

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 86/2

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

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

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

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

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

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

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

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

Annual Budget Review - Wisconsin

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

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

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

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

One factor preventing a full trial of the annual review process was that the 1972 budget was not adopted until November 1971, over 10 months after the

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

Conclusion: Which way to go?

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

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

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

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

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

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

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

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

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

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

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

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

ATTACHMENT D

Table 1
STATE BUDGETARY PRACTICES

<i>State or other jurisdiction</i>	<i>Budget-making authority</i>	<i>Official or agency preparing budget</i>	<i>Date estimates must be submitted by dept. or agencies</i>	<i>Date submitted to legislature</i>	<i>Power of legislature to change budget*</i>	<i>Power of item veto by governor</i>	<i>Fiscal year begins</i>	<i>Frequency of budget</i>
Alabama	Governor	Div. of the Budget, Dept. of Finance	Oct. 15 for Jan. session; Nov. 15 for Feb. session	By the 5th day regular business session	Unlimited	Yes	Oct. 1	Annual
Alaska	Governor	Div. of Budget & Management, Office of the Governor	Oct. 1	3rd legislative day of session	Unlimited	Yes	July 1	Annual
Arizona	Governor	Finance Div., Dept. of Administration	Sept. 1 each year	By the 5th day of regular session	Unlimited	Yes	July 1	Annual
Arkansas	Governor	Office of Budget, Dept. of Finance & Administration	Sept. 1 in even years	Date of convening session	Unlimited	Yes	July 1	Biennial, odd yrs. (a)
California	Governor	Dept. of Finance	Specific date for each agency set by Dept. of Finance	Jan 10	Unlimited	Yes	July 1	Annual
Colorado	Governor	Executive Director, Office of State Planning & Budgeting	Aug. 1-15	Dept. budgets submitted Nov. 1; governor's full recommendation submitted within first 10 days of legislative session	Unlimited	Yes	July 1	Annual
Connecticut	Governor	Div. of Budget & Financial Management, Office of Policy & Management	Sept. 1	1st session day after third of Feb. in odd years, except if change in governor, then 1st session day after Feb. 14. In even years, on the Wed. following the 1st Mon. in Feb.	Unlimited	Yes	July 1	Annual
Delaware	Governor	Office of Budget Director, Office of the Governor	Sept. 15; schools, Oct. 15	By Feb. 1	Unlimited	Yes	July 1	Annual
Florida	Governor	Office of Planning & Budget, Office of the Governor	Nov. 1 each year	55 days prior to regular	Unlimited	Yes	July 1	Biennial
Georgia	Governor	Office of Planning & Budget	Sept. 1	By 5th day of session or sooner	Unlimited	Yes	July 1	Annual
Hawaii	Governor(b)	Budget, Planning & Management Div., Dept. of Budget & Finance	Aug. 31	20 days prior to convening of session on 3rd Wed. in Jan.	Unlimited	Yes	July 1	Biennial, odd yr. (a,c)
Idaho	Governor	Office of the Governor	Sept. 1 before Jan. session	Not later than 5th day of session	Unlimited	Yes	July 1	Annual
Illinois	Governor	Bureau of the Budget, Office of the Governor	Specific date for each agency set by Bureau of the Budget	First Wed. in March	Unlimited	Yes	July 1	Annual
Indiana	Governor	Budget Agency(d)	Sept. 1 in even years, flexible policy	Within the 1st two weeks after the session convenes(e)	Unlimited	No	July 1	Biennial, odd yr. (a)
Iowa	Governor	Comptroller	Sept. 1	Feb. 1 or before	Unlimited	Yes	July 1	Biennial, odd yr. (a)
Kansas	Governor	Div. of the Budget, Dept. of Administration	Not later than Oct. 1	Within 3 weeks after convening of session in odd years and within 2 days after convening of session in even years	Unlimited	Yes	July 1	Annual
Kentucky	Governor	Office for Policy & Management, Dept. of Finance	Specific date set by administrative action but may not be	As governor desires	Unlimited	Yes	July 1	Biennial, even yrs. (a)

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

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

West Virginia	Governor	Planning Div. & Div. of Budget, (Dept. of Finance & Administration)	Aug. 15	1st day of session except for 1st year of new gov. when it may be submitted 1 month after convening of session	Limited: may not increase items of budget bill except appropriations for legislature and judiciary	Yes	July 1	Annual	
Wisconsin	Governor	Div. of State Executive Budget & Planning, Dept. of Administration	Dates as set by secretary, Department of Administration	(On or before the last Tues. in Jan. in odd-numbered years	Unlimited	Yes	July 1	Biennial, odd yr. (a)	1
Wyoming	Governor	Budget Div., Dept. of Administration & Fiscal Control	Sept. 15 preceding session in Feb.	Jan. 1	Unlimited	Yes	July 1	Biennial, even yr. (a)	1
Dist. of Col.	Mayor	Office of Budget & Management Systems	Date set by mayor	(j)	Unlimited	Yes	Oct. 1	Annual	
American Samoa	Governor	Planning & Budget Office	July 1	August	Unlimited (local funds)	Yes	Oct. 1	Annual	
Guam	Governor	Bureau of Budget & Management Research	Date set by director, Bureau of Budget & Management Research. Usually not later than Feb. 15	By April 30	Unlimited	Yes	Oct. 1	Annual	
Puerto Rico	Governor	Bureau of the Budget, Office of the Governor	Oct. 15	2nd Mon. in Jan.; opening day of regular session	Unlimited	Yes	July 1	Annual	
Virgin Islands	Governor	Director of the Budget, Office of the Governor	Dec. 31	Upon convening	Unlimited	Yes	Oct. 1	Annual	

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

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

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

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

(d) Budget Committee votes in advisory capacity.

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

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

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

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

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

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

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

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

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

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

History.—s. 1, 2, 3, 4, 5, ch. 74-406, s. 1, ch. 82-104.

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

CHAPTER 216

PLANNING AND BUDGETING

216.031 Budgets for operational expenditures.

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

(1) For each budget entity, a summary exhibit showing, for each appropriation category, for each fund, 2 prior years' appropriations for general revenue, 1 prior year's actual and 1 current year's estimated expenditures, and the requested expenditures for each year of the next biennium. The total number of positions for the budget entity shall be shown for each fiscal year of data for which positions are authorized, fixed, or requested. However, the agency budget request for the State University System shall be expressed in terms of the amounts for the various programs as prescribed in s. 240.271 and in terms of the specified appropriation categories, including the special units' budgets, prescribed in the prior appropriations act.

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

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

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

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

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

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

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

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

(d) The justification for proposed new programs.

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

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

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

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

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

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

History.—s. 1, ch. 80-106, s. 7, ch. 71-354, s. 1, ch. 77-052, s. 40, ch. 80-45, s. 4, ch. 82-06, s. 11, ch. 82-196.
 Note.—As amended by s. 1, ch. 80-45, paragraph (c) is added to subsection (10) effective July 1, 1981, to read:

(c) The projected cost of the requested program for each fiscal year.

CHAPTER
 FINANCIAL MATTERS F
 POLITICAL SUBD

PART II REVENUE SH
 OF 1972

PART III LOCAL F
 MANAGEMENT AND

PART IV INVESTMEN
 GOVERNMENT SURF

PART VI PARTICIPATION
 SALES TAX PRO

PART II

REVENUE SHARING

218.23 Revenue sharing with
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218.23 Revenue sharing
 government.—

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

(a) Reported its finances for completed fiscal year to the Department of Finance, pursuant to s. 218-

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

(c) Levied, as shown on its report pursuant to s. 218.32, ad valorem taxes levied for debt service millages authorized by the voter

enue equivalent to a millage rate dollar based on the 1973 taxable

by the property appraiser pursuant, in order to produce revenue

which would otherwise be produced by the ad valorem tax, to have received a county pursuant to s. 125.01(6)(c)

ational license tax or a utility tax, or received revenue from

of these four sources. If a new municipality is incorporated, the provisions of this part

to the taxable values for the year certified by the property appraiser

requires only a minimum amount raised from the ad valorem tax, license tax, and the utility tax. The minimum millage rate.

(d) Certified that persons in law enforcement officers, as defined in the qualifications for employment in the Police Standards and Training Act, salary structure and salary pay

CHAPTER NO. 666

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) the proposed pay plan schedule for all executive branch employees with the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under this subsection is not an unfair labor practice under 34-31-401."

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

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

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

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

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

Approved April 28, 1983.

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

Source: S.L. 1957, ch. 32, § 7; R.C. 1943, 1957 Supp., § 54-4207.

Cross-References.

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

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

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

CHAPTER 54-43**THEODORE ROOSEVELT CENTENNIAL COMMISSION**

(Omitted as a statute not of a general and permanent nature)

Note.

Not repealed but omitted as a chapter not

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

CHAPTER 54-44**OFFICE OF MANAGEMENT AND BUDGET****Section**

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

- 54-44-09. Supplies for institutions under c
- 54-44-10. Legislative inspection of books o
- 54-44-11. Office's operating funds creation
- 54-44-12. Deposit and disbursement of f
Appropriation.
- 54-44-13. Failure of political subdivisions
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54-44-01. Responsibility of the office of management and budget is the control and supervision of the branch of the government, and is c office of the state auditor has the true independent post audit of all The responsibility of collecting ad in the office of the state tax commiss This chapter shall be liberally c ment this section.

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

Note.

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

54-44-02. State office of management and budget ve sibilities necessary to supervise a: the various state departments, ager

Source: S.L. 1959, ch. 372, § 1.

54-44-03. Director of the off shall be a director of the office o appointed by and serve at the will c shall be set by the governor withi for salaries by the legislative asser ees of the office shall be reimburs the duties of their office at the san state officials. The director shall be ent with law or rules established of the office of management and b

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References.

of council transferred to central vision, see § 54-44.3-27.

merit system. All employed as created by agreement North Dakota unemployment state employment service, North Dakota state department under the North Dakota

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

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

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

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

Note.

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

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

Cross-References.

Federal aid coordinator office created in office of management and budget, see § 14-27.1-01.

Collateral References.

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

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

Source: S.L. 1959, ch. 372, § 1.

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

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

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

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

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

- 1 to 4. Repealed by S.L. 1965, ch. 358, § 20.
5. Shall examine the budget affecting the legislative and judicial branches of the state government, but only for the purpose of determining the sufficiency of funds to meet the contemplated expenditures of these branches of state government or their officers or agencies.
- 6 and 7. Repealed by S.L. 1965, ch. 358, § 20.
8. Shall keep the general accounts, reflecting for each fund the resources and balance, together with current revenues and expenditures, and shall provide for an accrual accounting system.
9. Shall, acting as director of the office of the budget, process all claims for submittal to the office of management and budget, which may conduct the preaudit of all claims from the executive branch of the government before payment and the director shall conduct the current audit of all revenues, which shall include the supervision of the collection of all moneys due the state.
10. Repealed by S.L. 1979, ch. 541, § 2.
11. Except as otherwise provided by law, shall prepare warrants for payment of all claims from the executive branch of government, when approved by the office of the budget, and for payment of all claims from the judicial and legislative branches.
12. Shall be vested with the duties, powers, and responsibilities involved in the development and installation of financial records and procedures for all state departments and agencies.
 - 12.1. Shall coordinate the development of accounting and financial related systems.
 - 12.2. Shall create an accounting manual and provide sufficient training of current and potential users concerning the functions and use of a statewide accounting and reporting system.
13. Shall conduct such interval audits of accounts in the several departments of the state as he shall deem necessary.
14. Shall issue current reports to administrative officials concerning the status of revenue, expenditures, and appropriation accounts, and shall make periodic financial reports to the governor, administrative officials, the legislative assembly, and the public.
 - 14.1. Shall prepare on an annual basis comprehensive financial statements of the state of North Dakota.

15. Shall submit a biennial report to the governor and the legislature concerning the activities of all the departments established within the office. The report shall include a statement of the revenues and public expenditures of the office and public expenditures.
16. Shall accompany the director to the governor and the legislature to report the amount of each item of revenue and expenditure and the amount of revenue and expenditure.
17. Shall, when requested by the legislature, advise the legislative assembly of the condition of the administrative accounts of the office.
18. Shall submit to the governor and the legislature at such times as they may require a report of the present condition of each account of the office.
19. Shall keep an account of the revenues and expenditures of each county shall be submitted to the state, and with the report shall be credited to the account of such taxes.
20. Shall keep an account of the revenues and expenditures of the state treasury when he came into office as treasurer, and credit the same to him.
21. Shall be vested with the powers and responsibilities in the operation of the office.
22. Shall maintain and shall be able to supply the state with commonly used communications equipment construed as authorized by sections 54-44-04.5 and 54-44-04.6.
23. Shall establish and maintain mechanical or electrical equipment.
24. Shall perform such other duties as may be required by law.

Source: S.L. 1959, ch. 372, § 346, § 67; 1965, ch. 358, § 20; 1966, ch. 403, § 51; 1975, ch. 466, § 541, §§ 1, 2; 1979, ch. 560, § 1; 1981, ch. 1, §§ 9, 10; 1981, ch. 535, § 16.

Cross-References.

Communications advisory commission of director, see § 54-23.1
 Departmental payrolls and requirements of subdivisions, see § 54-14-04.2
 Director of office of management and budget, see § 54-44.1-02

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

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

Cross-References.

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

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

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

State purchasing practices, see ch. 54-44.4.

Institutions under Board of Administration.

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

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

Source: S.L. 1969, ch. 453, § 1.

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

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

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

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

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

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

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

1. The office of management and budget shall have authority to withhold or deduct certain amounts from employees' compensation. The director of the office of management and budget, in addition to other deductions or withholdings authorized or permitted by law, shall be authorized to withhold or deduct from the employees' monetary compensation such amounts as may be determined by the employer and employees to participate in tax-favored or tax-sheltered annuity programs which are authorized by the federal Internal Revenue Code
2. The director of the office of management and budget shall have authority to withhold or deduct certain amounts from employees' compensation. The director of the office of management and budget, in addition to other deductions or withholdings authorized or permitted by law, shall be authorized to withhold or deduct from the employees' monetary compensation such amounts as may be determined by the employer and employees to participate in tax-favored or tax-sheltered annuity programs which are authorized by the federal Internal Revenue Code
 - a. May receive, invest, or dispose of federal surplus property transferred to the office of management and budget under the federal Act
 - b. May acquire any federal surplus property under the federal Act
 - c. May distribute any federal surplus property under the federal Act to:
 - (1) Any public agency or organization for the purposes of or
 - (2) Nonprofit educational institutions or organizations under section 501 of the federal Internal Revenue Code or public
 - d. May store the federal surplus property
 - e. Shall develop, submit, and distribute a plan for the distribution of federal surplus property under the federal Act and rules of the director may be approved by the department of management and budget
 - f. May cooperate and enter into agreements and contracts with other agencies and departments for the purchase, property and exchange of federal surplus property
 - g. May provide information regarding federal surplus property to entities
 - h. May assess and collect fees and charges to cover direct and indirect costs of the service charge in a surplus property fund. The state treasurer shall be required to contribute to the fund if the director requires.
 - i. Adopt rules and regulations for the disposal of surplus property

Source: S.L. 1981, ch. 537, § 2.

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

1. The person in charge of the office of management and budget shall inform the director of the state whenever that department or institution has federal surplus property, whether original or transferred.

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

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

Source: S.L. 1981, ch. 537, § 3.

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

Source: S.L. 1981, ch. 534, § 6.

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

in the process of collate warrants to be rized vouchers even warrants. Warrants of any funds in his the Constitution of N

Source: S.L. 1959, ch. 345, § 2.

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

Source: S.L. 1959, ch. 3

54-44-07. Office t account. Whenever a personal property w has been entrusted any moneys, bonds, in trust by the state settlement with the scribed by law, or wh account and make suc by the office of mana money belonging to state an account with percent per annum f shall be prima facie the office of managerr an account, that fact property which is due

Source: S.L. 1959, ch. 3

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Source: S.L. 1959, ch. 3

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

Source: S.L. 1959, ch. 372, § 1; 1965, ch.
3.5, § 2.

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

Source: S.L. 1959, ch. 372, § 1.

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

Source: S.L. 1959, ch. 372, § 1.

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

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

Source: S.L. 1959, ch. 372, § 1.

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

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

Source: S.L. 1959, ch. 372, § 1.

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

Source: S.L. 1959, ch. 372, § 1.

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

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

Source: S.L. 1959, ch. 214, § 2; 1967, ch. 392, § 1; 1969, ch. 454, § 7; 1973, ch. 486, § 1; 1979, ch. 561, § 1; 1981, ch. 534, § 7; 1981, ch. 538, § 1.

Note.

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

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

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

be drawn against the authorized expenditure signature or signatures of the governing body. All are hereby appropriate board, association, or co

Source: S.L. 1971, ch. 510.

54-44-13. Failure of overpayments -- Office hold funds. Whenever a person is appointed under the Disaster Relief Act and all acts amendatory thereof, effective following July first, the person shall:

1. Upon certification by the representative that a political subdivision, withhold all moneys due the subdivision, either the federal or state representative certifies that
2. Cease to withhold moneys.

Source: S.L. 1971, ch. 511.

Note.

The Disaster Relief Act of 1971

Section	Definition.
54-44.1-01.	Definition.
54-44.1-02.	Office of the budget
54-44.1-03.	Powers and duties
54-44.1-04.	Budget estimates
54-44.1-05.	Federal aid budget
54-44.1-06.	Preparation of the budget
54-44.1-07.	Presentation of the budget
54-44.1-08.	Budget report -- C
54-44.1-09.	All expenditures on the budget
54-44.1-10.	Payments made by the office of management and budget
54-44.1-11.	Office of management and budget they may continue
54-44.1-12.	Control over rate of interest
54-44.1-13.	Budget requests for the biennial report
54-44.1-14.	Biennial report to the legislature

54-44.1-01. Definition. This section defines the term "office of management and budget" as the board, commission, agency or distinct appropriation

Source: S.L. 1965, ch. 356, § 1.

Collateral References.

States ⇌ 121.

the various state institu-
the standards and spec-

office of management
gement and budget shall
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ls of occupational and
ational and professional
aw shall deposit all fees
by the majority vote of
ommission. Checks may

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

Source: S.L. 1971, ch. 510, § 14.

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

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

Source: S.L. 1971, ch. 511, § 1.

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

Note.

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

CHAPTER 54-44.1

OFFICE OF THE BUDGET

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

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

Source: S.L. 1965, ch. 358, § 1.

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

Collateral References.

States ⇐ 121.

— Employees — Powers.
 The office of management
 economy and efficiency in the
 the director of the office of
 or of the budget.
 Budget analyst who shall hold
 tion of higher learning and
 ications of eligible persons,
 onsideration shall be given
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 perience in governmental
 ie pleasure of the director
 y such other professional,
 em necessary to carry out
 the salary of all employees
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 dget shall be allowed their
 e rate as for other employ-

actions of auditing board, see

ector of the budget. The
 as he shall designate shall
 sponsibilities involved in
 ograms from the several
 nment.

onsibilities involved in the
 timates.

asis for budget recommen-
 prepare detailed documents
 and plans for presentation

s of the state to assure the
 ies approved by the legisla-

ion of the budget affecting
 s of the executive branch
 al of all commitments for
 e budget, frequent compar-
 es, and control of the rate
 nual, quarterly, or monthly

studies:
 entire executive branch of
 n, and agency thereof.
 es of all executive branch
 ries, boards, bureaus, and

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

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

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

Source: S.L. 1965, ch. 358, § 4; 1981, ch. 539, § 1.

Cross-References.

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

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

Decisions under Prior Law.

Heads of state hail insurance fund, state bonding fund, state fire and tornado fund, and workmen's compensation fund had duty of filing statements of funds needed as prescribed by former section 54-15-05. *Langer v. State* (1939) 69 ND 129, 234 NW 238.

54-44.1-05. Federal aid budget requests — Filed with the office of the budget. Every agency of the state government when making requests

for budgets to be submitted to the federal government for funds, equipment, material, or services shall have such request or budget filed in the office of the budget before submitting it to the proper federal authority. When such federal authority has approved the request or budget, in whole or in part, the agency of the state government shall resubmit it to the office of the budget for recording before any allotment or encumbrance of the federal funds can be made.

Source: S.L. 1965, ch. 358, § 5.

(from treasurer of agricultural college, see § 15-12-06.1.)

Cross-References.

