

SENATE BILL No. 157

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14-3; IC 5-28.

Synopsis: Economic development incentive accountability. Renames the annual "economic incentives and compliance report" in current law to the "job creation incentives and compliance report" (report). Adds various job and employee definitions to the Indiana economic development corporation (IEDC) laws. Requires an incentive recipient to submit an annual compliance 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 report. Provides that information submitted in an annual compliance report and other information maintained by the IEDC must be made available in accordance with the open records law. Repeals and relocates several definitions without change to maintain alphabetical order.

Effective: July 1, 2019.

Randolph Lonnie M

January 3, 2019, read first time and referred to Committee on Tax and Fiscal Policy.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 157

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 5-14-3-3.4 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2019]: **Sec. 3.4. Information provided to the Indiana economic**
- 4 **development corporation in an annual compliance report**
- 5 **submitted under IC 5-28-28-11 must be made available for**
- 6 **inspection and copying under section 3 of this chapter.**
- 7 SECTION 2. IC 5-14-3-4, AS AMENDED BY P.L.197-2017,
- 8 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 9 JULY 1, 2019]: 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 Indiana
- 19 economic development corporation under IC 5-28-16.
- 20 (11) A photograph, a video recording, or an audio recording of an
- 21 autopsy, except as provided in IC 36-2-14-10.
- 22 (12) A Social Security number contained in the records of a
- 23 public agency.
- 24 (13) The following information that is part of a foreclosure action
- 25 subject to IC 32-30-10.5:
- 26 (A) Contact information for a debtor, as described in
- 27 IC 32-30-10.5-8(d)(1)(B).
- 28 (B) Any document submitted to the court as part of the debtor's
- 29 loss mitigation package under IC 32-30-10.5-10(a)(3).
- 30 (14) The following information obtained from a call made to a
- 31 fraud hotline established under IC 36-1-8-8.5:
- 32 (A) The identity of any individual who makes a call to the
- 33 fraud hotline.
- 34 (B) A report, transcript, audio recording, or other information
- 35 concerning a call to the fraud hotline.
- 36 However, records described in this subdivision may be disclosed
- 37 to a law enforcement agency, a private university police
- 38 department, the attorney general, the inspector general, the state
- 39 examiner, or a prosecuting attorney.
- 40 (b) Except as otherwise provided by subsection (a), the following
- 41 public records shall be excepted from section 3 of this chapter at the
- 42 discretion of a public agency:



- 1 (1) Investigatory records of law enforcement agencies or private
2 university police departments. For purposes of this chapter, a law
3 enforcement recording is not an investigatory record. Law
4 enforcement agencies or private university police departments
5 may share investigatory records with a person who advocates on
6 behalf of a crime victim, including a victim advocate (as defined
7 in IC 35-37-6-3.5) or a victim service provider (as defined in
8 IC 35-37-6-5), for the purposes of providing services to a victim
9 or describing services that may be available to a victim, without
10 the law enforcement agency or private university police
11 department losing its discretion to keep those records confidential
12 from other records requesters. However, certain law enforcement
13 records must be made available for inspection and copying as
14 provided in section 5 of this chapter.
- 15 (2) The work product of an attorney representing, pursuant to
16 state employment or an appointment by a public agency:
- 17 (A) a public agency;
 - 18 (B) the state; or
 - 19 (C) an individual.
- 20 (3) Test questions, scoring keys, and other examination data used
21 in administering a licensing examination, examination for
22 employment, or academic examination before the examination is
23 given or if it is to be given again.
- 24 (4) Scores of tests if the person is identified by name and has not
25 consented to the release of the person's scores.
- 26 (5) The following:
- 27 (A) Records relating to negotiations between:
 - 28 (i) the Indiana economic development corporation;
 - 29 (ii) the ports of Indiana;
 - 30 (iii) the Indiana state department of agriculture;
 - 31 (iv) the Indiana finance authority;
 - 32 (v) an economic development commission;
 - 33 (vi) a local economic development organization that is a
34 nonprofit corporation established under state law whose
35 primary purpose is the promotion of industrial or business
36 development in Indiana, the retention or expansion of
37 Indiana businesses, or the development of entrepreneurial
38 activities in Indiana; or
 - 39 (vii) a governing body of a political subdivision;
- 40 with industrial, research, or commercial prospects, if the
41 records are created while negotiations are in progress.
42 However, this clause does not apply to records regarding



