

SENATE AMENDMENTS
2nd Printing

By: Wilson, Hefner, Shaheen, Howard, Lambert, H.B. No. 127
et al.

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 Z, 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.

ADOPTED

MAY 29 2023

Latey Law
Secretary of the Senate

By:

Burgin Hughes

H.B. No. 127

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

By:

Sam Parker

C.S. H.B. No. 127

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Subchapter Z, 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) "Governing board," "institution of higher education," "private or independent institution of higher education," "public junior college," "public technical institute," and "university system" have the meanings assigned by Section 61.003.

(3) "Postsecondary educational institution" means an institution of higher education, other than a public junior college or public technical institute, or a private or independent tier one research institution.

(4) "Private or independent tier one research institution" means a private or independent institution of higher education designated as R1: very high spending and doctorate production in the 2025 Carnegie Classification of Institutions of

1 Higher Education published by the Indiana University Center for
2 Postsecondary Research.

3 (b) The Higher Education Research Security Council is
4 established to promote secure academic research at postsecondary
5 educational institutions while mitigating the risk of foreign
6 espionage and interference.

7 (c) The council is composed of the following members:

8 (1) one research security officer appointed by the
9 governing board of each university system;

10 (2) one additional research security officer
11 appointed by each governing board of a university system that
12 oversees one or more medical schools, as defined by Section 61.501,
13 if the governing board elects to make that additional appointment;

14 (3) one research security officer appointed by the
15 governing board of Texas Southern University; and

16 (4) one research security officer appointed by each
17 private or independent tier one research institution that elects to
18 participate in the council.

19 (d) A council member appointed under Subsection (c)(2) or
20 (4) serves as a nonvoting member.

21 (e) A council member serves at the will of the person who
22 appointed the member.

23 (f) A vacancy on the council shall be filled in the same
24 manner as the original appointment.

25 (g) The council member appointed under Subsection (c)(1)
26 for The Texas A&M University System shall serve as the initial
27 presiding officer of the council.

1 (h) The council shall:
2 (1) identify best practices for a postsecondary
3 educational institution to:
4 (A) conduct research securely while mitigating
5 the threat of foreign espionage and interference; and
6 (B) vet and approve any gift to a postsecondary
7 educational institution from an individual who is a citizen of a
8 foreign adversary, as defined by Section 51B.001;
9 (2) develop a model research security policy that a
10 postsecondary educational institution may adopt to improve
11 research security;
12 (3) establish an accreditation process under which the
13 council may award a postsecondary educational institution an
14 accreditation for security excellence;
15 (4) promote attendance at the annual academic security
16 and counter exploitation program seminar offered by The Texas A&M
17 University System; and
18 (5) develop and offer an annual training program for
19 postsecondary educational institution research security officers
20 that includes:
21 (A) background and academic history checks of
22 researchers; and
23 (B) research security and integrity tools and
24 software that must be used to prevent the loss of intellectual
25 capital.
26 (i) The council shall meet at least once each quarter.
27 (j) A meeting conducted under Subsection (i) must be in

1 person or by video conference call, as determined by the presiding
2 officer.

3 (k) The council shall prepare and submit to the governor,
4 the attorney general's office, and the presiding officer of each
5 legislative committee with primary jurisdiction over higher
6 education an annual report on the status of research security at
7 postsecondary educational institutions and any associated
8 recommendations.

9 (l) Unless otherwise approved by the council for
10 dissemination to postsecondary educational institutions,
11 information produced by the council under Subsection (h) is
12 confidential and is not subject to disclosure under Chapter 552,
13 Government Code. A report submitted under Subsection (k) is
14 confidential and is not subject to disclosure under Chapter 552,
15 Government Code.

16 (m) The council may solicit and accept gifts, grants, and
17 donations for purposes of this section but may not solicit or accept
18 a gift, grant, or donation from an entity or country:

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

22 (2) identified as a Chinese military company by the
23 United States Department of Defense in accordance with Section
24 1260H, William M. (Mac) Thornberry National Defense Authorization
25 Act for Fiscal Year 2021 (Pub. L. No. 116-283);

26 (3) owned by the government of a country designated as
27 a foreign adversary by the United States secretary of commerce

1 under 15 C.F.R. Section 791.4; or

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

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

6 CHAPTER 51B. HIGHER EDUCATION RESEARCH AND PROTECTION

7 SUBCHAPTER A. GENERAL PROVISIONS

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

9 (1) "Company" has the meaning assigned by Section
10 117.001, Business & Commerce Code.

