

DHS RESTRICTIONS ON CONFUCIUS INSTITUTES AND
CHINESE ENTITIES OF CONCERN ACT

DECEMBER 19, 2023.—Reported with an amendment, committed to the Committee
of the Whole House on the State of the Union and ordered to be printed

Mr. GREEN of Tennessee, from the Committee on Homeland
Security, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1516]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 1516) to establish Department of Homeland Security funding restrictions on institutions of higher education that have a relationship with Confucius Institutes, 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. SHORT TITLE.

This Act may be cited as the “DHS Restrictions on Confucius Institutes and Chinese Entities of Concern Act”.

SEC. 2. LIMITATIONS ON CONFUCIUS INSTITUTES’ HOST SCHOOLS.

(a) **DEFINITIONS.**—In this section:

(1) **CHINESE ENTITY OF CONCERN.**—The term “Chinese entity of concern” means any university or college in the People’s Republic of China that—

- (A) is involved in the implementation of military-civil fusion;
- (B) participates in the Chinese defense industrial base;
- (C) is affiliated with the Chinese State Administration for Science, Technology and Industry for the National Defense;
- (D) receives funding from any organization subordinate to the Central Military Commission of the Chinese Communist Party; or
- (E) provides support to any security, defense, police, or intelligence organization of the Government of the People’s Republic of China or the Chinese Communist Party.

(2) **CONFUCIUS INSTITUTE.**—The term “Confucius Institute” means a cultural institute funded by the Government of the People’s Republic of China.

(3) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

(4) **RELATIONSHIP.**—The term “relationship” means, with respect to an institution of higher education, any contract awarded, or agreement entered into, as well as any in-kind donation or gift, received from a Confucius Institute or Chinese entity of concern.

(b) **RESTRICTIONS ON INSTITUTIONS OF HIGHER EDUCATION.**—Beginning with the first fiscal year that begins after the date that is 12 months after the date of the enactment of this Act, the Secretary of Homeland Security shall ensure that an institution of higher education (referred to in this section as an “institution”) which has a relationship with a Confucius Institute is ineligible to receive any Science and Technology or Research and Development funds from the Department of Homeland Security, unless the institution terminates the relationship between the institution and such Confucius Institute. Upon the termination of such a relationship, the institution at issue shall be eligible to receive Science and Technology or Research and Development funds from the Department of Homeland Security.

(c) **CHINESE ENTITIES OF CONCERN RELATIONSHIP DISCLOSURES.**—Beginning on the date that is 12 months after the date of the enactment of this Act, the Secretary of Homeland Security shall require each institution which has a relationship with a Chinese entity of concern that is seeking or receives Science and Technology or Research and Development funds from the Department of Homeland Security to notify the Secretary of such relationship. Such notification shall include the following with respect to such relationship:

- (1) An identification of the Chinese entity of concern.
- (2) Information relating to the length of such relationship.
- (3) A description of the nature of such institution’s relationship with such Chinese entity of concern, including the monetary value of any contract awarded, or agreement entered into, as well as any in-kind donation or gift, from such Chinese entity of concern.

(d) **ASSISTANCE.**—The Secretary of Homeland Security shall provide outreach and, upon request, technical assistance to institutions relating to compliance with this Act. In carrying out this subsection, the Secretary shall provide particular attention to institutions assisting historically Black colleges and universities (as such term is defined in part B of section 322(2) of the Higher Education Act of 1965 (22 U.S.C. 1061(2)), Hispanic serving institutions (as such term is defined in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a)), Tribal colleges and universities (as such term is defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)), and other minority serving institutions (as such defined in section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a))).

(e) **WAIVER.**—

(1) **IN GENERAL.**—The Secretary of Homeland Security may waive, on a case-by-case basis, and for a period of not more than one year, the application of subsection (b) to an institution if the Secretary determines such is in the national security interests of the United States.

