collabora-
5 tion” means coordinated activity between an institu-
6 tion of higher education and a covered entity, and
7 includes—

8 (A) sharing of research facilities, re-
9 sources, or data;

10 (B) sharing of technical know-how;

11 (C) any financial or in-kind contribution
12 intended to produce a research product;

13 (D) sponsorship or facilitation of research
14 fellowships, visas, or residence permits;

15 (E) joint ventures, partnerships, or other
16 formalized agreements for the purpose of con-
17 ducting research or sharing resources, data, or
18 technology;

19 (F) inclusion of researchers as consultants,
20 advisors, or members of advisory or review
21 boards; and

22 (G) such other activities as may be deter-
23 mined by the Secretary of Defense.

24 (2) COVERED ENTITY.—The term “covered en-
25 tity”—

1 (A) means—

2 (i) any academic institution that is in-
3 cluded in the most recently updated list de-
4 veloped pursuant to section 1286(c)(9) of
5 the John S. McCain National Defense Au-
6 thorization Act for Fiscal Year 2019 (Pub-
7 lic Law 115–232; 10 U.S.C. 4001 note);

8 (ii) any entity included in the list of
9 Chinese military companies operating in
10 the United States most recently submitted
11 under section 1260H(b)(1) of the William
12 M. (Mac) Thornberry National Defense
13 Authorization Act for Fiscal Year 2021
14 (Public Law 116–283; 10 U.S.C. 113 note);
15 or

16 (iii) any college or university in the
17 People’s Republic of China that—

18 (I) is known as the “Seven Sons
19 of National Defense”;

20 (II) is designated under the
21 “Double First-Class Construction”
22 plan;

23 (III) is designated or overseen by
24 the State Administration for Science,
25 Technology, and Industry for National

1 Defense to host “joint construction”
2 programs; or

3 (IV) otherwise conducts research
4 or other activities in support of imple-
5 mentation of military-civil fusion
6 strategy or national defense capabili-
7 ties; and

8 (B) includes—

9 (i) any individual employed by, or re-
10 ceiving funding from, an entity or aca-
11 demic institution described in subpara-
12 graph (A);

13 (ii) any foreign person who holds a
14 degree from an academic institution de-
15 scribed in subparagraph (A); and

16 (iii) any foreign person who receives
17 funding from—

18 (I) an entity described in sub-
19 paragraph (A);

20 (II) a foreign talent program in-
21 cluded in the most recently updated
22 list developed pursuant to section
23 1286(e)(10) of the John S. McCain
24 National Defense Authorization Act

1 for Fiscal Year 2019 (Public Law
2 115–232; 10 U.S.C. 4001 note); or
3 (III) a foreign country of concern
4 or an entity based in a foreign coun-
5 try of concern, whether or not directly
6 sponsored by the foreign country of
7 concern.

8 (3) FOREIGN COUNTRY OF CONCERN.—The
9 term “foreign country of concern” has the meaning
10 given the term in section 10612(a) of the Research
11 and Development, Competition, and Innovation Act
12 (Public Law 117–167; 136 Stat. 1635; 42 U.S.C.
13 19221) .

14 (4) FUNDAMENTAL RESEARCH.—The term
15 “fundamental research” has the meaning given that
16 term in National Security Decision Directive–189
17 (NSSD–189), National Policy on the Transfer of
18 Scientific, Technical and Engineering Information,
19 dated September 21, 1985, or any successor docu-
20 ment.

21 (5) INSTITUTION OF HIGHER EDUCATION.—The
22 term “institution of higher education” has the
23 meaning given the term in section 102 of the Higher
24 Education Act of 1965 (20 U.S.C. 1002) and in-
25 cludes—

1 (A) any department, program, project, fac-
2 ulty, researcher, or other individual, entity, or
3 activity of such institution; and

4 (B) any branch of such institution within
5 or outside the United States.