



February 21, 2022

ENGROSSED
SENATE BILL No. 388

DIGEST OF SB 388 (Updated February 21, 2022 12:05 pm - DI 116)

Citations Affected: IC 21-49; IC 32-22.

Synopsis: Foreign gifts and ownership of agricultural land. Requires a postsecondary educational institution (institution) shall submit a disclosure report to the commission for higher education (commission) of all gifts from a foreign source. Provides that the commission shall certain information for each institution on the commission's Internet web site. Provides that whenever it appears that an 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
(Continued next page)

Effective: July 1, 2022.

**Messmer, Tomes, Leising, Raatz,
Koch, Alting, Doriot, Garten, Kruse**
(HOUSE SPONSORS — LINDAUER, MOED)

January 11, 2022, read first time and referred to Committee on Agriculture.

January 20, 2022, reported favorably — Do Pass.

January 27, 2022, read second time, amended, ordered engrossed.

January 28, 2022, engrossed.

February 1, 2022, read third time, passed. Yeas 47, nays 2.

HOUSE ACTION

February 8, 2022, read first time and referred to Committee on Agriculture and Rural Development.

February 14, 2022, amended, reported — Do Pass.

February 15, 2022, referred to Committee on Education pursuant to Rule 84.

February 21, 2022, amended, reported — Do Pass.

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Digest Continued

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. Provides that beginning July 1, 2022, a foreign business entity may not acquire agricultural land located within Indiana for the purposes of farming. Specifies exceptions. Prohibits a foreign business entity that owns agricultural land located within Indiana from transferring the agricultural land to another foreign business entity after June 30, 2022. Requires a foreign business entity to report the acquisition, sale, or transfer of agricultural land located within Indiana to the secretary of state. Provides that agricultural land acquired, sold, or transferred in violation of law is subject to forfeiture to the state.



February 21, 2022

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.

ENGROSSED SENATE BILL No. 388

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

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

1 SECTION 1. IC 21-49 IS ADDED TO THE INDIANA CODE AS
2 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2022]:
4 **ARTICLE 49. POSTSECONDARY EDUCATIONAL**
5 **INSTITUTION TRANSPARENCY**
6 **Chapter 1. Disclosures by Postsecondary Educational**
7 **Institutions of Foreign Gifts and Contracts**
8 **Sec. 1. (a) Each institution (as defined in 20 U.S.C. 1011f(h)(4))**
9 **shall submit a disclosure report that includes information required**
10 **to be reported in a disclosure report described in 20 U.S.C. 1011f**
11 **to the commission, in a manner prescribed by the commission, if**
12 **the institution (as defined in 20 U.S.C. 1011f(h)(4)) receives a gift**
13 **from a foreign source described in 20 U.S.C. 1011f(b), regardless**
14 **of the amount of the gift.**
15 **(b) The commission shall post information described in 20**
16 **U.S.C. 1011f(b) and 20 U.S.C. 1011(c)(2) on the commission's**
17 **Internet web site. However, nothing in this subsection may be**

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1 construed to authorize the commission to post information that
2 identifies an individual donor.

3 Sec. 2. (a) The commission shall send copies of all reports
4 described in section 1 of this chapter to the attorney general, in a
5 manner prescribed by the attorney general.

6 (b) If it appears that an institution (as defined in 20 U.S.C.
7 1011f(h)(4)) has failed to comply with the requirements of this
8 chapter, a civil action may be brought by the attorney general or
9 at the request of:

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

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

17 (c) An institution (as defined in 20 U.S.C. 1011f(h)(4)) shall pay
18 to the attorney general the full costs to the state of obtaining
19 compliance, including all associated costs of investigation and
20 enforcement if the institution (as defined in 20 U.S.C. 1011f(h)(4))
21 is found to have knowingly or willingly failed to comply with the
22 requirements of this chapter.