11 (2) "Coordinating board" means the Texas Higher
12 Education Coordinating Board.

13 (3) "Council" means the Higher Education Research
14 Security Council established under Section 51.957.

15 (4) "Foreign adversary" means a country:

16 (A) identified by the United States Director of
17 National Intelligence as a country that poses a risk to the national
18 security of the United States in at least one of the three most
19 recent Annual Threat Assessments of the U.S. Intelligence Community
20 issued pursuant to Section 108B, National Security Act of 1947 (50
21 U.S.C. Section 3043b); or

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

24 (5) "Foreign government" means the government or an
25 agent of a country, nation, or group of nations, or a province or
26 other political subdivision of a country or nation, other than the
27 United States government.

1 (6) "Foreign source" means:
2 (A) a foreign government or agency of a foreign
3 government;
4 (B) a legal entity created solely under the laws
5 of a foreign adversary and having its principal place of business in
6 a foreign adversary;
7 (C) an individual who is not a citizen or a lawful
8 permanent resident of the United States, including a territory or
9 protectorate of the United States;
10 (D) a partnership, association, organization, or
11 other combination of persons, or a subsidiary of such an entity,
12 organized under the laws of and having its principal place of
13 business in a foreign adversary;
14 (E) a political party of a foreign adversary; or
15 (F) an agent acting on behalf of an individual or
16 entity described by Paragraph (A), (B), (C), (D), or (E).
17 (7) "Gift" means a gift, grant, endowment, award, or
18 donation of money, property, or a service of any kind, including a
19 conditional or unconditional pledge of the gift, grant, endowment,
20 award, or donation.
21 (8) "Institution of higher education" has the meaning
22 assigned by Section 61.003, except that the term does not include a
23 public junior college or public technical institute as defined by
24 that section.
25 (9) "Political party" means an organization or
26 combination of individuals whose aim or purpose is, or who are
27 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) Except as
9 provided by Subsection (c), an institution of higher education or
10 employee of an institution of higher education may not accept a gift
11 the institution or employee knows is directly or indirectly offered
12 from a foreign source of a foreign adversary unless the gift is of
13 de minimis value, as determined by coordinating board rule in
14 consultation with the council.

15 (b) An institution of higher education shall:

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

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

21 (c) An institution of higher education may accept a gift of
22 more than de minimis value from a foreign source of a foreign
23 adversary only if:

24 (1) the foreign source is an individual;

25 (2) the gift is determined by the institution's
26 research security officer serving on the council not to be an
27 indirect gift from a government of a foreign adversary;

1 (3) the institution uses the best practices adopted by
2 the council under Section 51.957(h)(1)(B) to vet and approve the
3 gift; and

4 (4) if the gift has a value of more than \$25,000, the
5 gift is approved by the chief executive officer of the institution
6 and disclosed to the council at an interval established by the
7 council.

8 (d) A gift described by Subsection (c)(4) is not subject to
9 disclosure under Chapter 552, Government Code, except as otherwise
10 required by federal or state law.

11 (e) Each institution of higher education that submits
12 reporting on foreign gift and contract disclosures to the United
13 States Department of Education required under Section 117, Higher
14 Education Act of 1965 (20 U.S.C. Section 1001 et seq.), shall submit
15 that reporting to the coordinating board at the time when the
16 institution is required to submit that reporting to the United
17 States Department of Education.

18 (f) Not later than December 1 of each year, the coordinating
19 board shall submit to the governor, the lieutenant governor, and
20 the speaker of the house of representatives a report detailing the
21 information submitted by institutions of higher education under
22 Subsection (e) for that year.

23 (g) Information required to be reported under this section
24 is not confidential except as otherwise provided by federal or
25 state law or unless protected as a trade secret by federal or state
26 law.

27 Sec. 51B.052. INVESTIGATION. (a) An institution of higher

1 education shall investigate an alleged violation of this subchapter
2 if the institution receives:

3 (1) a complaint from a compliance officer of a state
4 agency or the institution; or

5 (2) a sworn complaint based on substantive information
6 and reasonable belief.

7 (b) An institution of higher education may request from any
8 person records relevant to a reasonable suspicion of a violation of
9 this subchapter. A person who receives a request under this
10 subsection shall produce the records not later than the 10th
11 business day after the date the person receives the request, unless
12 the institution and the person agree to a later date.

