HOUSE BILL No. 1843

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-2.1; IC 4-10-21; IC 4-13-2-18.

Synopsis: State spending cap. Provides a control on state expenditures based on the change in gross Indiana nonfarm personal income as reported by the United States Department of Commerce, Bureau of Economic Analysis. Requires the budget agency to determine and publish the Indiana nonfarm personal income growth quotient (the IPI growth quotient) in the Indiana Register. Provides for emergency expenditures. Provides for mandatory reductions in expenditures. Requires the digest of a budget bill or a conference committee report on a budget bill to contain certain information.

Effective: July 1, 2004 (retroactive); July 1, 2005.

Noe, Turner, Thompson

January 25, 2005, read first time and referred to Committee on Ways and Means.

Introduced

First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1843

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

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

SECTION 1. IC 2-2.1-4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]:

Chapter 4. General Expenditure Controls

Sec. 1. As used in this chapter, "base year" means the state fiscal year beginning July 1, 2004.

Sec. 2. As used in this chapter, "budget period" means the biennium beginning July 1 of an odd-numbered year.

Sec. 3. As used in this chapter, "state spending cap" refers to the limit on expenditures under section 8 of this chapter.

Sec. 4. As used in this chapter, "controlled state fund" refers one (1) of the following:

(1) The state general fund.

(2) The property tax replacement fund.

(3) The counter-cyclical revenue and economic stabilization fund.

Sec. 5. As used in this chapter, "expenditure" refers to an

expenditure from a controlled state fund in a state fiscal year. The term does not include the following:

(1) A payment of a tax refund or refundable tax credit related to a state tax liability.

(2) A transfer between controlled state funds or accounts within a controlled state fund.

(3) The costs of capital construction and repair except for fee replacement, debt service, and lease rental payments.

(4) The costs of judgments and settlements.

(5) The costs of providing property tax replacement credits and homestead credits.

(6) The costs of making motor vehicle excise tax replacement payments.

(7) A distribution or an allocation of state tax revenues to a unit of local government under IC 36-7-13, IC 36-7-26, IC 36-7-27, IC 36-7-31, or IC 36-7-31.3.

(8) A distribution of state tax revenues collected under IC 7.1 that is payable to a city or town.

(9) The costs of providing supplemental distributions under IC 4-33-13-5 to replace riverboat admissions taxes.

(10) A transfer from the property tax replacement fund to the build Indiana fund required under IC 4-33-13-5(d).

(11) A distribution of state tax revenues collected under any other statute that is:

(A) deposited in a controlled state fund; and

(B) payable to a unit of local government.

Sec. 6. (a) The budget agency shall determine the Indiana nonfarm personal income growth quotient (IPI growth quotient) in each even-numbered year. The IPI growth quotient applies to each year of the two (2) year state budget period that begins in each odd-numbered year. The IPI growth quotient to be used in the budget period beginning July 1, 2005, is the amount determined under STEP FOUR of the following formula:

STEP ONE: For each of the six (6) calendar years immediately preceding the first state fiscal year in the budget period, divide the Indiana nonfarm personal income for the calendar year by the Indiana nonfarm personal income for the calendar year immediately preceding that calendar year.

STEP TWO: Determine the sum of the STEP ONE results.

STEP THREE: Divide the STEP TWO result by six (6).

STEP FOUR: Determine the lesser of the following:

(A) The STEP THREE quotient.

(B) One and six-hundredths (1.06).

For a state fiscal year beginning after June 30, 2007, the IPI growth quotient determined under this subsection is subject to adjustment under section 7 of this chapter.

(b) The budget agency shall publish the IPI growth quotient determined under this chapter for a particular budget period:

(1) on the Internet on December 31 of each even-numbered year and on April 15 of each odd-numbered year; and

(2) in the Indiana Register not later than July 1 of each odd-numbered year.

In addition, the budget agency shall publish historic IPI growth quotient data in the Indiana Register not later than July 1 of each odd-numbered year.

(c) For the budget period beginning July 1, 2005, the IPI growth quotient is multiplied by the base year spending to determine the maximum expenditures allowed from controlled state funds for the budget period.

(d) For a budget period beginning after June 30, 2007, the IPI growth quotient is multiplied by the spending limit for the immediately preceding budget period to determine the maximum expenditures allowed from controlled state funds for the budget period.

Sec. 7. This section applies to a state fiscal year beginning after June 30, 2007. In order to reflect changes in Indiana nonfarm personal income over the course of the previous budget period, the IPI growth quotient determined under section 6 of this chapter for a particular biennial budget period must be adjusted to equal the amount determined under STEP NINE of the following formula:

STEP ONE: For each of the six (6) calendar years immediately preceding the first state fiscal year in a budget period, divide the Indiana nonfarm personal income for the calendar year by the Indiana nonfarm personal income for the calendar year immediately preceding that calendar year.

STEP TWO: Determine the sum of the STEP ONE results.

STEP THREE: Divide the STEP TWO result by six (6).

