

BILL ANALYSIS

C.S.H.B. 127

By: Wilson

Homeland Security, Public Safety & Veterans' Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that there are concerns regarding foreign adversaries having undue influence in the state's institutions of higher education and that Texas cannot wait for the federal government to address this issue. C.S.H.B. 127 seeks to establish new requirements and restrictions to protect Texas institutions of higher education from foreign adversaries, mandate reporting and approval of gifts, contracts, and cultural agreements with foreign entities, require screening of foreign researchers, implement foreign travel monitoring, restrict certain student group affiliations, and mandate cybersecurity reviews. The bill provides for the Higher Education Research Security Council and for certain civil and criminal penalties, including trade secret theft that benefits foreign agents.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 127 amends the Education Code and Penal Code to establish provisions relating to measures to protect public institutions of higher education from foreign adversaries, to enhance the penalty for the theft of trade secrets offense under certain circumstances, and to provide civil penalties.

Higher Education Research Security Council

C.S.H.B. 127 establishes the Higher Education Research Security Council to promote secure academic research at tier one research institutions while mitigating the risk of foreign espionage and interference. The bill establishes that the council is composed of the following officers:

- each research security officer designated under a research security policy framework established for a public institution of higher education as required by applicable state law; and
- a research security officer designated by each private or independent institution of higher education that elects to participate in the council.

The bill establishes that a council member serves at the will of the person who designated the member. The bill requires a vacancy on the council to be filled in the same manner as the original designation and requires the council member designated for The Texas A&M University (TAMU) System to serve as the initial presiding officer of the council. The bill defines a "tier one research institution" as a public, private, or independent institution of higher education in

Texas designated as R1: very high spending and doctorate production in the 2025 Carnegie Classification of Institutions of Higher Education published by the Indiana University Center for Postsecondary Research.

C.S.H.B. 127 requires the council to take the following actions:

- identify best practices for a tier one research institution to conduct research securely while mitigating the threat of foreign espionage and interference;
- develop a research security policy that a tier one research institution must adopt to improve research security;
- establish an accreditation process under which the council must award a tier one research institution an accreditation for security excellence;
- promote attendance at the annual academic security and counter exploitation program seminar offered by the TAMU System;
- develop and offer an annual training program for tier one research institution security officers that includes:
 - background and academic history checks of researchers; and
 - research security and integrity tools and software that must be used to prevent the loss of intellectual capital;
- meet at least once each quarter; and
- prepare and submit to the governor, the attorney general's office, and the presiding officer of each legislative committee with primary jurisdiction over higher education an annual report on the status of research security at tier one research institutions and any associated recommendations.

The bill requires the council's meetings to be in person or by video conference call, as determined by the presiding officer. The bill establishes that the annual report is confidential and is not subject to disclosure under state public information law.

C.S.H.B. 127 authorizes the council to solicit and accept gifts, grants, and donations for purposes of the council's duties but prohibits the council from soliciting or accepting a gift, grant, or donation from an entity or country that is as follows:

- prohibited from participating in federal contracts under the federal John S. McCain National Defense Authorization Act for Fiscal Year 2019;
- identified as a Chinese military company by the U.S. Department of Defense (DOD) in accordance with the federal William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021;
- owned by the government of a country designated as a foreign adversary by the U.S. secretary of commerce under applicable federal regulations; or
- controlled by a governing or regulatory body located in such a country.

C.S.H.B. 127 requires the appropriate entities to designate the members of the council not later than October 1, 2025, and requires the council to hold its initial meeting not later than January 1, 2026.

Higher Education Research and Protection

Requirements for Gifts From and Contracts With Foreign Adversaries and Certain Companies

Gifts from Foreign Adversary

C.S.H.B. 127 prohibits a public institution of higher education or an employee of the institution from accepting a gift directly or indirectly offered from a foreign source of a foreign adversary unless the gift is of de minimis value, as determined by Texas Higher Education Coordinating Board (THECB) rule. The bill requires the institution to include the prohibition in the institution's ethics policy and to create a mechanism by which an employee of the institution may report being offered from a foreign source of a foreign adversary a gift prohibited under these provisions.

C.S.H.B. 127 requires each institution of higher education that submits reporting on foreign gift and contract disclosures to the U.S. Department of Education required under the federal Higher Education Act of 1965 to submit that reporting to the THECB at the time when the institution is required to submit that reporting to the U.S. Department of Education. The bill requires the THECB, not later than December 1 of each year, to submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report detailing the information submitted by institutions of higher education to the THECB relating to foreign gift and contract disclosures for that year.

