

**AMENDMENT TO H.R. 8070**  
**OFFERED BY MR. BANKS OF INDIANA**

At the appropriate place in title II, insert the following new section:

1 **SEC. 2 \_\_\_\_ . LIMITATION ON AVAILABILITY OF FUNDS FOR**  
2 **FUNDAMENTAL RESEARCH COLLABORATION**  
3 **WITH CERTAIN INSTITUTIONS.**

4 (a) **LIMITATION.**—Except as provided in subsection  
5 (b), none of the funds authorized to be appropriated by  
6 this Act or otherwise made available for any fiscal year  
7 for the Department of Defense may be provided to an in-  
8 stitution of higher education for any principal investigator  
9 who conducts fundamental research in collaboration di-  
10 rectly or indirectly with a covered nation or foreign entity  
11 of concern.

12 (b) **WAIVER.**—The Secretary of Defense may waive  
13 the limitation under subsection (a), on a case-by-case  
14 basis, with respect to a principal investigator at an institu-  
15 tion of higher education, if the Secretary of Defense deter-  
16 mines that such a waiver is in the national security inter-  
17 ests of the United States.

18 (c) **CERTIFICATIONS OF COMPLIANCE.**—

1           (1) FUNDING CERTIFICATION.—As a condition  
2 of receiving funds from the Department of Defense,  
3 an institution of higher education shall certify to the  
4 Secretary of Defense that the principal investigator  
5 of the project of the institution that is applying for  
6 funding from the Department of Defense—

7           (A) is not conducting fundamental re-  
8 search in collaboration with an entity described  
9 in subsection (a) as of the date of the certifi-  
10 cation; and

11           (B) will not conduct fundamental research  
12 in collaboration with such an entity during the  
13 period for which such funding is received.

14           (2) CONTRACT CERTIFICATION.—As a condition  
15 of maintaining a contract with the Department of  
16 Defense, an institution of higher education shall

17           (A) using publicly available information,  
18 perform due diligence on any academic institu-  
19 tion or laboratory the institution is collabo-  
20 rating with, or intends to collaborate with,  
21 under the contract; and

22           (B) certify to the Secretary of Defense  
23 that the principal investigator of the project of  
24 the institution to which the contract pertains—

1 (i) has not conducted fundamental re-  
2 search in collaboration with an entity de-  
3 scribed in subsection (a) at any time dur-  
4 ing the period in which such contract was  
5 in effect, up to and including the date of  
6 the certification; and

7 (ii) will not conduct fundamental re-  
8 search in collaboration with such an entity  
9 during any period in which such contract  
10 is in effect.

11 (3) FREQUENCY.—An institution of higher edu-  
12 cation shall—

13 (A) submit the certification under para-  
14 graph (1) on an annual basis during each year  
15 in which the institution receives funds from the  
16 Department of Defense; and

17 (B) submit the certification under para-  
18 graph (2) on an annual basis during each year  
19 in which a contract is in effect between the in-  
20 stitution and the Department.

21 (d) REPORT.—

22 (1) IN GENERAL.—On an annual basis, the Sec-  
23 retary of Defense shall submit to the appropriate  
24 congressional committees a report on the compliance  
25 of the Department of Defense and institutions of

1 higher education with the requirements of this sec-  
2 tion. Each report shall include, for each waiver  
3 issued under subsection (b) in the period covered by  
4 the report—

5 (A) a justification for the waiver; and

6 (B) a detailed description of the type and  
7 extent of any collaboration between an institu-  
8 tion of higher education and an entity described  
9 in subsection (a) allowed pursuant to the waiv-  
10 er, including identification of the institution  
11 and entities involved, the type of technology in-  
12 volved, the duration of the collaboration and  
13 terms and conditions on intellectual property  
14 assignment, as applicable, under the collabora-  
15 tion agreement.

16 (2) FORM; PUBLIC AVAILABILITY.—Each report  
17 under paragraph (1) shall be submitted in unclassi-  
18 fied form and shall be made available on a publicly  
19 accessible website of the Department of Defense.

20 (e) EFFECTIVE DATE.—The limitation under sub-  
21 section (a) shall apply with respect to the first fiscal year  
22 that begins after the date that is one year after the date  
23 of the enactment of this Act and to any subsequent fiscal  
24 year.

25 (f) DEFINITIONS.—In this section:

1           (1) The term “foreign entity of concern” has  
2 the meaning given that term in section 10612(a) of  
3 the Research and Development, Competition, and  
4 Innovation Act (42 U.S.C. 19221(a)) and includes a  
5 foreign entity that is identified on the list published  
6 under section 1286(c)(9)(A) of the John S. McCain  
7 National Defense Authorization Act for Fiscal Year  
8 2019 (Public Law 115–232; 10 U.S.C. 4001 note).

9           (2) The term “institution of higher education”  
10 has the meaning given that term in section 102 of  
11 the Higher Education Act of 1965 (20 U.S.C. 1002)  
12 and includes—

13                   (A) any department, program, project, fac-  
14 ulty, researcher, or other individual, entity, or  
15 activity of such institution; and

16                   (B) any branch of such institution within  
17 or outside the United States.

18           (3) The term “fundamental research” means  
19 basic and applied research in science and engineer-  
20 ing, the results of which are expected to be published  
21 and shared broadly within the scientific community.  
22 Such term does not include research that is propri-  
23 etary or classified and subject to access restrictions  
24 under other provisions of Federal law.

1           (4) The term “collaboration” means any level of  
2           coordinated activity between an institution of higher  
3           education and an entity described in subsection (a),  
4           whether direct or indirect, formal or informal, and  
5           includes—

6                   (A) sharing of research facilities, re-  
7                   sources, or data;

8                   (B) transfer, sharing, or dissemination of  
9                   technology, information, or any technical know-  
10                  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 in consulta-  
24                  tion with the Secretary of State and Director of  
25                  National Intelligence.

1           (5) The term “appropriate congressional com-  
2       mittees” means—

3           (A) the Committee on Armed Services and  
4       the Committee on Science, Space, and Tech-  
5       nology of the House of Representatives; and

6           (B) the Committee on Armed Services of  
7       the Senate and the Committee on Commerce,  
8       Science, and Transportation of the Senate.

9           (6) The term “covered nation” has the meaning  
10       given that term in section 4872(d) of title 10,  
11       United States Code.

