

2022 Regular Session

SENATE BILL NO. 473

BY SENATOR MILLIGAN AND REPRESENTATIVE MIKE JOHNSON

INTERNATIONAL AFFAIRS. Provides relative to foreign interest in certain Louisiana research facilities. (1/1/23)

1 AN ACT

2 To enact R.S. 17:1818.1 through 1818.3, relative to foreign sources of funds; to provide for

3 reporting of certain foreign sources of monies used as gifts or grants or in contracts

4 involving certain postsecondary education institutions; to provide for use of certain

5 monies to fund employment of and study by foreign students and faculty; and to

6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 17:1818.1 through 1818.3 are hereby enacted to read as follows:

9 **§1818.1. Foreign gift reporting**

10 **A. As used in this Section, the following words shall have the following**

11 **meanings unless the context clearly indicates otherwise:**

12 **(1) "Affiliate organization" means any entity under the control of or**

13 **established for the benefit of an organization required to report under this**

14 **Section, including a direct-support organization.**

15 **(2) "Contract" means any agreement for the acquisition by purchase,**

16 **lease, or barter of property or services by a foreign source for the direct benefit**

17 **or use of any of the parties, and any purchase, lease, or barter of property or**

1 services from a foreign country of concern.

2 (3) "Foreign country of concern" means a country or nation determined
3 by the appropriate federal agency to be a potential source of intelligence
4 gathering or espionage activities detrimental to the United States.

5 (4) "Foreign government" means the government of any country, nation,
6 or group of nations, or any province or other political subdivision of any
7 country or nation, other than the government of the United States and its states
8 or political subdivisions, including any agent of the foreign government.

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

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

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

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

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

18 (6) "Gift" means any contract, gift, grant, endowment, award, or
19 donation of money or property of any kind, or any combination thereof,
20 including a conditional or unconditional pledge of a contract, gift, grant,
21 endowment, award, or donation. For purposes of this Paragraph, the term
22 "pledge" means a promise, agreement, or an expressed intention to give a thing
23 of value.

24 (7) "Post-secondary education institution" or "institution" means a
25 Louisiana college or university, a nonpublic post-secondary institution that is
26 a member of the Louisiana Association of Independent Colleges and
27 Universities, and any other entity offering a program of post-secondary
28 education that has a physical presence in the state and is required to report
29 foreign gifts or contracts pursuant to 20 U.S.C. 1011f, or an affiliate

1 organization of any such college, university, institution, or school.

2 B.(1)(a) Each institution shall report any gift received directly or
3 indirectly from a foreign source with a value of fifty thousand dollars or more.

4 This report shall be made each January thirty-first and July thirty-first and
5 shall include the gifts made during the six-month period ending on the last day
6 of the month immediately preceding the reporting month. The institution shall
7 include in its report gifts received by all affiliate organizations of the institution.

8 (b) If a foreign source provides more than one gift directly or indirectly
9 to an institution in a single fiscal year and the total value of all gifts is fifty
10 thousand dollars or more, then all gifts received from that foreign source shall
11 be reported.

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

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

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

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

21 C. Reports of gifts subject to the requirements of this Section shall
22 include the following information, unless the information is exempt from
23 disclosure under the provisions of this Section or otherwise prohibited or
24 deemed confidential under federal or state law:

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

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

27 (3) The name of the foreign source and, if not a foreign government, the
28 country of citizenship, if known, and the country of principal residence or
29 domicile of the foreign source.

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

13 **(b) Beginning July 1, 2023, the internal auditor of the Board of Regents**
14 **shall annually inspect or audit a random sample of at least five percent of the**
15 **total number of gifts disclosed by or gift agreements received from any**
16 **institution during the previous fiscal year to determine the institution's**
17 **compliance with the requirements of this Section.**

18 **(c) Upon request by the governor, the president of the Senate, or the**
19 **speaker of the House of Representatives, the internal auditor of the Board of**
20 **Regents shall inspect or audit a gift or gift agreement.**

21 **D. An institution that knowingly, willfully, or negligently fails to disclose**
22 **the information required in this Section shall be subject to a civil penalty of one**
23 **hundred five percent of the amount of the undisclosed gift, payable only from**
24 **non-state funds of the institution or the affiliate organization that received the**
25 **gift. The recovered funds shall be deposited into the State General Fund.**

26 **§1818.2. Screening foreign researchers**

27 **A.(1) Every person seeking employment with a post-secondary education**
28 **institution as defined in R.S. 17:1818.1 in a research or research-related support**
29 **position, or applying as a graduate or undergraduate student for a research or**

1 research-related support position, or for a position as a visiting researcher shall,
2 prior to being interviewed or offered a position of employment, be screened by
3 the institution to determine if any of the following apply to the person:

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

6 (b) The person is a citizen or permanent resident of the United States
7 who has any affiliation with an institution or program in a foreign country of
8 concern as defined in R.S. 17:1818.1.

