



Reprinted  
February 24, 2010

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**ENGROSSED**  
**SENATE BILL No. 396**

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DIGEST OF SB 396 (Updated February 23, 2010 7:54 pm - DI 51)

**Citations Affected:** IC 4-3; IC 4-13.6; IC 4-22; IC 5-16; IC 5-28; IC 6-1.1; IC 6-3.1; IC 8-10; IC 8-23; IC 12-7; IC 12-8; IC 22-4; IC 36-1; IC 36-7; IC 36-8; noncode.

**Synopsis:** Economic development. In making the annual calculation of the base rate for the assessment of agricultural land, requires the department of local government finance to use an adjusted six year average that eliminates the highest value determined for the six year period. Provides a job creation tax credit to small businesses that create new jobs and hire unemployed persons or veterans after December 31, 2009, and before January 1, 2013. Provides a new employer tax credit to businesses who start businesses in Indiana after December 31, 2009. Requires the Indiana economic development commission to: (1) establish the position of small business ombudsman to assist small  
(Continued next page)

**Effective:** Upon passage; January 1, 2010 (retroactive); July 1, 2010.

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**Kenley, Hershman, Stutzman, Steele,**  
**Charbonneau, Delph, Leising, Lewis,**  
**Hume, Holdman, Head, Young R**  
(HOUSE SPONSORS — GRUBB, FRIEND, RUPPEL, PEARSON)

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January 14, 2010, read first time and referred to Committee on Tax and Fiscal Policy.  
January 28, 2010, reported favorably — Do Pass.  
February 1, 2010, read second time, ordered engrossed.  
February 2, 2010, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 9, 2010, read first time and referred to Committee on Agriculture and Rural Development.  
February 18, 2010, amended, reported — Do Pass.  
February 23, 2010, read second time, amended, ordered engrossed.

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businesses with regulatory matters; (2) establish the position of incentive compliance officer, monitor compliance with the terms on which tax credits or other state incentives were granted to businesses, and initiate the recovery of the incentives from businesses that failed to comply with the terms of the incentive; (3) require that businesses receiving state incentives give priority to hiring unemployed workers; and (4) encourage collaborative efforts between higher educational institutions, businesses, and economic development commissions to train individuals for high technology jobs. Provides that certain contracts for public works projects may not be awarded to a contractor that does not: (1) employ residents of Indiana as at least 80% of the employees working on the contract; and (2) enter into subcontracts only with subcontractors that employ residents of Indiana as at least 80% of the employees working on the contract. Allows the hiring authority of a city, county, or township to give a preference in hiring for police and fire department positions to: (1) a police officer or firefighter laid off by a city; (2) a county police officer laid off by a sheriff's department; or (3) a person who was employed full-time or part-time by a township to provide fire protection and emergency services and has been laid off by the township. Establishes the helping Indiana restart employment program. Establishes the interim study committee on economic development. Authorizes an economic development project district (district) in Warrick County. Permits augmentation of the state TANF appropriation to match federal stimulus funds available for emergency funding for TANF programs. Transfers \$1,500,000 of the amount appropriated to the Indiana economic development corporation (corporation) in the current biennium from the purposes specified in the budget bill enacted in the 2009 special session to the purposes of the capital access program.

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Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

## ENGROSSED SENATE BILL No. 396

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

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

- 1 SECTION 1. IC 4-3-22-16, AS ADDED BY P.L.137-2006,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2010]: Sec. 16. (a) As used in this section, "coordinator"  
4 means the following:  
5 (1) A small business regulatory coordinator (as defined in  
6 IC 4-22-2-28.1(b)).  
7 (2) An ombudsman designated under IC 13-28-3-2.  
8 **(3) An ombudsman designated under IC 5-28-17-5.**  
9 (b) Each coordinator may review proposed legislation affecting the  
10 small businesses that are regulated by the agency or that would be  
11 regulated by the agency under proposed legislation. A coordinator may  
12 submit to the OMB written comments concerning the impact of  
13 proposed legislation on small business.  
14 (c) The OMB may review comments received under subsection (b).  
15 The OMB may amend the comments. After completing its review, the  
16 OMB shall transmit the comments to the legislative services agency for  
17 posting on the general assembly's web site. The comments submitted

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1 under this section shall be transmitted electronically in a format  
 2 suitable for posting to the general assembly's web site as determined by  
 3 the legislative services agency.

4 SECTION 2. IC 4-13.6-6-2.8 IS ADDED TO THE INDIANA  
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 6 [EFFECTIVE UPON PASSAGE]: **Sec. 2.8. (a) As used in this section,**  
 7 **"resident of Indiana" means a person who is at least eighteen (18)**  
 8 **years of age and is one (1) of the following:**

9 (1) A person who has registered a motor vehicle in Indiana.

10 (2) A person who is registered to vote in Indiana.

11 (3) A person who has a child enrolled in an elementary or a  
 12 secondary school located in Indiana.

13 (4) A person who derives more than one-half (1/2) of the  
 14 person's gross income (as defined in Section 61 of the Internal  
 15 Revenue Code) from sources in Indiana, according to the  
 16 provisions applicable to determining the source of adjusted  
 17 gross income that are set forth in IC 6-3-2-2. However, a  
 18 person who would otherwise be considered a resident of  
 19 Indiana under this subdivision is not a resident of Indiana if  
 20 a preponderance of the evidence concerning the factors set  
 21 forth in subdivisions (1) through (3) proves that the person is  
 22 not a resident of Indiana.

23 (b) Except as provided in subsection (f), a contract for a public  
 24 works project may not be awarded to a contractor who does not:

25 (1) employ residents of Indiana as at least eighty percent  
 26 (80%) of the employees who work on the contract; and

27 (2) enter into subcontracts only with subcontractors who  
 28 employ residents of Indiana as at least eighty percent (80%)  
 29 of the employees who work on the subcontract.

30 (c) Except as provided in subsection (f), before August 15 of  
 31 2011, and each year thereafter, the division shall file with the  
 32 legislative council a report for the preceding year stating:

33 (1) for each contractor awarded a contract under this  
 34 chapter; and

35 (2) for each subcontractor with which a contractor referred  
 36 to in subdivision (1) enters into a contract in connection with  
 37 a contract awarded under this chapter;

38 the percentage of the employees of the contractor or subcontractor  
 39 who work on the contract and are residents of Indiana. The report  
 40 to the legislative council must be in an electronic format under  
 41 IC 5-14-6.

42 (d) Except as provided in subsection (f), a contract awarded

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1 under this chapter for a public works project is terminated if the  
2 division determines that the contractor has failed to:

- 3 (1) employ residents of Indiana as at least eighty percent
- 4 (80%) of the employees who work on the contract; and
- 5 (2) enter into subcontracts only with subcontractors who
- 6 employ residents of Indiana as at least eighty percent (80%)
- 7 of the employees who work on the subcontract.

8 (e) Except as provided in subsection (f), a contractor or  
9 subcontractor who fails to employ residents of Indiana as at least  
10 eighty percent (80%) of the employees who work on the contract  
11 or subcontract commits a Class B infraction for each nonresident  
12 of Indiana employed in excess of the number of nonresident  
13 employees permitted by this section.

14 (f) If:

- 15 (1) a contract or subcontract subject to this section is funded
- 16 in whole or in part with federal funds; and
- 17 (2) imposing the requirements of this section would cause the
- 18 state to lose the federal funds for the contract, as determined
- 19 by the federal agency providing the funds;

20 subsections (b) through (e) do not apply.

21 (g) If an agency of the federal government makes a  
22 determination under subsection (f) that causes a contract to be  
23 exempted from the requirements of subsections (b) through (e), this  
24 section is meant to express the view of the general assembly that  
25 expanding employment opportunities for Indiana residents  
26 remains a vital part of the state's economy.

27 (h) A contract exempted from the requirements of subsections  
28 (b) through (e) may not reference the employment of Indiana  
29 residents. The division may not consider the number of  
30 employment opportunities for Indiana residents when doing any of  
31 the following with respect to a project subject to a contract that is  
32 exempted from the requirements of subsections (b) through (e):

- 33 (1) Issuing a request for proposals.
- 34 (2) Issuing a bulletin inviting bids for the contract.
- 35 (3) Prequalifying a contractor for the contract.
- 36 (4) Evaluating a bid for the contract.

37 (i) This section does not apply to contracts entered into to  
38 perform work:

- 39 (1) resulting from an emergency; or
- 40 (2) performed by an artisan or by someone in a speciality area
- 41 with limited persons able to perform the work.

42 SECTION 3. IC 4-22-2-28, AS AMENDED BY P.L.123-2006,

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1 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2010]: Sec. 28. (a) ~~As used in~~ **The following definitions**  
3 **apply throughout** this section:

4 (1) **"Ombudsman" refers to the small business ombudsman**  
5 **designated under IC 5-28-17-5.**

6 (2) "Total estimated economic impact" means the annual  
7 economic impact of a rule on all regulated persons after the rule  
8 is fully implemented under subsection (g).

9 (b) ~~The Indiana economic development corporation established by~~  
10 ~~IC 5-28-3-1:~~ **ombudsman:**

11 (1) shall review a proposed rule that:

12 (A) imposes requirements or costs on small businesses (as  
13 defined in IC 4-22-2.1-4); and

14 (B) is referred to the ~~corporation~~ **ombudsman** by an agency  
15 under IC 4-22-2.1-5(c); and

16 (2) may review a proposed rule that imposes requirements or  
17 costs on businesses other than small businesses (as defined in  
18 IC 4-22-2.1-4).

19 After conducting a review under subdivision (1) or (2), the ~~corporation~~  
20 **ombudsman** may suggest alternatives to reduce any regulatory burden  
21 that the proposed rule imposes on small businesses or other businesses.  
22 The agency that intends to adopt the proposed rule shall respond in  
23 writing to the ~~Indiana economic development corporation~~ **ombudsman**  
24 concerning the ~~corporation's~~ **ombudsman's** comments or suggested  
25 alternatives before adopting the proposed rule under section 29 of this  
26 chapter.

27 (c) Subject to subsection (f) and not later than fifty (50) days before  
28 the public hearing required by section 26 of this chapter, an agency  
29 shall submit a proposed rule to the office of management and budget  
30 for a review under subsection (d) if the agency proposing the rule  
31 determines that the rule will have a total estimated economic impact  
32 greater than five hundred thousand dollars (\$500,000) on all regulated  
33 persons. In determining the total estimated economic impact under this  
34 subsection, the agency shall consider any applicable information  
35 submitted by the regulated persons affected by the rule. To assist the  
36 office of management and budget in preparing the fiscal impact  
37 statement required by subsection (d), the agency shall submit, along  
38 with the proposed rule, the data used and assumptions made by the  
39 agency in determining the total estimated economic impact of the rule.

40 (d) Except as provided in subsection (e), before the adoption of the  
41 rule, and not more than forty-five (45) days after receiving a proposed  
42 rule under subsection (c), the office of management and budget shall

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1 prepare, using the data and assumptions provided by the agency  
 2 proposing the rule, along with any other data or information available  
 3 to the office of management and budget, a fiscal impact statement  
 4 concerning the effect that compliance with the proposed rule will have  
 5 on:

- 6 (1) the state; and
- 7 (2) all persons regulated by the proposed rule.

8 The fiscal impact statement must contain the total estimated economic  
 9 impact of the proposed rule and a determination concerning the extent  
 10 to which the proposed rule creates an unfunded mandate on a state  
 11 agency or political subdivision. The fiscal impact statement is a public  
 12 document. The office of management and budget shall make the fiscal  
 13 impact statement available to interested parties upon request. The  
 14 agency proposing the rule shall consider the fiscal impact statement as  
 15 part of the rulemaking process and shall provide the office of  
 16 management and budget with the information necessary to prepare the  
 17 fiscal impact statement, including any economic impact statement  
 18 prepared by the agency under IC 4-22-2.1-5. The office of management  
 19 and budget may also receive and consider applicable information from  
 20 the regulated persons affected by the rule in preparation of the fiscal  
 21 impact statement.

22 (e) With respect to a proposed rule subject to IC 13-14-9:

- 23 (1) the department of environmental management shall give  
 24 written notice to the office of management and budget of the  
 25 proposed date of preliminary adoption of the proposed rule not  
 26 less than sixty-six (66) days before that date; and
- 27 (2) the office of management and budget shall prepare the fiscal  
 28 impact statement referred to in subsection (d) not later than  
 29 twenty-one (21) days before the proposed date of preliminary  
 30 adoption of the proposed rule.

31 (f) In determining whether a proposed rule has a total estimated  
 32 economic impact greater than five hundred thousand dollars  
 33 (\$500,000), the agency proposing the rule shall consider the impact of  
 34 the rule on any regulated person that already complies with the  
 35 standards imposed by the rule on a voluntary basis.

36 (g) For purposes of this section, a rule is fully implemented after:

- 37 (1) the conclusion of any phase-in period during which:
  - 38 (A) the rule is gradually made to apply to certain regulated  
 39 persons; or
  - 40 (B) the costs of the rule are gradually implemented; and
- 41 (2) the rule applies to all regulated persons that will be affected  
 42 by the rule.

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1 In determining the total estimated economic impact of a proposed rule  
2 under this section, the agency proposing the rule shall consider the  
3 annual economic impact on all regulated persons beginning with the  
4 first twelve (12) month period after the rule is fully implemented. The  
5 agency may use actual or forecasted data and may consider the actual  
6 and anticipated effects of inflation and deflation. The agency shall  
7 describe any assumptions made and any data used in determining the  
8 total estimated economic impact of a rule under this section.

9 SECTION 4. IC 4-22-2-28.1, AS AMENDED BY P.L.123-2006,  
10 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2010]: Sec. 28.1. (a) This section applies to the following:

12 (1) A rule for which the notice required by section 23 of this  
13 chapter or by IC 13-14-9-3 is published by an agency or by any of  
14 the boards (as defined in IC 13-11-2-18).

15 (2) A rule for which:  
16 (A) the notice required by IC 13-14-9-3; or  
17 (B) an appropriate later notice for circumstances described in  
18 subsection (g);  
19 is published by the department of environmental management  
20 after June 30, 2006.

21 (b) As used in this section, "coordinator" refers to the small business  
22 regulatory coordinator assigned to a rule by an agency under subsection  
23 (e).

24 (c) As used in this section, "director" refers to the director or other  
25 administrative head of an agency.

26 (d) As used in this section, "small business" ~~means any person, firm,~~  
27 ~~corporation, limited liability company, partnership, or association that:~~  
28 ~~(1) is actively engaged in business in Indiana and maintains its~~  
29 ~~principal place of business in Indiana;~~  
30 ~~(2) is independently owned and operated;~~  
31 ~~(3) employs not more than one hundred (100) full-time~~  
32 ~~employees; and~~  
33 ~~(4) has gross annual receipts of not more than five million dollars~~  
34 ~~(\$5,000,000); has the meaning set forth in IC 5-28-2-6.~~

35 (e) For each rulemaking action and rule finally adopted as a result  
36 of a rulemaking action by an agency under this chapter, the agency  
37 shall assign one (1) staff person to serve as the agency's small business  
38 regulatory coordinator with respect to the proposed or adopted rule.  
39 The agency shall assign a staff person to a rule under this subsection  
40 based on the person's knowledge of, or experience with, the subject  
41 matter of the rule. A staff person may serve as the coordinator for more  
42 than one (1) rule proposed or adopted by the agency if the person is

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1 qualified by knowledge or experience with respect to each rule. Subject  
2 to subsection (f):

3 (1) in the case of a proposed rule, the notice of intent to adopt the  
4 rule published under section 23 of this chapter; or

5 (2) in the case of a rule proposed by the department of  
6 environmental management or any of the boards (as defined in  
7 IC 13-11-2-18), the notice published under IC 13-14-9-3 or the  
8 findings published under IC 13-14-9-8(b)(1), whichever applies;  
9 must include the name, address, telephone number, and electronic mail  
10 address of the small business coordinator for the proposed rule, **the**  
11 **name, address, telephone number, and electronic mail address of**  
12 **the small business ombudsman designated under IC 5-28-17-5, and**  
13 **a statement of the resources available to regulated entities through**  
14 **the small business ombudsman designated under IC 5-28-17-5.**  
15 Subject to subsection (f), in the case of a rule finally adopted, the final  
16 rule, as published in the Indiana Register, must include the name,  
17 address, telephone number, and electronic mail address of the  
18 coordinator.

19 (f) This subsection applies to a rule adopted by the department of  
20 environmental management or any of the boards (as defined in  
21 IC 13-11-2-18) under IC 13-14-9. Subject to subsection (g), the  
22 department shall include in the notice provided under IC 13-14-9-3 or  
23 in the findings published under IC 13-14-9-8(b)(1), whichever applies,  
24 and in the publication of the final rule in the Indiana Register:

25 (1) a statement of the resources available to regulated entities  
26 through the technical and compliance assistance program  
27 established under IC 13-28-3

28 (2) the name, address, telephone number, and electronic mail  
29 address of the ombudsman designated under IC 13-28-3-2;

30 (3) if applicable, a statement of:

31 (A) the resources available to small businesses through the  
32 small business stationary source technical assistance program  
33 established under IC 13-28-5; and

34 (B) the name, address, telephone number, and electronic mail  
35 address of the ombudsman for small business designated under  
36 IC 13-28-5-2(3); and

37 (4) the information required by subsection (e).

38 The coordinator assigned to the rule under subsection (e) shall work  
39 with the ombudsman described in subdivision (2) and the office of  
40 voluntary compliance established by IC 13-28-1-1 to coordinate the  
41 provision of services required under subsection (h) and IC 13-28-3. If  
42 applicable, the coordinator assigned to the rule under subsection (e)

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1 shall work with the ombudsman referred to in subdivision (3)(B) to  
2 coordinate the provision of services required under subsection (h) and  
3 IC 13-28-5.

4 (g) If the notice provided under IC 13-14-9-3 is not published as  
5 allowed by IC 13-14-9-7, the department of environmental  
6 management shall publish in the notice provided under IC 13-14-9-4  
7 the information that subsection (f) would otherwise require to be  
8 published in the notice under IC 13-14-9-3. If neither the notice under  
9 IC 13-14-9-3 nor the notice under IC 13-14-9-4 is published as allowed  
10 by IC 13-14-9-8, the department of environmental management shall  
11 publish in the commissioner's written findings under IC 13-14-9-8(b)  
12 the information that subsection (f) would otherwise require to be  
13 published in the notice under IC 13-14-9-3.

14 (h) The coordinator assigned to a rule under subsection (e) shall  
15 serve as a liaison between the agency and any small business subject  
16 to regulation under the rule. The coordinator shall provide guidance to  
17 small businesses affected by the rule on the following:

18 (1) Any requirements imposed by the rule, including any  
19 reporting, record keeping, or accounting requirements.

20 (2) How the agency determines or measures compliance with the  
21 rule, including any deadlines for action by regulated entities.

22 (3) Any penalties, sanctions, or fines imposed for noncompliance  
23 with the rule.

24 (4) Any other concerns of small businesses with respect to the  
25 rule, including the agency's application or enforcement of the rule  
26 in particular situations. However, in the case of a rule adopted  
27 under IC 13-14-9, the coordinator assigned to the rule may refer  
28 a small business with concerns about the application or  
29 enforcement of the rule in a particular situation to the ombudsman  
30 designated under IC 13-28-3-2 or, if applicable, under  
31 IC 13-28-5-2(3).

32 (i) The coordinator assigned to a rule under subsection (e) shall  
33 provide guidance under this section in response to questions and  
34 concerns expressed by small businesses affected by the rule. The  
35 coordinator may also issue general guidelines or informational  
36 pamphlets to assist small businesses in complying with the rule. Any  
37 guidelines or informational pamphlets issued under this subsection  
38 shall be made available:

39 (1) for public inspection and copying at the offices of the agency  
40 under IC 5-14-3; and

41 (2) electronically through electronic gateway access.

42 (j) The coordinator assigned to a rule under subsection (e) shall

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1 keep a record of all comments, questions, and complaints received  
 2 from small businesses with respect to the rule. The coordinator shall  
 3 deliver the record, along with any accompanying documents submitted  
 4 by small businesses, to the director:

- 5 (1) not later than ten (10) days after the date on which the rule is  
 6 submitted to the publisher under section 35 of this chapter; and  
 7 (2) before July 15 of each year during which the rule remains in  
 8 effect.

9 The coordinator and the director shall keep confidential any  
 10 information concerning a small business to the extent that the  
 11 information is exempt from public disclosure under IC 5-14-3-4.

12 (k) Not later than November 1 of each year, the director shall:

- 13 (1) compile the records received from all of the agency's  
 14 coordinators under subsection (j);  
 15 (2) prepare a report that sets forth:  
 16 (A) the number of comments, complaints, and questions  
 17 received by the agency from small businesses during the most  
 18 recent state fiscal year, categorized by the subject matter of the  
 19 rules involved;  
 20 (B) the number of complaints or questions reported under  
 21 clause (A) that were resolved to the satisfaction of the agency  
 22 and the small businesses involved;  
 23 (C) the total number of staff serving as coordinators under this  
 24 section during the most recent state fiscal year;  
 25 (D) the agency's costs in complying with this section during  
 26 the most recent state fiscal year; and  
 27 (E) the projected budget required by the agency to comply  
 28 with this section during the current state fiscal year; and  
 29 (3) deliver the report to the legislative council in an electronic  
 30 format under IC 5-14-6 and to the ~~Indiana economic development~~  
 31 ~~corporation established~~ **small business ombudsman designated**  
 32 ~~by IC 5-28-3.~~ **IC 5-28-17-5.**

33 SECTION 5. IC 4-22-2.1-4, AS ADDED BY P.L.188-2005,  
 34 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2010]: Sec. 4. As used in this chapter, "small business" ~~means~~  
 36 ~~any person, firm, corporation, limited liability company, partnership,~~  
 37 ~~or association that:~~

- 38 (1) ~~is actively engaged in business in Indiana and maintains its~~  
 39 ~~principal place of business in Indiana;~~  
 40 (2) ~~is independently owned and operated;~~  
 41 (3) ~~employs one hundred (100) or fewer full-time employees; and~~  
 42 (4) ~~has gross annual receipts of five million dollars (\$5,000,000)~~

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~~or less.~~ **has the meaning set forth in IC 5-28-2-6.**  
SECTION 6. IC 4-22-2.1-5, AS AMENDED BY P.L.123-2006,  
SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
JULY 1, 2010]: Sec. 5. (a) If an agency intends to adopt a rule under  
IC 4-22-2 that will impose requirements or costs on small businesses,  
the agency shall prepare a statement that describes the annual  
economic impact of a rule on all small businesses after the rule is fully  
implemented as described in subsection (b). The statement required by  
this section must include the following:

(1) An estimate of the number of small businesses, classified by  
industry sector, that will be subject to the proposed rule.

(2) An estimate of the average annual reporting, record keeping,  
and other administrative costs that small businesses will incur to  
comply with the proposed rule.

(3) An estimate of the total annual economic impact that  
compliance with the proposed rule will have on all small  
businesses subject to the rule. The agency is not required to  
submit the proposed rule to the office of management and budget  
for a fiscal analysis under IC 4-22-2-28 unless the estimated  
economic impact of the rule is greater than five hundred thousand  
dollars (\$500,000) on all regulated entities, as set forth in  
IC 4-22-2-28.

(4) A statement justifying any requirement or cost that is:

(A) imposed on small businesses by the rule; and

(B) not expressly required by:

(i) the statute authorizing the agency to adopt the rule; or

(ii) any other state or federal law.

The statement required by this subdivision must include a  
reference to any data, studies, or analyses relied upon by the  
agency in determining that the imposition of the requirement or  
cost is necessary.

(5) A regulatory flexibility analysis that considers any less  
intrusive or less costly alternative methods of achieving the  
purpose of the proposed rule. The analysis under this subdivision  
must consider the following methods of minimizing the economic  
impact of the proposed rule on small businesses:

(A) The establishment of less stringent compliance or  
reporting requirements for small businesses.

(B) The establishment of less stringent schedules or deadlines  
for compliance or reporting requirements for small businesses.

(C) The consolidation or simplification of compliance or  
reporting requirements for small businesses.

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1 (D) The establishment of performance standards for small  
2 businesses instead of design or operational standards imposed  
3 on other regulated entities by the rule.

4 (E) The exemption of small businesses from part or all of the  
5 requirements or costs imposed by the rule.

6 If the agency has made a preliminary determination not to  
7 implement one (1) or more of the alternative methods considered,  
8 the agency shall include a statement explaining the agency's  
9 reasons for the determination, including a reference to any data,  
10 studies, or analyses relied upon by the agency in making the  
11 determination.

12 (b) For purposes of subsection (a), a proposed rule will be fully  
13 implemented with respect to small businesses after:

- 14 (1) the conclusion of any phase-in period during which:
  - 15 (A) the rule is gradually made to apply to small businesses or
  - 16 certain types of small businesses; or
  - 17 (B) the costs of the rule are gradually implemented; and
- 18 (2) the rule applies to all small businesses that will be affected by  
19 the rule.

20 In determining the total annual economic impact of the rule under  
21 subsection (a)(3), the agency shall consider the annual economic  
22 impact on all small businesses beginning with the first twelve (12)  
23 month period after the rule is fully implemented. The agency may use  
24 actual or forecasted data and may consider the actual and anticipated  
25 effects of inflation and deflation. The agency shall describe any  
26 assumptions made and any data used in determining the total annual  
27 economic impact of a rule under subsection (a)(3).

- 28 (c) The agency shall:
  - 29 (1) publish the statement required under subsection (a) in the
  - 30 Indiana Register as required by IC 4-22-2-24; and
  - 31 (2) deliver a copy of the statement, along with the proposed rule,
  - 32 to the ~~Indiana economic development corporation~~ **small business**
  - 33 **ombudsman designated under IC 5-28-17-5** not later than the
  - 34 date of publication under subdivision (1).

