



Reprinted
April 9, 2021

ENGROSSED HOUSE BILL No. 1418

DIGEST OF HB 1418 (Updated April 8, 2021 3:58 pm - DI 134)

Citations Affected: IC 5-14; IC 5-28.

Synopsis: Economic development. Provides that an interview or negotiation conducted between the Indiana White River state park development commission (commission) and an industrial or commercial prospect may be held as an executive session. Provides that certain records related to negotiations conducted between the commission and an industrial, research, or commercial prospect are exempt from public disclosure under the Access to Public Records Act at the discretion of the commission. Provides that application information declared confidential by the Indiana economic
(Continued next page)

Effective: July 1, 2021.

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(SENATE SPONSORS — FORD JON, GROOMS)

January 14, 2021, read first time and referred to Committee on Commerce, Small Business and Economic Development.

February 2, 2021, amended, reported — Do Pass.

February 4, 2021, read second time, ordered engrossed. Engrossed.

February 8, 2021, read third time, passed. Yeas 92, nays 3.

SENATE ACTION

February 23, 2021, read first time and referred to Committee on Commerce and Technology.

April 5, 2021, amended, reported favorably — Do Pass.

April 8, 2021, read second time, amended, ordered engrossed.

EH 1418—LS 6817/DI 142



Digest Continued

development corporation (IEDC) is exempt from public disclosure under the Access to Public Records Act. (Under current law, only application information relating to the Indiana twenty-first century research and technology fund is exempt from public disclosure if declared confidential by the IEDC.) Removes the responsibility of the governor to appoint a president of the IEDC and provides instead that the secretary of commerce is also the president of the IEDC. Requires the IEDC to post to a transparency portal on the IEDC's Internet web site: (1) final public financial resource agreements to which the IEDC is a party; and (2) reports submitted by the IEDC to the general assembly. Provides that the IEDC acts as the small business ombudsman. (Under current law, the IEDC designates a single IEDC employee as the small business ombudsman.) Amends the definition of "lender" for purposes of the capital access program.

EH 1418—LS 6817/DI 142



Reprinted
April 9, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1418

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 5-14-1.5-6.1, AS AMENDED BY P.L.164-2019,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 6.1. (a) As used in this section, "public official"
4 means a person:
5 (1) who is a member of a governing body of a public agency; or
6 (2) whose tenure and compensation are fixed by law and who
7 executes an oath.
8 (b) Executive sessions may be held only in the following instances:
9 (1) Where authorized by federal or state statute.
10 (2) For discussion of strategy with respect to any of the following:
11 (A) Collective bargaining.
12 (B) Initiation of litigation or litigation that is either pending or
13 has been threatened specifically in writing. As used in this
14 clause, "litigation" includes any judicial action or
15 administrative law proceeding under federal or state law.
16 (C) The implementation of security systems.
17 (D) A real property transaction including:

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- 1 (i) a purchase;
 2 (ii) a lease as lessor;
 3 (iii) a lease as lessee;
 4 (iv) a transfer;
 5 (v) an exchange; or
 6 (vi) a sale;
 7 by the governing body up to the time a contract or option is
 8 executed by the parties. This clause does not affect a political
 9 subdivision's duty to comply with any other statute that
 10 governs the conduct of the real property transaction, including
 11 IC 36-1-10 or IC 36-1-11.
 12 (E) School consolidation.
- 13 However, all such strategy discussions must be necessary for
 14 competitive or bargaining reasons and may not include
 15 competitive or bargaining adversaries.
- 16 (3) For discussion of the assessment, design, and implementation
 17 of school safety and security measures, plans, and systems.
- 18 (4) Interviews and negotiations with industrial or commercial
 19 prospects or agents of industrial or commercial prospects by:
 20 (A) the Indiana economic development corporation;
 21 (B) the office of tourism development (before July 1, 2020) or
 22 the Indiana destination development corporation (after June
 23 30, 2020);
 24 (C) the Indiana finance authority;
 25 (D) the ports of Indiana;
 26 (E) an economic development commission;
 27 (F) the Indiana state department of agriculture;
 28 **(G) the Indiana White River state park development**
 29 **commission;**
 30 ~~(H)~~ **(H)** a local economic development organization that is a
 31 nonprofit corporation established under state law whose
 32 primary purpose is the promotion of industrial or business
 33 development in Indiana, the retention or expansion of Indiana
 34 businesses, or the development of entrepreneurial activities in
 35 Indiana; or
 36 ~~(I)~~ **(I)** a governing body of a political subdivision.
- 37 However, this subdivision does not apply to any discussions
 38 regarding research that is prohibited under IC 16-34.5-1-2 or
 39 under any other law.
- 40 (5) To receive information about and interview prospective
 41 employees.
 42 (6) With respect to any individual over whom the governing body



- 1 has jurisdiction:
- 2 (A) to receive information concerning the individual's alleged
- 3 misconduct; and
- 4 (B) to discuss, before a determination, the individual's status
- 5 as an employee, a student, or an independent contractor who
- 6 is:
- 7 (i) a physician; or
- 8 (ii) a school bus driver.
- 9 (7) For discussion of records classified as confidential by state or
- 10 federal statute.
- 11 (8) To discuss before a placement decision an individual student's
- 12 abilities, past performance, behavior, and needs.
- 13 (9) To discuss a job performance evaluation of individual
- 14 employees. This subdivision does not apply to a discussion of the
- 15 salary, compensation, or benefits of employees during a budget
- 16 process.
- 17 (10) When considering the appointment of a public official, to do
- 18 the following:
- 19 (A) Develop a list of prospective appointees.
- 20 (B) Consider applications.
- 21 (C) Make one (1) initial exclusion of prospective appointees
- 22 from further consideration.
- 23 Notwithstanding IC 5-14-3-4(b)(12), a governing body may
- 24 release and shall make available for inspection and copying in
- 25 accordance with IC 5-14-3-3 identifying information concerning
- 26 prospective appointees not initially excluded from further
- 27 consideration. An initial exclusion of prospective appointees from
- 28 further consideration may not reduce the number of prospective
- 29 appointees to fewer than three (3) unless there are fewer than
- 30 three (3) prospective appointees. Interviews of prospective
- 31 appointees must be conducted at a meeting that is open to the
- 32 public.
- 33 (11) To train school board members with an outside consultant
- 34 about the performance of the role of the members as public
- 35 officials.
- 36 (12) To prepare or score examinations used in issuing licenses,
- 37 certificates, permits, or registrations under IC 25.
- 38 (13) To discuss information and intelligence intended to prevent,
- 39 mitigate, or respond to the threat of terrorism.
- 40 (14) To train members of a board of aviation commissioners
- 41 appointed under IC 8-22-2 or members of an airport authority
- 42 board appointed under IC 8-22-3 with an outside consultant about



1 the performance of the role of the members as public officials. A
 2 board may hold not more than one (1) executive session per
 3 calendar year under this subdivision.