Budget director to receive quarterly reports

54-44.1-06. Preparation of the budget data — Contents. The director of the budget, through the office of the budget, shall prepare budget data which shall contain and include the following:

1. Summary statements of the financial condition of the state, accompanied by such detailed schedules of assets and liabilities as the director of the budget deems desirable, which shall include, but not be limited to, the following:
 - a. Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total appropriations for the previous and present biennium, and the total expenditures for those fiscal years; and
 - b. Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

Summary statements may include, but not be limited to, a comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium.

2. Statements of actual revenue for the previous biennium, the first year of the present biennium, and the estimated revenue of the current fiscal year and of the next biennium, and a statement of unappropriated surplus expected to have accrued in the state treasury at the beginning of the next fiscal year. The statements of revenue and estimated revenue shall be classified by sources and by budget unit collecting them. Existing sources of revenue shall be analyzed as to their equity, productivity, and need for revision, and any proposed new sources of revenue shall be explained.
3. Summary statements of expenditures of the previous biennium and first year of the present biennium, itemized by budget units and classified as prescribed by the director of the budget.
4. Detailed comparative statements of expenditures and requests for appropriations by funds, budget units and classification of expenditures, showing the expenditures for the previous biennium, the first fiscal year of the present biennium, the budget of the current biennium, and the governor's recommendation for appropriations for each budget unit for the next biennium, all distributed according to the

prescribed classification and proposed expenditure explanation of the funds and plans and on any recommended, with such data as to work done, considered necessary or being construction projects there shall be shown and the amount expended in each Capital outlay needs the period covered by

5. A detailed statement be raised or appropriate debt of the state and amount of money required fiscal years to the generation and payment of the
6. A summary statement to be available at the estimated revenue of the recommended amounts for the next biennium exceeds the total as to how the deficient additional revenue.
7. Drafts of a proposed legislative acts embodying governor for appropriate revenues and other acts effect the proposed financing for each budget the general appropriation
8. Such other information or as is required by law

Source: S.L. 1965, ch. 358, § 562, § 1.

54-44.1-07. Presentation to legislative assembly. The director shall present the budget data to the budget and revenue committee of the council. The budget data shall be acceptable to it by December of the legislative assembly,

ment for funds, equipment, or budget filed in the office per federal authority. When st or budget, in whole or in l resubmit it to the office of r encumbrance of the federal

isurer of agricultural college, see .1.

a — Contents. The director t, shall prepare budget data

dition of the state, accompa- and liabilities as the director ll include, but not be limited

and assets showing in detail at the beginning of each of biennium and the first fiscal ual revenue for those years, ous and present biennium, cal years; and estimated fund balances and l each of the fiscal years of

t be limited to, a comparative e assets and liabilities of the ase may be, at the close of n.

ious biennium, the first year ated revenue of the current l a statement of unappropri- n the state treasury at the tements of revenue and esti- es and by budget unit collect- hall be analyzed as to their ion, and any proposed new

the previous biennium and d by budget units and classi- dget.

enditures and requests for nd classification of expendi- previous biennium, the first budget of the current bien- n for appropriations for each distributed according to the

prescribed classification of expenditures. Following the lists of actual and proposed expenditures of each budget unit there shall be a brief explanation of the functions of the unit and comments on its policies and plans and on any considerable differences among the amounts recommended, with such descriptive, quantitative, comparative, and other data as to work done, unit costs, and like information as may be considered necessary or desirable. For capital outlay expenditures involving construction projects to be completed in two or more fiscal years, there shall be shown the total estimated cost of each such project and the amount thereof recommended to be appropriated and expended in each ensuing fiscal year until completion of the project. Capital outlay needs may be projected for at least two years beyond the period covered by the budget.

5. A detailed statement showing the estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest, and the amount of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state.
6. A summary statement of the unappropriated fund balance estimated to be available at the beginning of the next biennium, and the estimated revenue of the next biennium, as compared with the total recommended amounts of appropriation for all classes of expenditures for the next biennium, and if the total of the recommended expenditures exceeds the total of the estimated resources, recommendations as to how the deficiency is to be met and estimates of any proposed additional revenue.
7. Drafts of a proposed general appropriations act and special appropriations acts embodying the budget data and recommendations of the governor for appropriations for the next biennium, and drafts of such revenues and other acts recommended by the governor for putting into effect the proposed financial plan. The recommended general appropriation for each budget unit shall be specified in a separate section of the general appropriations act.
8. Such other information as the director of the budget deems desirable or as is required by law.

Source: S.L. 1965, ch. 358, § 6; 1979, ch. 562, § 1.

54-44.1-07. Presentation of budget data — How presented to the legislative assembly. The director of the budget or his designated subordinate shall present the budget data information in section 54-44.1-06, including the budget and revenue proposals recommended by the governor, and make available sufficient copies thereof to the budget section of the legislative council. The budget data shall be completed and made available to the budget section of the legislative council, or its designee, in such form as may be acceptable to it by December first of each year next preceding the session of the legislative assembly, or at such later date as may be set by the budget

section chairman. The chairman of the budget section shall set the time and place at which such budget data is to be presented.

Source: S.L. 1965, ch. 358, § 7; 1969, ch. 448, § 26; 1981, ch. 540, § 1.

Decisions under Prior Law.

The budget of appropriations prepared by

54-44.1-08. Budget report — Contents — When submitted to legislative assembly. The official budget report shall be transmitted by the governor to all holdover legislators and legislators-elect not later than three days after the commencement of the session of the legislative assembly. Such report is not a third-class item under section 46-02-05. The budget director shall provide for the duplication or other satisfactory reproduction or printing of the official budget report, so as to ensure delivery of same as provided in this section. Such reports shall contain the budget and revenue proposals recommended by the governor and the information required in subsections 1, 2, 3, 5, and 6 of section 54-44.1-06 and all other data and information as the governor shall decide. The budget director shall make available any and all information regarding budget data to the governor, the legislative assembly and its designees, legislators, and to the governor-elect as may be requested. The governor may present any additional budget information in any manner to the legislative assembly as he may desire.

Source: S.L. 1965, ch. 358, § 8; 1967, ch. 393, § 1; 1973, ch. 430, § 1.

54-44.1-09. All expenditures must be appropriated. All expenditures of the state and of its budget units of moneys drawn from the state treasury shall be made under authority of biennial appropriations acts, which shall be based upon a budget as provided by law, and no money shall be drawn from the treasury, except by appropriation made by law as required by section 12 of article X of the Constitution of North Dakota.

Source: S.L. 1965, ch. 358, § 9.

54-44.1-10. Payments made pursuant to law only. No payment shall be made and no obligation shall be incurred against any appropriation unless such payment or obligation has been authorized as provided by law. Every official authorizing payments in violation of this chapter shall be subject to the penalties and provisions of chapter 12.1-23.

Source: S.L. 1965, ch. 358, § 10; 1977, ch. 496, § 1.

54-44.1-11. Office of management and budget to cancel unexpended appropriations — When they may continue. The office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations, which shall have remained undrawn after the expiration of the biennial period during which they became available under the law. The chairman of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations

or balances in force for not the biennial period during the term of the director of the budget.

1. New construction projects
2. Major repair or improvement
3. Purchases of new equipment per unit if it was ordered during the biennial period in which the fund was available
4. The purchase of land where the total purchase price is less than \$10,000

Source: S.L. 1965, ch. 358, § 11, 563, § 1.

54-44.1-12. Control over expenditures. The director of the budget shall exercise continual control over the expenditures of the departments and agencies of the government. Execution shall be made in conformity with the budget. The director shall compare actual revenues with the budget and make these analyses and comparisons available to the legislature. A system of semiannual, quarterly, and monthly reports shall be made which will reduce expenditures to the minimum pursuant to an appropriation. Expenditure is made, the director shall report the circumstances to exist:

1. The moneys and estimates of expenditures when an appropriation is made or when moneys are drawn from the fund.
2. The payment or the obligation incurred.
3. The expenditure or obligation recorded in any reliable evidence available.
4. Circumstances or available by the legislative assembly when the purpose of the appropriation is not achieved.

Source: S.L. 1965, ch. 358, § 12, 394, § 1.

54-44.1-13. Budget requests. The budget requests and branches of this state shall be made to the legislature and such budget requests shall be considered by the legislative assembly with information of the budget not later than the first session of the legislative assembly.

Source: S.L. 1965, ch. 358, § 13.

54-44.1-14. Biennial report. The director of the budget or such member of

t section shall set the time sented.

was an official record, of which the did take judicial notice. State ex rel. Jorgenson (1916) 34 ND 527, 159

When submitted to legisla- be transmitted by the gover- ect not later than three days e legislative assembly. Such 6-02-05. The budget director ctory reproduction or print- delivery of same as provided uget and revenue proposals tion required in subsections other data and information or shall make available any the governor, the legislative o the governor-lect as may dditional budget information may desire.

ropriated. All expenditures own from the state treasury ropriations acts, which shall id no money shall be drawn ade by law as required by th Dakota.

aw only. No payment shall against any appropriation thorized as provided by law. on of this chapter shall be r 12.1-23.

iget to cancel unexpended . The office of management biennial period, shall cancel appropriations, which shall f the biennial period during e chairman of the appropria- representatives of the legisla- ay continue appropriations

or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommenda- tion of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the bien- nium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase where the total purchase price is within the authorized appropriation.

Source: S.L. 1965, ch. 358, § 11; 1979, ch. 563, § 1.

54-44.1-12. **Control over rate of expenditures.** The director of the bud- get shall exercise continual control over the execution of the budget affect- ing the departments and agencies of the executive branch of the state government. Execution shall mean the analysis and approval of all commit- ments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and on the basis of these analyses and comparisons control the rate of expenditures through a system of semiannual, quarterly, or monthly allotments. Before an allot- ment is made which will reduce the amount of funds which can be disbursed pursuant to an appropriation or before an allotment disallowing a specific expenditure is made, the director must find one or more of the following circumstances to exist:

1. The moneys and estimated revenues in a specific fund from which the appropriation is made are insufficient to meet all legislative appropria- tions from the fund.
2. The payment or the obligation incurred is not authorized by law.
3. The expenditure or obligation is contrary to legislative intent as recorded in any reliable legislative records, documents, or other reli- able evidence available.
4. Circumstances or availability of facts not previously known or fore- seen by the legislative assembly which make possible the accomplish- ment of the purpose of the appropriation at a lesser amount than that appropriated.

Source: S.L. 1965, ch. 358, § 12; 1967, ch. 394, § 1.

54-44.1-13. **Budget requests for legislative and judicial branches.** The budget requests and expenditures for the legislative and judicial branches of this state shall not be subject to the provisions of this chapter and such budget requests shall be submitted directly to the legislative assembly with informational copies of such budgets provided to the director of the budget not later than November fifteenth in each year preceding a session of the legislative assembly.

Source: S.L. 1965, ch. 358, § 13.

54-44.1-14. **Biennial report to legislative assembly.** The director of the budget or such member of that office as he shall designate may prepare

and transmit to the governor and upon approval by him may transmit to the members of the legislative assembly at least sixty days prior to the commencement of an ensuing legislative session a report which shall contain definite and specific proposals and recommendations to accomplish the following purposes:

1. To simplify the governmental structure of the state so as to render it more economical and efficient.
2. To eliminate all obsolete and unnecessary offices, departments, institutions, boards, bureaus, and commissions of the state.
3. To consolidate the functions, services, and activities of state offices and agencies thereof so as to eliminate duplication of service and expense wherever it exists.
4. To correlate the functions and services of the several offices and agencies of the state government.
5. To eliminate obsolete methods, unnecessary functions and services carried on by the state government and to render those functions and services which are determined to be absolutely essential and more economical and efficient.

Source: S.L. 1965, ch. 358, § 14.

CHAPTER 54-44.2

OFFICE OF CENTRAL DATA PROCESSING

Section

- 54-44.2-00.1. Definitions.
 54-44.2-01. Office of central data processing — Creation.
 54-44.2-02. Office of central data processing — Powers and duties.
 54-44.2-03. Acquisition of data processing equipment.
 54-44.2-04. Appointment of data processing coordinators.
 54-44.2-05. Repealed by S.L. 1979, ch. 565, § 1.
 54-44.2-06. Secrecy provision.

54-44.2-00.1. Definitions. As used in this chapter:

1. "Data processing" or "electronic data processing" means the systematic sequencing of operations performed by data processing equipment or programs, or both, upon data stored or entered in alphabetic, numeric, or alphanumeric format.
2. "Data processing equipment" means an electronic device or associated devices, except calculators and stand-alone noncommunicating word processors, which perform logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses and includes all compiling and related input, output, and storage, equipment, programs and procedures, and data processing communication facilities.
3. "Word processing" means the textual formatting, correcting, editing, and rearranging of language elements, designed to convey full messages in English syntax, through manipulation of electronic or magnetic impulses. "Word processors" are devices on which word processing can be carried out.

Source: S.L. 1981, ch. 539, § 2.

54-44.2-01. Office of central data processing and budget. The director shall appoint a director of central data processing shall supervise of all of the executive boards, except the job s general. The office of ce data processing center w by all executive branch s the institutions under th service North Dakota, a central data processing s tive and judicial branch cessing is unable to fu judicial branch of gover tive or judicial branch w:

The director of centra of education, experience administration, without the pleasure of the dire director of central data technical, and clerical p the duties prescribed in legislative appropriation of central data processi processing shall be allo the same rate as for othe

Source: S.L. 1969, ch. 454 539, § 3.

54-44.2-02. Office of The office of central data

1. Provide systems de vices.
2. Design, plan, justi within and betwee office of central dat:
3. Have the authorit; or replace, includi be necessary to car; branch departmen under the control North Dakota, and director of central written request for processing applicat ions to existing to increase the cost

condition and results of operation of the State of Oregon in accordance with current, generally accepted accounting principles and such other financial and statistical information as may be necessary to completely and accurately disclose the financial condition and financial operations of the state and its various agencies. The financial statements shall include, but not be limited to, such information as may be found in a balance sheet, a statement of changes in fund balances, statement comparing budgeted and actual revenues and expenditures, statement of changes in financial position and a statement of operations. The financial statements shall compare the current fiscal year and, if it is the second year of the biennium, the first year thereof, and each fiscal year of the preceding biennium.

(2) As used in subsection (1) of this section, generally accepted accounting principles shall mean those accounting principles sanctioned by recognized authoritative bodies such as the National Council on Governmental Accounting, the American Institute of Certified Public Accountants, the Financial Accounting Standards Board or their successors.

(3) The first financial report required by subsection (1) of this section shall be prepared for the biennium ending June 30, 1979. (1977 c.897 §1)

Note: 291.040 and 291.042 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

291.042 Use of data processing programs, information and materials; approval by legislature. (1) Subject to the approval of the Joint Legislative Committee on Data Processing, the Data Systems Division of the Executive Department:

(a) May obtain copyrights and patents on copyrightable or patentable data processing programs, information or materials developed, published or produced by state agency staff.

(b) May cause to have sold, leased, or otherwise made available such data processing programs, information or materials to any agency or legislative body of any state or the Federal Government under such terms and conditions as may be agreed to by the committee and the agencies.

(2) Moneys collected under this section shall be credited to the General Fund and are available for general governmental purposes. (1979 c.740 §3)

Note: See note under 291.040.

STATE BUDGET; BUDGET REPORT

291.202 Budget report of Governor; department to assist Governor in preparation. Except as otherwise provided in ORS 291.222, the Governor shall prepare in each even-numbered year a budget report for the biennium beginning July 1 of the following year. The Executive Department shall advise and assist the Governor in the preparation of his budget report and shall perform such duties in connection therewith as the Governor requires. (Amended by 1969 c.464 §2)

291.204 Prescribing forms for submitting budget estimates and requests for appropriations; furnishing budget forms to agencies. The department, by July 1 of each even-numbered year, shall furnish every state agency with a sufficient number of forms for its use in preparing for submission to the Governor the information required by the Governor in the preparation of his budget report. The Governor shall prescribe the forms to be used by the agencies in submitting their budget estimates and requests for appropriations as required by ORS 291.208.

291.206 Guidance of agencies in completing budget forms. (1) The Governor shall prescribe such rules and regulations as he deems necessary for the guidance of agencies in the preparation of the budget estimates and requests. The Governor, with the approval of the Secretary of State, shall prepare and prescribe classifications of expenditures and revenue for the purpose of budget-making and accounting.

(2) In so far as practicable, agency budget estimates and requests and appropriation measures shall be prepared in a manner that reflects state governmental organization and state agency duties, functions and powers under the law in effect on January 1 of the following year. The Executive Department shall maintain agency budget estimates and requests in the form in which they are submitted. (Amended by 1969 c.173 §1)

291.208 Filing budget forms with department; preparing requests for agencies failing to file. Each state agency shall file with the department, before September 1 in each even-numbered year, on the form and in the manner required, its budget forms

containing the information required. The department shall prepare budget estimates and requests for appropriations for all agencies that fail to file requests.

291.210 Preparing tentative budget plan. The department, in connection with its direct studies of the operations, plans and needs of state agencies and of the existing and prospective sources of income, shall prepare a tentative budget plan for the two fiscal years for which a budget report is required to be prepared.

291.212 Revising budget plan; transmitting budget forms and tentative budget report to Governor. Upon receipt of the budget forms, the department shall check the agencies' estimates in the light of the tentative budget plan and shall make such further inquiries and investigations as the Governor requires and revise its tentative budget plan accordingly. The department then shall transmit to the Governor the budget forms filed with it by the state agencies and the revised tentative budget report.

291.214 Governor to examine budget forms and revise tentative budget report. The Governor, during the preparation of the budget report and before its submission to the Legislative Assembly, shall examine the budget forms filed by the various agencies. He may make or cause to be made such further investigations by the department, with such hearings before him or any state agency, as he deems advisable, and may make such changes or revisions in policy and program and in specific details of the tentative budget report as he finds warranted.

291.216 Governor's budget report. (1) Not later than November 10 of each even-numbered year the Governor shall cause the budget report to be compiled and prepared for printing.

(2) The budget report shall include a budget message prepared by the Governor, including his recommendations with reference to the fiscal policy of the state government for the coming biennium, describing the important features of the budget plan, embracing a general budget summary setting forth the aggregate figures of the budget report so as to show a balanced relation between the total proposed expenditures and the total anticipated income, with the basis and factors on which the estimates are made, the amount to be borrowed, and other means of financing the

estimated expenditures for the ensuing biennium, compared with the corresponding figures for at least the last completed biennium and the current biennium.

(3) The budget plan shall be supported by explanatory schedules or statements, classifying the expenditures reported therein, both past and proposed, by organization units, objects and funds, and the income by organization units, sources and funds, and the proposed amount of new borrowing as well as proposed new tax or revenue sources.

(4) The budget plan shall be submitted for all dedicated funds, as well as the state General Fund, and shall include the estimated amounts of federal and other aids or grants to state agencies or activities provided for any purpose whatever, together with estimated expenditures therefrom.

(5) The budget report shall embrace the detailed estimates of expenditures and revenues. It shall include statements of the bonded indebtedness of the state government, showing the actual amount of the debt service for at least the past biennium, and the estimated amount for the current biennium and the ensuing biennium, the debt authorized and unissued, the condition of the sinking funds and the borrowing capacity. It shall also contain any statements relative to the financial plan which the Governor may deem desirable or which may be required by the legislature.

291.218 Printing budget report; transmitting to members of legislature; distribution. Except when the Governor under whose supervision the budget report has been prepared will be succeeded in office in January next following:

(1) The department shall have as many copies of the approved budget report printed as the Governor directs.

(2) Not later than December 1 of each even-numbered year, the Governor shall transmit a copy thereof to each member of the legislature who is to serve during the next session.

(3) Upon request, the Governor shall distribute copies free of charge, under such regulations as he may establish, to public libraries, schools and state officials. He shall make copies available to the general public at a reasonable charge for each copy. [Amended by 1959 c.140 §1; 1987 c.302 §1]

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291.220 Furnishing information and assistance to legislature. The Governor, upon request, shall furnish the Legislative Assembly any further information required concerning the budget report. The department, upon request, shall furnish a representative to assist the Legislative Assembly, its Joint Committee on Ways and Means, appointed under ORS 171.555, and the Legislative Revenue Officer in the consideration of the budget report and any accompanying measures. [Amended by 1969 c.173 §2; 1975 c.789 §8]

291.222 Furnishing information and assistance to Governor-elect; revision of budget report. If the Governor under whose supervision the budget report has been prepared will be succeeded in office in January next following:

(1) The department shall make available to the Governor-elect so much as he requests of the information upon which the tentative budget report is based, and upon completion of the tentative budget report shall supply him with a copy thereof but shall not cause the tentative budget report to be printed and distributed. The department shall also make available to him all facilities of the department reasonably necessary to permit him to review and familiarize himself with the tentative budget report.

