
SENATE BILL No. 316

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14-3; IC 5-28; IC 6-3.1-13.5-12.

Synopsis: Economic development incentive accountability. Adds various job and employee definitions to the Indiana economic development corporation (IEDC) laws. Requires that all records related to taxpayer funded economic development incentives must be disclosed under the open records law. Requires that the IEDC's annual job creation incentives and compliance report must be published on the Indiana transparency portal Internet 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 must be included as part of the IEDC's annual job creation incentives and compliance report. Requires the IEDC to recapture job creation incentives from a recipient that: (1) fails to make the level of capital investment; (2) fails to create or retain the promised number of jobs; or (3) pays less in wages; than specified in an incentive agreement. Requires the IEDC to compile information on all recapture activities and incentives recouped from unfulfilled commitments and to include the information as part of the IEDC's annual job creation incentives and compliance report. Requires incentive recipients to prepare an annual progress report on the number of jobs created or retained, employee pay, and various other information concerning the use of the incentives, and requires the IEDC to compile this information and include it in the IEDC's annual job creation incentives and compliance report. Repeals and replaces the definition of "job creation incentive" without change to maintain alphabetical order. Repeals a duplicate statute concerning the requirement that the IEDC disclose the terms of a final incentive offer. Makes technical corrections.

C
o
p
y

Effective: July 1, 2013.

Mrvan, Randolph

January 8, 2013, read first time and referred to Committee on Tax and Fiscal Policy.



First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

C
o
p
y

SENATE BILL No. 316



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

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

1 SECTION 1. IC 5-14-3-3.4 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2013]: **Sec. 3.4. Any information that is provided to the Indiana
4 economic development corporation in an incentive recipient's
5 annual compliance report under IC 5-28-28-11 must be available
6 for inspection and copying under section 3 of this chapter.**

7 SECTION 2. IC 5-14-3-4, AS AMENDED BY P.L.134-2012,
8 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2013]: Sec. 4. (a) The following public records are excepted
10 from section 3 of this chapter and may not be disclosed by a public
11 agency, unless access to the records is specifically required by a state
12 or federal statute or is ordered by a court under the rules of discovery:

- 13 (1) Those declared confidential by state statute.
- 14 (2) Those declared confidential by rule adopted by a public
15 agency under specific authority to classify public records as
16 confidential granted to the public agency by statute.
- 17 (3) Those required to be kept confidential by federal law.



- 1 (4) Records containing trade secrets.
- 2 (5) Confidential financial information obtained, upon request,
- 3 from a person. However, this does not include information that is
- 4 filed with or received by a public agency pursuant to state statute.
- 5 (6) Information concerning research, including actual research
- 6 documents, conducted under the auspices of a state educational
- 7 institution, including information:
- 8 (A) concerning any negotiations made with respect to the
- 9 research; and
- 10 (B) received from another party involved in the research.
- 11 (7) Grade transcripts and license examination scores obtained as
- 12 part of a licensure process.
- 13 (8) Those declared confidential by or under rules adopted by the
- 14 supreme court of Indiana.
- 15 (9) Patient medical records and charts created by a provider,
- 16 unless the patient gives written consent under IC 16-39 or as
- 17 provided under IC 16-41-8.
- 18 (10) Application information declared confidential by the board
- 19 of the Indiana economic development corporation under
- 20 IC 5-28-16.
- 21 (11) A photograph, a video recording, or an audio recording of an
- 22 autopsy, except as provided in IC 36-2-14-10.
- 23 (12) A Social Security number contained in the records of a
- 24 public agency.
- 25 (13) The following information that is part of a foreclosure action
- 26 subject to IC 32-30-10.5:
- 27 (A) Contact information for a debtor, as described in
- 28 IC 32-30-10.5-8(d)(2)(B).
- 29 (B) Any document submitted to the court as part of the debtor's
- 30 loss mitigation package under IC 32-30-10.5-10(a)(3).
- 31 (b) Except as otherwise provided by subsection (a), the following
- 32 public records shall be excepted from section 3 of this chapter at the
- 33 discretion of a public agency:
- 34 (1) Investigatory records of law enforcement agencies. However,
- 35 certain law enforcement records must be made available for
- 36 inspection and copying as provided in section 5 of this chapter.
- 37 (2) The work product of an attorney representing, pursuant to
- 38 state employment or an appointment by a public agency:
- 39 (A) a public agency;
- 40 (B) the state; or
- 41 (C) an individual.
- 42 (3) Test questions, scoring keys, and other examination data used

