

SENATE BILL No. 265

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-20-9; IC 6-9-48.

Synopsis: Sales tax district for healthy food programs. Allows the fiscal body of a county to designate a special food desert district (district) if the district is located in a census tract with low median income and low access to the nearest supermarket as determined by the United States Department of Agriculture in its Food Access Research Atlas. Provides that if a district is designated, an additional 1% sales tax applies to retail transactions within the district. Specifies that this additional 1% sales tax is imposed, paid, and collected in the same manner as the state sales tax. Establishes the healthy food and community development financing fund (fund) under the administration of the Indiana housing and community development authority (IHCDA). Requires the amounts received from the additional 1% sales tax to be paid monthly by the treasurer of state to the fund. Requires the IHCDA to: (1) establish an account within the fund for each district designated by a county; (2) deposit money received from the treasurer of state from the tax collected in a district in the district's account; and (3) expend money from the account only for projects within the district in which the tax revenue is collected. Authorizes the IHCDA to conduct a healthy food and community development financing program, in coordination with each county that has designated a district, to provide financing in the form of grants or loans for eligible projects. Provides that the projects eligible for financing may include: (1) healthy food; (2) affordable housing; and (3) community development; projects. Provides that the fiscal body of the county that designated the district may adopt an ordinance to specify the types of eligible projects that may be financed within the district.

(Continued next page)

Effective: July 1, 2016.

Taylor

January 7, 2016, read first time and referred to Committee on Tax & Fiscal Policy.



Digest Continued

Provides that the IHCDA may contract with one or more nonprofit organizations or community development financial institutions to administer the program through a public-private partnership. Provides that an applicant for a grant or a loan from the fund must demonstrate the capacity to successfully implement the project and the ability to repay the loan. Specifies that an applicant that is a grocery store must agree to the following: (1) To accept Supplemental Nutrition Assistance Program benefits. (2) To accept Special Supplemental Nutrition Program for Women, Infants and Children benefits. (3) To promote the hiring of local residents. Specifies the purposes for which financing for a project may be used. Continuously appropriates money in the fund.



Introduced

Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

SENATE BILL No. 265

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

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

1 SECTION 1. IC 5-20-9 IS ADDED TO THE INDIANA CODE AS
2 A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]:
4 **Chapter 9. Healthy Food and Community Development**
5 **Financing Program**
6 **Sec. 1. As used in this chapter, "development authority" refers**
7 **to the Indiana housing and community development authority**
8 **established by IC 5-20-1-3.**
9 **Sec. 2. As used in this chapter, "financing" means:**
10 **(1) loans (including forgivable loans); or**
11 **(2) grants.**
12 **Sec. 3. As used in this chapter, "eligible entity" includes a**
13 **for-profit or nonprofit entity, including a sole proprietorship,**
14 **partnership, limited liability company, corporation, cooperative,**



1 nonprofit organization, nonprofit community development entity,
2 university, or government entity.

3 Sec. 4. As used in this chapter, "fund" refers to the healthy food
4 and community development financing fund established by section
5 7 of this chapter.

6 Sec. 5. As used in this chapter, "grocery store" means a
7 for-profit or nonprofit self-service retail establishment that
8 primarily sells meat, seafood, fruits, vegetables, dairy products,
9 dry groceries, household products, and sundries.

10 Sec. 6. As used in this chapter, "program" refers to the healthy
11 food and community development financing program conducted
12 under section 8 of this chapter.

13 Sec. 7. (a) The healthy food and community development
14 financing fund is established. The purpose of the fund is to provide
15 financing for projects in a designated special food desert district
16 that increase the availability of fresh and nutritious food in the
17 district, meet the affordable housing needs of lower income families
18 in the district, or meet community development needs in the
19 district. The fund shall be administered by the development
20 authority.

21 (b) The fund consists of the following:

22 (1) Appropriations by the general assembly.

23 (2) Donations.

24 (3) Amounts transferred to the fund under IC 6-9-48-9(a).

25 (4) Federal grants or other federal appropriations.

26 (5) Interest and other earnings derived from investment of
27 money in the fund.

28 (c) The development authority shall establish an account within
29 the fund for each special food desert district that is designated by
30 a county under IC 6-9-48-6.

