Assessment of the Maryland Budget Process

Prepared at the Request of the
President of the Senate and Speaker of the House of Delegates

Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF POLICY ANALYSIS
MARYLAND GENERAL ASSEMBLY

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March 8, 2002

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House
Annapolis, Maryland 21401

The Honorable Casper R. Taylor, Jr.
Speaker of the House
State House
Annapolis, Maryland 21401

Dear President Miller and Speaker Taylor:

This interim you requested that the Office of Policy Analysis (OPA), in conjunction with the staff of the National Conference of State Legislatures (NCSL), evaluate key aspects of the Maryland budget process and report to you during the 2002 legislative session. Although it took somewhat longer to produce than we expected, the product of our effort is submitted herewith.

Numerous staff of OPA contributed to the report. Chapters I and II, which describe the history and practice of our budget system were primarily authored by David Juppe, who, in addition to his work as a budget manager, is pursuing his doctorate in public administration. Chapters III and IV contrasting our process to that in other states and the federal model are the combined efforts of Ryan Bishop, Terri Bacote-Charles, Victoria Gruber, Lori O'Brien, David Romans, and Matt Riven. Mr. Riven also coordinated the project. Chapter V represents my contribution to the project. The work of Ron Snell and Corina Eckl of the NCSL fiscal staff were extremely helpful to the project and resulted in a comparative report which is attached as an appendix to the OPA report. Joyce Fowler provided considerable editorial assistance and prepared the manuscript.

I am pleased to be able to provide this report to you, and trust that it will provide some useful perspective on our present budget practices. I will be pleased to discuss the report and conclusions with you at you convenience. Please advise if you would like us to share this report with other members of the fiscal leadership and the General Assembly.

Sincerely,

Warren G. Deschenaux
Director

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cc: Melanie L. Wenger
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Foreword

This report by the Department of Legislative Services responds to a request on August 6, 2001, by the President of the Senate and the Speaker of the House of Delegates to discuss and analyze the State's budget process. Specifically, the leaders of the General Assembly asked Legislative Services "to analyze the strengths and weaknesses of Maryland's budgetary system and to recommend options for changes to laws or legislative rules and procedures which might improve that system."

The context of the request was the 2001 legislative session, when several criticisms of the State's budgetary process were mounted from various perspectives. For example, non-fiscal committees expressed concern about their ability to impact important budgeted programs, fiscal committees expressed frustration with short time frames for the review of supplementary budgets, and a number of members of the legislature from various committees expressed concern about the legislature's limited power to assure that base level funding for particular programs is adequate.

The leadership asked Legislative Services to address all aspects and stages of the State's budget process, including, but not limited to revenue estimation, budget development and allocation, supplemental budgets, spending affordability, and budget deliberation. The leaders asked for both historical and comparative contexts, the latter to include research provided through the National Conference of State Legislatures (NCSL). As for potential changes to the budget process, the only constraint imposed by the leaders was that they would not consider any option that would add money to a balanced budget.

In response to that request, Legislative Services has prepared this report, utilizing numerous fiscal analysts within the Office of Policy Analysis as well as the resources of NCSL. The report contains five chapters, as follows:

Chapter I. How We Got Here: A history of the development of Maryland's budget process in both the national and local context.

Chapter II. How We Do It: A brief summary of Maryland's budget process, including discussion of the constitutional, statutory, and informal rules that govern the process.

Chapter III. How We Compare – Other States: A comparative analysis of the Maryland budget process with that of seven selected states as researched by NCSL.

Chapter IV. How We Compare – Federal Government: A comparative analysis of the Maryland budget process with that of the federal government.

Chapter V. How We Might Improve: A summing up of the research and analysis of the prior four chapters, with several options for policy prescriptions to improve the budget process. These prescriptions range from changes to the State's constitutional budget arrangement to procedural changes within the General Assembly's budget consideration that the legislature could undertake independently.

Also enclosed are several appendices, containing: a summary of options discussed in Chapter V; the NCSL report prepared for Legislative Services and the General Assembly; the August 6 leadership letter requesting the Legislative Services study; and finally, a list of sources.

Chapter I. How We Got Here

"... unless these [legislative, executive, and judiciary] departments be so far connected and blended as to give each a constitutional control over the others, the degree of separation which the maxim requires, as essential to a free government, can never in practice be duly maintained."

Publius
The Federalist Papers No. 48

Background

The budget process in Maryland is unique in the degree to which the legislature is constrained from increasing or transferring funds within the executive branch during consideration of the budget. Absent the flexibility afforded the U.S. Congress or other state legislatures, the General Assembly may only reduce or restrict funding, operating in an executive-dominated model of budgeting. This system has been in effect since the adoption of reforms to the State Constitution in 1916, which were implemented in 1918. These reforms were the culmination of efforts to address the inability of municipal, state, and federal governments to adapt to changing societal dynamics prevalent in the late 19th and early 20th centuries. The issue was brought to the forefront in Maryland because of a general fund deficit of $1.3 million in 1915. A commission was established and an accounting firm retained to examine the State's budget.

Due in part to concerns that the Governor was not fully funding the base budget, the Maryland General Assembly contemplated SB 245 during the 2001 session: a constitutional amendment that would have fundamentally modified the powers of the budget relative to the executive branch. Although the amendment was not adopted, the presiding officers requested that the Department of Legislative Services (DLS) analyze the strengths and weaknesses of Maryland's budgetary system and recommend options for changes to laws, legislative rules, and procedures which might improve that system.

Purpose

This analysis will examine the historical context which shaped the development of the current system of budgeting in Maryland, outline the current process through development and enactment, illustrate the problems with the current structure, and make recommendations. Chapter III and IV compare Maryland's budget process with those of seven other states and the federal government, using a variety of measures throughout the stages of budget development and review.

Historical Context

Separation of Powers

The founders of the United States created a democratic form of government which incorporated a separation of the legislative, judicial, and executive functions as a basic tenet. Such a system had not previously existed, wherein checks and balances were established to ensure that the executive and legislature branches were independent of each other and could exercise independent judgment. This decision was based on experiences observing the strengths and weaknesses of contemporary governments and the writings of political theorists. The discourse of the late 18th century was captured in *The Federalist Papers* prepared by Alexander Hamilton, James Madison, and John Jay.

The shortcomings of having too much power concentrated in the hands of one of the three branches of government was discussed in Nos. 47 and 48 of *The Federalist Papers*. Discussion within these two papers focused on the observations of the Baron de Montesquieu on the British Constitution and on Thomas Jefferson's *Notes on the State of Virginia*. Jefferson in particular noted that "the powers of government should be so divided and balanced among several bodies. . . as that no one can transcend their legal limits without being effectively checked and restrained by the others." Jefferson was primarily concerned with a lack of safeguards to prevent the exercise of absolute power and tyranny by the executive branch. James Madison expressed similar sentiments by noting that "none of. . . [the three branches of government] ought to possess, directly or indirectly, an overruling influence over the others in the administration of their respective powers."

In sum the founders wished to ensure a balance of power to prevent the excesses associated with the concentration of power in one branch, specifically the executive branch.

Social Dynamism of the 19th Century

Through most of the 19th century, government played a minimal role in the United States. There was no need for a sophisticated bureaucratic structure for the limited services that were provided. The lack of centralization and pervasiveness was commented upon in 1835 by Alexis de Tocqueville in *Democracy in America*. The country's economy was largely agrarian-based, with less than 5% of the population living in cities. The administrative component of the government was staffed largely by clerks, many of whom were selected based on patronage. Until the 1880s it was not unusual for the President to approve many appointments, based on party affiliation, with little consideration given to competence or ability.

By the 1880s fundamental change was occurring related to the Industrial Revolution, immigration trends, and the rise of business monopolies. By 1890, 50% of the population resided in urban centers. The cities were ill-prepared to provide services for the influx of population. Health, sanitation, and public safety constituted primary issues. Patronage and corruption were commonplace, and financial and inventory control was virtually nonexistent. At the national level, the federal government was similarly ill-prepared to assume a professional regulatory role. An era of progressive reform, begun with the assassination of President Garfield in 1881 by a disgruntled job seeker, lasted until the 1920s. The initial focus of this movement concentrated on the establishment of a federal civil service system, culminating in the passage of the Civil Service Act in 1883 (a.k.a. the Pendleton Act). Addressing the abuses of the spoils system was widely viewed as a means of curbing the power base of political parties and machine politics and improving administrative efficiency.

Common themes of the reformists focused on the need to separate politics from administration, and the importance of running government like a business. The politics/administration dichotomy was first expressed in Woodrow Wilson's 1887 essay, *The Study of Administration*. As federal reform progressed, attention also turned to state and municipal reform. The formation of the National Municipal League in 1894 to address local corruption and the publication of Lincoln Steffen's *Shame of the Cities* highlighted the need for change. Many of the fiscal and structural reforms that were made actually began at the local levels of government.

State and ultimately federal reforms were influenced by the changes incorporated by the cities, due in no small part to the fact that many of the same personalities involved in municipal reform were to later participate on state and federal commissions appointed for reform purposes.