4 (15) For discussion by the governing body of a state educational
 5 institution of:

6 (A) the assessment of; or

7 (B) negotiation with another entity concerning;

8 the establishment of a collaborative relationship or venture to
 9 advance the research, engagement, or education mission of the
 10 state educational institution. However, this subdivision does not
 11 apply to any discussions regarding research that is prohibited
 12 under IC 16-34.5-1-2 or under any other law.

13 (c) A final action must be taken at a meeting open to the public.

14 (d) Public notice of executive sessions must state the subject matter
 15 by specific reference to the enumerated instance or instances for which
 16 executive sessions may be held under subsection (b). The requirements
 17 stated in section 4 of this chapter for memoranda and minutes being
 18 made available to the public is modified as to executive sessions in that
 19 the memoranda and minutes must identify the subject matter
 20 considered by specific reference to the enumerated instance or
 21 instances for which public notice was given. The governing body shall
 22 certify by a statement in the memoranda and minutes of the governing
 23 body that no subject matter was discussed in the executive session
 24 other than the subject matter specified in the public notice.

25 (e) A governing body may not conduct an executive session during
 26 a meeting, except as otherwise permitted by applicable statute. A
 27 meeting may not be recessed and reconvened with the intent of
 28 circumventing this subsection.

29 SECTION 2. IC 5-14-3-4, AS AMENDED BY P.L.64-2020,
 30 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2021]: Sec. 4. (a) The following public records are excepted
 32 from section 3 of this chapter and may not be disclosed by a public
 33 agency, unless access to the records is specifically required by a state
 34 or federal statute or is ordered by a court under the rules of discovery:

35 (1) Those declared confidential by state statute.

36 (2) Those declared confidential by rule adopted by a public
 37 agency under specific authority to classify public records as
 38 confidential granted to the public agency by statute.

39 (3) Those required to be kept confidential by federal law.

40 (4) Records containing trade secrets.

41 (5) Confidential financial information obtained, upon request,
 42 from a person. However, this does not include information that is



- 1 filed with or received by a public agency pursuant to state statute.
 2 (6) Information concerning research, including actual research
 3 documents, conducted under the auspices of a state educational
 4 institution, including information:
 5 (A) concerning any negotiations made with respect to the
 6 research; and
 7 (B) received from another party involved in the research.
 8 (7) Grade transcripts and license examination scores obtained as
 9 part of a licensure process.
 10 (8) Those declared confidential by or under rules adopted by the
 11 supreme court of Indiana.
 12 (9) Patient medical records and charts created by a provider,
 13 unless the patient gives written consent under IC 16-39 or as
 14 provided under IC 16-41-8.
 15 (10) Application information declared confidential by the Indiana
 16 economic development corporation under ~~IC 5-28-16~~. **IC 5-28**.
 17 (11) A photograph, a video recording, or an audio recording of an
 18 autopsy, except as provided in IC 36-2-14-10.
 19 (12) A Social Security number contained in the records of a
 20 public agency.
 21 (13) The following information that is part of a foreclosure action
 22 subject to IC 32-30-10.5:
 23 (A) Contact information for a debtor, as described in
 24 IC 32-30-10.5-8(d)(1)(B).
 25 (B) Any document submitted to the court as part of the debtor's
 26 loss mitigation package under IC 32-30-10.5-10(a)(3).
 27 (14) The following information obtained from a call made to a
 28 fraud hotline established under IC 36-1-8-8.5:
 29 (A) The identity of any individual who makes a call to the
 30 fraud hotline.
 31 (B) A report, transcript, audio recording, or other information
 32 concerning a call to the fraud hotline.
 33 However, records described in this subdivision may be disclosed
 34 to a law enforcement agency, a private university police
 35 department, the attorney general, the inspector general, the state
 36 examiner, or a prosecuting attorney.
 37 (b) Except as otherwise provided by subsection (a), the following
 38 public records shall be excepted from section 3 of this chapter at the
 39 discretion of a public agency:
 40 (1) Investigatory records of law enforcement agencies or private
 41 university police departments. For purposes of this chapter, a law
 42 enforcement recording is not an investigatory record. Law



1 enforcement agencies or private university police departments
2 may share investigatory records with a:

3 (A) person who advocates on behalf of a crime victim,
4 including a victim advocate (as defined in IC 35-37-6-3.5) or
5 a victim service provider (as defined in IC 35-37-6-5), for the
6 purposes of providing services to a victim or describing
7 services that may be available to a victim; and

8 (B) school corporation (as defined by IC 20-18-2-16(a)),
9 charter school (as defined by IC 20-24-1-4), or nonpublic
10 school (as defined by IC 20-18-2-12) for the purpose of
11 enhancing the safety or security of a student or a school
12 facility;

13 without the law enforcement agency or private university police
14 department losing its discretion to keep those records confidential
15 from other records requesters. However, certain law enforcement
16 records must be made available for inspection and copying as
17 provided in section 5 of this chapter.

18 (2) The work product of an attorney representing, pursuant to
19 state employment or an appointment by a public agency:

20 (A) a public agency;

21 (B) the state; or

22 (C) an individual.

