

## CHAPTER 136

## S.B. No. 104

An Act relating to disclosure requirements relating to the receipt of conditional gifts from foreign persons by a public institution of higher education; adding Subchapter L to Chapter 51, Education Code.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Chapter 51, Education Code, is amended by adding Subchapter L to read as follows:

***"SUBCHAPTER L. CONDITIONAL GIFTS FROM FOREIGN PERSONS***

*"Section 51.571. DEFINITIONS. In this subchapter:*

*"(1) 'Foreign government' means a government other than the government of the United States or any state or political subdivision thereof.*

*"(2) 'Foreign person' means any of the following:*

*"(A) a foreign government;*

*"(B) an individual who is not a citizen or national of the United States or of a trust territory or protectorate of the United States;*

*"(C) a corporation, partnership, joint venture, proprietorship, trust, association, or other entity that is created or organized under or existing pursuant to the laws of a foreign government or that has its principal place of business located outside the United States;*

*"(D) a corporation, partnership, joint venture, proprietorship, trust, association, or other entity that is created or organized under or existing pursuant to the laws of the United States or any state or political subdivision thereof, a majority of the stock or other equity interest of which is directly or indirectly owned of record or beneficially by, or a majority of the membership of which is composed of, or which derives a majority of its funding from, a foreign government, an individual described by Paragraph (B) of this subdivision, an entity described by Paragraph (C) of this subdivision, or a combination of such governments, individuals, or entities; or*

*"(E) any committee or other group a majority of the membership of which is composed of, or a majority of the funding for which is derived from, a foreign government, an individual described in Paragraph (B) of this subdivision, an entity described by Paragraph (C) or (D) of this subdivision, or a combination of such governments, individuals, or entities.*

*"(3) 'Conditional gift' means any endowment, scholarship, or other gift, donation, or grant of money or property of any kind or any contract award, the use of which is subject to conditions imposed, requested, or provided by a 'foreign government' or 'foreign person' and which conditions relate to what kinds of teachers or students may benefit from such gift or relate to the bias or slant with which subject matter supported by the gift may be taught.*

*"(4) 'Subject institution' means any public university or other public institution of higher education located within this state and includes, without limitation, institutions of higher education as defined in Subdivision (7) of Section 61.003 of this code.*

*"Section 51.572. DISCLOSURE OF GIFTS REQUIRED. (a) The governing board of any subject institution that receives a conditional gift from a foreign person or an agent or representative of a foreign person shall file with the secretary of state a disclosure statement in accordance with this subchapter.*

“(b) Subsection (a) of this section applies only to a conditional gift that:

“(1) has a value of more than \$50,000;

“(2) is one of multiple conditional gifts from the same foreign person in a single fiscal year with an aggregate value exceeding \$50,000; or

“(3) is one of multiple conditional gifts from two or more foreign persons in a single fiscal year which have an aggregate value exceeding \$50,000 and which impose, request, or provide similar conditions.

“(c) The governing board shall file a disclosure statement required by this section not later than the 30th day after the last day of the institution’s fiscal year in which the conditional gift was received.

“Section 51.573. **FORM OF STATEMENT.** (a) The secretary of state shall prescribe the form of a disclosure statement required by this subchapter.

“(b) The disclosure statement must include:

“(1) the monetary value or amount of the conditional gift;

“(2) the date the conditional gift was received by the institution;

“(3) the name of the donor;

“(4) if the donor is an entity described in Paragraph (C) or (D) of Subdivision (2) of Section 51.571 of this subchapter or a committee or other group described in Paragraph (E) of Subdivision (2) of Section 51.571 of this subchapter, the name and principal location or residence of each record and beneficial owner of any equity interest therein, each member thereof, and each person providing funding thereto;

“(5) if the donor is an individual, the name of the country in which the donor resides;

“(6) a detailed description of any conditions of the conditional gift and a copy of any written agreement or statement containing such conditions; and

“(7) a statement of whether and how the institution intends to comply with the conditions of the conditional gift.

“Section 51.574. **PUBLIC RECORD.** A disclosure statement filed under this subchapter is a public record. The secretary of state shall make the statement available to the public during normal business hours for review and copying.

“Section 51.575. **FAILURE TO FILE STATEMENT.** (a) If an institution fails to file a disclosure statement as required by this subchapter, the attorney general may bring suit in district court in Travis County to compel disclosure in accordance with this subchapter.

“(b) If the attorney general does not bring suit under Subsection (a) of this section, a citizen of this state may bring suit in district court in Travis County to compel disclosure in accordance with this subchapter.

“(c) In a suit brought under this section, the attorney general or citizen bringing the suit is entitled to recover reasonable attorney’s fees.

“(d) Any subject institution failing to report any conditional gift pursuant to the provisions of this subchapter shall be fined an amount equal to five percent of the conditional gifts not reported.”

**SECTION 2.** This Act takes effect January 1, 1986, and applies to conditional gifts received by a subject institution on or after that date.

**SECTION 3.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 10, 1985, by a viva-voce vote; passed the House on May 9, 1985, by a non-record vote.

Approved: May 24, 1985

Effective: January 1, 1986