C
o
p
y

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the Indiana economic development corporation, the ports of Indiana, the Indiana state department of agriculture, the Indiana finance authority, an economic development commission, a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

This subdivision does not apply to any information submitted by a recipient of an incentive granted by the Indiana economic development corporation to comply with the reporting requirements of IC 5-28-28-11.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of

C
o
p
y



- 1 first and last employment of present or former officers or
 2 employees of the agency;
 3 (B) information relating to the status of any formal charges
 4 against the employee; and
 5 (C) the factual basis for a disciplinary action in which final
 6 action has been taken and that resulted in the employee being
 7 suspended, demoted, or discharged.
 8 However, all personnel file information shall be made available
 9 to the affected employee or the employee's representative. This
 10 subdivision does not apply to disclosure of personnel information
 11 generally on all employees or for groups of employees without the
 12 request being particularized by employee name.
 13 (9) Minutes or records of hospital medical staff meetings.
 14 (10) Administrative or technical information that would
 15 jeopardize a record keeping or security system.
 16 (11) Computer programs, computer codes, computer filing
 17 systems, and other software that are owned by the public agency
 18 or entrusted to it and portions of electronic maps entrusted to a
 19 public agency by a utility.
 20 (12) Records specifically prepared for discussion or developed
 21 during discussion in an executive session under IC 5-14-1.5-6.1.
 22 However, this subdivision does not apply to that information
 23 required to be available for inspection and copying under
 24 subdivision (8).
 25 (13) The work product of the legislative services agency under
 26 personnel rules approved by the legislative council.
 27 (14) The work product of individual members and the partisan
 28 staffs of the general assembly.
 29 (15) The identity of a donor of a gift made to a public agency if:
 30 (A) the donor requires nondisclosure of the donor's identity as
 31 a condition of making the gift; or
 32 (B) after the gift is made, the donor or a member of the donor's
 33 family requests nondisclosure.
 34 (16) Library or archival records:
 35 (A) which can be used to identify any library patron; or
 36 (B) deposited with or acquired by a library upon a condition
 37 that the records be disclosed only:
 38 (i) to qualified researchers;
 39 (ii) after the passing of a period of years that is specified in
 40 the documents under which the deposit or acquisition is
 41 made; or
 42 (iii) after the death of persons specified at the time of the

C
 O
 P
 Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

acquisition or deposit.
However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.
(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.
(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.
(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:
(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;
(B) vulnerability assessments;
(C) risk planning documents;
(D) needs assessments;
(E) threat assessments;
(F) intelligence assessments;
(G) domestic preparedness strategies;
(H) the location of community drinking water wells and surface water intakes;
(I) the emergency contact information of emergency responders and volunteers;
(J) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and
(K) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of

C
o
p
y



1 the public agency that owns, occupies, leases, or maintains the
 2 airport. The public agency that owns, occupies, leases, or
 3 maintains the airport:

4 (i) is responsible for determining whether the public
 5 disclosure of a record or a part of a record has a reasonable
 6 likelihood of threatening public safety by exposing a
 7 vulnerability to terrorist attack; and

8 (ii) must identify a record described under item (i) and
 9 clearly mark the record as "confidential and not subject to
 10 public disclosure under IC 5-14-3-4(b)(19)(J) without
 11 approval of (insert name of submitting public agency)".

