

HOUSE BILL NO. 5069

September 28, 2023, Introduced by Reps. Bruck, Hoadley, Thompson, Alexander, Bierlein, Meerman, DeBoyer, Maddock, Johnsen, Smit, Fink, Jaime Greene, Markkanen, Cavitt, Rigas and Kunse and referred to the Committee on Government Operations.

A bill to prohibit state institutions of higher education from entering into agreements with foreign actors under certain circumstances; to prohibit state institutions of higher education from receiving grants and other items of value from foreign actors under certain circumstances; to require state institutions of higher education to enter into gift agreements; to establish reporting requirements for certain gifts received by state institutions of higher education and affiliate organizations from certain foreign actors; to provide for the powers and duties of

certain state governmental officers and entities; to prescribe remedies; to prescribe civil sanctions; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "foreign influence of
2 state institutions of higher education act".

3 Sec. 3. As used in this act:

4 (a) "Affiliate organization" means an entity under the control
5 of or established for the benefit of a state institution of higher
6 education.

7 (b) "Contract" means an agreement for any of the following:

8 (i) The acquisition, through purchase, lease, or barter, of
9 property or services by a foreign source for the direct benefit or
10 use of either of the parties.

11 (ii) The purchase, lease, or barter of property or services
12 from a foreign country of concern.

13 (c) "Foreign country of concern" means any of the following:

14 (i) The People's Republic of China.

15 (ii) The Russian Federation.

16 (iii) The Islamic Republic of Iran.

17 (iv) The Democratic People's Republic of Korea.

18 (v) The Republic of Cuba.

19 (vi) The Venezuelan regime of Nicolás Maduro.

20 (vii) The Syrian Arab Republic.

21 (viii) An agency or other entity under significant control of a
22 country described in subparagraphs (i) to (vii).

23 (d) "Foreign government" means the government of a country,
24 nation, or group of nations, or a province or other political
25 subdivision of a country or nation. Foreign government includes an

1 agent of a country or nation. Foreign government does not include
 2 the government of the United States or the government of a state or
 3 political subdivision of the United States.

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

5 (i) A foreign government or an agency of a foreign government.

6 (ii) A governmental or nongovernmental entity created solely
 7 under the laws of a foreign state or foreign states.

8 (iii) An individual who is not a citizen or national of the
 9 United States or a territory or protectorate of the United States.

10 (iv) An agent acting on behalf of a person described in
 11 subparagraphs (i) to (iii).

12 (f) "Gift" includes a pledge, contract, grant, endowment,
 13 award, or donation of money or property, or a combination of those
 14 things.

15 (g) "Pledge" means a promise, an agreement, or an expressed
 16 intention to give a gift.

17 (h) "State institution of higher education" means a public
 18 community or junior college established under section 7 of article
 19 VIII of the state constitution of 1963 or part 25 of the revised
 20 school code, 1976 PA 451, MCL 380.1601 to 380.1607, or a state
 21 university described in section 4, 5, or 6 of article VIII of the
 22 state constitution of 1963.

23 Sec. 5. A state institution of higher education may not
 24 participate in an agreement with or accept a grant from a foreign
 25 country of concern if the agreement or grant does any of the
 26 following:

27 (a) Constrains the state institution of higher education's
 28 freedom to contract.

29 (b) Allows the curriculum or values of a program in this state

1 to be directed or controlled by the foreign country of concern.

2 (c) Promotes an agenda that is detrimental to the safety and
3 security of the United States or its residents.

4 Sec. 7. (1) Except as otherwise provided in subsection (2),
5 before a state institution of higher education executes a cultural
6 exchange agreement with a foreign country of concern, the substance
7 of the agreement must be shared with a federal agency concerned
8 with protecting national security or enforcing trade sanctions,
9 embargoes, or other restrictions under federal law.

10 (2) If the federal agency reviewing the cultural exchange
11 agreement under subsection (1) suggests that the agreement promotes
12 an agenda that is detrimental to the safety and security of the
13 United States or its residents, the state institution of higher
14 education may not enter into the agreement.

