

2022 Regular Session

SENATE BILL NO. 227

BY SENATOR MILLIGAN

COLLEGES/UNIVERSITIES. Provides for reporting of foreign source gifts and grants by institutions of higher education. (7/1/23)

1 AN ACT

2 To enact Chapter 14 of Title 17 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 17:2751 through 2755, relative to institutions of higher education; to provide
4 for reporting of foreign source gifts and grants; to provide for employment and study
5 by foreign students and faculty; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Chapter 14 of Title 17 of the Louisiana Revised Statutes of 1950,
8 comprised of R.S. 17:2751 through 2755 is hereby enacted to read as follows:

9 **CHAPTER 14. FOREIGN INDIVIDUALS IN INSTITUTIONS OF**

10 **HIGHER EDUCATION**

11 **§2751. Foreign gifts and contracts**

12 **A. As used in this Section, the following terms shall have the following**
13 **meanings unless the context clearly indicates otherwise:**

14 **(1) "Contract" means any agreement for the direct benefit or use of any**
15 **party to the agreement, including an agreement for the sale of commodities or**
16 **services.**

17 **(2) "Foreign country of concern" means the People's Republic of China,**

1 the Russian Federation, the Islamic Republic of Iran, the Democratic People's
2 Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás
3 Maduro, or the Syrian Arab Republic, including any agency of or any other
4 entity under significant control of any of these countries.

5 (3) "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 and political subdivisions, including any agent of the foreign government.

9 (4) "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 or a national of the United States
14 or a territory 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 a foreign source.

17 (5) "Gift" means any transfer of money or property from one entity to
18 another without compensation.

19 (6) "Grant" means a transfer of money for a specified purpose, including
20 a conditional gift.

21 (7) "Interest" in an entity means any direct or indirect investment in or
22 loan to the entity valued at five percent or more of the entity's net worth or any
23 form of direct or indirect control exerting similar or greater influence on the
24 governance of the entity.

25 (8) "State agency" means any agency or unit of state government created
26 or established by law.

27 B. Any state agency or political subdivision that receives directly or
28 indirectly any gift or grant with a value of fifty thousand dollars or more from
29 any foreign source shall disclose the gift or grant to the division of

1 administration within thirty days after receiving the gift or grant. This
2 disclosure shall include the date of the gift or grant, the amount of the gift or
3 grant, and the name and country of residence or domicile of the foreign source.

4 C.(1) Any entity that applies to a state agency or political subdivision for
5 a grant or proposes a contract having a value of one hundred thousand dollars
6 or more shall disclose to the state agency or political subdivision any current or
7 prior interest of, any contract with, or any grant or gift received from a foreign
8 country of concern if the interest, contract, or grant or gift had a value of fifty
9 thousand dollars or more and the interest existed at any time the contract or
10 grant or gift was received or in force at any time during the previous five years.
11 This disclosure shall include the name and mailing address of the disclosing
12 entity, the amount of the contract or grant or gift or the value of the interest
13 disclosed, the applicable foreign country of concern and, if applicable, the date
14 of termination of the contract or interest, the date of receipt of the grant or gift,
15 and the name of the agent or controlled entity that is the source or interest
16 holder.

17 (2) A disclosure published online is deemed to be disclosed to every state
18 agency and political subdivision. From the time a disclosure is made through
19 the term of any awarded state grant or contract, the entity shall revise its
20 disclosure within thirty days after entering into a contract with or receiving a
21 grant or gift from a foreign country of concern or within thirty days after the
22 acquisition of any interest in the entity by a foreign country of concern.

23 D. If a vendor is identified as being subject to any sanctions, embargoes,
24 or other restrictions, the vendor shall be included on the online procurement
25 system. The Division of Administration shall ensure that purchasers through the
26 online procurement system may easily access all disclosures made by vendors
27 participating in the system.

28 E.(1) Upon receiving a referral from the compliance officer of a state
29 agency or political subdivision or any sworn complaint based upon substantive

1 information and reasonable belief, the division of administration shall
2 investigate any allegation of a violation of this Section.

3 (2) The division of administration may request records relevant to any
4 reasonable suspicion of a violation of this Section and the entity shall provide
5 the required records within thirty days after the request or at a later time
6 agreed to by the division of administration.

7 F. The division of administration may adopt rules necessary to carry out
8 its responsibilities under this Section. The rules may identify the federal
9 agencies to be consulted and the procedure for notifying a vendor of the
10 disclosure requirements under this Section.

