

SENATE BILL No. 225

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-19-11; IC 21-49.

Synopsis: Disclosure of foreign gifts to educational entities. Requires a school corporation, charter school, state accredited nonpublic school, or postsecondary educational institution (school entity or institution) to file a disclosure report with the auditor of state and the attorney general whenever any school entity or institution is owned or controlled by a foreign source or receives a gift from or enters into a contract with a foreign source, the value of which is \$50,000 or more. Provides that whenever it appears that a school entity or institution has failed to comply with gift disclosure requirements, a civil action may be brought by the attorney general or at the request of: (1) a member of the general assembly; (2) the governor; (3) a member of the commission for higher education; (4) a member of the state board of education; or (5) an Indiana taxpayer; to compel compliance with the gift disclosure requirements.

Effective: July 1, 2022.

Baldwin

January 6, 2022, read first time and referred to Committee on Education and Career Development.



Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

SENATE BILL No. 225



A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 20-19-11 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]:
4 **Chapter 11. Disclosures by Schools of Foreign Gifts and**
5 **Contracts**
6 **Sec. 1. This chapter applies to:**
7 **(1) school corporations;**
8 **(2) charter schools; and**
9 **(3) state accredited nonpublic schools.**
10 **Sec. 2. The following definitions apply throughout this chapter:**
11 **(1) "Contract" means any agreement for the acquisition by**
12 **purchase, lease, or barter of property or services by the**
13 **foreign source, for the direct benefit or use of either of the**
14 **parties.**
15 **(2) "Foreign source" means:**
16 **(A) a foreign government, including an agency of a foreign**
17 **government;**



- 1 (B) a legal entity, governmental or otherwise, created
 2 solely under the laws of a foreign state or states;
 3 (C) an individual who is not a citizen or a national of the
 4 United States or a trust territory or protectorate thereof;
 5 or
 6 (D) an agent, including a subsidiary or affiliate of a foreign
 7 legal entity, acting on behalf of a foreign source.
- 8 (3) "Gift" means money or property provided without
 9 payment in return.
- 10 (4) "School entity" means a:
 11 (A) school corporation;
 12 (B) charter school;
 13 (C) state accredited nonpublic school; or
 14 (D) school foundation related to an entity described in
 15 clauses (A) through (C).
- 16 (5) "Restricted or conditional gift or contract" means any
 17 endowment, gift, grant, contract, award, present, or property
 18 of any kind that includes provisions:
 19 (A) regarding the employment, assignment, or termination
 20 of faculty or staff;
 21 (B) regarding the establishment of departments, centers,
 22 research or lecture programs, or new faculty positions;
 23 (C) that influence or direct the materials, activities, or
 24 curriculum used in a course or program of study;
 25 (D) regarding the selection or admission of students; or
 26 (E) regarding the award of grants, loans, scholarships,
 27 fellowships, or other forms of financial aid restricted to
 28 students of a specified country, religion, sex, ethnic origin,
 29 or political opinion.
- 30 Sec. 3. (a) Whenever any school entity is owned or controlled by
 31 a foreign source or receives a gift from or enters into a contract
 32 with a foreign source, the value of which is fifty thousand dollars
 33 (\$50,000) or more, considered alone or in combination with all
 34 other gifts from or contracts with that foreign source within a
 35 calendar year, the school entity shall file a disclosure report with
 36 the auditor of state and the attorney general in a manner
 37 prescribed by the auditor of state and the attorney general. If a
 38 school entity is required to file a disclosure report under this
 39 subsection, the disclosure report must be filed not later than:
 40 (1) January 3; or
 41 (2) July 31;
 42 that next follows the date in which the school entity receives a gift



1 that requires the filing of a disclosure report.

2 (b) Each report to the auditor of state and the attorney general
3 required by this section shall contain the following:

4 (1) For each gift received from or contract entered into with
5 a foreign source other than a foreign government, the report
6 shall disclose:

7 (A) the name and primary address of the foreign source;

8 (B) the total amount, the date, and a description of any
9 conditions or restrictions for each grant or contract;

10 (C) the country of citizenship, or if unknown, the principal
11 residence for a foreign source who is a natural person, and
12 the country of incorporation, or if unknown, the principal
13 place of business for a foreign source that is a legal entity;
14 and

15 (D) the aggregate amounts of such gifts and contracts
16 attributable to a particular country.

17 (2) For gifts received from or contracts entered into with a
18 foreign government, the amount, the date, a description of the
19 conditions or restrictions for each grant of gift, and the name
20 of the foreign government, government agency, and any
21 individual signatories to any contracts or agreements signed.

