



Reprinted
February 21, 2019

HOUSE BILL No. 1052

DIGEST OF HB 1052 (Updated February 20, 2019 2:25 pm - DI 113)

Citations Affected: IC 5-23; IC 6-3.6; IC 8-25; IC 11-12; noncode.

Synopsis: Local income tax and other financing matters. Changes the allocation of local income tax (LIT) revenue that is based on property taxes to be based on maximum permissible property tax levies instead of actual levies. Provides that if a township passes a local public question on whether the county in which the township is located should be required to fund and carry out a public transportation project under the central Indiana public transportation projects statute, the township board shall adopt a resolution to impose a special local income tax rate on the local taxpayers residing in the township, instead of the fiscal body of the county. Allows political subdivisions to enter into public-private agreements with an operator to accomplish the design, financing, construction, acquisition, improvement, renovation, equipping, operation, or maintenance of a regional jail. Requires the department of local government finance to prepare a report before January 1, 2020, concerning school funding in each school corporation for the period beginning July 1, 2018, and ending June 30, 2019. Requires the department of education to prepare a report before January 1, 2020, concerning school funding in the surrounding states, Indiana, and each school corporation in Indiana for the period beginning July 1, 2018, and ending June 30, 2019.

Effective: Upon passage; July 1, 2019.

Thompson

January 3, 2019, read first time and referred to Committee on Ways and Means.
February 14, 2019, amended, reported — Do Pass.
February 20, 2019, read second time, amended, ordered engrossed.

HB 1052—LS 6367/DI 58



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February 21, 2019

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.

HOUSE BILL No. 1052

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 5-23-1-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a)** The state or a political
3 subdivision may enter into a public-private agreement with an operator
4 under the terms of this article.

5 **(b) A joint board or separate entity established under IC 36-1-7**
6 **for purposes of the design, financing, construction, acquisition,**
7 **improvement, renovation, equipping, operation, and maintenance**
8 **of a regional jail under IC 11-12-5.5 may enter into a**
9 **public-private agreement with an operator under this article.**

10 SECTION 2. IC 5-23-3-2 IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE UPON PASSAGE]: Sec. 2. BOT agreements may
12 provide the following:

13 (1) The design, construction, operation, management,
14 maintenance, or financing of the cost of a public facility shall be
15 partially or entirely the responsibility of the operator.

16 (2) The governmental body ~~shall~~ **may** lease the public facility and
17 real property owned by the governmental body upon which the

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public facility is to be located to the operator for a predetermined period. **Except as provided in subdivision (7),** the BOT agreement must provide for ownership of all improvements by the governmental body, unless the governmental body elects to provide for ownership of the public facility by the operator during the term of the BOT agreement. In this case, ownership reverts back to the governmental body upon the termination of the BOT agreement.

(3) The BOT agreement must identify which costs are to be the responsibility of the operator and which costs are to be the responsibility of the governmental body.

(4) The operator may be authorized to retain a mutually agreed upon percentage of the revenues received in the operation and management of the public facility, or the operator may be paid an amount established by the governmental body, which shall be applied as follows:

(A) Capital outlay costs for the public facility and public service plus interest and principal repayment for any debt incurred.

(B) Costs associated with the operation, management, and maintenance of the public facility.

(C) Payment to the governmental body for reimbursement of the costs of maintenance, law enforcement, and other services if the services are performed by the governmental body under the BOT agreement.

(D) An agreed upon return on investment to the operator.

(5) The operator may pay the governmental body either a lease payment or a percentage of gross revenue per month for the operator's operation and use of the public facility.

(6) The BOT agreement may require a performance bond and provide for the payment of contractors and subcontractors under IC 4-13.6-7, IC 5-16-5, or IC 36-1-12, whichever is applicable.

(7) If a regional jail (as defined in IC 11-12-5.5-1) is the subject of a BOT agreement under this chapter, the operator and the governmental body may mutually agree that ownership of the regional jail will remain with the operator during the term of the BOT agreement and after termination of the BOT agreement. The governmental body shall pay costs associated with the design, construction, financing, operation, management, and maintenance of the regional jail from funds identified under IC 11-12-5.5-3.

SECTION 3. IC 6-3.6-2-14.5 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE UPON PASSAGE]: **Sec. 14.5. "Regional jail" has the meaning set forth in IC 11-12-5.5-1.**

SECTION 4. IC 6-3.6-6-8, AS AMENDED BY P.L.247-2017, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) This section applies to the allocation of additional revenue from a tax under this chapter to public safety purposes. Funding dedicated for a PSAP under a former tax continues to apply under this chapter until it is rescinded or modified. If funding was not dedicated for a PSAP under a former tax, the adopting body may adopt a resolution providing that all or part of the additional revenue allocated to public safety is to be dedicated for a PSAP. The resolution first applies in the following year and then thereafter until it is rescinded or modified. Funding dedicated for a PSAP shall be allocated and distributed as provided in IC 6-3.6-11-4.

