S T A T E O F N E W Y O R K

217

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2015

Introduced by Sens. LAVALLE, LARKIN -- 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:

Section 1. Section 207-a of the education law, as added by chapter 215 of the laws of 1984, is amended to read as follows:

S 207-a. Disclosure of gifts made to institutions of higher education by foreign governments, persons and entities. 1. As used in this section: a. The term "foreign government" shall mean any government other than the United States government or the government of a state or a political subdivision thereof and shall include an agent of such government;

b. The term "foreign legal entity" shall mean (i) any legal entity created under the laws of a foreign government or (ii) any legal entity created under the laws of the United States or of any state hereof if a majority of the ownership of the stock of such legal entity is directly or indirectly owned legally or beneficially by one or more foreign governments or one or more foreign persons or one or more legal entities created under the laws of a foreign government or if a majority of the membership of any such entity is composed of foreign persons or legal entities created under the laws of a foreign government and shall include an agent of such legal entity;

c. The term "foreign person" shall mean any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof and shall include an agent of such individual; and

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

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

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

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

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

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

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

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

5. IF IT IS DETERMINED, BY AN AUDIT OF THE STATE COMPTROLLER, CITY COMPTROLLER, OR BY ANY OTHER PRIVATE OR INDEPENDENT AUDIT, THAT AN INSTITUTION SUBJECT TO THE PROVISIONS OF THIS SECTION, HAS FAILED TO COMPLY WITH ANY OR ALL OF THE PROVISIONS OF THIS SECTION, THE COMMISSIONER SHALL IMPOSE A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS AND NOT MORE THAN FIVE THOUSAND DOLLARS, FOR EACH OCCURRENCE. SUCH INSTITUTION SHALL BE GIVEN AN OPPORTUNITY TO APPEAL THE IMPOSITION OF SUCH FINE PURSUANT TO PROCEDURES ESTABLISHED BY RULES OR REGULATIONS OF THE COMMISSIONER. IF A SUBSEQUENT AUDIT OF THE STATE COMPTROLLER, CITY COMPTROLLER, OR BY ANY OTHER PRIVATE OR INDEPENDENT AUDIT, FINDS THAT SUCH INSTITUTION HAS FAILED TO COMPLY WITH ANY OR ALL OF THE PROVISIONS OF THIS SECTION, THE COMMISSIONER SHALL IMPOSE A FINE OF NOT LESS THAN TWO THOUSAND DOLLARS, AND SUCH INSTITUTION SHALL COMPLY WITH SECTIONS ONE HUNDRED SEVENTY-TWO, ONE HUNDRED SEVENTY-TWO-A, ONE HUNDRED SEVENTY-TWO-B, ONE HUNDRED SEVENTY-TWO-C AND ONE HUNDRED SEVENTY-TWO-D OF THE EXECUTIVE LAW.

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