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



- 1 action has been taken and that resulted in the employee being
2 suspended, demoted, or discharged.
- 3 However, all personnel file information shall be made available
4 to the affected employee or the employee's representative. This
5 subdivision does not apply to disclosure of personnel information
6 generally on all employees or for groups of employees without the
7 request being particularized by employee name.
- 8 (9) Minutes or records of hospital medical staff meetings.
- 9 (10) Administrative or technical information that would
10 jeopardize a record keeping or security system.
- 11 (11) Computer programs, computer codes, computer filing
12 systems, and other software that are owned by the public agency
13 or entrusted to it and portions of electronic maps entrusted to a
14 public agency by a utility.
- 15 (12) Records specifically prepared for discussion or developed
16 during discussion in an executive session under IC 5-14-1.5-6.1.
17 However, this subdivision does not apply to that information
18 required to be available for inspection and copying under
19 subdivision (8).
- 20 (13) The work product of the legislative services agency under
21 personnel rules approved by the legislative council.
- 22 (14) The work product of individual members and the partisan
23 staffs of the general assembly.
- 24 (15) The identity of a donor of a gift made to a public agency if:
25 (A) the donor requires nondisclosure of the donor's identity as
26 a condition of making the gift; or
27 (B) after the gift is made, the donor or a member of the donor's
28 family requests nondisclosure.
- 29 (16) Library or archival records:
30 (A) which can be used to identify any library patron; or
31 (B) deposited with or acquired by a library upon a condition
32 that the records be disclosed only:
33 (i) to qualified researchers;
34 (ii) after the passing of a period of years that is specified in
35 the documents under which the deposit or acquisition is
36 made; or
37 (iii) after the death of persons specified at the time of the
38 acquisition or deposit.
- 39 However, nothing in this subdivision shall limit or affect contracts
40 entered into by the Indiana state library pursuant to IC 4-1-6-8.
- 41 (17) The identity of any person who contacts the bureau of motor
42 vehicles concerning the ability of a driver to operate a motor



1 vehicle safely and the medical records and evaluations made by
 2 the bureau of motor vehicles staff or members of the driver
 3 licensing medical advisory board regarding the ability of a driver
 4 to operate a motor vehicle safely. However, upon written request
 5 to the commissioner of the bureau of motor vehicles, the driver
 6 must be given copies of the driver's medical records and
 7 evaluations.

8 (18) School safety and security measures, plans, and systems,
 9 including emergency preparedness plans developed under 511
 10 IAC 6.1-2-2.5.

11 (19) A record or a part of a record, the public disclosure of which
 12 would have a reasonable likelihood of threatening public safety
 13 by exposing a vulnerability to terrorist attack. A record described
 14 under this subdivision includes the following:

15 (A) A record assembled, prepared, or maintained to prevent,
 16 mitigate, or respond to an act of terrorism under IC 35-47-12-1
 17 or an act of agricultural terrorism under IC 35-47-12-2.

18 (B) Vulnerability assessments.

19 (C) Risk planning documents.

20 (D) Needs assessments.

21 (E) Threat assessments.

22 (F) Intelligence assessments.

23 (G) Domestic preparedness strategies.

24 (H) The location of community drinking water wells and
 25 surface water intakes.

26 (I) The emergency contact information of emergency
 27 responders and volunteers.

28 (J) Infrastructure records that disclose the configuration of
 29 critical systems such as communication, electrical, ventilation,
 30 water, and wastewater systems.