(2) RENEWAL.—The Secretary of Homeland Security may annually renew a waiver issued pursuant to paragraph (1) if the Secretary determines such is in the national security interests of the United States.

(3) NOTIFICATION.—If the Secretary of Homeland Security issues or renews a waiver pursuant to paragraph (1) or (2), respectively, not later than 30 days after such issuance or renewal, as the case may be, the Secretary shall provide written notification to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate regarding such issuance or renewal, including a justification relating thereto.

(f) REPORTS.—Not later than 18 months after the date of the enactment of this Act and annually thereafter, the Secretary of Homeland Security shall report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate regarding implementation of this Act during the immediately preceding 12 month period. Each such report shall include information relating to—

(1) the implementation of subsections (b) and (c), including the information disclosed pursuant to such subsection (c); and

(2) outreach and the provision of technical assistance pursuant to subsection (d).

PURPOSE AND SUMMARY

H.R. 1516, the “DHS Restrictions on Confucius Institutes and Chinese Entities of Concern Act”, prohibits the Department of Homeland Security (DHS) from providing any funds to any United States institution of higher education that has a relationship with a Confucius Institute funded by the Government of the People’s Republic of China (PRC). H.R. 1516 also bars such funds to any “Chinese Entity of Concern” that has a relationship with the Chinese Communist Party (CCP), supports China’s Military-Civil Fusion (MCF) programs, the PRC’s Ministry of State Security, or the PRC’s Ministry of Science and Technology. If an institution of higher education completely terminates the relationship with the CI or Chinese entity of concern, the institution will be eligible to receive funds from DHS.

BACKGROUND AND NEED FOR LEGISLATION

For years, the CCP, working through the People’s Liberation Army (PLA), has executed sophisticated propaganda and espionage campaigns across the globe. Of particular concern, is the CCP’s practice of exploiting the open and collaborative nature of American academia, to conduct widespread industrial and military espionage inside the United States.

Confucius Institutes (CIs) were first established in America in 2004.¹ These initiatives were marketed by the CCP as a mechanism to promote Chinese language and culture, support local Chinese teaching internationally, and facilitate cultural exchanges.² However, it quickly became apparent that CIs were an extension of the CCPs global influence apparatus, allowing it to impact the decisions of academic institutions, conduct espionage inside the homeland, and promote MCF programs.^{3 4} MCF is the CCP’s ag-

¹U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-19-278, AGREEMENTS ESTABLISHING CONFUCIUS INSTITUTES AT U.S. UNIVERSITIES ARE SIMILAR, BUT INSTITUTE OPERATIONS VARY (2019).

²<https://crsreports.congress.gov/product/pdf/IF/IF11180>.

³U.S. STATE DEPARTMENT, “CONFUCIUS INSTITUTES U.S. CENTER” DESIGNATION AS A FOREIGN MISSION, <https://2017-2021.state.gov/confucius-institute-u-s-center-designation-as-a-foreign-mission/> (2020).

⁴U.S. DEPARTMENT OF JUSTICE, TEXAS PROFESSOR AND NASA RESEARCHER ARRESTED ON CHARGES RELATED TO CHINA’S TALENT PROGRAM, <https://www.justice.gov/usao-sdtx/pr/texas-pro>

gressive national strategy to help the PRC develop the most technologically advanced military in the world by the year 2049, often through the theft of American intellectual property and trade secrets.⁵ The Federal Bureau of Investigation cited that the U.S. economy loses between \$225 and \$600 billion annually to the PRC due to counterfeit goods, pirated software, and the theft of trade secrets.⁶

Although there are less than five active CIs left in existence in the United States, the Government Accountability Office (GAO) has found that 43 out of the 74 schools surveyed still maintain a relationship with an entity that supported their previous CI.⁷ Congress has not been able to keep up in combatting these new entities because of the rapidly evolving nature of these threats. There is little to no transparency from institutions of higher learning in what type of assistance they receive from the PRC. Data collected by the Department of Education from June 22, 2020, to April 6, 2023, shows that universities in the United States have collected over \$3 billion from entities connected to the PRC and the CCP.⁸ Further complicating matters is the PRC's 2017 National Intelligence Law, which obligates individuals, organizations, and institutions to assist the PRC security and intelligence services in advancing a wide variety of intelligence work.⁹

