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# SENATE BILL No. 349

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-22-2-26; IC 5-28; IC 6-3.1.

**Synopsis:** Incentives compliance reporting. Requires state agencies to accept public comments that are sent electronically on proposed rules. Adds various job and employee definitions to the Indiana economic development corporation (IEDC) laws. Requires all records related to taxpayer funded economic development incentives to be disclosed under the open records law. Provides that the IEDC's annual job creation incentives and compliance report (IEDC annual report) must be published on the expenditure web site. 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. 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. 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. 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. Repeals the definition of job creation incentive and replaces it without change to maintain alphabetical order. Makes technical corrections.

**Effective:** July 1, 2012.

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**Broden, Arnold, Breaux, Hume,  
Lanane, Mrvan, Randolph, Rogers,  
Simpson, Skinner, Tallian, Taylor,  
Young R**

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January 9, 2012, read first time and referred to Committee on Commerce & Economic Development.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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# SENATE BILL No. 349



A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

- 1 SECTION 1. IC 4-22-2-26 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 26. (a) After the notices
- 3 and the text of an agency's proposed rule are published under section
- 4 24 of this chapter, the agency shall conduct a public hearing on the
- 5 proposed rule.
- 6 (b) The agency shall convene the public hearing on the date and at
- 7 the time and place stated in its notices.
- 8 (c) The agency may conduct the public hearing in any informal
- 9 manner that allows for an orderly presentation of comments and avoids
- 10 undue repetition. However, the agency shall afford any person
- 11 attending the public hearing an adequate opportunity to comment on
- 12 the agency's proposed rule through the presentation of oral and written
- 13 facts or argument.
- 14 (d) The agency may recess the public hearing and reconvene it on
- 15 a different date or at a different time or place by:
- 16 (1) announcing the date, time, and place of the reconvened public



1 hearing in the original public hearing before its recess; and  
 2 (2) recording the announcement in the agency's record of the  
 3 public hearing.  
 4 **The agency shall include information concerning the new date,**  
 5 **time, and place of the reconvened public hearing on the Internet**  
 6 **web site of the agency.**

7 (e) An agency that complies with subsection (d) is not required to  
 8 give any further notice of a public hearing that is to be reconvened.

9 (f) **An agency shall provide for public comments to be presented**  
 10 **electronically. The notice required under section 24 of this chapter**  
 11 **must include information to allow the public to make comments**  
 12 **electronically on the same date on which the public hearing is held.**  
 13 **If there are additional public hearings under subsection (d),**  
 14 **electronic comments must be accepted on the new date.**  
 15 **Announcement of a new date under subsection (d) must include**  
 16 **information on how the public comments are to be made.**

17 SECTION 2. IC 5-28-2-4.1 IS ADDED TO THE INDIANA CODE  
 18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 19 1, 2012]: **Sec. 4.1. "Full-time employee" has the meaning set forth**  
 20 **in IC 6-3.1-13-4.**

21 SECTION 3. IC 5-28-2-4.2 IS ADDED TO THE INDIANA CODE  
 22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 23 1, 2012]: **Sec. 4.2. (a) "Full-time permanent job" means**  
 24 **employment in which a new employee works for the recipient of a**  
 25 **job creation incentive as a full-time employee without any expected**  
 26 **date of termination.**

27 **(b) The term does not include a temporary job.**

28 SECTION 4. IC 5-28-2-4.5 IS ADDED TO THE INDIANA CODE  
 29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 30 1, 2012]: **Sec. 4.5. "Job creation incentive" means a tax credit, tax**  
 31 **deduction, grant, loan, or loan guarantee that a statute authorizes**  
 32 **the state or an instrumentality of the state (excluding any political**  
 33 **subdivision or other unit of local government) to award or approve**  
 34 **for the purpose of encouraging the creation of new jobs in Indiana.**

35 SECTION 5. IC 5-28-2-4.6 IS ADDED TO THE INDIANA CODE  
 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 37 1, 2012]: **Sec. 4.6. "Job creation incentive agreement" or "incentive**  
 38 **agreement" means any agreement executed by the corporation and**  
 39 **the recipient of a job creation incentive setting forth the terms and**  
 40 **conditions of the job creation incentive to be provided to the**  
 41 **recipient.**

42 SECTION 6. IC 5-28-2-4.7 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
2 1, 2012]: **Sec. 4.7. "New employee" means a full-time employee  
3 who:**

