that Circular ST-31, \textit{supra}, is contrary to law insofar as it
does not give force and effect to the provision of Burns' 64-
2654 (b) (8), \textit{supra}, which specifically accords to colleges and
universities, whether state or private, exemption from tax
liability under the Sales Tax Act for purchases and sales
by them which are used "predominantly" for the purpose
for which such organizations were granted exemption under
Section 6 (i) of the Gross Income Tax Act. Until such time
as the Legislature provides more specific standards for deter-
mining what purchases and sales by state and private colleges
and universities are to be considered as exempt from the
provisions of the Sales Tax Act, it is my opinion that Burns'
64-2654 (b) (8), \textit{supra}, is applicable to all such universities,
in that purchases and sales by them are exempt from the
tax imposed by the Sales Tax Act to the extent that such are
used by them predominantly for educational purposes.

OFFICIAL OPINION NO. 44

August 13, 1964

Hon. Anna Maloney
State Representative
131 East 5th Avenue
Gary, Indiana

Dear Representative Maloney:

You have requested my Official Opinion on the following
question contained in your letter of August 5, 1964:

"* * * Can the Financial Committee of the Gary
Common Council make revisions, changes, and amend-
ments to the salary and/or budget ordinance sub-
mitted by the mayor of the City of Gary so long as
such revisions, amendments, and changes do not repre-
sent increases in the amounts mentioned in said salary
and/or budget ordinance? If so, can such changes,
revisions, or amendments be made prior to the time
said salary and/or budget ordinances are reported
out of the committee for action by the full Council?"

In your letter requesting this Opinion, you have quoted
certain sections of the Ordinances of the City of Gary. It
is not my intention to infer that a conflict does exist between any of the quoted sections and the statutes of Indiana, but in any event the statute would control.

It is stated in The State of Indiana ex rel. Hunter v. Winterrowd, Building Inspector, et al. (1910), 174 Ind. 592, 596, 91 N. E. 956, as follows:

"* * * The statute is paramount, and it is elementary that a municipal ordinance, so far as it conflicts with the statute law is void * * *"

Procedures for the adoption of the salary and/or budget ordinance having been provided for by statute, such statute will control.

Your question groups both the salary ordinance and the budget ordinance together, but separate procedures are provided for each. Also, it is assumed that the salary ordinance to which you refer is the one adopted annually for appointive officers and employees and not the salary ordinance adopted every four years for elected officers.

The Acts of 1933, Ch. 233, Sec. 20a, as added by the Acts of 1959, Ch. 107, Sec. 6, and found in Burns' (1963 Repl.), Section 48-1233, reads in part as follows:

"(b) The salaries of each and every appointive officer, employee, deputy, assistant and departmental and institutional head shall be fixed by the mayor subject to the approval of the common council: Provided, That the provisions of this subsection shall not apply to the manner of fixing and the amount of compensation paid by any city to the members of the police and fire departments. The common council may reduce but in no event is the common council authorized to increase any salary so fixed by the mayor. All such salaries shall be fixed on or before the first day of August of each year for the next succeeding fiscal year and shall not be increased or reduced during such fiscal year. Wherein the provisions of this subsection are in conflict with the provisions of section 10 of chapter 233 of the Acts of the Indiana General Assembly of 1933, as the same has been amended, such provisions shall be deemed to amend the provisions of section 10."
This section provides that the finance committee shall prepare an ordinance and such ordinance may contain items which are decreased from those presented by the mayor to the common council. It then becomes the duty of the common council to adopt such ordinance in the amounts that they see fit subject to statutory restrictions on increases or decreases. In connection with the power of the common council, my 1956 O. A. G., page 228, No. 52, may be of interest to you as being involved in this general subject.

In summary hereof, it is my opinion that the finance committee has no power or duties in connection with the salary ordinance adopted for appointive officers and employees of the city, except the perfunctory process of considering salary amounts in fixing the tax levy. But in preparing a budget ordinance they may reduce any item, from the amount contained in the report of the mayor, except where such item concerns salaries as set by the salary ordinance.

OFFICIAL OPINION NO. 45
August 25, 1964

Hon. Spencer J. Schnaitter
State Representative
K of P Building
Madison, Indiana

Dear Representative Schnaitter:

This is in response to your letter of August 10, 1964, wherein you request an Official Opinion relative to the time limitation contained in the Acts of 1959, Ch. 107, Sec. 6, as found in Burns’ (1963 Repl.), Section 48-1233.

Your specific question is stated in the following paragraph of your letter:

“In light of the above statute, we would appreciate your official opinion as to whether a city council may enact such an ordinance to fix salaries of the next elected city officials, effective January 1, 1968, now or anytime before April 1, 1967, or is the council’s
There being no duties to be performed by the finance committee provided for in this statute, such committee would not officially perform any function in connection with the adoption of the salary ordinance.

The Acts of 1905, Ch. 129, Sec. 84, as amended and found in Burns' (1963 Repl.), Section 48-1506, reads in part as follows:

"It shall be the duty of each executive department, at the time provided by law, to submit to the joint meeting of the heads of the departments and of the various boards, an estimate of the amount of money required for their respective departments for the ensuing fiscal year, stating with as great particularity as possible each item thereof. The controller shall at the same time submit an itemized statement or estimate of the city expenditures for other purposes, for the ensuing year, over and above the money proposed to be used by the various executive departments. After such meeting, and reports and consultation, the city controller shall proceed to revise such estimates for the ensuing year, and shall then prepare a report to the mayor of the various estimated amounts required, in such controller's opinion, for each executive department, and for other city expenses, together with an estimate of the necessary per cent of taxes to be levied. The mayor shall at the next meeting of the common council present such report with such recommendations as he may see fit. It shall be the duty of the committee of finance of the common council thereupon to prepare an ordinance fixing the rate of taxation for the ensuing year, and also an ordinance making appropriations by items for the use of the various executive departments and other city purposes for the ensuing year. Such ordinance may reduce any estimated item for any executive department, from the figure submitted in the report of the city controller, but shall not increase the same unless recommended by the mayor. Such appropriation ordinance shall thereafter be promptly acted upon by the common council * * *

249