11 §2752. BLANK

12 §2753. Foreign gift reporting

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

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

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

22 (3) "Foreign government" means the government of any country, nation,
23 or group of nations, or any province or other political subdivision of any
24 country or nation, other than the government of the United States and its states
25 or political subdivisions, including any agent of the foreign government.

26 (4) "Foreign source" means any of the following:

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

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

1 (c) An individual who is not a citizen of the United States or a citizens of
2 a territory or protectorate of the United States.

3 (d) An agent, including a subsidiary or an affiliate of a foreign legal
4 entity, acting on behalf of a foreign source.

5 (5) "Gift" means any contract, gift, grant, endowment, award, or
6 donation of money or property of any kind, or any combination thereof,
7 including a conditional or unconditional pledge of a contract, gift, grant,
8 endowment, award, or donation. For purposes of this Paragraph, the term
9 "pledge" means a promise, agreement, or an expressed intention to give a gift.

10 (6) "Institution of higher education" means a Louisiana college or
11 university, an independent nonprofit college or university that is located and
12 chartered in this state that grants baccalaureate or higher degrees, and any
13 other institution that has a physical presence in the state and is required to
14 report foreign gifts or contracts pursuant to 20 U.S.C. 1011f, or an affiliate
15 organization of an institution of higher education.

16 B. Each institution of higher education shall report, each January 31 and
17 July 31, any gift received directly or indirectly from a foreign source with a
18 value of fifty thousand dollars or more during the fiscal year. If a foreign source
19 provides more than one gift directly or indirectly to an institution in a single
20 fiscal year and the total value of gifts is fifty thousand dollars or more, then all
21 gifts received from that foreign source shall be reported. For purposes of this
22 Subsection, a gift received from a foreign source through an intermediary shall
23 be considered an indirect gift to the institution. The institution may consolidate
24 its report with that of all its affiliate organizations. A report required under this
25 Subsection shall be made to the following entities:

26 (1) The institution's board of supervisors, if the recipient is a state college
27 or university and each board shall annually report a summary of these gifts to
28 the Board of Regents.

29 (2) Unless already reported to the board of supervisors then is shall be

1 reported to the Board of Regents for any institution of higher education or an
2 affiliate organization of the institution.

3 C. Reports gifts subject to the requirements of this Section shall include
4 the following information, unless otherwise prohibited or deemed confidential
5 under federal law and having no exemption applicable to the report:

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

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

8 (3) The name of the foreign source and, if not a foreign government, the
9 country of citizenship, if known, and the country of principal residence or
10 domicile of the foreign source.

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

23 (b) Beginning July 1, 2023, the internal auditor of the Board of Regents
24 shall annually inspect or audit a random sample of at least five percent of the
25 total number of gifts disclosed by or gift agreements received from institutions
26 of higher education during the previous fiscal year to determine the institution's
27 compliance with the requirements of this Section.

28 (c) Upon the request of the governor, the president of the Senate, or the
29 speaker of the House of Representatives, the internal auditor of the Board of

1 Regents shall inspect or audit a gift or gift agreement.

2 D. An institution of higher education that knowingly, willfully, or
3 negligently fails to disclose the information required by this Section shall be
4 subject to a civil penalty of one hundred and five percent of the amount of the
5 undisclosed gift, payable only from nonstate funds of the institution or the
6 affiliate organization that received the gift. The recovered funds shall be
7 deposited into the State General Fund.

8 §2754. Screening foreign researchers

9 A.(1) Prior to any interview or offer of a position of employment or as
10 a visiting researcher, every institution of higher learning in this state shall
11 screen the following individuals who are citizens of a foreign country, who are
12 not permanent residents of the United States, who have any affiliation with an
13 institution or program or at least one year prior to employment or training,
14 except employment or training by an agency of the United States government,
15 in a foreign country of concern as defined in R.S. 17:2751:

16 (a) Persons seeking employment in a research or research-related
17 support position.

18 (b) Graduate and undergraduate students applying for any research or
19 research-related support position.

20 (c) Applicants for any position as a visiting researcher.

21 (2) The provisions of this Subsection shall apply to institutions of higher
22 education that receive state appropriations and have an annual research budget
23 of ten million dollars or more.

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

29 C. Every applicant described in Subsection A of this Section shall submit

1 a complete resume and curriculum vitae, including every institution of higher
2 education attended; all previous employment since the applicant's eighteenth
3 birthday; a list of all published material for which the applicant received credit
4 as an author, a researcher, or otherwise or to which the applicant contributed
5 significant research, writing, or editorial support; a list of the applicant's
6 current and pending research funding, and its amount, from any source,
7 including the applicant's role on the project, and a brief description of the
8 research; and a full disclosure of non-university professional activities,
9 including any affiliation with an institution or program in a foreign country of
10 concern. If an applicant has been continually employed or enrolled in a
11 postsecondary education institution in the United States for twenty years or
12 more, the resume may include employment history before the most recent
13 twenty year period.