13 SUBCHAPTER C. ACADEMIC PARTNERSHIPS AND STUDENT ASSOCIATIONS

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

15 (1) "Academic partnership" means a written statement
16 of mutual interest in cultural exchange or academic or research
17 collaboration or a faculty or student exchange program, study
18 abroad program, matriculation program, recruiting program, or dual
19 degree program.

20 (2) "Benefit" and "student organization" have the
21 meanings assigned by Section 51.9315.

22 Sec. 51B.102. CERTAIN INTERNATIONAL ACADEMIC PARTNERSHIPS
23 PROHIBITED. (a) An institution of higher education may not
24 participate in an academic partnership with a foreign source of a
25 foreign adversary, or an entity controlled by a foreign adversary,
26 that:

27 (1) constrains the institution's freedom of contract;

1 (2) allows the institution's curriculum or values to
2 be directed, controlled, or influenced by the foreign adversary; or

3 (3) promotes an agenda detrimental to the safety or
4 security of this state, the residents of this state, or the United
5 States.

6 (b) Before entering into an academic partnership with a
7 foreign source of a foreign adversary, an institution of higher
8 education shall share the partnership with the council and omit
9 information that may be confidential or proprietary. The council
10 may establish a process for reviewing an academic partnership under
11 this section and best practices for institutions of higher
12 education seeking to enter into an academic partnership. If the
13 council determines that an academic partnership violates the
14 prohibition under Subsection (a), the council may recommend that
15 the institution not participate in the partnership.

16 (c) Not later than December 1 of each year, the council
17 shall submit to the governor, the lieutenant governor, and the
18 speaker of the house of representatives a report detailing the
19 total number of academic partnerships that were entered into by
20 institutions of higher education but not recommended for
21 participation by the council in the 12 months preceding the date of
22 the report.

23 Sec. 51B.103. PROHIBITIONS IN RELATION TO CERTAIN FOREIGN
24 INFLUENCE ON STUDENT ORGANIZATION. (a) A student organization at
25 an institution of higher education may not:

26 (1) accept a gift from a foreign adversary or an agent
27 of a foreign adversary; or

1 (2) enter into a contract or agreement with a foreign
2 adversary or an agent of a foreign adversary under which the student
3 organization receives financial support.

4 (b) Subsection (a) does not prohibit a student organization
5 at an institution of higher education from accepting member dues or
6 fees.

7 (c) Each student organization at an institution of higher
8 education annually shall certify to the institution the
9 organization's compliance with Subsection (a).

10 (d) Notwithstanding Section 51.9315, an institution of
11 higher education may not provide any benefit to a student
12 organization that violates this section. An institution of higher
13 education that determines a student organization has violated this
14 section shall terminate the organization's recognition or
15 registration, as applicable.

16 SUBCHAPTER D. SCREENING OF FOREIGN RESEARCHERS

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

18 (a) Before offering a person employment for a research or
19 research-related support position at the institution or granting a
20 person access to research data or activities or other sensitive
21 data of the institution, an institution of higher education must
22 screen the person as provided by this subchapter if the person:

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

25 (2) is affiliated with an institution or program, or
26 has at least one year of employment or training, in a foreign
27 adversary, other than employment or training by an agency of the

1 United States.

2 **(b) A screening under this section must include a background**
3 **check to determine if the person has any ties to a foreign adversary**
4 **that would prevent the person from being able to maintain the**
5 **security or integrity of the institution of higher education and**
6 **research data or activities or other sensitive data of the**
7 **institution. The council may establish a risk-based framework for**
8 **the screening of a person under this subchapter.**

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

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

18 **(e) An institution of higher education may waive the**
19 **screening requirement under Subsection (a) for a person who**
20 **possesses an active United States government security clearance**
21 **issued by a federal agency.**

22 **Sec. 51B.152. EMPLOYMENT: REQUIRED MATERIALS. (a) An**
23 **institution of higher education must require a person subject to**
24 **screening under Section 51B.151 to submit to the institution:**

25 **(1) if the person is a citizen of a foreign country, a**
26 **copy of the person's passport and nonimmigrant visa application**
27 **most recently submitted to the United States Department of State;**

1 and

2 (2) any additional information as determined by the
3 council.

4 (b) An institution of higher education may destroy or return
5 to a person subject to screening under Section 51B.151 the copy of
6 the person's nonimmigrant visa application submitted under
7 Subsection (a)(1) after extracting all information relevant to the
8 requirements of this subchapter.