(b) Except as provided in subsection (c), the amount of the certified distribution that is allocated to public safety purposes, and after making allocations under IC 6-3.6-11, shall be allocated to the county and to each municipality in the county that is carrying out or providing at least one (1) public safety purpose. For purposes of this subsection, in the case of a consolidated city, ~~the total property taxes imposed by the consolidated city include the property taxes imposed by the consolidated city~~ **city's maximum permissible property tax levy includes the consolidated city's maximum levy and the maximum levy of all special taxing districts (except for a public library district, a public transportation corporation, and a health and hospital corporation), and all special service districts. The amount allocated under this subsection to a county or municipality is equal to the result of:**

(1) the amount of the remaining certified distribution that is allocated to public safety purposes; multiplied by

(2) a fraction equal to:

(A) in the case of a county that initially imposed a rate for public safety under IC 6-3.5-6 (repealed), the result of ~~the total property taxes imposed in the county by the county~~ **county's or municipality municipality's maximum permissible property tax levy** for the calendar year preceding the distribution year, divided by the sum of ~~the total property taxes imposed in the county by the county~~ **county's and each municipality municipality's maximum permissible property tax levy** in the county that is entitled to a distribution under this section for that calendar year; or



(B) in the case of a county that initially imposed a rate for public safety under IC 6-3.5-1.1 (repealed) or a county that did not impose a rate for public safety under either IC 6-3.5-1.1 (repealed) or IC 6-3.5-6 (repealed), the result of the attributed allocation amount of the county or municipality for the calendar year preceding the distribution year, divided by the sum of the attributed allocation amounts of the county and each municipality in the county that is entitled to a distribution under this section for that calendar year.

(c) A fire department, volunteer fire department, or emergency medical services provider that:

(1) provides fire protection or emergency medical services within the county; and

(2) is operated by or serves a political subdivision that is not otherwise entitled to receive a distribution of tax revenue under this section;

may, before July 1 of a year, apply to the adopting body for a distribution of tax revenue under this section during the following calendar year. The adopting body shall review an application submitted under this subsection and may, before September 1 of a year, adopt a resolution requiring that one (1) or more of the applicants shall receive a specified amount of the tax revenue to be distributed under this section during the following calendar year. The adopting body shall provide a copy of the resolution to the county auditor and the department of local government finance not more than fifteen (15) days after the resolution is adopted. A resolution adopted under this subsection and provided in a timely manner to the county auditor and the department applies only to distributions in the following calendar year. Any amount of tax revenue distributed under this subsection to a fire department, volunteer fire department, or emergency medical services provider shall be distributed before the remainder of the tax revenue is allocated under subsection (b).

SECTION 5. IC 6-3.6-6-11, AS AMENDED BY P.L.247-2017, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11. (a) Except as provided in this chapter and IC 6-3.6-11, this section applies to an allocation of certified shares in all counties.

(b) Any civil taxing unit that ~~imposed an~~ **has a maximum permissible** ad valorem property tax levy in the county for the calendar year preceding the distribution year is eligible for an allocation for the distribution year under this chapter.

(c) A school corporation is not a civil taxing unit for the purpose of



receiving an allocation of certified shares under this chapter. The distributions to school corporations and civil taxing units in counties that formerly imposed a tax under IC 6-3.5-1.1 (repealed) as provided in section 3(a)(2) of this chapter is not considered an allocation of certified shares. A school corporation's allocation amount for purposes of section 3(a)(2) of this chapter shall be determined under section 12 of this chapter.

(d) A county solid waste management district (as defined in IC 13-11-2-47) or a joint solid waste management district (as defined in IC 13-11-2-113) is not a civil taxing unit for the purpose of receiving an allocation of certified shares under this chapter unless a majority of the members of each of the county fiscal bodies of the counties within the district passes a resolution approving the distribution.

(e) A resolution passed by a county fiscal body under subsection (d) may:

- (1) expire on a date specified in the resolution; or
- (2) remain in effect until the county fiscal body revokes or rescinds the resolution.

SECTION 6. IC 6-3.6-6-12, AS AMENDED BY P.L.247-2017, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 12. (a) Except as provided in this chapter and IC 6-3.6-11, this section applies to an allocation of certified shares in all counties.

(b) The allocation amount of a civil taxing unit during a calendar year must be based on the amounts for the calendar year preceding the distribution year and is equal to the amount determined using the following formula:

STEP ONE: Determine ~~the sum of the total property taxes being imposed by the civil taxing unit.~~ **unit's maximum permissible property tax levy.**

STEP TWO: Determine the sum of the following:

(A) Amounts appropriated from property taxes to pay the principal of or interest on any debenture or other debt obligation issued after June 30, 2005, other than an obligation described in subsection (c).

(B) Amounts appropriated from property taxes to make payments on any lease entered into after June 30, 2005, other than a lease described in subsection (d).

STEP THREE: Subtract the STEP TWO amount from the STEP ONE amount.

STEP FOUR: Determine the sum of:

(A) the STEP THREE amount; plus



1 (B) the civil taxing unit's certified shares plus the amount
2 distributed under section 3(a)(2) of this chapter for the
3 previous calendar year.

