

HB

485

Alaska State Legislature

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POUCH V
JUNEAU, ALASKA 99811

REPRESENTATIVE
ROBERT H. "BOB" BETTISWORTH

211 CLEVELAND
FARBANKS, ALASKA 99701

March 2, 1984

M E M O R A N D U M

To: Representative Mitch Abood, Chairman, House State Affairs

From: Representative Bob Bettisworth

Subject: HB485 "An Act establishing a biennial budget; and providing for an effective date."

This bill is companion legislation to HJR52 which would amend the Constitution of the State of Alaska to provide for a biennial budget cycle. The acceptance by the voters of the ballot proposition contained in HJR 52 would trigger the changes to statute contained in the subject bill.

Essentially this bill will require the Governor to prepare and submit a budget for two succeeding fiscal years to the legislature by the fourth day of each second legislative session. The legislation basically inventories all existing sections of current statute for references to annual budgeting and changes them to conform to biennial budget format. Section 20 on page 7 is a new section providing for annual adjustments to the biennial budget including special and supplemental appropriations.

Sectional Analysis:

Section 1: Intent language expressing the legislative mandate to change to biennial budget with annual reporting and auditing to remain on an annual basis by fiscal year.

Section 2: Changes public school foundation account language to biennial format.

Section 3: Changes average daily membership language to biennial format.

Section 4: Changes annual language to biennial budget format for approved school food service programs.

Section 5: Changes the Alaska court system to conform with a biennial budget format by removing the word annual.

Section 6: Changes appropriations for "special officers" to a biennial format.

Section 7: Changes appropriations for "members of state boards and commissions" to a biennial format.

Section 8: Changes estimates of annual legislative operating expenses by the Legislative Council to a biennial budget for submission to the house and senate finance committees.

Section 9: Changes Legislative Council's budget submission from annual to biennial format

Section 10: Changes informational requirement that the Ombudsman submit an estimated budget for informational purposes to the governor from annual to biennially.

Section 11: Changes the annual format for contributions to the Alaska National Guard and Naval Militia retirement systems to a biennial budget time frame within the Department of Military Affairs budget.

Section 12: Removes references to annual with regard to operating budget amounts forming the basis for community disaster loans but leaves in fiscal year for determining when the disaster occurred.

Section 13: Under the Correctional Industries Commission statutes removes annual from budget review function to comply with proposed biennial budget format.

Section 14: Under statutes for the legally questionable "Reserve for Capital Outlay Account" the word annual is removed from the section dealing with appropriation of the proceeds of the account to put the language in conformation with a biennial budget format.

Section 15: Would put the proceeds of the legally questionable "Reserve for Energy Facilities Development Account" into conformity with biennial appropriation.

Section 16: Changes definition section of the "Public Finance" title to conform to a biennial budget cycle by removing budget year from the list of defined terms.

Section 17: Inserts the word biennial into the Statement of Policy section of title 37 (Public Finance) to bring it into conformity with a biennial budget format.

Section 18: Changes the responsibilities of the Governor under the Public Finance statutes from annual budget submission to the Legislature before the fourth legislative day to biennial budget submission before the fourth legislative day of each second regular legislative session. Section 18 also replaces fiscal year with two fiscal years to conform to a biennial budget format.

Section 19: Changes succeeding fiscal year to succeeding two fiscal years where proposed expenditures may not exceed estimated revenues.

Section 20: Adds a new subsection (AS 37.07.020 (e)) which empowers the governor to propose biennial budget adjustments, including special and supplemental appropriations during the first year of legislative sessions.

Section 21: Changes the responsibilities of the legislature under the Public Finance statutes to reflect a biennial budget format including estimates or receipts required to balance the budget over a biennial cycle etc.

Section 22: Makes comprehensive changes to the language related to the Office of Management and Budget within Title 37 to conform to a biennial budget cycle.

Section 23: Makes comprehensive changes to the Section on agency program and financial plans section of Title 37 to conform to a biennial budget cycle. This section deals with what level of detail is required in budget submissions, goals and objectives, implementation of goals and objectives, a budget, receipts from the past cycle, estimated current year receipts and the year to come, a statement of required legislation, etc.

Section 24: Brings the budget requests of boards and commissions generally under a biennial budget format.

Section 25: Makes changes to the section of statute regarding the Governor's recommendation to the legislature to conform to a

biennial budget format. The governor would be required to submit for the succeeding two fiscal years and the governor would present the comprehensive budget message to the joint session of the legislature before the fourth legislative day following the convening of the legislature in each second regular session instead of every regular session. The accompanying report required would contain operating and capital budget recommendations for the succeeding two fiscal years, a summary of state receipts in the last two fiscal years, and an estimate of state receipts for the succeeding two years. Expenditures would be summarized for the last two fiscal years and estimated for the succeeding two fiscal years as well.

Section 26: Would bring the possibly unconstitutional Alaska Renewable Resources Development Fund under the biennial budget format within the governor's budget presentation and in accordance with the Executive Budget Act in general (AS37.07).

Section 27: Again, with regard to the Alaska Renewable Resources Development Fund, expenditure plans for the income from the fund shall be prepared cooperatively and presented in the Governor's biennial budget presentation and not less than 80% of the fund plan for expenditure over the biennium must be spent on direct capital expenditures.

Section 28: Brings the Alaska Resources Corp. into the biennial budget format for preparation of their biennial budget and long range operating and financial plans.

Section 29: Changes the language under the section dealing with the Permanent Fund Corporation's budget to biennial operating budget instead of annual operating budget.

Section 30: Puts the Land Disposal Bank into conformity with a biennial budget cycle by mandating that the commissioner submit an appropriation request for land disposal by fiscal year but for the biennium.

Section 31: Would bring the chapter on Old Age and Survivors Insurance and specifically the section on administrative costs and rates of assessment on political subdivisions for the FICA administration fund into compliance with a biennial budget cycle.

Section 32: Brings the Outdoor Recreational, Open Space, and Historic Properties Development Fund within DNR into compliance with a biennial budget cycle with respect to plans for expenditure from the fund.

Section 33: Requires DOT/PF to submit a biennial budget to the legislature for their consideration and approval to include all money collected or anticipated to be collected under the motor fuel tax chapter. (note: Dept. of Public Works may be an error)

Section 34: Changes the requirement that a qualified regional aquaculture assoc. requesting state assistance submit an annual budget to commerce to submission of a biennial budget.

Section 35: Changes the statutes governing the Capital city development oversight committee to conform to a biennial budget cycle.

Section 36: Puts the working capital fund within DOT/PF into a biennial budget cycle with respect to legislative appropriations and executive budget detail.

Section 37: Would require that when the Alaska Power Authority permits a power project to be operated by a qualified utility under a contract or lease the authority must review a biennial budget for operation and maintenance of the project instead of an annual O&M budget.

Section 38: Changes the Municipal Bond Bank from an annual budget submission to a biennial budget format for preparation and submission under the Executive Budget Act.

Section 39: This section may be unnecessary since the CETA program no longer exists and apparently has been replaced with the JTPA program (Job Training Partnership Act). Karen Perdue, Director, Division of Community Development, C & RA, says that this may still be the authority for the new federal program.

Section 40: Deals with appropriations from the "oil spill mitigation account". The effect of removing the word annually where the sub-section dealing with legislative appropriations just makes it clear that the intention is not that the fund is to be tapped every year.

Section 41: Mandates that the annual interdepartmental program budget submission by the Governor's council on handicapped and gifted to the Department of Health and Social Services, as an informational supplement to the regular department budgets be done biennially.

Section 42: Effective date section making the effective date the effective date of HJR52 proposing an amendment to the Constitution of the State of Alaska to provide for a biennial budget.

All personal pronouns that relate to the sexes have been rendered neutral in this legislation where they previously existed.

rob



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y. State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 17, 1984

MEMORANDUM

TO: Representative Bob Bettisworth
Attention: Ralph Bennett

FROM: O. Alexander Hoke *O. Alexander Hoke*
Legislative Analyst

RE: Impact of Biennial Budgeting on Cash-Based Budgeting
Research Request 84-040

As you requested, this memorandum addresses the impact of legislation which initiates biennial budgeting (HJR 52 and HB 485) on the proposal to institute cash-based budgeting in the state (CS HJR 39).

Multiple Interpretations of Biennial Budgeting

The implications of having both biennial budgeting and cash-based budgeting approved by the voters in the upcoming general election depends substantially on the ultimate legislative interpretation of these budgeting concepts. As discussed in David Teal's November 25, 1983 memorandum to you, biennial budgeting has different meanings in the states in which it is practiced. Nine states have both biennial sessions with biennial budgets and special provisions for amending the budget on an annual basis. Twelve states have annual sessions with biennial budget cycles, and provide for full legislative review of the budget each year. Of the 21 states with a biennial budget, all but four make separate appropriations for each year of the biennium. Biennial budgeting practices among the states range from systems almost indistinguishable from annual budgeting to true two-year budgets with allowances for only minor (or emergency) amendments.

Biennial budgeting under HJR 52 and HB 485 seems to qualify as a true two-year budget and appropriation cycle. Biennial budgeting in HJR 52 calls upon the governor to submit "a budget for the next two fiscal years setting forth all proposed expenditures and anticipated income ...with a general appropriation bill to authorize the proposed expenditures..." The companion bill (HB 485) states that "the biennial budget shall contain appropriations for the succeeding two fiscal years and state agencies shall prepare their budgets on this basis."

The Intent of Cash-Based Budgeting

The intent of cash-based budgeting (as defined by HJR 39) is to eliminate "revenue uncertainty" by restricting appropriations for a given fiscal year to the level of total General Fund unrestricted revenues for the preceding calendar year. HJR 39 provides for a cash reserve equal to 1.5 times the appropriations of the fiscal year preceding the start of cash-based budgeting. With this cash reserve, the legislature can be certain that funds are available to cover expenditures through the balance of the current fiscal year (6 months) and the coming fiscal year (12 months).¹

Revenue Certainty Under A Biennial Budget

An 18-month revenue reserve is needed when cash-based budgeting applies to a 12-month budgeting period. If the State adopted a two-year (24-month) budget period through biennial budgeting, cash-based budgeting would require a 30-month cash reserve in order to provide full certainty that available funds are sufficient to offset expenditures over the budget period. With a 30-month reserve, the legislature would know at the beginning of the session that funds were available to cover expenditures through the remainder of the current budget period (6 months) as well as the coming budget period (24 months).

Table 1 shows the fiscal impact of combining the concepts of biennial budgeting and cash-based budgeting (as defined by HJR 39) for a 30th percentile revenue projection. The fiscal impact of these two proposals is the requirement of annual contributions (column 7) of general funds of between \$267 and \$358 million for a 12-year period, totaling \$3.686 billion. The underlying assumption of this calculation is that the legislature intends to prepare a two-year budget and wants to be certain that funds will be available to cover the total appropriation for the two-year budget.

In comparison with a two-year budget cycle, the cost of cash-based budgeting as defined in CS HJR 39 is \$2.866 billion (sum of contributions shown in Table 2), or \$820 million less than the cost of cash-based budgeting under a true biennial budget cycle.

¹See House Research Agency report 83-A; Cash-Based Budgeting: A Response to Revenue Uncertainty.

Table 1

THE GENERAL FUND AS A REVENUE SOURCE FOR CASH-BASED BUDGETING
Based on a 30th Percentile Revenue Projection
(millions of dollars)

Fiscal Year	DOR Revenue Forecast	Revenue Under CBB	Potential Expenditure Level	General Fund Earnings	General Fund BalanceCash-Based Budgeting Reserve Fund....		
						Contributions	Earnings	Balance
1981	3,769		3,769	201	2,010			
1982	4,174		4,174	254	2,510			
1983	3,624		3,624	266	2,660			
1984	3,233		3,233	300	3,000			
1985	3,219		3,219	250	2,500			
1986	3,365	3,069	3,069	259	2,590	296.1	14	310
1987	3,729	3,401	3,401	288	2,880	328.2	48	686
1988	3,711	3,384	3,384	288	2,880	326.6	87	1,109
1989	4,068	3,710	3,710	318	3,180	358.0	132	1,590
1990	3,880	3,539	3,539	301	3,010	341.4	183	2,114
1991	3,582	3,267	3,267	275	2,750	315.2	236	2,665
1992	3,536	3,225	3,225	270	2,700	311.2	294	3,270
1993	3,405	3,105	3,105	258	2,580	299.6	357	3,927
1994	3,290	3,000	3,000	247	2,470	289.5	425	4,641
1995	3,195	2,914	2,914	236	2,360	281.2	499	5,421
1996	3,033	2,766	2,766	222	2,220	266.9	580	6,269
1997	3,092	2,820	2,820	225	2,250	272.1	669	7,210
1998	3,159	3,890	3,063	960	10,327			
1999	3,213	3,989	3,491	1,007	10,845			
2000	3,245	4,029	3,939	1,016	10,945			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

col.

- 2 Department of Revenue January, 1984 revenue projection.
- 3 Revenues after effects of cash-based budgeting program. During the CBB reserve contribution period, revenues (column 3) are equal to DOR projections minus annual CBB contributions. Starting with the first cash-based budgeting year, revenues (column 3) are equal to DOR projections plus additional earnings which accrue to the general fund as a result of transferring the CBB reserve fund balance to the general fund.
- 4 Expenditure levels are presently limited to projected revenues (ignoring the Constitutional appropriation limit). Beginning with the first cash-based budgeting year, expenditures will be limited to the revenues collected in the previous calendar year.
- 5 General fund earnings are DOR projections up to the start of cash-based budgeting, at which point the general fund earnings will be augmented due to the increased earnings capacity of the general fund from that point on into the future.
- 6 Beginning with the first cash-based budgeting year, the general fund balance is substantially increased by the transfer of the CBB reserve fund.
- 8 Reserve fund earnings are calculated at a 10 percent annual interest rate compounded monthly.
- 9 The earnings rate of the CBB reserve fund is compounded monthly using a 10% annual interest rate.

This projection is based on a general fund unrestricted revenue contribution of 8.8 percent.

Table 2

THE GENERAL FUND AS A REVENUE SOURCE FOR CASH-BASED BUDGETING
Based on a 30th Percentile Revenue Projection
(millions of dollars)

Fiscal Year	DOR Revenue Forecast	Revenue Under CBB	Potential Expenditure Level	General Fund Earnings	General Fund BalanceCash-Based Budgeting Contributions	Reserve Earnings	Fund.... Balance
1981	3,769		3,769	201	2,010			
1982	4,174		4,174	254	2,540			
1983	3,624		3,624	266	2,660			
1984	3,233		3,233	300	3,000			
1985	3,219		3,219	250	2,500			
1986	3,365	3,069	3,069	259	2,590	296.1	14	310
1987	3,729	3,401	3,401	288	2,880	328.2	48	686
1988	3,711	3,384	3,384	288	2,880	326.6	87	1,100
1989	4,068	3,710	3,710	318	3,180	358.0	132	1,590
1990	3,880	3,539	3,539	301	3,010	341.4	183	2,114
1991	3,582	3,267	3,267	275	2,750	315.2	236	2,665
1992	3,536	3,225	3,225	270	2,700	311.2	294	3,270
1993	3,405	3,105	3,105	258	2,580	299.6	357	3,927
1994	3,290	3,000	3,000	247	2,470	289.5	425	4,641
1995	3,195	3,644	3,348	685	7,297			
1996	3,033	3,483	3,467	672	7,174			
1997	3,092	3,540	3,564	673	7,180			
1998	3,159	3,617	3,512	687	7,325			
1999	3,213	3,680	3,578	698	7,447			
2000	3,245	3,718	3,648	705	7,527			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

col.

2 Department of Revenue January, 1984 revenue projection.

3 Revenues after effects of cash-based budgeting program. During the CBB reserve contribution period, revenues (column 3) are equal to DOR projections minus annual CBB contributions. Starting with the first cash-based budgeting year, revenues (column 3) are equal to DOR projections plus additional earnings which accrue to the general fund as a result of transferring the CBB reserve fund balance to the general fund.

4 Expenditure levels are presently limited to projected revenues (ignoring the Constitutional appropriation limit). Beginning with the first cash-based budgeting year, expenditures will be limited to the revenues collected in the previous calendar year.

5 General fund earnings are DOR projections up to the start of cash-based budgeting, at which point the general fund earnings will be augmented due to the increased earnings capacity of the general fund from that point on into the future.

6 Beginning with the first cash-based budgeting year, the general fund balance is substantially increased by the transfer of the CBB reserve fund.

8 Reserve fund earnings are calculated at a 10 percent annual interest rate compounded monthly.

9 The earnings rate of the CBB reserve fund is compounded monthly using a 10% annual interest rate.

This projection is based on a general fund unrestricted revenue contribution of 8.8 percent.

Representative Bettisworth
February 17, 1984
Page 5

Biennial Budgeting With Annual Review

If the State of Alaska budgeted biennially but with full legislative review annually, the effect would be little different from annual budgeting. Consequently, the impact of this type of biennial budgeting on cash-based budgeting would be negligible.

We hope that this information is helpful in your deliberations on biennial budgeting. If you have further questions regarding the relationship of biennial budgeting to cash-based budgeting, please give the agency a call.

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REPRESENTATIVE

ROBERT H. "BOB" BETTISWORTH

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JUNEAU, ALASKA 99811

211 CUSHMAN STREET
FARBANKS, ALASKA 99701

March 5, 1984

M E M O R A N D U M

PHS
To: Representative Mitch Abood, Chairman, House State Affairs
Committee and committee members

From: Representative Bob Bettisworth

Subject: Expanded statute references for HB485

The following statutes are related to sections identified by number that appear in the original version of HB485, " An Act establishing a biennial state budget; and providing for an effective date." These expanded statutes are provided to help the committee see changes in context where sections and sub-sections may be too short for clarity. Where no additional material from statute is provided the subject of the statute to be amended is cited for clarity.

Section 1: Legislative intent.

Section 2: Public School Foundation Account

Section 3: Average daily membership allotment supplemental account.

Sec. 14.17.215. State aid to districts affected by state activities.

Repealed by § 20 ch 26 SLA 1980.

Editor's notes. — The repealed section derived from § 7, ch. 95, SLA 1969.

Section 4: State aid to districts operating approved school food service programs

Sec. ~~14.17.205~~ State aid to districts operating approved school food service programs. A school district that qualifies for and provides free and reduced-price lunches to students who qualify under the Federal Nutrition Act shall receive state aid in an amount for each free or reduced-price meal equal to the federal allowances multiplied by the school district's area differential in AS 14.17.051. (§ 11 ch 90 SLA 1977)

Section 5: Alaska Court System

Section 6: Special officers as employees.

Sec. 23.30.241. Special officers as employees. (a) A special officer appointed under AS 18.65.010(a) is considered an employee under this chapter only when he is actually traveling or working as a special officer. The weekly wage earned in the special officer's regular employment shall be used in computing the amount of compensation to be awarded. If a special officer has no regular employment, the minimum wage paid a full-time state trooper shall be used in computing the amount of compensation to be awarded.

(b) Annual appropriations to fund the coverage provided for in (a) of this section shall be provided for in the budget of the Department of Public Safety. (§ 1 ch 6 SLA 1978)

Section 7: Members of state boards and commissions as state employees.

Sec. 23.30.242. Members of state boards and commissions as employees. (a) A member of a state board or commission is considered an employee under this chapter only while he is actually traveling or working as a member of the board or commission. The maximum weekly wage shall be used in computing the amount of compensation to be awarded.

(b) Annual appropriations to fund the coverage provided for in (a) of this section shall be provided for in the budget of the Office of the Governor. (§ 1 ch 105 SLA 1969; am § 54 ch 69 SLA 1970)

NOTES TO DECISIONS

Stated in Laborers & Hod Carriers
Local 341 v. Gronthuis, Sup. Ct. Op. No.
773 (File Nos. 1435, 1459), 494 P.2d 808
(1972).

Collateral references. — Public offi-
cers as within statute. 5 ALR2d 415.

Section 8: Legislative operating expenses.

Section 9: Legislative Council.

Section 10: Ombudsman

Section 11: Alaska National Guard and Alaska Naval Militia retirement systems

Sec. 26.05.226. Contributions. (a) The Department of Military Affairs shall contribute to the Alaska National Guard and Alaska Naval Militia retirement system the amounts determined by the commissioner of administration as necessary to

(1) fund the system based on the actuarial requirements of the system as established by the commissioner of administration; and

(2) administer the system.

(b) The amount required for contributions from the Department of Military Affairs under (a) of this section shall be included in the annual appropriations made to the Department of Military Affairs. (§ 17 ch 159 SLA 1972; am § 14 ch 146 SLA 1980; am § 34 ch 137 SLA 1982)

Effect of amendments. — The 1980 amendment rewrote the section. The 1982 amendment, effective July 1,

1982, inserted "and Alaska Naval Militia" in the introductory paragraph of subsection (a).

- Section 12: Community Disaster Loans.
- Section 13: Correctional Industries Commission & correctional industries program.
- Section 14: Reserve for capital outlay account.

Sec. 37.05.157. Reserve for capital outlay account. (a) There is created within the general fund the reserve for capital outlay account.

(b) Twenty-five per cent of the annual receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land shall be allocated to the reserve for capital outlay account.

(c) The proceeds of the reserve for capital outlay account are subject to annual appropriation by the general appropriation act. (§ 10 ch 168 SLA 1978)

Opinions of Attorney General. — that it restricts the purpose for which This fund appears to be an unconstitutional dedication under § 7, art. IX. of the state constitution to the extent money may be spent. November 30, 1982. Op. Att'y Gen.

- Section 15: Reserve for energy facilities development account.

Sec 37.05.158. Reserve for energy facilities development account. (a) There is created within the general fund the reserve for energy facilities development account.

(b) Five per cent of the annual receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land shall be allocated to the reserve for energy facilities development account.

(c) The proceeds of the reserve for energy facilities development account shall be subject to annual appropriation by the legislature. Plans for expenditures from the account shall be submitted by the governor in accordance with the Executive Budget Act (AS 37.07) as part of the governor's annual budget presentation. (§ 11 ch 168 SLA 1978)

Opinions of Attorney General. — that it restricts the purpose for which This fund appears to be an unconstitutional dedication under § 7, art. IX. of the state constitution to the extent money may be spent. November 30, 1982. Op. Att'y Gen.

- Section 16: Public Finance title definitions

Sec. 37.05.400. Definitions for chapter. In this chapter

(1) "fiscal year," "budget year," "accounting year," or similar term means a year beginning on July 1 of one calendar year and ending on June 30 of the following calendar year;

(2) "handicapped individual" means an individual under a physical or mental disability which constitutes a substantial handicap to employment;

(3) "sheltered workshop" means a place where manufacture or handiwork is carried on, and which is operated for the primary purpose of providing remunerative employment to handicapped individuals.

Section 16 continued:

(4) "state agency," "agency," "department," or similar term means a department, office, institution, board, commission, bureau, division, or other administrative unit forming the state government, and includes the Alaska Pioneers' Home and the University of Alaska. (§ 3 art I ch 82 SLA 1955; am § 1 ch 186 SLA 1957; am § 2 ch 92 SLA 1975; am § 6 ch 46 SLA 1977)

Revisor's notes. — Formerly AS reorganized to alphabetize the defined 37.05.320. Renumbered in 1983 and terms.

NOTES TO DECISIONS

Cited in Carter v. Alaska Pub.
Employees Ass'n. Sup. Ct. Op. No. 2657
(File No. 6586), P.2d (1983).

- Section 17: State financial management--Statement of Policy.
- Section 18: Public Finance Title--Responsibilities of the Governor; budget submission to the legislature.
- Section 19: Public Finance Title--Responsibilities of the Governor; expenditures may not exceed revenues.
- Section 20: AS 37.07.020 amended to add new section allowing for adjustments to biennial budget in off years.
- Section 21: Public Finance Title--Responsibilities of the Legislature
- Section 22: Public Finance Title--Office of Management & Budget; responsibilities.
- Section 23: Public Finance Title--Agency program and financial plans; responsibilities of line agencies.
- Section 24: Public Finance Title--Agency program and financial plans; responsibilities of boards and commissions.
- Section 25: Public Finance Title--Governor's recommendation regarding operating and capital improvement programs to the legislature after consideration of state agency proposals
- Section 26: Alaska Renewable Resources Development Fund

Chapter 11. Renewable Resources Funds.

Article

- 1. Alaska Renewable Resources Development Fund (§§ 37.11.010 — 37.11.040)
- 2. Alaska Renewable Resources Investment Fund (§§ 37.11.050 — 37.11.090)

Article 1. Alaska Renewable Resources Development Fund.

- | Section | Section |
|---|----------------------|
| 10. Alaska renewable resources development fund | 30. Fund utilization |
| 20. Fund authorization level | 40. Fund balances |

Section 26 continued:

Editor's notes. — This article may be unconstitutional under the rationale of *State v. Alex*, Sup. Ct. Op. No. 2488 (File Nos. 5065, 5068, 5142), P.2d (1982), which held that the assessment provisions of the Fisheries Enhancement balance in the Alaska renewable resources permanent fund (AS 37.11.050) reaches the sum of \$250,000,000, AS 37.11.010 — 37.11.040 are repealed and the unexpended and unobligated balance in the Alaska renewable resources

Loan Program Act (AS 16.10.530) dedicated the proceeds of a state tax or license to a special purpose in contravention of Alaska Const., art. IX, § 7.

Section 2, ch. 130, SLA 1974, provides: "On June 30 of the fiscal year in which the development fund (AS 37.11.010) lapses into the general fund." To date, no money has been paid into the Alaska renewable resources permanent fund, and consequently, there is no balance in that fund.

Sec. 37.11.010. Alaska renewable resources development fund. There is established as a separate fund the Alaska renewable resources development fund. Funds apportioned by AS 37.11.020 for deposit in the Alaska renewable resources development fund are to guarantee the enhancement and development of the state's renewable resources. (§ 1 ch 130 SLA 1974)

Sec. 37.11.020. Fund authorization level. Not less than five per cent of the receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land shall be deposited in the Alaska renewable resources development fund. These deposits shall be invested in accordance with AS 37.10.070 (investment of surplus state funds) and the resulting interest shall accrue to the fund. (§ 1 ch 130 SLA 1974)

Sec. 37.11.030. Fund utilization. Appropriations from this fund shall provide funding for capital and operating expenditures for the rehabilitation, enhancement and development of renewable resources programs. Plans for expenditures from this fund shall be submitted by the governor in accordance with the Executive Budget Act (AS 37.07) as part of the governor's annual budget presentation to the legislature. (§ 1 ch 130 SLA 1974)

Sec. 37.11.040. Fund balances. Unappropriated or otherwise unencumbered balances remaining in the Alaska renewable resources development fund at the close of each fiscal year shall be transferred to the Alaska renewable resources investment fund. (§ 1 ch 130 SLA 1974; am § 4 ch 179 SLA 1978)

Article 2. Alaska Renewable Resources Investment Fund.

Section	Section
50. Alaska renewable resources investment fund	70. Utilization of fund income
60. Fund principal	80. Protection of principal
	90. Investments

Cross references. — For the Alaska Resources Corporation, see AS 37.12.
Legislative history reports. — For

letter of intent on ch. 179, SLA 1978 (HB 682), see 1978 House Journal, p. 830.

Section 26 continued:

§ 37.11.050

ALASKA STATUTES

§ 37.11.100

Sec. 37.11.050. Alaska renewable resources investment fund. There is established as a separate fund the Alaska renewable resources investment fund. Funds apportioned by AS 37.11.060 for deposit in the investment fund are to be held perpetually in trust for the benefit of both present and future generations of Alaskans. (§ 1 ch 130 SLA 1974; am § 5 ch 179 SLA 1978)

Sec. 37.11.060. Fund principal. Unappropriated or otherwise unencumbered balances remaining in the Alaska renewable resources development fund at the close of each fiscal year shall be deposited in the investment fund. These deposits shall be considered fund principal and shall be invested in perpetuity in accordance with AS 37.11.090. (§ 1 ch 130 SLA 1974; am § 6 ch 179 SLA 1978)

Section 27: Renewable resources investment fund--Utilization of fund income.

Sec. 37.11.070. Utilization of fund income. (a) Income received from investment or investment fund principal shall not be held in trust, but shall be used to provide funding for capital and operating appropriations for the rehabilitation, enhancement and development of renewable resources programs. The primary purpose of the programs shall be to restore the renewable resources of the state for common beneficial uses.

(b) Plans for expenditures from fund income shall be prepared in detail by the cooperative efforts of the Departments of Natural Resources, Fish and Game, Environmental Conservation, and Commerce and Economic Development, and shall be submitted by the governor in accordance with the Executive Budget Act (AS 37.07) as part of the governor's annual budget presentation to the legislature. Not less than 80 per cent of the total plan submitted each year shall be apportioned for direct capital expenditures or investments. (§ 1 ch 130 SLA 1974; am § 7 ch 179 SLA 1978)

Sec. 37.11.080. Protection of principal. A transaction involving investment fund principal which results in an actual dollar loss of principal shall be reimbursed in full from fund income before any additional income is expended. (§ 1 ch 130 SLA 1974; am § 8 ch 179 SLA 1978)

Sec. 37.11.090. Investments. Investment responsibility for the Alaska renewable resources investment fund shall reside with the treasury division of the Department of Revenue. The treasury division may invest the Alaska renewable resources investment fund in any investments authorized in AS 39.35.110 so long as its investment policy is consistent with the prudent-man rule. (§ 9 ch 179 SLA 1978)

Sec. 37.11.100. [Repealed, § 72 ch 113 SLA 1982.]

Section 28: Alaska Resources Corporation--Duties; long range operating and financial plans and budget.

§ 37.12.010

PUBLIC FINANCE

§ 37.12.015

Chapter 12. Alaska Resources Corporation.

Section	Section
10. Alaska Resources Corporation created	70. Powers
15. Purposes	75. Duties
22. Development capital fund	80. Financial assistance
25. Board of directors	85. Eligibility for financial assistance
30. Composition of the board of directors	90. Reports and publications
35. Term of office	95. Operating budget
45. Qualifications of board members	100. Annual audit
50. Quorum and transaction of business	105. Cooperation with other agencies
55. Compensation of board members	110. Tax exemption
60. Executive director; staff	120. Public access to information
65. Conflicts of interest	125. Definitions

Legislative history reports. — For letter of intent on ch. 179, SLA 1978 (HB 682), see 1978 House Journal, p. 830.

Sec. 37.12.010. Alaska Resources Corporation created. There is created the Alaska Resources Corporation to carry out the purposes of this chapter. The corporation is a public corporation of the state and an instrumentality of the state within the Department of Commerce and Economic Development, but has a legal existence independent of and separate from the state. The exercise by the corporation of the powers conferred by this chapter is considered an essential function of the state. (§ 3 ch 179 SLA 1978; am § 1 ch 142 SLA 1982)

Cross references. — For Forest Products Producers Assistance Fund within corporation, see § 1, ch. 92, SLA 1930, Temporary and Special Acts; for expiration date of corporation, see AS 44.66.010(a)(7).

Effect of amendments. — The 1982

amendment substituted "Alaska Resources Corporation" for "Alaska Renewable Resources Corporation" in the first sentence and "Department of Commerce and Economic Development" for "Department of Revenue" in the second sentence.