12 This subdivision does not apply to a record or portion of a record
 13 pertaining to a location or structure owned or protected by a
 14 public agency in the event that an act of terrorism under
 15 IC 35-47-12-1 or an act of agricultural terrorism under
 16 IC 35-47-12-2 has occurred at that location or structure, unless
 17 release of the record or portion of the record would have a
 18 reasonable likelihood of threatening public safety by exposing a
 19 vulnerability of other locations or structures to terrorist attack.

20 (20) The following personal information concerning a customer
 21 of a municipally owned utility (as defined in IC 8-1-2-1):

22 (A) Telephone number.

23 (B) Address.

24 (C) Social Security number.

25 (21) The following personal information about a complainant
 26 contained in records of a law enforcement agency:

27 (A) Telephone number.

28 (B) The complainant's address. However, if the complainant's
 29 address is the location of the suspected crime, infraction,
 30 accident, or complaint reported, the address shall be made
 31 available for public inspection and copying.

32 (22) Notwithstanding subdivision (8)(A), the name,
 33 compensation, job title, business address, business telephone
 34 number, job description, education and training background,
 35 previous work experience, or dates of first employment of a law
 36 enforcement officer who is operating in an undercover capacity.

37 (23) Records requested by an offender that:

38 (A) contain personal information relating to:

39 (i) a correctional officer (as defined in IC 5-10-10-1.5);

40 (ii) a law enforcement officer (as defined in
 41 IC 35-31.5-2-185);

42 (iii) a judge (as defined in IC 33-38-12-3);

C
o
p
y



- 1 (iv) the victim of a crime; or
 2 (v) a family member of a correctional officer, law
 3 enforcement officer (as defined in IC 35-31.5-2-185), judge
 4 (as defined in IC 33-38-12-3), or victim of a crime; or
 5 (B) concern or could affect the security of a jail or correctional
 6 facility.
- 7 (24) Information concerning an individual less than eighteen (18)
 8 years of age who participates in a conference, meeting, program,
 9 or activity conducted or supervised by a state educational
 10 institution, including the following information regarding the
 11 individual or the individual's parent or guardian:
- 12 (A) Name.
 13 (B) Address.
 14 (C) Telephone number.
 15 (D) Electronic mail account address.
- 16 (c) Nothing contained in subsection (b) shall limit or affect the right
 17 of a person to inspect and copy a public record required or directed to
 18 be made by any statute or by any rule of a public agency.
- 19 (d) Notwithstanding any other law, a public record that is classified
 20 as confidential, other than a record concerning an adoption or patient
 21 medical records, shall be made available for inspection and copying
 22 seventy-five (75) years after the creation of that record.
- 23 (e) Only the content of a public record may form the basis for the
 24 adoption by any public agency of a rule or procedure creating an
 25 exception from disclosure under this section.
- 26 (f) Except as provided by law, a public agency may not adopt a rule
 27 or procedure that creates an exception from disclosure under this
 28 section based upon whether a public record is stored or accessed using
 29 paper, electronic media, magnetic media, optical media, or other
 30 information storage technology.
- 31 (g) Except as provided by law, a public agency may not adopt a rule
 32 or procedure nor impose any costs or liabilities that impede or restrict
 33 the reproduction or dissemination of any public record.
- 34 (h) Notwithstanding subsection (d) and section 7 of this chapter:
 35 (1) public records subject to IC 5-15 may be destroyed only in
 36 accordance with record retention schedules under IC 5-15; or
 37 (2) public records not subject to IC 5-15 may be destroyed in the
 38 ordinary course of business.
- 39 SECTION 3. IC 5-14-3-4.5 IS REPEALED [EFFECTIVE JULY 1,
 40 2013]. Sec. 4-5: (a) Records relating to negotiations between the
 41 Indiana economic development corporation and industrial, research, or
 42 commercial prospects are excepted from section 3 of this chapter at the

