

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington St., Suite 301
Indianapolis, IN 46204
(317) 233-0696
iga.in.gov

FISCAL IMPACT STATEMENT

LS 7431
BILL NUMBER: HB 1001

NOTE PREPARED: Jan 12, 2021
BILL AMENDED:

SUBJECT: State Budget.

FIRST AUTHOR: Rep. Brown T
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *State Biennial Budget:* This bill appropriates money for capital expenditures, the operation of the state, K-12 and higher education, the delivery of Medicaid and other services, and various other distributions and purposes.

State Offices and Administration Provisions:

Board Replacement - The bill replaces the Governor with the Budget Director or the Budget Director's designee on the State Board of Finance.

Personal Services/Fringe Benefits Contingency Fund - The bill renames the Personal Services/Fringe Benefits Contingency Fund as the Budget Agency Contingency Fund. It adds the following authorized fund uses: (1) Emergency capital project expenses. (2) Necessary expenses for existing programs as determined by the Governor and Budget Director. It removes a provision that prevents transfers from the fund for other purposes. The bill requires the Budget Committee to be advised of each transfer from the fund that exceeds \$500,000.

Enhanced Access Fee Committee - The bill replaces the State Librarian with the Budget Director as a member of the Enhanced Access Fee Committee.

Board Replacement - The bill replaces the director of the Budget Agency with the director of the Office of Management and Budget as an ex officio voting member of the Board of Trustees of the Indiana Public Retirement System (INPRS).

Examinations Fee - The bill removes the annual appropriation provision for the Examinations Fund of the State Board of Accounts.

Bond Defeasance - The bill appropriates amounts for defeasing bonds.

Excise Fund - The bill also adjusts the distributions from the Excise Fund to increase the amount transferred to the Enforcement and Administration Fund and correspondingly decreases the amount transferred to the state General Fund.

Gaming Provisions:

Gaming Research Division - The bill transfers the operations of the Indiana Department of Gaming Research into a newly Established Gaming Research Division of the Indiana Gaming Commission.

Law Enforcement Provisions:

Exoneration Fund - The bill repeals the Exoneration Fund. It provides that any money remaining in the fund is transferred to the state General Fund.

County Jails - The bill allows the Budget Agency to augment the County Jail Maintenance Contingency Fund appropriation from the state General Fund for the 2020-2021 state fiscal year by an amount necessary to cover jail and parole holds. The bill specifies the uses for the augmented amount.

K-12 Education Provisions:

Board Replacement - The bill replaces the State Superintendent of Public Instruction with the Secretary of Education or the Secretary's designee as a member of the Distressed Unit Appeal Board.

Advanced Placement Program - This bill removes a provision that prevents unused money appropriated to the Department of Education for the Advanced Placement Program from reverting to the state General Fund.

ADM Count - The bill establishes a definition of "virtual instruction" for purposes of determining a school corporation's basic tuition support using the Average Daily Membership (ADM).

Tax Provisions:

Venture Capital Investment Tax Credit - The bill amends the venture capital investment tax credit to apply to taxpayers that provide qualified investment capital to certain qualified Indiana investment funds (qualified fund). The bill provides that the Indiana Economic Development Corporation (IEDC) may only certify a fund as a qualified fund if the fund meets the definition of a venture capital fund under federal regulations and the fund makes investments according to specified policy requirements and priorities. The bill provides that a taxpayer may not claim a credit certified with regard to a qualified fund before July 1, 2023. It specifies the maximum available tax credits in a calendar year with regard to a qualified fund. It also increases the maximum available tax credits in a calendar year with regard to qualified Indiana businesses under current law, including an additional increase in the maximum amount if the qualified Indiana business is a minority business enterprise or a women's business enterprise. It caps the total amount of credits that the IEDC may award in a calendar year at \$20 M, provided that not more than \$7.5 M is awarded for proposed investments in a qualified fund.

Aviation Fuel Tax - The bill provides that, beginning July 1, 2021, all aviation fuel excise tax revenue is transferred to the Airport Development Grant Fund (under current law, 50% of the aviation fuel excise tax revenue is transferred to the General Fund and 50% is transferred to the Airport Development Grant Fund).

Transportation Provisions:

Public Private Agreements - The bill clarifies the equal opportunity procurement and contracting requirements for certain projects. The bill removes the sunset of provisions regarding public-private agreements that provide that legislative approval is not required to impose tolls on certain projects. It specifies that, except for those certain projects, the General Assembly must enact authorizing legislation before the Indiana Department of Transportation (INDOT), the Indiana Finance Authority (IFA), or an operator may enter into public-private agreements that impose user fees on motor vehicles for use on highways and roads in existence or under construction on July 1, 2011. It provides that the IFA must be a party to any public-private agreement that requires payments to be made to an operator after the operator receives final payment for construction. It also specifies the IFA's bonding authority for public-private partnership projects.