9 (c) The person has at least one year of prior employment or training in
10 a foreign country of concern as defined in R.S. 17:1818.1, except for
11 employment or training by an agency of the United States government.

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

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

21 C. Each applicant for a position listed in Subsection A of this Section
22 shall submit a complete resume and curriculum vitae, including every
23 institution of higher education attended; all previous employment since the
24 applicant's eighteenth birthday; a list of all published material for which the
25 applicant received credit as an author, a researcher, or otherwise or to which
26 the applicant contributed significant research, writing, or editorial support; a
27 list of the applicant's current and pending research funding, and its amount,
28 from any source, including the applicant's role on the project, and a brief
29 description of the research; and a full disclosure of nonuniversity professional

1 activities, including any affiliation with an institution or program in a foreign
2 country of concern. If an applicant has been continually employed or enrolled
3 in a postsecondary education institution in the United States for twenty years
4 or more, the resume may, but is not required to, include employment history
5 before the most recent twenty year period.

6 D. The president or chief administrative officer of the institution shall
7 designate a research integrity officer to review all materials required by this
8 Section and shall take necessary and reasonable steps to verify all attendance,
9 employment, publications, and contributions listed in the application prior to
10 any interview for or offer of a position to the applicant. Necessary and
11 reasonable steps shall include the following:

12 (1) Searching public databases for research publications and
13 presentations.

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

16 (3) Contacting all employers from the previous ten years to verify
17 employment.

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

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

22 (6) Submission of the applicant's name and other identifying information
23 to the Federal Bureau of Investigation or other federal agency to review the
24 applicant for purposes of national security.

25 E. Each institution may direct the research integrity officer to approve
26 an applicant for hire based on a risk-based determination considering the
27 nature of the research and the background and ongoing affiliations of the
28 applicant.

29 F. The requirements of this Section shall be completed before

1 interviewing or offering any position to an applicant for a position listed in
2 Subsection A of this Section.

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

5 §1818.3. Foreign travel; research institutions

6 A. By January 1, 2023, each post-secondary education institution as
7 defined in R.S. 17:1818.1 that receives state appropriations and has a research
8 budget of ten million dollars or more shall establish an international travel
9 approval and monitoring program. The program shall require preapproval and
10 screening by a research integrity officer designated by the president or chief
11 administrative officer of the institution for any employment-related foreign
12 travel and employment-related foreign activities engaged in by any faculty
13 member, researcher, or any other research department staff. This requirement
14 is in addition to any other travel approval process applicable to the institution.

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

23 (2) Preapproval shall be based on the binding commitment of the
24 individual traveler not to violate the institution's limitations on travel and
25 activities abroad and to obey all applicable federal laws.

26 C. The state college or university shall maintain records of all foreign
27 travel requests and approvals; expenses reimbursed by the institution during
28 travel, including for transportation, food, and lodging; and payments and
29 honoraria received during the travel and activities, including for transportation,

1 **food, and lodging. The institution shall keep records of the purpose of the travel**
 2 **and any records related to the foreign activity review. These records shall be**
 3 **retained for at least three years or any longer period of time required by any**
 4 **other applicable state or federal law.**

5 **D. The institution shall provide an annual report of travel to foreign**
 6 **countries of concern as defined in R.S. 17:1818.1 listing individual travelers,**
 7 **foreign locations visited, and foreign institutions visited to the board of**
 8 **supervisors of the applicable institution.**

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

11 Section 2. This Act shall become effective on January 1, 2023.

The original instrument was prepared by Thomas L. Tyler. The following digest, which does not constitute a part of the legislative instrument, was prepared by Alan Miller.

DIGEST

SB 473 Engrossed

2022 Regular Session

Milligan

Proposed law provides for reporting of gifts and contracts funded from foreign sources, screening of foreign researchers, and travel involving institutions of higher education.

Proposed law defines certain terms including "affiliate organization", "foreign country of concern", and "foreign source".

