THE PROCESS FOR DEVELOPING A BUDGET FOR THE STATE OF INDIANA

Prior to 1961, the Indiana State Budget Committee was the agency which executed and administered all appropriations made by the Indiana General Assembly. The Indiana State Budget Committee, at that time, was made up of four members of the Indiana General Assembly. This procedure was changed in 1961.

The impetus for this change arose in 1959 when a member of the Indiana General Assembly filed a lawsuit challenging the placement of the power to administer appropriations in the Indiana General Assembly, the legislative branch of Indiana state government, as a violation of Article 3, Section 1 of the Constitution of the State of Indiana, or the "separation of powers" clause. This action precipitated the Indiana General Assembly to vest the power of execution and administration of all appropriations in the Indiana State Budget Agency as provided by 1961 Indiana Acts Chapter 123, §1. (See I.C. 4-12-1-1(b)).

The Indiana State Budget Committee is still made up of four legislative members (two from the Indiana Senate and two from the Indiana House of Representatives) however, it also includes the director of the Indiana State Budget Agency as a fifth member. Thus, the State of Indiana is able to maintain its unique budgetary process by combining the officials and input of the executive and legislative branches of government.

The "appropriations" provision from the Constitution of the State of Indiana, Article 10, Section 3 authorizes the budget process activity undertaken by the Indiana State Budget Agency: "No money shall be drawn from the Treasury, but in pursuance of appropriations made by law." The Indiana General Assembly determines the expenditures of state funds, because it is authorized to enact laws, which includes appropriations. Thus, Article 10, Section 3 of the Constitution of the State of Indiana should be read in conjunction with Article 4, Section 1, which states:" The Legislative authority of the State [of Indiana] shall be vested in the Indiana General Assembly, which shall consist of a Senate and a House of Representatives." This provision guarantees that the Indiana General Assembly shall determine expenditures of Indiana state funds.

The Indiana House of Representatives has a distinct legislative power as granted by Article 4, Section 17 of the Constitution of the State of Indiana: “Bills may originate in either House, but may be amended or rejected in the other; except that bills for raising revenue shall originate in the Indiana House of Representatives.”

Often, bills affecting the same legislative subject matter are filed simultaneously in both houses, which means that each bill must be considered by the other house after the bill is passed out of the house of origin. In effect, each house is considering the same legislation twice in the same session provided that both bills proceed successfully without alteration. This Indiana state constitutional provision prohibits the "double entry" method of filing revenue raising bills because of the requirement that bills for revenue originate in the Indiana House of Representatives. Although there is no Indiana constitutional or statutory requirement
that the budget originate in the Indiana House of Representatives, the pattern established by the Indiana constitutional provision for revenue raising bills has traditionally been followed for the budget bill as well. “The powers of the Government are divided into three separate departments; the legislative, executive including the administrative, and judicial; and no person, charged with official duties under one of these departments, shall exercise any of the functions of another, except as this Constitution expressly provided.” The Constitution of the State of Indiana prohibits the state of Indiana from going into debt except in certain circumstances as provided by Article 10, Section 5. “No law shall authorize any debt to be contracted, on behalf of the State, except in the following cases: To meet casual deficits in the revenue; to pay the interest on the State Debt; to repel invasion, suppress insurrection, or, if hostilities be threatened provide for the public defense.” This provision was included after the State of Indiana found itself heavily indebted due to bond issues established to build the Wabash and Erie canals. The State of Indiana suffered financial hardship and political controversy for a long period after the indebtedness was incurred. Shortly thereafter, the canals were obsolete and useless.

In 1889, the Indiana Supreme Court responded to a legal challenge to a loan to the State of Indiana authorized by the Indiana General Assembly to meet a $2,200,000 deficit. In Hovey v. Foster the Indiana Supreme Court stated:

"(I)t was foreseen that without gathering from the pockets of the people, and carrying a large surplus in the treasury of the State no human provision could prevent occasional deficits in the revenues. The tax levy could not possibly be adjusted to the necessary expenses of carrying on the State government, and of providing and maintaining the public buildings and institutions of the State, and for such other appropriations as are clearly within legislative discretion, without an occasional surplus or deficit. See Hovey v. Foster, 118 Ind. 502, 506; 21 N.E. 39, 41 (1889).

The Indiana Supreme Court in Hovey defined "casual deficit" as one "required to meet the ordinary appropriations made for the purpose of carrying on the government, and of providing for the general welfare of [Indiana] and its institutions." See Hovey v. Foster, 118 Ind. 502, 506; 21 N.E. 39, 41 (1889).

Such a deficit must be the result of a discrepancy between revenues received and amounts required to carry on Indiana state government "which could not be foreseen and provided for without the accumulation of an unnecessary surplus in the treasury." The Indiana Supreme Court concluded that the determination of the existence of the contingencies cited in Article 10, Section 5 is a matter to be decided in the first instance by the Indiana General Assembly. Though not a final determination, the Indiana General Assembly's decision carries a presumption of the existence of the contingency until it is rebutted by proof of an intention to evade the [Indiana] constitutional provision, "... unless it is apparent at first blush that the conditions did not exist which justified the exercise of the power". See Hovey v. Foster, 118 Ind. 502, 506; 21 N.E. 39, 41 (1889). In 1982, the Indiana General Assembly created a "rainy day fund" to ease the State of Indiana's deficit problems in those fiscal periods in which
revenue falls short of projections and appropriations. The rainy day fund was established by I.C. 4-10-18-2, which reads as follows:

(a) A counter-cyclical revenue and economic stabilization fund [rainy day fund] is established to assist in stabilizing revenue during periods of economic recession.
(b) The treasurer of [Indiana] state shall administer the rainy day fund. Amounts in the [rainy day] fund may be combined by the [Indiana] treasurer with other amounts in the [Indiana] state treasury for the purposes of cash management. The earnings from the investment of the [rainy day] fund accue to the fund. The [rainy day] fund shall be accounted for separately from other state funds. The money in the rainy day fund at the end of an [Indiana] state fiscal year does not revert to the [Indiana] state general fund.