The Legislative Budget Model: Problems Nationally and in Maryland

Throughout much of the country's early history, budgetary development and enactment was largely a function of the legislative branch of government. Executive branch agencies submitted funding requests directly to the legislature, which reviewed and approved funding on an agency-by -agency basis. Agency spending patterns and needs generally were reviewed only during the period of the year in which a legislative body was in session. The executive role was limited, although oversight was exercised through the line item veto. Numerous problems existed with the legislative model, including inadequate oversight, political influence, and the lack of a unified budget.

Lack of a Unified Budget: Under the legislative model, individual appropriations bills were considered for each agency. The legislature often did not see a total statement of revenue compared with a unified spending document. Thus, the fiscal condition of a particular government could not be ascertained until after the fiscal year had closed. In Maryland the Comptroller was charged with the responsibility of preparing a unified financial statement; however, this function was not adequately performed prior to 1916. A review of the State's accounts and methods by the firm of Harvey S. Chase and Company in 1915 found that both the Comptroller and Treasurer were weak and ineffective.

Inadequate Oversight: Because legislatures only reviewed agency budgets during the session, there were numerous problems throughout the year. Moreover, there was no professional staff responsible for assisting the legislature in its review or to provide support for framing major revenue and expenditure policy. Examples in Maryland of some of the problems in the area of fiscal oversight included:

> Failure to remit revenues: Agencies were not remitting all funds collected to the general fund, instead retaining certain monies and interest earnings in separate accounts;
>
> Overspending appropriations: It was common for agencies to have spent their entire year's appropriation by mid-year. Deficiency appropriations were requested from the legislature. For example, Maryland's Bureau of Immigration issued warrants from local banks against the next year's appropriation in order to cover current year spending; and
>
> Mismanagement and misappropriation of funds: There were instances of items being charged incorrectly against specific appropriations and of agencies which could not account for the expenditure of large portions of their budgets.

At this time there was no central control agency, similar to the current Department of Budget and Management (DBM), to oversee agency spending throughout the year. In fact DBM's precursor, the Department of Budget and Procurement was not created until 1939.

Political Influence: The role of politics in the development and implementation of the budget was a major factor in the reform movement to separate politics from administration. Examples of the abuses that highlighted the need for change include:

> Patronage: Lacking a merit-based civil service (until 1920 in Maryland), agencies found that favorable consideration of their budget often depended upon the employment of individuals based on party affiliation or those recommended by members of legislative committees;
>
> Logrolling: It was not unusual for amendments to the budget to become tied to a member's votes on other legislation. Under this system there was greater activity by political and professional lobbyists for changes to the budget;
>
> Underfunding the base: Funding for the base budget was not always adequately provided, as amendments provided funding for new initiatives and pay-as-you-go (PAYGO) capital to help ensure the passage of bills.

Recognition of the inadequacies of the legislative budget model began to surface as early as 1879. James Garfield's article "National Appropriations and Misappropriations" illustrated how the U.S. Congress had to provide deficiency and supplementary appropriations to cover agency shortfalls and mismanaged appropriations. Woodrow Wilson included similar insights into the problems at the federal level in *Congressional Government* (1885).

Local reform: In 1899 the National Municipal League prepared a model charter under which an executive (e.g., a mayor) would submit a unified budget to a city council. Under the model charter, the council would only have the ability to reduce or eliminate appropriations without the ability to increase the budget. This is the model that was to be adopted by the City of Baltimore and which was to serve as the basis for the system adopted by Maryland in 1916. The preparation of budgets by executives was viewed as a means for ensuring balanced budgets. By 1907 the first line item budget was created and implemented in New York City for its Department of Health.

Federal reform: In 1905 Congress adopted the Anti-Deficiency Act in an attempt to control agency mismanagement in spending practices. Similar to Maryland (and other state governments), federal agencies were expending their appropriations in full prior to the end of the fiscal year. The Act stipulated that departments were to allot their appropriations over the course of the year. In 1911 President Taft created a national Commission on Economy and Efficiency to study the persistent need for deficiency appropriations at the federal level, to study the federal budget process, and to recommend changes. The commission brought together a variety of reformers, including Frank Goodnow who was to later serve on the commission to examine Maryland's budget structure. The Taft Commission recommended the adoption of an executive budget model for the federal budget process; however, that recommendation was not adopted until the 1921 enactment of the Budget and Accounting Act.

The Role of Frank Goodnow

Frank Goodnow spent much of his life in teaching and administration at Columbia University and The Johns Hopkins University. Throughout his life he had an interest in political reform, which he pursued concurrent to his academic pursuits. He served on the commission that redrafted the New York City Charter in 1900, co-founded the American Political Science Association in 1903 (serving as its first President), prepared a draft of a constitution for China, and served on various commissions and task forces. His work on the 1911 Taft Commission was very influential with respect to his recommendations for reforming the Maryland budget process.

While on the commission he worked with Frederick Cleveland, from the Bureau of Municipal Research in New York. Cleveland wrote extensively on the fiscal problems at the municipal level and the need for budget reforms. He also expounded on the shortcomings of the legislative budget model. He wrote that the legislative model of budgeting made it difficult to determine the overall state of fiscal conditions or to develop global revenue and expenditure policies. Cleveland argued that private sector efficiency was realized by having a single executive charged with responsibility for directing the actions of an organization.

Commission on Economy and Efficiency on a Budget System

In 1915 Maryland experienced a general fund budget deficit in the magnitude of $1.3 million. In addition to retaining the Chase Company accounting firm, Maryland appointed a Commission on Economy and Efficiency on a Budget System headed by Frank Goodnow. The commission's recommendations incorporated the influences of Goodnow's experiences, his work with his contemporaries, and the federal and local reform movements occurring at that time. It recommended the adoption of a constitutional amendment to establish an executive budget process, effectively limiting the role of the legislature to one of reducing or eliminating appropriations. A summary of the changes includes:

A unified budget: The Governor was given responsibility for submitting a unified budget to the legislature, in order to ensure oversight of global revenues and expenditures. The commission expressed its intent to "impose upon the Governor the sole responsibility, within the limits of the Constitution and the provisions of existing law, of presenting to the Legislature a complete and comprehensive statement of the needs and resources of the State."

A limited legislative role: The legislature was limited to reducing executive appropriations only, thus limiting political influence and ensuring responsibility for executive branch funding and financial control with the Governor. The Goodnow Commission was concerned with legislative overspending and the subsequent need for deficiency appropriations. By limiting the role of the General Assembly, the commission believed that it could "make it impossible for the Legislature so to change the plans proposed by the Governor as to produce a deficit."

Methods for legislative input: The legislature has the ability to increase its own budget and that of the Judiciary. Supplementary appropriations bills may raise revenues and direct them to specific spending. The supplemental budget process was set up to enable the legislature to negotiate with the Governor to include funding for items of importance to the legislature.

Insulation from political pressure: The commission believed that these reforms would free the legislature from political pressure to increase the budget and would remove temptation to underfund the base budget due to logrolling or the desire for more PAYGO spending.

The constitutional amendment also established parameters for when the budget had to be submitted and enacted, and it deleted the executive line item veto.

Other important enhancements to the process have been added subsequent to the constitutional change of 1916. Examples include:

A merit-based civil service system: Established in 1920, use of a merit-based civil service system reduced patronage pressure and served to improve the competence and professionalism of the State's work force.

An executive budget office: Established in 1939 as the Department of Budget and Procurement, a centralized executive control agency provided the Governor with a dedicated staff to assist in developing a budget and overseeing implementation.

An independent revenue forecasting entity: The Board of Revenue Estimates (BRE) was established in statute in 1945 to provide an independent estimate of State revenues.

Other constitutional changes: In 1952 further modifications were made to Article 3, Section 52. This included changes to permit the migration from a line item to a program budget, in addition to greater specificity on the procedural aspects related to budget submission and enactment. The change to a program budget was viewed as an improvement designed to assess outcomes and improve accountability.

In summary, the changes made to the Maryland Constitution in 1916 represented the culmination of a period of sweeping reform at all levels of government in this country. The failures of the legislative budget model were due in part to a lack of a unified budget, the excesses of patronage related to no merit based civil service system, and ineffective fiscal oversight and control within the executive branch. The national reform movement began at the municipal level, using private industry as the model for reform. The adoption of the executive model of budgeting was promoted and adopted in other jurisdictions, including Baltimore City, eventually serving as the basis for Maryland's current system.

The budget system that was established in Article III, § 52 places primary obligation on the Governor to propose and oversee the budget, with a lesser role for the legislature in reviewing the budget and eliminating unnecessary spending. Vehicles were established to permit the legislature to negotiate with the Governor for additional funding via supplemental budgets or to pass supplementary appropriations. While the new system addressed problems specific to the late 19th and early 20th centuries, it can be argued that the changes shifted the balance of power too greatly to the executive branch. As will be discussed, the changes adopted in 1916 have impacted the checks and balances originally envisioned during the founding of this country.