35 SECTION 7. IC 5-16-1-7.5 IS ADDED TO THE INDIANA CODE  
36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
37 UPON PASSAGE]: **Sec. 7.5. (a) As used in this section, "resident of**  
38 **Indiana" means a person who is at least eighteen (18) years of age**  
39 **and is one (1) of the following:**

- 40 (1) **A person who has registered a motor vehicle in Indiana.**
- 41 (2) **A person who is registered to vote in Indiana.**
- 42 (3) **A person who has a child enrolled in an elementary or a**

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secondary school located in Indiana.

(4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

(b) Except as provided in subsection (f), a contract for a public works project under this chapter may not be awarded to a contractor who does not:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and
- (2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(c) Except as provided in subsection (f), before August 15 of 2011, and each year thereafter, any state agency entering into contracts under this chapter shall file with the legislative council a report stating:

- (1) for each contractor awarded a contract under this chapter; and
- (2) for each subcontractor with which a contractor referred to in subdivision (1) enters into a contract in connection with a contract awarded under this chapter;

the percentage of the employees of the contractor or subcontractor who work on the contract and are residents of Indiana. The report to the legislative council must be in an electronic format under IC 5-14-6.

(d) Except as provided in subsection (f), a contract awarded under this chapter for a public works project is terminated if the state or commission determines that the contractor has failed to:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and
- (2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(e) Except as provided in subsection (f), a contractor or subcontractor who fails to employ residents of Indiana as at least

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1 **eighty percent (80%) of the employees who work on the contract**  
2 **or subcontract commits a Class B infraction for each nonresident**  
3 **of Indiana employed in excess of the number of nonresident**  
4 **employees permitted by this section.**

5 **(f) If:**

6 **(1) a contract or subcontract subject to this section is funded**  
7 **in whole or in part with federal funds; and**

8 **(2) imposing the requirements of this section would cause the**  
9 **state to lose the federal funds for the contract, as determined**  
10 **by the federal agency providing the funds;**

11 **subsections (b) through (e) do not apply.**

12 **(g) If an agency of the federal government makes a**  
13 **determination under subsection (f) that causes a contract to be**  
14 **exempted from the requirements of subsections (b) through (e), this**  
15 **section is meant to express the view of the general assembly that**  
16 **expanding employment opportunities for Indiana residents**  
17 **remains a vital part of the state's economy.**

18 **(h) A contract exempted from the requirements of subsections**  
19 **(b) through (e) may not reference the employment of Indiana**  
20 **residents. The state or a commission may not consider the number**  
21 **of employment opportunities for Indiana residents when doing any**  
22 **of the following with respect to a project subject to a contract that**  
23 **is exempted from the requirements of subsections (b) through (e):**

- 24 **(1) Issuing a request for proposals.**
- 25 **(2) Issuing a bulletin inviting bids for the contract.**
- 26 **(3) Prequalifying a contractor for the contract.**
- 27 **(4) Evaluating a bid for the contract.**

28 **(i) This section does not apply to contracts entered into to**  
29 **perform work:**

- 30 **(1) resulting from an emergency; or**
- 31 **(2) performed by an artisan or by someone in a speciality area**  
32 **with limited persons able to perform the work.**

33 **SECTION 8. IC 5-28-1-1, AS ADDED BY P.L.4-2005, SECTION**  
34 **34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON**  
35 **PASSAGE]: Sec. 1. (a) It is the intent of the general assembly to**  
36 **improve the quality of life for the citizens of Indiana by encouraging**  
37 **the:**

- 38 **(1) diversification of Indiana's economy and the orderly economic**  
39 **development and growth of Indiana;**
- 40 **(2) creation of new jobs;**
- 41 **(3) employment of dislocated workers from Indiana in jobs**  
42 **created by business entities receiving a job creation incentive**

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**from the state or an instrumentality of the state;**

~~(3)~~ **(4)** retention of existing jobs;

~~(4)~~ **(5)** growth and modernization of existing industry; and

~~(5)~~ **(6)** promotion of Indiana.

(b) The general assembly finds the following:

(1) Certain activities associated with the functions listed in subsection (a) may not work properly with the traditional responsibilities and activities of state agencies.

(2) The functions listed in subsection (a) can be achieved most efficiently by a body politic and corporate that:

(A) serves the interests of the state by carrying out the programs set forth in this article;

(B) is free from certain administrative restrictions that would hinder its performance; and

(C) possesses broad powers designed to maximize the state's economic development efforts.

(3) The corporation established by this article will:

(A) lead the state's economic development efforts;

(B) carry out the programs under this article, including the providing of grants and loans; and

(C) perform other essential public services for the state.

(4) In return for the corporation's economic development efforts to carry out the functions listed in subsection (a), the general assembly should appropriate state funds to the corporation.

SECTION 9. IC 5-28-2-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. "Dislocated worker" has the meaning set forth in IC 22-4-41-2.**

SECTION 10. IC 5-28-2-4.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.1. "Incentive granted by the corporation" includes any benefit, grant, loan, loan guarantee, money, tax deduction, tax credit, or other thing of value referred to in:**

**(1) this article; or**

**(2) another Indiana statute that authorizes the corporation, including the board, to award or approve the award of any benefit, grant, loan, money, tax credit, or other thing of value.**

SECTION 11. IC 5-28-2-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. "Job creation incentive" means a tax credit, tax deduction, grant, loan, or loan guarantee that a statute authorizes the state or an instrumentality of the state to award or**

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1 approve for the purpose of encouraging the creation of new jobs in  
 2 Indiana. The term includes tax credits, tax deductions, grants,  
 3 loans, and loan guarantees awarded or approved under the  
 4 following:

- 5 (1) IC 4-4-5.2 (emerging technology grant fund).  
 6 (2) IC 4-10-18 (economic growth initiatives account program).  
 7 (3) IC 4-12-10 (Indiana economic development partnership  
 8 fund).  
 9 (4) IC 5-28-5-11 (economic development and job creation  
 10 programs).  
 11 (5) IC 5-28-7 (training 2000 program and fund).  
 12 (6) IC 5-28-16 (Indiana twenty-first century research and  
 13 technology fund).  
 14 (7) IC 5-28-21 (small business incubator program).  
 15 (8) IC 5-28-23 (business modernization and technology  
 16 incentives).  
 17 (9) IC 5-28-24 (investment incentive program).  
 18 (10) IC 5-28-29 (capital access program).  
 19 (11) IC 5-28-30 (industrial development loan guaranty  
 20 program).  
 21 (12) IC 5-28-31 (agricultural loan and rural development  
 22 project guarantee fund).  
 23 (13) IC 5-28-34 (green industries fund).  
 24 (14) IC 6-1.1-45 (enterprise zone investment deduction).  
 25 (15) IC 6-3-3-10 (enterprise zone increased employment  
 26 expenditures credit).  
 27 (16) IC 6-3.1-7 (enterprise zone loan interest credit).  
 28 (17) IC 6-3.1-10 (enterprise zone investment cost credit).  
 29 (18) IC 6-3.1-11.6 (military base investment cost credit).  
 30 (19) IC 6-3.1-13 (economic development for a growing  
 31 economy tax credit).  
 32 (20) IC 6-3.1-24 (venture capital investment tax credit).  
 33 (21) IC 6-3.1-26 (Hoosier business investment tax credit).  
 34 (22) IC 6-3.1-31.9 (Hoosier alternative fuel vehicle  
 35 manufacturer tax credit).  
 36 (23) IC 6-3.1-32 (media production expenditure tax credit).  
 37 (24) IC 8-1-8.8-1 (utility generation and clean coal technology  
 38 incentives).

39 SECTION 12. IC 5-28-6-4 IS ADDED TO THE INDIANA CODE  
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 41 UPON PASSAGE]: **Sec. 4. The board, the corporation, and the**  
 42 **officers and employees of the board or corporation, when**

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1 developing job creation incentive packages to locate companies in  
2 Indiana, shall give priority, in the awarding or approving of job  
3 creation incentives, to business entities that locate in a county  
4 where individuals have become dislocated workers due to a  
5 permanent closure of a plant or facility or a significant reduction  
6 in the workforce.

7 SECTION 13. IC 5-28-6-5 IS ADDED TO THE INDIANA CODE  
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
9 UPON PASSAGE]: **Sec. 5. The corporation shall employ an  
10 individual or reassign an employee to serve in a full-time position  
11 as a compliance officer whose primary duties are to determine and  
12 report to the corporation whether each person that receives:**

- 13 (1) an incentive granted by the corporation; or
  - 14 (2) a job creation incentive granted by the corporation or  
15 another agency or instrumentality of the state;
- 16 **complies with the terms and conditions of the person's incentive  
17 agreement.**

18 SECTION 14. IC 5-28-6-6 IS ADDED TO THE INDIANA CODE  
19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
20 UPON PASSAGE]: **Sec. 6. The corporation shall require an  
21 applicant for an incentive to be granted by the corporation after  
22 March 31, 2010, to enter into an agreement with the corporation  
23 as a condition of receiving the incentive. Subject to IC 5-28-28-8,  
24 the agreement must include the following requirements:**

- 25 (1) That a specific number of individuals will be employed by  
26 the applicant as of a specified date each year.
- 27 (2) That the applicant will file with the compliance officer an  
28 annual compliance report detailing the applicant's  
29 compliance, or progress toward compliance, with subdivision  
30 (1).
- 31 (3) That the applicant will pay back to the state the  
32 proportionate share of any incentive that has already been  
33 received by the applicant if the applicant is found to be  
34 employing fewer individuals than the applicant agreed to  
35 employ under subdivision (1). The amount required to be paid  
36 back is the percentage of the total incentive that equals the  
37 ratio that the deficiency in the number of individuals  
38 employed bears to the number of individuals the applicant  
39 agreed under subdivision (1) to employ.
- 40 (4) That the applicant will pay back to the state the entire  
41 incentive that has been received by the applicant if the  
42 applicant moves, closes, or transfers employment positions

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**out of Indiana.**  
**Except as provided in IC 5-28-28-8, the corporation may not provide an incentive granted by the corporation to a person that is being required to pay back any part of an incentive to the state, until the date the person has repaid the incentive to the state.**

**SECTION 15. IC 5-28-6-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The corporation shall establish a program to ensure that dislocated workers from Indiana are given first consideration for jobs created by business entities receiving a job creation incentive from the state or an instrumentality of the state. The corporation, including its board, shall condition job creation incentives awarded or approved by the corporation after March 31, 2010, on compliance with the corporation's program under this section. This requirement must be included in an agreement entered into by the recipient and the corporation, including an agreement subject to any of the following:**

- (1) IC 6-3.1-13-19 (economic development for a growing economy tax credit).**
- (2) IC 6-3.1-26-21 (Hoosier business investment tax credit).**
- (3) IC 6-3.1-31.9-18 (Hoosier alternative fuel vehicle manufacturer credit).**

**SECTION 16. IC 5-28-17-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. The board shall designate an employee in the small business division to be the small business ombudsman. The small business ombudsman serves at the pleasure of the board. The department shall provide staff support to the small business ombudsman. The small business ombudsman shall carry out the following duties:**

- (1) Work with state agencies to permit increased enforcement flexibility and the ability to grant common sense exemptions for first time offenders of state rules and policies, including, notwithstanding any other law, policies for the compromise of interest and penalties related to a listed tax (as defined in IC 6-8.1-1-1) and other taxes and fees collected or administered by a state agency.**
- (2) Work with state agencies to seek ways to consolidate forms and eliminate the duplication of paperwork, harmonize data, and coordinate due dates.**
- (3) Work with state agencies to perform cost-benefit analysis on proposed regulations and paperwork, with a concentration**

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- on small business.**
- (4) Work with state agencies to monitor any outdated, ineffective, or overly burdensome information requests from state agencies to small businesses.**
- (5) Carry out the duties under IC 4-22-2-28 and IC 4-22-2.1 to review proposed rules and participate in rulemaking actions that affect small businesses.**
- (6) Coordinate with the ombudsman designated under IC 13-28-3-2 and the office of voluntary compliance established by IC 13-28-1-1 to coordinate the provision of services required under IC 4-22-2-28.1 and IC 13-28-3.**
- (7) Prepare written and electronic information for periodic distribution to small businesses describing the small business services provided by coordinators (as defined in IC 4-3-22-16) and work with the office of technology established by IC 4-13.1-2-1 to place information concerning the availability of these services on state Internet web sites that the small business ombudsman or a state agency determines are most likely to be visited by small business owners and managers.**
- (8) Assist in training agency coordinators that will be assigned to rules under IC 4-22-2-28.1(e).**
- (9) Investigate and attempt to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.**

**State agencies shall cooperate with the small business ombudsman to carry out the purpose of this section. The department of state revenue and the department of workforce development shall establish a program to distribute the information described in subdivision (7) to small businesses that are required to file returns or information with these state agencies.**

**SECTION 17. IC 5-28-23-1, AS AMENDED BY P.L.2-2007, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The corporation shall do the following:**

- (1) Contribute to the strengthening of the economy of Indiana through the development of science and technology and to promote the modernization of Indiana businesses by supporting the transfer of science, technology, and quality improvement methods to the workplace.**
- (2) Encourage collaborative efforts between any of Indiana's postsecondary educational institutions, local economic**

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**development commissions, and businesses to customize job training programs at postsecondary educational institutions to encourage employment in high technology business operations (as defined in IC 5-28-15-1).**

(2) (3) Submit an annual report to the governor and to the general assembly (in an electronic format under IC 5-14-6) that is due on the first day of November for each year and must include detailed information on the corporation's efforts to carry out this chapter. The corporation shall conduct an annual public hearing to receive comments from interested parties regarding the report, and notice of the hearing shall be given at least fourteen (14) days before the hearing in accordance with IC 5-14-1.5-5(b).

- (b) The corporation may do the following:
  - (1) Receive money from any source, borrow money, enter into contracts, and expend money for activities appropriate to its purpose under this chapter.
  - (2) Do things necessary or incidental to carrying out the functions listed in this chapter.
  - (3) Establish a statewide business modernization network to assist Indiana businesses in identifying ways to increase productivity and market competitiveness.
  - (4) Identify scientific and technological problems and opportunities related to the economy of Indiana and formulate proposals to overcome those problems or realize those opportunities.
  - (5) Identify specific areas in which scientific research and technological investigation will contribute to the improvement of productivity of Indiana manufacturers and farmers.
  - (6) Determine specific areas in which financial investment in scientific and technological research and development from private businesses located in Indiana could be improved or increased if state resources were made available to assist in financing activities.
  - (7) Assist in establishing cooperative associations of postsecondary educational institutions in Indiana and of private enterprises to coordinate research and development programs that will, consistent with the primary educational function of the postsecondary educational institutions, aid in the creation of new jobs in Indiana.
  - (8) Assist in financing the establishment and continued development of technology intensive businesses in Indiana.
  - (9) Advise postsecondary educational institutions of the research

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- 1 needs of Indiana businesses and improve the exchange of
- 2 scientific and technological information for the mutual benefit of
- 3 postsecondary educational institutions and private businesses.
- 4 (10) Coordinate programs established by postsecondary
- 5 educational institutions to provide Indiana businesses with
- 6 scientific and technological information.
- 7 (11) Establish programs in scientific education that will support
- 8 the accelerated development of technology intensive businesses
- 9 in Indiana.
- 10 (12) Provide financial assistance through contracts, grants, and
- 11 loans to programs of scientific and technological research and
- 12 development.
- 13 (13) Determine how state educational institutions can increase
- 14 income derived from the sale or licensure of products or processes
- 15 having commercial value that are developed as a result of state
- 16 educational institution sponsored research programs.

17 SECTION 18. IC 5-28-28-1, AS ADDED BY P.L.222-2007,  
 18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 UPON PASSAGE]: Sec. 1. This chapter applies to grants, loans, and  
 20 tax credits:

- 21 (1) applied for; and
- 22 (2) awarded;
- 23 after June 30, 2007. **However, sections 8 and 9 of this chapter apply**
- 24 **to any incentive granted by the corporation before, on, or after**
- 25 **June 30, 2007.**

26 SECTION 19. IC 5-28-28-7, AS ADDED BY P.L.222-2007,  
 27 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 UPON PASSAGE]: Sec. 7. (a) If, in the course of compiling  
 29 information to complete a report required by section 5 of this chapter  
 30 **or upon the receipt of any other information concerning**  
 31 **noncompliance with the terms and conditions of an incentive**  
 32 **granted by the corporation,** the corporation determines that a  
 33 recipient of a ~~grant or loan~~ **an incentive awarded by the corporation**  
 34 has not complied with the representations that the recipient made in  
 35 obtaining the ~~grant or loan,~~ **incentive,** the corporation shall **take the**  
 36 **actions required under subsections (b) and (d).**

- 37 **(b) If the incentive is a grant or loan awarded before April 1,**
- 38 **2010, the corporation shall** determine:
  - 39 (1) whether there was good cause for the noncompliance; and
  - 40 (2) whether the recipient is in default.

41 ~~(b)~~ If in the judgment of the corporation there is not good cause for any  
 42 noncompliance discovered under subsection (a), the corporation may

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1 seek a refund or arrange other methods of reclaiming the grant or loan  
 2 from the recipient. If the corporation does seek a refund or otherwise  
 3 reclaims a grant or loan from the recipient under this section, the  
 4 amount of the refund or reclaimed part must be in proportion to the  
 5 degree of default by the recipient as determined by the corporation.

6 (c) Subsection (b) does not apply to a recipient of a grant or loan if:

- 7 (1) the grant or loan has been disbursed on a pro rata basis; and  
 8 (2) in the judgment of the corporation, the recipient's performance  
 9 in relation to the recipient's performance goals equals or exceeds  
 10 the ratio of the amount of the recipient's actual benefit from the  
 11 grant or loan to the total amount of the grant or loan originally  
 12 contemplated in the grant or loan award.

13 **(d) If the incentive granted by the corporation was awarded**  
 14 **after March 31, 2010, subject to section 8 of this chapter, the**  
 15 **corporation shall seek a refund or arrange other methods of**  
 16 **reclaiming the value of the incentive granted by the corporation**  
 17 **from the recipient. The amount of the refund or reclaimed part**  
 18 **must be in proportion to the degree of default by the recipient as**  
 19 **determined by the corporation. If the noncompliance is a failure to**  
 20 **meet a requirement related to employment levels, the amount**  
 21 **reclaimed shall be a percentage of the incentive that equals the**  
 22 **deficiency in the number of individuals employed as compared to**  
 23 **the number of individuals the recipient agreed to employ.**

24 SECTION 20. IC 5-28-28-8 IS ADDED TO THE INDIANA CODE  
 25 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE  
 26 UPON PASSAGE]: **Sec. 8. (a) As used in this section, "recapture**  
 27 **provision" means language that requires the recipient of an**  
 28 **incentive to repay some part of the incentive.**

29 **(b) The corporation may waive or modify a recapture provision**  
 30 **of this article or an agreement made with a person to whom the**  
 31 **corporation has awarded an incentive if the corporation**  
 32 **determines that the recipient of an incentive awarded by the**  
 33 **corporation has failed to meet a condition for receiving the**  
 34 **incentive because of circumstances beyond the recipient's control,**  
 35 **including:**

- 36 (1) **natural disaster;**  
 37 (2) **unforeseen industry trends;**  
 38 (3) **lack of available labor force; or**  
 39 (4) **loss of a major supplier or market.**

40 SECTION 21. IC 5-28-28-9 IS ADDED TO THE INDIANA CODE  
 41 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE  
 42 UPON PASSAGE]: **Sec. 9. Beginning in 2010, the economic**

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1 **incentives and compliance report required under section 5 of this**  
 2 **chapter must include an annual report on the effectiveness of all**  
 3 **incentives granted by the corporation. The report provisions**  
 4 **required by this section must:**

5 **(1) include a section specifying each person's compliance with**  
 6 **its incentive agreement and any incentive that had to be**  
 7 **reduced or paid back as a result of noncompliance with an**  
 8 **incentive agreement;**

9 **(2) state, for each incentive recipient, the total incentive**  
 10 **provided for each job created, computed from the date the**  
 11 **incentive is granted through June 30 of the year of the report;**  
 12 **and**

13 **(3) also be submitted to the general assembly in an electronic**  
 14 **format under IC 5-14-6.**

15 SECTION 22. IC 6-1.1-4-4.5, AS AMENDED BY P.L.136-2009,  
 16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JANUARY 1, 2010 (RETROACTIVE)]: Sec. 4.5. (a) The department  
 18 of local government finance shall adopt rules establishing a system for  
 19 annually adjusting the assessed value of real property to account for  
 20 changes in value in those years since a general reassessment of  
 21 property last took effect.

22 (b) Subject to subsection (e), the system must be applied to adjust  
 23 assessed values beginning with the 2006 assessment date and each year  
 24 thereafter that is not a year in which a reassessment becomes effective.

25 (c) The rules adopted under subsection (a) must include the  
 26 following characteristics in the system:

27 (1) Promote uniform and equal assessment of real property within  
 28 and across classifications.

29 (2) Require that assessing officials:

30 (A) reevaluate the factors that affect value;

31 (B) express the interactions of those factors mathematically;

32 (C) use mass appraisal techniques to estimate updated property  
 33 values within statistical measures of accuracy; and

34 (D) provide notice to taxpayers of an assessment increase that  
 35 results from the application of annual adjustments.

36 (3) Prescribe procedures that permit the application of the  
 37 adjustment percentages in an efficient manner by assessing  
 38 officials.

39 (d) The department of local government finance must review and  
 40 certify each annual adjustment determined under this section.

41 (e) In making the annual determination of the base rate to satisfy the  
 42 requirement for an annual adjustment under subsection ~~(a)~~, **(c) for**

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1 **current property taxes first due and payable in 2011 and**  
2 **thereafter**, the department of local government finance shall determine  
3 the base rate using the methodology reflected in Table 2-18 of Book 1,  
4 Chapter 2 of the department of local government finance's Real  
5 Property Assessment Guidelines (as in effect on January 1, 2005),  
6 except that the department shall adjust the methodology to:

- 7 (1) use a six (6) year rolling average **adjusted under subdivision**
- 8 **(2) instead of a four (4) year rolling average; and**
- 9 **(2) eliminate in the calculation of the rolling average the year**
- 10 **among the six (6) years for which the highest market value in**
- 11 **use of agricultural land is determined.**

12 (f) For assessment dates after December 31, 2009, an adjustment in  
13 the assessed value of real property under this section shall be based on  
14 the estimated true tax value of the property on the assessment date that  
15 is the basis for taxes payable on that real property.

16 SECTION 23. IC 6-3.1-33 IS ADDED TO THE INDIANA CODE  
17 AS A NEW CHAPTER TO READ AS FOLLOW [EFFECTIVE  
18 JANUARY 1, 2010 (RETROACTIVE)]:

19 **Chapter 33. Small Business Job Creation Tax Credit**

20 **Sec. 1. As used in this chapter, "base employment period" of a**  
21 **small business refers a six (6) month period beginning January 1,**  
22 **2008. However, if a small business began doing business in Indiana**  
23 **after January 1, 2008, the term refers to the initial period before**  
24 **January 1, 2010, in which the small business employed full-time**  
25 **employees in Indiana in the trade or business of the small business,**  
26 **not to exceed six (6) months.**

27 **Sec. 2. As used in this chapter, "department" refers to the**  
28 **department of state revenue or the department of insurance,**  
29 **whichever is obligated to administer the tax against which a tax**  
30 **credit is applied.**

31 **Sec. 3. As used in this chapter, "full-time employee" means an**  
32 **individual who:**

- 33 **(1) is employed for consideration for at least thirty-five (35)**
- 34 **hours each week or who renders any other standard of service**
- 35 **generally accepted by custom or specified by contract as**
- 36 **full-time employment; and**
- 37 **(2) earns income for service described in subdivision (1) that**
- 38 **is subject to withholding under IC 6-3 (before the application**
- 39 **of any earned income tax credit) in an amount that is the**
- 40 **equivalent of at least two hundred percent (200%) of the**
- 41 **federal hourly minimum wage in effect during the week of**
- 42 **employment.**

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1           **Sec. 4.** As used in this chapter, "qualified new employee" refers  
2 to a full-time employee described in section 14 of this chapter.

3           **Sec. 5.** As used in this chapter, "small business" refers to a small  
4 business (as defined in IC 5-28-2-6) that was in existence and  
5 employed full-time employees in Indiana in the trade or business  
6 of the small business before January 1, 2010.

7           **Sec. 6.** As used in this chapter, "state tax liability" means a  
8 taxpayer's total tax liability that is incurred under:

- 9           (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);  
10           (2) IC 27-1-18-2 (the insurance premiums tax); and  
11           (3) IC 6-5.5 (the financial institutions tax);

12 as computed after the application of the credits that under  
13 IC 6-3.1-1-2 are to be applied before the credit provided by this  
14 chapter.

15           **Sec. 7.** As used in this chapter, "tax credit" refers to a tax credit  
16 granted by this chapter against state tax liability.

17           **Sec. 8.** As used in this chapter, "taxpayer" means an individual  
18 or entity that has state tax liability.

19           **Sec. 9. (a)** This section applies only to taxable years beginning  
20 after December 31, 2009, and before January 1, 2013.

21           **(b)** Subject to this chapter, a small business that employs a  
22 qualified new employee in Indiana in a taxable year is eligible for  
23 a tax credit against the state tax liability imposed against the small  
24 business for the taxable year if, on average, the small business  
25 employed a greater number of full-time employees in Indiana in  
26 the taxable year than the small business employed in Indiana, on  
27 average, in the small business's base employment period.

28           **Sec. 10.** The amount of the tax credit to which a small business  
29 is entitled in a taxable year is equal to the lesser of the following:

- 30           (1) Three thousand dollars (\$3,000) multiplied by the lesser  
31 of:

32           (A) the average number of qualified new employees that  
33 the small business employed in Indiana during the taxable  
34 year in the trade or business of the small business; or

35           (B) the average number of additional full-time employees  
36 that the small business employed in Indiana in the trade or  
37 business of the small business during the taxable year in  
38 excess of the average number of full-time employees that  
39 the small business employed in Indiana in trade or business  
40 of the small business during the small business's base  
41 employment period.