4 **(1) is first employed by the recipient of a job creation  
5 incentive at the specific project site that is the subject of the  
6 job creation incentive agreement executed by the corporation  
7 and the recipient; and**

8 **(2) is employed by the recipient after the recipient enters into  
9 the job creation incentive agreement.**

10 SECTION 7. IC 5-28-2-4.8 IS ADDED TO THE INDIANA CODE  
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
12 1, 2012]: **Sec. 4.8. "Part-time job" means employment in which a  
13 new employee works for the recipient of a job creation incentive  
14 for fewer hours each week than the number of hours necessary to  
15 be considered a full-time employee.**

16 SECTION 8. IC 5-28-2-4.9 IS ADDED TO THE INDIANA CODE  
17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
18 1, 2012]: **Sec. 4.9. "Retained employee" means any employee:**

19 **(1) who has a full-time or full-time equivalent job at a specific  
20 facility or site;**

21 **(2) the continuance of whose job is threatened by a specific  
22 and demonstrable threat, as specified by the applicant in the  
23 application for a job creation incentive; and**

24 **(3) whose job is preserved.**

25 SECTION 9. IC 5-28-2-5.5 IS REPEALED [EFFECTIVE JULY 1,  
26 2012]. **Sec. 5.5. "Job creation incentive" means a tax credit, tax  
27 deduction, grant, loan, or loan guarantee that a statute authorizes the  
28 state or an instrumentality of the state (excluding any political  
29 subdivision or other unit of local government) to award or approve for  
30 the purpose of encouraging the creation of new jobs in Indiana.**

31 SECTION 10. IC 5-28-2-6.5 IS ADDED TO THE INDIANA CODE  
32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
33 1, 2012]: **Sec. 6.5. "Temporary job" means employment in which  
34 a new employee is hired for a specific duration of time or season.**

35 SECTION 11. IC 5-28-5-9, AS ADDED BY P.L.4-2005, SECTION  
36 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
37 2012]: **Sec. 9. (a) Except as specifically provided by law, the  
38 corporation and the board are subject to IC 5-14-1.5 and IC 5-14-3.**

39 **(b) All records required to be prepared or maintained under  
40 this article, including any cost analyses, audits, recipient  
41 compliance reports, and any other records or proceedings of the  
42 corporation must be disclosed as provided by IC 5-14-3. In**

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1 **addition, if:**

- 2 **(1) the corporation contracts with an entity to perform a cost**  
 3 **analysis as part of a determination by the corporation of**  
 4 **whether to provide a job creation incentive; and**  
 5 **(2) the estimated contract price exceeds twenty-five thousand**  
 6 **dollars (\$25,000);**

7 **that cost analysis must be disclosed as provided by IC 5-14-3.**

8 SECTION 12. IC 5-28-6-2, AS AMENDED BY P.L.114-2011,  
 9 SECTION 4, AND AS AMENDED BY P.L.172-2011, SECTION 24,  
 10 IS CORRECTED AND AMENDED TO READ AS FOLLOWS  
 11 [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The corporation shall develop  
 12 and promote programs designed to make the best use of Indiana  
 13 resources to ensure a balanced economy and continuing economic  
 14 growth for Indiana, and, for those purposes, may do the following:

15 (1) Cooperate with federal, state, and local governments and  
 16 agencies in the coordination of programs to make the best use of  
 17 Indiana resources, *based on a statewide study to determine*  
 18 *specific economic sectors that should be emphasized by the state*  
 19 *and by local economic development organizations within*  
 20 *geographic regions in Indiana, and encourage collaboration with*  
 21 *local economic development organizations within geographic*  
 22 *regions in Indiana and with the various state economic*  
 23 *development organizations within the states contiguous to*  
 24 *Indiana.*

25 (2) Receive and expend funds, grants, gifts, and contributions of  
 26 money, property, labor, interest accrued from loans made by the  
 27 corporation, and other things of value from public and private  
 28 sources, including grants from agencies and instrumentalities of  
 29 the state and the federal government. The corporation:

30 (A) may accept federal grants for providing planning  
 31 assistance, making grants, or providing other services or  
 32 functions necessary to political subdivisions, planning  
 33 commissions, or other public or private organizations;

34 (B) shall administer these grants in accordance with the terms  
 35 of the grants; and

36 (C) may contract with political subdivisions, planning  
 37 commissions, or other public or private organizations to carry  
 38 out the purposes for which the grants were made.