9 Sec. 51B.153. RESEARCH SECURITY OFFICE. (a) The chief
10 administrative officer of an institution of higher education shall
11 establish a research security office to:

12 (1) review the materials submitted to the institution
13 by a person under Section 51B.152;

14 (2) take reasonable steps to verify the information in
15 the submission; and

16 (3) take any other action the office considers
17 appropriate.

18 (b) A research security office established under this
19 section may serve in an institutional or system-wide capacity.

20 (c) An institution of higher education may direct the
21 research security office to approve persons for hire using a
22 risk-based determination that considers the nature of the research
23 and the person's background and ongoing affiliations.

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

26 (1) hiring a person described by Section 51B.151(a) in
27 a research or research-related support position; or

1 (2) granting the person access to research data or
2 activities or other sensitive data.

3 (e) An institution of higher education may not employ a
4 person subject to screening under Section 51B.151 in a research or
5 research-related support position if the person fails to disclose
6 in the submission a substantial educational, employment, or
7 research-related activity, publication, or presentation unless the
8 applicable department head or the department head's designee
9 certifies in writing the substance of the failure to disclose and
10 the reasons for disregarding that failure. A copy of the
11 certification must be kept in the investigative file of the
12 research security office.

13 (f) The research security office shall report to any law
14 enforcement agency designated by the governor or the institution of
15 higher education's governing board the identity of a person who is
16 rejected for employment based on the screening required by this
17 subchapter or other risk-based screening.

18 SUBCHAPTER E. FOREIGN TRAVEL

19 Sec. 51B.201. FOREIGN TRAVEL. (a) An institution of higher
20 education shall establish an international travel approval and
21 monitoring program.

22 (b) The program must establish a risk-based framework for
23 employment-related foreign travel approval, including health,
24 safety, and security factors.

25 (c) A research security office must preapprove certain
26 employment-related foreign travel according to the risk-based
27 framework established under the program. The preapproval must

1 require a traveling employee to review and acknowledge guidance
2 related to foreign adversaries or countries under sanctions or
3 other restrictions by this state or the United States government.

4 (d) A traveling employee must agree to comply with the
5 institution of higher education's limitation on travel and
6 activities abroad and all applicable federal laws.

7 Sec. 51B.202. MAINTENANCE OF RECORDS AND REPORT. (a) An
8 institution of higher education shall maintain for at least three
9 years, or any longer period of time required by applicable federal
10 or state law, records relating to employment-related foreign travel
11 to and activities involving a foreign adversary by a faculty
12 member, researcher, or research department staff member of the
13 institution, including:

14 (1) each foreign travel request and approval;

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

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

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

20 and

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

22 (b) An institution of higher education shall annually
23 submit to the institution's governing board a report on
24 employment-related foreign travel by a faculty member, researcher,
25 or research department staff member of the institution to a foreign
26 adversary. The report must list each traveler, foreign location
27 visited, and foreign institution visited.

1 SUBCHAPTER F. FOREIGN ADVERSARY EDUCATION SOFTWARE

2 Sec. 51B.251. REVIEW OF EDUCATION SOFTWARE. (a) The
3 council, in coordination with the coordinating board, shall:

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

8 (2) publish a list of prohibited software on the
9 coordinating board's Internet website.

10 (b) An institution of higher education may not enter into or
11 renew a contract to provide testing, tutoring, or other education
12 software included on the list published under Subsection (a)(2).

13 SUBCHAPTER G. ENFORCEMENT

14 Sec. 51B.301. ENFORCEMENT. (a) An institution of higher
15 education may not spend money appropriated to the institution for a
16 state fiscal year until the governing board of the institution
17 submits to the governor, the legislature, the coordinating board,
18 and the council a report certifying the governing board's
19 compliance with this chapter during the preceding state fiscal
20 year.

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

27 (c) The state auditor shall periodically conduct a

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

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

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

13 (2) if the institution fails to cure the violation
14 during the period described by Subdivision (1), is ineligible to
15 receive formula funding increases, institutional enhancements, or
16 exceptional items during the state fiscal biennium immediately
17 following the state fiscal biennium in which the determination is
18 made.

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

21 (2-a) "Foreign agent" means an officer, employee,
22 proxy, servant, delegate, or representative of a foreign
23 government.