Sec. 37.12.015. Purposes. The purposes of the corporation are to

- (1) facilitate the rehabilitation, enhancement, and development of the state's resources so as to strengthen and diversify the state economy;

- (2) provide development capital for the establishment and expansion of small enterprises in resource industries in the state in ways that enhance private capital investment; and

- (3) strengthen and diversify the state's economy by the establishment and expansion of small enterprises that are self-supporting and that may

Section 28 continued: Alaska Resources Corp.

§ 37.12.020

ALASKA STATUTES

§ 37.12.030

- (A) develop underutilized state resources and reduce the state's dependence on oil and gas;
 - (B) reduce the seasonality of employment in the state;
 - (C) offer employment opportunities for unemployed state residents;
 - (D) provide additional tax revenues to the state government and to local governments;
 - (E) increase exports from the state or reduce imports into the state;
- or
- (F) provide new products or services not previously available in the state. (§ 3 ch 179 SLA 1978; am § 2 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote this section.

Sec. 37.12.020. Allocation. [Repealed, § 33 ch 142 SLA 1982.]

Sec. 37.12.022. Development capital fund. The development capital fund is established in the corporation, consisting of money or assets appropriated or transferred to the corporation, and payments of principal and interest on loans and equity investments made by the corporation. The development capital fund shall be used to finance projects that qualify for assistance under this chapter, and to pay the operating expenses of the corporation. If money remains in the development capital fund after financing projects that qualify for assistance under this chapter and after paying the operating expenses of the corporation, the money shall be invested by the corporation under AS 37.10.070(a). (§ 3 ch 142 SLA 1982)

Sec. 37.12.025. Board of directors. A board of director corporation is established as its governing body. (§ 3 ch 179 SLA 1978; am § 4 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "directors" for "trustees."

Sec. 37.12.030. Composition of the board of directors. The board consists of four members with business, lending, or investment experience appointed by the governor and the commissioner of commerce and economic development or the commissioner's designee. The board shall annually elect a chairman from among its members. (§ 3 ch 179 SLA 1978; am § 5 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote this section.

Editor's notes. — Section 34, ch. 142, SLA 1982, provides: "The initial terms of members of the Board of Directors of the Alaska Resources Corporation appointed

by the governor under AS 37.12.030 as amended in sec. 5 of this Act shall be one member serving one year, one member serving two years, one member serving three years, and one member serving four years. Initial members of the Board of

Section 28 continued: Alaska Resources Corp.

37.12.035

PUBLIC FINANCE

§ 37.12.050

Directors of the Alaska Resources Corporation shall be appointed within 30 days from the effective date of this Act (July 1, 1982). The Board of Trustees of the Alaska Renewable Resources Corporation serves as an interim Board of Directors of the Alaska Resources Corporation until the

initial Board of Directors of the Alaska Resources Corporation is appointed by the governor. The Board of Trustees of the Alaska Renewable Resources Corporation is dissolved on appointment of the initial Board of Directors of the Alaska Resources Corporation."

Sec. 37.12.035. Term of office. The members of the board shall be appointed for terms of four years, and they may be reappointed. Terms of members appointed by the governor shall be staggered. The governor shall immediately appoint a member to fill a vacancy in the membership of the board for the unexpired term. (§ 3 ch 179 SLA 1978; am § 6 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment deleted "of trustees" following "board" in the first sentence, inserted "of members appointed by the governor" in the second sentence, and rewrote the third

sentence, which formerly read, "The initial terms shall be one member serving for two years, one member serving for three years, and one member serving for four years."

Sec. 37.12.040. Removal and vacancies. [Repealed, § 33 ch 142 SLA 1982.]

Sec. 37.12.045. Qualifications of board members. (a) No person may be appointed to the board who has not been a resident of the state for at least three years.

(b) No member of the board may hold any other state or federal office, position, or employment, whether elective or appointive, except as a member of the armed forces of the United States or the state. (§ 3 ch 179 SLA 1978)

Sec. 37.12.050. Quorum and transaction of business. (a) Three members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board.

(b) The board may meet and transact business by electronic media if (1) public notice of the time and locations where the meeting will be held by electronic media has been given in the same manner as if the meeting were held in a single location; (2) participants and members of the public in attendance can hear and have the same right to participate in the meeting as if the meeting were conducted in person; and (3) copies of pertinent reference materials, statutes, regulations, and audio-visual materials are reasonably available to participants and to the public. A meeting by electronic media as provided in this subsection has the same legal effect as a meeting in person. (§ 3 ch 179 SLA 1978; am § 7 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment designated the former provisions of this section as subsection (a), sub-

stituted "Three members" for "Two members" at the beginning of that subsection, and added subsection (b).

Chapter 28 continued: Alaska Resources Corp.

§ 37.12.055

ALASKA STATUTES

§ 37.12.070

Sec. 37.12.055. Compensation of board members. Members of the board receive \$200 for each day spent on official business of the corporation, and are entitled to per diem and travel expenses authorized by law for state boards and commissions under AS 39.20.180. (§ 3 ch 179 SLA 1978; am § 8 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote this section.

Sec. 37.12.060. Executive director; staff. (a) The board shall employ an executive director to administer the corporation in accordance with this chapter, and to perform other duties that the board may prescribe. The executive director serves at the pleasure of the board and may not be a member of the board. The board determines the salary of the executive director.

(b) The executive director may, with the approval of the board, select and employ staff. The executive director and staff are in the exempt service under AS 39.25. (§ 3 ch 179 SLA 1978; am § 9 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote the provisions of the former first sentence as subsection (a), designated the former second and third sentences as subsection (b), deleted "additional" preceding "staff" and "as necessary" following "staff" in the first sentence of present subsection (b), and substituted "staff" for "all employees of the board" in the second sentence of subsection (b).

Sec. 37.12.065. Conflicts of interest. (a) Members of the board are subject to the provisions of AS 39.50.

(b) No member or employee of the board may acquire an interest, direct or indirect, in a corporation, company, association, or project owned, controlled, or invested in by the corporation. If a member or employee owns or controls such an interest, the member or employee shall immediately disclose the interest in writing to the board and refrain from participating in any manner in any activity relating to that interest. (§ 3 ch 179 SLA 1978; am § 10 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment deleted "of trustees" following "board" in subsection (a).

Sec. 37.12.070. Powers. In carrying out the corporate powers of the corporation, the board may

- (1) adopt, alter, and use a corporate seal;
- (2) prescribe, adopt, amend, and repeal bylaws;
- (3) sue and be sued in the name of the corporation;
- (4) enter into any agreements necessary to the exercise of its powers and functions;

Section 28 Continued: Alaska Resources Corp.

§ 37.12.070

PUBLIC FINANCE

§ 37.12.070

(5) accept grants from and contract with the federal government and the state or its political subdivisions and to that end comply with the provisions of federal, state, or local programs where necessary, except that it may not enter into any agreements whereby any permanent state or local government position is funded or partially funded in connection with a project;

(6) accept grants and loans from other sources than those in (5) of this section to be held and used for the purposes of the corporation;

(7) appear in behalf of the corporation before boards, commissions, departments, or other agencies of municipal, state, or federal government;

(8) acquire, hold, use, lease, sell, or otherwise dispose of property of any kind, real, personal, or mixed, or any interest in it;

(9) hold, as a means of securing the providing of financial assistance, patents, copyrights, trademarks, royalties, or any other evidences of protection or exclusivity issued under the laws of the United States or any state or nation;

(10) prepare, publish, and distribute technical studies, reports, bulletins and other materials it considers appropriate;

(11) invest in projects that are economically viable and are or are expected to become income-producing by buying stock or other equity, by purchasing secured and unsecured debt of any priority, and debt with flexible repayment schedules and royalty and profit sharing agreements, but investments may not be made at below market rates;

(12) *[Repealed, § 33 ch 142 SLA 1982.]*

(13) adopt regulations governing the exercise of its corporate powers;

(14) *[Repealed, § 33 ch 142 SLA 1982.]*

(15) do all acts and things necessary or desirable to carry out the purposes of the corporation.

(16) *[Repealed effective June 30, 1984]* provide funds to the Alaska Council on Science and Technology, to be awarded and administered in the manner prescribed by AS 44.21.241 — 44.21.255 when the funds are to be expended to accomplish a corporate purpose under AS 37.12.015. (§ 3 ch 179 SLA 1978; am §§ 2, 8 ch 56 SLA 1979; am Executive Order No. 48, § 2 (1981); am §§ 11, 33 ch 142 SLA 1982)

Effect of amendments. — The 1979 amendment added paragraph (16).

The 1981 amendment substituted "AS 44.21.241 — 44.21.255" for "AS 44.19.181 — 44.19.189" in paragraph (16).

The 1982 amendment rewrote paragraph (11) which formerly read: "invest, in such form as it considers appropriate, in projects which are economically viable and income-producing," and repealed para-

graphs (12) and (14), which read, respectively: "provide grants for projects having broad public application which do not have direct income-producing potential" and "deposit funds, or invest surplus funds through the treasury division of the Department of Revenue which may invest in any investment authorized in AS 39.35.110 so long as its investment policy is consistent with the prudent-man rule."

Section 28 continued: Alaska Resources Corp.

§ 37.12.075

ALASKA STATUTES

§ 37.12.080

~~Sec. 37.12.075~~ Duties. In carrying out the purposes of this chapter the board shall

(1) provide financial assistance for resource projects that the board finds will accomplish the purposes of the corporation as set out in AS 37.12.015;

(2) keep minutes of each meeting of the board and send a certified copy of the minutes to the governor and the Legislative Budget and Audit Committee;

(3) annually prepare long-range operating and financial plans and the budget for the next fiscal year;

(4) monitor approved projects for compliance with this chapter and provide operational and performance evaluations of projects receiving financial assistance;

(5) before an investment is made in a resource project by the corporation, prepare written findings on the project that include a consideration of the expectation of return from the project and the risk involved in undertaking the project. (§ 3 ch 179 SLA 1978; am § 12 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote this section.

Sec. 37.12.080. Financial assistance. (a) In providing financial assistance, the board shall

(1) consider the proposals of qualified applicants only after the applicant has submitted a detailed proposal in the form prescribed by the board; no assistance may be approved by the board unless it finds, in writing, that

(A) the proposed project, if successful, will further the purposes of the corporation as set out in AS 37.12.015;

(B) the application contains an adequate plan for project implementation, including, when applicable, a complete business, financial and marketing plan for commercial activities;

(C) sufficient capital is not available from other sources on reasonable terms;

(D) *[Repealed, § 33 ch 142 SLA 1982.]*

(E) the applicant demonstrates that sufficient technical and business expertise to accomplish the objectives of the proposed project is available;

(F) all costs, including additional governmental cost, associated with and ancillary to the project and future obligations generated by the project have been identified, including any necessary operating, maintenance, or other support costs for the life of the project;

(G) *[Repealed, § 33 ch 142 SLA 1982.]*

(2) use the financial mechanism most appropriate to the conditions of the applicant and the proposed resource project and which will most effectively utilize the funds available;

Section 29: Permanent Fund Corporation--Corporation Budget

Section 30: Land Disposal Bank--submission by commissioner of an appropriation necessary for disposal of state land contained in the governor's request to the legislature.

Article 2. Land Availability for Private Use.

Section	Section
20. Land disposal bank	35. Criteria for program selection
21. Disposal of municipal grant land entitlements	40. Availability of university land
25. Variety of uses	45. Survey and subdivision
30. Land availability programs	50. Access to private use areas
	55. Access through private use areas

Sec. 38.04.020. Land disposal bank. (a) The commissioner shall establish a land disposal bank containing state land classified for disposal into private ownership.

(b) The land disposal bank does not include

(1) land nominated for selection or selected by a municipality to satisfy a general grant land entitlement under AS 29.18.201 — 29.18.213;

(2) land retained in state ownership for multiple-use management;

(3) land where less than a fee simple title has been conveyed;

(4) land retained in state ownership under an enactment of the legislature or by the governor or a state agency under authority of law.

(c) Land to be retained in state ownership may be classified by the commissioner into multiple-use management categories under AS 38.05.300. Land outside a municipality to be retained in state ownership consists of land classified for retention in state ownership by the commissioner by July 1, 1985. Land conveyed to the state by the federal government that is to be retained in state ownership consists of land classified by the commissioner within two years of receipt of tentative approval or patent, whichever occurs first. State land not classified for retention in state ownership or selected by the municipality under this section shall be classified and included in the land disposal bank. The commissioner shall ensure that the bank includes at least 500,000 acres.

(d) On January 15 of each year, the commissioner shall report to the legislature on the status of land in the land disposal bank under the following categories:

(1) [Effective July 1, 1984] land suitable for homestead disposal;

(2) land suitable for subdivision disposal;

(3) land suitable for agricultural, commercial, or industrial disposal; and

(4) land suitable for other purposes.

(e) The commissioner shall annually submit to the governor an appropriation request necessary for the disposal of state land in the land disposal bank that shall be included in the budget submitted to the legislature by the governor. For each fiscal year, the request shall include an estimate of the amount necessary

(1) [Effective July 1, 1984] for survey and disposal of land proposed to be made available for homestead staking, with the general location of the land;

Section 30 Continued: Land Disposal Bank

(2) for survey and disposal of land to be offered as agricultural, commercial, industrial, or other uses under AS 38.05.055 or 38.05.057, with the general location of the land;

(3) for the survey and disposal of land proposed to be offered as subdivisions, with the general location of the land;

(4) for preliminary feasibility studies, engineering design work, and construction of access roads and capital improvements required by municipal subdivision ordinance or regulation of the platting board under AS 29.33.150; if an accurate determination of the amounts necessary for access roads or capital improvements cannot be made at the time the estimate is submitted, a schedule for obtaining the estimates, constructing the access roads or capital improvements, and disposing of the land shall be submitted;

(5) for identification of land that will be proposed for disposal under this subsection in future fiscal years.

(f) The request of the commissioner under (e) of this section shall be based on an annual written assessment by the commissioner of the market for state land in the different regions of the state. If the state land is in or adjacent to municipalities or unincorporated communities, the assessment shall be developed in consultation with the municipalities or unincorporated communities. The assessment must include a survey of the supply of privately owned land offered for sale, municipal land for which a disposal plan has been completed, and federal land available for sale, lease, or permit for specific activities. The assessment of the market for state land shall be based on an analysis of the amount of private, municipal, and federal land available for disposal on terms equivalent to those used in comparable state land disposal programs and shall include the length of time land remains on the market before it is sold. The assessment must include findings regarding the amount and general location of state land, in addition to land offered by private landowners or available from a municipal government or the federal government, that is necessary to meet the statewide demand for at least five fiscal years immediately after the year in which the assessment is made. The assessment must also state the general location of land proposed for disposal in the next fiscal year and recommendations for the method of disposal under which the land will be offered to the public.

(g) After July 1 of each year, the commissioner shall direct the expenditure of money appropriated for the disposal of land in response to requests made under (e) and (f) of this section for the following:

(1) [Effective July 1, 1984] Land designated as suitable for homestead disposal shall be classified and surveyed under this chapter and AS 38.05 and made available for staking and lease under AS 38.09.

(2) Land designated as suitable for subdivision disposal shall be surveyed, subdivided, classified, and disposed of as follows:

(A) up to 80 percent of the parcels shall be sold under the lottery sale procedures established in AS 38.05.057 and 38.05.065;

(B) at least 10 percent of the parcels shall be disposed of as homesites under AS 38.08.010 — 38.08.120; and

(C) at least an additional 10 percent of the parcels shall be disposed of as homesites under AS 38.08.010 — 38.08.120 except that, notwithstanding AS 38.08.040(b), parcels offered under this subparagraph shall be offered by lottery under AS 38.05.057.

Section 30 Continued: Land Disposal Bank

(3) Land designated agricultural, commercial, industrial, or suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057.

(h) Individual parcels disposed of in subdivisions may not exceed five acres unless the commissioner determines that a larger size is necessary to comply with zoning ordinances or to permit the design of a viable subdivision because of topographical features, soil conditions, on-site sewage disposal requirements, or water drainage or supply considerations that are unique to the subdivision.

(i) Nothing in this section prevents the disposal of other land by the commissioner in accordance with AS 38.05.055, 38.05.057, 38.05.070, the issuance of remote cabin permits under AS 38.05.079, AS 38.08.010 — 38.08.120, or other law.

(j) A person or an agency of the state may nominate land retained in state ownership for inclusion in the land disposal bank or may nominate land in the land disposal bank for retention in state ownership. The commissioner shall hold public hearings semiannually to take nominations under this subsection. A transfer of land from retention in state ownership to the land disposal bank or from the land disposal bank to retention in state ownership shall be accomplished through a classification order under AS 38.05.300 and with notice under AS 38.05.345. The commissioner shall make a written determination within six months after receipt of a nomination if he determines that land nominated will not be classified or reclassified as requested.

(k) The commissioner may withdraw from the land disposal bank state land that has been offered for disposal but not conveyed within five years after inclusion in the land disposal bank. State land withdrawn from the land disposal bank under this section must be reclassified under AS 38.04.065. (§ 5 ch 181 SLA 1978; am § 11 ch 85 SLA 1979; am § 4 ch 113 SLA 1981; am § 2 ch 90 SLA 1983; am §§ 2 — 4 ch 103 SLA 1983)

Section 30 continued: Land Disposal Bank

Revisor's notes. — In the first sentence of subsection (g), the words "(e) and" were added preceding "(f) of this section" and in the third sentence of subsection (j), the word "with" was added preceding "notice under" by the revisor of statutes pursuant to AS 01.05.031.

Effect of amendments. — The 1979 amendment rewrote this section.

The 1981 amendment rewrote this section.

The first 1983 amendment, effective July 23, 1983, in subsection (c), deleted the former second sentence and substituted "July 1, 1985" for "July 1, 1983" at the end of the present second sentence.

The second 1983 amendment, effective July 1, 1984, substituted "homestead" for "remote parcel" in paragraphs (d)(1), (e)(1), and (g)(1) and substituted "AS 38.09" for "AS 38.05.077" at the end of paragraph (g)(1).

Editor's notes. — See Editor's notes following the chapter analysis.

Until July 1, 1984, subsections (d), (e) and (g) read as follows: "(d) On January 15 of each year, the commissioner shall report to the legislature on the status of land in the land disposal bank under the following categories:

"(1) land suitable for remote parcel disposal;

"(2) land suitable for subdivision disposal;

"(3) land suitable for agricultural, commercial, or industrial disposal; and

"(4) land suitable for other purposes.

"(e) The commissioner shall annually submit to the governor an appropriation request necessary for the disposal of state land in the land disposal bank that shall be included in the budget submitted to the

"(2) Land designated as suitable for subdivision disposal shall be surveyed, subdivided, classified, and disposed of as follows:

"(A) up to 80 percent of the parcels shall be sold under the lottery sale procedures established in AS 38.05.057 and 38.05.065;

"(B) at least 10 percent of the parcels shall be disposed of as homesites under AS 38.08.010 — 38.08.120; and

"(C) at least an additional 10 percent of the parcels shall be disposed of as homesites under AS 38.08.010 — 38.08.120 except that, notwithstanding AS

legislature by the governor. For each fiscal year, the request shall include an estimate of the amount necessary

"(1) for survey and disposal of land proposed to be made available for remote parcel staking, with the general location of the land;

"(2) for survey and disposal of land to be offered as agricultural, commercial, industrial, or other uses under AS 38.05.055 or 38.05.057, with the general location of the land;

"(3) for the survey and disposal of land proposed to be offered as subdivisions, with the general location of the land;

"(4) for preliminary feasibility studies, engineering design work, and construction of access roads and capital improvements required by municipal subdivision ordinance or regulation of the platting board under AS 29.33.150; if an accurate determination of the amounts necessary for access roads or capital improvements cannot be made at the time the estimate is submitted, a schedule for obtaining the estimates, constructing the access roads or capital improvements, and disposing of the land shall be submitted;

"(5) for identification of land that will be proposed for disposal under this subsection in future fiscal years.

"(g) After July 1 of each year, the commissioner shall direct the expenditure of money appropriated for the disposal of land in response to requests made under (e) and (f) of this section for the following:

"(1) Land designated as suitable for remote parcel disposal shall be classified and surveyed under AS 38.04.005 — 38.04.910 and AS 38.05.005 — 38.05.370 and made available for staking and sale under AS 38.05.077.

38.08.040(b), parcels offered under this subparagraph shall be offered by lottery under AS 38.05.057.

"(3) Land designated agricultural, commercial, industrial, or suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057."

Legislative history reports. — For adoption of the Free Conference Committee letter of intent on AS 38.04.020(a) as repealed and reenacted in House Bill No. 66 (ch. 85, SLA 1979), see 1979 House Journal, pp. 1330 — 1333, 1355; 1979 Senate Journal, pp. 1120 — 1124.

Section 31: Old Age & Survivors Insurance--Federal territorial agreement; political subdivision pro rata shares.

Chapter 30. Insurance and Supplemental Employee Benefits.

Article

1. Old Age and Survivors Insurance (§§ 39.30.010 — 39.30.080)
2. Group Life and Health Insurance (§§ 39.30.090 — 39.30.100)
3. Special Hazard Insurance (§ 39.30.130)
4. Supplemental Employee Benefits on Withdrawal from Social Security (§§ 39.30.150 — 39.30.180)

Article 1. Old Age and Survivors Insurance.

Section

10. Federal territorial agreement
20. Contributions by employees
30. Plans for coverage of employees of political subdivisions
40. Deposits and withdrawals

Section

50. Administrative costs
60. Rules and regulations
70. Studies and reports
80. Definitions

Sec. 39.30.010. Federal territorial agreement. (a) The director of finance, with the approval of the governor, may on behalf of the territory enter into an agreement with the Federal Security Administrator, consistent with AS 39.30.010 — 39.30.080, for the purpose of extending the benefits of the federal old age and survivors insurance system to employees of the territory or a political subdivision with respect to services specified in the agreement which constitute employment.

(b) The agreement may contain provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions which the parties agree upon, but, except as may be otherwise required under the Social Security Act as to the services to be covered, the agreement shall provide in effect that

(1) benefits will be provided for employees whose services are covered by the agreement, and their dependents and survivors, on the same basis as though the services constituted employment within the meaning of Title II of the Social Security Act;

(2) the territory will pay to the Secretary of the Treasury, as may be prescribed under the Social Security Act, contributions with respect to wages equal to the sum of the taxes which would be imposed by §§ 1400 and 1410 of the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that act;

(3) the agreement shall be effective with respect to services in employment covered by the agreement performed from the date specified in it or, as to services to which the agreement is extended by a modification to it, from the date specified in the modification;

(4) all services which constitute employment and are performed in the employ of the territory by employees of the territory shall be covered by the agreement; and

(5) all services which (A) constitute employment, (B) are performed in the employ of a political subdivision of the territory, and (C) are covered by a plan which conforms to the agreement and is approved as set out in AS 39.30.030 shall be covered by the agreement. (§ 3 ch 95 SLA 1951; am § 1 ch 125 SLA 1951; am § 1 ch 89 SLA 1957)

Section 31 continued: Old Age & Survivors Insurance

Revisor's note. — This section gave the territory the legal authority to enter into an agreement extending the coverage of the federal Social Security Act to employees of the territory. The agreement was entered into on September 26, 1951, and is continued in effect by § 2, art. XV of the state constitution continuing contracts of the territory and making the state legal successor to the territory. Since the agreement is in effect, the term "territory" has not been changed to "state" in this section. However, in the following sections which relate to the continuing coverage of the agreement, the change from "territory" to "state" has been made.

Section 7, Chapter 58, SLA 1979, provided for an election to decide if the state should withdraw from the federal Social Security System. The election was held in September, 1979, and the state employees voted to withdraw. Withdrawal from the federal Social Security System

was subsequently accomplished. Consequently, the agreement in this section no longer has any application to employees of the state.

Cross reference. — For the supplemental benefits program which replaces Social Security for state employees, see 39.30.150 — 39.30.180.

Am. Jur. 2d and ALR references. — 70 Am. Jur. 2d, Social Security and Medicare, § 1 et seq.

Judicial questions regarding federal Social Security Act and state legislation adopted to set up "state plan" contemplated by it, 100 ALR 697; 106 ALR 243; 108 ALR 613; 109 ALR 1346; 118 ALR 1220; 121 ALR 1002.

Construction and application of state social security or unemployment compensation act as affected by terms of a federal act or judicial or administrative rulings thereunder, 139 ALR 892.

Sec. 39.30.020. Contributions by employees. (a) An employee whose services are covered by an agreement under AS 39.30.010 shall pay for the period of coverage, into the state treasury, contributions equal to the amount of tax which would be imposed by sec. 1400 of the Federal Insurance Contributions Act if the services constituted employment within the meaning of that act.

(b) The contribution shall be collected by deducting the amount of the contribution from wages. Failure to make deduction does not relieve the employee from liability for the contribution.

(c) If more or less than the correct amount of the contribution is paid or deducted, an adjustment or, if adjustment is impracticable, a refund shall be made without interest, in the manner prescribed by the department. (§ 4 ch 95 SLA 1951; am § 1 ch 64 SLA 1968; am § 80 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "an" for "a state" at the beginning of subsection (a), and, deleted the former second sentence of that subsection as it appears in the main pamphlet.

Editor's notes. — Section 1400 of the Federal Insurance Contribution Act is presently contained in 26 U.S.C. § 3101.

Sec. 39.30.030. Plans for coverage of employees of political subdivisions. (a) A political subdivision of the state may submit for approval by the department a plan for extending the benefits of Title II of the Social Security Act to its employees. A plan and an amendment to the plan shall be approved by the department if it finds that the plan or amendment

(1) conforms with the requirements prescribed in regulations of the department;

(2) conforms with the requirements of the Social Security Act and with the agreement entered into under AS 39.30.010;

(3) provides that services which constitute employment and are performed in the employ of the political subdivision by employees are covered by it;

(4) specifies the source from which the funds necessary to make the

Section 31 continued: Old Age and Survivors Insurance

payments required by (d) and (e) of this section are expected to be derived and contains reasonable assurance that the source will be adequate for the purpose;

(5) provides for those methods of administration of the plan by the political subdivision which the department finds are necessary for the proper and efficient administration of the plan;

(6) provides that the political subdivision will make reports which the department requires, and will comply with requirements of the department or the Federal Security Administrator to assure the correctness and verification of the reports; and

(7) authorizes the department to terminate the plan in its entirety in its discretion if it finds that there is a failure to comply substantially with a provision in the plan at the time and upon the notice and conditions provided by regulations of the department which are consistent with the Social Security Act.

(b) The department may not refuse to approve a plan submitted by a political subdivision under (a) of this section, and may not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected.

(c) A political subdivision which has an approved plan shall pay contributions into the state treasury at the rates specified in the agreement and at the time which the department prescribes by regulation.

(d) A political subdivision required to make payments under (c) of this section may, in consideration of the employee's retention in, or entry into, employment after March 23, 1951, impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages, not exceeding the amount of tax which would be imposed by § 1400 of the Federal Insurance Contributions Act if the services constituted employment within the meaning of that act, and may deduct the amount of this contribution from his wages. Contributions so collected shall be paid into the state treasury in partial discharge of the liability of the political subdivision or instrumentality under (1) of this section. Failure to deduct the contribution does not relieve the employee or employer of liability for it.

(e) A delinquent payment due under subsection (c) of this section, with interest at the rate of six per cent a year, may be recovered by action against the political subdivision liable for it or may, at the request of the department, be deducted from any other money payable to the political subdivision by a department or agency of the state. (§ 5 ch 95 SLA 1951; am §§ 2, 3 ch 64 SLA 1968)

Sec. 39.30.040. Deposits and withdrawals. (a) Unless otherwise provided by law, there shall be deposited in the state treasury in trust all contributions collected under AS 39.30.010 — 39.03.080.

(b) The department has power, authority and jurisdiction over this trust and may perform all acts whether or not specifically designated which are necessary to the administration of this trust.

(c) This trust shall be used and administered exclusively for the

Section 31 continued: Old Age & Survivors Insurance

purpose of AS 39.03.010 — 39.30.080 of this chapter. Withdrawals may be made only for (1) payment of amounts required to be paid to the secretary of the treasury by an agreement entered into under AS 39.30.010; (2) payment of the refunds provided for in AS 39.30.020 (c); and (3) refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality. (§ 6 ch 95 SLA 1951; am § 4 ch 64 SLA 1968)

~~Sec. 39.30.050.~~ **Administrative costs.** The department shall collect from each participating political subdivision its respective pro rata share of the expenses incurred in the administration of AS 39.30.010 — 39.30.080. The amounts collected from participating political subdivisions, together with money appropriated by the state for covering the state's share of administrative costs, shall be deposited in an FICA administration fund and are not allocable to any other purpose. Expenditures from the FICA administration fund shall be included in the governor's budget for each fiscal year and are subject to appropriation by the legislature. At the time of preparation of the governor's annual budget the department shall review the FICA administration fund and adjust the rate of assessment on political subdivisions so as to prevent the accumulation of more money than is needed to administer AS 39.30.010 — 39.30.080. (§ 7 ch 95 SLA 1951; am § 1 ch 13 SLA 1960)

Cross reference. — For provisions as to special funds, see AS 37.05.155.

Sec. 39.30.060. Rules and regulations. The department shall adopt and publish the rules and regulations not inconsistent with AS 39.30.010 — 39.30.080 which it finds necessary or appropriate to the efficient administration of its functions under AS 39.30.010 — 39.30.080. (§ 8 ch 95 SLA 1951)

Sec. 39.30.070. Studies and reports. The department shall make studies concerning the problem of old age and survivors insurance protection for employees of [THE STATE AND] local governments and their instrumentalities and concerning the operation of agreements made and plans approved under AS 39.30.010 — 39.30.080 and shall submit a report to the legislature at the beginning of each regular session covering the administration and operation of AS 39.30.010 — 39.30.080 during the preceding year, including recommendations for amendments to AS 39.30.010 — 39.30.080 which it considers proper. (§ 9 ch 95 SLA 1951; am § 81 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment preceding "local governments" near the beginning of the section. deleted "the state and"

Sec. 39.30.080. Definitions. In AS 39.30.010 — 39.30.080

- (1) "department" means the Department of Administration;
- (2) "employee" includes an officer of a political subdivision of the state;

Section 31 continued: Old Age & Survivors Insurance

(3) "employment" means any service performed by an employee of a political subdivision of the state, except (A) service which in the absence of an agreement entered into under AS 39.30.010 — 39.30.080 would constitute "employment" as defined in the Social Security Act; or (B) service which under the Social Security Act may not be included in an agreement between the state and the Federal Security Administrator entered into under AS 39.30.010 — 39.30.080;

(4) "Federal Insurance Contributions Act" means subchapter A of chapter 9 of the Federal Internal Revenue Code as amended;

(5) "Federal Security Administrator" includes an individual to whom the Federal Security Administrator has delegated any of his functions under the Social Security Act with respect to coverage under that act of employees of states and territories and their political subdivisions;

(6) "political subdivision" includes an instrumentality of the state or of a political subdivision, or of the state and a political subdivision, but only if the instrumentality is a juristic entity legally separate and distinct from the state or the political subdivision and only if its employees are not, by virtue of their relation to the juristic entity, employees of the state or the political subdivision;

(7) "Social Security Act" means the Act of Congress approved August 14, 1935, chapter 531, 49 Stat. 620, cited as the "Social Security Act," (including regulations and requirements issued under it), and its amendments;

(8) "wages" means remuneration for employment, including the cash value of remuneration paid in any medium other than cash, except that "wages" does not include that part of remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act. (§ 2 ch.95 SLA 1951; am §§ 82, 83 ch 59 SLA 1982)

Effect of amendments. -- The 1982 amendment substituted "a" for "the state or" in paragraph (2), and, deleted "the state, or" preceding "a political subdivision" in paragraph (3).