31 (K) Detailed drawings or specifications of structural elements,
 32 floor plans, and operating, utility, or security systems, whether
 33 in paper or electronic form, of any building or facility located
 34 on an airport (as defined in IC 8-21-1-1) that is owned,
 35 occupied, leased, or maintained by a public agency, or any part
 36 of a law enforcement recording that captures information
 37 about airport security procedures, areas, or systems. A record
 38 described in this clause may not be released for public
 39 inspection by any public agency without the prior approval of
 40 the public agency that owns, occupies, leases, or maintains the
 41 airport. Both of the following apply to the public agency that
 42 owns, occupies, leases, or maintains the airport:



- 1 (i) The public agency is responsible for determining whether
 2 the public disclosure of a record or a part of a record,
 3 including a law enforcement recording, has a reasonable
 4 likelihood of threatening public safety by exposing a
 5 security procedure, area, system, or vulnerability to terrorist
 6 attack.
- 7 (ii) The public agency must identify a record described
 8 under item (i) and clearly mark the record as "confidential
 9 and not subject to public disclosure under
 10 IC 5-14-3-4(b)(19)(J) without approval of (insert name of
 11 submitting public agency)". However, in the case of a law
 12 enforcement recording, the public agency must clearly mark
 13 the record as "confidential and not subject to public
 14 disclosure under IC 5-14-3-4(b)(19)(K) without approval of
 15 (insert name of the public agency that owns, occupies,
 16 leases, or maintains the airport)".
- 17 (L) The home address, home telephone number, and
 18 emergency contact information for any:
- 19 (i) emergency management worker (as defined in
 20 IC 10-14-3-3);
- 21 (ii) public safety officer (as defined in IC 35-47-4.5-3);
- 22 (iii) emergency medical responder (as defined in
 23 IC 16-18-2-109.8); or
- 24 (iv) advanced emergency medical technician (as defined in
 25 IC 16-18-2-6.5).
- 26 This subdivision does not apply to a record or portion of a record
 27 pertaining to a location or structure owned or protected by a
 28 public agency in the event that an act of terrorism under
 29 IC 35-47-12-1 or an act of agricultural terrorism under
 30 IC 35-47-12-2 has occurred at that location or structure, unless
 31 release of the record or portion of the record would have a
 32 reasonable likelihood of threatening public safety by exposing a
 33 vulnerability of other locations or structures to terrorist attack.
- 34 (20) The following personal information concerning a customer
 35 of a municipally owned utility (as defined in IC 8-1-2-1):
- 36 (A) Telephone number.
- 37 (B) Address.
- 38 (C) Social Security number.
- 39 (21) The following personal information about a complainant
 40 contained in records of a law enforcement agency:
- 41 (A) Telephone number.
- 42 (B) The complainant's address. However, if the complainant's



- 1 address is the location of the suspected crime, infraction,
 2 accident, or complaint reported, the address shall be made
 3 available for public inspection and copying.
- 4 (22) Notwithstanding subdivision (8)(A), the name,
 5 compensation, job title, business address, business telephone
 6 number, job description, education and training background,
 7 previous work experience, or dates of first employment of a law
 8 enforcement officer who is operating in an undercover capacity.
- 9 (23) Records requested by an offender that:
- 10 (A) contain personal information relating to:
- 11 (i) a correctional officer (as defined in IC 5-10-10-1.5);
 12 (ii) a law enforcement officer (as defined in
 13 IC 35-31.5-2-185);
 14 (iii) a judge (as defined in IC 33-38-12-3);
 15 (iv) the victim of a crime; or
 16 (v) a family member of a correctional officer, law
 17 enforcement officer (as defined in IC 35-31.5-2-185), judge
 18 (as defined in IC 33-38-12-3), or victim of a crime; or
- 19 (B) concern or could affect the security of a jail or correctional
 20 facility.
- 21 (24) Information concerning an individual less than eighteen (18)
 22 years of age who participates in a conference, meeting, program,
 23 or activity conducted or supervised by a state educational
 24 institution, including the following information regarding the
 25 individual or the individual's parent or guardian:
- 26 (A) Name.
 27 (B) Address.
 28 (C) Telephone number.
 29 (D) Electronic mail account address.
- 30 (25) Criminal intelligence information.
- 31 (26) The following information contained in a report of unclaimed
 32 property under IC 32-34-1-26 or in a claim for unclaimed
 33 property under IC 32-34-1-36:
- 34 (A) Date of birth.
 35 (B) Driver's license number.
 36 (C) Taxpayer identification number.
 37 (D) Employer identification number.
 38 (E) Account number.
- 39 (27) Except as provided in subdivision (19) and sections 5.1 and
 40 5.2 of this chapter, a law enforcement recording. However, before
 41 disclosing the recording, the public agency must comply with the
 42 obscuring requirements of sections 5.1 and 5.2 of this chapter, if



1 applicable.