The United States Government has taken some successful action against this encroachment in the last several years. Congress has already passed two statutes limiting the Department of Defense's (DOD) ability to fund U.S. universities that host a CI.¹⁰ For example, the Fiscal Year (FY) 2019 National Defense Authorization Act (NDAA) included provisions barring DOD from obligating or expending funds for Chinese language instruction provided by a CI.¹¹ It also restricted DOD's ability to use funds to support Chinese language programs at U.S. universities that host a CI.¹² Subsequently, the FY 2021 NDAA prohibited the DOD from providing any funding to institutions of higher education that host CIs.¹³ Importantly, while both acts allow for waivers of the limitations if certain elements are met, no waivers have been granted altogether since May of 2023, according to the GAO.¹⁴

fessor-and-nasa-researcher-arrested-charges-related-china-s-talents-program (2020).

⁵ U.S. STATE DEPARTMENT, MILITARY-CIVIL FUSION OF THE PEOPLE'S REPUBLIC OF CHINA, 2020, <https://www.state.gov/wp-content/uploads/2020/05/What-is-MCF-One-Pager.pdf>.

⁶ FED. BUREAU OF INVESTIGATIONS, CHINA: THE RISK TO ACADEMIA, <https://www.fbi.gov/file-repository/china-risk-to-academia-2019.pdf/view>.

⁷ U.S. GOVERNMENT ACCOUNTABILITY OFFICE, "CHINA: WITH NEARLY ALL U.S. CONFUCIUS INSTITUTES CLOSED, SOME SCHOOLS SOUGHT ALTERNATIVE LANGUAGE SUPPORT" REPORT NUMBER GAO-24-105981, OCTOBER 30, 2023, <https://www.gao.gov/assets/d24105981.pdf>.

⁸ U.S. DEPARTMENT OF EDUCATION, COLLEGE AND FOREIGN GIFT REPORT, <https://sites.ed.gov/foreigngifts/>.

⁹ U.S. DEPARTMENT OF HOMELAND SECURITY, DATA SECURITY BUSINESS ADVISORY: RISKS AND CONSIDERATIONS FOR BUSINESSES USING DATA SERVICES AND EQUIPMENT FROM FIRMS LINKED TO THE PEOPLE'S REPUBLIC OF CHINA, https://www.dhs.gov/sites/default/files/publications/20_1222_data-security-business-advisory.pdf.

¹⁰ U.S. GOVERNMENT ACCOUNTABILITY OFFICE, "CHINA: WITH NEARLY ALL U.S. CONFUCIUS INSTITUTES CLOSED, SOME SCHOOLS SOUGHT ALTERNATIVE LANGUAGE SUPPORT" REPORT NUMBER GAO-24-105981, OCTOBER 30, 2023, <https://www.gao.gov/assets/d24105981.pdf>.

¹¹ *Id.* at 6.

¹² *Id.*

¹³ UNITED STATES CONGRESS, SECTION 1062 OF THE H.R. 6395 WILLIAM M. (MAC) THORBERRY NATIONAL DEFENCE AUTHORIZATION ACT FOR FISCAL YEAR 2021, <https://www.congress.gov/116/plaws/publ283/PLAW-116publ283.pdf>.

¹⁴ U.S. GOVERNMENT ACCOUNTABILITY OFFICE, "CHINA: WITH NEARLY ALL U.S. CONFUCIUS INSTITUTES CLOSED, SOME SCHOOLS SOUGHT ALTERNATIVE LANGUAGE SUPPORT" REPORT NUMBER GAO-24-105981, OCTOBER 30, 2023, <https://www.gao.gov/assets/d24105981.pdf>.