C.S.H.B. 127 establishes that the information required to be reported under these provisions is not confidential, except as otherwise provided by federal or state law or unless protected as a trade secret by federal or state law.

Prohibited Contract With Foreign Adversary Company or Federally Banned Company; Exception

C.S.H.B. 127 prohibits a foreign adversary company or a federally banned company from submitting a bid for a contract or entering into a contract with an institution of higher education relating to goods or services. For these purposes, a company is considered a foreign adversary company if the company enters into a contract with an institution to sell to the institution any final products or services produced by a foreign adversary company or a federally banned company. The bill authorizes an institution to enter into a contract with such companies if the following conditions apply:

- there is no other reasonable option for procuring the good or service;
- the institution preapproves the contract; and
- failure to procure the good or service would pose a greater threat to the state than the threat associated with procuring the good or service.

These provisions apply only to a contract for which the request for bids or proposals or other applicable expression of interest is made public on or after the bill's effective date. A contract for which the request for bids or proposals or other applicable expression of interest is made public before that date is governed by the law in effect on the date the request or other expression of interest is made public, and the former law is continued in effect for that purpose.

Certification Required; False Certification; Violation

C.S.H.B. 127 requires an institution of higher education to require a vendor submitting a bid for a contract relating to goods or services to include in the bid a written certification that the vendor is not prohibited from submitting the bid or entering into the contract under the bill's provisions relating to prohibited contracts with a foreign adversary company or a federally banned company. The bill requires an institution that determines that a vendor holding a contract with the institution was ineligible to have the contract awarded because the vendor's certification was false to notify the vendor that the vendor is in violation of the bill's provisions relating to the requirements for gifts from and contracts with foreign adversaries and certain companies. The bill requires the notice to include the basis for the institution's determination that the vendor is in violation of those provisions and requires an institution, on making a final determination that a vendor violated those provisions, to refer the matter to the attorney general for enforcement under the bill's provisions relating to civil penalties.

Contract Termination for False Certification; Barring from State Contracts

C.S.H.B. 127 requires an institution of higher education, on making a final determination that a vendor violated the bill's provisions relating to the requirements for gifts from and contracts with foreign adversaries and certain companies, to immediately terminate the contract without further obligation to the vendor. The bill authorizes the comptroller of public accounts, on receiving notice from an institution of a contract termination because a vendor violated those provisions, to bar the vendor from participating in state contracts using procedures prescribed

under applicable Government Code provisions. The bill establishes that debarment under these provisions expires on the fifth anniversary of the date of the debarment.

Civil Penalty

C.S.H.B. 127 makes a vendor that violates the bill's provisions relating to the requirements for gifts from and contracts with foreign adversaries and certain companies liable to the state for a civil penalty in an amount equal to the greater of twice the amount of the terminated contract or \$250,000. The bill authorizes the attorney general to bring an action to recover a civil penalty imposed under these provisions.

Investigation

C.S.H.B. 127 requires an institution of higher education to investigate an alleged violation of the bill's provisions relating to the requirements for gifts from and contracts with foreign adversaries and certain companies if the institution receives a complaint from a compliance officer of a state agency or institution of higher education or a sworn complaint based on substantive information and reasonable belief. The bill authorizes the institution to request from any person records relevant to a reasonable suspicion of such a violation. The bill requires a person who receives such a request to produce the records not later than the 10th day after the date the person receives the request, unless the institution and the person agree to a later date.

International Cultural Exchange Agreements and Partnerships and Student Associations

Certain International Cultural Agreements and Partnerships Prohibited

C.S.H.B. 127 prohibits an institution of higher education from participating in a cultural exchange agreement or a cultural exchange partnership with a foreign source of a foreign adversary, or an entity controlled by a foreign adversary, that does the following:

- constrains the institution's freedom of contract;
- allows the institution's curriculum or values to be directed, controlled, or influenced by the foreign adversary; or
- promotes an agenda detrimental to the safety or security of Texas, Texas residents, or the United States.

The bill requires an institution, before entering into a cultural exchange agreement or a cultural exchange partnership with a foreign source of a foreign adversary, to share the agreement or partnership with the Higher Education Research Security Council. The bill prohibits the institution from participating in the agreement or partnership if the council determines that the agreement or partnership violates these provisions. The bill requires the council, not later than December 1 of each year, to submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report detailing the total number of cultural exchange agreements and cultural exchange partnerships that were entered into by institutions of higher education and rejected by the council in the 12 months preceding the date of the report.

C.S.H.B. 127 defines "cultural exchange agreement" as a written or spoken statement of mutual interest in cultural exchange or academic or research collaboration and defines "cultural exchange partnership" as a faculty or student exchange program, study abroad program, matriculation program, recruiting program, or dual degree program.