4 The allocation amount is subject to adjustment as provided in
5 IC 36-8-19-7.5.

6 (c) Except as provided in this subsection, an appropriation for the
7 calendar year preceding the distribution year from property taxes to
8 repay interest and principal of a debt obligation is not deducted from
9 the allocation amount for a civil taxing unit if:

10 (1) the debt obligation was issued; and

11 (2) the proceeds were appropriated from property taxes;
12 to refund or otherwise refinance a debt obligation or a lease issued
13 before July 1, 2005. However, an appropriation from property taxes
14 related to a debt obligation issued after June 30, 2005, is deducted if
15 the debt extends payments on a debt or lease beyond the time in which
16 the debt or lease would have been payable if the debt or lease had not
17 been refinanced or increases the total amount that must be paid on a
18 debt or lease in excess of the amount that would have been paid if the
19 debt or lease had not been refinanced. The amount of the deduction is
20 the annual amount for each year of the extension period or the annual
21 amount of the increase over the amount that would have been paid.

22 (d) Except as provided in this subsection, an appropriation for the
23 calendar year preceding the distribution year from property taxes to
24 make payments on a lease is not deducted from the allocation amount
25 for a civil taxing unit if:

26 (1) the lease was issued; and

27 (2) the proceeds were appropriated from property taxes;
28 to refinance a debt obligation or lease issued before July 1, 2005.
29 However, an appropriation from property taxes related to a lease
30 entered into after June 30, 2005, is deducted if the lease extends
31 payments on a debt or lease beyond the time in which the debt or lease
32 would have been payable if the debt or lease had not been refinanced
33 or increases the total amount that must be paid on a debt or lease in
34 excess of the amount that would have been paid if the debt or lease had
35 not been refinanced. The amount of the deduction is the annual amount
36 for each year of the extension period or the annual amount of the
37 increase over the amount that would have been paid.

38 SECTION 7. IC 6-3.6-6-20, AS AMENDED BY P.L.247-2017,
39 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2019]: Sec. 20. (a) This section does not apply to distributions
41 of revenue under section 9 of this chapter.

42 (b) This section applies only to the following:



(1) Any allocation or distribution of revenue under section 3(a)(2) of this chapter that is made on the basis of property tax levies in counties that formerly imposed a tax under IC 6-3.5-1.1 (before its repeal January 1, 2017).

(2) Any allocation or distribution of revenue under section 3(a)(3) of this chapter that is made on the basis of property tax levies in counties that formerly imposed a tax under IC 6-3.5-6 (before its repeal January 1, 2017).

(c) Subject to subsection (b), if a school corporation or civil taxing unit of an adopting county does not ~~impose~~ have a **maximum permissible** property tax levy ~~that is first due and payable in for~~ the calendar year preceding the year in which revenue under section 3(a)(2) or 3(a)(3) of this chapter is being allocated or distributed, that school corporation or civil taxing unit is entitled to receive a part of the revenue under section 3(a)(2) or 3(a)(3) of this chapter (as appropriate) to be distributed within the county. The fractional amount that such a school corporation or civil taxing unit is entitled to receive each month during that calendar year equals the product of the following:

(1) The amount of revenue under section 3(a)(2) or 3(a)(3) of this chapter to be distributed on the basis of property tax levies during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the budget of that school corporation or civil taxing unit for the distribution year. The denominator of the fraction equals the aggregate budgets of all school corporations or civil taxing units of that county for the distribution year.

(d) Subject to subsection (b), if for a calendar year a school corporation or civil taxing unit is allocated a part of a county's revenue under section 3(a)(2) or 3(a)(3) of this chapter by subsection (c), the calculations used to determine the shares of revenue of all other school corporations and civil taxing units under section (3)(a)(2) or 3(a)(3) of this chapter (as appropriate) shall be changed each month for that same year by reducing the amount of revenue to be distributed by the amount of revenue under section 3(a)(2) or 3(a)(3) of this chapter allocated under subsection (c) for that same month. The department of local government finance shall make any adjustments required by this subsection and provide them to the appropriate county auditors.

SECTION 8. IC 6-3.6-7-27, AS AMENDED BY P.L.197-2016, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 27. (a) This section applies only to an eligible county, as defined in IC 8-25-1-4.

(b) If the voters of the county approve a local public question under



IC 8-25-2, the fiscal body of the county may adopt an ordinance to provide for the use of local income tax revenues attributable to an additional tax rate imposed under IC 6-3.6-6 to fund a public transportation project under IC 8-25. ~~However, a county fiscal body shall adopt an ordinance under this subsection if required by IC 8-25-6-10 to impose an additional tax rate on the county taxpayers (as defined in IC 8-24-1-10) who reside in a township in which the voters approve a public transportation project in a local public question held under IC 8-25-6.~~ An ordinance adopted under this subsection must specify an additional tax rate to be imposed in the county (or township in the case of an additional rate required by IC 8-25-6-10) of at least one-tenth percent (0.1%), but not more than twenty-five hundredths percent (0.25%). If an ordinance is adopted under this subsection, the amount of the certified distribution attributable to the additional tax rate imposed under this subsection must be:

- (1) retained by the county auditor;
- (2) deposited in the county public transportation project fund established under IC 8-25-3-7; and
- (3) used for the purpose provided in this subsection instead of as a property tax replacement distribution.