23 (3) Test questions, scoring keys, and other examination data used
24 in administering a licensing examination, examination for
25 employment, or academic examination before the examination is
26 given or if it is to be given again.

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

29 (5) The following:

30 (A) Records relating to negotiations between:

31 (i) the Indiana economic development corporation;

32 (ii) the ports of Indiana;

33 (iii) the Indiana state department of agriculture;

34 (iv) the Indiana finance authority;

35 (v) an economic development commission;

36 **(vi) the Indiana White river state park development
37 commission;**

38 ~~(vi)~~ **(vii)** a local economic development organization that is
39 a nonprofit corporation established under state law whose
40 primary purpose is the promotion of industrial or business
41 development in Indiana, the retention or expansion of
42 Indiana businesses, or the development of entrepreneurial



- 1 activities in Indiana; or
 2 ~~(vii)~~ (viii) a governing body of a political subdivision;
 3 with industrial, research, or commercial prospects, if the
 4 records are created while negotiations are in progress.
 5 However, this clause does not apply to records regarding
 6 research that is prohibited under IC 16-34.5-1-2 or any other
 7 law.
- 8 (B) Notwithstanding clause (A), the terms of the final offer of
 9 public financial resources communicated by the Indiana
 10 economic development corporation, the ports of Indiana, the
 11 Indiana finance authority, an economic development
 12 commission, **the Indiana White river state park**
 13 **development commission**, or a governing body of a political
 14 subdivision to an industrial, a research, or a commercial
 15 prospect shall be available for inspection and copying under
 16 section 3 of this chapter after negotiations with that prospect
 17 have terminated.
- 18 (C) When disclosing a final offer under clause (B), the Indiana
 19 economic development corporation shall certify that the
 20 information being disclosed accurately and completely
 21 represents the terms of the final offer.
- 22 (D) Notwithstanding clause (A), an incentive agreement with
 23 an incentive recipient shall be available for inspection and
 24 copying under section 3 of this chapter after the date the
 25 incentive recipient and the Indiana economic development
 26 corporation execute the incentive agreement regardless of
 27 whether negotiations are in progress with the recipient after
 28 that date regarding a modification or extension of the incentive
 29 agreement.
- 30 (6) Records that are intra-agency or interagency advisory or
 31 deliberative material, including material developed by a private
 32 contractor under a contract with a public agency, that are
 33 expressions of opinion or are of a speculative nature, and that are
 34 communicated for the purpose of decision making.
- 35 (7) Diaries, journals, or other personal notes serving as the
 36 functional equivalent of a diary or journal.
- 37 (8) Personnel files of public employees and files of applicants for
 38 public employment, except for:
- 39 (A) the name, compensation, job title, business address,
 40 business telephone number, job description, education and
 41 training background, previous work experience, or dates of
 42 first and last employment of present or former officers or



- 1 employees of the agency;
 2 (B) information relating to the status of any formal charges
 3 against the employee; and
 4 (C) the factual basis for a disciplinary action in which final
 5 action has been taken and that resulted in the employee being
 6 suspended, demoted, or discharged.
- 7 However, all personnel file information shall be made available
 8 to the affected employee or the employee's representative. This
 9 subdivision does not apply to disclosure of personnel information
 10 generally on all employees or for groups of employees without the
 11 request being particularized by employee name.
- 12 (9) Minutes or records of hospital medical staff meetings.
- 13 (10) Administrative or technical information that would
 14 jeopardize a record keeping system, voting system, voter
 15 registration system, 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



- 1 acquisition or deposit.
2 However, nothing in this subdivision shall limit or affect contracts
3 entered into by the Indiana state library pursuant to IC 4-1-6-8.
4 (17) The identity of any person who contacts the bureau of motor
5 vehicles concerning the ability of a driver to operate a motor
6 vehicle safely and the medical records and evaluations made by
7 the bureau of motor vehicles staff or members of the driver
8 licensing medical advisory board regarding the ability of a driver
9 to operate a motor vehicle safely. However, upon written request
10 to the commissioner of the bureau of motor vehicles, the driver
11 must be given copies of the driver's medical records and
12 evaluations.
13 (18) School safety and security measures, plans, and systems,
14 including emergency preparedness plans developed under 511
15 IAC 6.1-2-2.5.
16 (19) A record or a part of a record, the public disclosure of which
17 would have a reasonable likelihood of threatening public safety
18 by exposing a vulnerability to terrorist attack. A record described
19 under this subdivision includes the following:
20 (A) A record assembled, prepared, or maintained to prevent,
21 mitigate, or respond to an act of terrorism under IC 35-47-12-1
22 (before its repeal), an act of agricultural terrorism under
23 IC 35-47-12-2 (before its repeal), or a felony terrorist offense
24 (as defined in IC 35-50-2-18).
25 (B) Vulnerability assessments.
26 (C) Risk planning documents.
27 (D) Needs assessments.
28 (E) Threat assessments.
29 (F) Intelligence assessments.
30 (G) Domestic preparedness strategies.
31 (H) The location of community drinking water wells and
32 surface water intakes.
33 (I) The emergency contact information of emergency
34 responders and volunteers.
35 (J) Infrastructure records that disclose the configuration of
36 critical systems such as voting system and voter registration
37 system critical infrastructure, and communication, electrical,
38 ventilation, water, and wastewater systems.
39 (K) Detailed drawings or specifications of structural elements,
40 floor plans, and operating, utility, or security systems, whether
41 in paper or electronic form, of any building or facility located
42 on an airport (as defined in IC 8-21-1-1) that is owned,



1 occupied, leased, or maintained by a public agency, or any part
 2 of a law enforcement recording that captures information
 3 about airport security procedures, areas, or systems. A record
 4 described in this clause may not be released for public
 5 inspection by any public agency without the prior approval of
 6 the public agency that owns, occupies, leases, or maintains the
 7 airport. Both of the following apply to the public agency that
 8 owns, occupies, leases, or maintains the airport:

9 (i) The public agency is responsible for determining whether
 10 the public disclosure of a record or a part of a record,
 11 including a law enforcement recording, has a reasonable
 12 likelihood of threatening public safety by exposing a
 13 security procedure, area, system, or vulnerability to terrorist
 14 attack.

