

By: Wilson, Hefner, Shaheen, Howard, Lambert,
et al.

H.B. No. 127

Substitute the following for H.B. No. 127:

By: Hefner

C.S.H.B. No. 127

A BILL TO BE ENTITLED

AN ACT

relating to measures to protect public institutions of higher
education from foreign adversaries and to the prosecution of the
criminal offense of theft of trade secrets; providing civil
penalties; increasing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter 2, Chapter 51, Education Code, is
amended by adding Section 51.957 to read as follows:

Sec. 51.957. HIGHER EDUCATION RESEARCH SECURITY COUNCIL.

(a) In this section:

(1) "Council" means the Higher Education Research
Security Council established under this section.

(2) "Postsecondary educational institution" means an
institution of higher education or a private or independent
institution of higher education, as those terms are defined by
Section 61.003.

(3) "Tier one research institution" means a
postsecondary educational institution in this state 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.

(b) The Higher Education Research Security Council is
established to promote secure academic research at tier one

1 research institutions while mitigating the risk of foreign
2 espionage and interference.

3 (c) The council is composed of:

4 (1) each research security officer designated under
5 Section 51.956; and

6 (2) a research security officer designated by each
7 private or independent institution of higher education, as defined
8 by Section 61.003, that elects to participate in the council.

9 (d) A council member serves at the will of the person who
10 designated the member.

11 (e) A vacancy on the council shall be filled in the same
12 manner as the original designation.

13 (f) The council member designated under Section 51.956 for
14 The Texas A&M University System shall serve as the initial
15 presiding officer of the council.

16 (g) The council shall:

17 (1) identify best practices for a tier one research
18 institution to conduct research securely while mitigating the
19 threat of foreign espionage and interference;

20 (2) develop a research security policy that a tier one
21 research institution shall adopt to improve research security;

22 (3) establish an accreditation process under which the
23 council shall award a tier one research institution an
24 accreditation for security excellence;

25 (4) promote attendance at the annual academic security
26 and counter exploitation program seminar offered by The Texas A&M
27 University System; and

1 (5) develop and offer an annual training program for
2 tier one research institution security officers that includes:

3 (A) background and academic history checks of
4 researchers; and

5 (B) research security and integrity tools and
6 software that must be used to prevent the loss of intellectual
7 capital.

8 (h) The council shall meet at least once each quarter.

9 (i) A meeting conducted under Subsection (h) must be in
10 person or by video conference call, as determined by the presiding
11 officer.

12 (j) The council shall prepare and submit to the governor,
13 the attorney general's office, and the presiding officer of each
14 legislative committee with primary jurisdiction over higher
15 education an annual report on the status of research security at
16 tier one research institutions and any associated recommendations.

17 (k) A report submitted under Subsection (j) is confidential
18 and is not subject to disclosure under Chapter [552](#), Government
19 Code.

20 (l) The council may solicit and accept gifts, grants, and
21 donations for purposes of this section but may not solicit or accept
22 a gift, grant, or donation from an entity or country:

23 (1) prohibited from participating in federal
24 contracts under Section 889, John S. McCain National Defense
25 Authorization Act for Fiscal Year 2019 (Pub. L. No. 115-232);

26 (2) identified as a Chinese military company by the
27 United States Department of Defense in accordance with Section

1260H, William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. No. 116-283);

(3) owned by the government of a country designated as a foreign adversary by the United States secretary of commerce under 15 C.F.R. Section 791.4; or

(4) controlled by a governing or regulatory body located in a country described by Subdivision (3).

SECTION 2. Subtitle A, Title 3, Education Code, is amended by adding Chapter 51B to read as follows:

CHAPTER 51B. HIGHER EDUCATION RESEARCH AND PROTECTION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 51B.001. DEFINITIONS. In this chapter:

(1) "Affiliate organization" means an entity under the control of or established for the benefit of an organization. The term includes 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 of higher education.

(2) "Company" has the meaning assigned by Section 117.001, Business & Commerce Code.

(3) "Coordinating board" means the Texas Higher Education Coordinating Board.

(4) "Council" means the Higher Education Research Security Council established under Section 51.957.

