

# HOUSE BILL No. 1985

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-4; IC 6-3.5-7-13.1.

**Synopsis:** Economic development. Provides that information and high technology infrastructure is eligible for programs under the industrial development fund, the industrial development grant fund, or the industrial development project guaranty fund. Defines high growth companies with high skilled jobs and information and high technology infrastructure. Specifies the amount that the Indiana development finance authority may transfer to the reserve fund under the capital access program in the case of a borrower that is a high growth company with high skilled jobs. Provides that county economic development income tax revenue may be used for the financing of information and high technology infrastructure.

**Effective:** July 1, 1999.

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**Bottorff**

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January 27, 1999, read first time and referred to Committee on Commerce and Economic Development.

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First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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## HOUSE BILL No. 1985



A BILL FOR AN ACT to amend the Indiana Code concerning economic development.

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

- 1 SECTION 1. IC 4-4-8-1 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this chapter:
- 3 "Department" means the department of commerce.
- 4 "Enterprise zone" means an enterprise zone created under
- 5 IC 4-4-6.1.
- 6 "Governing body" means the legislative body of a city, town, or
- 7 county, an economic development commission, or any board
- 8 administering the affairs of a special taxing district.
- 9 "Industrial development program" means any program designed to
- 10 aid the growth of industry in Indiana and includes:
- 11 (1) the construction of airports, airport facilities, and tourist
- 12 attractions;
- 13 (2) the construction, extension, or completion of sewerlines,
- 14 waterlines, streets, sidewalks, bridges, roads, highways, ~~and~~
- 15 public ways, **and information and high technology**
- 16 **infrastructure (as defined in this section).**
- 17 (3) the leasing or purchase of property, both real and personal;



1 and

2 (4) the preparation of surveys, plans, and specifications for the  
3 construction of publicly owned and operated facilities, utilities,  
4 and services.

5 **"Information and high technology infrastructure" includes, but**  
6 **is not limited to, fiber optic cable and other infrastructure that**  
7 **supports high technology growth and the purchase and installation**  
8 **of such fiber optic cable and other infrastructure.**

9 "Minority enterprise small business investment company" means an  
10 investment company licensed under 15 U.S.C. 681(D).

11 "Qualified entity" means a city, town, county, economic  
12 development commission, or special taxing district.

13 "Small business investment company" means an investment  
14 company licensed under 15 U.S.C. 691 et seq.

15 "State corporation" means the state corporation (as defined by  
16 IC 6-3.1-5-2).

17 SECTION 2. IC 4-4-10.9-9.5 IS ADDED TO THE INDIANA  
18 CODE AS A NEW SECTION TO READ AS FOLLOWS  
19 [EFFECTIVE JULY 1, 1999]: **Sec. 9.5. "High growth company with**  
20 **high skilled jobs" means a company that satisfies all of the**  
21 **following conditions:**

22 (1) **The company:**

23 (A) **had at least a fifteen percent (15%) average annual**  
24 **growth in company earnings during the past three (3)**  
25 **years;**

26 (B) **is entering a new product or process area; or**

27 (C) **is classified in an industry that had at least a fifteen**  
28 **percent (15%) average annual growth in earnings during**  
29 **the past three (3) years.**

30 (2) **The company has a substantial number of employees in**  
31 **jobs:**

32 (A) **requiring post-secondary education or its equivalent;**  
33 **or**

34 (B) **that are in occupational codes classified as high skill by**  
35 **the Bureau of Labor Statistics, United States Department**  
36 **of Labor.**

37 (3) **The company has a substantial number of employees that**  
38 **earn at least one hundred fifty percent (150%) of Indiana per**  
39 **capita personal income.**

40 SECTION 3. IC 4-4-10.9-11 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) Except as  
42 provided in subsection (b), "industrial development project" includes:



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- 1 (1) the acquisition of land, site improvements, infrastructure  
 2 improvements, buildings, or structures, rehabilitation, renovation,  
 3 and enlargement of buildings and structures, machinery,  
 4 equipment, furnishings, or facilities (or any combination of these),  
 5 comprising or being functionally related and subordinate to any  
 6 project (whether manufacturing, commercial, agricultural,  
 7 environmental, or otherwise) the development or expansion of  
 8 which serves the public purposes set forth in IC 4-4-11-2; and  
 9 (2) educational facility projects.

