

Second Regular Session of the 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.

HOUSE ENROLLED ACT No. 1263

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 6-3.6-3-1, AS AMENDED BY P.L.180-2016, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The following is the adopting body for a county:

(1) The local income tax council in a county in which the county income tax council adopted either:

(A) a county option income tax under IC 6-3.5-6 (repealed) that was in effect on January 1, 2015; or

(B) a county economic development income tax for the county under IC 6-3.5-7 (repealed) that was in effect on January 1, 2015.

(2) The county fiscal body in any other county.

(3) The county fiscal body for purposes of adopting a rate dedicated to paying for a PSAP in the county as permitted by IC 6-3.6-6-2.5.

(4) The county fiscal body for purposes of adopting a rate dedicated to paying for correctional facilities and rehabilitation facilities in the county as permitted by IC 6-3.6-6-2.7.

(b) A local income tax council is established for each county. The membership of each county's local income tax council consists of the fiscal body of the county and the fiscal body of each city or town that

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lies either partially or entirely within that county.

SECTION 2. IC 6-3.6-6-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** **Sec. 2.7. (a) A county fiscal body may adopt an ordinance to impose a tax rate for correctional facilities and rehabilitation facilities in the county. The tax rate must be in increments of one-hundredth of one percent (0.01%) and may not exceed two-tenths of one percent (0.2%). The tax rate may not be in effect for more than twenty (20) years.**

(b) The revenue generated by a tax rate imposed under this section must be distributed directly to the county before the remainder of the expenditure rate revenue is distributed. The revenue shall be maintained in a separate dedicated county fund and used by the county only for paying for correctional facilities and rehabilitation facilities in the county.

SECTION 3. IC 6-3.6-6-3, AS AMENDED BY P.L.247-2017, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) Revenue raised from a tax imposed under this chapter shall be treated as follows:**

(1) To make the following distributions:

(A) If an ordinance described in section 2.5 of this chapter is in effect in a county, to make a distribution to the county equal to the amount of revenue generated by the rate imposed under section 2.5 of this chapter.

(B) If an ordinance described in section 2.7 of this chapter is in effect in a county, to make a distribution to the county equal to the amount of revenue generated by the rate imposed under section 2.7 of this chapter.

(2) After making the ~~distribution~~ **distributions** described in subdivision (1), if any, to make distributions to school corporations and civil taxing units in counties that formerly imposed a tax under IC 6-3.5-1.1 (repealed). The revenue categorized from the next twenty-five hundredths percent (0.25%) of the rate for a former tax adopted under IC 6-3.5-1.1 (repealed) shall be allocated to school corporations and civil taxing units. The amount of the allocation to a school corporation or civil taxing unit shall be determined using the allocation amounts for civil taxing units and school corporations in the county.

(3) After making the distributions described in subdivisions (1) and (2), the remaining revenue shall be treated as additional revenue (referred to as "additional revenue" in this chapter). Additional revenue may not be considered by the department of



local government finance in determining:

- (A) any taxing unit's maximum permissible property tax levy limit under IC 6-1.1-18.5; or
- (B) the approved property tax rate for any fund.

(b) In the case of a civil taxing unit that has pledged the tax from additional revenue for the payment of bonds, leases, or other obligations as reported by the civil taxing unit under IC 5-1-18, the adopting body may not, under section 4 of this chapter, reduce the proportional allocation of the additional revenue that was allocated in the preceding year if the reduction for that year would result in an amount less than the amount necessary for the payment of bonds, leases, or other obligations payable or required to be deposited in a sinking fund or other reserve in that year for the bonds, leases, or other obligations for which the tax from additional revenue has been pledged. To inform an adopting body with regard to allocations that affect the payment of bonds, leases, or other obligations, a taxing unit may provide the adopting body with information regarding any outstanding bonds, leases, or other obligations that are secured by additional revenue. The information must be provided before the date of the public hearing at which the adopting body may change the allocation of additional revenue under section 4 of this chapter.

