

SENATE BILL NO. 473

BY SENATORS MILLIGAN AND FESI AND REPRESENTATIVES GAROFALO AND MIKE JOHNSON

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AN ACT

To enact Part III-C of Chapter 5 of Title 17 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 17:1826.1 through 1826.4, relative to foreign sources of funds; to provide for reporting of certain foreign sources of monies used as gifts or grants or in contracts involving certain postsecondary education institutions; to provide for use of certain monies to fund employment of and study by foreign graduate students and faculty in a research capacity; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part III-C of Chapter 5 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:1826.1 through 1826.4 is hereby enacted to read as follows:

PART III-C. HIGHER EDUCATION FOREIGN

SECURITY ACT OF 2022

§1826.1. Short title

This Act shall be known and may be cited as the "Higher Education Foreign Security Act of 2022".

§1826.2. Foreign gift reporting

A. As used in this Section, the following words shall have the following meanings unless the context clearly indicates otherwise:

(1) "Affiliate organization" means any entity under the control of or established for the benefit of an organization required to report under this Section, including a direct-support organization.

(2) "Contract" means any agreement for the acquisition by purchase, lease, or barter of property or services by a foreign source for the direct benefit or use of any of the parties, and any purchase, lease, or barter of property or services from a foreign country of concern.

1 (3) "Foreign country of concern" means any country subject to any
2 sanction or embargo program administered by the Office of Foreign Assets
3 Control within the United States Department of Treasury, including any federal
4 license requirement; custom rules; export controls; restrictions on taking
5 institution property, including but not limited to intellectual property abroad;
6 restrictions on presentations, teaching, and interactions with foreign colleagues;
7 and other subjects important to the research and academic property of the
8 institution, subject to either or both the International Traffic in Arms
9 Regulations, 22 CFR Parts 120 through 130, and the Export Administration
10 Regulations, 15 CFR Parts 730 through 774.

11 (4) "Foreign government" means the government of any country, nation,
12 or group of nations, or any province or other political subdivision of any
13 country or nation, other than the government of the United States and its states
14 or political subdivisions, including any agent of the foreign government.

15 (5) "Foreign source" means any of the following:

16 (a) A foreign government or an agency of a foreign government.

17 (b) A legal entity, governmental or otherwise, created solely under the
18 laws of a foreign state or states.

19 (c) An individual who is not a citizen of the United States or of a territory
20 or protectorate of the United States.

21 (d) An agent, including a subsidiary or an affiliate of a foreign legal
22 entity, acting on behalf of any source defined in Subparagraph (a), (b), or (c) of
23 this Paragraph.

24 (6) "Gift" means any contract, gift, grant, endowment, award,
25 scholarship, or donation of money or property of any kind, or any combination
26 thereof, including a conditional or unconditional pledge of a contract, gift,
27 grant, endowment, award, scholarship, or donation. For purposes of this
28 Paragraph, the term "pledge" means a promise, agreement, or an expressed
29 intention to give a thing of value.

30 (7) "Postsecondary education institution" or "institution" means a

1 Louisiana college or university, a nonpublic postsecondary institution that is a
2 member of the Louisiana Association of Independent Colleges and Universities,
3 and any other entity offering a program of postsecondary education that has a
4 physical presence in the state and is required to report foreign gifts or contracts
5 pursuant to 20 U.S.C. 1011f, or an affiliate organization of any such college,
6 university, institution, or school.

7 (8) "Research-related support position" means any individual in a
8 support role funded by gifts, grants, or contracts.

9 B.(1)(a) Each institution shall report any gift received directly or
10 indirectly from a foreign source with a value of fifty thousand dollars or more.
11 This report shall be made each January thirty-first and July thirty-first and
12 shall include the gifts made during the six-month period ending on the last day
13 of the month immediately preceding the reporting month. The institution shall
14 include in its report gifts received by all affiliate organizations of the institution.

15 (b) If a foreign source provides more than one gift directly or indirectly
16 to an institution and its affiliate organizations in a single fiscal year and the total
17 value of all gifts is fifty thousand dollars or more, then all gifts received from
18 that foreign source shall be reported.

