

**SENATE BILL No. 537**

By Committee on Federal and State Affairs

2-23

1 AN ACT concerning foreign influence in the operations of state  
2 government; relating to contracts, gifts and grants; requiring state  
3 contractors, grant recipients, vendors, state agencies and political  
4 subdivisions to disclose certain gifts or grants received from a foreign  
5 source to the department of administration; institutions of higher  
6 education to report certain gifts or grants from foreign sources to the  
7 board of regents; state educational institutions to screen certain foreign  
8 applicants seeking employment in certain research positions;  
9 prohibiting certain public entities from participating in agreements  
10 with, or accepting gifts or grants from, foreign countries of concern;  
11 authorizing civil penalties for violations of disclosure requirements;  
12 establishing research integrity offices and international travel approval  
13 and monitoring programs at state educational institutions; directing the  
14 legislative division of post audit to conduct certain performance audits.  
15

16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. (a) As used in this section:

18 (1) "Contract" means any agreement for the direct benefit or use of  
19 any party to such agreement, including an agreement for the sale of  
20 commodities or services.

21 (2) "Foreign country of concern" means the People's Republic of  
22 China, the Russian Federation, the Islamic Republic of Iran, the  
23 Democratic People's Republic of Korea, the Republic of Cuba, the  
24 Venezuelan regime of Nicolas Maduro or the Syrian Arab Republic,  
25 including any agency or other entity under the significant control thereof.

26 (3) "Foreign government" means the government, including any  
27 agent, of any country, nation, group of nations or any province or other  
28 political subdivision other than the government of the United States or the  
29 government of a state or political subdivision of the United States.

30 (4) "Foreign source" means:

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

32 (B) a legal entity, governmental or otherwise, created solely under the  
33 laws of a foreign state;

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

36 (D) an agent, including a subsidiary or affiliate of a foreign legal

1 entity, acting on behalf of a foreign state.

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

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

6 (7) "Interest in an entity" means any direct or indirect investment in,  
7 or loan to, the entity valued at 5% or more of the entity's net worth or any  
8 form of direct or indirect control exerting similar or greater influence on  
9 the governance of such entity.

10 (8) "Political subdivision" means the same as defined in K.S.A. 74-  
11 8902, and amendments thereto.

12 (9) "State agency" means the same as defined in K.S.A. 75-3049, and  
13 amendments thereto.

14 (b) Any state agency or political subdivision that receives directly or  
15 indirectly any gift or grant with a value of \$50,000 or more from any  
16 foreign source shall disclose such gift or grant to the department of  
17 administration within 30 days after receiving such gift or grant. Such  
18 disclosure shall include the date of the gift or grant, the amount of the gift  
19 or grant and the name and country of residence or domicile of the foreign  
20 source.

21 (c) (1) Any entity that applies to a state agency or political  
22 subdivision for a grant or proposes a contract having a value of \$100,000  
23 or more shall disclose to the state agency or political subdivision any  
24 current or prior interest, contract with or gift or grant received from a  
25 foreign country of concern if such current or prior interest, contract, gift or  
26 grant:

27 (A) Has a value of \$50,000 or more; and

28 (B) such interest existed at any time or such contract, gift or grant  
29 was received or in force at any time during the previous five years.

30 (2) Such disclosure shall include the name and mailing address of the  
31 disclosing entity, the amount of the contract, gift or grant or the value of  
32 the interest disclosed, the applicable foreign country of concern and, if  
33 applicable, the date of termination of the contract or interest, the date of  
34 receipt of the gift or grant and the name of the agent or controlled entity  
35 that is the source or interest holder. Within one year before applying for  
36 any grant or proposing any contract, such entity shall provide a copy of  
37 such disclosure to the department of administration.

38 (3) Disclosure under this subsection is not required for an application  
39 or proposal from:

40 (A) An entity that is currently required to disclose foreign gifts or  
41 grants under other state or federal law; or

42 (B) a public or not-for-profit research institution with respect to  
43 research funded by a federal agency.

1 (4) Online publication pursuant to subsection (e) shall be deemed  
2 disclosure to every state agency and political subdivision for the purposes  
3 of paragraph (1). After a disclosure is made under paragraph (1) through  
4 the term of any awarded state grant or contract, the entity shall revise such  
5 entity's disclosure within 30 days after entering into a contract with, or  
6 receiving a grant or gift from, a foreign country of concern or within 30  
7 days after the acquisition of any interest in the entity by a foreign country  
8 of concern.

