

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

3098 SCOMM 142: HOUSE SPECIAL COMMITTEE ON WAYS & MEANS 2005-2006

SCOMM

142:25

STATE OF ALASKA



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REPRESENTATIVE MIKE KELLY HOUSE DISTRICT 7

Member
House Finance Committee

TO: Rep. Weyhrauch, Chair House Ways and Means
Members, House Ways and Means
FROM: Rep. Kelly
DATE: March 22, 2006
SUBJECT: HB 492

Thank you for the opportunity to present to you HB 492 earlier this week. The goal of the March 20th hearing was to introduce to the committee, the concept that the State of Alaska could transfer an income-producing asset to the Alaska Retirement Management Board (ARMB) to fulfill the unfunded liabilities in the State's PERS/TRS systems. The hearing did produce many great questions and this memorandum is an attempt to address as many of those questions as we can at this time. Most however are still under consideration.

- 1) **What type of royalty will the ARMB receive when the state transfers the gas interests to them?**

The ARMB would own the gas interest.

- 2) **Are we funding past service cost liabilities with an insecure asset (gas line) that may or may not come online? If we do proceed, what about a mismatch of Assets to Liabilities?**

The ARMB would evaluate the gas interest asset yearly. (This question is still being addressed by Retirement and Benefits)

- 3) **Why should the state take on the entire unfunded liability, when a large portion of the liability should be paid by the Federal Government?**

The mechanism to address this is being considered by Retirement and Benefits as well as the Department of Revenue

- 4) **Any transfer of gas interest will have to be sanctioned by FERC. For example, the producers book reserves with the goal of increasing shareholder value, while the state would in this case, book reserves with the intent of filling the unfunded liability of PERS/TRS. Is this addressed in HB 492?**

No, the Federal Energy Regulatory Commission (FERC) is not addressed in the bill. The Department of Revenue won't even assign value to oil flowing next year. These gas interests are even more difficult to place a value on.

- 5) **How do we monetize the assets to be transferred? Is the ARMB given authority to sell the assets?**

Gas interests are difficult to monetize. We will want further input when the ARMB meets.

- 6) **What are we going to be dealing with in the future? What will future liabilities look like? (Request to work with actuaries and obtain facts).**

There will be an Actuary Presentation by Buck Consulting on Friday, March 24 to address this question.

- 7) **What happens if we change the term "natural gas" to "oil" in the bill?**

It would be easier if we put the term "oil" in the bill because there is more certainty in the value of oil than there is gas.

- 8) **Does it simplify the bill if we specify that we're just looking at the Cook Inlet region for gas interests to be transferred?**

Yes, it would simplify the bill, but the interests in the Cook Inlet gas is likely so small, that it would not have a dramatic impact on the unfunded liability.

- 9) **What is the difference between this proposal and saying that future state assets will do the same?**

This is a legitimate concern. It all turns to cash (or fails to) in the end. This would use future assets to cover future liabilities and would reduce budget impact.

- 10) **What happens if the Governor wants the Commissioner of DNR to go one way and the ARMB wants the Commissioner to go another way? How does this get worked out?**

This question will be addressed by the ARMB and the Department of Natural Resources.

- 11) Will Article 12, Sec. 7 (Retirement Systems shall not be diminished) of the constitution hold up against Article 9, Sec. 7 of the constitution, which states that there shall not be any funds dedicated to any special purpose?**

There is no definitive answer to this question, but the department of law can give us more insight regarding this question.

- 12) Is the transfer of gas interests as an "asset" a "prohibited investment" or "prohibited transaction" under ERISA? If it were an allowable transaction, what would the actuaries think?**

In order for the state to book gas interests as an asset under ARMB the asset must be, measurable, liquid and available to pay liabilities in current year. The state does not book other assets until that asset is produced. (Oil, timber, etc...)

Sponsor Statement

HB 492

“An Act relating to the transfer of the state’s interests in certain gas to the Alaska Retirement Management Board for the purpose of satisfying the unfunded accrued actuarial liability of state retirement systems.”

The 24th Alaska State Legislature modified the State’s Public Employee and Teacher Retirement system by passing SB 141 last year. However, the state is still faced with the unfunded liability embedded in the original PERS/TRS system.

This bill transfers the state’s gas interests in certain land identified by the Department of Natural Resources to the Alaska Retirement Management Board (created by SB 141) for the purpose of satisfying the State’s nearly \$6 billion unfunded liability. Other useful tools are available such as cash payments and pension obligation bond financing, but we believe transferring these resources as an asset may be the best way to fulfill the State’s obligation to it’s public employees and reduce unsustainable employer costs and negative impacts on the state budgets over the coming decades.

This bill will help to:

- ✓ Significantly lower the cost of state government
- ✓ Free up significant additional funding for K-12 and university classrooms

By transferring the interest of potential gas resources as an asset to the Alaska Retirement Management Board, the state will ensure compliance with Article XII, sec.7, of the Constitution of the State of Alaska, which mandates that we address the unfunded liability. Satisfying the unfunded liability is in the best interest of the state, the University of Alaska and school districts.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 492
 () Publish Date: _____

Revision Date/Time (Note if correction): 3/17/06 1:07 p.m. Dept. Affected: Administration
 Title An Act relating to the transfer of the state's interest RDU Centralized Administrative Services
in certain gas to the ARM Board... Component Retirement and Benefits
 Sponsor House Special Committee on Ways and Means
 Requester House Special Committee on Ways and Means Component No. 64

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 492 will have no fiscal impact on the Division of Retirement and Benefits.

Prepared by: Melanie Millhorn, Director Phone 465-4408
 Division Retirement and Benefits Date/Time 3/17/06 1:32 PM
 Approved by: Mike Tibbles, Deputy Commissioner Date 3/17/2006
 Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB492-DNR-O&G-03-18-06
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title Natural Gas Royalties to Fund PERS/TRS RDU Resource Development
Component Oil and Gas Development
Sponsor House Finance
Requester House Ways and Means Component No. 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	1,280.0	1,280.0	1,280.0			
Travel	5.0	5.0	5.0			
Contractual	172.0	172.0	172.0			
Supplies	58.5	4.5	4.5			
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	1,515.5	1,461.5	1,461.5	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	(***Indeterminate***)					
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1,515.5	1,461.5	1,461.5	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	1,515.5	1,461.5	1,461.5	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal: ☐

POSITIONS

Full-time	9	9	9			
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would require DNR to identify and transfer \$5 billion of the state's interests in gas underlying state land to the Alaska Retirement Management Board. The transferred interest must have a reasonable expectation of development. The board would receive an allocation of lease rentals, royalties, royalty sale proceeds, net profit shares, and other receipts related to gas interests. DNR would continue to manage the state land on behalf of the board with the board reimbursing DNR for its management costs.

Prepared by: William Van Dyke, Acting Director Phone 269-8802
Division: Oil and Gas Date/Time 3/17/2006
Approved by: Michael Menge, Commissioner Date 3/18/2006
Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

BILL NO. HB492-DNR-O&G-03-18-06

ANALYSIS CONTINUATION

In order to do a transfer and before the transfer can take place, DNR would be required to do the following:

- Identify the resource: \$5 billion of gas could possibly be more than the known gas deposits in the state. It will take petroleum geologists, geophysicists, and engineers to identify the gas deposits, delineate the pools, and calculate what might reasonably be recoverable. (3 positions at Range 26 = \$522.6)
- Determine a reasonable expectation of development: As well as the technical staff above, Commercial Analysts and Petroleum Market Specialists will be needed to determine whether there might be a reasonable expectation of development. The bill also anticipates that DNR will be able to estimate the potential gas value of the resource at the time of conveyance so that it can equal \$5 billion. This determination will also take Commercial Analysts and Market Specialists. (3 positions at Range 26 = \$522.6)
- Lease determination and conveyance of interest: Each individual lease that the state has issued will need to be examined to determine the percentage of interest that the state has. This can vary from lease to lease. (For example, on one lease the state might have 12.5 percent but the one next to it may be 16.666 percent.) Once the interest is determined, a conveyance would be issued on each lease transferring ownership of the gas on each lease to the Board (2 Natural Resource Specialists II positions at Range 16 = \$143.9 and 1 Natural Resource Manager I at Range 18 = \$90.9) Note that a conveyance instrument would need to be drafted.

Additional costs include travel to public hearings as needed, phone charges, building lease space, DOA ETS service charges for telecom and computer services, indirect cost administration, DOA and other department core services charges per employee, office supplies, and one-time computer and furniture costs.

Once the transfer is complete, management of the asset will require setting up a structure to manage the gas resource. To adequately manage the resource for the benefit of PERS/TRS, staff would need to consist of petroleum geologists, commercial analysts and marketing specialists, accountant/auditors, lease administration, and unit management. The cost of management is unknown at this time and would require additional positions. However, HB 492 specifies that the board will reimburse DNR for management costs. It is unknown how long the transfer will take. Therefore, DNR is unable to establish when additional staffing funds would be needed to begin management or when reimbursement would begin.

***Indeterminate Revenue Change. The loss in revenues to the general fund will vary from year to year but will equal \$5 billion over time. It is unknown how long it would take to transfer the gas interests to the board. Therefore, it is unknown which fiscal year funds will start to be deposited into PERS/TRS and the general fund begins to see a loss in revenues.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB492-DNR-ML&W-03-18-06
() Publish Date: _____

Revision Date/Time (Note if correction): 3/18/2006 Dept. Affected: Natural Resources
Title: Natural Gas Royalties To Fund PERS/TRS RDU: Resource Development
Component: Title Acquisition and Defense
Sponsor: House Fin by Request
Requester: (H) Ways & Means Component No. 2459

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	212.4	212.4	212.4			
Travel	3.0	3.0	3.0			
Contractual	18.6	18.6	18.6			
Supplies	3.0	3.0	3.0			
Equipment	30.0	0.0	0.0			
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	267.0	237.0	237.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	267.0	237.0	237.0			
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	267.0	237.0	237.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal: ☐

POSITIONS

Full-time	3	3	3			
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill would require the DNR Commissioner to "identify and transfer" state land "having a value equal to \$5 billion and a reasonable expectation of development" to the Alaska Retirement Management Board (ARMB). The costs to DMLW would include expenses related to identification, selection and transfer of gas interests in state land. DMLW will incur significant expenditures associated with title research to establish what land can be transferred and then will prepare deeds to execute title transfer.

This fiscal note is based upon an assumption that the gas interest in at least one million acres of state land would need to be transferred from the state to the ARMB.

Prepared by: Dick Mylius, Acting Director Phone: (907)269-8600
Division: Mining, Land and Water Date/Time: 3/18/2006
Approved by: Mike Menge, Commissioner Date: 3/18/2006
Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

BILL NO. HB402-DNR-ML&W-03-18-06

ANALYSIS CONTINUATION

This is likely significantly less acreage than what the state would need to include. As a result, our fiscal note is likely very conservative. At this point, the total amount of gas (and acreage involved with the gas resource) has yet to be identified.

The MINIMUM (1 million acre) estimate assumes that most of the gas to be transferred would be from the North Slope Gas fields from which the Department could tap the necessary gas to met the mandate of this legislation. Should other areas of state land be identified for this purpose, the total amount of required acreage involved would increase and thus the division's effort and cost to identify and review title of the requisite acreage/gas resources would also increase.

DMLW would have two primary tasks as part of the department's efforts to identify gas reserves (including land/lease identification, oil and gas leases review/audits). The first is to prepare land title analysis and title reports on a MINIMUM of 1 million acres on which DNR has issued oil and gas leases to confirm ownership of the gas interest proposed to be conveyed. The second major task is to prepare and issue deeds to transfer a portion of the state's ownership interest in this land.

Based on the above minimal numbers and on the department's experience with in identifying, performing title reviews and conveyances on approximately one million acres of land to the Mental Health Trust Authority in settlement of that litigation, DMLW's MINIMUM costs to perform this work for 1 million acres would be:

PERSONAL SERVICES COST - \$212.4

Two Natural Resource Specialist (NRS) III (range 18s) - total 12 months @ \$6.3/month = \$151.2 - to participate in acreage identification and title report preparation.

One Natural Resource Specialist (NRS) I (range 14) - 12 months @ \$5.1/month = \$61.2 - to participate in acreage identification and title report preparation.

TRAVEL, CONTRACTUAL, SUPPLIES - total \$24.6, plus additional start-up costs in FY 07. Travel would be limited (assumed at \$3.0) as most of the information is found in DNR records, although there may be a need to research some municipal title records. Contractual includes \$6.2 for office space, telephone, and related expense for each of three new positions (total \$18.6). Supplies are budgeted at \$3.0 per year. FY 07 includes start-up costs for new computers and office equipment of \$10.0 per position (total \$30.0).

We have assumed that this process will take three years to complete. Should the required acreage increase because other, lower gas yielding lands are selected then the amount of the fiscal note would increase proportionately.

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE of the COMMISSIONER

FRANK MURKOWSKI, GOVERNOR

State Office Building
PO Box 110400
Juneau, AK 99811-0400

Telephone : 907-465-2300
Fax : 907-465-2389

March 23, 2006

The Honorable Bruce Weyhrauch
Alaska State Legislature
State Capitol, Room 421
Juneau, Alaska 99801

Dear Representative Weyhrauch:

On Monday, I promised the House Ways and Means Committee and Representative Kelly additional information on the matter of recognizing the dollar value of assets as contemplated by HB492. I said that auditors would provide more detail on Wednesday. That occurred.

The enclosed memorandum from State Comptroller Susan Taylor is the best information I am likely to have until or unless some refinement of HB492 can somehow change the answers. As you may know, the originators of the concept developed in HB492 are presenting the idea to the Alaska Retirement Management Board tomorrow, and possibly we may learn something that would help in this regard. The information in Ms. Taylor's memorandum is in accord with information that I have received in the past in that state-owned natural resources, while valuable and of changing value, are not recognized on any balance sheets I have seen. I would be happy to provide further information and to try to answer additional questions.

Sincerely,



Tomas H. Boutin
Deputy Commissioner

enclosure

MEMORANDUM

State of Alaska

Department of Revenue
Treasury Division

TO: Tom Boutin
Deputy Commissioner

DATE: March 22, 2006

TELEPHONE NO: 465-2352

FAX NUMBER: 465-2394

FROM: Susan Taylor 
Comptroller

SUBJECT: HB492

I inquired about the appropriate accounting treatment for the potential transfer of gas interests to the ARMB contained in HB492. My understanding is the state's primary actuary, Buck Consultants, an ACS Company, would take the valuation decision from the audited financial statements. Therefore, the appropriate accounting treatment of these assets is important as it relates to the proposed legislation. This discussion sets aside the constitutional questions surrounding any transfer of gas interests from the State to the ARMB.

Accounting guidance from Kathy Porterfield, KPMG Managing Partner follows:

I received the draft of HB 492 and considered the appropriate accounting for a potential transfer of "gas interests" to the Alaska Retirement Management Board (ARMB). I offer the following thoughts.

- Generally speaking as you know, assets are required to be initially recorded at historical cost. In the specialized area of oil and gas accounting, this is confirmed by Statement of Financial Accounting Standard No. 19, *Financial Accounting and Reporting by Oil and Gas Producing Companies*, which indicates that the cost of assets, such as mineral rights, shall be capitalized as incurred.
- GASB Technical Bulletin No 2004-1, *Tobacco Settlement Recognition and Financial Reporting Entity Issues*, contains some information with regard to transfer of assets. Specifically, paragraph 17 indicates that when accounting for transfers of assets between entities under common control, the entity that receives the net assets should recognize the assets at their carrying value in the accounts of the transferring entity at the date of transfer.

- GASB has an exposure draft that is expected to become final by the end of the calendar year. That exposure draft, *Sales and Pledges of Receivables and Future Revenues*, specifically indicates in paragraph 15 that when accounting for the transfer of assets within the same financial reporting entity, the transferee should recognize the assets received at the carrying value of the transferor. Although this exposure draft is not final, it is a clear indication of GASB's current thinking on the subject of transfers.

It is our understanding that the state of Alaska has not recorded the mineral rights. It is my conclusion, therefore, since ARMB is not incurring a cost to acquire these assets, and since this is a transfer of assets between entities under common control, that the transfer would be recorded at cost, which is zero.