10 (b) For purposes of the industrial development guaranty fund  
 11 program, "industrial development project" includes the acquisition of  
 12 land, interests in land, site improvements, infrastructure improvements  
 13 **(including information and high technology infrastructure (as**  
 14 **defined in IC 4-4-8-1)),** buildings, or structures, rehabilitation,  
 15 renovation, and enlargement of buildings and structures, machinery,  
 16 equipment, furnishings, or facilities (or any combination of these),  
 17 comprising or being functionally related and subordinate to any of the  
 18 following:

- 19 (1) A pollution control facility.  
 20 (2) A manufacturing enterprise.  
 21 (3) A business service enterprise involved in:  
 22 (A) computer and data processing services; or  
 23 (B) commercial testing services.  
 24 (4) A business enterprise the primary purpose of which is the  
 25 operation of an education and permanent marketing center for  
 26 manufacturers and distributors of ~~robotic~~ **robotic** and flexible  
 27 automation equipment.  
 28 (5) Any other business enterprise, if the use of the guaranty  
 29 program creates a reasonable probability that the effect on Indiana  
 30 employment will be creation or retention of at least fifty (50) jobs.  
 31 (6) An agricultural enterprise in which:  
 32 (A) the enterprise operates pursuant to a producer or growout  
 33 agreement; and  
 34 (B) the output of the enterprise is processed predominantly in  
 35 Indiana.  
 36 (7) A business enterprise that is required by a state, federal, or  
 37 local regulatory agency to make capital expenditures to remedy a  
 38 violation of a state or federal law or a local ordinance.  
 39 (8) A recycling market development project.  
 40 **(9) A high growth company with high skilled jobs (as defined**  
 41 **in IC 4-4-10.9-9.5).**

42 SECTION 4. IC 4-4-12-1 IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) As used in this chapter,  
2 "director" means the lieutenant governor, who is also the director of the  
3 department of commerce.

4 (b) As used in this chapter, "eligible entity" means:

- 5 (1) a city;  
6 (2) a town;  
7 (3) a county;  
8 (4) a special taxing district;  
9 (5) an economic development commission established under  
10 IC 36-7-12;  
11 (6) a nonprofit corporation;  
12 (7) a corporation established under IC 23-7-1.1 (before its repeal  
13 on August 1, 1991) or IC 23-17 for the purpose of distributing  
14 water for domestic and industrial use;  
15 (8) a regional water, sewage, or solid waste district;  
16 (9) a conservancy district that includes in its purpose the  
17 distribution of domestic water or the collection and treatment of  
18 waste; or  
19 (10) the Indiana development finance authority established under  
20 IC 4-4-11.

21 (c) As used in this chapter, "industrial development program" means  
22 any program designed to aid economic development in Indiana, and  
23 includes:

- 24 (1) the construction of airports, airport facilities, and tourist  
25 attractions;  
26 (2) the construction, extension, or completion of:  
27 (A) sanitary sewerlines, storm sewers, and other related  
28 drainage facilities;  
29 (B) waterlines;  
30 (C) roads and streets;  
31 (D) sidewalks; ~~and~~  
32 (E) rail spurs and sidings; **and**  
33 (F) **information and high technology infrastructure (as**  
34 **defined in IC 4-4-8-1);**  
35 (3) the leasing, purchase, construction, repair, and rehabilitation  
36 of property, both real and personal; and  
37 (4) the preparation of surveys, plans, and specifications for the  
38 construction of publicly owned and operated facilities, utilities,  
39 and services.

40 SECTION 5. IC 4-4-26-25 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. The lender shall  
42 determine the premium charges payable to the reserve fund by the

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1 lender and the borrower in connection with a loan filed for enrollment.  
 2 The premium paid by the borrower may not be less than one and  
 3 one-half percent (1.5%) or greater than three and one-half percent  
 4 (3.5%) of the amount of the loan. The premium paid by the lender must  
 5 be equal to the amount of the premium paid by the borrower. The  
 6 lender may recover the cost of the lender's premium payment from the  
 7 borrower in any manner on which the lender and borrower agree. When  
 8 enrolling a loan, the authority must transfer into the reserve fund from  
 9 the account premium amounts determined as follows:

10 (1) If the amount of a loan, plus the amount of loans previously  
 11 enrolled by the lender, is less than two million dollars  
 12 (\$2,000,000), the premium amount transferred must be equal to  
 13 one hundred fifty percent (150%) of the combined premiums paid  
 14 into the reserve fund by the borrower and the lender for each  
 15 enrolled loan.

16 (2) If, before the enrollment of the loan, the amount of loans  
 17 previously enrolled by the lender is equal to or greater than two  
 18 million dollars (\$2,000,000), the premium amount transferred  
 19 must be equal to the combined premiums paid into the reserve  
 20 fund by the borrower and the lender for each enrolled loan.