STEP FOUR: For each of the six (6) calendar years immediately preceding the second state fiscal year in the immediately preceding budget period, divide the Indiana nonfarm personal income for the calendar year by the Indiana nonfarm personal income for the calendar year immediately preceding that calendar year.

STEP FIVE: Determine the sum of the STEP FOUR results.

STEP SIX: Divide the STEP FIVE result by six (6).

STEP SEVEN: Determine the product of:

(1) the STEP THREE result; multiplied by

(2) the STEP SIX result.

STEP EIGHT: Determine state spending growth quotient used in the second state fiscal year of the immediately preceding budget period.

STEP NINE: Determine the quotient of:

(1) the STEP SEVEN result; divided by

(2) the STEP EIGHT result.

Sec. 8. Except as provided in section 10 of this chapter, the:

(1) general assembly shall not appropriate; and

(2) budget director may not allot;

more for expenditures in a state fiscal year than the amount determined under this chapter for a state fiscal year.

Sec. 9. (a) An increase in the state spending cap, other than by an application of the IPI growth quotient, may occur only if at least one (1) of the following occurs:

(1) A spending responsibility has shifted from another level of government to a controlled state fund.

(2) A spending responsibility has shifted from a fund not limited by this chapter to a fund limited by this chapter.

(3) There has been:

(A) an expansion of:

(i) state services; and

(ii) state spending; and

(B) a tax increase enacted to finance the additional state services and spending.

(b) An increase in the state spending cap for spending described in subsection (a) requires the approval of a two-thirds (2/3) majority of the house of representatives and a two-thirds (2/3) majority of the senate.

Sec. 10. The general assembly, in a regular session, may authorize an emergency appropriation by enacting a supplemental appropriations act and a joint resolution that contains all the statements described in section 11 of this chapter. A supplemental appropriations act must be approved by a two-thirds (2/3) majority of the house of representatives and a two-thirds (2/3) majority of the senate.

Sec. 11. A joint resolution described in section 10 of this chapter must contain the following:

(1) A statement that all spending authorized in the act exceeds

the limit of the state spending cap.

(2) A description of the amount of emergency expenditures and an explanation of the specific circumstances that created the need for a supplemental appropriation.

Sec. 12. Except as allowed in an emergency appropriation under section 10 of this chapter, all appropriations for expenditures for a state fiscal year, including continuing appropriations, are void if the total amount appropriated for expenditures exceeds the amount allowed by the state spending cap for the state fiscal year under this chapter. If the appropriations for a state fiscal year are voided under this section, the general assembly in a regular or special session may reappropriate an amount that does not exceed the amount allowed by the state spending cap under this chapter.

Sec. 13. (a) Subject to subsection (c), reductions in the state spending cap are mandatory in each year when spending responsibility is:

(1) shifted from a controlled state fund or to another level of government; or

(2) transferred from a controlled state fund to a fund that is not limited by this chapter.

The state spending cap must be decreased by the amount of the shift or transfer.

(b) The amount of the state spending cap reduction shall be determined by the budget agency upon the recommendation of the budget committee by a simple majority vote.

(c) If the budget agency determines that:

(1) the amount of a state spending cap reduction required under subsection (a) is less than one-tenth percent (0.1%); or

(2) there is a need to waive the mandatory downward adjustment;

the state spending cap reduction must receive a unanimous recommendation from the budget committee to take effect.

SECTION 2. IC 2-2.1-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]:

Chapter 5. Budget Bill Requirements

Sec. 1. As used in this chapter, "digest" refers to the description of the contents of a bill or a conference committee report that is located on:

(1) the cover page of a bill; or

(2) the first page of a conference committee report.

Sec. 2. As used in this chapter, "controlled state fund" has the meaning set forth in IC 2-2.1-4-4.

Sec. 3. As used in this chapter, "expenditure" has the meaning set forth in IC 2-2.1-4-5.

Sec. 4. The digest of a budget bill or a conference committee report on a budget bill must contain the following information:

(1) The total amount of appropriations from controlled state funds.

(2) The total amount of appropriations for expenditures subject to IC 2-2.1-4 from controlled state funds.

(3) The expenditure limit for controlled state funds established by IC 2-2.1-4.

SECTION 3. IC 4-13-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]: Sec. 18. (a) For the purpose of the administration of the allotment system provided by this section, each fiscal year shall be divided into four (4) quarterly allotment periods, beginning respectively on the first day of July, October, January, and April. However, in any case where the quarterly allotment period is impracticable, the state budget director may prescribe a different period suited to the circumstances but not extending beyond the end of any fiscal year.

(b) Except as otherwise expressly provided in this section, the provisions of this chapter relating to the allotment system and to the encumbering of funds shall apply to appropriations and funds of all kinds, including standing or annual appropriations and dedicated funds, from which expenditures are to be made from time to time by or under the authority of any state agency. However, the provisions relating to the allotment system shall not apply to moneys made available for the purpose of conducting a post-audit of financial transactions of any state agency. Likewise, appropriations for construction or for the acquisition of real estate for public purposes may be exempted from the allotment system by the state budget director, but in such cases he shall prescribe such regulations as will insure the proper application and encumbering of funds.