39 (3) Direct that assistance, information, and advice regarding the  
 40 duties and functions of the corporation be given to the corporation  
 41 by an officer, agent, or employee of the executive branch of the  
 42 state. The head of any other state department or agency may

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1 assign one (1) or more of the department's or agency's employees  
 2 to the corporation on a temporary basis or may direct a division  
 3 or an agency under the department's or agency's supervision and  
 4 control to make a special study or survey requested by the  
 5 corporation.

6 (b) The corporation shall perform the following duties:

7 (1) Develop and implement industrial development programs to  
 8 encourage expansion of existing industrial, commercial, and  
 9 business facilities in Indiana and to encourage new industrial,  
 10 commercial, and business locations in Indiana.

11 (2) Assist businesses and industries in acquiring, improving, and  
 12 developing overseas markets and encourage international plant  
 13 locations in Indiana. The corporation, with the approval of the  
 14 governor, may establish foreign offices to assist in this function.

15 (3) Promote the growth of minority business enterprises by doing  
 16 the following:

17 (A) Mobilizing and coordinating the activities, resources, and  
 18 efforts of governmental and private agencies, businesses, trade  
 19 associations, institutions, and individuals.

20 (B) Assisting minority businesses in obtaining governmental  
 21 or commercial financing for expansion or establishment of  
 22 new businesses or individual development projects.

23 (C) Aiding minority businesses in procuring contracts from  
 24 governmental or private sources, or both.

25 (D) Providing technical, managerial, and counseling assistance  
 26 to minority business enterprises.

27 (4) Assist the office of the lieutenant governor in:

28 (A) community economic development planning;

29 (B) implementation of programs designed to further  
 30 community economic development; and

31 (C) the development and promotion of Indiana's tourist  
 32 resources.

33 (5) Assist the secretary of agriculture and rural development in  
 34 promoting and marketing of Indiana's agricultural products and  
 35 provide assistance to the director of the Indiana state department  
 36 of agriculture.

37 (6) With the approval of the governor, implement federal  
 38 programs delegated to the state to carry out the purposes of this  
 39 article.

40 (7) Promote the growth of small businesses by doing the  
 41 following:

42 (A) Assisting small businesses in obtaining and preparing the

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- 1 permits required to conduct business in Indiana.  
 2 (B) Serving as a liaison between small businesses and state  
 3 agencies.  
 4 (C) Providing information concerning business assistance  
 5 programs available through government agencies and private  
 6 sources.  
 7 (8) Establish a public information page on its current Internet site  
 8 on the world wide web. The page must provide the following:  
 9 (A) ~~By program, cumulative information on the total amount~~  
 10 ~~of incentives awarded; the total number of companies that~~  
 11 ~~received the incentives and were assisted in a year; and the~~  
 12 ~~names and addresses of those companies.~~  
 13 **(A) The job creation incentives and compliance report**  
 14 **required by IC 5-28-28-5.**  
 15 (B) A mechanism on the page whereby the public may request  
 16 further information online about specific programs or  
 17 incentives awarded.  
 18 (C) A mechanism for the public to receive an electronic  
 19 response.  
 20 **(D) A link to the Internet web site maintained by the**  
 21 **auditor of state under IC 5-14-3.5.**  
 22 (c) The corporation may do the following:  
 23 (1) Disseminate information concerning the industrial,  
 24 commercial, governmental, educational, cultural, recreational,  
 25 agricultural, and other advantages of Indiana.  
 26 (2) Plan, direct, and conduct research activities.  
 27 (3) Assist in community economic development planning and the  
 28 implementation of programs designed to further community  
 29 economic development.  
 30 SECTION 13. IC 5-28-6-6, AS ADDED BY P.L.110-2010,  
 31 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2012]: Sec. 6. The corporation shall require an applicant for  
 33 a job creation incentive to be granted by the corporation after March  
 34 31, 2010, to enter into ~~an a job creation incentive~~ agreement with the  
 35 corporation as a condition of receiving the incentive. Subject to  
 36 IC 5-28-28-8, the agreement must include the following requirements:  
 37 (1) The number of individuals that are expected to be employed  
 38 by the applicant.  
 39 (2) A requirement that the applicant will file with the compliance  
 40 officer an annual compliance report ~~detailing the applicant's~~  
 41 ~~compliance, or progress toward compliance, with subdivision (1).~~  
 42 **as required by IC 5-28-28-10.**

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1 (3) A provision that notifies the applicant that the applicant is  
 2 subject to a determination of the corporation under this  
 3 subdivision. The corporation, after a finding that the applicant is  
 4 employing fewer individuals than the applicant agreed to employ  
 5 under subdivision (1), subject to any confidentiality laws, shall  
 6 hold a hearing to determine if the applicant shall be required to  
 7 pay back to the state a part of the incentive granted to the  
 8 applicant under the agreement. The penalty imposed must be a  
 9 matter of public record and must reflect in a fair and balanced  
 10 way the amount of incentive received.