(5) "Federally banned company" means a company:

(A) 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 by 47 C.F.R. Section 1.50002;

(B) listed in Supplement No. 4 to 15 C.F.R. Part 744;

(C) prohibited from participating in federal contracts under Section 889, John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. No. 115-232);

(D) identified as a Chinese military company by the United States Department of Defense in accordance with Section 1260H, William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. No. 116-283);

(E) prohibited from participating in federal contracts under Section 5949, James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Pub. L. No. 117-263);

(F) subject to economic and trade sanctions administered by the Office of Foreign Assets Control of the United States Department of the Treasury;

(G) subject to an order issued by the Federal Acquisition Security Council under the Federal Acquisition Supply Chain Security Act of 2018 (Title II, Pub. L. No. 115-390); or

(H) restricted under any similar sanction program under federal law.

(6) "Foreign adversary" means a country:

(A) identified by the United States Director of National Intelligence as a country that poses a risk to the national

security of the United States in at least one of the three most recent Annual Threat Assessments of the U.S. Intelligence Community issued pursuant to Section 108B, National Security Act of 1947 (50 U.S.C. Section 3043b); or

(B) designated by the governor after consultation with the director of the Department of Public Safety.

(7) "Foreign adversary company":

(A) means a company that:

(i) is domiciled, incorporated, headquartered, issued, or listed in a foreign adversary;

(ii) has its principal place of business in a foreign adversary;

(iii) is controlled by the government, military, or ruling political party of a foreign adversary; or

(iv) is majority owned by an entity described by Subparagraph (i), (ii), or (iii); and

(B) does not include:

(i) a United States citizen;

(ii) a U.S. subsidiary, as defined by 15 C.F.R. Section 772.1; or

(iii) a parent company not described by Paragraph (A) 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 described by Paragraph (A).

(8) "Foreign government" means 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 United States government.

(9) "Foreign source" means:

(A) a foreign government or agency of a foreign government;

(B) a legal entity created solely under the laws of a foreign government;

(C) an individual who is not a citizen or a national of the United States, including a territory or protectorate of the United States;

(D) 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;

(E) a political party or member of a political party of a foreign adversary; or

(F) an agent acting on behalf of an individual or entity described by Paragraph (A), (B), (C), (D), or (E).

(10) "Gift" means a gift, grant, endowment, award, or donation of money, property, or a service of any kind, including a conditional or unconditional pledge of the gift, grant, endowment, award, or donation.

(11) "Institution of higher education" has the meaning assigned by Section [61.003](#).

(12) "Political party" means an organization or combination of individuals whose aim or purpose is, or who are engaged in an activity devoted to, the establishment, control, or

1 acquisition of administration or control of a government, or the
2 furtherance or influencing of the political or public interest,
3 policies, or relations of a government.

4 Sec. 51B.002. RULES. The coordinating board shall adopt
5 rules necessary to implement this chapter.

6 SUBCHAPTER B. REQUIREMENTS FOR GIFTS FROM AND CONTRACTS WITH
7 FOREIGN ADVERSARIES AND CERTAIN COMPANIES

8 Sec. 51B.051. GIFT FROM FOREIGN ADVERSARY. (a) An
9 institution of higher education or employee of an institution of
10 higher education may not accept a gift the institution is directly
11 or indirectly offered from a foreign source of a foreign adversary
12 unless the gift is of de minimis value, as determined by
13 coordinating board rule.

14 (b) An institution of higher education shall:

15 (1) include the prohibition described by Subsection
16 (a) in the institution's ethics policy; and

17 (2) create a mechanism by which an employee of the
18 institution may report being offered from a foreign source of a
19 foreign adversary a gift prohibited by Subsection (a).

20 (c) Each institution of higher education that submits
21 reporting on foreign gift and contract disclosures to the United
22 States Department of Education required under Section 117, Higher
23 Education Act of 1965 (20 U.S.C. Section 1001 et seq.), shall submit
24 that reporting to the coordinating board at the time when the
25 institution is required to submit that reporting to the United
26 States Department of Education.

27 (d) Not later than December 1 of each year, the coordinating

1 board shall submit to the governor, the lieutenant governor, and
2 the speaker of the house of representatives a report detailing the
3 information submitted by institutions of higher education under
4 Subsection (c) for that year.

5 (e) Information required to be reported under this section
6 is not confidential except as otherwise provided by federal or
7 state law or unless protected as a trade secret by federal or state
8 law.