- 42           (2) One hundred thousand dollars (\$100,000).

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1 However, if the taxable year of the small business is less than  
 2 twelve (12) months, the three thousand dollar (\$3,000) and one  
 3 hundred thousand dollar (\$100,000) amounts are reduced in  
 4 proportion to the amount by which the taxable year of the small  
 5 business is shortened.

6 Sec. 11. (a) If the amount of a tax credit to which a small  
 7 business is entitled in a taxable year exceeds the small business's  
 8 state tax liability for that taxable year, the small business may  
 9 carry the excess over to not more than three (3) subsequent taxable  
 10 years. The amount of the credit carryover from a taxable year shall  
 11 be reduced to the extent that the carryover is used by the small  
 12 business to obtain a credit under this chapter for any subsequent  
 13 taxable year.

14 (b) A small business is not entitled to a carryback or refund of  
 15 any unused credit.

16 Sec. 12. If a small business is a pass through entity that does not  
 17 have state tax liability against which a tax credit may be applied,  
 18 a shareholder, partner, fiduciary, or member of the pass through  
 19 entity is entitled to a tax credit equal to:

- 20 (1) the tax credit that the pass through entity would be  
 21 entitled to for the taxable year if the pass through entity were  
 22 a taxpayer; multiplied by  
 23 (2) the percentage of the pass through entity's distributive  
 24 income to which the shareholder, partner, fiduciary, or  
 25 member is entitled.

26 Sec. 13. To receive a tax credit, a taxpayer must claim the credit  
 27 on the taxpayer's annual state tax return or returns in the manner  
 28 prescribed by the department. The taxpayer shall maintain the  
 29 records required by the department for the period specified by the  
 30 department to substantiate the taxpayer's eligibility for a tax  
 31 credit.

32 Sec. 14. To be a qualified new employee in a particular taxable  
 33 year, an individual must meet all of the following criteria:

- 34 (1) Have been initially hired into a position as a full-time  
 35 employee by the small business for the first time after  
 36 December 31, 2009.  
 37 (2) Be, at the time the small business initially employs the  
 38 individual after December 31, 2009:  
 39 (A) an individual who is receiving state or federal  
 40 unemployment insurance benefits or has exhausted the  
 41 individual's eligibility for state or federal unemployment  
 42 insurance benefits since last becoming unemployed; or

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1           **(B) a former member of the military services of the United**  
 2           **States who served on active duty in any branch of the**  
 3           **armed forces of the United States or National Guard and**  
 4           **who at no time received a discharge or separation under**  
 5           **other than honorable conditions, except corrected**  
 6           **separation or discharge to read "honorable" as evidenced**  
 7           **by appropriate records presented from the United States**  
 8           **Department of Defense or appropriate branch of the**  
 9           **military service;**

10           **or both.**

11           **(3) Is not an individual who was employed by a related**  
 12           **member (as defined in IC 6-3.1-13-8) of the small business (or**  
 13           **another business entity that would be a related member (as**  
 14           **defined in IC 6-3.1-13-8) if the other entity were a**  
 15           **corporation) within twelve (12) months of being initially**  
 16           **employed by the small business.**

17           **(4) Is not a child, grandchild, parent, or spouse (other than a**  
 18           **spouse who is legally separated from the individual) of any**  
 19           **individual who is an employee of the small business or who**  
 20           **has a direct or an indirect ownership interest of at least five**  
 21           **percent (5%) in the profits, capital, or value of the small**  
 22           **business or a related member (as defined in IC 6-3.1-13-8) of**  
 23           **the small business (or another business entity that would be a**  
 24           **related member (as defined in IC 6-3.1-13-8) if the other**  
 25           **entity were a corporation). An ownership interest shall be**  
 26           **determined in accordance with Section 1563 of the Internal**  
 27           **Revenue Code and regulations prescribed under Section 1563**  
 28           **of the Internal Revenue Code.**

29           **Sec. 15. The tax credit to which a taxpayer would otherwise be**  
 30           **entitled under this chapter in a taxable year is reduced by the sum**  
 31           **of the following tax credits received for the same qualified new**  
 32           **employee:**

33           **(1) The economic development for a growing economy tax**  
 34           **credits (IC 6-3.1-13) allowable to the taxpayer in a taxable**  
 35           **year and attributable to the same employee for which a tax**  
 36           **credit would otherwise be granted under this chapter.**

37           **(2) The Hoosier business investment tax credits (IC 6-3.1-26)**  
 38           **allowable to the taxpayer in a taxable year and attributable to**  
 39           **the same employee for which a tax credit would otherwise be**  
 40           **granted under this chapter.**

41           **(3) The amount of federal or state training grants used in the**  
 42           **taxable year to train an employee for which a tax credit would**

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1 otherwise be granted under this chapter.

2 **Sec. 16.** A small business (or if section 12 of this chapter applies,  
3 a shareholder, partner, or member of a small business) forfeits fifty  
4 percent (50%) of the amount of the tax credits attributable to the  
5 employment of a qualified new employee, if within eighteen (18)  
6 months after the qualified new employee was initially hired:

7 (1) the qualified new employee is terminated, laid off, or  
8 otherwise reclassified to a position that is not a full-time  
9 employment position with the small business; or

10 (2) the position created for the qualified new employee is  
11 eliminated.

12 For purposes of this section, the replacement, within a reasonable  
13 time as determined by the department, of a qualified new employee  
14 with another qualified new employee shall be treated as continuous  
15 employment of a qualified new employee from the date of the  
16 hiring or rehiring of the initial qualified new employee.

17 **Sec. 17.** The amount due to the department from a forfeiture  
18 under section 16 of this chapter shall be treated as due to the state  
19 on the date the taxpayer's annual return or informational return  
20 is due for the taxable year in which the reduction in employment  
21 occurred.

22 **Sec. 18. (a)** Employment levels shall be determined using the  
23 total number of employees reported by the small business on the  
24 quarterly payroll report submitted by the small business to the  
25 department of workforce development. The department of  
26 workforce development shall give the information to the  
27 department on the schedule and in the form requested by the  
28 department.

29 (b) A small business shall use the method prescribed by the  
30 department to determine the average number of full-time  
31 employees or qualified new employees that the small business  
32 employed during a period.

33 **Sec. 19.** The department may adopt rules under IC 4-22-2,  
34 including emergency rules under IC 4-22-2-37.1, to implement this  
35 chapter.

36 **Sec. 20.** This chapter expires January 1, 2019.

37 SECTION 24. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE  
38 AS A NEW CHAPTER TO READ AS FOLLOW [EFFECTIVE  
39 JANUARY 1, 2010 (RETROACTIVE)]:

40 **Chapter 34. New Employer Tax Credit and Grant**

41 **Sec. 1.** This chapter applies to:

42 (1) a new Indiana business that initially begins doing business

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1           **in Indiana; and**  
 2           **(2) taxable years beginning;**  
 3           **after December 31, 2009.**

4           **Sec. 2. As used in this chapter, "department" refers to the**  
 5           **department of state revenue or the department of insurance,**  
 6           **whichever is obligated to administer the tax against which a credit**  
 7           **is applied.**

8           **Sec. 3. As used in this chapter, "new Indiana business" means**  
 9           **a corporation or pass through entity that locates or relocates the**  
 10           **operations of a business enterprise in Indiana after December 31,**  
 11           **2009, and employs at least one (1) full-time employee (as defined in**  
 12           **IC 6-3.1-13-4) in Indiana during a taxable year for which a tax**  
 13           **credit is sought. The term does not include a corporation or pass**  
 14           **through entity that:**

15           **(1) is directly or indirectly under common ownership or**  
 16           **control with another corporation or pass through entity that**  
 17           **conducts business operations in Indiana in the same line of**  
 18           **business; or**

19           **(2) is the successor to part or all of the assets or business**  
 20           **operations of another corporation or pass through entity that**  
 21           **conducted business operations in Indiana in the same line of**  
 22           **business;**

23           **as determined by the department.**

24           **Sec. 4. As used in this chapter, "state tax liability" means a**  
 25           **taxpayer's total tax liability that is incurred under:**

26           **(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);**

27           **(2) IC 27-1-18-2 (the insurance premiums tax); and**

28           **(3) IC 6-5.5 (the financial institutions tax);**

29           **as computed before the application of any other credit against state**  
 30           **tax liability to which the taxpayer is entitled, including any credit**  
 31           **described in IC 6-3.1-1-2.**

32           **Sec. 5. As used in this chapter, "tax credit" refers to a tax credit**  
 33           **against state tax liability granted by this chapter before the**  
 34           **application of any other tax credits to which a new Indiana**  
 35           **business might be eligible.**

36           **Sec. 6. As used in this chapter, "taxpayer" means a person,**  
 37           **corporation, partnership, or other entity that has any state tax**  
 38           **liability.**

39           **Sec. 7. Subject to this chapter, a new Indiana business is entitled**  
 40           **to a tax credit against the state tax liability imposed on the new**  
 41           **Indiana business in a taxable year that includes any of the first**  
 42           **twenty-four (24) months after the new Indiana business begins**

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1 doing business in Indiana if the new Indiana business elects to  
2 comply with section 11 of this chapter in the manner specified by  
3 the department.

4 Sec. 8. The amount of the tax credit available under this chapter  
5 is equal to the following:

6 (1) Fifty percent (50%) of the state tax liability imposed on  
7 the new Indiana business for the taxable year that begins and  
8 ends within the first twenty-four (24) months in which the new  
9 Indiana business operates in Indiana.

10 (2) Fifty percent (50%) of the state tax liability imposed on  
11 the new Indiana business for the taxable year that begins  
12 before or ends after the first twenty-four (24) months in which  
13 the new Indiana business operates in Indiana, multiplied by  
14 a fraction. The numerator of the fraction is the number of  
15 consecutive days in which the new Indiana business operates  
16 in Indiana during the taxable year, including any intervening  
17 weekends and holidays. The denominator of the fraction is  
18 three hundred sixty-five (365).

19 Sec. 9. If a pass through entity does not have state tax liability  
20 against which a tax credit may be applied, a shareholder, partner,  
21 fiduciary, or member of the pass through entity is entitled to a tax  
22 credit equal to:

23 (1) the tax credit to which the pass through entity would be  
24 entitled under this chapter for the taxable year if the pass  
25 through entity were a taxpayer; multiplied by

26 (2) the percentage of the pass through entity's distributive  
27 income to which the shareholder, partner, fiduciary, or  
28 member is entitled.

29 Sec. 10. To qualify for a tax credit under this chapter, a  
30 taxpayer must claim the tax credit and demonstrate compliance  
31 with section 11 of this chapter on the taxpayer's annual state tax  
32 return or returns in the manner prescribed by the department. The  
33 taxpayer shall maintain the records required by the department  
34 for the period specified by the department to substantiate the  
35 taxpayer's eligibility for the credit.

36 Sec. 11. To qualify for a tax credit under this chapter for a  
37 particular taxable year, a new Indiana business must elect in the  
38 manner specified by the department to pay an amount equal to  
39 twenty-five percent (25%) of the amount of the tax credit for that  
40 taxable year as bonus compensation to the employees of the new  
41 Indiana business who were employed in Indiana during the taxable  
42 year according to a formula that results in each bonus being an

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**amount that is the lesser of the following:**

**(1) An amount proportional to the number of:**

**(A) hours that the employee worked; or**

**(B) other units of pay for which the employee worked;**

**for the new Indiana business during the taxable year, relative to the total number of hours that all employees worked or other units of pay for which all employees worked for the new Indiana business in Indiana during the taxable year.**

**(2) Three thousand dollars (\$3,000).**

**However, less than twenty-five percent (25%) of the amount of the tax credit may be devoted to bonuses to the extent that the total amount is not needed to implement the bonus formula specified in subdivisions (1) and (2). The bonuses must be paid not later than the date the final tax or informational return for the taxable year is due, including any extension period.**

**SECTION 25. IC 8-10-1-7.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.7. (a) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:**

**(1) A person who has registered a motor vehicle in Indiana.**

**(2) A person who is registered to vote in Indiana.**

**(3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.**

**(4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.**

**(b) Except as provided in subsection (f), a contract for a public works project under this chapter may not be awarded to a contractor who does not:**

**(1) employ residents of Indiana as at least eighty percent (80%) of the employees of the contractor who work on the contract; and**

**(2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%)**

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1           of the employees who work on the subcontract.

2           (c) Except as provided in subsection (f), before August 15 of

3 2011, and each year thereafter, the commission shall file with the

4 legislative council a report stating:

5           (1) for each contractor awarded a contract under this

6 chapter; and

7           (2) for each subcontractor with which a contractor referred

8 to in subdivision (1) enters into a contract in connection with

9 a contract awarded under this chapter;

10 the percentage of the employees of the contractor or subcontractor

11 who work on the contract and are residents of Indiana. The report

12 to the legislative council must be in an electronic format under

13 IC 5-14-6.

14           (d) Except as provided in subsection (f), a contract awarded

15 under this chapter for a public works project is terminated if the

16 commission determines that the contractor has failed to:

17           (1) employ residents of Indiana as at least eighty percent

18 (80%) of the employees who work on the contract; and

19           (2) enter into subcontracts only with subcontractors who

20 employ residents of Indiana as at least eighty percent (80%)

21 of the employees who work on the subcontract.

22           (e) Except as provided in subsection (f), a contractor or

23 subcontractor who fails to employ residents of Indiana as at least

24 eighty percent (80%) of the employees who work on the contract

25 or subcontract commits a Class B infraction for each nonresident

26 of Indiana employed in excess of the number of nonresident

27 employees permitted by this section.

28           (f) If:

29           (1) a contract or subcontract subject to this section is funded

30 in whole or in part with federal funds; and

31           (2) imposing the requirements of this section would cause the

32 state to lose the federal funds for the contract, as determined

33 by the federal agency providing the funds;

34 subsections (b) through (e) do not apply.

35           (g) If an agency of the federal government makes a

36 determination under subsection (f) that causes a contract to be

37 exempted from the requirements of subsections (b) through (e), this

38 section is meant to express the view of the general assembly that

39 expanding employment opportunities for Indiana residents

40 remains a vital part of the state's economy.

41           (h) A contract exempted from the requirements of subsections

42 (b) through (e) may not reference the employment of Indiana

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1 residents. The commission may not consider the number of  
 2 employment opportunities for Indiana residents when doing any of  
 3 the following with respect to a project subject to a contract that is  
 4 exempted from the requirements of subsections (b) through (e):

- 5 (1) Issuing a request for proposals.
- 6 (2) Issuing a bulletin inviting bids for the contract.
- 7 (3) Prequalifying a contractor for the contract.
- 8 (4) Evaluating a bid for the contract.

9 (i) This section does not apply to contracts entered into to  
 10 perform work:

- 11 (1) resulting from an emergency; or
- 12 (2) performed by an artisan or by someone in a speciality area  
 13 with limited persons able to perform the work.

14 SECTION 26. IC 8-23-9-4.6 IS ADDED TO THE INDIANA CODE  
 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 16 UPON PASSAGE]: Sec. 4.6. (a) As used in this section, "resident of  
 17 Indiana" means a person who is at least eighteen (18) years of age  
 18 and is one (1) of the following:

- 19 (1) A person who has registered a motor vehicle in Indiana.
- 20 (2) A person who is registered to vote in Indiana.
- 21 (3) A person who has a child enrolled in an elementary or a  
 22 secondary school located in Indiana.
- 23 (4) A person who derives more than one-half (1/2) of the  
 24 person's gross income (as defined in Section 61 of the Internal  
 25 Revenue Code) from sources in Indiana, according to the  
 26 provisions applicable to determining the source of adjusted  
 27 gross income that are set forth in IC 6-3-2-2. However, a  
 28 person who would otherwise be considered a resident of  
 29 Indiana under this subdivision is not a resident of Indiana if  
 30 a preponderance of the evidence concerning the factors set  
 31 forth in subdivisions (1) through (3) proves that the person is  
 32 not a resident of Indiana.

33 (b) Except as provided in subsection (f), a contract for a public  
 34 works project under this chapter may not be awarded to a  
 35 contractor who does not:

- 36 (1) employ residents of Indiana as at least eighty percent  
 37 (80%) of the employees of the contractor who work on the  
 38 contract; and
- 39 (2) enter into subcontracts only with subcontractors who  
 40 employ residents of Indiana as at least eighty percent (80%)  
 41 of the employees working on the subcontract.

42 (c) Except as provided in subsection (f), before August 15 of

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1 2011, and each year thereafter, the department shall file with the  
2 legislative council a report stating:

3 (1) for each contractor awarded a contract under this  
4 chapter; and

5 (2) for each subcontractor with which a contractor referred  
6 to in subdivision (1) enters into a contract in connection with  
7 a contract awarded under this chapter;

8 the percentage of the employees of the contractor or subcontractor  
9 who work on the contract and are residents of Indiana. The report  
10 to the legislative council must be in an electronic format under  
11 IC 5-14-6.

12 (d) Except as provided in subsection (f), a contract awarded  
13 under this chapter for a public works project is terminated if the  
14 department determines that the contractor has failed to:

15 (1) employ residents of Indiana as at least eighty percent  
16 (80%) of the employees who work on the contract; and

17 (2) enter into subcontracts only with subcontractors who  
18 employ residents of Indiana as at least eighty percent (80%)  
19 of the employees who work on the subcontract.

20 (e) Except as provided in subsection (f), a contractor or  
21 subcontractor who fails to employ residents of Indiana as at least  
22 eighty percent (80%) of the employees who work on the contract  
23 or subcontract commits a Class B infraction for each nonresident  
24 of Indiana employed in excess of the number of nonresident  
25 employees permitted by this section.

26 (f) If:

27 (1) a contract or subcontract subject to this section is funded  
28 in whole or in part with federal funds; and

29 (2) imposing the requirements of this section would cause the  
30 state to lose the federal funds for the contract, as determined  
31 by the federal agency providing the funds;

32 subsections (b) through (e) do not apply.

33 (g) If an agency of the federal government makes a  
34 determination under subsection (f) that causes a contract to be  
35 exempted from the requirements of subsections (b) through (e), this  
36 section is meant to express the view of the general assembly that  
37 expanding employment opportunities for Indiana residents  
38 remains a vital part of the state's economy.

39 (h) A contract exempted from the requirements of subsections  
40 (b) through (e) may not reference the employment of Indiana  
41 residents. The department may not consider the number of  
42 employment opportunities for Indiana residents when doing any of

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1 the following with respect to a project subject to a contract that is  
2 exempted from the requirements of subsections (b) through (e):

- 3 (1) Issuing a request for proposals.
- 4 (2) Issuing a bulletin inviting bids for the contract.
- 5 (3) Prequalifying a contractor for the contract.
- 6 (4) Evaluating a bid for the contract.

7 (i) This section does not apply to contracts entered into to  
8 perform work:

- 9 (1) resulting from an emergency; or
- 10 (2) performed by an artisan or by someone in a speciality area  
11 with limited persons able to perform the work.

12 SECTION 27. IC 12-7-2-64, AS AMENDED BY P.L.146-2008,  
13 SECTION 379, IS AMENDED TO READ AS FOLLOWS  
14 [EFFECTIVE UPON PASSAGE]: Sec. 64. "Director" refers to the  
15 following:

- 16 (1) With respect to a particular division, the director of the  
17 division.
- 18 (2) With respect to a particular state institution, the director who  
19 has administrative control of and responsibility for the state  
20 institution.
- 21 (3) For purposes of IC 12-8-12.5, the term refers to the  
22 director of the division of family resources.
- 23 ~~(3)~~ (4) For purposes of IC 12-10-15, the term refers to the director  
24 of the division of aging.
- 25 ~~(4)~~ (5) For purposes of IC 12-25, the term refers to the director of  
26 the division of mental health and addiction.
- 27 ~~(5)~~ (6) For purposes of IC 12-26, the term:  
28 (A) refers to the director who has administrative control of and  
29 responsibility for the appropriate state institution; and  
30 (B) includes the director's designee.
- 31 ~~(6)~~ (7) If subdivisions (1) through ~~(5)~~ (6) do not apply, the term  
32 refers to the director of any of the divisions.

33 SECTION 28. IC 12-7-2-75.8 IS ADDED TO THE INDIANA  
34 CODE AS A NEW SECTION TO READ AS FOLLOWS  
35 [EFFECTIVE UPON PASSAGE]: Sec. 75.8. "Eligible employer", for  
36 purposes of IC 12-8-12.5, has the meaning set forth in  
37 IC 12-8-12.5-2.

38 SECTION 29. IC 12-7-2-76.8 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 76.8. (a)  
40 "Employer", for purposes of IC 12-8-12.5, has the meaning set  
41 forth in IC 12-8-12.5-3.

42 (b) "Employed", "employee", "employment", or "employs", for

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1 purposes of IC 12-17.2-3.5, has the meaning set forth in  
2 IC 12-17.2-3.5-1.3.

3 SECTION 30. IC 12-7-2-135.2 IS ADDED TO THE INDIANA  
4 CODE AS A NEW SECTION TO READ AS FOLLOWS  
5 [EFFECTIVE UPON PASSAGE]: **Sec. 135.2. "One stop center", for**  
6 **purposes of IC 12-8-12.5, has the meaning set forth in**  
7 **IC 22-4.5-2-6.**

8 SECTION 31. IC 12-7-2-136.8 IS ADDED TO THE INDIANA  
9 CODE AS A NEW SECTION TO READ AS FOLLOWS  
10 [EFFECTIVE UPON PASSAGE]: **Sec. 136.8. "Participant", for**  
11 **purposes of IC 12-8-12.5, has the meaning set forth in**  
12 **IC 12-8-12.5-5.**

13 SECTION 32. IC 12-7-2-146 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 146. "Program"  
15 refers to the following:

16 **(1) For purposes of IC 12-8-12.5, the Helping Indiana Restart**  
17 **Employment (HIRE) program established by IC 12-8-12.5-7.**

18 ~~(1)~~ **(2) For purposes of IC 12-10-7, the adult guardianship**  
19 **services program established by IC 12-10-7-5.**

20 ~~(2)~~ **(3) For purposes of IC 12-10-10, the meaning set forth in**  
21 **IC 12-10-10-5.**

22 ~~(3)~~ **(4) For purposes of IC 12-17.6, the meaning set forth in**  
23 **IC 12-17.6-1-5.**

24 SECTION 33. IC 12-7-2-189.7, AS ADDED BY P.L.180-2005,  
25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
26 UPON PASSAGE]: Sec. 189.7. "TANF", for purposes of IC 12-20 and  
27 **IC 12-8-12.5**, refers to the federal Temporary Assistance for Needy  
28 Families program under 42 U.S.C. 601 et seq.

29 SECTION 34. IC 12-8-12.5 IS ADDED TO THE INDIANA CODE  
30 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
31 UPON PASSAGE]:

32 **Chapter 12.5. Helping Indiana Restart Employment Program**  
33 **(HIRE)**

34 **Sec. 1. This chapter applies after June 30, 2010.**

35 **Sec. 2. As used in this chapter, "eligible employer" means an**  
36 **employer that meets the requirements of section 8 of this chapter**  
37 **and is eligible to participate in the program.**

38 **Sec. 3. As used in this chapter, "employer" means an individual,**  
39 **corporation, partnership, limited liability company, or any other**  
40 **legal entity that has at least one (1) employee and is legally doing**  
41 **business in Indiana.**

42 **Sec. 4. As used in this chapter, "one stop center" has the**

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1 meaning set forth in IC 22-4.5-2-6.

2 Sec. 5. As used in this chapter, "participant" means an  
3 individual who is participating in the program.

4 Sec. 6. As used in this chapter, "program" refers to the Helping  
5 Indiana Restart Employment program (HIRE) established by  
6 section 7 of this chapter.

7 Sec. 7. (a) The director shall adopt policies to establish the  
8 Helping Indiana Restart Employment program (HIRE) for the  
9 purpose of increasing employment opportunities for unemployed  
10 or underemployed workers by providing a wage and benefit  
11 subsidy to eligible employers that provide to participants an hourly  
12 wage and a transferable work skill.

13 (b) The director shall administer the program with the  
14 assistance of the department of workforce development established  
15 by IC 22-4.1-2-1.

16 (c) The director may adopt rules under IC 4-22-2 that the  
17 director considers appropriate or necessary to implement this  
18 chapter.

19 Sec. 8. (a) An employer that meets the requirements listed in  
20 subsection (b) is eligible to participate in the program.

21 (b) The employer:

22 (1) is a:

23 (A) private for profit entity;

24 (B) private nonprofit entity; or

25 (C) public hospital;

26 (2) has at least one (1) worksite located in Indiana;

27 (3) provides current proof of compliance with IC 22-3-5-2 and  
28 IC 22-3-7-34 (concerning worker's compensation and  
29 occupational disease coverage);

30 (4) is in compliance with all applicable federal, state, and local  
31 labor and employment laws, including minimum wage, wage  
32 payment, unemployment compensation, occupational health  
33 and safety, and equal opportunity and civil rights laws; and  
34 (5) is not suspended or barred from doing business or entering  
35 into a contract with the state under IC 4-2-6 (ethics and  
36 conflicts of interest), IC 4-13.6 (public works), or IC 5-22  
37 (public purchasing).

38 (c) An employer is not eligible to participate in the program  
39 during the period a strike, lockout, or other labor dispute exists at  
40 any of the employer's worksites.

41 (d) An eligible employer shall provide immediate written notice  
42 to the director if, at any time, the employer learns that any of the

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1 information submitted under this section to establish the  
2 employer's eligibility for the program:

- 3 (1) was erroneous at the time the information was submitted;  
4 or  
5 (2) is no longer accurate because of changed circumstances.