24 (2-b) "Foreign government" has the meaning assigned by
25 Section 51B.001, Education Code.

26 (2-c) "Foreign instrumentality" means an agency,
27 bureau, ministry, component, institution, association, or legal,

1 commercial, or business organization, corporation, firm, or entity
2 that is substantially owned, controlled, sponsored, commanded,
3 managed, or dominated by a foreign government.

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

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

11 SECTION 5. (a) Not later than October 1, 2025, the
12 appropriate entities shall designate the members of the Higher
13 Education Research Security Council established under Section
14 51.957, Education Code, as added by this Act.

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

19 SECTION 6. The changes in law made by this Act to Section
20 31.05, Penal Code, apply only to an offense committed on or after
21 the effective date of this Act. An offense committed before the
22 effective date of this Act is governed by the law in effect on the
23 date the offense was committed, and the former law is continued in
24 effect for that purpose. For purposes of this section, an offense
25 was committed before the effective date of this Act if any element
26 of the offense occurred before that date.

27 SECTION 7. Section 51B.103, Education Code, as added by

1 this Act, applies beginning with the 2025-2026 academic year.

2 SECTION 8. Sections 51B.051, 51B.151, and 51B.152,
3 Education Code, as added by this Act, apply beginning with the
4 academic year immediately following the adoption of standards
5 relating to those sections by the Higher Education Research
6 Security Council established under Section 51.957, Education Code,
7 as added by this Act.

8 SECTION 9. Section 51B.301(a), Education Code, as added by
9 this Act, applies beginning with money appropriated to a public
10 institution of higher education for the state fiscal year beginning
11 September 1, 2026.

12 SECTION 10. This Act takes effect September 1, 2025.

ADOPTED

MAY 29 2025

Latey Spauld
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Byron Hughes*

Amend C.S.H.B. No. 127 (senate committee report) as follows:

(1) In SECTION 1 of the bill, immediately following added Section 51.957(h), Education Code (page 2, between lines 37 and 38), insert the following appropriately lettered subsection and reletter subsequent subsections accordingly:

() The Texas Higher Education Coordinating Board shall provide administrative support to the council at the council's request.

(2) In SECTION 1 of the bill, in added Section 51.957(k), Education Code (page 2, line 42), strike "The council" and substitute "Not later than December 1 of each even-numbered year, the council".

(3) In SECTION 1 of the bill, in added Section 51.957(k), Education Code (page 2, line 45), strike "an annual" and substitute "a".

(4) In SECTION 2 of the bill, in added Section 51B.001, Education Code (page 3, lines 25 through 44), strike Subdivisions (6) and (7) and substitute the following:

(6) "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 adversary and having its principal place of business in a foreign adversary;

(C) a partnership, association, organization, or other combination of persons, or a subsidiary of such an entity, organized under the laws of and having its principal place of business in a foreign adversary;

(D) a political party of a foreign adversary; or

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

3 (7) "Gift" means any gift of money or property.

4 (5) In SECTION 2 of the bill, in added Section 51B.051(c),
5 Education Code (page 4, line 4), strike "foreign source" and
6 substitute "citizen".

7 (6) In SECTION 2 of the bill, in added Section
8 51B.051(c)(1), Education Code (page 4, line 6), strike "foreign
9 source" and substitute "citizen".

10 (7) In SECTION 2 of the bill, in added Section 51B.051(c),
11 Education Code (page 4, lines 7 through 9), strike Subdivision (2)
12 and renumber subsequent subdivisions accordingly.

13 (8) In SECTION 2 of the bill, in added Section 51B.051(d),
14 Education Code (page 4, line 17), strike "Subsection (c)(4)" and
15 substitute "Subsection (c)".

16 (9) In SECTION 2 of the bill, in added Section 51B.102,
17 Education Code (page 4, line 69, through page 5, line 16), strike
18 Subsections (b) and (c) and substitute the following:

19 (b) The council shall establish:

20 (1) best practices to be used by an institution of
21 higher education when entering into an academic partnership with a
22 foreign source of a foreign adversary; and

23 (2) a process by which an institution of higher
24 education annually shall certify to the council the institution's
25 compliance or noncompliance with the best practices established
26 under Subdivision (1).

27 (c) Not later than December 1 of each year, the council
28 shall submit to the governor, the lieutenant governor, and the
29 speaker of the house of representatives a report identifying each
30 institution of higher education that did not certify the
31 institution's compliance with the best practices under Subsection

1 (b) in the 12 months preceding the date of the report.