14 D. The president or chief administrative officer of the institution of
15 higher learning shall designate a research integrity office to review all materials
16 required by this Section and shall take all necessary and reasonable steps to
17 verify all attendance, employment, publications, and contributions listed in the
18 application prior to any interview for or offer of a position to the applicant.
19 Necessary and reasonable steps include the following:

20 (1) Searching public databases for research publications and
21 presentations.

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

24 (3) Contacting all employers from the most recent ten years to verify
25 employment.

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

28 (5) Searching public listings of persons subject to sanctions or
29 restrictions under federal law.

1 (6) Submission of the applicant's name and other identifying information
2 to the Federal Bureau of Investigation or other federal agency to review the
3 applicant for national security or counterespionage purposes.

4 E. Each institution may direct approval of an applicant for hire based on
5 a risk-based determination considering the nature of the research and the
6 background and ongoing affiliations of the applicant.

7 F. The requirements of this Section shall be completed before
8 interviewing or offering any position to an individual described in Subsection
9 A of this Section.

10 G. Prior to July 1, 2025, the office of the legislative auditor shall perform
11 an operational audit regarding implementation of the provisions of this Section.
12 §2755. Foreign travel; research institutions

13 A. By January 1, 2023, each state university that receives state
14 appropriations and has a research budget of ten million dollars or more shall
15 establish an international travel approval and monitoring program. The
16 program shall require preapproval and screening by the research integrity
17 officer designated by the president or chief administrative officer of the state
18 university or entity for any employment-related foreign travel and
19 employment-related foreign activities engaged in by all faculty, researchers, and
20 research department staff. This requirement is in addition to any other travel
21 approval process applicable to the state university or entity.

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

countries of concern.

Proposed law requires screening of foreign applicants for research positions and foreign travel and activities of employees.

Proposed law requires state agencies or political subdivisions to disclose receipt, directly or indirectly, any gift or grant of \$50,000 or more from any foreign source. Requires disclosure of the gift/grant date, amount, and the name and country of residence or domicile of the foreign source.

Proposed law requires anyone applying to a state agency or political subdivision for a grant or proposes a contract having a value of \$100,000 or more to disclose any current or prior interest of, any contract with, or any grant or gift received from a foreign country of concern if the interest, contract, or grant or gift has a value of \$50,000 or more and the interest existed at any time the contract or grant or gift was received or in force at any time during the previous five years. Requires the disclosure to include the name/ mailing address of the disclosing entity, the amount of the contract or grant or gift or the value of the interest disclosed, the applicable foreign country of concern and, if applicable, the date of termination of the contract or interest, the date of receipt of the grant or gift, and the name of the agent or controlled entity that is the source or interest holder.

Proposed law requires institutions of higher education to semiannually report any gift received directly or indirectly from a foreign source with a value of \$50,000 or more during the fiscal year. Requires that all gifts received from the foreign source be reported if the total in a fiscal year is \$50,000 or more. Gifts through an intermediary are considered an indirect gift to the institution.

Proposed law requires that the board of supervisors of the institution report a summary of gifts to the Board of Regents. Reports shall include the following:

- (1) The amount of the gift and the date it was received.
- (2) The contract start and end date if the gift is a contract.
- (3) The name of the foreign source and, if not a foreign government, the country of citizenship, if known, and the country of principal residence or domicile of the foreign source.
- (4) A copy of any gift agreement between the foreign source and the institution including a detailed description of the purpose for which the gift is to be used by the institution, the identification of the persons for 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 of higher education to take a specific public position or to award an honorary degree. Requires internal audit of at least five percent of the total number of gifts by the Board of Regents.

Proposed law imposes civil penalty of 105% of the gift amount if an institution knowingly, willfully, or negligently fails to disclose the information required.

Proposed law requires screening certain individuals from a foreign country of concern by institutions that receive state appropriations and possess a research budget of \$10,000,000 or more.

Proposed law requires such persons 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. Proposed law provides for designation of research integrity officer to review all materials and take necessary and reasonable steps to verify information.

Proposed law provides for establishment of a program to approve and monitor international travel. Provides for preapproval and screening by a research integrity office. Requires retention for at least three years of travel records related to foreign activity and requires annual reporting of foreign travel to countries of concern listing individual travelers, foreign locations visited, and foreign institutions for submission to the respective board of supervisors.

Effective July 1, 2023.

(Adds R.S. 17:2751 - 2755)