31 (d) The department shall deposit money:

32 (1) collected within a special food desert district under
33 IC 6-9-48; and

34 (2) transferred to the fund under subsection (b)(3);

35 in the special food desert district account established for the special
36 food desert district under subsection (c).

37 (e) The development authority is authorized to expend money
38 from an account established under subsection (c) only as provided
39 in section 10(b) of this chapter.

40 (f) Money in the fund at the end of a state fiscal year does not
41 revert to the state general fund.

42 (g) Money in the fund (and each account established within the



1 fund) is continuously appropriated for the purposes of this chapter.

2 Sec. 8. (a) The development authority shall conduct, in
3 coordination with each county that has designated a special food
4 desert district under IC 6-9-48-6, a healthy food and community
5 development financing program to provide financing for eligible
6 projects within the special food desert district.

7 (b) If the fiscal body of a county adopts an ordinance to specify
8 one (1) or more eligible projects under IC 6-9-48-9(b), the
9 development authority shall provide financing only for projects
10 within the special food desert district that are:

- 11 (1) eligible for financing under section 11 of this chapter; and
12 (2) specified in the ordinance adopted by the fiscal body of the
13 county under IC 6-9-48-9(b).

14 Sec. 9. The development authority may contract with one (1) or
15 more qualified nonprofit organizations or community development
16 financial institutions to administer the program through a
17 public-private partnership.

18 Sec. 10.(a) The development authority shall, in coordination
19 with the county that has designated a special food desert district
20 under IC 6-9-48-6, create eligibility guidelines for applicants and
21 provide financing for projects as provided in subsection (b).

22 (b) The financing provided from money in the fund for a project
23 under this chapter must be expended by the development
24 authority:

- 25 (1) from money in the account established for the special food
26 desert district; and
27 (2) for projects that are located within the special food desert
28 district for which the account is established.

29 Sec. 11. Subject to section 8(b) of this chapter, the following
30 projects are eligible for financing under this chapter:

- 31 (1) Construction of new grocery stores.
32 (2) Grocery store renovations, expansion, and infrastructure
33 upgrades that improve the availability and quality of fresh
34 produce and other healthy foods.
35 (3) Farmers' markets, food cooperatives, mobile markets, and
36 delivery projects and distribution projects that improve the
37 availability and quality of fresh produce and other healthy
38 foods.
39 (4) Projects, including outreach programs, that improve the
40 availability and quality of fresh produce and other healthy
41 foods.
42 (5) Projects that are considered appropriate to meet the



1 affordable housing needs of lower income families as
2 determined by the development authority.

3 (6) Projects for community development needs within the
4 special food desert district as determined by the fiscal body of
5 the county that designated the district.

6 **Sec. 12. An eligible entity wishing to receive financing under this**
7 **chapter must submit an application to the development authority.**
8 **At a minimum, an eligible entity that submits an application for**
9 **financing must:**

10 (1) demonstrate the capacity to successfully implement the
11 project and the likelihood that the project will be
12 economically self-sustaining;

13 (2) demonstrate the ability to repay the debt; and

14 (3) in the case of a grocery store, agree to comply with the
15 following conditions for a period of not less than five (5)
16 years:

17 (A) To accept Supplemental Nutrition Assistance Program
18 (SNAP) benefits.

19 (B) To accept Special Supplemental Nutrition Program for
20 Women, Infants and Children (WIC) benefits, if approved.

21 (C) To promote the hiring of local residents.

22 **Sec. 13. Financing made available for projects under this**
23 **chapter may be used for the following purposes:**

24 (1) Site acquisition and preparation.

25 (2) Construction and build-out costs.

26 (3) Equipment and furnishings.

27 (4) Workforce training or security.

28 (5) Predevelopment costs, such as market studies and
29 appraisals.

30 (6) Energy efficiency measures.

31 (7) Working capital for first time inventory and start-up costs.

32 (8) Outreach and educational activities.

33 (9) Acquisition, construction, rehabilitation, development,
34 operation, and insurance of affordable housing for lower
35 income families.

36 (10) Community development needs within the special food
37 desert district designated under IC 6-9-48-6.

38 SECTION 2. IC 6-9-48 IS ADDED TO THE INDIANA CODE AS
39 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
40 1, 2016]:

41 **Chapter 48. Special Food Desert District Incremental Gross**
42 **Retail Tax**



1 **Sec. 1.** Except as otherwise provided in this chapter, the
2 definitions in IC 6-2.5-1 apply throughout this chapter.

