

## A Study of Seven Legislatures

### Budget Processes

#### Annual and Biennial Budgeting States

<b>ANNUAL SESSION ANNUAL BUDGET</b>	<b>ANNUAL SESSION BIENNIAL BUDGET</b>	<b>BIENNIAL SESSION BIENNIAL BUDGET</b>
Alaska	Oregon	Montana
South Dakota	Wyoming*	Nevada
Utah		North Dakota*

\*Biennial budget states that enact a consolidated two-year budget. Other biennial budget states enact two annual budgets at one time.

Biennial budgeting states generally enact separate budgets for two fiscal years at once. True biennial budgeting—enacting a single two-year budget—is rare, although still practiced in North Dakota and Wyoming. North Dakota has biennial sessions as well. Although the Wyoming legislature meets annually, in the budget year its session is scheduled for only 20 days. Oregon also has enacted a consolidated biennial budget in the recent past, but the co-chairs’ proposal for the 2011-2013 biennium breaks out proposed appropriations for the two fiscal years separately.

#### Comparison between Montana and Wyoming’s budget processes

Both Montana and Wyoming prepare biennial budgets; Wyoming has annual sessions, the budget session is the second session in a biennium, beginning the second week of February (5-day week), and is limited to 20 days.

- Wyoming – The Governor’s Budget Office presents a standard budget for each agency in July. They may develop an “exception/expanded” budget request for increased funding to maintain current services (in Montana “Present Law”) or to transfer funds and positions between programs, or to expand services (in Montana “New Proposals”).
- Montana – The Executive Planning Process begins early in the even-numbered year with the Budget Office sending out instructions to agencies who prepare draft budgets to provide to the Budget Office who negotiates with the agencies to finalize proposals for the Governor’s approval.
- Wyoming - The Consensus Revenue Estimating Group meets in October and develops revenue forecasts which the Governor uses to compare the agency budget requests to prepare the budget recommendations to the Legislature which are provided to the

Legislature by December 1 of each year. Supplemental budget requests are required in the summer months prior to a general session.

- Montana – The Revenue and Transportation Interim Committee meets to prepare a revenue estimate by December 1 preceding a session. There are various budget deadlines between September 1 and January 7 for various items in the budget. The Governor is required to submit a preliminary budget to the Legislature by October 10, and amendments to the preliminary budget by December 15. (A governor-elect has until January 7 to submit recommended changes.)
- Wyoming - Once the Governor's budget is received, the Legislative Service Officer prepares detailed reports and summary reports.
- Montana – Once the Governor's budget is received, the Legislative Fiscal Division prepares a budget analysis.
- Wyoming – The Joint Appropriations Committee begins agency biennial budget hearings in December or early January prior to the budget session. The JAC meets periodically in blocks of 1 or 2 weeks until the budget session starts. Once the hearings are completed, the Committee works the budgets, program by program, with members making specific recommendations to either approve, deny, or adjust an agency's funding request. The JAC discusses and votes on each recommendation and on each program or subprogram budget request. The entire budget hearing/budget working process takes 4 or 5 weeks and is completed at least one week before the budget session begins. The Legislative Service Officer prepares two identical general appropriations or budget bills for introduction – one for each chamber. Different committee members explain the committee's action on the floor of each house. (Even though there are two identical bills started, only one bill is considered by conference committee and is passed into law that incorporates action from both houses.)
- Montana – The Governor's Budget Office provides the information for the introduced bill. Joint subcommittees meet to hear the respective agency budgets in their respective session. In the past session, the joint subcommittees were done with the subcommittee process by legislative day 44 (1/11/13 through 2/27/13). The joint subcommittee work results in a (unofficial) substitute first reading bill that is considered by the House Appropriations Committee where a committee report is compiled and an official second reading copy of the bill is printed. Once passed, the bill is transmitted to the Senate and heard by the Senate Finance and Claims Committee. Floor amendments are allowed in each chamber during second reading. If the House does not concur with the Senate amendments, a conference committee or a free conference committee is appointed to negotiate the final bill. A conference committee may consider only the amended portions of the bill. There are no limitations to what a free conference committee can consider.