H.R. 1516, the “DHS Restrictions on Confucius Institutes Act,” ensures that universities and other institutions of higher education prioritize the security of their scientific research and technological development efforts above a paycheck from the CCP or entities affiliated with the CCP or PLA. Specifically, this legislation restricts DHS funding from going to universities who maintain relationships with entities connected to the CCP or support the PRC’s MCF programs. This bill ensures taxpayer dollars are appropriately used and encourages universities to end relationships with partners who do not have America’s best interest in mind. More importantly, this bill ensures U.S. institutions are free of the PRC’s foreign influence and safe from the theft of their critical research and development work.

HEARINGS

The Committee held the following hearing in the 118th Congress that informed H.R. 1516:

On March 9, 2023, the Subcommittee on Counterterrorism, Law Enforcement, and Intelligence held a hearing entitled “Confronting Threats Posed by the Chinese Communist Party to the U.S. Homeland.” The Subcommittee received testimony from the Honorable William R. Evanina, former Director of the National Counterintelligence and Security Center, Office of the Director of National Intelligence; Lieutenant General Joseph Guastella Jr., (Ret.), Senior Fellow, Mitchell Institute; the Honorable Kari A. Bingen, former Principal Deputy Under Secretary of Defense for Intelligence, Department of Defense; and Dr. Tyler Jost, Assistant Professor of Political Science and International and Public Affairs, Brown University.

On May 23, 2023, the Subcommittee on Counterterrorism, Law Enforcement, and Intelligence held a hearing entitled “A Security Sprint: Assessing the U.S. Homeland’s Vulnerabilities to Chinese Communist Party Aggression.” The Subcommittee received testimony from Jill M. Murphy, Deputy Assistant Director of Counterintelligence, Federal Bureau of Investigation; Iranga Kahangama, Assistant Secretary for Cyber, Infrastructure, Risk, and Resilience, Department of Homeland Security; and Tyrone Durham, Acting Director of the Nation State Threats Center, Office of Intelligence and Analysis, Department of Homeland Security.

COMMITTEE CONSIDERATION

The Committee met on November 8, 2023, a quorum being present, to consider H.R. 1516 and ordered the measure to be favorably reported to the House, as amended, by a recorded vote of 16 yeas to 12 nays.

COMMITTEE VOTES

An Amendment in the Nature of a Substitute offered by Mr. Pfluger was agreed to by voice vote.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Thompson (014); to replace the text of the Pfluger Amendment in the Nature of a Substitute with the text of H.R. 7779, the “DHS Restrictions on Confucius Institutes and Chinese Entities of Concern Act,” as reported by the Committee on Home-

land Security in the 117th Congress; was not agreed to by a recorded vote of 12 yeas and 17 nays (Roll Call No. 23).

VOTE: 023

On: Thompson amendment 014 to the ANS to H.R. 1516
Yea 12 Nay 17

Member	Vote	Member	Vote
Mr. Green of TN	Nay	Mr. Thompson of MS	Yea
Mr. McCaul	Nay	Ms. Jackson Lee .....	.....
Mr. Higgins of LA	Nay	Mr. Payne	Yea
Mr. Guest	Nay	Mr. Swalwell .....	.....
Mr. Bishop of NC	Nay	Mr. Correa	Yea
Mr. Gimenez	Nay	Mr. Carter of LA	Yea
Mr. Pfluger	Nay	Mr. Thanedar	Yea
Mr. Garbarino	Nay	Mr. Magaziner	Yea
Ms. Greene of GA	Nay	Mr. Ivey	Yea
Mr. Tony Gonzales of TX	Nay	Ms. Goldman of NY	Yea
Mr. LaLota	Nay	Mr. Robert Garcia of CA	Yea
Mr. Ezell	Nay	Mrs. Ramirez .....	.....
Mr. D'Esposito	Nay	Mr. Menendez	Yea
Ms. Lee of FL	Nay	Ms. Clarke of NY	Yea
Mr. Luttrell	Nay	Ms. Titus	Yea
Mr. Strong	Nay		
Mr. Brecheen .....	.....	
Mr. Crane	Nay		

A motion by Mr. Green to report H.R. 1516, as amended, to the House with a favorable recommendation was agreed to by a recorded vote of 16 yeas and 12 nays (Roll Call No. 24).