(2) After a review of the tentative budget the Governor-elect may prepare revisions and additions thereto. The department shall assist, upon request, in the preparation of such revisions or additions.

(3) The department shall have as many copies of the revised budget report printed as the Governor-elect requests.

(4) Not later than the convening of the next Legislative Assembly the department shall transmit a copy of a summary of the revised budget report containing the revenue and expenditure recommendations of the Governor-elect and not later than February 1 shall transmit a copy of the revised budget report to each member of the Legislative Assembly.

(5) Upon request, the department shall distribute copies of the revised budget report free of charge, under such regulations as it may establish, to public libraries, schools and state officials. It shall make copies of the revised budget report available to the general public at a reasonable charge for each copy. [Amended by 1967 c.302 §2; 1969 c.464 §3]

291.223 Furnishing agency budget estimates to Legislative Fiscal Officer and Legislative Revenue Officer; confidentiality of estimates. (1) Not later than November 10 of each even-numbered year the Governor shall cause the agency budget estimates and requests as described in ORS 291.206 to be made available to the Legislative Fiscal Officer and to the Legislative Revenue Officer.

(2) Before December 1 of the year in which they were made available under subsection (1) of this section, the Legislative Fiscal Officer or his staff and the Legislative Revenue Officer or his staff shall not reveal to any other person the contents or nature of the budget reports and other materials, except with the written consent of the Governor. [1969 c.173 §4; 1975 c.789 §9]

291.224 Capital construction program to be included in budget report; recommendation of Capitol Planning Commission. (1) A capital construction program containing estimated capital construction needs, irrespective of how financed, shall be included with the budget report required by ORS 291.216. The capital construction program shall contain the estimated physical construction requirements for each biennium of a period to be determined by the Governor, which period shall not be less than six years. The department shall assist the Governor in the preparation of the capital construction program.

(2) Except as otherwise provided in subsection (3) of this section and in accordance with regulations prescribed by the department, state agencies shall submit to the department their anticipated capital construction requirements for the period specified by the Governor. The department shall prescribe the basic assumptions relating to population changes, economic trends and other factors which might generally affect capital construction requirements and these basic assumptions shall be used by the state agencies in preparing their anticipated capital construction requirements. Each state agency is responsible for the basic assumptions which affect only its own program. The department shall prepare estimated capital construction requirements for any necessary capital construction not covered by the capital construction requirements submitted by the state agencies under this section.

(3) Each state agency, including the department, required under subsection (2) of

this section to submit or prepare anticipated or estimated capital construction requirements, shall submit a copy of such requirements that relate to construction or improvements within the areas described in ORS 276.028 to the Capitol Planning Commission at a time specified by the Capitol Planning Commission, but not later than August 1 of each even-numbered year. The Capitol Planning Commission shall review capital construction requirements submitted as required by this subsection and, not later than November 1 of each even-numbered year, make recommendations to the department with respect to such capital construction proposals.

(4) In accordance with regulations prescribed by the department, each state agency shall separately submit its estimated office space requirements for the period specified by the Governor; and the department shall consolidate those needs and make an estimate for all state office buildings to be included in the capital construction program.

(5) The Governor shall consolidate the estimates, review all of them and make such revisions as he finds warranted.

(6) The budget report shall include the proposed expenditures for the capital construction program for the ensuing biennium and the proposed expenditures for preliminary planning of the construction projects included in the capital construction program for the biennium following the ensuing biennium. The budget report shall also include dollar estimates of the cost of the capital construction projects included in the capital construction program for the succeeding years of the period determined by the Governor under subsection (1) of this section and the recommendations submitted to the department pursuant to subsection (3) of this section.

(7) As used in this section, "capital construction program" does not include the acquisition, repair, improvement, enlargement, construction or maintenance of highways and highway bridges, or park improvements, by the Department of Transportation. (1959 c.500 §1; 1973 c.129 §5)

291.226 Budget item to replace lost and unrecovered public funds or property. When there has been a failure to recover a loss of public funds or property pursuant to ORS 297.120, the state agency sustaining the loss shall include the amount of the loss in its budget estimate and request for the following biennium clearly marked as to purpose, and

the Governor shall include such item in his budget report for the consideration of the Legislative Assembly. (1963 c.617 §3)

ALLOTMENTS

291.232 Declaration of policy. It is declared to be the policy and intent of the Legislative Assembly that the total appropriations made by it, or the total of any budget approved by it, for any state agency, shall be deemed to be the maximum amount necessary to meet the requirements of such agency for the biennium, excepting as may otherwise be provided by law, and that the Governor and the Executive Department are given the powers granted by ORS 291.202 to 291.222 and 291.232 to 291.260 in order that savings may be effected by careful supervision throughout each biennium, with due regard to changing conditions, and by promoting more economic and efficient management of state agencies.

291.234 Department to make allotments to state officers and agencies of appropriations and funds; allotment period. (1) The department shall make allotments to state officers and agencies of appropriations and funds pursuant to the allotment system provided for in ORS 291.234 to 291.260.

(2) For the purposes of the allotment system, each fiscal year shall be divided into four quarterly allotment periods, beginning, respectively, on the first days of July, October, January and April. However, in any case where the quarterly allotment period is impracticable, the department may prescribe a different period suited to the circumstances, not exceeding six months nor extending beyond the end of the biennium.

291.236 Allotment system applicable to all appropriations; controlling expenditures and encumbering of emergency, contingent, revolving and trust funds. (1) The provisions of ORS 291.234 to 291.260 relating to the allotment system shall apply to all appropriations for state officers and agencies. For this purpose "appropriation" includes standing, continuing and annual appropriations, and dedicated funds. In those cases where periodical allotments are impracticable, the department may dispense therewith and prescribe such regulations as will insure proper application and encumbering of funds.

(2) Subject to ORS 291.238, emergency or contingent funds, revolving funds and trust funds shall be subject to such regulations as

the department may prescribe for controlling the expenditures and encumbering of such funds.

291.238 Expenditures without allotment prohibited; expenditures from dedicated, revolving and trust funds. (1) Except as expressly authorized in this section or ORS 291.236, no person shall incur, or order or vote to incur, any obligation against the state in excess of, or make or order or vote to make any expenditure not authorized by, an allotment. Any such obligation so incurred shall not be binding against the state, but where the obligation violates this section only for having been made in excess of an allotment, the department may authorize payment therefrom from unallotted funds.

(2) Excepting as to administrative expenditures from dedicated, revolving and trust funds and to revolving funds established to provide services rendered by any state agency to other state agencies or to any body politic of the State of Oregon, expenditures from dedicated funds, revolving funds and trust funds may be made by any state agency without appropriation or allotment.

(3) No person shall make or order or vote to make any expenditure from or chargeable to a revolving fund or trust fund in excess of the amount standing to the credit of such fund or for any purpose for which such fund may not lawfully be expended.

291.240 [Repealed by 1953 c.168 §4]

291.242 Allotment required before expenditure of appropriation; submitting estimates. No appropriation to which the allotment system is applicable shall become available to any state agency for expenditure thereby during any allotment period until:

(1) The agency submits to the department an estimate, in such form as the department prescribes, for such allotment period, of the amount required for each activity to be carried on during that period; and

(2) The estimate is approved, increased or decreased by the department and funds allotted therefor.

291.244 Department action on estimates. The department shall act promptly upon all estimates required by ORS 291.242. If the estimate is within the terms of the appropriation as to amount and purposes, having due regard for the probable further needs of the agency for the remainder of the

term for which the appropriation was made, and if the department determines that there is a need for the estimated amount for the allotment period, the department shall approve the estimate and allot the estimated amount for expenditures. Otherwise the department shall modify the estimate so as to conform with the terms of the appropriation and the prospective needs of the agency, and shall reduce the amount allotted accordingly.

291.246 Allotments to be made for purpose or classification of expenditure prescribed in appropriation measure. Allotments shall be made according to purpose and classification of expenditures prescribed in the appropriation measure as enacted by the Legislative Assembly; provided, however, that the department may make allotments for agencies by purposes or by other classification of expenditures of amounts appropriated or authorized to be expended in appropriation measures enacted by the Legislative Assembly, whether or not such measures establish classification of expenditures. In making allotments, the department shall not authorize the expenditure of moneys for any purpose not authorized by the Act appropriating the money or authorizing it to be expended, and the funds allotted for each purpose or classification of expenditure shall be used for no other purpose or classification of expenditure. (Amended by 1963 c.182 §7)

291.248 Notice of allotment. Upon the granting of any allotment, the department shall transmit a notice of the allotment to the agency concerned.

291.250 Claims and encumbrances limited by amount and purpose of allotment. The agency shall not create any claim or encumbrance for the future disbursement of appropriated moneys unless the proposed expenditure as estimated, together with expenses theretofore paid from or encumbered against such allotment, is within the total amount and for the purposes specified in the notice of allotment transmitted to such agency.

291.252 Modifying allotment previously made. The department may at any time modify or amend any allotment previously made by it, upon application of, or upon notice to, the agency concerned, but no such modification or amendment shall reduce an allotment below the amount required to meet

valid obligations or commitments previously incurred against the allotted funds.

291.254 Reducing allotment to prevent deficit. If the department determines at any time that the probable receipts from taxes or any other sources for any appropriation will be less than was anticipated, and that consequently the amount available for the remainder of the term of the appropriation or for any allotment period will be less than the amount estimated or allotted therefor, the department shall, with the approval of the Governor, and after notice to the agency or agencies concerned, reduce the amount allotted or to be allotted so as to prevent a deficit.

291.256 [Repealed by 1959 c.608 §1]

291.258 Approval of department required for establishment of new personnel position or classification. A new personnel position or classification, not provided in the budget of an agency upon which appropriations have been based, shall not be established without prior approval of the department.

291.260 Approving, modifying or disapproving requests and budgets to be submitted to the Federal Government. Every state agency, when making requests or preparing budgets to be submitted to the Federal Government for funds, equipment, materials or services, other than for highway purposes, and purposes for which the state was legally committed on August 2, 1951, shall, upon completion of such request or budget, first submit it to the department. The department shall have authority to approve, disapprove, modify or amend any such request or budget before it is submitted to the proper federal authority.

291.262 [1963 c.182 §6; 1965 c.111 §1; repealed by 1969 c.488 §3]

ALLOCATION OF GOVERNMENTAL SERVICE EXPENSES

291.272 Definitions for ORS 291.272 to 291.280. As used in ORS 291.272 to 291.280, unless the context requires otherwise:

- (1) "Administrative expenses" has the meaning defined by ORS 291.305.
- (2) "Department" means the Executive Department.
- (3) "Governmental service expenses" means the expenses of state government that

are attributable to the operation, maintenance, administration and support of state government generally, and includes the following:

(a) Expenditures of the State Treasurer supported out of the General Fund incurred in the administration of the duties of his office, but not including the Inheritance and Gift Tax Divisions.

(b) Expenditures of the Department of Justice incurred in the administration of its duties, other than those of the Support Enforcement Division.

(c) Administrative expenses of the Executive Department supported out of the General Fund.

(d) One-half of the expenditures of the Legislative Assembly out of moneys appropriated from the General Fund, and all of the expenditures incurred in the administration of the duties of the Emergency Board.

(e) One-half of the expenditures incurred in the administration of the duties of the Joint Committee on Ways and Means and the Emergency Board.

(f) One-half of the expenditures incurred out of moneys appropriated from the General Fund in the administration of the duties of the Legislative Counsel Committee.

(g) Expenditures of the Secretary of State in the administration of the office of the State Archivist.

(4) "State agency" means every state officer, board, commission, department, institution, branch or agency of the state government, whose costs are paid wholly or in part from funds held in the State Treasury, and includes the Legislative Assembly, the courts and their officers and committees. [1967 c.637 §2; 1973 c.439 §9]

291.274 Determination of funds and appropriations to be assessed. The department shall determine and may at any time redetermine which state funds or appropriations shall be assessed a reasonable share of governmental service expenses. In determining or redetermining the funds that shall be so assessed:

- (1) A fund consisting of moneys the use of which is restricted by the Oregon Constitution shall be assessed only those governmental service expenses ascertained as being necessarily incurred in connection with the purposes set forth in the Oregon Constitution.

(2) Trust funds shall be assessed only those governmental service expenses ascertained as being necessarily incurred in connection with the purposes for which the trust fund was established. (1967 c.637 §3)

291.276 Department to allocate governmental service expenses among state agencies. (1) With respect to each biennium beginning on July 1 of an odd-numbered year, commencing July 1, 1971, the department shall allocate among all state agencies the governmental service expenses, as determined by the department in accordance with ORS 291.272, for the biennium ending two years prior to the beginning of the biennium for which the allocation is made.

(2) The department, in accordance with the procedures and methods prescribed under subsection (3) of this section, shall determine and may at any time redetermine the reasonable share of governmental service expenses to be assessed against any fund or appropriation. Such expenses shall be a charge against any fund so designated and be considered an administrative expense of the agency administering the fund or appropriation.

(3) The department, with the approval of the Governor, shall prepare and prescribe the procedures and methods used in determining and redetermining the reasonable share of governmental service expenses assessed against any fund or appropriation.

(4) The department, with the approval of the Governor, may make rules necessary or proper to carry out the duties imposed upon it by ORS 291.272 to 291.280.

(5) The computation required by subsection (1) of this section shall be made by the department in advance of the biennium with respect to which the allocation is to be made.

(1967 c.637 §4; 1969 c.105 §1)

291.278 Transfer of allocated amounts to General Fund. (1) Upon completion of the determination by the department under ORS 291.274 and 291.276, the department shall transfer to the General Fund, with appropriate notice to the State Treasurer, out of moneys appropriated to each state agency, the amount of governmental service expenses so certified for the agency.

(2) In the case of a state agency that collects or receives moneys for fees, fines, licenses or taxes not by law made a part of the General Fund available for general governmental purposes, if moneys available to such

state agency are not sufficient to permit the transfer under subsection (1) of this section, the department shall notify the state agency of the amount certified with respect to the state agency under ORS 291.274 and 291.276, less any amount transferred out of moneys appropriated to such state agency under subsection (1) of this section. Thereafter, until such balance has been paid into the General Fund, 10 percent of all moneys collected or received by the state agency for fees, fines, licenses or taxes not by law made a part of the General Fund available for general governmental purposes shall be:

(a) Transferred by the department to and made a part of the General Fund available for general governmental purposes if such moneys are paid to the State Treasurer by the state agency; or

(b) Paid to the State Treasurer by the state agency receiving such moneys at the time when they are received by the state agency if such moneys are authorized by law to be kept and disbursed other than by and through the State Treasurer, and be credited by the State Treasurer to and made a part of the General Fund available for general governmental purposes.

(3) The transfer and payment to the General Fund required by this section shall be made notwithstanding any law that appropriates such moneys or any of them to any other purposes, and such portion so paid and transferred is not subject to any special uses thereby provided. (1967 c.637 §5)

291.280 Receipts by State Treasurer for transferred moneys. In receipting for moneys paid and transferred under ORS 291.278 (2), the State Treasurer shall make his receipt in duplicate, showing the amount credited to the General Fund available for general governmental purposes as well as the amount credited to any special fund or account. He shall file one of the duplicate receipts with the department. (1967 c.637 §6)

291.302 [Repealed by 1953 c.386 §9]

291.304 [Repealed by 1953 c.386 §9]

ACTS APPROPRIATING MONEY OR LIMITING EXPENDITURES

291.305 Meaning of "administrative expenses" in law appropriating money or limiting expenditures; limitation not ap-

appropriation of money otherwise unavailable to agency. (1) As used in the laws enacted by the Legislative Assembly appropriating money or limiting expenditures, the term "administrative expenses" means, unless the context requires otherwise, those expenditures that are included under the classifications of expenditures, except debt service and special payments expenditure categories, which are prepared and prescribed, pursuant to ORS 291.206, for the purpose of budget-making and accounting during the biennium for which such laws appropriating money or limiting expenditures are enacted.

(2) In the laws enacted by the Legislative Assembly, the establishment of maximum limits for expenditures from, or for the payment of administrative expenses from, fees, moneys or other revenues collected or received by any agency is not intended as an appropriation of moneys not otherwise available to such agency. [1963 c.182 §1, 3]

291.308 (Repealed by 1953 c.386 §9)

291.307 Appropriation from General Fund to constitute a credit only. An appropriation of any sum of money from the General Fund by any law shall not be considered as segregating or setting aside the amount of such appropriation from the moneys constituting the General Fund, but shall be considered and construed as constituting a credit in favor of the appropriation for the amount stated in the law making the appropriation, subject to allotment as provided in ORS 291.232 to 291.260. (Formerly 291.376)

291.308 (Repealed by 1953 c.386 §9)

291.310 (Repealed by 1953 c.386 §9)

EMERGENCY EXPENDITURES; EMERGENCY BOARD

291.322 Definitions for ORS 291.322 to 291.334. As used in ORS 291.322 to 291.334:

(1) "Emergency" means any catastrophe, disaster or unforeseen or unanticipated condition or circumstance, or abnormal change of conditions or circumstances, affecting the functions of a state agency and the expenditure requirements for the performance of these functions.

(2) "State agency" means any elected or appointed officer, board, commission, department, institution, branch or other agency of the state government. [1953 c.386 §1]

291.324 Emergency Board created. There hereby is created a joint committee composed of members of both houses of the Legislative Assembly, to be known as the Emergency Board. [1953 c.386 §2]

291.326 Powers of board concerning expenditures by state agencies. (1) The Emergency Board, during the interim between sessions of the Legislative Assembly, may exercise the following powers:

(a) Where an emergency exists, to allocate to any state agency, out of any emergency fund that may be appropriated to the Emergency Board for that purpose, additional funds beyond the amount appropriated to the agency by the Legislative Assembly, or funds to carry on an activity required by law for which an appropriation was not made.

(b) Where an emergency exists, to authorize any state agency to expend, from funds dedicated or continuously appropriated for the uses and purposes of the agency, sums in excess of the amount of the budget of the agency as approved in accordance with law.

(c) In the case of a new activity coming into existence at such a time as to preclude the possibility of submitting a budget to the Legislative Assembly for approval, to approve, or revise and approve, a budget of the money appropriated for such new activity.

(d) Where an emergency exists, to revise or amend the budgets of state agencies to the extent of authorizing transfers between expenditure classifications within the budget of an agency.

(2) No allocation, authorization or approval under paragraph (a), (b) or (c) of subsection (1) of this section shall be effective unless made at a meeting at which 10 members of the board were present.

(3) The laws enacted by the Legislative Assembly making appropriations and limiting expenditures, or either, are not intended to limit the powers of the Emergency Board.

[1953 c.386 §3; subsection (3) enacted as 1963 c.182 §2; 1973 c.201 §2]

291.328 Board may require presentation of evidence to support requests for action; board to report its action to agencies concerned. Before the Emergency Board makes any allocation, grants any authorization or approves any budget under ORS 291.226, it may require the state agency in question to submit written evidence to justify the allocation, authorization or approval and

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may require the head of the agency to appear before it in support thereof. The Emergency Board may also require the Director of the Executive Department to submit a written report as to the need and justification for the allocation, authorization or approval. Upon making an allocation, granting an authorization or approving a budget, the Emergency Board shall file with the department, the Secretary of State and the state agency in question a copy of the order of allocation, grant of authorization or approved budget. (1953 c.386 §4)

291.330 Members of board; confirmation. The Emergency Board shall be composed of the President of the Senate, the Speaker of the House of Representatives, the chairmen of the Senate and House Ways and Means Committees, six members of the Senate, at least three of whom shall have had some previous experience on the Ways and Means Committee, to be appointed by the President of the Senate and confirmed by a majority of all the members elected to the Senate, and seven members of the House, at least four of whom shall have had some previous experience on the Ways and Means Committee, to be appointed by the Speaker and confirmed by a majority of all the members elected to the House. (1953 c.386 §5; 1973 c.201 §1; 1979 c.324 §1)

291.332 Meetings of board; terms of members; filling vacancies on board. (1) The Emergency Board shall meet immediately upon adjournment of each Legislative Assembly and elect a chairman from their number. The board shall meet thereafter at such times as it may determine.

(2) The term of members of the board shall run from the adjournment of one regular session to the organization of the next regular session.

