

Testimony of Christopher Nichols, Ph.D.  
Before the House Higher Education Committee  
Representative Tom Young, Chair  
November 29, 2023

Chair Young, Vice Chair Manning, Ranking Member Miller, and Members of the Higher Education Committee:

My name is Christopher Nichols, and I am a professor of history and national security studies, and Woody Hayes Chair in National Security Studies, at The Ohio State University. I have been teaching at Ohio State for a little over a year. I was recently recruited to come to Ohio State after ten years teaching on the west coast at another major land grant university and another several years teaching and working at a range of public and private universities and colleges. I do not represent The Ohio State University, but rather am submitting my testimony as a private citizen in opposition to Substitute Senate Bill 83 and companion HB 151. I previously testified against SB 83 and though I appreciate that the major changes to the bill represent an improvement it remains a highly problematic piece of legislation and one which I oppose fully.

I want to emphasize at the outset of my testimony two things:

**First**, as a newly recruited faculty member to Ohio and to Ohio State, SB 83 and related state efforts aiming to dramatically reform and place mandates on Ohio higher education are having a serious negative effect already. If I had been recruited during SB 83's push for a sweeping overhaul to higher ed in Ohio—a state renowned for its superb educational institutions, one of which I am proud to be associated with—I am not sure that I or my family, including my partner who was also a recruited faculty member, would have been as likely to come to Ohio.

This bill is already doing harm. I can say unequivocally that in the academic faculty job search cycle last academic year (2022-23) as well as in graduate admissions we lost excellent, superbly qualified candidates for positions because of this bill and the perception that higher ed in the state is under attack by the Legislature, seeking to regulate all aspects of university life from teaching and learning to programs to bargaining. In spring 2023, for example, we have had highly sought after admitted PhD program graduate students cite SB 83 in making final decisions not to attend Ohio State. This is not just a loss for any one department or even one university. Examples like this mean that these brilliant individuals will not be in the classroom learning, and later will not be in the classroom teaching, nor will they be producing high quality research that benefits and reflects positively on the institution and the state, nor will they be living in the state and contributing to the economy or the community.

I can't tell you how many times my colleagues and I have had to discuss these bills and the perception of Ohio higher ed as embattled and these efforts as representing attacks on educators, students, staff, and alumni, as we attempt to recruit talented new world class faculty and seek to retain others. Indeed, soon-to-be graduates keep telling faculty that if this keeps up they are less likely to study and stay in the state. In short, these high-profile efforts to dramatically reshape higher education in the state are not serving the best interests of Ohio universities and communities, and the state as a whole.

**Second**, having listened to and participated in a range of the hearings over the last year I want to register that this process centers on a deeply flawed misconception. With all due respect to the proponents of the bill, there is not a single rigorous peer-reviewed study that demonstrates that the well-recorded fact that professors across many but not all disciplines self-report being more “liberal” has any clear impacts either in the state of Ohio or nationwide on student learning in terms of direct outcomes on grading or so-called “indoctrination” in classrooms.

I do not know a single faculty member who seeks to or, frankly, is able to “indoctrinate” students; I also do not know any faculty members who do not seek to educate so that students “reach their own conclusions” based on close-reading of evidence. There are undoubtedly some bad apples educators out there, but there is no demonstrated systematic problem. Why create sweeping transformative legislation for a problem that does not exist?

Along these lines proponents argue that students self-report in surveys that they feel constrained in what they can say in public on campuses, including but not limited to classrooms. They assert that we are in a moment of crisis and cite events almost always out of state and almost always involving outside invited speakers as apparently sufficient evidence to justify an enormous overhaul of higher education. This is not new. In fact, surveys showing fairly similar rates of student self-reporting of concerns about speech and thought go back to the early 1990s era of so-called “political correctness.” And what do we find as a through-line in those surveys and related reporting from the 1990s to the present?

Two things, at least, stand out:

first, these controversies, be they in 1993 or 2023, generally revolved around outside invited speakers with fairly extreme points of views and high profiles (I think we can all agree that however significant an outside guest might be, it pales in comparison to the important education mission at stake in classrooms, labs, etc.);

second, college and university students generally voiced concerns with expressing their opinions around other students! In so doing, from the 1990s through the present, college students surveyed tend to differentiate quite a bit about the types of speech that might be considered offensive and be subject to any form of censorship, often self-censorship, inside or outside of class. Their responses also come from across the political spectrum (a number of studies suggest self-defined “conservative,” “liberal,” and “moderate” college students all sometimes keep their opinions to themselves inside and outside of class).

This is not new, it comes from across political orientations, and it is largely about peer group attention and perceptions of what might happen when potentially unpopular views are stated -- what are we to do with these stubborn facts? In my view, this is about American culture far and away more than university culture. Thus, there is no university oversight legislation that is likely to have much impact on what is, essentially, a societal set of issues. Uncomfortable subjects and conversations are already what many of us do and teach in the classroom, legislating to enforce or mandate “more speech” is likely a fool’s errand as we can see in some ways in all the nebulous wording about controversial topics in this bill.

