

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5404
OFFERED BY M . _____

Strike all that follows after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Countering Chinese
3 Espionage Reporting Act of 2023”.

4 SEC. 2. FINDINGS.

5 Congress makes the following findings:

(1) The Chinese Communist Party poses pervasive and growing threats to United States domestic national security.

(2) On November 1, 2018, the Department of Justice launched a new initiative, referred to as the “China Initiative”, to address some of the most critical threats to United States domestic national security posed by the Chinese regime.

(3) The China Initiative has sought to identify and prosecute Chinese trade-secret theft and economic espionage and to protect American critical infrastructure and supply chains from covert influence.

1 (4) The Chinese Communist Party's aggression
2 is a pervasive and growing problem, as approxi-
3 mately 80 percent of all Federal economic espionage
4 prosecutions involve alleged conduct that would ben-
5 efit the Chinese Communist Party, and about 60
6 percent of all United States trade-secret theft cases
7 have a nexus to the Chinese Communist Party.

8 (5) According to the Commission on the Theft
9 of American Intellectual Property, the Chinese Com-
10 munist Party's theft of United States intellectual
11 property is estimated to cost the United States econ-
12 omy between \$225,000,000,000 to
13 \$600,000,000,000 annually.

14 (6) The Department of Justice has identified
15 academia as one of the sectors of the United States
16 economy that are most vulnerable to trade-secret
17 theft and economic espionage by the Chinese Com-
18 munist Party. The Chinese Communist Party ex-
19 ploits the American tradition of openness and the
20 free flow of ideas for its own benefit.

21 (7) The widespread and dangerous threats
22 posed by the Chinese Communist Party has been un-
23 derscored by the most senior-level United States
24 Government officials.

1 (8) On November 1, 2018, the former Assistant
2 Attorney for the Department of Justice’s National
3 Security Division stated, “China wants the fruits of
4 America’s brainpower to harvest the seeds of its
5 planned economic dominance. Preventing this from
6 happening will take all of us, here at the Justice De-
7 partment, across the U.S. Government, and within
8 the private sector”.

9 (9) On June 24, 2020, the former National Se-
10 curity Advisor of the White House stated that the
11 Chinese Communist Party “is seeking leverage over
12 individual Americans” and “collecting your most in-
13 timate data—your words, your actions, your pur-
14 chases, your whereabouts, your health records, your
15 social media posts, your texts, and mapping your
16 network of friends, family, and acquaintances”.

17 (10) On July 7, 2020, the Director of the Fed-
18 eral Bureau of Investigation warned that “[t]he
19 greatest long-term threat to our nation’s information
20 and intellectual property, and to our economic vital-
21 ity, is the counterintelligence and economic espio-
22 nage threat from China”.

23 (11) The Director of the Federal Bureau of In-
24 vestigation added that “[w]e’ve now reached the
25 point where the FBI is opening a new China-related

1 counterintelligence case about every 10 hours. Of the
2 nearly 5,000 active FBI counterintelligence cases
3 currently underway across the country, almost half
4 are related to China”.

5 (12) On July 16, 2020, the former Attorney
6 General of the Department of Justice stated that
7 “[t]he ultimate ambition of China’s rulers isn’t to
8 trade with the United States. It is to raid the
9 United States”.

10 (13) On July 23, 2020, the former Secretary of
11 the Department of State stated that “[w]e [the
12 United States] must admit a hard truth that should
13 guide us in the years and decades to come, that if
14 we want a free 21st century, and not the Chinese
15 century of which Xi Jinping dreams, the old para-
16 digm of blind engagement with China simply won’t
17 get it done. We must not continue it and we must
18 not return it”.

19 (14) Actions by the Biden administration have
20 raised serious concerns about its commitment to
21 confront the national security threats posed by the
22 Chinese Communist Party.

23 (15) In July 2021, the Biden administration’s
24 Department of Justice moved to dismiss charges

1 against several suspected Chinese researchers ac-
2 cused of concealing ties to the Chinese military.

3 (16) On February 23, 2022, the Biden adminis-
4 tration's Department of Justice announced the end
5 of its national security program aimed at prioritizing
6 and countering legitimate threats of economic espio-
7 nage, theft of American intellectual property and re-
8 search, and other threats posed by the Chinese Com-
9 munist Party to the United States.

10 (17) This action comes at a time when Presi-
11 dent Biden's leadership in only a short period has
12 resulted in many foreign policy missteps, notably in
13 Afghanistan, Russia, and Iran.

14 (18) The United States efforts to combat the
15 Chinese Communist Party's malign activities should
16 actively protect United States domestic national se-
17 curity, and address the strategic failures described
18 in this section.

19 **SEC. 3. REPORT ON DEPARTMENT OF JUSTICE ACTIVITIES**
20 **RELATED TO COUNTERING CHINESE NA-**
21 **TIONAL SECURITY THREATS.**

22 (a) REQUIREMENT.—Not later than 90 days after the
23 date of the enactment of this Act, and each year thereafter
24 for 7 years, the Attorney General shall submit to the Com-
25 mittees on the Judiciary of the House of Representatives

1 and of the Senate a report that includes each of the fol-
2 lowing:

3 (1) A description of the activities and oper-
4 ations of the Department of Justice related to coun-
5 tering Chinese national security threats and espio-
6 nage in the United States, including trade-secret
7 theft, theft of United States intellectual property
8 and research, and threats from non-traditional col-
9 lectors, such as researchers in laboratories, at uni-
10 versities, and at defense industrial base facilities (as
11 that term is defined in section 2208(u)(3) of title
12 10, United States Code).

13 (2) An accounting of the resources of the De-
14 partment of Justice that are dedicated to programs
15 aimed at combating national security threats posed
16 by the Chinese Communist Party, and any sup-
17 porting information as to the efficacy of each such
18 program.

19 (b) FORM.—The report under subsection (a) shall be
20 submitted in unclassified form, but may include a classi-
21 fied annex. On the date on which the Attorney General
22 submits each report under subsection (a), the Attorney
23 General shall make such report publicly available on the
24 website of the Department of Justice.

1 (c) CONSULTATION.—In preparing the report under
2 subsection (a), the Attorney General shall consult with
3 other appropriate officials.