Public Mass Transportation Fund - The bill removes annual Budget Committee review of the distribution formula established by INDOT for the Public Mass Transportation Fund.

Health and Human Services Provisions:

Hospital Assessment Fee (HAF) and Health Facility Quality Assessment Fee (QAF) -The bill extends the expiration of the HAF and the QAF from June 30, 2021, to June 30, 2023.

Higher Education Provisions:

Scholarships and Grants - The bill provides that any increase in the maximum Higher Education Award and Freedom of Choice Award by the Commission for Higher Education (CHE) is subject to approval by the Budget Agency. (Under current law, the CHE's annual determination of the maximum awards is subject to approval by the Budget Agency with review by the Budget Committee.)

Courts Provisions:

Judicial Insurance Adjustment - The bill requires money from judicial insurance adjustment fees to be deposited in the state General Fund.

Pension Provisions:

Teachers' Retirement Fund - The bill appropriates \$400 M from the state General Fund to the Pre-1996 Account of the Teachers' Retirement Fund of the INPRS.

It makes corresponding changes.

Effective Date: Upon passage; July 1, 2020 (retroactive); July 1, 2021; January 1, 2022.

Appropriations by Function	FY 2022	FY 2023
General Government	611,005,513	662,930,444
Corrections	808,835,345	813,190,345
Other Public Safety	305,890,984	305,933,088
Conservation and Environment	79,921,871	79,976,477
Economic Development	141,438,152	146,438,152
Transportation	45,000,000	45,000,000
FSSA Administration	14,904,442	14,904,442
Office of Medicaid Policy and Planning	2,850,738,843	2,975,038,843
Mental Health and Addiction	270,820,436	270,203,123
Family Resources	123,043,484	122,243,484
Aging Services	54,379,566	54,705,019
Disability and Rehabilitation Services	41,357,108	41,357,108
Department of Child Services	882,634,062	882,634,062
Public Health	9,442,846	9,442,846
Other Health and Human Services	80,480,533	80,480,533
State Student Assistance	381,315,773	381,315,773
Other Higher Education	1,680,659,129	1,687,965,584
Education Administration	40,100,716	40,100,716
Tuition Support	7,705,019,250	7,781,666,130
Other Local Schools	234,695,001	235,770,497
Teacher Retirement	905,800,000	935,100,000
Other Education	10,250,013	10,250,013
Distributions	60,364,160	60,364,160
Total GF Operating	\$17,338,097,227	\$17,637,010,839
Higher Education Construction	36,741,725	36,741,725
Other Construction	323,245,888	481,694,174
Total Construction	359,987,613	518,435,899
Total GF (Operating + Construction)	\$17,698,084,840	\$18,155,446,738
Lottery and Gaming Surplus	0	0
Other Dedicated - Operating	2,736,840,743	2,623,559,802
Other Dedicated - Construction	49,159,654	37,947,853
Tobacco Settlement	125,910,357	125,910,357
Federal	1,184,000,000	1,091,666,667
Total (Dedicated and Federal)	\$4,095,910,754	\$3,879,084,679
Total - All	\$21,793,995,594	\$22,034,531,417

Explanation of State Expenditures:

State Offices and Administration Provisions:

Personal Services/Fringe Benefits Contingency Fund - The bill renames the nonreverting Personal Services/Fringe Benefits Contingency Fund to the Budget Agency Contingency Fund. The bill may increase expenditures as it adds two authorized uses for the fund: necessary expenses for existing programs as determined by the Governor and the Budget Director and emergency capital project expenses. The bill also removes a provision that prevents transfers from the fund by the State Board of Finance for other purposes. It requires the Budget Committee to be advised of each transfer from the fund that exceeds \$500,000.

Enhanced Access Fee Committee - The bill may shift workload from one state agency to another by requiring the state Budget Director (or designee) to replace the State Librarian (or designee) on the Enhanced Access Fee Committee.

Examinations Fund - The bill removes the annual appropriation from the Examinations Fund for the SBOA. The Examinations Fund consists of payments made to the SBOA for examinations of public funds.

Bond Defeasance - The bill appropriates the following amounts for FY 2021 to the Budget Agency:

- (1) \$110 M to defease any remaining bonds issued by the State Office Building Commission, the Recreational Development Commission, or the State Fair Commission.
- (2) \$192 M to defease any remaining highway revenue bonds issued for Section 5 of Interstate Highway 69.