Chapter II. How We Do It

The Maryland budget process takes approximately 29 months from start to finish for one complete cycle. This includes development, review and approval, implementation, and closeout. This section of the analysis will outline the budget cycle in Maryland, with a specific emphasis on the role of the legislature. While the Maryland Constitution does not afford a strong formal role for the General Assembly in the expression of budgetary policy, there are means for the legislature to influence the process (albeit not as directly as other legislative bodies). Constitutional or statutory provisions which pertain to the budget generally may be found in either Article III, § 52 of the Constitution or the State Finance and Procurement Article.

Budget Development

Estimating Revenues: Development of the budget begins with the preparation of revenue estimates. The Board of Revenue Estimates (BRE) was established in 1945 for this purpose. Composed of the Treasurer, Comptroller, and the Secretary of the Department of Budget and Management, the board's work is supported by a Bureau of Revenue Estimates within the Office of the Comptroller. Sections 6-104 and 6-106 of the State Finance and Procurement Article outline the duties of the bureau and the board. The bureau must submit an estimate of State revenues to the BRE prior to each regular legislative session. The BRE is charged with studying the bureau's report and providing an annual itemized statement of State revenues to the Governor.

In practice the BRE issues its itemized statement of revenues in mid-December of each year, along with a letter released in mid-March identifying changes to the estimate. The Annotated Code requires the Governor to forward the BRE's report to the General Assembly. In certain years the Governor has chosen to include additional estimates of revenues above the BRE's December estimate. This has permitted the Governor to include additional spending in the allowance.

Budget Instructions: Following the issuance of the March BRE report, DBM prepares a current services estimate for the operation of State government for the next fiscal year. Based on the revenue and expenditure information, the administration provides a request ceiling for each agency to use as a budget target. This target may or may not provide sufficient funds to each agency to continue providing the same level of services. Budget instructions are given to each agency that detail the forms and methodology for agencies to use in constructing their budgets.

Budget Format: The 1952 amendments to the Maryland Constitution, embodied in Article III, §52 (4), permit the Governor to submit appropriations in a form and detail as determined by the Governor or as prescribed by law. The purpose of the change was to allow the Governor to modify the submission of the budget from a line item format to a program budget format. The program budget was designed to provide greater accountability by reporting how State funds were being spent by activity. Line item detail continues to be required for the budget as stipulated annually in the budget bill. This pertains to supporting materials such as the budget books and automated data systems. Further requirements pertaining to information to be included in the budget books are outlined in §7-115 through §7-121 of the State Finance and Procurement Article.

Legislative Influence in Policy Formulation: The legislature influences budget development through the adoption of legislation requiring appropriations in subsequent fiscal years and through the Spending Affordability Committee. Each is discussed briefly below:

Mandated spending: Legislation that requires mandated appropriations may be passed annually, subject to enactment by the Governor. Bills that are vetoed can be overridden by a 3/5 majority vote in each chamber at the next legislative session. The Governor must provide funding annually in the budget bill for many entitlement programs and funding formulae.

Spending Affordability Committee: §2-1001 through §2-1008 of the State Government Article outlines the composition and duties of the Spending Affordability Committee (SAC). This joint committee must include an equal number of Senators and Delegates and may include public members. In practice, SAC comprises nine Senators, nine Delegates, and four public members. SAC meets annually in the fall to consider projections of revenue and expenditures. On or before December 1, the committee is charged with submitting to the Legislative Policy Committee and the Governor a report with recommendations on fiscal goals for the State budget including:

- a recommended level of State spending;
- a recommended level of new debt authorization;
- a recommended level of State personnel;
- a recommended use of any anticipated surplus; and
- other appropriate findings or recommendations that the committee considers appropriate.

Budget Submission

If the Governor's proposed budget exceeds the recommendations of SAC, §7-116 of the State Finance and Procurement Article requires the budget books to indicate the degree to which the proposed budget and recommendations differ and to set forth the Governor's reasons for exceeding the recommendations.

Per Article III, §52 (3) the Governor must submit the proposed budget for the next fiscal year to the legislature on the third Wednesday in January (except in the case of a newly elected Governor who has until the tenth day of the session).

In submitting a budget to the legislature, the following constitutional and statutory guidelines and practices apply:

Balance: §52 (5a) stipulates that the appropriations in the budget bill must be balanced against estimated revenues. In practice balance has been defined as the relationship of appropriations to estimated revenues, revenues contained in proposed legislation, use of fund balance, and use of available reserves.

Fiscal year: Following the 1916 constitutional changes, Maryland enacted a biennial budget. Since the 1950s, the State has employed a one-year fiscal period for its budget. The preamble of the budget bill provides that the fiscal year begins on July 1 and ends June 30 of the subsequent calendar year.

Legislative and Judicial budgets: §52 (3) and §7-108 of the State Finance and Procurement Article stipulate that the budget include appropriations for the legislative and judicial branches as submitted by those bodies. The Governor may not modify the budgets for either branch.

Other mandated appropriations: The Governor must include appropriations without modification to fully fund annual State debt service, the salaries of constitutional officers, funding for the establishment and maintenance of public schools, and other funding for the executive branch as required by law.

Review and Approval

Upon submission the budget is assigned to the Senate Budget and Taxation Committee and the House Appropriations Committee. The Senate Budget and Taxation Committee consists of 13 members who serve on one of three operating budget subcommittees: Education, Business, and Administration; Health and Human Services; and Public Safety, Transportation, and Environment. Members of the Budget and Taxation Committee may also serve on the Capital Budget and Pensions subcommittees. The House Appropriations Committee consists of 27 members who serve on one of four operating budget subcommittees: Education and Economic Development; Health and Human Resources; Public Safety and Administration; and Transportation and the Environment. Members of the House Appropriations Committee may also serve on the Capital Budget Subcommittee.

The subcommittees and full committees hold budget hearings to examine the proposed funding for each program funded in the budget bill. §52 (7) directs the Governor and representatives of the executive branch to "appear and be heard" in order to answer any inquiries as to funding included in the budget. The subcommittees hold decision meetings to consider and vote upon proposed reductions or restrictions.

Each subcommittee makes a written report of its decisions to the full budget committee which votes on the subcommittee report. All decisions of the full budget committee are prepared in a written standing committee report of the budget bill as amended by the committee. Although both budget committees have been considering the budget bill and making decisions at the same time, the budget bill is technically still in the first house. The budget committee in the first house reports the budget bill to the full chamber accompanied by the standing committee report which contains any amendments adopted by the committee. The full chamber can vote favorably on the committee report, amend the bill or the committee report, or vote unfavorably on the bill. Once the bill has passed the full chamber with any amendments, it is subject to a final vote in the first house and if favorable, the bill is considered passed and crosses over to the second house.

In practice, the chambers alternate moving the bill each year. Thus, although the budget bill is cross-filed each year, only one version of the bill is acted upon. For the 2002 session for example, the Senate will take action on the budget bill initially, followed by the House which will act upon the bill as amended by the Senate. When reporting the budget bill to their respective chambers, §2-1006 of the State Government Article requires the committees to report a budget bill that complies with the SAC recommendations, or if the amended budget exceeds the SAC recommendations, to explain the rationale for exceeding them.

Because the second house has been considering the budget concurrently with the first house, most decisions have already been made by the budget committee in the second house by the time the bill is officially referred to the standing committee. The budget bill is amended based on the second budget committee's decisions and is sent to the floor of the full chamber with a written report of the committee actions and amendments. Once the bill has passed with the second house amendments, it is subject to a final vote and crosses back to the first house.

The leadership of the General Assembly serves as a consensus builder within each chamber and particularly with respect to the members of the majority party. Although the budget is officially assigned to the respective budget committees, the President of the Senate, the Speaker of the House, standing committee chairmen, and other legislative leaders meet regularly during the legislative session to discuss issues related to the budget.

Notably, the budget actions of the General Assembly, and therefore, the budget committees, are limited by the State Constitution, which prohibits the General Assembly from adding or transferring monies within the budget. General Assembly decisions are limited to reductions, restrictions, and the imposition of conditions on the expenditure of appropriations. Legislative action within the budget is further restricted by the State Constitution, which prohibits legislation from embracing more than one subject. This has been interpreted to mean that the budget bill is limited to the single subject of appropriations and may not be used to modify other existing laws, known as "legislating in the budget."

Sometimes the reductions to agency budgets are very specific while other times they apply agencywide or even across the entire budget. In addition to changes in the amount of appropriations, the committees may also propose amendments to the budget bill through "budget language." Budget language places limitations on the use of funds or expresses legislative intent as to the use of funds and has the force of law for the single year in which the budget is effective. If the committees wish to express legislative intent without the force of law, it is often written as "committee narrative." Committee narrative is included in the *Joint Chairmen's Report*, a written publication that documents the final budget changes made by the two budget committees and the General Assembly. Committee narrative does not have to be agreed to by either of the full chambers but must be agreed to by both budget committees in order to appear in the *Joint Chairmen's Report*.

The first house can concur with the second house amendments, and the budget bill would then become law on that date, the final date of passage; however, in practice this does not occur, and differences do exist. Each house will then appoint members to a "conference committee" to work out the differences.

Although the budget committees are the only committees with jurisdiction over the budget for the next fiscal year, all standing committees of the General Assembly maintain their respective jurisdiction over substantive legislation. The standing committee assignment of the bill is made based on the subject matter of the bill, regardless of potential fiscal impact. The Department of Legislative Services tracks pending legislation which has a large fiscal impact and regularly provides this information to the leadership of the General Assembly.