11 (4) A ~~requirement that recapture provision requiring~~ the  
 12 applicant ~~will to~~ pay back to the state the **job creation** incentive  
 13 that has been received by the applicant if the applicant:

14 (A) moves or closes;

15 (B) **does not make the level of capital investment specified**  
 16 **by the applicant in the application for the job creation**  
 17 **incentive;**

18 (C) **employs fewer individuals than specified by the**  
 19 **applicant in the application for the job creation incentive;**  
 20 **or**

21 (D) **pays less in wages than specified by the applicant in the**  
 22 **application for the job creation incentive.**

23 SECTION 14. IC 5-28-28-5, AS ADDED BY P.L.222-2007,  
 24 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2012]: Sec. 5. (a) Beginning February 1, 2008, the corporation  
 26 shall:

27 (1) ~~submit an economic prepare an annual job creation~~  
 28 ~~incentives and compliance report for submission:~~

29 (A) to the governor; and

30 (B) ~~to~~ the legislative council in an electronic format under  
 31 IC 5-14-6; and

32 (2) publish the report on the corporation's Internet web site **and**  
 33 **on the Internet web site maintained by the auditor of state**  
 34 **under IC 5-14-3.5.**

35 on the schedule specified in subsection (b):

36 (b) ~~Before August 2, 2009, the corporation shall submit and publish~~  
 37 ~~before February 1 and August 1 of each year an incentives and~~  
 38 ~~compliance report that covers the six (6) month period that ends one~~  
 39 ~~(1) month before the report is due. After August 1, 2009, The~~  
 40 ~~corporation shall submit and publish before August 1 of each year an~~  
 41 **the job creation incentives and compliance report that covers under**  
 42 **subsection (a) before August 1 of each year. The report must cover**

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1 the ~~twelve (12)~~ month period that ends one (1) month before the report  
 2 is due: **immediately preceding July 1 through June 30 period.**

3 SECTION 15. IC 5-28-28-6, AS ADDED BY P.L.222-2007,  
 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2012]: Sec. 6. The ~~economic job creation~~ incentives and  
 6 compliance report required under section 5 of this chapter must include  
 7 at least the following:

8 (1) The total amount of each of the following:

9 (A) Tax credits approved or awarded by the corporation,  
 10 **including the aggregate amount of uncollected or diverted**  
 11 **state tax revenues resulting from each tax credit, as**  
 12 **reported to the department of state revenue on tax returns**  
 13 **filed during the state fiscal year that ends immediately**  
 14 **before the due date of the report. Before July 15 of each**  
 15 **year, the department of state revenue shall submit to the**  
 16 **corporation the information necessary for the corporation**  
 17 **to include these aggregate amounts in the corporation's**  
 18 **report.**

19 (B) Loans made by the corporation.

20 (C) Grants made by the corporation.

21 (2) With respect to each recipient of a tax credit, loan, or grant  
 22 referred to in subdivision (1):

23 (A) The name and address of the recipient.

24 (B) The amount of the tax credit, loan, or grant.

25 (C) The purpose of the tax credit, loan, or grant.

26 (D) Representations of the following made by the recipient at  
 27 the time of application for the tax credit, loan, or grant:

28 (i) Numbers of employees to be hired, retained, or trained.

29 (ii) Certification by the corporation that each recipient is  
 30 meeting the program requirements and representations made  
 31 in the recipient's application concerning the wages and  
 32 compensation provided to employees who have been or are  
 33 to be hired, trained, or retrained.

34 (iii) Other benefits to be provided to employees to be hired,  
 35 retained, or trained.

36 (E) The extent to which the recipient has complied with the  
 37 representations referred to in clause (D).