The annual appropriation to the "rainy day fund" is determined by I.C. 4-10-18-4(a), and the annual appropriation from the "rainy day fund" is determined by I.C. 4-10-18-4(b):

(a) If the annual growth rate for the calendar year preceding the current calendar year exceeds two percent (2%), there is appropriated to the [rainy day] fund from the [Indiana] state general fund, for the [Indiana] state fiscal year beginning in the current calendar year, an amount equal to the product of: the total [Indiana] state general fund revenues for the [Indiana] state fiscal year ending in the current calendar year; multiplied by the remainder of the annual growth rate for the calendar year preceding the current calendar year; minus two percent (2%).
(b) If the annual growth rate for the calendar year immediately preceding the current calendar year is less than a negative two percent (-2%), there is appropriated from the [rainy day] fund to the [Indiana] state general fund, for the [Indiana] state fiscal year beginning in the current calendar year, an amount equal to the product of: the total Indiana state general fund revenues for the Indiana state fiscal year ending in the current calendar year; multiplied by negative one (-1); and further multiplied by the remainder of the annual growth rate for the calendar year preceding the current calendar year; minus negative two percent (-2%).

A limitation on the amount of any appropriation from the "rainy day fund" to the Indiana state general fund is given in I.C. 4-10-18-9.

If the total [Indiana] state general fund revenue for an [Indiana] state fiscal year, in which a transfer into the [rainy day] fund is made, are less than the level estimated in the budget report prepared in accord with I.C. 4-12-1-12(a) or I.C. 4-12-1-12(c), and the shortfall cannot be attributed to a statutory change in the tax rate, the tax base, the fee schedules, or the revenue sources from which the [Indiana] general fund revenue estimate was made, there is appropriated from the fund to the [Indiana] state general fund an amount that may not exceed the lesser of the following two (2) amounts:
(1) the amount that was transferred into the [rainy day] fund during that [Indiana] state fiscal year; or
(2) the amount necessary to balance the [Indiana] general fund general operating budget for the [Indiana] state fiscal year.

In spite of, and because of the 1961 amendments by the Indiana General Assembly of the Indiana Acts (see 1961 Indiana Acts, Chapter 123, Section 1 and following) the Indiana State Budget Agency and the Indiana State Budget Committee share responsibilities. The statutory provisions set forth in I.C. 4-12-1-3 provide the law in this area.

(a) An [Indiana state] budget agency is hereby created as an agency of the state [of Indiana]. A director, appointed by the governor [of Indiana] to serve at his will and pleasure, shall be the chief executive officer of the agency, and shall be known as the budget director. The director shall receive the salary fixed by the governor of [Indiana] and shall give all of his time to his office and the [Indiana State] Budget Agency. He shall execute such bond as shall be approved by the governor [for Indiana], conditioned for the faithful discharge of his official duties, and an oath of office, and both shall be filed with the secretary of state [of Indiana].
An Indiana state budget committee consisting of five (5) regular members and four (4) alternate members is hereby established. One (1) regular member is the budget director while in office. The four (4) remaining regular members must be legislators selected in the following manner. Two (2) members must be Indiana state senators appointed by the president pro tempore of the Indiana senate, one of whom shall be nominated by the leader of the minority political party of the Indiana senate. Two (2) members must be representatives appointed by the speaker of the Indiana house of representatives, one of whom shall be nominated by the leader of the minority political party of the Indiana house of representatives. Legislative appointments to the Indiana state budget committee shall be made within fifteen (15) days after the official selection of the president pro tempore of the Indiana senate and the speaker of the Indiana house of representatives. Each member appointed by the president pro tempore of the Indiana senate and each member appointed by the speaker of the Indiana house of representatives shall serve at the will and pleasure of his respective appointing leadership or until his term as a member of the Indiana general assembly expires, whichever is shorter. Vacancies occurring in the Indiana General Assembly appointments to the Indiana state budget committee shall be filled for the unexpired term by the president pro tempore of the Indiana senate or speaker of the Indiana house of representatives last elected in like manner as if appointment to such vacant offices were being made originally. Nominations shall be made by the persons above mentioned in this section who were elected and selected at the last preceding session of the Indiana general assembly. When there is no such legislative officer entitled to fill vacancies from among members and members-elect of the Indiana senate and of the Indiana house of representatives, who are members of the same house and political party as the vacating member. Any such appointee of the governor of Indiana shall serve for the unexpired term of the vacating member or until the first day of the next session of the Indiana general assembly.

The four (4) alternate members of the Indiana state budget committee must be legislators selected in the manner described in this section for the appointment of the four (4) regular legislative members of the Indiana state budget committee. An alternate member is entitled to participate in the Indiana state budget committee meetings in the same manner as the regular members, except that he is entitled to participate in the Indiana state budget committee meetings in the same manner as the regular members, except that he is entitled to vote only if the regular member from his respective house and political party is not present for the vote. The alternate members shall serve the same term of office as the regular members of the budget committee.

The scope of the powers and duties of the Indiana state Budget Committee is found at I.C. 4-12-1-11.