21 (3) If the aggregate amount of all loans previously enrolled by the  
 22 lender is less than two million dollars (\$2,000,000), but the  
 23 enrollment of a loan will cause the aggregate amount of all  
 24 enrolled loans made by the lender to exceed two million dollars  
 25 (\$2,000,000), the authority shall transfer into the reserve fund an  
 26 amount equal to a percentage of the combined premiums paid into  
 27 the reserve fund by the lender and the borrower. The percentage  
 28 is determined as follows:

29 STEP ONE: Multiply by one hundred fifty (150) that part of  
 30 the loan that when added to the aggregate amount of all loans  
 31 previously enrolled by the lender totals two million dollars  
 32 (\$2,000,000).

33 STEP TWO: Multiply the remaining balance of the loan by  
 34 one hundred (100).

35 STEP THREE: Add the STEP ONE product to the STEP TWO  
 36 product.

37 STEP FOUR: Divide the STEP THREE sum by the total  
 38 amount of the loan.

39 The authority may transfer two (2) times the amount determined under  
 40 this section to the reserve fund if the borrower is a disadvantaged  
 41 business enterprise (as defined in IC 5-16-6.5-1). **The authority may**  
 42 **transfer three (3) times the amount determined under this section**

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1 **to the reserve fund if the borrower is a high growth company with**  
 2 **high skilled jobs (as defined in IC 4-4-10.9-9.5).** Unless money is  
 3 paid out of the reserve fund according to the specific terms of this  
 4 chapter, all money paid into the reserve account by the lender shall  
 5 remain in that account.

6 SECTION 6. IC 6-3.5-7-13.1 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13.1. (a) The fiscal  
 8 officer of each county, city, or town for a county in which the county  
 9 economic development tax is imposed shall establish an economic  
 10 development income tax fund. The revenue received by a county, city,  
 11 or town under this chapter shall be deposited in the unit's economic  
 12 development income tax fund.

13 (b) Except as provided in section 15 of this chapter, revenues from  
 14 the county economic development income tax may be used as follows:

15 (1) By a county, city, or town for economic development projects,  
 16 for paying, notwithstanding any other law, under a written  
 17 agreement, all or a part of the interest owed by a private developer  
 18 or user on a loan extended by a financial institution or other  
 19 lender to the developer or user if the proceeds of the loan are or  
 20 are to be used to finance an economic development project, for  
 21 the retirement of bonds under section 14 of this chapter for  
 22 economic development projects, for leases under section 21 of  
 23 this chapter, or for leases or bonds entered into or issued prior to  
 24 the date the economic development income tax was imposed if  
 25 the purpose of the lease or bonds would have qualified as a  
 26 purpose under this chapter at the time the lease was entered into  
 27 or the bonds were issued.

28 (2) By a county, city, or town for:

29 (A) the construction or acquisition of, or remedial action with  
 30 respect to, a capital project for which the unit is empowered to  
 31 issue general obligation bonds or establish a fund under any  
 32 statute listed in IC 6-1.1-18.5-9.8;

33 (B) the retirement of bonds issued under any provision of  
 34 Indiana law for a capital project;

35 (C) the payment of lease rentals under any statute for a capital  
 36 project;

37 (D) contract payments to a nonprofit corporation whose  
 38 primary corporate purpose is to assist government in planning  
 39 and implementing economic development projects;

40 (E) operating expenses of a governmental entity that plans or  
 41 implements economic development projects;

42 (F) to the extent not otherwise allowed under this chapter,



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- 1 funding substance removal or remedial action in a designated  
 2 unit; **or**  
 3 (G) funding of a revolving fund established under  
 4 IC 5-1-14-14; **or**  
 5 **(H) the financing of information and high technology**  
 6 **infrastructure (as defined in IC 4-4-8-1).**  
 7 (c) As used in this section, an economic development project is any  
 8 project that:  
 9 (1) the county, city, or town determines will:  
 10 (A) promote significant opportunities for the gainful  
 11 employment of its citizens;  
 12 (B) attract a major new business enterprise to the unit; or  
 13 (C) retain or expand a significant business enterprise within  
 14 the unit; and  
 15 (2) involves an expenditure for:  
 16 (A) the acquisition of land;  
 17 (B) interests in land;  
 18 (C) site improvements;  
 19 (D) infrastructure improvements;  
 20 (E) buildings;  
 21 (F) structures;  
 22 (G) rehabilitation, renovation, and enlargement of buildings  
 23 and structures;  
 24 (H) machinery;  
 25 (I) equipment;  
 26 (J) furnishings;  
 27 (K) facilities;  
 28 (L) administrative expenses associated with such a project,  
 29 including contract payments authorized under subsection  
 30 (b)(2)(D);  
 31 (M) operating expenses authorized under subsection (b)(2)(E);  
 32 or  
 33 (N) to the extent not otherwise allowed under this chapter,  
 34 substance removal or remedial action in a designated unit;  
 35 or any combination of these.

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