You also asked what future event might occur that would change the accounting outlined above. When there was an exchange transaction with an external party and revenue becomes measurable would be the event accountants would look for, however, this would trigger recording revenue to the extent realized, but the reserves in their entirety could still not be recorded at fair value.

Copy: Gary Bader, Chief Investment Officer

Future Assets to Future Liabilities

Creating a Solution to the TRS/PERS Funding Problem

A Balance Sheet Approach

March 6, 2006

The Problem

- TRS/PERS Liability = \$6,000,000,000

- | Entity | FY07* Budget Increases | Annual Costs (into Future) | Total Liability |
|------------------|------------------------|----------------------------|-----------------|
| - State | \$44,000,000 | \$140,000,000 | \$2.0 billion |
| - University | 10,000,000 | 26,000,000 | \$377 million |
| - Municipalities | 26,000,000 | 55,000,000 | \$797 million |
| - Schools | 44,000,000 | 193,000,000 | \$2.8 billion |
| Totals | \$124,000,000 | \$414,000,000 | \$6 billion |



- Past Service Cost of \$414,000,000 annually to pay off current PERS/TRS Liability

*Increase from FY06 rates to FY07 rates

March 6, 2006

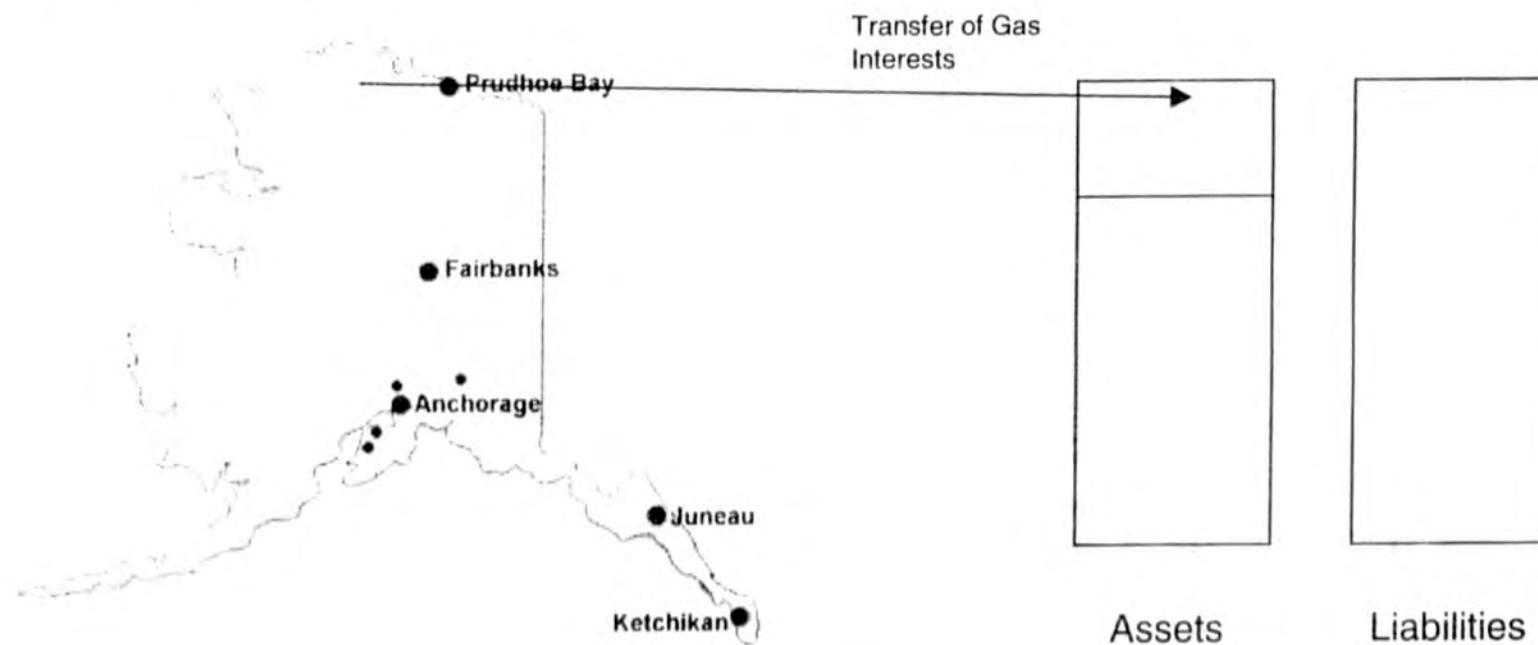
The Approach

- When faced with future potential liabilities, businesses consider:
 - Cash payments
 - Financing
 - Allocation of available assets
- The approach taken by this solution is to allocate assets containing future revenue potential to offset future potential liabilities
- The state should consider this approach, just as any private business would

March 6, 2006

The Solution

- Transfer of Future Revenue Producing Assets to TRS/PERS Funds at a Level to Offset Liability



March 6, 2006

Result

- TRS / PERS Funds Solvent with Fiscally Sound Foundation into the Future

• Budget Savings	FY07 Savings*	Annual Savings** (into Future)
– State	\$44,000,000	\$140,000,000
– University	10,000,000	26,000,000
– Municipalities	26,000,000	55,000,000
– Schools	44,000,000	193,000,000
Totals	\$124,000,000	\$414,000,000

* Based on FY07 rates set at FY06 levels

** Base on future payments set at actuarially determined Normal Cost Rate (NCR)

Tier IV changes from 7/1/06 forward resolve future liabilities for system as a whole

March 6, 2006

Result (continued)

- By Decreasing Payments made by State and Others into TRS/PERS Funds, this will:
 - For FY07
 - Lower cost of state government by \$44M
 - Make \$10M in funding available to the University for other fixed costs and programs
 - Lower the cost of municipal government by \$26M
 - Make \$44M in funding available to school districts
 - For FY08 and into the future, this will eliminate annual erosion of purchasing power of groups by \$400M+ by:
 - Lowering future costs of state government by \$140M
 - Freeing up \$26M in program money for the university annually
 - Lowering the future costs of municipal government to taxpayers by \$55M
 - Freeing up \$193M in classroom money for schools annually

March 6, 2006

Cost

- The transfer of interests in known natural gas reserves (net of permanent fund and other constitutional obligations) would reduce future revenue streams
- With known reserves that have value in the hundreds of billions of \$ (and a future gas revenue stream projected in excess of \$1 trillion) this would represent a small percentage of the value of potential future revenues

March 6, 2006

Actions to Implement Solution

- Draft assets transfer bill with recognition of required permanent fund safeguards
- Evaluate pros and cons through the legislative committee process
- Pass transfer bill (concurrently freezing FY07 PERS/TRS rates at FY06 levels)
- Identify reserves with future valuation approximate to future PERS/TRS liability (DNR)
- Third party appraisal of gas interests transferred (ARM Board)
- As the gas interests' value approximates the total system's liability, the transfer should ultimately reduce rates to the actuarially determined normal cost rate (NCR)
- Downward adjustments of state budget

March 6, 2006

Considerations

- Defining the assets
 - Need to transfer gas interests while retaining protections for permanent fund, oil reserves, and constitutional dedications
 - Legislative intent needed to direct ARM Board for independent valuation and transition of rates
- Constitutional issues
 - Include language addressing dedicated fund prohibition
 - Craft solution that protects constitutionally required allocations (Alaska Permanent Fund, Alaska Children's Trust Fund, etc)
- Creation of a resolution
 - Offsetting future potential PERS/TRS liabilities with future potential income producing gas assets
 - Reducing demands on existing state, university, and local municipal and school budgets

March 6, 2006

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE KELLY

TO: HB 492

1 Page 1, line 3:

2 Delete "the state and employers of teachers in the state to"

3

4 Page 1, lines 11 - 12:

5 Delete "the state and employers of teachers to"

6

7 Page 1, line 12:

8 Delete "\$5,000,000,000"

9 Insert "\$5,700,000,000"

10

11 Page 2, line 5, following "state,":

12 Insert "municipalities,"

13

14 Page 2, lines 6 - 7:

15 Delete "the state and employers of teachers to"

16

17 Page 2, line 11:

18 Delete "the state end employers of teachers to"

19

20 Page 2, line 13, following "state,":

21 Insert "municipalities,"

22

23 Page 2, line 17:

- 1 Delete "the state and employers of teachers to"
- 2
- 3 Page 2, lines 18 - 19:
- 4 Delete "the state and employers of teachers"
- 5 Insert "employers"
- 6
- 7 Page 2, line 31:
- 8 Delete "liabilities of the state and each employer of teachers"
- 9 Insert "liability of each employer"
- 10
- 11 Page 3, lines 7 - 8:
- 12 Delete "the state and employers of teachers to"
- 13
- 14 Page 3, line 15:
- 15 Delete "\$5,000,000,000"
- 16 Insert "\$5,700,000,000"
- 17
- 18 Page 3, line 17:
- 19 Delete "the state and employers of teachers to"
- 20
- 21 Page 4, lines 1 - 2:
- 22 Delete "the state and employers of teachers to"
- 23
- 24 Page 4, lines 13 - 14:
- 25 Delete ";
- 26 (5) "teacher" has the meaning given in AS 14.25.220"
- 27
- 28 Page 4, line 16:
- 29 Delete "for the state"
- 30
- 31 Page 4, lines 24 - 25:

- 1 Delete "the state or an employer of teachers"
- 2 Insert "each employer"

SCOMM

142:26

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 7, 2005

SUBJECT: Balanced State Budget (CSHJR 1())

TO: Representative Norman Rokeberg,
Chair, House Rules Committee
Attn: Heather Nobrega

Representative Ethan Berkowitz,
House Minority Leader
Attn: Lisa Weissler

FROM: Tamara Brandt Cook
Director *TBC*

Here is the draft committee substitute you requested, but please note the change I made to the original language you requested: "The legislature shall enact a balanced budget." The legislature does not enact budgets. It passes bills which may become enacted if they are not vetoed by the Governor or when vetoes are overridden by the legislature. (Art. II, secs. 14 - 17) Certain of these bills might, collectively, constitute a budget. After checking with Ms. Heather Nobrega, I have tried to come up with simple language that preserves this distinction. However, let me know if you would like another draft with the specific language you requested.

TBC:med
05-158.med

Enclosure

24-LS0156\Y

Cook

3/7/05

CS FOR HOUSE JOINT RESOLUTION NO. 1()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG AND BERKOWITZ, Lynn

A RESOLUTION

1 **Proposing amendments to the Constitution of the State of Alaska relating to a balanced**
2 **state budget.**

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** Article IX, sec. 12, Constitution of the State of Alaska, is amended to read:

5 **Section 12. Budget. (a)** The governor shall submit to the legislature, at a
6 time fixed by law, a **balanced** budget for the next fiscal year setting forth all proposed
7 expenditures and anticipated income of all departments, offices, and agencies of the
8 State. The governor, at the same time, shall submit a general appropriation bill to
9 authorize the proposed expenditures, and a bill or bills covering recommendations in
10 the budget for new or additional revenues.

11 * **Sec. 2.** Article IX, sec. 12, Constitution of the State of Alaska, is amended by adding a
12 new subsection to read:

13 (b) The legislature shall pass bills that provide for a balanced budget.

14 * **Sec. 3.** Article XV, Constitution of the State of Alaska, is amended by adding a new
15 section to read:

16 **Section 30. Application of Balanced Budget Amendment.** The 2006

1 amendments relating to a balanced State budget (art. IX, sec. 12) first apply to
2 appropriations for fiscal year 2008 and apply thereafter.

3 * **Sec. 4.** The amendments proposed by this resolution shall be placed before the voters of
4 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
5 State of Alaska, and the election laws of the state.

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

HJR 1

Sponsor Statement

By: Representatives Norman Rokeberg and Ethan Berkowitz

HJR 1 sets out the defining principle that Alaska's budget be balanced, that spending not exceed revenues. No such requirement currently exists.

Alaska statutes require the Governor to submit a budget where proposed expenditures may not exceed estimated revenue for the succeeding fiscal year. AS 37.07.020(c). The legislature is also charged in statute with adopting, revising or initiating revenue measures in order to balance the succeeding fiscal year's budget and the capital improvements section of the budget for the succeeding six years. AS 37.07.014(e)(3). However, under Alaska's Constitution and statutes, our state does not have to balance its current budget.

State balanced budget requirements matter. They promote wider stability and predictability, which translate to a more prosperous economy. According to the NSCL publication *State Balanced Budget Requirements: Provisions and Practice*, "States that have the most rigorous requirements for a balanced budget are the more likely to balance their budgets. States with less rigorous budgeting requirements make use of them." Forty-four states have balanced budget requirements in their constitution. Five states, including Alaska, currently have statutory balanced budget requirements. For more information: <http://www.ncsl.org/programs/fiscal/balbuda.htm>

The sponsors believe that it is time for the legislature to place before the people a constitutional amendment requiring that all of our budgets be balanced. We urge your support of this legislation.

Footnote: It is important to note that nothing in this resolution is intended to conflict with Article IX, Section 10 of the Alaska Constitution, which, if needed, provides a cash flow management tool for short-term borrowing and requires the note to be paid off by the following year. This provision, however, does not appear to prohibit rollover financing.

property tax rates to 30 mills, but it has not restricted mill rates for revenue used to repay bonded debt (AS 29.45.090-100).

Section 10. Interim Borrowing

The State and its political subdivisions may borrow money to meet appropriations for any fiscal year in anticipation of the collection of the revenues for that year, but all debt so contracted shall be paid before the end of the next fiscal year.

State and local governments may engage in short-term borrowing to deal with cash-flow problems within the yearly budget cycle by issuing revenue anticipation notes, for example. While it is clear that the debt should not be greater than an amount that can be repaid from revenues raised in the same fiscal year, this provision recognizes that, as a practical matter, it may be necessary to delay full retirement of the debt into the next fiscal year.

Section 11. Exceptions

The restrictions on contracting debt do not apply to debt incurred through the issuance of revenue bonds by a public enterprise or public corporation of the State or a political subdivision, when the only security is the revenues of the enterprise or corporation. The restrictions do not apply to indebtedness to be paid from special assessments on the benefited property, nor do they apply to refunding indebtedness of the State or its political subdivisions.

This section makes it clear that the limitations on the issuance of debt in Sections 8 and 9 apply only to general obligation debt. General obligation bonds are backed by the full taxing power of the government that issues them. Revenue bonds, on the other hand, are backed by the money generated by the project they finance, such as user fees and connection charges of a sewer project, gate receipts of a sports arena or mortgage payments of a housing authority (bonds for a project may be backed by the full financial resources of the public corporation that issues them, but these resources are limited to the revenue-generating assets of the corporation and do not include the taxing power of the state or local government).

The state has frequently incurred debt through the sale of revenue bonds, which does not require voter approval. For example, the state has sold revenue bonds for construction and expansion of the Anchorage and Fairbanks airports. Also, quasi-independent public corporations, such as the Alaska Housing Finance Corporation and the Alaska Industrial Development and Export Authority, have marketed a substantial number of revenue bonds. At times the state has financed public buildings with

Article IX

revenue bonds issued by the former Alaska State Housing Authority, which are secured by long-term lease agreements with the state. Also, in recent years the state has committed itself to long-term lease-purchase agreements to obtain public office space from private developers.

Because revenue bonds and lease-purchase agreements do not require voter approval they are mechanisms popular with the government for acquiring public facilities. The financial obligations they incur are not technically a legal liability of the state, but as a practical matter the state may be committed to honor them. Under some circumstances it may be compelled to come to the defense of revenue bonds or certificates of participation (used to finance lease-purchase agreements) to prevent default in order to protect its own general credit rating. In 1994 the legislature adopted restrictions on the use of lease-purchase agreements, including the requirement that they be approved by law (AS 36.30.085).

Section 12. 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.

Virtually all state constitutions direct the governor to submit a proposed budget to the legislature (most do so in the article on the executive branch, however). Traditionally, the tendency across the nation has been for governors' budgets to be adopted with little or no change, particularly for operating programs. This tendency has become less pronounced in recent years as state legislatures have acquired independent fiscal staff. It is certainly not the case in Alaska, where the legislative finance committees produce their own budgets.

The governor's responsibility for preparing a budget is elaborated in the Executive Budget Act (AS 37.07), which requires a comprehensive, long-range fiscal plan for the state. The governor must submit a budget to the legislature on December 15 each year, about a month before the legislature convenes.