The Governor cannot be required to provide an appropriation for new substantive legislation in the next fiscal year. With respect to the next succeeding fiscal year, the General Assembly may mandate that the Governor provide a specific level of appropriation by including a specific dollar amount in statute or by including a statutory formula for a program from which a precise dollar amount may be calculated. The Governor retains the ability to veto legislation, and in practice legislation containing specific dollar amounts has been vetoed.

If the legislation passed by the General Assembly establishes a new program that does not state a specific funding level or provide a precise funding formula, Constitutional provisions have been interpreted to provide the Governor wide discretion as to program funding including whether to fund the program at all. This interpretation has also been found to apply to legislation containing a provision that funding for the program shall be "as provided" in annual budget.

Ways for Increasing Appropriations by the Legislature During Session

Supplemental Budgets: Article III, § 52(5) of the Maryland Constitution permits the Governor to submit an amendment or supplement to the budget bill, with the consent of the legislature, anytime prior to enactment. § 52 stipulates that the supplemental process allows the Governor to "correct an oversight, provide funds contingent on passage of pending legislation or, in case of an emergency." In practice the Governor has used the supplemental budget process for virtually any purpose, which has been to his tactical advantage in promoting administration sponsored legislation and policy.

In 1951 the Sobelhoff-Stockbridge Commission reported that the supplemental budget process had been abused, becoming a tool for influencing policy decisions instead of addressing oversights, contingencies, or emergencies. There were two areas cited by the commission as examples of abuse. First, agencies failed to include all items in their initial requests knowing they could receive added funds by supplemental budget. Second, the supplemental budget process had become a "bargaining device" where the legislature would act favorably on administration proposals in exchange for inclusion of spending in the supplemental budget. The commission recommended that the supplemental budget process be rigidly enforced. Following the issuance of this recommendation, the General Assembly adopted legislation declaring its intent in what is now § 7-102 of the State Finance and Procurement Article. Subsection (b) indicates that it is the desire of the General Assembly that the Governor use a supplemental budget only to correct a mechanical error in the proposed budget or to provide funding for legislation enacted during the session.

Supplementary Appropriations Bills: Article III, § 52(8) of the Maryland Constitution outlines the following four requirements to guide the passage of supplementary appropriation bills:

> Single subject: Supplementary appropriation bills must each be in a separate bill and be limited to a single subject;
>
> Revenue support: Each bill must identify the tax revenue necessary to pay the specific appropriation in the bill;
>
> Post-budget passage: Supplementary appropriation bills cannot be finally acted upon until after the budget bill has been finally acted upon by both houses; and
>
> Final passage and enactment: Each bill must be passed in each chamber by a majority vote and be presented to the Governor to be enacted or vetoed.

Legislative and Judicial Budgets: Article III, Section 52 (6) permits the General Assembly to increase appropriations for the legislative and judicial branches.

In acting upon the budget, neither the legislature nor the Governor (through an amendment or supplemental budget) may cause appropriations to exceed total estimated revenues.

Enactment

§52 (10) of the Constitution stipulates that the budget be passed by the legislature by the 83rd day of the legislative session. If, however, there is no concurrence between the houses, the differences are referred to a conference committee. Members of the conference committee generally consist of the chairmen and leadership of the two budget committees as well as members representing the minority party.

Under the rules of the Senate and the House, the budget conference committee is restricted to dealing with budget amendments in dispute. This limitation has been observed in recent years by the executive practice of submitting supplemental budgets directly to the conference committee. For these supplemental budgets, all items are considered open and before the conference whose actions are incorporated in the conference report.

The conference committee usually meets during the twelfth week of the legislative session, and meetings often involve many hours over a three-day period. Once the conference committee has reached agreement, a conference committee report is issued detailing recommended action. Current practice calls for a conference of five members from each chamber, each of whom may be assisted by a team of advisors consisting of ranking members of the respective budget committees.

Before the conference committee report may be reported to the floor of either chamber, a majority of members assigned to the conference committee must sign the conference committee report. In addition, the conference committee report generally includes the following information:

- a letter from the two committee chairmen summarizing the position of the conference committee and the impact of its actions;
- a description of the conference committee action on each item at issue between the houses;
- a listing of amendments by number that were adopted, rejected, or the adoption of new conference committee amendments;
- a description of each new committee amendment; and
- a summary table of conference committee amendments indicating the action taken on each item before the committee.

Also sent to the President and the Speaker is a second report providing summary information on the status of the general fund budget, budget growth, expenditures by major category for each fund, and an updated fiscal note on the budget bill.

The conference committee recommendations contained in the report must be adopted by both chambers. If this does not occur, the conference committee must be reinstituted or another conference committee appointed. If the conference committee report is not adopted by the 83rd day of the 90-day legislative session, the Governor is required to issue a proclamation extending the legislative session for the sole purpose of passing the budget bill.

Once the conference committee report is adopted, the amendments agreed upon are superimposed into the budget bill, and the final bill including the amendments is printed as an enrolled bill. Neither the entire budget bill nor any part of it is subject to gubernatorial veto, and once passed by the General Assembly, the budget bill becomes law. Any deficiency appropriations for the current fiscal year become immediately available to agencies, and all other appropriations become available July 1, the start of the new fiscal year.

If the budget is not enacted by the 90th day, as proclaimed by the Governor, an extended session begins and all other legislation dies with the exception of the budget.

Implementation

Provisions in the budget bill stipulate that the Secretary of DBM shall, before the start of the fiscal year, provide a schedule of allotments to the Comptroller. The Comptroller may not authorize expenditure in excess of any allotment. DBM may also allot funds on a monthly, quarterly, or seasonal basis.

Budget Amendments:

Legislative budget amendments: §7-208 of the State Finance and Procurement Article provides that the President of the Senate and the Speaker of the House of Delegates jointly may authorize budget amendments but only to transfer funds between programs of the legislative branch. No amendment may be processed which increases the level of appropriations.

Judicial budget amendments: §7-208.1 of the State Finance and Procurement Article provides that the Chief Judge of the Court of Appeals may authorize budget amendments but only to transfer funds between programs of the judicial branch. No amendment may be processed which increases the level of appropriations.

Executive budget amendments: §7-209 through §7-212 of the State Finance and Procurement Article, as well as budget language in the budget bill, pertain to the submission and implementation of amendments to executive branch agencies during the interim. Amendments increasing special, federal, and higher education funds, as well as reimbursable fund amendments from the Governor's Office of Crime Control and Prevention, in excess of $100,000 are reviewed by the budget committees.

Special or extraordinary sessions: Article II, §16 of the Constitution permits the Governor to convene the legislature for extraordinary sessions. §52 (14) indicates that the General Assembly may consider emergency appropriations during an extraordinary session.

Executive reductions: §7-213 of the State Finance and Procurement Article permits the Governor, upon the approval by the Board of Public Works, to reduce appropriations by up to 25 percent. This provision allows the Governor to modify the budget in the event of a downturn in revenues. However, the Governor may not reduce the budgets of the legislative or judicial branches, State debt service payments, the salaries of constitutional officers, or certain public school funding.

Closeout

After the end of each fiscal year, the General Accounting Division of the Office of the Comptroller prepares a closeout statement. Each agency, in conjunction with DBM, accounts for the disposition of all appropriations by fund. Appropriations are recorded as being expended, encumbered or obligated, or unspent. Unspent appropriations are either reverted, if they are general funds, or canceled for all other types of spending. The Office of Legislative Audits (OLA) performs a limited review of the fiscal year closeout. Significant findings are reported to the General Assembly for review during the legislative session.

Fiscal/Compliance Audits: OLA performs a fiscal/compliance audit of each agency once every three years, to ensure compliance with budget laws, regulations, and policies. Reports with significant findings are submitted to the Joint Audit Committee of the General Assembly for review. Audit findings may also be reported in budget analyses prepared by the Office of Policy Analysis and presented before the budget committees. The audit process and associated legislative review constitutes an important oversight tool.

Chapter III. How We Compare – Other States

Introduction

This chapter's purpose is to contrast key aspects of Maryland's budget process to those used in a selection of other states. Resources used include nationally referenced materials prepared by the National Conference of State Legislatures (NCSL) and a series of in-depth interviews conducted in the summer of 2001 by Ron Snell and Corina Eckl of the NCSL fiscal staff. The seven states chosen for in-depth analysis were Colorado, Delaware, Indiana, Minnesota, Missouri, New Jersey, and North Carolina. Of these states Delaware, Minnesota, Missouri, and North Carolina have AAA credit ratings from each of the three nationally recognized credit rating agencies. New Jersey, Delaware, and North Carolina also possess similarity to Maryland based on geographic, demographic, or economic factors. In addition, both Minnesota and Indiana have well regarded and interesting institutional arrangements, while Colorado and Missouri provide additional geographic balance.

Selections were made through consultation between the staff of the Office of Policy Analysis (OPA) and NCSL. Data on the selected states were collected by the NCSL staff through interviews with key staff and legislators. That work was summarized in a report provided to the Office of Policy Analysis in September 2001 and has been relied on by OPA staff in constructing the comparisons which follow. (The full NCSL report is included as an appendix.) The following summarizes information relating to budget development, budget deliberation, and budget limitation.

