

118TH CONGRESS
1ST SESSION

S. 3228

To prohibit certain members and former members of the Armed Forces from accepting employment with government entities of the People's Republic of China or the Russian Federation.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 6, 2023

Mr. KELLY (for himself, Mr. COTTON, Mr. HEINRICH, and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To prohibit certain members and former members of the Armed Forces from accepting employment with government entities of the People's Republic of China or the Russian Federation.

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. SHORT TITLE.**

4 This Act may be cited as the “No Work with Adver-
5 saries Act of 2023”.

1 **SEC. 2. PROHIBITION ON CERTAIN MEMBERS AND FORMER**
2 **MEMBERS OF THE ARMED FORCES ACCEPT-**
3 **ING EMPLOYMENT WITH CHINESE OR RUS-**
4 **SIAN GOVERNMENT ENTITIES.**

5 (a) FINDINGS.—Congress makes the following find-
6 ings:

7 (1) Members of the Armed Forces gain skills,
8 knowledge, and training through their service that
9 are integral to the mission of the United States mili-
10 tary.

11 (2) The specialized skillsets gained through
12 service in the United States Armed Forces are the
13 product of unique United States Government train-
14 ing.

15 (3) Public reports have revealed the People’s
16 Republic of China has employed, or contracted
17 through intermediaries, former United States mili-
18 tary personnel and former military personnel of
19 countries that are allies of the United States to train
20 Chinese military personnel on specialized skills.

21 (4) The closest allies of the United States, in-
22 cluding the United Kingdom, Australia, and New
23 Zealand, are taking steps to stop their former mili-
24 tary personnel from training the Armed Forces of
25 foreign adversaries, including instituting policy and

1 legal reviews and consideration of criminal penalties
2 to prevent that type of post-military service activity.

3 (5) Allowing individuals to be employed or en-
4 gaged in the provision of training to foreign adver-
5 saries in specialized skillsets gained through service
6 in the United States Armed Forces poses a signifi-
7 cant risk for exploitation by foreign adversaries
8 against United States interests.

9 (b) SENSE OF CONGRESS.—It is the sense of Con-
10 gress that it is in the national security interests of the
11 United States that current and former members of the
12 Armed Forces be prohibited from taking employment or
13 holding positions that provide substantial support to the
14 military of a foreign government that is an adversary of
15 the United States, such as the Government of the People’s
16 Republic of China or the Government of the Russian Fed-
17 eration, to prevent the exploitation of specialized United
18 States military competencies and capabilities by those gov-
19 ernments.

20 (c) PROHIBITION.—Section 207 of title 18, United
21 States Code, is amended by adding at the end the fol-
22 lowing new subsection:

23 “(m) PROHIBITION ON CERTAIN MEMBERS AND
24 FORMER MEMBERS OF THE ARMED FORCES ACCEPTING

1 EMPLOYMENT WITH DESIGNATED FOREIGN GOVERN-
2 MENT ENTITIES.—

3 “(1) IN GENERAL.—Any person who is a mem-
4 ber or former member of the Armed Forces, who at
5 any time occupied a covered position, and who, on
6 or after the date of the enactment of this subsection,
7 knowingly accepts employment for or occupies a po-
8 sition with a designated entity, shall be punished as
9 provided in section 216(a)(2) of this title.

10 “(2) TEMPORARY WAIVER FOR FORMER MEM-
11 BERS OF THE ARMED FORCES.—

12 “(A) IN GENERAL.—On a case-by-case
13 basis, the Secretary of Defense may temporarily
14 waive the restriction under paragraph (1), and
15 may renew any such waiver, with respect to a
16 former member of the Armed Forces only
17 after—

18 “(i) the former member submits to
19 the Secretary a written application for
20 such waiver or renewal in such form and
21 manner as the Secretary shall prescribe;
22 and

23 “(ii) the Secretary determines that
24 granting such waiver or renewal would not
25 result in a detrimental impact to current

1 or future defense operations of the United
2 States.

3 “(B) PERIOD OF WAIVER OR RENEWAL.—
4 A waiver or renewal under subparagraph (A)
5 shall apply for a period not to exceed 5 years.

6 “(C) REVOCATION.—The Secretary may
7 revoke a waiver or renewal under subparagraph
8 (A) for a former member of the Armed Forces
9 and that revocation shall take effect on the date
10 specified by the Secretary but not later than 60
11 days after the date on which the Secretary pro-
12 vides the former member written notice of such
13 revocation.

14 “(3) DEFINITIONS.—In this subsection:

15 “(A) COVERED POSITION.—The term ‘cov-
16 ered position’ means a position in the United
17 States Armed Forces that provides training,
18 knowledge, and experience in—

19 “(i) aviation or flight operations;

20 “(ii) defensive or offensive cyber oper-
21 ations;

22 “(iii) operation or maintenance of—

23 “(I) military equipment;

24 “(II) electrical or power distribu-
25 tion systems;

1 “(III) weapon systems; or
2 “(IV) munitions;
3 “(iv) intelligence;
4 “(v) logistics;
5 “(vi) security of military assets;
6 “(vii) defense acquisitions; or
7 “(viii) military equipment testing and
8 evaluation.

9 “(B) DESIGNATED ENTITY.—The term
10 ‘designated entity’ means any entity that seeks
11 to employ or engages in employing any member
12 of the Armed Forces or former member of the
13 Armed Forces for the purpose of providing ma-
14 terial support, including sensitive military infor-
15 mation or capabilities, to the military of a des-
16 ignated foreign government, as determined by
17 the Secretary of Defense.

18 “(C) DESIGNATED FOREIGN GOVERN-
19 MENT.—The term ‘designated foreign govern-
20 ment’ means a government, at the national, re-
21 gional, or local level, in—

22 “(i) the People’s Republic of China; or
23 “(ii) the Russian Federation.”.

24 (d) WRITTEN NOTICE ABOUT PROHIBITION.—

1 (1) IN GENERAL.—The Secretary of Defense or
2 the Secretary of Veterans Affairs, as appropriate,
3 shall provide written notice of the prohibition under
4 subsection (m) of section 207 of title 18, United
5 States Code, as added by subsection (c)—

6 (A) to any person subject to the prohibi-
7 tion as of the date of the enactment of this Act,
8 as soon as practicable after such date of enact-
9 ment; and

10 (B) to any person who becomes subject to
11 the prohibition after such date of enactment, as
12 soon as practicable thereafter.

13 (2) IMPACT ON PROHIBITION.—The prohibition
14 under subsection (m) of section 207 of title 18,
15 United States Code, as added by subsection (c),
16 shall apply to a person regardless of whether the
17 Secretary of Defense or the Secretary of Veterans
18 Affairs, as appropriate, have complied with the re-
19 quirements under paragraph (1).

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