6 Sec. 9. (a) An individual is eligible to participate in the program  
7 if the individual:

- 8 (1) is a United States citizen;  
9 (2) is a resident of Indiana;  
10 (3) is at least eighteen (18) years of age;  
11 (4) resides in the individual's home with at least one (1)  
12 verified dependent child who is:  
13 (A) a United States citizen; and  
14 (B) less than eighteen (18) years of age;  
15 (5) is a relative of the child described in subdivision (4),  
16 including:  
17 (A) the child's mother, father, stepmother, stepfather,  
18 grandmother, or grandfather; or  
19 (B) a relative not listed in clause (A) who has custody of the  
20 child; and  
21 (6) has a total family income that does not exceed two  
22 hundred fifty percent (250%) of the federal income poverty  
23 level (as defined in IC 12-7-2-85).

24 (b) An individual who meets the requirements listed in  
25 subsection (a) and is receiving benefits under at least one (1) of the  
26 following programs shall receive priority for placement in  
27 subsidized employment under the program:

- 28 (1) The federal Supplemental Nutrition Assistance Program  
29 (SNAP).  
30 (2) The TANF program.  
31 (3) The unemployment compensation system established  
32 under IC 22-4.

33 The department of workforce development shall provide  
34 information and assistance to the director to verify that an  
35 individual is receiving benefits under subdivision (3).

36 (c) A participant who no longer meets the requirements listed in  
37 subsection (a) shall provide immediate written notice to the  
38 director describing the changed circumstances.

39 Sec. 10. (a) The director, with the assistance of the department  
40 of workforce development as applicable, shall provide at least the  
41 following services to participants:

- 42 (1) Outreach, intake, and orientation to the information and

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- 1 other services available through county offices and one stop
- 2 centers.
- 3 (2) An initial assessment of skill levels, aptitudes, and abilities.
- 4 (3) Comprehensive and specialized assessment of the skill
- 5 levels, and service needs, including, if appropriate, diagnostic
- 6 testing and use of other assessment barriers and appropriate
- 7 employment goals.
- 8 (4) The development of an individual employment plan.
- 9 (5) Short term prevocational services, including the
- 10 development of:
  - 11 (A) learning skills;
  - 12 (B) communication skills;
  - 13 (C) interviewing skills;
  - 14 (D) personal maintenance skills; and
  - 15 (E) professional conduct.
- 16 (6) Case management.
- 17 (7) Follow-up services, including counseling, for at least
- 18 twelve (12) months after the participant's first day of
- 19 employment.
- 20 (b) An individual referred to a county office or one stop center
- 21 by an eligible employer (commonly referred to as a "reverse
- 22 referral") must complete the program in the same manner as other
- 23 participants. The director, with the assistance of the department of
- 24 workforce development, as applicable, shall provide the services
- 25 described in subsection (a) to an individual who is a reverse
- 26 referral and must provide the services described in subsection
- 27 (a)(1) through (a)(5) before the individual's first date of
- 28 employment under the program.
- 29 (c) A participant may be placed in subsidized employment under
- 30 the program for a period not to exceed six (6) months. The
- 31 participant may not work more than:
  - 32 (1) one thousand forty (1,040) hours for the entire subsidized
  - 33 employment period; or
  - 34 (2) one hundred seventy-five (175) hours in a month.
- 35 Sec. 11. (a) An eligible employer shall enter into a program
- 36 agreement with the director concerning the terms and conditions
- 37 of the employer's participation in the program before any
- 38 participants are placed with the employer.
- 39 (b) The program agreement must include at least the following:
  - 40 (1) The number of participants to be placed with the
  - 41 employer.
  - 42 (2) The hourly wage paid to each participant.

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- 1           (3) The transferable work skill or skills to be taught to each
- 2           participant.
- 3           (4) The length of the subsidized employment period, which
- 4           may not exceed six (6) months.
- 5           (5) The employer's wage reimbursement schedule described
- 6           in section 12 of this chapter.
- 7           (6) Except as provided in subsection (c), a commitment by the
- 8           employer to retain the participants after the subsidized
- 9           employment period.
- 10          (7) Any other provision as determined by agreement between
- 11          the director and the eligible employer.
- 12          (c) An eligible employer that employs twenty-five (25) or fewer
- 13          employees shall receive priority to participate in the program.
- 14          (d) An eligible employer may at any time discharge a
- 15          participant for just cause (as defined in IC 22-4-15-1(d)) to the
- 16          same extent and in the same manner as the employer may
- 17          discharge an employee who is not a participant. The employer shall
- 18          notify the director that the employer has discharged a participant,
- 19          including the circumstances constituting just cause for the
- 20          discharge.
- 21          (e) Not more than twenty-five percent (25%) of an eligible
- 22          employer's full-time workforce may participate in the program at
- 23          the same time.
- 24          Sec. 12. (a) Except as provided in subsection (b), an eligible
- 25          employer receives a monthly reimbursement of the hourly wage
- 26          paid to a participant employed by the employer in accordance with
- 27          the following schedule:
- 28                (1) During the first and second months of a participant's
- 29                subsidized employment period, the participant's employer is
- 30                reimbursed one hundred percent (100%) of the participant's
- 31                hourly wage.
- 32                (2) During the third month of a participant's subsidized
- 33                employment period, the participant's employer is reimbursed
- 34                seventy-five (75%) of the participant's hourly wage.
- 35                (3) During the fourth and fifth months of a participant's
- 36                subsidized employment period, the participant's employer is
- 37                reimbursed fifty percent (50%) of the participant's hourly
- 38                wage.
- 39                (4) During the sixth month of a participant's subsidized
- 40                employment period, the participant's employer is reimbursed
- 41                twenty-five percent (25%) of the participant's hourly wage.
- 42          (b) If an eligible employer:

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- 1 (1) fails, for a reason other than the participant's discharge
- 2 for just cause, to employ a participant for the entire
- 3 subsidized employment period agreed upon in section 11(b)(4)
- 4 of this chapter; or
- 5 (2) becomes ineligible to participate in the program while
- 6 employing a participant whose hourly wage is being
- 7 subsidized;

8 the employer shall repay the amount of the subsidies received  
 9 under this chapter that are attributable to each participant who is  
 10 unable to complete a subsidized employment period with the  
 11 employer because of the employer's failure or ineligibility. The  
 12 director shall determine the method and manner of repayment.

13 **Sec. 13. (a)** For each state fiscal year that an appropriation is  
 14 made by P.L.182-2009(ss) for TANF, augmentation is allowed (as  
 15 defined in P.L.182-2009(ss), SECTION 1) from any state fund that  
 16 is not restricted by federal law or the terms of a contract, grant,  
 17 loan, gift, or bequest solely for the purpose of providing state  
 18 match money to obtain the maximum emergency funding for  
 19 TANF programs available to the state under Division B, Title II,  
 20 Subtitle B of the federal American Recovery and Reinvestment Act  
 21 of 2009. The amount of augmentation from a fund other than the  
 22 state general fund that is not expended or unencumbered before  
 23 the end of a state fiscal year reverts to and is available for the  
 24 purposes of the fund from which the augmentation came.  
 25 Notwithstanding IC 4-9.1-1-7, IC 4-12-1-12, IC 4-13-2-23, or  
 26 another law, the money may not be transferred, assigned, or  
 27 reassigned for another purpose.

28 (b) On June 30, 2010, and at the end of each quarter thereafter,  
 29 the director shall submit to the budget committee a report  
 30 describing the:

- 31 (1) director's progress in implementing this chapter; and
- 32 (2) sources of the state match money described in subsection
- 33 (a).

34 **Sec. 14. This chapter expires June 30, 2013.**

35 SECTION 35. IC 22-4-19-6, AS AMENDED BY P.L.182-2009(ss),  
 36 SECTION 367, IS AMENDED TO READ AS FOLLOWS  
 37 [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Each employing unit shall  
 38 keep true and accurate records containing information the department  
 39 considers necessary. These records are:

- 40 (1) open to inspection; and
- 41 (2) subject to being copied;
- 42 by an authorized representative of the department at any reasonable

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1 time and as often as may be necessary. The department, the review  
2 board, or an administrative law judge may require from any employing  
3 unit any verified or unverified report, with respect to persons employed  
4 by it, which is considered necessary for the effective administration of  
5 this article.

6 (b) Except as provided in subsections (d) and (f), information  
7 obtained or obtained from any person in the administration of this  
8 article and the records of the department relating to the unemployment  
9 tax or the payment of benefits is confidential and may not be published  
10 or be open to public inspection in any manner revealing the individual's  
11 or the employing unit's identity, except in obedience to an order of a  
12 court or as provided in this section.

13 (c) A claimant or an employer at a hearing before an administrative  
14 law judge or the review board shall be supplied with information from  
15 the records referred to in this section to the extent necessary for the  
16 proper presentation of the subject matter of the appearance. The  
17 department may make the information necessary for a proper  
18 presentation of a subject matter before an administrative law judge or  
19 the review board available to an agency of the United States or an  
20 Indiana state agency.

21 (d) The department may release the following information:  
22 (1) Summary statistical data may be released to the public.  
23 (2) Employer specific information known as ES 202 data and data  
24 resulting from enhancements made through the business  
25 establishment list improvement project may be released to the  
26 Indiana economic development corporation only for the following  
27 purposes:

28 (A) The purpose of conducting a survey.

29 (B) The purpose of aiding the officers or employees of the  
30 Indiana economic development corporation in providing  
31 economic development assistance through program  
32 development, research, or other methods.

33 (C) Other purposes consistent with the goals of the Indiana  
34 economic development corporation and not inconsistent with  
35 those of the department, **including the purposes of**  
36 **IC 5-28-6-7.**

37 (3) Employer specific information known as ES 202 data and data  
38 resulting from enhancements made through the business  
39 establishment list improvement project may be released to the  
40 budget agency and the legislative services agency only for aiding  
41 the employees of the budget agency or the legislative services  
42 agency in forecasting tax revenues.

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1 (4) Information obtained from any person in the administration of  
 2 this article and the records of the department relating to the  
 3 unemployment tax or the payment of benefits for use by the  
 4 following governmental entities:

5 (A) department of state revenue; or

6 (B) state or local law enforcement agencies;

7 only if there is an agreement that the information will be kept  
 8 confidential and used for legitimate governmental purposes.

9 (e) The department may make information available under  
 10 subsection (d)(1), (d)(2), or (d)(3) only:

11 (1) if:

12 (A) data provided in summary form cannot be used to identify  
 13 information relating to a specific employer or specific  
 14 employee; or

15 (B) there is an agreement that the employer specific  
 16 information released to the Indiana economic development  
 17 corporation, the budget agency, or the legislative services  
 18 agency will be treated as confidential and will be released only  
 19 in summary form that cannot be used to identify information  
 20 relating to a specific employer or a specific employee; and

21 (2) after the cost of making the information available to the  
 22 person requesting the information is paid under IC 5-14-3.

23 (f) In addition to the confidentiality provisions of subsection (b), the  
 24 fact that a claim has been made under IC 22-4-15-1(c)(8) and any  
 25 information furnished by the claimant or an agent to the department to  
 26 verify a claim of domestic or family violence are confidential.  
 27 Information concerning the claimant's current address or physical  
 28 location shall not be disclosed to the employer or any other person.  
 29 Disclosure is subject to the following additional restrictions:

30 (1) The claimant must be notified before any release of  
 31 information.

32 (2) Any disclosure is subject to redaction of unnecessary  
 33 identifying information, including the claimant's address.

34 (g) An employee:

35 (1) of the department who recklessly violates subsection (a), (c),  
 36 (d), (e), or (f); or

37 (2) of any governmental entity listed in subsection (d)(4) who  
 38 recklessly violates subsection (d)(4);

39 commits a Class B misdemeanor.

40 (h) An employee of the Indiana economic development corporation,  
 41 the budget agency, or the legislative services agency who violates  
 42 subsection (d) or (e) commits a Class B misdemeanor.

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1 (i) An employer or agent of an employer that becomes aware that a  
2 claim has been made under IC 22-4-15-1(c)(8) shall maintain that  
3 information as confidential.

4 (j) The department may charge a reasonable processing fee not to  
5 exceed two dollars (\$2) for each record that provides information about  
6 an individual's last known employer released in compliance with a  
7 court order under subsection (b).

8 SECTION 36. IC 36-1-12-5.5 IS ADDED TO THE INDIANA  
9 CODE AS A NEW SECTION TO READ AS FOLLOWS  
10 [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. (a) As used in this section,**  
11 **"resident of Indiana" means a person who is at least eighteen (18)**  
12 **years of age and is one (1) of the following:**

- 13 (1) A person who has registered a motor vehicle in Indiana.  
14 (2) A person who is registered to vote in Indiana.  
15 (3) A person who has a child enrolled in an elementary or a  
16 secondary school located in Indiana.  
17 (4) A person who derives more than one-half (1/2) of the  
18 person's gross income (as defined in Section 61 of the Internal  
19 Revenue Code) from sources in Indiana, according to the  
20 provisions applicable to determining the source of adjusted  
21 gross income that are set forth in IC 6-3-2-2. However, a  
22 person who would otherwise be considered a resident of  
23 Indiana under this subdivision is not a resident of Indiana if  
24 a preponderance of the evidence concerning the factors set  
25 forth in subdivisions (1) through (3) proves that the person is  
26 not a resident of Indiana.

27 (b) Except as provided in subsection (e), a contract for a public  
28 works project under this chapter may not be awarded to a  
29 contractor who does not:

- 30 (1) employ residents of Indiana as at least eighty percent  
31 (80%) of the employees of the contractor who work on the  
32 contract; and  
33 (2) enter into subcontracts only with subcontractors who  
34 employ residents of Indiana as at least eighty percent (80%)  
35 of the employees working on the subcontract.

36 (c) Except as provided in subsection (e), a contract awarded  
37 under this chapter for a public works project is terminated if the  
38 unit determines that the contractor has failed to:

- 39 (1) employ residents of Indiana as at least eighty percent  
40 (80%) of the employees who work on the contract; and  
41 (2) enter into subcontracts only with subcontractors who  
42 employ residents of Indiana as at least eighty percent (80%)

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of the employees who work on the subcontract.  
(d) Except as provided in subsection (e), a contractor or subcontractor who fails to employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract or subcontract commits a Class B infraction for each nonresident of Indiana employed in excess of the number of nonresident employees permitted by this section.

(e) If:  
(1) a contract or subcontract subject to this section is funded in whole or in part with federal funds; and  
(2) imposing the requirements of this section would cause the state to lose the federal funds for the contract, as determined by the federal agency providing the funds;  
subsections (b) through (d) do not apply.

(f) If an agency of the federal government makes a determination under subsection (e) that causes a contract to be exempted from the requirements of subsections (b) through (d), this section is meant to express the view of the general assembly that expanding employment opportunities for Indiana residents remains a vital part of the state's economy.

(g) A contract exempted from the requirements of subsections (b) through (d) may not reference the employment of Indiana residents. The division may not consider the number of employment opportunities for Indiana residents when doing any of the following with respect to a project subject to a contract that is exempted from the requirements of subsections (b) through (d):

- (1) Issuing a request for proposals.
- (2) Issuing a bulletin inviting bids for the contract.
- (3) Prequalifying a contractor for the contract.
- (4) Evaluating a bid for the contract.

(h) This section does not apply to contracts entered into to perform work:  
(1) resulting from an emergency; or  
(2) performed by an artisan or by someone in a speciality area with limited persons able to perform the work.

SECTION 37. IC 36-7-26-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. This chapter applies to the following:

- (1) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).
- (2) A city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand

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1 (120,000).

2 (3) A city having a population of more than one hundred fifty  
3 thousand (150,000) but less than five hundred thousand  
4 (500,000).

5 (4) A city having a population of more than one hundred twenty  
6 thousand (120,000) but less than one hundred fifty thousand  
7 (150,000).

8 **(5) Warrick County.**

9 SECTION 38. IC 36-7-26-1.5 IS ADDED TO THE INDIANA  
10 CODE AS A NEW SECTION TO READ AS FOLLOWS  
11 [EFFECTIVE JULY 1, 2010]: **Sec. 1.5. Notwithstanding any other**  
12 **provision of this chapter, the following apply to a county described**  
13 **in section 1(5) of this chapter:**

14 **(1) The authority to establish a district in the county expires**  
15 **January 1, 2015, if the board fails to approve a resolution**  
16 **designating a district in the county before January 1, 2015.**

17 **(2) A district designated in the county expires January 1,**  
18 **2015, if the commission fails to issue bonds to finance a local**  
19 **public improvement project in the district before January 1,**  
20 **2015.**

21 SECTION 39. IC 36-7-26-2 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Present economic  
23 conditions in certain areas of certain cities are stagnant or deteriorating.

24 (b) Present economic conditions in such areas are beyond remedy  
25 and control by existing regulatory processes because of the substantial  
26 public financial commitments necessary to encourage significant  
27 increases in economic activities in such areas.

28 **(c) Economic development of certain reclaimed coal land near**  
29 **the Blue Grass Fish and Wildlife Area and Interstate Highway 164**  
30 **is vital for a county described in section 1(5) of this chapter.**

31 ~~(c)~~ **(d)** Encouraging economic development in these areas will:

32 (1) attract new businesses and encourage existing business to  
33 remain or expand;

34 (2) increase temporary and permanent employment opportunities  
35 and private sector investment;

36 (3) protect and increase state and local tax bases; and

37 (4) encourage overall economic growth in Indiana.

38 ~~(d)~~ **(e)** Redevelopment and stimulation of economic development  
39 benefit the health and welfare of the people of Indiana, are public uses  
40 and purposes for which the public money may be spent, and are of  
41 public utility and benefit.

42 ~~(e)~~ **(f)** Economic development in such areas can be accomplished

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1 only by a coordinated effort of local and state governments.

2 (f) (g) This chapter shall be liberally construed to carry out the  
3 purposes of this chapter and to provide **the county described in**  
4 **section 1(5) of this chapter and** cities with maximum flexibility to  
5 accomplish those purposes.

6 SECTION 40. IC 36-7-26-11 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. As used in this  
8 chapter, "local public improvement" means any redevelopment project  
9 or purpose of a commission, **a county described in section 1(5) of this**  
10 **chapter**, or any city under:

- 11 (1) this chapter; or  
12 (2) IC 36-7-14;  
13 (3) **IC 36-7-14.5; or**  
14 (4) **IC 36-7-25.**

15 SECTION 41. IC 36-7-26-14, AS AMENDED BY P.L.185-2005,  
16 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2010]: Sec. 14. (a) Whenever a commission determines that  
18 the redevelopment and economic development of an area situated  
19 within the commission's jurisdiction may require the establishment of  
20 a district, the commission shall cause to be assembled data sufficient  
21 to make the determinations required under section 15 of this chapter,  
22 including the following:

- 23 (1) Maps and plats showing the boundaries of the proposed  
24 district.  
25 (2) A complete list of street names and the range of street  
26 numbers of each street situated in the proposed district.  
27 (3) A plan for the redevelopment and economic development of  
28 the proposed district. The plan must describe the local public  
29 improvements necessary or appropriate for the redevelopment or  
30 economic development.

31 (b) For a city described in section 1(2) or 1(3) of this chapter, the  
32 proposed district must contain a commercial retail facility with at least  
33 five hundred thousand (500,000) square feet, and any distributions  
34 from the fund must be used in the area described in subsection (a) or  
35 in areas that directly benefit the area described in subsection (a).

36 (c) For a city described in section 1(4) of this chapter, the proposed  
37 district may not contain any territory outside the boundaries of a  
38 redevelopment project area established within the central business  
39 district of the city before 1985.

40 (d) **For a county described in section 1(5) of this chapter, the**  
41 **proposed district must:**

- 42 (1) **be located in whole or in part on reclaimed coal land near**

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1           **the Blue Grass Fish and Wildlife Area and Interstate**  
 2           **Highway 164; and**

3           **(2) adjoin the northernmost boundary of the Blue Grass Fish**  
 4           **and Wildlife Area.**

5           SECTION 42. IC 36-7-26-16 IS AMENDED TO READ AS  
 6           FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. (a) **This subsection**  
 7           **does not apply to a county described in section 1(5) of this chapter.**  
 8           Upon adoption of a resolution designating a district under section 15  
 9           of this chapter, the commission shall submit the resolution to the board  
 10          for approval. In submitting the resolution to the board, the commission  
 11          shall deliver to the board:

- 12           (1) the data required under section 14 of this chapter;  
 13           (2) the information concerning the proposed redevelopment and  
 14           economic development of the proposed district; and  
 15           (3) the proposed utilization of the revenues to be received under  
 16           section 23 of this chapter.

17          This information may be modified from time to time after the initial  
 18          submission. The commission shall provide to the board any additional  
 19          information that the board may request from time to time.

20          **(b) This subsection applies only to a county described in section**  
 21          **1(5) of this chapter. Upon adoption of a resolution designating a**  
 22          **district under section 15 of this chapter, the commission shall**  
 23          **submit the resolution to the county fiscal body and the county**  
 24          **executive for ratification and then shall submit the resolution to the**  
 25          **board for approval. In submitting the resolution to the board, the**  
 26          **commission shall deliver to the board:**

- 27           (1) the data required under section 14 of this chapter;  
 28           (2) the information concerning the proposed redevelopment  
 29           and economic development of the proposed district; and  
 30           (3) the proposed use of the revenues to be received under  
 31           section 23 of this chapter.

32          **This information may be modified periodically after the initial**  
 33          **submission. The commission shall provide to the board any**  
 34          **additional information that the board requests.**

35          ~~(b)~~ (c) Upon adoption of a resolution designating a district under  
 36          section 15 of this chapter, and upon approval of the resolution by the  
 37          board under subsection (a), the commission shall publish (in  
 38          accordance with IC 5-3-1) notice of the adoption and ~~purport~~ **purpose**  
 39          of the resolution and of the hearing to be held. The notice must provide  
 40          a general description of the boundaries of the district and state that  
 41          information concerning the district can be inspected at the  
 42          commission's office. The notice must also contain a date when the

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1 commission will hold a hearing to receive and hear remonstrances and  
 2 other testimony from persons interested in or affected by the  
 3 establishment of the district. All affected persons, including all persons  
 4 or entities owning property or doing business in the district, shall be  
 5 considered notified of the pendency of the hearing and of subsequent  
 6 acts, hearings, adjournments, and resolutions of the commission by the  
 7 notice given under this section.

8 **(d) The approval of the board under subsection (b) is final and**  
 9 **conclusive.**

10 SECTION 43. IC 36-7-26-20 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 20. **(a) This subsection**  
 12 **does not apply to a county described in section 1(5) of this chapter.**  
 13 The determination of the commission to create a district under this  
 14 chapter, after approval by the board, must be approved by ordinance of  
 15 the legislative body of the city.

16 **(b) This subsection applies only to a county described in section**  
 17 **1(5) of this chapter. The determination of the commission to create**  
 18 **a district under this chapter, after approval by the board, must be**  
 19 **approved by ordinance of the fiscal body of the county.**

20 SECTION 44. IC 36-7-26-24 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 24. (a) The commission  
 22 may issue bonds, payable in whole or in part, from money distributed  
 23 from the fund to the commission, to finance a local public improvement  
 24 under IC 36-7-14-25.1 or may make lease rental payments for a local  
 25 public improvement under IC 36-7-14-25.2 and IC 36-7-14-25.3. The  
 26 term of any bonds issued under this section may not exceed ~~twenty (20)~~  
 27 **twenty-five (25)** years, nor may the term of any lease agreement  
 28 entered into under this section exceed ~~twenty (20)~~ **twenty-five (25)**  
 29 **years after the date the local public improvement is available for**  
 30 **use.** The commission shall transmit to the board a transcript of the  
 31 proceedings with respect to the issuance of the bonds or the execution  
 32 and delivery of a lease agreement as contemplated by this section. The  
 33 transcript must include a debt service or lease rental schedule setting  
 34 forth all payments required in connection with the bonds or the lease  
 35 rentals.

36 (b) On January 15 of each year, the commission shall remit to the  
 37 treasurer of state the money disbursed from the fund that is credited to  
 38 the net increment account that exceeds the amount needed to pay debt  
 39 service or lease rentals and to establish and maintain a debt service  
 40 reserve under this chapter in the prior year and before May 31 of that  
 41 year. Amounts remitted under this subsection shall be deposited by the  
 42 auditor of state as other gross retail and use taxes are deposited.