15 (ii) The public agency must identify a record described
 16 under item (i) and clearly mark the record as "confidential
 17 and not subject to public disclosure under
 18 IC 5-14-3-4(b)(19)(J) without approval of (insert name of
 19 submitting public agency)". However, in the case of a law
 20 enforcement recording, the public agency must clearly mark
 21 the record as "confidential and not subject to public
 22 disclosure under IC 5-14-3-4(b)(19)(K) without approval of
 23 (insert name of the public agency that owns, occupies,
 24 leases, or maintains the airport)".

25 (L) The home address, home telephone number, and
 26 emergency contact information for any:

27 (i) emergency management worker (as defined in
 28 IC 10-14-3-3);

29 (ii) public safety officer (as defined in IC 35-47-4.5-3);

30 (iii) emergency medical responder (as defined in
 31 IC 16-18-2-109.8); or

32 (iv) advanced emergency medical technician (as defined in
 33 IC 16-18-2-6.5).

34 This subdivision does not apply to a record or portion of a record
 35 pertaining to a location or structure owned or protected by a
 36 public agency in the event that an act of terrorism under
 37 IC 35-47-12-1 (before its repeal), an act of agricultural terrorism
 38 under IC 35-47-12-2 (before its repeal), or a felony terrorist
 39 offense (as defined in IC 35-50-2-18) has occurred at that location
 40 or structure, unless release of the record or portion of the record
 41 would have a reasonable likelihood of threatening public safety
 42 by exposing a vulnerability of other locations or structures to



- 1 terrorist attack.
- 2 (20) The following personal information concerning a customer
- 3 of a municipally owned utility (as defined in IC 8-1-2-1):
- 4 (A) Telephone number.
- 5 (B) Address.
- 6 (C) Social Security number.
- 7 (21) The following personal information about a complainant
- 8 contained in records of a law enforcement agency:
- 9 (A) Telephone number.
- 10 (B) The complainant's address. However, if the complainant's
- 11 address is the location of the suspected crime, infraction,
- 12 accident, or complaint reported, the address shall be made
- 13 available for public inspection and copying.
- 14 (22) Notwithstanding subdivision (8)(A), the name,
- 15 compensation, job title, business address, business telephone
- 16 number, job description, education and training background,
- 17 previous work experience, or dates of first employment of a law
- 18 enforcement officer who is operating in an undercover capacity.
- 19 (23) Records requested by an offender, an agent, or a relative of
- 20 an offender that:
- 21 (A) contain personal information relating to:
- 22 (i) a correctional officer (as defined in IC 5-10-10-1.5);
- 23 (ii) a probation officer;
- 24 (iii) a community corrections officer;
- 25 (iv) a law enforcement officer (as defined in
- 26 IC 35-31.5-2-185);
- 27 (v) a judge (as defined in IC 33-38-12-3);
- 28 (vi) the victim of a crime; or
- 29 (vii) a family member of a correctional officer, probation
- 30 officer, community corrections officer, law enforcement
- 31 officer (as defined in IC 35-31.5-2-185), judge (as defined
- 32 in IC 33-38-12-3), or victim of a crime; or
- 33 (B) concern or could affect the security of a jail or correctional
- 34 facility.
- 35 For purposes of this subdivision, "agent" means a person who is
- 36 authorized by an offender to act on behalf of, or at the direction
- 37 of, the offender, and "relative" has the meaning set forth in
- 38 IC 35-42-2-1(b). However, the term "agent" does not include an
- 39 attorney in good standing admitted to the practice of law in
- 40 Indiana.
- 41 (24) Information concerning an individual less than eighteen (18)
- 42 years of age who participates in a conference, meeting, program,



1 or activity conducted or supervised by a state educational
 2 institution, including the following information regarding the
 3 individual or the individual's parent or guardian:

4 (A) Name.

5 (B) Address.

6 (C) Telephone number.

7 (D) Electronic mail account address.

8 (25) Criminal intelligence information.

9 (26) The following information contained in a report of unclaimed
 10 property under IC 32-34-1-26 or in a claim for unclaimed
 11 property under IC 32-34-1-36:

12 (A) Date of birth.

13 (B) Driver's license number.

14 (C) Taxpayer identification number.

15 (D) Employer identification number.

16 (E) Account number.

17 (27) Except as provided in subdivision (19) and sections 5.1 and
 18 5.2 of this chapter, a law enforcement recording. However, before
 19 disclosing the recording, the public agency must comply with the
 20 obscuring requirements of sections 5.1 and 5.2 of this chapter, if
 21 applicable.

22 (28) Records relating to negotiations between a state educational
 23 institution and another entity concerning the establishment of a
 24 collaborative relationship or venture to advance the research,
 25 engagement, or educational mission of the state educational
 26 institution, if the records are created while negotiations are in
 27 progress. The terms of the final offer of public financial resources
 28 communicated by the state educational institution to an industrial,
 29 a research, or a commercial prospect shall be available for
 30 inspection and copying under section 3 of this chapter after
 31 negotiations with that prospect have terminated. However, this
 32 subdivision does not apply to records regarding research
 33 prohibited under IC 16-34.5-1-2 or any other law.

34 (c) Nothing contained in subsection (b) shall limit or affect the right
 35 of a person to inspect and copy a public record required or directed to
 36 be made by any statute or by any rule of a public agency.

37 (d) Notwithstanding any other law, a public record that is classified
 38 as confidential, other than a record concerning an adoption or patient
 39 medical records, shall be made available for inspection and copying
 40 seventy-five (75) years after the creation of that record.

41 (e) Only the content of a public record may form the basis for the
 42 adoption by any public agency of a rule or procedure creating an



1 exception from disclosure under this section.

2 (f) Except as provided by law, a public agency may not adopt a rule
3 or procedure that creates an exception from disclosure under this
4 section based upon whether a public record is stored or accessed using
5 paper, electronic media, magnetic media, optical media, or other
6 information storage technology.

