

2023 Regular Session

SENATE BILL NO. 206

BY SENATOR MILLIGAN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INTERNATIONAL AFFAIRS. Provides relative to foreign interest in certain Louisiana research facilities. (7/1/23)

1 AN ACT

2 To amend and reenact R.S. 17:1826.2(A)(2) and (3), (B)(1)(a) and (b), and (C)(4)(a),  
3 1826.3(A)(1)(b) and (c), (C), (D)(6), and (E), 1826.4(A), (B)(2), (C), and (D) as  
4 enacted by Section 1 of Act 767 of the 2022 Regular Session, relative to the Higher  
5 Education Foreign Security Act of 2022; to provide for foreign gift reporting; to  
6 provide for definitions; to provide for screening of foreign researchers; to provide  
7 for foreign travel; to provide for research institutions; and to provide for related  
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 17:1826.2(A)(2) and (3), (B)(1)(a) and (b), and (C)(4)(a),  
11 1826.3(A)(1)(b) and (c), (C), (D)(6) and (E), 1826.4(A), (B)(2), (C) and (D) as enacted by  
12 Section 1 of Act 767 of the 2022 Regular Session are hereby amended and reenacted to read  
13 as follows:

14 §1826.2. Foreign gift reporting

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

17 \* \* \*

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

5 (3) ~~"Foreign country of concern" means any country subject to any sanction~~  
 6 ~~or embargo program administered by the Office of Foreign Assets Control within the~~  
 7 ~~United States Department of Treasury, including any federal license requirement;~~  
 8 ~~custom rules; export controls; restrictions on taking institution property, including~~  
 9 ~~but not limited to intellectual property abroad; restrictions on presentations, teaching,~~  
 10 ~~and interactions with foreign colleagues; and other subjects important to the research~~  
 11 ~~and academic property of the institution, subject to either or both the International~~  
 12 ~~Traffic in Arms Regulations, 22 CFR Parts 120 through 130, and the Export~~  
 13 ~~Administration Regulations, 15 CFR Parts 730 through 774.~~ **adversary" means any**  
 14 **foreign government or foreign non-government person determined by the**  
 15 **United States secretary of commerce to have engaged in a long-term pattern or**  
 16 **serious instances of conduct significantly adverse to the national security of the**  
 17 **United States or security and safety of United States persons as listed in 15 CFR**  
 18 **§7.4 Determination of Foreign Adversaries, as amended or renumbered.**

19 \* \* \*

20 B.(1)(a) Each institution shall report any gift received directly or indirectly  
 21 from a foreign ~~source~~ **adversary** with a value of fifty thousand dollars or more. This  
 22 report shall be made each January thirty-first and July thirty-first and shall include  
 23 the gifts made during the six-month period ending on the last day of the month  
 24 immediately preceding the reporting month. The institution shall include in its report  
 25 gifts received by all affiliate organizations of the institution.

26 (b) If a foreign ~~source~~ **adversary** provides more than one gift directly or  
 27 indirectly to an institution and its affiliate organizations in a single ~~fiscal~~ **calendar**  
 28 year and the total value of all gifts is fifty thousand dollars or more, then all gifts  
 29 received from that foreign source shall be reported.

\* \* \*

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

\* \* \*

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

\* \* \*

§1826.3. Screening foreign researchers

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

\* \* \*

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

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

4 \* \* \*

5 C. Each applicant for a position listed in Subsection A of this Section shall  
6 submit a complete resume and curriculum vitae, including every institution of higher  
7 education attended; all previous employment since the applicant's eighteenth  
8 birthday; a list of all published material for which the applicant received credit as an  
9 author, a researcher, or otherwise or to which the applicant contributed significant  
10 research, writing, or editorial support; a list of the applicant's current and pending  
11 research funding, and its amount, from any source, including the applicant's role on  
12 the project, and a brief description of the research; and a full disclosure of  
13 nonuniversity professional activities, including any affiliation with an institution or  
14 program in a foreign **adversary** country ~~of concern~~. If an applicant has been  
15 continually employed or enrolled in a postsecondary education institution in the  
16 United States for twenty years or more, the resume may, but is not required to,  
17 include employment history before the most recent twenty-year period.

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

24 \* \* \*

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

1 relationship with a foreign ~~country of concern~~ **adversary**.

