

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 3049**

By Delegates Holstein, Keaton, Mazzocchi, Forsht

and Dillon

[Originating in the Committee on Education, February

25, 2023]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §18B-2D-1, relating to establishing the American Campuses Act; prohibiting  
3 foreign missions of Foreign Countries of Risk to state higher education institutions;  
4 prohibiting involvement with any Foreign Government-Sponsored Talent Recruitment  
5 Program of a Foreign Country of Risk; and setting forth reporting requirements for state  
6 institutions of higher education.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 2D. THE AMERICAN CAMPUSES ACT.**

**§18B-2D-1. Prohibiting foreign missions of Foreign Countries of Risk at state higher  
education institutions; prohibiting involvement with Foreign Government-  
Sponsored Talent Recruitment Programs of a Foreign Country of Risk; required  
reporting.**

1 (a) Definitions. As used in this article:

2 (1) "Foreign Government-Sponsored Talent Recruitment Programs" means an effort  
3 directly or indirectly organized, managed, or funded by a foreign government to recruit science and  
4 technology professionals or students (regardless of citizenship or national origin, and whether  
5 having a full-time or part-time position). Some foreign government-sponsored talent recruitment  
6 programs operate with the intent to import or otherwise acquire from abroad, sometimes through  
7 illicit means, proprietary technology or software, unpublished data and methods, and intellectual  
8 property to further the military modernization goals and/or economic goals of a foreign  
9 government. Many, but not all, programs aim to incentivize the targeted individual to physically  
10 relocate to the foreign state for the above purpose. Some programs allow for or encourage  
11 continued employment at U.S. research facilities or receipt of federal research funds while  
12 concurrently working at and/or receiving compensation from a foreign institution, and some direct  
13 participants not to disclose their participation to U.S. entities. Compensation could take many  
14 forms including cash, research funding, complimentary foreign travel, honorific titles, career

15 advancement opportunities, promised future compensation, or other types of remuneration or  
16 consideration, including in-kind compensation.

17 (2) "Designated foreign mission" means any entity or operation designated by the office of  
18 foreign missions in the federal department of state as a foreign mission, as defined in 22 U.S.C.  
19 §4302(a), of the People's Republic of China within the United States, including the Confucius  
20 Institute U.S. Center, the Asia Society Chinese Language Partner Network, and the Center for  
21 Language Exchange and Cooperation.

22 (3) "Foreign Country of Risk" means any of the following:

23 (A) The People's Republic of China or any governmental unit of the People's Republic of  
24 China or of a province, region, or other political subdivision of the People's Republic of China.

25 (B) Russia;

26 (C) North Korea;

27 (D) Iran.

28 (4) "Participate" includes the following activities directly or indirectly involving a foreign  
29 country of risk entity, as defined below:

30 (A) Employment.

31 (B) Other support, contractual or otherwise, direct and indirect, including current and  
32 pending private and public sources of funding or income, both foreign and domestic. For  
33 researchers, other support includes all foreign country of risk entity resources made available,  
34 directly or indirectly, to a researcher in support of and/or related to all of their professional R&D  
35 efforts, including resources provided directly to the individual rather than through the research  
36 institution, and regardless of whether or not they have monetary value (e.g., even if the support  
37 received is only in-kind, such as office/laboratory space, equipment, supplies, or employees). This  
38 includes resource and/or financial support from all foreign and domestic entities, including but not  
39 limited to, gifts, financial support for laboratory personnel, and participation of student and visiting  
40 researchers supported by other sources of funding. This further includes compensation, for

41 example, current or promises of future: grants, awards, funding, scholarship, appointment,  
42 sabbatical, travel, university directed funding, and honoraria.

43 (C) Current or pending participation in, or applications to programs, e.g., grant programs,  
44 sponsored by foreign governments, instrumentalities, or entities, if not a Foreign Government-  
45 Sponsored Talent Recruitment Program, as defined. Associated contracts, upon request by DOE,  
46 must be disclosed, in addition to the fact of participation.