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- 1 (c) The commission in a city described in section 1(2) of this
- 2 chapter may distribute money from the fund only for the following:
- 3 (1) Road, interchange, and right-of-way improvements.
- 4 (2) Acquisition costs of a commercial retail facility and for real
- 5 property acquisition costs in furtherance of the road, interchange,
- 6 and right-of-way improvements.
- 7 (3) Demolition of commercial property and any related expenses
- 8 incurred before or after the demolition of the commercial
- 9 property.
- 10 (4) For physical improvements or alterations of property that
- 11 enhance the commercial viability of the district.
- 12 (d) The commission in a city described in section 1(3) of this
- 13 chapter may distribute money from the fund only for the following
- 14 purposes:
- 15 (1) For road, interchange, and right-of-way improvements and for
- 16 real property acquisition costs in furtherance of the road,
- 17 interchange, and right-of-way improvements.
- 18 (2) For the demolition of commercial property and any related
- 19 expenses incurred before or after the demolition of the
- 20 commercial property.
- 21 (e) The commission in a city described in section 1(4) of this
- 22 chapter may distribute money from the fund only for the following
- 23 purposes:
- 24 (1) For:
- 25 (A) the acquisition, demolition, and renovation of property;
- 26 and
- 27 (B) site preparation and financing;
- 28 related to the development of housing in the district.
- 29 (2) For physical improvements or alterations of property that
- 30 enhance the commercial viability of the district.
- 31 **(f) The commission in a county described in section 1(5) of this**
- 32 **chapter may distribute money from the fund for the following**
- 33 **district project costs associated with the development or**
- 34 **redevelopment of the district:**
- 35 **(1) The total cost of acquisition of all land, rights-of-way, and**
- 36 **other property to be acquired, developed, or redeveloped for**
- 37 **the project.**
- 38 **(2) Site preparation, including utilities and infrastructure.**
- 39 **(3) Costs associated with the construction or establishment of**
- 40 **a museum and education complex and a multisport athletic**
- 41 **complex that are owned or leased by:**
- 42 **(A) the county described in section 1(5) of this chapter;**

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- 1           **(B) the commission;**
- 2           **(C) an authority (as defined in IC 36-7-14.5-2);**
- 3           **(D) a leasing body (as defined in IC 5-1-1-1); or**
- 4           **(E) one (1) or more entities that are exempt from income**
- 5           **taxation under Section 501(c)(3) of the Internal Revenue**
- 6           **Code.**
- 7           **(4) Road, interchange, and right-of-way improvements.**
- 8           **(5) Public parking facilities.**
- 9           **(6) All reasonable and necessary architectural, engineering,**
- 10           **legal, financing, accounting, advertising, bond discount, and**
- 11           **supervisory expenses related to the acquisition and**
- 12           **development or redevelopment of the property or the issuance**
- 13           **of bonds.**
- 14           **(7) For any bonds issued by an entity to which money from**
- 15           **the fund may be pledged under subsection (a), debt service,**
- 16           **lease payments, capitalized interest, or debt service reserve**
- 17           **for the bonds to the extent the commission determines that a**
- 18           **reserve is reasonably required.**

19           SECTION 45. IC 36-7-26-24.5 IS ADDED TO THE INDIANA  
 20           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 21           [EFFECTIVE JULY 1, 2010]: **Sec. 24.5. Notwithstanding section 23**  
 22           **of this chapter, state gross retail and use taxes may not be**  
 23           **deposited in the fund with respect to a particular district after**  
 24           **December 31 of the calendar year in which the board determines**  
 25           **that no obligations of the commission incurred under this chapter**  
 26           **to finance a local public improvement in the district remain**  
 27           **outstanding.**

28           SECTION 46. IC 36-7-26-25, AS AMENDED BY P.L.146-2008,  
 29           SECTION 769, IS AMENDED TO READ AS FOLLOWS  
 30           [EFFECTIVE JULY 1, 2010]: **Sec. 25. (a) This section does not apply**  
 31           **to a county described in section 1(5) of this chapter.**

32           **(b) The board may not approve a resolution under section 16 of this**  
 33           **chapter until the board has satisfied itself that the city in which the**  
 34           **proposed district will be established has maximized the use of tax**  
 35           **increment financing under IC 36-7-14 or IC 36-7-14.5 to finance public**  
 36           **improvements within or serving the proposed district. The city may not**  
 37           **grant property tax abatements to the taxpayers within the proposed**  
 38           **district or a district, except that the board may approve a resolution**  
 39           **under section 16 of this chapter in the proposed district or a district in**  
 40           **which real property tax abatement not to exceed three (3) years has**  
 41           **been granted.**

42           SECTION 47. IC 36-7-26-28 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2010]: **Sec. 28. A county described in section**  
3 **1(5) of this chapter is unique because:**

- 4 (1) **it is the location of:**
  - 5 (A) **surface coal mining operations;**
  - 6 (B) **strip mined land currently in the process of**
  - 7 **reclamation; and**
  - 8 (C) **the Blue Grass Fish and Wildlife Area;**
- 9 **all of which are in close proximity to Interstate Highway 164;**
- 10 **and**
- 11 (2) **the county has been presented with an opportunity to:**
  - 12 (A) **improve the quality of life in the county;**
  - 13 (B) **provide educational and recreational opportunities to**
  - 14 **residents of the county and the state; and**
  - 15 (C) **promote tourism in the county and the state.**

16 SECTION 48. IC 36-8-4-10 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Subject to  
18 subsection ~~(b)~~; (c), the board or persons having the authority to employ  
19 members of the fire or police department shall give a preference for  
20 employment according to the following priority:

- 21 (1) A war veteran who has been honorably discharged from the
- 22 United States armed forces.
- 23 (2) A person whose mother or father was a:
  - 24 (A) firefighter of a unit;
  - 25 (B) municipal police officer; or
  - 26 (C) county police officer;

27 who died in the line of duty (as defined in IC 5-10-10-2).  
28 **(b) Subject to subsection (c), the board or person having the**  
29 **authority to employ members of a fire or police department may**  
30 **give a preference for employment to any of the following:**

- 31 (1) **A police officer or firefighter laid off by another city under**
- 32 **section 11 of this chapter.**
- 33 (2) **A county police officer laid off by a sheriff's department**
- 34 **under IC 36-8-10-11.1.**
- 35 (3) **A person who:**
  - 36 (A) **was employed full-time or part-time by a township to**
  - 37 **provide fire protection and emergency services; and**
  - 38 (B) **has been laid off by the township.**

39 ~~(b)~~ (c) A person described in subsection (a) or (b) may not receive  
40 a preference for employment unless the person:

- 41 (1) applies; and
- 42 (2) meets all employment requirements prescribed:

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1 (A) by law, including physical and age requirements; and  
 2 (B) by the fire or police department.  
 3 SECTION 49. IC 36-8-10-10.4 IS AMENDED TO READ AS  
 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.4. (a) Subject  
 5 to subsection ~~(b)~~; **(c)**, the board shall give a preference for employment  
 6 according to the following priority:  
 7 (1) A war veteran who has been honorably discharged from the  
 8 United States armed forces.  
 9 (2) A person whose mother or father was a:  
 10 (A) firefighter of a unit;  
 11 (B) municipal police officer; or  
 12 (C) county police officer;  
 13 who died in the line of duty (as defined in IC 5-10-10-2).  
 14 **(b) Subject to subsection (c), the board may give a preference**  
 15 **for employment to any of the following:**  
 16 **(1) A member of another department laid off under section**  
 17 **11.1 of this chapter.**  
 18 **(2) A police officer laid off by a city under IC 36-8-4-11.**  
 19 ~~(b)~~ **(c)** A person described in subsection (a) **or (b)** may not receive  
 20 a preference for employment unless the person:  
 21 (1) applies; and  
 22 (2) meets all employment requirements prescribed:  
 23 (A) by law, including physical and age requirements; and  
 24 (B) by the department.  
 25 SECTION 50. IC 36-8-13-3, AS AMENDED BY P.L.182-2009(ss),  
 26 SECTION 439, IS AMENDED TO READ AS FOLLOWS  
 27 [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The executive of a  
 28 township, with the approval of the legislative body, may do the  
 29 following:  
 30 (1) Purchase firefighting and emergency services apparatus and  
 31 equipment for the township, provide for the housing, care,  
 32 maintenance, operation, and use of the apparatus and equipment  
 33 to provide services within the township but outside the corporate  
 34 boundaries of municipalities, and employ full-time or part-time  
 35 personnel to operate the apparatus and equipment and to provide  
 36 services in that area. Preference in employment under this section  
 37 shall be given according to the following priority:  
 38 (A) A war veteran who has been honorably discharged from  
 39 the United States armed forces.  
 40 (B) A person whose mother or father was a:  
 41 (i) firefighter of a unit;  
 42 (ii) municipal police officer; or

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(iii) county police officer;  
 who died in the line of duty (as defined in IC 5-10-10-2).

**The executive of a township may give a preference for employment under this section to a person who was employed full-time or part-time by another township to provide fire protection and emergency services and has been laid off by the township. The executive of a township may also give a preference for employment to a firefighter laid off by a city under IC 36-8-4-11.** A person described in this subdivision may not receive a preference for employment unless the person applies for employment and meets all employment requirements prescribed by law, including physical and age requirements, and all employment requirements prescribed by the fire department.

(2) Contract with a municipality in the township or in a contiguous township that maintains adequate firefighting or emergency services apparatus and equipment to provide fire protection or emergency services for the township in accordance with IC 36-1-7.

(3) Cooperate with a municipality in the township or in a contiguous township in the purchase, maintenance, and upkeep of firefighting or emergency services apparatus and equipment for use in the municipality and township in accordance with IC 36-1-7.

(4) Contract with a volunteer fire department that has been organized to fight fires in the township for the use and operation of firefighting apparatus and equipment that has been purchased by the township in order to save the private and public property of the township from destruction by fire, including use of the apparatus and equipment in an adjoining township by the department if the department has made a contract with the executive of the adjoining township for the furnishing of firefighting service within the township.

(5) Contract with a volunteer fire department that maintains adequate firefighting service in accordance with IC 36-8-12.

(b) This subsection applies only to townships that provide fire protection or emergency services or both under subsection (a)(1) and to municipalities that have some part of the municipal territory within a township and do not have a full-time paid fire department. A township may provide fire protection or emergency services or both without contracts inside the corporate boundaries of the municipalities if before July 1 of a year the following occur:

(1) The legislative body of the municipality adopts an ordinance

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1 to have the township provide the services without a contract.  
2 (2) The township legislative body passes a resolution approving  
3 the township's provision of the services without contracts to the  
4 municipality.

5 In a township providing services to a municipality under this section,  
6 the legislative body of either the township or a municipality in the  
7 township may opt out of participation under this subsection by adopting  
8 an ordinance or a resolution, respectively, before July 1 of a year.

9 (c) This subsection applies only to a township that:  
10 (1) is located in a county containing a consolidated city;  
11 (2) has at least three (3) included towns (as defined in  
12 IC 36-3-1-7) that have all municipal territory completely within  
13 the township on January 1, 1996; and  
14 (3) provides fire protection or emergency services, or both, under  
15 subsection (a)(1);

16 and to included towns (as defined in IC 36-3-1-7) that have all the  
17 included town's municipal territory completely within the township. A  
18 township may provide fire protection or emergency services, or both,  
19 without contracts inside the corporate boundaries of the municipalities  
20 if before August 1 of the year preceding the first calendar year to which  
21 this subsection applies the township legislative body passes a  
22 resolution approving the township's provision of the services without  
23 contracts to the municipality. The resolution must identify the included  
24 towns to which the resolution applies. In a township providing services  
25 to a municipality under this section, the legislative body of the  
26 township may opt out of participation under this subsection by adopting  
27 a resolution before July 1 of a year. A copy of a resolution adopted  
28 under this subsection shall be submitted to the executive of each  
29 included town covered by the resolution, the county auditor, and the  
30 department of local government finance.

31 SECTION 51. [EFFECTIVE UPON PASSAGE] (a) **The interim**  
32 **study committee on economic development is established to study**  
33 **the following:**

- 34 (1) **Best practices in state and local economic development**  
35 **policies and activities.**
- 36 (2) **The use and effectiveness of tax credits and deductions.**
- 37 (3) **Whether there are any specific sectors of the economy for**  
38 **which Indiana might have comparative advantages over other**  
39 **states.**
- 40 (4) **The extent to which Indiana's tax laws encourage business**  
41 **investment, and any improvements that might be made to**  
42 **Indiana's tax laws.**

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- 1           **(5) The extent to which Indiana's education systems support**  
 2           **economic development.**
- 3           **(6) Any other issue assigned to the committee by the**  
 4           **legislative council or as directed by the committee's co-chairs.**
- 5           **(b) The committee consists of the following members:**
- 6           **(1) Two (2) members of the senate, who must be affiliated**  
 7           **with different political parties, appointed by the president pro**  
 8           **tempore of the senate.**
- 9           **(2) The following six (6) members appointed by the president**  
 10           **pro tempore of the senate:**
- 11           **(A) One (1) member to represent large businesses.**
- 12           **(B) One (1) member to represent banking and finance.**
- 13           **(C) One (1) member to represent higher education.**
- 14           **(D) One (1) member to represent cities.**
- 15           **(E) One (1) member to represent agricultural interests.**
- 16           **(F) One (1) member to represent the arts and humanities.**
- 17           **(3) Two (2) members of the house of representatives, who**  
 18           **must be affiliated with different political parties, appointed by**  
 19           **the speaker of the house of representatives.**
- 20           **(4) The following six (6) members appointed by the speaker of**  
 21           **the house of representatives:**
- 22           **(A) One (1) member to represent small businesses.**
- 23           **(B) One (1) member to represent labor interests.**
- 24           **(C) One (1) member to represent local economic**  
 25           **development organizations and officials.**
- 26           **(D) One (1) member to represent counties.**
- 27           **(E) One (1) member to represent the public at large.**
- 28           **(F) One (1) member to represent kindergarten through**  
 29           **grade 12 education.**
- 30           **(5) The chief executive officer of the Indiana economic**  
 31           **development corporation (or the chief executive officer's**  
 32           **designee).**
- 33           **(c) The president pro tempore of the senate shall appoint one (1)**  
 34           **of the members appointed by the president pro tempore as a**  
 35           **co-chair of the committee. The speaker of the house of**  
 36           **representatives shall appoint one (1) of the members appointed by**  
 37           **the speaker as a co-chair of the committee.**
- 38           **(d) The committee shall issue a final report in an electronic**  
 39           **format under IC 5-14-6 before November 30, 2010, to the**  
 40           **legislative council containing any findings and recommendations**  
 41           **of the committee.**
- 42           **(e) Except as otherwise provided, the committee shall operate**

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1 under the policies governing study committees adopted by the  
2 legislative council.

3 (f) The affirmative votes of a majority of the voting members  
4 appointed to the committee are required for the committee to take  
5 action on any measure, including final reports.

6 (g) This SECTION expires January 1, 2011."

7 SECTION 52. [EFFECTIVE UPON PASSAGE] (a) The definitions  
8 in P.L.182-2009(ss), SECTION 1 apply throughout this SECTION.

9 (b) In addition to the appropriations made to the Indiana  
10 economic development corporation by P.L.182-2009(ss), there is  
11 appropriated one million five hundred thousand dollars  
12 (\$1,500,000) to the Indiana economic development corporation for  
13 the total operating expenses of the capital access program  
14 established under IC 5-28-29 for the biennium beginning July 1,  
15 2009, and ending June 30, 2011. The amount of the appropriation  
16 is in addition to any amount allotted, encumbered, or expended  
17 before the effective date of this SECTION for the capital access  
18 program established under IC 5-28-29 or transferred before the  
19 effective date of this SECTION to the reserve fund (as defined in  
20 IC 5-28-29-12).

21 (c) The appropriations made to the Indiana economic  
22 development corporation for the biennium beginning July 1, 2009,  
23 and ending June 30, 2011, by P.L.182-2009(ss) are reduced by one  
24 million five hundred thousand dollars (\$1,500,000). The budget  
25 agency shall exercise its authority under IC 4-12-1-12 to reassign  
26 appropriations made to the Indiana economic development  
27 corporation for the state fiscal year beginning July 1, 2009, and  
28 ending June 30, 2010, and the state fiscal year beginning July 1,  
29 2010, and ending June 30, 2011, to determine the specific line item  
30 appropriations that must be reduced under this subsection to fund  
31 the appropriation made by subsection (b).

32 (d) An amount appropriated under subsection (b) may not be  
33 used for administrative expenses. However, up to two hundred fifty  
34 thousand dollars (\$250,000) of the amount appropriated by  
35 subsection (b) shall be used to improve and carry out the  
36 marketing program for the capital access program required under  
37 IC 5-28-29-14(2). The remainder of the appropriation not used for  
38 the marketing program shall be deposited in the reserve fund (as  
39 defined in IC 5-28-29-12) and used in the biennium to provide  
40 capital to businesses, particularly small and medium sized  
41 businesses, to foster economic development in Indiana.

42 (e) Notwithstanding any other law, the amount appropriated

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1       **under subsection (b):**  
2           **(1) may not be transferred or reassigned to another purpose**  
3           **or fund;**  
4           **(2) does not revert to the state general fund or any other fund**  
5           **at the end of a state fiscal year and remains available in**  
6           **subsequent state fiscal years for the purposes of the capital**  
7           **access program established under IC 5-28-29; and**  
8           **(3) shall be allotted and expended for the purposes of the**  
9           **capital access program established under IC 5-28-29.**  
10       **IC 4-13-2-18(f) does not apply to an amount reassigned under this**  
11       **SECTION or any other amount appropriated or allotted to the**  
12       **purposes of the capital access program established under**  
13       **IC 5-28-29.**  
14       **SECTION 53. An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 396, 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 made to Senate Bill 396 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 11, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred Senate Bill 396, 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 2, line 12, before "property" insert "**current**".

Page 2, line 12, delete "after 2010," and insert "**in 2011 and thereafter,**".

Page 2, line 20, delete ":".

Page 2, line 21, delete "(A)".

Page 2, run in lines 20 through 21.

Page 2, line 22, delete "determined; and" and insert "**determined.**".

Page 2, delete lines 23 through 24.

and when so amended that said bill do pass.

(Reference is to SB 396 as printed January 29, 2010.)

PFLUM, Chair

Committee Vote: yeas 12, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 396 be amended to read as follows:

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

"SECTION 1. IC 4-3-22-16, AS ADDED BY P.L.137-2006,

ES 396—LS 7095/DI 52+



SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. (a) As used in this section, "coordinator" means the following:

- (1) A small business regulatory coordinator (as defined in IC 4-22-2-28.1(b)).
- (2) An ombudsman designated under IC 13-28-3-2.
- (3) An ombudsman designated under IC 5-28-17-5.**

(b) Each coordinator may review proposed legislation affecting the small businesses that are regulated by the agency or that would be regulated by the agency under proposed legislation. A coordinator may submit to the OMB written comments concerning the impact of proposed legislation on small business.

(c) The OMB may review comments received under subsection (b). The OMB may amend the comments. After completing its review, the OMB shall transmit the comments to the legislative services agency for posting on the general assembly's web site. The comments submitted under this section shall be transmitted electronically in a format suitable for posting to the general assembly's web site as determined by the legislative services agency.

SECTION 2. IC 4-22-2-28, AS AMENDED BY P.L.123-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 28. (a) ~~As used in~~ **The following definitions apply throughout** this section:

- (1) "Ombudsman" refers to the small business ombudsman designated under IC 5-28-17-5.**
- (2) "Total estimated economic impact" means the annual economic impact of a rule on all regulated persons after the rule is fully implemented under subsection (g).**

(b) ~~The Indiana economic development corporation established by IC 5-28-3-1:~~ **ombudsman:**

- (1) shall review a proposed rule that:
  - (A) imposes requirements or costs on small businesses (as defined in IC 4-22-2.1-4); and
  - (B) is referred to the ~~corporation~~ **ombudsman** by an agency under IC 4-22-2.1-5(c); and
- (2) may review a proposed rule that imposes requirements or costs on businesses other than small businesses (as defined in IC 4-22-2.1-4).

After conducting a review under subdivision (1) or (2), the ~~corporation~~ **ombudsman** may suggest alternatives to reduce any regulatory burden that the proposed rule imposes on small businesses or other businesses. The agency that intends to adopt the proposed rule shall respond in

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writing to the ~~Indiana economic development corporation~~ **ombudsman** concerning the ~~corporation's~~ **ombudsman's** comments or suggested alternatives before adopting the proposed rule under section 29 of this chapter.

(c) Subject to subsection (f) and not later than fifty (50) days before the public hearing required by section 26 of this chapter, an agency shall submit a proposed rule to the office of management and budget for a review under subsection (d) if the agency proposing the rule determines that the rule will have a total estimated economic impact greater than five hundred thousand dollars (\$500,000) on all regulated persons. In determining the total estimated economic impact under this subsection, the agency shall consider any applicable information submitted by the regulated persons affected by the rule. To assist the office of management and budget in preparing the fiscal impact statement required by subsection (d), the agency shall submit, along with the proposed rule, the data used and assumptions made by the agency in determining the total estimated economic impact of the rule.

(d) Except as provided in subsection (e), before the adoption of the rule, and not more than forty-five (45) days after receiving a proposed rule under subsection (c), the office of management and budget shall prepare, using the data and assumptions provided by the agency proposing the rule, along with any other data or information available to the office of management and budget, a fiscal impact statement concerning the effect that compliance with the proposed rule will have on:

- (1) the state; and
- (2) all persons regulated by the proposed rule.

The fiscal impact statement must contain the total estimated economic impact of the proposed rule and a determination concerning the extent to which the proposed rule creates an unfunded mandate on a state agency or political subdivision. The fiscal impact statement is a public document. The office of management and budget shall make the fiscal impact statement available to interested parties upon request. The agency proposing the rule shall consider the fiscal impact statement as part of the rulemaking process and shall provide the office of management and budget with the information necessary to prepare the fiscal impact statement, including any economic impact statement prepared by the agency under IC 4-22-2.1-5. The office of management and budget may also receive and consider applicable information from the regulated persons affected by the rule in preparation of the fiscal impact statement.

(e) With respect to a proposed rule subject to IC 13-14-9:

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(1) the department of environmental management shall give written notice to the office of management and budget of the proposed date of preliminary adoption of the proposed rule not less than sixty-six (66) days before that date; and

(2) the office of management and budget shall prepare the fiscal impact statement referred to in subsection (d) not later than twenty-one (21) days before the proposed date of preliminary adoption of the proposed rule.

(f) In determining whether a proposed rule has a total estimated economic impact greater than five hundred thousand dollars (\$500,000), the agency proposing the rule shall consider the impact of the rule on any regulated person that already complies with the standards imposed by the rule on a voluntary basis.

(g) For purposes of this section, a rule is fully implemented after:

(1) the conclusion of any phase-in period during which:

(A) the rule is gradually made to apply to certain regulated persons; or

(B) the costs of the rule are gradually implemented; and

(2) the rule applies to all regulated persons that will be affected by the rule.

In determining the total estimated economic impact of a proposed rule under this section, the agency proposing the rule shall consider the annual economic impact on all regulated persons beginning with the first twelve (12) month period after the rule is fully implemented. The agency may use actual or forecasted data and may consider the actual and anticipated effects of inflation and deflation. The agency shall describe any assumptions made and any data used in determining the total estimated economic impact of a rule under this section.

SECTION 3. IC 4-22-2-28.1, AS AMENDED BY P.L.123-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 28.1. (a) This section applies to the following:

(1) A rule for which the notice required by section 23 of this chapter or by IC 13-14-9-3 is published by an agency or by any of the boards (as defined in IC 13-11-2-18).

(2) A rule for which:

(A) the notice required by IC 13-14-9-3; or

(B) an appropriate later notice for circumstances described in subsection (g);

is published by the department of environmental management after June 30, 2006.

(b) As used in this section, "coordinator" refers to the small business regulatory coordinator assigned to a rule by an agency under subsection

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(e).

(c) As used in this section, "director" refers to the director or other administrative head of an agency.

(d) As used in this section, "small business" means any person, firm, corporation, limited liability company, partnership, or association that:

(1) is actively engaged in business in Indiana and maintains its principal place of business in Indiana;

(2) is independently owned and operated;

(3) employs not more than one hundred (100) full-time employees; and

(4) has gross annual receipts of not more than five million dollars (\$5,000,000): **has the meaning set forth in IC 5-28-2-6.**

(e) For each rulemaking action and rule finally adopted as a result of a rulemaking action by an agency under this chapter, the agency shall assign one (1) staff person to serve as the agency's small business regulatory coordinator with respect to the proposed or adopted rule. The agency shall assign a staff person to a rule under this subsection based on the person's knowledge of, or experience with, the subject matter of the rule. A staff person may serve as the coordinator for more than one (1) rule proposed or adopted by the agency if the person is qualified by knowledge or experience with respect to each rule. Subject to subsection (f):

(1) in the case of a proposed rule, the notice of intent to adopt the rule published under section 23 of this chapter; or

(2) in the case of a rule proposed by the department of environmental management or any of the boards (as defined in IC 13-11-2-18), the notice published under IC 13-14-9-3 or the findings published under IC 13-14-9-8(b)(1), whichever applies; must include the name, address, telephone number, and electronic mail address of the small business coordinator for the proposed rule, **the name, address, telephone number, and electronic mail address of the small business ombudsman designated under IC 5-28-17-5, and a statement of the resources available to regulated entities through the small business ombudsman designated under IC 5-28-17-5.** Subject to subsection (f), in the case of a rule finally adopted, the final rule, as published in the Indiana Register, must include the name, address, telephone number, and electronic mail address of the coordinator.

(f) This subsection applies to a rule adopted by the department of environmental management or any of the boards (as defined in IC 13-11-2-18) under IC 13-14-9. Subject to subsection (g), the department shall include in the notice provided under IC 13-14-9-3 or

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in the findings published under IC 13-14-9-8(b)(1), whichever applies, and in the publication of the final rule in the Indiana Register:

- (1) a statement of the resources available to regulated entities through the technical and compliance assistance program established under IC 13-28-3
- (2) the name, address, telephone number, and electronic mail address of the ombudsman designated under IC 13-28-3-2;
- (3) if applicable, a statement of:
  - (A) the resources available to small businesses through the small business stationary source technical assistance program established under IC 13-28-5; and
  - (B) the name, address, telephone number, and electronic mail address of the ombudsman for small business designated under IC 13-28-5-2(3); and
- (4) the information required by subsection (e).

The coordinator assigned to the rule under subsection (e) shall work with the ombudsman described in subdivision (2) and the office of voluntary compliance established by IC 13-28-1-1 to coordinate the provision of services required under subsection (h) and IC 13-28-3. If applicable, the coordinator assigned to the rule under subsection (e) shall work with the ombudsman referred to in subdivision (3)(B) to coordinate the provision of services required under subsection (h) and IC 13-28-5.

(g) If the notice provided under IC 13-14-9-3 is not published as allowed by IC 13-14-9-7, the department of environmental management shall publish in the notice provided under IC 13-14-9-4 the information that subsection (f) would otherwise require to be published in the notice under IC 13-14-9-3. If neither the notice under IC 13-14-9-3 nor the notice under IC 13-14-9-4 is published as allowed by IC 13-14-9-8, the department of environmental management shall publish in the commissioner's written findings under IC 13-14-9-8(b) the information that subsection (f) would otherwise require to be published in the notice under IC 13-14-9-3.