19 (c) For purposes of this Paragraph, a gift received from a foreign source
20 through an intermediary shall be considered an indirect gift to the institution.

21 (2) A report required under this Subsection shall be made to the
22 following entities:

23 (a) The institution's board of supervisors. The respective board shall file
24 an annual summary of these gifts with the Board of Regents.

25 (b) Unless already reported to the institution's board of supervisors, an
26 annual summary of the gifts shall be filed with the Board of Regents for any
27 institution or affiliate organization of the institution.

28 C. Reports of gifts subject to the requirements of this Section shall
29 include the following information, unless the information is exempt from
30 disclosure under the provisions of this Section or otherwise prohibited or

1 deemed confidential under federal or state law:

2 (1) The amount of the gift and the date it was received.

3 (2) The contract start and end date, if the gift is a contract.

4 (3) The name of the foreign source and, if not a foreign government, the
5 country of citizenship, if known, and the country of principal residence or
6 domicile of the foreign source.

7 (4)(a) A copy of any gift agreement between the foreign source and the
8 institution, signed by the foreign source and the chief administrative officer of
9 the institution, or their respective designees, which includes a detailed
10 description of the purpose for which the gift is to be used by the institution, the
11 identification of the persons whom the gift is explicitly intended to benefit, and
12 any applicable conditions, requirements, restrictions, or terms made a part of
13 the gift regarding the control of curricula, faculty, student admissions, student
14 fees, or contingencies placed upon the institution to take a specific public
15 position or to award an honorary degree. If an agreement contains information
16 protected from disclosure, an abstract and redacted copy of the disclosure
17 containing information that is not protected shall be submitted in lieu of a copy
18 of the agreement.

19 (b) Beginning July 1, 2024, the internal auditor of the Board of Regents
20 shall annually inspect or audit a random sample of at least five percent of the
21 total number of gifts disclosed by or gift agreements received from any
22 institution during the previous fiscal year to determine the institution's
23 compliance with the requirements of this Section.

24 (c) Upon request by the governor, the president of the Senate, or the
25 speaker of the House of Representatives, the internal auditor of the Board of
26 Regents shall inspect or audit a gift or gift agreement.

27 D. An institution that knowingly, willfully, or negligently fails to disclose
28 the information required in this Section shall be subject to a civil penalty of one
29 hundred five percent of the amount of the undisclosed gift, payable only from
30 non-state funds of the institution or the affiliate organization that received the

1 gift. The recovered funds shall be deposited into the state general fund.

2 §1826.3. Screening foreign researchers

3 A.(1) Every person seeking employment with a postsecondary education
4 institution as defined in R.S. 17:1826.2 in a research or research-related support
5 position, or applying as a graduate student for a research or research-related
6 support position, or for a position as a visiting researcher shall, prior to being
7 offered a position of employment, be screened by the institution to determine
8 if any of the following apply to the person:

9 (a) The person is a citizen of a foreign country and not a permanent
10 resident of the United States.

11 (b) The person is a citizen or permanent resident of the United States
12 who has any affiliation with an institution or program in a foreign country of
13 concern as defined in R.S. 17:1826.2.

14 (c) The person has at least one year of prior employment or training in
15 a foreign country of concern as defined in R.S. 17:1826.2, except for
16 employment or training by an agency of the United States government.

17 (2) The provisions of this Subsection shall apply only to institutions that
18 receive state appropriations and have annual research budgets of ten million
19 dollars or more.

20 B. Each foreign applicant for a position listed in Subsection A of this
21 Section shall submit a copy of the applicant's current passport and the most
22 recently submitted Online Nonimmigrant Visa Application, DS-160. After
23 extraction of all information relevant to the requirements of this Section, the
24 institution may destroy or return the copy of the DS-160 submitted by an
25 applicant.

26 C. Each applicant for a position listed in Subsection A of this Section
27 shall submit a complete resume and curriculum vitae, including every
28 institution of higher education attended; all previous employment since the
29 applicant's eighteenth birthday; a list of all published material for which the
30 applicant received credit as an author, a researcher, or otherwise or, to which

1 the applicant contributed significant research, writing, or editorial support; a
2 list of the applicant's current and pending research funding, and its amount,
3 from any source, including the applicant's role on the project, and a brief
4 description of the research; and a full disclosure of nonuniversity professional
5 activities, including any affiliation with an institution or program in a foreign
6 country of concern. If an applicant has been continually employed or enrolled
7 in a postsecondary education institution in the United States for twenty years
8 or more, the resume may, but is not required to, include employment history
9 before the most recent twenty-year period.

