

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1280 be amended to read as follows:

1 Page 7, between lines 22 and 23, begin a new paragraph and
2 insert:
3 "SECTION 10. IC 5-28-2-4.1 IS ADDED TO THE INDIANA
4 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
5 [EFFECTIVE JULY 1, 2012]: **Sec. 4.1. "Full-time employee" has the**
6 **meaning set forth in IC 6-3.1-13-4.**
7 SECTION 11. IC 5-28-2-4.2 IS ADDED TO THE INDIANA
8 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
9 [EFFECTIVE JULY 1, 2012]: **Sec. 4.2. (a) "Full-time, permanent**
10 **job" means employment in which a new employee works for the**
11 **recipient of a job creation incentive as a full-time employee without**
12 **any expected date of termination.**
13 **(b) The term does not include a temporary job.**
14 SECTION 12. IC 5-28-2-4.5 IS ADDED TO THE INDIANA
15 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
16 [EFFECTIVE JULY 1, 2012]: **Sec. 4.5. "Job creation incentive"**
17 **means a tax credit, tax deduction, grant, loan, or loan guarantee**
18 **that a statute authorizes the state or an instrumentality of the state**
19 **(excluding any political subdivision or other unit of local**
20 **government) to award or approve for the purpose of encouraging**
21 **the creation of new jobs in Indiana.**
22 SECTION 13. IC 5-28-2-4.6 IS ADDED TO THE INDIANA
23 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
24 [EFFECTIVE JULY 1, 2012]: **Sec. 4.6. "Job creation incentive**
25 **agreement" or "incentive agreement" means any agreement**
26 **executed by the corporation and the recipient of a job creation**
27 **incentive setting forth the terms and conditions of any job creation**
28 **incentive to be provided to the recipient.**
29 SECTION 14. IC 5-28-2-4.7 IS ADDED TO THE INDIANA
30 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
31 [EFFECTIVE JULY 1, 2012]: **Sec. 4.7. "New employee" means a**
32 **full-time employee who:**

- 1 **(1) is first employed by the recipient of a job creation**
- 2 **incentive at the specific project site that is the subject of the**
- 3 **job creation incentive agreement executed by the**
- 4 **corporation and the applicant; and**
- 5 **(2) is employed by the recipient of a job creation incentive**
- 6 **after the recipient enters into the job creation incentive**
- 7 **agreement.**

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

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

- 18 **(1) who has a full-time or full-time equivalent job at a**
- 19 **specific facility or site;**
- 20 **(2) the continuance of whose job is threatened by a specific**
- 21 **and demonstrable threat, as specified by the applicant in the**
- 22 **application for a job creation incentive; and**
- 23 **(3) whose job is preserved.**

24 SECTION 17. IC 5-28-2-5.5 IS REPEALED [EFFECTIVE JULY
25 1, 2012]. **Sec. 5.5: "Job creation incentive" means a tax credit, tax**
26 **deduction, grant, loan, or loan guarantee that a statute authorizes the**
27 **state or an instrumentality of the state (excluding any political**
28 **subdivision or other unit of local government) to award or approve for**
29 **the purpose of encouraging the creation of new jobs in Indiana.**

30 SECTION 18. IC 5-28-2-6.5 IS ADDED TO THE INDIANA
31 CODE AS A NEW SECTION TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2012]: **Sec. 6.5. "Temporary job" means**
33 **employment in which a new employee is hired for a specific**
34 **duration of time or season.**

35 SECTION 19. IC 5-28-5-9, AS ADDED BY P.L.4-2005,
36 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 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**
43 **addition, if the corporation contracts with an entity to perform a**
44 **cost analysis as part of a determination by the corporation of**
45 **whether to provide a job creation incentive and the estimated**
46 **contract price exceeds twenty-five thousand dollars (\$25,000), that**
47 **cost analysis must be disclosed as provided by IC 5-14-3.**

48 SECTION 20. IC 5-28-6-2, AS AMENDED BY P.L.114-2011,
49 SECTION 4, AND AS AMENDED BY P.L.172-2011, SECTION 24,
50 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
51 [EFFECTIVE JULY 1, 2012]: **Sec. 2. (a) The corporation shall develop**
52 **and promote programs designed to make the best use of Indiana**

1 resources to ensure a balanced economy and continuing economic
2 growth for Indiana, and, for those purposes, may do the following:

