

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 971

Session of  
1985

INTRODUCED BY LEVIN, IRVIS, MANDERINO, HAYES, COLAFELLA,  
JOSEPHS, McCLATCHY, CESSAR, PIEVSKY, D. R. WRIGHT, GALLAGHER,  
FREIND, ITKIN, FREEMAN, COHEN, HARPER, MILLER, FOX, PISTELLA  
AND HAGARTY, APRIL 17, 1985

REFERRED TO COMMITTEE ON EDUCATION, APRIL 17, 1985

AN ACT

1 Requiring the disclosure of gifts to institutions of higher  
2 education made by foreign governments, foreign legal entities  
3 and foreign persons.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Higher  
8 Education Gift Disclosure Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "College or university." Any institution of higher education  
14 chartered by the Commonwealth of Pennsylvania and every  
15 institution of the State System of Higher Education.

16 "Department." The Department of Education of the  
17 Commonwealth.

1 "Foreign government." Any government other than the United  
2 States Government or the government of a state or a political  
3 subdivision thereof. The term shall include an agent of such  
4 government.

5 "Foreign legal entity."

6 (1) Any legal entity created under the laws of a foreign  
7 government.

8 (2) Any legal entity created under the laws of the  
9 United States or of any state or political subdivision  
10 thereof if:

11 (i) thirty percent of the ownership of the stock of,  
12 or interest in, such legal entity is directly or  
13 indirectly owned legally or beneficially by one or more  
14 foreign governments or one or more foreign persons;

15 (ii) thirty percent of the membership of any such  
16 entity is composed of foreign persons or legal entities  
17 created under the laws of a foreign government or agents  
18 of such legal entities; or

19 (iii) thirty percent of the assets of such entity  
20 are derived from contributions or loans from foreign  
21 governments or foreign persons.

22 "Foreign person." Any foreign legal entity and any  
23 individual who is not a citizen or national of the United States  
24 or a trust territory or protectorate thereof. The term shall  
25 include an agent of such individual.

26 "Gift." Any contract, gift, grant, endowment, award or  
27 donation of money or property of any kind, or any combination of  
28 these, which in any one fiscal year equals or exceeds \$100,000.

29 "Secretary." The Secretary of Education of the Commonwealth.  
30 Section 3. Disclosure requirements.

1 (a) In general.--Every college and university shall disclose  
2 the amount, terms, restrictions, requirements and conditions  
3 attached to or made a part of any gift of a value equal to or in  
4 excess of \$100,000 made to the college or university by a  
5 foreign government, foreign legal entity or foreign person in  
6 any fiscal year of the college or university. If the foreign  
7 government, foreign legal entity or foreign person, alone or  
8 together with others, makes more than one gift to a college or  
9 university in any fiscal year of the college or university, and  
10 the total value of the gifts, or any combination thereof, equals  
11 or exceeds \$100,000, the college or university shall make the  
12 same disclosure with respect to all such gifts received.

13 (b) Report.--The foregoing information shall be forwarded by  
14 a college or university to the secretary not later than 30 days  
15 after the final day of the fiscal year of the college or  
16 university. Such information shall include:

17 (1) The name and address of the donor of the gift.

18 (2) The amount and date of the making of each gift.

19 (3) The subject of each gift.

20 (4) A detailed description of any terms, restrictions,  
21 requirements or conditions imposed on the college by the  
22 terms of the gift.

23 (5) A detailed description of the purpose for which the  
24 gift will be used by the college or university.

25 (6) The name, title and qualifications of any person or  
26 group whom the gift is explicitly intended to benefit.

27 (c) Forms.--Colleges and universities shall forward the  
28 foregoing information to the secretary on forms prepared and  
29 made available by the secretary for that purpose.

30 Section 4. Publication of gifts and contracts.

1 The information subject to disclosure under section 3 shall  
2 be a matter of public record, shall be made available by the  
3 department to the general public for review and copying during  
4 normal business hours and shall be published at least annually  
5 by the secretary in the Pennsylvania Bulletin.

6 Section 5. Sworn statement of nationality.

7 Any college or university may, at its option, request any  
8 donor to submit a sworn statement, on a form prepared and made  
9 available to the colleges and universities by the secretary for  
10 that purpose, attesting to whether the donor is a foreign legal  
11 entity or foreign person. A college or university may  
12 thereafter, without further penalty, rely upon that sworn  
13 statement in complying with the disclosure requirements of this  
14 act with respect to the foreign status of the donor.

15 Section 6. Penalties.

16 (a) Donee penalty.--Any college or university that willfully  
17 or intentionally fails to disclose the information required by  
18 section 3 shall be subject to a civil penalty of 105% of the  
19 amount of any undisclosed gift.

20 (b) Donor penalty.--Any foreign legal entity or foreign  
21 person that submits a false sworn statement, on their own behalf  
22 or on behalf of a foreign government, to a college or university  
23 pursuant to section 5 as defined in 18 Pa.C.S. § 4904(b)  
24 (relating to unsworn falsification to authorities) shall be  
25 subject to the penalties prescribed therein.

26 Section 7. Private right of action.

27 (a) Equity action.--Any person shall be entitled under this  
28 act to bring an action in equity to compel a college or  
29 university, a foreign government, foreign legal entity or a  
30 foreign person to make disclosure of the information required by

1 section 3.

2 (b) Attorney fees and costs.--Any person who prevails in  
3 securing disclosure of the information required by section 3 as  
4 a result of bringing the action in equity shall also be entitled  
5 to recover from the opposing party reasonable attorney fees and  
6 costs.

7 Section 8. Effective date.

8 This act shall take effect in 60 days.