3 **Sec. 2.** As used in this chapter, "fiscal body" has the meaning set
4 forth in IC 36-1-2-6.

5 **Sec. 3.** As used in this chapter, "gross retail income" has the
6 meaning set forth in IC 6-2.5-1-5, except that the term does not
7 include taxes imposed under IC 6-2.5 or IC 6-9.

8 **Sec. 4.** As used in this chapter, "special food desert district"
9 means a geographic area designated by the fiscal body of a county
10 as a special food desert district under section 6 of this chapter.

11 **Sec. 5.** As used in this chapter, "special food desert district
12 incremental gross retail tax" refers to an excise tax imposed within
13 a special food desert district under section 7 of this chapter.

14 **Sec. 6. (a)** Subject to subsection (b), the fiscal body of a county
15 may adopt an ordinance designating an area in the county as a
16 special food desert district for purposes of imposing a special food
17 desert district incremental gross retail tax under section 7 of this
18 chapter.

19 **(b)** A special food desert district designated under subsection (a)
20 must be located in a census tract with low median income and low
21 access to the nearest supermarket as determined by the United
22 States Department of Agriculture in its Food Access Research
23 Atlas.

24 **(c)** An ordinance adopted under this section must specify the
25 census tract boundaries of the special food desert district as
26 described under subsection (b).

27 **(d)** An ordinance adopted under this section takes effect on the
28 first day of the month specified in the ordinance. However, the
29 effective date may not be earlier than the first day of the month
30 that follows, by at least forty-five (45) days, the month the
31 ordinance or resolution is adopted.

32 **(e)** The fiscal body of a county may adopt an ordinance to
33 rescind the designation of a special food desert district under
34 subsection (a).

35 **(f)** If the fiscal body adopts an ordinance under this section, it
36 shall immediately send a certified copy of the ordinance to the
37 commissioner of the department of state revenue and the Indiana
38 housing and community development authority.

39 **Sec. 7. (a)** If the fiscal body of a county adopts an ordinance
40 designating a special food desert district under section 6 of this
41 chapter, a one percent (1%) special food desert district
42 incremental gross retail tax is imposed on the transactions that



1 occur within the special food desert district boundaries as specified
2 in the ordinance adopted by the fiscal body.

3 (b) A special food desert district incremental gross retail tax
4 imposed under subsection (a) applies only to a retail transaction
5 that:

6 (1) is subject to the state gross retail tax; and

7 (2) is sourced within the special food desert district
8 boundaries under the sourcing rules of IC 6-2.5.

9 (c) Subsection (b) applies to a special food desert district
10 incremental gross retail tax throughout the period an ordinance
11 imposing the special food desert district incremental gross retail
12 tax is in effect. An amendment of the state gross retail tax also
13 applies to the special food desert district incremental gross retail
14 tax in effect on the date the amendment to the state gross retail tax
15 becomes effective.

16 (d) The special food desert district incremental gross retail tax
17 does not apply to a transaction to the extent that the transaction is
18 exempt from the state gross retail tax under IC 6-2.5.

19 Sec. 8. (a) A person who receives goods or services in a retail
20 transaction that is taxed under this chapter is liable for special food
21 desert district incremental gross retail tax. The person shall pay
22 the tax to the retail merchant as a separate amount added to the
23 consideration for the goods or services. The retail merchant shall
24 collect the tax as an agent for the state and the county.

25 (b) Except as otherwise provided in this chapter, the special food
26 desert district incremental gross retail tax shall be imposed, paid,
27 and collected in the same manner in which the state gross retail tax
28 is imposed, paid, and collected under IC 6-2.5. However, the return
29 to be filed for the payment of the tax may be either a separate
30 return or may be combined with the return filed for the payment
31 of the state gross retail tax, as prescribed by the department of
32 state revenue.

33 Sec. 9. (a) The amounts received from the special food desert
34 district incremental gross retail tax shall be transferred monthly
35 by the treasurer of state to the healthy food and community
36 development financing fund established by IC 5-20-9-7.

37 (b) The fiscal body of a county that designates a special food
38 desert district under section 6 of this chapter may also adopt an
39 ordinance specifying one (1) or more eligible projects (as described
40 under IC 5-20-9-11) for financing from the amounts transferred to
41 the healthy food and community development financing fund.