2 (28) Records relating to negotiations between a state educational
3 institution and another entity concerning the establishment of a
4 collaborative relationship or venture to advance the research,
5 engagement, or educational mission of the state educational
6 institution, if the records are created while negotiations are in
7 progress. The terms of the final offer of public financial resources
8 communicated by the state educational institution to an industrial,
9 a research, or a commercial prospect shall be available for
10 inspection and copying under section 3 of this chapter after
11 negotiations with that prospect have terminated. However, this
12 subdivision does not apply to records regarding research
13 prohibited under IC 16-34.5-1-2 or any other law.

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

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

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

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

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

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

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

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

37 SECTION 3. IC 5-28-2-4.1 IS ADDED TO THE INDIANA CODE
38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
39 1, 2019]: **Sec. 4.1. "Full-time employee" has the meaning set forth
40 in IC 6-3.1-13-4.**

41 SECTION 4. IC 5-28-2-4.2 IS ADDED TO THE INDIANA CODE
42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



1, 2019]: **Sec. 4.2. (a) "Full-time, permanent job" means employment in which a new employee works for the recipient of a job creation incentive as a full-time employee without any expected date of termination.**

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

SECTION 5. IC 5-28-2-4.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 4.3. "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 6. IC 5-28-2-4.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 4.4. "Job creation incentive agreement" or "incentive agreement" means any agreement executed by the corporation and the recipient of a job creation incentive setting forth the terms and conditions of any job creation incentive provided to the recipient.**

SECTION 7. IC 5-28-2-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 4.5. "New employee" means a full-time employee who:**

- (1) is first employed by the recipient of a job creation incentive at the specific project site that is the subject of the job creation incentive agreement executed by the corporation 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 8. IC 5-28-2-4.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 4.6. "Part-time job" means employment in which a new employee works for the recipient of a job creation incentive for fewer than thirty-five (35) hours per week.**

SECTION 9. IC 5-28-2-4.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 4.7. "Retained employee" means any employee:**

- (1) who has a full-time 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.**



1 SECTION 10. IC 5-28-2-5.5 IS REPEALED [EFFECTIVE JULY
2 1, 2019]. Sec. 5-5: "Job creation incentive" means a tax credit, tax
3 deduction, grant, loan, or loan guarantee that a statute authorizes the
4 state or an instrumentality of the state (excluding any political
5 subdivision or other unit of local government) to award or approve for
6 the purpose of encouraging the creation of new jobs in Indiana:

7 SECTION 11. IC 5-28-2-8 IS ADDED TO THE INDIANA CODE
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2019]: **Sec. 8. "Temporary job" means employment in which a
10 new employee is hired for a specific duration of time or season.**

11 SECTION 12. IC 5-28-5-9, AS ADDED BY P.L.4-2005, SECTION
12 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
13 2019]: Sec. 9. (a) Except as specifically provided by law, the
14 corporation and the board are subject to IC 5-14-1.5 and IC 5-14-3.

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

24 SECTION 13. IC 5-28-6-2, AS AMENDED BY P.L.130-2018,
25 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2019]: Sec. 2. (a) The corporation shall develop and promote
27 programs designed to make the best use of Indiana resources to ensure
28 a balanced economy and continuing economic growth for Indiana, and,
29 for those purposes, may do the following:

30 (1) Cooperate with federal, state, and local governments and
31 agencies in the coordination of programs to make the best use of
32 Indiana resources, based on a statewide study to determine
33 specific economic sectors that should be emphasized by the state
34 and by local economic development organizations within
35 geographic regions in Indiana, and encourage collaboration with
36 local economic development organizations within geographic
37 regions in Indiana and with the various state economic
38 development organizations within the states contiguous to
39 Indiana.