(c) No appropriation to any state agency shall become available for expenditure until:

(1) such state agency shall have submitted to the state budget agency a request for allotment, such request for allotment to consist of an estimate of the amount required for each activity and each purpose for which money is to be expended during the applicable allotment period; and

(2) such estimate contained in the request for allotment shall have

been approved, increased, or decreased by the state budget director and funds allotted therefor as hereinafter provided.

The form of a request for allotment, including a request by hand, mail, facsimile transmission, or other electronic transmission, shall be prescribed by the state budget agency with the approval of the auditor of state and shall be submitted to them at least twenty-five (25) days prior to the beginning of the allotment period.

(d) Each request for allotment shall be reviewed by the state budget agency and respective amounts therein shall be allotted for expenditure if:

(1) the estimate therein is within the terms of the appropriation as to amount and purpose, having due regard for the probable future needs of the state agency for the remainder of the fiscal year or other term for which the appropriation was made; and

(2) the agency contemplates expenditure of the allotment during the period.

Otherwise, the state budget agency shall modify the estimate so as to conform with the terms of the appropriation and the prospective needs of the state agency and shall reduce the amount to be allotted accordingly. The state budget agency shall act promptly upon all requests for allotment and shall notify every state agency of its allotments at least five (5) days before the beginning of each allotment period. The total amount allotted to any agency for the fiscal year or other term for which the appropriation was made shall not exceed the amount appropriated for such year or term.

(e) The state budget director shall also have authority at any time to modify or amend any allotment previously made by him.

(f) In case the state budget director shall discover at any time that:

(1) the probable receipts from taxes or other sources for any fund will be less than were anticipated; and

(2) as a consequence the amount available for the remainder of the term of the appropriation or for any allotment period will be less than the amount estimated or allotted therefor;

he shall, with the approval of the governor, and after notice to the state agency or agencies concerned, reduce the amount or amounts allotted or to be allotted so as to prevent a deficit.

(g) The definitions in IC 2-2.1-4 apply throughout this subsection. Allotments for a state fiscal year that exceed the greater of the maximum allotments allowed under IC 2-2.1-4-8 and IC 2-2.1-4-9 are void. The budget agency shall allot money for an appropriation, including an appropriation that is not made in a specific amount, to provide that the total allotment for

expenditures from a controlled state fund in a state fiscal year does not exceed the greater of the maximum allotment allowed under IC 2-2.1-4-8. If the state budget director discovers that the probable expenditures for the remainder of a state fiscal year will exceed the greater of the maximum allotment allowed under IC 2-2.1-4-8, the state budget director shall, with the approval of the governor and after notice to the state agency or agencies concerned, reduce the amount or amounts allotted or to be allotted to prevent an allotment of more than the greater of the maximum allotment allowed under IC 2-2.1-4-8.

~~(g)~~ **(h)** The state budget agency shall promptly transmit records of all allotments and modifications thereof to the auditor of state.

~~(h)~~ **(i)** The auditor of state shall maintain as a part of the central accounting system for the state, as hereinbefore provided, records showing at all times, by funds, accounts, and other pertinent classifications, the amounts appropriated, the estimated revenues, the actual revenues or receipts, the amounts allotted and available for expenditure, the total expenditures, the unliquidated obligations, actual balances on hand, and the unencumbered balances of the allotments for each state agency.

~~(i)~~ **(j)** No payment shall be made from any fund, allotment, or appropriation unless the auditor of state shall first certify that there is a sufficient unencumbered balance in such fund, allotment, or appropriation after taking into consideration all previous expenditures to meet the same. In the case of an obligation to be paid from federal funds, a notice of federal grant award shall be considered an appropriation against which obligations may be incurred, funds may be allotted, and encumbrances may be made.

~~(j)~~ **(k)** Every expenditure or obligation authorized or incurred in violation of the provisions of this chapter shall be void. Every payment made in violation of the provisions of this chapter shall be illegal, and every official authorizing or making such payment, or taking part therein, and every person receiving such payment, or any part thereof, shall be jointly and severally liable to the state for the full amount so paid or received. If any appointive officer or employee of the state shall knowingly incur any obligation or shall authorize or make any expenditure in violation of the provisions of this chapter, or take any part therein, it shall be ground for his removal by the officer appointing him, and if the appointing officer be other than the governor and shall fail to remove such officer or employee, the governor may exercise such power of removal after giving notice of the charges and opportunity for hearing thereon to the accused officer or employee and to the officer appointing him.

SECTION 4. IC 4-10-21 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 5. [EFFECTIVE JULY 1, 2004 (RETROACTIVE)] **(a) IC 2-2.1-4, as added by this act, applies only to appropriations and allotments for state fiscal years that begin after June 30, 2005.**

(b) IC 2-2.1-5, as added by this act, applies to a regular session of the general assembly beginning after June 30, 2004.

SECTION 6. **An emergency is declared for this act.**