15 Sec. 9. A state institution of higher education may not accept
16 anything of value that is conditioned on the participation in a
17 program or other endeavor to promote the language or culture of a
18 foreign country of concern.

19 Sec. 11. (1) Before a state institution of higher education
20 may receive a gift from a foreign source, the state institution of
21 higher education and the foreign source must enter into a gift
22 agreement.

23 (2) The gift agreement described in subsection (1) must
24 include all of the following:

25 (a) The signatures of all of the following:

26 (i) The chief administrative officer of the state institution
27 of higher education, or the designee of the chief administrative
28 officer.

29 (ii) The foreign source, if the foreign source is an

1 individual, or an agent of the government, agency, or entity, if
2 the foreign source is not an individual.

3 (b) A detailed description of the purpose for which the state
4 institution of higher education will use the gift.

5 (c) The name of any person that the gift is explicitly
6 intended to benefit.

7 (d) A summary of any condition, requirement, restriction, or
8 term that is part of the gift relating to the control of curricula,
9 faculty, student admissions, student fees, or contingencies placed
10 on the state institution of higher education to take a specific
11 public position or to award an honorary degree.

12 Sec. 13. (1) Except as otherwise provided in subsection (3), a
13 state institution of higher education and its affiliate
14 organizations shall each submit to its respective governing board
15 on January 31 and July 31 a report that includes all of the
16 following:

17 (a) Except as otherwise provided in subdivision (b), a
18 description of each gift that is received, directly or indirectly,
19 from a foreign source with a value of \$50,000.00 or more.

20 (b) If a foreign source provides more than 1 gift to the state
21 institution of higher education or affiliate organization, and the
22 cumulative value of the gifts is \$50,000.00 or more, a description
23 of each gift received from the foreign source.

24 (c) The value of any gift described in subdivision (a) or (b).

25 (d) If a gift described in subdivision (a) or (b) is a
26 contract, the start and end date of the contract.

27 (e) The name of the foreign source that supplied any gift
28 described in subdivision (a) or (b).

29 (f) If the foreign source described in subdivision (e) is not

1 a government, the country of citizenship, if known, and the country
2 of principal residence or domicile of the foreign source.

3 (g) A copy of the gift agreement under section 11.

4 (2) For the purpose of subsection (1), a gift received from a
5 foreign source through an intermediary is considered an indirect
6 gift.

7 (3) A state institution of higher education may consolidate
8 its report under subsection (1) with any of its affiliate
9 organizations.

10 (4) The information disclosed under this section is not
11 confidential or exempt from the freedom of information act, 1976 PA
12 442, MCL 15.231 to 15.246.

13 Sec. 15. Beginning on July 1, 2023, the governing board of a
14 state institution of higher education shall annually inspect a
15 random sample of at least 5% of the total numbers of gift
16 agreements described in section 11 and gifts disclosed under
17 section 13 to determine compliance with the requirements of
18 sections 11 and 13.

19 Sec. 17. If requested by the governor, the senate majority
20 leader, or the speaker of the house of representatives, the
21 governing board of a state institution of higher education must
22 inspect a gift agreement described in section 11 or a gift
23 disclosed under section 13.

24 Sec. 19. (1) The attorney general may bring a civil action to
25 enforce this act.

26 (2) If the civil action described under subsection (1) relates
27 to a state institution of higher education or an affiliate
28 organization knowingly, willfully, or negligently failing to
29 disclose a gift under section 13, the state institution of higher

1 education or affiliate organization may be ordered to pay a civil
2 fine in an amount equal to 105% of the value of the undisclosed
3 gift, payable only from nonpublic funds.

4 (3) If the attorney general is successful in bringing an
5 action described in subsection (1), the attorney general is
6 entitled to reasonable attorney fees and costs.

7 Enacting section 1. 1986 PA 90, MCL 390.1231 to 390.1233, is
8 repealed.