Section 32: Outdoor Recreational, Open Space, and Historic Properties Development Fund. Plans for expenditures from the fund.

Section 33: Motor Fuel Tax--Tax on transfers or consumption of motor fuel and expenditure of proceeds.

Chapter 40. Motor Fuel Tax.

Section	Section
10. Tax on transfers or consumption of motor fuel and expenditure of proceeds	60. Separate invoices
30. Refund for nonhighway use	70. Refund warrants
35. Other refunds and credits	80. Examination of books and records
50. Refund claim by affidavit	85. Preservation of books and records
	100. Definitions

Chapter 33 continued: Motor Fuel Tax

Collateral references. — 71 Am. Jur. 2d, State and Local Taxation, §§ 616 — 634; 53 Am. Jur. 2d, Licenses, §§ 30, 46 — 58.

State tax on or in respect of goods shipped in interstate commerce to consignee for sale on consignor's account without previous sale or order for purchase, 4 ALR2d 244.

Loading or unloading interstate freight in performance of obligation resting upon one other than interstate carrier as inter-

state commerce as regards local taxation, 10 ALR2d 651.

State taxation of motor carriers as affected by commerce clause, 17 ALR2d 421.

Power of legislature to remit, release, or compromise tax claim, 28 ALR2d 1425.

Financial hardship or inability to pay taxes as rendering inapplicable statutes denying remedy by injunction against assessment or collection of tax, 65 ALR2d 550.

Sec. ~~43-4000~~ Tax on transfers or consumption of motor fuel and expenditure of proceeds. (a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the department by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by the user during each month. If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of \$100, may be deducted and retained to cover the expense of accounting and filing the monthly tax return. At the time the remittance is made, each dealer or user shall submit a statement to the department showing all fuel which the dealer or user has distributed or used during the month.

(d) *[Repealed, § 3 ch 166 SLA 1976.]*

(e) Sixty per cent of the proceeds of the revenue from the taxes on aviation fuel, excluding the amount determined to have been spent by the state in its collection, shall be refunded to a municipality owning and operating or leasing and operating an airport in the proportion that the revenue was collected at the municipal airport. All other proceeds of the taxes on aviation fuel shall be paid into a special aviation fuel tax account in the state general fund. The legislature may appropriate funds from this account for aviation facilities.

(f) The proceeds from the revenue from the tax on motor fuel used in boats and watercraft of all descriptions shall be deposited in a special watercraft fuel tax account in the general fund. The legislature may appropriate from this account for water and harbor facilities.

Section 33 continued: Motor Fuel Tax

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e), (f) and (j) of this section, shall be deposited in a special highway fuel tax account in the state general fund. The legislature may appropriate funds from it for expenditure by the Department of Transportation and Public Facilities directly or as matched with available federal-aid highway money for maintenance of highways, construction of highway projects and ferries included in the program provided for in AS 19.10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration, and related matters. All departments of the state government authorized to spend funds collected from taxes imposed by this chapter shall perform, when feasible, all construction or reconstruction projects by contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of transportation and public facilities may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the work the contracts shall be entered into on a negotiated basis.

(h) All motor fuel tax receipts shall be paid into the general fund and distributed to the proper accounts in the general fund. Valid motor fuel tax refund claims shall be paid from the highway fuel tax account in the general fund.

(i) Within 30 days after the legislature convenes the Department of Transportation and Public Facilities shall submit an annual budget covering anticipated revenues and their expenditure, for the consideration and approval by the legislature. The budget shall cover all money collected or anticipated to be collected under this chapter for the year following the adjournment of each regular session of the legislature.

(j) The proceeds from the tax on motor fuel used in snow vehicles and, unless a tax refund is applied for under AS 43.40.040, other internal combustion engines not used in or in conjunction with a motor vehicle licensed to be operated on public ways shall be deposited in a special nonpublic highway use account in the general fund. The legislature may appropriate from this account to the Department of Transportation and Public Facilities for trail staking and shelter construction and maintenance.

(k) The tax on the transfer or consumption of motor fuel provided for in this section does not apply to liquified petroleum gas.

(l) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The department may not collect the motor fuel tax from a dealer for fuel for which a certificate of use has been properly obtained under this subsection. A certificate of use is not required for fuel for any domestic purpose in a single or multiple unit private dwelling, including mobile homes, or for fuel which is at least

Section 33 continued: Motor Fuel Tax

10 percent alcohol by volume. An annual certificate of use is required for all other exemptions listed under AS 43.40.100(2), except certificate of use needs under AS 43.40.100(2)(K) will be determined by the department. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the department. The form of a certificate of use may be prescribed by

regulation adopted by the department. (§ 48-5-2 ACLA 1949; am § 1 ch 80 SLA 1951; am § 1 ch 47 SLA 1955; am §§ 1, 2 ch 27 SLA 1957; am § 1 ch 134 SLA 1957; am § 1 art VI title II ch 152 SLA 1957; am § 2 art V title III ch 152 SLA 1957; am § 2 ch 124 SLA 1959; am §§ 1, 2 ch 20 SLA 1960; am § 1 ch 150 SLA 1960; am § 1 ch 110 SLA 1961; am § 1 ch 136 SLA 1961; am §§ 1 — 3 ch 131 SLA 1962; am § 1 ch 130 SLA 1968; am § 10 ch 143 SLA 1968; am §§ 1, 2 ch 216 SLA 1968; am §§ 1 — 3 ch 158 SLA 1970; am § 3 ch 58 SLA 1971; am §§ 1, 2 ch 124 SLA 1971; am §§ 2, 3 ch 125 SLA 1971; am §§ 1 — 3 ch 153 SLA 1972; am § 3 ch 166 SLA 1976; am §§ 1, 2 ch 116 SLA 1977; am § 4 ch 82 SLA 1982; am §§ 1, 2 ch 87 SLA 1983)

Cross references. — For civil penalty imposed for failure to file a return or report, or pay the full amount of a tax, or a portion or a deficiency of the tax, see AS 43.05.220.

Effect of amendments. — The 1982 amendment added subsection (l).

The 1983 amendment, in subsection (c), added the present third sentence and deleted "motor" preceding "fuel" in the last sentence, and in subsection (l), added the present fourth and fifth sentences.

OPINIONS OF ATTORNEY GENERAL

The purpose of the dedication of the taxes on motor fuels contained in subsection (g) of this section is public highways. 1959 Op. Att'y Gen., No. 9.

A proposed alteration going to the geographical area of expenditure rather than to the special purpose of a dedication, does not contravene the constitution. 1959 Op. Att'y Gen., No. 9.

The 1957 amendment to this section, which reduced the tax on motor fuel used in commercial fishing crafts for purposes of commercial fishing from five cents to two cents per gallon, effected no change in

the dedication inasmuch as the reduction in the tax was coupled with an exemption from the refund of three cents per gallon formerly allowed to users of fuel in commercial fishing craft for commercial purposes. Nothing has been done which increased or decreased the dedication. 1959 Op. Att'y Gen., No. 14.

The Civil Air Patrol is exempt from taxation under the Alaska Motor Fuel Oil Tax Act because it is an instrumentality of the federal government, but volunteer members of Civil Air Patrol are not exempt. 1961 Op. Att'y Gen., No. 26.

Section 34: Accounting of financing received as a result of the salmon enhancement tax.

Section 35: Capital city development oversight committee est. Annual budget.

Article 3. Capital City Development Oversight Committee.

Section	Section
220. Capital city development oversight committee established	260. Meetings
230. Membership	270. Powers
240. Term of membership	280. Staff
250. Vacancies	290. Duties

Section 35 continued: Capital City Development Oversight Comm.

Sec. 44.07.220. ~~Capital City Development Oversight Committee established.~~ The Capital City Development Oversight Committee is established as a permanent interim committee of the legislature beginning with the Eleventh Legislature. The establishment of the committee recognizes the need of the legislature for review and oversight of the development of the new capital city. (§ 2 ch 143 SLA 1978)

Sec. 44.07.230. Membership. The committee is composed of eight members: the president of the senate, the speaker of the house, the chairmen of the finance committees, the chairmen of the state affairs committees, and one member appointed from each house by the respective presiding officer. The membership from each house shall include at least one member from each of the two major political parties. The committee shall select its own chairman. (§ 2 ch 143 SLA 1978)

Sec. 44.07.240. Term of membership. (a) The committee shall be organized within 15 days after the organization of each legislature. Members serve for the duration of the legislature during which they are appointed. If a member is reelected or his term of office extends into the next succeeding legislature, he continues to serve until reappointed or the appointment of his successor.

(b) When a member of the committee files a declaration of candidacy for an elective office other than that of member of either house of the legislature, and he has not resigned from membership on the committee, his committee membership terminates on the date of filing. (§ 2 ch 143 SLA 1978)

Sec. 44.07.250. Vacancies. When a vacancy occurs in the statutory or appointive membership of the committee, the presiding officer of the house incurring the vacancy shall choose a successor. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy from the affected house occurs among the membership of the committee, the remaining committee members from the house incurring the vacancy shall appoint a new member. (§ 2 ch 143 SLA 1978)

Sec. 44.07.260. Meetings. The committee may meet during sessions of the legislature and during the interim between sessions at such times and places in the state as the chairman may determine. Members may receive, for the minimum time required to get to and from meetings and for the period while attending meetings, the same travel and per diem allowances provided by law for members of the legislature when attending sessions, except that members of the committee receive no per diem during legislative sessions other than the per diem allowance paid to other members of the legislature. (§ 2 ch 143 SLA 1978)

Sec. 44.07.270. Powers. The committee has the power to

- (1) organize and adopt rules for the conduct of its business;
- (2) hold public hearings;
- (3) require all state officials and agencies of state government to give full cooperation to the committee or its staff in assembling and furnishing requested information;

Section 35 continued: Capital city development oversight comm.

- (4) prepare and distribute reports, memoranda, or other materials;
- (5) review all reports of the corporation and of the Legislative Budget and Audit Committee relating to the corporation;
- (6) make recommendations for legislative action relating to the capital relocation and planning and development of the new capital city. (§ 2 ch 143 SLA 1978)

Sec. 44.07.280. Staff. The legislative audit division and the legislative finance division shall provide audits, reports and analyses requested by the committee. The committee may hire and determine the salary of the staff it considers necessary within the limit of the budget approved by the legislature. (§ 2 ch 143 SLA 1978)

Sec. 44.07.290. Duties. The committee shall report to the legislature annually. The report shall include any considerations the committee considers relevant to the planning and development of the new capital city and to the performance of the capital city development corporation. (§ 2 ch 143 SLA 1978)

Article 4. General Provisions.

Section	Section
300. Executive Budget Act	340. Limitation of liability
310. Annual budget	350. Termination of corporation
320. Annual report	360. Definitions
330. Conflicts of interest	

Sec. 44.07.300. Executive Budget Act. The corporation is subject to the provisions of the Executive Budget Act (AS 37.07). (§ 2 ch 143 SLA 1978)

Sec. 44.07.310. Annual budget. The board of directors shall review and approve, by a two-thirds vote of members of the board, the annual operational and capital program and budget for the corporation and may, by two-thirds vote, and in accordance with AS 37.07 amend the program and budget. No corporate funds may be expended or money borrowed except in accordance with appropriations. (§ 2 ch 143 SLA 1978)

Sec. 44.07.320. Annual report. The corporation shall submit to the governor and the Legislative Budget and Audit Committee, within three months after the end of the corporation's fiscal year, a complete financial report audited by a certified public accountant or firm of certified public accountants, which shows

- (1) its receipts and expenditures during its fiscal year;
- (2) its assets and liabilities at the end of its fiscal year, including a schedule of its leases and mortgages and the status of reserve, special and other funds;
- (3) the progress of fulfillment of the financial and economic projections contained in the general development and specific development plans; and
- (4) its operations and accomplishments and any material problems encountered in implementing the development plan. (§ 2 ch 143 SLA 1978)

Section 35 continued: Capital city development oversight comm.

Sec. 44.07.330. Conflicts of interest. (a) No director or employee of the corporation or member of the advisory board may participate in any decision of the corporation in which he has a direct or indirect financial interest.

(b) The executive director and members of the board of directors are subject to AS 39.50. (§ 2 ch 143 SLA 1978)

Sec. 44.07.340. Limitation of liability. No person executing a note of the corporation is liable personally on such obligations by reason of their issuance. (§ 2 ch 143 SLA 1978)

Sec. 44.07.350. Termination of corporation. (a) Unless a determination is made under (b) of this section to extend the existence of the corporation, the existence of the corporation shall terminate

upon the occurrence of any of the following events: (1) the board's determination that the general development plan has been substantially implemented; (2) the attainment by the capital city of a population of 37,500 as certified by the Department of Community and Regional Affairs; or (3) the arrival of the year 1994.

(b) Not later than one year before the anticipated occurrence of any of the events in (a) of this section, the board of directors shall recommend to the legislature and the legislature shall determine whether the corporation shall continue in existence beyond the occurrence of the event. (§ 2 ch 143 SLA 1978)

Sec. 44.07.360. Definitions. In this chapter, unless the context requires otherwise,

(1) "capital city area" or "capital city site" means the area specified in AS 29.18.520;

(2) "capital city" means the municipality created under AS 29.18.510;

(3) "corporation" means the Alaska Capital City Development Corporation created by AS 44.07.010,

(4) "advisory board" means the Development Advisory Board created under AS 44.07.100;

(5) "development program" means one or more works, undertakings or improvements (surface, subsurface, or overhead) or buildings constructed, reconstructed, or improved or to be constructed, reconstructed, or improved by the corporation within the capital city area, under one or more specific development plans, as the corporation considers necessary or appropriate;

(6) "facility" means any utility or infra-structure plant and any system or improvement, whether used or useful for residential, educational, commercial, institutional, community, private, semi-private or public purposes, including, without limitation, facilities such as roads and public transportation systems, parks and recreational facilities, water, sewer and drainage systems, electric, telephone and other energy or communications systems or utilities and health, educational and community facilities, and private facilities such as housing, commercial and industrial enterprises, in each case of whatever kind or character and under whatever form of ownership, and all necessary real or personal property;

Section 35 continued: Capital city development oversight comm.

(7) "general development plan" means a general land use and land development plan for the capital city area which contains the elements set out in AS 44.07.120;

(8) "municipality" means a home rule or general law city or borough including but not limited to the capital city and a unified municipality organized under AS 29.68.240 — 29.68.440;

(9) "private firm" means any private person, partnership, corporation, foundation, trust, or other business entity whether organized for profit or not for profit;

(10) "public agency" means any officer, department, board, commission, bureau, division, public corporation, agency or instrumentality of the state, the United States, or any municipality;

(11) "specific development plans" means the various plans for the implementation of each phase or segment of the general development plan. (§ 2 ch 143 SLA 1978)

Section 36: Working capital fund.

Chapter 74. Management and Disposition.

Article

1. Equipment Maintenance and Operation of Supply Depots (§§ 44.74.010, 44.74.040)
2. Transfer to Political Subdivisions (§ 44.74.070)

Article 1. Equipment Maintenance and Operation of Supply Depots.

Section

10. Working capital fund
40. Records of working capital fund

Sec. 44.74.010. Working capital fund. A working capital fund is established in the state treasury for the use of the Department of Transportation and Public Facilities. (§ 1 ch 120 SLA 1960; am § 13 ch 49 SLA 1963; am Executive Order No. 39, § 11 (1977))

Effect of amendments. — The 1977 "Transportation and Public Facilities" for amendment substituted "Department of "Department of Highways."

Sec. 44.74.020. Use of fund. The department shall use the fund for necessary expenses resulting from the centralization of equipment maintenance and for the operation of supply depots. (§ 1 ch 120 SLA 1960)

Sec. 44.74.030. Revenues for equipment rental, repairs, and supplies. Receipts from rental fees and surcharges to the various departments for equipment rental, repair and supplies shall be deposited in the working capital fund. The departments of the state government shall include in their annual budgets the rental fees, equipment repairs and supplies. (§ 2 ch 120 SLA 1960)

Section 36 continued: Working capital fund

Sec. 44.74.040. Records of working capital fund. The Department of Transportation and Public Facilities shall maintain cost accounting records showing the income and expenses of the fund. The department shall submit a report on the operation of the fund to the governor and the legislature at the time of submission of the departmental budget. (§ 3 ch 120 SLA 1960; am § 14 ch 49 SLA 1963; am Executive Order No. 39, § 11 (1977))

Effect of amendments. — The 1977 "Transportation and Public Facilities" for amendment substituted "Department of" "Department of Highways."

Sec. ~~44.74.050~~ Additions and replacements to fund. Additions to capital equipment, replacements of capital equipment or improvements paid from the working capital fund are subject to annual appropriation by the legislature and shall be detailed in the executive budget. (§ 3 ch 120 SLA 1960)

Sec. 44.74.060. Governor's approval of rates. Rental and surcharge rates charged by the department are subject to annual review and approval by the governor. (§ 3 ch 120 SLA 1960)

Article 2. Transfer to Political Subdivisions.

Section	Section
70. Transfer of equipment to political subdivisions	80. Unsaleable period 90. Transfer of civil defense property

Article 2. Transfer to Political Subdivisions.

Section
70. Transfer of equipment to political subdivisions

Sec. 44.74.070. Transfer of equipment to political subdivisions. (a) The commissioner of transportation and public facilities may transfer directly to a political subdivision of the state, including a village organized under Federal Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), the title to automotive and construction equipment which can be used in the maintenance or construction of roads and airports.

(b) No equipment may be transferred unless it is in excess of known state requirements in the major senatorial district and is intended for use, to some extent, to maintain and construct airports or roads.

(c) The commissioner may transfer equipment which in the commissioner's judgment is not economically repairable or is obsolete, without regard to (b) of this section.

(d) The commissioner shall determine how the equipment is to be allocated in the best interests of the state. The commissioner may adopt necessary regulations to implement AS 44.74.070 and 44.74.080. (§ 1 ch 106 SLA 1962; am §§ 102 — 104 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "commissioner of transportation and public facilities" for "commissioners of the department of public works and the department of highways" in subsection (a). The amendment also substituted "commissioner" for "commissioners" once in subsection (c) and twice in

subsection (d), substituted "his" for "their" in subsection (c), and substituted "adopt" for "promulgate" in subsection (d).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Section 36 continued: Working capital fund

Sec. 44.74.080. Unsaleable period. A political subdivision which receives title to automotive and construction equipment may not sell it for a period of two years after the date title is transferred. (§ 2 ch 106 SLA 1962)

Sec. 44.74.090. Transfer of civil defense property. (a) Title to personal property received by the state from the federal government for civil defense purposes may be transferred to political subdivisions of the state which have qualified civil defense organizations by the Department of Public Safety with the approval of the state director of civil defense and the approval of the Department of Administration. This section is applicable only when title to the property is held by the Department of Public Safety.

(b) As a condition of title transfer, the political subdivision is responsible for compliance with the federal and state restrictions on the property.

(c) No transfer of title to property shall be made which is not in compliance with federal law and with the terms of the agreement under which the property has been made available to the state by the federal government. (§ 1 ch 39 SLA 1965)

Section 37: Alaska Power Authority

Section 38: Alaska Municipal Bond Bank

Section 39: Comprehensive Employment and Training Act

Sec. ~~44.99.009~~ Governor as prime sponsor. (a) The governor is authorized to participate as a prime sponsor in the Comprehensive Employment and Training Act of 1973 (P.L. 93-203) as amended. He may delegate his functions as a prime sponsor to such other state agency as, in the exercise of his discretion, he sees fit.

(b) The governor, or the state agency to which he has delegated his functions, may adopt regulations necessary to carry out the functions as a prime sponsor.

(c) The governor shall submit as part of the annual budget submission to the legislature a complete program budget for state participation in the Comprehensive Employment and Training Act of 1973 (P.L. 93-203) as amended. (§ 1 ch 174 SLA 1975)

Editor's note. — This section derives from AS 44.19.581 and was renumbered by the revisor under AS 01.05.031.

Section 40: Civil penalties for discharges of oil.

Sec. 46.03.758. Civil penalties for discharges of oil. (a) The legislature finds that

(1) recent information discloses that the discharge of oil may cause significant short and long-term damage to the state's environment. Even minute quantities of oil released to the environment may cause high mortalities among larval and juvenile forms of important commercial species, may affect salmon migration patterns, and may otherwise degrade and diminish the renewable resources of the state;

Section 40 continued: Civil penalties for discharges of oil.

(2) the exact nature and extent of oil pollution can be neither documented with certainty nor precisely quantified on a spill-by-spill basis; however, in light of the magnitude of harm which may be caused by oil discharges, and the vital importance of commercial, sport and subsistence fishing, tourism, and Alaska's natural abundance and beauty to the economic future of the state, and its quality of life, it is the judgment of the legislature that substantial civil penalties should be imposed for the discharge of oil, in order to provide a meaningful incentive for the safe handling of oil and to insure that the public does not bear substantial losses from oil pollution for which, because of its subtle, long-term or unquantifiable nature, compensation would not otherwise be received; and

(3) the handling of oil in large quantities is a hazardous undertaking which poses a significant threat to the economy and environment of the state, which can be substantially reduced only by the taking of rigorous safety precautions involving considerable expense; conversely, persons handling oil in smaller amounts pose a correspondingly lower risk to the economy and environment of the state, and are capable of safe oil handling practices at correspondingly lower costs; in order to provide an incentive which is effective, but not punitive, it is necessary and appropriate that the assessment of civil penalties for discharges of small quantities of oil be left for case-by-case judicial determination, while insuring, through the penalty provisions of this section, that the handling of oil in large quantities occurs in a manner which will not impair the renewable resources of the state.

(b) No later than the 10th day after the convening of the Second Session of the Tenth Alaska Legislature, the department shall submit to the legislature regulations establishing the following schedule of fixed penalties for discharges of oil:

(1) Subject to (3) of this subsection, the penalties for the following categories of receiving environments may not exceed

(A) \$10 per gallon of oil which enters an anadromous stream or other freshwater environment with significant aquatic resources;

(B) \$2.50 per gallon of oil which enters an estuarine, intertidal or confined saltwater environment; and

(C) \$1 per gallon of oil which enters an unconfined saltwater environment, public land or freshwater environment without significant aquatic resources.

(2) For discharges of oil which are caused by the gross negligence or intentional act of the discharger, or when the court finds that the discharger did not take reasonable measures to contain and clean up the discharged oil, the penalty shall be determined by multiplying the penalty established under (1) of this subsection by a factor of five.

(c) Regulations adopted under (b) of this section shall become effective 60 days after submission to the legislature, unless disapproved by a special concurrent resolution introduced in either house, and concurred in by a majority of the members in joint session within 60 days of the submission of the regulations. The department may periodically revise regulations adopted under (b) of this section. Revised regulations shall be submitted to the legislature no later than 10 days after the convening of the appropriate regular session of the legislature, and are subject to disapproval as specified in this subsection.

Section 40 continued: Civil penalties for discharges of oil.

(d) The schedule shall vary according to the toxicity, degradability and dispersal characteristics of the oil. The schedule shall also vary according to the sensitivity and productivity of the receiving environment. Variations under this subsection may be by subcategories of receiving environments, specific receiving environments, or both. The maximum penalties established in (b) of this section shall apply to discharges in the most sensitive and productive of receiving environments within each category of receiving environment, and the penalty shall decrease for less productive or sensitive receiving environments.

(e) Upon the effective date of regulations adopted under (b) of this section, if a discharge of oil in excess of 18,000 gallons not permitted under applicable state and federal law occurs within the territorial jurisdiction of the state, or into or upon the adjacent outer continental shelf of the state, the following persons, in addition to the person causing or permitting the discharge, are jointly and severally liable to the state, in a civil action, for the full amount of penalties established in the regulations, or \$100,000,000, whichever is less,

(1) if the discharge occurs from any commercial or industrial facility other than a vessel or offshore platform, the owner, lessee (or permittee), and operator of the facility;

(2) if the discharge occurs from a vessel,

(A) the owner and operator of the vessel; and

(B) the owner of the oil carried as cargo on the vessel at the time the vessel was loaded, if the loading occurred within the territorial jurisdiction of the state, or at a deepwater port or other offshore storage facility adjacent to the state; however, if the owner of the oil temporarily transfers ownership of the oil to another person, and the transfer has the purpose or effect of evading the vicarious liability imposed by this section, the transferor will be considered the owner of the oil for the purposes of this subsection; and

(3) if the discharge occurs from an offshore platform, the lessee (or permittee) of the tract or acreage upon which the platform is situated, and the operator of the platform.

(f) The court shall deduct from the penalties for which the person charged is liable under (e) of this section that amount of oil which was removed from the environment as a result of a cleanup operation undertaken in conformity with applicable state and federal law, unless the oil was removed by an agency of state, local or federal government. The dispersal of oil through the use of chemical agents or other means is not considered removal for the purposes of this subsection. The court may estimate the amount of oil removed.

(g) Except as provided in (f) and (g) of this section, the entire penalty specified in the regulations shall be imposed, except that a person who discharges oil into a receiving environment may demonstrate, by a preponderance of evidence, that mitigating circumstances relating to the effects of the discharge would make imposition of the full penalty inappropriate. In determining whether mitigating circumstances exist, the court shall recognize that scientific knowledge pertaining to oil spills is very limited and if there is insufficient knowledge either to predict a base case or to show mitigating circumstances varying from that base case, the administratively established schedule of penalties shall apply. If mitigating circumstances are proven by a preponderance of the evidence, the court may reduce or totally eliminate the penalty, in accordance with the purposes of this section.

Section 40 continued: Civil penalties for discharges of oil.

(h) A person otherwise liable for penalties under (e) of this section is not liable if he demonstrates, by a preponderance of the evidence, that the discharge occurred solely as a result of

(1) an act of God;

(2) an act of a third person with intent to cause a discharge, unless the third person is a person with whom the person charged is made jointly and severally liable under (e)(1) — (3) of this section;

(3) a negligent or intentional act of the State of Alaska or the United States; or

(4) an act of war.

(i) Notwithstanding AS 46.03.875, a person liable under this section is not also liable for the discharge of oil under AS 46.03.760(a). A person causing or permitting a discharge of oil of 18,000 gallons or less not permitted under applicable state or federal law is liable for that discharge under the penalty provisions of AS 46.03.760(a); however, the court may impose a penalty of less than \$500 for the discharge.

(j) The court may reduce the penalty imposed under this section if the person charged demonstrates, by a preponderance of the evidence, that the discharge was caused solely by a negligent act of a third person, unless the third person is a person with whom the person charged is made jointly and severally liable under (e)(1) — (3) of this section.

(k) Penalties received by the state under this section shall be deposited in the general fund and credited to a special account called the "oil spill mitigation account". The legislature may annually appropriate from the oil spill mitigation account a sum equivalent to the amount of penalties received under this section for the calendar year preceding the legislative session in which the appropriation is made, the appropriations to be made for the purpose of restoring and enhancing environments affected by oil pollution, including but not limited to the funding of aquaculture projects.

(l) As used in this section,

(1) "adjacent outer continental shelf" means that portion of the outer continental shelf which would be within the territorial jurisdiction of the state if its boundaries were extended seaward to the outer margin of the outer continental shelf;

(2) "confined saltwater environment" means a bay, sound or other partially enclosed saltwater body in which flushing through tidal or current action is significantly restricted;

(3) "discharge of oil" means the entry of oil into or upon the water or public land of the state (except oil discharges into an enclosed and impervious oil spill containment area), regardless of causation;

(4) "intertidal" means the ocean area between highest high water and lowest low water of tidal action;

(5) "offshore platform" means an offshore structure, whether floating or temporarily or permanently secured to the floor of the ocean or other water body, which is used primarily for the exploration for or production of oil or natural gas;

(6) "oil" means petroleum, crude oil, and any substance refined from petroleum or crude oil;

Section 40 continued: Civil penalties for discharges of oil.

(7) "operator" means the person who, through contract, lease, sublease or otherwise, exerts general supervision and control of activities at the facility; the term includes, by way of example and not limitation, prime or general contractors, the master of a vessel (and his employer), or any other person who, through himself, his agents, or contractors, undertakes the general functioning of the facility;

(8) "vessel" means any form or manner of watercraft, whether or not capable of self-propulsion, except offshore platforms. (§ 1 ch 129 SLA 1977; am §§ 1-3 ch 128 SLA 1978; am § 110 ch 59 SLA 1982)

Cross references. — For provision that actions brought under this section may be brought directly against insurers or other persons providing evidence of financial responsibility, see AS 46.04.040(e).

Effect of amendments. — The 1978 amendment substituted the language beginning "and appropriate that the assessment of civil penalties" for "that the civil penalties imposed reflect a balance between the gravity of the discharge, the magnitude of risk, and the level of incentive necessary to induce safe operations" at the end of paragraph (3) of subsection (a), inserted "in excess of 18,000 gallons" near the beginning of the introductory paragraph of subsection (e), and added the second sentence of subsection (i).

The 1982 amendment, effective May 28, 1982, deleted "notwithstanding AS 30.25.20(b)" preceding "penalties" at the beginning of subsection (k).

Editor's notes. — Section 3, ch. 129, SLA 1977, provides: "If the application of AS 46.03.758 to discharges of oil solely into and upon the adjacent outer continental shelf of the state is held invalid, the application of that section to discharges of oil into and upon the water or public land within the territorial jurisdiction of the state is not affected by that holding. This severability provision is intended to clarify and not limit the severability provision of AS 01.10.030."

The schedule of civil penalties required by (b) of this section may be found at 18 AAC 510 — 18 AAC 600. The effective date (referred to in (e) of this section) of the regulation adopting the schedule is April 19, 1978.

AS 30.25.220, referred to in subsection (k), was repealed by § 11, ch. 116, SLA 1980. For provisions concerning oil pollution control, see AS 46.04.

Section 41: Governor's council for the handicapped and gifted.

Section 42: Effective date= date of amendment to the Constitution of Alaska providing for a biennial budget.

HB 485
FR-3

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

RECEIVED
8-17-83

STATE CAPITOL
JUNEAU ALASKA 99811
907 465-3800

COPY

MEMORANDUM

August 15, 1983

SUBJECT: Biennial state budget
(Work Order No. 13-1508)

TO: Representative Robert H. Bettisworth

FROM: Keith B. Levy *KBL*
Legislative Counsel

In drafting your bill request establishing a biennial budget, I neglected to point out to you that Article IX, Section 12 of the Constitution of the State of Alaska requires an annual budget:

The governor shall submit to the legislature, at a time fixed by law, a budget for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments, offices, and agencies of the State. The governor, at the same time, shall submit a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues.

Thus, your bill is technically in violation of this constitutional provision since it requires the governor to submit a budget every two years rather than annually.

This problem can be resolved in one of two ways. The first would be to amend Article IX, Section 12 of the constitution to provide for a biennial budget rather than an annual one. A more simple solution would be to redraft your bill to provide for a biennial budget, but require the governor to submit an amended budget every other year covering the second fiscal year of the biennial budget. In that way, the constitutional requirement would be met since the governor would be submitting a budget annually, but the bulk of the budget process would be completed biennially.