Prohibitions on Student Associations

C.S.H.B. 127 prohibits a student or scholars association affiliated with an institution of higher education from accepting a gift from or entering into a contract or agreement with a foreign source of a foreign adversary. The bill requires an institution to terminate an affiliation with a student or scholars association if the institution determines that the association has violated this prohibition. For these purposes, member dues or fees are not considered a gift from a foreign source of a foreign adversary.

Screening of Foreign Researchers

Requirement for Screening

C.S.H.B. 127 requires an institution of higher education, before offering an applicant employment for a research or research-related support position at the institution or granting an applicant access to research data or activities or other sensitive data of the institution, to screen the applicant as provided by the bill's provisions if the applicant meets either of the following criteria:

- is a citizen of a foreign country and is not a permanent U.S. resident; or
- is affiliated with an institution or program, or has at least one year of employment or training, in a foreign adversary, other than employment or training by a U.S. agency.

The bill authorizes an institution to screen additional applicants for such a position at the institution's discretion.

C.S.H.B. 127 requires a screening under these provisions to include a background check to determine if the applicant has any ties to a foreign adversary that would prevent the applicant from being able to maintain the security or integrity of the institution and research data or activities or other sensitive data of the institution. The bill requires an institution, if the institution procures a third party to conduct the background check, to consult with the Department of Public Safety (DPS) and the council in determining whether the third party is qualified to conduct a background check that meets the requirements under these provisions.

Application; Required Materials

C.S.H.B. 127 requires an institution of higher education to require an applicant subject to screening under the bill's provisions to submit the following documents to the institution:

- if the applicant is a citizen of a foreign country, a copy of the applicant's passport and nonimmigrant visa application most recently submitted to the U.S. Department of State; and
- a resume and curriculum vitae that includes the following:
 - a list of each postsecondary educational institution in which the applicant has been enrolled;
 - a list of all places of employment since the applicant's 18th birthday;
 - a list of all published materials 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 from any source, including the source of funding, the amount of funding, the applicant's role on the project, and a brief description of the research; and
 - a full disclosure of the applicant's professional activities outside of higher education, including any affiliation with an institution or program in a foreign adversary.

The bill authorizes an applicant who has been continuously employed or enrolled in a U.S. postsecondary educational institution for the preceding 20 years to include in the applicant's resume only the applicant's employment history for the preceding 20 years. The bill authorizes an institution of higher education to destroy or return to an applicant the copy of the applicant's nonimmigrant visa application after extracting all information relevant to the requirements of the bill's provisions relating to the screening of foreign researchers.

Research Integrity Office

C.S.H.B. 127 requires the chief administrative officer of an institution of higher education to establish a research integrity office to review the materials submitted to the institution by an applicant subject to screening and to take reasonable steps to verify the information in the application by doing the following:

- searching public databases for research publications and presentations and public conflict of interest records to identify any research publication or presentation that may have been omitted from the application;
- contacting each of the applicant's employers during the preceding 10 years to verify employment;
- contacting each postsecondary educational institution the applicant attended to verify enrollment and educational progress;
- searching public listings of persons subject to sanctions or restrictions under federal law;
- submitting the applicant's name and other identifying information to the FBI or another federal agency for screening related to national security or counterespionage; and
- taking any other action the research integrity office considers appropriate.

The bill authorizes the institution to direct the research integrity office to approve applicants for hire using a risk-based determination that considers the nature of the research and the applicant's background and ongoing affiliations. The bill requires the institution to complete the requirements of the bill's provisions relating to the screening of foreign researchers before interviewing or offering a position to an applicant subject to screening in a research or research-related support position or granting the applicant access to research data or activities or other sensitive data.

C.S.H.B. 127 prohibits an institution of higher education, if an applicant subject to screening fails to disclose in the application a substantial educational, employment, or research-related activity or publication or presentation, from employing the applicant in a research or research-related support position unless the applicable department head or the department head's designee certifies in writing the substance of the failure to disclose and the reasons for disregarding that failure. The bill requires a copy of the certification to be kept in the investigative file of the research integrity office and to be submitted to the nearest FBI field office. The bill requires the research integrity office to report to the nearest FBI field office, and to any law enforcement agency designated by the governor or the institution's governing board, the identity of an applicant who is rejected for employment based on this screening or another risk-based screening.