10 D. The president or chief administrative officer of the institution shall
11 adopt a policy for the proper screening of all individuals subject to this Part for
12 research-related support positions and shall take necessary and reasonable steps
13 to verify all attendance, employment, publications, and contributions listed in
14 the application prior to any offer of a position to the applicant. Necessary and
15 reasonable steps may include the following:

16 (1) Searching public databases for research publications and
17 presentations.

18 (2) Searching public conflict of interest records to identify any research
19 publication or presentation that may have been omitted from the application.

20 (3) Contacting employers from the previous ten years to verify
21 employment.

22 (4) Contacting all institutions of higher education attended to verify
23 enrollment and educational progress.

24 (5) Searching public listings of persons subject to sanctions or
25 restrictions under federal or state law.

26 (6) Requesting further investigation, including but not limited to a
27 second background check performed by the Federal Bureau of Investigation,
28 the Louisiana State Police, or any other qualified local law enforcement agency,
29 if any of the individual's information provided on the online non-immigrant visa
30 application Form DS-160 raises any security concerns for the institution about

1 the individual's relationship with a foreign country of concern.

2 E. Each institution may direct the research integrity officer to approve
3 an applicant for hire based on a risk-based determination considering the
4 nature of the research and the background and ongoing affiliations of the
5 applicant.

6 F. The requirements of this Section shall be completed before offering
7 any position to an applicant for a position listed in Subsection A of this Section.

8 G. Prior to July 1, 2025, the office of the legislative auditor shall perform
9 an operational audit regarding implementation of the provisions of this Section.

10 §1826.4. Foreign travel; research institutions

11 A. By July 1, 2023, each postsecondary education institution as defined
12 in R.S. 17:1826.2 that receives state appropriations and has a research budget
13 of ten million dollars or more shall establish an international travel approval
14 and monitoring program. The program shall require preapproval and screening
15 by the institution for any employment-related foreign travel and
16 employment-related foreign activities engaged in by any faculty member,
17 researcher, or any other research department staff. This requirement is in
18 addition to any other travel approval process applicable to the institution.

19 B.(1) Preapproval by the institution shall be based on the applicant's
20 review and acknowledgment of guidance published by the institution which
21 relates to countries under sanctions or other restrictions imposed by the state
22 or federal government, including any federal license requirement; customs
23 rules; export controls; restrictions on taking institution property, including
24 intellectual property, abroad; restrictions on presentations, teaching, and
25 interactions with foreign colleagues; and other subjects important to the
26 research and academic integrity of the institution.

27 (2) Preapproval shall be based on the binding commitment of the
28 individual traveler not to violate the institution's limitations on travel and
29 activities abroad and to obey all applicable federal laws. Any person subject to
30 this Section traveling abroad representing their respective institution, upon

1 return, shall report any gifts of funds, or promises to pay offered by a foreign
2 country of concern or any entity representing the interests of a foreign country
3 of concern.

4 C. The postsecondary education institution shall maintain records of all
5 foreign travel requests and approvals; expenses reimbursed by the institution
6 during travel, including for transportation, food, and lodging; and payments
7 and honoraria received during the travel and activities, including for
8 transportation, food, and lodging. The institution shall keep records of the
9 purpose of the travel and any records related to the foreign activity review.
10 These records shall be retained for at least three years or any longer period of
11 time required by any other applicable state or federal law.

12 D. The institution shall provide an annual report of travel to foreign
13 countries of concern as defined in R.S. 17:1826.2 listing individual travelers,
14 foreign locations visited, and foreign institutions visited to the board of
15 supervisors of the applicable institution.

16 E. By July 1, 2025, the office of the legislative auditor shall perform an
17 operational audit regarding the implementation of this Section.

18 Section 2. This Act shall become effective on July 1, 2023.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____