23 SECTION 2. IC 32-22-3 IS ADDED TO THE INDIANA CODE AS
24 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
25 1, 2022]:

26 **Chapter 3. Rights of a Foreign Business Entity to Hold and**
27 **Convey Agricultural Land**

28 Sec. 0.5. (a) The prohibition on ownership of agricultural land
29 established by this chapter does not apply to the following:

- 30 (1) Agricultural land that is used for research or experimental
31 purposes, including testing, developing, or producing seeds or
32 plants for sale or resale to farmers as seed stock.
- 33 (2) The acquisition by a foreign business entity of agricultural
34 land or an interest in agricultural land that is located within
35 Indiana and that is not more than three hundred twenty (320)
36 acres.
- 37 (3) As used in this subdivision, "confined feeding operation"
38 has the meaning set forth in IC 13-11-2-40. The acquisition by
39 a foreign business entity of a confined feeding operation or
40 agricultural land on which to construct a confined feeding
41 operation.

42 (b) This chapter does not affect the ability of a foreign business



1 entity to hold or acquire by grant, purchase, devise, descent, or
2 otherwise agricultural land in such acreage as may be necessary to
3 its business operations for purposes other than farming.

4 Sec. 1. As used in this chapter, "agricultural land" means land
5 for use in farming.

6 Sec. 2. (a) As used in this chapter, "foreign business entity"
7 means:

8 (1) a corporation, professional corporation, nonprofit
9 corporation, limited liability company, partnership, or limited
10 partnership that is organized under the laws of another
11 country; or

12 (2) the equivalent of any entity described in subdivision (1).

13 (b) The term includes an agent, trustee, or fiduciary of the
14 foreign business entity.

15 Sec. 3. (a) Except as provided in section 0.5 of this chapter, after
16 June 30, 2022, a foreign business entity may not acquire by grant,
17 purchase, devise, descent, or otherwise any agricultural land
18 located within Indiana for the purposes of farming.

19 (b) Except as provided in section 0.5 of this chapter, a foreign
20 business entity that acquired agricultural land located within
21 Indiana before July 1, 2022, may not grant, sell, or otherwise
22 transfer the agricultural land to any other foreign business entity
23 after June 30, 2022.

24 Sec. 4. In the case of agricultural land for which development of
25 the agricultural land for a purpose other than farming is pending,
26 the agricultural land may be leased to a person who is not subject
27 to this chapter for farming.

28 Sec. 5. (a) A foreign business entity that acquires, sells, or
29 transfers agricultural land located within Indiana for the purposes
30 of farming after June 30, 2022, must report the acquisition, sale, or
31 transfer to the secretary of state not later than thirty (30) days
32 after the acquisition, sale, or transfer of the agricultural land is
33 finalized. The report must be made in the form and manner
34 prescribed by the secretary of state. The secretary of state shall
35 report an acquisition, sale, or transfer of agricultural land that
36 violates section 3 of this chapter to the attorney general.

37 (b) All agricultural land acquired, sold, or transferred in
38 violation of section 3 of this chapter is subject to forfeiture to the
39 state. The attorney general shall enforce a forfeiture under this
40 subsection.



COMMITTEE REPORT

Madam President: The Senate Committee on Agriculture, to which was referred Senate Bill No. 388, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 388 as introduced.)

LEISING, Chairperson

Committee Vote: Yeas 8, Nays 1

 SENATE MOTION

Madam President: I move that Senate Bill 388 be amended to read as follows:

Page 1, between lines 5 and 6, begin a new paragraph and insert:

"Sec. 0.5. (a) The prohibition on ownership of agricultural land established by this chapter does not apply to the following:

(1) Agricultural land that is used for research or experimental purposes, including testing, developing, or producing seeds or plants for sale or resale to farmers as seed stock.

(2) The acquisition of agricultural land or an interest in agricultural land that is located within Indiana by a foreign business entity that is not more than three hundred twenty (320) acres.

(b) This chapter does not affect the ability of a foreign business entity to hold agricultural land in such acreage as may be necessary to its business operations for purposes other than farming."

Page 1, line 6, delete "refers to land".