Foreign Travel: Research Institutions

International Travel Approval and Monitoring Program

C.S.H.B. 127 requires an institution of higher education to establish an international travel approval and monitoring program. The bill requires the program to require, in addition to any other travel approval process required by the institution, preapproval from the institution's research integrity office for any employment-related foreign travel or activities by a faculty member, researcher, or research department staff member of the institution. The bill authorizes the research integrity office to preapprove travel or activities under the program only if the applicant does the following:

- reviews and acknowledges guidance published by the institution that relates to foreign adversaries or countries under sanctions or other restrictions by the state or the U.S. government, including the following:
 - federal license requirements;
 - 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; and
- agrees to comply with the institution's limitations on travel and activities abroad and all applicable federal laws.

Maintenance of Records and Reports

C.S.H.B. 127 requires an institution of higher education to maintain for at least three years, or any longer period of time required by applicable federal or state law, records relating to foreign travel and activities by a faculty member, researcher, or research department staff member of the institution, including the following records:

- each foreign travel request and approval;
- expenses reimbursed by the institution for foreign travel, including for travel, food, and lodging;
- payments and honoraria received during foreign travel and activities, including for travel, food, and lodging;
- a statement of the purpose of each foreign travel; and
- any record related to the foreign activity review.

The bill requires an institution to annually submit to the institution's governing board a report on foreign travel by a faculty member, researcher, or research department staff member of the institution to a foreign adversary. The bill requires the report to list each traveler, foreign location visited, and foreign institution visited.

Academic Partnerships

C.S.H.B. 127 authorizes an institution of higher education to enter into or renew an academic partnership with an educational or research institution located in a foreign adversary only if the Higher Education Research Security Council determines that the institution maintains sufficient structural safeguards to protect the institution's intellectual property, the security of the state, and U.S. national security interests. The bill authorizes the council to make such a determination only if the council determines that the partnership includes the following safeguards:

- compliance with all federal requirements, including requirements of the following:
 - federal research sponsors and federal export control agencies, including regulations regarding international traffic in arms and export administration regulations; and
 - economic and trade sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury;
- annual formal institution-level training programs for faculty on conflicts of interest and conflicts of commitment; and
- a formalized foreign visitor process and uniform visiting scholar agreement.

The bill authorizes the council to require an institution to reject or terminate the academic partnership at any time and for any reason. The bill requires the council, not later than December 1 of each year, to submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report detailing the total number of academic partnerships that were entered into or renewed and the total number of academic partnerships that the council rejected or terminated in the 12 months preceding the date of the report.

Foreign Adversary Software and Education Services

C.S.H.B. 127 requires an institution of higher education to conduct a thorough review of the use by the institution of testing, tutoring, or other education software owned or controlled by a foreign adversary or a company domiciled or headquartered in a foreign adversary and to develop a plan to eliminate the use of such education software. The bill prohibits an institution from entering into or renewing a contract to provide testing, tutoring, or other education software with a foreign adversary or a company domiciled or headquartered in a foreign adversary.

Enforcement

C.S.H.B. 127 prohibits an institution of higher education from spending money appropriated to the institution for a state fiscal year until the institution's governing board submits to the governor, the legislature, the THECB, and the Higher Education Research Security Council a

report certifying the governing board's compliance with the bill's provisions relating to higher education research and protection during the preceding state fiscal year. This provision applies beginning with money appropriated to an institution for the 2027 state fiscal year.

C.S.H.B. 127 requires the governing board of each institution of higher education or the board's designee, in the interim between each regular session of the legislature, to testify before the standing legislative committees with primary jurisdiction over higher education at a public hearing of the committee regarding the board's compliance with the bill's provisions relating to higher education research and protection.

C.S.H.B. 127 requires the state auditor to periodically conduct a compliance audit of each institution of higher education to determine whether the institution has spent state money in violation of these provisions. The bill requires the state auditor to adopt a schedule by which the state auditor will conduct the compliance audits, which must ensure that each institution is audited at least once every four years. The bill requires an institution, if the state auditor determines pursuant to a compliance audit that the institution has spent state money in violation of these provisions, to cure the violation not later than the 180th day after the date on which the determination is made. If the institution fails to cure the violation during such a period, the institution is ineligible to receive formula funding increases, institutional enhancements, or exceptional items during the state fiscal biennium immediately following the state fiscal biennium in which the determination is made.

General Provisions Relating to Higher Education Research and Protection

Rulemaking

C.S.H.B. 127 requires the THECB to adopt rules necessary to implement the bill's provisions relating to higher education research and protection.