Section 13. Expenditures

No money shall be withdrawn from the treasury except in accordance with appropriations made by law. No obligation for the payment of money shall be

incurred except as authorized by law. Unobligated appropriations outstanding at the end of the period of time specified by law shall be void.

No money may be spent unless there is an appropriation that authorizes the expenditure. This is a customary safeguard against fraud and fiscal mismanagement that appears in one form or another in most constitutions. The version here is drawn virtually verbatim from the *Model State Constitution*.

Generally speaking, an appropriation is an authorization to spend public money; it is not a command to spend. Also, generally speaking, the full amount of an appropriation does not have to be spent if the purpose of the appropriation is accomplished with a lesser amount. Thus, appropriations authorize a ceiling of expenditures for each specified purpose. This does not mean, however, that the executive branch can restrict expenditures willy-nilly: to do so would constitute informal veto power immune from a legislative override. If a law requires the executive branch to carry out a specific act (make grants to communities, for example) and money is appropriated for that purpose, there is an obligation on the part of the executive branch to spend the money as directed.

The last sentence of this section permits the legislature to determine when the unspent portion of an appropriation lapses back to the fund from which it was appropriated. Typically, appropriations for operating programs are made to lapse at the end of the fiscal year for which they are made, but capital appropriations generally lapse when the project is completed or at some date set by the legislature beyond the next fiscal year.

Section 14. Legislative Post-Audit

The legislature shall appoint an auditor to serve at its pleasure. He shall be a certified public accountant. The auditor shall conduct post-audits as prescribed by law and shall report to the legislature and to the governor.

A legislative post-audit is a review of the expenditure of public funds by all government agencies (legislative, executive and judicial) to ensure that the agencies spent the money in compliance with applicable laws and regulations. A post-audit contrasts with the pre-audit used in some states where expenditures are reviewed before payment is made. This section makes the auditor responsible to the legislature, as a potential conflict of interest exists if the post-auditor is appointed by and responsible to the governor, as is the case in some states.

State statutes that implement this section (AS 24.20.270) authorize the legislative auditor to undertake "performance" audits as well as financial audits. A performance audit evaluates a program's management and its effectiveness in meeting its goals.

Sec. 37.07.020. Responsibilities of the governor.

(a) The governor shall prepare a budget for the succeeding fiscal year that must cover all estimated receipts, including all grants, loans, and money received from the federal government and all proposed expenditures of the state government. The budget shall be organized so that the proposed expenditures for each agency are presented separately. The budget must be accompanied by the information required under AS 37.07.050 and by the following separate bills: (1) an appropriation bill authorizing the operating and capital expenditures of the state's integrated comprehensive mental health program under AS 37.14.003(a); (2) an appropriation bill authorizing state operating expenditures other than those included in the state's integrated comprehensive mental health program; (3) an appropriation bill authorizing capital expenditures other than those included in the state's integrated comprehensive mental health program; and (4) a bill or bills covering recommendations, if any, in the budget for new or additional revenue. The budget for the succeeding fiscal year and each of the bills shall become public information on December 15 at which time the governor shall submit copies to the legislature and make copies available to the public. The bills, identical in content to the copies released on December 15, shall be delivered to the rules committee of each house before the fourth legislative day of the next regular session for introduction.

(b) In addition to the budget and bills submitted under (a) of this section, the governor shall submit a capital improvements program and financial plan covering the succeeding six fiscal years.

(c) Proposed expenditures may not exceed estimated revenue for the succeeding fiscal year. The expenditures proposed in the six-year capital improvements program and financial plan may not exceed the estimated revenue and bond authorizations passed and proposed.

(d) *[Repealed, § 35 ch 126 SLA 1994.]*

(e) The budget prepared under (a) of this section must present the proposed operating expenditures for each agency for annual facility operations, annual maintenance and repair, and periodic renewal and replacement for components of public buildings and facilities separately from the other proposed operating expenditures by the agency. Proposed annual appropriations for an agency's facility operations, maintenance and repair, and renewal and replacement for components of public buildings and facilities contained in an appropriation bill prepared under (a) of this section must be presented separately from appropriations for other proposed operating expenditures by the agency.

(§ 1 ch 188 SLA 1970; am § 3 ch 168 SLA 1978; am § 4 ch 18 SLA 1980; am § 3 ch 2 SLA 1982; am § 1 ch 61 SLA 1984; am § 35 ch 126 SLA 1994; am §§ 4, 5 ch 30 SLA 1997; am §§ 6, 7 ch 59 SLA 1997; am § 2 ch 27 SLA 1998; am § 1 ch 90 SLA 1998)

Effect of amendments. The 1994 amendment, effective July 1, 1994, repealed subsection (d), relating to the governor's annual report concerning the alternate levels of capitalization of the investment

funds of the state and the alternative investment policy for the general fund surplus.

The first 1997 amendment, effective August 9, 1997, rewrote subsection (a) and substituted "budget and bills submitted under (a) of this section" for "budget and general appropriation bill" in subsection (b).

The second 1997 amendment, effective July 1, 1997, made identical changes to those made by the first 1997 amendment.

The first 1998 amendment, effective August 3, 1998, inserted "the information required under AS 37.07.050 and by" in the third sentence in subsection (a).

The second 1998 amendment, effective July 1, 1998, added subsection (e).

Sec. 37.07.014. Responsibilities of the legislature.

(a) To carry out its legislative power under art. II, sec. 1, Constitution of the State of Alaska, and to promote results-based government, the legislature shall issue a mission statement for each agency and the desired results the agency should achieve. The legislature may issue a separate mission statement for a subunit of an agency. A mission statement and desired results should promote the efficient, measured use of the state's resources. A mission statement and desired results constitute policy under which an agency shall operate, and, where appropriate, the mission statement may be implemented by statute.

(b) The legislature shall provide for a budget review function that promotes results-based government. The legislature shall adopt a method of measuring results for each agency, and measurements shall be reported semi-annually by each agency to the legislature. The reports shall be used by the legislature to evaluate whether the mission and desired results for that agency or subunit of the agency are being achieved.

(c) The legislature shall analyze the comprehensive operating and capital improvements programs and financial plans recommended by the governor.

(d) To foster results-based government, to carry out the mission statements, and to obtain desired results, the legislature shall authorize the comprehensive operating and capital improvements programs and financial plans. The legislature shall allocate the state's resources for effective and efficient delivery of public services by

- (1) clearly identifying desired results;
- (2) setting priorities;
- (3) assigning accountability; and
- (4) using methods for measuring, reporting, and evaluating results.

(e) The legislature shall

(1) provide for a post-audit function to cover financial transactions, program accomplishment, and compliance with legislative intent;

(2) adopt or revise the estimate of receipts required to balance the succeeding fiscal year's budget in order that proposed expenditures do not exceed estimated receipts for that fiscal year;

(3) adopt, revise, or initiate revenue measures in order to balance the succeeding fiscal year's budget and the capital improvements section of the budget for the succeeding six years.

(f) To help fulfill the legislature's responsibilities under this section and achieve results-based government, each agency shall

- (1) allocate resources to achieve the mission and desired results established by the legislature;
- (2) express desired results established by the legislature and other program results in measurable terms;
- (3) measure progress towards mission statements and desired results established by the legislature and other results;
- (4) promote activities consistent with mission statements and desired results established by the legislature that reduce or avoid future costs;
- (5) plan for the short-term and the long-term using consistent assumptions for major demographic and other trends; and
- (6) require accountability at all levels for meeting program mission statements and desired results established by the legislature.

(§ 1 ch 27 SLA 1998)

Effective dates. Section 1, ch. 27, SLA 1998, which enacted this section, took effect on August 3, 1998.

LEGAL SERVICES

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MEMORANDUM

January 27, 2005

SUBJECT: Balanced Budget (HJR1)

TO: Representative Norman Rokeberg, Chair, House Rules Committee
Attn: Heather Norbrega

FROM: Tamara Brandt Cook
Director *TBC*

You have asked for an explanation of two statutes that provide for a balanced state budget and, especially, whether these statutes would require a budget to be modified if it proves to not to be balanced some time after it is enacted.

(1) AS 37.07.014(e)(2) and (3) states: "The legislature shall... (2) adopt or revise the estimate of receipts required to balance the succeeding fiscal year's budget in order that proposed expenditures do not exceed estimated receipts for that fiscal year; (3) adopt, revise, or initiate revenue measures in order to balance the succeeding fiscal year's budget and the capital improvements section of the budget for the succeeding six years."

This provision obligates the legislature to arrive at an estimate of the amount required to balance the "succeeding fiscal year's budget" and to adopt or "initiate" revenue measures needed to balance the budget for succeeding fiscal years. The provision does not address the situation of a budget that proves not to be balanced sometime after it has been enacted.

(2) AS 37.07.020(c) addresses the responsibility of the governor in preparing a proposed budget for the next fiscal year as follows: "Proposed expenditures may not exceed estimated revenue for the succeeding fiscal year. The expenditures proposed in the six-year capital improvements program and financial plan may not exceed the estimated revenue and bond authorizations passed and proposed."

This provision directs the governor to limit proposed expenditures to the amount of "estimated revenue for the succeeding fiscal year." It does not address the possibility that the budget may need to be reduced or additional revenue sources tapped after the budget is enacted based on an unanticipated revenue shortfall.

TBC:med
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State Balanced Budget Requirements: Provisions and Practice

Ronald K. Snell

Introduction

Elected officials and voters share a conviction that state budgets are supposed to be balanced; voters expect as much, and legislators and governors act on that rule. And in fact, state budgets generally are balanced, as annual reports from the National Conference of State Legislatures and the National Association of State Budget Officers show and as long-term statistical analysis has confirmed.

What is meant by a balanced budget is not as certain as it may seem intuitively. Even the number of states that must balance their budgets can be disputed, depending on the way the requirement is defined. Although the National Conference of State Legislatures (NCSL) traditionally says that 49 states must balance their budgets, it would be more precise to say that 49 states have at least a limited statutory or constitutional requirement of a balanced budget. This report examines the following topics:

- The nature of state balanced budget requirements
- What is meant by "balanced budget"
- Compliance with balanced budget requirements
- Comparison of state balanced budget requirements with the proposed federal constitutional amendment

Finally this document includes, in an Appendix, the language of the constitutional and statutory provisions that officials in each state regard as establishing the balanced budget requirement in their state.

This report is based on a wide variety of sources, as the footnotes acknowledge, but it particularly draws upon work Marcia Howard did for the National Association of State Budget Officers. Corina Eick, Hal Hovey, Marcia Howard, Scott Mackey, and Brian Roherty have provided helpful comments and suggestions on various drafts of this paper.

1. The Nature of State Balanced Budget Requirements

Some states have strict, explicit balanced budget requirements that force policy makers to ensure that expenditures in a fiscal year are within the cash available for that fiscal year. In other states, the requirement is derived from a constitutional limitation of state indebtedness or some other budgetary provision such as Virginia's constitutional requirement that the governor keep spending within revenues, and may lack a binding enforcement mechanism. In some states, of which Michigan is an example, constitutional provisions that are designed to prevent budget deficits allow unavoidable deficits to be carried to the next fiscal year for resolution. Vermont, uniquely, has no constitutional or statutory requirement for a balanced budget.

Not all states have constitutional language that clearly requires a balanced budget and many even lack explicit statutory requirements. The General Accounting Office has commented that "some balanced budget requirements are based on interpretations of state constitutions and statutes

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- Introduction
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- 2. What Is A Balanced Budget?
- Reserves
- Capital expenditures
- 3. Compliance With Balanced Budget Requirements
- 4. Comparison Of State Balanced Budget Requirements and Proposed Federal Constitutional Amendment
- 5. Conclusion
- Appendix: State Constitutional And Statutory Requirements For Balanced Budgets

rather than on an explicit statement that the state must have a balanced budget." GAO's observation is supported by appendix B, which prints the language that legislative staff in 49 states identified as the constitutional and statutory balanced budget requirement. The link between the constitutional or statutory language and a balanced-budget requirement can be obscure.

Whatever the source of the requirement-constitutional, statutory, or traditional interpretation-there are three general kinds of balanced-budget requirements, with differences of detail within each kind:

- The governor's proposed budget must be balanced;
- The enacted budget must be balanced;
- The budget must be balanced at the end of a fiscal year or biennium (no deficit can be carried forward).

Table 1 shows the extent of these general requirements for the states and Puerto Rico.

Constitutions in 32 states and Puerto Rico require that their governors' budget proposals must be balanced. There are similar statutory requirements in 11 more states. These are examples of the constitutional requirements:

Illinois:

The Governor shall prepare and submit to the General Assembly... a State budget for the ensuing fiscal year....Proposed expenditures shall not exceed funds estimated to be available for the fiscal year as shown in the budget.

Missouri:

governor shall, within thirty days after it convenes in each regular session, submit to the general assembly a budget for the ensuing appropriation period, containing the estimated available revenues of the state and a complete and itemized plan of proposed expenditures of the state and all its agencies, together with his recommendations of any laws necessary to provide revenues sufficient to meet the expenditures.

These examples make two important points about the requirement that governors' proposed budgets must be balanced: (1) the governor's recommendation depends on a revenue forecast that may or may not be accurate, and (2) in some states (if not in all) governors can balance their proposed budgets by recommending additional revenue sources or tax increases. For example, the budgets recommended by the governors of California and New York for fiscal year 1997 depended on the passage of favorable federal legislation to bring them into balance. Such issues are also involved in requirements that legislatures enact budgets that are balanced.

Prohibitions against carrying deficits into the next fiscal year are a way of enforcing the principle of a balanced budget, since without debt it would be impossible for expenditures to exceed revenues. At least 12 states lack a prohibition on resolving an end-of-year deficit by borrowing, as shown in table 1. A survey by the General Accounting Office found that 21 states may carry a budget deficit forward from one fiscal year (or biennium) to another "if necessary."

The stringency of state requirements varies substantially. In 1984 the staff of the Advisory Commission on Intergovernmental Relations evaluated state balanced budget requirements on a scale of 0 to 10, with 10 indicating the most rigorous requirement. For a score of 10, a state had to have a constitutional prohibition against carrying a deficit forward and requirements that the governor propose and the legislature pass a balanced budget. Twenty-six states scored a 10, and more states scored either eight or nine points. According to this evaluation, 36 (two-thirds) of the states had rigorous balanced budget requirements. The low-scoring states tend to have only a

statutory or constitutional requirement that the governor submit a balanced budget, but not that one be enacted. Figure 1 shows the 26 highest-scoring states and the four with scores of 3 or less.

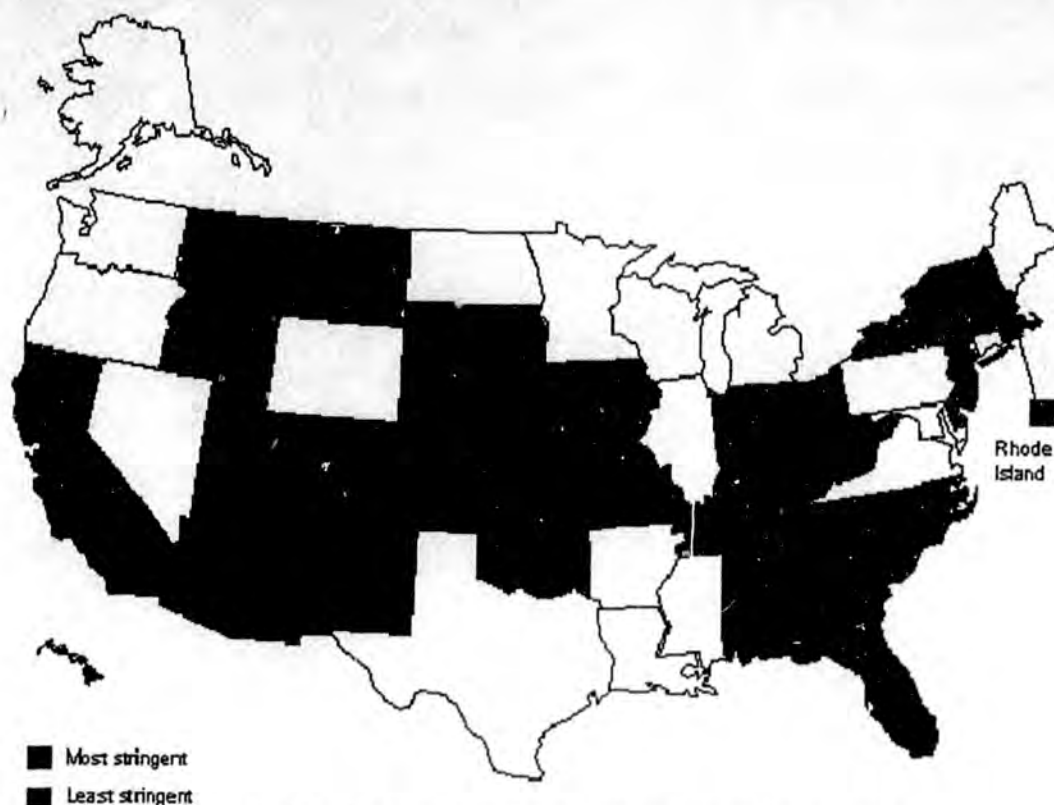
California, the voters approval of constitutional amendments in 2004 to require the legislature to enact a balanced budget and to prohibit borrowing to manage an end-of-year deficit moved California into the "most rigorous" category.