SECTION 4. IC 6-3.6-7-8.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 8.7. (a) This section applies to Fulton County.**

(b) Maintaining low property tax rates is essential to economic development, and the use of a tax under this section, as needed in the county, to carry out the purposes of this section, rather than the use of property taxes, promotes these purposes.

(c) The county council may, by ordinance, determine that additional local income tax revenue is needed in the county to do the following:

- (1) Finance, construct, acquire, improve, renovate, and equip a county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs.**
- (2) Pay bonds issued or leases entered into for the purposes described in subdivision (1).**
- (3) Operate and maintain the facilities described in subdivision (1).**

(d) If the county council makes the determination set forth in subsection (c), the county council may adopt an ordinance to



impose a local income tax rate on the adjusted gross income of local taxpayers that is the lesser of the following:

- (1) Twenty-five hundredths percent (0.25%).
- (2) The rate necessary to pay for the purposes described in subsection (c).

(e) The tax rate used to pay for the purposes described in subsection (c)(1) and (c)(2) may be imposed only until the latest of the following dates:

- (1) The date on which the financing, construction, acquisition, improvement, renovation, and equipping of the facilities as described in subsection (c) are completed.
- (2) The date on which the last of any bonds issued (including refunding bonds) or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping of the facilities described in subsection (c) are fully paid.
- (3) The date on which an ordinance adopted under subsection (d) is rescinded.

(f) The tax rate under this section may be imposed beginning in the year following the year the ordinance is adopted and until the date on which the ordinance adopted under this section is rescinded.

(g) The term of a bond issued (including any refunding bond) or a lease entered into under subsection (c) may not exceed twenty-five (25) years.

(h) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. Local income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund.

(i) Local income tax revenues derived from the tax rate imposed under this section:

- (1) may be used only for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued or leases entered into for the purposes described in subsection (c).

SECTION 5. IC 6-3.6-7-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 12.5. (a) This section applies to**



Jennings County.

(b) The county council may, by ordinance, determine that additional local income tax revenue is needed in the county to do the following:

- (1) Finance, construct, acquire, improve, renovate, and equip the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs.
- (2) Repay bonds issued or leases entered into for the purposes described in subdivision (1).

Before the county council may adopt an ordinance and make a determination under this subsection, the county council must first study the feasibility of, the need for, and the desire of contiguous counties to establish a regional single gender jail.

(c) If the county council makes the determination set forth in subsection (b), the county council may adopt an ordinance to impose a local income tax rate of:

- (1) fifteen-hundredths percent (0.15%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%);
- (8) five-tenths percent (0.5%);
- (9) fifty-five hundredths percent (0.55%);
- (10) six-tenths percent (0.6%); or
- (11) sixty-five hundredths percent (0.65%).

The tax rate may not be greater than the rate necessary to pay for the purposes described in subsection (b).

(d) The tax rate under this section may be imposed only until the latest of the following dates:

- (1) The date on which the financing, construction, acquisition, improvement, renovation, and equipping of the facilities as described in subsection (b) are completed.
- (2) The date on which the last of any bonds issued (including refunding bonds) or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping of the facilities described in subsection (b) are fully paid.
- (3) The date on which an ordinance adopted under subsection



(c) is rescinded.

(e) The tax rate under this section may be imposed beginning on the effective date of the ordinance as provided in IC 6-3.6-3-3 and until the date specified in subsection (d).

(f) The term of a bond issued (including any refunding bond) or a lease entered into under subsection (b) may not exceed twenty-five (25) years.

(g) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. Local income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund.

(h) Local income tax revenues derived from the tax rate imposed under this section:

(1) may be used only for the purposes described in this section;

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and

(3) may be pledged to the repayment of bonds issued or leases entered into for the purposes described in subsection (b).

(i) The use of local income tax revenues as provided in this section is necessary for the county to provide adequate jail capacity in the county and to maintain low property tax rates essential to economic development. The use of local income tax revenues as provided in this section to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping of the facilities described in subsection (b), rather than the use of property taxes, promotes those purposes.