(c) The tax rate under this section plus the tax rate under IC 6-3.6-6 may not exceed the tax rate specified in IC 6-3.6-6-2.

SECTION 9. IC 8-25-6-10, AS AMENDED BY P.L.247-2017, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. (a) If the voters of a township described in section 2(a)(2)(A)(i) or 2(a)(2)(B)(i) of this chapter approve a local public question under this chapter, the fiscal body of ~~the eligible county in which the township is located~~ shall adopt ~~an ordinance under IC 6-3.6-6~~ **a resolution** to impose an additional local income tax rate ~~as permitted by IC 6-3.6-7-27~~, upon the local taxpayers residing in the township for the public transportation project in the township.

(b) This subsection applies if the voters of a township described in section 2(a)(2)(A)(ii) or 2(a)(2)(B)(ii) of this chapter approve a local public question under this chapter and the voters in:

- (1) the eligible county described in section 2(a)(2)(A) of this chapter approve a local public question under IC 8-25-2; or
- (2) the township described in section 2(a)(2)(B) of this chapter approve a local public question under this chapter.

The fiscal body of ~~the eligible county in which the township is located~~ shall adopt ~~an ordinance under IC 6-3.6-6~~ **a resolution** to impose an additional local income tax rate ~~as permitted by IC 6-3.6-7-27~~, upon the local taxpayers residing in the township for the public transportation



project in the township.

(c) This subsection applies to Guilford Township in Hendricks County. If the voters of the township approve a local public question under this chapter, the township fiscal body shall adopt a resolution to impose an additional local income tax rate upon the local taxpayers residing in the township for the public transportation project in the township.

(d) A resolution adopted under this ~~subsection~~ **section** must comply with the requirements of the department of local government finance and specify an additional tax rate to be imposed in the township of at least one-tenth percent (0.1%), but not more than twenty-five hundredths percent (0.25%). If a resolution is adopted under this ~~subsection~~ **section**, the amount of the certified distribution attributable to the additional tax rate imposed under this ~~subsection~~ **section** must be:

- (1) retained by the county auditor;
- (2) deposited in the county public transportation project fund established under IC 8-25-3-7; and
- (3) used for the purpose provided in this subsection instead of as a property tax replacement distribution.

The tax rate under this subsection plus the tax rate under IC 6-3.6-6 may not exceed the tax rate specified in IC 6-3.6-6-2. Notwithstanding IC 6-3.6-7-27, the ~~Hendricks County~~ fiscal body **of the county in which the township is located** is not required under this section to adopt an ordinance under IC 6-3.6-7-27.

SECTION 10. IC 11-12-5.5-1, AS ADDED BY P.L.184-2018, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~As used in~~ **The following definitions apply throughout** this chapter:

(1) **"Regional jail" means a correctional facility (as defined in IC 5-1.2-2-11) for which a regional jail agreement has been entered into under section 2 of this chapter.**

(2) **"Regional jail agreement" means an agreement described in section 2(a) of this chapter.**

SECTION 11. IC 11-12-5.5-2, AS ADDED BY P.L.184-2018, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Subject to the requirements of this chapter, the executive of a county may enter into an agreement under IC 36-1-7 with one (1) or more entities described in IC 36-1-7-1 for the construction, maintenance, or operation of a regional jail.

(b) In the case of a county, the county executive may not enter into a regional jail agreement under this chapter unless the regional jail



1 agreement is first approved by both the county fiscal body and the
2 county sheriff.

3 **(c) A regional jail may be designed, financed, constructed,**
4 **operated, or maintained by any means permitted or authorized by**
5 **law, including the following:**

6 **(1) IC 5-23.**

7 **(2) IC 5-30.**

8 **(3) IC 5-32.**

9 **(4) IC 36-1-12.**

10 SECTION 12. IC 11-12-5.5-3, AS ADDED BY P.L.184-2018,
11 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 UPON PASSAGE]: Sec. 3. **(a)** In addition to the provisions required
13 under IC 36-1-7-3, a regional jail agreement must include terms
14 concerning the following:

15 (1) The location of the regional jail.

16 (2) The acquisition, **design, financing**, construction, leasing,
17 maintenance, repair, operation, termination of operations, and
18 administration of the regional jail.

19 (3) The manner in which each participating entity's proportionate
20 share of the funding for the regional jail will be determined.

21 (4) The manner in which any:

22 (A) per diem paid by the state; or

23 (B) other reimbursement paid by the state;

24 for the costs of incarcerating individuals in a county jail or the
25 costs of medical care expenses incurred for individuals in a
26 county jail will be used by the participating entities.