9 Sec. 51B.052. PROHIBITED CONTRACT WITH FOREIGN ADVERSARY
10 COMPANY OR FEDERALLY BANNED COMPANY; EXCEPTION. (a) Except as
11 provided by Subsection (b), a foreign adversary company or a
12 federally banned company may not submit a bid for a contract or
13 enter into a contract with an institution of higher education
14 relating to goods or services. For purposes of this section, a
15 company is considered a foreign adversary company if the company
16 enters into a contract with an institution of higher education to
17 sell to the institution any final products or services produced by a
18 foreign adversary company or a federally banned company.

19 (b) An institution of higher education may enter into a
20 contract with a company described by Subsection (a) if:

21 (1) there is no other reasonable option for procuring
22 the good or service;

23 (2) the institution preapproves the contract; and

24 (3) failure to procure the good or service would pose a
25 greater threat to this state than the threat associated with
26 procuring the good or service.

27 Sec. 51B.053. CERTIFICATION REQUIRED. An institution of

1 higher education shall require a vendor submitting a bid for a
2 contract relating to goods or services to include in the bid a
3 written certification that the vendor is not prohibited from
4 submitting the bid or entering into the contract under Section
5 51B.052(a).

6 Sec. 51B.054. FALSE CERTIFICATION; VIOLATION. (a) An
7 institution of higher education that determines that a vendor
8 holding a contract with the institution was ineligible to have the
9 contract awarded under Section 51B.052(a) because the vendor's
10 certification submitted under Section 51B.053 was false shall
11 notify the vendor that the vendor is in violation of this
12 subchapter. The notice must include the basis for the institution's
13 determination that the vendor is in violation of this subchapter.

14 (b) An institution of higher education, on making a final
15 determination that a vendor violated this subchapter, shall refer
16 the matter to the attorney general for enforcement under Section
17 51B.056.

18 Sec. 51B.055. CONTRACT TERMINATION FOR FALSE
19 CERTIFICATION; BARRING FROM STATE CONTRACTS. (a) An institution
20 of higher education, on making a final determination that a vendor
21 violated this subchapter, shall immediately terminate the contract
22 without further obligation to the vendor.

23 (b) On receiving notice from an institution of higher
24 education of a contract termination under Subsection (a) because a
25 vendor violated this subchapter, the comptroller may bar the vendor
26 from participating in state contracts using procedures prescribed
27 under Section [2155.077](#), Government Code.

1 (c) Debarment under this section expires on the fifth
2 anniversary of the date of the debarment under Subsection (b).

3 Sec. 51B.056. CIVIL PENALTY. (a) A vendor that violates
4 this subchapter is liable to the state for a civil penalty in an
5 amount equal to the greater of:

6 (1) twice the amount of the contract terminated under
7 Section 51B.055; or

8 (2) \$250,000.

9 (b) The attorney general may bring an action to recover a
10 civil penalty imposed under this section.

11 Sec. 51B.057. INVESTIGATION. (a) An institution of higher
12 education shall investigate an alleged violation of this subchapter
13 if the institution receives:

14 (1) a complaint from a compliance officer of a state
15 agency or an institution of higher education; or

16 (2) a sworn complaint based on substantive information
17 and reasonable belief.

18 (b) An institution of higher education may request from any
19 person records relevant to a reasonable suspicion of a violation of
20 this subchapter. A person who receives a request under this
21 subsection shall produce the records not later than the 10th day
22 after the date the person receives the request, unless the
23 institution and the person agree to a later date.

24 SUBCHAPTER C. INTERNATIONAL CULTURAL EXCHANGE AGREEMENTS AND
25 PARTNERSHIPS AND STUDENT ASSOCIATIONS

26 Sec. 51B.101. DEFINITIONS. In this subchapter:

27 (1) "Cultural exchange agreement" means a written or

1 spoken statement of mutual interest in cultural exchange or
2 academic or research collaboration.

3 (2) "Cultural exchange partnership" means a faculty or
4 student exchange program, study abroad program, matriculation
5 program, recruiting program, or dual degree program.

6 Sec. 51B.102. CERTAIN INTERNATIONAL CULTURAL AGREEMENTS
7 AND PARTNERSHIPS PROHIBITED. (a) An institution of higher
8 education may not participate in a cultural exchange agreement or
9 cultural exchange partnership with a foreign source of a foreign
10 adversary, or an entity controlled by a foreign adversary, that:

11 (1) constrains the institution's freedom of contract;
12 (2) allows the institution's curriculum or values to
13 be directed, controlled, or influenced by the foreign adversary; or
14 (3) promotes an agenda detrimental to the safety or
15 security of this state, the residents of this state, or the United
16 States.