2 (10) In SECTION 2 of the bill, in added Section 51B.151(b),
3 Education Code (page 5, line 56), between "subchapter" and the
4 underlined period, insert ", which may prescribe low-risk
5 circumstances under which the screening may be waived".

6 (11) In SECTION 8 of the bill, providing transition language
7 (page 8, line 32), between "Sections 51B.051," and "51B.151",
8 insert "51B.102(b),".

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 29, 2025

TO: Honorable Dustin Burrows, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB127 by Wilson (Relating to measures to protect institutions of higher education from foreign adversaries and to the prosecution of the criminal offense of theft of trade secrets; increasing a criminal penalty.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would establish measures to protect institutions of higher education from foreign adversaries and amend provisions related to the prosecution of the criminal offense of theft of trade secrets. The bill would establish the Higher Education Research Security Council and establish certain requirements related to gifts from and contracts with foreign adversaries and certain companies, international academic partnerships and student associations, screening of foreign researchers, foreign travel for researchers, and review of education software.

It is assumed that any costs associated with the bill could be absorbed using existing resources. Any revenue implications cannot be estimated and would be dependent on the number of criminal penalties. It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Any fiscal impact of the Senate floor amendment cannot be determined at this time.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 405 Department of Public Safety, 710 Texas A&M University System Administrative and General Offices, 717 Texas Southern University, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 775 Texas Woman's University System, 781 Higher Education Coordinating Board, 783 University of Houston System Administration, 966 Howard College, 978 San Jacinto College

LBB Staff: JMc, SD, NC, LBO, GO, MGol, NV

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 24, 2025

TO: Honorable Brandon Creighton, Chair, Senate Committee on Education K-16

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB127 by Wilson (relating to measures to protect institutions of higher education from foreign adversaries and to the prosecution of the criminal offense of theft of trade secrets; increasing a criminal penalty.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would establish measures to protect institutions of higher education from foreign adversaries and amend provisions related to the prosecution of the criminal offense of theft of trade secrets. The bill would establish the Higher Education Research Security Council and establish certain requirements related to gifts from and contracts with foreign adversaries and certain companies, international academic partnerships and student associations, screening of foreign researchers, foreign travel for researchers, and review of education software.

It is assumed that any costs associated with the bill could be absorbed using existing resources. Any revenue implications cannot be estimated and would be dependent on the number of criminal penalties. It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 405 Department of Public Safety, 710 Texas A&M University System Administrative and General Offices, 717 Texas Southern University, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 775 Texas Woman's University System, 781 Higher Education Coordinating Board, 783 University of Houston System Administration, 966 Howard College, 978 San Jacinto College

LBB Staff: JMc, NC, LBO, GO, MGol, NV

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 19, 2025

TO: Honorable Brandon Creighton, Chair, Senate Committee on Education K-16

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB127 by Wilson (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.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would establish measures to protect public institutions of higher education from foreign adversaries and amend provisions related to the prosecution of the criminal offense of theft of trade secrets. The bill would establish the Higher Education Research Security Council and establish certain requirements related to gifts from and contracts with foreign adversaries and certain companies, international exchange agreements and partnerships and student associations, screening of foreign researchers, foreign travel for researchers, academic partnerships, and review of education software.

It is assumed that any costs associated with the bill could be absorbed using existing resources. Any revenue implications cannot be estimated and would be dependent on the number of criminal penalties or violations resulting in an administrative or civil penalty. It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 405 Department of Public Safety, 710 Texas A&M University System Administrative and General Offices, 717 Texas Southern University, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 775 Texas Woman's University System, 781 Higher Education Coordinating Board, 783 University of Houston System Administration, 966 Howard College, 978 San Jacinto College

LBB Staff: JMc, NC, MGol, LBO, GO, NV

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 6, 2025

TO: Honorable Cole Hefner, Chair, House Committee on Homeland Security, Public Safety & Veterans' Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB127 by Wilson (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.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would establish measures to protect public institutions of higher education from foreign adversaries and amend provisions related to the prosecution of the criminal offense of theft of trade secrets. The bill would establish the Higher Education Research Security Council and establish certain requirements related to gifts from and contracts with foreign adversaries and certain companies, international exchange agreements and partnerships and student associations, screening of foreign researchers, foreign travel for researchers, academic partnerships, and review of education software.