Page 1, delete lines 7 through 12 and insert **"means land suitable for use in farming.**

Sec. 2. (a) As used in this chapter, "farming" means the cultivation of land for the production of agricultural crops.

(b) The term does not include the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing, or the production of livestock.

Sec. 3. (a) As used in this chapter, "foreign business entity" means:

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(1) a corporation, professional corporation, nonprofit corporation, limited liability company, partnership, or limited partnership that is organized under the laws of another country; or

(2) the equivalent of any entity described in subdivision (1).

(b) The term includes an agent, trustee, or fiduciary of the foreign business entity."

Page 1, line 13, delete "Sec. 3. (a) Beginning July 1, 2022," and insert "**Sec. 4. (a) After June 30, 2022,**".

Page 1, line 17, delete "on or before June 30, 2022," and insert "**before July 1, 2022,**".

Page 2, line 2, delete "on or after July 1, 2022." and insert "**after June 30, 2022.**".

Page 2, delete lines 3 through 10, begin a new paragraph and insert: "**Sec. 5. In the case of agricultural land for which development of the agricultural land for a purpose other than farming is pending, the agricultural land may be leased to a person who is not subject to this chapter for farming.**".

Page 2, line 11, delete "Sec. 4." and insert "**Sec. 6.**".

Page 2, line 12, delete "on or after July".

Page 2, line 13, delete "1, 2022," and insert "**after June 30, 2022,**".

Page 2, line 19, delete "section 3" and insert "**section 4**".

Page 2, line 21, delete "section 3" and insert "**section 4**".

(Reference is to SB 388 as printed January 21, 2022.)

MESSMER

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred Senate Bill 388, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

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

ARTICLE 49. POSTSECONDARY EDUCATIONAL INSTITUTION TRANSPARENCY

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

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

(1) "Contract" means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties.

(2) "Foreign source" means:

(A) a foreign government, including an agency of a foreign government;

(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

(C) an individual who is not a citizen or national of the United States or a trust territory or protectorate thereof; or

(D) an agent, including a subsidiary or an affiliate of a foreign legal entity, acting on behalf of a foreign source.

(3) "Gift" means money or property provided without payment in return.

(4) "Institution" means any institution, public or private, or, if a multicampus institution, any single campus of the institution, in Indiana that:

(A) is legally authorized within Indiana to provide a program of education for a postsecondary school;

(B) is accredited by a nationally recognized accrediting agency or association and to which institution state financial assistance is extended (directly or indirectly through another entity or person), or which the institution receives support from the extension of state financial assistance to any of the institution's subunits; or

(C) is an institutionally related:

(i) foundation;

(ii) alumni association;

(iii) real estate foundation;

(iv) university hospital or health center;

(v) athletic foundation or club; or

(vi) research organization.

(5) "Restricted or conditional gift or contract" means any endowment, gift, grant, contract, award, present, or property of any kind that includes provisions:

(A) regarding the employment, assignment, or termination of faculty or staff;



- (B) regarding the establishment of departments, centers, research or lecture programs, or new faculty positions;
- (C) that influence or direct any institutional policy, or the materials, activities, or curriculum used in a course or program of study;
- (D) regarding the selection or admission of students; or
- (E) regarding the awarding of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

Sec. 2. (a) Whenever any 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 two hundred and fifty thousand dollars (\$250,000) or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year, the institution shall file a disclosure report with the legislative council in an electronic format under IC 5-14-6 and the attorney general in a manner prescribed by the attorney general. If an institution is required to file a disclosure report under this subsection, the disclosure report must be filed not later than:

- (1) January 31; or
- (2) July 31;

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

(b) Each report to the legislative council and attorney general required by this section shall contain the following:

- (1) For each gift received from or contract entered into with a foreign source other than a foreign government, the report shall disclose:
 - (A) the name and primary address of the foreign source;
 - (B) the total amount, the date, and a description of any conditions or restrictions for each grant or contract;
 - (C) the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source that is a legal entity; and
 - (D) the aggregate amount of such gifts and contracts attributable to a particular country.
- (2) For gifts received from or contracts entered into with a foreign government, the amount, the date, a description of the



conditions or restrictions for each grant of gift, and the name of the foreign government, government agency, and any individual signatories to any contracts or agreements signed.