22 (c) Notwithstanding subsection (b), whenever any school entity
23 receives a restricted or conditional gift or contract from a foreign
24 source, the school entity shall disclose the following:

25 (1) For gifts received from or contracts entered into with a
26 foreign source other than a foreign government, the amount,
27 the date, and a description of the conditions or restrictions.
28 The report shall also disclose the country of citizenship, or if
29 unknown, the principal residence for a foreign source who is
30 a natural person, and the country of incorporation, or if
31 unknown, the principal place of business for a foreign source
32 that is a legal entity. An electronic copy of any agreements or
33 documents relative to the gifts or contracts shall also be
34 included in the disclosure.

35 (2) For gifts received from or contracts entered into with a
36 foreign government, the amount, the date, a description of the
37 conditions or restrictions, and the name of the foreign
38 government. An electronic copy of any agreements or
39 documents relative to the gifts or contracts shall also be
40 included in the disclosure.

41 (3) In the case of a school entity that is owned or controlled by
42 a foreign source, information required under subsection (b)(1)



1 and the identity of the foreign source, the date on which the
 2 foreign source assumed ownership or control, and any
 3 changes in programs or structure resulting from the change
 4 in ownership or control.

5 **Sec. 4. All disclosure reports required by this chapter are public**
 6 **records that may be inspected and copied under IC 5-14-3.**

7 **Sec. 5. (a) If it appears that a school entity has failed to comply**
 8 **with the requirements of this chapter, including any rule adopted**
 9 **under section 7 of this chapter, a civil action may be brought by the**
 10 **attorney general or at the request of:**

- 11 (1) a member of the general assembly;
 12 (2) the governor;
 13 (3) a member of the commission for higher education;
 14 (4) a member of the state board; or
 15 (5) an Indiana taxpayer;

16 **in a circuit or superior court to request the court to compel**
 17 **compliance with the requirements of this chapter.**

18 (b) **A school entity shall pay to the attorney general the full costs**
 19 **to the state of obtaining compliance, including all associated costs**
 20 **of investigation and enforcement if the school entity is found to**
 21 **have knowingly or willingly failed to comply with the requirements**
 22 **of this chapter, including any rule or regulation promulgated**
 23 **thereunder.**

24 **Sec. 6. The provisions of this chapter are severable in the**
 25 **manner provided in IC 1-1-1-8(b).**

26 **Sec. 7. The attorney general may adopt rules under IC 4-22-2 to**
 27 **carry out this chapter.**

28 SECTION 2. IC 21-49 IS ADDED TO THE INDIANA CODE AS
 29 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 30 2022]:

31 **ARTICLE 49. POSTSECONDARY EDUCATIONAL**
 32 **INSTITUTION TRANSPARENCY**

33 **Chapter 1. Disclosures by Postsecondary Educational**
 34 **Institutions of Foreign Gifts and Contracts**

35 **Sec. 1. The following definitions apply throughout this chapter:**

- 36 (1) **"Contract"** means any agreement for the acquisition by
 37 purchase, lease, or barter of property or services by the
 38 foreign source, for the direct benefit or use of either of the
 39 parties.
 40 (2) **"Foreign source"** means:
 41 (A) **a foreign government, including an agency of a foreign**
 42 **government;**



- 1 (B) a legal entity, governmental or otherwise, created
 2 solely under the laws of a foreign state or states;
 3 (C) an individual who is not a citizen or a national of the
 4 United States or a trust territory or protectorate thereof;
 5 or
 6 (D) an agent, including a subsidiary or affiliate of a foreign
 7 legal entity, acting on behalf of a foreign source.
- 8 (3) "Gift" means money or property provided without
 9 payment in return.
- 10 (4) "Institution" means any institution, public or private, or,
 11 if a multicampus institution, any single campus of the
 12 institution, in Indiana that:
- 13 (A) is legally authorized within Indiana to provide a
 14 program of education for a postsecondary school;
 15 (B) is accredited by a nationally recognized accrediting
 16 agency or association and to which institution state
 17 financial assistance is extended (directly or indirectly
 18 through another entity or person), or which the institution
 19 receives support from the extension of state financial
 20 assistance to any of the institution's subunits; or
 21 (C) is an institutionally related:
- 22 (i) foundation;
 23 (ii) alumni association;
 24 (iii) real estate foundation;
 25 (iv) university hospital or health center;
 26 (v) athletic foundation or club; or
 27 (vi) research organization.
- 28 (5) "Restricted or conditional gift or contract" means any
 29 endowment, gift, grant, contract, award, present, or property
 30 of any kind that includes provisions:
- 31 (A) regarding the employment, assignment, or termination
 32 of faculty or staff;
 33 (B) regarding the establishment of departments, centers,
 34 research or lecture programs, or new faculty positions;
 35 (C) that influence or direct the materials, activities, or
 36 curriculum used in a course or program of study;
 37 (D) regarding the selection or admission of students; or
 38 (E) regarding the award of grants, loans, scholarships,
 39 fellowships, or other forms of financial aid restricted to
 40 students of a specified country, religion, sex, ethnic origin,
 41 or political opinion.
- 42 Sec. 2. (a) Whenever any institution is owned or controlled by



