

SENATE BILL No. 346

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-20-10; IC 6-9-48.

Synopsis: Sales tax district for healthy food programs. Allows the fiscal body of a county (fiscal body) to adopt an ordinance to impose an additional sales tax in an area designated by the fiscal body as a special food desert district (district). Requires a district designated by a fiscal body to be 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 an additional sales tax applies to retail transactions within the district. Provides that the additional sales tax rate must be imposed in an increment of .25% and may not exceed 1%. Specifies that this additional 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 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 (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
(Continued next page)

Effective: July 1, 2018.

Taylor G

January 10, 2018, read first time and referred to Committee on Tax and Fiscal Policy.



Digest Continued

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. Provides that the IHEDA 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 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

SENATE BILL No. 346



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 5-20-10 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2018]:
4 **Chapter 10. 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, "eligible entity" includes a**
10 **for-profit or nonprofit entity, including a sole proprietorship,**
11 **partnership, limited liability company, corporation, cooperative,**
12 **nonprofit organization, nonprofit community development entity,**
13 **university, or government entity.**
14 **Sec. 3. As used in this chapter, "financing" means:**
15 **(1) loans (including forgivable loans); or**



- 1 **(2) grants.**
- 2 **Sec. 4. As used in this chapter, "fund" refers to the healthy food**
- 3 **and community development financing fund established by section**
- 4 **7 of this chapter.**
- 5 **Sec. 5. As used in this chapter, "grocery store" means a**
- 6 **for-profit or nonprofit self-service retail establishment that**
- 7 **primarily sells meat, seafood, fruits, vegetables, dairy products,**
- 8 **dry groceries, household products, and sundries.**
- 9 **Sec. 6. As used in this chapter, "program" refers to the healthy**
- 10 **food and community development financing program conducted**
- 11 **under section 8 of this chapter.**
- 12 **Sec. 7. (a) The healthy food and community development**
- 13 **financing fund is established. The purpose of the fund is to provide**
- 14 **financing for projects in a designated special food desert district**
- 15 **that increase the availability of fresh and nutritious food in the**
- 16 **district, meet the affordable housing needs of lower income families**
- 17 **in the district, or meet community development needs in the**
- 18 **district. The fund shall be administered by the development**
- 19 **authority.**
- 20 **(b) The fund consists of the following:**
- 21 **(1) Appropriations by the general assembly.**
- 22 **(2) Donations.**
- 23 **(3) Amounts transferred to the fund under IC 6-9-48-9(a).**
- 24 **(4) Federal grants or other federal appropriations.**
- 25 **(5) Interest and other earnings derived from investment of**
- 26 **money in the fund.**
- 27 **(c) The development authority shall establish an account within**
- 28 **the fund for each special food desert district that is designated by**
- 29 **a county under IC 6-9-48-6.**
- 30 **(d) The development authority shall deposit money:**
- 31 **(1) collected within a special food desert district under**
- 32 **IC 6-9-48; and**
- 33 **(2) transferred to the fund under subsection (b)(3);**
- 34 **in the special food desert district account established for the special**
- 35 **food desert district under subsection (c).**
- 36 **(e) The development authority is authorized to expend money**
- 37 **from an account established under subsection (c) only as provided**
- 38 **in section 10(b) of this chapter.**
- 39 **(f) Money in the fund at the end of a state fiscal year does not**
- 40 **revert to the state general fund.**
- 41 **(g) Money in the fund (and each account established within the**
- 42 **fund) is continuously appropriated for the purposes of this chapter.**



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

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

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

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

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

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

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

28 **Sec. 11. Subject to sections 8(b) and 13 of this chapter, the**
29 **following projects are eligible for financing under this chapter:**

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



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

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

- 9 **(1) demonstrate the capacity to successfully implement the**
 10 **project and the likelihood that the project will be**
 11 **economically self-sustaining;**
- 12 **(2) demonstrate the ability to repay the debt; and**
- 13 **(3) in the case of a grocery store, agree to comply with the**
 14 **following conditions for a period of not less than five (5)**
 15 **years:**

- 16 **(A) To accept Supplemental Nutrition Assistance Program**
 17 **(SNAP) benefits.**
- 18 **(B) To accept Special Supplemental Nutrition Program for**
 19 **Women, Infants, and Children (WIC) benefits, if**
 20 **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, 2018]:

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 sections 6 and 7 of this chapter.