Table 1. **Balanced Budget Requirements**

State	Governor Must Submit Balanced Budget	Legislature Must Pass Balanced Budget	Cannot Carry Over Deficit
Alabama	C, S	S	X
Alaska	S	S	X
Arizona	C, S	C, S	--
Arkansas	S	S	X
California	C	C	X
Colorado	C	C	X
Connecticut	S	C, S	--
Delaware	C, S	C, S	X
Florida	C, S	C, S	X
Georgia	C	C	X
Hawaii	C, S	--	X
Idaho	--	C	X
Illinois	C, S	C	--
Indiana	--	--	X
Iowa	C, S	S	X
Kansas	S	C, S	X
Kentucky	C, S	C, S	X
Louisiana	C, S	C, S	X
Maine	C, S	C	X
Maryland	C	C	--
Massachusetts	C, S	C, S	--
Michigan	C, S	C	--
Minnesota	S	S	X
Mississippi	S	S	X
Missouri	C	--	X
Montana	S	C	X

Nebraska	C	S	X
Nevada	S	C	X
New Hampshire	S	--	X
New Jersey	C	C	--
New Mexico	C	C	X
New York	C	--	--
North Carolina	C, S	S	X
North Dakota	C	C	X
Ohio	C	C	X
Oklahoma	S	C	X
Oregon	C	C	X
Pennsylvania	C, S	--	--
Rhode Island	C	C	X
South Carolina	C	C	X
South Dakota	C	C	X
Tennessee	C	C	X
Texas	--	C, S	--
Utah	C, S	C, S	X
Vermont	--	--	--
Virginia	--	--	X
Washington	S	--	X
Wisconsin	C	C	--
Wyoming	--	--	X
Puerto Rico	C	C	X
Total	44	40	38
Key: C = Constitutional S = Statutory Sources : National Association of State Budget Officers and Council of State Governments, 1995			

Figure 1. Stringency of State Balanced Budget Requirements



Source: Advisory Commission on Intergovernmental Relations

2. What Is A Balanced Budget?

In the 49 states that have a balanced-budget requirement, legislators and governors focus on balancing the general fund budget without as much emphasis or concern for balance in the rest of or the entire the state budget. Why this is so can be explained with a review of the role that state general funds play in overall state finances.

State governments practice fund accounting, which means that all state revenues are designated to be deposited in a particular fund and that every item of expenditure comes from some particular fund. The practice has survived from the 19th century, when unified state budgets did not exist, and most revenues were earmarked for some specific expenditure.

The most important fund is the general fund, which in almost every state receives almost all tax and fee collections, interest income, and collections from minor or occasional sources (forfeitures, gifts, inheritances and the like), but not, as a rule, federal grants-in-aid. Most legislative appropriations are made from the general fund. The general fund budget is the focus of public attention to state budgeting, because the appropriations process is an element of the policy making process--at times, the dominant element. Balancing the general fund budget is what is commonly meant by balancing the state budget.

State general funds receive 50 percent to 60 percent or more of state revenue collections from all sources. Thus there are large amounts of money outside the general fund. In almost every state, federal funds are separate from general funds. Motor fuel tax collections in most states are deposited in a separate highway or transportation trust fund. It is not uncommon for other separate funds to exist, each with a specific source of revenue and specified purposes for which the revenue will be spent.

The general fund budget receives more attention than the rest of state budgeting in part because there are few annual decisions to make about the rest of the budget.

- Almost all federal reimbursements or grants in aid to a state are committed to specific purposes, and the governor and legislature have little discretion over the use of most federal funds.
- Transportation trust fund money raised from state motor fuel taxes is usually earmarked for highways and other transportation purposes.
- Some tax collections may be directly apportioned to local governments or other specified purposes without appropriations.
- Some states allow agencies or programs to collect and spend fees, charges, or tuition without annual or biennial appropriations.
- Capital expenditures (discussed at greater length below) may not be part of the general fund budget.

Table 2. Percentage of Total State Spending Affected by A State Balanced Budget Requirement

Percent Range	Number of States
0 - 25 percent	0
25 - 50 percent	3
50 - 75 percent	9
75 - 100 percent	36

The point to be made about each of the items listed above is that it is practically impossible for revenues and expenditures to get out of balance, since expenditures are controlled by available funds. Thus it is not surprising that the focus of "balancing the budget" tends to be on the general fund, although general fund expenditures may make up only around 50 percent of total state spending. Despite this widespread view, state constitutional and statutory requirements for a balanced budget cover more than half of state total budgets in 45 states (see [table 2](#)).

Table 3. Types of State Funds Affected by Balanced Budget Requirements

Type of Fund	Number of States
General Fund	48
Federal Funds	36
Special Funds	34
Capital Spending	33
Trust Funds	30

Of particular interest are the types of funds that balanced budget requirements affect. While the general fund is specified in 48 states, in many states capital budgets are included as well ([table 3](#)). Other funds that some states include are various trust funds, federal funds, and special funds. Highway or transportation funds are the best-known example of a trust fund. Federal funds include block grants, highway construction funds, and reimbursements for Medicaid expenditures. Special funds refers to funds such as those receiving revenues earmarked for education, local government aid, or some other specific purpose.

Reserves

State governments usually plan to carry cash reserves from one fiscal period into the next. Whether the reserve is in a formal rainy day fund or not, it is intended to facilitate cash management and to

make up possible shortfalls in revenue (the specifics vary greatly from state to state). Reserves are part of the annual equation, therefore. A state can have a balanced budget despite a revenue shortfall if reserves are available to make up the difference.

Restrictions on borrowing cause state governments to hold reserves to deal with revenue shortfalls and cash management issues that businesses would cover with short-term borrowing. Borrowing is not a routine matter for state governments. In some states, executive branch officials have limited authority to initiate short-term borrowing for cash-flow purposes, but in many states even short-term loans cannot be sought without legislative approval. In addition, only a few states can undertake long-term borrowing (for more than one year) without voter approval. The alternative is to maintain reserves.

Reserves are so important a part of state finance that both the National Conference of State Legislatures and the National Association of State Budget Officers measure them annually. Reserves measured as a percentage of state spending are the most useful simple measurement of state fiscal well-being. A reserve of 5 percent of budgeted expenditures is a conventional standard of adequacy, although what is appropriate for a specific state will depend on circumstances.

Capital expenditures

State governments borrow substantial amounts for capital expenditure, a practice that sometimes leads observers to the conclusion that state budgets are not in fact balanced. How is this practice reconciled with the contention that states do balance their budgets?

The common state practice is to consider that borrowing for capital expenditure does not violate the principle of maintaining a balanced budget. Borrowing for capital expenditure does not legally violate state balanced budget provisions, either because those provisions specify a way that general obligation debt may be issued, or because, in states that do not permit general obligation debt, caselaw has validated the issuance of other forms of debt. In some states, general obligation debt requires a constitutional amendment.

Most state governments, unlike the federal government, have separate operating and capital budgets. Operating budgets rely upon continuing (annual) revenues. A growing amount of state capital finance comes from the issue of debt. It is extremely rare for a state government to borrow in the long term (for more than one year) for operations expenditures. The circumstances in which states have done so in the past decade demonstrate the rarity of such borrowing.

The Louisiana Economic Recovery District. In 1988 Louisiana was faced with an accumulated multi-year state deficit in operating accounts which it had been covering by internal borrowing from other state accounts and by deferring vendor payments. Because the state constitution prohibited the use of state long-term debt for such a purpose, the state established a special district called the Louisiana Economic Recovery District to issue the debt. The Recovery District encompasses the entire state. It levied a 1 percent sales tax which is in effect throughout the state. The tax has been used to support the issuance of \$982 million in bonds, the proceeds of which have been deposited to the credit of the state general revenue fund. The bonds will be repaid by 1998.

The Connecticut debt retirement fund. At the end of FY 1991, the state of Connecticut had accumulated a deficit of \$966 million in its general fund, largely because of that year's revenue shortfalls but including a shortfall of \$157 million carried forward from FY 1990. Legislation enacted in 1991 provided for the issuance of general obligation Economic Recovery Notes to amortize the deficit over five years, and for a Debt Retirement Fund as a repayment mechanism. Funds for payment of the bonds come directly from tax receipts which otherwise would be credited to the general fund. The state has maintained the scheduled repayment of the bonds.

Do state governments otherwise finance operations with long-term debt? There is no conclusive answer to that question, although it seems unlikely that the practice is extensive, even if there may be other examples than the two just mentioned. The only comprehensive time series of figures on state finance, the numbers published by the Bureau of the Census, do not offer enough detail to answer the question, and it does not appear that anyone has examined state annual financial statements for the answer. Two pieces of evidence argue that states do not use long-term debt to finance operating expenditures.

In recent years, states with intractable budget problems (like California) have found short term debt and rolling shortfalls forward from one year to the next to be enough to deal with the problem.

It is unlikely a state government could do so without proponents being attacked politically for unsound fiscal practices. Unlike the federal government, state governments do not have the luxury of borrowing money routinely and quietly.

3. Compliance With Balanced Budget Requirements

State balanced budget requirements matter. States that have the most rigorous requirements for a balanced budget are the most likely to balance their budgets. States with less rigorous budgeting requirements make use of them. These outcomes tend to occur even though most states lack strong enforcement mechanisms.

Although there is generally no legal mechanism to force compliance, 22 states report the existence of an enforcement provision. Many of them specify the constitutional provision itself as the enforcement mechanism. States with more specific provisions frequently cite statutory requirement that hold certain officials liable for imbalances. Some states--Alabama and Oklahoma are examples--require mandatory expenditure reductions to keep budgets in balance, but this requirement is rare.

Three examples follow of constitutional enforcement provisions. It is not clear that legal measures envisioned in the Alabama citation have ever been taken against a state official for failure to keep a state budget in balance. A substantial number of states allow or require governors to reduce state spending when it is likely to exceed available resources, along the lines of the Minnesota and North Carolina provisions quoted below. (NCSL has published a study of the means that states use to prevent budgets from becoming unbalanced in the course of implementation, Legislative Authority over the Enacted Budget.)

Alabama. The state constitution provides that claims against appropriations become void at the end of the fiscal year if the treasury lacks money to pay them. A treasurer who violates this provision is subject to a \$5,000 fine, two years' imprisonment in the state penitentiary, or both, as well as impeachment.

Minnesota. Deficits are to be avoided by reducing unexpended agency allotments even if it is necessary to defer or suspend statutory obligations to do so.

North Carolina. The constitution requires that the governor "shall continually survey the collection of the revenue and shall effect the necessary economies in State expenditures" whenever he determines that revenues and reserves will not meet budgeted expenditures.

Restrictions on state indebtedness are a powerful inducement to balance budgets. At least 16 states require voter approval of general obligation debt. The constitutions of at least five states prohibit debt altogether (although a constitutional amendment could create an exception, and this is the method used to express popular approval of indebtedness in some states). Long-term indebtedness generally requires legislative approval for specific instances. No state emulates the federal practice of legislatively capping the amount of indebtedness and allowing the executive branch to borrow

routinely. As a result, every state issuance of general obligation debt occurs in the political arena.

Revenue bonds and short-term debt generally can be issued without legislative or popular votes. Since they generally have to be linked to a project or service that will provide the funding to liquidate them, they are not generally a likely source of direct funding for a state shortfall. Sales of state assets to public authorities in Northeastern states in the early 1990s (to gain cash to help balance general fund budgets) were sometimes linked to the issue of revenue bonds, however. Authorities--a state turnpike authority for example--might be able to issue revenue bonds to cover the cost of buying a state asset, such as a highway, to make cash available to state government.

For the majority of states, however, the most important factor contributing to balanced budgets is not an enforcement mechanism or a provision specifying how a shortfall will be resolved. Rather it is the tradition of balancing the budget, which has created a forceful political rule that the budget will be balanced. Although states with enforcement provisions emphasize their importance, the expectation that state budgets will be balanced is the most important force in maintaining a balanced budget.

4. Comparison Of State Balanced Budget Requirements And Proposed Federal Constitutional Amendment

State balanced budget provisions are not as restrictive as those a proposed constitutional amendment would impose on the federal government. The proposal for a federal balanced budget that the US House of Representatives adopted in 1995 would limit federal spending for a fiscal year to federal receipts for that year. No long-term borrowing would be possible for the federal government except for the specific purpose of refinancing existing debt.

Adoption of this amendment would prohibit the federal government from two practices that are integral to the states' approach to balancing their budgets--the use of reserves from previous years and the use of separate operating and capital budgets.

In a very general, non-technical sense, a state budget is balanced if expenditures do not exceed available revenues (taxes and other revenues that will be collected during the budget period, unspent funds from the past, other state reserves, and possibly other sources of revenue). This is different from the proposed federal requirement in that the federal proposal does not allow for the use of carryover or reserves from past years. The federal general fund would not carry a reserve from one fiscal year to the next. If at some future date a federal surplus should materialize, it would not be held as a reserve but would be used to reduce the accumulated federal debt.

The proposed federal amendment makes no provision for budgeting for capital expenditures separately from operations costs, and would prohibit the issuance of debt for both purposes. States that operate under similar strictures sometimes use constitutional amendments to issue general obligation debt and often allow the issuance of revenue bonds to provide for capital investment. It does not appear that the proposed amendment would permit the federal government to issue revenue bonds, although it is impossible to say what powers would still remain for federal authorities and semi-independent agencies. Federal constitutional amendments to authorize debt would be impractical because of the length of time involved and the super-majority requirements that a federal constitutional amendment must meet.

5. Conclusion

Constitutional and statutory provisions requiring balanced budgets are often unclear, making it impossible to count the different kinds of requirements with precision. Some state requirements

that governors and legislators regard as binding have emerged over time through judicial decisions based on constitutional provisions that appear to have little to do with budgets. Not only is it difficult in some states to determine the constitutional or statutory authority, but states often have no clear enforcement mechanism.

Considering the lack of specific constitutional mandates and enforcement structures, state compliance with the principle of a balanced budget is notable. Restrictions on debt play a part, but are an insufficient explanation for the fact that even states that can legally carry a deficit from one year to the next avoid doing so. It appears that the political convention that state budgets are supposed to be balanced is its own enforcement mechanism.

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State Constitutional And Statutory Requirements For Balanced Budgets

Appendix to State Balanced Budget Requirements: Provisions and Practice

Ronald K. Snell

State Balanced Budget Requirements: Provisions and Practice

The following pages reprint the constitutional and statutory language that state legislative counsel and fiscal staff regard as requiring a balanced budget in their states.

The selection of these provisions began with a 1976 publication from the National Association of State Budget Officers and the Council of State Governments, *Limitations on State Deficits: Text of Constitutional and Statutory Provisions*. NCSL staff asked legislative staff to review that text and to recommend additional citations as they saw fit. NCSL staff then edited the text of the approved citations in order to control the length of this report. Printed here is only the language that seems to target the issue at hand, so that portions of sections, subsections, and even paragraphs have been left out in some cases. In some cases relevant citations are listed without their text being included.

Many state balanced-budget practices appear to have been developed from a limit on state debt by judicial interpretation or political consensus. The compilers have not attempted to trace judicial interpretation, but have included the debt-limitation language when state officials recommended doing so or when there was no other obvious constitutional or statutory source for the requirement. State constitutions as late as the Alaska State Constitution of 1956 allow the use of debt "for the purpose of repelling invasion, suppressing insurrection, defending the State in war..." in the words of the Alaska constitution. Such language has usually been omitted from the texts printed here.