(a) In addition to cooperating in the preparation of a recommended Indiana state budget report and budget bill as herein provided, the chief functions of the Indiana state budget committee shall be to serve as liaison between the legislative and executive branches of state government, including the administrative branches of Indiana state government, and to provide information to the Indiana general assembly with respect to the management of Indiana state fiscal affairs so that it may have a better insight into the budgetary and appropriation needs of the various Indiana state agencies. To perform such functions the Indiana budget committee may:

1. Select a chairman and such other officers as the members desire, and hold meetings at stated intervals, and on call of the chairman.
2. Make such policies and procedures concerning its organization and operation as are deemed advisable but I.C. 4-22-2 shall not apply thereto.
3. Have access to all files, information gathered information gathered and reports of the budget agency;
4. Inspect any state agency in order to obtain accurate information concerning its budgetary needs and fiscal management, and examine all of its records and books of account.
5. Subpoena witnesses and records, examine witnesses under oath, hold hearings, and exercise all the inherent powers of an interim Indiana legislative committee for study of Indiana budgetary affairs and fiscal management.
6. Attend meetings of appropriate committees of the Indiana general assembly and furnish it with information and advice.
7. Make such general or special reports to the Indiana budget agency and to the Indiana general assembly as are deemed advisable.

(b) The salary per diem of the legislative members of the Indiana budget committee is seventy dollars ($70.00) per day each for the time necessarily employed in the performance of their duties, and as provided by law all necessary traveling and hotal expenses, in addition to their legislative salary and legislative expense allowance, fixed by law as members of the Indiana general assembly. However, the salary per diem provided in this section is in lieu of any other per diem allowances available for the same day to legislative members of the
[Indiana] budget committee in their capacity as members of other legislative committees or commissions. The time for Indiana State Budget Committee meetings is set in I.C. 4-12-1-10. The budget committee shall meet at least once during the two (2) month period after adjournment of each regular session of the [Indiana] general assembly, except that beginning with July the [Indiana State Budget Committee] shall meet at least once each month, and upon call of the [Indiana State Budget Committee] chairman. The [Indiana state budget] committee shall fix the time and place for such meetings.

The responsibility of the Indiana State Budget Agency is essentially twofold. First, the Indiana State Budget Agency prepares the Indiana state budget for presentation to the Governor, of Indiana and then to the Indiana General Assembly (once the Governor of Indiana gives his approval). Second, the Indiana State Budget Agency has extensive authority, including allotment of funds, in the administration of the budget after its passage into law by the Indiana General Assembly. This is to be contrasted with the Indiana State Budget Committee's responsibilities, which include assisting the Indiana State Budget Agency in the preparation of the budget of the State of Indiana and advising the Governor of the State of Indiana regarding the administration of the budget.

The Indiana State Budget Committee is made up of five members, with four alternate members. The Indiana State Budget director, who is appointed by the Governor of Indiana, represents the Governor of Indiana (or the executive branch of Indiana state government) on the Indiana State Budget Committee. Two members of the Indiana Senate are appointed by the President Pro Tempore, one of whom is nominated by the minority political party Indiana Senate floor leader. Two members of the Indiana House of Representatives are appointed by the Speaker of the House, one of whom is nominated by the minority political party Indiana House of Representatives floor leader. The four alternates (two from each house of the Indiana General Assembly) are selected in the same manner as the other legislative members of the Indiana State Budget Committee, and serve in the absence of the regular Indiana State Budget Committee member from the same house and political party. See I.C. 4-12-1-3(b).

The legislative members serve at the pleasure of their respective appointing officials or until their terms as members of the Indiana General Assembly expire. See I.C. 4-12-1-3(b). The legislative members serve as liaisons between the legislative and executive branches of Indiana state government, and provide information to the Indiana General Assembly regarding Indiana state fiscal affairs. The Indiana State Budget Committee meets at least once each month during the interim between legislative sessions beginning with the third month after a session's adjournment. See I.C. 4-12-1-10.

The legislative members of the Indiana State Budget Committee are allowed a per diem allowance and all necessary travel and hotel expenses while working on the Indiana state budget, such amounts to be additional to these legislators, regular legislative salary and expenses. See I.C. 4-12-1-11(b). This expense allowance is extended until the time that the Indiana State
Budget Committee completes its budget bill and report and has delivered the same to the Governor of the State of Indiana.

During the summer of even numbered years, the State of Indiana executive branch of government's agencies' budget requests are submitted to the Indiana State Budget Agency. The statutory provision in I.C. 4-12-1-6 sets forth the law in this area.

Upon request by the governor of Indiana or by the Indiana state budget director, other agencies of the state [of Indiana] shall assist the [Indiana state] budget agency in the effective discharge of its duties and functions. Any such agency shall employ its equipment and facilities to assist the [Indiana state] budget agency to prepare the data and information for a recommended or final budget report and budget bill. The [Indiana state] budget agency shall create and prepare forms required for the administration of this chapter, and forms necessary for machine accounting to permit accumulation of statistical data and information required by the [Indiana state] budget agency and the [Indiana state] budget committee. Every [Indiana] state agency, except the universities and colleges, shall adopt such forms and reporting procedures as are created and prepared by the [Indiana state] budget agency for administration and execution of appropriations made by law, when such forms and procedures have been otherwise approved in the manner required by law.

There are many rules covering the content and form of the reports to be submitted by the various Indiana state agencies and departments of the executive or gubernatorial branch of Indiana state government. These are found at I.C. 4-12-1-7 and read as follows.