3 (1) Cooperate with federal, state, and local governments and
4 agencies in the coordination of programs to make the best use of
5 Indiana resources, *based on a statewide study to determine*
6 *specific economic sectors that should be emphasized by the state*
7 *and by local economic development organizations within*
8 *geographic regions in Indiana, and encourage collaboration*
9 *with local economic development organizations within*
10 *geographic regions in Indiana and with the various state*
11 *economic development organizations within the states*
12 *contiguous to Indiana.*

13 (2) Receive and expend funds, grants, gifts, and contributions of
14 money, property, labor, interest accrued from loans made by the
15 corporation, and other things of value from public and private
16 sources, including grants from agencies and instrumentalities of
17 the state and the federal government. The corporation:

18 (A) may accept federal grants for providing planning
19 assistance, making grants, or providing other services or
20 functions necessary to political subdivisions, planning
21 commissions, or other public or private organizations;

22 (B) shall administer these grants in accordance with the
23 terms of the grants; and

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

27 (3) Direct that assistance, information, and advice regarding the
28 duties and functions of the corporation be given to the
29 corporation by an officer, agent, or employee of the executive
30 branch of the state. The head of any other state department or
31 agency may assign one (1) or more of the department's or
32 agency's employees to the corporation on a temporary basis or
33 may direct a division or an agency under the department's or
34 agency's supervision and control to make a special study or
35 survey requested by the corporation.

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

37 (1) Develop and implement industrial development programs to
38 encourage expansion of existing industrial, commercial, and
39 business facilities in Indiana and to encourage new industrial,
40 commercial, and business locations in Indiana.

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

45 (3) Promote the growth of minority business enterprises by doing
46 the following:

47 (A) Mobilizing and coordinating the activities, resources,
48 and efforts of governmental and private agencies,
49 businesses, trade associations, institutions, and individuals.

50 (B) Assisting minority businesses in obtaining

- 1 governmental or commercial financing for expansion or
 2 establishment of new businesses or individual development
 3 projects.
 4 (C) Aiding minority businesses in procuring contracts from
 5 governmental or private sources, or both.
 6 (D) Providing technical, managerial, and counseling
 7 assistance to minority business enterprises.
- 8 (4) Assist the office of the lieutenant governor in:
 9 (A) community economic development planning;
 10 (B) implementation of programs designed to further
 11 community economic development; and
 12 (C) the development and promotion of Indiana's tourist
 13 resources.
- 14 (5) Assist the secretary of agriculture and rural development in
 15 promoting and marketing of Indiana's agricultural products and
 16 provide assistance to the director of the Indiana state department
 17 of agriculture.
- 18 (6) With the approval of the governor, implement federal
 19 programs delegated to the state to carry out the purposes of this
 20 article.
- 21 (7) Promote the growth of small businesses by doing the
 22 following:
 23 (A) Assisting small businesses in obtaining and preparing
 24 the permits required to conduct business in Indiana.
 25 (B) Serving as a liaison between small businesses and state
 26 agencies.
 27 (C) Providing information concerning business assistance
 28 programs available through government agencies and
 29 private sources.
- 30 (8) Establish a public information page on its current Internet
 31 site on the world wide web. The page must provide the
 32 following:
 33 ~~(A) By program, cumulative information on the total~~
 34 ~~amount of incentives awarded; the total number of~~
 35 ~~companies that received the incentives and were assisted in~~
 36 ~~a year; and the names and addresses of those companies.~~
 37 **(A) The job creation incentives and compliance report**
 38 **required by IC 5-28-28-5.**
 39 (B) A mechanism on the page whereby the public may
 40 request further information online about specific programs
 41 or incentives awarded.
 42 (C) A mechanism for the public to receive an electronic
 43 response.
- 44 (c) The corporation may do the following:
 45 (1) Disseminate information concerning the industrial,
 46 commercial, governmental, educational, cultural, recreational,
 47 agricultural, and other advantages of Indiana.
 48 (2) Plan, direct, and conduct research activities.
 49 (3) Assist in community economic development planning and
 50 the implementation of programs designed to further community

1 economic development.

2 SECTION 21. IC 5-28-6-6, AS ADDED BY P.L.110-2010,
3 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2012]: Sec. 6. The corporation shall require an applicant for
5 a job creation incentive to be granted by the corporation after March
6 31, 2010, to enter into ~~an a job creation incentive~~ agreement with the
7 corporation as a condition of receiving the incentive. Subject to
8 IC 5-28-28-8, the agreement must include the following requirements:

9 (1) The number of individuals that are expected to be employed
10 by the applicant.