If you have any questions or if you would like a redraft of your bill, please feel free to contact me.

KBL:lmb
L2/049



Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

November 25, 1983

MEMORANDUM

TO: Representative Rob Bettisworth

FROM: David Teal
Legislative Analyst

RE: Biennial Budgeting
Research Request 83-239

This memorandum responds to your request for information on states that have a budget cycle longer than one year. The Council of State Governments (CSG) and the National Conference of State Legislatures (NCSL) provided much of the information required to fulfill your request. Because the information received from these sources is concise and limited to the question at hand, only the highlights are reviewed in this memorandum. Material provided by the CSG and NCSL are attached.

In the early 1940s, only four states had annual legislative sessions. There are now only nine states with legislatures that do not convene annually. The budget process is the primary reason that many states have converted to annual sessions.

Attachment A classifies states according to the length of their budget cycle and the time between legislative sessions. As noted above, nine states have biennial sessions and operate under a two-year budget cycle. Of the 41 states with annual legislative sessions, 29 have a one-year budget cycle. The remaining 12 states are on a two-year budget cycle. No state has a budget cycle longer than two years. The 12 states that have annual sessions and biennial budgets have the potential for full legislative review of the budget each year. All of the nine states with biennial sessions have some procedure for amending the budget during the biennium. Procedures for amending the budget include special legislative action, delegation of authority to a legislative committee or emergency board, and executive branch transfers between agencies or programs.

The Council of State Governments and the Public Affairs Research Council of Louisiana surveyed states to obtain their views on annual versus biennial budgeting. Highlights from those surveys are listed below and the published survey results are attached to this memorandum.

Representative Bettisworth
November 25, 1983
Page 3

Another factor complicating the analysis is that one cannot simply look at the constitution or statutes of the states to determine what actually occurs. For example, the Minnesota constitution specifies biennial legislative sessions and a biennial budget cycle. In practice, the Minnesota legislature meets annually and only a few appropriations are made for the biennium. In Vermont, an annual or biennial budget cycle is at the discretion of the governor. These complicating factors and the resultant difficulty in classifying certain states accounts for the inconsistent presentation of data in Attachments A, B and D.

I have attached applicable statutes from Florida, Montana, North Dakota and Oregon. According to the Book of the States, these are the four states with a biennial budget cycle that do not make separate appropriations for each year of the biennium.¹ The statutes specify information required by the legislature. Sections 291.322-336 of the Oregon statutes discuss that state's method of amending the budget during the biennium.

* * *

I hope you find this information useful and informative. If you would like additional information on a particular state or particular system of budgeting, please contact the agency.

DT

Attachments A) Biennial and Annual Budgeting (NCSL)
 B) Results of PAR survey on Annual vs. Biennial State
 C) Annual or Biennial Budgets? (CSG)
 D) 1982-83 Book of the States (pages 276-279)
 E) State Statutes
 Florida: Chapter 216, 1982 Supplement
 Montana: Chapter 666, 1983 Session Laws
 North Dakota: Chapter 54-44
 Oregon: Chapter 291.208-385

¹Texas is classified by the NCSL (in Attachment A) as making appropriations for the biennium. Texas statutes on the budget process are lengthy and are not attached to this memorandum.

ATTACHMENT A

Prepared by Fiscal Affairs Program
NATIONAL CONFERENCE OF STATE LEGISLATURES
1125 17TH Street Suite 1500 Denver, CO 80202
303/292-6600

Since 1969, ten states have changed their budgeting cycle. Hawaii, Vermont and, most recently, Florida, have all changed from annual to biennial budgets. In that same time, Connecticut, Idaho, Illinois, Missouri and Nebraska have all gone from biennial to annual budgets. Indiana experimented with annual operating budgets in fiscal years 1975-76 and 1976-77, but operated with a biennial capital and highway budget. It returned to full biennial budgeting in 1977.

Currently, 29 states have annual budgets and, of course, annual legislative sessions. Another nine states have biennial budgets with biennial sessions, and thus lack any opportunity for annual changes or revisions. (The exception is Oregon, whose joint Ways and Means committees meet during the interim as the Emergency Board, a constitutional board with authority over supplemental appropriations, federal funds, and transfers.) The remaining twelve states have biennial budgets, but meet annually. This last group has some review of the budget annually, but it varies from full reviews to occasional amendments. Only North Carolina, North Dakota, Oregon, Texas, Washington and Wyoming actually make appropriations for the full biennium rather than by fiscal year, and North Carolina, Washington and Wyoming review the budget for possible changes annually.

ANNUAL LEGISLATIVE SESSIONS AND ANNUAL BUDGETS

Alabama	Delaware	Maryland	New Jersey	South Carolina
Alaska	Georgia	Massachusetts	New Mexico	South Dakota
Arizona	Idaho	Michigan	New York	Tennessee ¹
California	Illinois	Mississippi	Oklahoma	Utah
Colorado	Kansas	Missouri	Pennsylvania	West Virginia
Connecticut	Louisiana	Nebraska	Rhode Island	

BIENNIAL LEGISLATIVE SESSIONS AND BIENNIAL BUDGETS

Arkansas	Nevada	North Dakota ³
Kentucky	New Hampshire	Oregon ³
Montana	North Carolina ²	Texas ³

ANNUAL LEGISLATIVE SESSIONS AND BIENNIAL BUDGETS

Florida	Maine	Virginia
Hawaii	Minnesota ¹	Washington ²
Indiana	Ohio	Wisconsin
Iowa	Vermont ¹	Wyoming ²

All state fiscal years begin on July 1 except for Alabama (October 1), Michigan (October 1), New York (April 1) and Texas (September 1).

Footnotes

¹Technically a biennial session, but in practice meets annually.

²Appropriations are made for the biennium, but reviewed annually.

³Appropriations are made for the biennium.

NOTE: Unless otherwise noted, biennial budget states make appropriations for each fiscal year separately.

ATTACHMENT B

PUBLIC AFFAIRS RESEARCH COUNCIL OF LOUISIANA, INC.



300 Louisiana Avenue • P O Box 3118 • Baton Rouge, Louisiana 70821 • Phone (504) 343-9204

April 22, 1982

MEMO TO: Respondents of PAR Survey
FROM: Brian Davie, Research Analyst
RE: Results of PAR Survey on Annual vs. Biennial State Budgeting

Research Council of Louisiana, Inc. (PAR) is a nonpartisan, nonprofit organization which conducts research on state and local government issues in Louisiana. PAR surveyed all states (excluding Louisiana) in early 1982 to obtain the most current information available on the experience and views concerning the issue of annual vs. biennial state budgets. This paper is a tabulation of the results of that survey.

Louisiana Policy

Louisiana's state government has annual legislative sessions (limited to 60 legislative days during an 85 calendar day period) and an annual budget. New or increased tax levies are not permitted during regular legislative sessions in odd-numbered years. The state has not changed its annual budget cycle and is not considering a change at this time.

Response Rate from Other 49 States

PAR sent the enclosed questionnaire to state budget officers and legislative chairmen of the budget committees in each house. One followup letter was sent and at least one response was received from all 49 states. The maximum number of responses (3) was received from 23 states (47%), two responses were received from 18 states (37%), and one response was received from 8 states (16%). Budget officers or their representatives responded from 45 states (92%) and legislative chairmen responded from 44 states (90%). The overall response rate was 77%. Following are results of the survey.

States That Have Changed

The remaining survey questions concerned only the 13 states that changed their budget cycles since 1970; results were inconclusive. For the states that changed twice since 1970, the primary reason appeared to be political -- depending on which party controlled the legislature or which cycle the governor strongly advocated and enforced.

PAR classified responses on effects of the change (Question #8) according to whether the comments were positive, negative or indicated no difference. Respondents from the eight states that changed to annual budgets were almost equally divided between the positive and negative effects of the change and several stated there was no difference. The positive effects most often cited for changing to annual budgets were increased evaluation, legislative scrutiny and more accurate revenue estimates; however, an almost equal number of respondents cited the same factors as having a negative effect, mainly because of the compressed time schedule for reviewing an annual budget.

Respondents from the two states that changed to biennial budgets cited no negative effects, but two of the six respondents in those states said there was no difference. The positive effects mentioned included opportunities for increased planning, evaluation and legislative scrutiny.

It is difficult, if not impossible, to determine what effect a change in budget cycles has on increased state spending (Question #9) since so many other factors intervene such as inflation and major policy changes in state programs. Most respondents acknowledged this and qualified their response. The change had no effect on the rate of increased state spending according to 55% of the respondents. The remaining responses were equally divided between those who thought the change did increase state spending and those who did not know.

Similarly, respondents were almost evenly divided about whether the change affected the accuracy of revenue estimates and accumulation of surplus funds (Question #10).

Which Type Favored by Respondents?

The final survey question provided an opportunity for respondents to comment in general on the issue of annual vs. biennial budgets. Table 2 shows the results of classifying the comments according to which type budget the respondent appeared to favor; again responses were almost equally divided.

TABLE 2. Preferences of Respondents

<u>Preference</u>	<u>Budget Officers</u>	<u>Legislative Leaders</u>	<u>Total</u>
Favor annual budget	5	5	10
Favor biennial budget	6	5	11
Neutral	2	7	9

ATTACHMENT C

Annual

or

Biennial

Budgets ?

The Council of State Governments

ANNUAL OR BIENNIAL BUDGETS?

August 1972
RM-491
Price: \$2.00

The Council of State Governments
Iron Works Pike
Lexington, Kentucky 40505

TABLE OF CONTENTS

	<u>Page</u>
Foreword	v
Introduction	1
Opinions in States Recently Switching to Annual Budgets	4
Effect on workload and size of budget staff	4
Effect on workload of other executive agencies	7
Effect on workload and size of the legislative staff	8
Effect on ability or willingness to undertake planning beyond the budget period	9
Effect on accuracy of revenue estimates	10
Effect on ability to meet matching requirements for federal grants in aid	11
Effect on ability to fully finance programs to carry out the program level the appropriation was designed to meet	12
Effect on the rate of annual increase in state expenditures	13
Procedures under biennial budgets for fiscal adjustments	14
A switch back from annual to biennial budgets?	15
Expenditure controls under biennial budgets	16
Annual Session States with Biennial Budgets	17
The Switch from Annual to Biennial Budgets - Hawaii	19
Annual Budget Review - Wisconsin	21
Conclusion: Which way to go?	23

FOREWORD

Recent changes in budget procedures in some States have brought renewed attention to the question of whether the process should be an annual or biennial one. The Research Committee of the National Association of State Budget Officers, therefore requested the Council of State Governments to ascertain the reaction of state officials to these changes.

The survey was conducted by means of a questionnaire to ten key executive and legislative officials in each of eleven States. The Council is most grateful to the responding officials for their cooperation and assistance. The report was prepared by Paul Hibberd, Research Associate, under the direction of George A. Bell, Director of Research.

Brevard Crihfield
Executive Director
The Council of State
Governments
Iron Works Pike
Lexington, Kentucky 40505

Introduction

The increasing complexity and mounting problems of state government have triggered many changes in state operations, among these being the shift of legislative sessions to an annual basis rather than biennial. There are now (1972) 33 annual session states plus 3 more whose unlimited biennial sessions extend into the second year, compared with 18 States ten years ago, 10 States twenty years ago, and only 4 States in the early 1940's.

One reason advanced in support of annual sessions has been that state financial and budgetary policies must be reviewed more often than once every two years. This was a predominant factor leading toward annual sessions, as shown by the fact that 9 of the 13 States having annual sessions in 1962 restricted one session every two years primarily to fiscal matters. However, there has been a reversal in this trend, and now a much lower proportion of States - 5 of 33 annual session States, place such limits on sessions.

The felt need for making fiscal decisions annually is still strongly apparent, since most States which have adopted annual sessions have also shifted to annual budgets. However, a few States with annual sessions have not shifted to annual budgets. A further surprising development in view of the trend was the action of Hawaii, which in 1971 shifted to a biennial budget while retaining annual sessions, after having had annual budgets throughout its statehood.

The Hawaii move is one event that has triggered interest among state officials everywhere concerning the advantages and disadvantages of annual versus biennial budgeting, leading to this survey of States which have

made recent shifts. The following questions were asked:

1. What effect has changing from a biennial to an annual budget in your State had on the following:
 - (a) Workload of the budget agency:
 1. Has there been a change in the duties or type of work performed by budget staff?
 2. Has there been a commensurate change in size of budget staff?
 - (b) Workload of other executive agencies (operating agencies; Governor's Office, etc.)
 - (c) Workload of the legislative staff:
 1. Has there been a change in the duties or type of work performed by legislative staff?
 2. Has there been a commensurate change in size of legislative staff?
 - (d) Ability or willingness to undertake planning beyond the budget period:
 - (e) Accuracy of revenue estimates:
 - (f) Ability to meet matching requirements for federal grants in aid:
 - (g) Ability to fully finance programs to carry out the program level the appropriation was designed to meet?
 - (h) On the rate of annual increase in state expenditures
2. When you were on a biennial budget, what procedures (such as use of transfers, emergency appropriation, allotment adjustments, etc.) existed for taking care of changing financial requirements for programs or agencies?
3. What are you able to do under annual budgeting in providing for year to year changes that you could not do under biennial budgets?
4. If the opportunity arose to switch back to biennial budgets, would you favor doing so? Please state reasons.
5. If the switch to biennial budgeting were to be made, what recommendations would you make to assure that legislative and executive controls over program plans and expenditure are not weakened?

The survey covers most States which have recently switched from biennial to annual budgets and have had at least one full biennium under the annual budget system - Florida, Idaho, Illinois, Missouri, Oklahoma, Tennessee, Utah and Vermont. Other States moving to annual budgets such as Connecticut, Nebraska ~~and~~ had not experienced the annual cycle at the time the questionnaire was mailed (fall, 1971.)

Iowa and Georgia have instituted annual legislative sessions while retaining a type of biennial budget and were also surveyed. Indiana's similar shift has occurred too recently for coverage. Hawaii was surveyed

for its shift from annual to biennial budgets. Wisconsin was subsequently added; that State now has annual sessions, and in 1972 completed its first formal off-year budget review process in lieu of an annual budget.

In each of the eight States surveyed which switched from a biennial to an annual budget (above), a questionnaire was sent to ten officials - the Governor, President of the Senate, Speaker of the House, administration/finance officials, budget officers, legislative research directors, legislative fiscal review officers, planning officials, and the chairmen of the appropriations committees. There was, therefore, a possibility for 80 responses. The number of actual responses received was 35, with at least two from each State: two from Tennessee, two from Utah, five from Illinois, six from Idaho, three from Florida, five from Missouri, six from Vermont, and six from Oklahoma. In terms of responding officials the breakdown of answers was: Governors, one; Presidents of Senates, four; Speakers of Houses, four; legislative fiscal review officials, four; chairmen of appropriations committees, six; planning officials, six; administration/finance officials, one; budget officers, six; legislative research directors, three. For purposes of narrating the reported opinions the sole responding administration/finance official was included among the budget officers, and the responses of the Presidents of the Senate and the Speakers of the House were combined and treated as the opinions of legislative leaders.

The questionnaire was also sent to the identical officials in Georgia and Iowa, which changed to annual legislative sessions while retaining biennial budget approaches. These officials were requested to provide their opinions on advantages and disadvantages of not switching to an annual budget cycle.

Finally, the questionnaire was also sent to the same officials in Hawaii, which switched from annual to biennial budgeting. These officials were requested to provide their comments and opinions on the effects of the reverse change from an annual to a biennial cycle. Limiting the usefulness of the original Hawaii responses, according to several officials of the State, was the fact that a full biennium had not yet passed under the new procedure. A followup request to the Hawaiian respondents was sent in June, 1972 to seek further reactions after experience with the new approach during the 1972 session.

In view of the delay in analyzing the responses, the questionnaire was also sent to Wisconsin officials in June, 1972 to ascertain reactions to the budget review process first used in the 1972 session.

Opinions in States Recently Switching to Annual Budgets

The responses of officials in the States which have recently changed from biennial to annual budgets are analyzed in this section. The responses are organized in accordance with the questions asked.

Effect on Workload and Size of the Budget Staff

Budget officers should be in the best position to know whether there has been a change in staff size. According to the seven budget officials who responded, the budget staff was increased in size in three States and remained the same in four. The perception of other officials did not always fit these facts, for in four of the seven States one or more other officials thought the staff had increased when the budget official said it had not (two States) or thought it has not increased when the budget

chief said it had (two States). (See table 1 for summary tabulation).

1. Effect on the size of the Budget Agency:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	1		6		1	8
Legislative Fiscal Review	1		3			4
Chairmen Appropriations Committees	3		2		1	6
Planners	1		1	4		6
Budget Department	3		4			7
Legislative Research	2			1		3
	11		17	5	2	35

In at least one State reporting an increase in staff size, this change was due only in part to annual sessions. Annual sessions were begun at the same time that a major change in budget procedures occurred, including establishment of an analytical staff. the Governor's office and development of program analysis procedures.

With the above indications of a different opinion concerning a factual situation, a difference of opinion is to be expected on the less factual questions which follow.

Legislative leaders expressed doubt whether the workload of the budget agency had increased significantly and whether additional staff was necessary. However, chairmen of the various appropriations committees believed that there was a significant increase in the duties of the budget agency, but not to the point that staff members need be added. One suggestion was that the "off-year" was often not very productive and that the solution to the increased workload was a more concentrated effort each

year. In addition to the above positions, several legislative officials contended that there were insufficient funds to employ additional budget staff members.

Although several executive officials expressed the opinion that there was no change in the duties of the budget agencies, a few budget administrators expounded the adverse effects of the change. Their primary contention was that the switch to an annual budget had left little time to perform various studies for the improvement of organization and operations. For example, one budget director remarked, "the increased workload in terms of budget preparation has left less time to explore substantive issues, and has necessitated restrictions on all other activities." When commenting upon the increased workload of his agency and the inability to add new staff members, another budget official remarked, "instead of additions to staff, such activities as analysis, studies, management services, etc., have been drastically reduced if not altogether eliminated."

2. Effect on the workload of the Budget Agency:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	3		4		1	8
Legislative Fiscal Review	1		2	1		4
Chairmen Appropriations Committees	4		1		1	6
Planners	1		1	4		6
Budget Department	4		3			7
Legislative Research	3					3
	16		12	5	2	35

Effect on the Workload of other Executive Agencies

An overwhelming majority of officials responding were of the opinion that the change to an annual budget significantly increased the workload of other executive agencies. In a few instances it was noted that budget operations in all the executive agencies were operating throughout most of the year. One budget official reported that with demands on the individual agencies for program information that was not previously requested, "budgeting has become a full time activity and the days when part time budgeting was possible are gone."

Recognition of this increased workload was not limited to executive officials. Three out of every four legislative officials reported an increased burden on the executive agencies in submitting a budget for their programs annually. One legislative council director remarked that, "probably the most significant aspect of the change (to an annual budget) is an awareness that budgeting is a continuous process the year round, and not just something that takes place at session time."

3. Effect on the workload of other Executive Agencies:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	5		2		1	8
Legislative Fiscal Review	2		1	1		4
Chairmen Appropriations Committees	5		1			6
Planners	1		2	3		6
Budget Department	6		1			7
Legislative Research	3					3
	22		8	4	1	35

Effect on the Workload and Size of the Legislative Staff

The majority of legislative officials felt that the change to an annual budget had no significant effect upon the size or workload of legislative budget staffs already in operation. In two States the statement of the legislative fiscal staff director, who should know, concerning increase in staff was not unanimously supported in the opinions of others. In some States the legislative budget staffs were virtually non-existent under a biennial budget. For example, Vermont had no legislative budget staff until 1970, when an analyst was hired to serve the appropriations committees. Other States in which legislative budget analysis agencies were created at the time of the change to an annual budget cycle attributed those creations directly to other sources, naming the budget change as only an indirect cause.

Most executive officials asserted that they were in no position to express an opinion on the effect of the change to an annual budget upon legislative staffs. Among those who did express an opinion, two out of every three felt that the change had no significant effect upon the size or workload of the staffs.

4. Effect on the Size of the Legislative Staff:

	Increase	No Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	3		4		1	8
Legislative Fiscal Review	1		3			4
Chairmen Appropriations Committees	2		3	1		6
Planners			6			6
Budget Department	2		3	2		7
Legislative Research	2		1			3
	10		21	3	1	35

Effect on Ability or Willingness to Undertake Planning beyond the Budget Period

The opinions expressed on this issue were widely varied among both legislative and executive officials. Two out of every three budget officials took the position that an annual budget cycle had an adverse effect upon the willingness to undertake planning beyond the budget period. Other respondents noted that agencies and departments were reluctant to engage in advance planning to begin with, but that the switch to an annual budget left less incentive to plan beyond the budget period. Some legislative leaders said that legislative desire for long range planning was not shared by executive agencies. One executive official, explaining the slowness of agencies to plan ahead, noted that program planning is an activity "which must be fostered by the Chief Executive as a basic management tool for a reasonable length of time before agencies are even interested in performing the activity."

5. Effect on the workload of the Legislative Staff:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	3		4		1	8
Legislative Fiscal Review	1		3			4
Chairman Appropriations Committees	3		2	1		6
Planners				6		6
Budget Department	2		3	2		7
Legislative Research	1		2			3
	10		15	9	1	35

A few officials expressed the opinion that longer range planning was one advantage of annual budgeting, but failed to explain the reasoning behind this statement. Some other officials noted that longer range planning was being instituted under planning programming budgeting systems (PPBS) independently of the effect of annual versus biennial cycles.

Also, in two States the answers revealed differences of opinion among officials. For instance, in one State the Speaker, the legislative fiscal officer and the planning official felt that there was an increase in willingness to undertake planning beyond the budget period, while the budget officer thought there was a decrease in that willingness and both the President of the Senate and a committee chairman reported no change, attributing any difference to a recent emphasis on program planning.

6. Effect on the ability or willingness to undertake planning beyond the budget period:

	Increase	Decrease	Change	No Opinion	No Answer	Total
Governor		1				1
President Senate/Speaker House	2	1	3	1	1	8
Legislative Fiscal Review	2		2			4
Chairmen Appropriations Committees	2	1	3			6
Planners	2		1	3		6
Budget Department	3	4				7
Legislative Research	1		1	1		3
	12	7	10	5	1	35

Effect on Accuracy of Revenue Estimates

A majority of the officials felt that a change to an annual budget cycle should, or did, increase the accuracy of revenue estimates. This opinion was held by 16 reporting officials, compared to 4 who thought that accuracy decreased and 10 who felt that there was no change.

Accuracy was presumed to increase because of increased frequency of compiling estimates, and the shorter time interval between making the estimate and realizing the revenue.

7. Effect on the accuracy of Revenue Estimates:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor		1				1
President Senate/Speaker House	5	1	1		1	8
Legislative Fiscal Review	1	1	2			4
Chairmen Appropriations Committees	6					6
Planners			3	3		6
Budget Department	3	1	2	1		7
Legislative Research	1		2			3
	16	4	10	4	1	35

Effect on Ability to meet Matching Requirements for Federal Grants in Aid

A majority of the state officials took the position that the change to an annual budget increased the ability to meet matching requirements for federal grants in aid. The chief reason for this opinion was the time factor, especially when the federal government is often tardy in appropriating and allocating grants. An annual budget is thought to allow considerably more flexibility if the federal government should significantly alter the amount of money available. One budget director noted that the construction of an annual budget helps avoid the possibility of a special session of the legislature which, when called for fiscal matters, often generates "political stress."

8. Effect on the ability to meet matching requirements for federal grants in aid:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor		1				1
President Senate/Speaker House	5	1	1		1	8
Legislative Fiscal Review	4					4
Chairmen Appropriations Committees	3		3			6
Planners			3	3		6
Budget Department	5	1	1			7
Legislative Research	1				2	3
	18	3	8	3	3	35

Effect on Ability to Fully Finance Programs to Carry Out the Program Level the Appropriation was Designed to Meet

The majority opinion was that the ability to fully finance programs had been increased by the change to an annual budget. An annual budget, as stated before, appears to be more accurate in predicting revenues. The increased accuracy of estimates increased the ability to fully finance programs, thereby carrying out the program level the appropriations were designed to meet.

Some officials felt that the ability to fully finance programs was not necessarily related to annual or biennial budgets. Their position, as one budget director noted, was that the ability to fully finance programs "speaks to the quality of program projection and revenue estimating and not necessarily for the period during which these events occur."

Some officials recognized the disadvantage of predicting program finance and revenue two years in advance, as opposed to one, but felt that biennial budgeting had other overriding advantages. They suggested

that any problems encountered in fully financing programs during the second year of the biennium could be mitigated by annual sessions where emergency appropriations, transfers, etc., could be enacted.

9. Effect on the ability to fully finance programs to carry out the program level the appropriation was designed to meet:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor	1					1
President Senate/Speaker House	5	1	1		1	8
Legislative Fiscal Review	3		1			4
Chairmen Appropriations Committees	3		2	1		6
Planners	2		1	3		6
Budget Department	4		2	1		7
Legislative Research	1		1	1		3
	19	1	3	6	1	30

Effect on the Rate of Annual Increase in State Expenditures

There is no evident consensus on what effect, if any, the change to an annual budget might have had on the rate of annual increase in expenditures: 16 thought it would result in greater increases than biennial budgets while 12 indicated there would be no change.

One budget director who believed increases would result observed, "biennial budgeting tends to lock the second year in close proximity to the level of the first fiscal year. Annual budgeting permits the entire lobby and pressure effort of the various special interests to come into play." Some indicated that as inflation, program alterations, salary adjustments, etc., are considered annually, the rate of increase must necessarily be greater. One budget director introduced a formula: "the rate of annual increase in state expenditures is inversely proportional to the length of the budgetary period."

Those officials who took the position that the change to an annual budget had no effect on the rate of annual increase in expenditures felt that the rate of increase is dependent upon revenue. They noted that if revenue should increase beyond expectations in the second year of the biennium, alterations in appropriations could be made at that session of the legislature. These increases in appropriations would essentially be equal with any changes that might have been made if there were a new budget in the process of formulation under an annual cycle.

10. Effect on the rate of annual increase in state expenditures:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor	1					1
President Senate/Speaker House	4		3		1	8
Legislative Fiscal Review	3		1			4
Chairmen Appropriations Committees	2		3	1		6
Planners			3	3		6
Budget Department	4		2	1		7
Legislative Research	1			2		3
	15		12	7	1	35

Procedures under Biennial Budgets for Fiscal Adjustments

Operations under biennial budgets had not prevented most States from changing their fiscal plans where necessary. In some cases this was done through legislative action in special session or otherwise, such as emergency, deficiency or supplemental appropriations.

An additional method which was often mentioned as a means of combating unforeseen conditions was the transfer of appropriations from one agency, unit or program to another. Five States reported the utilization

of intra-agency transfer, with three of them additionally inter-agency transfers.

Finally, three States noted the existence of an emergency board which had the power to appropriate from a special account in cases when the legislature was not accessible.

A Switch back from Annual to Biennial Budgets?

Among those States which changed to an annual budget, 75 percent of the legislative officials and 70 percent of the executive officials, (but only 50 percent of the budget officers are included in this majority) were satisfied with the new system, while the remainder in each group favored a return to the biennial budget.

Some of the following reasons were cited by legislative officers for remaining with the new system:

- (1) fewer emergency appropriations;
- (2) "annual budgets tend to strengthen the legislator's role in setting the policy of the state."

Two other reasons, cited by some executive officials, are:

- (1) annual budgeting permits the Governor a more frequent review of agency programs and requires state agencies to develop tighter administrative controls over the spending of public funds,
- (2) "in biennial budgeting immediate correction of the State's budget is not possible, and waiting until the legislature meets 'next time' is the only alternative. When corrections are eventually made the legislature in its alarm may accuse the Governor of mismanagement and the Governor in turn accuse the legislature of irresponsibility."

One legislative official who favored returning to a biennial budget system noted that with annual budgeting there was a tendency to focus legislative attention on the details, which should be the concern of the executive.

Among the executive officials who were dissatisfied with the annual budget cycle some of the reasons cited were the following:

- (1) an annual budget system results in a narrow viewpoint, short time spans for accomplishment, and a vast increase in staff work;
- (2) a biennial budget provides more time for program planning activities;
- (3) "with annual budgets, the top talent of the executive branch is tied up preparing, defending and implementing budgets. This creates a continuous and overlapping cycle which requires preparations for next year's budget to start before information on the operation of the current year's budget can be collected and evaluated."

Expenditure Controls under Biennial Budgets

Since a switch to biennial budgeting would allow the various state agencies to operate for two years without their programs being subjected to fiscal change, respondents were asked what measures should be introduced to assure that legislative and executive controls were not weakened.

Among those suggested by legislative officials were these:

- (1) a strong post-audit division for the evaluation of programs,
- (2) the existence of an interim committee or emergency board to act upon requests to cover deficiencies or emergencies.

Executive officials, especially budget officials, made other suggestions for assuring control, including the following:

- (1) legislative willingness to attend special sessions if a significant imbalance in the budget should arise,
- (2) a requirement that each fiscal year in the biennium should stand alone, and no appropriations be carried forward from one year to the next,
- (3) "greater emphasis be placed upon program evaluation and review in terms of definition or objectives, method of operation and intended results,"

- (4) rather than becoming concerned with details, the legislative fiscal staff "should develop information for policy decisions and directions so that the legislators can decide what services the State should render and determine whether the service is worth the dollars that are required....the legislative branch should give the necessary attention to establishing the goals and policies that will set the directions and shape the future of the government."

Annual Session States with Biennial Budgets

Officials from both Iowa and Georgia pointed out that neither State operates on a strict biennial budget. Rather, the systems in those States might be described as 'modified annual' or 'modified biennial' budgets.

The Georgia constitution provides that a General Appropriations Act shall be passed the first year of the legislative term to cover the next two fiscal years. Any excess funds not expended during the first fiscal year shall lapse and revert to the fund from which they were appropriated. In practice, however, the money provided for the second year of the biennium by the appropriations act is merely a 'dummy appropriation' since it duplicates the first year. At the legislative session in the second year of the term amendments are made to the General Appropriations Act to authorize realistic appropriations for the second fiscal year. Since the executive departments are nevertheless required to present their requests on a two-year basis and the Governor must make his recommendations on a two-year basis, the General Assembly has access to the information to make a reasonable prediction of what funds will be necessary in the second fiscal year.

Prior to 1971, Iowa operated on almost a strictly biennial budget. During those years appropriation bills were drawn which authorized an

identical amount for each year of the biennium. Any departmental appropriations which were not expended during the first fiscal year of the biennium could be carried over and expended during the second fiscal year.

In 1971 a new procedure was put into effect through adoption of a law providing that if the appropriated funds of an agency were not expended during the first fiscal year, the balance would 'revert to the state treasury and to the credit of the fund from which appropriated.' If an agency felt that the funds which would normally have reverted to the state treasury were essential to that agency, an application could be made to the appropriations committees for a hearing.

One legislative official expressed the opinion that the most significant factor in preventing Iowa from changing to an annual budget was the added burden of repeating the entire budget process each year. Although several bills had been introduced in the State which would provide for an annual budget, this time factor seems to have been the foremost cause of defeat.

Questionnaire responses from the two States totalled six, but only three were susceptible to tabulation for any one question. Thus, the following discussion is based on limited responses.