7 (g) Except as provided by law, a public agency may not adopt a rule
8 or procedure nor impose any costs or liabilities that impede or restrict
9 the reproduction or dissemination of any public record.

10 (h) Notwithstanding subsection (d) and section 7 of this chapter:

11 (1) public records subject to IC 5-15 may be destroyed only in
12 accordance with record retention schedules under IC 5-15; or

13 (2) public records not subject to IC 5-15 may be destroyed in the
14 ordinary course of business.

15 SECTION 3. IC 5-28-2-5, AS ADDED BY P.L.4-2005, SECTION
16 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
17 2021]: Sec. 5. "Secretary of commerce" refers to the secretary of
18 commerce appointed under ~~IC 5-28-3-4(a)~~. **IC 5-28-3-4.**

19 SECTION 4. IC 5-28-3-4, AS ADDED BY P.L.4-2005, SECTION
20 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
21 2021]: Sec. 4. ~~(a)~~ The governor shall appoint the secretary of
22 commerce, who shall serve at the pleasure of the governor. The
23 secretary of commerce is the chief executive officer **and president** of
24 the corporation.

25 ~~(b) The governor shall appoint the president of the corporation, who
26 shall serve at the pleasure of the governor. The president shall report
27 to the secretary of commerce.~~

28 SECTION 5. IC 5-28-6-0.5 IS ADDED TO THE INDIANA CODE
29 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
30 1, 2021]: **Sec. 0.5. As used in this chapter, "final offer of public
31 financial resources" means a final executed definitive agreement
32 that is the product of negotiations between the corporation or
33 another public agency and an industrial, research, or commercial
34 prospect.**

35 SECTION 6. IC 5-28-6-0.6 IS ADDED TO THE INDIANA CODE
36 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
37 1, 2021]: **Sec. 0.6. As used in this chapter, "negotiations" means
38 communications, including letters of intent, memoranda of
39 understanding, and other preliminary, early stage, or informal
40 communications, directed to or with an industrial, research, or
41 commercial prospect.**

42 SECTION 7. IC 5-28-6-2, AS AMENDED BY P.L.130-2018,



1 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JULY 1, 2021]: Sec. 2. (a) The corporation shall develop and promote
 3 programs designed to make the best use of Indiana resources to ensure
 4 a balanced economy and continuing economic growth for Indiana, and,
 5 for those purposes, may do the following:

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

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

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

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

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

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

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

40 (1) Develop and implement industrial development programs to
 41 encourage expansion of existing industrial, commercial, and
 42 business facilities in Indiana and to encourage new industrial,



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



- 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 (B) A mechanism on the page whereby the public may request
- 6 further information online about specific programs or
- 7 incentives awarded.
- 8 (C) A mechanism for the public to receive an electronic
- 9 response.
- 10 (D) Access to **the following:**
- 11 (i) Any information or report that is required by statute to be
- 12 included in the economic incentives and compliance report
- 13 submitted under IC 5-28-28.
- 14 (ii) **Final public financial resource agreements to which**
- 15 **the corporation is a party.**
- 16 (iii) **Reports that the corporation submitted to the**
- 17 **general assembly.**
- 18 (c) The corporation may do the following:
- 19 (1) Disseminate information concerning the industrial,
- 20 commercial, governmental, educational, cultural, recreational,
- 21 agricultural, and other advantages of Indiana.
- 22 (2) Plan, direct, and conduct research activities.
- 23 (3) Assist in community economic development planning and the
- 24 implementation of programs designed to further community
- 25 economic development.
- 26 SECTION 8. IC 5-28-17-6, AS AMENDED BY P.L.130-2018,
- 27 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 28 JULY 1, 2021]: Sec. 6. The corporation shall ~~designate an employee to~~
- 29 ~~be act as~~ the small business ombudsman. The small business
- 30 ombudsman shall carry out the following duties:
- 31 (1) Work with state agencies to permit increased enforcement
- 32 flexibility and the ability to grant common sense exemptions for
- 33 first time offenders of state rules and policies, including,
- 34 notwithstanding any other law, policies for the compromise of
- 35 interest and penalties related to a listed tax (as defined in
- 36 IC 6-8.1-1-1) and other taxes and fees collected or administered
- 37 by a state agency.
- 38 (2) Work with state agencies to seek ways to consolidate forms
- 39 and eliminate the duplication of paperwork, harmonize data, and
- 40 coordinate due dates.
- 41 (3) Coordinate with OMB (as defined in IC 4-3-22-3) to perform
- 42 cost benefit analyses.



- 1 (4) Work with state agencies to monitor any outdated, ineffective,
 2 or overly burdensome information requests from state agencies to
 3 small businesses.
- 4 (5) Carry out the duties specified under IC 4-22-2-28 and
 5 IC 4-22-2.1 to review proposed rules and participate in
 6 rulemaking actions that affect small businesses.
- 7 (6) Coordinate with the ombudsman designated under
 8 IC 13-28-3-2 and the office of voluntary compliance established
 9 by IC 13-28-1-1 to coordinate the provision of services required
 10 under IC 4-22-2-28.1 and IC 13-28-3.
- 11 (7) Prepare written and electronic information for periodic
 12 distribution to small businesses describing the small business
 13 services provided by coordinators (as defined in
 14 IC 4-22-2-28.1(b)) and work with the office of technology
 15 established by IC 4-13.1-2-1 to place information concerning the
 16 availability of these services on state Internet web sites that the
 17 small business ombudsman or a state agency determines are most
 18 likely to be visited by small business owners and managers.
- 19 (8) Assist in training agency coordinators who will be assigned to
 20 rules under IC 4-22-2-28.1(e).
- 21 (9) Investigate and attempt to resolve any matter regarding
 22 compliance by a small business with a law, rule, or policy
 23 administered by a state agency, either as a party to a proceeding
 24 or as a mediator.

25 State agencies shall cooperate with the small business ombudsman to
 26 carry out the purpose of this section. The department of state revenue
 27 and the department of workforce development shall establish a program
 28 to distribute the information described in subdivision (7) to small
 29 businesses that are required to file returns or information with these
 30 state agencies.