Budget Development

The National Conference of State Legislatures advises that most states follow an executive budget model under which governors submit budget proposals to the legislature. In most states the governor's proposal establishes a framework for budget discussion. However, in some states, such as Arizona, Colorado, and Texas, legislative priorities may have much greater influence. In Indiana a budget committee consisting of four legislators and the state budget director develops the initial budget proposal.

In some states the governor submits the budget in the form of the bill, while in another it takes the form of a financial document, and it is left to the legislature to put it in bill form. Of the seven states examined in depth, Minnesota and Missouri had executive budget submissions in bill form. In Colorado, Delaware, Indiana , New Jersey, and North Carolina, legislative staff prepare the bill.

Among the states, budget legislation takes various forms. In Colorado, Indiana, and New Jersey, a single bill suffices. North Carolina provides separate bills for a continuation budget, an expansion budget, and capital budget. By contrast, Delaware passes an operating budget, a bond bill, and a grants-in-aid bill. Minnesota and Missouri use 10 and 18 separate bills, respectively.

The level of detail provided in budget bills varies widely also. As does Maryland's budget bill, each of the seven states studied provides appropriations to major departments and specific agencies and programs. Several states go further, however, by providing both object and position detail in the budget bill itself. While each state provides for intent and restrictive language in the budget, four states (Delaware, Indiana, Minnesota, and North Carolina) may also alter substantive law through the budget bill.

Budget Deliberations

In a 1998 report NCSL observed:

"Legislatures have unlimited power to change the budget proposed by the executive and judicial branches in all the states except three. Maryland, Nebraska, and West Virginia limit the power of the legislature to increase or decrease budget items. In Maryland the legislature may decrease but not increase appropriations by the executive. . . . A three-fifths vote is required for the Nebraska legislature to increase the governor's recommendations; a majority vote is required to reject or decrease them. In West Virginia the legislature . . . cannot reduce the judiciary budget or create deficit."

Whatever their scope, budget deliberations are bounded by the budgetary and legislative calendars. **Exhibit 1** on the next page indicates the schedules of the seven states studied by NCSL. It is interesting to note that in Colorado the governor's budget is submitted on November 1, although the legislature does not convene until January.

Legislative organization to address the budget varies greatly. The budget and appropriations committee structure in the seven NCSL states ranges from joint legislative committees that prepare or consider the state budget to a structure where all members serve on a spending or tax committee.

The Colorado state budget allocations and appropriations are set by a Joint Budget Committee (JBC). The JBC consists of two majority members and one minority member from the House Appropriations Committee and from the Senate Appropriations Committee. Three of the four political party caucuses elect the member or members of the JBC. The chair of the Colorado JBC serves as the chair of one chamber's Appropriations Committee and the vice-chair, who must be from the other chamber, serves as the chair of that chamber's Appropriations Committee. The six members of the JBC may not serve on another standing committee; however, non-JBC members of the House and Senate Appropriations Committees may serve on other standing committees. Members of the JBC meet with all standing committees during the first 30 days of session in order to solicit feedback.

Similar joint committees exist in Delaware and Indiana. The Delaware Joint Finance Committee, consisting of four majority and two minority members from the House Appropriations and Senate Finance Committees, completes a budget bill. The Indiana Budget Committee, consisting of the four caucus chairs and the State Budget Director, is responsible for recommending a budget to the legislature.

Exhibit 1

Budget Schedules in Selected States

State	Approximate Session Length[(1)]	Legal Limits on Length of Session	Governor Submits Budget to Legislature	Legislature Adopts Budget
Colorado	January - early May	120 C	November 1	May
Delaware	January - June 30	June 30	January	June
Indiana	Odd: January - April 30	Odd: 61 L or April 30	January	April
	Even: January - March 15	Even: 30 L or March 15		
Maryland	January - mid-April	90 C	January	April
Minnesota	Odd: January - late May Even: January - April	120 L or 1st Monday after 3rd Saturday in May	January (4th Tuesday)	May
Missouri[(2)]	January - mid-May	May 30	January	April/May
New Jersey[(2)]	All year	None	January	June
North Carolina	January to July	None	February	June

(1) Approximate session lengths are NCSL averages of the lengths of the 1993-1996 legislative sessions.
(2) Some legislatures also will reconvene after a normal session to consider bills vetoed by the governor.
L = Legislative Day
C = Calendar Day

Source: NCSL, December 1997; Council of State Governments, The Book of the States, 1996-1997

By contrast, the Missouri and Minnesota budget processes engage much larger groups of legislators. The Minnesota House consists of ten finance committees each producing an appropriations bill that is sent to the umbrella House Ways and Means Committee. Every Minnesota House member serves on a finance committee. The Minnesota Senate also places every member on a finance committee which produces an appropriations bill that is further referred to the umbrella Senate Finance Committee. All of the House and Senate finance committees produce appropriations bills after consideration of the base budget, the governor's recommendations, and the targets set by leadership. Members serve on both standing committees and finance committees based on similar subject jurisdiction.

The Missouri budget process also involves many legislators, but the House and Senate processes are very different. The Missouri Senate Appropriations Committee consists of 14 members which is 41 percent of the Missouri Senate. The Missouri House has five separate appropriations committees consisting of 110 members of the House. Each appropriations committee reports to an umbrella House Budget Committee consisting of three to four members of each appropriations committee. The House Budget Committee then reports appropriations bills to the full

Whereas the Maryland legislature generally refers legislation to standing committees based on subject matter alone, a number of the NCSL states refer legislation based on fiscal impact. This greatly diminishes the ability of non-fiscal committees to adopt legislation with a fiscal impact. In Indiana, bills with a fiscal impact over $50,000 are referred to the appropriations committee. In Delaware, bills with an impact over $50,000 are referred to the appropriate policy committee but must receive approval from the Appropriations Committee after receiving policy committee approval. In New Jersey, bills with a fiscal impact exceeding $100,000 are referred first to a policy committee and then to the appropriations committee.

In the Maryland legislature, as in many other state legislatures, legislative deliberations concludes with a conference committee to reconcile the positions of the chambers. In some states, such as Indiana, Missouri, and North Carolina, committees have wide latitude in modifying the budget bill. In other states, authority is more limited. Neither Delaware nor New Jersey, however, reports use of conference committees at all. In New Jersey, the budget bill is not drafted until budget deliberations are concluded and final revenue estimates are received in June, after which identical bills are passed in each chamber.

Budget deliberation concludes with the presentation of the budget to the governor, and, in all states but Maryland, with the governor's decision to veto all or part of the bill. Forty-three states permit "line-item veto" of provisions of the budget: this typically means the elimination of an item from the passed budget. In 12 states, governors may also reduce amounts authorized without striking the entire item. In six states, the governor must approve or veto an entire appropriation act and may not delete or alter items. However, since only eight states allow for veto sessions prior to the next regular session (and the start of the fiscal year), executive budget vetoes are typically the end of the road for affected appropriations.

Budget Limits

Maryland's advisory spending affordability process is unique among the states. However, spending and revenue limitations per se are not unusual features of state budget systems. On a minimum level, such limits are reflected in balanced budget requirements of all states except Vermont. At least 30 states have gone beyond this, however, to adopt procedures which expressly limit the amount a state may spend or tax. Indeed, Colorado, it seems is so enamored of the limitation concept that it has both a spending *and* a revenue cap.

The variety in approach among the states is evident from the in-depth interviews conducted by NCSL. Out of the seven other states surveyed by NCSL, Colorado, Delaware, New Jersey, and North Carolina require both the governor to submit and the legislature to pass a balanced budget. Missouri requires only the governor to submit a balanced budget, Minnesota requires only the legislature to pass a balanced budget, and Indiana does not require a balanced budget. Conversely, only Colorado has both an expenditure limit and a revenue limit. Delaware, New Jersey, and North Carolina have only expenditure limits, while Missouri has only a revenue limit. Indiana and Minnesota have neither expenditure nor revenue limits.

In Colorado, appropriations and expenditures may not exceed revenues; general fund expenditures may not exceed the lesser of six percent of prior year general fund appropriations or five percent of personal income; and excess revenues must be returned to the citizens. In Delaware, neither appropriations nor expenditures can exceed 98 percent of combined estimated general fund revenues and unencumbered funds from the prior fiscal year unless funding is needed for emergencies. New Jersey prohibits appropriations from exceeding revenues and prohibits the legislature from creating debt that exceeds one percent of that fiscal year's appropriations, unless the debt is authorized by law for a single purpose and approved by a majority of state voters. New Jersey also limits expenditures to appropriations less exemptions for debt service, state aid, grants-in-aid and capital construction. North Carolina prohibits expenditures from exceeding revenues and imposes an expenditure limit that cannot exceed seven percent of the projected total state personal income unless funds are needed for Medicaid, prison operations, or state health insurance.