Among both Georgia and Iowa officials there were differing opinions whether a change to an annual budget cycle would have any effect on the workload or size of executive budget agencies. One budget officer noted that the only alteration might be less emphasis on analysis work and more on projection. It was suggested that the workload of other executive agencies would increase as budget preparation became a 'full-time' project.

Additionally, officials from both these States expressed the opinion that the workload of legislative fiscal staffs would be affected by a change to an annual budget. They felt that such a change would require greater detail, greater analysis of budget requests, and overall greater control being exercised by the general assembly. There was a difference of opinion, however, concerning whether the altered workload would necessitate a larger staff.

Regarding the State's willingness to undertake planning beyond the budget period when operating on an annual cycle, Georgia and Iowa respondents indicated that the proclivity to look beyond one year would either be reduced or unaffected. While they felt that annual budgets would lead to more accuracy of revenue estimates, they indicated that inaccuracies resulting from biennial budgets could be remedied in the annual legislative sessions. Georgia and Iowa officials contended that the rate of increase in budgets is more controllable in a biennial cycle. The primary argument in Iowa was that the pressure for increase is reduced during the second session when additional appropriations will be made only in the case of emergencies or unforeseeable changes. One Iowa official summarized as follows: "It seems to us that really we have the 'best of both worlds' 1) less time consumed in preparation/hearings, yet 2) the ability to review and make changes in the second session."

The Switch from Annual to Biennial Budgets - Hawaii

Hawaii abandoned an annual system in favor of a biennial one, effective July 1, 1971. Since this change was so recent, few definite results or effects were available for analysis at the time the questionnaire was sent out. In addition to the change to biennial budgeting, Hawaii

was in the process of implementing a planning-programming-budget system. The combination of these changes resulted in a change of focus from more detailed management control to an emphasis on planning and analysis. This new approach was intended to allow the state legislature to devote more attention during the second year of the biennium to an examination of the progress and effectiveness of various programs. In fact, under the new budget act annual reports to the legislature are required "reflecting the deviations of actual from planned levels of program effectiveness, program size, and program expenditures."

As far as could be determined, the change to a biennial budget had alleviated the burden of the executive budget staff and freed the staff members for more analytical assignment on the PPBS implementation project. In addition, it was predicted that the budget workload of other executive agencies and the legislative fiscal staff would be reduced substantially.

Although Hawaiian officials admitted that revenue estimates for the biennium period would probably be less accurate than on an annual cycle, they apparently felt that the difference would not cause significant problems. The officials also recognized that additional problems could arise in projecting matching requirements for federal grants and aid, but were hopeful that the legislature would be amenable to supplemental budget requests for this purpose during the second year of the biennium. Some hoped also that the rate of annual increase in state expenditures would be less under the biennial system.

Responses to the followup request reiterated the difficulty involved in determining the effect of the switch to biennial budgeting, because that switch was made coincidentally with a change to a planning-programming

budget. One official, commenting on the budget agency workload, pointed out that a change to a biennial budget might have substantially decreased the time spent in budget preparation, yet the amount of time allotted to this function actually increased due to the demands of the planning-programming budget.

One legislator noted that the change afforded committees the opportunity to scrutinize more closely various program accomplishments and problems, "the point being that there was 'extra' time to review programmatic matters and accomplishments because the committee was not straddled with the urgency or necessity of passing an annual budget."

A legislator also noted that the 1971-73 budget could have been legislatively reduced to realign expenditures with anticipated revenues. However, he added that such action deserves careful scrutiny when the effect would impose a restrictive ceiling for expenditures while the possibility of an upturn in revenues remains.

Despite the fact that the second legislative session under Hawaii's biennial budget is now history, the general feeling is that the State has not as yet experienced the full impact of the switch from an annual to a biennial budget.

Annual Budget Review - Wisconsin

Responses concerning the Wisconsin annual review process for the second year of the biennium were received from six officials -- two executive, three legislators and one legislative staff. According to a 1971 joint resolution the Governor was to submit to the Legislature by January 18, 1972 any budget changes he deemed desirable for the second year of the biennium. An executive respondent estimated that the amount of work this

entailed for the central budget office was approximately one-third of that associated with full budget preparation. This additional work was absorbed by existing staff, at the expense of fewer daily agency contacts and policy development and management improvement work. On the legislative side, one respondent hailed the process as allowing legislative review of selected programs without waiting for a full budget cycle to elapse. The budget change also altered the duties of administrative agencies which respond only to specific questions raised by the budget staff rather than being required to submit new budgets.

In discussing any change in ability to meet matching requirements for federal grants in aid, one respondent noted that most agencies more than adequately budgeted to cover any such requirements. However, he cited one instance where the annual review remedied a situation of under-estimation and was subsequently the cause of critical comment from some legislators because the review allowed agencies to be "bailed out" of their errors. The respondent also predicted that the annual review process would accelerate the rate of increase in state expenditures. This position was contradicted, however, by another respondent, who reported that the rate of increase was substantially lower in 1971-73 than in the previous three biennia.

Five of the six responding Wisconsin officials expressed satisfaction with the annual review process, because it possessed the advantages of both the annual and biennial budget. The only dissatisfied official expressed the fear that the second year budget bill would consistently become "a grab-bag for everyone's pet project with considerable log rolling."

One factor preventing a full trial of the annual review process was that the 1972 budget was not adopted until November 1971, over five months

after the beginning of the fiscal year. Thus there was little time under the first year's budget before recommendations had to be made on the second. Partly for this reason most respondents felt that it is too soon for a full evaluation of the annual review process.

Conclusion: Which way to go?

It is not surprising that most respondents from States which have shifted from biennial to annual budgets support the change. This support among most categories of officials is strong, ranging from 75 percent for legislators to 100 percent for executive officials outside of the budget office. Only budget officers made a contest of the issue - three favored retention of annual budgets and three favored returning to biennial budgets. In no case were all respondents from a State unanimous in favoring a return to biennial budgeting.

The difference in point of view can occur because of differences in conception of the budget process and differences in experience undergone by each participant in the budget process in each State. In reality, a State can develop a good system of executive and legislative fiscal and program planning and controls under either an annual or biennial budget. The system would work differently with the alternate time-spans, but could be effective under either approach.

To illustrate the contention just stated, let us examine the major selling points of both annual and biennial budgets.

Annual budgets permit more frequent and probably more accurate estimating of revenues and financial requirements of state programs. Corrections on both the expenditure and revenue sides of the balance sheet can more readily be made. Adjustments because of sudden availability or loss of federal funds can be made sooner.

Annual budgeting assures that action will be taken which reflects the above occurrences. Yet action can be taken under biennial budgeting too, if the Legislature meets annually. The Wisconsin budget review process was established for this purpose, and there appears to be nothing in the Wisconsin procedure that could not be adapted to the needs of any other State.

A fundamental reason why most responding legislators favor annual budgeting is that legislative control over spending is more easily attained; the Legislature can more frequently review the spending programs it previously authorized and ascertain whether legislative intent is being carried out.

This review is a basic function of the legislature, and any system should contain built-in procedures to accomplish it. It can be done with biennial budgets as well as annual. Of course, certain conditions must be met. If the legislature meets annually, if the legislature and its committees are continuing bodies throughout the biennium, if legislators are adequately paid and staffed so that they can devote time to the task and make productive use of their time, then the task of review can be carried out effectively, and corrective actions can be taken.

Now let us look at reasons in support of biennial budgeting. Biennial budgets force a longer range planning than annual budgets simply because appropriations must be made for a longer time span; they provide more time for long range planning; and they save the time of agencies, Governor, budget staff, legislature and legislative staff in compiling, presenting, explaining and defending the myriad details that go into the making of a budget. This would allow more time for program review and evaluation.

But these activities are not excluded under annual budgeting. Most budget procedures as established by budget offices require submission and analysis of much detail, but a number of States have been struggling with ways to reduce this burden. Many details, such as replacement of equipment, are better handled through concentration on good management as part of budget execution rather than as items to be spelled out in budgets. Detailed budget items imply a specific knowledge of needs that cannot be that accurately estimated months in advance of expenditure. Concentration on management analysis and program evaluation would be more productive in the long run, and can be fitted in with annual budgets as well as biennial.

Not, simply because appropriations must be made annually, must legislatures necessarily examine the fine print in every budget every year. Legislatures can find time for program evaluation if they adjust their procedures accordingly, such as concentrating on major issues and unusual changes along with a periodic careful review of all other programs. This is a variation of a suggestion made by one respondent that major programs such as education and welfare be budgeted annually, while lesser and more routine ones such as civil defense and licensing boards be budgeted biennially.

Good decision-making encompasses, among other things, defining state program needs, determining the most effective method of accomplishing the program, providing the resources to get the job done, and evaluating the operation of the program to see whether its aims were accomplished. The budget process is but one aspect, although a most crucial one, of this larger process.

Both executive and legislative officials in many States are seeking ways to accomplish this decision-making task more effectively. The job can be done with either an annual or biennial budget. Which way a State goes depends on its existing system of budget decision-making and a realistic assessment of what can be done soon to fashion the budget process to better serve its purpose. If institutions such as the budget cycle get in the way, then a decision must be made on whether to change the institution, find a way around it, or adjust it to better accomplish the job to be done.

ATTACHMENT D

Table 1
STATE BUDGETARY PRACTICES

<i>State or other jurisdiction</i>	<i>Budget-making authority</i>	<i>Official or agency preparing budget</i>	<i>Date estimates must be submitted by dept. or agencies</i>	<i>Date submitted to legislature</i>	<i>Power of legislature to change budget*</i>	<i>Power of item veto by governor</i>	<i>Fiscal year begins</i>	<i>Frequency of budget</i>	
Alabama	Governor	Div. of the Budget, Dept. of Finance	Oct. 15 for Jan. session; Nov. 15 for Feb. session	By the 5th day regular business session	Unlimited	Yes	Oct. 1	Annual	1
Alaska	Governor	Div. of Budget & Management, Office of the Governor	Oct. 1	3rd legislative day of session	Unlimited	Yes	July 1	Annual	1
Arizona	Governor	Finance Div., Dept. of Administration	Sept. 1 each year	By the 5th day of regular session	Unlimited	Yes	July 1	Annual	1
Arkansas	Governor	Office of Budget, Dept. of Finance & Administration	Sept. 1 in even years	Date of convening session	Unlimited	Yes	July 1	Biennial, odd yr.(a)	1
California	Governor	Dept. of Finance	Specific date for each agency set by Dept. of Finance	Jan 10	Unlimited	Yes	July 1	Annual	1
Colorado	Governor	Executive Director, Office of State Planning & Budgeting	Aug. 1-15	Dept. budgets submitted Nov. 1; governor's full recommendation submitted within first 10 days of legislative session	Unlimited	Yes	July 1	Annual	1
Connecticut	Governor	Div. of Budget & Financial Management, Office of Policy & Management	Sept. 1	1st session day after third of Feb. in odd years, except if change in governor; then 1st session day after Feb. 14. In even years, on the Wed. following the 1st Mon. in Feb.	Unlimited	Yes	July 1	Annual	1
Delaware	Governor	Office of Budget Director, Office of the Governor	Sept. 15; schools, Oct. 15	By Feb. 1	Unlimited	Yes	July 1	Annual	1
Florida	Governor	Office of Planning & Budget, Office of the Governor	Nov. 1 each year	45 days prior to regular	Unlimited	Yes	July 1	Biennial	1
Georgia	Governor	Office of Planning & Budget	Sept. 1	By 5th day of session or sooner	Unlimited	Yes	July 1	Annual	1
Hawaii	Governor(b)	Budget, Planning & Management Div., Dept. of Budget & Finance	Aug. 31	20 days prior to convening of session on 3rd Wed. in Jan.	Unlimited	Yes	July 1	Biennial, odd yr.(a,c)	1
Idaho	Governor	Office of the Governor	Sept. 1 before Jan. session	Not later than 5th day of session	Unlimited	Yes	July 1	Annual	1
Illinois	Governor	Bureau of the Budget, Office of the Governor	Specific date for each agency set by Bureau of the Budget	First Wed. in March	Unlimited	Yes	July 1	Annual	1
Indiana	Governor	Budget Agency(d)	Sept. 1 in even years, flexible policy	Within the 1st two weeks after the session convenes(e)	Unlimited	No	July 1	Biennial, odd yr.(a)	1
Iowa	Governor	Comptroller	Sept. 1	Feb. 1 or before	Unlimited	Yes	July 1	Biennial, odd yr.(a)	1
Kansas	Governor	Div. of the Budget, Dept. of Administration	Not later than Oct. 1	Within 3 weeks after convening of session in odd years and within 2 days after convening of session in even years	Unlimited	Yes	July 1	Annual	1
Kentucky	Governor	Office for Policy & Management, Dept. of Finance	Specific date set by administrative action but may not be later than Nov. 15 of each	As governor desires	Unlimited	Yes	July 1	Biennial, even yr.(a)	1

Louisiana	Governor	State Executive Budget Director, Div. of Administration	Dec. 15	Not later than 1st day of each regular session	Unlimited	Yes	July 1	Annual	4
Maine	Governor	Bureau of the Budget, Dept. of Finance & Administration	Sept. 1 in even years	Not later than the Fri. following the first Mon. in Jan. of the 1st regular legislative session. Governor-elect to 1st term, not later than Fri. following 1st Mon. in Feb. of 1st regular legislative session	Unlimited	No	July 1	Biennial, odd yr. (a)	4
Maryland	Governor	Secretary, Dept. of Budget & Fiscal Planning	Sept. 1	3rd Wed. of Jan. annually	Limited: legislature may decrease but not increase, except appropriations for legislature and judiciary	No	July 1	Annual	4
Massachusetts	Governor	Budget Director, Div. of Fiscal Affairs, Executive Office for Administration & Finance	Set by administrative action	Within 3 weeks after convening of the legislature	Unlimited	Yes	July 1	Annual	4
Michigan	Governor	Office of the Budget, Dept. of Management & Budget	Set by administrative action	10th day of session	Unlimited	Yes	Oct. 1	Annual	4
Minnesota	Governor	Budget Div., Dept. of Finance	Oct. 1 preceding convening of legislature	Within 3 weeks after the 1st Mon. in Jan. in each odd year	Unlimited	Yes	July 1	Biennial, odd yr. (a)	4
Mississippi	Commission of Budget & Accounting (f)	Commission of Budget & Accounting	Aug. 1 preceding convening of legislature	Dec. 15	Unlimited	Yes	July 1	Annual	4
Missouri	Governor	Div. of Budget & Planning, Office of Administration	Oct. 1	By the 30th day	Unlimited	Yes	July 1	Annual	4
Montana	Governor	Director, Office of Budget & Program Planning, Governor's Office	Sept. 1 of year before each session	1st day of session	Unlimited	Yes	July 1	Biennial, odd yr.	4
Nebraska	Governor	Budget Div., Dept. of Administrative Services	Not later than Sept. 15	Jan. 15	Limited: three-fifths vote required to increase governor's recommendations; majority vote required to reject or decrease such items	Yes	July 1	Annual	4
Nevada	Governor	Budget Director, Budget Div., Dept. of Administration	Sept. 1	10th day of session or before	Unlimited	No	July 1	Biennial, odd yr. (a)	4
New Hampshire	Governor	Comptroller, Dept. of Administration & Control	Oct. 1 in even years	Feb. 15 in odd years	Unlimited	No	July 1	Biennial, odd yr. (a)	4
New Jersey	Governor	Director, Div. of Budget & Accounting, Dept. of the Treasury	Oct. 1	Third Tues. after opening of session	Unlimited	Yes	July 1	Annual	4
New Mexico	Governor	Budget Div. Dept. of Finance & Administration	Sept. 1	On or before 25th day of regular session	Unlimited	Yes	July 1	Annual	4
New York	Governor	Div. of Budget, Executive Dept.	Early in Sept.	Second Tuesday following the first day of the annual session, except on or before Feb. 1 in years following gubernatorial election	Limited: may strike out items, reduce items, or add separate items of expenditure	Yes	April 1	Annual	4

<i>State or other jurisdiction</i>	<i>Budget-making authority</i>	<i>Official or agency preparing budget</i>	<i>Date estimates must be submitted by dept. or agencies</i>	<i>Date submitted to legislature</i>	<i>Power of legislature to change budget*</i>	<i>Power of item veto by governor</i>	<i>Fiscal year begins</i>	<i>Frequency of budget</i>
North Carolina	Governor	Office of State Budget	Sept. 1 preceding session	1st week of session	Unlimited	No	July 1	Biennial, odd yr. (a)
North Dakota	Governor	Office of Management & Budget	July 15 in even years; may extend 45 days	Dec. 1, prior to biennial session	Unlimited	Yes	July 1	Biennial, odd yr.
Ohio	Governor	Office of Budget & Management	Nov. 1; Dec. 1 when new governor is elected	Within four weeks of convening in odd years unless change in governor; then March 15	Unlimited	Yes	July 1	Biennial, odd yr. (a)
Oklahoma	Governor	Director of State Finance, Div. of Budget	Sept. 1	Immediately after convening of regular legislative session; an incoming governor, following inaugural	Unlimited	Yes	July 1	Annual
Oregon	Governor	Budget & Management Div., Executive Dept.	Sept. 1 in even year preceding legislative year	Dec. 1 in even year preceding legislative year	Unlimited	Yes	July 1	Biennial, odd yr.
Pennsylvania	Governor	Secretary of Budget & Administration, Governor's Office of Budget & Administration	Nov. 1 each year	As soon as possible after organization of legislature, but no later than 1st full week in Feb. Governor-elect to 1st term, no later than 1st week in March	Unlimited	Yes	July 1	Annual
Rhode Island	Governor	Div. of Budget, Dept. of Administration	Oct. 1	24th day of session	Unlimited	No	July 1	Annual
South Carolina	State Budget & Control Board (g)	Finance Div., State Budget & Control Board	Sept. 15 or discretion of board	2nd Tues. in Jan.	Unlimited	Yes	July 1	Annual
South Dakota	Governor	Commissioner, Bureau of Finance & Management, Dept. of Executive Management	Sept. 1	1st Tues. after 1st Mon. in Dec.	Unlimited	Yes	July 1	Annual
Tennessee	Governor	Budget Div., Dept. of Finance & Administration	Oct. 1	Prior to Feb. 1, except prior to March 1 in first year of governor's term	Unlimited	Yes	July 1	Annual
Texas	Governor, Legislative Budget Board	Budget & Planning Office, Office of Governor; Legislative Budget Board	Date set by budget director and legislative board	7th day of session or before	Unlimited	Yes	Sept. 1	Biennial, odd yr. (a)
Utah	Governor	State Budget Office	Sept. 1-30 (h)	After convening of legislature, 3 days regular session; 1 day budget session	Unlimited	Yes	July 1	Annual
Vermont	Governor	Commissioner, Dept. of Budget & Management; Agency for Administration	Sept. 1	3rd Tues. in Jan.	Unlimited	No	July 1	(i)
Virginia	Governor	Director, Dept. of Planning & Budget, Office of Administration & Finance	1st Sept. in odd years	Within 5 days after convening of regular session on 2nd Wed. in Jan. in even years	Unlimited	Yes	July 1	Biennial, even yr. (a)
Washington	Governor	Director, Office of Financial Management	Date set by governor	20th day of Dec. prior to session	Unlimited	Yes	July 1	Biennial, odd yr. (a)

West Virginia	Governor	Planning Div. & Div. of Budget, Dept. of Finance & Administration	Aug. 15	1st day of session except for 1st year of new gov. when it may be submitted 1 month after convening of session	Limited: may not increase items of budget bill except appropriations for legislature and judiciary	Yes	July 1	Annual	1
Wisconsin	Governor	Div. of State Executive Budget & Planning, Dept. of Administration	Dates as set by secretary, Department of Administration	On or before the last Tues. in Jan. in odd-numbered years	Unlimited	Yes	July 1	Biennial, odd yr.(a)	1
Wyoming	Governor	Budget Div., Dept. of Administration & Fiscal Control	Sept. 15 preceding session in Feb.	Jan. 1	Unlimited	Yes	July 1	Biennial, even yr.(a)	1
Dist. of Col.	Mayor	Office of Budget & Management Systems	Date set by mayor	(j)	Unlimited	Yes	Oct. 1	Annual	
American Samoa (k)	Governor	Planning & Budget Office	July 1	August	Unlimited (local funds)	Yes	Oct. 1	Annual	
Guam	Governor	Bureau of Budget & Management Research	Date set by director, Bureau of Budget & Management Research. Usually not later than Feb. 15	By April 30	Unlimited	Yes	Oct. 1	Annual	
Puerto Rico	Governor	Bureau of the Budget, Office of the Governor	Oct. 15	2nd Mon. in Jan.; opening day of regular session	Unlimited	Yes	July 1	Annual	
Virgin Islands	Governor	Director of the Budget, Office of the Governor	Dec. 30	Upon convening	Unlimited	Yes	Oct. 1	Annual	

*Limitations listed in this column relate to legislative power to increase or decrease budget items generally. Specific limitations, such as constitutionally earmarked funds or requirement to enact revenue measures to cover new expenditure items, are not included.

(a) Budget is adopted biennially, but appropriations are made for each year of the biennium separately. Maine—budget is reviewed annually. Minnesota and Wisconsin—a few appropriations are made for the biennium. Virginia—amendments to current budget can be made in any year, but there is no formal provision for annual review of the entire biennial appropriation. North Carolina, Washington and Wyoming—biennial appropriations with annual review. Wisconsin—statutes authorize an annual budget review, and the governor may in even years recommend changes.

(b) Governor has budget-making authority for executive branch only. Judiciary and legislative branch budgets are the responsibility of the respective branches, and the governor may only veto the budget bills as a whole, not by item.

(c) Increases or decreases may be made in even-year sessions.

(d) Budget Committee serves in advisory capacity.

(e) Convenes on first Thursday after first Monday in January in odd years.

(f) Composition of commission: governor as ex officio chairman, lieutenant governor, chairman House Ways and Means Committee, chairman House Appropriations Committee, chairman Senate Finance Committee, president pro tempore of senate, chairman Senate Appropriations Committee, one member of senate appointed by lieutenant governor, speaker of house, two house members appointed by the speaker.

(g) Composition of board: governor as chairman, treasurer, comptroller general, chairman Senate Finance Committee, chairman House Ways and Means Committee.

(h) Thirty days prior to each department or agency hearing before the governor.

(i) 1981 legislature authorized annual or biennial budget at governor's discretion. Submission of annual budget began with fiscal 1982.

(j) Budget submitted to both council and Congress. Council sets date of submission for its review; the Office of Management and Budget, Executive Office of the President, sets the date for submission to Congress.

(k) Information from: 1980-81 *Book of the States*.

electronic or other medium approved for such purpose by the governing board or officer having jurisdiction or control of such public funds.

(5) **PROCEDURES FOR WIRE TRANSFER OF FUNDS.**—Notwithstanding any other provision of law, the governing board or officer of any local government who has the authority to deposit or withdraw funds is authorized to transfer funds from one depository to another or within a depository or to another institution, and may transfer funds wherein the transfer does not represent an expenditure, advance, or reduction of cash assets. Such transfer may be made by electronic, telephonic, or other medium; and each transfer shall be confirmed in writing and signed by the designee of the governing board or officer of the local government.

(6) **INVESTMENT OF PUBLIC FUNDS.**—Notwithstanding any other provision of law, the governing board or officer of any local government who has the authority to invest funds is authorized to transfer funds by electronic or other medium for purposes of investment to any depository authorized by law to receive funds or in the Local Government Surplus Funds Trust Fund. A written record shall be kept of all transfers made pursuant to this section.

History.—s. 1, 2, 3, 4, 5, ch. 78-406; s. 1, ch. 82-104.

215.96 Coordinating council.—[Repealed effective October 1, 1989, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.]

CHAPTER 216

PLANNING AND BUDGETING

216.031 Budgets for operational expenditures.

216.031 Budgets for operational expenditures.—The legislative budget requests submitted by the head of each state agency, showing the amounts requested for operational expenditures during the next biennium, shall contain the following:

(1) For each budget entity, a summary exhibit showing, for each appropriation category, for each fund, 2 prior years' appropriations for general revenue, 1 prior year's actual and 1 current year's estimated expenditures, and the requested expenditures for each year of the next biennium. The total number of positions for the budget entity shall be shown for each fiscal year of data for which positions are authorized, fixed, or requested. However, the agency budget request for the State University System shall be expressed in terms of the amount for the various programs as prescribed in s. 240.27, and in terms of the specified appropriation categories, including the special units' budgets, prescribed in the prior appropriations act.

(2) For each program component within the budget entity, an exhibit showing, for each appropriation category, the summary explanation of expenditures for each detail issue describing the amounts and positions for each year of the next biennium to continue

current programs, for improved programs, and for new programs, with a summary showing totals by fund for each year of the biennium.

(3) For each trust fund within the budget entity, a schedule showing the trust funds available, providing the source of receipts, detail of nonoperating disbursements, operating disbursements, fixed capital outlay, and unencumbered cash balances, for 2 prior years' actual, the current year's estimated, and the request for each year of the biennium.

(4) For each budget entity, a schedule showing detail of positions, providing for each class of positions within discrete organizational activities, by the collective bargaining unit and program component for each year of the next biennium, the number of full-time equivalent positions, the estimated rate of salary, the number of months to be employed, the amounts requested for new positions, and the number of new positions requested.

(5) Detailed information for each year of the biennium necessary for the Legislature and the Governor to evaluate:

(a) The effectiveness of current programs, including justification for those programs.

(b) The justification for increasing costs to continue the operations of current programs.

(c) The justification for proposed improvements in existing programs.

(d) The justification for proposed new programs.

(6) Additional information providing a detailed description of the agency's request and the corresponding calculations needed to support the request.

(7) A schedule and other such detailed information as may be necessary to identify the federal grants-in-aid portion of the agency's legislative budget request, as may be prescribed by the Executive Office of the Governor, in consultation with the appropriations committees of the Legislature.

(8) Workload and other performance indicators, as prescribed by the Executive Office of the Governor pursuant to s. 216.023.

(9) The sum of money actually expended for contractual services, as defined in s. 287.012, by the agency for the previous year.

(10) A schedule listing each committee, however created; council; coordinating council; commission; and board of trustees that is adjunct to the executive agency. The schedule shall show the name, number of meetings held in the past fiscal year, number of members, and expenses of each committee, council, coordinating council, commission, or board of trustees. The schedule shall further state the purpose of each committee, council, coordinating council, commission, or board of trustees and the statutory basis for each one's creation.

The legislative appropriations committees and the Executive Office of the Governor may require the agency to address major issues for inclusion in the agency's requests. The issues shall be submitted to the agency no later than August 30 of each even-numbered year and shall be displayed in the agency's requests as provided in the budget instructions.

History.—s. 11, ch. 88-106; s. 7, ch. 71-354; s. 1, ch. 77-62; s. 40, ch. 72-15; s. 3, ch. 82-16; s. 11, ch. 82-186.

Note.—As amended by s. 3, ch. 80-45, paragraph (e) is added to subject to the effective July 1, 1983, to read:

(e) The projected cost of the requested program budget cycle.

CHAPTER 216

FINANCIAL MATTERS PER POLITICAL SUBDIVISIONS

PART II REVENUE SHARING OF 1972

PART III LOCAL FINANCE MANAGEMENT AND REVENUE

PART IV INVESTMENT GOVERNMENT SURPLUS

PART VI PARTICIPATION IN SALES TAX PROCEEDINGS

PART II

REVENUE SHARING AGREEMENTS

218.23 Revenue sharing with uniformity.

218.23 Revenue sharing with government.—

(1) To be eligible to participate beyond the minimum entitlement year, a unit of local government is entitled to:

(a) Reported its finances for completed fiscal year to the Department of Finance, pursuant to s. 218.31.

(b) Made provisions for annual financial accounts in accordance with law.

(c) Levied, as shown on its millage report pursuant to s. 218.32, an ad valorem tax of taxes levied for debt service millages authorized by the voters, revenue equivalent to a millage rate dollar based on the 1973 taxable value by the property appraiser pursuant to s. 218.31, or, in order to produce revenue which would otherwise be produced by a millage rate, levied a millage rate tax, or received revenue from county pursuant to s. 125.01(6)(a), a special license tax or a utility tax, or received revenue from these four sources. If a new millage rate is levied, the provisions of this part shall apply to the taxable values for the year certified by the property appraiser. The minimum amount required for the ad valorem tax, the license tax, and the utility tax. It shall be the minimum millage rate.

(d) Certified that persons in its enforcement officers, as defined in s. 218.31, meet the qualifications for employment under the Police Standards and Training Act, and that its salary structure and salary plan

CHAPTER NO. 666

AN ACT TO CLARIFY THE INFORMATION REQUIRED TO BE SUBMITTED TO THE BUDGET DIRECTOR AND THE LEGISLATIVE FISCAL ANALYST FOR THE PREPARATION OF AGENCY BUDGET ESTIMATES; PROVIDING A DATE BY WHICH THE BUDGET OFFICE WILL PREPARE AN AGENCY REQUEST; AND SPECIFICALLY INCLUDING THE UNIVERSITY SYSTEM UNDER THE BUDGET REQUIREMENTS; AMENDING SECTIONS 17-7-111 AND 17-7-112, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-7-111, MCA, is amended to read:

"17-7-111. Agency program budgets — form distribution and contents. (1) In the preparation of a state budget, the budget director shall, not later than July 1 in the year preceding the convening of the legislature, distribute to all state offices and departments, including the judicial branch and the legislative branch, the proper forms necessary for the preparation of budget estimates. These forms shall be prescribed by the budget director to procure the information required by subsection (2).

(2) *The agency budget requests, when completed by the budget office, must set forth a balanced financial plan for the agency completing the forms for each fiscal year of the ensuing biennium. The plan must consist of:*

(a) *a consolidated agency budget summary for current level expenditures and for each modification request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE) and the budget in such manner as to show a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last completed fiscal year and the fiscal year in progress. The consolidated budget summary must be supported by schedules classifying receipts and disbursements contained therein by fund and, where applicable, organizational unit.*

(b) *a schedule of the actual and projected receipts, disbursements, and solvency of each accounting entity within each fund for the current and subsequent biennium;*

(c) *a detailed schedule of receipts, by accounting entity within each fund, indicating classification and source of funds;*

(d) *an agency schedule summarizing past and proposed spending plans and the means of financing the proposed plan. Information presented shall include the following:*

(i) *a statement of agency goals and objectives and a statement of goals and objectives for each program of the agency;*

(ii) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by program; and

(iii) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements for the current fiscal year, and agency's recommendations for the ensuing biennium, by disbursement category;

(e) any other information the budget director feels is necessary for the preparation of a budget.

(3) The budget director must also prepare and submit to the legislative fiscal analyst in accordance with 17-7-112:

(a) detailed recommendations for the state long-range building program. Each recommendation shall be presented by department, institution, agency, or branch by funding source, with a description of each proposed project; and

(b) the proposed pay plan schedule for all executive branch employees with the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under this subsection is not an unfair labor practice under 39-31-401."

Section 2. Section 17-7-112, MCA, is amended to read:

"17-7-112. Submission deadline. (1) It shall be the duty of each department, agency, and office, including the Montana university system, to submit the information required under 17-7-111 to the budget director on or before September 1 in the even year preceding the convening of the legislature.