9 (d) At least once every five years, the department of administration  
10 shall screen each vendor participating in the online procurement system if  
11 such vendor has the capacity to fill an order of \$100,000 or more.  
12 Screening shall be conducted through federal agencies responsible for  
13 identifying individuals and organizations subject to trade sanctions,  
14 embargoes or other restrictions under federal law. If a vendor is identified  
15 as being subject to any such sanctions, embargoes or other restrictions,  
16 such vendor shall make the disclosures required under subsection (c) until  
17 such sanctions, embargoes or other restrictions expire. A notification  
18 regarding the applicability of the disclosure requirement in subsection (c)  
19 to the vendor shall be included on the online procurement system when  
20 applicable. The department of administration shall ensure that purchasers  
21 through the online procurement system may easily access all disclosures  
22 made by vendors participating in such system.

23 (e) The department of administration shall establish and maintain a  
24 website to publish the disclosures required under this section. The  
25 department of administration may establish an online system for making  
26 such disclosures.

27 (f) (1) Upon receiving a referral from an inspector general or other  
28 compliance officer of a state agency or political subdivision, or any sworn  
29 complaint based upon substantive information and reasonable belief, the  
30 department of administration shall investigate an alleged violation of this  
31 section.

32 (2) The department of administration, an inspector general or any  
33 other agent or compliance officer authorized by a state agency or political  
34 subdivision may request records relevant to any reasonable suspicion of a  
35 violation of this section. An entity shall provide the requested records  
36 within 30 days after such request or at a later time agreed to by the  
37 investigating state agency or political subdivision.

38 (g) (1) Failure of an entity to disclose as required under this section or  
39 failure to provide records requested under subsection (f)(2) shall constitute  
40 a civil violation punishable upon a final order of the secretary of  
41 administration by a civil penalty of \$5,000 for a first violation or \$10,000  
42 for any subsequent violation. All civil penalties shall be remitted to the  
43 state treasurer in accordance with the provisions of K.S.A. 75-4215, and

1 amendments thereto. Upon receipt of each such remittance, the state  
2 treasurer shall deposit the entire amount in the state treasury to the credit  
3 of the state general fund.

4 (2) In addition to any penalty assessed under paragraph (1), a final  
5 order determining a third or subsequent violation by a state agency or  
6 political subdivision shall include a determination of the identity of the  
7 officer or employee responsible for acceptance of the undisclosed grant or  
8 gift. Such order shall also include a referral by the department of  
9 administration to the governor or other officer authorized to suspend or  
10 remove from public office the officer or employee responsible for  
11 acceptance of the undisclosed grant or gift. A copy of such referral shall be  
12 provided to the president of the senate and the speaker of the house of  
13 representatives.

14 (3) In addition to any penalty assessed under paragraph (1), a final  
15 order determining a third or subsequent violation by an entity other than a  
16 state agency or political subdivision shall automatically disqualify such  
17 entity from eligibility for any grant or contract funded by a state agency or  
18 political subdivision until such ineligibility is lifted for good cause by the  
19 secretary of administration. The department of administration shall include  
20 and maintain an active and current list of such ineligible entities on the  
21 website maintained under subsection (e).

22 (h) Prior to January 1, 2023, the secretary of administration shall  
23 adopt rules and regulations necessary to implement and administer the  
24 provisions of this section. Such rules and regulations shall identify the  
25 federal agencies to be consulted under subsection (d) and the procedure for  
26 notifying a vendor of the disclosure requirements under this section. The  
27 secretary shall also adopt rules and regulations providing for the  
28 application of this section to the online procurement system.

29 Sec. 2. (a) As used in this section:

30 (1) "Foreign country of concern" means the same as defined in  
31 section 1, and amendments thereto.

32 (2) "Political subdivision" means the same as defined in K.S.A. 74-  
33 8902, and amendments thereto.

34 (3) "Postsecondary educational institution" means the same as  
35 defined in K.S.A. 74-3201b, and amendments thereto.

36 (4) "Public entity" means a state agency, political subdivision,  
37 postsecondary educational institution or school district.

38 (5) "School district" means any unified school district organized and  
39 operating under the laws of this state.

40 (6) "State agency" means the same as defined in K.S.A. 75-3049, and  
41 amendments thereto.