Definitions

C.S.H.B. 127 defines the following terms for purposes of the bill's provisions relating to higher education research and protection:

- "affiliate organization" as an entity under the control of or established for the benefit of an organization, including a direct-support organization that is organized and operated to receive, hold, invest, and administer property and make expenditures to or for the benefit of an institution of higher education or for the benefit of a research and development park or authority affiliated with an institution;
- "company" by reference to Business & Commerce Code provisions relating to the prohibition on agreements with certain foreign-owned companies in connection with critical infrastructure;
- "federally banned company" as a company that:
 - produces or provides communications equipment or services listed on the covered list published by the Public Safety and Homeland Security Bureau of the Federal Communications Commission, as required under applicable federal regulations;
 - is listed in the Entity List in Supplement No. 4 under applicable federal regulations;
 - is prohibited from participating in federal contracts under the federal John S. McCain National Defense Authorization Act for Fiscal Year 2019;
 - is identified as a Chinese military company by the DOD in accordance with the federal William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021;
 - is prohibited from participating in federal contracts under the federal James M. Inhofe National Defense Authorization Act for Fiscal Year 2023;
 - is subject to economic and trade sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury;

- is subject to an order issued by the Federal Acquisition Security Council under the Federal Acquisition Supply Chain Security Act of 2018; or
 - is restricted under any similar sanction program under federal law;
- "foreign adversary" as a country identified by the U.S. director of national intelligence as a country that poses a risk to U.S. national security in at least one of the three most recent Annual Threat Assessments of the U.S. Intelligence Community issued pursuant to the federal National Security Act of 1947 or designated by the governor after consultation with the DPS director;
- "foreign adversary company" as a company that is domiciled, incorporated, headquartered, issued, or listed in a foreign adversary, has its principal place of business in a foreign adversary, is controlled by the government, military, or ruling political party of a foreign adversary, or is majority owned by an entity that meets those qualifications, but does not include the following:
 - a U.S. citizen;
 - a U.S. subsidiary as defined by applicable federal regulations; or
 - a parent company that does not meet the aforementioned qualifications that derives not more than 50 percent of the company's total annual global revenue from subsidiaries from a foreign adversary, regardless of whether the subsidiaries are companies that meet the qualifications;
- "foreign government" as the government or an agent of a country, nation, or group of nations, or a province or other political subdivision of a country or nation, other than the U.S. government;
- "foreign source" as the following:
 - a foreign government or agency of a foreign government;
 - a legal entity created solely under the laws of a foreign government;
 - an individual who is not a U.S. citizen or national, including a U.S. territory or protectorate;
 - a partnership, association, organization, or other combination of persons, or a subsidiary of such an entity, organized under the laws of or having its principal place of business in a foreign adversary;
 - a political party or member of a political party of a foreign adversary; or
 - an agent acting on behalf of such individuals or entities;
- "gift" as a gift, grant, endowment, award, or donation of money, property, or service of any kind, including a conditional or unconditional pledge of the gift, grant, endowment, award, or donation; and
- "political party" as an organization or combination of individuals whose aim or purpose is, or who are engaged in an activity devoted to, the establishment, control, or acquisition of administration or control of a government, or the furtherance or influencing of the political or public interest, policies, or relations of a government.

Theft of Trade Secrets Offense

C.S.H.B. 127 enhances the penalty for a theft of trade secrets offense from a third degree felony to a second degree felony if it is shown on the trial of the offense that the person who committed the offense intended to benefit a foreign agent, foreign government, or foreign instrumentality. The bill defines the following terms for the purposes of the offense:

- "foreign agent" as an officer, employee, proxy, servant, delegate, or representative of a foreign government;
- "foreign government" as the government or an agent of a country, nation, or group of nations, or a province or other political subdivision of a country or nation, other than the U.S. government; and
- "foreign instrumentality" as an agency, bureau, ministry, component, institution, association, or legal, commercial, or business organization, corporation, firm, or entity that is substantially owned, controlled, sponsored, commanded, managed, or dominated by a foreign government.

C.S.H.B. 127 applies only to an offense committed on or after the bill's effective date. An offense committed before the bill's effective date is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For these purposes, an offense was committed before the bill's effective date if any element of the offense occurred before that date.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 127 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Higher Education Research Security Council

The substitute includes provisions absent from the introduced that establish the Higher Education Research Security Council, including provisions relating to the following:

- the purpose of the council to promote secure academic research at tier one research institutions while mitigating the risk of foreign espionage and interference;
- the required composition of the council;
- the filling of a vacancy on the council;
- the actions the council is required to take;
- council reports;
- the requirements for council meetings;
- the requirements for soliciting and accepting gifts, grants, and donations;
- the date by which the appropriate entities must designate the members of the council; and
- the date by which the council must hold its initial meeting.