40 (2) Receive and expend funds, grants, gifts, and contributions of
41 money, property, labor, interest accrued from loans made by the
42 corporation, and other things of value from public and private



1 sources, including grants from agencies and instrumentalities of
 2 the state and the federal government. The corporation:

3 (A) may accept federal grants for providing planning
 4 assistance, making grants, or providing other services or
 5 functions necessary to political subdivisions, planning
 6 commissions, or other public or private organizations;

7 (B) shall administer these grants in accordance with the terms
 8 of the grants; and

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

12 (3) Direct that assistance, information, and advice regarding the
 13 duties and functions of the corporation be given to the corporation
 14 by an officer, agent, or employee of the executive branch of the
 15 state. The head of any other state department or agency may
 16 assign one (1) or more of the department's or agency's employees
 17 to the corporation on a temporary basis or may direct a division
 18 or an agency under the department's or agency's supervision and
 19 control to make a special study or survey requested by the
 20 corporation.

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

22 (1) Develop and implement industrial development programs to
 23 encourage expansion of existing industrial, commercial, and
 24 business facilities in Indiana and to encourage new industrial,
 25 commercial, and business locations in Indiana.

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

30 (3) Promote the growth of minority business enterprises by doing
 31 the following:

32 (A) Mobilizing and coordinating the activities, resources, and
 33 efforts of governmental and private agencies, businesses, trade
 34 associations, institutions, and individuals.

35 (B) Assisting minority businesses in obtaining governmental
 36 or commercial financing for expansion or establishment of
 37 new businesses or individual development projects.

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

40 (D) Providing technical, managerial, and counseling assistance
 41 to minority business enterprises.

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



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



1 (3) Assist in community economic development planning and the
 2 implementation of programs designed to further community
 3 economic development.

4 SECTION 14. IC 5-28-6-6, AS AMENDED BY P.L.175-2013,
 5 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2019]: Sec. 6. The corporation shall require an applicant for
 7 a job creation incentive to be granted by the corporation after March
 8 31, 2010, to enter into ~~an~~ **a job creation incentive** agreement with the
 9 corporation as a condition of receiving the incentive. Subject to
 10 IC 5-28-28-8, the agreement must include the following:

11 (1) The applicant's agreement regarding the following:

12 (A) The number of individuals that are expected to be
 13 employed by the applicant, including the number of employees
 14 who will be hired, retained, or trained during the duration of
 15 the agreement.

16 (B) If a financial investment by an applicant is a condition for
 17 providing an incentive, the amount of the financial investment
 18 that the applicant expects to make in Indiana as a result of the
 19 project for which the incentive is granted.

20 (2) A requirement that the applicant shall file with the compliance
 21 officer an annual compliance report ~~detailing the applicant's~~
 22 ~~compliance, or progress toward compliance, with subdivision (1).~~
 23 **as required by IC 5-28-28-11.**

24 (3) A provision that notifies the applicant that the applicant is
 25 subject to a determination of the corporation under this
 26 subdivision. The corporation, after a finding that the applicant is
 27 employing fewer individuals than the applicant agreed to employ
 28 or that the applicant has not made the financial investment agreed
 29 to under subdivision (1), subject to any confidentiality laws, shall
 30 hold a hearing to determine if the applicant shall be required to
 31 pay back to the state a part of the incentive granted to the
 32 applicant under the agreement. The penalty imposed must be a
 33 matter of public record and must reflect in a fair and balanced
 34 way the amount of incentive received.

35 (4) A ~~requirement~~ **recapture provision** that **requires** the
 36 applicant ~~will to~~ pay back to the state the **job creation** incentive
 37 that has been received by the applicant if the applicant:

38 (A) moves or closes;

39 (B) **does not make the level of capital investment specified**
 40 **by the applicant in the application for the job creation**
 41 **incentive;**

42 (C) **employs fewer individuals than specified by the**



1 **applicant in the application for the job creation incentive;**
 2 **or**
 3 **(D) pays less in wages than specified by the applicant in the**
 4 **application for the job creation incentive.**

5 SECTION 15. IC 5-28-28-5, AS AMENDED BY P.L.145-2016,
 6 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2019]: Sec. 5. (a) The corporation shall:

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

10 (A) the governor; and

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

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

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

16 (b) The corporation shall submit and publish ~~before February 1 of~~
 17 ~~each year~~ **an the job creation** incentives and compliance report **before**
 18 **February 1 of each year. The report must cover that provides**
 19 ~~updated information for active incentive agreements approved and~~
 20 ~~awarded after January 1, 2005, through~~ the immediately preceding
 21 calendar year.