Vote: 024

On: Final Passage, H.R. 1516, as amended
Yea 16 Nay 12

Member	Vote	Member	Vote
Mr. Green of TN	Yea	Mr. Thompson of MS	Nay
Mr. McCaul	Yea	Ms. Jackson Lee .....	.....
Mr. Higgins of LA	Yea	Mr. Payne	Nay
Mr. Guest	Yea	Mr. Swalwell .....	.....
Mr. Bishop of NC	Yea	Mr. Correa	Nay
Mr. Gimenez	Yea	Mr. Carter of LA	Nay
Mr. Pfluger	Yea	Mr. Thanedar	Nay
Mr. Garbarino	Yea	Mr. Magaziner	Nay
Ms. Greene of GA	Yea	Mr. Ivey	Nay
Mr. Tony Gonzales of TX	Yea	Ms. Goldman of NY	Nay

Vote: 024—Continued

On: Final Passage, H.R. 1516, as amended
Yea 16 Nay 12

Member	Vote	Member	Vote
Mr. LaLota	Yea	Mr. Robert Garcia of CA	Nay
Mr. Ezell	Yea	Mrs. Ramirez .....	.....
Mr. D'Esposito	Yea	Mr. Menendez	Nay
Ms. Lee of FL	Yea	Ms. Clarke of NY	Nay
Mr. Luttrell .....	.....	Ms. Titus	Nay
Mr. Strong	Yea		
Mr. Brecheen .....	.....	
Mr. Crane	Yea		

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X, are incorporated in the descriptive portions of this report.

CONGRESSIONAL BUDGET OFFICE ESTIMATE, NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII and section 308(a) of the Congressional Budget Act of 1974, and with respect to the requirements of clause 3(c)(3) of rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee adopts as its own the estimate of any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures contained in the cost estimate prepared by the Director of the Congressional Budget Office.

H.R. 1516, DHS Restrictions on Confucius Institutes and Chinese Entities of Concern Act			
As ordered reported by the House Committee on Homeland Security on November 8, 2023			
By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply? No	
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate? No	
		Contains private-sector mandate? No	
* = between zero and \$500,000.			

H.R. 1516 would prohibit the Department of Homeland Security (DHS) from providing funds to any higher education institution that hosts Confucius Institutes, which are nonprofit cultural and educational centers funded by the Chinese government. That prohibition also would apply to institutions that have financial relationships with Chinese universities or colleges that meet other criteria such as receiving funding from or providing support to elements of the Chinese Communist Party.

The requirements of H.R. 1516 would not change the total amount of funding DHS provides to higher education institutions. CBO expects that the department would update its contracting and federal assistance procedures to ensure that it complies with H.R. 1516. CBO estimates that those administrative efforts would cost less than \$500,000. Any spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Aldo Prospero. The estimate was reviewed by Christina Hawley Anthony, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

FEDERAL MANDATES 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 of 1995.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 1516 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the objective of H.R. 1516 is to establish Department of Homeland Security funding restrictions on institutions of higher education that have a relationship with Confucius Institutes.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that H.R. 1516 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.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section states that the Act may be cited as the “DHS Restrictions on Confucius Institutes Act”.

Section 2. Limitations on Confucius Institutes’ host schools

Subsection (a) paragraph (1) defines the term “Chinese Entity of Concern” as a university or college located in the PRC that is involved with the implementation of MCF programs; supports the PRC’s defense industrial base; receives any funding from any organization that is subordinate to the Central Military Commission of the CCP; or provides support to any security, defense, police, or intelligence organization of the Government of the PRC.