(a) On or before the first day of September, in any year that the [Indiana state] budget director makes a request under this chapter, each and every [Indiana] state agency shall prepare and file with the [Indiana state] budget agency on forms designated by it a written statement, showing in detail the following:
(1) The several amounts actually expended for the administration, operation, maintainence and support of such [Indiana] state agency for at least the two (2) fiscal years which ended immediately preceding such first day of September, and the several amounts estimated by such Indiana state agency to be actually expended for the fiscal year to end on June 30 following the next regular session of the [Indiana] general assembly, and the actual and estimated income of such [Indiana] state agency for like periods.
(2) An estimate of the necessary expenditures of such [Indiana] state agency for the proposed budget period and the estimated income of such [Indiana] state agency for like period.
(3) A written statement showing concisely the reasons for all estimated expenditures and requests for appropriations contemplated in the preceding subdivision, showing particularly the reason for any requested increase or decrease over former appropriations.
(4) Proposals for expenditures for new projects, special purposes or objects, construction, additions, building, improvements, undertakings or expansion of the work of any [Indiana] state agency requiring additional expenditures and capital outlays.
(5) Any other information related to the subject matter of the preceding subdivisions of this subsection, or otherwise required to effect the purposes of this chapter, to the extent the [Indiana state] budget agency or [Indiana state] budget committee deems such information necessary or required, including when requested, citations to any statutes regulating, governing or providing for continuing annual appropriations, fees or other sources of income.

(b) The [Indiana state] budget agency shall examine such written statements and review and analyze all of the information, data, estimates, requests for appropriations and for other authorizations to spend [Indiana] state funds as the several [Indiana] state agencies have prepared and filed them. As promptly as possible the [Indiana state] budget agency shall prepare recommendations for a budget report, and from time to time shall submit these to the [Indiana state] budget committee for its consideration at one of its meetings.

By September in each even-numbered year (1998, 2000, etc.), all state agencies submit their budget requests to the [Indiana] State Budget Agency. These requests estimate expenditures for the Indiana state agencies' activities for the succeeding

The Indiana State Budget Agency conducts investigations and hearings on various Indiana state agency appropriation requests. The statutory provision in I.C. 4-12-1-8 sets forth the law in this area.

(a) In preparing the various estimates for the budget report, the Indiana state budget agency may require any Indiana state agency to prepare and file with it additional or more detailed information and the [Indiana] state budget director, or any duly authorized employee of the Indiana state budget agency, may enter and investigate the operation of any Indiana state agency, and may examine its records as authorized by the [Indiana state budget] director. A written report of the investigation and examination shall be prepared and filed in the Indiana state budget agency. The foregoing report shall be made available to the Indiana state budget committee for review and to aid in its determination of the several amounts or estimates for appropriations the Indiana state budget committee may recommend for inclusion in the budget report and in the budget bills prepared pursuant to the authority of this chapter.

(b) Upon its own initiative or at the request of any Indiana state agency, the Indiana state budget committee may arrange a hearing or hearings devoted to any matter pertinent to the preparation of a budget report and budget bill at which representatives of the interested Indiana state agency, or any citizen, may appear and be heard. As allowed by the Indiana state budget committee's policies and procedures, general information and relevant and material evidence, and explanation and argument may then be presented to the Indiana state budget committee members that will assist them in the performance of their respective duties under this chapter.

The Indiana State Budget Agency conducts an internal review upon receipt of the various Indiana state agency requests. The Indiana State Budget Agency employs analysts who are responsible for overseeing certain areas of state government. The analysts check the request for accuracy of historical information (prior expenditures and appropriations) and determine whether the request conforms with administrative policy. Adjustments are made, such as the addition of predetermined inflation factors.

The Indiana State Budget Agency's recommendation and the various Indiana state agencies, requests are then discussed with the Governor of Indiana. The recommendation, after the Governor of Indiana's review, is passed on to the Indiana State Budget Committee. The Indiana State Budget Committee conducts hearings to review the various Indiana state agencies, requests and evaluate the Indiana State Budget Agency's recommendations.

In September of even numbered years, prior to the "long-session," the Indiana State Budget Committee begins hearings for all Indiana state agencies making budget requests. After allowing Indiana state agency heads to present their cases, the Indiana State Budget Committee makes a tentative recommendation - usually based on recommendations by the State Budget Agency. Because revenue projections for the coming biennium are not available until November, the Indiana State Budget Committee's recommendations are only tentative. Adjustments to recommendations depend on the revenue forecast - a low forecast will
require cutbacks and a high forecast may allow some lower priority items to be added.

The Indiana state budget report and Indiana state budget bills are prepared by the Indiana State Budget Committee with the Indiana State Budget Agency's assistance. The statutory provisions at I.C. 4-12-1-9 set forth the law in this area.

