



Legislation Text

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Res. No. 2046

Resolution calling upon the New York State Legislature to pass Assembly Bill A7907 and Senate Bill S4778, legislation which would allow cultural institutions, hospitals and universities to access their endowments when the endowment's value has dropped below market value.

By Council Members Brewer, Garodnick, Jackson, James, Palma and Recchia Jr.

Whereas, The Uniform Management of Institutional Funds Act of 1972 (UMIFA), is a uniform law which limits or prohibits non-profits, including cultural institutions, hospitals and universities, from spending money from an endowment fund that is “underwater,” meaning its current market value is below what it was when it was given to the institution, also known as its “historic dollar value”; and

Whereas, The spending of endowment funds by a New York State Not-for-Profit Corporation is currently governed by UMIFA, as adopted in 1978 within the New York State Not-For-Profit Corporation Law (the N-PCL); and

Whereas, UMIFA is considered out-of-date, particularly with respect to management, investment and spending issues, especially given the current economic climate; and

Whereas, In 2006, the National Conference of Commissioners on Uniform State Laws, also known as the Uniform Law Commission, proposed the Uniform Prudent Management of Institutional Funds Act (UPMIFA) to amend the existing 1972 UMIFA, to allow states to adopt their own UPMIFA laws in order to give institutions more flexibility to spend money from endowment funds that are underwater, provided that their spending is prudent; and

Whereas, UPMIFA redefines the meaning of “prudent investing,” making the preservation of the fund the top priority and taking into account other considerations, such as the state of the economy and the needs of

the organization; and

Whereas, Universities, cultural institutions such as museums and other non-profits suffering from investment losses are pushing states to ease legal limits on spending so they can tap into their endowments to avoid imminent layoffs and deep cuts to programs; and

Whereas, *The Wall Street Journal* reported that at the end of June 2008, 39% of colleges and private secondary schools had endowments that were underwater, compared with 16% the year before, according to a survey of 628 institutions by Commonfund Inc., a Connecticut money manager; and

Whereas, New York City is recognized worldwide as the epicenter of the arts, and is home to hundreds of cultural institutions throughout the 5 boroughs; and

Whereas, There are approximately 70 hospitals and over 100 postsecondary institutions in New York City; and

Whereas, With the stock market in turmoil, a growing number of states are loosening restrictions that prohibit charities and other non-profit groups from spending money from endowment funds that have dropped in value; and

Whereas, Currently, 33 states and the District of Columbia have adopted UPMIFA; and

Whereas, Fourteen (14) states, including New York, introduced state legislation to adopt UPMIFA in 2009; and

Whereas, A7907, sponsored by New York State Assembly Member Jonathan L. Bing, and S4778, sponsored by New York State Senator Liz Krueger, were introduced in April 2009; and

Whereas, A7907 and S4778 would provide prudent oversight and necessary flexibility for charitable endowments by establishing important standards to govern their management and investment through the enactment in New York State of UPMIFA; and

Whereas, The New York State Legislature should adopt UPMIFA to make sure that non-profit organizations and charities are able to appropriately access their endowment funds in order for them to survive

during the current economic downturn or any other fiscal crisis in the future; and

Whereas, The enactment of UPMIFA in New York State would be an important way in which the New York State Legislature and the Governor could readily assist cash-strapped non-profits and trusts at no cost to the State; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass Assembly Bill A7907 and Senate Bill S4778, legislation which would allow cultural institutions, hospitals and universities to access their endowments when the endowment's value has dropped below market value.

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