22 SECTION 16. IC 5-28-28-6, AS AMENDED BY P.L.2-2014,
 23 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2019]: Sec. 6. The ~~economic job creation~~ incentives and
 25 compliance report required under section 5 of this chapter must include
 26 at least the following:

27 (1) The total for each of the following:

28 (A) The number and amount of tax credits, loans, and grants
 29 contractually awarded by the corporation.

30 (B) The amount of investments made by the recipients of the
 31 tax credits, loans, and grants.

32 (C) The number of actual jobs created and the number of jobs
 33 expected through the reporting year, as reviewed by an
 34 independent auditing firm chosen by the corporation.

35 (D) The amount of recaptured incentives for the reporting year
 36 and the total number of recipients.

37 (E) The number and amount of tax credits claimed for the
 38 reporting year, as reported by the department of state revenue
 39 to the corporation by December 31 of each year.

40 **(F) The aggregate amount of uncollected or diverted state**
 41 **tax revenues resulting from each tax credit, as reported to**
 42 **the department of state revenue on tax returns filed during**



- 1 **the state fiscal year that ends immediately before the due**
 2 **date of the report. Before January 1 each year, the**
 3 **department of state revenue shall submit to the**
 4 **corporation the information necessary for the corporation**
 5 **to include these aggregate amounts in the corporation's**
 6 **report.**
- 7 (2) With respect to each recipient of a tax credit, loan, or grant
 8 referred to in subdivision (1), the following:
- 9 (A) The name, county, and municipality (if any) of the
 10 recipient.
- 11 (B) The amount of tax credits certified to the recipient, and the
 12 amount of grants and loans actually paid out, during the term
 13 of the agreement.
- 14 (C) The purpose of the tax credit, loan, or grant.
- 15 (D) The performance goals for the reporting year, including
 16 the following:
- 17 (i) Numbers of employees to be hired, retained, or trained.
- 18 (ii) If a financial investment by the recipient was a condition
 19 for providing an incentive, the amount of the financial
 20 investment that the recipient expects to make in Indiana as
 21 a result of the project for which the incentive was granted.
- 22 (E) Certification by the corporation that the recipient is
 23 complying with the terms of the incentive agreement.
- 24 **(3) A summary of the information submitted by certified**
 25 **technology parks as part of the corporation's review under**
 26 **IC 36-7-32-11.**
- 27 **(4) All data in all annual compliance reports submitted under**
 28 **section 11 of this chapter.**
- 29 **(5) By program, cumulative information on the total amount**
 30 **of job creation incentives awarded, the total number of**
 31 **companies that received the job creation incentives and were**
 32 **assisted in a year, and the names and addresses of those**
 33 **companies.**
- 34 SECTION 17. IC 5-28-28-7, AS AMENDED BY P.L.175-2013,
 35 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2019]: Sec. 7. (a) If, in the course of compiling information to
 37 complete a **job creation incentives and compliance** report required by
 38 section 5 of this chapter or upon the receipt of any other information
 39 concerning noncompliance with the terms and conditions of an
 40 incentive granted by the corporation, the corporation determines that
 41 a recipient of an incentive awarded by the corporation has not complied
 42 with the terms of the incentive agreement, the corporation shall take the



1 actions required under ~~subsections~~ **subsection (b) and or (d),**
 2 **whichever applies.**

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

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

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

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

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

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

27 SECTION 18. IC 5-28-28-8, AS ADDED BY P.L.110-2010,
 28 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2019]: Sec. 8. (a) As used in this section, "recapture
 30 provision" means language that requires the recipient of ~~an a job~~
 31 **creation** incentive to repay some part of the incentive.

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

- 38 (1) natural disaster;
 39 (2) unforeseen industry trends;
 40 (3) lack of available labor force;
 41 (4) loss of a major supplier or market; or
 42 (5) another circumstance beyond the recipient's control, as



1 determined by the corporation.