The language quoted here was current in March 1996, with California updated in March 2004.

Alabama

Constitution

Amendment No. 26 of the Constitution of 1901, Section 213: After the ratification of this Constitution, no new debt shall be created against, or incurred by the state, or its authority except to repel invasion or suppress insurrection, and then only by a concurrence of two-thirds of the members of each house of the legislature, and the vote shall be taken by yeas and nays and entered on the journals; provided, the governor may be authorized to negotiate temporary loans, never to exceed three hundred thousand dollars, to meet the deficiencies in the treasury, and until the same is paid no new loan shall be negotiated....To prevent further deficits in the state treasury, it shall be unlawful from and after the adoption of this amendment for the state comptroller of the state of Alabama to draw any warrant or other order for the payment of money belonging to, or administered by, the state of Alabama upon the state treasurer, unless there is in the hand of such treasurer money appropriated and available for the full payment of the same. In case there is, at the end of any fiscal year, insufficient money in the state treasury for the proper payment of claims presented to the state comptroller for the issuance of warrants, the comptroller shall issue warrants

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for that proportion of each such claim which the money available for the payment of all said claims bears to the whole, and such warrants for such prorated sums shall thereupon be paid by the state surer. At the end of each fiscal year all unpaid appropriations which exceed the amount of money in the state treasury subject to the payment of the same after the proration above provided for, shall thereupon become null and void to the extent of such excess. Any person violating any of the provisions of this amendment shall, on conviction, be punished by a fine of not exceeding five thousand dollars, or by imprisonment in the penitentiary for not more than two years, one or both, at the discretion of the jury trying the same, and the violation of any provisions of this amendment shall also be ground for impeachment.

Statutes

Code, Section 41-19-9: The legislature shall consider the governor's proposed comprehensive program and financial plan, evaluate alternatives to the governor's recommendations and determine the comprehensive program and financial plan to support the services to be provided the citizens of the state; provided, however, that in such determination authorized expenditures shall not exceed estimated revenues and resources.

See also statutes: Sections 41-4-83, 41-4-90, 41-19-4

- New Mexico
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Alaska

Constitution

Article IX, Section 8: No state debt shall be contracted unless authorized by law for capital improvements or unless authorized by law for housing loans for veterans, and ratified by a majority of the qualified voters of the State who vote on the question. The State may, as provided by law and without ratification, contract debt for the purpose of repelling invasion, suppressing insurrection, defending the State in war, meeting natural disasters, or redeeming indebtedness outstanding at the time this constitution becomes effective.

Article IX, Section 10: The state and its political subdivisions may borrow money to meet appropriations for any fiscal year in anticipation of the collection of the revenues for that year, but all debt so contracted shall be paid before the end of the next fiscal year.

Statutes

Section 37.07.020: (a) The governor shall prepare and submit to the legislature before the fourth legislative day a budget for the succeeding fiscal year which must cover all estimated receipts, including all grants, loans, and money received from the federal government, and all proposed expenditures of the state government. . . .

(c) Proposed expenditures may not exceed estimated revenue for the succeeding fiscal year. The expenditures proposed in the six-year capital improvements program and financial plan may not exceed the estimated revenue and bond authorizations passed and proposed.

Section 37.07.030: The legislature shall

(5) adopt or revise the estimate or receipts required to balance the succeeding fiscal year's budget in order that proposed expenditures do not exceed estimated receipts for that fiscal year;

(6) adopt, revise, or initiate revenue measures in order to balance the succeeding fiscal year's budget and the capital improvements section of the budget for the succeeding six years.

Arizona**Constitution**

Article 9, Section 3: The Legislature shall provide by law for an annual tax sufficient, with other sources of revenue, to defray the necessary ordinary expenses of the State for each fiscal year. And for the purpose of paying the State debt, if there be any, the Legislature shall provide for levying an annual tax sufficient to pay the annual interest and the principal of such debt within twenty-five years from the final passage of the law creating the debt.

No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the tax, to which object only it shall be applied.

All taxes levied and collected for State purposes shall be paid into the State treasury in money only.

Article 9, Section 5: The State may contract debts to supply the casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more laws, or at different periods of time, shall never exceed the sum of three hundred and fifty thousand dollars; and the money arising from the creation of such debts shall be applied to the purpose for which it was obtained or to repay the debts so contracted, and to no other purpose.

In addition to the above limited power to contract debts the State may borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan shall have been authorized or to the repayment of the debt thereby created. No money shall be paid out of the State treasury, except in the manner provided by law.

also statutes: Section 35-115.

Arkansas**Constitution**

Amendment 20: Except for the purpose of refunding the existing outstanding indebtedness of the State and for assuming and refunding valid outstanding road improvement district bonds, the State of Arkansas shall issue no bonds or other evidence of indebtedness pledging the faith and credit of the State or any of its revenues for any purpose whatsoever, except by and with the consent of the majority of the qualified electors of the State voting on the question at a general election or at a special election called for that purpose.

Statutes

19-1-212: It shall be the duty and responsibility of the Director of the Department of Finance and Administration to:

- (1) Keep advised at all times as to the revenues and other income available for the operation, maintenance, and improvement of all state agencies;
- (2) Exercise the powers conferred upon him by law to see that the state and all state agencies are maintained on a cash basis;

See that no obligation shall be incurred which shall not be payable when the obligation shall become due; and

- (4) Exercise his powers to see that the funds on hand and estimated to become available to each state agency shall be sufficient to maintain the state and all of its agencies on a sound financial basis without incurring a deficit.

See also statutes: 19-4-201.

California

Constitution

Article 4, Section 12, Subdivision (a): Within the first 10 days of each calendar year, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated state revenues. If recommended expenditures exceed estimated revenues, the Governor shall recommend the sources from which the additional revenues should be provided.

The constitution was amended on March 3, 2004 to add the following language:

(f) For the 2004-05 fiscal year, or any subsequent fiscal year, the Legislature may not send to the Governor for consideration, nor may the Governor sign into law, a budget bill that would appropriate from the General Fund, for that fiscal year, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill's passage, and the amount of any General Fund moneys transferred to the Budget Stabilization Account for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues for that fiscal year estimated as of the date of the budget bill's passage. That estimate of General Fund revenues shall be set forth in the budget bill passed by the Legislature.

SEC. 1.3. (a) For the purposes of Section 1, a "single object or work," for which the Legislature may create a debt or liability in excess of three hundred thousand dollars (\$300,000) subject to the requirements set forth in Section 1, includes the funding of an accumulated state budget deficit to the extent, and in the amount, that funding is authorized in a measure submitted to the voters at the March 2, 2004, statewide primary election.

(b) As used in subdivision (a), "accumulated state budget deficit" means the aggregate of both of the following, as certified by the Director of Finance:

The estimated negative balance of the Special Fund for Economic Uncertainties arising on or before June 30, 2004, not including the effect of the estimated amount of net proceeds of any bonds issued or to be issued pursuant to the California Fiscal Recovery Financing Act (Title 17 (commencing with Section 99000) of the Government Code) and any bonds issued or to be issued pursuant to the measure submitted to the voters at the March 2, 2004, statewide primary election as described in subdivision (a).

(2) Other General Fund obligations incurred by the State prior to June 30, 2004, to the extent not included in that negative balance.

(c) Subsequent to the issuance of any state bonds described in subdivision (a), the State may not obtain moneys to fund a year-end state budget deficit, as may be defined by statute, pursuant to any of the following: (1) indebtedness incurred pursuant to Section 1 of this article, (2) a debt obligation under which funds to repay that obligation are derived solely from a designated source of revenue, or (3) a bond or similar instrument for the borrowing of moneys for which there is no legal obligation of repayment. This subdivision does not apply to funding obtained through a short-term obligation incurred in anticipation of the receipt of tax proceeds or other revenues that may be applied to the payment of that obligation, for the purposes and not exceeding the amounts of

existing appropriations to which the resulting proceeds are to be applied. For purposes of this subdivision, "year-end state budget deficit" does not include an obligation within the accumulated budget deficit as defined by subdivision (b).

Article 16, Section 1: The Legislature shall not, in any manner create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars (\$300,000), except in case of war to repel invasion or suppress insurrection, unless the same shall be authorized by law for some single object or work to be distinctly specified therein which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within 50 years of the time of the contracting thereof, and shall be irrevocable until the principal and interest thereon shall be paid and discharged, and such law may make provision for a sinking fund to pay the principal of such debt or liability to commence at a time after the incurring of such debt or liability of not more than a period of one-fourth of the time of maturity of such debt or liability; but no such law shall take effect unless it has been passed by a two-thirds vote of all the members elected to each house of the Legislature and until, at a general election or at a direct primary, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated or to the payment of the debt thereby created. Full publicity as to matters to be voted on by the people is afforded by the setting out of the complete text of the proposed laws, together with the arguments for and against them, in the ballot pamphlet mailed to each elector preceding the election at which they are submitted, and the only requirement for publication of such law shall be that it be set out at length in ballot pamphlets which the Secretary of State shall cause to be printed. The Legislature may, at any time after the approval of such law by the people, reduce the amount of the indebtedness authorized by the law to an amount not less than the amount contracted at the time of the reduction, or may repeal the law if no debt shall have been contracted in pursuance thereof. . . .

Statutes

Government Code Section 13337.5: The annual Budget Act shall not provide for projected expenditures in excess of projected revenues. Further, it is the intention of the Legislature that in the event, after enactment of the Budget Act, revised estimates of expected revenues or expenditures, or both, show that expenditures will exceed estimated revenues, expenditures should be reduced or revenues increased, or both, to ensure that actual expenditures do not exceed actual revenues for that fiscal year.

Colorado

Constitution

Article 10, Section 2: The general assembly shall provide by law for an annual tax sufficient, with other resources, to defray the estimated expenses of the state government for each fiscal year.

Article 10, Section 16: No appropriation shall be made, nor any expenditure authorized by the general assembly, whereby the expenditure of the state, during any fiscal year, shall exceed the total tax then provided for by law and applicable for such appropriation or expenditure, unless the general assembly making such appropriation shall provide for levying a sufficient tax, not exceeding the rates allowed in section eleven of this article, to pay such appropriation or expenditure within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrection, defend the state, or assist in defending the United States in time of war.

See also Constitution, Article XI, Section 3; statutes, Section 24-37-301.

Connecticut**Constitution**

Article XXVIII: The amount of general budget expenditures authorized for any fiscal year shall not exceed the estimated amount of revenue for such fiscal year.

Statutes

Title 4, Section 4-72: ...If the estimated revenue of the state for the ensuing biennium as set forth in the budget on the basis of existing statutes, plus the estimated unappropriated surplus at the close of the year in progress available for expenditure in the ensuing biennium, is less than the aggregate appropriations recommended for the ensuing biennium as contained in the budget, the governor shall make recommendations to the general assembly in respect to the manner in which such deficit shall be met, whether by an increase in the indebtedness of the state, by the imposition of new taxes, by increased rates on existing taxes or otherwise. If the aggregate of such estimated revenue plus such estimated unappropriated surplus is greater than such recommended appropriations for the ensuing biennium, he shall make such recommendations for the use of such surplus for the reduction of indebtedness, for the reduction in taxation or for other purposes as in his opinion are in the best interest of the public welfare.

Delaware**Constitution**

Article VIII, Section 6: (a) No money shall be drawn from the treasury but pursuant to an appropriation made by Act of the General Assembly; provided, however, that the compensation of the members of the General Assembly and all expenses connected with the session thereof may be paid out of the treasury pursuant to resolution in that behalf; a regular account of the receipts and expenditures of all public money shall be published annually.

(b) No appropriation, supplementary appropriation or budget act shall cause the aggregate State General Fund appropriations enacted for any given fiscal year to exceed 98 percent of the estimated State General Fund revenue for such fiscal year from all sources, including estimated unencumbered funds remaining at the end of the previous fiscal year. An act approved pursuant to the provisions of Section 3 of this article shall not be considered an appropriation for the purpose of this section. Estimated unencumbered funds are calculated by taking the estimated General Fund cash balance at the end of the fiscal year less estimated revenue anticipation bonds or notes, estimated encumbrances, estimated continuing appropriations and the amount of the Budget Reserve Account as established in subsection (d) of this section at the end of said fiscal year. The amount of said revenue estimate and estimated unencumbered funds remaining shall be determined by the most recent joint resolution approved from time to time by a majority of the members elected to each House of the General Assembly and signed by the Governor.

(c) Notwithstanding subsection (b) of this Section, any portion of the amount between 98 and 100 percent of the estimated State General Fund revenue for any fiscal year as estimated in accordance with subsection (b) of this section may be appropriated in any given fiscal year in the event of emergencies involving the health, safety or welfare of the citizens of the State, such appropriations to be approved by three-fifths of the members elected to each House of the General Assembly.

(d) There is hereby established a Budget Reserve Account within the General Fund. Within 45 days after the end of any fiscal year, the excess of any unencumbered funds remaining from the said

fiscal year shall be paid into the Budget Reserve Account, provided, however, that no such payment will be made which would increase the total of the Budget Reserve Account to more than 5 percent only the estimated State General Fund revenues as set by subsection (b) of this section. The excess of any unencumbered funds shall be determined by subtracting from the actual unencumbered funds at the end of any fiscal year an amount which together with the latest estimated revenues is necessary to fund the ensuing fiscal year's General Fund Budget including the required estimated General fund supplemental and automatic appropriations for said ensuing fiscal year less estimated reversions. The General Assembly by a three-fifths vote of the members elected to each House, may appropriate from the Budget Reserve Account such additional sums as may be necessary to fund any unanticipated deficit in any given fiscal year or to provide funds required as a result of any revenue reduction enacted by the General Assembly.

Statutes

Title 29, Section 6337: The General Assembly may increase, decrease or eliminate items in the Budget Appropriation Bill in any way that is not contrary to the Constitution of the State, except as hereinafter provided, but neither House shall consider further or special appropriations, except in case of emergency, which fact shall be clearly stated in the appropriation bill therefor, until the Budget Appropriation Bill shall have been finally acted upon by both Houses. No items providing for appropriations for payment of interest or principal due on state debt shall be decreased or eliminated. The total budget appropriation items may not be increased in the aggregate to a point where they would exceed the state revenue from all sources as estimated in the budget.

Title 29, Section 6339: Any further or special appropriations shall be known as supplementary appropriations. Every such appropriation shall be embodied in a separate bill limited to some single work, object or purpose therein stated and called herein a Supplementary Appropriation Bill. Each Supplementary Appropriation Bill, shall, by its provisions, provide or designate the source from which the money therein appropriated is to be derived. No Supplementary Appropriation Bill shall be passed, if when added to the appropriations already authorized, the aggregate appropriations exceed in amount the state revenues from all sources for the ensuing biennial period as set forth in the budget.

See also statutes: Title 29, Section 6533.

Florida

Constitution

Article 7, Section 1(d): Provision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period.

Statutes

Section 216.221 (1): All appropriations shall be maximum appropriations, based upon the collection of sufficient revenues to meet and provide for such appropriations. It is the duty of the Governor, as chief budget officer, to ensure that revenues collected will be sufficient to meet the appropriations and that no deficit occurs in any state fund.

(2) The Legislature shall annually provide direction in the General Appropriations Act regarding use of the Working Capital Fund to offset General Revenue Fund deficits.

For purposes of preventing a deficit in the General Revenue Fund, all branches and agencies of government that receive General Revenue Fund appropriations shall participate in deficit reduction efforts. Absent specific direction in the General Appropriations Act when budget reductions are

required in order to prevent a deficit under the provisions of subsection (7), each branch shall reduce its General Revenue Fund appropriations by a proportional amount.

See also, Subsections (4) through (10).

Georgia

Constitution

Article 3, Section 9, Paragraph IV (b): The General Assembly shall not appropriate funds for any given fiscal year which, in aggregate, exceed a sum equal to the amount of unappropriated surplus expected to have accrued in the state treasury at the beginning of the fiscal year together with an amount not greater than the total treasury receipts from existing revenue sources anticipated to be collected in the fiscal year, less refunds, as estimated in the budget report and amendments thereto. Supplementary appropriations, if any, shall be made in the manner provided in Paragraph V of this section of the Constitution; but in no event shall a supplementary appropriations Act continue in force and effect beyond the expiration of the general appropriations Act in effect when such supplementary appropriations Act was adopted and approved.

