

## FOREIGN INFLUENCE OF STATE INSTITUTIONS OF HIGHER EDUCATION ACT

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<http://www.house.mi.gov/hfa>

**House Bill 4239 as introduced**  
**Sponsor: Rep. William Bruck**  
**Committee: Government Operations**  
**Complete to 3-19-25**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 4239 would create a new act, the Foreign Influence of State Institutions of Higher Education Act, to prohibit a *state institution of higher education* from participating in an agreement with, or accepting a grant from, a *foreign country of concern* if the agreement or grant does any of the following:

- Constrains the state institution of higher education's freedom to contract.
- Allows the curriculum or values of a program in Michigan to be directed or controlled by the foreign country of concern.
- Promotes an agenda that is detrimental to the safety and security of the United States or its residents.

*State institution of higher education* would mean a public community or junior college or a state university.

*Foreign country of concern* would mean China, Cuba, Iran, North Korea, Russia, Syria, or Venezuela or an agency or other entity under significant control of any of those countries.

In addition, before a state institution of higher education executes a cultural exchange agreement with a foreign country of concern, the substance of the agreement would have to be shared with a federal agency concerned with protecting national security or enforcing trade sanctions, embargoes, or other restrictions under federal law. If the federal agency determines that the agreement promotes an agenda that is detrimental to the safety and security of the United States or its residents, the state institution of higher education could not enter into the agreement.

A state institution of higher education could not accept anything of value that is conditioned on its participation in a program or other endeavor that promotes the language or culture of a foreign country of concern.

#### Gift agreements

Before a state institution of higher education could receive a *gift* from a *foreign source*, the state institution of higher education and the foreign source would have to enter into a gift agreement that includes all of the following:

- The signatures of all of the following:
  - The chief administrative officer of the state institution of higher education or their designee.
  - The foreign source (if an individual) or its agent (if not).

- A detailed description of the purpose for which the state institution of higher education will use the gift.
- The name of any person the gift is explicitly intended to benefit.
- A summary of any condition, requirement, restriction, or term that is part of the gift relating to the control of curricula, faculty, student admissions, student fees, or contingencies placed on the state institution of higher education to take a specific public position or to award an honorary degree.

**Gift** would be defined as including a *pledge, contract, grant, endowment, award, or donation of money or property, or a combination of those things.* As used here and elsewhere in the bill, *pledge* would mean a promise, an agreement, or an expressed intention to give a gift, and *contract* would mean an agreement for either of the following:

- The acquisition, through purchase, lease, or barter, of property or services by a foreign source for the direct benefit or use of either of the parties.
- The purchase, lease, or barter of property or services from a foreign country of concern.

**Foreign source** would mean any of the following:

- A **foreign government** or agency of a foreign government.
- A governmental or nongovernmental entity created solely under the laws of a foreign state or states.
- An individual who is not a citizen or national of the United States or a territory or protectorate of the United States.
- An agent acting on behalf of an individual or entity described above.

**Foreign government** would mean the government of a country, nation, or group of nations, or a province or other political subdivision of a country or nation, and would include an agent of a country or nation, but would not include the government of the United States or of a state or political subdivision of the United States.

#### Semiannual reports

A state institution of higher education and its **affiliate organization** or organizations would have to submit a report to its respective governing board on January 31 and July 31 that includes all of the following:

- A description of each gift received, directly or indirectly, from a foreign source that has a value of \$50,000 or more. (A gift received from a foreign source through an intermediary would be considered an indirect gift.)
- If a foreign source provides more than one gift to the state institution of higher education or affiliate organization with a cumulative value of \$50,000 or more, a description of each gift received from the foreign source.
- The value of any gift described above.
- If a gift described above is a contract, the contract's start and end date.
- The name of the foreign source that supplied any gift described above. If the foreign source is not a government, the report would also have to include the country of citizenship, if known, and the country of principal residence or domicile of the foreign source.
- A copy of the gift agreement.

