

**Representative Carl Wimmer** proposes the following substitute bill:

**DISCLOSURE OF DONATIONS TO HIGHER  
EDUCATION INSTITUTIONS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carl Wimmer**

Senate Sponsor: Howard A. Stephenson

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**LONG TITLE**

**General Description:**

This bill requires higher education institutions to disclose certain gifts.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires a higher education institution to disclose to the Board of Regents certain gifts received from a foreign person; and
- ▶ provides the method of disclosure.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**53B-1-201**, Utah Code Annotated 1953

**53B-1-202**, Utah Code Annotated 1953

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26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **53B-1-201** is enacted to read:

28 **Part 2. Disclosure of Foreign Gifts**

29 **53B-1-201. Definitions.**

30 As used in this part:

31 (1) "Conditional gift" means a gift as defined in Subsection (4) that is subject to  
32 conditions:

33 (a) imposed, requested, or provided by a foreign government or foreign person; and

34 (b) that relate to:

35 (i) what kinds of teachers or students may benefit from the gift; or

36 (ii) a description of the subject matter to be taught with the support of the gift.

37 (2) "Foreign government" means a government other than the government of:

38 (a) the United States;

39 (b) a state within the United States;

40 (c) a territory or possession of the United States; or

41 (d) a political subdivision of the United States.

42 (3) "Foreign person" means:

43 (a) a foreign government defined in Subsection (2);

44 (b) an individual who is not a citizen or national of the United States or of a territory or  
45 protectorate of the United States;

46 (c) a corporation, partnership, joint venture, proprietorship, trust, association, or other  
47 entity that is created or organized under the laws of a foreign government or that has its  
48 principal place of business located outside the United States;

49 (d) if known by the higher education institution, a corporation, partnership, joint  
50 venture, proprietorship, trust, association, or other entity that is created or organized pursuant  
51 to the laws of the United States or a state within the United States, if a majority of the stock or  
52 other equity interest is directly or indirectly owned by, or which derives a majority of its  
53 funding from:

54 (i) a foreign government;

55 (ii) an individual described in Subsection (3)(b); or

56 (iii) an entity described in Subsection (3)(c) or (d); or

57 (e) if known by the higher education institution, a committee or other group in which a  
 58 majority of the membership is composed of:

59 (i) a foreign government;

60 (ii) an individual described in Subsection (3)(b); or

61 (iii) an entity described in Subsection (3)(c) or (d).

62 (4) "Gift" means an endowment, scholarship, gift, donation, or grant of money or  
 63 property of any kind.

64 (5) "Higher education institution" means an institution in the state system of higher  
 65 education as defined in Section 53B-1-102.

66 Section 2. Section **53B-1-202** is enacted to read:

67 **53B-1-202. Disclosure of foreign gifts to higher education institutions.**

68 (1) (a) ~~§~~ → [On] Except as provided in Subsection (1)(c), on ~~←~~§ or before July 31 of each  
 68a year, a higher education institution shall disclose to  
 69 the board, by filing a disclosure report described in Subsection (2), a gift received by the higher  
 70 education institution of \$50,000 or more from a foreign person, considered alone or in  
 71 combination with all other gifts from the foreign person, during the period beginning July 1  
 72 and ending on June 30 immediately preceding the July 31 deadline.

73 (b) A higher education institution may rely on the following address of a foreign person  
 74 to determine the citizenship or nationality of the foreign person if the citizenship or nationality  
 75 is unknown:

76 (i) for a foreign person that is an individual, the principal residence; and

77 (ii) for a foreign person that is not an individual, the principal place of business.

77a **§ → (c) The \$50,000 amount described in Subsection (1)(a) is increased to \$250,000 if the gift,**  
 77b **considered alone or in combination with all other gifts, described in Subsection (1)(a) is from a**  
 77c **foreign person:**

77d **(i) with a principal residence or principal place of business located in the United**  
 77e **States; and**

77f **(ii) with a permanent resident status:**

77g **(A) under Section 245 of the Immigration and Nationality Act; and**

77h **(B) for 10 years or more. ←§**

78 (2) A disclosure report regarding all gifts described in Subsection (1) shall include:

79 (a) the amount of each gift described in Subsection (1);

80 (b) the date on which each gift described in Subsection (1) was received by the higher  
 81 education institution;

- 82           (c) the name of the foreign person making each gift described in Subsection (1);
- 83           (d) the aggregate amount of all gifts described in Subsection (1) from a foreign person
- 84 during the prior fiscal year of the higher education institution;
- 85           (e) for a conditional gift, a description of the conditions or restrictions related to the
- 86 conditional gift;
- 87           (f) for a conditional gift:

88 (i) for a foreign person that is an individual, if known, the country of citizenship or  
89 principal residence of the individual; or

90 (ii) for a foreign person that is not an individual, if known, the country of incorporation  
91 or place of business of the foreign person; and

92 (g) for a conditional gift that is a contract entered into between a higher education  
93 institution and a foreign person:

94 (i) the amount;

95 (ii) the date;

96 (iii) a description of all conditions or restrictions; and

97 (iv) the name of the foreign person.

98 (3) A disclosure report required by this section is a public record open to inspection  
99 and review during the higher education institution's business hours.

100 (4) At the request of the board, the attorney general may file a civil action to compel a  
101 higher education institution to comply with the requirements of this section.

102 (5) On or before the November interim meeting of each year, the board shall report to  
103 the Education Interim Committee and provide a summary of all gifts ~~§~~ → [and conditional gifts ~~§~~ →  
103a as] ←§

103a described in Subsection (1) ←§  
104 received by higher education institutions during the prior fiscal year.

105 (6) The board shall make rules for the administration of this section in accordance with  
106 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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**Fiscal Note**

**H.B. 114 1st Sub. (Buff) - Disclosure of Donations to Higher Education  
Institutions**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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