11 (2) A requirement that the applicant will file with the
12 compliance officer an annual compliance report ~~detailing the~~
13 ~~applicant's compliance, or progress toward compliance, with~~
14 ~~subdivision (1).~~ **as required by IC 5-28-28-10.**

15 (3) A provision that notifies the applicant that the applicant is
16 subject to a determination of the corporation under this
17 subdivision. The corporation, after a finding that the applicant is
18 employing fewer individuals than the applicant agreed to employ
19 under subdivision (1), subject to any confidentiality laws, shall
20 hold a hearing to determine if the applicant shall be required to
21 pay back to the state a part of the incentive granted to the
22 applicant under the agreement. The penalty imposed must be a
23 matter of public record and must reflect in a fair and balanced
24 way the amount of incentive received.

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

28 (A) moves or closes;

29 (B) **does not make the level of capital investment**
30 **specified by the applicant in the application for the job**
31 **creation incentive;**

32 (C) **employs fewer individuals than specified by the**
33 **applicant in the application for the job creation**
34 **incentive; or**

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

37 SECTION 22. IC 5-28-28-5, AS ADDED BY P.L.222-2007,
38 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2012]: Sec. 5. (a) Beginning February 1, 2008, the corporation
40 shall:

41 (1) ~~submit an economic~~ **prepare an annual job creation**
42 **incentives and compliance report for submission to:**

43 (A) the governor; and

44 (B) the legislative council in an electronic format under
45 IC 5-14-6; and

46 (2) publish the report on the corporation's **Internet web site and**
47 **on the Indiana transparency portal** Internet web site.

48 ~~on the schedule specified in subsection (b):~~

49 (b) ~~Before August 2, 2009, the corporation shall submit and~~

1 publish before February 1 and August 1 of each year an incentives and
 2 compliance report that covers the six (6) month period that ends one
 3 (1) month before the report is due. After August 1, 2009, The
 4 corporation shall submit and publish before August 1 of each year an
 5 **the job creation incentives and compliance report that covers under**
 6 **subsection (a) before August 1 of each year. The report must cover**
 7 **the twelve (12) month period that ends one (1) month before the report**
 8 **is due: immediately preceding July 1 through June 30 period.**

9 SECTION 23. IC 5-28-28-6, AS ADDED BY P.L.222-2007,
 10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2012]: Sec. 6. The ~~economic~~ **job creation** incentives and
 12 compliance report required under section 5 of this chapter must include
 13 at least the following:

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

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

25 (B) Loans made by the corporation.

26 (C) Grants made by the corporation.

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

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

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

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

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

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

36 (ii) Certification by the corporation that each recipient
 37 is meeting the program requirements and
 38 representations made in the recipient's application
 39 concerning the wages and compensation provided to
 40 employees who have been or are to be hired, trained, or
 41 retrained.

42 (iii) Other benefits to be provided to employees to be
 43 hired, retained, or trained.

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

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

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

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

6 SECTION 24. IC 5-28-28-7, AS AMENDED BY P.L.110-2010,
 7 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2012]: Sec. 7. (a) If, in the course of compiling information to
 9 complete a **job creation incentives and compliance** report required by
 10 section 5 of this chapter or upon the receipt of any other information
 11 concerning noncompliance with the terms and conditions of an
 12 incentive granted by the corporation, the corporation determines that
 13 a recipient of an incentive awarded by the corporation has not complied
 14 with the representations that the recipient made in obtaining the
 15 incentive, the corporation shall take the actions required under
 16 **subsections subsection (b) and or (d), whichever applies.**

17 (b) If the incentive is a grant or loan awarded before April 1, 2010,
 18 the corporation shall determine:

- 19 (1) whether there was good cause for the noncompliance; and
 20 (2) whether the recipient is in default.

21 If in the judgment of the corporation there is not good cause for any
 22 noncompliance discovered under subsection (a), the corporation may
 23 seek a refund or arrange other methods of reclaiming the grant or loan
 24 from the recipient. If the corporation does seek a refund or otherwise
 25 reclaims a grant or loan from the recipient under this section, the
 26 amount of the refund or reclaimed part must be in proportion to the
 27 degree of default by the recipient as determined by the corporation.

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

- 30 (1) the grant or loan has been disbursed on a pro rata basis; and
 31 (2) in the judgment of the corporation, the recipient's
 32 performance in relation to the recipient's performance goals
 33 equals or exceeds the ratio of the amount of the recipient's actual
 34 benefit from the grant or loan to the total amount of the grant or
 35 loan originally contemplated in the grant or loan award.