Considering hot button subjects that are under attack in contemporary culture links logically to how this version of the bill exhibits broad, vague, and confusing language related to “intellectual

diversity.” In seeking to promote these prima facie worthy ends (who wouldn’t want more intellectual diversity?!), while also rejecting the notion of diversity, equity, and inclusion training and programs, even the substitute bill is loaded with work around terms and ideas. What in previous versions of the bill were referred to as “specified concepts” and “specified ideologies,” and now are entailed by language about “controversial beliefs or policies.” Elaborated in those areas are such topics as climate policies, electoral politics, foreign policy, immigration policy, marriage, abortion, or diversity, equity, and inclusion programs—the vast majority of which appear in my U.S. history courses virtually every week. So how do we ensure such areas are covered appropriately?

Sen. Cirino himself demonstrated in hearings this spring, unfortunately, just how vague and problematic the bill’s language along these lines is and thus why answering this question via this version of the bill is awfully hard. In response to a question about how to teach the Holocaust given the bill’s strictures, Sen. Cirino’s remarks were difficult to parse as he assessed how an instructor might hypothetically determine whether or not or how much classrooms should engage “both sides” of Holocaust denial. The point here is not to call out Sen. Cirino, or draw too much from one extreme example, it is simply to use this exchange as an important demonstration of how and why these prohibitions and injunctions are likely to introduce more confusion than clarity in colleges and classrooms.

As it happens, I taught the founding of the state of Israel in an upper-level undergraduate seminar class on religion and U.S. foreign relations just a few weeks ago; we discussed the full 360 degrees of the U.S. role in the founding and subsequent history. We didn’t need any state injunctions to do this important historical work and discussion—my goal was to have students draw their own conclusions and I have every reason to think that they did. What we did not need or want was a distracting abstract and potentially hurtful debate over Holocaust denial.

Especially in a moment of rising anti-Semitism and Islamophobia, this bill’s efforts to enforce intellectual diversity along these lines seem out of step with our contemporary moment; as I’ve said, they also seem very likely to introduce needless conflict and confusion. I never want to have to “both sides” Holocaust denial and if this bill passes I’d have to worry more about how or if to do so. Taken together, the lessons here are clear: just as the bill restricts institutional speech in vague ways so, too, does it contain unclear, broad language about ensuring that faculty allow students to reach their own conclusions on controversial topics, without sufficient clarity about how or in what ways, and in ways that introduce more potential problems.

As a default setting I’d suggest a very different policy: trust teachers and students; in case of egregious rare problems, trust university administrators and supervisors. There’s no need for this massive, sweeping yet ill-defined set of regulations and mandates.

There is a great deal more in the bill that I object to given my experience in higher education and my expertise, for brevity’s sake I’ll pick three more:

### **Faculty Bargaining Limits**

First and foremost, I reject and oppose the efforts to constrain faculty union activities and preclude bargaining related to retrenchment are a large part of why unions across the state and beyond as well faculty and academic professional organizations are almost uniformly again this

version of the bill as with previous iterations. The anti-union, anti-faculty intent certainly seems to be to make all faculty at-will employees without many or in some case any job protections.

### **Faculty Information Requirements and Intimidation**

Second, that opposition also has coalesced around attacks on faculty more generally—these extend from intellectual autonomy in the classroom, notably related to specified and controversial topics, to evaluations and reviews, to the efforts to make our syllabi even more public than they already are (including personal information

I'll touch on the latter as one more example: public posting of syllabi and instructor information seems highly likely to generate off-campus (even out-of-state) trolling and attacks for very little or no practical benefit. I simply do not understand any good faith argument for this policy. We already post information, have course websites, have accessible email, and more.

Every department at every university or college I have ever taught has held syllabi at the departmental level and provided access to students without fail. This is our mission. Public posting in this manner, and requiring specific de-contextualized information about readings or content, or the instructor's specific credentials, is not about students, it seems to be about providing access to wider audiences not just in Ohio but nationally and internationally to attack and perhaps intimidate faculty and classes. These requirements are duplicative and serve no real educational purpose.

### **Prohibitions Related to Partnerships, Collaboration with China**

Third, as a U.S. foreign relations and national security expert I urge this body to take seriously and reject the bill's attack on higher education activities with China. The bill undermines meaningful connections and collaborations with institutions in China, which has resulted in widespread uncertainty, fear, including a sense of bias against Chinese and Asian students, faculty, staff, and collaborators.