(3) If a vacancy occurs in the board, either the Speaker, if the legislator previously filling the position was a member of the House, or the President, if the legislator previously filling the position was a member of the Senate, shall fill such vacancy by an appointment for the unexpired term. However, such appointment, before becoming effective, shall be confirmed by the remaining members of the board, sitting as such board. (1953 c.386 §6)

291.334 Board authorized to secure assistance; payment of board expenses. (1) The Director of the Executive Department, upon request of the board, shall furnish neces-

sary assistance to the board, or the board may employ such assistance as they may deem necessary.

(2) The expenses of the board, the cost of employed assistance, and other necessary expenses of the board shall be paid out of funds appropriated to the board specially for such purpose or, if no such appropriation is made, out of any emergency fund that may be appropriated to the board. All claims for those expenses and cost shall be approved by the chairman or other person authorized to approve claims, and warrants shall be drawn on the State Treasurer for the payment thereof in the same manner as other expenses are paid. (1953 c.386 §7; 1967 c.454 §96; 1975 c.530 §71)

291.336 Appropriation bills requiring approval of board before project commenced or contract let; how requirement met. (1) As used in this section, "appropriation bill" means a legislative Act which appropriates money or authorizes the expenditure of dedicated or continuously appropriated moneys or otherwise makes moneys available for expenditure.

(2) In all cases where an appropriation bill heretofore or hereafter passed provides that a state agency shall not commence any project or allow any contract to be let for any project without having the approval of the Emergency Board, such requirement may be met:

(a) During any period when the Legislative Assembly is in session, by the adoption of a resolution by each house approving the proposed action; or

(b) During any period when the Legislative Assembly is not in session, either by approval of the Emergency Board as provided in the appropriation bill, or by the elapse of 45 days without adverse action of the Emergency Board after notice of the proposed action has been given to each member of the Emergency Board at his last-known address. (1957 c.382 §1)

ESTIMATES OF STATE REVENUES

291.342 Annual estimation of state revenues; apportionment among counties of any state property tax levy necessary to make up deficiency; quarterly estimates. (1) By August 15 of each year, but not earlier than 90 days from the end of the regular session, if any, of the Legislative Assembly held in that calendar year, the Executive

Department, with the assistance of the Department of Revenue, shall:

(a) Ascertain by computation and estimate the total amount of revenue available for state purposes for the current fiscal year; and

(b) Apportion the state tax levy on property, if any, among the several counties in the manner provided in ORS 291.344.

(2) In addition to the requirement in subsection (1) of this section, the Executive Department with the assistance of the Department of Revenue shall for each calendar quarter of the year ascertain by computation and estimate the total amount of revenue available for state purposes for the current fiscal year, as well as the amount of revenue received quarterly, cumulated throughout the biennium, and report its estimate to the Legislative Revenue Officer and to the Emergency Board, or if the Legislative Assembly is in session, to the Joint Committee on Ways and Means.

(3) In carrying out its duties under subsection (2) of this section, the Executive Department shall issue quarterly a statement setting forth the methodology and assumptions used in making the revenue estimate. Nothing in this subsection requires the statement to set forth procedures used or methods used to determine either the methodology or the assumptions. [Formerly 309.510; 1971 s.s. c.5 §3; 1975 c.789 §10; 1989 c.11 §1]

291.344 Procedure for computation, levy, offset and apportionment of state property tax levy. (1) The department shall proceed as prescribed in this section.

(2) The department shall prepare a statement, summarizing:

(a) All the items of expense or deficiency, including interest on unpaid warrants left over from the previous year, to which the state will be subject under existing laws for the fiscal year next after that year or period for which the last preceding levy of state revenues was computed and declared; and

(b) When the levy is made on the assessment of an even year, the estimated expense of one biennial session of the Legislative Assembly.

(3) There shall be segregated from the total of the items tabulated in accordance with subsection (2) of this section the amount necessary for the payment of bonded indebtedness and interest thereon, and this amount shall constitute the state tax levy on property.

(4) From the total of the items summarized in accordance with subsection (2) of this section, after the amounts segregated pursuant to subsection (3) of this section have been deducted, there shall be deducted, in the order listed in subsection (5) of this section, all miscellaneous receipts including any surplus remaining in the State Treasury from all funds, however derived, excepting only the following:

(a) Funds whose use is restricted to particular purposes by the Constitution of Oregon.

(b) Funds whose use is restricted to particular purposes by federal law.

(c) All trust funds, as defined in ORS 291.002.

(5) (a) The department shall deduct first those miscellaneous receipts not excluded by paragraphs (a), (b) and (c) of subsection (4) of this section and not includable in the definitions of dedicated or revolving funds in ORS 291.002.

(b) If necessary, in order to provide revenue for all of the items summarized in subsection (2) of this section, the department shall then deduct as much as is necessary or available from any fund remaining in the State Treasury and not excluded by subsection (4) of this section. The department shall list these deductions in its records.

(6) The state tax levy on property segregated and levied pursuant to subsection (3) of this section shall be offset first by the application of miscellaneous receipts to the extent that they are not applied in accordance with subsection (4) of this section. Subject to the limitations of ORS 311.660, the amount of the state tax levy on property not offset by the foregoing application shall be apportioned among and charged to the several counties in that proportion which the total assessed value of all the taxable property in each county bears to the total assessed value of all the taxable property of the state as equalized.

(7) Immediately after the department has completed the computation, levy, offset and apportionment of the state tax levy on property in accordance with this section, a certificate thereof, signed by the director of the department, shall be filed in the office of the department. (Formerly 309.520; 1967 c.454 §97; 1981 c.804 §83)

291.348 Biennial estimate of General Fund revenues; certification to Secretary of State. (1) The department, with the assis-

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tance of the Secretary of State, as soon as possible after June 30, 1966, and each even-numbered year thereafter, shall ascertain the total of General Fund revenues obtained from all sources during the preceding fiscal year, so far as is practicable.

(2) The Director of the Executive Department shall certify to the total of General Fund revenues during the preceding fiscal year as determined under subsection (1) of this section.

(3) As used in this section, "General Fund revenues" means all payments of money credited to the State Treasury that are placed or to be placed by the State Treasurer to the credit of the General Fund of the State of Oregon for general governmental purposes. [1965 c.615 §12; 1967 c.454 §98]

291.349 Revenue estimate; effect of revenue in excess of estimate. (1) As soon as practicable after adjournment sine die of the regular session of the Legislative Assembly, the Executive Department shall report to the Emergency Board the estimate as of July 1 of the first year of the biennium of General Fund revenues that will be received by the state during that biennium. The Executive Department shall base its estimate on the last forecast given to the Legislative Assembly before adjournment sine die of the regular session on which the printed, adopted budget prepared in the Executive Department is based, adjusted only in so far as necessary to reflect changes in laws adopted at that session. The report shall contain the estimated revenues from corporate income and excise taxes separately from the estimated revenues from other General Fund sources. The Executive Department may revise the estimate if necessary following adjournment sine die of any special or emergency session of the Legislative Assembly but any revision does not affect the basis of the computation described in subsection (3) or (4) of this section.

(2) As soon as practicable after the end of the biennium, the Executive Department shall report to the Emergency Board, or the Legislative Assembly if it is in session, the amount of General Fund revenues collected as of the last June 30 of the preceding biennium. The report shall contain the collections from corporate income and excise taxes separately from collections from other sources.

(3) If the revenues received from the corporate income and excise taxes during the biennium exceed the amounts estimated to be

received from such taxes for the biennium, as estimated after adjournment sine die of the regular session, by two percent or more, the total amount of that excess shall be credited to corporate income and excise taxpayers in a percentage amount of corporate excise and income tax liability as determined under subsection (5) of this section. However, no credit shall be allowed against tax liability imposed by ORS 317.090.

(4) If the revenues received from General Fund revenue sources, exclusive of those described in subsection (3) of this section, during the biennium exceed the amounts estimated to be received from such sources for the biennium, as estimated after adjournment sine die of the regular session, by two percent or more, the total amount of that excess shall be credited in a percentage amount of income tax liability as determined under subsection (5) of this section.

(5) If there is an excess to be credited under either subsection (3) or (4) of this section, or both, on or before October 1, following the end of each biennium, the Executive Department shall determine and certify to the Department of Revenue the percentage amount of credit for purposes of subsection (3) or (4) of this section. The percentage amount determined shall be a percentage amount to the nearest one-tenth of a percent that will distribute the excess to be credited to either the corporate excise and income taxpayers or personal income taxpayers for taxable years beginning in the calendar year during which such excess is determined. The credit shall be computed after the allowance of any credit allowed or allowable under ORS chapter 316, 317 or 318, whichever may be applicable, and before the application of estimated tax payments, withholding or other advance tax payments. [1979 c.241 §30; 1981 c.885 §1]

Note: 291.349 and 291.355 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See the preface to Oregon Revised Statutes for further explanation.

291.350 [1965 c.615 §13; repealed by 1971 c.544 §7]

291.352 [Renumbered 293.105]

291.354 [Amended by 1959 c.273 §7; 1961 c.280 §3; 1961 c.308 §2; renumbered 293.110]

RATE OF GROWTH OF APPROPRIATIONS

291.355 Rate of growth of appropriations for general governmental purposes.

(1) Each biennium, growth of state governmental appropriations for general governmental purposes shall be no greater than the rate of growth of personal income in Oregon in the two preceding calendar years. The rate of growth shall be computed based on the U.S. Department of Commerce reports for the two preceding calendar years.

(2) For the 1979-1981 biennium, the base to which the rate of growth applies shall equal state governmental appropriations for general governmental purposes in the 1977-1979 biennium plus expenditures from non-General Fund sources that are to be funded in 1979-1981 out of the General Fund and less any General Fund expenditures in 1977-1979 that are to be funded in 1979-1981 from non-General Fund sources.

(3) In bienniums subsequent to the 1979-1981 biennium, the base shall be adjusted as necessary to reflect transfer of funding sources between General Fund sources and non-General Fund sources in order to maintain a base used for general governmental purposes.

(4) Debt service and tax relief other than that provided under ORS 310.630 to 310.690 shall not be considered appropriations for general governmental purposes. (1979 c.241 §29)

Note: See note under 291.349.

291.356 (Amended by 1963 c.333 §2; renumbered 293.115)

291.358 (Renumbered 293.120)

291.360 (Renumbered 293.125)

291.362 (Renumbered 293.130)

291.364 (Renumbered 293.135)

291.366 (Renumbered 293.140)

291.368 (Renumbered 293.145)

291.370 (Renumbered 293.150)

FISCAL MATTERS: LEGISLATIVE REVIEW

291.371 Approval of salary plan changes and unbudgeted new positions by legislative review agency required. (1) As used in this section, "legislative review agency" means the Joint Committee on Ways

and Means during the period when the Legislative Assembly is in session and the Emergency Board during the interim period between sessions.

(2) Prior to making any changes in a salary plan, establishing any new positions specifically not provided for in the budget of the affected agency or reclassifying any positions specifically provided for in the budget of the affected agency, the Executive Department shall submit the proposed changes to the legislative review agency. The proposed change shall only be approved and take effect if the legislative review agency finds that the affected agency can finance the proposed change within the limits of its biennial budget and that the proposed change conforms to legislatively approved salary policies. The effective date of the change shall be the date prescribed by the Personnel Division. (1973 c.411 §1)

291.372 (Renumbered 293.155)

291.374 (Amended by 1955 c.133 §1; 1956 c.672 §1; 1957 c.460 §1; 1969 c.686 §39; 1961 c.268 §13; 1961 c.486 §27; renumbered 293.160)

291.375 Legislative review of applications for federal financial assistance; submission, approval required; exemptions.

(1) Prior to the submission of any application for financial assistance or grants from the United States or any agency thereof by or on behalf of any agency of this state, the application must be submitted for legislative review in the following manner:

(a) If the application is to be submitted to the Federal Government when the Legislative Assembly is in session, the application shall be submitted to the Joint Committee on Ways and Means for review.

(b) If the application is to be submitted to the Federal Government when the Legislative Assembly is not in session, the application shall be submitted to the Emergency Board for review.

(2) If the legislative agency authorized under subsection (1) of this section to review applications described therein approves the application, it may be submitted to the appropriate federal agency. If the legislative agency disapproves of the application, it shall not be submitted to any federal agency unless it is or can be modified to meet the objections of the legislative agency.

(3) Notwithstanding subsection (1) of this section, the Joint Committee on Ways and

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Means and the Emergency Board may exempt any state agency from the requirements of this section. Project grants for departmental research, organized activities related to instruction, sponsored research or other sponsored programs carried on within the Department of Higher Education, for which no biennial expenditure limitations have been established, are exempt from the requirements of this section.

(4) The review required by this section is in addition to and not in lieu of the requirements of ORS 293.550. [1973 c.44 §1]

291.378 (Renumbered 291.307)

291.378 (Amended by 1961 c.590 §1; renumbered 293.155)

291.380 (Amended by 1961 c.590 §2; renumbered 293.170)

291.385 Use of certain federal moneys for employment; legislative approval. Expenditures of moneys available to this state or any agency thereof under the Comprehensive Employment and Training Act (Public Law 93-203, 87 Stat. 839) and (Public Law 95-524, 92 Stat. 1909), the Emergency Job and Unemployment Assistance Act of 1974 (Public Law 93-567), and the Emergency Jobs Program Extension Act of 1976 (Public Law 94-444), as amended, are not limited by fixed sum appropriations or expenditure limitations imposed for the biennium beginning July 1, 1977, if authorized by the Joint Committee on Ways and Means after March 1, 1979. However, positions added under the provisions of the federal enabling legislation are subject to approval of the Emergency Board during the interim between sessions of the Legislative Assembly and by the Joint Committee on Ways and Means during a session of the Legislative Assembly. [1977 c.85 §1; 1979 c.93 §1]

Note: 291.385 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

COMMISSION ON OREGON STATE MANAGEMENT AND ORGANIZATION

Note: Sections 1 to 8, 10 and 12 of chapter 795, Oregon Laws 1979, provide:

Sec. 1. It is the purpose of this Act to improve the responsiveness and manage the growth of Oregon state government.

Sec. 2. (1) There is created a Commission on Oregon State Management and Organization consisting of nine members and four ex officio members.

(2) The Governor shall appoint four members of the commission; the President of the Senate and the Speaker of the House of Representatives shall each appoint two members of the commission; the Chief Justice of the Supreme Court shall appoint one member of the commission.

(3) The Governor, President of the Senate, Speaker of the House and Chief Justice of the Supreme Court shall serve as ex officio, nonvoting members of the commission.

(4) No person shall be eligible for appointment to the commission who is an elected or appointed official, or who has not been seven years a resident of the State of Oregon, nor shall any person be eligible for appointment to the commission who has not demonstrated excellent leadership or managerial ability prior to the person's appointment.

(5) Each member shall be appointed to serve for a term of two years and may be reappointed for one additional term.

(6) In case of a vacancy for any cause, the Governor, President of the Senate, Speaker of the House or Chief Justice of the Supreme Court, according to the position vacated, shall make an appointment to become effective immediately for the unexpired term.

Sec. 3. (1) The purpose of the Commission on Oregon State Management and Organization shall be to provide the greatest effectiveness of state government at the lowest possible cost.

(2) The commission shall advise and assist within the limits of its resources the legislative and executive branches of state government, including state agencies, to improve the responsiveness and manage the growth of Oregon state government through proposals for legislation or changes in administrative rules or policy.

(3) The commission shall select one or more comprehensive tasks to undertake each year from priority lists submitted to the commission by the Governor, President of the Senate, Speaker of the House and Chief Justice of the Supreme Court on or before July 1 of each year.

(4) In performing its duties, the commission within the limits of available funds may:

(a) Conduct hearings and conferences to ascertain facts, to comprehend state programs and activities and to obtain qualified opinions;

(b) Appoint subcommittees consisting of members of the commission and public members, if desired, and pay the reasonable and actual expenses thereof as provided in section 4 of this Act;

(c) Obtain from any state agency necessary assistance and data; and

(d) Perform all other necessary functions to carry out the purposes of the commission and this Act.

Sec. 4. A member of the Commission on Oregon State Management and Organization shall receive no

House Research Agency
Pouch Y
Juneau, Alaska 99811
465-3991

KEY WORD: _____

Research Request Number: _____

RESEARCH EVALUATION

TO: _____
FROM: Susan Brody, Director
RE: Evaluation of Research Products

To assist us in improving the quality of our research services, we would appreciate your response to the following questions.

- Was the information unbiased?

- Did it provide answers to (or, at least, useful information on) all the questions you posed?

- Was the research completed and delivered to you in a timely manner?

- Was it clearly written?

- May we release this information to the public?
 - I approve the release of this information.
 - I approve the release of this information, but please remove my name.
 - I do not approve the release of this information; maintain confidentiality.

Date

Signature

Please be assured that we will take your comments seriously in performing future research for you.

Please return to House Research Agency, Mail Stop 3100.

Thank you.

State of Alaska

211 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
907-452-3421
907-452-3471



ROOM 500, CAPITOL BUILDING
POUCH V.
JUNEAU, ALASKA 99811
907-465-4984

LEGISLATIVE BUDGET & AUDIT COMMITTEE
REP. ROBERT BETTISWORTH, CHAIRMAN

April 23, 1984

M E M O R A N D U M

To: Representative Charlie Bussell, Chairman, House Judiciary Committee

From: Representative Bob Bettisworth *RHB*

Subject: HJR52, Proposing an amendment to the Constitution of the State of Alaska to provide for a biennial state budget.

I have previously asked that HJR52 be scheduled for hearing in House Judiciary so that it can be considered in tandem with companion legislation (HB485) which has already reached House Finance. I would appreciate any help you can give me with respect to moving the resolution so we can deal with the biennial budget question in the most expeditious manner possible. The issue here has received positive reaction from the administration and could lead to improved budgetary planning and fiscal savings should a biennial budget cycle be adopted.

Please let me know if you have any questions. This is a very straightforward piece of legislation.

RHB/rob

HJR

53

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
Bill/Resolution No.: HJR 53
Title: re to reappointment
of the legislature
Sponsor: Martin
Requestor: (H) State Affairs
Date of Request: 2/2/84

FISCAL DETAIL
Agency Affected: Elections
Program Category Affected: _____
BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		-0-				
200 TRAVEL		-0-				
300 CONTRACTUAL		6.0				
400 SUPPLIES		-0-				
500 EQUIPMENT		-0-				
600 LAND & STRUCTURES		-0-				
700 GRANTS, CLAIMS		-0-				
800 MISCELLANEOUS		-0-				
TOTAL OPERATING		6.0				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: The six proposed amendments to the Constitution would each receive a page in the Official Election Pamphlet, @ 1.0 per page.

ANALYSIS: Attach a separate page for analysis

Prepared By: T.P. Thoma, Information Officer Phone: 4611
Division: Elections Date: 2/2/84
Approved by Commissioner: *[Signature]* Date: 2/2/84
Agency: Lieutenant Governor

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of the Census
Washington, D.C. 20233

OFFICE OF THE DIRECTOR

Honorable Terry Martin
Alaska House of Representatives
Anchorage, Alaska 99501

Dear Mr. Martin:

This is in response to your telephone request concerning corrections to the April 1, 1980 census population counts for Anchorage, Alaska made subsequent to the release of the Public Law 94-171 data. These corrections, which changed the 1980 population count of Census Tract 0002 from 6,114 to 7,528 and the count for the city and borough of Anchorage from 173,017 to 174,431, are reflected in final 1980 census tabulations and publications.

We are enclosing excerpts from the Block Statistics report (Census Tract 0002) for the Anchorage Standard Metropolitan Statistical Area, as well as a listing of the individual blocks affected by the changes. Map sheets containing Census Tract 0002 also are enclosed.

If you need additional information, please contact Mr. Joel Miller, Population Division, Bureau of the Census, Washington, D.C. 20233, (301) 763-7955.

Sincerely,

C. L. KINCANNON
Deputy Director
Bureau of the Census

Enclosures

★ Letter was sent to Lt. Gov. Miller + Karen Ward
(Rehfeld)
on Sept 15, 1981 Advising them of the Eagle River
Census Correction. The Nov. 1981 Publication also has the
Updated Figures.

