LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6736 **NOTE PREPARED:** Dec 30, 2010
BILL NUMBER: SB 350 **BILL AMENDED:**

SUBJECT: Access to State Financial Data.

FIRST AUTHOR: Sen. Broden **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** **IMPACT:** State
DEDICATED
FEDERAL

Summary of Legislation: This bill requires state agencies to accept public comments on proposed rules that are sent electronically.

The bill requires the Auditor of State, working with the Office of Technology, to develop and maintain an Internet web site detailing all state expenditures by state agencies. It requires state agencies to provide information to the Auditor of State and to develop links on agency Internet web sites to the expenditure web site. The bill also requires the Auditor of State to maintain a link on the expenditure web site to the budget agency information on how budgets are formed.

The bill adds various job and employee definitions to the Indiana Economic Development Corporation (IEDC) laws. It requires all records related to taxpayer funded economic development incentives to be disclosed under the open records law. It provides that the IEDC's annual job creation incentives and compliance report (IEDC Annual Report) must be published on the expenditure web site. It requires the IEDC and the Department of State Revenue to compile information on all job creation incentives granted, including the aggregate amount of uncollected or diverted state tax revenues resulting from each incentive, and requires that this information be included in the IEDC Annual Report. It requires the IEDC to recapture incentives from a recipient failing to make the level of capital investment, failing to create or retain the promised number of jobs, or paying less in wages than specified in the agreement. The bill requires the IEDC to compile information on all recapture activities and incentives recouped from unfulfilled commitments and to include this information in the IEDC Annual Report. It requires incentive recipients to prepare annual progress reports on the number of jobs created or retained, employee pay, and various other information concerning the use of the job creation incentives, and requires the IEDC to compile this information and include it in the Iedc Annual Report. The bill repeals the definition of job creation incentive and replaces it

without change to maintain alphabetical order.

Effective Date: July 1, 2011.

Explanation of State Expenditures: *Public Comments on Agency Rules*: This bill provides that state agencies should provide for public comments concerning proposed rules electronically. This provision should have minimal fiscal impact on state agencies.

State Expenditure Website: This bill requires the Auditor of State and the Office of Technology to provide a data base website that includes state expenditures (including contracts and grants). Any additional expense resulting from this provision should be minimal because the Auditor of State and Office of Technology are already working to provide access to state financial data through the Indiana Transparency Portal. The portal currently provides a link to a search tool for state contracts, grants, and leases, and will provide an expenditure search tool by state agency in the near future.

All other state agencies should not be significantly affected because the bill does not require a state agency to record information or expend resources for the purpose of computer programming to make information reportable. The bill's definition of state agency includes the legislative, administrative, and judicial branches of government, and state educational institutions. The bill does require state agencies to cooperate with the Auditor and provide the information necessary for the Auditor to compile the data base. It is estimated that all state agencies currently have the information needed for the data base. The bill does require each state agency to include a link to this data base on the state agency's website. This provision is not expected to have a significant fiscal impact on state agencies.

Background Information - The Auditor of State launched the Indiana Transparency Portal in 2010. This website currently provides the following data to the public: state contracts; state employee salaries; budget information; revenue data; local government information; state debt authority overview; performance information; and American Recovery and Reinvestment Act (ARRA) information. This website is expected to provide local government annual financial reports and an expenditure search tool by the end of 2010. In 2011, the Auditor of State's office expects to provide program performance results by associated budget, agency, or program, and a single search tool that provides a program's budget, expenditures, and performance results. Future projects for the transparency site will be to include state university spending and K-12 spending.

Department of State Revenue (DOR): This bill requires that the DOR report the aggregate amount of uncollected or diverted state tax revenues resulting from each tax credit to the IEDC on an annual basis. Any additional expense resulting from this provision should be minimal.

Indiana Economic Development Corporation (IEDC): This bill makes changes to the IEDC's Annual Report which is submitted annually to the Governor and the Legislative Council. Some of the information required to be reported will be obtained through annual compliance reports submitted to the IEDC from recipients of job creation incentives. The bill also requires the IEDC to report the aggregate amount of uncollected or diverted state tax revenues resulting from each tax credit. This information will be provided to the IEDC by the DOR. In addition, the bill requires the IEDC to report on the outcomes and effectiveness of recapture programs, and to provide a summary of the information submitted to the IEDC by the Certified Technology Parks.

These provisions will likely increase the administrative workload of the IEDC. Any additional funds and resources required could be supplied through existing staff and resources currently being used in another program or with new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend on legislative and administrative actions.

Explanation of State Revenues: *Recapture of IEDC Incentives*: If applicants do not comply with the provisions agreed to when receiving incentives, they must pay back the appropriate amounts. The fiscal impact is indeterminable because it will depend on the extent to which applicants violate the provisions of their incentive agreements.

This bill requires that the IEDC recapture incentives from a recipient that moves or closes, fails to make the specified level of capital investment, fails to create or retain the promised number of jobs, or pays less in wages than specified in the agreement for job creation incentives. Current statute provides that if the applicant moves or closes the business receiving incentives, then the applicant will pay back to the state the incentive received. Current statute also provides that if the IEDC finds that an applicant is employing fewer individuals than they agreed to employ in their application, then a hearing would be held to determine if the applicant should be required to pay part of the incentive received back to the state.

Capital Investment Credit Recapture: This bill amends the Capital Investment Credit so that the IEDC must require taxpayers that do not make the qualified investment agreed upon to repay the additional amount of state tax liability that would have been paid by the taxpayer if the credit had not been granted, plus interest. Current statute specifies that the IEDC may require the taxpayer to repay this amount.

The Capital Investment Credit is equal to 14% of the value of qualified investment in a business project having an estimated total cost of at least $75 M and is located in Shelby County. The total tax credit value must be divided equally over seven years. The credit is nonrefundable, but unused credits may be carried forward for up to three years. Unused credits may not be carried back. This tax credit may be applied against the individual or corporate AGI Tax, Financial Institutions Tax, and Insurance Premiums Tax liabilities.

Media Production Expenditure Tax Credit Recapture: This bill amends the Media Production Expenditure Tax Credit so that if a taxpayer fails to satisfy conditions agreed upon with the IEDC, or fails to file tax returns, the IEDC must: disallow the use of all or a part of any unused tax credit, recapture all or a part of the tax credit, or both. Current statute specifies that the IEDC may take these actions, but they are not required to do so.

The Media Production Expenditure Tax Credit is for qualified media production expenditures and is equal to 15% of qualified expenditures if the expenditure total is less than $6 M, and up to 15% of qualified expenditures as determined by the IEDC if the expenditure total is $6 M or more. Tax credits may not exceed $2.5 M in a fiscal year. The tax credit is refundable. The credit may be claimed against individual or corporate AGI Tax, Insurance Premiums Tax, or Financial Institutions Tax liabilities. This tax credit expires December 31, 2011.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Auditor of State; Office of Technology; IEDC.

Local Agencies Affected:

Information Sources: www.transparency.in.gov.

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