It is assumed that any costs associated with the bill could be absorbed using existing resources. Any revenue implications cannot be estimated and would be dependent on the number of criminal penalties or violations resulting in an administrative or civil penalty. It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 405 Department of Public Safety, 710 Texas A&M University System Administrative and General Offices, 717 Texas Southern University, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 775 Texas Woman's University System, 781 Higher Education Coordinating Board, 783 University of Houston System Administration, 966 Howard College, 978 San Jacinto College

LBB Staff: JMc, MGol, LBO, GO, NV

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

April 1, 2025

TO: Honorable Cole Hefner, Chair, House Committee on Homeland Security, Public Safety & Veterans' Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB127** by Wilson (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 and administrative penalties; increasing a criminal penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB127, As Introduced: a negative impact of (\$844,996) through the biennium ending August 31, 2027.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2026	(\$567,748)
2027	(\$277,248)
2028	(\$277,248)
2029	(\$277,248)
2030	(\$277,248)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	<i>Change in Number of State Employees from FY 2025</i>
2026	(\$567,748)	1.5
2027	(\$277,248)	1.5
2028	(\$277,248)	1.5
2029	(\$277,248)	1.5
2030	(\$277,248)	1.5

Fiscal Analysis

The bill would establish measures to protect public institutions of higher education from foreign adversaries and amend provisions related to the prosecution of the criminal offense of theft of trade secrets. The bill would establish certain requirements related to gifts from and contracts with foreign adversaries, international exchange agreements and partnerships and student associations, screening of foreign researchers, foreign travel for researchers, academic partnerships, and review of education software.

The bill would require the Higher Education Coordinating Board to review certain information submitted by institutions, investigate alleged violations, and issue reports as well as conduct operational audits related to the screening of foreign researchers and foreign travel for researchers.

Methodology

It is assumed that any costs for institutions of higher education associated with the bill would be absorbed within existing resources.

The Higher Education Coordinating Board indicates that \$280,500 in fiscal year 2026 would be needed for the two required one-time operational audits. Additionally, the agency would also need to hire 1.0 general counsel and 0.5 legal assistant resulting in ongoing costs related to implementation. Total costs for salaries and wages, benefits, and other costs, total \$287,248 in fiscal year 2026 and \$277,248 in fiscal year 2027 and beyond.

Any revenue implications cannot be estimated and would be dependent on the number of violations resulting in an administrative or civil penalty. It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 710 Texas A&M University System Administrative and General Offices, 717 Texas Southern University, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 781 Higher Education Coordinating Board, 783 University of Houston System Administration, 966 Howard College, 978 San Jacinto College

LBB Staff: JMc, MGol, LBO, GO, NV

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

89TH LEGISLATIVE REGULAR SESSION

May 6, 2025

TO: Honorable Cole Hefner, Chair, House Committee on Homeland Security, Public Safety & Veterans' Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB127 by Wilson (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.), **Committee Report 1st House, Substituted**

The bill would provide a penalty enhancement for the third degree felony offense of theft of trade secrets, making it punishable as a second degree felony when the theft is committed with intent to benefit a foreign agent, foreign government, or foreign instrumentality.

Increasing the penalty for an existing offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals confined and in the length of stay for individuals sentenced to a term of confinement.

In fiscal year 2024, there were two arrests, no referrals, one placement on adult community supervision, no individuals admitted into an adult state correctional institution, and no individuals admitted into a juvenile state correctional institution for the offense of theft of trade secrets.

It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Source

Agencies:

LBB Staff: JMc, MGol, DGI, FV, AMr, QH

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT
89TH LEGISLATIVE REGULAR SESSION

April 1, 2025

TO: Honorable Cole Hefner, Chair, House Committee on Homeland Security, Public Safety & Veterans' Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB127 by Wilson (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 and administrative penalties; increasing a criminal penalty.), **As Introduced**

The bill would provide a penalty enhancement for the third degree felony offense of theft of trade secrets, making it punishable as a second degree felony when the theft is committed with intent to benefit a foreign agent, foreign government, or foreign instrumentality.

Increasing the penalty for an existing offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals confined and in the length of stay for individuals sentenced to a term of confinement.

In fiscal year 2024, there were two arrests, no referrals, one placement on adult community supervision, no individuals admitted into an adult state correctional institution, and no individuals admitted into a juvenile state correctional institution for the offense of theft of trade secrets.

It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Source

Agencies:

LBB Staff: JMc, MGol, DGI