Subsection (a) paragraph (2) defines the term “Confucius Institute” as any cultural institute that is funded by the Government of the PRC.

Subsection (a) paragraph (3) defines the term “institution of higher education” as the meaning given in section 102 of the 20 U.S.C. 1002.

Subsection (a) paragraph (4) defines the term “relationship” as any in-kind donation or gift, contract awarded, or agreement entered into by an institution of higher education within the United States and any CI or Chinese entity of concern.

Subsection (b) requires the Secretary of Homeland Security to ensure that any institution of higher education within the United States which has a CI or a connection to a Chinese entity of concern is ineligible to receive any funds from the Department of Homeland Security within one year of enactment of this legislation. If an institution of higher education completely terminates the relationship with the CI or Chinese entity of concern, the institution will be eligible to receive funds from the Department of Homeland Security.

MINORITY VIEWS

While Committee Democrats support efforts to prevent the People's Republic of China (PRC) from exerting undue influence on U.S. universities by funding Confucius Institutes, we do not support the vague and overbroad language Committee Republicans advanced in H.R. 1516. As reported out of Committee, this legislation rejects the bipartisan language unanimously reported out of Committee in the 117th Congress in favor of an absolute prohibition on Department of Homeland Security funding for any U.S. university that has a relationship with an ill-defined "Chinese entity of concern." The host of absurd outcomes that could result from this measure includes colleges and universities losing out on disaster relief funding because of a research partnership.

Committee Democrats recognize the threat of investments by the PRC at U.S. universities. Since 2013, the PRC has poured hundreds of millions of dollars into U.S. universities through Confucius Institutes and other means.¹ We agree that such foreign investments by PRC affiliates must not go unchecked, but H.R. 1516, as reported, is no solution.

Confucius Institutes purport to promote Chinese language and culture in schools around the world. In the United States, they were established beginning in 2004 and spread to around 118 educational institutions by 2017.² To establish a Confucius Institute in the United States, educational institutions generally sign an agreement with a PRC-affiliated entity, which helps oversee and fund, in whole or in part, the Institute.³ According to the U.S. Government Accountability Office, U.S. universities report that Confucius Institutes have provided U.S. students with beneficial resources for China-related cultural, educational, and academic programming.⁴ Although foreign investments in U.S. educational institutions may provide benefits for students and campus communities, Confucius Institutes' ties to the PRC government make them susceptible to PRC influence, may undermine academic freedom, and pose a security and espionage risk to U.S. research and intellectual property.⁵

To prevent such risks, the Fiscal Year (FY) 2019 and FY 2021 National Defense Authorization Acts restricted Department of De-

¹ Will Ford, *How Far Does China's Influence at U.S. Universities Go? One Student Tried to Find Out.*, POLITICO, Apr. 24, 2022, <https://www.politico.com/news/magazine/2022/04/24/confucius-institutes-china-new-mexico-00027287>.

² THOMAS LUM & HANNAH FISCHER, CONG. RESEARCH SERV., IF11180, CONFUCIUS INSTITUTES IN THE UNITED STATES: SELECTED ISSUES 1 (2023), <https://crsreports.congress.gov/product/pdf/IF/IF11180>.

³ U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-24-105981, WITH NEARLY ALL U.S. CONFUCIUS INSTITUTES CLOSED, SOME SCHOOLS SOUGHT ALTERNATIVE LANGUAGE SUPPORT 4, (2023), <https://www.gao.gov/assets/d24105981.pdf>.