36 (d) If the incentive granted by the corporation was awarded after
 37 March 31, 2010, the corporation shall seek a refund or arrange other
 38 methods of reclaiming the value of the incentive granted by the
 39 corporation from the recipient. The amount of the refund or reclaimed
 40 part must be in proportion to the degree of default by the recipient as
 41 determined by the corporation.

42 SECTION 25. IC 5-28-28-8, AS ADDED BY P.L.110-2010,
 43 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 44 JULY 1, 2012]: Sec. 8. (a) As used in this section, "recapture
 45 provision" means language that requires the recipient of **an a job**
 46 **creation** incentive to repay some part of the incentive.

47 (b) The corporation may waive or modify a recapture provision of
 48 this article or an agreement made with a person to whom the
 49 corporation has awarded **an a job creation** incentive if the corporation

1 determines that the recipient of ~~an~~ **the** incentive awarded by the
 2 corporation has failed to meet a condition for receiving the incentive
 3 because of circumstances beyond the recipient's control, including:

- 4 (1) natural disaster;
- 5 (2) unforeseen industry trends;
- 6 (3) lack of available labor force;
- 7 (4) loss of a major supplier or market; or
- 8 (5) another circumstance beyond the recipient's control, as
 9 determined by the corporation.

10 SECTION 26. IC 5-28-28-9, AS ADDED BY P.L.110-2010,
 11 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2012]: Sec. 9. (a) Beginning in 2010, the ~~economic job~~
 13 **creation** incentives and compliance report required under section 5 of
 14 this chapter must include ~~an annual report~~ **a part** containing a
 15 summary of **annual** statistics on the effectiveness of and compliance
 16 with all incentives granted by the corporation. The **part of the job**
 17 **creation incentives and compliance** report required by this section
 18 must describe:

- 19 (1) the overall compliance with the terms and conditions of
 20 incentives provided; and
- 21 (2) penalties imposed for failure to comply with the terms and
 22 conditions of incentives provided, **including a description of**
 23 **the outcomes and effectiveness of recapture provisions,**
 24 **organized by the job creation incentive program, along with**
 25 **at least the following information:**
 - 26 (A) **The total number of companies receiving a job**
 27 **creation incentive.**
 - 28 (B) **The total number of recipients in violation of a job**
 29 **creation incentive agreement.**
 - 30 (C) **The total number of recapture efforts initiated.**
 - 31 (D) **The total number of recapture efforts completed.**
 - 32 (E) **The number of recapture waivers granted.**

33 The report must also be submitted to the general assembly in an
 34 electronic format under IC 5-14-6:

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

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

48 SECTION 27. IC 5-28-28-10 IS ADDED TO THE INDIANA
 49 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 50 [EFFECTIVE JULY 1, 2012]: **Sec. 10. (a) Before July 15 each year,**

1 each recipient of a job creation incentive shall submit to the
 2 corporation an annual compliance report covering the immediately
 3 preceding July 1 through June 30 period. A recipient that is a
 4 party to multiple job creation incentive agreements for a single
 5 project site may file a consolidated compliance report. A
 6 compliance report must include at least the following information:

7 (1) Each application tracking number.

8 (2) The recipient's:

9 (A) office mailing address;

10 (B) telephone number; and

11 (C) six (6) digit North American Industry Classification
 12 System (NAICS) code assigned to industries in the
 13 NAICS Manual of the United States Office of
 14 Management and Budget;

15 and the name of the recipient's chief officer or authorized
 16 designee for the specific project site for which the job
 17 creation incentive was approved.

18 (3) The job creation incentive program and value of the job
 19 creation incentive that was approved by the corporation.

20 (4) The total number of the recipient's employees at the
 21 specific project site on the date on which the application was
 22 submitted to the corporation, and total number of the
 23 recipient's employees at the specific project site on the date
 24 of the report, including, for each date:

25 (A) the number of employees with full-time, permanent
 26 jobs;

27 (B) the number of employees with part-time jobs; and

28 (C) the number of employees with temporary jobs;

29 and a computation of the increase or decrease in the number
 30 of employees within each category set forth in clauses (A)
 31 through (C) between the date of submission of the
 32 application and the date of the report.

33 (5) The number of:

34 (A) jobs for new employees that the recipient promised
 35 in the job creation incentive agreement it would create;
 36 and

37 (B) jobs for retained employees that the recipient
 38 promised in the job creation incentive agreement it
 39 would preserve;

40 broken down by full-time, permanent jobs, part-time jobs,
 41 and temporary jobs.