Higher Education Research and Protection

While both the substitute and the introduced prohibit a public institution of higher education from accepting a gift the institution is directly or indirectly offered from a foreign source of a foreign adversary, the versions differ as follows:

- the substitute also prohibits an employee of the institution from accepting an applicable gift, whereas the introduced did not; and
- the introduced exempted from the prohibition a gift approved by the THECB, whereas the substitute exempts gifts of de minimis value, as determined by THECB rule.

Whereas the introduced required an institution to promptly submit to the THECB a report on any gift, contract, or cultural agreement directly or indirectly offered from a foreign source of a foreign adversary, the substitute requires each institution that submits reporting on foreign gift and contract disclosures to the U.S. Department of Education to submit that reporting to the THECB at the time when the institution is required to submit that reporting to the U.S. Department of Education.

With respect to gifts, contracts, or cultural agreements with foreign adversaries, the substitute omits the following provisions in the introduced:

- the prohibition against each institution of higher education entering into a contract or cultural agreement with a foreign source of a foreign adversary unless the contract or agreement is approved by the THECB;
- the requirement set to expire January 1, 2026, for each institution, not later than November 1, 2025, to submit to the THECB a report on each gift the institution received

directly or indirectly from a foreign source of a foreign adversary from December 31, 2015, to September 1, 2025, and on each contract or cultural agreement the institution directly or indirectly entered into with such a source from December 31, 2013, to September 1, 2025;

- the requirement for an institution to include certain specified information in the required report for each gift, contract, or cultural agreement, unless the disclosure of that information is prohibited or the information is confidential under federal or state law;
- the requirement for the THECB, not later than the 30th day after the date the THECB receives the report, to determine whether and under what conditions the institution may accept the gift or enter into the contract or cultural agreement;
- the requirement for the THECB to adopt forms for an institution to use in reporting the offering of a gift, contract, or cultural agreement, and rules and procedures for deciding whether to allow an institution to accept the gift or enter into the contract or agreement;
- the requirement for the THECB to maintain a public Internet portal disclosing each reported gift, contract, and cultural agreement, and the THECB's decision whether to allow the institution to accept the gift or enter into the contract or agreement, as applicable;
- the provision that established that a gift offered and a contract or cultural agreement entered into through an intermediary or affiliate organization is considered an indirect gift, contract, or agreement and is subject to reporting; and
- the requirement for the THECB to inspect or audit a reported gift, contract, or cultural agreement on the request of the governor, the lieutenant governor, or the speaker of the house of representatives.

The substitute includes the following provisions absent from the introduced:

- a requirement for an institution of higher education to include the prohibition against accepting certain gifts in the institution's ethics policy and to create a mechanism by which an employee of the institution may report being offered a prohibited gift;
- a requirement for the THECB, not later than December 1 of each year, to submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report detailing the information submitted by institutions to the THECB relating to foreign gift and contract disclosures;
- a prohibition, except as otherwise provided, against a foreign adversary company or a federally banned company submitting a bid for a contract or entering into a contract with an institution relating to goods or services;
- a provision that establishes that a company is considered a foreign adversary company if the company enters into a contract with an institution to sell to the institution any final products or services produced by a foreign adversary company or a federally banned company; and
- an authorization for an institution to enter into a contract with a foreign adversary company or a federally banned company if certain conditions apply.

While both the substitute and the introduced establish that information required to be reported relating to gifts from foreign adversaries is not confidential except as otherwise provided by certain laws or unless protected as a trade secret by federal or state law, the substitute includes federal law, as well as state law, among the laws that may otherwise provide that such information is not confidential, whereas the introduced included only state law.

With respect to required and false certifications, the substitute includes the following provisions absent from the introduced:

- a requirement for an institution of higher education to require a vendor submitting a bid for a contract relating to goods or services to include in the bid a written certification that the vendor is not prohibited from submitting the bid or entering into the applicable contract;
- a requirement for an institution that determines that a vendor holding a contract with the institution was ineligible to have the contract awarded because the vendor's certification

was false to notify the vendor that the vendor is in violation of certain provisions and to include in the notice the basis for such a determination;

- a requirement for an institution, on making a final determination that a vendor violated applicable provisions, to refer the matter to the attorney general for enforcement and to immediately terminate the contract without further obligation to the vendor;
- an authorization for the comptroller, on receiving notice from an institution of a contract termination, to bar the vendor from participating in state contracts; and
- a provision establishing that debarment under these provisions expires on the fifth anniversary of the date of the debarment.