27 (5) Any pledge of local revenue that will be required to carry out
28 the regional jail agreement or to pay bonds issued or leases
29 entered into by a participating entity to carry out the regional jail
30 agreement.

31 (6) The standards that will apply to the regional jail.

32 (7) The method of determining the inmate programs, activities,
33 and services that will be provided at the regional jail.

34 (8) The method of resolving disputes among the participating
35 entities concerning the regional jail agreement, if any such
36 disputes arise.

37 **(b) Notwithstanding IC 5-23, if a public-private agreement (as**
38 **defined in IC 5-23-2-13) is entered into to design, finance,**
39 **construct, maintain, or operate a regional jail, the manner of**
40 **acquiring, holding, and disposing of real property under the joint**
41 **agreement may include ownership by the operator of:**

42 **(1) real property on which the regional jail is constructed;**



- (2) personal property of the regional jail; and
- (3) all improvements to the regional jail during and after the termination of the public-private agreement.

SECTION 13. IC 11-12-5.5-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A regional jail may provide any combination of:

- (1) substance abuse treatment (as defined in IC 11-12-3.8-1.5);
- (2) jail treatment (as described in IC 11-12-2);
- (3) recidivism reduction programs (as described in IC 11-12-2); or
- (4) any other program or service the participating entities determine is necessary or appropriate.

SECTION 14. [EFFECTIVE JULY 1, 2019] (a) The following definitions apply throughout this SECTION:

- (1) "ADM" has the meaning set forth in IC 20-18-2-2.
- (2) "Operations fund levy" means a school corporation's operations fund property levy under IC 20-46-8.
- (3) "School corporation" has the meaning set forth in IC 20-18-2-16(a).

(b) Before January 1, 2020, the department of local government finance, in consultation with the fiscal and qualitative indicators committee established under IC 20-19-7-3, shall:

- (1) prepare the report described in subsection (c) for the period beginning July 1, 2018, and ending June 30, 2019; and
- (2) submit the report to the legislative council in an electronic format under IC 5-14-6.

(c) The report required under subsection (b) must include the following statistics for each school corporation in Indiana:

- (1) The assessed value per ADM.
- (2) The operations fund levy per ADM.
- (3) The revenue received by the school corporation per one cent (\$0.01) per ADM.
- (4) An estimate of the income tax revenue per one cent (\$0.01) per ADM if the school corporation could enact a school district income tax.
- (5) The loss to the operations fund levy per ADM that is attributable to the credits for excessive property taxes under IC 6-1.1-20.6.

(d) This SECTION expires July 1, 2020.

SECTION 15. [EFFECTIVE JULY 1, 2019] (a) The following definitions apply throughout this chapter:



- 1 (1) "ADM" has the meaning set forth in IC 20-18-2-2.
- 2 (2) "School corporation" has the meaning set forth in
- 3 IC 20-18-2-16(a).
- 4 (b) Before January 1, 2020, the department of education, in
- 5 consultation with the state board of accounts, shall:
- 6 (1) prepare the report described in subsection (c) for the
- 7 period beginning July 1, 2018, and ending June 30, 2019; and
- 8 (2) submit the report to the legislative council in an electronic
- 9 format under IC 5-14-6.
- 10 (c) The report required under subsection (b) must include the
- 11 following statistics:
- 12 (1) The amount of state and local funding for kindergarten
- 13 through grade 12 for the following:
- 14 (A) Illinois.
- 15 (B) Michigan.
- 16 (C) Ohio.
- 17 (D) Kentucky.
- 18 (E) Indiana.
- 19 (F) Each school corporation in Indiana.
- 20 (2) The amounts determined under subdivision (1), adjusted
- 21 for cost of living in each geographic territory.
- 22 (3) The amounts determined under subdivision (2) per ADM.
- 23 (d) This SECTION expires July 1, 2020.
- 24 SECTION 16. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1052, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

"SECTION 1. IC 5-23-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The state or a political subdivision may enter into a public-private agreement with an operator under the terms of this article.

(b) A joint board or separate entity established under IC 36-1-7 for purposes of the design, financing, construction, acquisition, improvement, renovation, equipping, operation, and maintenance of a regional jail under IC 11-12-5.5 may enter into a public-private agreement with an operator under this article.

SECTION 2. IC 5-23-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. BOT agreements may provide the following:

- (1) The design, construction, operation, management, maintenance, or financing of the cost of a public facility shall be partially or entirely the responsibility of the operator.
- (2) The governmental body ~~shall~~ **may** lease the public facility and real property owned by the governmental body upon which the public facility is to be located to the operator for a predetermined period. **Except as provided in subdivision (7),** the BOT agreement must provide for ownership of all improvements by the governmental body, unless the governmental body elects to provide for ownership of the public facility by the operator during the term of the BOT agreement. In this case, ownership reverts back to the governmental body upon the termination of the BOT agreement.
- (3) The BOT agreement must identify which costs are to be the responsibility of the operator and which costs are to be the responsibility of the governmental body.
- (4) The operator may be authorized to retain a mutually agreed upon percentage of the revenues received in the operation and management of the public facility, or the operator may be paid an amount established by the governmental body, which shall be



applied as follows:

- (A) Capital outlay costs for the public facility and public service plus interest and principal repayment for any debt incurred.
- (B) Costs associated with the operation, management, and maintenance of the public facility.
- (C) Payment to the governmental body for reimbursement of the costs of maintenance, law enforcement, and other services if the services are performed by the governmental body under the BOT agreement.
- (D) An agreed upon return on investment to the operator.
- (5) The operator may pay the governmental body either a lease payment or a percentage of gross revenue per month for the operator's operation and use of the public facility.
- (6) The BOT agreement may require a performance bond and provide for the payment of contractors and subcontractors under IC 4-13.6-7, IC 5-16-5, or IC 36-1-12, whichever is applicable.
- (7) If a regional jail (as defined in IC 11-12-5.5-1) is the subject of a BOT agreement under this chapter, the operator and the governmental body may mutually agree that ownership of the regional jail will remain with the operator during the term of the BOT agreement and after termination of the BOT agreement. The governmental body shall pay costs associated with the design, construction, financing, operation, management, and maintenance of the regional jail from funds identified under IC 11-12-5.5-3.**

SECTION 3. IC 6-3.6-2-14.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14.5. "Regional jail" has the meaning set forth in IC 11-12-5.5-1.**

Delete pages 2 through 3.

Page 4, delete lines 1 through 33.

Page 6, delete lines 22 through 36.

Page 7, line 9, delete "or in counties that formerly imposed".

Page 7, delete line 10.

Page 7, line 11, delete "this chapter".

Page 7, line 11, reset in roman "is".

Page 7, line 11, delete "are".

Page 7, line 13, delete "or 3(a)(3)".

Page 8, line 9, delete "or 3(a)(3)".

Page 9, delete lines 3 through 42, begin a new paragraph and insert:
"SECTION 7. IC 6-3.6-6-20, AS AMENDED BY P.L.247-2017,



SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 20. (a) This section does not apply to distributions of revenue under section 9 of this chapter.

(b) This section applies only to the following:

(1) Any allocation or distribution of revenue under section 3(a)(2) of this chapter that is made on the basis of property tax levies in counties that formerly imposed a tax under IC 6-3.5-1.1 (before its repeal January 1, 2017).

(2) Any allocation or distribution of revenue under section 3(a)(3) of this chapter that is made on the basis of property tax levies in counties that formerly imposed a tax under IC 6-3.5-6 (before its repeal January 1, 2017).

(c) Subject to subsection (b), if a school corporation or civil taxing unit of an adopting county does not ~~impose~~ **have a maximum permissible** property tax levy ~~that is first due and payable in for~~ the calendar year preceding the year in which revenue under section 3(a)(2) or 3(a)(3) of this chapter is being allocated or distributed, that school corporation or civil taxing unit is entitled to receive a part of the revenue under section 3(a)(2) or 3(a)(3) of this chapter (as appropriate) to be distributed within the county. The fractional amount that such a school corporation or civil taxing unit is entitled to receive each month during that calendar year equals the product of the following:

(1) The amount of revenue under section 3(a)(2) or 3(a)(3) of this chapter to be distributed on the basis of property tax levies during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the budget of that school corporation or civil taxing unit for the distribution year. The denominator of the fraction equals the aggregate budgets of all school corporations or civil taxing units of that county for the distribution year.

(d) Subject to subsection (b), if for a calendar year a school corporation or civil taxing unit is allocated a part of a county's revenue under section 3(a)(2) or 3(a)(3) of this chapter by subsection (c), the calculations used to determine the shares of revenue of all other school corporations and civil taxing units under section (3)(a)(2) or 3(a)(3) of this chapter (as appropriate) shall be changed each month for that same year by reducing the amount of revenue to be distributed by the amount of revenue under section 3(a)(2) or 3(a)(3) of this chapter allocated under subsection (c) for that same month. The department of local government finance shall make any adjustments required by this subsection and provide them to the appropriate county auditors.

SECTION 8. IC 6-3.6-7-27, AS AMENDED BY P.L.197-2016,



SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 27. (a) This section applies only to an eligible county, as defined in IC 8-25-1-4.

(b) If the voters of the county approve a local public question under IC 8-25-2, the fiscal body of the county may adopt an ordinance to provide for the use of local income tax revenues attributable to an additional tax rate imposed under IC 6-3.6-6 to fund a public transportation project under IC 8-25. ~~However, a county fiscal body shall adopt an ordinance under this subsection if required by IC 8-25-6-10 to impose an additional tax rate on the county taxpayers (as defined in IC 8-24-1-10) who reside in a township in which the voters approve a public transportation project in a local public question held under IC 8-25-6.~~ An ordinance adopted under this subsection must specify an additional tax rate to be imposed in the county (or township in the case of an additional rate required by IC 8-25-6-10) of at least one-tenth percent (0.1%), but not more than twenty-five hundredths percent (0.25%). If an ordinance is adopted under this subsection, the amount of the certified distribution attributable to the additional tax rate imposed under this subsection must be:

- (1) retained by the county auditor;
- (2) deposited in the county public transportation project fund established under IC 8-25-3-7; and
- (3) used for the purpose provided in this subsection instead of as a property tax replacement distribution.