Copies of Block Maps were included
(on shelf)

Blocks with April 1, 1980 census population counts
changed after issuance of Public Law 94-171 data

April 1, 1980 census population count

Census Tract 0002	<u>As shown in PL 94-171</u>	<u>Corrected</u>
Affected blocks		
101	860	1,700
104	9	46
105	0	10
116	4	16
157	0	29
163	5	24
164	9	46
190	4	16
191	9	67
192	21	85
194	3	48
195	4	29
196	6	22
197	0	12
198	70	268

1980

Census of
Population and
Housing

Block Statistics

ANCHORAGE, ALASKA
STANDARD METROPOLITAN STATISTICAL AREA

PHC80-1-88

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Appendix B Definitions and Explanations of Subject Characteristics.....	B-1	1/A13
Appendix C General Enumeration and Processing Procedures.....	C-1	1/B2
Appendix D Accuracy of the Data.....	D-1	1/B3
Appendix E Facsimiles of Respondent Instructions and Questionnaire Pages.....	E-1	1/B5

MAPS

Printed maps identifying the geographic areas covered herein are provided in a separate package which can be ordered from the Superintendent of Documents.

An index to 1980 census maps, which includes an SMSA map index to block numbered areas and an index listing identifying each block numbered geographic area and its map sheet number(s), accompanies the maps.

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TABLES		
1. Characteristics of Population and Housing Units, for the Blocked Portion of the SMSA: 1980	1	1/B10
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Places		
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3. Blocks With Zero Population and Zero Total Housing Units: 1980	24	1/D5

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An index to the location of data by geographic area on each fiche appears in frame G14.



U.S. Department of Commerce
 Malcolm Baldrige, Secretary
 Joseph R. Wright, Jr., Deputy Secretary
 Robert G. Dederick, Assistant Secretary
 for Economic Affairs

BUREAU OF THE CENSUS
 Bruce Chapman, Director
 Daniel S. Levine, Deputy Director

POPULATION DIVISION
 Roger A. Harris, Chief

HOUSING DIVISION
 Arthur P. Young, Chief

Acknowledgments

Many persons participated in the diverse activities of the 1980 census. These acknowledgments generally reflect staff during the census tabulating process. The Bureau was guided by then Director, Vernon P. Serabe, and Deputy Director Daniel S. Levine. Primary direction of the census program was performed by George E. Hall, then Associate Director for Demographic Fields, assisted by Earl J. Green, then Assistant Director for Demographic Censuses, in conjunction with Barbara A. Baker, Associate Director for Statistical Standards and Methodology, Howard N. Hassel, Assistant Director for Computer Services, Shirley Kalka, Associate Director for Economic Fields, James D. Little, Associate Director for Administration, Rex L. Pallas, Assistant Director for Field Operations, and W. Bruce Ramsey, Assistant Director for Information Technology. The director's staff was assisted by Peter A. Beaupre and Sherry L. Courland.

Responsibility for developing the population portion of the 1980 census questionnaire content and designing the tabulations was in the Population Division, under the supervision of Mayer Zinn, then Chief, Paul J. Schwabler, Staff Assistant for Census Programs, Roger A. Harris, Ramsey D. McCannoy, and Arthur J. Horton, Assistant Chiefs.

Responsibility for developing the housing portion of the 1980 census questionnaire content, designing the tabulations, and preparing this report was in the Housing Division, under the supervision of Arthur P. Young, Chief. This report was planned and written by William A. Downs, Chief, Decennial Planning and Data Services Branch, assisted by Carol A. Gombrowski and Richard G. Knapp.

Responsibility for the overall planning, coordinating, and processing of the 1980 census was in the Decennial Census Division under the direction of Gerald J. Post, then Acting Chief, assisted by Marie G. Argon, Rachel F. Brown, Donald R. O'Sullivan, Leonard Gelfand, Earl G. Knapp, Jr., and Roger O. Lopez.

Data base and generalized system support was developed and provided by Systems

Development Division, Judy M. Sedell, Chief, under the direction of John Jerry Bell, Assistant Chief.

Computer processing was performed in the Computer Operations Division, C. Thomas D'Amico, then Chief, and John E. Makarow, Assistant Chief.

The Statistical Methods Division was largely responsible for developing new procedures to obtain a more accurate count of the population. This work was supervised by Charles D. Jones, Chief, David V. Stewart, Susan M. Mishura, and Robert T. O'Reagan, Assistant Chiefs.

Geographic programs and plans were developed in the Geography Division under the direction of Gerald F. Crawford, then Assistant Chief, Robert W. Mars and Ellis G. Tamm, Assistant Chiefs, and Donald L. Hindle, Special Assistant. Joseph J. Knott coordinated geographic operational phases.

Data collection activities were supervised in the Field Division by Richard C. Burt, then Chief, under the direction of Lawrence T. Law and Stanley D. Marshall, then Assistant Chiefs, with the assistance of the directors and assistant directors of the Bureau's regional offices.

The coordination and acquisition of automatic data processing equipment were the responsibility of the Automatic Data Processing Planning Staff, James R. Papp, Chief, under the direction of Richard L. Peadar, Deputy Chief.

The system design, technical specifications, construction, and installation of the FOEDIC and Automated Census Technology System were the responsibility of Technical Services Division, Marilee Anderson, Chief, assisted by Robert J. Joseph, Assistant Chief.

Quotientaire processing procedures were developed in the Decennial Processing Staff, James E. Worthing, then Chief, under the direction of Harry G. O'Haver, Assistant Chief. The manual processing and microfilming of the questionnaires were performed at three decennial processing locations as follows: Data Processing Division, Dee L. Adams, Chief; Jeffersonville

Processing Office, Robert L. Kristand, then Processing Manager; New Orleans Processing Office, Robert L. Allen, Chief; and Laguna Niguel Processing Office, Robert M. Schaller, Chief.

Administrative support was provided by the Administrative Services Division, O. Bryant Bostan, then Acting Chief.

Publications editing, printing, and composition were performed in the Publications Services Division, Raymond J. Kasbi, Chief, under the direction of Milton S. Anderson, Arlene C. Dushoff, and Gerald A. Mass.

User services were provided by the Data User Services Division under the supervision of Michael G. Garfield, Chief, and Marshall L. Turner, Assistant Chief.

Many other persons participated in the various activities of the 1980 census. For a list of key personnel, refer to the *History of the 1980 Census of Population and Housing* (PHC80-R2).

Library of Congress Cataloging in Publisher's Data

1980 census of population and housing. Block statistics.

PHC80-1.
 Issued November 1981—
 1. United States—Census, 20th, 1980.
 2. United States—Population—Statistics.
 3. United States—Housing—Statistics.
 I. United States. Bureau of the Census.
 HA218.A142 317.0873 81-607880
 AACR2

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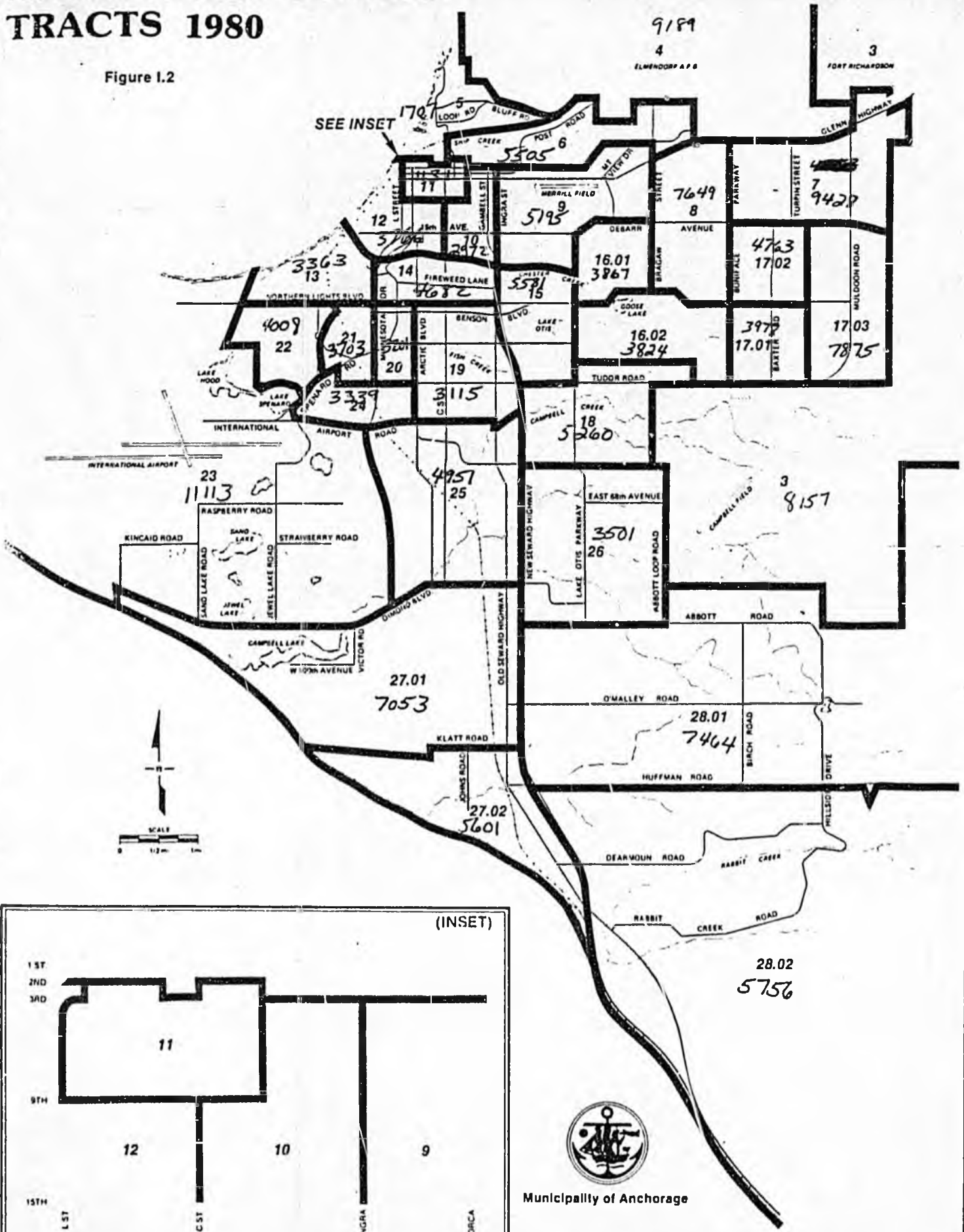
Table 1. Blacks With Zero Population and Zero Total Housing Units: 1950

Alaska

Alutian Borough—City	Alutian Borough—City	Alutian Borough—City
101	100	101
102	100	102
103	100	103
104	100	104
105	100	105
106	100	106
107	100	107
108	100	108
109	100	109
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145	100	145
146	100	146
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ANCHORAGE CENSUS TRACTS 1980

Figure 1.2



Municipality of Anchorage

POPULATION BY 1980 CENSUS TRACTS
1970, 1980, 1981, 1982, 1983

Tract	Population ¹ 1970	Population ¹ 1980	Population ² 1981	Population ² 1982	Population ² 1983
1.00 Chugiak	2,851	5,330	5,538	5,871	8,208
2.00 Eagle River	2,981	7,528	8,787	9,106	13,741
3.00 Fort Richardson	10,751	8,157	8,821	8,672	7,855
4.00 Elmendorf AFB	13,280	9,189	9,080	8,956	9,451
5.00	3,378	1,707	2,071	2,371	2,085
6.00	5,522	5,505	6,178	6,108	7,125
7.00	7,060	9,428	10,172	11,331	11,664
8.00	5,153	7,649	8,950	10,335	9,946
9.00	3,845	5,195	5,613	5,759	6,859
10.00	3,369	2,972	3,272	3,825	4,315
11.00	2,118	1,131	1,202	1,275	1,595
12.00	4,248	3,766	3,968	4,594	4,958
13.00	3,183	3,363	3,555	3,927	3,585
14.00	5,021	4,682	5,400	5,773	5,880
15.00	4,696	5,581	5,473	5,945	5,824
16.01	3,559	3,867	3,943	4,045	4,247
16.02	1,482	3,824	4,189	4,438	4,164
17.01	975	3,978	4,055	4,981	4,858
17.02	3,864	4,763	5,104	5,281	5,716
17.03	3,123	7,875	8,576	9,107	10,162
18.00	3,054	5,260	6,067	5,174	7,093
19.00	1,776	3,115	3,725	4,010	4,150
20.00	4,322	3,201	3,592	3,904	3,981
21.00	4,481	3,703	3,796	3,729	4,586
22.00	2,741	4,008	4,309	5,810	6,407
23.00	4,199	11,113	11,705	13,014	14,865
24.00	3,366	3,339	3,747	3,398	3,562
25.00	3,079	4,951	5,394	7,618	8,258
26.00	1,876	3,501	3,717	4,325	7,200
27.01	1,044	7,053	7,527	7,198	8,823
27.02	1,461	5,601	5,085	6,777	8,027
28.01	2,321	7,464	7,245	9,339	10,832
28.02	1,889	5,756	6,968	7,241	9,379
29.00 Turnagain Arm	310	876	937	979	1,445
		156,209			
Anchorage Bowl	96,212	143,351 -	172,499	188,260	207,452
Military	24,031	17,346 - 256	17,901	17,628	16,574
Eagle River/Chugiak	5,832	12,858 -	14,325	14,977	21,949
Municipality of Anchorage	126,385	174,431	187,761	204,216	230,846

¹ Source: U.S. Bureau of the Census

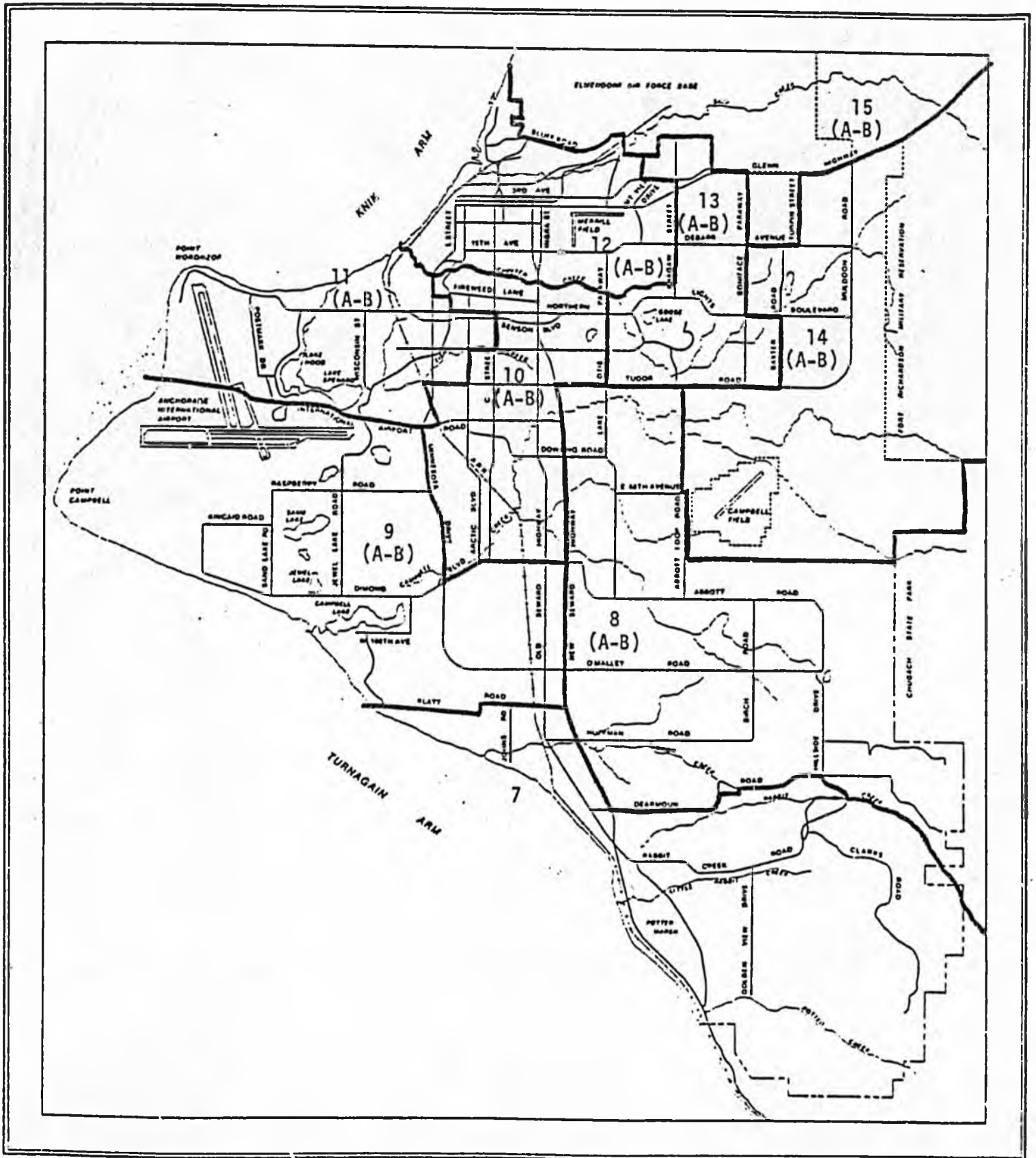
² Source: Municipality of Anchorage, Community Planning Department

Municipality of Anchorage
Department of Community Planning
Research Section

4/27/83

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1981 ANCHORAGE ELECTION DISTRICTS



These boundaries are approximate.

Sitka	281	304	336	352	350	379	375	367
Wrangell-Petersburg	189	289	293	277	345	478	420	414
Other Areas	800	1,027	2,605	3,343	3,608	4,088	5,387	5,655
TOTAL	8,076	11,594	14,178	15,825	17,203	19,776	21,640	21,074

R = Revised * Excludes Active Duty Military Personnel

© 1980 figures are the average of January to June, 1980 is latest date available at Blue Book deadline.
Source: Alaska Department of Labor.

POPULATION

Alaska's Population by Region

Year	Total Alaska	Southeast	Southcentral	Southwest	Interior	Northwest
1880	33,426	7,748	4,352	13,914	2,568	4,844
1890	32,052	8,038	6,112	12,071	2,333	3,498
1900	63,592	14,350	10,000	13,000	5,600	20,642
1910	64,356	15,216	12,900	12,049	13,064	11,127
1920	55,036	17,402	11,173	11,541	7,964	8,956
1930	59,278	19,304	11,880	12,118	8,246	7,730
1940	72,524	25,241	14,881	12,846	10,345	9,211
1950	128,643	20,203	50,093	17,715	23,008	9,624
1960	226,167	35,403	108,851	21,001	49,128	11,784
1970	300,382	42,565	162,001	26,491	56,479	12,840
1974	351,159	50,232	194,569	20,165	63,151	15,042
1975	404,534	60,438	229,492	28,428	78,614	17,662
1976	413,289	61,172	244,056	28,488	68,572	21,041
1977	411,211	63,162	252,836	26,512	58,208	20,493
1980	400,331	63,613	235,465	28,659	67,154	15,440
1981	435,300	NA	NA	NA	NA	NA
1982	460,037	NA	NA	NA	NA	NA

Note: Revised totals and estimates have been made for 1970 forward but are not available by region. They include: 1970 (302,580); 1971 (311,200); 1972 (320,000); 1973 (330,000); 1974 (344,000); 1975 (383,100); 1976 (410,700); 1977 (413,100); 1978 (403,100); 1979 (400,600); 1980 (401,850). These figures and the 1981 and 1982 totals were taken from "Preliminary State Intercensal Estimates," released 24 June 1981 by the Chief, Local Area Population Estimates, U.S. Bureau of the Census. Note that the date of estimation for each year 1971-1979 and 1981, 1982 is July 1st; for 1970 and 1980, the final census figures (rounded to the nearest 1,000) are as of April 1st.

(Source: Alaska Department of Labor)

Distribution of Total Population by Size of Place

Size of Place	1980		1970		1960	
	Number of Places	Population	Number of Places	Population	Number of Places	Population
Places of less than 1,000	—	116,448	—	157,017	—	139,760
1,000-1,500	10	12,444	5.5	15,170	3	3,337
1,500-2,000	4	7,032	3.1	8,918	4	7,406
2,000-2,500	2	4,478	2.0	15,705	5.2	4,493
2,500-5,000	2	5,005	2.0	21,355	7.1	25,200
5,000-10,000	3	22,354	9.9	43,200	14.4	27,135
10,000-25,000	1	13,311	8.9	32,800	10.0	22,030
25,000 or more	1	44,237	19.6	40,020	16.0	220,470

Note: The population listed for "places of less than 1,000" includes people living near to but not within the boundaries of larger communities as well as those living in small towns or small gatherings. (Source: Department of Labor)

Estimated components of Net Change in Alaska's Population

Year	Total Population	Net Change	Net Civilian Migration	Natural Increase	Net Military Migration
1950	138,000	—	—	—	—
1955	221,000	83,000	34,900	24,100	24,000
1960	226,000	5,000	11,100	31,800	(15,800)
1965	265,000	39,000	4,000	34,500	500
1970	300,382	37,382	14,972	25,410	(3,000)
1975*	383,100	80,520	57,830	28,190	(5,500)
1980*	401,850	18,750	(13,380)	33,640	(1,510)

Source: Estimate from Alaska Regional Population and Employment, G.W. Rogers.