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

6 \* \* \*

7 §1826.4. Foreign travel; research institutions

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

17 B. \* \* \*

18 (2) Preapproval shall be based on the binding commitment of the individual  
 19 traveler not to violate the institution's limitations on travel and activities abroad and  
 20 to obey all applicable federal laws. Any person subject to this Section traveling  
 21 abroad representing their respective institution, upon return, shall report any gifts of  
 22 funds or promises to pay offered by a foreign ~~country of concern~~ **adversary** or any  
 23 entity representing the interests of a foreign ~~country of concern~~ **adversary**.

24 C. The postsecondary education institution shall maintain records of all  
 25 **employment-related** foreign travel requests and approvals **to foreign adversary**  
 26 **countries**; expenses reimbursed by the institution **or affiliate organization of the**  
 27 **institution** during travel, including for transportation, food, and lodging; and  
 28 payments and honoraria received during the travel and activities, including for  
 29 transportation, food, and lodging. The institution shall keep records of the purpose

1 of the travel and any records related to the foreign activity review. These records  
 2 shall be retained for at least three years or any longer period of time required by any  
 3 other applicable state or federal law.

4 D. The institution shall provide an annual report of travel to foreign  
 5 **adversary** countries ~~of concern as defined in R.S. 17:1826.2~~ listing individual  
 6 travelers, foreign locations visited, and foreign institutions visited to the board of  
 7 supervisors of the applicable institution.

8 \* \* \*

9 Section 2. This Act shall become effective on July 1, 2023; if vetoed by the governor  
 10 and subsequently approved by the legislature, this Act shall become effective on the day  
 11 following such approval by the legislature or July 1, 2023, whichever is later.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Alan Miller.

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DIGEST

SB 206 Reengrossed

2023 Regular Session

Milligan

Present law provides for the Higher Education Foreign Security Act of 2022.

Present law defines "foreign country of concern" as any country subject to any sanction or embargo program administered by the Office of Foreign Assets Control within the United States Department of Treasury, including any federal license requirement; custom rules; export controls; restrictions on taking institution property, including but not limited to intellectual property abroad; restrictions on presentations, teaching, and interactions with foreign colleagues; and other subjects important to the research and academic property of the institution, subject to federal present law.

Present law uses the definition of "foreign country of concern" throughout present law to trigger reporting of gifts, screening of persons seeking employment with a postsecondary education institution, and approval of foreign travel.

Proposed law defines "foreign adversary" as any foreign government or foreign non-government person determined by the United States secretary of commerce to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons as listed in federal regulations.

Proposed law replaces the definition of "foreign country of concern" with the definition of "foreign adversary" to trigger reporting of gifts, screening of persons seeking employment with a postsecondary education institution, and approval of foreign travel contained in present law.

Present law requires each institution to report any gift received directly or indirectly from a foreign source with a value of \$50,000 or more.

Proposed law retains present law, but changes "foreign source" to "foreign adversary".

Present law requires an institution and its affiliate organizations to report the total value of all gifts of \$50,000 or more in a single fiscal year.

Proposed law retains present law, but changes "fiscal year" to "calendar year".

Present law requires the report of gifts subject to requirements to include a copy of any gift agreement.

Present law authorizes each institution to direct the research integrity officer to approve 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 authorizes each institution to develop a policy to approve 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.

Present law requires an institution to approve all foreign travel and expense reimbursements.

Proposed law retains present law, but limits approval to employment-related travel to foreign adversary countries.

Effective July 1, 2023.

(Amends R.S. 17:1826.2(A)(2) and (3), (B)(1)(a) and (b), and (C)(4)(a), 1826.3(A)(1)(b) and (c), (C), (D)(6), and (E), 1826.4(A), (B)(2), (C), and (D) as enacted by Act 767 of the 2022 R.S.)

#### Summary of Amendments Adopted by Senate

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

1. Adds to the definition of "foreign adversary" a determination be made by the U.S. secretary of commerce that the foreign government or foreign non-government person engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the U.S. or security and safety of U.S. persons as listed in federal regulations.

#### Summary of Amendments Adopted by Senate

##### Senate Floor Amendments to engrossed bill

1. Changes the proposed law reporting requirements of gift agreements between foreign adversaries and higher education institutions to retain present law applicability to gift agreements between foreign sources and higher education institutions.