(2) Between August 15 and September 30 in the year preceding the convening of the legislature, the director must submit each state agency's budget request required under 17-7-111(2) to the legislative fiscal analyst. The transfer of budget information shall be done on a schedule mutually agreed to by the budget director and the legislative fiscal analyst in a manner that facilitates an even transfer of budget information during the month of September and which allows each office to maintain a reasonable staff workflow.

(3) If any department, institution, university unit, or agency shall fail to present such information within the time herein specified, the budget director shall note that fact in the budget submitted to the governor and the budget director shall prepare and submit to the legislative fiscal analyst and the governor by October 30 a budget request on behalf of such department, institution, university unit, or agency, based upon his studies of the operations, plans, and needs thereof.

(4) The proposed pay plan schedule required by 17-7-111(3) must be submitted to the legislative fiscal analyst no later than November 15 in the year preceding the convening of the legislature."

Approved April 28, 1983.

AN ACT TO COUPLE :
NESS CORPORATIC
PURPOSES OF THE
SECTIONS 15-31-201
15-31-205 THROUGH
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Be it enacted by the Leg

Section 1. Section 15-

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54-42-07. Transfer of records and other materials. The North Dakota merit system council as created by agreement of the social service board of North Dakota, the North Dakota unemployment compensation division, the North Dakota state employment service, and North Dakota state department of health shall transfer all records and other material to the possession of the North Dakota merit system council as created by this chapter.

Source: S.L. 1957, ch. 332, § 7; R.C. 1943, 1957 Supp., § 54-1207.

Cross-References.
Records of council transferred to central personnel division, see § 54-44.3-27.

54-42-08. Transfer of employees under merit system. All employed personnel having status under the merit system as created by agreement of the social service board of North Dakota, the North Dakota unemployment compensation division, the North Dakota state employment service, the North Dakota merit system council, and the North Dakota state department of health, shall have like status and pay under the North Dakota merit system council as created by this chapter.

Source: S.L. 1957, ch. 332, § 8; R.C. 1943, 1957 Supp., § 54-4208.

CHAPTER 54-43

THEODORE ROOSEVELT CENTENNIAL COMMISSION

[Omitted as a statute not of a general and permanent nature]

Note.

Not repealed but omitted as a chapter not

of a general and permanent nature. For the provisions of this chapter, see S.L. 1957, ch. 333, §§ 1, 2.

CHAPTER 54-44

OFFICE OF MANAGEMENT AND BUDGET

Section

- 54-44-01. Responsibility of the office of management and budget.
- 54-44-02. State office of management and budget.
- 54-44-03. Director of the office of management and budget.
- 54-44-04. Powers and duties of the director of the office of management and budget.
- 54-44-04.1. The director of the office of management and budget shall have authority to withhold or deduct certain amounts from employees' compensation.
- 54-44-04.2. Unemployment compensation assessments to departments and institutions.
- 54-44-04.3. Appropriation of unemployment compensation assessments.
- 54-44-04.4. Payment of unemployment compensation claims.
- 54-44-04.5. Federal surplus property — Office of management and budget responsible for distribution — Powers and duties of director.
- 54-44-04.6. State surplus property — Department heads to inform director — Disposition of property — Proceeds — Exchange of property.
- 54-44-04.7. Responsibility to administer unassigned statutory functions of state government.
- 54-44-05. Warrants — Numbered — Show funds on which drawn — Not drawn unless authorized.
- 54-44-06. Duties as to school fund.
- 54-44-07. Office to set up account against person who fails to render account.
- 54-44-08. Director to institute suits in name of state.

- 54-44-09. Supplies for institutions under contr
- 54-44-10. Legislative inspection of books of off
- 54-44-11. Office's operating funds creation.
- 54-44-12. Deposit and disbursement of fund
Appropriation.
- 54-44-13. Failure of political subdivisions to
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54-44-01 Responsibility of the off
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The responsibility of collecting additi
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This chapter shall be liberally cons
ment this section.

Source: S.L. 1959, ch. 372, § 1; 1981, ch. 534, § 5.

Note.

Section 1, chapter 534, S.L. 1981, provides: "Wherever the terms department of accounts and purchases, director of the department of accounts and purchases, director of the state department of accounts and purchases, director of accounts and purchases, and department when referring to the department of accounts and purchases, appear in this code, the term office of management and budget, director of the office of management and budget, director of the state office of management and budget, or office, as the case may be, shall be substituted therefor. The director of the

54-44-02. State office of manage
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Source: S.L. 1959, ch. 372, § 1.

54-44-03. Director of the office
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created by this chapter.

- 54-44-09. Supplies for institutions under control of the office of management and budget.
54-44-10. Legislative inspection of books of office of management and budget.
54-44-11. Office's operating funds creation.
54-44-12. Deposit and disbursement of funds of occupational and professional boards —
Appropriation.
54-44-13. Failure of political subdivisions to repay natural disaster overpayments — Office
of management and budget authorized to withhold funds.

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54-44-01. Responsibility of the office of management and budget. The office of management and budget is to be a central authority, vested with the control and supervision of the fiscal administration of the executive branch of the government, and is directly responsible to the governor. The office of the state auditor has the primary responsibility of conducting a true independent post audit of all the executive departments and agencies. The responsibility of collecting additional taxes is consolidated and vested in the office of the state tax commissioner.

This chapter shall be liberally construed in a manner which will implement this section.

Source: S.L. 1959, ch. 372, § 1; 1981, ch. 534, § 5.

Note.

Section 1, chapter 534, S.L. 1981 provides: "Wherever the terms department of accounts and purchases, director of the department of accounts and purchases, director of the state department of accounts and purchases, director of accounts and purchases, and department when referring to the department of accounts and purchases, appear in this code, the term office of management and budget, director of the office of management and budget, director of the state office of management and budget, or office, as the case may be, shall be substituted therefor. The director of the

office of management and budget is to be substituted for, and take any action previously to be taken by, and shall perform any duties previously to be performed by the director of the department of accounts and purchases".

Cross-References.

Federal aid coordinator office created in office of management and budget, see § 54-27.1-01.

Collateral References.

States ⇔ 85, 121, 122, 136.
72 Am. Jur. 2d, States, Territories, and Dependencies, §§ 75-77.
81A C. J. S. States, §§ 145, 146, 223 to 229, 242.

COMMISSION

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of this chapter, see S.L. 1957, ch.

BUDGET

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54-44-02. State office of management and budget. There shall be an office of management and budget vested with the duties, powers, and responsibilities necessary to supervise and administer the fiscal transactions of the various state departments, agencies, boards, and commissions.

Source: S.L. 1959, ch. 372, § 1.

54-44-03. Director of the office of management and budget. There shall be a director of the office of management and budget who shall be appointed by and serve at the will of the governor. The salary of the director shall be set by the governor within the limits of the amount appropriated for salaries by the legislative assembly, and the director and other employees of the office shall be reimbursed for expenses incurred in carrying out the duties of their office at the same rate and in the same manner as other state officials. The director shall be empowered to adopt rules, not inconsistent with law or rules established by the governor, for the administration of the office of management and budget, the conduct of its employees, the

distribution and performance of its business, and the custody, use, and preservation of the records, documents, and property pertaining thereto. He shall be empowered to set up such divisions or other internal organization within the office that he shall deem necessary in order to efficiently carry out the duties, powers, and responsibilities of the office.

The director of the office of management and budget shall execute an official bond in the sum of one hundred thousand dollars.

Source: S.L. 1959, ch. 372, § 1; 1981, ch. 535, § 16.

54-44-04. Powers and duties of the director of the office of management and budget. The director of the office of management and budget, or such subordinate officer as he shall designate:

1 to 4. Repealed by S.L. 1965, ch. 358, § 20.

5. Shall examine the budget affecting the legislative and judicial branches of the state government, but only for the purpose of determining the sufficiency of funds to meet the contemplated expenditures of these branches of state government or their officers or agencies.

6 and 7. Repealed by S.L. 1965, ch. 358, § 20.

8. Shall keep the general accounts, reflecting for each fund the resources and balance, together with current revenues and expenditures, and shall provide for an accrual accounting system.

9. Shall, acting as director of the office of the budget, process all claims for submittal to the office of management and budget, which may conduct the preaudit of all claims from the executive branch of the government before payment and the director shall conduct the current audit of all revenues, which shall include the supervision of the collection of all moneys due the state.

10. Repealed by S.L. 1979, ch. 541, § 2.

11. Except as otherwise provided by law, shall prepare warrants for payment of all claims from the executive branch of government, when approved by the office of the budget, and for payment of all claims from the judicial and legislative branches.

12. Shall be vested with the duties, powers, and responsibilities involved in the development and installation of financial records and procedures for all state departments and agencies.

12.1. Shall coordinate the development of accounting and financial related systems.

12.2. Shall create an accounting manual and provide sufficient training of current and potential users concerning the functions and use of a statewide accounting and reporting system.

13. Shall conduct such interval audits of accounts in the several departments of the state as he shall deem necessary.

14. Shall issue current reports to administrative officials concerning the status of revenue, expenditures, and appropriation accounts, and shall make periodic financial reports to the governor, administrative officials, the legislative assembly, and the public.

14.1. Shall prepare on an annual basis comprehensive financial statements of the state of North Dakota.

15. Shall submit a biennial report to the governor and the legislative assembly concerning the activities of all the departments established by law and include a statement of revenues and public expenditures and public expenditures.

16. Shall accompany his report to the governor and the legislative assembly the amount of each department, the amount expended of revenue chargeable to the department, and the amount unpaid.

17. Shall, when requested by the legislative assembly, report to the administration the amount of each department.

18. Shall submit to the governor and the legislative assembly at such times as the governor shall determine the present condition of each department.

19. Shall keep an account of the revenues of each county shall be credited to the state, and with the amount of such taxes.

20. Shall keep an account of the revenues of each county charge the state treasury when he came into office as treasurer, and credit him.

21. Shall be vested with the duties, powers, and responsibilities in the operation of a county treasurer.

22. Shall maintain and operate a system of accounts receivable to supply the services of the state commonly used commonly used commonly used construed as authorizing the state to borrow money.

22.1. Shall distribute federal funds in accordance with sections 54-44-04.5 and 54-44-04.6.

23. Shall establish and operate a system of mechanical or electronic records.

24. Shall perform such other duties as may be required by law.

Source: S.L. 1959, ch. 372, § 1; 1969, ch. 346, § 67; 1965, ch. 358, § 20; 1969, ch. 346, § 67; 1973, ch. 403, § 51; 1975, ch. 466, § 5; 1979, ch. 541, §§ 1, 2; 1979, ch. 560, § 1; 1979, ch. 560, § 10; 1981, ch. 1, §§ 9, 10; 1981, ch. 535, § 16.

Cross-References.

Communications advisory commission membership of director, see § 54-23.1-03.

Departmental payrolls expenditures of subdivision of state, see § 54-14-04.2.

Director of office of management and budget ex officio director of the board of state auditors, see § 54-44.1-02.

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15. Shall submit a biennial report as prescribed by section 54-06-04 to the governor and the office of management and budget covering the activities of all the divisions of the office. In addition to any requirements established pursuant to section 54-06-04, the report shall include a statement of the funds of the state, the revenues of the state, and public expenditures during the two preceding fiscal years.
16. Shall accompany his biennial report with tabular statements showing the amount of each appropriation for the two preceding fiscal years, the amount expended, and the balance, if any, and also the amount of revenue chargeable to each county for such years, the amount paid, and the amount unpaid or due therefrom.
17. Shall, when requested, give information in writing to either house of the legislative assembly relating to the fiscal affairs of the state or to the administration of his office.
18. Shall submit to the governor at the close of each business day, or at such times as the governor may request, a report showing the current condition of each fund and appropriation.
19. Shall keep an account with each organized county of the state in which each county shall be charged with the amount of delinquent taxes due to the state, and with all sums levied in such county for state purposes, and shall be credited with all sums paid into the state treasury on account of such taxes.
20. Shall keep an account between the state and state treasurer, and charge the state treasurer therein with the balance in the treasury when he came into office, and with all moneys received by the state treasurer, and credit him with all warrants drawn on and paid by him.
21. Shall be vested with the duties, powers, and responsibilities involved in the operation of a centralized purchasing service.
22. Shall maintain and operate such supply rooms as may be found desirable to supply the several departments with office supplies and other commonly used commodities; however, this subsection shall not be construed as authorizing the establishment of a warehousing system.
- 22.1. Shall distribute federal and state surplus property pursuant to sections 54-44-04.5 and 54-44-04.6.
23. Shall establish and operate a central duplicating service and central mechanical or electronic data processing facilities.
24. Shall perform such other duties as are or may be prescribed by law.

Source: S.L. 1959, ch. 372, § 1; 1963, ch. 346, § 67; 1965, ch. 358, § 20; 1969, ch. 452, § 1; 1973, ch. 403, § 51; 1975, ch. 466, § 54; 1979, ch. 541, §§ 1, 2; 1979, ch. 560, § 1; 1979, ch. 568, § 10; 1981, ch. 1, §§ 9, 10; 1981, ch. 537, § 1.

Cross-References.

Communications advisory committee membership of director, see § 54-23.1-03.

Departmental payrolls exempt from requirements of subdivision 11, see § 54-14-04.2.

Director of office of management and budget ex officio director of the budget, see § 54-44.1-02.

State purchasing practices, see ch. 54-44.4.

Institutions under Board of Administration.

This chapter did not relieve the board of administration (predecessor to director of institutions) of all responsibility for overseeing accounts and purchases of institutions under its control; rather, the department of accounts and purchases (predecessor to office of management and budget) is to work through the board of administration with respect to such institutions. State ex rel. Joos v. Guy (1963) 125 NW 2d 468.

54-44-04.1. The director of the office of management and budget shall have authority to withhold or deduct certain amounts from employees' compensation. The director of the office of management and budget, in addition to other deductions or withholdings authorized or permitted by law, shall be authorized to withhold or deduct from the employees' monetary compensation such amounts as may be determined by the employer and employees to participate in tax-favored or tax-sheltered annuity programs which are authorized by the federal Internal Revenue Code.

Source: S.L. 1969, ch. 453, § 1.

54-44-04.2. Unemployment compensation assessments to departments and institutions. Beginning July 1, 1979, all departments and institutions of the state of North Dakota shall pay to the office of management and budget one percent of the first six thousand dollars of each employee's earnings. Such assessments shall be paid to the office of management and budget in accordance with guidelines established by the office of the budget, from the general fund and special funds appropriated for salaries and wages to the individual departments and institutions. The moneys received from such assessments shall be deposited by the office of management and budget into a fund for the purpose of paying unemployment compensation claims. The director of the office of management and budget may decrease or suspend the assessments provided for in this section upon determination that the funds deposited pursuant to this section are sufficient to offset anticipated obligations.

Source: S.L. 1979, ch. 582, § 2; N.D.C.C., § 54-44-04.3.

54-44-04.3. Appropriation of unemployment compensation assessments. All assessments received by the office of management and budget and deposited into the fund for unemployment compensation claims are hereby appropriated.

Source: S.L. 1979, ch. 58, § 3; N.D.C.C., § 54-44-04.4; S.L. 1981, ch. 536, § 1.

54-44-04.4. Payment of unemployment compensation claims. The office of management and budget from the appropriations made in section 54-44-04.3 shall quarterly reimburse the job service North Dakota for the amount of actual claims paid by the job service North Dakota to eligible recipients previously employed by state departments and institutions. It shall be the responsibility of each department and institution to verify and certify the validity of each unemployment claim prior to the reimbursement of funds to the job service North Dakota.

Source: S.L. 1979, ch. 58, § 4; N.D.C.C., § 54-44-04.5.

54-44-04.5. Federal surplus property — Office of management and budget responsible for distribution — Powers and duties of director.

1. The office of management equitable distribution, the property transferred to the state and Administrative Service 40 U.S.C. 484 (j)], hereinafter referred to as the federal surplus property.
2. The director of the office of management shall have the following powers and duties:
 - a. May receive, investigate, and report on the disposition of federal surplus property.
 - b. May acquire any federal surplus property under the federal Act.
 - c. May distribute any federal surplus property to:
 - (1) Any public agency or institution for the benefit of the residents of a state for public purposes; or
 - (2) Nonprofit educational institutions or organizations with 501(c)(3) status under the federal Internal Revenue Code.
 - d. May store the federal surplus property.
 - e. Shall develop, submit, and recommend to the legislature the distribution of federal surplus property under the federal Act and rules and regulations thereunder; the director may control the distribution of federal surplus property by the department of public safety.
 - f. May cooperate and enter into agreements with other state agencies and federal agencies and federal agencies for the exchange of federal surplus property.
 - g. May provide information regarding federal surplus property to entities.
 - h. May assess and collect fees to cover direct and indirect costs of the service charge in a surplus property sale. The state treasurer shall be notified if the director requests the sale of the fund.
 - i. Adopt rules and take such action as may be necessary to carry out the purposes of the federal surplus property pursuant to the federal Act.

Source: S.L. 1981, ch. 537, § 2.

54-44-04.6. State surplus property — Disposition of property.

1. The person in charge of a department shall inform the director whenever that department has federal surplus property, whether original or transferred to the state.

management and budget certain amounts from the office of management and actions authorized or permitted from the employment be determined by the federal or tax-sheltered annual Internal Revenue Code.

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office of management and duties of director.

1. The office of management and budget is responsible for the fair and equitable distribution, through donation, of all federal surplus property transferred to the state in accordance with the Federal Property and Administrative Services Act of 1949, as amended [33 Stat. 378; 40 U.S.C. 484 (j)], hereinafter referred to as the federal Act.
2. The director of the office of management and budget, or such subordinate officer as the director shall designate:
 - a. May receive, investigate, and make recommendations on applications for federal surplus property available under the federal Act.
 - b. May acquire any federal surplus property transferred to the state under the federal Act.
 - c. May distribute any federal surplus property pursuant to the federal Act to:
 - (1) Any public agency for use in carrying out or promoting for the residents of a given political subdivision one or more public purposes; or
 - (2) Nonprofit educational institutions, public health institutions, or organizations which are exempt from taxation under section 501 of the federal Internal Revenue Code, for purposes of education or public health or research for those purposes.
 - d. May store the federal surplus property.
 - e. Shall develop, submit, and implement a state plan of operation for distribution of federal surplus property and comply with the federal Act and rules and regulations adopted thereunder. Provided, the director may continue the state plan of operation developed by the department of public instruction.
 - f. May cooperate and enter into agreements with other surplus property agencies and federal agencies to screen and acquire surplus property and exchange property, facilities, personnel, and services.
 - g. May provide information and assistance for acquiring federal surplus property to entities listed in subdivision c.
 - h. May assess and collect service charges from participating recipients to cover direct and reasonable cost of services under this section. The service charges shall be deposited with the state treasurer in a surplus property special fund and used pursuant to the federal Act. The state treasurer shall credit all interest earned to the fund if the director requests the state treasurer to invest portions of the fund.
 - i. Adopt rules and take other action necessary to distribute federal surplus property pursuant to the federal Act.

Source: S.L. 1981, ch. 537, § 2.

54-44-04.6. State surplus property — Department heads to inform director — Disposition of property — Proceeds — Exchange of property.

1. The person in charge of any department, agency, or institution of the state shall inform the director of the office of management and budget whenever that department, agency, or institution possesses surplus property, whether originally obtained with state or federal funds, and

the person in charge believes that the state surplus property may be used by any other department, agency, institution, or political subdivision of the state.

2. The director of the office of management and budget shall dispose of the state surplus property in the following manner:
 - a. By transferring it to other state departments, institutions, or agencies without cost other than transportation expenses which shall be paid by the receiving agency. Provided, when the state surplus property was originally purchased pursuant to an appropriation other than from the general fund of the state, the agency receiving that state surplus property shall pay an amount equal to the fair market value of the property. Moneys received pursuant to this subdivision shall be deposited in the fund from which the original purchases were made.
 - b. If not disposed of under subdivision a, then by sale on sealed bids or at public auction to the highest and best bid for property valued at more than three thousand dollars, with no money deposit required prior to sale, or by sealed bids, public auction, or negotiation at fair value for property valued at less than three thousand dollars.
 - c. If not disposed of under subdivision a or b, title to the property shall be transferred to political subdivisions without cost, except transportation expenses.
3. All proceeds of property sold under this section, less sales costs, shall be deposited in the general fund except as provided in subdivision a of subsection 2.
4. No department, agency, or institution may exchange items as part of a purchase price of new items until a detailed statement of the value of the items to be exchanged and request for approval have been submitted to the director of the office of management and budget. The director shall approve the exchange only if the director has determined that the item has been valued at fair value.

Source: S.L. 1981, ch. 537, § 3.

54-44-04.7. Responsibility to administer unassigned statutory functions of state government. The office of management and budget shall administer all statutory functions assigned to the executive branch of state government but not statutorily placed with any specific state entity.

Source: S.L. 1981, ch. 534, § 6.

54-44-05. Warrants — Numbered — Show funds on which drawn — Not drawn unless authorized. Warrants drawn by the office of management and budget and signed by the state auditor on the state treasurer shall be numbered consecutively in the order in which they are drawn. Every warrant shall be drawn upon the fund out of which it is payable. A warrant shall not be drawn by the office of management and budget and signed by the state auditor unless authorized by law, and unless there are funds in the treasury applicable to the payment thereof to meet the same. In case of an emergency, and in anticipation of taxes already levied and

in the process of collecting warrants to be signed vouchers even though warrants. Warrants so of any funds in his hands the Constitution of North

Source: S.L. 1959, ch. 37
345, § 2.

54-44-06. Duties as get shall keep a separate and income thereof, together tax or otherwise for sale with reference to the a 15.

Source: S.L. 1959, ch. 372.

54-44-07. Office to account. Whenever any personal property which has been entrusted with any moneys, bonds, or in trust by the state, a settlement with the office scribed by law, or when account and make such money by the office of management belonging to the state an account with a percent per annum from shall be prima facie evidence the office of management an account, that fact n property which is due or

Source: S.L. 1959, ch. 372.

54-44-08. Director of the office of management of the state against:

1. Officials for all collection, and payment
2. Persons who by a or property and wh
3. All persons indebted

Source: S.L. 1959, ch. 372.

54-44-09. Supplies of agement and budget.

in the process of collection, the office of management and budget may prepare warrants to be signed by the state auditor in payment of duly authorized vouchers even though funds at such time do not exist to honor the warrants. Warrants so issued shall be payable by the state treasurer out of any funds in his hands other than sinking funds, or funds dedicated by the Constitution of North Dakota for other purposes.

Source: S.L. 1959, ch. 372, § 1; 1965, ch. 345, § 2.

54-44-06. Duties as to school fund. The office of management and budget shall keep a separate account of the school fund and of the interest and income thereof, together with such moneys as may be raised by special tax or otherwise for school purposes. The office shall perform such duties with reference to the apportionment of such fund as are described in title 15.

Source: S.L. 1959, ch. 372, § 1.

54-44-07. Office to set up account against person who fails to render account. Whenever any person has received moneys or has moneys or other personal property which belongs to the state by escheat or otherwise, or has been entrusted with the collection, management, or disbursement of any moneys, bonds, or interest accruing therefrom, belonging to or held in trust by the state, and fails to render an account thereof to and make settlement with the office of management and budget within the time prescribed by law, or when no particular time is specified, fails to render such account and make such settlement, or fails, within twenty days after request by the office of management and budget to pay into the state treasury any money belonging to the state, the office of management and budget must state an account with such person, charging interest at the rate of twelve percent per annum from the time of the failure. A copy of such account shall be prima facie evidence in any suit of the things therein stated. If the office of management and budget, for want of information, cannot state an account, that fact may be alleged and the amount of money or other property which is due or which belongs to the state may be stated generally.

Source: S.L. 1959, ch. 372, § 1.

54-44-08. Director to institute suits in name of state. The director of the office of management and budget shall institute suit in the name of the state against:

1. Officials for all official delinquencies in relation to the assessment, collection, and payment of the revenue.
2. Persons who by any means have become possessed of public moneys or property and who fail or neglect to pay for or deliver the same.
3. All persons indebted to the state.

Source: S.L. 1959, ch. 372, § 1.

54-44-09. Supplies for institutions under control of the office of management and budget. The office of management and budget shall make

all purchases of goods and materials on behalf of the various state institutions, departments, and agencies in accordance with the standards and specifications of the United States bureau of standards.

Source: S.L. 1959, ch. 372, § 1.

54-44-10. Legislative inspection of books of office of management and budget. Whenever required the office of management and budget shall submit its books, accounts, and vouchers to the inspection of the legislative assembly, or any committee thereof authorized to request such documents.

Source: S.L. 1959, ch. 372, § 1.

54-44-11. Office's operating funds creation.

1. The office of management and budget shall establish a state purchasing operating fund to be used for the procurement and maintenance of an inventory of equipment and supplies for the state departments and agencies. Any surplus in this fund in excess of one hundred thousand dollars on June thirtieth of each year shall be transferred to the state general fund.
2. The office of management and budget shall establish a state printing operating fund to be used for the procurement and maintenance of an inventory of printing equipment and supplies for the state departments and agencies.
3. The office of management and budget shall establish a state central data processing operating fund to be used for the procurement and maintenance of data processing equipment and supplies and for providing data processing services to state departments and agencies.
4. Each office, agency, or institution provided with purchasing, printing, or data processing services, unless exempted by law, shall pay to the office of management and budget a proportionate share of the cost of such service as determined by the director of the office of management and budget, based on actual costs and actual usage. The amounts paid to the office of management and budget by the various offices, agencies, and institutions shall be deposited in the appropriate operating fund and shall be expended in accordance with legislative appropriations.

Source: S.L. 1959, ch. 214, § 2; 1967, ch. 392, § 1; 1969, ch. 454, § 7; 1975, ch. 486, § 1; 1979, ch. 561, § 1; 1981, ch. 534, § 7; 1981, ch. 538, § 1.

Note.

Section 54-44-11 was amended twice by the 1981 Legislative Assembly. Section 7 of chapter 534, S.L. 1981, changed the name of the

department of accounts and purchases to the office of management and budget in subsection 1. Section 1 of chapter 538, S.L. 1981, deleted language concerning transfer of surplus funds in subsections 2 and 3. Pursuant to section 1-02-09.1, the section is printed above to harmonize and give effect to the changes made by both acts.

54-44-12. Deposit and disbursement of funds of occupational and professional boards — Appropriation. All occupational and professional boards, associations, and commissions created by law shall deposit all fees and other moneys received in any bank selected by the majority vote of the governing body of the board, association, or commission. Checks may

be drawn against the bank on the authority of the authorized expenditure signature or signatures of the governing body. All moneys are hereby appropriated to the board, association, or commission.

Source: S.L. 1971, ch. 510, § 1.

54-44-13. Failure of payment — Overpayments — Office of management and budget. Whenever an overpayment is made under the Disaster Relief Act and all acts amendatory thereof, following July first, the state

1. Upon certification from the office of management and budget that a political subdivision has withheld all federal moneys due the subdivision either the federal or state representative certifies that
2. Cease to withhold federal moneys.

Source: S.L. 1971, ch. 511, § 1.

Note.

The Disaster Relief Act of 1974

Section

- 54-44.1-01. Definition.
- 54-44.1-02. Office of the budget —
- 54-44.1-03. Powers and duties of
- 54-44.1-04. Budget estimates of
- 54-44.1-05. Federal aid budget re
- 54-44.1-06. Preparation of the bu
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- 54-44.1-08. Budget report — Con
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- 54-44.1-11. Office of management and budget they may continue.
- 54-44.1-12. Control over rate of e
- 54-44.1-13. Budget requests for le
- 54-44.1-14. Biennial report to leg

54-44.1-01. Definition. This section defines the term "board, commission, agency, or distinct appropriations a

Source: S.L. 1965, ch. 358, § 1.

Collateral References.

States 121.

be drawn against the bank account, opened pursuant to this section, for the authorized expenditures of the board, association, or commission on the signature or signatures of the person or persons authorized to so act by the governing body. All moneys in accounts opened pursuant to this section are hereby appropriated for the use of the occupational or professional board, association, or commission opening the account.

Source: S.L. 1971, ch. 510, § 14.

54-44-13. Failure of political subdivisions to repay natural disaster overpayments — Office of management and budget authorized to withhold funds. Whenever an overpayment made to any state political subdivision under the Disaster Relief Act of 1970 [Pub. L. 91-606; 84 Stat. 1744], and all acts amendatory and supplemental thereto, is not repaid by the following July first, the state office of management and budget shall:

1. Upon certification from the governor's natural disaster representative that a political subdivision is delinquent in repaying such overpayment, withhold all funds, grants-in-aid, tax shares, and other similar moneys due the subdivision from the state until the subdivision repays either the federal or state government.
2. Cease to withhold funds when the governor's natural disaster representative certifies that the subdivision has repaid the overpayment.

Source: S.L. 1971, ch. 511, § 1.

88 Stat. 143, 42 U.S.C. § 5121 et seq.) substantially repealed the Disaster Relief Act of 1970 referred to in this section.

Note.

The Disaster Relief Act of 1974 (P.L. 93-288,

CHAPTER 54-44.1

OFFICE OF THE BUDGET

Section

- 54-44.1-01. Definition.
 54-44.1-02. Office of the budget — Director — Employees — Powers.
 54-44.1-03. Powers and duties of the director of the budget.
 54-44.1-04. Budget estimates of budget units filed with the office of the budget — Deadline.
 54-44.1-05. Federal aid budget requests — Filed with the office of the budget.
 54-44.1-06. Preparation of the budget data — Contents.
 54-44.1-07. Presentation of budget data — How presented to the legislative assembly.
 54-44.1-08. Budget report — Contents — When submitted to legislative assembly.
 54-44.1-09. All expenditures must be appropriated.
 54-44.1-10. Payments made pursuant to law only.
 54-44.1-11. Office of management and budget to cancel unexpended appropriations — When they may continue.
 54-44.1-12. Control over rate of expenditures.
 54-44.1-13. Budget requests for legislative and judicial branches.
 54-44.1-14. Biennial report to legislative assembly.

54-44.1-01. Definition. As used in this chapter, unless the context otherwise requires, the term "budget unit" means a department, institution, board, commission, agency, or other unit of government for which separate or distinct appropriations are made.

Source: S.L. 1965, ch. 358, § 1.

72 Am. Jur. 2d, States, Territories, and Dependencies, § 75.
 81A C. J. S. States, § 203.

Collateral References.

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54-44.1-02. Office of the budget — Director — Employees — Powers. The office of the budget is hereby established in the office of management and budget, for the purpose of promoting economy and efficiency in the fiscal management of the state government. The director of the office of management and budget shall be ex officio director of the budget.

The director of the budget shall appoint a budget analyst who shall hold a baccalaureate degree from a recognized institution of higher learning and such appointment shall be based upon the qualifications of eligible persons, without reference to partisan politics. Special consideration shall be given to persons who hold a degree in law, political science, business administration, or a combination thereof and who are experienced in governmental processes. The budget analyst shall serve at the pleasure of the director of the budget. The budget director shall employ such other professional, technical, and clerical personnel as he may deem necessary to carry out the duties prescribed in this chapter and shall fix the salary of all employees within the office of the budget and within the limits of the legislative appropriations. All personnel within the office of the budget shall be allowed their actual and necessary travel expenses at the same rate as for other employees of the state.

Source: S.L. 1965, ch. 358, § 2.

assume functions of auditing board, see § 54-14-01.1.

Cross-References.