C
O
P
Y

1 discretion of the corporation if the records are created while
2 negotiations are in progress:

3 (b) Notwithstanding subsection (a), the terms of the final offer of
4 public financial resources communicated by the corporation to an
5 industrial; a research; or a commercial prospect shall be available for
6 inspection and copying under section 3 of this chapter after
7 negotiations with that prospect have terminated:

8 (c) When disclosing a final offer under subsection (b), the
9 corporation shall certify that the information being disclosed accurately
10 and completely represents the terms of the final offer:

11 SECTION 4. IC 5-28-2-4.1 IS ADDED TO THE INDIANA CODE
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2013]: **Sec. 4.1. "Full-time employee" has the meaning set forth
14 in IC 6-3.1-13-4.**

15 SECTION 5. IC 5-28-2-4.2 IS ADDED TO THE INDIANA CODE
16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2013]: **Sec. 4.2. (a) "Full-time, permanent job" means
18 employment in which a new employee works for the recipient of a
19 job creation incentive as a full-time employee without any expected
20 date of termination.**

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

22 SECTION 6. IC 5-28-2-4.5 IS ADDED TO THE INDIANA CODE
23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
24 1, 2013]: **Sec. 4.5. "Job creation incentive" means a tax credit, tax
25 deduction, grant, loan, or loan guarantee that a statute authorizes
26 the state or an instrumentality of the state (excluding any political
27 subdivision or other unit of local government) to award or approve
28 for the purpose of encouraging the creation of new jobs in Indiana.**

29 SECTION 7. IC 5-28-2-4.6 IS ADDED TO THE INDIANA CODE
30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
31 1, 2013]: **Sec. 4.6. "Job creation incentive agreement" or "incentive
32 agreement" means any agreement executed by the corporation and
33 the recipient of a job creation incentive setting forth the terms and
34 conditions of any job creation incentive to be provided to the
35 recipient.**

36 SECTION 8. IC 5-28-2-4.7 IS ADDED TO THE INDIANA CODE
37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
38 1, 2013]: **Sec. 4.7. "New employee" means a full-time employee
39 who:**

40 **(1) is first employed by the recipient of a job creation
41 incentive at the specific project site that is the subject of the
42 job creation incentive agreement executed by the corporation**

C
o
p
y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

**and the applicant; and
(2) is employed by the recipient of a job creation incentive after the recipient enters into the job creation incentive agreement.**

SECTION 9. IC 5-28-2-4.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 4.8. "Part-time job" means employment in which a new employee works for the recipient of a job creation incentive for fewer hours each week than the number of hours necessary to be considered a full-time employee.**

SECTION 10. IC 5-28-2-4.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 4.9. "Retained employee" means any employee:**

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

SECTION 11. IC 5-28-2-5.5 IS REPEALED [EFFECTIVE JULY 1, 2013]. **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 (excluding any political subdivision or other unit of local government) to award or approve for the purpose of encouraging the creation of new jobs in Indiana:**

SECTION 12. IC 5-28-2-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 6.5. "Temporary job" means employment in which a new employee is hired for a specific duration of time or season.**

SECTION 13. IC 5-28-5-9, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 9. (a) Except as specifically provided by law, the corporation and the board are subject to IC 5-14-1.5 and IC 5-14-3.**

(b) All records required to be prepared or maintained under this article, including any cost analyses, audits, recipient compliance reports, and any other records or proceedings of the corporation, must be disclosed as provided by IC 5-14-3. In addition, if the corporation contracts with an entity to perform a cost analysis as part of a determination by the corporation of whether to provide a job creation incentive and the estimated contract price exceeds twenty-five thousand dollars (\$25,000), that cost analysis must be disclosed as provided by IC 5-14-3.