31 SECTION 9. IC 5-28-29-9, AS AMENDED BY P.L.10-2019,
 32 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2021]: Sec. 9. As used in this chapter, "lender" means:

- 34 (1) a financial institution (as defined in IC 5-13-4-10); or
 35 (2) ~~alternatively, during the period~~ beginning after June 30, 2018:
 36 ~~and ending before July 1, 2021:~~
- 37 (A) a credit corporation (as defined in IC 23-6-4-1);
 38 (B) an entity that:
 39 (i) extends more than seventy-five percent (75%) of all
 40 eligible loans made in the previous twelve (12) month
 41 period to minority businesses (as defined in IC 5-28-20-4);
 42 and



1 (ii) is approved by the corporation as a lender in accordance
2 with the policy guidelines adopted by the board of the
3 corporation; ~~or~~
4 (C) a qualified "eligible intermediary" participating in the
5 federal Small Business Administration Microloan Program
6 pursuant to 15 U.S.C. 636(m), as amended from time to time,
7 and that is approved by the corporation as a lender in
8 accordance with the policy guidelines adopted by the board of
9 the corporation; **or**
10 **(D) a non-credit union community development financial**
11 **institution that is approved by the corporation as a lender**
12 **in accordance with the policy guidelines as adopted by the**
13 **board;**
14 that has entered into an agreement with the corporation to participate
15 in the program.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Small Business and Economic Development, to which was referred House Bill 1418, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 14, after line 15, begin a new paragraph and insert:

"SECTION 1. IC 5-28-41.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

Chapter 41.5. Corporation Accountability

Sec. 1. As used in this chapter, "corporation" means the Indiana economic development corporation established by IC 5-28-3-1 and the Indiana destination development corporation established by IC 5-33-3-1.

Sec. 2. As used in this chapter, "covered business" means any person or entity that receives incentives.

Sec. 3. As used in this chapter, "covered person" means the governor, the lieutenant governor, or any other person employed by state or local government.

Sec. 4. As used in this chapter, "economic development expenses" means travel, food, beverage, and entertainment expenses of a covered person made in connection with economic development, job creation, or job retention in Indiana.

Sec. 5. As used in this chapter, "incentive" means a tax credit, tax deduction, grant, loan, or loan guarantee that a statute authorizes state or local government to award or approve for the purpose of encouraging the creation or retention of jobs in Indiana.

Sec. 6. As used in this chapter, "political subdivision" has the meaning set forth in IC 5-11-10.5-1.

Sec. 7. As used in this chapter, "state or local government" means a branch, department, agency, instrumentality, official, or other individual or entity acting under the color of law of state government, a political subdivision, or an instrumentality of state government, including a body politic, a body corporate and politic, or any other similar entity established by law.

Sec. 8. As used in this chapter, "success fee" means any payment that is contingent upon the award of an incentive.

Sec. 9. As used in this chapter, "third party compensation" means any payment, compensation, bonus, or gift to a covered business or covered person from any person or entity other than a state or local government. Third party compensation does not



include a contribution as defined under IC 3-5-2-15.

Sec. 10. (a) A covered business shall disclose the source and amount of a success fee in relation to the award of incentives.

(b) A covered person shall disclose the source and amount of third party compensation made in connection with the covered person's performance in state or local government.

(c) A corporation shall disclose the source and amount of any economic development expenses paid for by a nongovernmental third party for the benefit of the corporation.

(d) A corporation shall disclose the terms of any contract for, or payment of, incentives made by a political subdivision that is not already covered under IC 5-28-5-9.

Sec. 11. (a) The corporation shall make the disclosures required under section 10 of this chapter on a quarterly basis to the auditor of state and on the Indiana transparency portal Internet web site.

(b) The corporation shall make the disclosures within thirty (30) days of the end of each state fiscal year quarter as follows:

(1) Within thirty (30) days of the quarter ending September 30 of a year.

(2) Within thirty (30) days of the quarter ending December 31 of a year.

(3) Within thirty (30) days of the quarter ending March 31 of a year.

(4) Within thirty (30) days of the quarter ending June 30 of a year.

Sec. 12. Failure to comply with the disclosure requirements under section 10 of this chapter shall result in the disgorgement of all undisclosed compensation and incentives, which will be paid to the treasurer of state for deposit in the state general fund.

Sec. 13. The auditor of state may prescribe forms, rules, and procedures to implement this chapter.

Sec. 14. The office of the attorney general shall enforce this chapter."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1418 as introduced.)

MORRIS

Committee Vote: yeas 9, nays 2.

EH 1418—LS 6817/DI 142



COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Technology, to which was referred House Bill No. 1418, 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:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 5-14-1.5-6.1, AS AMENDED BY P.L.164-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6.1. (a) As used in this section, "public official" means a person:

- (1) who is a member of a governing body of a public agency; or
- (2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

- (1) Where authorized by federal or state statute.
- (2) For discussion of strategy with respect to any of the following:
 - (A) Collective bargaining.
 - (B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing. As used in this clause, "litigation" includes any judicial action or administrative law proceeding under federal or state law.
 - (C) The implementation of security systems.
 - (D) A real property transaction including:
 - (i) a purchase;
 - (ii) a lease as lessor;
 - (iii) a lease as lessee;
 - (iv) a transfer;
 - (v) an exchange; or
 - (vi) a sale;

by the governing body up to the time a contract or option is executed by the parties. This clause does not affect a political subdivision's duty to comply with any other statute that governs the conduct of the real property transaction, including IC 36-1-10 or IC 36-1-11.

(E) School consolidation.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.