Claims against state, budget office to

54-44.1-03. Powers and duties of the director of the budget. The director of the budget, or such subordinate officer as he shall designate shall:

1. Be vested with the duties, powers, and responsibilities involved in securing budget estimates and work programs from the several departments and agencies of the state government.
2. Be vested with the duties, powers, and responsibilities involved in the preparation of revenue and fixed expense estimates.
3. Develop financial policies and plans as the basis for budget recommendations to the legislative assembly, and prepare detailed documents in accordance with such financial policies and plans for presentation to the legislative assembly.
4. Coordinate the fiscal affairs and procedures of the state to assure the carrying out of the financial plans and policies approved by the legislative assembly.
5. Exercise continual control over the execution of the budget affecting the departments, institutions, and agencies of the executive branch of the state government involving approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and control of the rate of expenditures through a system of semiannual, quarterly, or monthly allotments.
6. Investigate, examine, and make exhaustive studies:
 - a. Of the structure and operation of the entire executive branch of government and of every office, institution, and agency thereof.
 - b. Of all the functions, duties, and services of all executive branch offices, departments, institutions, industries, boards, bureaus, and commissions.

c. Of all the books, reports, or agency of the state, whether their policy is sound, necessary, or otherwise.

7. Develop a long-term budget by the legislative assembly.
8. Have the authority to review the operations of all agencies, and employ the preparation and execution of the budget.
9. Provide such assistance as is available to assist in the preparation of information or material available at all times to the legislature.
10. Perform all other necessary duties not provided in this chapter and of chapter 54-44.1-01.

Source: S.L. 1965, ch. 358, § 110, § 10.

54-44.1-04. Budget estimates — Deadline. The director of the budget shall submit to the office of management and budget of his budget unit for the fiscal year as is required by the office of management and budget as is required by the office of management and budget. The director of the budget shall bear the approval of the board of budget and finance. The board or commission is created by the legislature. In some circumstances which may extend the filing of a budget unit has a right to file a budget unit's estimate of financial needs. If a budget unit's estimate of financial needs exceed ninety percent of such estimate, the director of the budget shall examine the estimates and shall have a reasonable opportunity to file a budget unit's estimate. If requested, shall grant to the public. The director of the budget shall be open to the public.

Source: S.L. 1965, ch. 358, § 539, § 1.

Cross-References.

Budget of North Dakota firemen, see § 18-03-05.

Budget of state highway department, see § 24-02-09.

54-44.1-05. Federal aid to the budget. Every agency or

— Employees — Powers.
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- c. Of all the books, records, and methods of accounting of each office or agency of the executive branch to ascertain and determine whether their policies, practices, and systems of accounting are sound, necessary, practical, and efficient.
7. Develop a long-term capital improvements budget for consideration by the legislative assembly.
8. Have the authority to procure from the various officers, departments, agencies, and employees such information as may be necessary for the preparation and execution of the budget.
9. Provide such assistance as the legislative assembly may request and be available to assist its appropriations committees with any needed information or material and make its records and information available at all times to the legislative assembly and its committees and designees.
10. Perform all other necessary duties to carry out the provisions of this chapter and of chapter 54-14.

Source: S.L. 1965, ch. 358, § 3; 1973, ch. 110, § 10.

54-44.1-04. Budget estimates of budget units filed with the office of the budget — Deadline. The head of each budget unit, not later than July fifteenth of each year next preceding the session of the legislative assembly, shall submit to the office of the budget, estimates of financial requirements of his budget unit for the next two fiscal years, on the forms and in the manner prescribed by the office of the budget, with such explanatory data as is required by the office of the budget and such additional data as the head of the budget unit wishes to submit. The estimates so submitted shall bear the approval of the board or commission of each budget unit for which a board or commission is constituted. The director of the budget in his discretion may extend the filing date for any budget unit if he finds there is some circumstance which makes it advantageous to authorize the extension. If a budget unit has not submitted its estimate of financial requirements by the required date or within a period of extension set by the director of the budget, the director of the budget shall prepare such budget unit's estimate of financial requirements except such estimate shall not exceed ninety percent of such budget unit's previous biennial appropriation. The director of the budget or such subordinate officer as he shall designate shall examine the estimates and shall afford to the heads of budget units reasonable opportunity for explanation in regard thereto and, when requested, shall grant to the heads of budget units a hearing thereon which shall be open to the public.

Source: S.L. 1965, ch. 358, § 4; 1981, ch. 539, § 1.

Cross-References.

Budget of North Dakota firemen's association, see § 18-03-05.

Budget of state highway department, see § 24-02-09.

Decisions under Prior Law.

Heads of state hail insurance fund, state bonding fund, state fire and tornado fund, and workmen's compensation fund had duty of filing statements of funds needed as prescribed by former section 54-15-05. *Langer v. State* 1939) 69 ND 129, 284 NW 233.

54-44.1-05. Federal aid budget requests — Filed with the office of the budget. Every agency of the state government when making requests

for budgets to be submitted to the federal government for funds, equipment, material, or services shall have such request or budget filed in the office of the budget before submitting it to the proper federal authority. When such federal authority has approved the request or budget, in whole or in part, the agency of the state government shall resubmit it to the office of the budget for recording before any allotment or encumbrance of the federal funds can be made.

Source: S.L. 1965, ch. 358, § 5.

from treasurer of agricultural college, see § 15-12-06.1.

Cross-References.

Budget director to receive quarterly reports

54-44.1-06. Preparation of the budget data — Contents. The director of the budget, through the office of the budget, shall prepare budget data which shall contain and include the following:

1. Summary statements of the financial condition of the state, accompanied by such detailed schedules of assets and liabilities as the director of the budget deems desirable, which shall include, but not be limited to, the following:
 - a. Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total appropriations for the previous and present biennium, and the total expenditures for those fiscal years; and
 - b. Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

Summary statements may include, but not be limited to, a comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium.

2. Statements of actual revenue for the previous biennium, the first year of the present biennium, and the estimated revenue of the current fiscal year and of the next biennium, and a statement of unappropriated surplus expected to have accrued in the state treasury at the beginning of the next fiscal year. The statements of revenue and estimated revenue shall be classified by sources and by budget unit collecting them. Existing sources of revenue shall be analyzed as to their equity, productivity, and need for revision, and any proposed new sources of revenue shall be explained.
3. Summary statements of expenditures of the previous biennium and first year of the present biennium, itemized by budget units and classified as prescribed by the director of the budget.
4. Detailed comparative statements of expenditures and requests for appropriations by funds, budget units and classification of expenditures, showing the expenditures for the previous biennium, the first fiscal year of the present biennium, the budget of the current biennium, and the governor's recommendation for appropriations for each budget unit for the next biennium, all distributed according to the

prescribed classification and proposed expenditure explanation of the funds and plans and on any recommended, with such data as to work done, considered necessary or designing construction project there shall be shown and the amount thereof expended in each ensuing period covered by the Capital outlay needs the period covered by the

5. A detailed statement shall be raised or appropriate debt of the state and amount of money required fiscal years to the generation and payment of the
6. A summary statement shall be available at the estimated revenue of the recommended amounts of for the next biennium, exceeds the total as to how the deficiency additional revenue.
7. Drafts of a proposed general revenue acts embodying the governor for appropriate revenues and other acts effect the proposed financing for each budget unit the general appropriation
8. Such other information or as is required by law.

Source: S.L. 1965, ch. 358, § 6; 562, § 1.

54-44.1-07. Presentation to the legislative assembly. The director shall present the budget data to the budget and revenue committee of the legislative assembly. Sufficient copies of the budget data shall be available to the council. The budget data shall be acceptable to it by December 1st of the legislative assembly, or

nment for funds, equipment, or budget filed in the office per federal authority. When st or budget, in whole or in l resubmit it to the office of r encumbrance of t federal

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a — Contents. The director t, shall prepare budget data

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enditures and requests for nd classification of expendi- previous biennium, the first budget of the current bien- n for appropriations for each distributed according to the

prescribed classification of expenditures. Following the lists of actual and proposed expenditures of each budget unit there shall be a brief explanation of the functions of the unit and comments on its policies and plans and on any considerable differences among the amounts recommended, with such descriptive, quantitative, comparative, and other data as to work done, unit costs, and like information as may be considered necessary or desirable. For capital outlay expenditures involving construction projects to be completed in two or more fiscal years, there shall be shown the total estimated cost of each such project and the amount thereof recommended to be appropriated and expended in each ensuing fiscal year until completion of the project. Capital outlay needs may be projected for at least two years beyond the period covered by the budget.

5. A detailed statement showing the estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest, and the amount of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state.
6. A summary statement of the unappropriated fund balance estimated to be available at the beginning of the next biennium, and the estimated revenue of the next biennium, as compared with the total recommended amounts of appropriation for all classes of expenditures for the next biennium, and if the total of the recommended expenditures exceeds the total of the estimated resources, recommendations as to how the deficiency is to be met and estimates of any proposed additional revenue.
7. Drafts of a proposed general appropriations act and special appropriations acts embodying the budget data and recommendations of the governor for appropriations for the next biennium, and drafts of such revenues and other acts recommended by the governor for putting into effect the proposed financial plan. The recommended general appropriation for each budget unit shall be specified in a separate section of the general appropriations act.
8. Such other information as the director of the budget deems desirable or as is required by law.

Source: S.L. 1965, ch. 358, § 6; 1979, ch. 562, § 1.

54-44.1-07. Presentation of budget data — How presented to the legislative assembly. The director of the budget or his designated subordinate shall present the budget data information in section 54-44.1-06, including the budget and revenue proposals recommended by the governor, and make available sufficient copies thereof to the budget section of the legislative council. The budget data shall be completed and made available to the budget section of the legislative council, or its designee, in such form as may be acceptable to it by December first of each year next preceding the session of the legislative assembly, or at such later date as may be set by the budget

section chairman. The chairman of the budget section shall set the time and place at which such budget data is to be presented.

Source: S.L. 1965, ch. 358, § 7; 1969, ch. 448, § 26; 1981, ch. 540, § 1.

Decisions under Prior Law.

The budget of appropriations prepared by

the auditor was an official record of which the courts would take judicial notice. State ex rel. Wallace v. Jorgenson (1916) 3 ND 527, 159 NW 35.

54-44.1-08. Budget report — Contents — When submitted to legislative assembly. The official budget report shall be transmitted by the governor to all holdover legislators and legislators-elect not later than three days after the commencement of the session of the legislative assembly. Such report is not a third-class item under section 46-02-05. The budget director shall provide for the duplication or other satisfactory reproduction or printing of the official budget report, so as to ensure delivery of same as provided in this section. Such reports shall contain the budget and revenue proposals recommended by the governor and the information required in subsections 1, 2, 3, 5, and 6 of section 54-44.1-06 and all other data and information as the governor shall decide. The budget director shall make available any and all information regarding budget data to the governor, the legislative assembly and its designees, legislators, and to the governor-elect as may be requested. The governor may present any additional budget information in any manner to the legislative assembly as he may desire.

Source: S.L. 1965, ch. 358, § 8; 1967, ch. 393, § 1; 1973, ch. 430, § 1.

54-44.1-09. All expenditures must be appropriated. All expenditures of the state and of its budget units of moneys drawn from the state treasury shall be made under authority of biennial appropriations acts, which shall be based upon a budget as provided by law, and no money shall be drawn from the treasury, except by appropriation made by law as required by section 12 of article X of the Constitution of North Dakota.

Source: S.L. 1965, ch. 358, § 9.

54-44.1-10. Payments made pursuant to law only. No payment shall be made and no obligation shall be incurred against any appropriation unless such payment or obligation has been authorized as provided by law. Every official authorizing payments in violation of this chapter shall be subject to the penalties and provisions of chapter 12.1-23.

Source: S.L. 1965, ch. 358, § 10; 1977, ch. 496, § 1.

54-44.1-11. Office of management and budget to cancel unexpended appropriations — When they may continue. The office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations, which shall have remained undrawn after the expiration of the biennial period during which they became available under the law. The chairman of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations

or balances in force for not more than the biennial period during which the director of the budget

1. New construction project
2. Major repair or improvement
3. Purchases of new equipment per unit if it was ordered during the biennial period in which the funds were expended
4. The purchase of land by the state where the total purchase price is not more than \$10,000

Source: S.L. 1965, ch. 358, § 11; 1967, ch. 393, § 1.

54-44.1-12. Control over expenditures. The budget director shall exercise continual control over the departments and agencies of the state government. Execution shall conform with the budget. The budget director shall compare actual revenue with the budget and make these analyses and comparisons a system of semiannual, quarterly, and monthly reports. When a department is made which will reduce expenditure pursuant to an appropriation, the director shall determine the circumstances to exist:

1. The moneys and estimates of expenditures appropriated is made are not available from the fund.
2. The payment or the obligation is not recorded in any reliable evidence available.
3. The expenditure or obligation is not recorded in any reliable evidence available.
4. Circumstances or available information seen by the legislative assembly that the purpose of the appropriation is not being appropriated.

Source: S.L. 1965, ch. 358, § 12; 1967, ch. 394, § 1.

54-44.1-13. Budget requests. The budget requests and expenditures of this state shall be made through the budget director and such budget requests shall be submitted to the legislative assembly with informational copies to the governor and the director of the budget not later than thirty days before a session of the legislative assembly.

Source: S.L. 1965, ch. 358, § 13.

54-44.1-14. Biennial report. The budget director or such member of the

t section shall set the time sented.

r was an official record, of which the old take judicial notice. State ex rel. Jorgenson (1916) 34 ND 527, 159

When submitted to legisla- be transmitted by the gover- ect not later than three days e legislative assembly. Such 6-02-05. The budget director ctory reproduction or print- delivery of same as provided udget and revenue proposals tion required in subsections other data and information or shall make available any the governor, the legislative o the governor-elect as may dditional budget information may desire.

ropriated. All expenditures arn from the state treasury rropriations acts, which shall id no money shall be drawn ade by law as required by th Dakota.

aw only. No payment shall against any appropriation thorized as provided by law. on of this chapter shall be r 12.1-23.

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or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommenda- tion of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the bien- nium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase where the total purchase price is within the authorized appropriation.

Source: S.L. 1965, ch. 358, § 11; 1979, ch. 563, § 1.

54-44.1-12. **Control over rate of expenditures.** "The director of the bud- get shall exercise continual control over the execution of the budget affect- ing the departments and agencies of the executive branch of the state government. Execution shall mean the analysis and approval of all commit- ments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and on the basis of these analyses and comparisons control the rate of expenditures through a system of semiannual, quarterly, or monthly allotments. Before an allot- ment is made which will reduce the amount of funds which can be disbursed pursuant to an appropriation or before an allotment disallowing a specific expenditure is made, the director must find one or more of the following circumstances to exist:

1. The moneys and estimated revenues in a specific fund from which the appropriation is made are insufficient to meet all legislative appropria- tions from the fund.
2. The payment or the obligation incurred is not authorized by law.
3. The expenditure or obligation is contrary to legislative intent as recorded in any reliable legislative records, documents, or other reli- able evidence available.
4. Circumstances or availability of facts not previously known or fore- seen by the legislative assembly which make possible the accomplish- ment of the purpose of the appropriation at a lesser amount than that appropriated.

Source: S.L. 1965, ch. 358, § 12; 1967, ch. 394, § 1.

54-44.1-13. **Budget requests for legislative and judicial branches.** The budget requests and expenditures for the legislative and judicial branches of this state shall not be subject to the provisions of this chapter and such budget requests shall be submitted directly to the legislative assembly with informational copies of such budgets provided to the director of the budget not later than November fifteenth in each year preceding a session of the legislative assembly.

Source: S.L. 1965, ch. 358, § 13.

54-44.1-14. **Biennial report to legislative assembly.** The director of the budget or such member of that office as he shall designate may prepare

and transmit to the governor and upon approval by him may transmit to the members of the legislative assembly at least sixty days prior to the commencement of an ensuing legislative session a report which shall contain definite and specific proposals and recommendations to accomplish the following purposes:

1. To simplify the governmental structure of the state so as to render it more economical and efficient.
2. To eliminate all obsolete and unnecessary offices, departments, institutions, boards, bureaus, and commissions of the state.
3. To consolidate the functions, services, and activities of state offices and agencies thereof so as to eliminate duplication of service and expense wherever it exists.
4. To correlate the functions and services of the several offices and agencies of the state government.
5. To eliminate obsolete methods, unnecessary functions and services carried on by the state government and to render those functions and services which are determined to be absolutely essential and more economical and efficient.

Source: S.L. 1985, ch. 358, § 14.

CHAPTER 54-44.2

OFFICE OF CENTRAL DATA PROCESSING

Section	
54-44.2-00.1.	Definitions.
54-44.2-01.	Office of central data processing — Creation.
54-44.2-02.	Office of central data processing — Powers and duties.
54-44.2-03.	Acquisition of data processing equipment.
54-44.2-04.	Appointment of data processing coordinators.
54-44.2-05.	Repealed by S.L. 1979, ch. 565, § 1.
54-44.2-06.	Secrecy provision.

54-44.2-00.1. Definitions. As used in this chapter:

1. "Data processing" or "electronic data processing" means the systematic sequencing of operations performed by data processing equipment or programs, or both, upon data stored or entered in alphabetic, numeric, or alphanumeric format.
2. "Data processing equipment" means an electronic device or associated devices, except calculators and stand-alone noncommunicating word processors, which perform logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses and includes all compiling and related input, output, and storage, equipment, programs and procedures, and data processing communications facilities.
3. "Word processing" means the textual formatting, correcting, editing, and rearranging of language elements, designed to convey full messages in English syntax, through manipulation of electronic or magnetic impulses. "Word processors" are devices on which word processing can be carried out.

Source: S.L. 1981, ch. 539, § 2.

54-44.2-01. Office of central data processing and budget. The director appoint a director of central data processing shall supervise of all of the executive branch boards, except the job service general. The office of central data processing center which by all executive branch state institutions under the service North Dakota, and central data processing executive and judicial branches processing is unable to fulfill judicial branch of government or judicial branch with

The director of central data processing shall be appointed by the legislature, and shall have the education, experience, and administration, without regard to the pleasure of the director of central data processing, and shall be a technical, and clerical person performing the duties prescribed in the legislative appropriation, and the office of central data processing shall be allowed the same rate as for other employees.

Source: S.L. 1969, ch. 454, § 539, § 3.

54-44.2-02. Office of central data processing. The office of central data processing shall be created.

1. Provide systems design services.
2. Design, plan, justify within and between offices of central data processing.
3. Have the authority to hire, fire, or replace, including the authority to be necessary to carry out the duties of the office of central data processing, under the control of the director of central data processing, and the director of central data processing shall submit a written request for data processing applications to existing data processing applications to increase the cost of

condition and results of operation of the State of Oregon in accordance with current, generally accepted accounting principles and such other financial and statistical information as may be necessary to completely and accurately disclose the financial condition and financial operations of the state and its various agencies. The financial statements shall include, but not be limited to, such information as may be found in a balance sheet, a statement of changes in fund balances, statement comparing budgeted and actual revenues and expenditures, statement of changes in financial position and a statement of operations. The financial statements shall compare the current fiscal year and, if it is the second year of the biennium, the first year thereof, and each fiscal year of the preceding biennium.

(2) As used in subsection (1) of this section, generally accepted accounting principles shall mean those accounting principles sanctioned by recognized authoritative bodies such as the National Council on Governmental Accounting, the American Institute of Certified Public Accountants, the Financial Accounting Standards Board or their successors.

(3) The first financial report required by subsection (1) of this section shall be prepared for the biennium ending June 30, 1979. [1977 c.897 §1]

Note: 291.040 and 291.042 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

291.042 Use of data processing programs, information and materials; approval by legislature. (1) Subject to the approval of the Joint Legislative Committee on Data Processing, the Data Systems Division of the Executive Department:

(a) May obtain copyrights and patents on copyrightable or patentable data processing programs, information or materials developed, published or produced by state agency staff.

(b) May cause to have sold, leased, or otherwise made available such data processing programs, information or materials to any agency or legislative body of any state or the Federal Government under such terms and conditions as may be agreed to by the committee and the agencies.

(2) Moneys collected under this section shall be credited to the General Fund and are available for general governmental purposes. [1979 c.740 §3]

Note: See note under 291.040.

STATE BUDGET; BUDGET REPORT

291.202 Budget report of Governor; department to assist Governor in preparation. Except as otherwise provided in ORS 291.222, the Governor shall prepare in each even-numbered year a budget report for the biennium beginning July 1 of the following year. The Executive Department shall advise and assist the Governor in the preparation of his budget report and shall perform such duties in connection therewith as the Governor requires. [Amended by 1969 c.464 §2]

291.204 Prescribing forms for submitting budget estimates and requests for appropriations; furnishing budget forms to agencies. The department, by July 1 of each even-numbered year, shall furnish every state agency with a sufficient number of forms for its use in preparing for submission to the Governor the information required by the Governor in the preparation of his budget report. The Governor shall prescribe the forms to be used by the agencies in submitting their budget estimates and requests for appropriations as required by ORS 291.208.

291.206 Guidance of agencies in completing budget forms. (1) The Governor shall prescribe such rules and regulations as he deems necessary for the guidance of agencies in the preparation of the budget estimates and requests. The Governor, with the approval of the Secretary of State, shall prepare and prescribe classifications of expenditures and revenue for the purpose of budget-making and accounting.

(2) In so far as practicable, agency budget estimates and requests and appropriation measures shall be prepared in a manner that reflects state governmental organization and state agency duties, functions and powers under the law in effect on January 1 of the following year. The Executive Department shall maintain agency budget estimates and requests in the form in which they are submitted. [Amended by 1969 c.173 §1]

291.208 Filing budget forms with department; preparing requests for agencies failing to file. Each state agency shall file with the department, before September 1 in each even-numbered year, on the form and in the manner required, its budget forms

PUBLIC FINANCIAL ADMINISTRATION 291-305

containing the information required. The department shall prepare budget estimates and requests for appropriations for all agencies that fail to file requests.

291.210 Preparing tentative budget plan. The department, in connection with its direct studies of the operations, plans and needs of state agencies and of the existing and prospective sources of income, shall prepare a tentative budget plan for the two fiscal years for which a budget report is required to be prepared.

291.212 Revising budget plan; transmitting budget forms and tentative budget report to Governor. Upon receipt of the budget forms, the department shall check the agencies' estimates in the light of the tentative budget plan and shall make such further inquiries and investigations as the Governor requires and revise its tentative budget plan accordingly. The department then shall transmit to the Governor the budget forms filed with it by the state agencies and the revised tentative budget report.

291.214 Governor to examine budget forms and revise tentative budget report. The Governor, during the preparation of the budget report and before its submission to the Legislative Assembly, shall examine the budget forms filed by the various agencies. He may make or cause to be made such further investigations by the department, with such hearings before him or any state agency, as he deems advisable, and may make such changes or revisions in policy and program and in specific details of the tentative budget report as he finds warranted.

291.216 Governor's budget report. (1) Not later than November 10 of each even-numbered year the Governor shall cause the budget report to be compiled and prepared for printing.

(2) The budget report shall include a budget message prepared by the Governor, including his recommendations with reference to the fiscal policy of the state government for the coming biennium, describing the important features of the budget plan, embracing a general budget summary setting forth the aggregate figures of the budget report so as to show a balanced relation between the total proposed expenditures and the total anticipated income, with the basis and factors on which the estimates are made, the amount to be borrowed, and other means of financing the

estimated expenditures for the ensuing biennium, compared with the corresponding figures for at least the last completed biennium and the current biennium.

(3) The budget plan shall be supported by explanatory schedules or statements, classifying the expenditures reported therein, both past and proposed, by organization units, objects and funds, and the income by organization units, sources and funds, and the proposed amount of new borrowing as well as proposed new tax or revenue sources.

(4) The budget plan shall be submitted for all dedicated funds, as well as the state General Fund, and shall include the estimated amounts of federal and other aids or grants to state agencies or activities provided for any purpose whatever, together with estimated expenditures therefrom.

(5) The budget report shall embrace the detailed estimates of expenditures and revenues. It shall include statements of the bonded indebtedness of the state government, showing the actual amount of the debt service for at least the past biennium, and the estimated amount for the current biennium and the ensuing biennium, the debt authorized and unissued, the condition of the sinking funds and the borrowing capacity. It shall also contain any statements relative to the financial plan which the Governor may deem desirable or which may be required by the legislature.

291.218 Printing budget report; transmitting to members of legislature; distribution. Except when the Governor under whose supervision the budget report has been prepared will be succeeded in office in January next following:

(1) The department shall have as many copies of the approved budget report printed as the Governor directs.

(2) Not later than December 1 of each even-numbered year, the Governor shall transmit a copy thereof to each member of the legislature who is to serve during the next session.

(3) Upon request, the Governor shall distribute copies free of charge, under such regulations as he may establish, to public libraries, schools and state officials. He shall make copies available to the general public at a reasonable charge for each copy. (Amended by 1959 c.140 §1; 1967 c.302 §1)

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PUBLIC BORROWING AND BONDS 286-290

291.220 Furnishing information and assistance to legislature. The Governor, upon request, shall furnish the Legislative Assembly any further information required concerning the budget report. The department, upon request, shall furnish a representative to assist the Legislative Assembly, its Joint Committee on Ways and Means, appointed under ORS 171.555, and the Legislative Revenue Officer in the consideration of the budget report and any accompanying measures. (Amended by 1969 c.173 §2; 1975 c.789 §8)

291.222 Furnishing information and assistance to Governor-elect; revision of budget report. If the Governor under whose supervision the budget report has been prepared will be succeeded in office in January next following:

(1) The department shall make available to the Governor-elect so much as he requests of the information upon which the tentative budget report is based, and upon completion of the tentative budget report shall supply him with a copy thereof but shall not cause the tentative budget report to be printed and distributed. The department shall also make available to him all facilities of the department reasonably necessary to permit him to review and familiarize himself with the tentative budget report.

(2) After a review of the tentative budget the Governor-elect may prepare revisions and additions thereto. The department shall assist, upon request, in the preparation of such revisions or additions.

(3) The department shall have as many copies of the revised budget report printed as the Governor-elect requests.

(4) Not later than the convening of the next Legislative Assembly the department shall transmit a copy of a summary of the revised budget report containing the revenue and expenditure recommendations of the Governor-elect and not later than February 1 shall transmit a copy of the revised budget report to each member of the Legislative Assembly.

(5) Upon request, the department shall distribute copies of the revised budget report free of charge, under such regulations as it may establish, to public libraries, schools and state officials. It shall make copies of the revised budget report available to the general public at a reasonable charge for each copy. (Amended by 1967 c.302 §2; 1969 c.464 §3)

291.223 Furnishing agency budget estimates to Legislative Fiscal Officer and Legislative Revenue Officer; confidentiality of estimates. (1) Not later than November 10 of each even-numbered year the Governor shall cause the agency budget estimates and requests as described in ORS 291.206 to be made available to the Legislative Fiscal Officer and to the Legislative Revenue Officer.

(2) Before December 1 of the year in which they were made available under subsection (1) of this section, the Legislative Fiscal Officer or his staff and the Legislative Revenue Officer or his staff shall not reveal to any other person the contents or nature of the budget reports and other materials, except with the written consent of the Governor. (1969 c.173 §4; 1975 c.789 §9)

291.224 Capital construction program to be included in budget report; recommendation of Capitol Planning Commission. (1) A capital construction program containing estimated capital construction needs, irrespective of how financed, shall be included with the budget report required by ORS 291.216. The capital construction program shall contain the estimated physical construction requirements for each biennium of a period to be determined by the Governor, which period shall not be less than six years. The department shall assist the Governor in the preparation of the capital construction program.

(2) Except as otherwise provided in subsection (3) of this section and in accordance with regulations prescribed by the department, state agencies shall submit to the department their anticipated capital construction requirements for the period specified by the Governor. The department shall prescribe the basic assumptions relating to population changes, economic trends and other factors which might generally affect capital construction requirements and these basic assumptions shall be used by the state agencies in preparing their anticipated capital construction requirements. Each state agency is responsible for the basic assumptions which affect only its own program. The department shall prepare estimated capital construction requirements for any necessary capital construction not covered by the capital construction requirements submitted by the state agencies under this section.

(3) Each state agency, including the department, required under subsection (2) of

ADMINISTRATION
291.305

this section to submit or prepare anticipated or estimated capital construction requirements, shall submit a copy of such requirements that relate to construction or improvements within the areas described in ORS 276.028 to the Capitol Planning Commission at a time specified by the Capitol Planning Commission, but not later than August 1 of each even-numbered year. The Capitol Planning Commission shall review capital construction requirements submitted as required by this subsection and, not later than November 1 of each even-numbered year, make recommendations to the department with respect to such capital construction proposals.

(4) In accordance with regulations prescribed by the department, each state agency shall separately submit its estimated office space requirements for the period specified by the Governor; and the department shall consolidate those needs and make an estimate for all state office buildings to be included in the capital construction program.

(5) The Governor shall consolidate the estimates, review all of them and make such revisions as he finds warranted.

(6) The budget report shall include the proposed expenditures for the capital construction program for the ensuing biennium and the proposed expenditures for preliminary planning of the construction projects included in the capital construction program for the biennium following the ensuing biennium. The budget report shall also include dollar estimates of the cost of the capital construction projects included in the capital construction program for the succeeding years of the period determined by the Governor under subsection (1) of this section and the recommendations submitted to the department pursuant to subsection (3) of this section.

(7) As used in this section, "capital construction program" does not include the acquisition, repair, improvement, enlargement, construction or maintenance of highways and highway bridges, or park improvements, by the Department of Transportation. [1959 c.500 §1; 1973 c.129 §5]

291.226 Budget item to replace lost and unrecovered public funds or property. When there has been a failure to recover a loss of public funds or property pursuant to ORS 297.120, the state agency sustaining the loss shall include the amount of the loss in its budget estimate and request for the following biennium clearly marked as to purpose, and

the Governor shall include such item in his budget report for the consideration of the Legislative Assembly. [1963 c.617 §3]

ALLOTMENTS

291.232 Declaration of policy. It is declared to be the policy and intent of the Legislative Assembly that the total appropriations made by it, or the total of any budget approved by it, for any state agency, shall be deemed to be the maximum amount necessary to meet the requirements of such agency for the biennium, excepting as may otherwise be provided by law, and that the Governor and the Executive Department are given the powers granted by ORS 291.202 to 291.222 and 291.232 to 291.260 in order that savings may be effected by careful supervision throughout each biennium, with due regard to changing conditions, and by promoting more economic and efficient management of state agencies.

291.234 Department to make allotments to state officers and agencies of appropriations and funds; allotment period. (1) The department shall make allotments to state officers and agencies of appropriations and funds pursuant to the allotment system provided for in ORS 291.234 to 291.260.

(2) For the purposes of the allotment system, each fiscal year shall be divided into four quarterly allotment periods, beginning, respectively, on the first days of July, October, January and April. However, in any case where the quarterly allotment period is impracticable, the department may prescribe a different period suited to the circumstances, not exceeding six months nor extending beyond the end of the biennium.

291.236 Allotment system applicable to all appropriations; controlling expenditures and encumbering of emergency, contingent, revolving and trust funds. (1) The provisions of ORS 291.234 to 291.260 relating to the allotment system shall apply to all appropriations for state officers and agencies. For this purpose "appropriation" includes standing, continuing and annual appropriations, and dedicated funds. In those cases where periodical allotments are impracticable, the department may dispense therewith and prescribe such regulations as will insure proper application and encumbering of funds.