Missouri allows the legislature to incur debt only for refinancing bonds that will reach maturity in 25 years or less and for emergencies or casual deficiencies in revenue under $1.0 million and repaid within five years. Emergencies and casual deficiencies over $1.0 million require either a constitutional amendment or an initiative supported by a majority of voters. Excess revenues in Missouri exceeding one percent must be returned to the citizens and excess revenues under one percent may be transferred to the general fund. Voters must approve any tax or fee increase that generates revenues greater than the lesser of either $50 million or one percent of state revenues for the second prior fiscal year. In Minnesota, if expenditures exceed revenues in the budget, the state may reduce the budget, the reserve account, and unexpended funds. The state also may defer or suspend statutorily created obligations and reduce an agency's budget if non-general fund revenues will not meet expenditures.

Chapter IV. How We Compare – Federal Government

Introduction

Another model for budget procedure is offered by the federal government. Devised in 1974 and refined and revised at various junctures since, the process established under the Congressional Budget Act may hold particular interest.

Budget Development

The federal budget is developed in the executive branch and submitted to Congress by the first Monday in February prior to the start of the fiscal year. The federal Office of Management and Budget (OMB) manages the budget development and advises the President. Congress adopts an annual budget for which the fiscal year begins on October 1 and ends on the following September 30.

Executive budget formulation begins in the spring about 17 months before the start of the fiscal year, when OMB issues an allowance letter, which sets spending limits, to executive departments and agencies. The departmental budget development process is bottom-up, with assistant secretaries submitting their requests to undersecretaries and undersecretaries submitting their requests to secretaries. By September, the agencies submit their request to the OMB. From October to December, OMB reviews all the budget requests with all the agencies. There is usually a fair amount of discussion between OMB and the agencies as budgetary and policy issues are resolved. In January OMB prepares the budget, and a budget proposal is submitted to the Congress.

However, that budget proposal is only a request. The Congress has significant effect on allocation decisions through its budget resolution and reconciliation process. The process is centered around an annual concurrent resolution on the budget that sets aggregate budget policies and functional spending priorities for the next five fiscal years. Resolution is not law and does not have statutory effect. Its purpose is to set a framework for Congress to consider that relates to spending and budget matters. Budget resolutions are prepared in each chamber by the respective budget committees and are jointly adopted. Spending and revenue targets are established with reference to a baseline budget projection prepared by the Congressional Budget Office.

Budget resolutions typically look forward five years. For each fiscal year, the budget resolution sets out budget aggregates and spending levels for each functional category of the budget (e.g. defense, education, etc.). These aggregates include total revenues, any amounts by which revenues are to be changed, total new budget authority or outlying outlays, budget deficit or surplus, and a debt limit. The resolution does not allocate funds to specific programs, but the reports that accompany the resolution specify the underlying assumptions and may sometimes provide program-level detail. Budget resolutions may also include "reconciliation directives" stating the intent of the chambers to achieve certain policy objectives.

The functional budget aggregates in the resolutions translate to firm guidance to the appropriations and policy committees with respect to the fiscal aspects of the matters before them. Allocations to committees are made in materials that accompany the conference report on the budget resolution, and all legislation is "scored" against the aggregate targets established in the budget resolution by the budget committees. Points of order may be raised if legislation would adjust revenues or spending in a manner that violates the aggregates in the resolution. When substantive statutory provisions must be altered in order to accommodate the provisions of the resolution, legislation to reconcile the laws to the budget must also be enacted.

Budget Deliberation

Congress has considerable control over both revenues and spending. Congressional committees can report legislation having an impact on revenues or spending at any time. Revenue or spending changes are compared against the limits set in the budget resolutions to subsequent committee allocations of budget authority and outlays, or the PAYGO requirements.

Similar to the Maryland legislature, Congress may adopt, alter, or abolish any or all of the President's budget proposal as it relates to discretionary spending. In contrast to Maryland, Congress can add programs, as well as modify, terminate, or place conditions on funding them. However, the process for mandatory spending programs is slightly different. They function under pay-as-you-go (PAYGO) rules and reconciliation. These procedures accept current mandatory spending and revenue formulae and policies and take control solely over new legislative actions. Any legislation which decreases revenues or increases mandatory spending must be cost neutral – a tax cut must be offset by an increase in another tax or a decrease in spending, for example. Discretionary spending is capped at the maximum allowable permitted through the budget resolution. These caps are defined in law but can be adjusted by the President to reflect changes in inflation or for emergency appropriations.

Through reconciliation, authorizing committees are directed to propose changes in the tax laws or mandatory spending programs under their jurisdiction in order to meet the targets established in the budget resolution for new spending and revenue floors. Particular actions are not specified, but dollar targets (for revenues and spending) are. Committees are responsible for determining appropriate policies and program changes to meet the targets. After the Congressional Budget Office examines estimates of reconciliation provisions, the individual reconciliation bills are voted on in each chamber, and a conference committee resolves differences. Seventeen reconciliation bills were sent to the President between 1980 and 2001, of which 14 were signed and 3 were vetoed.

The Congressional Budget Act (CBA) of 1974 (P.L. 93-344), as amended established the congressional budget process. The CBA includes a timetable for passage of the budget, which begins on the first Monday in February with the submission by the President of a budget to Congress. The target date for passage of the federal budget (completion of the annual budget resolution) is April 15 and has been since 1986, when it was moved from May 15 with the Balanced Budget and Emergency Deficit Control Act of 1985 (section 201(b) of P.L. 99-177, 99 State. 1040). Between 1974 and 1985, Congress only met the May 15 deadline two times (1975 and 1976). After it was changed to April 15, Congress adopted the annual budget resolution on time only in 1993, 1999, and 2000. Following this deadline, the House may consider annual appropriations bill even if action on the budget resolution is not complete. By June 10, the House completes action on the reconciliation bill and must complete action on annual appropriations bills by June 30.

The United States Senate and the House of Representatives each operate under a standing committee structure. The assignment of members to standing committees varies by the rules adopted by each chamber. The Senate has designated standing committees as "A," "B," or "C" committees. Members are permitted to serve on no more than two "A" committees and one "B" committee. Members may also be assigned to serve on one or more "C" committees. The Senate Appropriations Committee is designated as an "A" committee and the Senate Budget Committee is designated as a "B" committee. In the House of Representatives, some committees have been designated as "exclusive" committees, and members assigned to "exclusive" committees are not permitted to serve on any other House standing committee. Exclusive committees of the House, include the House Appropriations Committee and the Ways and Means Committee.

Each Senate and House standing committee is authorized to establish subcommittees and to adopt procedural rules governing committee processes. This is limited by chamber or political party rules which may dictate the number of subcommittees on which a member can serve or can be chairman. The House and Senate Appropriations Committees are given sole committee jurisdiction over bills that appropriate public funds. At the same time, however, it is the House and Senate Budget Committees that have committee jurisdiction over the budget resolution agreed to by both chambers establishing overall targets for both revenues and expenditures.

Each chamber further grants committee jurisdiction to other standing committees over authorization measures that establish the budget authority for federal agencies and programs. These authorization measures are funded through appropriations measures that are consistent with the budget resolution.

The Senate and House Budget Committees have sole jurisdiction over development and reporting of the concurrent budget resolution to the full chambers. The process used by the Budget Committees to formulate the budget resolution includes public hearings, review of information provided by other committees as to their preferences and legislative plans, estimates and information provided by the Congressional Budget Office (CBO), and testimony from the Office of Management and Budget.

An appropriations bill may not be passed that provides budget authority for a federal agency or program if there has not been a previously enacted authorization measure creating or modifying the agency or program. Once an authorization measure has passed Congress and is signed by the President, the House and Senate rules permit appropriations bills to be passed giving federal agencies budget authority to obligate funds for authorized programs. Except for the House and Senate Appropriations and Budget Committees, most standing committees of Congress may consider authorization measures.

The House and Senate Appropriations Committees have sole jurisdiction over appropriations bills. Each chamber's Appropriations Committee is divided into 13 subcommittees with matching subject jurisdiction, with the same subcommittee in the opposite chamber. Three types of appropriations measures are considered by the Appropriations Committees and subcommittees: regular appropriations bills, supplemental appropriations bills, and continuing appropriations bills.

The President introduces 13 regular appropriations bills each year that provide budget authority to the agencies addressed in the bills for the following fiscal year. The House and Senate Appropriations subcommittees have jurisdiction over one of the 13 regular appropriations bills considered each year. A regular appropriations bill is required to be adopted by October 1 of each year, or a continuing appropriations bill must be adopted to provide ongoing funding to the affected agencies. Additional funding may be provided to an agency for a current fiscal year through a supplemental appropriations bill. Appropriations bills are limited by both the spending ceiling provided in the budget resolution and any limits provided in the authorization measures.

Once the President has submitted the budget to Congress, the House and Senate Appropriations Committees begin full committee hearings on the budget. More in-depth hearings are held by the appropriate subcommittees based on subject matter. Once the subcommittee and then the full committee have made decisions on an appropriations bill, it is reported by the full committee to the chamber floor. The Senate Appropriations Committee usually waits until the House has passed an appropriations bill before reporting the Senate appropriations bill to the Senate floor.

Once an appropriations bill is reported as amended by the full committee to the House or Senate floor, it may be subject to floor amendments. After an appropriations bill has passed both houses of Congress, it is sent to the President for signature or veto.