(j) Money accumulated from the local income tax rate imposed under this section after the termination of the tax under this section shall be transferred to the county rainy day fund under IC 36-1-8-5.1.

SECTION 6. IC 6-3.6-7-19, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) This section applies only to Randolph County.

(b) Randolph County possesses:

(1) unique fiscal challenges to finance the operations of county government due to the county's ongoing obligation to repay amounts received by the county due to an overpayment of the county's certified distribution under IC 6-3.5-1.1-9 (before its



repeal) for a prior year; and

(2) unique capital financing needs related to the purposes described in this section.

(c) The county fiscal body may impose a tax on the adjusted gross income of local taxpayers at a tax rate that does not exceed the lesser of the following:

(1) Twenty-five hundredths percent (0.25%).

(2) The rate necessary to carry out the purposes described in this section.

(d) Revenues from a tax under this section may be used only for the following purposes:

(1) Financing, constructing, acquiring, renovating, and equipping the county courthouse, and financing and renovating the former county hospital for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions, including the repayment of bonds issued, or leases entered into, for constructing, acquiring, renovating, and equipping the county courthouse and for renovating the former county hospital for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions.

(2) Financing, constructing, acquiring, renovating, and equipping buildings for a volunteer fire department (as defined in IC 36-8-12-2) that provides services in any part of the county.

(3) Financing, constructing, acquiring, and renovating firefighting apparatus or other related equipment for a volunteer fire department (as defined in IC 36-8-12-2) that provides services in any part of the county.

(4) Subject to subsection (e), the following purposes:

(A) Operating the county courthouse.

(B) Financing, constructing, acquiring, renovating, equipping, and operating the county jail, public safety improvements, and other county facilities, including the repayment of bonds issued, or leases entered into, for constructing, acquiring, renovating, and equipping the county jail, public safety improvements, and other county facilities.

(e) Before revenues from a tax under this section may be used for the purposes described in subsection (d)(4), the county fiscal body must adopt an ordinance that:

(1) specifically authorizes the revenue to be used for those purposes; and

(2) recognizes that if the revenues are used for those purposes,



the tax rate will continue after the purposes described in subsection (d)(1) through (d)(3) are completed.

SECTION 7. IC 6-3.6-7-21.5, AS ADDED BY P.L.197-2016, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 21.5. (a) This section applies only to Tipton County.

(b) The county council may, by ordinance, determine that additional local income tax revenue is needed in the county to:

(1) finance the:

(A) construction, acquisition, and equipping of the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs; and

(B) improvement, renovation, remodeling, repair, and equipping of the courthouse to address security concerns and mitigate excess moisture in the courthouse; ~~and~~

(2) repay bonds issued or leases entered into for the purposes described in subdivision (1); **and**

(3) subject to subsection (i), operate and maintain facilities described in subdivision (1).

(c) If the county council makes the determination set forth in subsection (b), the county council may adopt an ordinance to impose a local income tax rate of:

(1) fifteen-hundredths percent (0.15%);

(2) two-tenths percent (0.2%);

(3) twenty-five hundredths percent (0.25%);

(4) three-tenths percent (0.3%);

(5) thirty-five hundredths percent (0.35%); or

(6) four-tenths percent (0.4%).

The tax rate may not be imposed at a rate greater than is necessary to pay for the purposes described in subsection (b).

(d) The tax imposed under this section may be imposed only until the ~~later of the date on which:~~ **latest of the following dates:**

(1) **The date on which** the financing for constructing, acquisition, improvement, renovation, remodeling, and equipping described in subsection (b) is completed. ~~or~~

(2) The last of any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, remodeling, and equipping described in subsection (b) are fully paid.

(3) The date on which an ordinance adopted under subsection (c) is rescinded. However, this subdivision applies only if an



ordinance has been adopted and is in effect under subsection (i).

The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty (20) years.