- Wyoming – Following introduction in the first house, the mirror budget bill is referred to the committee of the whole. Amendments are allowed. Upon passage by the house of origin, a mirror budget bill shall be delivered to the second house for action without engrossing, but shall be accompanied by amendments adopted by the first house. The bill is referred to the standing appropriations committee of the second house. The standing committee submits a list of the identical amendments to the second house. No action is taken regarding this list. The standing committee identifies any identical amendments adopted by the house of origin. Other amendments that have been adopted by the second house on their mirror bill that are not identical are provided in a list that is included in the committee report (no new amendments may be offered). The mirror bill of the house of origin after being reported out of committee in the second house is placed on third reading and each of the non-identical amendments are explained on the floor by a member of the appropriations committee. A non-binding “straw poll” is taken on each non-identical amendment solely to provide non-binding guidance to members of the conference committee from the house in its deliberations on developing a conference committee report. After third reading amendments have been considered, no third reading vote is taken. Both mirror budget bills are immediately referred to the same joint conference committee. The first conference committee is not free, but any subsequent conference committee is. The joint conference committee considers and disposes of each adopted Senate Amendment to the Senate bill and each House amendment to the House bill. But only one report is submitted for both mirror bills and only one is reported back to both houses. The one not referred is automatically considered tabled. The signed conference committee report is simultaneously reported to both houses for concurrence.

### **States budget processes vary in most every aspect**

- States which have joint subcommittees of appropriation and budget committees include Arkansas, Connecticut, Iowa, Montana, Nevada, North Carolina, Oregon, and Utah. (Michigan has one joint subcommittee on capital outlay and in South Dakota it varies.)
- In all of the above states, subcommittees hold hearings, but only in Connecticut and Montana do the full committees hold hearings on the same subject. In Connecticut, subcommittees have public meetings with agency and budget staff, but do not hold formal hearings, all committees are joint committees, and the appropriations bills all go to House first.
- Approp subs – meet a lot in floor session in Wyoming into conference committee. In Utah, all members meet; North Carolina – all standing divisions; Minnesota – not all, used to have fiscal sub of standing committees and stopped doing it; Idaho, Colorado – joint committee that makes all decisions.
- In Montana, appropriations bills start in House. (See Table 4-3) 15 states start the appropriations bill in the House, none start it solely in the Senate; 16 states start in both houses simultaneously; and 9 states alternate between House and Senate. In 10 states, multiple bills are divided between chambers.
- Maine creates subcommittees ad hoc.
- Wyoming is the only state with a mirror process.

- Oregon does not allow floor amendments on the budget – any amending must be done in committee or conference committee. It is not only for budget bills, but for all bills. If a bill needs to be fixed, it is either sent back to committee or changed in the second chamber (if it hasn't already been there).
- In Louisiana, the Joint Legislative Committee on the Budget (JLCB) is composed of the members of the House Committee on Appropriations, the Senate Finance Committee, and the Chairmen of the House Committee on Ways and Means, and the Senate Revenue and Fiscal Affairs Committee. The committee may hold public hearings each year to review agency budget requests and the recommended executive budget, and report its findings and recommendations two weeks prior to each regular legislative session. During the interim, the committee is authorized to approve or disapprove transfers of funds, and to approve requests for use of interest earnings and for change orders for capital constructions projects. The committee is often extended broad authority to interpret and oversee implementation of legislative intent in regard to fiscal and budgetary matters.
- Florida – a general appropriations bill must have a 72-hour review period. If not on budget committee – any bill over \$50K has to go to budget committee – some states prohibit budget committee from dealing with policy.
- Minnesota – starts in February because of revenue forecast and not enough time (2<sup>nd</sup> year of biennium) rules – ways and means set targets, binding with revenue forecast.