47 (D) Positions and appointments, both domestic and foreign, including affiliations with  
48 foreign entities or governments. This includes titled academic, professional, or institutional  
49 appointments whether remuneration is received, and whether full-time, part-time, or voluntary  
50 (including adjunct, visiting, or honorary)

51 (b) No state institution of higher education shall establish or recognize a designated foreign  
52 mission of a Foreign Country of Risk after July 1, 2023. If any designated foreign mission of a  
53 Foreign Country of Risk has been and continues to be established at or recognized by any state  
54 institution of higher education, that institution shall develop and implement a plan to ensure that  
55 the designated foreign mission of a Foreign Country of Risk does not remain established at or  
56 recognized by the college or university after September 15, 2023.

57 (c) Each state institution of higher education shall identify, report to the Higher Education  
58 Policy Commission or the Council for Community and Technical College Education, and  
59 immediately end any programs identified by the federal department of state as foreign mission of a  
60 Foreign Country of Risk. Such report to the Higher Education Policy Commission or the Council for  
61 Community and Technical College Education shall be made no later than July 1, 2023, and  
62 annually thereafter.

63 (d) Each state institution of higher education shall identify and report to the Higher  
64 Education Policy Commission or the Council for Community and Technical College Education the  
65 amount and source of funding received from any designated foreign mission of a Foreign Country  
66 of Risk by no later than July 1, 2023.

67 (e) No state institution of higher education shall participate in Foreign Government-  
68 Sponsored Talent Recruitment Programs of a Foreign Country of Risk. Any employee of a state  
69 institution of higher education shall seek approval prior to participation in any Foreign  
70 Government-Sponsored Talent Recruitment Program of a Foreign Country of Risk through the  
71 State Ethics Act and/or the state institution's outside consulting policy. Any state institution of  
72 higher education with an employee currently participating in a Foreign Government-Sponsored  
73 Talent Recruitment Program of a Foreign Country of Risk shall review the employee's request to  
74 determine whether participation in the program creates a conflict of commitment or interest with  
75 the institution's interest. If a conflict of commitment or interest cannot be mitigated, the institution  
76 shall request that the employee terminate participation in the Foreign Government-Sponsored  
77 Talent Recruitment Program. If the participation is not terminated, the state institution of higher  
78 education shall terminate its affiliation with the employee.

79 (f) A state institution of higher education may provide a six-month extension of the deadline  
80 by which to terminate participation in the Foreign Government-Sponsored Talent Recruitment  
81 Programs if the institution thinks that an employee is attempting to comply with the termination  
82 requirement under §18B-2D-1(e) of this code, and the institution is confident that participation in  
83 the Foreign Government-Sponsored Talent Recruitment Program for the period of the extension  
84 will not pose a risk to research or reputational interests of the system.

85 (g) Not later than August 1, 2023, a state institution of higher education shall inform all  
86 employees of the institution of the prohibition set forth in this article and shall require that  
87 employees disclose to the state institution of higher education, if applicable, the individual or  
88 entity's participation in any Foreign Government-Sponsored Talent Recruitment Program of a  
89 Foreign Country of Risk and provide a complete copy of any related agreements.

90 (h) Not later than September 15, 2023, the Higher Education Policy Commission and  
91 Council for Community and Technical College Education shall submit reports to the Legislative  
92 Oversight Commission on Education Accountability identifying any state institutions of higher

93 education with programs identified by the United States department of state as a designated  
94 foreign mission and the methods institutions have used to comply with this article. If the  
95 commission and council conclude that no institution has, or has had, a program consistent with  
96 one described in this article, the reports shall so state.

NOTE: The purpose of this bill is to establish the American Campuses Act. The bill prohibits foreign missions of Foreign Countries of Risk to state higher education institutions; prohibits involvement with Foreign Government-Sponsored Talent Recruitment Program of a Foreign Country of Risk; and sets forth reporting requirements for state institutions of higher education.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.