

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 162, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete page 1.
- 2 Page 2, delete lines 1 through 6.
- 3 Page 3, delete lines 32 through 34.
- 4 Page 4, delete lines 5 through 8, begin a new line double block
- 5 indented and insert:
 - 6 **"(D) Notwithstanding clause (A), an incentive agreement with**
 - 7 **an incentive recipient shall be available for inspection and**
 - 8 **copying under section 3 of this chapter after the date the**
 - 9 **incentive recipient and the Indiana economic development**
 - 10 **corporation execute the incentive agreement regardless of**
 - 11 **whether negotiations are in progress with the recipient after**
 - 12 **that date regarding a modification or extension of the**
 - 13 **incentive agreement."**
- 14 Page 9, line 1, delete "The" and insert **"If a financial investment by**
- 15 **an applicant is a condition for providing an incentive, the"**.
- 16 Page 9, line 3, delete "job creation".
- 17 Page 9, line 4, delete "applicant," and insert "applicant".
- 18 Page 9, line 4, delete ", if the applicant".
- 19 Page 9, line 5, delete "receives a financial incentive,".
- 20 Page 9, line 7, delete "The incentive".
- 21 Page 9, delete lines 8 through 11.

1 Page 9, delete lines 26 through 31, begin a new paragraph and
2 insert:

3 "SECTION 3. IC 5-28-28-1, AS ADDED BY P.L.222-2007,
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2013]: Sec. 1. This chapter applies to grants, loans, and tax
6 credits:

7 (1) applied for; and

8 (2) awarded;

9 after June 30, ~~2007~~: **2005**.

10 SECTION 4. IC 5-28-28-4, AS AMENDED BY P.L.133-2012,
11 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2013]: Sec. 4. As used in this chapter, "tax credit" means a
13 state tax liability credit under any of the following:

14 (1) IC 6-3.1-7.

15 (2) IC 6-3.1-13.

16 (3) IC 6-3.1-13.5 (until January 1, 2020).

17 (4) IC 6-3.1-26.

18 (5) IC 6-3.1-27.

19 (6) IC 6-3.1-28.

20 (7) IC 6-3.1-30.

21 **(8) IC 6-3.1-31.9.**

22 **(9) IC 6-3.1-33.**

23 SECTION 5. 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, 2013]: Sec. 5. (a) Beginning February 1, 2008, the corporation
26 shall:

27 (1) submit an economic incentives and compliance report to:

28 (A) the governor; and

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

31 (2) publish the report on the corporation's Internet web site;
32 on the schedule specified in subsection (b).

33 (b) ~~Before August 2, 2009, the corporation shall submit and publish~~
34 ~~before February 1 and August 1 of each year an incentives and~~
35 ~~compliance report that covers the six (6) month period that ends one~~
36 ~~(1) month before the report is due. Before August 1, 2013, the~~
37 **corporation shall submit and publish an incentives and compliance**
38 **report that provides updated information for active incentive**
39 **agreements approved and awarded after January 1, 2005, through**
40 **June, 30, 2013. After August 1, 2009, December 31, 2013, the**
41 **corporation shall submit and publish before August February 1 of**
42 **each year an incentives and compliance report that covers the twelve**

1 (12) month period that ends one (1) month before the report is due.
 2 provides updated information for active incentive agreements
 3 approved and awarded after January 1, 2005, through the
 4 immediately preceding calendar year."

5 Page 9, line 38, after "credits" insert ",".

6 Page 9, line 38, strike "approved or" and insert **"loans, and grants**
 7 **contractually"**.

8 Page 9, line 39, strike "Loans made by the corporation." and insert
 9 **"Investments made by the recipients of the tax credits, loans, and**
 10 **grants."**

11 Page 9, line 40, strike "Grants made by the corporation." and insert
 12 **"Actual jobs created and the number of jobs expected through the**
 13 **reporting year, as reviewed by an independent auditing firm**
 14 **chosen by the corporation."**

15 Page 9, between lines 40 and 41, begin a new line double block
 16 indented and insert:

17 **"(D) Recaptured incentives for the reporting year and the**
 18 **total number of recipients.**

19 **(E) Tax credits claimed for the reporting year, as reported**
 20 **by the department of state revenue to the corporation by**
 21 **December 31 of each year."**

22 Page 10, line 1, after "name" insert ",".

23 Page 10, line 1, strike "and address" and insert **"county, and**
 24 **municipality (if any)"**.

25 Page 10, line 2, strike "the tax credit, loan, or grant." and insert **"tax**
 26 **credits certified to each recipient, and the amount of grants and**
 27 **loans actually paid out, during the term of the agreement."**

28 Page 10, line 4, strike "Representations of the following made by the
 29 recipient at".

30 Page 10, line 5, strike "the time of application for the tax credit,
 31 loan, or grant".

32 Page 10, line 5, delete "and the".

33 Page 10, delete lines 6 through 7 and insert **"The performance**
 34 **goals for the reporting year, including the following:"**.

35 Page 10, line 8, after "trained" insert ".".

36 Page 10, delete line 9.

37 Page 10, line 10, delete "The" and insert **"If a financial investment**
 38 **by a recipient was a condition for providing an incentive, the"**.

39 Page 10, line 12, delete "job creation".

40 Page 10, line 13, delete "(iii)".

41 Page 10, strike lines 13 through 17.

42 Page 10, line 18, delete "(iv)".

1 Page 10, strike lines 18 through 21 and insert:

2 **"(E) Certification by the corporation that each recipient is**
3 **complying with the terms of the incentive agreement.**

4 SECTION 7. IC 5-28-28-7, AS AMENDED BY P.L.110-2010,
5 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2013]: Sec. 7. (a) If, in the course of compiling information to
7 complete a report required by section 5 of this chapter or upon the
8 receipt of any other information concerning noncompliance with the
9 terms and conditions of an incentive granted by the corporation, the
10 corporation determines that a recipient of an incentive awarded by the
11 corporation has not complied with the ~~representations that the recipient~~
12 ~~made in obtaining the incentive~~, **terms of the incentive agreement**,
13 the corporation shall take the actions required under subsections (b)
14 and (d).

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

17 (1) whether there was good cause for the noncompliance; and

18 (2) whether the recipient is in default.

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

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

27 (1) the grant or loan has been disbursed on a pro rata basis; and

28 (2) in the judgment of the corporation, the recipient's performance
29 in relation to the recipient's performance goals equals or exceeds
30 the ratio of the amount of the recipient's actual benefit from the
31 grant or loan to the total amount of the grant or loan originally
32 contemplated in the grant or loan award.

33 (d) If the incentive granted by the corporation was awarded after
34 March 31, 2010, the corporation shall seek a refund or arrange other
35 methods of reclaiming the value of the incentive granted by the
36 corporation from the recipient. The amount of the refund or reclaimed

- 1 part must be in proportion to the degree of default by the recipient as
- 2 determined by the corporation."
- 3 Renumber all SECTIONS consecutively.
(Reference is to SB 162 as introduced.)

and when so amended that said bill do pass .

Committee Vote: Yeas 12, Nays 0.

Senator Hershman, Chairperson