(e) The county treasurer shall establish a county facilities revenue fund to be used only for the purposes described in this section. Local income tax revenues derived from the tax rate imposed under this section shall be deposited in the county facilities revenue fund.

(f) Local income tax revenues derived from the tax rate imposed under this section:

- (1) may be used only for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible ad valorem property tax levy limit under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued or leases entered into for the purposes described in subsection (b).

(g) Tipton County possesses unique governmental and economic development challenges and opportunities due to:

- (1) the county's heavy agricultural base;
- (2) deficiencies in the current county jail, including:
 - (A) overcrowding;
 - (B) lack of program and support space for efficient jail operations;
 - (C) inadequate line of sight supervision of inmates, due to current jail configuration;
 - (D) lack of adequate housing for an increasing female inmate population and inmates with special needs;
 - (E) lack of adequate administrative space; and
 - (F) increasing maintenance demands and costs resulting from having aging facilities;
- (3) the presence of a large industrial employer that offers the opportunity to expand the income tax base; and
- (4) the presence of the historic Tipton County jail and sheriff's home, listed on the National Register of Historic Places.

The use of local income tax revenue as provided in this section is necessary for the county to provide adequate jail facilities in the county and to maintain low property tax rates essential to economic development. The use of local income tax revenues as provided in this section to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, remodeling, and equipping described in subsection (b), rather than the use of property



taxes, promotes those purposes.

(h) Money accumulated from the local income tax rate imposed under this section after:

- (1) the redemption of bonds issued; ~~or~~
- (2) the final payment of lease rentals due under a lease entered into under this section; **and**
- (3) the termination of the tax under this section;**

shall be transferred to the county rainy day fund under IC 36-1-8-5.1.

(i) Before revenues from a tax under this section may be used for the purposes described in subsection (b)(3), the county council must adopt an ordinance that:

- (1) specifically authorizes the revenue to be used for those purposes; and**
- (2) recognizes that if the revenues are used for those purposes, the tax rate will continue after the purposes described in subsection (b)(1) through (b)(2) are completed.**

SECTION 8. IC 6-3.6-7-22, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) This section applies only to Union County.

(b) Union County possesses unique economic development challenges due to:

- (1) the county's heavy agricultural base;
- (2) the presence of a large amount of state owned property in the county that is exempt from property taxation; and
- (3) recent obligations of the school corporation in the county that have already increased property taxes in the county and imposed additional property tax burdens on the county's agricultural base.

Maintaining low property tax rates is essential to economic development. The use of a tax under this section for the purposes described in this section, rather than the use of property taxes, promotes these purposes.

(c) The county fiscal body may impose a tax on the adjusted gross income of local taxpayers at a tax rate that does not exceed the lesser of the following:

- (1) Twenty-five hundredths percent (0.25%).
- (2) The rate necessary to carry out the purposes described in this section.

(d) Revenue raised from a tax under this section may be used only for the following purposes:

- (1) To finance, construct, acquire, improve, renovate, or equip the county courthouse.



(2) To repay bonds issued, or leases entered into, for constructing, acquiring, improving, renovating, and equipping the county courthouse.

(3) Subject to subsection (g), for the following purposes:

(A) To operate the county courthouse.

(B) To finance, construct, acquire, improve, renovate, equip, or operate:

(i) the county jail; or

(ii) other county criminal justice facilities.

(C) To repay bonds issued, or leases entered into, for constructing, acquiring, improving, renovating, and equipping:

(i) the county jail; or

(ii) other county criminal justice facilities.

(e) The tax imposed under this section may be imposed only until the last of the following dates:

(1) The date on which **the following conditions are satisfied:**

(A) The purposes described in subsection (d)(1) are completed.

(B) If an ordinance has been adopted and is in effect under subsection (g), the county fiscal body adopts an ordinance to repeal the tax imposed on the adjusted gross income of local taxpayers under subsection (c).

(2) The date on which the last of any bonds issued (including any refunding bonds) or leases described in subsection (d)(2) are fully paid.