*Affiliate organization* would mean an entity under the control of or established for the benefit of a state institution of higher education.

A state institution of higher education could consolidate its report with any of its affiliate organizations.

The information disclosed in the report would not be confidential and would be subject to the Freedom of Information Act (FOIA).

#### Inspections

Beginning July 1, 2025, the governing board of a state institution of higher education would have to annually inspect a random sample of at least 5% of the total numbers of gift agreements described above, and gifts disclosed in the reports describe above, to determine compliance with the requirements of the bill. In addition, the governing board of a state institution of higher education would have to inspect a gift agreement or a gift disclosed as described above if requested by the governor, the Senate majority leader, or the speaker of the House.

#### Enforcement and remedies

The attorney general could bring a civil action to enforce the bill. If the action relates to the knowing, willful, or negligent failure of a state institution of higher education or affiliate organization to disclose a gift as required above, the institution or organization could be ordered to pay, only from nonpublic funds, a civil fine in an amount equal to 105% of the value of the undisclosed gift. The attorney general would be entitled to reasonable attorney fees and costs in a successful action.

#### Repeal

Finally, the bill would repeal 1986 PA 90, which now requires Michigan public institutions of higher education to quarterly report contracts with, or gifts from, foreign entities with a value of more than \$100,000 in a given year to the Department of Technology, Management, and Budget (DTMB). The disclosures are public records. The attorney general can bring an action to enforce the act, and an institutions of higher education that fails to report a grant or contract is subject to a civil fine in an amount equal to 5% of the grant or contract not reported.

MCL 390.1231 to 390.1233 (repealed)

### **FISCAL IMPACT:**

House Bill 4239 would have no fiscal impact on the state and would have an indeterminate fiscal impact for community colleges and public universities that participate in agreements (including cultural exchange agreements) with, or accept a grant from, a country the bill defines as a foreign country of concern.

A public university or community college that intends to enter into a cultural exchange agreement with a foreign country of concern would incur administrative costs to submit the agreement to a federal agency before executing the agreement. These costs could be absorbed using existing staff time, but it is unknown how much these administrative costs could increase.

The bill could also increase costs for community colleges and public universities by restricting entering into contracts with the foreign countries mentioned in the bill, which could eliminate the cheapest option in purchasing supplies or specialized equipment in an open market.

It is not known how many, if any, community colleges or public universities currently participate in agreements with or accept anything of value from a foreign country of concern that would violate the requirements of the bill.

The bill would have no fiscal impact on the Department of Attorney General (AG). The bill allows but does not require the AG to bring a civil action to enforce the law. The bill would also authorize the AG to receive proceeds to cover attorney fees and other legal costs.

The bill also would have an indeterminate fiscal impact on the state and on local units of government. Under the bill, if the attorney general brings a civil action to enforce provisions of the bill and the civil action relates to a state institution of higher education or an affiliate organization that knowingly, willfully, or negligently fails to disclose a gift under provisions of the bill, the state institution of higher education or affiliate organization may be ordered to pay a civil fine in an amount equal to 105% of the value of the undisclosed gift, payable only from nonpublic funds. The number of civil fines that would be ordered under provisions of the bill is not known. Revenue collected from payment of civil fines is used to support public and county law libraries. Also, under section 8827(4) of the Revised Judicature Act, \$10 of the civil fine would be required to be deposited into the state's Justice System Fund, which supports various justice-related endeavors in the judicial branch and legislative branches of government and the Departments of State Police, Corrections, Health and Human Services, and Treasury. It is not known if provisions of the bill would result in an increase in court caseloads. If so, the fiscal impact on the judiciary and local court systems would depend on how court caseloads and related administrative costs are affected. Because there is no practical way to determine the number of violations that will occur under provisions of the bill, an estimate of the amount of civil fine revenue the state would collect, revenue for libraries, or costs to local courts cannot be made.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.