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

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

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

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

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

Sec. 4. (a) If it appears that an institution has failed to comply with the requirements of this chapter, including any rule adopted under section 6 of this chapter, 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;
- (4) a member of the state board of education; or
- (5) an Indiana taxpayer;

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

(b) An institution shall pay to the attorney general the full costs



to the state of obtaining compliance, including all associated costs of investigation and enforcement if the institution is found to have knowingly or willingly failed to comply with the requirements of this chapter, including any rule or regulation promulgated thereunder.

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

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

Page 1, delete lines 11 through 14, begin a new line block indented and insert:

"(2) The acquisition by a foreign business entity of agricultural land or an interest in agricultural land that is located within Indiana and that is not more than three hundred twenty (320) acres.

(3) As used in this subdivision "confined feeding operation" has the meaning set forth in IC 13-11-2-40. The acquisition by a foreign business entity of a confined feeding operation or agricultural land on which to construct a confined feeding operation."

Page 1, line 16, after "hold" insert "**or acquire by grant, purchase, devise, descent, or otherwise**".

Page 2, line 3, delete "suitable".

Page 2, delete lines 4 through 9.

Page 2, line 10, delete "3." and insert "**2.**".

Page 2, line 19, delete "4." and insert "**3.**".

Page 2, line 19, delete "After" and insert "**Except as provided in section 0.5 of this chapter, after**".

Page 2, line 21, delete "Indiana." and insert "**Indiana for the purposes of farming.**".

Page 2, line 22, delete "A" and insert "**Except as provided in section 0.5 of this chapter, a**".

Page 2, line 26, delete "5." and insert "**4.**".

Page 2, line 30, delete "6." and insert "**5.**".

Page 2, line 31, after "Indiana" insert "**for the purposes of farming**".

Page 2, line 37, delete "4" and insert "**3**".



Page 2, line 40, delete "4" and insert "3".
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 388 as reprinted January 28, 2022.)

LEHE

Committee Vote: yeas 12, nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred Engrossed Senate Bill 388, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:
"SECTION 1. IC 21-49 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]:

ARTICLE 49. POSTSECONDARY EDUCATIONAL INSTITUTION TRANSPARENCY

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

Sec. 1. (a) Each institution (as defined in 20 U.S.C. 1011f(h)(4)) shall submit a disclosure report that includes information required to be reported in a disclosure report described in 20 U.S.C. 1011f to the commission, in a manner prescribed by the commission, if the institution (as defined in 20 U.S.C. 1011f(h)(4)) receives a gift from a foreign source described in 20 U.S.C. 1011f(b), regardless of the amount of the gift.

(b) The commission shall post information described in 20 U.S.C. 1011f(b) and 20 U.S.C. 1011(c)(2) on the commission's Internet web site. However, nothing in this subsection may be construed to authorize the commission to post information that identifies an individual donor.

Sec. 2. (a) The commission shall send copies of all reports described in section 1 of this chapter to the attorney general, in a manner prescribed by the attorney general.

(b) If it appears that an institution (as defined in 20 U.S.C.



1011f(h)(4) has failed to comply with the requirements of this chapter, 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;**
- (4) a member of the Indiana state board of education; or**
- (5) an Indiana taxpayer;**

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

(c) An institution (as defined in 20 U.S.C. 1011f(h)(4)) shall pay to the attorney general the full costs to the state of obtaining compliance, including all associated costs of investigation and enforcement if the institution (as defined in 20 U.S.C. 1011f(h)(4)) is found to have knowingly or willingly failed to comply with the requirements of this chapter."

Delete pages 2 through 3.

Page 4, delete lines 1 through 39.

Page 5, line 12, after "subdivision" insert ",".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to ESB 388 as printed February 15, 2022.)

BEHNING

Committee Vote: yeas 7, nays 2.