(a) The [Indiana state] budget agency shall assist the [Indiana state] budget committee in the preparation of the budget report and the budget bill, using the recommendations and estimates prepared by the [Indiana state] budget agency and the information obtained through investigation and presented at hearings. The [Indiana state] budget committee shall consider data, information, recommendations and estimates before it and, to the extent that there is agreement on items, matters and amounts between the Indiana state budget agency and a majority of the members of the [Indiana state] budget committee, the [Indiana state budget] committee shall organize and assemble a budget report and a budget bill or budget bills. In the event the [Indiana state] budget agency and a majority of the members of the [Indiana state] budget committee shall differ upon any item, matter, or amount to be included in such report and bills, and the particular item, matter or amount, and the extent of and reasons for the differences between the [Indiana state] budget agency and the [Indiana state] budget committee shall be stated fully in the budget report and the budget bill or bills shall be submitted to the governor [of Indiana] by the [Indiana state] budget committee. The governor [of Indiana] shall deliver to the [Indiana house [of Representatives] members of the [Indiana state] budget committee such bill or bills for introduction into the Indiana House of [R]epresentatives.
(b) Whenever during the period beginning thirty (30) days prior to a regular session of the [Indiana state] general assembly the budget report and budget bill or bills have been completed and printed and are available for distribution, upon the request of a member of the [Indiana] general assembly an informal distribution of one copy of each such document shall be made by the [Indiana state] budget committee to such members. During business hours, and as may be otherwise required during sessions of the [Indiana] general assembly, the [Indiana state] budget agency shall make available to the members of the [Indiana state] general assembly so much as they shall require of its accumulated staff information, analyses and reports concerning the fiscal affairs of the state [of Indiana] and the current budget report and budget bill or bills.
(c) The budget report shall include at least the following five (5) parts:
(1) A statement of budget policy, including but not limited to recommendations with reference to the fiscal policy of the state [of Indiana] for the coming budget period, and describing the important features of the budget.
(2) A general budget summary setting forth the aggregate figures of the budget to show the total proposed expenditures and the total anticipated income, and the surplus or deficit.
(3) The detailed data on actual receipts and expenditures for the previous fiscal year or two fiscal years depending upon the length of the budget period for which the budget bill or bills is proposed, the estimated receipts and expenditures for the current year, and for the ensuing budget period, and the anticipated balances at the end of the current fiscal year and the ensuing budget period. Such data shall be supplemented with necessary explanatory schedules and statements, including a statement of any differences between the recommendations of the [Indiana state] budget agency and of the [Indiana state] budget committee.
(4) A description of the capital improvement program for the state [of Indiana] and an explanation of its relation to the budget.
(5) The budget bills.
(d) The budget report shall cover and include all special and dedicated revenue funds as well as the general revenue fund and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures therefrom.
(e) The budget agency shall furnish the governor with any further information required concerning the budget, and upon request shall attend hearings of committees of the general assembly on the budget bills.

The preparation of the budget report and budget bills is completed early in the budget making session of the Indiana General Assembly. The budget report and budget bills are prepared by early January of the "long-session" year by the Indiana State Budget Committee, using the Indiana State Budget Agency staff. The report and bills show the recommended construction,
operating and highway budgets and are submitted for review by the Governor of the State of Indiana. Appropriations recommended and set out in the budget report and the budget bill are separately itemized as to each office, board, commission and department of the state of Indiana for which appropriations are made.

Usually, the Governor of Indiana makes few alterations in these recommendations. The Governor of Indiana controls the swing vote on the Indiana State Budget Committee through the Governor's appointee, the Indiana State Budget Agency director, and thereby has already asserted the executive branch's viewpoint on contested issues. The Governor of Indiana delivers the budget bills to the Indiana House of Representatives' members of the Indiana State Budget Committee for introduction into the Indiana House of Representatives.

While the Governor of Indiana statutorily "delivers" the bills, the bills actually come from the Indiana State Budget Agency. The chairman of the Indiana House of Representatives Ways and Means Committee (who is usually a member of the Indiana State Budget Committee) introduces the bills

Although there is no Indiana constitutional or statutory requirement that the budget originate in the Indiana House of Representatives, it has been the tradition that the Indiana House of Representatives passes on the budget bills first and sends them to the Indiana Senate. The budget bill is first considered by the Indiana House of Representatives, probably because of the requirement in Article 4, S17 of the Constitution of the State of Indiana that "bills for raising revenue shall originate in the [Indiana] House of Representatives." The budget is assigned by the speaker of the Indiana House of Representatives to its Ways and Means Committee. See I.C. 2-2.1-1-10. The Ways and Means Committee of the Indiana House of Representatives holds its own hearings and modifies the Governor of Indiana's recommendations. Once the bills are passed out of the Ways and Means Committee, they are considered twice by the Indiana House of Representatives as a whole, first, on second reading where amendments maybe offered, and finally on third reading for approval as (and if) amended.

The bill is then considered by the Indiana Senate. In the Indiana Senate, the Indiana Senate's finance committee's budget subcommittee takes primary responsibility for altering the Indiana House of Representatives' passed budgets to meet Indiana Senate priorities. The Indiana finance committee's budget subcommittee also holds hearings before finalizing its recommendations. The bill as passed by the Indiana Senate finance committee then follows the same second and third reading process as in the Indiana House of Representatives. Indiana Senate and House of Representative conference committees hear bills which were passed by both houses but were amended in the second house with the house of origin dissenting to the amendments. Unless the Indiana Senate passes the Indiana House of Representative's version of the budget bills without alteration (a rare occurrence), the budget will end up in an Indiana Senate and House of Representative conference committee.
Indiana Senate and House of Representative conference committees try to reach a compromise on legislation which was passed by both houses but was amended in the second house considering it, and the amendments were dissented to by the house of origin. Members of the Indiana Senate and House of Representative's budget conference committee are traditionally the same legislators who are members of the Indiana State Budget Committee. However, there is no swing vote in the Indiana Senate and House of Representatives budget conference committee as there is in the Indiana State Budget Committee, which has a budget agency director. Thus, if the two houses are controlled by different political parties or policy attitudes, the Indiana Senate and House of Representative's conference committee compromises are intensely negotiated. Each house then votes on whether to adopt or reject the Indiana Senate and House of Representative's conference committee report. If rejected by either house, the Indiana Senate and House of Representative's conference committee must try again. If adopted by both houses, the bills then go to the Governor of Indiana for signature. Once they are signed by the Governor of Indiana, these laws comprise the final operating, construction and highway budgets for the state of Indiana's next biennium.