1 a foreign source or receives a gift from or enters into a contract
 2 with a foreign source, the value of which is fifty thousand dollars
 3 (\$50,000) or more, considered alone or in combination with all
 4 other gifts from or contracts with that foreign source within a
 5 calendar year, the institution shall file a disclosure report with the
 6 auditor of state and the attorney general in a manner prescribed
 7 by the auditor of state and the attorney general. If an institution is
 8 required to file a disclosure report under this subsection, the
 9 disclosure report must be filed not later than:

10 (1) January 3; or

11 (2) July 31;

12 that next follows the date in which the school entity receives a gift
 13 that requires the filing of a disclosure report.

14 (b) Each report to the auditor of state and attorney general
 15 required by this section shall contain the following:

16 (1) For each gift received from or contract entered into with
 17 a foreign source other than a foreign government, the report
 18 shall disclose:

19 (A) the name and primary address of the foreign source;

20 (B) the total amount, the date, and a description of any
 21 conditions or restrictions for each grant or contract;

22 (C) the country of citizenship, or if unknown, the principal
 23 residence for a foreign source who is a natural person, and
 24 the country of incorporation, or if unknown, the principal
 25 place of business for a foreign source that is a legal entity;
 26 and

27 (D) the aggregate amounts of such gifts and contracts
 28 attributable to a particular country.

29 (2) For gifts received from or contracts entered into with a
 30 foreign government, the amount, the date, a description of the
 31 conditions or restrictions for each grant of gift, and the name
 32 of the foreign government, government agency, and any
 33 individual signatories to any contracts or agreements signed.

34 (c) Notwithstanding subsection (b), whenever any institution
 35 receives a restricted or conditional gift or contract from a foreign
 36 source, the institution shall disclose the following:

37 (1) For gifts received from or contracts entered into with a
 38 foreign source other than a foreign government, the amount,
 39 the date, and a description of the conditions or restrictions.
 40 The report shall also disclose the country of citizenship, or if
 41 unknown, the principal residence for a foreign source who is
 42 a natural person, and the country of incorporation, or if



1 unknown, the principal place of business for a foreign source
 2 that is a legal entity. An electronic copy of any agreements or
 3 documents relative to the gifts or contracts shall also be
 4 included in the disclosure.

5 (2) For gifts received from or contracts entered into with a
 6 foreign government, the amount, the date, a description of the
 7 conditions or restrictions, and the name of the foreign
 8 government. An electronic copy of any agreements or
 9 documents relative to the gifts or contracts shall also be
 10 included in the disclosure.

11 (3) In the case of an institution that is owned or controlled by
 12 a foreign source, information required under subsection (b)(1)
 13 and the identity of the foreign source, the date on which the
 14 foreign source assumed ownership or control, and any
 15 changes in program or structure resulting from the change in
 16 ownership or control.

17 **Sec. 3.** All disclosure reports required by this chapter are public
 18 records that may be inspected and copied under IC 5-14-3.

19 **Sec. 4. (a)** If it appears that an institution has failed to comply
 20 with the requirements of this chapter, including any rule adopted
 21 under section 6 of this chapter, a civil action may be brought by the
 22 attorney general or at the request of:

- 23 (1) a member of the general assembly;
- 24 (2) the governor;
- 25 (3) a member of the commission;
- 26 (4) a member of the state board of education; or
- 27 (5) an Indiana taxpayer;

28 in a circuit or superior court to request such court to compel
 29 compliance with the requirements of this chapter.

30 (b) An institution shall pay to the attorney general the full costs
 31 to the state of obtaining compliance, including all associated costs
 32 of investigation and enforcement if the institution is found to have
 33 knowingly or willingly failed to comply with the requirements of
 34 this chapter, including any rule or regulation promulgated
 35 thereunder.

36 **Sec. 5.** The provisions of this chapter are severable in the
 37 manner provided in IC 1-1-1-8(b).

38 **Sec. 6.** The attorney general may adopt rules under IC 4-22-2 to
 39 carry out this chapter.