- (4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by:
- (A) the Indiana economic development corporation;
 - (B) the office of tourism development (before July 1, 2020) or the Indiana destination development corporation (after June 30, 2020);
 - (C) the Indiana finance authority;
 - (D) the ports of Indiana;
 - (E) an economic development commission;
 - (F) the Indiana state department of agriculture;
 - (G) the Indiana White River state park development commission;**
 - ~~(G)~~ **(H)** a local economic development organization that is a nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana; or
 - ~~(H)~~ **(I)** a governing body of a political subdivision.
- However, this subdivision does not apply to any discussions regarding research that is prohibited under IC 16-34.5-1-2 or under any other law.
- (5) To receive information about and interview prospective employees.
- (6) With respect to any individual over whom the governing body has jurisdiction:
- (A) to receive information concerning the individual's alleged misconduct; and
 - (B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:
 - (i) a physician; or
 - (ii) a school bus driver.
- (7) For discussion of records classified as confidential by state or federal statute.
- (8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.
- (9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.
- (10) When considering the appointment of a public official, to do



the following:

- (A) Develop a list of prospective appointees.
- (B) Consider applications.
- (C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 25.

(13) To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism.

(14) To train members of a board of aviation commissioners appointed under IC 8-22-2 or members of an airport authority board appointed under IC 8-22-3 with an outside consultant about the performance of the role of the members as public officials. A board may hold not more than one (1) executive session per calendar year under this subdivision.

(15) For discussion by the governing body of a state educational institution of:

- (A) the assessment of; or
- (B) negotiation with another entity concerning;

the establishment of a collaborative relationship or venture to advance the research, engagement, or education mission of the state educational institution. However, this subdivision does not apply to any discussions regarding research that is prohibited under IC 16-34.5-1-2 or under any other law.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being



made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 2. IC 5-14-3-4, AS AMENDED BY P.L.64-2020, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of a state educational institution, including information:
 - (A) concerning any negotiations made with respect to the research; and
 - (B) received from another party involved in the research.
- (7) Grade transcripts and license examination scores obtained as part of a licensure process.
- (8) Those declared confidential by or under rules adopted by the supreme court of Indiana.
- (9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39 or as provided under IC 16-41-8.
- (10) Application information declared confidential by the Indiana economic development corporation under ~~IC 5-28-16~~. **IC 5-28.**
- (11) A photograph, a video recording, or an audio recording of an



autopsy, except as provided in IC 36-2-14-10.

(12) A Social Security number contained in the records of a public agency.

(13) The following information that is part of a foreclosure action subject to IC 32-30-10.5:

(A) Contact information for a debtor, as described in IC 32-30-10.5-8(d)(1)(B).

(B) Any document submitted to the court as part of the debtor's loss mitigation package under IC 32-30-10.5-10(a)(3).

(14) The following information obtained from a call made to a fraud hotline established under IC 36-1-8-8.5:

(A) The identity of any individual who makes a call to the fraud hotline.

(B) A report, transcript, audio recording, or other information concerning a call to the fraud hotline.

However, records described in this subdivision may be disclosed to a law enforcement agency, a private university police department, the attorney general, the inspector general, the state examiner, or a prosecuting attorney.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies or private university police departments. For purposes of this chapter, a law enforcement recording is not an investigatory record. Law enforcement agencies or private university police departments may share investigatory records with a:

(A) person who advocates on behalf of a crime victim, including a victim advocate (as defined in IC 35-37-6-3.5) or a victim service provider (as defined in IC 35-37-6-5), for the purposes of providing services to a victim or describing services that may be available to a victim; and

(B) school corporation (as defined by IC 20-18-2-16(a)), charter school (as defined by IC 20-24-1-4), or nonpublic school (as defined by IC 20-18-2-12) for the purpose of enhancing the safety or security of a student or a school facility;

without the law enforcement agency or private university police department losing its discretion to keep those records confidential from other records requesters. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.



- (2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:
- (A) a public agency;
 - (B) the state; or
 - (C) an individual.
- (3) Test questions, scoring keys, and other examination data used 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:
 - (i) the Indiana economic development corporation;
 - (ii) the ports of Indiana;
 - (iii) the Indiana state department of agriculture;
 - (iv) the Indiana finance authority;
 - (v) an economic development commission;
 - (vi) the Indiana White river state park development commission;**
 - ~~(vi)~~ **(vii)** a local economic development organization that is a nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana; or
 - ~~(vii)~~ **(viii)** a governing body of a political subdivision; with industrial, research, or commercial prospects, if the records are created while negotiations are in progress. However, this clause does not apply to records regarding research that is prohibited under IC 16-34.5-1-2 or any other law.
 - (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, **the Indiana White river state park 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.

(D) Notwithstanding clause (A), an incentive agreement with an incentive recipient shall be available for inspection and copying under section 3 of this chapter after the date the incentive recipient and the Indiana economic development corporation execute the incentive agreement regardless of whether negotiations are in progress with the recipient after that date regarding a modification or extension of the incentive agreement.

(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 first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping system, voting system, voter registration system, or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency



or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the 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 the following:

- (A) A record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 (before its repeal), an act of agricultural terrorism under IC 35-47-12-2 (before its repeal), or a felony terrorist offense (as defined in IC 35-50-2-18).
- (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 voting system and voter registration system critical infrastructure, and communication, electrical, ventilation, water, and wastewater systems.
- (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, or any part of a law enforcement recording that captures information about airport security procedures, areas, or systems. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. Both of the following apply to the public agency that owns, occupies, leases, or maintains the airport:
 - (i) The public agency is responsible for determining whether the public disclosure of a record or a part of a record, including a law enforcement recording, has a reasonable likelihood of threatening public safety by exposing a security procedure, area, system, or vulnerability to terrorist attack.
 - (ii) The public agency must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under



IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)". However, in the case of a law enforcement recording, the public agency must clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(K) without approval of (insert name of the public agency that owns, occupies, leases, or maintains the airport)".

(L) The home address, home telephone number, and emergency contact information for any:

- (i) emergency management worker (as defined in IC 10-14-3-3);
- (ii) public safety officer (as defined in IC 35-47-4.5-3);
- (iii) emergency medical responder (as defined in IC 16-18-2-109.8); or
- (iv) advanced emergency medical technician (as defined in IC 16-18-2-6.5).