See also statutes: 45-12-75.

Hawaii

Constitution

Article VII, Section 5: No public money shall be expended except pursuant to appropriations made by law. General fund expenditures for any fiscal year shall not exceed the State's current general fund revenues and unencumbered cash balances, except when the governor publicly declares the public health, safety or welfare threatened as provided by law.

Statutes

Title 5, Section 37-74 (c): The department of budget and finance shall:

(1) Review each operations plan to determine:

(A) That it is consistent with the policy decisions of the governor and appropriations by the legislature;

(B) That it reflects proper planning and efficient management methods, and

(C) That appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year....

(2) Approve the operations plan if satisfied that it meets the requirements under paragraph (1). Otherwise, the department of budget and finance shall require revision of the operations plan in whole or in part; and

(3) Modify or withhold the planned expenditures at any time during the appropriation period if the department of budget and finance finds that such expenditures are greater than those necessary to execute the programs at the level authorized by the governor and the legislature, or that state receipts and surpluses will be insufficient to meet the authorized expenditure levels....

Idaho**Constitution**

Article 7, Section 11: No appropriation shall be made, nor any expenditure authorized by the legislature, whereby the expenditure of the state during any fiscal year shall exceed the total tax then provided for by law, and applicable to such appropriation or expenditure, unless the legislature making such appropriation shall provide for levying a sufficient tax, not exceeding the rates allowed in section nine of this article, to pay such appropriation or expenditure within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrection, defend the state, or assist in defending the United States in time of war.

Article 8, Section 1: The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly or in the aggregate, exclusive of the debt of the territory at the date of its admission as a state, and exclusive of debts or liabilities incurred subsequent to January 1, 1911, for the purpose of completing the construction and furnishing of the state capitol at Boise, Idaho, and exclusive of debt or debts, liability or liabilities incurred by the eleventh session of the legislature of the state of Idaho, exceed in the aggregate the sum of two million dollars, except in case of war, to repel an invasion, or suppress an insurrection, unless the same shall be authorized by law, for some single object or work, to be distinctly specified therein, which law shall provide ways and means, exclusive of loans, for the payment of the interest on such debt or liability as it falls due, and also for the payment and discharge of the principal of such debt or liability within twenty years of the time of the contracting thereof, and shall be irrevocable until the principal and interest thereon shall be paid and discharged. But no such law shall take effect until at a general election it shall have been submitted to the people, and shall have received a majority of all the votes cast for or against it at such election, and all moneys raised by the authority of such laws shall be applied only to specified objects therein stated or to the payment of the debt thereby
ted. . . .

Illinois**Constitution**

Article VIII, Section 2: (a) The Governor shall prepare and submit to the General Assembly, at a time prescribed by law, a State budget for the ensuing fiscal year. The budget shall set forth the estimated balance of funds available for appropriation at the beginning of the fiscal year, the estimated receipts, and a plan for expenditures and obligations during the fiscal year of every department, authority, public corporation and quasi-public corporation of the State, every State college and university, and every other public agency created by the State, but not of units of local government or school districts. The budget shall also set forth the indebtedness and contingent liabilities of the State and such other information as may be required by law. Proposed expenditures shall not exceed funds estimated to be available for the fiscal year as shown in the budget.

(b) The General Assembly by law shall make appropriations for all expenditures of public funds by the State. Appropriations for a fiscal year shall not exceed funds estimated by the General Assembly to be available during that year.

Indiana**Constitution**

Article 10, Section 5: No law shall authorize any debt to be contracted, on behalf of the State,

except in the following cases: to meet casual deficits in the revenue; to pay the interest on the State Debt; to repel invasion, suppress insurrection, or, if hostilities be threatened, provide for the public defense.

Statutes

Title 4, Article 4-9.1-1-8: For the purpose of meeting casual deficits in the state revenue, the {State Board of Finance} may negotiate such loans as may be necessary to meet the demands of the state. The loan may not be made for a longer period than four [4] years after the end of the fiscal year in which the loan is made. To evidence the loan, the board may execute certificates of indebtedness or promissory notes, which certificates or notes must recite that they are issued to meet casual deficits in the state revenue.

If there are not sufficient funds coming into the general fund of the state to pay the certificates or notes when due, the board may, notwithstanding Indiana Code 6-1.1-18-2, levy a tax on all the taxable property of the state, sufficient to pay the amount of the indebtedness.

Iowa

Constitution

Article VII, Section 2: The state may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the general assembly, or at different periods of time, shall never exceed the sum of two hundred and fifty thousand dollars; and the money arising from the creation of such debts, shall be applied to the purpose for which it was contracted, or to repay the debts so contracted, and to no other purpose whatever.

Statutes

Section 8.22, Part 1, Subsection 2, f: If the estimated revenues of the government for the ensuing fiscal year as set forth in the budget on the basis of existing laws, plus the estimated amounts in the treasury at the close of the year in progress, available for expenditure in the ensuing fiscal year are less than the aggregate recommended for the ensuing fiscal year as contained in the budget, the governor shall make recommendations to the legislature in respect to the manner in which the deficit shall be met, whether by an increase in the state tax or the imposition of new taxes, increased rates on existing taxes, or otherwise, and if the aggregate of the estimated revenues, plus estimated balances in the treasury, is greater than the recommended appropriations for the ensuing fiscal year, the governor shall make recommendations in reference to the application of the surplus to the reduction of debt or otherwise, to the reduction in taxation, or to such other action as in the governor's opinion is in the interest of the public welfare.

Kansas

Constitution

Article 11, Section 4: The legislature shall provide, at each regular session, for raising sufficient revenue to defray the current expenses of the state for two years.

Article 11, Section 6: For the purpose of defraying extraordinary expenses and making public improvements, the state may contract public debts; but such debts shall never, in the aggregate, exceed one million dollars, except as hereinafter provided. Every such debt shall be authorized by law for some purpose specified therein, and the vote of a majority of all the members elected to

each house, to be taken by the yeas and nays, shall be necessary to the passage of such law; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal thereof, when it shall become due; and shall specifically appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed nor the taxes postponed or diminished, until the interest and principal of such debt shall have been wholly paid.

Article 11, Section 7: No debt shall be contracted by the state except as herein provided, unless the proposed law for creating such debt shall first be submitted to a direct vote of the electors of the state at some general election....

Statutes

75-3722: Whenever for any fiscal year it appears that the resources of the general fund or any special revenue fund are likely to be insufficient to cover the appropriations made against such general fund or special revenue fund, the secretary of administration, on the advice of the director of the budget, shall, in such manner as he or she may determine, inaugurate the allotment system so as to assure that expenditures for any particular fiscal year will not exceed the available resources of the general fund or any special revenue fund for that fiscal year.

Kentucky

Constitution

Section 49: The General Assembly may contract debts to meet casual deficits or failures in the revenue; but such debts, direct or contingent, singly or in the aggregate, shall not at any time exceed five hundred thousand dollars, and the moneys arising from loans creating such debts shall be applied only to the purpose or purposes for which they were obtained, or to repay such debts: Provided, The General Assembly may contract debts to repel invasion, suppress insurrection, or, if hostilities are threatened, provide for the public defense.

Section 50: No act of the General Assembly shall authorize any debt to be contracted on behalf of the Commonwealth except for the purposes mentioned in section 49, unless provision be made therein to levy and collect an annual tax sufficient to pay the interest stipulated, and to discharge the debt within thirty years; nor shall such act take effect until it shall have been submitted to the people at a general election, and shall have received a majority of all the votes cast for and against it: Provided, The General Assembly may contract debts by borrowing money to pay any part of the debt of the State, without submission to the people, and without making provision in the act authorizing the same for a tax to discharge the debt so contracted, or the interest thereon.

Section 171: The General Assembly shall provide by law an annual tax, which, with other resources, shall be sufficient to defray the estimated expenses of the Commonwealth for each fiscal year.

Louisiana

Constitution

Article VII, Section 10: (E) Balanced Budget. Appropriations by the legislature from the state general fund and dedicated funds for any fiscal year except funds allocated by Article VII, Section 4, paragraphs (D) and (E) shall not exceed the official forecast in effect at the time the appropriations are made.

(F) Projected Deficit. The legislature by law shall establish a procedure to determine if appropriations will exceed the official forecast and an adequate method for adjusting appropriations in order to eliminate a projected deficit. If within thirty days of the determination that appropriations will exceed the official forecast the necessary adjustments in appropriations are not made to eliminate the projected deficit, the governor shall call a special session of the legislature for this purpose unless the legislature is in regular session. This special session shall commence as soon as possible as allowed by the provisions of this constitution, including but not limited to Article III, Section 2(B).

(G) Year End Deficit. If a deficit exists in any fund at the end of a fiscal year, that deficit shall be eliminated no later than the end of the next fiscal year.

Maine

Constitution

Article 9, Section 14: The credit of the State shall not be directly or indirectly loaned in any case, except as provided in sections 14-A, 14-C, 14-D and 14-E. The Legislature shall not create any debt or debts, liability or liabilities, on behalf of the State, which shall singly, or in the aggregate, with previous debts and liabilities hereafter incurred at any one time, exceed \$2,000,000, except to suppress insurrection, to repel invasion, or for purposes of war, and except for temporary loans to be paid out of money raised by taxation during the fiscal year in which they are made; and excepting also that whenever two-thirds of both Houses shall deem it necessary, by proper enactment ratified by a majority of the electors voting thereon at a general or special election, the Legislature may authorize the issuance of bonds on behalf of the State at such times and in such amounts and for such purposes as approved by such action; but this shall not be construed to refer to any money that has been, or may be deposited with this State by the Government of the United States, or to any fund which the State shall hold in trust for any Indian tribe. Whenever ratification by the electors is essential to the validity of bonds to be issued on behalf of the State, the question submitted to the electors shall be accompanied by a statement setting forth the total amount of bonds of the State outstanding and unpaid, the total amount of bonds of the State authorized and unissued, and the total amount of bonds of the State contemplated to be issued if the enactment submitted to the electors be ratified....

Statutes

Title 5, Chapter 149, Section 1664: The state budget document, setting forth a financial plan for the State government for each fiscal year of the ensuing biennium, shall be set up in 3 parts, the nature and contents of which shall be as follows:

Part 1 shall consist of a budget message by the Governor-elect, or the Governor, which shall outline the financial policy of the State Government for the ensuing biennium, describing in connection therewith the important features of the financial plan. It shall embrace a general budget summary setting forth the aggregate figures of the budget in such manner as to show the balanced relations between the total proposed expenditures and the total anticipated revenues together with 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. . . .

Maryland

Constitution

Article III, Section 52(5a): The Budget and the Budget Bill as submitted by the Governor to the General Assembly shall have a figure for the total of all proposed appropriations and a figure for the total of all estimated revenues available to pay the appropriations, and the figure for total proposed appropriations shall not exceed the figure for total estimated revenues. Neither the Governor in submitting an amendment or supplement to the Budget Bill nor the General Assembly in amending the Budget Bill shall thereby cause the figure for total proposed appropriations to exceed the figure for total estimated revenues, including any revisions, and in the Budget Bill as enacted the figure for total estimated revenues always shall be equal to or exceed the figure for total appropriations.

Massachusetts

Constitution

Article 63, Section 2: Within three weeks after the convening of the general court the governor shall recommend to the general court a budget which shall contain a statement of all proposed expenditures of the commonwealth for the fiscal year, including those already authorized by law, and of all taxes, revenues, loans and other means by which such expenditures shall be defrayed. In the first year of the term of office of a governor who has not served in the preceding year said governor shall recommend such budget within eight weeks after the convening of the general court. The budget shall be arranged in such form as the general court may by law prescribe, or, in default thereof, as the governor shall determine. For the purpose of preparing his budget, the governor shall have power to require any board, commission, officer or department to furnish him with any information which he may deem necessary.

Statutes

Chapter 29B, Section 2: The governor shall recommend, the general court shall enact, and the governor shall approve a general appropriation bill which shall constitute a balanced budget for the commonwealth. No supplementary appropriation bill shall be approved by the governor which will cause the state budget for any fiscal year not to be balanced. Except as otherwise provided herein, the balanced budget in any fiscal year shall include state tax revenues for such fiscal year which shall not exceed allowable state tax revenues for such fiscal year.

Michigan

Constitution

Article 4, Section 31: The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current fiscal year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.

Article 5, Section 14: To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Article 5, Section 15: The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of two-thirds of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Article 5, Section 18: The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit bills to meet deficiencies in current appropriations.

Article 5, Section 20: No appropriation shall be a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures authorized by appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures prescribed by law. The governor may not reduce expenditures of the legislative and judicial branches or from funds constitutionally dedicated for specific purposes.

Minnesota

Statutes

Section 16A.11, subdivision 2: Part one of the budget, the governor's message, shall include the governor's recommendations on the financial policy of the state 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 so as to show the 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 budget for the coming biennium, compared with the corresponding figures for at least the last two completed fiscal years and the current year.

Section 16A.15, subdivision 1: (a) If the commissioner determines that probable receipts for the general fund will be less than anticipated, and that the amount available for the remainder of the biennium will be less than needed, the commissioner shall, with the approval of the governor, and after consulting the legislative advisory commission, reduce the amount in the budget and cash flow reserve account established in subdivision 6 as needed to balance expenditures with revenue.

(b) An additional deficit shall, with the approval of the governor, and after consulting the legislative advisory commission, be made up by reducing unexpended allotments of any prior appropriation or transfer. Notwithstanding any other law to the contrary, the commissioner is empowered to defer or suspend prior statutorily created obligations which would prevent effecting such reductions.

(c) If the commissioner determines that probable receipts for any other fund, appropriation, or item will be less than anticipated, and that the amount available for the remainder of the term of the appropriation or for any allotment period will be less than needed, the commissioner shall notify the agency concerned and then reduce the amount allotted or to be allotted so as to prevent a deficit.

(d) In reducing allotments, the commissioner may consider other sources of revenue available to recipients of state appropriations and may apply allotment reductions based on all sources of revenue available.

(e) In like manner, the commissioner shall reduce allotments to an agency by the amount of any saving that can be made over previous spending plans through a reduction in prices or other cause.

Mississippi

Statutes

Section 27-103-125: The proposed budget of each state agency shall show the amounts required for operating expenses separately from the amounts required for permanent improvements. The overall budget shall show, separately by each source, the estimated amount of general-fund revenue and of special-fund revenues of general-fund agencies. The total proposed expenditures in Part 1 of the overall budget shall not exceed the amount of estimated revenues which will be available in the general and special funds for appropriation or use during the succeeding fiscal year, including any balances which will be on hand in the general and special funds at the close of the then current fiscal year. Beginning with the budget for fiscal year 1994, the total proposed expenditures from the General Fund in Part 1 of the overall budget shall not exceed ninety-eight percent (98%) of the amount of General Fund revenue estimate for the succeeding fiscal year, plus any unencumbered balances in general funds that will be available and on hand at the close of the then current fiscal year. The General Fund revenue estimate shall be the estimate jointly adopted by the Governor and the Joint Legislative Budget Committee. Unencumbered balances in general funds that will be available and on hand at the close of the current fiscal year shall not include projected amounts required to be deposited into the Working Cash-Stabilization Reserve Fund and the Education Reserve Fund pursuant to Section 27-103-203. The Legislative Budget Office may recommend additional taxes or sources of revenue if in its judgment such additional funds are necessary to adequately support the functions of the state government.

Missouri

Constitution

Article 3, Section 37: The general assembly shall have no power to contract or authorize the contracting of any liability of the state, or to issue bonds therefor, except (1) to refund outstanding bonds, the refunding bonds to mature not more than twenty-five years from date, (2) on the recommendation of the governor, for a temporary liability to be incurred by reason of unforeseen emergency or casual deficiency in revenue, in a sum not to exceed one million dollars for any one year and to be paid in not more than five years from its creation, and (3) when the liability exceeds one million dollars, the general assembly as on constitutional amendments, or the people by the initiative, may also submit a measure containing the amount, purpose and terms of the liability, and if the measure is approved by a majority of the qualified electors of the state voting thereon at the election, the liability may be incurred, and the bonds issued therefor must be retired serially and by installments within a period not exceeding twenty-five years from their date. Before any bonds are issued under this section the general assembly shall make adequate provision for the payment of the principal and interest, and may provide an annual tax on all taxable property in an amount sufficient for the purpose.