17 (b) Before entering into a cultural exchange agreement or
18 cultural exchange partnership with a foreign source of a foreign
19 adversary, an institution of higher education shall share the
20 agreement or partnership with the council. If the council
21 determines that the agreement or partnership violates the
22 prohibition under Subsection (a), the institution may not
23 participate in the agreement or partnership.

24 (c) Not later than December 1 of each year, the council
25 shall submit to the governor, the lieutenant governor, and the
26 speaker of the house of representatives a report detailing the
27 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.

Sec. 51B.103. PROHIBITIONS ON STUDENT ASSOCIATIONS. (a) A student or scholars association affiliated with an institution of higher education may not:

(1) accept a gift from a foreign source of a foreign adversary; or

(2) enter into a contract or agreement with a foreign source of a foreign adversary.

(b) An institution of higher education shall terminate an affiliation with a student or scholars association if the institution determines that the association has violated this section.

(c) For purposes of this section, member dues or fees are not considered a gift from a foreign source of a foreign adversary.

SUBCHAPTER D. SCREENING OF FOREIGN RESEARCHERS

Sec. 51B.151. SCREENING OF FOREIGN RESEARCHERS REQUIRED.

(a) 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, an institution of higher education must screen the applicant as provided by this subchapter if the applicant:

(1) is a citizen of a foreign country and is not a permanent resident of the United States; or

(2) is affiliated with an institution or program, or

1 has at least one year of employment or training, in a foreign
2 adversary, other than employment or training by an agency of the
3 United States.

4 (b) A screening under this section must include a background
5 check to determine if the applicant has any ties to a foreign
6 adversary that would prevent the applicant from being able to
7 maintain the security or integrity of the institution of higher
8 education and research data or activities or other sensitive data
9 of the institution.

10 (c) If an institution of higher education procures a third
11 party to conduct a background check under Subsection (b), the
12 institution shall consult with the Department of Public Safety and
13 the council in determining whether the third party is qualified to
14 conduct a background check that meets the requirements of that
15 subsection.

16 (d) An institution of higher education may screen
17 additional applicants as provided by this subchapter for a position
18 described by Subsection (a) at the institution's discretion.

19 Sec. 51B.152. APPLICATION: REQUIRED MATERIALS. (a) An
20 institution of higher education must require an applicant subject
21 to screening under Section 51B.151 to submit to the institution:

22 (1) if the applicant is a citizen of a foreign country,
23 a copy of the applicant's passport and nonimmigrant visa
24 application most recently submitted to the United States Department
25 of State; and

26 (2) a resume and curriculum vitae that includes:

27 (A) a list of each postsecondary educational

1 institution in which the applicant has been enrolled;

2 (B) a list of all places of employment since the
3 applicant's 18th birthday;

4 (C) a list of all published materials for which
5 the applicant received credit as an author, a researcher, or
6 otherwise or to which the applicant contributed significant
7 research, writing, or editorial support;

8 (D) a list of the applicant's current and pending
9 research funding from any source, including the source of funding,
10 the amount of funding, the applicant's role on the project, and a
11 brief description of the research; and

12 (E) a full disclosure of the applicant's
13 professional activities outside of higher education, including any
14 affiliation with an institution or program in a foreign adversary.

15 (b) Notwithstanding Subsection (a)(2)(B), an applicant who
16 has been continuously employed or enrolled in a postsecondary
17 educational institution in the United States for the preceding 20
18 years may include in the applicant's resume only the applicant's
19 employment history for the preceding 20 years.

20 (c) An institution of higher education may destroy or return
21 to an applicant the copy of the applicant's nonimmigrant visa
22 application submitted under Subsection (a)(1) after extracting all
23 information relevant to the requirements of this subchapter.

24 Sec. 51B.153. RESEARCH INTEGRITY OFFICE. (a) The chief
25 administrative officer of an institution of higher education shall
26 establish a research integrity office to:

27 (1) review the materials submitted to the institution

1 by an applicant under Section 51B.152; and

2 (2) take reasonable steps to verify the information in
3 the application, including by:

4 (A) searching public databases for research
5 publications and presentations and public conflict of interest
6 records to identify any research publication or presentation that
7 may have been omitted from the application;

8 (B) contacting each of the applicant's employers
9 during the preceding 10 years to verify employment;

10 (C) contacting each postsecondary educational
11 institution the applicant attended to verify enrollment and
12 educational progress;

13 (D) searching public listings of persons subject
14 to sanctions or restrictions under federal law;

15 (E) submitting the applicant's name and other
16 identifying information to the Federal Bureau of Investigation or
17 another federal agency for screening related to national security
18 or counterespionage; and

19 (F) taking any other action the office considers
20 appropriate.

