MIKE ROGERS' SENIOR NSA RETIREE WORKING FOR FOREIGN GOVERNMENT COOLING OFF

I'm still working through the Intelligence Authorization and proposed amendments, which have been posted but which may or may not get a vote.

I'm particularly puzzled by an Amendment Mike Rogers submitted at the last minute, after having proposed it in committee but withdrawn it. The description of what he proposed reads,

> Chairman Rogers offered an amendment to the amendment in the nature of a substitute to require a "cooling off" period before former Intelligence Community senior employees could work for a foreign government or a company controlled by a foreign government. The amendment would also establish notification and reporting requirements for former IC senior employees. He subsequently withdrew the amendment.

After having withdrawn that he submitted this amendment, but did not list it as a Manager's Amendment (see below for the text).

Effectively, the Amendment seems to do two things. First, it requires high ranking intelligence community personnel (and this includes Congress, presumably up to and including Rogers himself) to tell their Agency when they start negotiating a new job with a company with foreign ties.

It would also prohibit those high ranking people from working for a company with foreign ties for

a year — or two, if it pertains to something they worked on. It also requires former employees to disclose any payment they get from a foreign country or foreign owned company.

Now, this Amendment seems like a total no-brainer (indeed, the reporting requirements should be in place for all employers). It's a measure to prevent top IC officials to go work for foreign governments.

So why didn't this pass through committee? And why is Rogers submitting it now? What former high ranking official went to work for a foreign entity, raising the need for such a no-brainer law?

One more question: I wonder whether Israel will be included among the covered countries. Sure, it's a close ally — precisely the kind that might hire away top IC talent. But it's also an aggressive spy targeting the US. Precisely the kind of country that would make this kind of amendment even remotely controversial.

Update: Via Matt Stoller and billmon, this is presumably what this about:

> A longtime adviser to the U.S. Director of National Intelligence has resigned after the government learned he has worked since 2010 as a paid consultant for Huawei Technologies Ltd., the Chinese technology company the U.S. has condemned as an espionage threat, The Associated Press has learned.
>
> Theodore H. Moran, a respected expert on China's international investment and professor at Georgetown University, had served since 2007 as adviser to the intelligence director's advisory panel on foreign investment in the United States. Moran also was an adviser to the National Intelligence Council, a group of 18 senior analysts and policy experts who provide U.S. spy agencies with judgments on important international issues.

Though I'm not convinced Moran would be covered under this law. Plus, he disclosed his tie to Huawei.

> (a) RESTRICTION.—Title III of the National Security Act of 1947 (50 U.S.C. 3071 et seq.) is amended by inserting after section 303 the following new section:
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> 'SEC. 304. RESTRICTIONS ON CERTAIN FORMER INTELLIGENCE OFFICERS AND EMPLOYEES.
>
> (a) NEGOTIATIONS.—A covered employee shall notify the element of the intelligence community employing such employee not later than 3 business days after the commencement of any negotiation for future employment or compensation between such covered employee and a covered entity.
>
> (b) SEPARATION.—A covered employee may not commence employment with or be contracted by a covered entity—
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> (1) for a period of one year following the termination of the service or employment of such covered employee by an element of the intelligence community; and
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> (2) for a period of two years following such termination with respect to any matter that was a part of the official responsibility of such covered employee during the final year of the service or employment of such covered employee by an element of the intelligence community.
>
> (c) ANNUAL REPORTING.—
>
> (1) REPORTING REQUIRED.—Each former covered employee who was a covered employee at the time of separation from an element of the intelligence community shall annually report in writing to the

element of the intelligence community that most recently previously employed such covered employee any payment received in the preceding year from a foreign government or a covered entity.

(2) APPLICABILITY.—The requirement to submit a report under paragraph (1) for each former covered employee shall terminate on the date that is 5 years after the date on which such former covered employee was most recently employed by an element of the intelligence community.

(d) DETERMINATION OF FOREIGN GOVERNMENTS POSING A SIGNIFICANT COUNTERINTELLIGENCE THREAT.—

The Director of National Intelligence shall annually—

(1) determine which foreign governments pose a significant counterintelligence threat to the United States; and

(2) submit to the congressional intelligence committees a list of such foreign governments.

(e) DEFINITIONS.—In this section:

(1) COVERED EMPLOYEE.—The term 'covered employee' means—

(A) an employee of an element of the intelligence community with access to sensitive compartmented information occupying a position—

(i) classified at GS-15 of the General Schedule (chapter 53 of title 5, United States Code); or

(ii) as a senior civilian officer of the intelligence community (as defined in Intelligence Community Directive No. 610 or any successor directive); and

(B) a person who during the preceding 12-month period was an officer

or employee of the Congress (as defined in section 109(13) of the Ethics in Government Act of 1978 (5 .S.C. App.)) with access to sensitive compartmented information.

(2) COVERED ENTITY.—The term ‘covered entity’ means—

(A) any person acting on behalf or under the supervision of a designated foreign government; or

(B) any entity owned or controlled by a designated foreign government.

(3) DESIGNATED FOREIGN GOVERNMENT.—

The term ‘designated foreign government’ means a government that the Director of National Intelligence determines poses a significant counterintelligence threat to the United States under subsection (d).

(b) EFFECTIVE DATE OF NEGOTIATION PERIOD NOTICE.—

The requirement under section 304(a) of the National Security Act of 1947, as added by subsection (a) of this section, shall take effect on the date that is 30 days after the date of the enactment of this Act.

(c) APPLICABILITY OF SEPARATION PERIOD.—The requirement under section 304(b) of the National Security Act of 1947, as added by subsection (a) of this section, shall not apply to a covered employee that has entered into an employment agreement on or before the date of the enactment of this Act.

(d) FIRST REPORTING REQUIREMENT.—The first report required to be submitted by each former covered employee under section 304(c) of the National Security Act of 1947, as added by subsection (a) of this section, shall be submitted not

later than one year after the date of the enactment of this Act.

(e) FIRST DESIGNATION REQUIREMENT.—The Director of National Intelligence shall submit to the congressional intelligence committees the initial list of foreign governments under section 304(d) of the National Security Act of 1947, as added by subsection (a) of this section, not later than 30 days after the date of the enactment of this Act.