(h) The coordinator assigned to a rule under subsection (e) shall serve as a liaison between the agency and any small business subject to regulation under the rule. The coordinator shall provide guidance to small businesses affected by the rule on the following:

- (1) Any requirements imposed by the rule, including any reporting, record keeping, or accounting requirements.
- (2) How the agency determines or measures compliance with the rule, including any deadlines for action by regulated entities.
- (3) Any penalties, sanctions, or fines imposed for noncompliance

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with the rule.

(4) Any other concerns of small businesses with respect to the rule, including the agency's application or enforcement of the rule in particular situations. However, in the case of a rule adopted under IC 13-14-9, the coordinator assigned to the rule may refer a small business with concerns about the application or enforcement of the rule in a particular situation to the ombudsman designated under IC 13-28-3-2 or, if applicable, under IC 13-28-5-2(3).

(i) The coordinator assigned to a rule under subsection (e) shall provide guidance under this section in response to questions and concerns expressed by small businesses affected by the rule. The coordinator may also issue general guidelines or informational pamphlets to assist small businesses in complying with the rule. Any guidelines or informational pamphlets issued under this subsection shall be made available:

- (1) for public inspection and copying at the offices of the agency under IC 5-14-3; and
- (2) electronically through electronic gateway access.

(j) The coordinator assigned to a rule under subsection (e) shall keep a record of all comments, questions, and complaints received from small businesses with respect to the rule. The coordinator shall deliver the record, along with any accompanying documents submitted by small businesses, to the director:

- (1) not later than ten (10) days after the date on which the rule is submitted to the publisher under section 35 of this chapter; and
- (2) before July 15 of each year during which the rule remains in effect.

The coordinator and the director shall keep confidential any information concerning a small business to the extent that the information is exempt from public disclosure under IC 5-14-3-4.

(k) Not later than November 1 of each year, the director shall:

- (1) compile the records received from all of the agency's coordinators under subsection (j);
- (2) prepare a report that sets forth:
  - (A) the number of comments, complaints, and questions received by the agency from small businesses during the most recent state fiscal year, categorized by the subject matter of the rules involved;
  - (B) the number of complaints or questions reported under clause (A) that were resolved to the satisfaction of the agency and the small businesses involved;

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- (C) the total number of staff serving as coordinators under this section during the most recent state fiscal year;
  - (D) the agency's costs in complying with this section during the most recent state fiscal year; and
  - (E) the projected budget required by the agency to comply with this section during the current state fiscal year; and
- (3) deliver the report to the legislative council in an electronic format under IC 5-14-6 and to the ~~Indiana economic development corporation established~~ **small business ombudsman designated by IC 5-28-3. IC 5-28-17-5.**

SECTION 4. IC 4-22-2.1-4, AS ADDED BY P.L.188-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. As used in this chapter, "small business" ~~means any person, firm, corporation, limited liability company, partnership, or association that:~~

- (1) ~~is actively engaged in business in Indiana and maintains its principal place of business in Indiana;~~
- (2) ~~is independently owned and operated;~~
- (3) ~~employs one hundred (100) or fewer full-time employees; and~~
- (4) ~~has gross annual receipts of five million dollars (\$5,000,000) or less.~~ **has the meaning set forth in IC 5-28-2-6.**

SECTION 5. IC 4-22-2.1-5, AS AMENDED BY P.L.123-2006, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) If an agency intends to adopt a rule under IC 4-22-2 that will impose requirements or costs on small businesses, the agency shall prepare a statement that describes the annual economic impact of a rule on all small businesses after the rule is fully implemented as described in subsection (b). The statement required by this section must include the following:

- (1) An estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.
- (2) An estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.
- (3) An estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule. The agency is not required to submit the proposed rule to the office of management and budget for a fiscal analysis under IC 4-22-2-28 unless the estimated economic impact of the rule is greater than five hundred thousand dollars (\$500,000) on all regulated entities, as set forth in IC 4-22-2-28.



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- (4) A statement justifying any requirement or cost that is:
- (A) imposed on small businesses by the rule; and
  - (B) not expressly required by:
    - (i) the statute authorizing the agency to adopt the rule; or
    - (ii) any other state or federal law.

The statement required by this subdivision must include a reference to any data, studies, or analyses relied upon by the agency in determining that the imposition of the requirement or cost is necessary.

- (5) A regulatory flexibility analysis that considers any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule. The analysis under this subdivision must consider the following methods of minimizing the economic impact of the proposed rule on small businesses:

- (A) The establishment of less stringent compliance or reporting requirements for small businesses.
- (B) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.
- (C) The consolidation or simplification of compliance or reporting requirements for small businesses.
- (D) The establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.
- (E) The exemption of small businesses from part or all of the requirements or costs imposed by the rule.

If the agency has made a preliminary determination not to implement one (1) or more of the alternative methods considered, the agency shall include a statement explaining the agency's reasons for the determination, including a reference to any data, studies, or analyses relied upon by the agency in making the determination.

- (b) For purposes of subsection (a), a proposed rule will be fully implemented with respect to small businesses after:
- (1) the conclusion of any phase-in period during which:
    - (A) the rule is gradually made to apply to small businesses or certain types of small businesses; or
    - (B) the costs of the rule are gradually implemented; and
  - (2) the rule applies to all small businesses that will be affected by the rule.

In determining the total annual economic impact of the rule under subsection (a)(3), the agency shall consider the annual economic impact on all small businesses beginning with the first twelve (12)

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month period after the rule is fully implemented. The agency may use actual or forecasted data and may consider the actual and anticipated effects of inflation and deflation. The agency shall describe any assumptions made and any data used in determining the total annual economic impact of a rule under subsection (a)(3).

(c) The agency shall:

- (1) publish the statement required under subsection (a) in the Indiana Register as required by IC 4-22-2-24; and
- (2) deliver a copy of the statement, along with the proposed rule, to the ~~Indiana economic development corporation~~ **small business ombudsman designated under IC 5-28-17-5** not later than the date of publication under subdivision (1).

SECTION 6. IC 5-28-17-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 5. The board shall designate an employee in the small business division to be the small business ombudsman. The small business ombudsman serves at the pleasure of the board. The department shall provide staff support to the small business ombudsman. The small business ombudsman shall carry out the following duties:**

- (1) **Work with state agencies to permit increased enforcement flexibility and the ability to grant common sense exemptions for first time offenders of state rules and policies, including, notwithstanding any other law, policies for the compromise of interest and penalties related to a listed tax (as defined in IC 6-8.1-1-1) and other taxes and fees collected or administered by a state agency.**
- (2) **Work with state agencies to seek ways to consolidate forms and eliminate the duplication of paperwork, harmonize data, and coordinate due dates.**
- (3) **Work with state agencies to perform cost-benefit analysis on proposed regulations and paperwork, with a concentration on small business.**
- (4) **Work with state agencies to monitor any outdated, ineffective, or overly burdensome information requests from state agencies to small businesses.**
- (5) **Carry out the duties under IC 4-22-2-28 and IC 4-22-2.1 to review proposed rules and participate in rulemaking actions that affect small businesses.**
- (6) **Coordinate with the ombudsman designated under IC 13-28-3-2 and the office of voluntary compliance established by IC 13-28-1-1 to coordinate the provision of**

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services required under IC 4-22-2-28.1 and IC 13-28-3.

(7) Prepare written and electronic information for periodic distribution to small businesses describing the small business services provided by coordinators (as defined in IC 4-3-22-16) and work with the office of technology established by IC 4-13.1-2-1 to place information concerning the availability of these services on state Internet web sites that the small business ombudsman or a state agency determines are most likely to be visited by small business owners and managers.

(8) Assist in training agency coordinators that will be assigned to rules under IC 4-22-2-28.1(e).

(9) Investigate and attempt to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

State agencies shall cooperate with the small business ombudsman to carry out the purpose of this section. The department of state revenue and the department of workforce development shall establish a program to distribute the information described in subdivision (7) to small businesses that are required to file returns or information with these state agencies."

Page 2, between lines 26 and 27, begin a new paragraph and insert:  
"SECTION 8. IC 6-3.1-33 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOW [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:

**Chapter 33. Small Business Job Creation Tax Credit**

**Sec. 1.** As used in this chapter, "base employment period" of a small business refers a six (6) month period beginning January 1, 2008. However, if a small business began doing business in Indiana after January 1, 2008, the term refers to the initial period before January 1, 2010, in which the small business employed full-time employees in Indiana in the trade or business of the small business, not to exceed six (6) months.

**Sec. 2.** As used in this chapter, "department" refers to the department of state revenue or the department of insurance, whichever is obligated to administer the tax against which a tax credit is applied.

**Sec. 3.** As used in this chapter, "full-time employee" means an individual who:

- (1) is employed for consideration for at least thirty-five (35) hours each week or who renders any other standard of service generally accepted by custom or specified by contract as

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full-time employment; and

(2) earns income for service described in subdivision (1) that is subject to withholding under IC 6-3 (before the application of any earned income tax credit) in an amount that is the equivalent of at least two hundred percent (200%) of the federal hourly minimum wage in effect during the week of employment.

Sec. 4. As used in this chapter, "qualified new employee" refers to a full-time employee described in section 14 of this chapter.

Sec. 5. As used in this chapter, "small business" refers to a small business (as defined in IC 5-28-2-6) that was in existence and employed full-time employees in Indiana in the trade or business of the small business before January 1, 2010.

Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 27-1-18-2 (the insurance premiums tax); and
- (3) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 7. As used in this chapter, "tax credit" refers to a tax credit granted by this chapter against state tax liability.

Sec. 8. As used in this chapter, "taxpayer" means an individual or entity that has state tax liability.

Sec. 9. (a) This section applies only to taxable years beginning after December 31, 2009, and before January 1, 2013.

(b) Subject to this chapter, a small business that employs a qualified new employee in Indiana in a taxable year is eligible for a tax credit against the state tax liability imposed against the small business for the taxable year if, on average, the small business employed a greater number of full-time employees in Indiana in the taxable year than the small business employed in Indiana, on average, in the small business's base employment period.

Sec. 10. The amount of the tax credit to which a small business is entitled in a taxable year is equal to the lesser of the following:

- (1) Three thousand dollars (\$3,000) multiplied by the lesser of:
  - (A) the average number of qualified new employees that the small business employed in Indiana during the taxable year in the trade or business of the small business; or
  - (B) the average number of additional full-time employees

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that the small business employed in Indiana in the trade or business of the small business during the taxable year in excess of the average number of full-time employees that the small business employed in Indiana in trade or business of the small business during the small business's base employment period.

**(2) One hundred thousand dollars (\$100,000).**

However, if the taxable year of the small business is less than twelve (12) months, the three thousand dollar (\$3,000) and one hundred thousand dollar (\$100,000) amounts are reduced in proportion to the amount by which the taxable year of the small business is shortened.

**Sec. 11. (a)** If the amount of a tax credit to which a small business is entitled in a taxable year exceeds the small business's state tax liability for that taxable year, the small business may carry the excess over to not more than three (3) subsequent taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the small business to obtain a credit under this chapter for any subsequent taxable year.

**(b)** A small business is not entitled to a carryback or refund of any unused credit.

**Sec. 12.** If a small business is a pass through entity that does not have state tax liability against which a tax credit may be applied, a shareholder, partner, fiduciary, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit that the pass through entity would be entitled to for the taxable year if the pass through entity were a taxpayer; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, fiduciary, or member is entitled.

**Sec. 13.** To receive a tax credit, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall maintain the records required by the department for the period specified by the department to substantiate the taxpayer's eligibility for a tax credit.

**Sec. 14.** To be a qualified new employee in a particular taxable year, an individual must meet all of the following criteria:

- (1) Have been initially hired into a position as a full-time employee by the small business for the first time after

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**December 31, 2009.**

**(2) Be, at the time the small business initially employs the individual after December 31, 2009:**

**(A) an individual who is receiving state or federal unemployment insurance benefits or has exhausted the individual's eligibility for state or federal unemployment insurance benefits since last becoming unemployed; or**

**(B) a former member of the military services of the United States who served on active duty in any branch of the armed forces of the United States or National Guard and who at no time received a discharge or separation under other than honorable conditions, except corrected separation or discharge to read "honorable" as evidenced by appropriate records presented from the United States Department of Defense or appropriate branch of the military service;**

**or both.**

**(3) Is not an individual who was employed by a related member (as defined in IC 6-3.1-13-8) of the small business (or another business entity that would be a related member (as defined in IC 6-3.1-13-8) if the other entity were a corporation) within twelve (12) months of being initially employed by the small business.**

**(4) Is not a child, grandchild, parent, or spouse (other than a spouse who is legally separated from the individual) of any individual who is an employee of the small business or who has a direct or an indirect ownership interest of at least five percent (5%) in the profits, capital, or value of the small business or a related member (as defined in IC 6-3.1-13-8) of the small business (or another business entity that would be a related member (as defined in IC 6-3.1-13-8) if the other entity were a corporation). An ownership interest shall be determined in accordance with Section 1563 of the Internal Revenue Code and regulations prescribed under Section 1563 of the Internal Revenue Code.**

**Sec. 15. The tax credit to which a taxpayer would otherwise be entitled under this chapter in a taxable year is reduced by the sum of the following tax credits received for the same qualified new employee:**

**(1) The economic development for a growing economy tax credits (IC 6-3.1-13) allowable to the taxpayer in a taxable year and attributable to the same employee for which a tax**

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credit would otherwise be granted under this chapter.

(2) The Hoosier business investment tax credits (IC 6-3.1-26) allowable to the taxpayer in a taxable year and attributable to the same employee for which a tax credit would otherwise be granted under this chapter.

(3) The amount of federal or state training grants used in the taxable year to train an employee for which a tax credit would otherwise be granted under this chapter.

**Sec. 16.** A small business (or if section 12 of this chapter applies, a shareholder, partner, or member of a small business) forfeits fifty percent (50%) of the amount of the tax credits attributable to the employment of a qualified new employee, if within eighteen (18) months after the qualified new employee was initially hired:

- (1) the qualified new employee is terminated, laid off, or otherwise reclassified to a position that is not a full-time employment position with the small business; or
- (2) the position created for the qualified new employee is eliminated.

For purposes of this section, the replacement, within a reasonable time as determined by the department, of a qualified new employee with another qualified new employee shall be treated as continuous employment of a qualified new employee from the date of the hiring or rehiring of the initial qualified new employee.

**Sec. 17.** The amount due to the department from a forfeiture under section 16 of this chapter shall be treated as due to the state on the date the taxpayer's annual return or informational return is due for the taxable year in which the reduction in employment occurred.

**Sec. 18. (a)** Employment levels shall be determined using the total number of employees reported by the small business on the quarterly payroll report submitted by the small business to the department of workforce development. The department of workforce development shall give the information to the department on the schedule and in the form requested by the department.

**(b)** A small business shall use the method prescribed by the department to determine the average number of full-time employees or qualified new employees that the small business employed during a period.

**Sec. 19.** The department may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this chapter.

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**Sec. 20. This chapter expires January 1, 2019."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 396 as printed February 19, 2010.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 396 be amended to read as follows:

Page 2, between lines 26 and 27, begin a new paragraph and insert:  
"SECTION 7. IC 6-3.1-33 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOW [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:

**Chapter 33. New Employer Tax Credit and Grant**

**Sec. 1. This chapter applies to:**

- (1) a new Indiana business that initially begins doing business in Indiana; and
- (2) taxable years beginning;

after December 31, 2009.

**Sec. 2. As used in this chapter, "department" refers to the department of state revenue or the department of insurance, whichever is obligated to administer the tax against which a credit is applied.**

**Sec. 3. As used in this chapter, "new Indiana business" means a corporation or pass through entity that locates or relocates the operations of a business enterprise in Indiana after December 31, 2009, and employs at least one (1) full-time employee (as defined in IC 6-3.1-13-4) in Indiana during a taxable year for which a tax credit is sought. The term does not include a corporation or pass through entity that:**

- (1) is directly or indirectly under common ownership or control with another corporation or pass through entity that conducts business operations in Indiana in the same line of business; or
- (2) is the successor to part or all of the assets or business operations of another corporation or pass through entity that conducted business operations in Indiana in the same line of business;

as determined by the department.

**Sec. 4. As used in this chapter, "state tax liability" means a**

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taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 27-1-18-2 (the insurance premiums tax); and
- (3) IC 6-5.5 (the financial institutions tax);

as computed before the application of any other credit against state tax liability to which the taxpayer is entitled, including any credit described in IC 6-3.1-1-2.

Sec. 5. As used in this chapter, "tax credit" refers to a tax credit against state tax liability granted by this chapter before the application of any other tax credits to which a new Indiana business might be eligible.

Sec. 6. As used in this chapter, "taxpayer" means a person, corporation, partnership, or other entity that has any state tax liability.

Sec. 7. Subject to this chapter, a new Indiana business is entitled to a tax credit against the state tax liability imposed on the new Indiana business in a taxable year that includes any of the first twenty-four (24) months after the new Indiana business begins doing business in Indiana if the new Indiana business elects to comply with section 11 of this chapter in the manner specified by the department.

Sec. 8. The amount of the tax credit available under this chapter is equal to the following:

- (1) Fifty percent (50%) of the state tax liability imposed on the new Indiana business for the taxable year that begins and ends within the first twenty-four (24) months in which the new Indiana business operates in Indiana.
- (2) Fifty percent (50%) of the state tax liability imposed on the new Indiana business for the taxable year that begins before or ends after the first twenty-four (24) months in which the new Indiana business operates in Indiana, multiplied by a fraction. The numerator of the fraction is the number of consecutive days in which the new Indiana business operates in Indiana during the taxable year, including any intervening weekends and holidays. The denominator of the fraction is three hundred sixty-five (365).

Sec. 9. If a pass through entity does not have state tax liability against which a tax credit may be applied, a shareholder, partner, fiduciary, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit to which the pass through entity would be entitled under this chapter for the taxable year if the pass

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through entity were a taxpayer; multiplied by  
 (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, fiduciary, or member is entitled.

**Sec. 10.** To qualify for a tax credit under this chapter, a taxpayer must claim the tax credit and demonstrate compliance with section 11 of this chapter on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall maintain the records required by the department for the period specified by the department to substantiate the taxpayer's eligibility for the credit.

**Sec. 11.** To qualify for a tax credit under this chapter for a particular taxable year, a new Indiana business must elect in the manner specified by the department to pay an amount equal to twenty-five percent (25%) of the amount of the tax credit for that taxable year as bonus compensation to the employees of the new Indiana business who were employed in Indiana during the taxable year according to a formula that results in each bonus being an amount that is the lesser of the following:

- (1) An amount proportional to the number of:
  - (A) hours that the employee worked; or
  - (B) other units of pay for which the employee worked;
 for the new Indiana business during the taxable year, relative to the total number of hours that all employees worked or other units of pay for which all employees worked for the new Indiana business in Indiana during the taxable year.
- (2) Three thousand dollars (\$3,000).

However, less than twenty-five percent (25%) of the amount of the tax credit may be devoted to bonuses to the extent that the total amount is not needed to implement the bonus formula specified in subdivisions (1) and (2). The bonuses must be paid not later than the date the final tax or informational return for the taxable year is due, including any extension period."

Renumber all SECTIONS consecutively.

(Reference is to ESB 396 as printed February 19, 2010.)

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## HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 396 be amended to read as follows:

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

"SECTION 1. IC 5-28-2-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. "Dislocated worker" has the meaning set forth in IC 22-4-41-2.**

SECTION 2. IC 5-28-2-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. "Job creation incentive" means a tax credit, tax deduction, grant, loan, or loan guarantee that a statute authorizes the state or an instrumentality of the state to award or approve for the purpose of encouraging the creation of new jobs in Indiana. The term includes tax credits, tax deductions, grants, loans, and loan guarantees awarded or approved under the following:**

- (1) IC 4-4-5.2 (emerging technology grant fund).
- (2) IC 4-10-18 (economic growth initiatives account program).
- (3) IC 4-12-10 (Indiana economic development partnership fund).
- (4) IC 5-28-5-11 (economic development and job creation programs).
- (5) IC 5-28-7 (training 2000 program and fund).
- (6) IC 5-28-16 (Indiana twenty-first century research and technology fund).
- (7) IC 5-28-21 (small business incubator program).
- (8) IC 5-28-23 (business modernization and technology incentives).
- (9) IC 5-28-24 (investment incentive program).
- (10) IC 5-28-29 (capital access program).
- (11) IC 5-28-30 (industrial development loan guaranty program).
- (12) IC 5-28-31 (agricultural loan and rural development project guarantee fund).
- (13) IC 5-28-34 (green industries fund).
- (14) IC 6-1.1-45 (enterprise zone investment deduction).
- (15) IC 6-3-3-10 (enterprise zone increased employment expenditures credit).
- (16) IC 6-3.1-7 (enterprise zone loan interest credit).
- (17) IC 6-3.1-10 (enterprise zone investment cost credit).

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- (18) IC 6-3.1-11.6 (military base investment cost credit).
- (19) IC 6-3.1-13 (economic development for a growing economy tax credit).
- (20) IC 6-3.1-24 (venture capital investment tax credit).
- (21) IC 6-3.1-26 (Hoosier business investment tax credit).
- (22) IC 6-3.1-31.9 (Hoosier alternative fuel vehicle manufacturer tax credit).
- (23) IC 6-3.1-32 (media production expenditure tax credit).
- (24) IC 8-1-8.8-1 (utility generation and clean coal technology incentives).

SECTION 3. IC 5-28-1-1, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) It is the intent of the general assembly to improve the quality of life for the citizens of Indiana by encouraging the:

- (1) diversification of Indiana's economy and the orderly economic development and growth of Indiana;
- (2) creation of new jobs;
- (3) employment of dislocated workers from Indiana in jobs created by business entities receiving a job creation incentive from the state or an instrumentality of the state;**
- ~~(4)~~ (4) retention of existing jobs;
- ~~(5)~~ (5) growth and modernization of existing industry; and
- ~~(6)~~ (6) promotion of Indiana.

(b) The general assembly finds the following:

- (1) Certain activities associated with the functions listed in subsection (a) may not work properly with the traditional responsibilities and activities of state agencies.
- (2) The functions listed in subsection (a) can be achieved most efficiently by a body politic and corporate that:
  - (A) serves the interests of the state by carrying out the programs set forth in this article;
  - (B) is free from certain administrative restrictions that would hinder its performance; and
  - (C) possesses broad powers designed to maximize the state's economic development efforts.
- (3) The corporation established by this article will:
  - (A) lead the state's economic development efforts;
  - (B) carry out the programs under this article, including the providing of grants and loans; and
  - (C) perform other essential public services for the state.
- (4) In return for the corporation's economic development efforts

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to carry out the functions listed in subsection (a), the general assembly should appropriate state funds to the corporation.

SECTION 4. IC 5-28-6-4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** **Sec. 4. The board, the corporation, and the officers and employees of the board or corporation, when developing job creation incentive packages to locate companies in Indiana, shall give priority, in the awarding or approving of job creation incentives, to business entities that locate in a county where individuals have become dislocated workers due to a permanent closure of a plant or facility or a significant reduction in the workforce.**

SECTION 5. IC 5-28-6-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** **Sec. 7. The corporation shall establish a program to ensure that dislocated workers from Indiana are given first consideration for jobs created by business entities receiving a job creation incentive from the state or an instrumentality of the state. The corporation, including its board, shall condition job creation incentives awarded or approved by the corporation after March 31, 2010, on compliance with the corporation's program under this section. This requirement must be included in an agreement entered into by the recipient and the corporation, including an agreement subject to any of the following:**

- (1) IC 6-3.1-13-19 (economic development for a growing economy tax credit).
- (2) IC 6-3.1-26-21 (Hoosier business investment tax credit).
- (3) IC 6-3.1-31.9-18 (Hoosier alternative fuel vehicle manufacturer credit).

SECTION 6. IC 5-28-23-1, AS AMENDED BY P.L.2-2007, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. (a) The corporation shall do the following:**

- (1) Contribute to the strengthening of the economy of Indiana through the development of science and technology and to promote the modernization of Indiana businesses by supporting the transfer of science, technology, and quality improvement methods to the workplace.
- (2) **Encourage collaborative efforts between any of Indiana's postsecondary educational institutions, local economic development commissions, and businesses to customize job training programs at postsecondary educational institutions**

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**to encourage employment in high technology business operations (as defined in IC 5-28-15-1).**

~~(2)~~ (3) Submit an annual report to the governor and to the general assembly (in an electronic format under IC 5-14-6) that is due on the first day of November for each year and must include detailed information on the corporation's efforts to carry out this chapter. The corporation shall conduct an annual public hearing to receive comments from interested parties regarding the report, and notice of the hearing shall be given at least fourteen (14) days before the hearing in accordance with IC 5-14-1.5-5(b).

(b) The corporation may do the following:

- (1) Receive money from any source, borrow money, enter into contracts, and expend money for activities appropriate to its purpose under this chapter.
- (2) Do things necessary or incidental to carrying out the functions listed in this chapter.
- (3) Establish a statewide business modernization network to assist Indiana businesses in identifying ways to increase productivity and market competitiveness.
- (4) Identify scientific and technological problems and opportunities related to the economy of Indiana and formulate proposals to overcome those problems or realize those opportunities.
- (5) Identify specific areas in which scientific research and technological investigation will contribute to the improvement of productivity of Indiana manufacturers and farmers.
- (6) Determine specific areas in which financial investment in scientific and technological research and development from private businesses located in Indiana could be improved or increased if state resources were made available to assist in financing activities.
- (7) Assist in establishing cooperative associations of postsecondary educational institutions in Indiana and of private enterprises to coordinate research and development programs that will, consistent with the primary educational function of the postsecondary educational institutions, aid in the creation of new jobs in Indiana.
- (8) Assist in financing the establishment and continued development of technology intensive businesses in Indiana.
- (9) Advise postsecondary educational institutions of the research needs of Indiana businesses and improve the exchange of scientific and technological information for the mutual benefit of

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postsecondary educational institutions and private businesses.