With respect to enforcement and penalties for violations, the substitute omits the following provisions in the introduced:

- the provision that made a person who fails to submit the required report to obtain THECB approval for a gift, contract, or cultural agreement, or to provide a requested record, liable to the state for a civil penalty in the amount of \$10,000 for the first violation and \$20,000 for each subsequent violation;
- the requirement for a final order finding a failure to submit the report or to obtain THECB approval for a gift, contract, or cultural agreement to take certain actions to identify the state officer or employee responsible and refer the violation to certain entities;
- the authorization for the THECB, if the THECB determines that an institution negligently failed to report required information or obtain THECB approval for a gift, contract, or cultural agreement, to assess an administrative penalty against the institution in an amount equal to 105 percent of the value of each unreported or unapproved gift, contract, or agreement;
- the prohibition against an institution paying the civil penalty or the administrative penalty using state or federal money;
- the authorization for a person who reports a violation to also report the violation to the attorney general and to retain protection as authorized under state law; and
- the provision that entitled a person who reports the violation to receive a reward in the amount of 25 percent of any recovered penalty.

The substitute includes the following provisions absent from the introduced:

- a provision that makes a vendor and certain companies liable to the state for a civil penalty in an amount equal to the greater of twice the amount of the terminated contract or \$250,000;
- a provision that applies beginning with money appropriated to an institution for the 2027 state fiscal year that prohibits an institution from spending money appropriated to the institution for a state fiscal year until the institution's governing board submits to certain entities a report certifying the governing board's compliance with the bill's provisions during the preceding state fiscal year; and
- a requirement for the governing board, or the board's designee, in the interim between each regular session of the legislature, to testify before the standing legislative committees with primary jurisdiction over higher education at a public hearing of the committee regarding the board's compliance.

Whereas, the introduced authorized the attorney general to sue to collect the applicable civil penalty and authorized the filing of a suit in a Travis County district court, the substitute instead authorizes the attorney general to bring an action to recover the civil penalty.

While both the substitute and the introduced require the investigation of an alleged violation of provisions relating to the requirements for gifts from and contracts with foreign adversaries, the introduced set out duties relating to such an investigation for the THECB, whereas the substitute sets out duties relating to such an investigation for an institution of higher education.

While both the introduced and the substitute prohibit an institution of higher education from participating in a cultural exchange agreement with a foreign source of a foreign adversary, or an entity controlled by a foreign adversary that meets certain requirements, the versions differ as follows:

- the substitute includes a cultural exchange partnership in addition to a cultural exchange agreement, whereas the introduced did not;
- whereas the introduced required an institution, before entering into a cultural exchange agreement with a foreign source of a foreign adversary, to share the substance of the agreement with the THECB and federal agencies responsible for national security or the enforcement of trade sanctions, embargoes, or other trade restrictions, the substitute requires an institution, before entering into a cultural exchange agreement or partnership with a foreign source of a foreign adversary, to share the agreement or partnership with the Higher Education Research Security Council; and
- whereas the introduced prohibited the institution from participating in the agreement if the THECB or a consulted federal agency determines that the agreement violates the prohibition, the substitute prohibits the institution from participating in the agreement or partnership if the council makes such a determination.

The substitute omits the following provisions in the introduced relating to an annual report:

- the requirement for the THECB, not later than December 1 of each year, to submit a written report to the governor, the lieutenant governor, and the speaker of the house of representatives on the grant programs, cultural exchange agreements, cultural exchange partnerships, and contracts between an institution of higher education and a foreign adversary or a foreign source of a foreign adversary;
- the requirement for the report to include the following information for the preceding fiscal year:
 - data regarding each grant program, cultural exchange agreement, cultural exchange partnership, or contract between an institution of higher education and an educational institution or other institution that is based in or controlled by a foreign adversary;
 - a list of each office, campus, or physical location used or maintained by the institution in a foreign adversary; and
 - the date on which each such grant program, agreement, partnership, or contract is expected to terminate; and
- the requirement for each institution to annually submit such information to the THECB not later than July 1, and the requirement for the THECB to prepare and submit the initial report not later than December 1, 2026.

The substitute instead requires the Higher Education Research Security Council, not later than December 1 of each year, to submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report detailing the total number of cultural exchange agreements and partnerships that were entered into by institutions of higher education and rejected by the council in the 12 months preceding the date of the report and a report detailing the total number of academic partnerships that were entered into or renewed and the total number of academic partnerships that the council rejected or terminated in the 12 months preceding the date of the report, whereas the introduced did not provide for such reports.

The substitute omits the provision in the introduced specifying that provisions relating to the screening of foreign researchers and foreign travel apply only to an institution that has an annual research budget of \$10 million or more.