Even in the revised bill the language seems to include—or might apply to—an astonishingly wide range of international exchanges and partnerships. There is no doubt relations between the U.S. and China are tense. In my opinion, this era of strained relations does not amount to a "second Cold War" but, that does not mean that some of the tools and lessons of the late Cold War can and should be applied today. To enhance relations we should be encouraging more exchange and interchange; science and business collaboration; more students and scholars crossing borders. More overall engagement can and has been shown historically to lead to stronger ties through personal understanding as well as shared incentives. Research on conflict risk reduction also suggests that increasing trade connections and commercial interdependence reduces the probability of military conflict. In contrast, studies have shown that particular types of cultural antagonism—from immigration restriction to prohibitions against films or technologies to, say, banning study abroad—generally amplifies conflict. That is what I fear might be the result of the proposed injunction against "any academic relationship with an academic institution" in China or affiliated with the nation. This prohibition will hurt the state of Ohio in a number of ways.

Yes, helping state institutions protect intellectual property and partnerships is important, but directed legislation in close collaboration with the private and public sectors would be the appropriate manner to achieve those ends.

One way in which the proposed China ban would hurt Ohio is by eliminating or otherwise limiting potentially ground-breaking medical, science, and industrial partnerships for new drug and treatment development, technology innovation and collaboration, engineering and computer science breakthroughs, scientific data collection and information sharing, as well as inhibiting and undermining a wide array of collective research, teaching, and engagement across the sciences, social sciences, and liberal arts. If research and development activities suffer, where will they go? Other states perhaps, or other countries? Neither is a good result for Ohio. China is the U.S.'s third largest trade partner, after all.

Another potential harm is to the prestige of the state of Ohio and Ohio higher education. The state is nationally and internationally-renowned for producing high quality graduates and cutting-edge technological innovation. Consider, for instance, Intel's enormous new investments in the state. This is hardly the time for digging moats and pulling up drawbridges to make the state of Ohio appear disinterested in advancing top research, teaching, training of the next generation(s), and innovation for a globally-interconnected world. It is unclear what positive results, if any, such a ban might achieve. In contrast, many negatives and costs are immediately clear.

An additional harm here has been that some of the public speech related to SB 83 has evidenced marked anti-Chinese sentiment. And in an era in which we've tragically witnessed rising recent anti-Asian hate crimes, and most recently heinous anti-Semitic and Islamophobic activities, this sort of anti-China push comes at exactly the wrong moment, when we all should be fighting forces of hate and disunion. What is more, this effort, as I've said often, when understood in international relations and diplomatic terms, may embolden and enable Chinese efforts against the U.S. However well-intended, this effort might be it can easily be construed and cast as racist and xenophobic (as it involves sanctions against only one country and group).

To the extent to which Chinese politicians and their agents seek to exploit and enhance tensions with the U.S., including in propaganda efforts, this bill plays right into their hands; it provides evidence of anti-Chinese bias, in an important and influential U.S. state and, because it is targeted not in more traditional realms of nation state conflict, like business or politics, but rather in the more seemingly benign, positive areas of education, students, teachers, and students, it can be made to look all the worse.

### **Yes to Teaching American History, Government, Civics**

Finally, in the interest of being a constructive, engaged Ohioan, and as a professional historian with twenty years teaching at the college level, I will say there is now one element of the bill that I support: the teaching of U.S. history to all Ohio students, with an eye to important civics questions and concerns.

There is no doubt that in the past several generations as civics education has been eliminated from K-12 education, and core and Gen Ed requirements in colleges and universities have been revised, we are not preparing younger generations for civic engagement as well as we can or should. As a passionate advocate for history and the humanities and as someone who has run and state and regional civics education programs, I appreciate and applaud that Sen. Cirino and his team have refined the wording and structure of the required history/civics course to provide each educational institutional and the expert faculty and staff with independent intellectual authority to use the best practices of historical and civics education to develop rigorous courses. I would

like to see the requirement for all graduating Ohio university and college students to take a minimum of one 3-credit course on U.S. history and government, pulled out of this bill and passed as a stand-alone bi-partisan effort.

In my view, as a dedicated public historian, this would be an excellent result for the students and citizens of the state and the nation as we seek to cultivate a well-informed and active next generation, deeply invested in shaping a better future for the U.S., regardless of political persuasion. I also would humbly suggest that if the purpose here is to gain a higher knowledge of U.S. history and civics then there should be very few exemptions to this requirement permitted and that should likely also be noted in the text of hopefully a broken out bill that only deals with this issue.

In conclusion, as the outpouring of opponent testimony, and particularly the moving efforts by students, leaders, organizations, and groups, I want to underscore the numerous likely negative unintended consequences of this bill, some of which I have laid out here and others that I did not have time to enumerate but that I am confident that others have and will be pointing out to this esteemed committee and body.

I ask you to please consider my testimony and vote NO on this potentially and already harmful bill. Thank you for the opportunity to testify. I am happy to answer any questions that you may have.

Yours sincerely,  
-Christopher Nichols