14 **Sec. 6. (a)** Subject to subsection (b), the fiscal body of a county
15 may adopt an ordinance to impose an excise tax, known as a special
16 food desert district incremental gross retail tax, in an area of the
17 county that the fiscal body of the county designates as a special
18 food desert district in the same ordinance. The tax rate:

19 (1) must be imposed in an increment of twenty-five
20 hundredths percent (0.25%); and

21 (2) may not exceed one percent (1%).

22 **(b)** A special food desert district designated by the fiscal body of
23 a county under subsection (a) must be located in a census tract with
24 low median income and low access to the nearest supermarket as
25 determined by the United States Department of Agriculture in its
26 Food Access Research Atlas, where a significant number or share
27 of residents is more than one (1) mile (for urban communities) or
28 ten (10) miles (for rural communities) from the nearest
29 supermarket.

30 **(c)** An ordinance adopted under this section must specify:

31 (1) the census tract boundaries of the special food desert
32 district as described under subsection (b); and

33 (2) the tax rate to be imposed in the special food desert
34 district.

35 **(d)** An ordinance adopted under this section to impose a special
36 food desert district incremental gross retail tax takes effect on the
37 first day of the month specified in the ordinance. However, the
38 effective date may not be earlier than the first day of the month
39 that follows, by at least forty-five (45) days, the month the
40 ordinance is adopted.

41 **(e)** The fiscal body of a county may adopt an ordinance to
42 rescind the special food desert district incremental gross retail tax



1 imposed under subsection (a).

2 (f) If the fiscal body adopts an ordinance under this section, it
3 shall immediately send a certified copy of the ordinance to the
4 commissioner of the department of state revenue and the Indiana
5 housing and community development authority.

6 Sec. 7. (a) If the fiscal body of a county adopts an ordinance to
7 impose a special food desert district incremental gross retail tax as
8 set forth under section 6 of this chapter, a special food desert
9 district incremental gross retail tax is imposed on the transactions
10 that occur within the special food desert district boundaries as
11 specified in the ordinance adopted by the fiscal body.

12 (b) A special food desert district incremental gross retail tax
13 imposed under subsection (a) applies only to a retail transaction
14 that:

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

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

18 (c) Subsection (b) applies to a special food desert district
19 incremental gross retail tax throughout the period an ordinance
20 imposing the special food desert district incremental gross retail
21 tax is in effect. An amendment of the state gross retail tax also
22 applies to the special food desert district incremental gross retail
23 tax in effect on the date the amendment to the state gross retail tax
24 becomes effective.

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

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

34 (b) Except as otherwise provided in this chapter, the special food
35 desert district incremental gross retail tax shall be imposed, paid,
36 and collected in the same manner in which the state gross retail tax
37 is imposed, paid, and collected under IC 6-2.5. However, the return
38 to be filed for the payment of the tax may be a separate return or
39 may be combined with the return filed for the payment of the state
40 gross retail tax, as prescribed by the department of state revenue.

41 Sec. 9. (a) The amounts received from the special food desert
42 district incremental gross retail tax shall be transferred monthly



1 by the treasurer of state to the healthy food and community
2 development financing fund established by IC 5-20-10-7.

3 (b) The fiscal body of a county that imposes a special food desert
4 district incremental gross retail tax in a designated special food
5 desert district under section 6 of this chapter may also adopt an
6 ordinance specifying one (1) or more eligible projects (as described
7 under IC 5-20-10-11) for financing from the amounts transferred
8 to the healthy food and community development financing fund.