38 **(3) A summary of the information submitted by certified**  
 39 **technology parks as part of the corporation's review under**  
 40 **IC 36-7-32-11.**

41 **(4) All data in all of the compliance reports submitted under**  
 42 **section 10 of this chapter.**

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**(5) By program, cumulative information on the total amount of job creation incentives awarded, the total number of companies that received the job creation incentives and were assisted during the year, and the names and addresses of those companies.**

SECTION 16. IC 5-28-28-7, AS AMENDED BY P.L.110-2010, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) If, in the course of compiling information to complete a **job creation incentives and compliance** 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 an incentive awarded by the corporation has not complied with the representations that the recipient made in obtaining the incentive, the corporation shall take the actions required under ~~subsections~~ **subsection (b) and or (d), whichever applies.**

(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.

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, 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.

SECTION 17. IC 5-28-28-8, AS ADDED BY P.L.110-2010, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2012]: Sec. 8. (a) As used in this section, "recapture  
2 provision" means language that requires the recipient of ~~an~~ **a job**  
3 **creation** incentive to repay some part of the incentive.

4 (b) The corporation may waive or modify a recapture provision of  
5 this article or an agreement made with a person to whom the  
6 corporation has awarded ~~an~~ **a job creation** incentive if the corporation  
7 determines that the recipient of ~~an~~ **the** incentive awarded by the  
8 corporation has failed to meet a condition for receiving the incentive  
9 because of circumstances beyond the recipient's control, including:

- 10 (1) natural disaster;
- 11 (2) unforeseen industry trends;
- 12 (3) lack of available labor force;
- 13 (4) loss of a major supplier or market; or
- 14 (5) another circumstance beyond the recipient's control, as  
15 determined by the corporation.

16 SECTION 18. IC 5-28-28-9, AS ADDED BY P.L.110-2010,  
17 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 2012]: Sec. 9. (a) Beginning in 2010, the ~~economic job~~  
19 **creation** incentives and compliance report required under section 5 of  
20 this chapter must include ~~an annual report~~ **a part** containing a  
21 summary **of annual** statistics on the effectiveness of and compliance  
22 with all incentives granted by the corporation. The **part of the job**  
23 **creation incentives and compliance** report required by this section  
24 must describe:

- 25 (1) the overall compliance with the terms and conditions of  
26 incentives provided; and
- 27 (2) penalties imposed for failure to comply with the terms and  
28 conditions of incentives provided, **including a description of the**  
29 **outcomes and effectiveness of recapture provisions, organized**  
30 **by job creation incentive program, along with at least the**  
31 **following information:**

- 32 (A) **The total number of companies receiving a job creation**  
33 **incentive.**
- 34 (B) **The total number of recipients in violation of a job**  
35 **creation incentive agreement.**
- 36 (C) **The total number of recapture efforts initiated.**
- 37 (D) **The total number of recapture efforts completed.**
- 38 (E) **The number of recapture waivers granted.**

39 The report must also be submitted to the general assembly in an  
40 electronic format under ~~IC 5-14-6~~.

41 (b) Upon request, the corporation shall make available **as a public**  
42 **record under IC 5-14-3:**

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- 1 (1) information specifying each person's compliance with its
- 2 incentive agreement and any incentive that had to be reduced or
- 3 paid back as a result of noncompliance with an incentive
- 4 agreement;
- 5 (2) information stating, for each incentive recipient, the total
- 6 incentive provided for each job created, computed from the date
- 7 the incentive is granted through June 30 of the year of the report;
- 8 (3) information concerning all waivers or modifications under
- 9 section 8 of this chapter; and
- 10 (4) information describing all hearings and determinations under
- 11 IC 5-28-6-6.

12 **(c) The corporation shall post the job creation incentives and**  
 13 **compliance report prepared under section 5 of this chapter on the**  
 14 **Internet web site maintained by the auditor of state under**  
 15 **IC 5-14-3.5.**

16 SECTION 19. IC 5-28-28-10 IS ADDED TO THE INDIANA  
 17 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 18 [EFFECTIVE JULY 1, 2012]: **Sec. 10. (a) Before July 15 of each**  
 19 **year, each recipient of a job creation incentive shall submit to the**  
 20 **corporation an annual compliance report covering the immediately**  
 21 **preceding July 1 through June 30 period. A recipient that is a**  
 22 **party to multiple job creation incentive agreements for a single**  
 23 **project site may file a consolidated compliance report. A**  
 24 **compliance report must include at least the following information:**