Source Note: Unless otherwise noted, all population statistics for 1980 and prior years are from G.W. Rogers and R.A. Cooley, Alaska's Population and Economy and Alaska Department of Labor.

*Revised by Alaska Department of Labor

Major Components of Alaska's Population Growth

Year	Alaska	Native	Non-Native	Military
1880	33,426	32,996	430	—
1890	32,052	25,354	4,258	—
1900	63,592	29,542	30,450	—
1910	64,356	25,331	30,400	—
1920	55,036	28,558	28,228	250
1930	59,278	29,983	29,045	250
1940	72,524	32,458	39,588	500
1950	128,643	33,803	74,373	20,407
1960	226,167	43,081	150,394	32,692
1970	300,382	50,554	219,828	30,000
1980	401,851	63,807	315,981	22,003

(Source 1980 population figures: Alaska Department of Labor)

Persons by Sex, Race, and Age

	ALL RACES		WHITE		BLACK		OTHER RACES	
	BOOTH SEXES	MALE FEMALE	BOOTH SEXES	MALE FEMALE	BOOTH SEXES	MALE FEMALE	BOOTH SEXES	MALE FEMALE
TOTAL	400481	212321 188160	308453 164916	143329 12619	7643 5956	78407 29747	30645	
Under 5 Years Old	34777	19946 14833	28043 14441	13602 1587	801 796	9147 4702	4445	
5 to 9 Years Old	31917	17897 14020	25266 13010	12256 1327	676 561	8324 4211	4113	
10 to 14 Years Old	31166	17621 13542	24558 12701	11857 1003	499 504	8645 4424	4181	
15 to 19 Years Old	36900	19743 17237	26321 14216	12107 1190	656 534	9469 4873	4596	
20 to 24 Years Old	45054	24153 20905	34320 18283	15447 2403	1505 878	8555 4363	6160	
25 to 29 Years Old	48542	25329 23212	38899 20504	18295 2149	1268 878	7497 3757	3740	
30 to 34 Years Old	41916	22561 19355	34644 18854	15720 1179	729 450	6093 2928	3115	
35 to 39 Years Old	31182	17001 14181	25864 14279	11583 742	423 319	4576 2299	2277	
40 to 44 Years Old	22570	12410 10160	18319 10237	8112 593	335 258	3628 1838	1790	
45 to 49 Years Old	18353	9756 8597	14740 8129	6611 457	252 205	3158 1525	1583	
50 to 54 Years Old	15801	8488 7317	12867 7218	5643 347	187 160	2787 1279	1208	
55 to 59 Years Old	12542	6765 5773	10215 5527	4648 264	137 129	2111 1125	1038	
60 to 64 Years Old	8095	4297 3798	6436 3504	2932 166	86 60	1493 787	786	
65 to 69 Years Old	5181	2731 2450	3762 2000	1762 100	56 44	1329 875	654	
70 to 74 Years Old	3189	1541 1648	2108 1060	1128 83	32 33	858 449	407	
75 to 79 Years Old	1843	884 959	1229 575	664 33	18 15	571 291	280	
80 to 84 Years Old	769	350 419	545 235	290 7	1 8	237 114	123	
85 to 89 Years Old	618	247 371	409 145	264 8	2 6	201 100	101	
Under 15 Years Old	107840	55465 52395	77667 40152	37715 2117	1978 1941	26076 13337	12729	
15 to 64 Years Old	281091	151103 129988	222465 120749	101718 9489	5578 3911	48127 24778	24361	
65 Years or Older	11950	5753 6197	8173 4015	4108 213	109 104	3194 1629	1543	

* Figures are based upon preliminary totals. The revised total population for Alaska is 401,851.

COUNTY NAME	MATAIUSKA-SU	REDISTRICTING	FILE	-----><-----	FINAL TAB	FILE	----->									
R	EEEE	CTY	MCD	PLACE	TRACT	BLK	POP	BLK	POP	EEEE	CTY	MCD	PLACE	TRACT	PARENT	ED
1168	170	025	9999	999999	TOT	4134	TOT	4184	1168	170	025	9999	999999			

*Mat - su
add 50.*

COUNTY	NAME	PRINCE	OF	WA	REDISTRICTING	FILE	---><---		FINAL	TAB	FILE	----->			
R	EEEE	CTY	MCD	PLACE	TRACT	BLK	POP	BLK	POP	EEEE	CTY	MCD	PLACE	TRACT	PARENT ED
	1015	201	050	9999	999999	TOT	0	TOT	320	1015	201	050	9999	999999	1025
	1025	201	050	9999	999999	TOT	403	TOT	83	1025	201	050	9999	999999	1025

*reallocation of
population for
Thorsie Bay*

COUNTY	NAME	SOUTHEAST	FA	REDISTRICTING	FILE	-----<-----				FINAL	TAB	FILE	----->-----			
R	EEEE	CTY	HCD	PLACE	TRACT	BLK	POP	BLK	POP	EEEE	CTY	HCD	PLACE	TRACT	PARENT	ED
	0833	240	025	9999	999999	TOT	94	TOT	0	0833	240	025	9999	999999		

END OF LISTING

*DIST 17
subtract 94*

REAPPORTIONMENT: A BETTER WAY

a common cause proposal

"I don't think they play at all fairly, and they all quarrel so dreadfully one can't hear one self speak—and they don't seem to have any rules in particular: at least, if there are, nobody attends to them—and you've no idea how confusing it is . . ."

—Alice

Alice's Adventures in Wonderland

Alice would have felt quite at home watching a typical state legislature attempt to reapportion itself during the 1960's and early 1970's. In many states, reapportionment*—the decennial division of states into legislative districts for voting purposes—has been a series of secret deals based largely on personal and partisan motivations. Few rules have existed to safeguard the public's interest in an open and competitive political system. The guiding principle for most incumbent legislators has been self-protection.

The method by which state legislative and congressional district lines are drawn is fundamental to our system of representative democracy. The Supreme Court decisions of the mid-1960's requiring periodic reapportionment on the basis of "one person, one vote" eliminated the gross population inequalities among legislative districts that existed in the 1950's and 1960's. These decisions took us a large step toward the goal of achieving "fair and effective representation for all citizens" articulated by the Court in the 1964 *Reynolds* case. Unfortunately, we have not com-

*As a technical matter, "reapportionment" is "a distribution of legislative seats" to already established units of government (for example, states, counties). "Redistricting" is "the drawing of lines" to establish legislative districts within already established units of government. Thus, congressional seats are apportioned to the states and then districts drawn within each state. As a matter of practice, however, the terms "reapportionment" and "redistricting" have been used interchangeably. In this report, "reapportionment" is used to refer to the act of drawing legislative district lines as well as apportioning legislative seats among units of government.

pleted the journey toward that worthy goal because the Court has not dealt with the equally debilitating problems of racial and political gerrymandering. The reapportionment revolution remains unfinished.

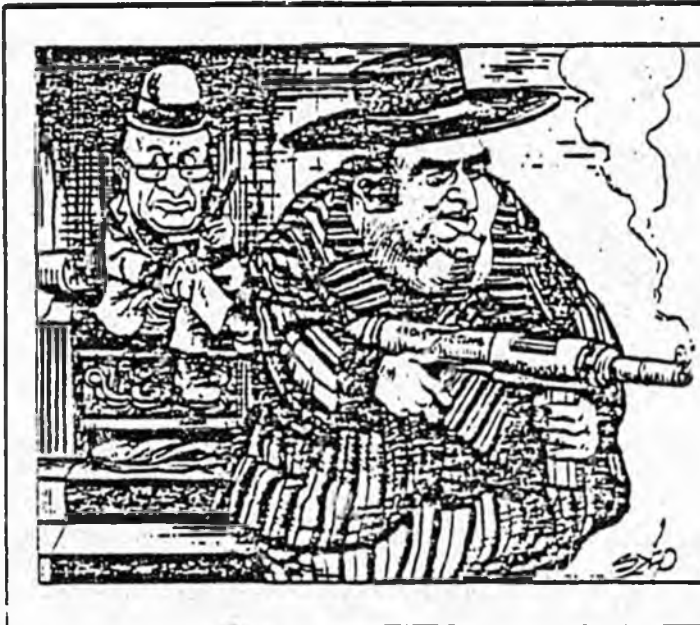
The Court's decisions leave reapportionment in the hands of the state legislatures, presenting an inherent conflict of interest. With few standards other than substantial population equality to guide them, the state legislatures have been free to draw districts of bizarre configurations designed to serve personal and partisan ends. Professors Keefe and Ogul, authors of *The American Legislative Process*, have examined our nation's experience with reapportionment and concluded that "everything about reapportionment, whether legislative or congressional, suggests the triumph of self-interest."

Political and racial gerrymandering have resulted. They have reduced electoral competition and undermined our system of representative democracy in significant ways. Political gerrymandering dilutes the value of political participation, undermines legislative responsiveness to constituent views, and weakens political parties. Gerrymandering has been used to deny representation to minority groups.

The present process works extremely well for incumbent legislators and other political insiders. It does not serve the public well. An Illinois legislator once explained this insider's game in blunt terms:

Outsiders shouldn't stick their noses in and tell this committee how to reapportion the state Any man in this legislature who doesn't fight for his own district is a particular damn fool. I'm not for too many sitting members running against each other if we can work it out.

In the early 1980's virtually all state legislative and congressional district lines will be redrawn based on the 1980 federal census. Common Cause believes that it is well past time for citizens to "stick their noses" in this important political process and insist that it be cleaned up and opened to public participation before the reapportionment of the early 1980's takes place. Common Cause has proposed a model reapportionment process designed to establish the legal framework necessary to achieve the Supreme Court's goal of "fair and effective representation." The Common Cause model is summarized on pages 24-25. It proposes the establishment of rigorous anti-gerrymandering reapportionment standards and the creation of an independent, nonpartisan commission to draw the state legislative and congressional district lines. Unless citizens demand a better way than what we have had, the unseamly spectacles of the 1960's and 1970's will be repeated in state after state.



"If no one else has a question, we'll proceed with the democratic process."

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Background

The quest for fair and effective representation runs deep in Anglo-American political thought. In 1690, John Locke despaired of England's rotten boroughs and argued that it was in the interest of the public "to have a fair and equal representative." Apportionment was a fundamental issue for the Constitutional Convention meeting in Philadelphia in 1787. The Connecticut compromise provided for equal representation of the states in the U.S. Senate and for representation based on population in the House. Article I, Section 2 of the Constitution specifically provides that Representatives be apportioned among the states according to population every ten years.

Despite federal and state constitutional requirements to reapportion periodically, many states failed to do so. As the nation's population shifted from rural areas to the cities and suburbs, the population inequality among state legislative districts as well as congressional districts increased substantially. In 1946, the U.S. Supreme Court failed to halt this trend when it denied relief in the *Colegrove* case challenging an Illinois congressional district plan that had one district with nine times as many people as another. Justice Frankfurter argued: "Courts ought not to enter this political thicket." State courts also declined to become involved. Rural dominance was maintained in some states by simply doing nothing.

Absent a court mandate, nearly one-half of the states did not reapportion their legislatures after the 1950 census according to Professors Keefe and Ogul. By 1962, ten states had at least one house which had not been reapportioned since 1930. Vermont had not reapportioned since 1793; nor had Delaware since 1897. The resulting malapportionment was extraordinary. The Brookings Institution has pointed out that twenty-one of the forty-two states with more than one congressional district in 1962 had constituencies in which the smallest district had less than one-half of the population of the largest district. In 1961, according to Professors Jewell and Patterson, authors of *The Legislative Process in the U.S.*, there were fourteen states in which a majority of members of at least one house could be elected by as few as twenty percent of the electorate from rural areas. In the Vermont House, the 38 citizens of Stratton had the same representation as the 35,531 citizens of Burlington. The five largest cities in Connecticut had one-fourth of the state's population but elected only ten of the 294 house members. The six million citizens of Los Angeles County comprised forty percent of the population of California but had only one of the forty seats in the state Senate.

But things not always changing equally, and private interest often keeping up customs and privileges when the reasons of them are ceased, it often comes to pass that in governments where part of the legislative consists of representatives chosen by the people, that in tract of time this representation becomes very unequal and disproportionate to the reasons it was first established upon . . . This strangers stand amazed at, and every one must confess needs a remedy; . . . And therefore the people, when the legislative is once constituted, having in such a government as we have been speaking of no power to act as long as the government stands, this inconvenience is thought incapable of a remedy . . . For it being the interest as well as intention of the people, to have a *fair and equal representative*, whoever brings it nearest to that is an undoubted friend to and establisher of the government, and cannot miss the consent and approbation of the community. [emphasis added]

—John Locke
Second Treatise of Civil Government (1690)

The Supreme Court in the "Political Thicket"

In 1962, in the famous *Baker v. Carr* case, the U.S. Supreme Court decided to enter the "political thicket" of reapportionment. The Court held that federal courts have jurisdiction over complaints against malapportioned legislatures. The *Baker* case involved the Tennessee General Assembly which had not reapportioned itself since 1901 despite a state constitutional mandate to do so every ten years and a dramatic growth and shift of population. The Court declined to specify a remedy in *Baker* but did establish guidelines in a series of decisions over the next several years.

Early in 1964, in *Wesberry v. Sanders*, the Court voided Georgia's congressional district plan and held that:

... the command of Art. I, Sec. 2, that Representatives be chosen "by the People of the several States" means that as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's.

Perhaps the most important decision came in *Reynolds v. Sims* in June of 1964. In *Reynolds*, the Court voided Alabama's state legislative district plan and held that:

The Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable. [emphasis added]

The response to *Baker*, *Wesberry*, and *Reynolds* was predictable. Suits were filed in federal or state courts of 48 of the fifty states between 1962 and 1972 alleging violations of the equal protection clause with respect to the apportionment of one or both legislative houses.

Over the years, the Court has refined the "one person, one vote" standard. The Court has made a distinction between state legislative and congressional districts, allowing larger population deviations among districts in state legislative plans. The Court has defined the "as nearly of equal population as is practicable" standard of *Reynolds* under the equal protection clause to allow maximum population deviations among state legislative districts of up to ten percent. The Court has allowed somewhat greater deviations if justified by rational state policy, such as the desire to respect the boundaries of political subdivisions. The Court has defined the "as nearly as is practicable" standard of *Wesberry* under Article I, Section 2 of the Constitution to require as close to mathematical equality as is reasonably possible for congressional districts.

While the Supreme Court has secured substantial population equality among legislative districts, it has been unreceptive to reapportionment challenges based on charges of political or racial gerrymandering. Districts of bizarre configurations admittedly designed to serve personal or partisan ends have been upheld if they meet the population test. The Court has indicated that it will scrutinize carefully charges of racial gerrymandering. But in *Whitcomb v. Chavis* in 1971, the most important racial gerrymandering case to date, the Court held that the use of multi-member rather than single-member state legislative districts in Indiana did not result in invidious discrimination against the black voters of Indianapolis.

SUMMARY OF MAJOR U.S. SUPREME COURT DECISIONS

Colegrove v. Green, 328 U.S. 549 (1946): The Court, by a four to three vote, denied relief in a case challenging an Illinois congressional district plan that had one district with nine times as many people as another. Justice Frankfurter argued that: "Courts ought not to enter this political thicket. The remedy for unfairness in districting is to secure state legislatures that will apportion properly, or to invoke the ample powers of Congress."

Baker v. Carr, 369 U.S. 186 (1962): In a case involving the Tennessee General Assembly, the Court held that federal courts have jurisdiction over complaints against malapportioned legislatures. The legislature had not reapportioned since 1901 despite a state constitutional mandate to do so every ten years and a dramatic growth and shift of population. The Court declined to consider what remedy would be appropriate and remanded the case to the lower court.

Wesberry v. Sanders, 376 U.S. 1 (1964): The Court voided Georgia's congressional district plan. The Court held that Article I, Section 2 of the Constitution required that "as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's."

Reynolds v. Sims, 377 U.S. 533 (1964): In a case involving the Alabama Legislature, the Court rejected the analogy to the U.S. Congress and held that both houses of a state legislature must be apportioned on a population basis. The Court held that: "The Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable." The Court said that some deviations from the equal population principle are constitutionally permissible if "based on legitimate considerations incident to the effectuation of a rational state policy," such as a desire to respect the boundaries of political subdivisions.

Swann v. Adams, 385 U.S. 440 (1967): The Court rejected Florida's 1966 state legislative reapportionment plan because it contained senate districts ranging from 15.09 percent above the average district and 10.56 percent below and house districts ranging from 18.28 percent above to 15.27 percent below.

Kirkpatrick v. Preisler, 394 U.S. 526 (1969): The Court rejected Missouri's 1967 congressional Redistricting Act because the most populous district was 3.13 percent greater than the average district and the least populous was 2.84 percent below and the state failed to satisfactorily justify the deviations. The Court held that "the 'as nearly equal as practicable' standard requires that the State make a good-faith effort to achieve precise mathematical equality. Unless population variances among congressional districts are shown to have resulted despite such effort, the State must justify each variance, no matter how small."

Continued on page 6

U.S. SUPREME COURT DECISIONS continued from page 5

Whitcomb v. Chavis, 403 U.S. 124 (1971): The Court held that the use of multi-member districts in state legislative reapportionment in Indiana did not result in invidious discrimination against the black voters of Indianapolis. The Court "insisted that the challengers carry the burden of proving that multi-member districts unconstitutionally operate to dilute or cancel the voting strength of racial or political elements." The Court found that the challengers had not demonstrated discrimination.

Mahan v. Howell, 410 U.S. 315 (1973): The Court upheld a 1971 Virginia state legislative reapportionment plan despite the fact that it had a maximum population deviation from the largest to the smallest district of 16.4 percent. The Court held that the legislative plan "may reasonably be said to advance the rational state policy of respecting the boundaries of political subdivisions," but noted that "this percentage may well approach tolerable limits."

Gaffney v. Cummings, 412 U.S. 735 (1973): The Court upheld a 1971 state legislative reapportionment plan for Connecticut with maximum population deviations between house districts of 7.83 percent. The Court held that "minor deviations from mathematical equality among state legislative districts are insufficient to make out a prima facie case of invidious discrimination under the Fourteenth Amendment so as to require justification by the State." In addition, the Court held that the plan was not constitutionally vulnerable just because it attempted to reflect the relative strength of the major political parties.

White v. Weiser, 412 U.S. 783 (1973): The Court rejected a congressional district plan for Texas because its maximum deviations of 2.43 percent above and 1.7 percent below the average "were not 'unavoidable', and the districts were not as mathematically equal as reasonably possible."

Chapman v. Meier, 420 U.S. 1 (1975): The Court overturned a federal court ordered reapportionment of the North Dakota Legislative Assembly. The Court held that "unless there are persuasive justifications, a court-ordered reapportionment plan of a state legislature must avoid use of multi-member districts." The Court noted that it was exercising its supervisory powers with regard to federal courts; it was not holding that multi-member districts are unconstitutional *per se*.

United Jewish Organizations v. Carey, 97 Sup. Ct. 996 (1977): The Court upheld a legislative modification of New York's state legislative reapportionment plan that was designed to bring the plan into compliance with the Voting Rights Act. In order to establish several substantially non-white districts in Kings County, the legislature divided a community of Hasidic Jews. The Court held that the use of racial criteria in an attempt to comply with the Voting Rights Act did not violate either the Fourteenth or Fifteenth amendments.

Existing State Policies

Virtually all substantive law regarding apportionment procedure is found in the constitutions of the states. With the exception of some of the newest provisions, few describe in much detail either the procedure for preparation of reapportionment plans or the standards to be used. Only the constitutional provisions in Colorado, Hawaii, and Montana meet the anti-gerrymandering test advocated by Common Cause. Table I below provides an overview of existing state provisions for state legislative apportionment. A typical state constitutional provision requires the legislature to reapportion on the basis of population after each federal decennial census. One state statute and twenty-one state constitutions explicitly require that districts be compact; two state statutes and twenty-seven constitutions explicitly provide that districts be formed of contiguous territory. Many state constitutions require the apportioning authority to respect political subdivision boundaries. But even where standards exist, they are generally stated in terms too vague to be enforced in court.