C
o
p
y



1 SECTION 14. IC 5-28-6-2, AS AMENDED BY P.L.6-2012,
2 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 2. (a) The corporation shall develop and promote
4 programs designed to make the best use of Indiana resources to ensure
5 a balanced economy and continuing economic growth for Indiana, and,
6 for those purposes, may do the following:

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

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

22 (A) may accept federal grants for providing planning
23 assistance, making grants, or providing other services or
24 functions necessary to political subdivisions, planning
25 commissions, or other public or private organizations;

26 (B) shall administer these grants in accordance with the terms
27 of the grants; and

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

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

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

41 (1) Develop and implement industrial development programs to
42 encourage expansion of existing industrial, commercial, and

C
o
p
y



- 1 business facilities in Indiana and to encourage new industrial,
 2 commercial, and business locations in Indiana.
- 3 (2) Assist businesses and industries in acquiring, improving, and
 4 developing overseas markets and encourage international plant
 5 locations in Indiana. The corporation, with the approval of the
 6 governor, may establish foreign offices to assist in this function.
- 7 (3) Promote the growth of minority business enterprises by doing
 8 the following:
- 9 (A) Mobilizing and coordinating the activities, resources, and
 10 efforts of governmental and private agencies, businesses, trade
 11 associations, institutions, and individuals.
- 12 (B) Assisting minority businesses in obtaining governmental
 13 or commercial financing for expansion or establishment of
 14 new businesses or individual development projects.
- 15 (C) Aiding minority businesses in procuring contracts from
 16 governmental or private sources, or both.
- 17 (D) Providing technical, managerial, and counseling assistance
 18 to minority business enterprises.
- 19 (4) Assist the office of the lieutenant governor in:
- 20 (A) community economic development planning;
 21 (B) implementation of programs designed to further
 22 community economic development; and
 23 (C) the development and promotion of Indiana's tourist
 24 resources.
- 25 (5) Assist the secretary of agriculture and rural development in
 26 promoting and marketing of Indiana's agricultural products and
 27 provide assistance to the director of the Indiana state department
 28 of agriculture.
- 29 (6) With the approval of the governor, implement federal
 30 programs delegated to the state to carry out the purposes of this
 31 article.
- 32 (7) Promote the growth of small businesses by doing the
 33 following:
- 34 (A) Assisting small businesses in obtaining and preparing the
 35 permits required to conduct business in Indiana.
- 36 (B) Serving as a liaison between small businesses and state
 37 agencies.
- 38 (C) Providing information concerning business assistance
 39 programs available through government agencies and private
 40 sources.
- 41 (8) Establish a public information page on its current Internet site
 42 on the world wide web. The page must provide the following:

C
 O
 P
 Y



1 (A) By program, cumulative information on the total amount
2 of incentives awarded; the total number of companies that
3 received the incentives and were assisted in a year; and the
4 names and addresses of those companies:

5 (A) **The job creation incentives and compliance report**
6 **required by IC 5-28-28-5.**

7 (B) A mechanism on the page whereby the public may request
8 further information online about specific programs or
9 incentives awarded.

10 (C) A mechanism for the public to receive an electronic
11 response.

12 (c) The corporation may do the following:

13 (1) Disseminate information concerning the industrial,
14 commercial, governmental, educational, cultural, recreational,
15 agricultural, and other advantages of Indiana.

16 (2) Plan, direct, and conduct research activities.

17 (3) Assist in community economic development planning and the
18 implementation of programs designed to further community
19 economic development.

20 SECTION 15. IC 5-28-6-6, AS ADDED BY P.L.110-2010,
21 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2013]: Sec. 6. The corporation shall require an applicant for
23 a job creation incentive to be granted by the corporation after March
24 31, 2010, to enter into ~~an~~ **a job creation incentive** agreement with the
25 corporation as a condition of receiving the incentive. Subject to
26 IC 5-28-28-8, the agreement must include the following requirements:

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

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

33 (3) A provision that notifies the applicant that the applicant is
34 subject to a determination of the corporation under this
35 subdivision. The corporation, after a finding that the applicant is
36 employing fewer individuals than the applicant agreed to employ
37 under subdivision (1), subject to any confidentiality laws, shall
38 hold a hearing to determine if the applicant shall be required to
39 pay back to the state a part of the incentive granted to the
40 applicant under the agreement. The penalty imposed must be a
41 matter of public record and must reflect in a fair and balanced
42 way the amount of incentive received.

