DETERRENT Act (H.R. 5933) Key Talking Points

• ED’s authority should not be expanded to approve or disapprove of certain foreign contacts (Sec 117a). The Department does not have the expertise to carry out the review of contracts, many of which will likely focus on scientific research not under its jurisdiction.
  o ED lacks the technical expertise to assess risks associated with critical technologies. Institutions are already bound by the regulations and requirements the U.S. Department of Commerce, the Treasury Department, and the State Department maintain, regarding U.S. partnerships, exports controls, and purchases from foreign entities.
  o A new review process overseen by the Department of Education is unnecessary in light of provisions of the CHIPS and Science Act, enacted just last year. The NSF was specifically authorized to create a new reporting portal for universities regarding certain gifts and contracts from countries of concern, and the NSF Chief of Research Security is tasked with evaluating these gifts and contracts for threats to research security.
  o Creating a new approval process at the Department of Education is both duplicative and unnecessary given the resources invested in the NSF for these specific purposes.

• Institutions of higher education take seriously their Sec. 117 reporting responsibilities and have significantly expanded campus operations in the last several years to be in compliance.

• The Department of Education (ED) has received over 34,000 filings in the past two years and is on track to receive the most Section 117 reports ever received.

• Institutions of higher education have been working closely with federal research, law enforcement, and intelligence agencies to address concerns about risks to U.S. investments in university research while also protecting the value of open scientific and academic engagement.

• Section 117b, “Institutional Policy Regarding Foreign Gifts and Contracts to Faculty and Staff,” raises both privacy and security concerns for faculty and staff, as it allows their private financial transactions to be made public and potentially spotlights specific faculty and staff to be targeted by foreign adversaries. In addition, institutions are already working to comply and implement NSPM-33, which requires a standardization of information reported by federally funded faculty regarding foreign gifts and contracts. The Office of Management and Budget has recently finalized a common disclosure form for researchers applying for federal funding to be used by all federal funding agencies.
  o Section 117b would have a chilling effect on and discourage U.S. researchers from participating in important international scientific collaborations—including ones with entities based in countries that are strong U.S. allies like Canada, the United Kingdom, and Australia.
  o Section 117b could also unfairly stigmatize U.S. researchers who may receive personal gifts unrelated to research from family and friends in other countries.