The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (d)(2) may not exceed twenty-two (22) years.

(f) Funds accumulated from a tax under this section after:

(1) the redemption of the bonds issued; ~~or~~

(2) the final payment of lease rentals due under a lease entered into under this section; ~~or~~

(3) the adoption of an ordinance to repeal the tax imposed under this section;

shall be transferred to the county ~~highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.~~ **rainy day fund established under IC 36-1-8-5.1.**

(g) Before revenues from a tax under this section may be used for the purposes described in subsection (d)(3), the county fiscal body must adopt an ordinance that:



(1) specifically authorizes the revenue to be used for those purposes; and

(2) recognizes that if the revenues are used for those purposes, the tax rate will continue after the purposes described in subsection (d)(1) through (d)(3) are completed.

SECTION 9. IC 6-3.6-9-10, AS AMENDED BY P.L.239-2017, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The budget agency shall also certify information concerning the part of the certified distribution that is attributable to each of the following:

(1) The tax rate imposed under IC 6-3.6-5.

(2) The tax rate imposed under IC 6-3.6-6, separately stating:

(A) the part of the distribution attributable to a tax rate imposed under IC 6-3.6-6-2.5; and

(B) the part of the distribution attributable to a tax rate imposed under IC 6-3.6-6-2.7.

(3) Each tax rate imposed under IC 6-3.6-7.

(4) In the case of Marion County, the local income taxes paid by local taxpayers described in IC 6-3.6-2-13(3).

The amount certified shall be adjusted to reflect any adjustment in the certified distribution under this chapter.

SECTION 10. IC 11-12-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. In addition to the approval required from the agencies listed under IC 36-1-12-10, all final plans and specifications for the construction of a county jail are subject to review by the department. Before construction may begin on a county jail:

(1) the board of county commissioners shall submit the plans and specifications to the department; and

(2) except as provided in IC 36-1-8-19(b), the county executive must prepare the feasibility study and hold the public hearing required by IC 36-1-8-19.

SECTION 11. IC 11-12-5.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

Chapter 5.5. Regional Jails

Sec. 1. As used in this chapter, "regional jail agreement" means an agreement described in section 2(a) of this chapter.

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.

Sec. 3. 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, 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.

Sec. 4. If the participating entities determine that the regional jail agreement entered into under this chapter shall be administered by a separate legal entity as authorized by IC 36-1-7-3(a)(5)(A) or by a joint board as authorized by IC 36-1-7-3(a)(5)(B), the county sheriff of each county participating in the agreement (or the county sheriff's designee) must be included as a member on the governing board of the separate legal entity or as a member of the joint board.

Sec. 5. This chapter supplements and does not limit the authority of any entity to enter into an agreement under IC 36-1-7 concerning regional or multicounty jails.



SECTION 12. IC 35-38-3-3, AS AMENDED BY P.L.7-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) Except as provided by subsection (b), a person convicted of a misdemeanor may not be committed to the department of correction.

(b) Upon a request from the sheriff, the commissioner may agree to accept custody of a misdemeanant:

(1) if placement in the county jail:

(A) places the inmate in danger of serious bodily injury or death; or

(B) represents a substantial threat to the safety of others;

(2) for other good cause shown; or

(3) if a person has more than five hundred forty-seven (547) days remaining before the person's earliest release date as a result of:

(A) consecutive misdemeanor sentences; or

(B) a sentencing enhancement applied to a misdemeanor sentence.

(c) After June 30, 2014, and before January 1, 2016, a court may not commit a person convicted of a Level 6 felony to the department of correction if the person's earliest possible release date is less than ninety-one (91) days from the date of sentencing, unless the commitment is due to the person violating a condition of probation, parole, or community corrections by committing a new criminal offense.