⁴ *Id.*

⁵ *See Benefits and Risks of Foreign-Funded Language and Cultural Institutes*, in FOREIGN-FUNDED LANGUAGE AND CULTURE INSTITUTES AT U.S. INSTITUTIONS OF HIGHER EDUCATION: PRACTICES TO ASSESS AND MITIGATE RISK (Philip J. Hanlon, et al., eds., 2023), <https://nap.nationalacademies.org/read/27065/chapter/5>.

fense funding from going to United States institutions of higher education that host Confucius Institutes and provided the Secretary of Defense discretionary authority to, as appropriate, waive such restrictions.⁶ Following enactment of this legislation, Confucius Institutes began to shutter across America. There were around 100 Confucius Institutes active in the United States in 2019, and fewer than five remained active in October 2023.⁷

Committee Democrats laud the closure of Confucius Institutes, and we recognize that the PRC may seek alternative means of exerting influence on U.S. universities at the expense of U.S. security. We agree with our Republican colleagues that the PRC should not be allowed to use money as leverage to gain access to U.S. universities for nefarious purposes. But the solution proposed by H.R. 1516 is deeply flawed, and our Republican colleagues rejected Democratic efforts to strengthen the bill.

The operative language in H.R. 1516 deems any institution of higher education in the United States “which has a relationship with a Confucius Institute or Chinese entity of concern . . . ineligible to receive any funds from the Department of Homeland Security, unless the institution terminates the relationship between the institution and such Confucius Institute or Chinese entity of concern.”⁸

THE FUNDING PROHIBITION SHOULD BE LIMITED TO SCIENCE AND
TECHNOLOGY AND RESEARCH AND DEVELOPMENT FUNDS

H.R. 1516 prohibits a U.S. institution of higher education from receiving “any funds from the Department of Homeland Security” if it has a relationship with a Confucius Institute or “Chinese entity of concern.” The bill’s use of the term “any funds” would apply to any contract related to a covered institution of higher education. That means DHS would be prohibited from entering into a contract with an institute of higher education even for the purpose of hosting a recruitment or educational event at that location, for example. This legislation’s reach should be limited to Science & Technology and Research & Development funding, which is how previous versions of the bill were scoped. H.R. 1516’s overbroad prohibition on “any funds” is unfocused on the problem at hand and threatens homeland security, including our educational institutions and the students they serve. For example, under H.R. 1516’s overbroad prohibition on reception of “any funds,” a U.S. institution of higher education that has a relationship with a Confucius Institute or “Chinese entity of concern” would be ineligible for DHS funding for terrorism prevention, public safety, and disaster relief—all of which are unrelated to the Committee’s concerns with PRC activities at U.S. universities.

To prevent the unintended consequences of barring covered universities from receiving “any funds from the Department of Homeland Security” based on their relationship with a Confucius Insti-

⁶See *John S. McCain National Defense Authorization Act for Fiscal Year 2019*, Pub. L. No. 115–232 § 1091, 132 Stat. 1997; *Mac Thornberry National Defense Authorization Act for Fiscal Year 2021*, Pub. L. No. 116–283 § 1062, 134 Stat. 3859.

⁷U.S. GOV’T ACCOUNTABILITY OFFICE, *supra* note 3, at 1.

⁸*DHS Restrictions on Confucius Institutes and Chinese Entities of Concern Act*, H.R. 1516, 118th Cong. (2023).

tute or “Chinese entity of concern,” Ranking Member Bennie G. Thompson offered an amendment limiting the prohibition to DHS Science & Technology and Research & Development funds. Committee Republicans rejected the Thompson amendment.

“CHINESE ENTITY OF CONCERN” IS VAGUE AND OVERBROAD

Whereas Confucius Institutes are commonly identifiable, a “Chinese entity of concern” is not. As a result, H.R. 1516 includes a three-part test: To qualify as a Chinese entity of concern, an entity must be (1) “a university or college” that is (2) located “in the People’s Republic of China” and (3) is involved in the “implementation of military-civil fusion,” “participates in the Chinese defense industrial base,” “is affiliated with the Chinese State Administration for Science, Technology, and Industry for the National Defense,” “receives funding from any organization subordinate to the Central Military Commission of the Chinese Communist Party,” or “provides support to any security, defense, police, or intelligence organization of the Government of the People’s Republic of China or the Chinese Communist Party.”⁹

The third prong of H.R. 1516’s “Chinese entity of concern” test is at once vague and overbroad. Committee Democrats are concerned such language would require considerable insight into internal Chinese government functions, which would be a burdensome exercise for all educational institutions but especially for those that are under-resourced.