21 (b) An institution of higher education may direct the
22 research integrity office to approve applicants for hire using a
23 risk-based determination that considers the nature of the research
24 and the applicant's background and ongoing affiliations.

25 (c) An institution of higher education must complete the
26 requirements of this subchapter before:

27 (1) interviewing or offering a position to an

1 applicant described by Section 51B.151(a) in a research or
2 research-related support position; or

3 (2) granting the applicant access to research data or
4 activities or other sensitive data.

5 (d) An institution of higher education may not employ an
6 applicant subject to screening under Section 51B.151(a) in a
7 research or research-related support position if the applicant
8 fails to disclose in the application a substantial educational,
9 employment, or research-related activity or publication or
10 presentation unless the applicable department head or the
11 department head's designee certifies in writing the substance of
12 the failure to disclose and the reasons for disregarding that
13 failure. A copy of the certification must be kept in the
14 investigative file of the research integrity office and must be
15 submitted to the nearest Federal Bureau of Investigation field
16 office.

17 (e) The research integrity office shall report to the
18 nearest Federal Bureau of Investigation field office, and to any
19 law enforcement agency designated by the governor or the
20 institution of higher education's governing board, the identity of
21 an applicant who is rejected for employment based on the screening
22 required by this subchapter or other risk-based screening.

23 SUBCHAPTER E. FOREIGN TRAVEL: RESEARCH INSTITUTIONS

24 Sec. 51B.201. FOREIGN TRAVEL: RESEARCH INSTITUTIONS. (a)
25 An institution of higher education shall establish an international
26 travel approval and monitoring program.

27 (b) The program must require, in addition to any other

travel approval process required by the institution of higher education, preapproval from the institution's research integrity office established under Section 51B.153 for any employment-related foreign travel or activities by a faculty member, researcher, or research department staff member of the institution.

(c) A research integrity office may preapprove travel or activities under the program only if the applicant:

(1) reviews and acknowledges guidance published by the institution of higher education that relates to foreign adversaries or countries under sanctions or other restrictions by this state or the United States government, including:

(A) federal license requirements;

(B) customs rules;

(C) export controls;

(D) restrictions on taking institution of higher education property, including intellectual property, abroad;

(E) restrictions on presentations, teaching, and interactions with foreign colleagues; and

(F) other subjects important to the research and academic integrity of the institution of higher education; and

(2) agrees to comply with the institution of higher education's limitations on travel and activities abroad and all applicable federal laws.

Sec. 51B.202. MAINTENANCE OF RECORDS AND REPORT. (a) An institution of higher education shall 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:

(1) each foreign travel request and approval;

(2) expenses reimbursed by the institution for foreign travel, including for travel, food, and lodging;

(3) payments and honoraria received during foreign travel and activities, including for travel, food, and lodging;

(4) a statement of the purpose of each foreign travel;

and

(5) any record related to the foreign activity review.

(b) An institution of higher education shall 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 report must list each traveler, foreign location visited, and foreign institution visited.

SUBCHAPTER F. ACADEMIC PARTNERSHIPS

Sec. 51B.251. APPROVAL OF CERTAIN ACADEMIC PARTNERSHIPS REQUIRED. (a) An institution of higher education may enter into or renew an academic partnership with an educational or research institution located in a foreign adversary only if the council determines that the institution maintains sufficient structural safeguards to protect the institution's intellectual property, the security of this state, and the national security interests of the United States.

(b) The council may make a determination described by

Subsection (a) only if the council determines that the partnership includes the following safeguards:

(1) compliance with all federal requirements, including requirements of:

(A) federal research sponsors and federal export control agencies, including regulations regarding international traffic in arms and export administration regulations; and

(B) economic and trade sanctions administered by the Office of Foreign Assets Control of the United States Department of the Treasury;

(2) annual formal institution-level training programs for faculty on conflicts of interest and conflicts of commitment; and

(3) a formalized foreign visitor process and uniform visiting scholar agreement.

(c) The council may require an institution of higher education to reject or terminate an academic partnership described by Subsection (a) at any time and for any reason.