In thirty-seven states, the legislature is given the initial responsibility for preparing the apportionment plan. Nine of these states provide for an apportionment authority to prepare a plan if the legislature does not do so—in five states a board is established as the backup, in three the supreme court is responsible, and in Oregon the secretary of state prepares a plan. Nine other states give responsibility to a board or commission; in two of these states the supreme court is to prepare a plan if the

TABLE I:

EXISTING STATE PROVISIONS FOR STATE LEGISLATIVE APPORTIONMENT

State	Apportioning Authority	Compactness	Contiguity	St. Sup. Court Original Jur.	State	Apportioning Authority	Compactness	Contiguity	St. Sup. Court Original Jur.
Alabama	L		X		Montana	B	X	X	
Alaska	B/G	X	X		Nebraska	L	X	X	
Arizona	L				Nevada	L			
Arkansas	B			X	New Hampshire	L			
California	L		X		New Jersey	B	X	X	
Colorado	B	X	X	X	New Mexico	L	X	X	
Connecticut	L(B)		X	X	New York	L	X	X	
Delaware	L		X		North Carolina	L		X	
Florida	L(C)			X	North Dakota	L			
Georgia	L				Ohio	B	X	X	X
Hawaii	B	X	X	X	Oklahoma	L(B)	X	X	X
Idaho	L				Oregon	L(St.)			X
Illinois	L(B)	X	X	X	Pennsylvania	B	X	X	X
Indiana	L				Rhode Island	L	X		
Iowa	L(C)	X	X	X	South Carolina	L			
Kansas	L			X	South Dakota	L(B)			
Kentucky	L				Tennessee	L			
Louisiana	L(C)				Texas	L(B)		X	
Maine	B/L(C)	X	X	X	Utah	L			
Maryland	G/L	X	X	X	Vermont	B/L(C)	X	X	X
Massachusetts	L		X	X	Virginia	L	X	X	
Michigan	B(C)	X	X	X	Washington	L			
Minnesota	L		X		West Virginia	L	X	X	
Mississippi	L				Wisconsin	L	X	X	
Missouri	Bds.(C)	X	X		Wyoming	L			

KEY: B—Board or Commission, C—Court, G—Governor, L—Legislature, St.—Secretary of State, B/G—Board is advisory to Governor, L(C)—if Legislature fails to act, the Court is the backup authority.

board does not. In two additional states—Maine and Vermont—boards are established to advise the legislature; the supreme courts backup the legislature. In Alaska, the governor is responsible for preparing a plan with the assistance of an advisory board. In Maryland, the governor presents a plan to the legislature; if the legislature does not enact a substitute, the governor's plan goes into effect. Table II on page 9 provides an overview of the makeup and responsibilities of the eighteen boards and commissions that are assigned state legislative apportionment responsibilities. Many are dominated by legislators or other public officials and lack the necessary independence. Seventeen state constitutions establish prompt court review by providing for original jurisdiction in the state's highest court.

The apportionment authorities designated by the state constitutions—especially the state legislatures—have often failed to produce acceptable plans. According to a 1973 survey by the Massachusetts Legislative Research Council, courts promulgated districts for one or both houses in at least twenty-one states between 1962 and 1972. In other states, the courts rejected reapportionment plans and ordered reapportionment authorities to prepare acceptable plans. According to Tables III and IV on pages 10-11, prepared by the Council of State Governments, sixteen existing state house apportionment plans and seventeen senate plans were court ordered.

STATE CONSTITUTIONAL AND STATUTORY REAPPORTIONMENT PROVISIONS

- | | |
|---|--|
| Alabama: Const. art. 9, secs. 197-201. | Nebraska: Const. art. III, sec. 5. |
| Alaska: Const. art. VI, secs. 1-11. | Nevada: Const. art. 4, sec. 5. |
| Arizona: Const. art. 4, pt. 2, sec. 1;
and Ariz. Rev. Stat. secs. 16-1401 to
16-1403. | New Hampshire: Const. pt. 2, arts.
9, 9a, and 26. |
| Arkansas: Const. amendment no. 45. | New Jersey: Const. art. IV, secs. II-III. |
| California: Const. art. 4, secs. 6 and 27. | New Mexico: Const. art. IV, sec. 3; and
N.M. Stat. Ann. secs. 2-7-122,
2-9-124. |
| Colorado: Const. art. V, secs. 46-48. | New York: Const. art. 3, secs. 4-5. |
| Connecticut: Const. art. 3, secs. 3-6. | North Carolina: Const. art. II, secs. 3
and 5. |
| Delaware: Code tit. 29, secs. 801-808. | North Dakota: Const. art. II, sec. 35. |
| Florida: Const. art. III, sec. 16. | Ohio: Const. art. XI, secs. 1-15. |
| Georgia: Const. art. 3, secs. 2-3. | Oklahoma: Const. art. 5, secs. 9A, 10A,
and 11A-E. |
| Hawaii: Const. art. III, sec. 4; and Haw.
Rev. Stat. secs. 25-1 to 25-8. | Oregon: Const. art. IV, sec. 6. |
| Idaho: Const. art. 3, secs. 4-5. | Pennsylvania: Const. art. 2, secs.
16-17. |
| Illinois: Const. art. 4, sec. 3. | Rhode Island: Const. amendments
XIII and XIX. |
| Indiana: Const. art. 4, secs. 5-6. | South Carolina: Const. art. 3, secs. 3-6. |
| Iowa: Const. art. 3, secs. 34-39. | South Dakota: Const. art. III, sec. 5. |
| Kansas: Const. art. 10, sec. 1. | Tennessee: Const. art. II, secs. 4-6. |
| Kentucky: Const. sec. 33. | Texas: Const. art. III, secs. 25-28. |
| Louisiana: Const. art. III, sec. 6. | Utah: Const. art. IX, secs. 1-4. |
| Maine: Const. art. IV, pt. 1, secs. 2-3;
pt. 2, sec. 2; and pt. 3, sec. 1-A. | Vermont: Const. ch. II, secs. 13, 18,
and 74; and Vt. Stat. Ann. tit. 17,
secs. 1901-1911. |
| Maryland: Const. art. III, secs. 2-5. | Virginia: Const. art. II, sec. 6. |
| Massachusetts: Const. art. CI, secs.
1-3. | Washington: Const. art. 2, sec. 3. |
| Michigan: Const. art. IV, secs. 2-6; and
Mich. Stat. Ann. secs. 2-28 (1)-(9). | West Virginia: Const. art. VI, secs.
4-10. |
| Minnesota: Const. art. 4, secs. 2-3. | Wisconsin: Const. art. IV, secs. 3-5. |
| Mississippi: Const. art. 13, secs.
254-255. | Wyoming: Const. art. 3, sec. 3. |
| Missouri: Const. art. III, secs. 2, 7,
10, and 45. | |
| Montana: Const. art. V, sec. 14; and
Mont. Rev. Codes Ann. secs. 43-108
to 43-118. | |

TABLE II:
STATE REAPPORTIONMENT COMMISSIONS

State	No. Comm.	How Commissioners Chosen	Authority
Alaska	5	by the Governor	advisory to the Governor
Arkansas	3	board is composed of the Governor, Secretary of State, and Attorney General.	promulgate a plan
Colorado	11	four by the legislative department, three by executive, and four by judicial (no more than four may be legislators)	promulgate a plan
Connecticut	9	by the Governor from names designated by legislative leaders; the eight select a ninth	backup if legislature fails to adopt plan
Hawaii	9	legislative leaders select eight who select a ninth	promulgate a plan
Illinois	8	four legislative leaders each select one legislator and one non-legislator	backup if legislature fails to adopt a plan
Maine	13	ten legislators are chosen by legislative leaders and the legislators select three members of the public	advisory to the legislature
Michigan	8	two major political parties each select four	promulgate a plan
Missouri House	20	by Governor, one from each list of two submitted by congressional district committees of two major parties	promulgate a plan
Missouri Senate	10	by Governor, five from each list of ten submitted by two major political parties	promulgate a plan
Montana	5	four legislative leaders each select one and four commissioners select fifth	promulgate a plan
New Jersey	10 (11)	five from each of two major parties; Chief Justice appoints eleventh if deadlock	promulgate a plan
Ohio	5	board is composed of Governor, Auditor, Secretary of State, and two selected by legislative leaders	promulgate a plan
Oklahoma	3	board is composed of Attorney General, Superintendent of Public Instruction, and Treasurer	backup if legislature fails to adopt a plan
Pennsylvania	5	board composed of four legislative leaders or deputies and fifth selected by the four	promulgate a plan
South Dakota	5	board composed of Governor, Superintendent of Public Instruction, presiding judge of Supreme Court, Attorney General, and Secretary of State	backup if legislature fails to adopt a plan
Texas	5	board composed of Lt. Governor, House Speaker, Attorney General, Comptroller, and Commissioner of General Land Office	backup if legislature fails to adopt a plan
Vermont	5	Governor appoints one from each major party; each major party appoints one; Chief Justice of Supreme Court appoints one	advisory to legislature

TABLE III:

APPORTIONMENT OF LEGISLATURES: SENATE

State or other jurisdiction	Initial reapportioning agency	Present apportionment by	Year of most recent apportionment	Number of seats	Number of districts	Number of multi-member districts	Largest number of seats in district	Percent deviation in actual v. average population per seat		Average population per seat (a)
								+	-	
Alabama	C, B	FC	1972	35	35	0	1	0.67	0.72	98,436
Alaska		FC	1974	20	16	4	3	14.0	8.4	15,118
Arizona		FC	1971, b)	30	30	0	1	0.4	0.4	59,013
Arkansas		FC	1971	35	35	0	1	2.0	1.49	54,413
California		FC	1973	40	40	0	1	1.92	1.02	499,321
Colorado	L	FC	1972	35	35	0	1	2.48	0.67	61,123
Connecticut	L(c)	FC	1971	16	16	0	1	1.9	1.9	84,233
Delaware	L(c)	FC	1971	21	21	0	1	1.4	0.9	26,100
Florida	L(c)	FC	1972	40	19	14	3	0.62	0.53	169,773
Georgia	L(c)	FC	1972	16	56	0	1	2.3	2.0	81,953
Hawaii	B	B	1971	15	8	7	4	16.3	15.8	13,313 (1)
Idaho	L(c)	FC	1974	35	35	0	1	5.15	5.03	20,171
Illinois	L(c)	FC	1973	39	39	0	1	0.8	0.6	188,172
Indiana	L(c)	FC	1972	30	30	0	1	1.7	1.6	111,872
Iowa	L(c)	FC	1972	10	50	0	1	0.0	0.0	56,307
Kansas	L	FC	1972	40	40	0	1	3.54	1.02	56,131
Kentucky	L(c)	FC	1972	38	38	0	1	3.07	3.02	51,791
Louisiana	L(c)	FC	1972	39	39	0	1	5.6	8.4	91,315
Maine	L(c)	FC	1972	13	33	0	1	1.52	1.54	40,111
Maryland	L(c)	FC	1974	47	47	0	1	5.3	4.7	81,453
Massachusetts	L	FC	1973	40	40	0	1	3.53	3.67	118,471 (e)
Michigan	L	FC	1972	38	38	0	1	0.0	0.0	231,733
Minnesota	L	FC	1972	67	67	0	1	1.58	1.33	56,870
Mississippi	L	FC	1975	32	39	12	3	1.12	0.92	42,000
Missouri	L	FC	1971	34	34	0	1	4.9	4.9	137,371
Montana	L	FC	1974	50	50	0	1	6.33	6.73	13,499
Nebraska	L	FC	1971	49	49	0	1	1.4	1.1	30,280
Nevada	L	FC	1973	20	10	1	7	7.7	9.6	21,147
New Hampshire	L	FC	1972	24	24	0	1	3.25	4.0	30,151 (f)
New Jersey	L	B, SC	1973	40	40	0	1	2.33	1.99	179,478
New Mexico	L	L, SC	1972	42	42	0	1	4.35	4.48	24,190
New York	L	L, SC	1971	60	60	0	1	0.9	0.9	94,021
North Carolina	L	L, SC	1971	50	27	18	4	6.50	6.89	101,641
North Dakota	L	B, C	1973	50	49	1	2	3.16	3.1	13,151
Ohio	L	B	1971	33	33	0	1	1.03	0.93	322,783
Oklahoma	L(c)	L	1971	48	48	0	1	0.3	0.3	51,117
Oregon	L(c)	S, SC	1971	30	30	0	1	1.2	0.7	69,713
Pennsylvania	L	B	1971	30	50	0	1	2.29	0.03	231,949
Rhode Island	L	L	1974	30	50	0	1	17.0	0.0	17,300
South Carolina	L	L	1972	46	16	13	3	3.18	6.73	56,316
South Dakota	L(c)	L	1971	35	28	1	3	2.4	3.1	19,015
Tennessee	L	L	1971	33	33	0	1	7.1	7.4	118,914
Texas	L(c)	B	1971	31	31	0	1	2.3	2.2	361,183
Utah	L	L	1972	29	29	0	1	4.66	6.38	36,327
Vermont	L(c)	L	1973	30	13	11	6	8.17	8.48	14,824
Virginia	L	FC	1971	40	38	1	3	3.2	4.3	116,212
Washington	L	FC	1972	49	49	0	1	0.91	0.7	68,423 (f)
West Virginia	L	L	1974	14	17	17	2	11.4	11.1	49,012
Wisconsin	L	L	1972	33	33	0	1	0.71	0.53	131,477
Wyoming	L	L	1971	30	16	9	3	27.9	21.6	11,080
Virgin Islands	L	L	1972	15	3	2	7	N.A.	N.A.	4,461

Source: *The State of the States, 1976-77*, p. 43, with updated information.
 Abbreviations: B—Board or Commission; FC—Federal Court; SC—State Court; C—Governor; L—Legislature; S—Secretary of State; N.A.—Not available.
 (a) Population figures in most instances are based on the 1970 federal census. West Virginia population figures valid at time of last legislative apportionment.

(b) Effective 1976 election.
 (c) Constitution of statutes provide for another agent or agency to reapportion if the Legislature is unable to do so.
 (d) Average number of registered voters per seat.
 (e) Based on 1971 special State Decennial Census of state citizens.
 (f) Based on civilian or nonstudent population.

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Note: As a result of a law enacted since this Table was prepared, the Massachusetts Senate has percentage population deviations of +2.96% and -3.35%. The average population for each seat is 144,737.

TABLE IV:
APPORTIONMENT OF LEGISLATURES, HOUSE

State or other jurisdiction	Initial reapportioning agency	Present apportionment by	Year of most recent apportionment	Number of seats	Number of districts	Number of multi-member districts	Largest number of seats in district	Percent deviation in actual v. average population per seat		Average population each seat (a)
								Greater	-	
Alabama	L	FC	1972	105	105	0	1	1.08	1.15	32,802
Alaska	G, B	SC	1974	40	22	10	6	14.0	15.0	7,359
Arizona	L	L	1972(b)	60	30	30	2	0.4	0.4	29,541
Arkansas	B	B	1971	100	84	10	3	6.3	3.1	19,233
California	L	SC	1973	80	80	0	1	1.94	1.90	249,661
Colorado	L	L	1972	65	65	0	1	0.97	1.09	33,993
Connecticut	L(c)	B	1971	151	151	0	1	1.0	1.0	20,081
Delaware	L	L	1971	41	41	0	1	2.6	2.3	13,368
Florida	L(c)	L	1972	120	45	24	6	0.2	0.1	56,391
Georgia	L	L	1974	120	154	17	4	4.67	4.79	25,502
Hawaii	B	B	1973	51	27	22	3	8.2	21.0	6,624(d)
Idaho	L	L	1971	70	35	35	2	3.45	3.03	16,166
Illinois	L(c)	L	1973	177	59	59	3	0.8	0.6	62,791
Indiana	L	L	1972	100	73	20	3	1.0	1.0	31,916
Iowa	L(c)	SC	1972	100	100	0	1	0.0	0.0	28,253
Kansas	L	L	1973	125	125	0	1	6.5	4.8	18,223
Kentucky	L	L	1972	100	100	0	1	3.1	3.9	31,193
Louisiana	L	FC, L	1972	105	105	0	1	4.6	4.6	34,697
Maine	L(c)	SC	1974	151	119	11	10	5.0(e)	5.0(e)	6,581
Maryland	G	SC	1974	141	47	47	3	5.3	4.7	27,818
Massachusetts	L	L	1973	240	240	0	1	9.94	9.06(f)	23,212(g)
Michigan	L	SC	1972	110	110	0	1	0.0	0.0	80,751
Minnesota	L	FC	1972	134	134	0	1	1.99	1.97	28,404
Mississippi	L	FC	1975	122	84	27	4	1.06	0.93	18,171
Missouri	B	SC	1971	163	163	0	1	1.2	1.3	28,696
Montana	B	B	1974	100	100	0	1	7.33	7.65	6,944
Nebaska	Unicameral Legislature									
Nevada	L	L	1971	40	40	0	1	10.9	12.1	12,218
New Hampshire	L	L	1971	400	159	109	11	23.3	19.3	1,813(h)
New Jersey	B	B, SC	1973	40	40	40	2	2.55	1.39	89,639
New Mexico	L	L, SC	1972	70	70	0	1	4.92	4.95	14,514
New York	L	L	1971	150	150	0	1	1.8	1.6	121,608
North Carolina	L	L	1971	120	45	35	8	8.1	10.2	42,330
North Dakota	L	FC	1975	100	49	49	4	3.16	3.1	6,178
Ohio	B	B	1971	99	99	0	1	1.95	0.95	107,596
Oklahoma	L(c)	L	1971	101	101	0	1	1.0	1.2	24,338
Oregon	L(c)	S, SC	1971	60	60	0	1	1.13	0.88	34,556
Pennsylvania	B	B	1971	203	203	0	1	1.98	0.04	58,115
Rhode Island	L	L	1974	100	100	0	1	17.0	0.0	8,900
South Carolina	L	L	1974	124	124	0	1	0.98	4.97	20,819
South Dakota	L(c)	L	1971	70	28	28	10	7.4	3.3	9,518
Tennessee	L	L	1973	99	99	0	1	1.0	1.6	39,618
Texas	L(c)	L	1975	150	150	0	1	3.8	4.7	74,645
Utah	L	L	1972	75	75	0	1	6.72	5.93	14,124
Vermont	L(c)	L	1974	150	72	39	15	16.38	9.36	1,820(d)
Virginia	L	L	1972	100	52	28	7	9.6	6.8	56,483
Washington	L	FC	1972	48	49	49	2	0.91	0.7	31,214(h)
West Virginia	L	L	1973	100	36	25	13	11.7	8.01	17,442
Wisconsin	L	L	1972	99	99	0	1	0.96	0.93	44,626
Wyoming	L	L	1971	62	23	12	11	41.16	45.47	5,362
Virgin Islands	Unicameral Legislature									

Source: *The Book of the States, 1976-77*, p. 43, with updated information.
 Abbreviations: B—Board or Commission; FC—Federal Court; SC—State Court; G—Governor; L—Legislature; S—Secretary of State.
 (a) Population figures in most instances are based on the 1970 federal census.
 (b) Effective 1976 election.
 (c) Constitution or statutes provide for another agent or

agency in reapportionment if the Legislature is unable to do so.
 (d) Average number of registered voters per seat.
 (e) Approximate. No exact figures were available.
 (f) This figure excludes two geographical island districts whose deviations are -71.3 and -31.7.
 (g) Based on 1971 special State Decennial Census of state citizens.
 (h) Based on civilian or nonstudent population.

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Not e: As a result of a recent constitutional amendment and a reapportionment law enacted since this Table was prepared, the Massachusetts House has 160 single-member districts with an average population for each seat of 36,184. The percentage population deviations range from +9.5% to -10.24%.