Article 4, Section 24: The governor shall, within thirty days after it convenes in each regular session, submit to the general assembly a budget for the ensuing appropriation period, containing the estimated available revenues of the state and a complete and itemized plan of proposed expenditures of the state and all its agencies, together with his recommendations of any laws necessary to provide revenues sufficient to meet the expenditures.

Article 4, Section 27: The governor may control the rate at which any appropriation is expended during the period of the appropriation by allotment or other means, and may reduce the expenditures of the state or any of its agencies below their appropriations whenever the actual revenues are less than the revenue estimates upon which the appropriations were based.

Montana

Constitution

Article 8, Section 9: Appropriations by the legislature shall not exceed anticipated revenue.

Nebraska

Constitution

Article 13, Section 1: The state may, to meet casual deficits, or failures in the revenue, contract debts never to exceed in the aggregate one hundred thousand dollars, and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection, or defending the state in war, and provision shall be made for the payment of the interest annually, as it shall accrue, by a tax levied for the purpose, or from other sources of revenue, which law providing for the payment of such interest by such tax shall be irrepealable until such debt is paid. . . .

Nevada

Constitution

Article 9, Section 2: The legislature shall provide by law for an annual tax sufficient to defray the estimated expenses of the state for each fiscal year; and whenever the expenses of any year shall exceed the income, the legislature shall provide for levying a tax sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of such ensuing year or two years.

Statutes

353.205(1): The proposed budget for the executive department of the state government must be set up in three parts.

1. Part 1 must consist of a budget message by the governor which outlines the financial policy of the executive department of the state government for the next 2 fiscal years, describing in connection therewith the important features of the financial plan. It must also embrace a general budget summary setting forth the aggregate figures of the budget in such a manner as to show the balanced relations between the total proposed expenditures and the total anticipated revenues, together with the other means of financing the budget for the next 2 fiscal years, contrasted with the corresponding figures for the last completed fiscal year and fiscal year in progress. The general budget summary must be supported by explanatory schedules or statements, classifying the expenditures contained therein by organizational units, objects and funds, and the income by organizational units, sources and funds.

353.235(2): A supplementary appropriation is not valid if it exceeds the amount in the state treasury available for the appropriation, unless the legislature making the appropriation provides necessary revenue to pay the appropriation by a tax, direct or indirect, to be laid and collected as directed by the legislature. The tax must not exceed the rates permitted under the constitution

of the State of Nevada. This provision does not apply to appropriations to suppress insurrections, defend the state, or assist in defending the United States in time of war.

New Hampshire

Statutes

Chapter 9:3(e): If the estimated revenues of the state for the ensuing biennium as set forth in the budget on the basis of existing laws, plus the estimated amounts in the treasury at the close of the year in progress available for expenditure in the ensuing biennial period is less than the aggregate recommended for the ensuing biennial period as contained in the budget, the governor shall make recommendations to the legislature in respect to the manner in which such deficit shall be met, whether by an increase in the state tax or the imposition of new taxes, increased rates on existing taxes, or otherwise; and if the aggregate of such estimated revenues, plus estimated balances in the treasury is greater than such recommended appropriations for the ensuing biennial period, he shall make such recommendations in reference to the application of such surplus to the reduction of debt or otherwise, to the reduction in taxation, or to such other action as in his opinion is in the interest of the public welfare.

Chapter 9:9: The governor shall transmit to the legislature supplemental estimates for such appropriations as in his judgment may be necessary on account of laws enacted after the transmission of the budget, or as he deems otherwise in the public interest. He shall accompany such estimates with a statement of the reasons therefor, including the reasons for their omission from the budget. Whenever such supplemental estimates amount to an aggregate which, if they had been contained in the budget, would have required the governor to make a recommendation for the raising of additional revenue, he shall make such recommendation.

Chapter 9:16-b: I. Notwithstanding any other provisions of the law, the governor may, with the prior approval of the fiscal committee, order reductions in any or all expenditure classes within any or all departments, as defined in RSA 9:1, if he determines at any time during the fiscal year that:

(a) Projected state revenues will be insufficient to maintain a balanced budget and that the likelihood of a serious deficit exists; or

(b) The actual lapse for each fiscal year is not going to equal the level estimated in the forecast of funds, unappropriated surplus, as issued by the legislative budget assistant.

New Jersey

Constitution

Article 8, Section 2, par. 2: No money shall be drawn from the State treasury but for appropriations made by law. All moneys for the support of the State government and for all other State purposes as far as can be ascertained or reasonably foreseen, shall be provided for in one general appropriation law covering one and the same fiscal year; except that when a change in the fiscal year is made, necessary provision may be made to effect the transition. No general appropriation law or other law appropriating money for any State purpose shall be enacted if the appropriation contained therein, together with all prior appropriations made for the same fiscal period, shall exceed the total amount of revenue on hand and anticipated which will be available to meet such appropriations during such fiscal period, as certified by the Governor.

Article 8, Section 2 par. 3: The Legislature shall not, in any manner, create in any fiscal year a

debt or debts, liability or liabilities of the State, which together with any previous debts or liabilities shall exceed at any time one per centum of the total amount appropriated by the general

appropriation law for that fiscal year, unless the same shall be authorized by a law for some single object or work distinctly specified therein. Regardless of any limitation relating to taxation in this Constitution, such law shall provide the ways and means, exclusive of loans, to pay the interest of such debt or liability as it falls due, and also to pay and discharge the principal thereof within thirty-five years from the time it is contracted; and the law shall not be repealed until such debt or liability and the interest thereon are fully paid and discharged.

Except as hereinafter provided, no such law shall take effect until it shall have been submitted to the people at a general election and approved by a majority of the legally qualified voters of the State voting thereon. No voter approval shall be required for any such law authorizing the creation of a debt or debts in a specified amount or an amount to be determined in accordance with such law for the refinancing or all or a portion of any outstanding debts or liabilities of the State heretofore or hereafter created, so long as such law shall require that the refinancing provide a debt service savings determined in a manner to be provided in such law and that the proceeds of such debt or debts and any investment income therefrom shall be applied to the payment of the principal of, any redemption premium on, and interest due and to become due on such debts or liabilities being refinanced on or prior to the redemption date or maturity date thereof, together with the costs associated with such refinancing. All money to be raised by the authority of such law shall be applied only to the specific object stated therein, and to the payment of the debt thereby created. This paragraph shall not be construed to refer to any money that has been or may be deposited with this State by the government of the United States. Nor shall anything in this paragraph contained apply to the creation of any debts or liabilities for purposes of war, or to repel invasion, or to suppress insurrection or to meet an emergency caused by disaster or act of God.

See also statutes: Title 52, Section 27B-21, 27B-22.

New Mexico

Constitution

Article 9, Section 7: The state may borrow money not exceeding the sum of two hundred thousand dollars in the aggregate to meet casual deficits or failure in revenue, or for necessary expenses. The state may also contract debts to suppress insurrection and to provide for the public defense.

Article 9, Section 8: No debt other than those specified in the preceding section shall be contracted by or on behalf of the state, unless authorized by law for some specified work or object; which law shall provide for an annual tax levy sufficient to pay the interest and to provide a sinking fund to pay the principal of such debt within fifty years from the time of the contracting thereof. No such law shall take effect until it shall have been submitted to the qualified electors of the state and have received a majority of all the votes cast thereon at a given election; such law shall be published in full in at least one newspaper in each county of the state, if one be published therein, once each week, for four successive weeks next preceding such election. No debt shall be so created if the total indebtedness of the state, exclusive of the debts of the territory, and the several counties thereof, assumed by the state, would thereby be made to exceed one per cent of the assessed valuation of all the property subject to taxation in the state as shown by the preceding general assessment.

New York

<http://www.ncsl.org/programs/fiscal/balbudb.htm>

1/26/2005

Constitution

Article 7, Section 2: Annually, on or before the first day of February in each year following the year ended by the constitution for the election of governor and lieutenant governor, and on or before the second Tuesday following the first day of the annual meeting of the legislature, in all other years, the governor shall submit to the legislature a budget containing a complete plan of expenditures proposed to be made before the close of the ensuing fiscal year and all moneys and revenues estimated to be available therefor, together with an explanation of the basis of such estimates and recommendations as to proposed legislation, if any, which he may deem necessary to provide moneys and revenues sufficient to meet such proposed expenditures. It shall also contain such other recommendations and information as he may deem proper and such additional information as may be required by law.

Statutes

Legislative Law, Section 54: Upon passage of appropriation bills by both the senate and the assembly, the senate and the assembly shall issue either jointly or separately a summary of changes to the budget submitted by the governor in accordance with article seven of the constitution. The summary shall be in such a form as to indicate whether the budget as amended provides that, for the general fund, any changes in anticipated disbursements are balanced by changes in anticipated receipts. The summary shall be accompanied by descriptions of changes to both receipts and disbursements in sufficient detail as is necessary to describe legislative action on the governor's budget submission. The summary shall be in such format as determined by the senate and the assembly, either jointly or separately, and may be issued separately, as part of the report required by section twenty-two-b of the state finance law or may be included within the introductory memoranda or fiscal committee memoranda relating to such legislation or in such other manner as may be determined by the senate and the assembly, either separately or jointly.

North Carolina

Constitution

Article III, Section 5(3): The Governor shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. The budget as enacted by the General Assembly shall be administered by the Governor.

The total expenditures of the State for the fiscal period covered by the budget shall not exceed the total of receipts during that fiscal period and the surplus remaining in the State Treasury at the beginning of the period. To insure that the State does not incur a deficit for any fiscal period, the Governor shall continually survey the collection of the revenue and shall effect the necessary economies in State expenditures, after first making adequate provision for the prompt payment of the principal of and interest on bonds and notes of the State according to their terms, whenever he determines that receipts during the fiscal period, when added to any surplus remaining in the State Treasury at the beginning of the period, will not be sufficient to meet budgeted expenditures.

Statutes

Section 143-25: All maintenance appropriations now or hereafter made are hereby declared to be maximum, conditional and proportionate appropriations, the purpose being to make the appropriations payable in full in the amounts named herein if necessary and then only in the event the aggregate revenues collected and available during each fiscal year of the biennium for which such appropriations are made, are sufficient to pay all of the appropriations in full; otherwise, the appropriations shall be deemed to be payable in such proportion of the total sum of all appropriations bears to the total amount of revenue available in each of said fiscal years. The

Director of the Budget is hereby given full power and authority to examine and survey the progress of the collection of the revenue out of which such appropriations are made, and to declare and determine the amounts that can be, during each quarter of each of the fiscal years of the biennium properly allocated to each respective appropriation. In making such examination and survey, he shall receive estimates of the prospective collection of revenues from the Secretary of Revenue and every other revenue collection agency of the State. The Director of the Budget may reduce all of said appropriations pro rata when necessary to prevent an overdraft or deficit to the fiscal period for which such appropriations are made. The purpose and policy of this Article is to provide and insure that there shall be no overdraft or deficit in the general fund of the State at the end of the fiscal period, growing out of appropriations for maintenance and the Director of Budget is directed and required to so administer this Article as to prevent any such overdraft or deficit. Prior to taking any action under this section to reduce appropriations pro rata, the Governor may consult with the Advisory Budget Commission.

North Dakota

Constitution

Article X, Section 13: The state may issue or guarantee the payment of bonds, provided that all bonds in excess of two million dollars shall be secured by first mortgage upon real estate in amounts not to exceed sixty-five percent of its value; or upon real and personal property of state-owned utilities, enterprises, or industries, in amounts not exceeding its value, and provided further, that the state shall not issue or guarantee bonds upon property of state-owned utilities, enterprises, or industries in excess of ten million dollars.

No further indebtedness shall be incurred by the state unless evidenced by a bond issue, which shall be authorized by law for certain purposes, to be clearly defined. Every law authorizing a bond issue shall provide for levying an annual tax, or make other provision, sufficient to pay the interest annually, and the principal within thirty years from the date of the issue of such bonds and shall specially appropriate the proceeds of such tax, or of such other provisions to the payment of said principal and interest, and such appropriation shall not be repealed nor the tax or other provisions discontinued until such debt, both principal and interest, shall have been paid. No debt in excess of the limit named herein shall be incurred except for the purpose of repelling invasion, suppressing insurrection, defending the state in time of war or to provide for the public defense in case of threatened hostilities.

Ohio

Constitution

Article 8, Section 1: The State may contract debts, to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the General Assembly, or at different periods of time, shall never exceed seven hundred and fifty thousand dollars; and the money, arising from the creation of such debts, shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

Article 8, Section 2: In addition to the above limited power, the State may contract debts to repel invasion, suppress insurrection, defend the State in war, or to redeem the present outstanding indebtedness of the State: but the money, arising from the contracting of such debts, shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever; and all debts, incurred to redeem the present outstanding indebtedness of the State, shall be so contracted as to be payable by the sinking fund, hereinafter provided for, as the same

shall accumulate.

Article 12, Section 4: The General Assembly shall provide for raising revenue, sufficient to defray the expenses of the state, for each year, and also a sufficient sum to pay principal and interest as they become due on the state debt.

Statutes

Title 1, Section 126.05: On or before the tenth day of each month, the director of budget and management shall furnish to the governor statements in such form as the governor requires showing the condition of the general revenue fund. The statements shall provide a summary of the status of appropriations to enable the governor to exercise and maintain effective supervision and control over the expenditures of the state. The director shall also furnish statements the governor requests showing the condition of any other fund.

If the governor ascertains that the available revenue receipts and balances for the general revenue fund for the current fiscal year will in all probability be less than the appropriations for the year, he shall issue such orders to the state agencies as will prevent their expenditures and incurred obligations from exceeding such revenue receipts and balances.

If the governor ascertains that the available revenue receipts and balances for any fund other than the general revenue fund for the current fiscal year will in all probability be less than the appropriations for the year, he may issue such orders to the state agencies as will prevent their expenditures and incurred obligations from exceeding such revenue receipts and balances.

As used in this section, "expenditures and incurred obligations" includes all moneys expended or obligated pursuant to appropriations by the general assembly that are calculated and distributed pursuant to a distribution formula in law.

Oklahoma

Constitution

Article 10, Section 23: The state shall never create or authorize the creation of any debt or obligation, or fund or pay any deficit, against the state, or any department, institution or agency thereof, regardless of its form or the source of money from which it is to be paid, except as may be provided in this section and in Sections 24 and 25 of Article X of the Constitution of the State of Oklahoma.

To ensure a balanced annual budget, pursuant to the limitations contained in the foregoing, procedures are herewith established as follows:

1. Not more than forty-five (45) days or less than thirty-five (35) days prior to the convening of each regular session of the Legislature, the State Board of Equalization shall certify the total amount of revenue which accrued during the last preceding fiscal year to the General Revenue Fund and to each Special Revenue Fund appropriated directly by the Legislature, and shall further certify amounts available for appropriation which shall be based on a determination, in accordance with the procedure hereinafter provided, of the revenues to be received by the state under the laws in effect at the time such determination is made, for the next ensuing fiscal year, showing separately the revenues to accrue to the credit of each such fund of the state appropriated directly by the Legislature.

Amounts certified as available for appropriation from each fund, as hereinbefore provided, shall be ninety-five percent (95%) of an itemized estimate made by the State Board of Equalization, which

shall include all sources of revenue to each fund for the next ensuing fiscal year, provided however, appropriated federal funds shall be certified for the full amount of the estimate. Said estimate shall consider any increase or decline in revenues that would result from predictable changes in the economy.

Legislative appropriations for any fiscal year, except for special appropriations provided for in paragraph 4, shall be limited to a sum not to exceed the total amount appropriated from all funds in the preceding fiscal year, plus twelve percent (12%), adjusted for inflation for the previous calendar year. Said limit shall be adjusted for funds not previously appropriated. The limit on the growth of appropriations shall be certified to by the State Board of Equalization.