(10) Coordinate programs established by postsecondary educational institutions to provide Indiana businesses with scientific and technological information.

(11) Establish programs in scientific education that will support the accelerated development of technology intensive businesses in Indiana.

(12) Provide financial assistance through contracts, grants, and loans to programs of scientific and technological research and development.

(13) Determine how state educational institutions can increase income derived from the sale or licensure of products or processes having commercial value that are developed as a result of state educational institution sponsored research programs."

Page 2, between lines 26 and 27, begin a new paragraph and insert:  
"SECTION 8. IC 22-4-19-6, AS AMENDED BY P.L.182-2009(ss), SECTION 367, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:

- (1) open to inspection; and
- (2) subject to being copied;

by an authorized representative of the department at any reasonable time and as often as may be necessary. The department, the review board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in subsections (d) and (f), information obtained or obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits is confidential and may not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, except in obedience to an order of a court or as provided in this section.

(c) A claimant or an employer at a hearing before an administrative law judge or the review board shall be supplied with information from the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. The department may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an

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Indiana state agency.

(d) The department may release the following information:

(1) Summary statistical data may be released to the public.

(2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the Indiana economic development corporation only for the following purposes:

(A) The purpose of conducting a survey.

(B) The purpose of aiding the officers or employees of the Indiana economic development corporation in providing economic development assistance through program development, research, or other methods.

(C) Other purposes consistent with the goals of the Indiana economic development corporation and not inconsistent with those of the department, **including the purposes of IC 5-28-6-7.**

(3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency and the legislative services agency only for aiding the employees of the budget agency or the legislative services agency in forecasting tax revenues.

(4) Information obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:

(A) department of state revenue; or

(B) state or local law enforcement agencies;

only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.

(e) The department may make information available under subsection (d)(1), (d)(2), or (d)(3) only:

(1) if:

(A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or

(B) there is an agreement that the employer specific information released to the Indiana economic development corporation, the budget agency, or the legislative services agency will be treated as confidential and will be released only in summary form that cannot be used to identify information

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relating to a specific employer or a specific employee; and  
(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) In addition to the confidentiality provisions of subsection (b), the fact that a claim has been made under IC 22-4-15-1(c)(8) and any information furnished by the claimant or an agent to the department to verify a claim of domestic or family violence are confidential. Information concerning the claimant's current address or physical location shall not be disclosed to the employer or any other person. Disclosure is subject to the following additional restrictions:

(1) The claimant must be notified before any release of information.

(2) Any disclosure is subject to redaction of unnecessary identifying information, including the claimant's address.

(g) An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), (e), or (f); or

(2) of any governmental entity listed in subsection (d)(4) who recklessly violates subsection (d)(4);

commits a Class B misdemeanor.

(h) An employee of the Indiana economic development corporation, the budget agency, or the legislative services agency who violates subsection (d) or (e) commits a Class B misdemeanor.

(i) An employer or agent of an employer that becomes aware that a claim has been made under IC 22-4-15-1(c)(8) shall maintain that information as confidential.

(j) The department may charge a reasonable processing fee not to exceed two dollars (\$2) for each record that provides information about an individual's last known employer released in compliance with a court order under subsection (b)."

Renumber all SECTIONS consecutively.

(Reference is to ESB 396 as printed February 19, 2010.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 396 be amended to read as follows:

Page 2, between lines 26 and 27, begin a new paragraph and insert:  
"SECTION 2. IC 12-7-2-64, AS AMENDED BY P.L.146-2008,

ES 396—LS 7095/DI 52+



SECTION 379, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 64. "Director" refers to the following:

- (1) With respect to a particular division, the director of the division.
- (2) With respect to a particular state institution, the director who has administrative control of and responsibility for the state institution.
- (3) For purposes of IC 12-8-12.5, the term refers to the director of the division of family resources.**
- ~~(3)~~ **(4)** For purposes of IC 12-10-15, the term refers to the director of the division of aging.
- ~~(4)~~ **(5)** For purposes of IC 12-25, the term refers to the director of the division of mental health and addiction.
- ~~(5)~~ **(6)** For purposes of IC 12-26, the term:
  - (A) refers to the director who has administrative control of and responsibility for the appropriate state institution; and
  - (B) includes the director's designee.
- ~~(6)~~ **(7)** If subdivisions (1) through ~~(5)~~ **(6)** do not apply, the term refers to the director of any of the divisions.

SECTION 3. IC 12-7-2-75.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 75.8. "Eligible employer", for purposes of IC 12-8-12.5, has the meaning set forth in IC 12-8-12.5-2.**

SECTION 4. IC 12-7-2-76.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 76.8. **(a) "Employer", for purposes of IC 12-8-12.5, has the meaning set forth in IC 12-8-12.5-3.**

**(b)** "Employed", "employee", "employment", or "employs", for purposes of IC 12-17.2-3.5, has the meaning set forth in IC 12-17.2-3.5-1.3.

SECTION 5. IC 12-7-2-135.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 135.2. "One stop center", for purposes of IC 12-8-12.5, has the meaning set forth in IC 22-4.5-2-6.**

SECTION 6. IC 12-7-2-136.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 136.8. "Participant", for purposes of IC 12-8-12.5, has the meaning set forth in IC 12-8-12.5-5.**

SECTION 7. IC 12-7-2-146 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 146. "Program" refers to the following:

- (1) For purposes of IC 12-8-12.5, the Helping Indiana Restart Employment (HIRE) program established by IC 12-8-12.5-7.**
- ~~(2)~~ **(2)** For purposes of IC 12-10-7, the adult guardianship services program established by IC 12-10-7-5.
- ~~(3)~~ **(3)** For purposes of IC 12-10-10, the meaning set forth in IC 12-10-10-5.
- ~~(4)~~ **(4)** For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-5.

SECTION 8. IC 12-7-2-189.7, AS ADDED BY P.L.180-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 189.7. "TANF", for purposes of IC 12-20 **and IC 12-8-12.5**, refers to the federal Temporary Assistance for Needy Families program under 42 U.S.C. 601 et seq..

SECTION 9. IC 12-8-12.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 12.5. Helping Indiana Restart Employment Program (HIRE)**

**Sec. 1. This chapter applies after June 30, 2010.**

**Sec. 2. As used in this chapter, "eligible employer" means an employer that meets the requirements of section 8 of this chapter and is eligible to participate in the program.**

**Sec. 3. As used in this chapter, "employer" means an individual, corporation, partnership, limited liability company, or any other legal entity that has at least one (1) employee and is legally doing business in Indiana.**

**Sec. 4. As used in this chapter, "one stop center" has the meaning set forth in IC 22-4.5-2-6.**

**Sec. 5. As used in this chapter, "participant" means an individual who is participating in the program.**

**Sec. 6. As used in this chapter, "program" refers to the Helping Indiana Restart Employment program (HIRE) established by section 7 of this chapter.**

**Sec. 7. (a) The director shall adopt policies to establish the Helping Indiana Restart Employment program (HIRE) for the purpose of increasing employment opportunities for unemployed or underemployed workers by providing a wage and benefit subsidy to eligible employers that provide to participants an hourly wage and a transferable work skill.**

**(b) The director shall administer the program with the**

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assistance of the department of workforce development established by IC 22-4.1-2-1.

(c) The director may adopt rules under IC 4-22-2 that the director considers appropriate or necessary to implement this chapter.

**Sec. 8. (a) An employer that meets the requirements listed in subsection (b) is eligible to participate in the program.**

**(b) The employer:**

**(1) is a:**

- (A) private for profit entity;**
- (B) private nonprofit entity; or**
- (C) public hospital;**

**(2) has at least one (1) worksite located in Indiana;**

**(3) provides current proof of compliance with IC 22-3-5-2 and IC 22-3-7-34 (concerning worker's compensation and occupational disease coverage);**

**(4) is in compliance with all applicable federal, state, and local labor and employment laws, including minimum wage, wage payment, unemployment compensation, occupational health and safety, and equal opportunity and civil rights laws; and**

**(5) is not suspended or barred from doing business or entering into a contract with the state under IC 4-2-6 (ethics and conflicts of interest), IC 4-13.6 (public works), or IC 5-22 (public purchasing).**

**(c) An employer is not eligible to participate in the program during the period a strike, lockout, or other labor dispute exists at any of the employer's worksites.**

**(d) An eligible employer shall provide immediate written notice to the director if, at any time, the employer learns that any of the information submitted under this section to establish the employer's eligibility for the program:**

**(1) was erroneous at the time the information was submitted;**  
or

**(2) is no longer accurate because of changed circumstances.**

**Sec. 9. (a) An individual is eligible to participate in the program if the individual:**

**(1) is a United States citizen;**

**(2) is a resident of Indiana;**

**(3) is at least eighteen (18) years of age;**

**(4) resides in the individual's home with at least one (1) verified dependent child who is:**

**(A) a United States citizen; and**

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(B) less than eighteen (18) years of age;  
 (5) is a relative of the child described in subdivision (4), including:

(A) the child's mother, father, stepmother, stepfather, grandmother, or grandfather; or

(B) a relative not listed in clause (A) who has custody of the child; and

(6) has a total family income that does not exceed two hundred fifty percent (250%) of the federal income poverty level (as defined in IC 12-7-2-85).

(b) An individual who meets the requirements listed in subsection (a) and is receiving benefits under at least one (1) of the following programs shall receive priority for placement in subsidized employment under the program:

(1) The federal Supplemental Nutrition Assistance Program (SNAP).

(2) The TANF program.

(3) The unemployment compensation system established under IC 22-4.

The department of workforce development shall provide information and assistance to the director to verify that an individual is receiving benefits under subdivision (3).

(c) A participant who no longer meets the requirements listed in subsection (a) shall provide immediate written notice to the director describing the changed circumstances.

Sec. 10. (a) The director, with the assistance of the department of workforce development as applicable, shall provide at least the following services to participants:

(1) Outreach, intake, and orientation to the information and other services available through county offices and one stop centers.

(2) An initial assessment of skill levels, aptitudes, and abilities.

(3) Comprehensive and specialized assessment of the skill levels, and service needs, including, if appropriate, diagnostic testing and use of other assessment barriers and appropriate employment goals.

(4) The development of an individual employment plan.

(5) Short term prevocational services, including the development of:

(A) learning skills;

(B) communication skills;

(C) interviewing skills;

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- (D) personal maintenance skills; and
- (E) professional conduct.

(6) Case management.

(7) Follow-up services, including counseling, for at least twelve (12) months after the participant's first day of employment.

(b) An individual referred to a county office or one stop center by an eligible employer (commonly referred to as a "reverse referral") must complete the program in the same manner as other participants. The director, with the assistance of the department of workforce development, as applicable, shall provide the services described in subsection (a) to an individual who is a reverse referral and must provide the services described in subsection (a)(1) through (a)(5) before the individual's first date of employment under the program.

(c) A participant may be placed in subsidized employment under the program for a period not to exceed six (6) months. The participant may not work more than:

- (1) one thousand forty (1,040) hours for the entire subsidized employment period; or
- (2) one hundred seventy-five (175) hours in a month.

Sec. 11. (a) An eligible employer shall enter into a program agreement with the director concerning the terms and conditions of the employer's participation in the program before any participants are placed with the employer.

(b) The program agreement must include at least the following:

- (1) The number of participants to be placed with the employer.
- (2) The hourly wage paid to each participant.
- (3) The transferable work skill or skills to be taught to each participant.
- (4) The length of the subsidized employment period, which may not exceed six (6) months.
- (5) The employer's wage reimbursement schedule described in section 12 of this chapter.
- (6) Except as provided in subsection (c), a commitment by the employer to retain the participants after the subsidized employment period.
- (7) Any other provision as determined by agreement between the director and the eligible employer.

(c) An eligible employer that employs twenty-five (25) or fewer employees shall receive priority to participate in the program.

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(d) An eligible employer may at any time discharge a participant for just cause (as defined in IC 22-4-15-1(d)) to the same extent and in the same manner as the employer may discharge an employee who is not a participant. The employer shall notify the director that the employer has discharged a participant, including the circumstances constituting just cause for the discharge.

(e) Not more than twenty-five percent (25%) of an eligible employer's full-time workforce may participate in the program at the same time.

Sec. 12. (a) Except as provided in subsection (b), an eligible employer receives a monthly reimbursement of the hourly wage paid to a participant employed by the employer in accordance with the following schedule:

- (1) During the first and second months of a participant's subsidized employment period, the participant's employer is reimbursed one hundred percent (100%) of the participant's hourly wage.
- (2) During the third month of a participant's subsidized employment period, the participant's employer is reimbursed seventy-five (75%) of the participant's hourly wage.
- (3) During the fourth and fifth months of a participant's subsidized employment period, the participant's employer is reimbursed fifty percent (50%) of the participant's hourly wage.
- (4) During the sixth month of a participant's subsidized employment period, the participant's employer is reimbursed twenty-five percent (25%) of the participant's hourly wage.

(b) If an eligible employer:

- (1) fails, for a reason other than the participant's discharge for just cause, to employ a participant for the entire subsidized employment period agreed upon in section 11(b)(4) of this chapter; or
- (2) becomes ineligible to participate in the program while employing a participant whose hourly wage is being subsidized;

the employer shall repay the amount of the subsidies received under this chapter that are attributable to each participant who is unable to complete a subsidized employment period with the employer because of the employer's failure or ineligibility. The director shall determine the method and manner of repayment.

Sec. 13. (a) For each state fiscal year that an appropriation is

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made by P.L.182-2009(ss) for TANF, augmentation is allowed (as defined in P.L.182-2009(ss), SECTION 1) from any state fund that is not restricted by federal law or the terms of a contract, grant, loan, gift, or bequest solely for the purpose of providing state match money to obtain the maximum emergency funding for TANF programs available to the state under Division B, Title II, Subtitle B of the federal American Recovery and Reinvestment Act of 2009. The amount of augmentation from a fund other than the state general fund that is not expended or unencumbered before the end of a state fiscal year reverts to and is available for the purposes of the fund from which the augmentation came. Notwithstanding IC 4-9.1-1-7, IC 4-12-1-12, IC 4-13-2-23, or another law, the money may not be transferred, assigned, or reassigned for another purpose.

(b) On June 30, 2010, and at the end of each quarter thereafter, the director shall submit to the budget committee a report describing the:

- (1) director's progress in implementing this chapter; and
- (2) sources of the state match money described in subsection (a).

**Sec. 14. This chapter expires June 30, 2013.**

**SECTION 10. [EFFECTIVE UPON PASSAGE] (a) The interim study committee on economic development is established to study the following:**

- (1) Best practices in state and local economic development policies and activities.
- (2) The use and effectiveness of tax credits and deductions.
- (3) Whether there are any specific sectors of the economy for which Indiana might have comparative advantages over other states.
- (4) The extent to which Indiana's tax laws encourage business investment, and any improvements that might be made to Indiana's tax laws.
- (5) The extent to which Indiana's education systems support economic development.
- (6) Any other issue assigned to the committee by the legislative council or as directed by the committee's co-chairs.

**(b) The committee consists of the following members:**

- (1) Two (2) members of the senate, who must be affiliated with different political parties, appointed by the president pro tempore of the senate.
- (2) The following six (6) members appointed by the president

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**pro tempore of the senate:**

- (A) One (1) member to represent large businesses.
  - (B) One (1) member to represent banking and finance.
  - (C) One (1) member to represent higher education.
  - (D) One (1) member to represent cities.
  - (E) One (1) member to represent agricultural interests.
  - (F) One (1) member to represent the arts and humanities.
- (3) Two (2) members of the house of representatives, who must be affiliated with different political parties, appointed by the speaker of the house of representatives.
- (4) The following six (6) members appointed by the speaker of the house of representatives:

- (A) One (1) member to represent small businesses.
  - (B) One (1) member to represent labor interests.
  - (C) One (1) member to represent local economic development organizations and officials.
  - (D) One (1) member to represent counties.
  - (E) One (1) member to represent the public at large.
  - (F) One (1) member to represent kindergarten through grade 12 education.
- (5) The chief executive officer of the Indiana economic development corporation (or the chief executive officer's designee).

(c) The president pro tempore of the senate shall appoint one (1) of the members appointed by the president pro tempore as a co-chair of the committee. The speaker of the house of representatives shall appoint one (1) of the members appointed by the speaker as a co-chair of the committee.

(d) The committee shall issue a final report in an electronic format under IC 5-14-6 before November 30, 2010, to the legislative council containing any findings and recommendations of the committee.

(e) Except as otherwise provided, the committee shall operate under the policies governing study committees adopted by the legislative council.

(f) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

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**(g) This SECTION expires January 1, 2011."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 396 as printed February 19, 2010.)

WELCH

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 396 be amended to read as follows:

Page 2, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 2. [EFFECTIVE UPON PASSAGE] **(a) The definitions in P.L.182-2009(ss), SECTION 1 apply throughout this SECTION.**

**(b) In addition to the appropriations made to the Indiana economic development corporation by P.L.182-2009(ss), there is appropriated one million five hundred thousand dollars (\$1,500,000) to the Indiana economic development corporation for the total operating expenses of the capital access program established under IC 5-28-29 for the biennium beginning July 1, 2009, and ending June 30, 2011. The amount of the appropriation is in addition to any amount allotted, encumbered, or expended before the effective date of this SECTION for the capital access program established under IC 5-28-29 or transferred before the effective date of this SECTION to the reserve fund (as defined in IC 5-28-29-12).**

**(c) The appropriations made to the Indiana economic development corporation for the biennium beginning July 1, 2009, and ending June 30, 2011, by P.L.182-2009(ss) are reduced by one million five hundred thousand dollars (\$1,500,000). The budget agency shall exercise its authority under IC 4-12-1-12 to reassign appropriations made to the Indiana economic development corporation for the state fiscal year beginning July 1, 2009, and ending June 30, 2010, and the state fiscal year beginning July 1, 2010, and ending June 30, 2011, to determine the specific line item appropriations that must be reduced under this subsection to fund the appropriation made by subsection (b).**

**(d) An amount appropriated under subsection (b) may not be used for administrative expenses. However, up to two hundred fifty thousand dollars (\$250,000) of the amount appropriated by subsection (b) shall be used to improve and carry out the marketing program for the capital access program required under**

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**IC 5-28-29-14(2). The remainder of the appropriation not used for the marketing program shall be deposited in the reserve fund (as defined in IC 5-28-29-12) and used in the biennium to provide capital to businesses, particularly small and medium sized businesses, to foster economic development in Indiana.**

**(e) Notwithstanding any other law, the amount appropriated under subsection (b):**

- (1) may not be transferred or reassigned to another purpose or fund;**
- (2) does not revert to the state general fund or any other fund at the end of a state fiscal year and remains available in subsequent state fiscal years for the purposes of the capital access program established under IC 5-28-29; and**
- (3) shall be allotted and expended for the purposes of the capital access program established under IC 5-28-29.**

**IC 4-13-2-18(f) does not apply to an amount reassigned under this SECTION or any other amount appropriated or allotted to the purposes of the capital access program established under IC 5-28-29."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 396 as printed February 19, 2010.)

DELANEY

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 396 be amended to read as follows:

Page 2, between lines 26 and 27, begin a new paragraph and insert:  
"SECTION 2. IC 36-7-26-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. This chapter applies to the following:

- (1) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).
- (2) A city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000).
- (3) A city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000).
- (4) A city having a population of more than one hundred twenty

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thousand (120,000) but less than one hundred fifty thousand (150,000).

**(5) Warrick County.**

SECTION 3. IC 36-7-26-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1.5. Notwithstanding any other provision of this chapter, the following apply to a county described in section 1(5) of this chapter:**

**(1) The authority to establish a district in the county expires January 1, 2015, if the board fails to approve a resolution designating a district in the county before January 1, 2015.**

**(2) A district designated in the county expires January 1, 2015, if the commission fails to issue bonds to finance a local public improvement project in the district before January 1, 2015.**

SECTION 4. IC 36-7-26-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2. (a) Present economic conditions in certain areas of certain cities are stagnant or deteriorating.**

**(b) Present economic conditions in such areas are beyond remedy and control by existing regulatory processes because of the substantial public financial commitments necessary to encourage significant increases in economic activities in such areas.**

**(c) Economic development of certain reclaimed coal land near the Blue Grass Fish and Wildlife Area and Interstate Highway 164 is vital for a county described in section 1(5) of this chapter.**

**(d) Encouraging economic development in these areas will:**

- (1) attract new businesses and encourage existing business to remain or expand;**
- (2) increase temporary and permanent employment opportunities and private sector investment;**
- (3) protect and increase state and local tax bases; and**
- (4) encourage overall economic growth in Indiana.**

**(e) Redevelopment and stimulation of economic development benefit the health and welfare of the people of Indiana, are public uses and purposes for which the public money may be spent, and are of public utility and benefit.**

**(f) Economic development in such areas can be accomplished only by a coordinated effort of local and state governments.**

**(g) This chapter shall be liberally construed to carry out the purposes of this chapter and to provide the county described in section 1(5) of this chapter and cities with maximum flexibility to accomplish those purposes.**

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SECTION 5. IC 36-7-26-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. As used in this chapter, "local public improvement" means any redevelopment project or purpose of a commission, **a county described in section 1(5) of this chapter**, or any city under:

- (1) this chapter; or
- (2) IC 36-7-14;
- (3) **IC 36-7-14.5; or**
- (4) **IC 36-7-25.**

SECTION 6. IC 36-7-26-14, AS AMENDED BY P.L.185-2005, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) Whenever a commission determines that the redevelopment and economic development of an area situated within the commission's jurisdiction may require the establishment of a district, the commission shall cause to be assembled data sufficient to make the determinations required under section 15 of this chapter, including the following:

- (1) Maps and plats showing the boundaries of the proposed district.
- (2) A complete list of street names and the range of street numbers of each street situated in the proposed district.
- (3) A plan for the redevelopment and economic development of the proposed district. The plan must describe the local public improvements necessary or appropriate for the redevelopment or economic development.

(b) For a city described in section 1(2) or 1(3) of this chapter, the proposed district must contain a commercial retail facility with at least five hundred thousand (500,000) square feet, and any distributions from the fund must be used in the area described in subsection (a) or in areas that directly benefit the area described in subsection (a).

(c) For a city described in section 1(4) of this chapter, the proposed district may not contain any territory outside the boundaries of a redevelopment project area established within the central business district of the city before 1985.

**(d) For a county described in section 1(5) of this chapter, the proposed district must:**

- (1) be located in whole or in part on reclaimed coal land near the Blue Grass Fish and Wildlife Area and Interstate Highway 164; and**
- (2) adjoin the northernmost boundary of the Blue Grass Fish and Wildlife Area.**

SECTION 7. IC 36-7-26-16 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. (a) **This subsection does not apply to a county described in section 1(5) of this chapter.** Upon adoption of a resolution designating a district under section 15 of this chapter, the commission shall submit the resolution to the board for approval. In submitting the resolution to the board, the commission shall deliver to the board:

- (1) the data required under section 14 of this chapter;
- (2) the information concerning the proposed redevelopment and economic development of the proposed district; and
- (3) the proposed utilization of the revenues to be received under section 23 of this chapter.

This information may be modified from time to time after the initial submission. The commission shall provide to the board any additional information that the board may request from time to time.

**(b) This subsection applies only to a county described in section 1(5) of this chapter. Upon adoption of a resolution designating a district under section 15 of this chapter, the commission shall submit the resolution to the county fiscal body and the county executive for ratification and then shall submit the resolution to the board for approval. In submitting the resolution to the board, the commission shall deliver to the board:**

- (1) the data required under section 14 of this chapter;**
- (2) the information concerning the proposed redevelopment and economic development of the proposed district; and**
- (3) the proposed use of the revenues to be received under section 23 of this chapter.**

**This information may be modified periodically after the initial submission. The commission shall provide to the board any additional information that the board requests.**

~~(b)~~ (c) Upon adoption of a resolution designating a district under section 15 of this chapter, and upon approval of the resolution by the board under subsection (a), the commission shall publish (in accordance with IC 5-3-1) notice of the adoption and ~~purpose~~ **purpose** of the resolution and of the hearing to be held. The notice must provide a general description of the boundaries of the district and state that information concerning the district can be inspected at the commission's office. The notice must also contain a date when the commission will hold a hearing to receive and hear remonstrances and other testimony from persons interested in or affected by the establishment of the district. All affected persons, including all persons or entities owning property or doing business in the district, shall be considered notified of the pendency of the hearing and of subsequent

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acts, hearings, adjournments, and resolutions of the commission by the notice given under this section.

**(d) The approval of the board under subsection (b) is final and conclusive.**

SECTION 8. IC 36-7-26-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 20. **(a) This subsection does not apply to a county described in section 1(5) of this chapter.** The determination of the commission to create a district under this chapter, after approval by the board, must be approved by ordinance of the legislative body of the city.

**(b) This subsection applies only to a county described in section 1(5) of this chapter. The determination of the commission to create a district under this chapter, after approval by the board, must be approved by ordinance of the fiscal body of the county.**

SECTION 9. IC 36-7-26-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 24. (a) The commission may issue bonds, payable in whole or in part, from money distributed from the fund to the commission, to finance a local public improvement under IC 36-7-14-25.1 or may make lease rental payments for a local public improvement under IC 36-7-14-25.2 and IC 36-7-14-25.3. The term of any bonds issued under this section may not exceed ~~twenty (20)~~ **twenty-five (25)** years, nor may the term of any lease agreement entered into under this section exceed ~~twenty (20)~~ **twenty-five (25)** years **after the date the local public improvement is available for use.** The commission shall transmit to the board a transcript of the proceedings with respect to the issuance of the bonds or the execution and delivery of a lease agreement as contemplated by this section. The transcript must include a debt service or lease rental schedule setting forth all payments required in connection with the bonds or the lease rentals.