C
o
p
y



- 1 (4) A requirement that recapture provision that requires the
- 2 applicant will to pay back to the state the job creation incentive
- 3 that has been received by the applicant if the applicant:
- 4 (A) moves or closes;
- 5 (B) does not make the level of capital investment specified
- 6 by the applicant in the application for the job creation
- 7 incentive;
- 8 (C) employs fewer individuals than specified by the
- 9 applicant in the application for the job creation incentive;
- 10 or
- 11 (D) pays less in wages than specified by the applicant in the
- 12 application for the job creation incentive.

13 SECTION 16. IC 5-28-28-5, AS ADDED BY P.L.222-2007,
 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2013]: Sec. 5. (a) Beginning February 1, 2008, the corporation
 16 shall:

- 17 (1) submit an economic prepare an annual job creation
- 18 incentives and compliance report for submission to:
- 19 (A) the governor; and
- 20 (B) the legislative council in an electronic format under
- 21 IC 5-14-6; and
- 22 (2) publish the report on the corporation's Internet web site and
- 23 on the Indiana transparency portal Internet web site.

24 on the schedule specified in subsection (b):

25 (b) Before August 2, 2009, the corporation shall submit and publish
 26 before February 1 and August 1 of each year an incentives and
 27 compliance report that covers the six (6) month period that ends one
 28 (1) month before the report is due. After August 1, 2009, The
 29 corporation shall submit and publish before August 1 of each year an
 30 the job creation incentives and compliance report that covers under
 31 subsection (a) before August 1 of each year. The report must cover
 32 the twelve (12) month period that ends one (1) month before the report
 33 is due. immediately preceding July 1 through June 30 period.

34 SECTION 17. IC 5-28-28-6, AS ADDED BY P.L.222-2007,
 35 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2013]: Sec. 6. The economic job creation incentives and
 37 compliance report required under section 5 of this chapter must include
 38 at least the following:

- 39 (1) The total amount of each of the following:
- 40 (A) Tax credits approved or awarded by the corporation,
- 41 including the aggregate amount of uncollected or diverted
- 42 state tax revenues resulting from each tax credit, as

COPY



1 reported to the department of state revenue on tax returns
2 filed during the state fiscal year that ends immediately
3 before the due date of the report. Before July 15 each year,
4 the department of state revenue shall submit to the
5 corporation the information necessary for the corporation
6 to include these aggregate amounts in the corporation's
7 report.

- 8 (B) Loans made by the corporation.
- 9 (C) Grants made by the corporation.

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

- 12 (A) The name and address of the recipient.
- 13 (B) The amount of the tax credit, loan, or grant.
- 14 (C) The purpose of the tax credit, loan, or grant.
- 15 (D) Representations of the following made by the recipient at
16 the time of application for the tax credit, loan, or grant:
 - 17 (i) Numbers of employees to be hired, retained, or trained.
 - 18 (ii) Certification by the corporation that each recipient is
19 meeting the program requirements and representations made
20 in the recipient's application concerning the wages and
21 compensation provided to employees who have been or are
22 to be hired, trained, or retrained.
 - 23 (iii) Other benefits to be provided to employees to be hired,
24 retained, or trained.
- 25 (E) The extent to which the recipient has complied with the
26 representations referred to in clause (D).