### **Leadership Budget Questions**

Further research is desired on the legislative process for adoption of the budget in those states that, after having joint subcommittee hearings, send the budget bill to both chambers for simultaneous review and then to conference committee after adoption in both Houses, to-wit:

1. Has this process led to a stalemate situation on differences between the House and Senate versions? This is mostly tied to fiscal situations and when there are major budget cuts. There are mixed reviews, somewhat dependent on how you structure the process, such as, are conference committees limited in scope or do you automatically go to a free conference committee? A look at how many special sessions are required to complete budgets would be one way to judge the processes.
  - Maryland has a statute that if the budget is not passed by the 83<sup>rd</sup> legislative day, they cannot consider other issues. (If the Budget Bill shall not have been finally acted upon by the Legislature seven days before the expiration of the regular session, the Governor shall issue a proclamation extending the session for some further period as may, in his judgment, be necessary for the passage of such bill; but no matter other than such bill shall be considered during such extended session except a provision for the cost thereof.)
2. Has control of chambers by different parties complicated or delayed the settlement of differences? No, in general it is more tied to personalities. (See article on “Shutdown Showdowns”)

3. Has this simultaneous review and passage process saved legislative time versus the traditional process of back and forth passage? In Wyoming, the budget process takes 4 to 5 weeks prior to session and must be submitted 1 week before session. Then the budget session lasts 20 days (5-day weeks). The question to be considered is, what do you mean by “saving legislative time” and what would be cut?
4. Does it result in earlier passage of the budget? Deadlines on the amount of time allowed considering the budget varies from state to state, from no limit to 33 weeks. If they have two sessions, one is often longer and the time varies between sessions. In a “mirror process” which exists only in Wyoming, it is in the context of an annual session that is dedicated only to the budget; it is a 4 to 5 week process before session and then four 5-day weeks in session (see more below on comparison between Montana and Wyoming processes). (See Table 5-1 on the Maximum time legislature or committee has to consider budget.)
5. Are legislators satisfied with the use of this simultaneous review process? Unknown.
6. Senator Essmann understands that some of these states may have special rules that require any changes to the budget that leaves the joint subcommittees to be adopted by both chambers in order to be considered by the conference committee. Is that understanding correct? Are there special rules in place that establish necessary procedures for resolving the differences in the two versions of the budget? No, even in Wyoming the second chamber (Senate) has an opportunity to amend the bill, but the amendments that are not identical to the House amendments are considered in conference. (See Table 5-9 on Conference Committee on Appropriations Bill(s).) Twenty-one states have free conference committees and 18 states have limited conference committees, 14 states do the bills rarely go to conference. The more limited the legislature is in amending the bill, the more authority resides in the executive.
7. Have there been any implications to the Legislative Fiscal Staff that occurred due to moving to a simultaneous budget bill process? Unknown.

**Basic questions to answer before making changes suggested by NCSL staff:**

1. What goals are you trying to accomplish? Is this:
  - a. a mechanical change (shorten session, have budget agreement earlier); or
  - b. a philosophical change (recruitment, more public opportunity to comment and participate)?
2. Must identify constituencies, interest groups, and who does/needs to participate – some of it takes until the 2<sup>nd</sup> chamber to get organized (noted in Annual Sessions paper). Committee meetings are the one place for citizen input. If shorten the time period, do you cut back on constituents’ time? Shortening the floor time for budget bills does not affect constituents, but legislators that are not on the budget committees may be more disenfranchised than they already are.

3. Consider whether changes will result in additional legislative scrutiny and authority over the Executive, or whether streamlining cedes additional power to the Executive.

**Potential concerns**

1. Both MBARS and the Session Systems for bill drafting are in the process of change and conversion. Any changes to the legislative calendar or process must be analyzed for whether the systems are in a position to make a change or whether the systems should be developed with the ability to make such changes in the future. Both systems are scheduled to be fully operational with the 2017 session being the first session that both will be in use for the first time.
2. The Legislative Finance Committee could provide expertise and support to consider any changes to the budget process. A study by members of both committees may be advisable.