- 25 (1) Each application tracking number.
- 26 (2) The recipient's:
  - 27 (A) office mailing address;
  - 28 (B) telephone number; and
  - 29 (C) six (6) digit North American Industry Classification
  - 30 System (NAICS) code assigned to industries in the NAICS
  - 31 Manual of the United States Office of Management and
  - 32 Budget;
- 33 and the name of the recipient's chief officer or authorized
- 34 designee for the specific project site for which the job creation
- 35 incentive was approved.
- 36 (3) The job creation incentive program and the value of the
- 37 job creation incentive that was approved by the corporation.
- 38 (4) The total number of the recipient's employees at the
- 39 specific project site on the date on which the application was
- 40 submitted to the corporation, and total number of the
- 41 recipient's employees at the specific project site on the date of
- 42 the report, including, for each date:

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- 1 (A) the number of employees with full-time permanent
- 2 jobs;
- 3 (B) the number of employees with part-time jobs; and
- 4 (C) the number of employees with temporary jobs;
- 5 and a computation of the increase or decrease in the number
- 6 of employees within each category set forth in clauses (A)
- 7 through (C) between the date of submission of the application
- 8 and the date of the report.
- 9 (5) The number of:
- 10 (A) jobs for new employees that the recipient promised in
- 11 the job creation incentive agreement to create; and
- 12 (B) jobs for retained employees that the recipient promised
- 13 in the job creation incentive agreement to preserve;
- 14 broken down by full-time permanent jobs, part-time jobs, and
- 15 temporary jobs.
- 16 (6) A declaration of whether the recipient is in compliance
- 17 with each term and condition of the job creation incentive
- 18 agreement.
- 19 (7) The following for the full-time permanent jobs that the
- 20 recipient created or retained as a result of the job creation
- 21 incentive:
- 22 (A) A detailed list of the:
- 23 (i) occupations; or
- 24 (ii) job classifications;
- 25 of the jobs.
- 26 (B) A schedule of the starting dates for the new employees
- 27 hired for the jobs.
- 28 (C) The actual average wage paid to the employees with
- 29 the jobs, broken down by occupation or job classification.
- 30 (D) The total payroll for the new employees and retained
- 31 employees with these jobs.
- 32 (8) A narrative, if necessary, stating whether and, if so, how
- 33 the recipient's use of the job creation incentive during the
- 34 reporting year has increased employment at any site in
- 35 Indiana.
- 36 (9) A certification by the chief officer of the recipient or the
- 37 chief officer's authorized designee that the information in the
- 38 compliance report contains no knowing misrepresentation of
- 39 material facts upon which eligibility for the job creation
- 40 incentive is based.
- 41 (10) Any other information the corporation considers
- 42 necessary to ensure compliance with a job creation incentive

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- 1           **program.**
- 2           **(b) The corporation may verify information contained in the**
- 3           **recipient's compliance report, including by inspecting the specific**
- 4           **project site and records of the recipient that relate to the job**
- 5           **creation incentive agreement.**
- 6           **(c) If a recipient of a job creation incentive fails to comply with**
- 7           **subsection (a), the corporation shall suspend all current job**
- 8           **creation incentives being provided to the recipient, effective the**
- 9           **immediately following October 1. In addition, the corporation shall**
- 10           **not complete any current job creation incentive being provided to**
- 11           **the recipient or provide any future job creation incentive to the**
- 12           **recipient until the corporation receives proof that the recipient has**
- 13           **complied with subsection (a).**
- 14           SECTION 20. IC 6-3.1-13.5-12, AS AMENDED BY P.L.4-2005,
- 15           SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 16           JULY 1, 2012]: Sec. 12. (a) If a taxpayer receives a credit under this
- 17           chapter, the equipment, machinery, facilities improvements, facilities,
- 18           buildings, or foundations for which the credit was granted must be fully
- 19           installed or completed not more than five (5) years after the corporation
- 20           issues a letter under section 10 of this chapter certifying that the
- 21           taxpayer is entitled to claim the credit.
- 22           (b) If a taxpayer receives a credit under this chapter and does not
- 23           make the qualified investment (or a part of the qualified investment)
- 24           for which the credit was granted within the time required by subsection
- 25           (a), the corporation ~~may~~ **shall** require the taxpayer to repay the
- 26           following:
- 27           (1) The additional amount of state tax liability that would have
- 28           been paid by the taxpayer if the credit had not been granted for
- 29           the qualified investment (or part of the qualified investment) that
- 30           was not made by the taxpayer within the time required by
- 31           subsection (a).
- 32           (2) Interest at a rate established under IC 6-8.1-10-1(c) on the
- 33           additional amount of state tax liability referred to in subdivision
- 34           (1).

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