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 (before its repeal), an act of agricultural terrorism under IC 35-47-12-2 (before its repeal), or a felony terrorist offense (as defined in IC 35-50-2-18) has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

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

- (A) Telephone number.
- (B) Address.
- (C) Social Security number.

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

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

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law



enforcement officer who is operating in an undercover capacity.
 (23) Records requested by an offender, an agent, or a relative of an offender that:

- (A) contain personal information relating to:
 - (i) a correctional officer (as defined in IC 5-10-10-1.5);
 - (ii) a probation officer;
 - (iii) a community corrections officer;
 - (iv) a law enforcement officer (as defined in IC 35-31.5-2-185);
 - (v) a judge (as defined in IC 33-38-12-3);
 - (vi) the victim of a crime; or
 - (vii) a family member of a correctional officer, probation officer, community corrections officer, law enforcement officer (as defined in IC 35-31.5-2-185), judge (as defined in IC 33-38-12-3), or victim of a crime; or
- (B) concern or could affect the security of a jail or correctional facility.

For purposes of this subdivision, "agent" means a person who is authorized by an offender to act on behalf of, or at the direction of, the offender, and "relative" has the meaning set forth in IC 35-42-2-1(b). However, the term "agent" does not include an attorney in good standing admitted to the practice of law in Indiana.

(24) Information concerning an individual less than eighteen (18) years of age who participates in a conference, meeting, program, or activity conducted or supervised by a state educational institution, including the following information regarding the individual or the individual's parent or guardian:

- (A) Name.
- (B) Address.
- (C) Telephone number.
- (D) Electronic mail account address.

(25) Criminal intelligence information.

(26) The following information contained in a report of unclaimed property under IC 32-34-1-26 or in a claim for unclaimed property under IC 32-34-1-36:

- (A) Date of birth.
- (B) Driver's license number.
- (C) Taxpayer identification number.
- (D) Employer identification number.
- (E) Account number.

(27) Except as provided in subdivision (19) and sections 5.1 and



5.2 of this chapter, a law enforcement recording. However, before disclosing the recording, the public agency must comply with the obscuring requirements of sections 5.1 and 5.2 of this chapter, if applicable.

(28) Records relating to negotiations between a state educational institution and another entity concerning the establishment of a collaborative relationship or venture to advance the research, engagement, or educational mission of the state educational institution, if the records are created while negotiations are in progress. The terms of the final offer of public financial resources communicated by the state educational institution 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. However, this subdivision does not apply to records regarding research prohibited under IC 16-34.5-1-2 or any other law.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption or patient medical records, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Only the content of a public record may form the basis for the adoption by any public agency of a rule or procedure creating an exception from disclosure under this section.

(f) Except as provided by law, a public agency may not adopt a rule or procedure that creates an exception from disclosure under this section based upon whether a public record is stored or accessed using paper, electronic media, magnetic media, optical media, or other information storage technology.

(g) Except as provided by law, a public agency may not adopt a rule or procedure nor impose any costs or liabilities that impede or restrict the reproduction or dissemination of any public record.

(h) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business."

Delete pages 2 through 9.

Page 10, delete lines 1 through 7.

Page 10, line 16, after "officer" insert "**and president**".



Page 10, line 22, delete ""final public financial" and insert **""final offer of public financial resources" means a final executed definitive agreement that is the product of negotiations between the corporation or another public agency and an industrial, research, or commercial prospect.**

SECTION 5. IC 5-28-6-0.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 0.6. As used in this chapter, "negotiations" means communications, including letters of intent, memoranda of understanding, and other preliminary, early stage, or informal communications, directed to or with an industrial, research, or commercial prospect."**

Page 10, delete lines 23 through 26.

Page 14, delete lines 16 through 42, begin a new paragraph and insert:

"SECTION 8. IC 5-28-29-9, AS AMENDED BY P.L.10-2019, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 9. As used in this chapter, "lender" means:**

- (1) a financial institution (as defined in IC 5-13-4-10); or
- (2) ~~alternatively, during the period beginning after June 30, 2018: and ending before July 1, 2021:~~

- (A) a credit corporation (as defined in IC 23-6-4-1);

- (B) an entity that:

- (i) extends more than seventy-five percent (75%) of all eligible loans made in the previous twelve (12) month period to minority businesses (as defined in IC 5-28-20-4); and

- (ii) is approved by the corporation as a lender in accordance with the policy guidelines adopted by the board of the corporation; ~~or~~

- (C) a qualified "eligible intermediary" participating in the federal Small Business Administration Microloan Program pursuant to 15 U.S.C. 636(m), as amended from time to time, and that is approved by the corporation as a lender in accordance with the policy guidelines adopted by the board of the corporation; **or**

- (D) **a non-credit union community development financial institution that is approved by the corporation as a lender in accordance with the policy guidelines as adopted by the board;**

that has entered into an agreement with the corporation to participate in the program.



SECTION 9. IC 14-13-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 11. **(a)** The governor shall ~~annually~~ designate:

- (1) one (1) of the voting members of the commission as chairman; and
- (2) one (1) of the voting members of the commission as treasurer.

~~for terms expiring December 31.~~

(b) The chairman and treasurer serve until:

- (1) the governor designates another voting member of the commission as chairman or treasurer, respectively, under subsection (a); or**
- (2) the term of the member designated as chairman or treasurer, respectively, expires;**

whichever occurs first.

SECTION 10. IC 14-13-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 14. **(a)** The governor shall appoint an executive director for the commission.

(b) The executive director serves as the chief administrative officer of the commission.

(c) The executive director shall implement the policies of the commission.

(d) The commission may delegate any of the commission's powers to the executive director.

(e) The executive director may:

- (1) hire and terminate commission staff; and**
- (2) exercise supervisory duties with respect to the staff of the commission."**

Delete page 15.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1418 as printed February 2, 2021.)

PERFECT, Chairperson

Committee Vote: Yeas 10, Nays 0.



SENATE MOTION

Madam President: I move that Engrossed House Bill 1418 be amended to read as follows:

Page 18, delete lines 16 through 42.

(Reference is to EHB 1418 as printed April 6, 2021.)

PERFECT