While both the substitute and the introduced require an institution to screen an applicant before offering an applicant employment for a research or research-related support position at the institution or granting an applicant access to research data or activities or other sensitive data of the institution, the introduced also required the institution to screen an applicant before interviewing the applicant for such a position, whereas the substitute does not include such a

requirement. Additionally, the substitute includes the following provisions absent from the introduced:

- a requirement for the screening to include a background check to determine if the applicant has any ties to a foreign adversary that would prevent the applicant from being able to maintain the security or integrity of the institution of higher education and research data or activities or other sensitive data of the institution; and
- a requirement for an institution that procures a third party to conduct the background check to consult with DPS and the council in determining whether the third party is qualified to conduct the background check.

Whereas the introduced included provisions set to expire September 1, 2026, which required the THECB, not later than March 31, 2026, to conduct an operational audit regarding the implementation of provisions relating to the screening of foreign researchers and an operational audit regarding the implementation of provisions relating to foreign travel, the substitute does not include such provisions. The substitute instead includes provisions absent from the introduced that set out requirements relating to a compliance audit of each institution conducted by the state auditor to determine whether the institution has spent state money in violation of the bill's provisions and sets out penalties for an institution that fails to cure a violation found during such an audit.

While both the substitute and the introduced require an institution to establish an international travel approval and monitoring program, the introduced required the program to be established not later than March 31, 2026, whereas the substitute does not.

While both the introduced and substitute authorize an institution to enter into or renew an academic partnership with an educational or research institution located in a foreign adversary under certain conditions, the versions differ as follows:

- the introduced specified that the authorization is subject to THECB approval, whereas the substitute does not;
- whereas the introduced conditioned the authorization to enter into or renew such an academic partnership on the institution maintaining sufficient structural safeguards to protect the institution's intellectual property, the security of the state, and U.S. national security interests, the substitute conditions the authorization on the council determining that the institution maintains such sufficient structural safeguards;
- whereas the introduced authorized the THECB to approve an academic partnership only if the THECB, in consultation with the attorney general's office, determines that the partnership includes certain specified safeguards, the substitute authorizes the council to make a determination only if the council determines that the partnership includes certain specified safeguards; and
- whereas the introduced authorized the THECB, in consultation with the attorney general's office, to reject or terminate the academic partnership at any time and for any reason, the substitute authorizes the council to require an institution to reject or terminate the academic partnership at any time and for any reason.

Whereas the introduced required the THECB to conduct a thorough review of the use by the institution of higher education of testing, tutoring, or other education software owned or controlled by a foreign adversary or a company domiciled or headquartered in a foreign adversary and to develop a plan to eliminate the use of such education software, the substitute requires an institution of higher education to conduct such a review and to develop such a plan.

While both the substitute and the introduced define certain terms for purposes of provisions relating to higher education research and protection, the versions differ as follows:

- the substitute defines "company," "federally banned company," and "foreign adversary company," whereas the introduced did not define those terms;
- the introduced defined "interest," when referring to an entity, as any direct or indirect investment in or loan extended to the entity that is valued at five percent or more of the

entity's net worth or control over the entity at a level exerting similar or greater influence on the governance of the entity as such an investment, whereas the substitute does not define that term;

- the introduced defined "foreign adversary" as the State of Qatar and any country designated as a foreign adversary by the U.S. secretary of commerce under applicable federal regulations, whereas the substitute defines that term as a country identified by the U.S. director of national intelligence as a country that poses a risk to U.S. national security in at least one of the three most recent Annual Threat Assessments of the U.S. Intelligence Community issued pursuant to the federal National Security Act of 1947 or designated by the governor after consultation with the DPS director; and
- the substitute includes service of any kind in the definition of "gift," whereas the introduced did not.

With respect to procedural provisions, the substitute does the following:

- omits the requirement in the introduced for each public institution of higher education, not later than March 31, 2026, to establish an international travel approval and monitoring program as required by the bill's provisions;
- omits the requirement in the introduced for the THECB, not later than December 1, 2026, to prepare and submit the initial report required by the bill's provisions;
- whereas the introduced included a provision that established that the bill applies only to a contract entered into or renewed on or after the bill's effective date and provided for the continuation of former law, the substitute includes a provision establishing that the bill applies only to a contract for which the request for bids or proposals or other applicable expression of interest is made public on or after the bill's effective date and provides for the continuation of former law;
- includes a requirement for the appropriate entities, not later than October 1, 2025, to designate the members of the Higher Education Research Security Council;
- includes a requirement for the Higher Education Research Security Council, not later than January 1, 2026, to hold its initial meeting; and
- includes a provision establishing that provisions relating to enforcement apply beginning with money appropriated to a public institution of higher education for the state fiscal year beginning September 1, 2026.