6. The Legislature shall provide a method whereby appropriations shall be divided and set up on a monthly, quarterly or semiannual basis within each fiscal year to prevent obligations being incurred in excess of the revenue to be collected, and notwithstanding other provisions of this Constitution, the Legislature shall provide that all appropriations shall be reduced to bring them within revenues actually collected, but all such reductions shall apply to each department, institution, board, commission or special appropriation made by the State Legislature in the ratio that its total appropriation for that fiscal year bears to the total of all appropriations from that fund for that fiscal year; provided, however, that the Governor may in his discretion issue deficiency certificates to the State Treasurer for the benefit of any department, institution or agency of the state, if the amount of such deficiency certificates be within the limit of the current appropriation for that department, institution or agency, whereupon the State Treasurer shall issue warrants to the extent of such certificates for the payment of such claims as may be authorized by the Governor, and such warrants shall become a part of the public debt and shall be paid out of any money appropriated by the Legislature and made lawfully available therefor; provided further, that in no event shall said deficiency certificates exceed in the aggregate the sum of Five Hundred Thousand Dollars (\$500,000.00) in any fiscal year.

Oregon

Constitution

Article IX, Section 2: The Legislative Assembly shall provide for raising revenue sufficiently to defray the expenses of the State for each fiscal year, and also a sufficient sum to pay the interest on the State debt, if there be any.

Article IX, Section 6: Whenever the expenses, of any fiscal year, shall exceed the income, the Legislative Assembly shall provide for levying a tax, for the ensuing fiscal year, sufficient, with other sources of income, to pay the deficiency, as well as the estimated expense of the ensuing fiscal year.

Statutes

ORS 291.216(2): The budget report shall include a budget message prepared by the Governor, including recommendations of the Governor 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.

ORS 291.254: If the department determines at any time that the probable receipts from taxes and any other sources for any appropriation will be less than what 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 that 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.

Pennsylvania

Constitution

Article 8, Section 12: Annually, at the times set by law, the Governor shall submit to the General Assembly:

(a) a balanced operating budget for the ensuing fiscal year setting forth in detail (i) proposed expenditures classified by department or agency and by program and (ii) estimated revenues from all sources. If estimated revenues and available surplus are less than proposed expenditures, the Governor shall recommend specific additional sources of revenue sufficient to pay the deficiency and the estimated revenue to be derived from each source...

Article 8, Section 13(a): Operating budget appropriations made by the General Assembly shall not exceed the actual and estimated revenues and surpluses available in the same fiscal year.

Statutes

Title 71, Section 233: As soon as possible after the organization of the General Assembly, but not later than the first full week in February of each year, except in the case where a Governor has been elected for his first term of office and then no later than the first full week in March, the Governor shall submit to the General Assembly copies of agency budget requests and a State budget and program and financial plan embracing:

(1) A balanced operating budget for the ensuing fiscal year setting forth in detail:

(i) The amounts recommended by him to be appropriated to the General Assembly, the Judicial Department, the Governor, and the several administrative departments, boards, and commissions of the State Government, and to institutions within the State, and for all public purposes, classified by department or agency and by program.

(ii) The estimated revenues or receipts from any and all sources, and an estimated amount to be raised by taxation or otherwise, including proposals for new revenues and receipts.

Rhode Island

Constitution

Article 6, Section 16: The general assembly shall have no powers, without the express consent of the people, to incur state debts to an amount exceeding fifty thousand dollars, except in time of war, or in case of insurrection or invasion; nor shall it in any case, without such consent, pledge the faith of the state for the payment of the obligations of others. This section shall not be construed to refer to any money that may be deposited with the state by the government of the United States.

Statutes

§ 35, Section 3-13: The governor shall submit the budget and the appropriation bill or bills for the fiscal year to the general assembly, which may increase, decrease, alter, or strike out the items

contained therein; provided, however, that no action on its part shall be taken which will cause an excess of appropriations for revenue expenditures over expected revenue receipts. If additional appropriations are deemed necessary by the general assembly, it shall not make the appropriations unless it shall provide the necessary additional revenue therefor.

Title 35, Section 3-16: At any time during the fiscal year, upon notification by the budget officer that it is indicated that actual revenue receipts or resources will not equal the original estimates upon which appropriations were based or that it is indicated that spending will exceed appropriations, the governor, for the purpose of maintaining a balanced budget, shall have the power to reduce or suspend appropriations for any or all departments or subdivisions thereof, excepting the general assembly, legislative agencies, and legislative committees and commissions, and at least ten (10) business days prior to taking action to reduce or suspend or otherwise withhold appropriations, the governor shall thereupon notify, in writing, the speaker of the house, senate majority leader, and the chairpersons of the house and senate finance committees. The writing shall state specifically the action to be taken and the specific reason which necessitates the action.

South Carolina

Constitution

Article 10, Section 7(a): The General Assembly shall provide by law for a budget process to insure that annual expenditures of state government may not exceed annual state revenue.

Rules of the House of Representatives

Every General Appropriations Bill and Supplemental Appropriations Bill for the ordinary expenses of State Government before presentation shall have attached thereto a certificate from the Budget Division of the State Budget and Control Board stating that the total of the appropriations therein provided for is not in excess of the estimated total revenue of the State for such purposes, including that revenue which may be provided for in the bill, or in any other bill previously passed by the House for the fiscal year to which the bill is applicable, and an Appropriations Bill without such certificate shall not be read the first time in the House, but shall be returned to the Committee on Ways and Means by the Speaker.

South Dakota

Constitution

Article 13, Section 2: For the purpose of defraying extraordinary expenses and making public improvements, or to meet casual deficits or failure in revenue, the state may contract debts never to exceed with previous debts in the aggregate one hundred thousand dollars, and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection, or defending the state or the United States in war and provision shall be made by law for the payment of the interest annually, and the principal when due, by tax levied for the purpose or from other sources of revenue; which law providing for the payment of such interest and principal by such tax or otherwise shall be irrepealable until such debt is paid; provided, however, the state of South Dakota shall have the power to refund the territorial debt assumed by the state of South Dakota, by bonds of the state of South Dakota.

Statutes

Title 4, Chapter 7-10: The budget report shall contain and include the following information...(5) a summary statement of the unappropriated fund balances estimated to be available at the beginning of the next fiscal year, and the estimated revenue of the next fiscal year, as compared with the total recommended amounts of appropriation for expenditures for the next fiscal year, 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 revenues.

Title 4, Chapter 8-23: Should it appear to the commissioner of finance and management at any time that revenues of the state are substantially less than legislative estimates in making appropriations for expenditures by budget units, he shall immediately report the fact to the Governor, who shall thereupon investigate and may, if necessary, establish a rate of expenditures within all or any budget units, so that said expenditures shall be in proportion to such reduced revenues and will not result in the incurrence of state debt.

Tennessee

Constitution

Article 2, Section 24: No public money shall be expended except pursuant to appropriations made by law. Expenditures for any fiscal year shall not exceed the states' revenues and reserves, including the proceeds of any debt obligation, for that year. No debt obligation, except as shall be repaid within the fiscal year of issuance, shall be authorized for the current operation of any state service or program, nor shall the proceeds of any debt obligation be expended for a purpose other than that for which it was authorized.

No year shall the rate of growth of appropriations from state tax revenues exceed the estimated rate of growth of the state's economy as determined by law. No appropriation in excess of this limitation shall be made unless the General Assembly shall, by law containing no other subject matter, set forth the dollar amount and the rate by which the limit will be exceeded.

Any law requiring the expenditure of state funds shall be null and void unless, during the session in which the act receives final passage, an appropriation is made for the estimated first year's funding.

No law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.

An accurate financial statement of the state's fiscal condition shall be published annually.

Texas

Constitution

Article 3, Section 49: (a) No debt shall be created by or on behalf of the State, except:

(1) to supply casual deficiencies of revenue, not to exceed in the aggregate at any one time two hundred thousand dollars;

(2) to repel invasion, suppress insurrection, or defend the State in war;

(3) as otherwise authorized by this constitution; or

(4) as authorized by Subsections (b) through (f) of this section.

(b) The legislature, by joint resolution approved by at least two-thirds of the members of each house, may from time to time call an election and submit to the eligible voters of this State one or more propositions that, if approved by a majority of those voting on the question, authorize the legislature to create State debt for the purposes and subject to the limitations stated in the applicable proposition. Each election and proposition must conform to the requirements of Subsections (c) and (d) of this section.

(c) The legislature may call an election during any regular session of the legislature or during any special session of the legislature in which the subject of the election is designated in the governor's proclamation for that special session. The election may be held on any date, and notice of the election shall be given for the period and in the manner required for amending this constitution. The election shall be held in each county in the manner provided by law for other statewide elections.

(d) A proposition must clearly describe the amount and purpose for which debt is to be created and must describe the source of payment for the debt. Except as provided by law under Subsection (f) of this section, the amount of debt stated in the proposition may not be exceeded and may not be renewed after the debt has been created unless the right to exceed or renew is stated in the proposition.

(e) The legislature may enact all laws necessary or appropriate to implement the authority granted by a proposition that is approved as provided by Subsection (b) of this section. A law enacted in anticipation of the election is valid if, by its terms, it is subject to the approval of the related proposition.

(f) State debt that is created or issued as provided by Subsection (b) of this section may be refunded in the manner and amount and subject to the conditions provided by law.

State debt that is created or issued as provided by Subsections (b) through (f) of this section that is approved by the attorney general in accordance with applicable law is incontestable for any reason.

Article 8, Section 22(c): In no case shall appropriations exceed revenues as provided in Article III, Section 49a, of this constitution. Nothing in this section shall be construed to alter, amend, or repeal Article III, Section 49a, of this constitution.

Utah

Constitution

Article 13, Section 9: No appropriation shall be made, or any expenditure authorized by the Legislature, whereby the expenditure of the State, during any fiscal year, shall exceed the total tax then provided for by the law, and applicable for such appropriation or expenditure, unless the Legislature making such appropriation, shall provide for levying a sufficient tax, not exceeding the rates allowed in section seven of this article, to pay such appropriation or expenditure within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrections, defend the State, or assist in defending the United States in time of war.

Article 14, Section 1: To meet casual deficits or failures in revenue, and for necessary expenditures for public purposes, including the erection of public buildings, and for the payment of all Territorial indebtedness assumed by the State, the State may contract debts, not exceeding in the aggregate at any one time, an amount equal to one and one-half per centum of the value of the taxable property of the State, as shown by the last assessment for State purposes, previous to the incurring of such indebtedness. But the State shall never contract any indebtedness, except as in the next Section provided, in excess of such amount, and all monies arising from loans herein

authorized, shall be applied solely to the purposes for which they were obtained.

Statutes

63-38-10(3): If the total of all revenues accruing in any given fiscal year to the General Fund, or any other major fund type, collections, or dedicated credits, from which appropriations are made, are not sufficient to cover the appropriations made for that period, the governor shall reduce the budgetary allotments and transfer of funds by the amount of the deficiency.

Vermont

Note: Vermont is generally said to be unique among the states in lacking a requirement for a balanced budget. The following language, however, provides for closing a general fund deficit at the end of a fiscal year.

Statutes

Chapter 5, Section 308: (a) It is the purpose of this section to reduce the effects of annual variations in state revenues upon the budget of the state by retaining certain surpluses in general fund revenues that may accrue for the purpose of offsetting deficits or reducing general fund bonds.

(b) There is hereby created a budget stabilization trust fund to be administered by the state treasurer. The fund shall be composed of any undesignated general fund surplus occurring at the close of a fiscal year; provided that the balance of the fund shall not exceed five percent of the appropriations from the general fund for the most recently ended fiscal year. Any undesignated general fund surplus remaining after the budget stabilization trust fund has been brought to the maximum authorized level shall remain in the general fund. When the general assembly next meets, it may specifically appropriate the use of the undesignated general fund surplus for the reduction of general fund bonds authorized but yet to be issued by the treasurer, a reduction of revenues or for other needs as the general assembly may determine.

(c) Following any fiscal year in which the general fund is found to have a fund deficit, the budget stabilization trust fund shall be used by the treasurer to the extent necessary to offset the fund deficit.

(d) Determination of the amount of the undesignated general fund surplus or fund deficit in any fiscal year for the purposes of this section shall be made by the state treasurer and the commissioner of finance and management as soon as possible after the close of the fiscal year. Adjustment may be made to the transfers authorized in subsections (b) and (c) of this section upon receipt of the final audited annual report of the commissioner of finance and management.

Virginia

Constitution

Article 10 Section 7: All taxes, licenses, and other revenues of the Commonwealth shall be collected by its proper officers and paid into the state treasury. No money shall be paid out of the State treasury except in pursuance of appropriations made by law; and no such appropriation shall be made which is payable more than two years and six months after the end of the session of the General Assembly at which the law is enacted authorizing the same.

Other than as may be provided for in the debt provisions of this Constitution, the Governor, subject to such criteria as may be established by the General Assembly, shall ensure that no expenses of

the Commonwealth be incurred which exceed total revenues on hand and anticipated during a period not to exceed the two years and six months period established by this section of the institution.

Washington

Statutes

43.88.050: Cash deficit of the current fiscal period is defined for purposes of this chapter as the amount by which the aggregate of disbursements charged to a fund will exceed the aggregate of estimated receipts credited to such fund in the current fiscal period, less the extent to which such deficit may have been provided for from available beginning cash surplus.

If, for any applicable fund or account, the estimated receipts for the next ensuing period plus cash beginning balances is less than the aggregate of estimated disbursements proposed by the governor for the next ensuing fiscal period, the governor shall include in Part I of the budget document proposals as to the manner in which the anticipated cash deficit shall be met, whether by an increase in the indebtedness of the state, by the imposition of new taxes, by increases in tax rates or an extension thereof, or in any like manner. The governor may propose orderly liquidation of the anticipated cash deficit over a period of one or more fiscal periods, if, in the governor's discretion, such manner of liquidation would best serve the public interest.

43.88.110(5): If at any time during the fiscal period the governor projects a cash deficit in a particular fund or account as defined by RCW 43.88.050, the governor shall make across-the-board reductions in allotments for that particular fund or account so as to prevent a cash deficit, unless the legislature has directed the liquidation of the cash deficit over one or more fiscal periods.

West Virginia

Constitution

Article VI, Section 51, Subsection B (7): The legislature shall not amend the budget bill so as to create a deficit but may amend the bill by increasing or decreasing any item therein: *Provided*, that no item relating to the judiciary shall be decreased, and except as otherwise provided in this Constitution, the salary or compensation of any public officer shall not be increased or decreased during his term of office: *Provided further*, that the legislature shall not increase the estimate of revenue submitted in the budget without the approval of the governor.

Article X, Section 4: No debt shall be contracted by this State, except to meet casual deficits in the revenue, to redeem a previous liability of the State, to suppress insurrection, repel invasion or defend the State in time of war; but the payment of any liability other than that for the ordinary expenses of the State, shall be equally distributed over a period of at least twenty years.

Wisconsin

Constitution

Article 8, Section 5: The legislature shall provide for an annual tax sufficient to defray the estimated expenses of the state for each year; and whenever the expenses of any year shall exceed the income, the legislature shall provide for levying a tax for the ensuing year, sufficient, with other sources of income, to pay the deficiency as well as the estimated expenses of such ensuing year.

Article 8, Section 6: For the purpose of defraying extraordinary expenditures the state may contract public debts (but such debts shall never in the aggregate exceed one hundred thousand 'ars). Every such debt shall be authorized by law, for some purpose or purposes to be distinctly specified therein; and the vote of a majority of all the members elected to each house, to be taken by yeas and nays, shall be necessary to the passage of such law; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt and the principal within five years from the passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed, nor the taxes be postponed or diminished, until the principal and interest of such debt shall have been wholly paid.

Statutes

S. 20.003(4): No bill directly or indirectly affecting general purpose revenues as defined in s. 20.001(2)(a) may be enacted by the legislature if the bill would cause the estimated general fund balance on June 30 of any fiscal year as projected under s. 20.005(1) to be an amount equal to less than one percent of the total general purpose revenue appropriations for that fiscal year.

Wyoming

Constitution

Article 16, Section 1: The State of Wyoming shall not, in any manner, create any indebtedness exceeding one per centum on the assessed value of the taxable property in the state as shown by the last general assessment for taxation, preceding; except to suppress insurrection or to provide for the public defense.

Article 16, Section 2: No debt in excess of the taxes for the current year, shall in any manner be created in the State of Wyoming, unless the proposition to create such debt shall have been submitted to a vote of the people and by them approved; except to suppress insurrection or to provide for the public defense.

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E-mail statebudget-info@ncsl.org for more information.

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