(c) The tax rate under this section plus the tax rate under IC 6-3.6-6 may not exceed the tax rate specified in IC 6-3.6-6-2.

SECTION 9. IC 6-3.6-9-18, AS ADDED BY P.L.199-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 18. (a) This section applies only to Clark County.

(b) Notwithstanding section 5 of this chapter, when determining the allocation amount and the economic development revenue allocation for each taxing unit in the county

- (+) in 2019, one hundred percent (100%) of the increase in the county's maximum permissible tax levy permitted under IC 6-1.1-18.5-13.8 shall be excluded.

(c) Notwithstanding section 5 of this chapter, when determining any allocation amount except the economic development revenue allocation for each taxing unit in the county:

- (2) (1) in 2020, sixty-six and sixty-seven hundredths percent (66.67%) of the increase in the county's maximum permissible tax levy permitted under IC 6-1.1-18.5-13.8 shall be excluded; and
- (3) (2) in 2021, thirty-three and thirty-three hundredths percent



(33.33%) of the increase in the county's maximum permissible tax levy permitted under IC 6-1.1-18.5-13.8 shall be excluded.

~~(c)~~ **(d)** This section expires June 30, 2022.

SECTION 10. IC 8-25-6-10, AS AMENDED BY P.L.247-2017, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. (a) If the voters of a township described in section 2(a)(2)(A)(i) or 2(a)(2)(B)(i) of this chapter approve a local public question under this chapter, the fiscal body of ~~the eligible county in which the township is located~~ shall adopt ~~an ordinance under IC 6-3.6-6~~ **a resolution** to impose an additional local income tax rate ~~as permitted by IC 6-3.6-7-27~~, upon the local taxpayers residing in the township for the public transportation project in the township.

(b) This subsection applies if the voters of a township described in section 2(a)(2)(A)(ii) or 2(a)(2)(B)(ii) of this chapter approve a local public question under this chapter and the voters in:

- (1) the eligible county described in section 2(a)(2)(A) of this chapter approve a local public question under IC 8-25-2; or
- (2) the township described in section 2(a)(2)(B) of this chapter approve a local public question under this chapter.

The fiscal body of ~~the eligible county in which the township is located~~ shall adopt ~~an ordinance under IC 6-3.6-6~~ **a resolution** to impose an additional local income tax rate ~~as permitted by IC 6-3.6-7-27~~, upon the local taxpayers residing in the township for the public transportation project in the township.

(c) This subsection applies to Guilford Township in Hendricks County. If the voters of the township approve a local public question under this chapter, the township fiscal body shall adopt a resolution to impose an additional local income tax rate upon the local taxpayers residing in the township for the public transportation project in the township.

(d) A resolution adopted under this ~~subsection~~ **section** must comply with the requirements of the department of local government finance and specify an additional tax rate to be imposed in the township of at least one-tenth percent (0.1%), but not more than twenty-five hundredths percent (0.25%). If a resolution is adopted under this ~~subsection~~, **section**, the amount of the certified distribution attributable to the additional tax rate imposed under this ~~subsection~~ **section** must be:

- (1) retained by the county auditor;
- (2) deposited in the county public transportation project fund established under IC 8-25-3-7; and
- (3) used for the purpose provided in this subsection instead of as



a property tax replacement distribution.

The tax rate under this subsection plus the tax rate under IC 6-3.6-6 may not exceed the tax rate specified in IC 6-3.6-6-2. Notwithstanding IC 6-3.6-7-27, the ~~Hendricks County~~ fiscal body **of the county in which the township is located** is not required under this section to adopt an ordinance under IC 6-3.6-7-27.

SECTION 11. IC 11-12-5.5-1, AS ADDED BY P.L.184-2018, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~As used in~~ **The following definitions apply throughout this chapter:**

(1) "Regional jail" means a correctional facility (as defined in IC 5-1.2-2-11) for which a regional jail agreement has been entered into under section 2 of this chapter.

(2) "Regional jail agreement" means an agreement described in section 2(a) of this chapter.

SECTION 12. IC 11-12-5.5-2, AS ADDED BY P.L.184-2018, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Subject to the requirements of this chapter, the executive of a county may enter into an agreement under IC 36-1-7 with one (1) or more entities described in IC 36-1-7-1 for the construction, maintenance, or operation of a regional jail.

(b) In the case of a county, the county executive may not enter into a regional jail agreement under this chapter unless the regional jail agreement is first approved by both the county fiscal body and the county sheriff.

(c) A regional jail may be designed, financed, constructed, operated, or maintained by any means permitted or authorized by law, including the following:

(1) IC 5-23.

(2) IC 5-30.