2 SECTION 19. IC 5-28-28-9, AS AMENDED BY P.L.145-2016,
3 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2019]: Sec. 9. (a) The **economic job creation** incentives and
5 compliance report required under section 5 of this chapter must include
6 **an annual report a part** containing a summary of **annual** statistics on
7 the effectiveness of and compliance with all incentives granted by the
8 corporation. The **part of the job creation incentives and compliance**
9 report required by this section must describe:

10 (1) the overall compliance with the terms and conditions of
11 incentives provided; and

12 (2) penalties imposed for failure to comply with the terms and
13 conditions of incentives provided, **including a description of the**
14 **outcomes and effectiveness of recapture provisions, organized**
15 **by the job creation incentive program, along with at least the**
16 **following information:**

17 (A) **The total number of companies receiving a job creation**
18 **incentive.**

19 (B) **The total number of recipients in violation of a job**
20 **creation incentive agreement.**

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

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

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

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

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

28 (1) information specifying each person's compliance with its
29 incentive agreement and any incentive that had to be reduced or
30 paid back as a result of noncompliance with an incentive
31 agreement;

32 (2) information stating, for each incentive recipient, the total
33 incentive provided for each job created, computed from the date
34 the incentive is granted through ~~June 30~~ **December 31** of the year
35 of the report;

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

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

40 SECTION 20. IC 5-28-28-11 IS ADDED TO THE INDIANA
41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2019]: **Sec. 11. (a) Before January 15 of each**



1 year, each recipient of a job creation incentive shall submit to the
 2 corporation an annual compliance report covering the calendar
 3 year immediately preceding the year in which the annual
 4 compliance report is due. A recipient that is a party to multiple job
 5 creation incentive agreements for a single project site may file a
 6 consolidated compliance report. A compliance report must include
 7 at least the following information:

8 (1) Each application tracking number.

9 (2) The recipient's:

10 (A) office mailing address;

11 (B) telephone number; and

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

16 (3) The name of the recipient's chief officer or authorized
 17 designee for the specific project site for which the job creation
 18 incentive was approved.

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

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

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

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

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

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

34 (6) The number of:

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

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

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



- 1 **(7) A declaration of whether the recipient is in compliance**
 2 **with each term and condition of the job creation incentive**
 3 **agreement.**
- 4 **(8) The following for the full-time, permanent jobs that the**
 5 **recipient created or retained as a result of the job creation**
 6 **incentive:**
- 7 **(A) A detailed list of:**
- 8 **(i) the occupations; or**
 9 **(ii) job classifications;**
 10 **of the jobs.**
- 11 **(B) A schedule of the starting dates for the new employees**
 12 **hired for the jobs.**
- 13 **(C) The actual average wage paid to employees with the**
 14 **jobs, broken down by occupation or job classification.**
- 15 **(D) The total payroll for new employees and retained**
 16 **employees with these jobs.**
- 17 **(9) A narrative, if necessary, stating whether and, if so, how**
 18 **the recipient's use of the job creation incentive during the**
 19 **reporting year has reduced unemployment at any site in**
 20 **Indiana.**
- 21 **(10) A certification by the chief officer of the recipient or the**
 22 **chief officer's authorized designee that the information in the**
 23 **compliance report contains no knowing misrepresentation of**
 24 **material facts upon which eligibility for the job creation**
 25 **incentive is based.**
- 26 **(11) Any other information the corporation considers**
 27 **necessary to ensure compliance with the job creation incentive**
 28 **program.**
- 29 **(b) The corporation may verify information contained in the**
 30 **recipient's compliance report, including inspecting the specific**
 31 **project site and inspecting the records of the recipient that relate**
 32 **to the job creation incentive agreement.**
- 33 **(c) If a recipient of a job creation incentive fails to comply with**
 34 **subsection (a), the corporation shall suspend all current job**
 35 **creation incentives being provided to the recipient, effective April**
 36 **1 of the year in which the recipient failed to comply with subsection**
 37 **(a). In addition, the corporation is prohibited from completing any**
 38 **current job creation incentive or providing any future job creation**
 39 **incentive until the corporation receives proof that the recipient has**
 40 **complied with subsection (a) and the corporation rescinds the**
 41 **suspension.**