42 (b) (1) A public entity that receives state appropriations or levies ad  
43 valorem taxes shall not participate in any agreement with, or accept any

1 grant or gift from, a foreign country of concern or any entity controlled by  
2 a foreign country of concern if the agreement, grant or gift:

- 3 (A) Constrains the freedom of contract of such public entity;  
4 (B) allows the curriculum or values of a program in this state to be  
5 directed or controlled by a foreign country of concern; or  
6 (C) promotes an agenda detrimental to the safety or security of the  
7 United States or the residents of the United States.

8 (2) Prior to the execution of any cultural exchange agreement with a  
9 foreign country of concern, such agreement shall be shared with federal  
10 agencies concerned with protecting national security or enforcing trade  
11 sanctions, embargoes or other restrictions under federal law. If such federal  
12 agency provides information indicating that such agreement promotes an  
13 agenda detrimental to the safety or security of the United States or the  
14 residents of the United States, the public entity shall not enter into such  
15 agreement.

16 (3) A public entity shall not accept anything of value conditioned  
17 upon participating in a program or other endeavor to promote the language  
18 or culture of a foreign country of concern.

19 Sec. 3. (a) As used in this section:

20 (1) "Affiliate organization" means any entity under the control of, or  
21 established for the benefit of, an organization required to report under this  
22 section, including an endowment association.

23 (2) "Board of regents" means the same as defined in K.S.A. 76-711,  
24 and amendments thereto.

25 (3) "Contract" means any agreement for the acquisition by purchase,  
26 lease or barter of property or services by the foreign source, for the direct  
27 benefit or use of either of the parties, and any purchase, lease or barter of  
28 property or services from a foreign country of concern as defined in  
29 section 1, and amendments thereto.

30 (4) "Endowment association" means a not-for-profit endowment  
31 organization or foundation that is organized and operated exclusively to  
32 receive, hold, invest and administer moneys and property as a permanent  
33 fund for the support and sole benefit of a postsecondary educational  
34 institution.

35 (5) "Foreign government" means the same as defined in section 1,  
36 and amendments thereto.

37 (6) "Foreign source" means the same as defined in section 1, and  
38 amendments thereto.

39 (7) "Gift" means any contract, gift, grant, endowment, award or  
40 donation of money or property or any combination thereof, including a  
41 conditional or unconditional pledge of such contract, gift, grant,  
42 endowment, award or donation.

43 (8) "Institution of higher education" means a postsecondary

1 educational institution, independent nonprofit college or university that is  
2 located in Kansas and grants baccalaureate or higher degrees, any other  
3 institution that has a physical presence in Kansas and is required to report  
4 foreign gifts or contracts pursuant to 20 U.S.C. § 1011f, as in effect on  
5 July 1, 2022, or an affiliate organization thereof.

6 (9) "Postsecondary educational institution" means the same as  
7 defined in K.S.A. 74-3201b, and amendments thereto.

8 (b) Each institution of higher education shall report each January 31  
9 and July 31 any gift received directly or indirectly from a foreign source  
10 with a value of \$50,000 or more during each fiscal year. If a foreign source  
11 provides more than one gift directly or indirectly to an institution of higher  
12 education in a single fiscal year and the total value of such gifts is \$50,000  
13 or more, all gifts received from such foreign source shall be reported. For  
14 the purposes of this subsection, a gift received from a foreign source  
15 through an intermediary shall be considered an indirect gift to the  
16 institution of higher education. An institution of higher education may  
17 consolidate such institution's report with all of such institution's affiliate  
18 organizations. The report required under this subsection shall be made to  
19 the board of regents.

20 (c) The institution of higher education shall provide in such report,  
21 unless otherwise prohibited or deemed confidential under federal law, for  
22 each gift subject to the requirements of this section:

23 (1) The amount of the gift and the date such gift was received;

24 (2) the contract start and end date if the gift is a contract;

25 (3) the name of the foreign source and, if not a foreign government,  
26 the country of citizenship, if known, and the country of principal residence  
27 or domicile of such foreign source; and

28 (4) a copy of the gift agreement between the foreign source and the  
29 institution of higher education, signed by the foreign source and the chief  
30 executive officer of the institution of higher education, or the designees  
31 thereof. Such gift agreement shall include a detailed description of the  
32 purpose for which the gift will be used by the institution of higher  
33 education, the identities of the individuals for whom the gift is intended to  
34 benefit and any applicable conditions, requirements, restrictions or terms  
35 made a part of the gift regarding the control of curricula, faculty, student  
36 admissions, student fees or contingencies placed upon the institution of  
37 higher education to take a specific public position or to award an honorary  
38 degree. For an agreement containing information that would be protected  
39 from disclosure under the open records act, an abstract and redacted copy  
40 providing all required information that is not protected may be submitted  
41 in lieu of a copy of such agreement.