(3) IC 5-32.

(4) IC 36-1-12.

SECTION 13. IC 11-12-5.5-3, AS ADDED BY P.L.184-2018, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a)** In addition to the provisions required under IC 36-1-7-3, a regional jail agreement must include terms concerning the following:

(1) The location of the regional jail.

(2) The acquisition, **design, financing**, construction, leasing, maintenance, repair, operation, termination of operations, and administration of the regional jail.

(3) The manner in which each participating entity's proportionate



share of the funding for the regional jail will be determined.

(4) The manner in which any:

(A) per diem paid by the state; or

(B) other reimbursement paid by the state;

for the costs of incarcerating individuals in a county jail or the costs of medical care expenses incurred for individuals in a county jail will be used by the participating entities.

(5) Any pledge of local revenue that will be required to carry out the regional jail agreement or to pay bonds issued or leases entered into by a participating entity to carry out the regional jail agreement.

(6) The standards that will apply to the regional jail.

(7) The method of determining the inmate programs, activities, and services that will be provided at the regional jail.

(8) The method of resolving disputes among the participating entities concerning the regional jail agreement, if any such disputes arise.

(b) Notwithstanding IC 5-23, if a public-private agreement (as defined in IC 5-23-2-13) is entered into to design, finance, construct, maintain, or operate a regional jail, the manner of acquiring, holding, and disposing of real property under the joint agreement may include ownership by the operator of:

(1) real property on which the regional jail is constructed;

(2) personal property of the regional jail; and

(3) all improvements to the regional jail during and after the termination of the public-private agreement.

SECTION 14. IC 11-12-5.5-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. A regional jail may provide any combination of:**

(1) substance abuse treatment (as defined in IC 11-12-3.8-1.5);

(2) jail treatment (as described in IC 11-12-2);

(3) recidivism reduction programs (as described in IC 11-12-2); or

(4) any other program or service the participating entities determine is necessary or appropriate.

SECTION 15. [EFFECTIVE JULY 1, 2019] **(a) The following definitions apply throughout this SECTION:**

(1) "ADM" has the meaning set forth in IC 20-18-2-2.

(2) "Operations fund levy" means a school corporation's operations fund property levy under IC 20-46-8.

(3) "School corporation" has the meaning set forth in



IC 20-18-2-16(a).

(b) Before January 1, 2020, the department of local government finance, in consultation with the fiscal and qualitative indicators committee established under IC 20-19-7-3, shall:

- (1) prepare the report described in subsection (c) for the period beginning July 1, 2018, and ending June 30, 2019; and**
- (2) submit the report to the legislative council in an electronic format under IC 5-14-6.**

(c) The report required under subsection (b) must include the following statistics for each school corporation in Indiana:

- (1) The assessed value per ADM.**
- (2) The operations fund levy per ADM.**
- (3) The revenue received by the school corporation per one cent (\$0.01) per ADM.**
- (4) An estimate of the income tax revenue per one cent (\$0.01) per ADM if the school corporation could enact a school district income tax.**

(d) This SECTION expires July 1, 2020.

SECTION 16. [EFFECTIVE JULY 1, 2019] (a) The following definitions apply throughout this chapter:

- (1) "ADM" has the meaning set forth in IC 20-18-2-2.**
- (2) "School corporation" has the meaning set forth in IC 20-18-2-16(a).**

(b) Before January 1, 2020, the department of education, in consultation with the state board of accounts, shall:

- (1) prepare the report described in subsection (c) for the period beginning July 1, 2018, and ending June 30, 2019; and**
- (2) submit the report to the legislative council in an electronic format under IC 5-14-6.**

(c) The report required under subsection (b) must include the following statistics:

- (1) The amount of state and local funding for kindergarten through grade 12 for the following:**
 - (A) Illinois.**
 - (B) Michigan.**
 - (C) Ohio.**
 - (D) Kentucky.**
 - (E) Indiana.**
 - (F) Each school corporation in Indiana.**
- (2) The amounts determined under subdivision (1), adjusted for cost of living in each geographic territory.**
- (3) The amounts determined under subdivision (2) per ADM.**



(d) This SECTION expires July 1, 2020.

SECTION 17. An emergency is declared for this act."

Delete page 10.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1052 as introduced.)

HUSTON

Committee Vote: yeas 20, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1052 be amended to read as follows:

Page 5, line 4, after "chapter" insert "is".

Page 5, reset in roman lines 31 through 40.

Page 5, line 41, delete "FOUR TWO:" and insert "FOUR:".

Page 5, line 42, reset in roman "THREE".

Page 5, line 42, delete "ONE".

Page 6, reset in roman lines 6 through 37.

Page 8, delete lines 23 through 41.

Page 12, between lines 13 and 14, begin a new line block indented and insert:

"(5) The loss to the operations fund levy per ADM that is attributable to the credits for excessive property taxes under IC 6-1.1-20.6."

Renumber all SECTIONS consecutively.

(Reference is to HB 1052 as printed February 15, 2019.)

THOMPSON