The [Indiana] state treasury consists of both a general fund and dedicated funds. The statutory provisions in I.C. 4-8.1-1-1 sets forth the law in this area:

The [Indiana] state treasury is composed of:
1. all moneys collected under any law of [Indiana] providing for the collection of revenue for [Indiana] state purposes;
2. all moneys borrowed on the credit of the state [of Indiana] by the treasurer of [the] state [of Indiana] or any other authorized agent of the state [of Indiana];
3. all moneys derived from the sale of property belonging to or held in trust by the state [of Indiana];
4. all moneys and securities belonging to, lent to, or held in trust by the state [of Indiana,] where no other disposition of them is required by law;
5. all income derived in any manner from any money or property specified in this section;
6. every fee, perquisite, or bonus received by any [Indiana] state officer in the discharge of his duties;
7. all dividends arising from bank or other stock appropriated to the payment of any part of the interest on the public debt;
8. all moneys from any source paid, belonging, or accruing to the state [of Indiana] for the use of the state [of Indiana] or to an [Indiana] state fund for any purpose.

The Indiana state treasury is "divided into the general fund and such other funds as are created by the constitution [of the state of Indiana] or by statute." See I.C. 4-8.1-1-2. "The general fund consists of all moneys paid into the [Indiana] state treasury which are not by the constitution, statute, or requirement of the donor dedicated to another fund or for another purpose." See I.C. 4-8.1-1-3.

The Indiana State Budget Agency Director has a great deal of influence over other Indiana state agencies through I.C. 4-12-1-13.5, which empowers the Indiana State Budget Agency Director with authority to determine the operating costs of these Indiana state agencies.
The [Indiana state] budget [agency] director may determine on or after July 1 of each fiscal year the costs of operating, during the preceding fiscal year, the office of the [Indiana] auditor of state, the office of [the Indiana] attorney general, the office of the [Indiana] treasurer of state, the [Indiana] department of administration, the [Indiana] state budget agency and any other state agency that the [Indiana] state budget [agency] director determines is attributable to the operations of all [Indiana] state agencies. The [Indiana state] budget [agency] director shall establish a formula to determine those costs. When the [Indiana state] budget [agency] director has determined the total attributable amount of those costs for each of the [Indiana] state agencies, he shall certify those amounts to the [Indiana] auditor of state and shall transmit a duplicate of the certification to the [Indiana] treasurer of state.

The amount certified by the [Indiana state] budget [agency] director for an [Indiana] agency supported by any dedicated fund is appropriated to pay that cost from the dedicated fund used to support that agency. On receipt of the certification of the [Indiana state] budget [agency] director, the [Indiana] auditor of state shall transfer from the dedicated funds to the [Indiana] state general fund the amounts certified by the [Indiana state] budget agency director. The [Indiana] auditor of state shall make the appropriate entries in the records of those dedicated funds. The [Indiana] treasurer of state shall make the appropriate entries in his records.

The Indiana General Assembly appropriates money to each Indiana state agency and the Indiana State Budget Agency allocates these monies to the various Indiana state agencies during the fiscal year. Money not completely allocated during the fiscal year because an Indiana state agency did not have the need for the funds will revert back to the fund from which the monies were appropriated. Dedicated funds differ from the Indiana general fund in that dedicated funds can be used only for the dedicated funds' specific purposes, while use of the Indiana general fund is unrestricted.

The Indiana Court of Appeals has found, as a matter of legislative intent, that all "inheritance tax revenues are placed in the Inheritance Tax Account, which is maintained as part of the [Indiana] state general fund. The monies are then appropriated according to the allocation contained in [the Indiana budget act,]" confirming the validity of the procedure. See State ex rel. Mass Transportation Authority of Greater Indianapolis v. Indiana Revenue Board, 144 Ind. App. 63, 253 N.E.2d 725, 735. "...any balances remaining in accounts of [Indiana state agencies] at the close of the fiscal year revert to the general fund, except such part as may be made available beyond that time by terms of the appropriation act." See 1923-1924 Op. Attorney General (1/17/24) page 182, 185.

A valid obligation of the state of Indiana may be paid out of the general fund even though the prior fiscal year's appropriation reverted, but only in situations where the original contract was necessarily based upon estimates which prove to be erroneous after completion of the contract or where the practical difficulties of billing at the end of a fiscal year are obviously due to services being rendered up to and including the last day of the fiscal year. See 1959 Op. Attorney General Number 57. This requires, in some instances, that the Indiana State Board of Finance reinstate the funds unless they were encumbered by contract before the end of the fiscal year.

If the Indiana State Budget Agency Director discovers "at any time that the probable receipts from taxes or other sources for any fund will be less than were anticipated, and that as a consequence the amount available for the remainder of the term
of an appropriation or for any allotment period will be less than the amount estimated or allotted therefore, the director of the
[Indiana state] budget agency shall, with the approval of the governor [of Indiana,] and after notice to the [Indiana] state agency
or [other Indiana state] agencies concerned, reduce the amount or amounts allotted or to be allotted so as to prevent a deficit.”
See I.C. 4-13-2-18(f).