(d) Not later than December 1 of each year, the council shall 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.

SUBCHAPTER G. FOREIGN ADVERSARY SOFTWARE AND EDUCATION SERVICES

Sec. 51B.301. REVIEW OF EDUCATION SOFTWARE. (a) An

1 institution of higher education shall:

2 (1) conduct a thorough review of the use by the
3 institution of testing, tutoring, or other education software owned
4 or controlled by a foreign adversary or a company domiciled or
5 headquartered in a foreign adversary; and

6 (2) develop a plan to eliminate the use of education
7 software described by Subdivision (1).

8 (b) An institution of higher education may not enter into or
9 renew a contract to provide testing, tutoring, or other education
10 software with a foreign adversary or a company domiciled or
11 headquartered in a foreign adversary.

12 SUBCHAPTER H. ENFORCEMENT

13 Sec. 51B.351. ENFORCEMENT. (a) An institution of higher
14 education may not spend money appropriated to the institution for a
15 state fiscal year until the governing board of the institution
16 submits to the governor, the legislature, the coordinating board,
17 and the council a report certifying the governing board's
18 compliance with this chapter during the preceding state fiscal
19 year.

20 (b) In the interim between each regular session of the
21 legislature, the governing board of each institution of higher
22 education, or the board's designee, shall testify before the
23 standing legislative committees with primary jurisdiction over
24 higher education at a public hearing of the committee regarding the
25 board's compliance with this chapter.

26 (c) The state auditor shall periodically conduct a
27 compliance audit of each institution of higher education to

determine whether the institution has spent state money in violation of this section. The state auditor shall adopt a schedule by which the state auditor will conduct compliance audits under this subsection. The schedule must ensure that each institution of higher education is audited at least once every four years.

(d) If the state auditor determines pursuant to a compliance audit conducted under Subsection (c) that an institution of higher education has spent state money in violation of this section, the institution:

(1) must cure the violation not later than the 180th day after the date on which the determination is made; and

(2) if the institution fails to cure the violation during the period described by Subdivision (1), 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.

SECTION 3. Section 31.05(a), Penal Code, is amended by adding Subdivisions (2-a), (2-b), and (2-c) to read as follows:

(2-a) "Foreign agent" means an officer, employee, proxy, servant, delegate, or representative of a foreign government.

(2-b) "Foreign government" has the meaning assigned by Section 51B.001, Education Code.

(2-c) "Foreign instrumentality" means an agency, bureau, ministry, component, institution, association, or legal, commercial, or business organization, corporation, firm, or entity

1 that is substantially owned, controlled, sponsored, commanded,
2 managed, or dominated by a foreign government.

3 SECTION 4. Section 31.05(c), Penal Code, is amended to read
4 as follows:

5 (c) An offense under this section is a felony of the third
6 degree, except that the offense is a felony of the second degree if
7 it is shown on the trial of the offense that the person who
8 committed the offense intended to benefit a foreign agent, foreign
9 government, or foreign instrumentality.

10 SECTION 5. (a) Not later than October 1, 2025, the
11 appropriate entities shall designate the members of the Higher
12 Education Research Security Council established under Section
13 51.957, Education Code, as added by this Act.

14 (b) Not later than January 1, 2026, the Higher Education
15 Research Security Council established under Section 51.957,
16 Education Code, as added by this Act, shall hold its initial
17 meeting.

18 SECTION 6. Section 51B.052, Education Code, as added by
19 this Act, applies only to a contract for which the request for bids
20 or proposals or other applicable expression of interest is made
21 public on or after the effective date of this Act. A contract for
22 which the request for bids or proposals or other applicable
23 expression of interest is made public before that date is governed
24 by the law in effect on the date the request or other expression of
25 interest is made public, and the former law is continued in effect
26 for that purpose.

27 SECTION 7. The changes in law made by this Act apply only to

1 an offense committed on or after the effective date of this Act. An
2 offense committed before the effective date of this Act is governed
3 by the law in effect on the date the offense was committed, and the
4 former law is continued in effect for that purpose. For purposes of
5 this section, an offense was committed before the effective date of
6 this Act if any element of the offense occurred before that date.

7 SECTION 8. Section 51B.351(a), Education Code, as added by
8 this Act, applies beginning with money appropriated to a public
9 institution of higher education for the state fiscal year beginning
10 September 1, 2026.

11 SECTION 9. This Act takes effect September 1, 2025.