42 (d) Beginning on July 1, 2023, the board of regents shall annually,  
43 within existing resources, randomly inspect or audit at least 5% of the total

1 number of gifts disclosed by, or gift agreements received from, institutions  
2 of higher education pursuant to this section during the previous fiscal year  
3 to determine an institution of higher education's compliance with the  
4 requirements of this section.

5 (e) Upon the request of the governor, the president of the senate or  
6 the speaker of the house of representatives, the board of regents shall  
7 inspect or audit a gift or gift agreement.

8 (f) An institution of higher education that knowingly, willfully or  
9 negligently fails to disclose a gift as required by this section shall be  
10 subject to a civil penalty in the amount of 105% of the amount of such  
11 undisclosed gift. Such civil penalty shall be payable only from nonstate  
12 moneys of the institution of higher education or the affiliate organization  
13 that received such gift. All civil penalties shall be remitted to the state  
14 treasurer in accordance with the provisions of K.S.A. 75-4215, and  
15 amendments thereto. Upon receipt of each such remittance, the state  
16 treasurer shall deposit the entire amount in the state treasury to the credit  
17 of the state general fund.

18 (g) In the absence of enforcement by the board of regents, the  
19 attorney general may bring a civil action to enforce the provisions of this  
20 section. If such action is successful, the attorney general shall be entitled  
21 to reasonable attorney fees and costs.

22 (h) A whistleblower who reports an undisclosed foreign gift to the  
23 board of regents or the attorney general shall be entitled to protection  
24 under the Kansas whistleblower act. Subject to appropriations, such  
25 whistleblower shall be entitled to receive a reward in the amount of 25%  
26 of any penalty recovered by the board of regents or the attorney general  
27 under this section. Such reward may be paid through an intermediary  
28 attorney or trustee designated by the whistleblower.

29 (i) The board of regents and the attorney general may adopt rules and  
30 regulations to implement the provisions of this section.

31 Sec. 4. (a) A state educational institution that has a research budget of  
32 \$10,000,000 or more shall screen applicants seeking employment in  
33 research or research-related support positions, graduate and undergraduate  
34 students applying for research or research-related support positions and  
35 applicants for positions of visiting researcher who are citizens of a foreign  
36 country and who are not permanent residents of the United States. Such  
37 state educational institution shall also screen applicants who are citizens or  
38 permanent residents of the United States who have any affiliation with an  
39 institution or program, or at least one year of prior employment or training,  
40 except employment or training by an agency of the United States  
41 government, in a foreign country of concern as defined in section 1, and  
42 amendments thereto. Such screening is required prior to interviewing such  
43 applicant or offering a position of employment or visiting researcher to

1 such applicant. Other applicants for such positions may be screened at the  
2 discretion of the state educational institution.

3 (b) (1) In addition to satisfying all employment and enrollment  
4 qualifications imposed by federal law, the board of regents shall require  
5 applicants described in subsection (a) to submit:

6 (A) A complete copy of the applicant's passport and most recently  
7 submitted online nonimmigrant visa application, DS-160, if such applicant  
8 is a foreign applicant. After extraction of all information relevant to the  
9 requirements of this section, the state educational institution may destroy  
10 or return the copy of the DS-160 submitted by an applicant;

11 (B) a complete resume and curriculum vitae, including every  
12 institution of higher education attended;

13 (C) all previous employment since the applicant's 18<sup>th</sup> birthday;

14 (D) a list of all published material for which the applicant received  
15 credit as an author, a researcher or otherwise or to which the applicant  
16 contributed significant research, writing or editorial support;

17 (E) a list of the applicant's current and pending research funding from  
18 any source, including the funder, amount, applicant's role on the project  
19 and a brief description of the research; and

20 (F) a full disclosure of nonuniversity professional activities, including  
21 any affiliation with an institution or program in a foreign country of  
22 concern.

23 (2) Applicants who have been continually employed by or enrolled in  
24 an institution of higher education in the United States for 20 years or more  
25 may submit a resume that includes employment history before the most  
26 recent 20 years but shall not be required to submit a resume with such  
27 employment history.

28 (c) (1) The chancellor or president of a state educational institution  
29 shall designate a research integrity office to review all materials required  
30 in subsection (b) and to take reasonable steps to verify all attendance,  
31 employment, publications and contributions listed in the application  
32 required in subsection (b) prior to any interview for or offer of a position  
33 to the applicant.