The following conditions must be fulfilled before the Indiana State Budget Agency can reduce an appropriation to an
Indiana state agency: probable receipts must be less than anticipated; the amount available for the remainder of the term must
be less than the amount appropriated; the reduction of the allotment must be such as needed to prevent a deficit; the Governor
of the state of Indiana must approve the reduction; and, notice to the Indiana agency concerned must be provided. See I.C. 4-13-
2-18(f). Where there is a failure to meet any of the requirements stated above, the Indiana State Budget Agency is not authorized
to reduce an agency's appropriation. See Etherton v. Wyatt, 155 Ind. App. 440, 293 N.E.2d 43 (1973). The Indiana State Budget
Agency must also consider the present and future needs of the particular Indiana state agency and the effect of the reduction
before proceeding.

In addition to the operating budget the State of Indiana has emergency or contingency appropriations available. The
statutory provisions in I.C. 4-12-1-15 set forth the law in this area:

(a) In the absence of other directions, purposes or standards specifically imposed therein, or otherwise fixed by
law, an emergency or contingency appropriation to the [Indiana state] budget agency which is general and
unrelated to any specific agency of the state shall be for the general use, respectively, of any agency of the state
[of Indiana,] for its emergency or contingency purposes or needs. The [Indiana state] budget agency, in each
situation, shall determine and shall fix the amount to transfer, and shall order transfer thereof from such
appropriation to the agency of state relieved thereby. From such emergency or contingency appropriations, the
[Indiana state] budget agency is empowered to make and order allocations and transfers to, and to authorize
expenditures by, the various agencies of the state to achieve the purposes or meet the needs, circumstances and
standards following, namely:

(1) Necessary expenditures for the preservation of public health, and for the protection of persons and property
which were not foreseen when the appropriations were made by the previous [Indiana] general assembly.

(2) Repair of damage to, or replacement of, any building or equipment owned by the state [of Indiana] or by
any agency of the state [of Indiana] which has been so damaged as to materially affect the public safety or utility
thereof, or which has been destroyed, if such is necessary to discharge the functions of the state or of any
agency of the state [of Indiana,] and if such damage or loss was caused by sabotage, fire, flood, wind, war,
catastrophe or disaster.

(3) Repair of damage to, or replacement of, any building or equipment owned by the state [of Indiana] or by
an agency of the state [of Indiana] which has so depreciated or deteriorated or suffered obsolescence as to
become unusable, but is required in the discharge of necessary functions of the state [of Indiana] or of an
agency of the state [of Indiana,] and if such depreciation, deterioration or obsolescence was not foreseen at the
time appropriations were made by the previous [Indiana] general assembly.

(4) Emergencies resulting from increase of costs or any other factor or event unforeseen at the time
appropriations were made which render insufficient the appropriated funds for food, clothing, maintenance or
medical care necessary for the operation of any [Indiana] state institution.

(5) Emergencies resulting from increase in costs or any other factor or event unforeseen at the time
appropriations were made which render insufficient the appropriated funds for the cost of instruction or other
costs of operation of any of the universities and colleges supported in whole or in part by [Indiana] state funds.
(6) Supplementation of an exhausted fund or account of any [Indiana] state agency, whatever the cause of such exhaustion, if such is found necessary to accomplish the orderly administration of such [Indiana] state agency, or the accomplishment of an existing specific Indiana state project, provided, however, that such funds shall not serve to authorize a purpose or purposes which were included in the budget bill, or budget bills, to the previous [Indiana] general assembly but were wholly omitted or excluded from appropriations made by the [Indiana] general assembly.

The provisions of this section do not change, impair or destroy any fund previously created, nor be deemed to affect the administration of any contingency or emergency appropriations heretofore or hereafter made for specific purposes.

The term "exhausted fund" refers to a fund which "has either been completely and physically depleted" or which "has been completely preempted, obligated or encumbered" although a balance which has not been actually paid out may yet remain. See 1961 Op. Atty. Gen. No. 37, page 232.

There are more statutory guidelines for the authorized use of an emergency or contingency appropriation .

(b) If in the administration of any contingency or emergency appropriation made to the [Indiana state] budget agency, it should appear that the allocation by the [Indiana state] budget agency of funds to any designated other agency of the state for expenditure is illegal then such appropriation or fund may, consistent with the provisions of such contingency or emergency appropriations and with the approval of the governor [of Indiana,] be expended for and on behalf of any other agency of the state [of Indiana] by the Indiana budget agency pursuant to the standards set forth above. No provisions in this section are intended to conflict or interfere with the powers and duties of the [Indiana] state board of finance. See I.C. 4-12-1-15(b).

The Indiana State Budget Agency prepares appropriation lists, establishes the reserve from the general fund surplus for local school units, administers the allotment system, transfers funds and makes emergency or contingency appropriations as necessary. The statutory provisions in I.C. 4-12-1-12 set forth the law in this area.

(a) Within forty-five (45) days following the adjournment of the regular session of the [Indiana] general assembly, the [Indiana state] budget agency shall examine the acts of such [Indiana] general assembly and, with the aid of its own records and those of the [Indiana state] budget committee, shall prepare a complete list of all appropriations made by law for the budget period beginning on July 1 following such regular session, or so made for such other period as is provided in the appropriation. While such list is being made by it the [Indiana state] budget agency shall review and analyze the fiscal status and affairs of the state [of Indiana] as affected by such appropriations. A written report thereof shall be made and signed by the [Indiana state] budget director and shall be transmitted to the governor [of Indiana] and the auditor of state [of Indiana] and shall be mailed to each member of such [Indiana] general assembly.

