

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 * * *

(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~~ **adversary**.

(3) ~~"Foreign country of concern" means 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 either or both the International Traffic in Arms Regulations, 22 CFR Parts 120 through 130, and the Export Administration Regulations, 15 CFR Parts 730 through 774.~~ **adversary" means any foreign government or foreign nongovernment person engaged in a long-term pattern or serious instance of conduct significantly adverse to the national security of the United States or security and safety of United States persons as listed in 15 CFR §7.4 Determination of Foreign Adversaries.**

* * *

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

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

* * *

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

5 * * *

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

17 * * *

18 §1826.3. Screening foreign researchers

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

25 * * *

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

29 (c) The person has at least one year of prior employment or training in a

1 foreign **adversary** country ~~of concern as defined in R.S. 17:1826.2~~, except for
2 employment or training by an agency of the United States government.

3 * * *

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

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

23 * * *

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

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

5 * * *

6 §1826.4. Foreign travel; research institutions

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

16 B. * * *

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

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

1 shall be retained for at least three years or any longer period of time required by any
2 other applicable state or federal law.

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

7 * * *

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

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

DIGEST

SB 206 Original

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 nongovernment person engaged in a long-term pattern or serious instance of conduct significantly adverse to the national security of the United States or security and safety of United States persons as listed in federal present law.

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 adversary 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 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.)