34 (2) Such reasonable steps shall include, but not be limited to:

35 (A) Searching public databases for research publications and  
36 presentations and public conflict of interest records to identify any  
37 research publication or presentation that may have been omitted from the  
38 application;

39 (B) contacting all employers of the most recent 10 years to verify  
40 employment;

41 (C) contacting all institutions of higher education attended to verify  
42 enrollment and educational progress;

43 (D) searching public listings of persons subject to sanctions or



1 restrictions under federal law;

2 (E) submitting the applicant's name and other identifying information  
3 to the federal bureau of investigation or any federal agency reasonably  
4 willing to scrutinize such applicant for national security or  
5 counterespionage purposes; and

6 (F) any other steps deemed appropriate to the office.

7 (3) The state educational institution may also direct the office to  
8 approve applicants for hire based on a risk-based determination  
9 considering the nature of the research and the background and ongoing  
10 affiliations of the applicant.

11 (d) The requirements of this section shall be completed before  
12 interviewing for or offering to an individual described in subsection (a)  
13 any research or research-related support position and before granting such  
14 individual any access to research or other sensitive data or activities. An  
15 applicant required to be screened under this section shall not be employed  
16 in any research or research-related support position if such applicant fails  
17 to disclose a substantial educational, employment or research-related  
18 activity, publication or presentation at the time of submitting the  
19 application required in subsection (b), unless the department head, or a  
20 designee thereof, certifies in writing the substance of the nondisclosure  
21 and the reasons for disregarding such failure to disclose. A copy of such  
22 certification shall be kept in the investigative file of the research integrity  
23 office and shall be submitted to the nearest federal bureau of investigation  
24 field office.

25 (e) The research integrity office shall report to the nearest federal  
26 bureau of investigation field office and to any law enforcement agency  
27 designated by the governor or the board of regents the identity of any  
28 applicant who was rejected for employment based on the scrutiny required  
29 by this section or other risk-based determination.

30 (f) Prior to July 1, 2026, the legislative post audit committee shall  
31 direct the legislative division of post audit to conduct a performance audit  
32 regarding the implementation of this section.

33 Sec. 5. (a) On or before January 1, 2023, each state educational  
34 institution shall establish an international travel approval and monitoring  
35 program. The program shall require preapproval and screening by a  
36 research integrity office designated by the chancellor or president of the  
37 state educational institution for any employment-related foreign travel and  
38 employment-related foreign activities engaged in by all faculty,  
39 researchers and research department staff. Such requirement shall be in  
40 addition to any other travel approval process applicable to the state  
41 educational institution.

42 (b) (1) Preapproval under subsection (a) by the research integrity  
43 office shall be based on the applicant's review and acknowledgment of

1 guidance published by the employing state educational institution that  
2 relates to countries under sanctions or other restrictions of the state or the  
3 United States government, including:

- 4 (A) Federal license requirements;
- 5 (B) customs rules;
- 6 (C) export controls;
- 7 (D) restrictions on taking state educational institution property,  
8 including intellectual property, abroad;
- 9 (E) restrictions on presentations, teaching and interactions with  
10 foreign colleagues; and
- 11 (F) other subjects important to the research and academic integrity of  
12 the state educational institution.

13 (2) Preapproval under subsection (a) shall be based on the binding  
14 commitment of such individual traveler not to violate the state educational  
15 institution's limitations on travel and activities abroad and to obey all  
16 federal laws.

17 (c) (1) The state educational institution shall maintain records of all:

- 18 (A) Foreign travel requests and approvals;
- 19 (B) expenses reimbursed by the state educational institution during  
20 such travel, including travel, food and lodging expenses; and
- 21 (C) payments and honoraria received during such travel and  
22 activities, including for travel, food and lodging.

23 (2) The state educational institution shall also keep records of the  
24 purpose of such travel and any records related to the foreign activity  
25 review. Such records shall be retained for at least three years or a longer  
26 period of time if required by any other applicable state or federal law.

27 (d) The state educational institution shall provide to the board of  
28 regents an annual report of foreign travel to countries of concern listing  
29 individual travelers, foreign locations visited and foreign institutions  
30 visited.

31 (e) Prior to July 1, 2026, the legislative post audit committee shall  
32 direct the legislative division of post audit to conduct a performance audit  
33 regarding the implementation of this section.

34 Sec. 6. This act shall take effect and be in force from and after its  
35 publication in the statute book.