(b) Not later than the first day of June of each calendar year, the [Indiana state] budget agency shall prepare a list of all appropriations made by law for expenditure or encumbrance during the fiscal year beginning on the first day of July of that calendar year. At the same time, the [Indiana state] budget agency shall establish the amount of a reserve from the general fund surplus which such agency estimates will be necessary and required to provide funds with which to pay the distribution to local school units required by law to be made so early in such fiscal year that revenue received in such year prior to the distribution will not be sufficient to cover such distribution. Not later than the first day of June following adjournment of such regular session of the [Indiana] general assembly the amounts of the appropriations for such fiscal year, and the amount of such reserve, shall be written and transmitted formally to the auditor of [the] state [of Indiana] who then shall establish the amounts of such appropriations, and the amount of such reserve, in the records of the [Indiana] auditor's office as fixed in such communication of the [Indiana state] budget agency.

(c) Within sixty (60) days following the adjournment of any special session of the [Indiana] general assembly, or within such shorter period as the circumstances may require, the [Indiana state] budget agency shall prepare for and transmit to the governor [of Indiana] and members of the [Indiana] general assembly and the auditor
of the state of Indiana, like information, list of sums appropriated, and if required, an estimate for a reserve from the general fund surplus for distribution to local school units, all as is done upon the adjournment of a regular session.

(d) The budget agency shall administer the allotment system provided in IC 4-13-2-18.

(e) The budget agency may transfer, assign and reassign an appropriation or appropriations, or parts of them, excepting those appropriations made to the Indiana state teacher's retirement fund established by I.C. 21-6.1, made for one specific use or purpose to another use or purpose of the agency to which the appropriation is made, but only when the uses and purposes to which the funds transferred, assigned and reassigned are uses and purposes the agency of state is by law required or authorized to perform. No transfer may be made as in this subsection authorized unless upon the request and with the consent of the agency of the state whose appropriations are involved. Except to the extent otherwise specifically provided, every appropriation made and hereafter made and provided, for any specific use or purpose of an agency of the state is and shall be construed to be an appropriation to the agency, for all other necessary and lawful uses and purposes of the agency, subject to the aforesaid request and consent of the agency and concurrence of the budget agency.

(f) One or more emergency or contingency appropriations for each fiscal year or the budget period may be made to the budget agency. Such appropriations shall be in amounts definitely fixed by law or ascertainable or determinable according to a formula, or according to appropriate provisions of law taking into account the revenues and income of the agency of state. No transfer shall be made from any such appropriation to the regular appropriation of an agency of the state except upon an order of the budget agency made pursuant to the authority vested in it hereby or otherwise vested in it by law.

The documents prepared by the Indiana State Budget Agency pursuant to I.C. 4-12-1-12 are transmitted to the auditor of the state of Indiana. The auditor of the state of Indiana then fixes the amount of the designated appropriations or reserves in the records of the Indiana State Auditor's Office. All vouchers for payment of expenditures by an agency of the state of Indiana are submitted to the Indiana State Auditor's Office.

The Indiana State Auditor's Office will not approve payment of any voucher showing an expenditure outside the appropriations indicated on the lists provided by the Indiana State Budget Agency. Upon request and with the consent of the agency of the state of Indiana whose appropriations are involved, the Indiana State Budget Agency may transfer, assign and reassign any appropriations, or parts of appropriations. However, the statutory provisions which give the Indiana State Budget Agency and the Indiana State Finance Board "the discretion to transfer, assign and reassign appropriations ... clearly discretionary in nature and do not have mandatory provisions for the emergency funding of any agencies" of the state of Indiana. See State ex rel. Indiana State Board of Finance v. Marion County Superior Court, 396 N.E.2d 340, 343 (1979), and, I.C. 4-12-1-15, 4-12-1-12(e) and 4-9.1-1-7.

The Indiana State Budget Agency is responsible for inspections of institutions of the state of Indiana, approval of compensation and classification of employees of the state of Indiana, the review of payments for personnel services submitted to the Auditor of the State of Indiana for payment, the review of all contracts for personal or other services entered into by any agency of the state of Indiana and advising the governor of Indiana on public employee collective bargaining agreements.

The function of the Indiana State Budget Agency in these areas is to establish the administrative policies and procedures
to carry out the duties assigned to the Indiana State Budget Agency. See I.C. 4-12-1-13. For instance, the "[Indiana state] budget agency has the duty to establish classifications of employment and to fix salaries based on established classifications of all persons employed by various agencies of the State of Indiana, but it does not have authority to select persons who shall fill those classifications or to determine who may be promoted within any of the agencies" of the state of Indiana. See State v. Barger, 144 Ind. App. 4, 242, 243 N.E.2d 529, 531 (1968).

The Indiana State Budget Agency is also empowered to establish classifications and schedules for fixing compensation for employees not covered by the State Personnel Act. See I.C. 4-15-2-1 et seq; 1966 Op. Atty. Gen. No. 25 P.184. However, the Indiana State Police Board, which reports directly to the Governor of the state of Indiana, has the authority to set salaries for Indiana State Police employees. See Kuespert v. State, 378 N.E.2d 888 (Ind. App. 1978).

The purpose for the statutory provisions requiring the Indiana State Budget Agency to review all contracts, review and approve the reimbursement for travel procedures and advise the governor of the state of Indiana as to whether collective bargaining agreements with employees of the state of Indiana are within legal and viable budgetary limits is to make the Indiana State Budget Agency the "watchdog" of the state of Indiana's purse strings. No allotment is made without prior approval of the Indiana State Budget Agency. The Indiana State Budget Agency's approval of allotments is based on appropriations made by law (as provided in the budget bill passed by the Indiana general assembly and signed by the governor of Indiana). The Indiana State Budget Agency's approval of allotments is indicated by the list of appropriations and written approvals for contracts which become part of the record of the Auditor's office of the state of Indiana.