TABLE V:
CONGRESSIONAL DISTRICTS

State	Initial Re-districting by	Present Re-districting by	Year of Most Recent Districting	Number of Districts	Maximum Percent Deviations from Average Population	Average Population Per District
Alabama	L	L	1972	7	+ .22% - .46%	492,024
Alaska	(One Member elected at-large)					
Arizona	L	L	1971	4	+ .1% - .12%	443,121
Arkansas	L	L	1971	4	+ .07% - .19%	480,824
California	L	SC	1973	43	+ .55% - .39%	464,442
Colorado	L	L	1972	5	+ .17% - .47%	441,432
Connecticut	L	FC	1972	6	+ .02% - .02%	505,370
Delaware	(One Member elected at-large)					
Florida	L	L	1972	15	+ .08% - .19%	452,630
Georgia	L	L	1972	10	+ .41% - .69%	458,958
Hawaii	L	L	1969	2	+ 6.9% - 5.9%	384,957
Idaho	L	L	1971	2	+ .10% - .10%	256,504
Illinois	L	FC	1971	24	+ .63% - .89%	462,082
Indiana	L	L	1971	11	+ .11% - .12%	472,152
Iowa	L	L	1971	6	+ .23% - .42%	470,640
Kansas	L	L	1971	5	+ .94% - .62%	418,814
Kentucky*	L	L	1972	7	+ .11% - .09%	460,102
Louisiana**	L	L	1972	8	+ .39% - .14%	455,396
Maine	L	L	1961	2	+ .23% - .23%	496,832
Maryland	L	L	1971	8	+ 1.01% - 1.35%	490,300
Massachusetts	L	L	1971	12	+ .62% - .96%	474,098
Michigan	L	FC	1972	19	+ .11% - .44%	467,110
Minnesota***	L	L	1971	8	+ .77% - .63%	475,634
Mississippi	L	L	1972	5	+ 1.94% - 2.16%	443,282
Missouri	L	FC	1972	10	+ .41% - .22%	467,740
Montana	L	L	1971	2	+ .07% - .07%	347,206
Nevada	L	L	1971	3	+ .10% - .06%	494,597
Nevada	(One Member elected at-large)					
New Hampshire	L	L	1972	2	+ .46% - .46%	368,841
New Jersey	L	FC	1972	15	+ .44% - .54%	477,578
New Mexico	L	L	1961	2	+ .62% - .62%	508,000
New York	L	L	1974	39	+ 1.53% - 1.22%	467,725
North Carolina	L	L	1971	11	+ 2.12% - 1.67%	462,006
North Dakota	(One Member elected at-large)					
Ohio	L	L	1972	23	+ .31% - .19%	463,131
Oklahoma	L	L	1972	6	+ .21% - .22%	426,542
Oregon	L	L	1971	4	+ .11% - .11%	522,846
Pennsylvania	L	L	1972	25	+ 1.39% - .84%	471,756
Rhode Island	L	L	1972	2	+ .12% - .12%	474,662
South Carolina	L	L	1971	6	+ 3.34% - 4.81%	431,753
South Dakota	L	L	1971	2	+ .01% - .01%	333,129
Tennessee	L	L	1972	8	+ 4.54% - 3.71%	490,321
Texas	L	L	1975	24	+ .08% - .08%	466,520
Utah	L	L	1971	2	+ .01% - .01%	529,637
Vermont	(One Member elected at-large)					
Virginia	L	L	1972	10	+ .24% - .44%	464,849
Washington	L	FC	1972	7	+ 6.77 - 1.78%	467,024
West Virginia	L	L	1971	4	+ .35% - .43%	436,059
Wisconsin	L	L	1971	9	+ .63% - .34%	490,661
Wyoming	(One Member elected at-large)					

KEY: L—Legislature, FC—Federal Court, SC—State Court.

*Information provided by the Kentucky Legislative Research Commission.

**The Louisiana Department of Justice reports maximum deviations different from those reported by CQ (+ .19% and - .13%).

***The Minnesota Secretary of State reports maximum deviations different from those reported by CQ (+ .90% and - .37%).

This table was prepared by Common Cause from information in *Congressional Districts in the 1970's* (2nd Ed., 1974) (published by *Congressional Quarterly*).

Political Gerrymandering

The U.S. Supreme Court has taken us a substantial way toward its aim of "fair and effective representation for all citizens." The Court's "one person, one vote" standard has done away with the gross malapportionment of the pre-*Baker* years. But the substantial population equality required by the Court is not a total answer to the representation question. The Court has not guaranteed fair district lines. According to William J.D. Boyd of the National Municipal League:

The reapportionment revolution has certainly come a long way, and very effectively eliminated the evil of malapportionment. As with most revolutions, it remains incomplete so long as the political gerrymander remains to effectively dilute the basic principles of a representative democracy.

The problem of political gerrymandering has replaced population inequality as the major obstacle to "fair and effective representation." Gerrymandering has been defined by Professor Robert Dixon, one of the nation's foremost experts on reapportionment, as "discriminatory districting which operates to inflate unduly the political strength of one group and deflate that of another." It is usually, but not exclusively, manifested in the manipulation of the shape of legislative districts. Political gerrymandering is a political tool that has a long history in American politics. The gerrymander was named after Elbridge Gerry, Governor of Massachusetts in 1812 when the legislature created a peculiar salamander-shaped district to benefit Gerry's Democratic Party (see "The Original Gerrymander" on page 16). It lives on today. In 1971, University of California Professor Gordon E. Baker surveyed the reapportionment plans drawn for California and concluded:

While population variances among districts were negligible, several resulting configurations appear to be prime candidates for the Elbridge Gerry Memorial Award for Creative Cartography. Indeed, comparatively speaking, the early Massachusetts governor was a rank amateur and his famed salamander-like district a model of compactness.

Political gerrymandering is generally an attempt by incumbent legislators and majority parties in legislatures to draw district lines that perpetuate their positions of power within the status quo. It often results from the conflict of interest of having district lines drawn by state legislators. Few issues are of as intense interest to legislators as reapportionment. The drawing of district lines can make or break the political careers of the incumbent legislators who are charged with drawing the lines in most states. All too often, incumbents give in to the pressure to manipulate district lines for personal or partisan benefit. As the Majority Leader of the Maryland Senate has quipped: "There are two things that excite the Senate, reapportionment and horse racing."

Political gerrymandering is usually done by the majority party in the legislature working with statistics of past voting behavior, party registration, and demographic information. The intent is to create districts designed to produce the greatest number of legislative victories for the majority party by wasting minority party votes. As a New York politico discussing an upcoming reapportionment once said: "Now it's just a question of slicing the salami, and the salami happens to be in our hands."

One gerrymandering technique is to concentrate minority party strength in as few districts as possible, conceding these districts to the minority by wide margins in order to prevent the minority party from competing in other districts. For example, the majority party would concede one district to the minority in order to win three others. Another technique is to diffuse minority party strength in order to make it difficult for the minority party to win the number of seats representative of its popular support. In Illinois in 1973, for example, the General Assembly crossed the city line of Chicago nine times in drawing state legislative lines. The purpose and effect of this gerrymandering were to waste suburban Republican votes and to increase the number of city Democrats in the state legislature. In a 1972 study published by the American Enterprise Institute, Terry B. O'Rourke compared the ratio of votes won to seats won in the 1966-70 Congressional elections by parties with and

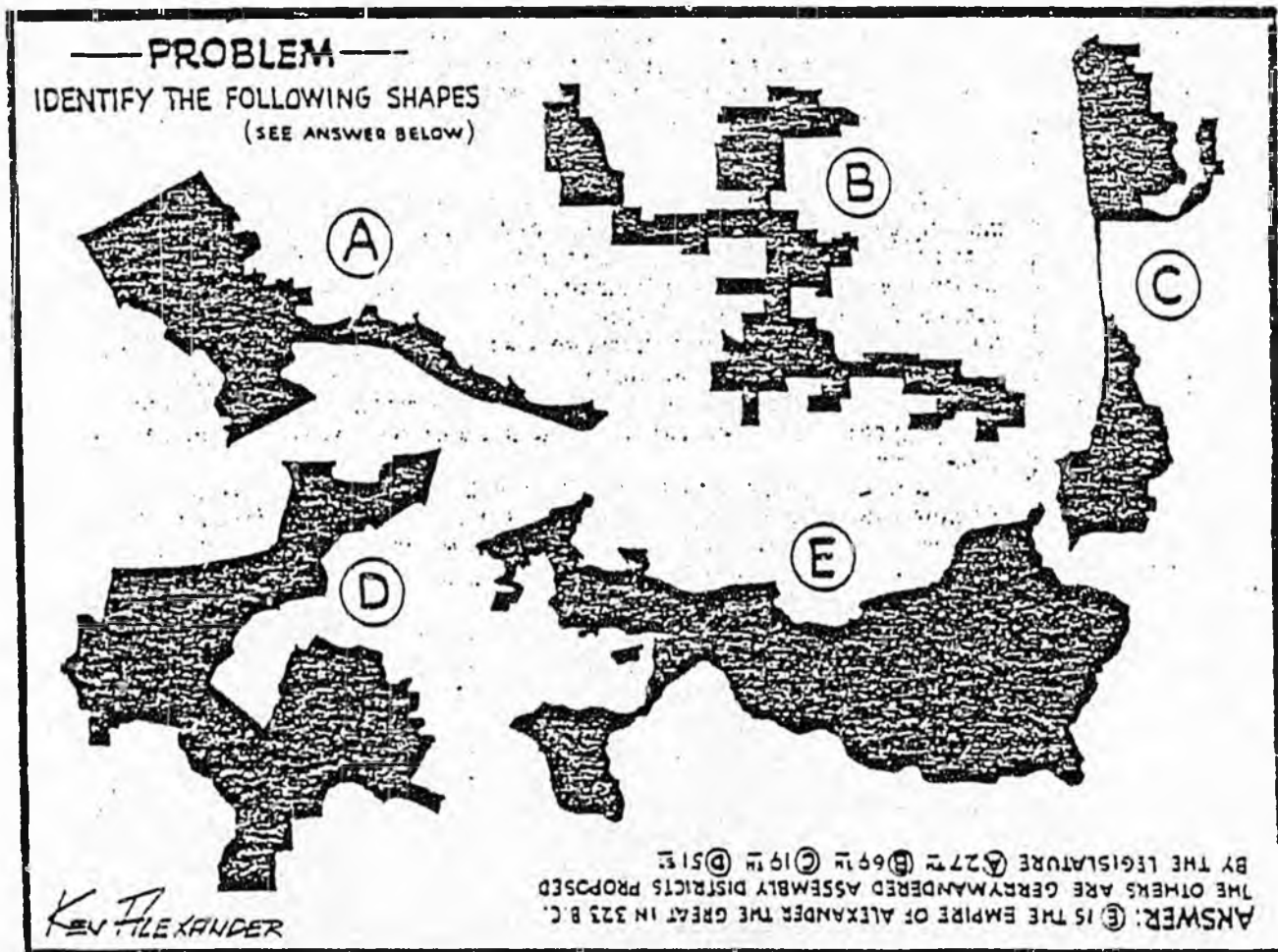
without the power to draw district lines. O'Rourke found that "parties with reapportionment power used it to enormous advantage."

The majority party in the legislature does not always undertake affirmative action to undermine the representation of the minority party. Sometimes the majority party will cut a deal with the minority to protect incumbents of both parties. Bipartisan gerrymandering seeks to increase the strength of the incumbent or the majority party in each district. Yale Professor Edward R. Tufté has found that:

... a major element in the job security of incumbents is their ability to exert significant control over the drawing of district boundaries; indeed, some recent redistricting laws have been described as the Incumbent Survival Acts of 1972. It is hardly surprising that legislators, like businessmen, collaborate with their nominal adversaries to eliminate dangerous competition.

Thus, even where apportionment plans are drawn by bipartisan legislatures, gerrymandering can be used to preserve the domination of incumbents and undermine competition.

Political gerrymandering is often a weapon in intra-party disputes. Legislative leaders have used their authority over reapportionment to win support for their legislative proposals and to punish their political opponents. In the 1971 session of the Texas legislature, Texas House Speaker Gus Mutscher's absolute control of the House was threatened by a group of maverick representatives who came to be known as the Dirty Thirty. Mutscher used the redistricting plan as his vehicle for revenge. According to one observer:



On May 28, 1971, three days before the end of the sixty-second session, Mutscher and his henchman Delwin Jones of Lubbock unveiled their House redistricting plan and placed it on a little easel near the front of the House chamber. One by one, the members gathered round. First came the gasps of horror, then the laughter, and finally the shaking of heads and little smiles. More than half of the Dirty Thirty had been placed in districts with each other and most of the others wound up in districts composed of voters clearly antagonistic to their political philosophies . . . [Mutscher went to great pains to put two young liberals in the same district.] The result resembles a fat chicken with Denton's house at the end of the beak and Moore's at the tip of the tail.

(from Katz, *Shadow on the Alamo*)

When Chicago Mayor Richard Daley proposed a congressional districting plan designed to increase his already firm control over the Illinois delegation and remove a maverick Democrat from Congress, the *Chicago Daily News* saw the proposal as an assertion that "raw power can roll over the public interest by buying off the necessary votes in the Legislature with cynical political trades."

On the state level, political gerrymandering is often achieved by the establishment of multi-member rather than single-member legislative districts. The inevitable result of establishing multi-member districts—from which more than one legislator is elected—is to submerge the voting strength of ethnic or political party minorities. The U.S. Supreme Court has criticized multi-member districts but has not found them to be unconstitutional. In 1971, the Court rejected an argument that the use of multi-member districts in Indianapolis to limit black representation was unconstitutional.

The Effects of Political Gerrymandering

Political gerrymandering—whether by the majority party or by both parties, whether the result of intra- or inter-party disputes—attempts to pre-determine electoral results. Competition is minimized. This undermines the system of competitive elections on which our representative democracy is based.

A Common Cause survey of state and congressional election results shows a shocking lack of competition in American electoral politics. We examined the proportion of incumbents in Congress and fourteen state legislatures who ran for renomination or re-election from 1968-1976 and won. The figures in Tables VI and VII on pages 17 and 18 show that incumbents who ran for re-election were re-elected at rates frequently in excess of ninety percent. Of the 69 state legislative elections reported in Table VII, the incumbent re-election rate dropped below eighty percent in only six. Four of these six came in the four elections held in Hawaii and Montana since the adoption of reapportionment plans through processes that meet the anti-gerrymandering test advocated by Common Cause.

As public opinion polls have demonstrated, this high rate of incumbent re-election can hardly be traced to public satisfaction with the performance of government. Rather, a lack of meaningful competition is the major factor. Clearly, the existing system of reapportionment—where incumbent legislators establish the electoral ground rules and stack them in their favor—is one of the reasons for this lack of competition. The present system of financing elections and the many perquisites of public office are others.

The lack of electoral competition that results from political gerrymandering undermines our system of representative democracy in several significant ways.

First, political gerrymandering dilutes the value of political participation. Where election results are largely pre-determined through political gerrymandering, the chance that a voter can influence an election through volunteer campaign activity or voting is diminished. Without competition, political issues need not be debated. Voters receive little meaningful information and have few real choices regarding candidates' positions on major issues.

Second, political gerrymandering makes legislators less responsive to the political interests of their entire constituency. Safe districts remove the incentive to grant political concessions to constituent interests within the district or to create electoral coalitions and ensure representation of diverse points of view.

Third, political gerrymandering weakens political parties by allowing them to field weak candidates. With safe districts, political parties have little incentive to find strong candidates. Their talents are not essential to victory. Instead, the majority party in each district may use the safe seat as a political reward for a party loyalist.

Racial minority groups have been special victims of gerrymandering. An eighteen month study of the operation of the Voting Rights Act by the United States Civil Rights Commission in 1969 concluded that gerrymandering was a prime weapon for discriminating against black voters. There is no doubt that political gerrymandering in general and the use of multi-member rather than single-member districts in particular has had and can continue to have the effect of denying representation to

The Original Gerrymander . . .

The practice of "gerrymandering"—the excessive manipulation of the shape of a legislative district to benefit a certain incumbent or party—is probably as old as the Republic, but the name originated in 1812.

In that year, the Massachusetts Legislature carved out of Essex County a district which historian John Fiske said had a "dragonlike contour." When the painter Gilbert Stuart saw the misshapen district, he pencilled in a head, wings and claws and exclaimed: "That will do for a salamander!"—to which editor Benjamin Russell replied: "Better say a Gerrymander"—after Elbridge Gerry, then Governor of Massachusetts.



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. . . and the Daley Plan

The white portion of the map below was the 10th congressional district proposed by Chicago Mayor Richard J. Daley in 1975 in order to unseat the district's maverick incumbent, U.S. Representative Abner Mikva. Mikva commented: "That's not a map, that's a spaghetti." Notice that the Daley plan is quite similar to the original Gerrymander (at left).

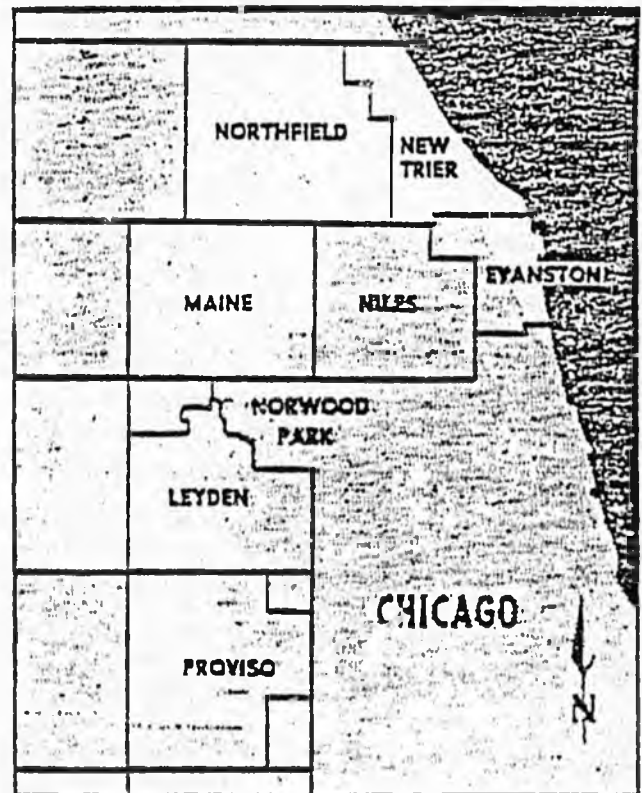


TABLE VI:

RATE OF INCUMBENTS WHO RAN FOR RE-ELECTION AND WON
IN 1968-76 FOR U.S. HOUSE OF REPRESENTATIVES

State	1968	1970	1972	1974	1976
Alabama	100%	100%	100%	100%	100%
Alaska	100	—	100	100	100
Arizona	100	100	100	100	100
Arkansas	100	100	100	100	100
California	100	97	95	92	98
Colorado	100	75	50	80	100
Connecticut	82	100	83	100	100
Delaware	100	—	100	100	—
Florida	100	100	100	100	100
Georgia	100	100	89	80	100
Hawaii	100	100	100	100	—
Idaho	100	100	100	50	100
Illinois	100	100	95	90	96
Indiana	90	90	91	55	80
Iowa	100	100	71	50	83
Kansas	100	80	100	100	80
Kentucky	100	86	100	100	100
Louisiana	88	100	100	100	86
Maine	100	100	100	50	100
Maryland	85	66	100	100	100
Massachusetts	100	90	90	90	100
Michigan	100	100	95	94	93
Minnesota	100	86	100	100	100
Mississippi	100	100	100	100	100
Missouri	100	100	100	100	100
Montana	100	50	100	50	100
Nebraska	100	50	100	100	100
Nevada	100	100	0	0	100
New Hampshire	100	100	100	100	100
New Jersey	100	100	100	71	93
New Mexico	0	50	100	100	100
New York	94	87	94	88	100
North Carolina	100	100	100	82	100
North Dakota	100	100	100	100	100
Ohio	100	90	100	95	95
Oklahoma	100	100	100	80	100
Oregon	100	100	100	100	100
Pennsylvania	100	100	100	91	89
Rhode Island	100	100	100	100	100
South Carolina	100	83	83	75	100
South Dakota	100	—	100	50	100
Tennessee	100	100	88	75	100
Texas	100	100	88	97	98
Utah	100	100	50	100	50
Vermont	100	100	100	—	100
Virginia	100	100	100	80	100
Washington	100	86	100	100	100
West Virginia	100	100	100	100	75
Wisconsin	100	90	89	67	100
Wyoming	0	—	100	100	100
TOTALS	97%	95%	95%	99%	96%

The information in this table represents the percentage of incumbent Members of the U.S. House of Representatives who ran for renomination or re-election and who won re-election. The table was prepared by Common Cause from information in *Congressional Quarterly*.