Gaming Provisions:

Gaming Research Division - Beginning on July 1, 2021, all operations of the Indiana Department of Gaming Research will be transferred into the newly established Gaming Research Division of the Indiana Gaming Commission (IGC). The IGC will be responsible for appointing or employing the executive director and other persons as necessary [This is currently the responsibility of the Governor]. The Gaming Research Division also must report findings and recommendations to the IGC in addition to the Governor and the Legislative Council. The Gaming Research Division shall continue to impose an annual \$25,000 fee upon each riverboat owner or operating agent and permit holder operating a live pari-mutual horse racing facility in Indiana.

Law Enforcement Provisions:

Exoneration Fund - This bill repeals the Exoneration Fund, which was established to provide compensation to applicants determined by the Criminal Justice Institute to be wrongfully incarcerated. The Exoneration Fund was appropriated \$1 for each year of the current biennium. The balance is transferred to the General Fund on June 30, 2021. The state General Fund would presumably be liable to pay the awarded compensation for any individuals who were determined by the Criminal Justice Institute to be wrongfully incarcerated.

County Jails - This applies to the remaining portion of FY 2021. Any new General Fund expenditures will depend on whether reimbursements requested by county sheriffs exceed the current appropriation. For the remaining portion of FY 2021, the Budget Agency may augment the County Jail Maintenance Contingency Fund appropriation from the state General Fund by an amount necessary to cover jail and parole holds and may not be used to provide additional funding for persons convicted of Level 6 felonies.

On December 17, 2020, \$29.7 M of the \$30 M appropriation had been disbursed. Under the current state budget effective until June 30, 2021, counties receive a maximum daily \$37.50 per diem.

K-12 Education Provisions:

Advanced Placement Program - Under this bill, the appropriation for the Advanced Placement program would no longer be nonreverting. Unexpended money appropriated to the Department of Education to implement the program at the end of the fiscal year will revert to the state General Fund.

ADM Count - The bill would keep the State Board of Education's recent modification to the state tuition support rule, which only applied to the September 2020 average daily membership (ADM), in place for the February ADM. The impact will depend on schools' decisions regarding in-person, virtual, or hybrid learning models in response to the pandemic. If public schools have a similar portion of their students learning virtually in February as they did in September, the bill would increase state expenditures by approximately \$159 M. Under the bill, total state tuition support expenditures would still be projected to be about \$170 M less than the appropriation for FY 2021.

Transportation Provisions:

Public Mass Transportation Fund - This bill would decrease annual workload of the Budget Committee to review the Public Mass Transportation Fund formula established by INDOT. Additionally, the bill will decrease INDOT workload to prepare and provide information for Budget Committee members. Decreases in workload will be minimal.

Higher Education Provisions:

Scholarships and Grants - The bill would reduce workload for the Budget Agency, Budget Committee, and CHE. The Budget Committee would no longer be required to annually review maximum award amounts for the Higher Education Award and Freedom of Choice Award. The Budget Agency would only have to approve the award amounts determined by CHE in years when maximum award amounts increase.

Pension Provisions:

Teachers' Retirement Fund - The bill appropriates \$400 M from the General Fund to TRF Pre-'96 in FY 2021. The TRF Pre-'96 Account provides pension benefits to teachers who were hired before July 1, 1995. The TRF Pre-'96 Account is funded by state General Fund appropriations to the Pension Stabilization Fund.

Explanation of State Revenues:

State Offices and Administration Provisions:

Excise Fund - The bill increases the amount transferred from the Excise Fund to the Enforcement and Administration Fund from 30% to 45%. It also makes a corresponding decrease to the General Fund distribution, from 37% to 22%. Current law (unchanged by the bill) provides that 33% of the money in the Excise Fund is distributed to the general funds of the cities, towns, and counties in which licensed alcoholic beverage retailers and dealers are located. The bill would increase revenue to the Enforcement and Administration Fund and decrease revenue to the General Fund by approximately \$1.5 M annually beginning in FY 2022.

[Fees for alcoholic beverage retailer, dealer, and supplemental caterer permits are deposited in the Excise Fund. A total of \$10.6 M was deposited in the Excise Fund in FY 2019, and \$9.4 M was deposited in the Excise Fund in FY 2020. Money in the Enforcement and Administration Fund is used by the Alcohol and Tobacco Commission for the enforcement and administration of alcohol and tobacco laws under IC 7.1.]

Tax Provisions:

Venture Capital Investment Credit - The bill expands the definition of qualified investment capital to include investment capital provided to certain qualified Indiana investment funds for the purposes of the venture capital investment tax credit. The bill increases the maximum amount of the tax credit that may be claimed from 20% to 25% of the qualified investment capital provided, up to \$1 M, beginning in tax year 2022. If the qualified Indiana business is a minority or women's business enterprise, the tax credit is increased to 30% of the qualified investment capital provided, up to \$1.5 M. However, the credit for investments to a qualified Indiana investment fund is 20% of the qualified investment provided during the year up to \$5 M. The bill also increases the cap on annual credits that may be awarded by the IEDC under this chapter from \$12.5 M to \$20 M, with no more than \$7.5 M of that amount awarded for investment capital provided to qualified Indiana investment funds.