(2) Subject to ORS 291.238, emergency or contingent funds, revolving funds and trust funds shall be subject to such regulations as

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the department may prescribe for controlling the expenditures and encumbering of such funds.

291.238 Expenditures without allotment prohibited; expenditures from dedicated, revolving and trust funds. (1) Except as expressly authorized in this section or ORS 291.236, no person shall incur, or order or vote to incur, any obligation against the state in excess of, or make or order or vote to make any expenditure not authorized by, an allotment. Any such obligation so incurred shall not be binding against the state, but where the obligation violates this section only for having been made in excess of an allotment, the department may authorize payment thereof from unallotted funds.

(2) Excepting as to administrative expenditures from dedicated, revolving and trust funds and to revolving funds established to provide services rendered by any state agency to other state agencies or to any body politic of the State of Oregon, expenditures from dedicated funds, revolving funds and trust funds may be made by any state agency without appropriation or allotment.

(3) No person shall make or order or vote to make any expenditure from or chargeable to a revolving fund or trust fund in excess of the amount standing to the credit of such fund or for any purpose for which such fund may not lawfully be expended.

291.240 [Repealed by 1953 c.168 §4]

291.242 Allotment required before expenditure of appropriation; submitting estimates. No appropriation to which the allotment system is applicable shall become available to any state agency for expenditure thereby during any allotment period until:

(1) The agency submits to the department an estimate, in such form as the department prescribes, for such allotment period, of the amount required for each activity to be carried on during that period; and

(2) The estimate is approved, increased or decreased by the department and funds allotted therefor.

291.244 Department action on estimates. The department shall act promptly upon all estimates required by ORS 291.242. If the estimate is within the terms of the appropriation as to amount and purposes, having due regard for the probable further needs of the agency for the remainder of the

term for which the appropriation was made, and if the department determines that there is a need for the estimated amount for the allotment period, the department shall approve the estimate and allot the estimated amount for expenditures. Otherwise the department shall modify the estimate so as to conform with the terms of the appropriation and the prospective needs of the agency, and shall reduce the amount allotted accordingly.

291.246 Allotments to be made for purpose or classification of expenditure prescribed in appropriation measure. Allotments shall be made according to purpose and classification of expenditures prescribed in the appropriation measure as enacted by the Legislative Assembly; provided, however, that the department may make allotments for agencies by purposes or by other classification of expenditures of amounts appropriated or authorized to be expended in appropriation measures enacted by the Legislative Assembly, whether or not such measures establish classification of expenditures. In making allotments, the department shall not authorize the expenditure of moneys for any purpose not authorized by the Act appropriating the money or authorizing it to be expended, and the funds allotted for each purpose or classification of expenditure shall be used for no other purpose or classification of expenditure. [Amended by 1963 c.182 §7]

291.248 Notice of allotment. Upon the granting of any allotment, the department shall transmit a notice of the allotment to the agency concerned.

291.250 Claims and encumbrances limited by amount and purpose of allotment. The agency shall not create any claim or encumbrance for the future disbursement of appropriated moneys unless the proposed expenditure as estimated, together with expenses theretofore paid from or encumbered against such allotment, is within the total amount and for the purposes specified in the notice of allotment transmitted to such agency.

291.252 Modifying allotment previously made. The department may at any time modify or amend any allotment previously made by it, upon application of, or upon notice to, the agency concerned, but no such modification or amendment shall reduce an allotment below the amount required to meet

291.305

valid obligations or commitments previously incurred against the allotted funds.

291.254 Reducing allotment to prevent deficit. If the department determines at any time that the probable receipts from taxes or any other sources for any appropriation will be less than was anticipated, and that consequently 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, the department shall, with the approval of the Governor, and after notice to the agency or agencies concerned, reduce the amount allotted or to be allotted so as to prevent a deficit.

291.256 [Repealed by 1959 c.608 §1]

291.258 Approval of department required for establishment of new personnel position or classification. A new personnel position or classification, not provided in the budget of an agency upon which appropriations have been based, shall not be established without prior approval of the department.

291.260 Approving, modifying or disapproving requests and budgets to be submitted to the Federal Government. Every state agency, when making requests or preparing budgets to be submitted to the Federal Government for funds, equipment, materials or services, other than for highway purposes, and purposes for which the state was legally committed on August 2, 1951, shall, upon completion of such request or budget, first submit it to the department. The department shall have authority to approve, disapprove, modify or amend any such request or budget before it is submitted to the proper federal authority.

291.262 [1963 c.182 §6; 1965 c.111 §1; repealed by 1969 c.488 §3]

ALLOCATION OF GOVERNMENTAL SERVICE EXPENSES

291.272 Definitions for ORS 291.272 to 291.280. As used in ORS 291.272 to 291.280, unless the context requires otherwise:

- (1) "Administrative expenses" has the meaning defined by ORS 291.305.
(2) "Department" means the Executive Department
(3) "Governmental service expenses" means the expenses of state government that

are attributable to the operation, maintenance, administration and support of state government generally, and includes the following:

(a) Expenditures of the State Treasurer supported out of the General Fund incurred in the administration of the duties of his office, but not including the Inheritance and Gift Tax Divisions.

(b) Expenditures of the Department of Justice incurred in the administration of its duties, other than those of the Support Enforcement Division.

(c) Administrative expenses of the Executive Department supported out of the General Fund.

(d) One-half of the expenditures of the Legislative Assembly out of moneys appropriated from the General Fund, and all of the expenditures incurred in the administration of the duties of the Emergency Board.

(e) One-half of the expenditures incurred in the administration of the duties of the Joint Committee on Ways and Means and the Emergency Board.

(f) One-half of the expenditures incurred out of moneys appropriated from the General Fund in the administration of the duties of the Legislative Counsel Committee.

(g) Expenditures of the Secretary of State in the administration of the office of the State Archivist.

(4) "State agency" means every state officer, board, commission, department, institution, branch or agency of the state government, whose costs are paid wholly or in part from funds held in the State Treasury, and includes the Legislative Assembly, the courts and their officers and committees. [1967 c.637 §2; 1973 c.439 §9]

291.274 Determination of funds and appropriations to be assessed. The department shall determine and may at any time redetermine which state funds or appropriations shall be assessed a reasonable share of governmental service expenses. In determining or redetermining the funds that shall be so assessed:

- (1) A fund consisting of moneys the use of which is restricted by the Oregon Constitution shall be assessed only those governmental service expenses ascertained as being necessarily incurred in connection with the purposes set forth in the Oregon Constitution.

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(2) Trust funds shall be assessed only those governmental service expenses ascertained as being necessarily incurred in connection with the purposes for which the trust fund was established. [1967 c.637 §3]

291.276 Department to allocate governmental service expenses among state agencies. (1) With respect to each biennium beginning on July 1 of an odd-numbered year, commencing July 1, 1971, the department shall allocate among all state agencies the governmental service expenses, as determined by the department in accordance with ORS 291.272, for the biennium ending two years prior to the beginning of the biennium for which the allocation is made.

(2) The department, in accordance with the procedures and methods prescribed under subsection (3) of this section, shall determine and may at any time redetermine the reasonable share of governmental service expenses to be assessed against any fund or appropriation. Such expenses shall be a charge against any fund so designated and be considered an administrative expense of the agency administering the fund or appropriation.

(3) The department, with the approval of the Governor, shall prepare and prescribe the procedures and methods used in determining and redetermining the reasonable share of governmental service expenses assessed against any fund or appropriation.

(4) The department, with the approval of the Governor, may make rules necessary or proper to carry out the duties imposed upon it by ORS 291.272 to 291.280.

(5) The computation required by subsection (1) of this section shall be made by the department in advance of the biennium with respect to which the allocation is to be made. [1967 c.637 §4; 1969 c.105 §1]

291.278 Transfer of allocated amounts to General Fund. (1) Upon completion of the determination by the department under ORS 291.274 and 291.276, the department shall transfer to the General Fund, with appropriate notice to the State Treasurer, out of moneys appropriated to each state agency, the amount of governmental service expenses so certified for the agency.

(2) In the case of a state agency that collects or receives moneys for fees, fines, licenses or taxes not by law made a part of the General Fund available for general governmental purposes, if moneys available to such

state agency are not sufficient to permit the transfer under subsection (1) of this section, the department shall notify the state agency of the amount certified with respect to the state agency under ORS 291.274 and 291.276, less any amount transferred out of moneys appropriated to such state agency under subsection (1) of this section. Thereafter, until such balance has been paid into the General Fund, 10 percent of all moneys collected or received by the state agency for fees, fines, licenses or taxes not by law made a part of the General Fund available for general governmental purposes shall be:

(a) Transferred by the department to and made a part of the General Fund available for general governmental purposes if such moneys are paid to the State Treasurer by the state agency; or

(b) Paid to the State Treasurer by the state agency receiving such moneys at the time when they are received by the state agency if such moneys are authorized by law to be kept and disbursed other than by and through the State Treasurer, and be credited by the State Treasurer to and made a part of the General Fund available for general governmental purposes.

(3) The transfer and payment to the General Fund required by this section shall be made notwithstanding any law that appropriates such moneys or any of them to any other purposes, and such portion so paid and transferred is not subject to any special uses thereby provided. [1967 c.637 §5]

291.280 Receipts by State Treasurer for transferred moneys. In receipting for moneys paid and transferred under ORS 291.278 (2), the State Treasurer shall make his receipt in duplicate, showing the amount credited to the General Fund available for general governmental purposes as well as the amount credited to any special fund or account. He shall file one of the duplicate receipts with the department. [1967 c.637 §6]

291.302 [Repealed by 1953 c.386 §9]

291.304 [Repealed by 1953 c.386 §9]

ACTS APPROPRIATING MONEY OR LIMITING EXPENDITURES

291.305 Meaning of "administrative expenses" in law appropriating money or limiting expenditures; limitation not ap-

appropriation of money otherwise unavailable to agency. (1) As used in the laws enacted by the Legislative Assembly appropriating money or limiting expenditures, the term "administrative expenses" means, unless the context requires otherwise, those expenditures that are included under the classifications of expenditures, except debt service and special payments expenditure categories, which are prepared and prescribed, pursuant to ORS 291.206, for the purpose of budget-making and accounting during the biennium for which such laws appropriating money or limiting expenditures are enacted.

(2) In the laws enacted by the Legislative Assembly, the establishment of maximum limits for expenditures from, or for the payment of administrative expenses from, fees, moneys or other revenues collected or received by any agency is not intended as an appropriation of moneys not otherwise available to such agency. (1963 c.182 §51, 3)

291.306 [Repealed by 1953 c.386 §9]

291.307 Appropriation from General Fund to constitute a credit only. An appropriation of any sum of money from the General Fund by any law shall not be considered as segregating or setting aside the amount of such appropriation from the moneys constituting the General Fund, but shall be considered and construed as constituting a credit in favor of the appropriation for the amount stated in the law making the appropriation, subject to allotment as provided in ORS 291.232 to 291.260. (Formerly 291.376)

291.308 [Repealed by 1953 c.386 §9]

291.310 [Repealed by 1953 c.386 §9]

EMERGENCY EXPENDITURES; EMERGENCY BOARD

291.322 Definitions for ORS 291.322 to 291.334. As used in ORS 291.322 to 291.334:

(1) "Emergency" means any catastrophe, disaster or unforeseen or unanticipated condition or circumstance, or abnormal change of conditions or circumstances, affecting the functions of a state agency and the expenditure requirements for the performance of these functions.

(2) "State agency" means any elected or appointed officer, board, commission, department, institution, branch or other agency of the state government. (1953 c.386 §1)

291.324 Emergency Board created. There hereby is created a joint committee composed of members of both houses of the Legislative Assembly, to be known as the Emergency Board. (1953 c.386 §2)

291.326 Powers of board concerning expenditures by state agencies. (1) The Emergency Board, during the interim between sessions of the Legislative Assembly, may exercise the following powers:

(a) Where an emergency exists, to allocate to any state agency, out of any emergency fund that may be appropriated to the Emergency Board for that purpose, additional funds beyond the amount appropriated to the agency by the Legislative Assembly, or funds to carry on an activity required by law for which an appropriation was not made.

(b) Where an emergency exists, to authorize any state agency to expend, from funds dedicated or continuously appropriated for the uses and purposes of the agency, sums in excess of the amount of the budget of the agency as approved in accordance with law.

(c) In the case of a new activity coming into existence at such a time as to preclude the possibility of submitting a budget to the Legislative Assembly for approval, to approve, or revise and approve, a budget of the money appropriated for such new activity.

(d) Where an emergency exists, to revise or amend the budgets of state agencies to the extent of authorizing transfers between expenditure classifications within the budget of an agency.

(2) No allocation, authorization or approval under paragraph (a), (b) or (c) of subsection (1) of this section shall be effective unless made at a meeting at which 10 members of the board were present.

(3) The laws enacted by the Legislative Assembly making appropriations and limiting expenditures, or either, are not intended to limit the powers of the Emergency Board.

(1953 c.386 §3; subsection (3) enacted as 1963 c.182 §2, 1973 c.201 §2)

291.328 Board may require presentation of evidence to support requests for action; board to report its action to agencies concerned. Before the Emergency Board makes any allocation, grants any authorization or approves any budget under ORS 291.326, it may require the state agency in question to submit written evidence to justify the allocation, authorization or approval and

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may require the head of the agency to appear before it in support thereof. The Emergency Board may also require the Director of the Executive Department to submit a written report as to the need and justification for the allocation, authorization or approval. Upon making an allocation, granting an authorization or approving a budget, the Emergency Board shall file with the department, the Secretary of State and the state agency in question a copy of the order of allocation, grant of authorization or approved budget. (1953 c.386 §4)

291.330 Members of board; confirmation. The Emergency Board shall be composed of the President of the Senate, the Speaker of the House of Representatives, the chairmen of the Senate and House Ways and Means Committees, six members of the Senate, at least three of whom shall have had some previous experience on the Ways and Means Committee, to be appointed by the President of the Senate and confirmed by a majority of all the members elected to the Senate, and seven members of the House, at least four of whom shall have had some previous experience on the Ways and Means Committee, to be appointed by the Speaker and confirmed by a majority of all the members elected to the House. (1953 c.386 §5; 1973 c.201 §1; 1979 c.324 §1)

291.332 Meetings of board; terms of members; filling vacancies on board. (1) The Emergency Board shall meet immediately upon adjournment of each Legislative Assembly and elect a chairman from their number. The board shall meet thereafter at such times as it may determine.

(2) The term of members of the board shall run from the adjournment of one regular session to the organization of the next regular session.

(3) If a vacancy occurs in the board, either the Speaker, if the legislator previously filling the position was a member of the House, or the President, if the legislator previously filling the position was a member of the Senate, shall fill such vacancy by appointment for the unexpired term. However, such appointment, before becoming effective, shall be confirmed by the remaining members of the board, sitting as such board. (1953 c.386 §6)

291.334 Board authorized to secure assistance; payment of board expenses. (1) The Director of the Executive Department, upon request of the board, shall furnish neces-

sary assistance to the board, or the board may employ such assistance as they may deem necessary.

(2) The expenses of the board, the cost of employed assistance, and other necessary expenses of the board shall be paid out of funds appropriated to the board specially for such purpose or, if no such appropriation is made, out of any emergency fund that may be appropriated to the board. All claims for those expenses and cost shall be approved by the chairman or other person authorized to approve claims, and warrants shall be drawn on the State Treasurer for the payment thereof in the same manner as other expenses are paid. (1953 c.386 §7; 1967 c.454 §96; 1975 c.530 §7)

291.336 Appropriation bills requiring approval of board before project commenced or contract let; how requirement met. (1) As used in this section, "appropriation bill" means a legislative Act which appropriates money or authorizes the expenditure of dedicated or continuously appropriated moneys or otherwise makes moneys available for expenditure.

(2) In all cases where an appropriation bill heretofore or hereafter passed provides that a state agency shall not commence any project or allow any contract to be let for any project without having the approval of the Emergency Board, such requirement may be met:

(a) During any period when the Legislative Assembly is in session, by the adoption of a resolution by each house approving the proposed action; or

(b) During any period when the Legislative Assembly is not in session, either by approval of the Emergency Board as provided in the appropriation bill, or by the elapse of 45 days without adverse action of the Emergency Board after notice of the proposed action has been given to each member of the Emergency Board at his last-known address. (1957 c.382 §1)

ESTIMATES OF STATE REVENUES

291.342 Annual estimation of state revenues; apportionment among counties of any state property tax levy necessary to make up deficiency; quarterly estimates. (1) By August 15 of each year, but not earlier than 90 days from the end of the regular session, if any, of the Legislative Assembly held in that calendar year, the Executive

Department, with the assistance of the Department of Revenue, shall:

(a) Ascertain by computation and estimate the total amount of revenue available for state purposes for the current fiscal year; and

(b) Apportion the state tax levy on property, if any, among the several counties in the manner provided in ORS 291.344.

(2) In addition to the requirement in subsection (1) of this section, the Executive Department with the assistance of the Department of Revenue shall for each calendar quarter of the year ascertain by computation and estimate the total amount of revenue available for state purposes for the current fiscal year, as well as the amount of revenue received quarterly, cumulated throughout the biennium, and report its estimate to the Legislative Revenue Officer and to the Emergency Board, or if the Legislative Assembly is in session, to the Joint Committee on Ways and Means.

(3) In carrying out its duties under subsection (2) of this section, the Executive Department shall issue quarterly a statement setting forth the methodology and assumptions used in making the revenue estimate. Nothing in this subsection requires the statement to set forth procedures used or methods used to determine either the methodology or the assumptions. [Formerly 309.510; 1971 s.s. c.5 §3; 1975 c.789 §10; 1980 c.11 §1]

291.344 Procedure for computation, levy, offset and apportionment of state property tax levy. (1) The department shall proceed as prescribed in this section.

(2) The department shall prepare a statement, summarizing:

(a) All the items of expense or deficiency, including interest on unpaid warrants left over from the previous year, to which the state will be subject under existing laws for the fiscal year next after that year or period for which the last preceding levy of state revenues was computed and declared; and

(b) When the levy is made on the assessment of an even year, the estimated expense of one biennial session of the Legislative Assembly.

(3) There shall be segregated from the total of the items tabulated in accordance with subsection (2) of this section the amount necessary for the payment of bonded indebtedness and interest thereon, and this amount shall constitute the state tax levy on property.

(4) From the total of the items summarized in accordance with subsection (2) of this section, after the amounts segregated pursuant to subsection (3) of this section have been deducted, there shall be deducted, in the order listed in subsection (5) of this section, all miscellaneous receipts, including any surplus remaining in the State Treasury from all funds, however derived, excepting only the following:

(a) Funds whose use is restricted to particular purposes by the Constitution of Oregon.

(b) Funds whose use is restricted to particular purposes by federal law.

(c) All trust funds, as defined in ORS 291.002.

(5) (a) The department shall deduct first those miscellaneous receipts not excluded by paragraphs (a), (b) and (c) of subsection (4) of this section and not includable in the definitions of dedicated or revolving funds in ORS 291.002.

(b) If necessary, in order to provide revenue for all of the items summarized in subsection (2) of this section, the department shall then deduct as much as is necessary or available from any fund remaining in the State Treasury and not excluded by subsection (4) of this section. The department shall list these deductions in its records.

(6) The state tax levy on property segregated and levied pursuant to subsection (3) of this section shall be offset first by the application of miscellaneous receipts to the extent that they are not applied in accordance with subsection (4) of this section. Subject to the limitations of ORS 311.660, the amount of the state tax levy on property not offset by the foregoing application shall be apportioned among and charged to the several counties in that proportion which the total assessed value of all the taxable property in each county bears to the total assessed value of all the taxable property of the state as equalized.

(7) Immediately after the department has completed the computation, levy, offset and apportionment of the state tax levy on property in accordance with this section, a certificate thereof, signed by the director of the department, shall be filed in the office of the department. [Formerly 309.520; 1967 c.454 §97; 1981 c.804 §83]

291.348 Biennial estimate of General Fund revenues; certification to Secretary of State. (1) The department, with the assis-

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tance of the Secretary of State, as soon as possible after June 30, 1966, and each even-numbered year thereafter, shall ascertain the total of General Fund revenues obtained from all sources during the preceding fiscal year, so far as is practicable.

(2) The Director of the Executive Department shall certify to the total of General Fund revenues during the preceding fiscal year as determined under subsection (1) of this section.

(3) As used in this section, "General Fund revenues" means all payments of money credited to the State Treasury that are placed or to be placed by the State Treasurer to the credit of the General Fund of the State of Oregon for general governmental purposes. [1965 c.615 §12; 1967 c.454 §98]

291.349 Revenue estimate; effect of revenue in excess of estimate. (1) As soon as practicable after adjournment sine die of the regular session of the Legislative Assembly, the Executive Department shall report to the Emergency Board the estimate as of July 1 of the first year of the biennium of General Fund revenues that will be received by the state during that biennium. The Executive Department shall base its estimate on the last forecast given to the Legislative Assembly before adjournment sine die of the regular session on which the printed, adopted budget prepared in the Executive Department is based, adjusted only in so far as necessary to reflect changes in laws adopted at that session. The report shall contain the estimated revenues from corporate income and excise taxes separately from the estimated revenues from other General Fund sources. The Executive Department may revise the estimate if necessary following adjournment sine die of any special or emergency session of the Legislative Assembly but any revision does not affect the basis of the computation described in subsection (3) or (4) of this section.

(2) As soon as practicable after the end of the biennium, the Executive Department shall report to the Emergency Board or the Legislative Assembly if it is in session, the amount of General Fund revenues collected as of the last June 30 of the preceding biennium. The report shall contain the collections from corporate income and excise taxes separately from collections from other sources.

(3) If the revenues received from the corporate income and excise taxes during the biennium exceed the amounts estimated to be

received from such taxes for the biennium, as estimated after adjournment sine die of the regular session, by two percent or more, the total amount of that excess shall be credited to corporate income and excise taxpayers in a percentage amount of corporate excise and income tax liability as determined under subsection (5) of this section. However, no credit shall be allowed against tax liability imposed by ORS 317.090.

(4) If the revenues received from General Fund revenue sources, exclusive of those described in subsection (3) of this section, during the biennium exceed the amounts estimated to be received from such sources for the biennium, as estimated after adjournment sine die of the regular session, by two percent or more, the total amount of that excess shall be credited in a percentage amount of income tax liability as determined under subsection (5) of this section.

(5) If there is an excess to be credited under either subsection (3) or (4) of this section, or both, on or before October 1, following the end of each biennium, the Executive Department shall determine and certify to the Department of Revenue the percentage amount of credit for purposes of subsection (3) or (4) of this section. The percentage amount determined shall be a percentage amount to the nearest one-tenth of a percent that will distribute the excess to be credited to either the corporate excise and income taxpayers or personal income taxpayers for taxable years beginning in the calendar year during which such excess is determined. The credit shall be computed after the allowance of any credit allowed or allowable under ORS chapter 316, 317 or 318, whichever may be applicable, and before the application of estimated tax payments, withholding or other advance tax payments. [1979 c.241 §30; 1981 c.885 §1]

Note: 291.349 and 291.355 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See the preface to Oregon Revised Statutes for further explanation.

291.350 [1965 c.615 §13; repealed by 1971 c.544 §7]

291.352 [Renumbered 293.105]

291.354 [Amended by 1959 c.273 §7; 1961 c.280 §3; 1961 c.308 §2; renumbered 293.110]

ADMINISTRATION
291-305

RATE OF GROWTH OF APPROPRIATIONS

291.355 Rate of growth of appropriations for general governmental purposes.

(1) Each biennium, growth of state governmental appropriations for general governmental purposes shall be no greater than the rate of growth of personal income in Oregon in the two preceding calendar years. The rate of growth shall be computed based on the U.S. Department of Commerce reports for the two preceding calendar years.

(2) For the 1979-1981 biennium, the base to which the rate of growth applies shall equal state governmental appropriations for general governmental purposes in the 1977-1979 biennium plus expenditures from non-General Fund sources that are to be funded in 1979-1981 out of the General Fund and less any General Fund expenditures in 1977-1979 that are to be funded in 1979-1981 from non-General Fund sources.

(3) In bienniums subsequent to the 1979-1981 biennium, the base shall be adjusted as necessary to reflect transfer of funding sources between General Fund sources and non-General Fund sources in order to maintain a base used for general governmental purposes.

(4) Debt service and tax relief other than that provided under ORS 310.330 to 310.690 shall not be considered appropriations for general governmental purposes. (1979 c.241 §29)

Note: See note under 291.349.

291.356 [Amended by 1963 c.333 §2; renumbered 293.115]

291.358 [Renumbered 293.120]

291.360 [Renumbered 293.125]

291.362 [Renumbered 293.130]

291.364 [Renumbered 293.135]

291.366 [Renumbered 293.140]

291.368 [Renumbered 293.145]

291.370 [Renumbered 293.150]

**FISCAL MATTERS;
LEGISLATIVE REVIEW**

291.371 Approval of salary plan changes and unbudgeted new positions by legislative review agency required. (1) As used in this section, "legislative review agency" means the Joint Committee on Ways

and Means during the period when the Legislative Assembly is in session and the Emergency Board during the interim period between sessions.

(2) Prior to making any changes in a salary plan, establishing any new positions specifically not provided for in the budget of the affected agency or reclassifying any positions specifically provided for in the budget of the affected agency, the Executive Department shall submit the proposed changes to the legislative review agency. The proposed change shall only be approved and take effect if the legislative review agency finds that the affected agency can finance the proposed change within the limits of its biennial budget and that the proposed change conforms to legislatively approved salary policies. The effective date of the change shall be the date prescribed by the Personnel Division. (1973 c.49 §1)

291.372 [Renumbered 293.155]

291.374 [Amended by 1955 c.133 §1; 1955 c.672 §1; 1957 c.460 §1; 1959 c.686 §39; 1961 c.268 §13; 1961 c.485 §27; renumbered 293.160]

291.375 Legislative review of applications for federal financial assistance; submission, approval required; exemptions. (1) Prior to the submission of any application for financial assistance or grants from the United States or any agency thereof by or on behalf of any agency of this state, the application must be submitted for legislative review in the following manner:

(a) If the application is to be submitted to the Federal Government when the Legislative Assembly is in session, the application shall be submitted to the Joint Committee on Ways and Means for review.

(b) If the application is to be submitted to the Federal Government when the Legislative Assembly is not in session, the application shall be submitted to the Emergency Board for review.

(2) If the legislative agency authorized under subsection (1) of this section to review applications described therein approves the application, it may be submitted to the appropriate federal agency. If the legislative agency disapproves of the application, it shall not be submitted to any federal agency unless it is or can be modified to meet the objections of the legislative agency.

(3) Notwithstanding subsection (1) of this section, the Joint Committee on Ways and

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(4) in addi ments (291. 291. 293.165) 291. 293.170)

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285-290

Means and the Emergency Board may exempt any state agency from the requirements of this section. Project grants for departmental research, organized activities related to instruction, sponsored research or other sponsored programs carried on within the Department of Higher Education, for which no biennial expenditure limitations have been established, are exempt from the requirements of this section.

(4) The review required by this section is in addition to and not in lieu of the requirements of ORS 293.550. [1973 c.44 §1]

291.376 (Renumbered 291.307)

291.378 [Amended by 1961 c.590 §1; renumbered 293.165]

291.380 [Amended by 1961 c.590 §2; renumbered 293.170]

291.385 Use of certain federal moneys for employment; legislative approval. Expenditures of moneys available to this state or any agency thereof under the Comprehensive Employment and Training Act (Public Law 93-203, 87 Stat. 839) and (Public Law 95-524, 92 Stat. 1909), the Emergency Job and Unemployment Assistance Act of 1974 (Public Law 93-567), and the Emergency Jobs Program Extension Act of 1976 (Public Law 94-444), as amended, are not limited by fixed sum appropriations or expenditure limitations imposed for the biennium beginning July 1, 1977, if authorized by the Joint Committee on Ways and Means after March 1, 1979. However, positions added under the provisions of the federal enabling legislation are subject to approval of the Emergency Board during the interim between sessions of the Legislative Assembly and by the Joint Committee on Ways and Means during a session of the Legislative Assembly. (1977 c.85 §1; 1979 c.93 §1)

Note: 291.385 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

COMMISSION ON OREGON STATE MANAGEMENT AND ORGANIZATION

Note: Sections 1 to 8, 10 and 12 of chapter 795, Oregon Laws 1979, provide:

Sec. 1. It is the purpose of this Act to improve the responsiveness and manage the growth of Oregon state government.

Sec. 2. (1) There is created a Commission on Oregon State Management and Organization consisting of nine members and four ex officio members.

(2) The Governor shall appoint four members of the commission; the President of the Senate and the Speaker of the House of Representatives shall each appoint two members of the commission; the Chief Justice of the Supreme Court shall appoint one member of the commission.

(3) The Governor, President of the Senate, Speaker of the House and Chief Justice of the Supreme Court shall serve as ex officio, nonvoting members of the commission.

(4) No person shall be eligible for appointment to the commission who is an elected or appointed official, or who has not been seven years a resident of the State of Oregon, nor shall any person be eligible for appointment to the commission who has not demonstrated excellent leadership or managerial ability prior to the person's appointment.

(5) Each member shall be appointed to serve for a term of two years and may be reappointed for one additional term.

(6) In case of a vacancy for any cause, the Governor, President of the Senate, Speaker of the House or Chief Justice of the Supreme Court, according to the position vacated, shall make an appointment to become effective immediately for the unexpired term.

Sec. 3. (1) The purpose of the Commission on Oregon State Management and Organization shall be to provide the greatest effectiveness of state government at the lowest possible cost.

(2) The commission shall advise and assist within the limits of its resources the legislative and executive branches of state government, including state agencies, to improve the responsiveness and manage the growth of Oregon state government through proposals for legislation or changes in administrative rules or policy.

(3) The commission shall select one or more comprehensive tasks to undertake each year from priority lists submitted to the commission by the Governor, President of the Senate, Speaker of the House and Chief Justice of the Supreme Court on or before July 1 of each year.

(4) In performing its duties, the commission within the limits of available funds may:

(a) Conduct hearings and conferences to ascertain facts, to comprehend state programs and activities and to obtain qualified opinions;

(b) Appoint subcommittees consisting of members of the commission and public members, if desired, and pay the reasonable and actual expenses thereof as provided in section 4 of this Act;

(c) Obtain from any state agency necessary assistance and data; and

(d) Perform all other necessary functions to carry out the purposes of the commission and this Act.

Sec. 4. A member of the Commission on Oregon State Management and Organization shall receive no

House Research Agency
Pouch Y
Juneau, Alaska 99811
465-3991

KEY WORD: _____

Research Request Number: _____

RESEARCH EVALUATION

TO: _____
FROM: Susan Brody, Director
RE: Evaluation of Research Products

To assist us in improving the quality of our research services, we would appreciate your response to the following questions.

- Was the information unbiased?
- Did it provide answers to (or, at least, useful information on) all the questions you posed?
- Was the research completed and delivered to you in a timely manner?
- Was it clearly written?
- May we release this information to the public?
 - I approve the release of this information.
 - I approve the release of this information, but please remove my name.
 - I do not approve the release of this information; maintain confidentiality.

Date

Signature

Please be assured that we will take your comments seriously in performing future research for you.

Please return to House Research Agency, Mail Stop 3100.

Thank you.