42 (6) A declaration of whether the recipient is in compliance
 43 with each term and condition of the job creation incentive
 44 agreement.

45 (7) The following for the full-time, permanent jobs that the
 46 recipient created or retained as a result of the job creation
 47 incentive:

48 (A) A detailed list of:

49 (i) the occupations; or

50 (ii) job classifications;

- 1 of the jobs.
 2 (B) A schedule of the starting dates for the new
 3 employees hired for the jobs.
 4 (C) The actual average wage paid to the employees with
 5 the jobs, broken down by occupation or job
 6 classification.
 7 (D) The total payroll for the new employees and retained
 8 employees with these jobs.
 9 (8) A narrative, if necessary, stating whether and, if so, how
 10 the recipient's use of the job creation incentive during the
 11 reporting year has reduced unemployment at any site in
 12 Indiana.
 13 (9) A certification by the chief officer of the recipient or the
 14 chief officer's authorized designee that the information in the
 15 compliance report contains no knowing misrepresentation of
 16 material facts upon which eligibility for the job creation
 17 incentive is based.
 18 (10) Any other information the corporation considers
 19 necessary to ensure compliance with a job creation incentive
 20 program.
 21 (b) The corporation may verify information contained in the
 22 recipient's compliance report, including inspecting the specific
 23 project site and inspecting the records of the recipient that relate
 24 to the job creation incentive agreement.
 25 (c) If a recipient of a job creation incentive fails to comply with
 26 subsection (a), the corporation shall suspend all current job
 27 creation incentives being provided to the recipient, effective the
 28 immediately following October 1. In addition, the corporation is
 29 prohibited from completing any current job creation incentive or
 30 providing any future job creation incentive until the corporation
 31 receives proof that the recipient has complied with subsection (a).
 32 SECTION 28. IC 6-3.1-13.5-12, AS AMENDED BY P.L.4-2005,
 33 SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2012]: Sec. 12. (a) If a taxpayer receives a credit under this
 35 chapter, the equipment, machinery, facilities improvements, facilities,
 36 buildings, or foundations for which the credit was granted must be fully
 37 installed or completed not more than five (5) years after the corporation
 38 issues a letter under section 10 of this chapter certifying that the
 39 taxpayer is entitled to claim the credit.
 40 (b) If a taxpayer receives a credit under this chapter and does not
 41 make the qualified investment (or a part of the qualified investment)
 42 for which the credit was granted within the time required by subsection
 43 (a), the corporation ~~may~~ **shall** require the taxpayer to repay the
 44 following:
 45 (1) The additional amount of state tax liability that would have
 46 been paid by the taxpayer if the credit had not been granted for
 47 the qualified investment (or part of the qualified investment) that
 48 was not made by the taxpayer within the time required by
 49 subsection (a).
 50 (2) Interest at a rate established under IC 6-8.1-10-1(c) on the

1 additional amount of state tax liability referred to in subdivision
2 (1).
3 SECTION 29. IC 6-3.1-32-19, AS ADDED BY P.L.235-2007,
4 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2012]: Sec. 19. (a) If a taxpayer (or any successor in interest
6 of the taxpayer) fails to satisfy any condition of this chapter or any
7 condition in an agreement under section 13 of this chapter, or fails to
8 file tax returns as required by section 18 of this chapter, the corporation
9 ~~may:~~ **shall:**
10 (1) disallow the use of all or a part of any unused tax credit
11 granted to the taxpayer (or any successor in interest of the
12 taxpayer) under this chapter;
13 (2) recapture all or a part of the tax credit under this chapter that
14 has been applied to the state tax liability of the taxpayer (or any
15 successor in interest of the taxpayer); or
16 (3) both disallow the tax credit under subdivision (1) and
17 recapture the tax credit under subdivision (2).
18 (b) A taxpayer may not receive a credit under this chapter unless
19 the taxpayer:
20 (1) consents that the taxpayer (and any successor in interest of
21 the taxpayer) will be subject to the jurisdiction of Indiana courts;
22 (2) consents that service of process in accordance with the
23 Indiana Rules of Trial Procedure is proper service and subjects
24 the taxpayer (and any successor in interest of the taxpayer) to the
25 jurisdiction of Indiana courts; and
26 (3) consents that any civil action related to the provisions of this
27 chapter and in which the taxpayer (or any successor in interest
28 of the taxpayer) is a party will be heard in an Indiana court."
(Reference is to EHB 1280 as printed February 24, 2012.)

Senator ARNOLD