The new annual cap on the tax credit is effective beginning in tax year 2022, but the claiming of credits awarded for investment capital provided to qualified Indiana investment funds may not be claimed until FY 2024. The provisions of the bill may decrease revenue deposited into the General Fund beginning in FY 2023. The total revenue loss from the tax credit cannot exceed \$20 M annually per the bill's credit cap. The impact will depend in part on the applications received by the IEDC, the amount of investment capital made to qualifying businesses and funds, and subsequent certifications. [The credits will reduce General Fund revenue equal to the amount of credits claimed.]

Aviation Fuel Tax - Beginning in FY 2022, this bill will result in a General Fund loss of approximately \$1.85 M per year, and it will increase revenue to the Airport Development Grant Fund by the same amount each year.

Transportation Provisions:

Public Private Agreements - Beginning July 1, 2021, action by the General Assembly would be required to enact statute authorizing tolling in the state on certain sections of road. These sections include new construction of I-69 after FY 2011, new lanes of existing interstate, the Illiana Expressway, and the three tolled RiverLink bridges connecting Indiana and Kentucky. Removing this sunset date would remove one step that would be necessary beginning in FY 2022 to begin tolling on select sections of road.

Health and Human Services Provisions:

Hospital Assessment Fee (HAF) and Health Facility Quality Assessment Fee (QAF)- The bill extends the sunset date for the HAF, the Incremental HAF, and the Health Facility QAF by two years to FY 2023. These fees generated approximately \$1.18 B in FY 2020 and leveraged an estimated \$4.14 B in federal funds devoted to Medicaid expenditures.

Fee Extension	FY 2020 State Revenue	FY 2020 Federal Dollars Leveraged	Total
HAF	\$752 M	\$1.46 B	\$2.21 B
Incremental HAF*	\$262 M	\$2.36 B	\$2.62 B
QAF	\$162 M	\$315 M	\$478 M
Total	\$1.18 B	\$4.14 B	\$5.31 B

* 90% Federal Match Rate

Of the total the HAF revenue, 71.5% is used to increase Medicaid hospital reimbursement up to specified limits. Any remaining funds within the 71.5% portion of the fee that is not used for increased hospital reimbursement are distributed to the Hospital Medicaid Fee Fund. The remaining 28.5% of the HAF revenue is distributed to the state General Fund to offset other Medicaid costs incurred by the state. Revenue from the Incremental HAF is deposited in the Incremental Hospital Fee Fund to be used to partially fund the state share of the Medicaid expansion population receiving services within the Healthy Indiana Plan. Of the Health Facility QAF revenue, 70.6% is used to increase targeted Medicaid nursing facility reimbursement rates, while approximately 29.4% is distributed to the state General Fund for other Medicaid services.

Courts Provisions:

Judicial Insurance Adjustment - The bill will increase revenue to the state General Fund. It also removes the Judicial Insurance Adjustment Account and provides that any balance remaining in the account before June 30, 2021, will be transferred to the state General Fund.

The clerks collect the judicial insurance adjustment fee from litigants filing civil cases and from persons convicted of a felony, misdemeanor, ordinance violation, infraction, or required to pay a pretrial diversion fee. The judicial insurance adjustment fee is \$1. Based on a five-year average, the clerk collects \$733,752 in judicial insurance adjustment fees.

Explanation of Local Expenditures:

K-12 Education Provisions:

ADM Count - Under the bill, public schools' revenue from state tuition support could increase by approximately \$159 M, assuming public schools have a similar portion of their students learning virtually in February as they did in September [See *Explanation of State Expenditures.*]

Health and Human Services Provisions:

Hospital Assessment Fee (HAF) and Health Facility Quality Assessment Fee (QAF) - Local government-owned hospitals and nursing homes would continue to be assessed the HAF and QAF.

Courts Provisions:

Judicial Insurance Adjustment - This provision will have no impact on the clerks of the court.

Explanation of Local Revenues:

Law Enforcement Provisions:

County Jails - Any new revenue would depend on augmentations from the state budget. [*See Explanation of State Expenditures.*]

Health and Human Services Provisions:

Hospital Assessment Fee (HAF) and Health Facility Quality Assessment Fee (QAF) - Local government-owned hospitals and nursing homes would continue to receive the increased reimbursement rates financed by the HAF and QAF.

State Agencies Affected: All.

Local Agencies Affected: All.

Information Sources:

Fiscal Analyst: Heath Holloway, 317-232-9867; Jessica Harmon, 317-232-9854; Allison Leeuw, 317-234-9465.