

2047

2009-2010 Regular Sessions

I N   S E N A T E

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Introduced by Sens. LAVALLE, DeFRANCISCO, O. JOHNSON, LARKIN, MAZIARZ, MORAHAN, PARKER, SALAND, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to the disclosure of gifts made to institutions of higher education by foreign governments, persons and entities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 207-a of the education law, as added by chapter 215  
2     of the laws of 1984, is amended to read as follows:  
3     S 207-a. Disclosure of gifts made to institutions of higher education  
4     by foreign governments, persons and entities. 1. As used in this  
5     section: a. The term "foreign government" shall mean any government  
6     other than the United States government or the government of a state or  
7     a political subdivision thereof and shall include an agent of such  
8     government;  
9     b. The term "foreign legal entity" shall mean (i) any legal entity  
10    created under the laws of a foreign government or (ii) any legal entity  
11    created under the laws of the United States or of any state hereof if a  
12    majority of the ownership of the stock of such legal entity is directly  
13    or indirectly owned legally or beneficially by one or more foreign  
14    governments or one or more foreign persons or one or more legal entities  
15    created under the laws of a foreign government or if a majority of the  
16    membership of any such entity is composed of foreign persons or legal  
17    entities created under the laws of a foreign government and shall  
18    include an agent of such legal entity;  
19    c. The term "foreign person" shall mean any individual who is not a  
20    citizen or national of the United States or a trust territory or protec-  
21    torate thereof and shall include an agent of such individual; and  
22    d. The term "gift" shall mean any endowment, gift, grant, contract,  
23    award or property of any kind.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 2. Every institution authorized by the legislature or by the regents  
2 of the university of the state of New York to confer academic degrees in  
3 this state AND ANY FOUNDATION THAT IS ASSOCIATED WITH AN INSTITUTION  
4 AUTHORIZED BY THE LEGISLATURE OR BY THE REGENTS OF THE UNIVERSITY OF THE  
5 STATE OF NEW YORK shall disclose the amount, terms, restrictions and  
6 requirements attached to or made a part of any gift of a value in excess  
7 of one hundred thousand dollars made to such institution by a foreign  
8 government, foreign legal entity or foreign person in any fiscal year of  
9 the institution. If the foreign government, foreign legal entity or  
10 foreign person makes more than one gift to an institution in any fiscal  
11 year of such institution, and the total value of those gifts in such  
12 fiscal year of the institution exceeds one hundred thousand dollars, the  
13 institution shall report all of such gifts received.

14 3. Such information shall be forwarded to the department no later than  
15 thirty days after the final day of the fiscal year of the institution.  
16 The information shall include:

17 a. the amount and the date of the making of the gift;

18 b. when the gift is conditional, matching or designated for a partic-  
19 ular purpose, full details of the conditions, matching provisions or  
20 designation, INCLUDING WHETHER SUCH GIFT WAS RECEIVED FROM A FOREIGN  
21 GOVERNMENT, ENTITY OR INDIVIDUAL;

22 c. the name of the foreign government in the case of a gift by a  
23 foreign government; the name of the foreign country in which a foreign  
24 entity or foreign person is principally located or resides in the case  
25 of a gift by a foreign entity or foreign person.

26 The name of the foreign entity shall be disclosed in the event of a  
27 gift which (i) contains conditions or restrictions regarding the control  
28 of curricula, employment or termination of faculty, admission of  
29 students, student fees or (ii) is contingent upon the agreement of the  
30 institution to take specific public positions or actions or to award  
31 honorary degrees; and

32 d. the purpose or purposes for which the gift will be used.

33 4. Such information shall be a matter of public record and shall be  
34 made available by the department to the general public for review and  
35 copying during normal business hours. FURTHER, SUCH INFORMATION SHALL  
36 BE PROVIDED TO THE DEPARTMENT IN A FORMAT DETERMINED BY THE DEPARTMENT.  
37 THE DEPARTMENT SHALL MAINTAIN SUCH INFORMATION IN ELECTRONIC FORM FOR  
38 ITS OWN INTERNAL RECORD KEEPING PURPOSES ONLY.

39 5. IF IT IS DETERMINED, BY AN AUDIT OF THE STATE COMPTROLLER, CITY  
40 COMPTROLLER, OR BY ANY OTHER PRIVATE OR INDEPENDENT AUDIT, THAT AN  
41 INSTITUTION SUBJECT TO THE PROVISIONS OF THIS SECTION, HAS FAILED TO  
42 COMPLY WITH ANY OR ALL OF THE PROVISIONS OF THIS SECTION, THE COMMIS-  
43 SIONER SHALL IMPOSE A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS AND NOT  
44 MORE THAN FIVE THOUSAND DOLLARS, FOR EACH OCCURRENCE. SUCH INSTITUTION  
45 SHALL BE GIVEN AN OPPORTUNITY TO APPEAL THE IMPOSITION OF SUCH FINE  
46 PURSUANT TO PROCEDURES ESTABLISHED BY RULES OR REGULATIONS OF THE  
47 COMMISSIONER. IF A SUBSEQUENT AUDIT OF THE STATE COMPTROLLER, CITY COMP-  
48 TROLLER, OR BY ANY OTHER PRIVATE OR INDEPENDENT AUDIT, FINDS THAT SUCH  
49 INSTITUTION HAS FAILED TO COMPLY WITH ANY OR ALL OF THE PROVISIONS OF  
50 THIS SECTION, THE COMMISSIONER SHALL IMPOSE A FINE OF NOT LESS THAN TWO  
51 THOUSAND DOLLARS, AND SUCH INSTITUTION SHALL COMPLY WITH SECTIONS ONE  
52 HUNDRED SEVENTY-TWO, ONE HUNDRED SEVENTY-TWO-A, ONE HUNDRED  
53 SEVENTY-TWO-B, ONE HUNDRED SEVENTY-TWO-C AND ONE HUNDRED SEVENTY-TWO-D  
54 OF THE EXECUTIVE LAW.

55 S 2. This act shall take effect on the first of August next succeeding  
56 the date on which it shall have become a law.