



## The America Creating Opportunities for Manufacturing, Pre-Eminence in Technology and Economic Strength (COMPETES) Act of 2022 (H.R. 4521)<sup>1</sup>

### Summary of Issues of Importance to Higher Education<sup>2</sup>

#### NO CFIUS provision

- Does NOT include the Committee on Foreign Investment in the United States (CFIUS) provision related to foreign gifts or contracts over \$1 million to institutions of higher education, as included in *S.1260 the U.S. Innovation and Competition Act* (USICA, the corresponding Senate bill).

#### Sec. 90302. Confucius Institutes

- Same as the Senate language.
- Restricts non-Title IV funding to institutions which host a Confucius Institute (CI), unless the secretary of education issues a waiver and confirms the CI contract or memorandum of understanding; protects academic freedom at the institution; prohibits application of foreign law on the campus; and grants full managerial control of the CI to the institution.
- Does not apply if the institution has already received a waiver from the Department of Defense under Sec. 1062 of the FY 2021 National Defense Authorization Act.
- The House bill does NOT include a similar provision regarding National Science Foundation funding (included in the Senate bill).

#### Sec. 90304. Disclosures of Foreign Gifts and Contracts at Institutions of Higher Education

##### Section 117 Requirement to Disclose Foreign Gifts and Contracts

- The reporting threshold for Section 117 would be lowered from \$250,000 to \$100,000, or if the gift or contract from a foreign source totals \$250,000 over the previous 3 years. The Senate bill would lower the reporting threshold to \$50,000.
- Would require the disclosure of contracts of “undetermined monetary value” (also included in the Senate bill).
- Under “additional and restricted and conditional gifts,” includes language that the institutions shall disclose “the following to the Department translated into English by a third party unaffiliated with the foreign source or institution.” This is the same language as the Senate. The existing statute does not include the language about a translation.
- Reporting deadline would be annual (rather than bi-annual) and reports for the previous calendar year would be due March 31 (same as the Senate bill).

---

<sup>1</sup> Text of legislation as introduced: <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR4521RH-RCP117-31.pdf> and Section-by-section summary here: <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR4521RH-RCP117-31-SxS.pdf>.

<sup>2</sup> Based on issues included in September 2021 letter to possible conferees: <https://www.acenet.edu/Documents/Letter-Congress-Research-Security-Bills-090721.pdf>

- Institutions are required to provide assurances that they will maintain “true copies” of each gift or contract agreement subject to the Section 117 disclosure requirements (same as the Senate bill).
- The secretary of education is required to make each report electronically available to the public within 30 days of receiving a disclosure report from an institution (same as the Senate bill).
- The secretary of education is required to create a process “permitting institutions to revise and update previously filed disclosure reports under this section to ensure accuracy, compliance,” and ability to correct an error (same as the Senate bill).
- New fines for administrative or “knowing and willful failures” and “administrative failures” have been adjusted in the House legislation (slightly lower than the Senate-passed language).
- Requires the secretary of education to maintain a “single point of contact” at the Department of Education for Section 117 (same as Senate bill).
- Any institutions submitting a Section 117 report are required to “designate and maintain” a compliance officer at the institution who will be responsible for both Section 117 and the new Section 124 reporting.
- Creates exemptions for qualifying tuition payments for individuals, licensing fees for technology not associated with national security concerns, (same as the Senate language), and also exempts contracts for clinical trials (not included in the Senate bill).

### **Section 124 Institutional Policy Regarding Foreign Gifts and Contracts to Faculty and Staff**

- Retains Section 124 as established in the Senate USICA bill, with a few changes from the Senate language:
  - Would require institutions with more than \$50 million in federal science and engineering funding to create and maintain a disclosure report (the Senate language required institutions with \$5 million or more in R&D expenditures, which captured about 400 institutions);
  - Would set a reporting threshold at \$50,000 for individual gifts or contracts to faculty/staff (the Senate bill did not include any reporting threshold); and
  - Requires the Department of Education to carry out negotiated rulemaking for Section 124 within a year of passage of the legislation (Same as the Senate).
  - Institutions would have to collect data on the previous five years of gifts or contracts to individuals, but this would not start until after Section 124 regulations are established (Senate language did not include this language).

### **Sec. 90301. Reauthorization of International Education Programs Under Title VI of the Higher Education Act of 1965**

- Reauthorizes the Title VI programs at the Department of Education, including a new Section 605 international research and innovation section and Section 613 “Professional and Technical Education for Global Competitiveness” (similar to Senate bill).

### **Sec. 30219E. Liu Xiaobo Fund for Study of the Chinese Language.**

- Establishes the Liu Xiaobo Fund for Study of the Chinese Language at the U.S. Department of State, and includes \$10 million in authorized funding, to fund alternatives to Confucius Institutes at U.S. universities.

### **Section 80303. Doctoral STEM graduates**

- Would exempt immigrants with a qualifying STEM doctoral degree (from a U.S. or foreign institution) from numerical green card limitations.