Determining whether a university located in China “provides any support to . . . police . . . of the Government of the People’s Republic of China,” which would deem that university a “Chinese entity of concern” under H.R. 1516, would require DHS and educational institutions to have insight into police investigations and public safety policies at China’s more than 3,000 universities. For example, this legislation would be triggered by any support to Chinese government police, even support for a criminal investigation such as a crime of violence against a U.S. study-abroad student. That absurd result was recognized by H.R. 1516’s author, Representative August Pfluger, who claimed during the Committee’s November 8, 2023, markup that the legislation’s use of “support” somehow means “monetary relationship,” a term that neither appears in the bill nor was offered by Representative Pfluger as an amendment.

Moreover, whether a university located in China “is involved in the implementation of military-civil fusion” or “participates in the Chinese defense industrial base” also requires considerable insight into internal Chinese government functions. In fact, a rigorous study into relationships between Chinese universities and the Chinese defense industrial base conducted by the Center for Security and Emerging Technology at Georgetown University concluded that “it appears that the vast majority of civilian universities in China maintain at least some connection to the country’s defense industry.”¹⁰ The vague three-part test in H.R. 1516, therefore, would appear to deem every university in China an “entity of concern.” If

⁹*Id.* at § 2(a)(1).

¹⁰RYAN FEDASIUK & EMILY S. WEINSTEIN, UNIVERSITIES AND THE CHINESE DEFENSE TECHNOLOGY WORKFORCE 4 (2020).

that is the legislation's intent, H.R. 1516 should say as much and not leave DHS and universities that seek DHS funds guessing at the bill's intent.

To aid U.S. institutions and DHS in identifying relationships with a "Chinese entity of concern," Ranking Member Thompson offered an amendment that would limit H.R. 1516's funding prohibition to U.S. institutions that have a relationship with a Confucius Institute, which is commonly identifiable, and establishes a reporting requirement for institutions that have relationships with a "Chinese entity of concern," as the term is vague and overbroad. In addition to the reporting requirement, the Thompson amendment required DHS to provide technical assistance to colleges and universities in carrying out this requirement with particular attention to historically Black colleges and universities and other minority-serving institutions. Committee Republicans rejected the Thompson amendment.

THE LACK OF DISCRETION FOR A WAIVER IS DAMAGING

Unlike language adopted in the FY 2019 and 2021 NDAs directed at the Secretary of Defense, H.R. 1516 does not provide the Secretary of Homeland Security authority to issue a waiver from funding restrictions, should the Secretary deem it is in the interest of America's national security. The failure to provide such waiver authority would prevent the Secretary from issuing a waiver even in furtherance of a counterterrorism, counterintelligence, or counterespionage mission. As a result, H.R. 1516 undermines DHS's counterterrorism and economic security missions under the Homeland Security Act of 2002, as amended.

To prevent H.R. 1516 from undermining homeland security and DHS's mission, Ranking Member Thompson offered an amendment providing the Secretary of Homeland Security authority to waive the funding prohibition on a case-by-case basis and for not longer than one year. Committee Republicans rejected the Thompson amendment.

H.R. 1516 has a commendable goal to prevent the People's Republic of China from investing in U.S. institutions of higher education in hopes of gaining a return on its investment through undue influence, undermining of academic freedom, or theft of research or intellectual property. This Committee is capable of bipartisan consensus in furtherance of securing the homeland from foreign influence, as we did in the 117th Congress by unanimously reporting out of Committee H.R. 7779, as amended. Unfortunately, with this legislation, Representative Pfluger and Committee Republicans rejected this Committee's past bipartisan work in favor of a vague and overbroad H.R. 1516 that would not only burden U.S. institutions of higher education but also make the homeland less secure.

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