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

30 **(4) All data in all compliance reports submitted under section
31 11 of this chapter.**

32 **(5) By program, cumulative information on the total amount
33 of job creation incentives awarded, the total number of
34 companies that received the job creation incentives and were
35 assisted in a year, and the names and addresses of those
36 companies.**

37 SECTION 18. IC 5-28-28-7, AS AMENDED BY P.L.110-2010,
38 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2013]: Sec. 7. (a) If, in the course of compiling information to
40 complete a **job creation incentives and compliance** report required by
41 section 5 of this chapter or upon the receipt of any other information
42 concerning noncompliance with the terms and conditions of an

C
o
p
y



1 incentive granted by the corporation, the corporation determines that
 2 a recipient of an incentive awarded by the corporation has not complied
 3 with the representations that the recipient made in obtaining the
 4 incentive, the corporation shall take the actions required under
 5 **subsections subsection (b) and or (d), whichever applies.**

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

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

10 If in the judgment of the corporation there is not good cause for any
 11 noncompliance discovered under subsection (a), the corporation may
 12 seek a refund or arrange other methods of reclaiming the grant or loan
 13 from the recipient. If the corporation does seek a refund or otherwise
 14 reclaims a grant or loan from the recipient under this section, the
 15 amount of the refund or reclaimed part must be in proportion to the
 16 degree of default by the recipient as determined by the corporation.

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

- 18 (1) the grant or loan has been disbursed on a pro rata basis; and
 19 (2) in the judgment of the corporation, the recipient's performance
 20 in relation to the recipient's performance goals equals or exceeds
 21 the ratio of the amount of the recipient's actual benefit from the
 22 grant or loan to the total amount of the grant or loan originally
 23 contemplated in the grant or loan award.

24 (d) If the incentive granted by the corporation was awarded after
 25 March 31, 2010, the corporation shall seek a refund or arrange other
 26 methods of reclaiming the value of the incentive granted by the
 27 corporation from the recipient. The amount of the refund or reclaimed
 28 part must be in proportion to the degree of default by the recipient as
 29 determined by the corporation.

30 SECTION 19. IC 5-28-28-8, AS ADDED BY P.L.110-2010,
 31 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2013]: Sec. 8. (a) As used in this section, "recapture
 33 provision" means language that requires the recipient of **an a job**
 34 **creation** incentive to repay some part of the incentive.

35 (b) The corporation may waive or modify a recapture provision of
 36 this article or an agreement made with a person to whom the
 37 corporation has awarded **an a job creation** incentive if the corporation
 38 determines that the recipient of **an the** incentive awarded by the
 39 corporation has failed to meet a condition for receiving the incentive
 40 because of circumstances beyond the recipient's control, including:

- 41 (1) natural disaster;
 42 (2) unforeseen industry trends;

C
O
P
Y



- 1 (3) lack of available labor force;
- 2 (4) loss of a major supplier or market; or
- 3 (5) another circumstance beyond the recipient's control, as
- 4 determined by the corporation.

5 SECTION 20. IC 5-28-28-9, AS ADDED BY P.L.110-2010,
 6 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2013]: Sec. 9. (a) Beginning in 2010, the **economic job**
 8 **creation** incentives and compliance report required under section 5 of
 9 this chapter must include ~~an annual report~~ **a part** containing a
 10 summary of **annual** statistics on the effectiveness of and compliance
 11 with all incentives granted by the corporation. The **part of the job**
 12 **creation incentives and compliance** report required by this section
 13 must describe:

- 14 (1) the overall compliance with the terms and conditions of
- 15 incentives provided; and
- 16 (2) penalties imposed for failure to comply with the terms and
- 17 conditions of incentives provided, **including a description of the**
- 18 **outcomes and effectiveness of recapture provisions, organized**
- 19 **by the job creation incentive program, along with at least the**
- 20 **following information:**

21 (A) **The total number of companies receiving a job creation**

22 **incentive.**

23 (B) **The total number of recipients in violation of a job**

24 **creation incentive agreement.**

25 (C) **The total number of recapture efforts initiated.**

26 (D) **The total number of recapture efforts completed.**

27 (E) **The number of recapture waivers granted.**

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

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

32 (1) information specifying each person's compliance with its
 33 incentive agreement and any incentive that had to be reduced or
 34 paid back as a result of noncompliance with an incentive
 35 agreement;

36 (2) information stating, for each incentive recipient, the total
 37 incentive provided for each job created, computed from the date
 38 the incentive is granted through June 30 of the year of the report;

39 (3) information concerning all waivers or modifications under
 40 section 8 of this chapter; and

41 (4) information describing all hearings and determinations under
 42 IC 5-28-6-6.

