

1 AN ACT relating to postsecondary education institutions.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) For the purposes of this section:*

6 *(a) "Affiliated corporation" means a corporate entity which is not a public*  
7 *agency and which is organized pursuant to the provisions of KRS Chapter*  
8 *273 over which an institution of the postsecondary education system or an*  
9 *independent institution exercises effective control, by means of*  
10 *appointments to its board of directors, and which could not exist or*  
11 *effectively operate in the absence of substantial assistance from the*  
12 *institution;*

13 *(b) "Associated organization" means a corporate entity or a similar*  
14 *organization that holds the primary purpose of supporting an institution*  
15 *and enters into agreements with that institution to provide support;*

16 *(c) "Contract" means any agreement for the acquisition by purchase, lease, or*  
17 *barter of property or services from a foreign country of concern;*

18 *(d) "Foreign country of concern" means the People's Republic of China, the*  
19 *Russian Federation, the Islamic Republic of Iran, the Democratic People's*  
20 *Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas*  
21 *Maduro, or the Syrian Arab Republic, including any agency of or any other*  
22 *entity under significant control of such foreign entity;*

23 *(e) "Foreign source" means, as related to any foreign country of concern:*

24 *1. A government or governmental agency;*

25 *2. A legal entity created under the country's laws;*

26 *3. An individual citizen of the country; or*

27 *4. An agent acting on behalf of the country; and*

- 1        (f) "Gift" means any contract, grant, endowment, award, or donation of money  
2        or property of any kind, or any combination thereof, including a conditional  
3        or an unconditional promise, agreement, or expressed intention of such.
- 4        (2) (a) A public institution shall not participate in any contract with or accept any  
5        gift from a foreign country of concern which:
- 6                1. Constrains the freedom of contract of the institution;  
7                2. Allows the curriculum or operations of the institution or a program of  
8                an institution to be directed or controlled by the foreign country of  
9                concern; or  
10                3. Promotes an agenda detrimental to the safety or security of the United  
11                States or its residents.
- 12        (b) Prior to a public institution executing any cultural exchange agreement  
13        with a foreign country of concern, the institution shall share the substance  
14        of the agreement with appropriate federal agencies concerned with  
15        protecting national security or enforcing trade sanctions, embargoes, or  
16        other restrictions under federal law. If a federal agency provides  
17        information suggesting that such agreement violates paragraph (c) of this  
18        subsection, then the public institution shall not enter into the agreement.
- 19        (c) A public institution shall not accept anything of value that is conditioned  
20        upon participation in any program or other activity that promotes the  
21        language or culture of a foreign country of concern.
- 22        (3) (a) Each public and independent institution, affiliated corporation, and  
23        associated organization shall, by January 1 and July 1 of each year, report  
24        to the Council on Postsecondary Education and the Auditor of Public  
25        Accounts any gift received directly or indirectly from a foreign source with a  
26        value of fifty thousand dollars (\$50,000) or more during the previous six (6)  
27        months.

1 (b) If at any time a foreign source provides more than one (1) gift directly or  
2 indirectly to an institution that accumulates to a total value of fifty thousand  
3 dollars (\$50,000) or more, then the institution shall list all gifts from the  
4 foreign source in the next report and shall continue to report subsequent  
5 gifts with subsequent reports.

6 (c) A gift received by an institution from a foreign source through an  
7 intermediary shall be considered an indirect gift for the purposes of this  
8 subsection.

9 (d) An affiliated corporation or associated organization and the institution it  
10 supports may consolidate the required reports together into a single report.

11 (e) The report required by this subsection, unless the information is protected  
12 by law, shall include:

13 1. The amount of the gift and the date it was received;

14 2. Any contract start and end date associated with the gift;

15 3. The name of the foreign source and the country of origin;

16 4. A copy of any gift agreement or contract between the foreign source  
17 and the institution, affiliated corporation, or associated organization;

18 and

19 5. A detailed description of:

20 a. The purpose for which the gift will be used;

21 b. The persons for whom the gift is explicitly intended to benefit;

22 and

23 c. Any applicable conditions, requirements, restrictions, or terms  
24 made to the gift.

25 (f) Any part of the report that relates to methods of manufacture or production,  
26 potential trade secrets, potentially patentable material, actual trade secrets,  
27 business transactions, or proprietary information received, generated,

1 ascertained, or discovered during the course of research conducted within  
2 an institution shall be redacted or abstracted to protect such information  
3 and noted within the report.

4 (g) Beginning July 1, 2023, the Auditor of Public Accounts shall annually audit  
5 at random at least five percent (5%) of the total number of gifts disclosed by,  
6 gift agreements received from, or contracts entered into with institutions,  
7 affiliated corporations, and associated organizations during the previous  
8 year to determine compliance of the selected items with this subsection's  
9 requirements.

10 (h) Upon the request of the Governor, the President of the Senate, or the  
11 Speaker of the House of Representatives, the Auditor of Public Accounts  
12 shall inspect or audit a gift, gift agreement, or contract.

13 (i) An institution, affiliated corporation, or associated organization that  
14 knowingly, willfully, or negligently fails to disclose the information required  
15 by this subsection shall be subject to a civil penalty of one hundred and five  
16 percent (105%) of the amount of the undisclosed gift or contract, payable  
17 only from nonstate funds. The recovered funds shall be deposited into the  
18 general fund, less any administrative costs encountered by the Auditor of  
19 Public Accounts. The Auditor of Public Accounts shall administratively  
20 enforce this section and impose the civil penalty as an administrative  
21 penalty.

22 (j) In absence of enforcement by the Auditor of Public Accounts, the Attorney  
23 General may bring a civil action to enforce this subsection. If successful,  
24 the Attorney General is entitled to reasonable attorney fees.