(d) After December 31, 2015, a court may not commit a person convicted of a Level 6 felony to the department of correction unless:

(1) the commitment is due to the revocation of the person's sentence for violating probation, parole, or community corrections and the revocation of the person's sentence is due to a new criminal offense; or

(2) the person:

(A) is convicted of a Level 6 felony and the sentence for that felony is ordered to be served consecutively to the sentence for another felony;

(B) is convicted of a Level 6 felony that is enhanced by an additional fixed term under IC 35-50-2-8 through IC 35-50-2-16; or

(C) has received an enhanced sentence under IC 9-30-15.5-2; and the person's earliest possible release date is more than three hundred sixty-five (365) days after the date of sentencing.

A person who may not be committed to the department of correction may be placed on probation, committed to the county jail, or placed in



community corrections for assignment to an appropriate community corrections program.

(e) After June 30, 2014, and before January 1, 2016, a sheriff is entitled to a per diem and medical expense reimbursement as described in P.L.205-2013, SECTION 4 for the cost of incarcerating a person described in subsections (c) and (d) in a county jail. The sheriff is entitled to a per diem and medical expense reimbursement only for the time that the person described in subsections (c) and (d) is incarcerated in the county jail. The reimbursement:

- (1) shall be reviewed by the budget committee; and
- (2) is subject to approval by the budget agency.

(f) (e) Subject to appropriation from the general assembly, a sheriff is entitled to a per diem and medical expense reimbursement from the department of correction for the cost of incarcerating a person described in subsections (c) and (d) in a county jail. The sheriff is entitled to a per diem and medical expense reimbursement only for the time that the person described in subsections (c) and (d) is incarcerated in the county jail.

(f) Per diem and medical expense reimbursements received by a county under this section or received by a county from the state under any other law for the purpose of reimbursing sheriffs for the cost of incarcerating in county jails persons convicted of felonies:

- (1) shall be deposited in the county general fund; and**
- (2) upon appropriation by the county fiscal body, shall be used by the county sheriff only for the purposes of paying the costs of incarcerating in the county jail persons described in subsections (c) and (d) or other persons convicted of felonies.**

(g) The county auditor shall semiannually provide to the county fiscal body and the county sheriff an itemized record of the per diem and medical expense reimbursements received by the county under this section or under any other law for the purpose of reimbursing sheriffs for the cost of incarcerating persons convicted of felonies.

SECTION 13. IC 36-1-8-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 19. (a) In addition to any other requirements and except as provided in subsection (b), after June 30, 2018, a county may not begin the construction or reconstruction of a county jail or submit final plans and specifications for the construction or reconstruction of a county jail to the department of correction under IC 11-12-4-5, unless the county executive first:**

- (1) prepares or causes to be prepared a feasibility study of**



possible alternatives to the construction or reconstruction of the county jail; and

(2) holds a public hearing on the feasibility study.

(b) The feasibility study and public hearing under subsection (a) are not required for the construction or reconstruction of a county jail in the case of a county in which the county executive before July 1, 2018, has voted on or otherwise approved a proposal or contract concerning the construction or reconstruction of the county jail.

(c) The feasibility study required by subsection (a)(1) must include the following information:

(1) The feasibility of housing inmates in the county jail of another county or in a multicounty jail established by two (2) or more counties.

(2) A projection of the county's future jail needs and an estimate of the number and characteristics of future inmates.

(3) An estimate of the costs, tax rates, and debt service amounts that would result from each of the alternatives addressed by the feasibility study.

(d) The county executive shall allow the public to testify at the public hearing on the feasibility study required by subsection (a)(1). Notice of the public hearing must be given in accordance with IC 5-3-1. The notice must state that on the given day, time, and place, the county executive will meet to discuss the feasibility study and hear testimony from the public regarding the feasibility study.

SECTION 14. [EFFECTIVE UPON PASSAGE] (a) The legislative council is urged to assign to an appropriate interim study committee, during the 2018 legislative interim, the task of studying whether enhanced funding for Level 6 felons in county jails would assist in regional jail financing.

(b) This SECTION expires January 1, 2019.

SECTION 15. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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