C
O
P
Y



1 SECTION 21. IC 5-28-28-11 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2013]: **Sec. 11. (a) Before July 15 each year,**
 4 **each recipient of a job creation incentive shall submit to the**
 5 **corporation an annual compliance report covering the immediately**
 6 **preceding July 1 through June 30 period. A recipient that is a**
 7 **party to multiple job creation incentive agreements for a single**
 8 **project site may file a consolidated compliance report. A**
 9 **compliance report must include at least the following information:**

10 (1) Each application tracking number.

11 (2) The recipient's:

12 (A) office mailing address;

13 (B) telephone number; and

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

18 and the name of the recipient's chief officer or authorized
 19 designee for the specific project site for which the job creation
 20 incentive was approved.

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

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

28 (A) the number of employees with full-time, permanent
 29 jobs;

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

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

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

36 (5) The number of:

37 (A) jobs for new employees that the recipient promised in
 38 the job creation incentive agreement the recipient would
 39 create; and

40 (B) jobs for retained employees that the recipient promised
 41 in the job creation incentive agreement the recipient would
 42 retain;

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

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

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

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

(A) A detailed list of:

(i) the occupations; or

(ii) job classifications;

of the jobs.

(B) A schedule of the starting dates for the new employees hired for the jobs.

(C) The actual average wage paid to employees with the jobs, broken down by occupation or job classification.

(D) The total payroll for new employees and retained employees with these jobs.

(8) A narrative, if necessary, stating whether and, if so, how the recipient's use of the job creation incentive during the reporting year has reduced unemployment at any site in Indiana.

(9) A certification by the chief officer of the recipient or the chief officer's authorized designee that the information in the compliance report contains no knowing misrepresentation of material facts upon which eligibility for the job creation incentive is based.

(10) Any other information the corporation considers necessary to ensure compliance with the job creation incentive program.

(b) The corporation may verify information contained in the recipient's compliance report, including inspecting the specific project site and inspecting the records of the recipient that relate to the job creation incentive agreement.

(c) If a recipient of a job creation incentive fails to comply with subsection (a), the corporation shall suspend all current job creation incentives being provided to the recipient, effective the immediately following October 1. In addition, the corporation is prohibited from completing any current job creation incentive or providing any future job creation incentive until the corporation receives proof that the recipient has complied with subsection (a).

SECTION 22. IC 6-3.1-13.5-12, AS AMENDED BY P.L.4-2005,

C
O
P
Y



1 SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2013]: Sec. 12. (a) If a taxpayer receives a credit under this
3 chapter, the equipment, machinery, facilities improvements, facilities,
4 buildings, or foundations for which the credit was granted must be fully
5 installed or completed not more than five (5) years after the corporation
6 issues a letter under section 10 of this chapter certifying that the
7 taxpayer is entitled to claim the credit.
8 (b) If a taxpayer receives a credit under this chapter and does not
9 make the qualified investment (or a part of the qualified investment)
10 for which the credit was granted within the time required by subsection
11 (a), the corporation **may shall** require the taxpayer to repay the
12 following:
13 (1) The additional amount of state tax liability that would have
14 been paid by the taxpayer if the credit had not been granted for
15 the qualified investment (or part of the qualified investment) that
16 was not made by the taxpayer within the time required by
17 subsection (a).
18 (2) Interest at a rate established under IC 6-8.1-10-1(c) on the
19 additional amount of state tax liability referred to in subdivision
20 (1).

C
o
p
y