(b) On January 15 of each year, the commission shall remit to the treasurer of state the money disbursed from the fund that is credited to the net increment account that exceeds the amount needed to pay debt service or lease rentals and to establish and maintain a debt service reserve under this chapter in the prior year and before May 31 of that year. Amounts remitted under this subsection shall be deposited by the auditor of state as other gross retail and use taxes are deposited.

(c) The commission in a city described in section 1(2) of this chapter may distribute money from the fund only for the following:

- (1) Road, interchange, and right-of-way improvements.
- (2) Acquisition costs of a commercial retail facility and for real property acquisition costs in furtherance of the road, interchange,

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and right-of-way improvements.

(3) Demolition of commercial property and any related expenses incurred before or after the demolition of the commercial property.

(4) For physical improvements or alterations of property that enhance the commercial viability of the district.

(d) The commission in a city described in section 1(3) of this chapter may distribute money from the fund only for the following purposes:

(1) For road, interchange, and right-of-way improvements and for real property acquisition costs in furtherance of the road, interchange, and right-of-way improvements.

(2) For the demolition of commercial property and any related expenses incurred before or after the demolition of the commercial property.

(e) The commission in a city described in section 1(4) of this chapter may distribute money from the fund only for the following purposes:

(1) For:

(A) the acquisition, demolition, and renovation of property; and

(B) site preparation and financing; related to the development of housing in the district.

(2) For physical improvements or alterations of property that enhance the commercial viability of the district.

**(f) The commission in a county described in section 1(5) of this chapter may distribute money from the fund for the following district project costs associated with the development or redevelopment of the district:**

**(1) The total cost of acquisition of all land, rights-of-way, and other property to be acquired, developed, or redeveloped for the project.**

**(2) Site preparation, including utilities and infrastructure.**

**(3) Costs associated with the construction or establishment of a museum and education complex and a multisport athletic complex that are owned or leased by:**

**(A) the county described in section 1(5) of this chapter;**

**(B) the commission;**

**(C) an authority (as defined in IC 36-7-14.5-2);**

**(D) a leasing body (as defined in IC 5-1-1-1); or**

**(E) one (1) or more entities that are exempt from income taxation under Section 501(c)(3) of the Internal Revenue**

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**(4) Road, interchange, and right-of-way improvements.**

**(5) Public parking facilities.**

**(6) All reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and development or redevelopment of the property or the issuance of bonds.**

**(7) For any bonds issued by an entity to which money from the fund may be pledged under subsection (a), debt service, lease payments, capitalized interest, or debt service reserve for the bonds to the extent the commission determines that a reserve is reasonably required.**

SECTION 10. IC 36-7-26-24.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 24.5. Notwithstanding section 23 of this chapter, state gross retail and use taxes may not be deposited in the fund with respect to a particular district after December 31 of the calendar year in which the board determines that no obligations of the commission incurred under this chapter to finance a local public improvement in the district remain outstanding.**

SECTION 11. IC 36-7-26-25, AS AMENDED BY P.L.146-2008, SECTION 769, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 25. (a) This section does not apply to a county described in section 1(5) of this chapter.**

**(b)** The board may not approve a resolution under section 16 of this chapter until the board has satisfied itself that the city in which the proposed district will be established has maximized the use of tax increment financing under IC 36-7-14 or IC 36-7-14.5 to finance public improvements within or serving the proposed district. The city may not grant property tax abatements to the taxpayers within the proposed district or a district, except that the board may approve a resolution under section 16 of this chapter in the proposed district or a district in which real property tax abatement not to exceed three (3) years has been granted.

SECTION 12. IC 36-7-26-28 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 28. A county described in section 1(5) of this chapter is unique because:**

**(1) it is the location of:**

**(A) surface coal mining operations;**

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- (B) strip mined land currently in the process of reclamation; and**
  - (C) the Blue Grass Fish and Wildlife Area;**
- all of which are in close proximity to Interstate Highway 164; and**
- (2) the county has been presented with an opportunity to:**
    - (A) improve the quality of life in the county;**
    - (B) provide educational and recreational opportunities to residents of the county and the state; and**
    - (C) promote tourism in the county and the state."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 396 as printed February 19, 2010.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 396 be amended to read as follows:

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

"SECTION 1. IC 4-13.6-6-2.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.8. (a) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:**

- (1) A person who has registered a motor vehicle in Indiana.**
- (2) A person who is registered to vote in Indiana.**
- (3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.**
- (4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.**

**(b) Except as provided in subsection (f), a contract for a public**



works project may not be awarded to a contractor who does not:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and
- (2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(c) Except as provided in subsection (f), before August 15 of 2011, and each year thereafter, the division shall file with the legislative council a report for the preceding year stating:

- (1) for each contractor awarded a contract under this chapter; and
- (2) for each subcontractor with which a contractor referred to in subdivision (1) enters into a contract in connection with a contract awarded under this chapter;

the percentage of the employees of the contractor or subcontractor who work on the contract and are residents of Indiana. The report to the legislative council must be in an electronic format under IC 5-14-6.

(d) Except as provided in subsection (f), a contract awarded under this chapter for a public works project is terminated if the division determines that the contractor has failed to:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and
- (2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(e) Except as provided in subsection (f), a contractor or subcontractor who fails to employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract or subcontract commits a Class B infraction for each nonresident of Indiana employed in excess of the number of nonresident employees permitted by this section.

(f) If:

- (1) a contract or subcontract subject to this section is funded in whole or in part with federal funds; and
- (2) imposing the requirements of this section would cause the state to lose the federal funds for the contract, as determined by the federal agency providing the funds;

subsections (b) through (e) do not apply.

(g) If an agency of the federal government makes a determination under subsection (f) that causes a contract to be exempted from the requirements of subsections (b) through (e), this

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section is meant to express the view of the general assembly that expanding employment opportunities for Indiana residents remains a vital part of the state's economy.

(h) A contract exempted from the requirements of subsections (b) through (e) may not reference the employment of Indiana residents. The division may not consider the number of employment opportunities for Indiana residents when doing any of the following with respect to a project subject to a contract that is exempted from the requirements of subsections (b) through (e):

- (1) Issuing a request for proposals.
- (2) Issuing a bulletin inviting bids for the contract.
- (3) Prequalifying a contractor for the contract.
- (4) Evaluating a bid for the contract.

(i) This section does not apply to contracts entered into to perform work:

- (1) resulting from an emergency; or
- (2) performed by an artisan or by someone in a speciality area with limited persons able to perform the work.

SECTION 2. IC 5-16-1-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

- (1) A person who has registered a motor vehicle in Indiana.
- (2) A person who is registered to vote in Indiana.
- (3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.
- (4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

(b) Except as provided in subsection (f), a contract for a public works project under this chapter may not be awarded to a contractor who does not:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and

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(2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(c) Except as provided in subsection (f), before August 15 of 2011, and each year thereafter, any state agency entering into contracts under this chapter shall file with the legislative council a report stating:

(1) for each contractor awarded a contract under this chapter; and

(2) for each subcontractor with which a contractor referred to in subdivision (1) enters into a contract in connection with a contract awarded under this chapter;

the percentage of the employees of the contractor or subcontractor who work on the contract and are residents of Indiana. The report to the legislative council must be in an electronic format under IC 5-14-6.

(d) Except as provided in subsection (f), a contract awarded under this chapter for a public works project is terminated if the state or commission determines that the contractor has failed to:

(1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and

(2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(e) Except as provided in subsection (f), a contractor or subcontractor who fails to employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract or subcontract commits a Class B infraction for each nonresident of Indiana employed in excess of the number of nonresident employees permitted by this section.

(f) If:

(1) a contract or subcontract subject to this section is funded in whole or in part with federal funds; and

(2) imposing the requirements of this section would cause the state to lose the federal funds for the contract, as determined by the federal agency providing the funds;

subsections (b) through (e) do not apply.

(g) If an agency of the federal government makes a determination under subsection (f) that causes a contract to be exempted from the requirements of subsections (b) through (e), this section is meant to express the view of the general assembly that expanding employment opportunities for Indiana residents

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remains a vital part of the state's economy.

(h) A contract exempted from the requirements of subsections (b) through (e) may not reference the employment of Indiana residents. The state or a commission may not consider the number of employment opportunities for Indiana residents when doing any of the following with respect to a project subject to a contract that is exempted from the requirements of subsections (b) through (e):

- (1) Issuing a request for proposals.
- (2) Issuing a bulletin inviting bids for the contract.
- (3) Prequalifying a contractor for the contract.
- (4) Evaluating a bid for the contract.

(i) This section does not apply to contracts entered into to perform work:

- (1) resulting from an emergency; or
- (2) performed by an artisan or by someone in a speciality area with limited persons able to perform the work."

Page 2, between lines 26 and 27, begin a new paragraph and insert:  
"SECTION 4. IC 8-10-1-7.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.7. (a) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

- (1) A person who has registered a motor vehicle in Indiana.
- (2) A person who is registered to vote in Indiana.
- (3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.
- (4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

(b) Except as provided in subsection (f), a contract for a public works project under this chapter may not be awarded to a contractor who does not:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees of the contractor who work on the contract; and

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(2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(c) Except as provided in subsection (f), before August 15 of 2011, and each year thereafter, the commission shall file with the legislative council a report stating:

(1) for each contractor awarded a contract under this chapter; and

(2) for each subcontractor with which a contractor referred to in subdivision (1) enters into a contract in connection with a contract awarded under this chapter;

the percentage of the employees of the contractor or subcontractor who work on the contract and are residents of Indiana. The report to the legislative council must be in an electronic format under IC 5-14-6.

(d) Except as provided in subsection (f), a contract awarded under this chapter for a public works project is terminated if the commission determines that the contractor has failed to:

(1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and

(2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(e) Except as provided in subsection (f), a contractor or subcontractor who fails to employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract or subcontract commits a Class B infraction for each nonresident of Indiana employed in excess of the number of nonresident employees permitted by this section.

(f) If:

(1) a contract or subcontract subject to this section is funded in whole or in part with federal funds; and

(2) imposing the requirements of this section would cause the state to lose the federal funds for the contract, as determined by the federal agency providing the funds;

subsections (b) through (e) do not apply.

(g) If an agency of the federal government makes a determination under subsection (f) that causes a contract to be exempted from the requirements of subsections (b) through (e), this section is meant to express the view of the general assembly that expanding employment opportunities for Indiana residents remains a vital part of the state's economy.

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(h) A contract exempted from the requirements of subsections (b) through (e) may not reference the employment of Indiana residents. The commission may not consider the number of employment opportunities for Indiana residents when doing any of the following with respect to a project subject to a contract that is exempted from the requirements of subsections (b) through (e):

- (1) Issuing a request for proposals.
- (2) Issuing a bulletin inviting bids for the contract.
- (3) Prequalifying a contractor for the contract.
- (4) Evaluating a bid for the contract.

(i) This section does not apply to contracts entered into to perform work:

- (1) resulting from an emergency; or
- (2) performed by an artisan or by someone in a speciality area with limited persons able to perform the work.

SECTION 5. IC 8-23-9-4.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.6. (a) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

- (1) A person who has registered a motor vehicle in Indiana.
- (2) A person who is registered to vote in Indiana.
- (3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.
- (4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

(b) Except as provided in subsection (f), a contract for a public works project under this chapter may not be awarded to a contractor who does not:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees of the contractor who work on the contract; and
- (2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%)

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of the employees working on the subcontract.

(c) Except as provided in subsection (f), before August 15 of 2011, and each year thereafter, the department shall file with the legislative council a report stating:

(1) for each contractor awarded a contract under this chapter; and

(2) for each subcontractor with which a contractor referred to in subdivision (1) enters into a contract in connection with a contract awarded under this chapter;

the percentage of the employees of the contractor or subcontractor who work on the contract and are residents of Indiana. The report to the legislative council must be in an electronic format under IC 5-14-6.

(d) Except as provided in subsection (f), a contract awarded under this chapter for a public works project is terminated if the department determines that the contractor has failed to:

(1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and

(2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(e) Except as provided in subsection (f), a contractor or subcontractor who fails to employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract or subcontract commits a Class B infraction for each nonresident of Indiana employed in excess of the number of nonresident employees permitted by this section.

(f) If:

(1) a contract or subcontract subject to this section is funded in whole or in part with federal funds; and

(2) imposing the requirements of this section would cause the state to lose the federal funds for the contract, as determined by the federal agency providing the funds;

subsections (b) through (e) do not apply.

(g) If an agency of the federal government makes a determination under subsection (f) that causes a contract to be exempted from the requirements of subsections (b) through (e), this section is meant to express the view of the general assembly that expanding employment opportunities for Indiana residents remains a vital part of the state's economy.

(h) A contract exempted from the requirements of subsections (b) through (e) may not reference the employment of Indiana

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residents. The department may not consider the number of employment opportunities for Indiana residents when doing any of the following with respect to a project subject to a contract that is exempted from the requirements of subsections (b) through (e):

- (1) Issuing a request for proposals.
- (2) Issuing a bulletin inviting bids for the contract.
- (3) Prequalifying a contractor for the contract.
- (4) Evaluating a bid for the contract.

(i) This section does not apply to contracts entered into to perform work:

- (1) resulting from an emergency; or
- (2) performed by an artisan or by someone in a speciality area with limited persons able to perform the work.

SECTION 6. IC 36-1-12-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. (a)** As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

- (1) A person who has registered a motor vehicle in Indiana.
- (2) A person who is registered to vote in Indiana.
- (3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.
- (4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

(b) Except as provided in subsection (e), a contract for a public works project under this chapter may not be awarded to a contractor who does not:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees of the contractor who work on the contract; and
- (2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees working on the subcontract.

(c) Except as provided in subsection (e), a contract awarded

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under this chapter for a public works project is terminated if the unit determines that the contractor has failed to:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and
- (2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(d) Except as provided in subsection (e), a contractor or subcontractor who fails to employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract or subcontract commits a Class B infraction for each nonresident of Indiana employed in excess of the number of nonresident employees permitted by this section.

(e) If:

- (1) a contract or subcontract subject to this section is funded in whole or in part with federal funds; and
- (2) imposing the requirements of this section would cause the state to lose the federal funds for the contract, as determined by the federal agency providing the funds;

subsections (b) through (d) do not apply.

(f) If an agency of the federal government makes a determination under subsection (e) that causes a contract to be exempted from the requirements of subsections (b) through (d), this section is meant to express the view of the general assembly that expanding employment opportunities for Indiana residents remains a vital part of the state's economy.

(g) A contract exempted from the requirements of subsections (b) through (d) may not reference the employment of Indiana residents. The division may not consider the number of employment opportunities for Indiana residents when doing any of the following with respect to a project subject to a contract that is exempted from the requirements of subsections (b) through (d):

- (1) Issuing a request for proposals.
- (2) Issuing a bulletin inviting bids for the contract.
- (3) Prequalifying a contractor for the contract.
- (4) Evaluating a bid for the contract.

(h) This section does not apply to contracts entered into to perform work:

- (1) resulting from an emergency; or
- (2) performed by an artisan or by someone in a speciality area with limited persons able to perform the work.

SECTION 7. IC 36-8-4-10 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Subject to subsection ~~(b)~~; (c), the board or persons having the authority to employ members of the fire or police department shall give a preference for employment according to the following priority:

- (1) A war veteran who has been honorably discharged from the United States armed forces.
- (2) A person whose mother or father was a:
  - (A) firefighter of a unit;
  - (B) municipal police officer; or
  - (C) county police officer;
 who died in the line of duty (as defined in IC 5-10-10-2).

**(b) Subject to subsection (c), the board or person having the authority to employ members of a fire or police department may give a preference for employment to any of the following:**

- (1) A police officer or firefighter laid off by another city under section 11 of this chapter.**
- (2) A county police officer laid off by a sheriff's department under IC 36-8-10-11.1.**
- (3) A person who:**
  - (A) was employed full-time or part-time by a township to provide fire protection and emergency services; and**
  - (B) has been laid off by the township.**

~~(b)~~ (c) A person described in subsection (a) or (b) may not receive a preference for employment unless the person:

- (1) applies; and
- (2) meets all employment requirements prescribed:
  - (A) by law, including physical and age requirements; and
  - (B) by the fire or police department.

SECTION 8. IC 36-8-10-10.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.4. (a) Subject to subsection ~~(b)~~; (c), the board shall give a preference for employment according to the following priority:

- (1) A war veteran who has been honorably discharged from the United States armed forces.
- (2) A person whose mother or father was a:
  - (A) firefighter of a unit;
  - (B) municipal police officer; or
  - (C) county police officer;
 who died in the line of duty (as defined in IC 5-10-10-2).

**(b) Subject to subsection (c), the board may give a preference for employment to any of the following:**

- (1) A member of another department laid off under section**

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**11.1 of this chapter.**

**(2) A police officer laid off by a city under IC 36-8-4-11.**

~~(b)~~ (c) A person described in subsection (a) **or (b)** may not receive a preference for employment unless the person:

- (1) applies; and
- (2) meets all employment requirements prescribed:
  - (A) by law, including physical and age requirements; and
  - (B) by the department.

SECTION 9. IC 36-8-13-3, AS AMENDED BY P.L.182-2009(ss), SECTION 439, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The executive of a township, with the approval of the legislative body, may do the following:

(1) Purchase firefighting and emergency services apparatus and equipment for the township, provide for the housing, care, maintenance, operation, and use of the apparatus and equipment to provide services within the township but outside the corporate boundaries of municipalities, and employ full-time or part-time personnel to operate the apparatus and equipment and to provide services in that area. Preference in employment under this section shall be given according to the following priority:

- (A) A war veteran who has been honorably discharged from the United States armed forces.
- (B) A person whose mother or father was a:
  - (i) firefighter of a unit;
  - (ii) municipal police officer; or
  - (iii) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

**The executive of a township may give a preference for employment under this section to a person who was employed full-time or part-time by another township to provide fire protection and emergency services and has been laid off by the township. The executive of a township may also give a preference for employment to a firefighter laid off by a city under IC 36-8-4-11.** A person described in this subdivision may not receive a preference for employment unless the person applies for employment and meets all employment requirements prescribed by law, including physical and age requirements, and all employment requirements prescribed by the fire department.

(2) Contract with a municipality in the township or in a contiguous township that maintains adequate firefighting or emergency services apparatus and equipment to provide fire

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protection or emergency services for the township in accordance with IC 36-1-7.

(3) Cooperate with a municipality in the township or in a contiguous township in the purchase, maintenance, and upkeep of firefighting or emergency services apparatus and equipment for use in the municipality and township in accordance with IC 36-1-7.

(4) Contract with a volunteer fire department that has been organized to fight fires in the township for the use and operation of firefighting apparatus and equipment that has been purchased by the township in order to save the private and public property of the township from destruction by fire, including use of the apparatus and equipment in an adjoining township by the department if the department has made a contract with the executive of the adjoining township for the furnishing of firefighting service within the township.

(5) Contract with a volunteer fire department that maintains adequate firefighting service in accordance with IC 36-8-12.

(b) This subsection applies only to townships that provide fire protection or emergency services or both under subsection (a)(1) and to municipalities that have some part of the municipal territory within a township and do not have a full-time paid fire department. A township may provide fire protection or emergency services or both without contracts inside the corporate boundaries of the municipalities if before July 1 of a year the following occur:

- (1) The legislative body of the municipality adopts an ordinance to have the township provide the services without a contract.
- (2) The township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality.

In a township providing services to a municipality under this section, the legislative body of either the township or a municipality in the township may opt out of participation under this subsection by adopting an ordinance or a resolution, respectively, before July 1 of a year.

(c) This subsection applies only to a township that:

- (1) is located in a county containing a consolidated city;
- (2) has at least three (3) included towns (as defined in IC 36-3-1-7) that have all municipal territory completely within the township on January 1, 1996; and
- (3) provides fire protection or emergency services, or both, under subsection (a)(1);

and to included towns (as defined in IC 36-3-1-7) that have all the

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included town's municipal territory completely within the township. A township may provide fire protection or emergency services, or both, without contracts inside the corporate boundaries of the municipalities if before August 1 of the year preceding the first calendar year to which this subsection applies the township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality. The resolution must identify the included towns to which the resolution applies. In a township providing services to a municipality under this section, the legislative body of the township may opt out of participation under this subsection by adopting a resolution before July 1 of a year. A copy of a resolution adopted under this subsection shall be submitted to the executive of each included town covered by the resolution, the county auditor, and the department of local government finance."

Renumber all SECTIONS consecutively.

(Reference is to ESB 396 as printed February 19, 2010.)

KERSEY

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#### HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 396 be amended to read as follows:

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

"SECTION 1. IC 5-28-2-4.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.1. "Incentive granted by the corporation" includes any benefit, grant, loan, loan guarantee, money, tax deduction, tax credit, or other thing of value referred to in:**

- (1) **this article; or**
- (2) **another Indiana statute that authorizes the corporation, including the board, to award or approve the award of any benefit, grant, loan, money, tax credit, or other thing of value.**

SECTION 2. IC 5-28-6-5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The corporation shall employ an individual or reassign an employee to serve in a full-time position as a compliance officer whose primary duties are to determine and report to the corporation whether each person that receives:**

- (1) **an incentive granted by the corporation; or**

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**(2) a job creation incentive granted by the corporation or another agency or instrumentality of the state; complies with the terms and conditions of the person's incentive agreement.**

SECTION 3. IC 5-28-6-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. The corporation shall require an applicant for an incentive to be granted by the corporation after March 31, 2010, to enter into an agreement with the corporation as a condition of receiving the incentive. Subject to IC 5-28-28-8, the agreement must include the following requirements:**

- (1) That a specific number of individuals will be employed by the applicant as of a specified date each year.**
- (2) That the applicant will file with the compliance officer an annual compliance report detailing the applicant's compliance, or progress toward compliance, with subdivision (1).**
- (3) That the applicant will pay back to the state the proportionate share of any incentive that has already been received by the applicant if the applicant is found to be employing fewer individuals than the applicant agreed to employ under subdivision (1). The amount required to be paid back is the percentage of the total incentive that equals the ratio that the deficiency in the number of individuals employed bears to the number of individuals the applicant agreed under subdivision (1) to employ.**
- (4) That the applicant will pay back to the state the entire incentive that has been received by the applicant if the applicant moves, closes, or transfers employment positions out of Indiana.**

**Except as provided in IC 5-28-28-8, the corporation may not provide an incentive granted by the corporation to a person that is being required to pay back any part of an incentive to the state, until the date the person has repaid the incentive to the state.**

SECTION 4. IC 5-28-28-1, AS ADDED BY P.L.222-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. This chapter applies to grants, loans, and tax credits:**

- (1) applied for; and**
- (2) awarded;**

**after June 30, 2007. However, sections 8 and 9 of this chapter apply to any incentive granted by the corporation before, on, or after**

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**June 30, 2007.**

SECTION 5. IC 5-28-28-7, AS ADDED BY P.L.222-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If, in the course of compiling information to complete a report required by section 5 of this chapter **or upon the receipt of any other information concerning noncompliance with the terms and conditions of an incentive granted by the corporation**, the corporation determines that a recipient of a ~~grant or loan~~ **an incentive awarded by the corporation** has not complied with the representations that the recipient made in obtaining the ~~grant or loan~~; **incentive**, the corporation shall **take the actions required under subsections (b) and (d).**

**(b) If the incentive is a grant or loan awarded before April 1, 2010, the corporation shall determine:**

- (1) whether there was good cause for the noncompliance; and
- (2) whether the recipient is in default.

~~(b)~~ If in the judgment of the corporation there is not good cause for any noncompliance discovered under subsection (a), the corporation may seek a refund or arrange other methods of reclaiming the grant or loan from the recipient. If the corporation does seek a refund or otherwise reclaims a grant or loan from the recipient under this section, the amount of the refund or reclaimed part must be in proportion to the degree of default by the recipient as determined by the corporation.

(c) Subsection (b) does not apply to a recipient of a grant or loan if:

- (1) the grant or loan has been disbursed on a pro rata basis; and
- (2) in the judgment of the corporation, the recipient's performance in relation to the recipient's performance goals equals or exceeds the ratio of the amount of the recipient's actual benefit from the grant or loan to the total amount of the grant or loan originally contemplated in the grant or loan award.

**(d) If the incentive granted by the corporation was awarded after March 31, 2010, subject to section 8 of this chapter, the corporation shall seek a refund or arrange other methods of reclaiming the value of the incentive granted by the corporation from the recipient. The amount of the refund or reclaimed part must be in proportion to the degree of default by the recipient as determined by the corporation. If the noncompliance is a failure to meet a requirement related to employment levels, the amount reclaimed shall be a percentage of the incentive that equals the deficiency in the number of individuals employed as compared to the number of individuals the recipient agreed to employ.**

SECTION 6. IC 5-28-28-8 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) As used in this section, "recapture provision" means language that requires the recipient of an incentive to repay some part of the incentive.**

**(b) The corporation may waive or modify a recapture provision of this article or an agreement made with a person to whom the corporation has awarded an incentive if the corporation determines that the recipient of an incentive awarded by the corporation has failed to meet a condition for receiving the incentive because of circumstances beyond the recipient's control, including:**

- (1) natural disaster;**
- (2) unforeseen industry trends;**
- (3) lack of available labor force; or**
- (4) loss of a major supplier or market.**

SECTION 7. IC 5-28-28-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. Beginning in 2010, the economic incentives and compliance report required under section 5 of this chapter must include an annual report on the effectiveness of all incentives granted by the corporation. The report provisions required by this section must:**

- (1) include a section specifying each person's compliance with its incentive agreement and any incentive that had to be reduced or paid back as a result of noncompliance with an incentive agreement;**
- (2) state, for each incentive recipient, the total incentive provided for each job created, computed from the date the incentive is granted through June 30 of the year of the report; and**
- (3) also be submitted to the general assembly in an electronic format under IC 5-14-6."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 396 as printed February 19, 2010.)

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