Proposed law requires each institution of higher education to report any gift received directly or indirectly from a foreign source having a value of \$50,000 or more in a fiscal year and that the report include all gifts valued at \$50,000 or more. Provides that the report be made to the following:

- (1) The institution's board of supervisors and an annual summary to the Board of Regents.
- (2) Unless already reported to the institution's board of supervisors, an annual summary of the gifts shall be filed with the Board of Regents for any institution of higher education or an affiliate organization of the institution.

Proposed law requires that the report include the amount of the gift and the date received; if the gift is a contract, its start and end date; name of the foreign source and country of principal residence or domicile; and a copy of the agreement between the foreign source and the institution.

Proposed law, beginning July 1, 2023, requires the internal auditor of the Board of Regents to annually audit a random sample of at least five percent of the total number of gifts. Provides for audits upon request by the governor or the presiding officers of the legislature.

Proposed law subjects an institution of higher education to a civil penalty of 105% of the

amount of undisclosed gifts if it knowingly, willfully, or negligently fails to disclose the information required in proposed law.

Proposed law requires that every person seeking employment in an institution of higher education that receives state appropriations and has an annual research budget of \$10 million or more, in a research or research-related support position, or applying as a graduate or undergraduate student for a research or research-related support position, or for a position as a visiting researcher be screened prior to being interviewed or offered a position of employment to determine the following:

- (1) Whether the person is a citizen of a foreign country and not a permanent resident of the United States.
- (2) Whether the person is a citizen or permanent resident of the United States who has any affiliation with an institution or program in a foreign country of concern.
- (3) Whether the person has at least one year of prior employment or training in a foreign country of concern, except for employment or training by an agency of the United States government.

Proposed law requires foreign applicants to provide a copy of their current passport and the most recently submitted Online Nonimmigrant Visa Application, DS-160.

Proposed law requires every applicant to submit a complete resume and curriculum vitae, including every institution of higher education attended; all previous employment since the applicant's eighteenth birthday; a list of all published material for which the applicant received credit as an author, a researcher, or otherwise or to which the applicant contributed significant research, writing, or editorial support; a list of the applicant's current and pending research funding, and its amount, from any source, including the applicant's role on the project, and a brief description of the research; and a full disclosure of non-university professional activities, including any affiliation with an institution or program in a foreign country of concern. If an applicant has been continually employed or enrolled in a postsecondary education institution in the United States for 20 years or more, the resume may but does not have to, include employment history before the most recent twenty year period.

Proposed law requires review and verification of all materials submitted as well as attendance, employment, publications, and contributions listed in the application prior to any interview for or offer of a position to the applicant. Provides that verification steps include the following:

- (1) Searching public databases for research publications and presentations.
- (2) Searching public conflict of interest records to identify any research publication or presentation that may have been omitted from the application.
- (3) Contacting all employers from the previous 10 years to verify employment.
- (4) Contacting all institutions of higher education attended to verify enrollment and educational progress.
- (5) Searching public listings of persons subject to sanctions or restrictions under federal law.
- (6) Submission of the applicant's name and other identifying information to the Federal Bureau of Investigation or other federal agency to review the applicant for purposes of national security.

Proposed law authorizes each institution to direct the approval of an applicant for hire based on a risk-based determination considering the nature of the research and the background and ongoing affiliations of the applicant.

Proposed law requires, by July 1, 2023, each institution receiving state appropriations and with a research budget of \$10 million dollars or more to establish an international travel approval and monitoring program. Requires preapproval and screening by a research integrity officer for any employment-related foreign travel and employment-related foreign activities engaged in by all faculty, researchers, and research department staff. Provides that preapproval be based on the applicant's review and acknowledgment of guidance from the institution which relates to countries under sanctions or other restrictions imposed by the state or federal government, including any federal license requirement; customs rules; export controls; restrictions on taking institution property, including intellectual property, abroad; restrictions on presentations, teaching, and interactions with foreign colleagues; and other subjects important to the research and academic integrity of the institution.

Proposed law requires each institution to maintain records of all foreign travel requests and approvals; expenses reimbursed by the institution during travel, including for transportation, food, and lodging; and payments and honoraria received during the travel and activities, including for transportation, food, and lodging; keep records of the purpose of the travel and any records related to the foreign activity review. Requires retention of records for at least three years or any longer period of time required by any law.

Proposed law requires an annual report of foreign travel to countries of concern listing individual travelers, foreign locations visited, and foreign institutions visited to the college or university's board of supervisors.

Proposed law requires office of legislative auditor to perform an operational audit on implementation of proposed law by July 1, 2025.

Effective January 1, 2023.

(Adds R.S. 17:1818.1 - 1818.3)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Makes technical change.