

119TH CONGRESS
1ST SESSION

S. _____

To require audits of institutions with respect to disclosures of foreign gifts,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. CRUZ introduced the following bill; which was read twice and referred to
the Committee on _____

A BILL

To require audits of institutions with respect to disclosures
of foreign gifts, and for other purposes.

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. AUDITS OF INSTITUTIONS WITH RESPECT TO**

4 **DISCLOSURES OF FOREIGN GIFTS.**

5 Section 117 of the Higher Education Act of 1965 (20
6 U.S.C. 1011f) is amended—

7 (1) by redesignating subsections (g) and (h) as
8 subsections (h) and (i), respectively; and

9 (2) by inserting after subsection (f) the fol-
10 lowing:

1 “(g) AUDIT.—

2 “(1) IN GENERAL.—Beginning not later than
3 60 days after the date of enactment of this sub-
4 section, and every 2 years thereafter, the Secretary
5 shall conduct an audit of no fewer than 30 institu-
6 tions to assess compliance with the reporting re-
7 quirements under this section.

8 “(2) DETERMINATION OF INSTITUTIONS TO
9 AUDIT.—In determining which institutions to audit
10 under this subsection, the Secretary shall prioritize
11 audits for institutions that meet 1 or more of the
12 following criteria:

13 “(A) Institutions that are in the top 1 per-
14 cent when the endowments of all institutions
15 are ranked from largest to smallest.

16 “(B) Institutions with a previous history of
17 receiving a substantial gift from, or entering
18 into a substantial contract with, a foreign
19 source.

20 “(C) Institutions that have previously been
21 noncompliant with the requirements of this sec-
22 tion.

23 “(D) Institutions that publicly report re-
24 ceiving contributions from a foreign entity of
25 concern (as defined in section 10612(a) of the

1 Research and Development, Competition, and
2 Innovation Act (42 U.S.C. 19221(a)).

3 “(E) Institutions that have a formal agree-
4 ment, including a memorandum of under-
5 standing, with a Federal agency.

6 “(3) CONTENTS OF AUDIT.—As part of each
7 audit conducted under this subsection, the Secretary
8 shall determine—

9 “(A) if the institution was in compliance
10 with requirements of this section for the 2 re-
11 porting years prior to the year in which the
12 audit is conducted; and

13 “(B) in the case of noncompliance, the
14 gifts from, or contracts with, foreign sources
15 whose amounts the institution under-reported
16 or over-reported in the prior 2 reporting years,
17 along with the following information for each of
18 these gifts or contracts:

19 “(i) The amount under-reported or
20 over-reported.

21 “(ii) The foreign source.

22 “(iii) The country of origin.

23 “(iv) The receipt date or contract
24 start and end dates.

1 “(4) REPORT.—Not later than 30 days after
2 the date on which the audit under this subsection is
3 completed, the Secretary shall—

4 “(A) submit to Congress a report on the
5 results of the audit; and

6 “(B) make the report described in sub-
7 paragraph (A)—

8 “(i) available to the Speaker of the
9 House, the majority and minority leaders
10 of the House of Representatives, the ma-
11 jority and minority leaders of the Senate,
12 the Chair and Ranking Member of the
13 committee and each subcommittee of juris-
14 diction in the House of Representatives
15 and the Senate, and any other Member of
16 Congress who requests the report; and

17 “(ii) publicly available on the Depart-
18 ment of Education website.”.

19 **SEC. 2. EXCISE TAXES ON CERTAIN CONTRIBUTIONS BY**
20 **FOREIGN ENTITIES.**

21 (a) IN GENERAL.—Subchapter H of chapter 42 of
22 the Internal Revenue Code of 1986 is amended by adding
23 at the end the following new sections:

1 **“SEC. 4969. EXCISE TAX ON CONTRIBUTIONS TO COLLEGES**
2 **AND UNIVERSITIES BY FOREIGN COUNTRIES**
3 **OF CONCERN.**

4 “(a) **TAX IMPOSED.**—There is hereby imposed on
5 each applicable institution for the taxable year a tax equal
6 to 300 percent of the income of such institution received
7 from any foreign country of concern during the taxable
8 year.

9 “(b) **APPLICABLE INSTITUTION.**—For purposes of
10 this section, the term ‘applicable institution’ means an eli-
11 gible educational institution (as defined in section
12 25A(f)(2))—

13 “(1) which had at least 500 tuition-paying stu-
14 dents during the preceding taxable year, and

15 “(2) more than 50 percent of the tuition-paying
16 students of which are located in the United States,
17 determined according to the rules of section 4968(b)(2).

18 “(c) **FOREIGN COUNTRY OF CONCERN.**—For pur-
19 poses of this section, the term ‘foreign country of concern’
20 has the meaning given such term by section 10612(a) of
21 the Research and Development, Competition, and Innova-
22 tion Act.

23 “(d) **RELATED ORGANIZATIONS.**—Rules similar to
24 the rules of section 4968(d) shall apply in determining in-
25 come of an applicable institution for purposes of this sec-
26 tion.

1 **“SEC. 4970. EXCISE TAX ON FAILURE TO REPORT CON-**
2 **TRIBUTIONS BY FOREIGN ENTITIES.**

3 “(a) TAX IMPOSED.—There is hereby imposed on
4 each institution for the taxable year a tax equal to 110
5 percent of the unreported foreign funding received by such
6 institution during the taxable year.

7 “(b) UNREPORTED FOREIGN FUNDING.—For pur-
8 poses of this section, the term ‘unreported foreign funding’
9 means an amount equal to the value of any gift or con-
10 tract, or any amount received pursuant to a change in
11 ownership or control, required to be reported under section
12 117 of the Higher Education Act of 1965 which is deter-
13 mined not to have been so reported by an audit under sub-
14 section (g) of such section.

15 “(c) TIMING OF TAX.—The tax imposed by sub-
16 section (a) shall be due not later than 180 days after the
17 institution is notified of the results of the audit under sec-
18 tion 117(g) of the Higher Education Act of 1965.

19 “(d) COORDINATION WITH SECTION 4969.—In the
20 case of any unreported foreign funding which is received
21 from a foreign country of concern (as defined in section
22 4969(c)), the tax imposed by subsection (a) shall be in
23 addition to any tax imposed by section 4969 on such fund-
24 ing.

25 “(e) INSTITUTION; OTHER TERMS.—For purposes of
26 this section, the term ‘institution’, and any other term

1 used in this section which is used in section 117 of the
2 Higher Education Act of 1965, has the same meaning as
3 when used in such section.”.

4 (b) CLERICAL AMENDMENTS.—

5 (1) The table of sections for subchapter H of
6 chapter 42 of the Internal Revenue Code of 1986 is
7 amended by adding at the end the following new
8 items:

“Sec. 4969. Excise tax on contributions to colleges and universities by foreign
countries of concern.

“Sec. 4970. Excise tax on failure to report contributions by foreign entities.”.

9 (2) The heading of subchapter H of chapter 42
10 of such Code (and the item relating to such sub-
11 chapter in the table of subchapters for such chapter)
12 are each amended by striking “**Tax Based on In-**
13 **vestment Income of**” and inserting “**Taxes**
14 **on**”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 the date which is 60 days after the date of the enactment
18 of this Act.