Some Congressional committees have been granted jurisdiction over revenues, entitlements, or other mandatory direct spending that is not a part of the annual appropriations process. These committees are also required to meet the revenue and spending limits set in the budget resolution through a reconciliation process. Direction for reconciliation is often included in the budget resolution which indicates steps to be taken to conform to the allocations in the budget. If a committee is subject to reconciliation instructions in the budget resolution, the committee prepares a recommendation to address the reconciliation and sends it to the respective Budget Committee. The Budget Committee will report a combined measure to the full chamber floor that contains all of the committee reconciliation recommendations.

Another fiscal role carried out by the House and Senate Budget Committees is to serve as "scorekeepers" for each chamber's presiding officers. The Budget Committees are required to provide estimates of whether legislation violates the aggregate levels in the budget resolution or the committee subdivisions of spending. Summary scorekeeping reports are regularly made available by the Budget Committees and are developed with the assistance of the CBO.

Final Budget

If differences arise between the United States House of Representatives and the Senate as to the provisions of an appropriations bill, the measure is sent to a conference committee for resolution. The members of the conference committee generally consist of members of the Appropriations Committee subcommittees with jurisdiction over the bill, as well as the ranking majority and minority members of the full Appropriations Committees.

House and Senate rules require that the members of the conference committee limit the scope of the negotiations to differences in the legislation passed by the two chambers. The chamber rules also generally require that the agreement reached by the conference committee must be within the range of appropriation amounts as passed by the House and the Senate.

If the conference committee reaches agreements on the amendments in dispute, a conference committee report of the agreements is produced and a joint explanatory document is sent to both houses. If the conferees are unable to agree to a specific amendment, it is not included in the conference report and is reported separately.

The conference report is considered first by the chamber that initially considered the appropriations bill, which is typically the House of Representatives. The first chamber has the option of adopting the report, rejecting the report, or recommitting the report to the conference committee for further consideration. If the first chamber adopts the conference report, however, the conference committee is immediately disbanded. The second house then has two options, to adopt or to reject the conference report. Once the conference report is adopted, the amendments in disagreement are considered sequentially and can be amended on the House or Senate floor. Until both houses have agreed to the entire text of the appropriations bill, it cannot be sent to the President for signature.

After Congress sends an appropriations bill to the President, the President has 10 days to sign or veto the bill. If the President vetoes the bill, it is returned to Congress which may override the veto by a two-thirds majority in both houses. If the President takes no action, the bill automatically becomes law at the end of the 10-day period. However, if the President takes no action and Congress has adjourned preventing the return of the bill for veto override, the bill is considered vetoed as a "pocket veto." If Congress successfully overrides the veto, the bill becomes law. If Congress does not override the veto by a two-thirds vote in both houses, the bill dies.

The President does not have the constitutional power to exercise a line item veto. This was reaffirmed by the Supreme Court in 1998, which held that line item veto power given to the President by an act of Congress was unconstitutional.

Budget

Although the federal government does not mandate a balanced budget requirement, numerous laws have been passed by Congress to control spending. In the mid-1980s, Congress passed laws that emphasized reducing deficits. The Balanced Budget and Emergency Deficit Control Act of 1985, commonly known as the Gramm-Rudman-Hollings Act, established declining deficit targets to balance the budget by federal fiscal 1991. The act also created the sequestration process. Sequestration requires automatic, across-the-board reductions in nonexempt spending programs. The Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 revised and extended deficit targets to try to balance the budget through federal fiscal 1992. The act also gave sequestration power to the director of the executive branch's Office of Management and Budget instead of retaining the power within the General Accounting Office (GAO). The U.S. Supreme Court had declared that giving the sequestration power to the Gramm-Rudman-Hollings Act violated the separation of powers by giving the GAO, which is a legislative body, the right to sequester funds, which is an executive duty.

The Budget Enforcement Act of 1990 replaced fixed deficit targets with discretionary aggregate spending limits through federal fiscal 1995 enforced by sequestration. The 1990 act also added a PAYGO process for revenues and direct spending through federal fiscal 1995. (Direct spending includes entitlement programs such as Social Security, Medicare, and Medicaid.) The PAYGO process mandated that direct spending increases or revenue reductions must be offset so that deficits or surpluses would not have a net increase. The Omnibus Budget Reconciliation Act of 1993 extended the discretionary spending limits and PAYGO process through federal fiscal 1998. The Balanced Budget Act of 1997 extended the discretionary spending limits and PAYGO through federal fiscal 2002.

Chapter V. How We Might Improve

In addition to reviewing the history and purposes of Maryland's constitutional budget amendment, preceding sections of this report have contrasted Maryland's budget process to those used by the legislatures of other states and the United States Congress. The state comparison relied extensively upon research conducted by staff of the National Conference of State Legislatures, who conducted detailed interviews with persons involved in the legislative budget process in seven states and provided general data concerning budgeting in every state. This chapter provides a critical assessment of that information and suggests actions that might be taken to make the Maryland legislature a more effective participant in the budgetary process.

It should be noted that the analysis and conclusions of this chapter are based on the premise that representative democracy is a valid and effective mechanism for establishing public policy and making public choices. Consistent with this perspective is the concept that the legislature, as the institutional expression of representative democracy in the American system of government, must function on a co-equal basis with the executive and judicial branches for the benefits of that process to be fully realized. Although the representative process rarely looks pretty, easy, or efficient to observers, its beauty is in its capacity to balance and reconcile competing demands, a task intrinsic to the making of a budget.

Article III, Section 52 of the Maryland Constitution Goes Too Far

The main objective of the constitutional budget amendment was to avoid deficits caused by appropriations in excess of estimated revenues. The element essential to that purpose was the requirement that a consolidated budget be prepared in which estimated revenues balanced appropriations. Giving the Governor responsibility for preparing the budget facilitated administration of the process.

Up to this point the system envisioned is quite similar to that in place in most states. However, the reformers in Maryland did not stop there. By proscribing the legislature from either adding to or reallocating appropriations proposed by the Governor, the reformers sought to remove fiscal policy from the purported evils of politics and the legislative process, including patronage, pandering, and logrolling.

In their choices, the reformers were strongly influenced by Maryland's historical experience. The former legi-centric system had clearly failed. However, it can be argued that the reformers overcorrected: in their effort to punish the legislative branch for its failure to maintain fiscal order, they at once overestimated the wisdom inherent in the executive function and underestimated the benefits of the legislative process for public decision making. Since 1918, the budgetary process in the State has evolved in ways that restore some measure of balance to the process, but at the price of making some unwholesome fiscal practices into budgetary norms.

We Expect Too Much of Governors

Maryland's budget system casts the Governor, foremost, in the role of administrator and public trustee. Doing so, however, denies the political quality of the office and imposes an artificial and unrealistic distinction between politics and governance. History since 1918 has demonstrated that politics and budget-making are no strangers, even under an executive based system, and that governors are far from infallible in the instigation of fiscal policies.

The supplemental budget process is the most easily observed intersection of political interests and the budgeting. No less than in the original budget, specific legislators, groups, or individuals can have needs addressed. However, because specific items are described in detail, the identities of successful petitioners can be recognized, and a political dimension can sometimes be inferred from the appropriations proposed. If provided in the original budget, these items in most cases would be masked as part of larger agency aggregates. But when provided in a supplemental budget, those same items become hard to distinguish from the logrolling attributed to the former legislative system.

Use of the supplemental budget as a political tool is by no means a recent development. In a 1957 study of the administration of the Maryland budget, George A. Bell noted that "every recent budget submitted by the Governor has later been added to by supplement prior to final passage." Moreover, he notes the observation of A. E. Buck, who wrote in 1929 that "In Maryland, the legislature has at times found a way around the restrictions placed upon it in amending upward the Governor's budget bill by persuading the Governor to submit supplementary proposal . . . ." Although statutory language (SFP § 7-102 (b) (2)) purports to limit supplemental budget use to correcting "a mechanical error" or "provide funding for legislation enacted during the session," those stipulations have not exerted discernable influence.

The supplemental budget power is trivial, however, when contrasted to the authority granted the Maryland Governor to allocate resources in the original budget. In the years since Treasurer Hooper S. Miles wrote about the first 25 years of the Maryland budget, the responsibilities of state governments in the federal system and citizen's demands of government have grown enormously. The resources available to State government have grown correspondingly. In fiscal 2001, the State budget totaled $20.0 billion. Under our budget system, it is only the Governor who may exercise positive discretion in the allocation of resources.

In recent years executive budget policy has sought to foster investment in priority policies within this framework by limiting appropriation growth in other aspects of the budget over which it has control. Unfortunately, it did so without also curtailing service commitments in certain affected policy areas, notably health programs. As a result, the State has incurred significant deficit liabilities in these programs. Although this dilemma was noted by the legislature in the 2001 session, the legislature was unable and the Governor was unwilling to reallocate current budget resources in order to avoid them. Only the enactment of legislation creating a tax amnesty program allowed even a portion of this liability to be addressed.

As with supplemental budgets, questionable executive budget policies and the inability of the legislature fully to overcome them are not new. Treasurer Miles described the problems associated with the 1938 and 1939 biennial budget. In that budget, general fund spending was not balanced by general fund revenues but was instead balanced by a diversion of special highway funds and by the issuance of debt to fund ongoing retirement contributions. These actions were part of the budget as introduced by the Governor, leaving the legislature in the position of either accepting the proposal or significantly raising taxes to attain sufficient general fund revenue.

The Legislature Uses the Tools Available

As has been suggested already, democratic theory expects the people's representatives to play a co-equal role in setting fiscal policy and allocating public resources. Maryland's legislature has not abdicated its role in these matters. It simply works with the means available. What the State constitution forbids the legislature from doing directly, it has done indirectly through the process of political negotiation and the exercise of its powers to legislate and provide oversight.

Although the legislature has successfully influenced fiscal policy with the tools at hand, a collateral consequence is a budget structure and process that is more complex, more rigid, and oftentimes *less* efficient than would be possible if legislative authority could be exercised more directly. The Maryland Constitution allows the legislature to use legislation to influence the allocation of resources in several ways: through supplementary appropriation acts; by imposing mandates for future funding; and by creating dedicated revenues. In different ways, each of these vehicles permits the legislature to direct additional resources to specific purposes. But each also has drawbacks or inherent ironies.

Supplementary appropriation acts allow the legislature to create new appropriations but only at the price of adding new taxes. As might be expected, supplementary appropriation acts are rare occurrences and were last used in the 1992 session to restore items reduced by the Governor during that period's recession. Although an essential safety valve, it is ironic that under our current system the legislature can only insert its own priorities into the budgetary process by increasing the size of government and the burden of taxation. It is not possible to effect the same ends by reallocating within the budget.

One approach to circumventing this limitation has been the capture of new or existing revenues into special fund accounts. However, creation of special fund accounts raises several issues. As long ago as 1951, the so-called Sobeloff-Stockbridge Commission urged minimal reliance on dedicated revenue. The principal reasons are the complexity of administration and the limits imposed on flexibility in the allocation of resources. Today somewhat over 30 percent of the State budget is drawn from dedicated sources. The State budget currently incorporates over 1,000 separate special fund accounts; one agency, the Department of Natural Resources, alone uses 27 accounts. The limits on flexibility occurring under this system are evident in the frequent inter-fund borrowings that occur in times of fiscal stress. At the same time, the administrative complexity inherent in multiple funding accounts is evident in the most recent audit of the Department of Natural Resources, which found the agency unable to accurately manage its finances.

Apart from the theoretical issues posed by special funds are the unnatural contortions to which the legislature is put in order to direct money to purposes not favored by the Governor. In 2001, a special trust account was established to prevent proceeds from a nonprofit health insurance conversion from becoming subject to appropriation. That same year, the amnesty legislation established a special fund for proceeds that could only be used for a purpose to be determined later by statute.

In addition to the supplementary appropriation device and use of special funds, the legislature has also turned to the device of mandating appropriations, typically in statutes creating new programs. Although it had been a long-standing practice, the authority of the legislature to mandate funding was established by a 1978 amendment to the Constitution. The amendment was needed to reverse a ruling of the Court of Appeals which held that the legislature could not specify by statute the future amounts to be provided for a State program. Under the constitutional rule, funding mandates may not apply to the budget pending before the legislature at the time the mandate is being considered. Instead requirements are imposed on subsequent budgets.

Although Governors frequently resist legislation imposing funding mandates, they sometimes agree to them and allow them to become law. This can be especially tempting when the bulk of the future costs will be realized after the Governor's term is concluded. Most recently, legislation was enacted increasing compensation for direct care workers of community providers for the developmentally disabled. The annual cost of this measure was estimated to increase from $16 million in the first year to $80 million over five years.

While mandates are effective in allocating future resources, they also introduce rigidity into the budget process. In 2002, budget general fund mandates require an additional $500 million in executive branch spending. The Governor was also obliged to fund $350 million to support Legislative and Judicial Branch budget requests. This notwithstanding the fact that revenues to support these costs were essentially flat. When budget mandates are added to entitlements, over half the budget is non-discretionary.

A fourth way in which the legislature has sought to influence the allocation of resources and the Governor's budget is through its spending affordability process. From the beginning, that process, which seeks to establish an overall limit on ongoing spending, has excluded certain appropriations in the operating budget. The concept underlying these exclusions was to remove any disincentive the Governor might have to propose spending for those purposes. Initially exclusions were limited to capital expenditures to provide an incentive for the Governor to substitute cash for debt when feasible. Similarly, an exclusion has been allowed for critical maintenance activities as a means of avoiding more substantial costs in subsequent years. Likewise the Spending Affordability Committee has chosen to exclude funds budgeted to address unfunded liabilities of various sorts. Most recently, the committee chose to exclude from the spending limitation amounts required to meet current year costs in the State Medicaid program. It is perhaps peculiar that a spending limitation should be used as a mechanism to encourage certain spending increases, but such is the practice that has evolved under our constitutional system.

What To Do

Structural Options

To the extent that the circumstances and practices described above are unsatisfactory and can be attributed to features of our current constitutional budget system, the remedy will necessarily involve an amendment to the Constitution. There are two approaches that might be considered, and of these the more comprehensive will achieve the more balanced result.

The narrow version would simply facilitate legislative control over the capital budget, whether financed through PAYGO or the authorization of general obligation debt. Under the current rules, bills authorizing debt are regarded as supplementary appropriation acts because they authorize the imposition of the State property tax to pay debt service. Although the legislature can add to and alter appropriations in a bond bill, PAYGO appropriations may only be stricken or reduced because they are made to the operating budget. Senate Bill 820 of 1994 addressed this situation by allowing the legislature to treat the general fund PAYGO appropriation as a lump sum and to allocate the total capital appropriations, PAYGO and debt combined, as a capital budget bill.

Under this approach the Governor would continue to control the amount allocated for PAYGO, but the legislature would have more flexibility to alter its uses and coordinate it with the bond program. While it may have been very useful for the legislature to have a more direct say in the allocation of PAYGO appropriations in recent years, even in its peak years, PAYGO has represented a relatively small proportion of the overall budget – six or seven percent.

To acquire similar influence over the remainder of the budget, additional changes would be necessary. Senate Bill 245 of the 2001 session proposed altering the Constitution to permit the legislature to reallocate resources within the total appropriations estimated by the Governor. Although this measure would empower the legislature to redistribute money within the budget, it could not alter the amount proposed by the Governor in total. While certainly more favorable to the legislature, it should be noted that under this measure the legislature is still more constrained than is the Governor, for the Governor may set any spending level within the estimate of revenue.

Permitting a legislature to reallocate money will not in itself, however, undo the effects of the various practices described above on the structure of the State budget. If the Constitution is to be amended in this fashion, it might also be desirable to consider whether it continues to be necessary to authorize the legislature to provide for mandated appropriations, at least outside of matters relating to the public schools. Likewise re-examination of the reliance on special funds across the budget might be appropriate.

Another structural issue relates to the budget schedule. As presently configured, the State Constitution allows only 76 days for the legislature to receive, deliberate upon, and finally enact a State budget. All but one of the states NCSL spoke with allowed more time for legislative deliberations. Indeed, Colorado requires its budget to be submitted to the legislature by November 1, even though its session does not begin until January and the budget is not enacted until May. Similarly, our neighbor Virginia requires a December budget submission although its session also begins in January. Maryland's legislature and its budgetary process might benefit from additional time to address and negotiate over fiscal matters whether or not the constitutional powers of the legislature are adjusted.

Procedural Options

Strengthening the Fiscal Capacity of the Legislature

Whether or not the Constitution is altered (but especially if it is), the legislature may look to strengthen its capacity to deal with matters of fiscal policy. When practices in Maryland are contrasted to those elsewhere, several areas for further consideration are revealed.

Establishing Legislative Fiscal Policy

Fiscal policy involves coordinating views and preferences with respect to levels of spending and taxation over the near and long terms. This occurs in the U. S. Congress through the operation of its Budget Committee where, through its budget resolution, it establishes the parameters through which other actors in the congressional budget process should operate. Likewise some states have joint committees or leadership bodies which serve this function.

Maryland's Spending Affordability Committee serves this function in part by establishing a ceiling for aggregate operating spending. This process involves an assessment of the relationship between spending and revenues and the future. However, as presently configured, the process is agnostic with respect to the revenue side of the budgetary equation and has little to say about the allocation of spending resources within the limits it establishes.

The Spending Affordability Committee could be asked to do more, however. Its report could include recommendations with respect to the allocation of budget resources and initiatives as well as offer guidance with respect to the magnitude of changes to taxes or fees that ought to be considered in the year ahead. It might also be desirable for the committee to continue to function through the session, perhaps on a bi-weekly basis, as a forum coordinating fiscal policies. The committee might then substitute for the informal fiscal leadership group that meets during session.

Ownership and Coordination of Fiscal Policy

In almost all the other structures examined in depth, the legislative bodies have a far greater collective responsibility for setting and implementing fiscal policy. This is effected in various ways. In some places virtually all members are on fiscal committees. In others, decision-making is decentralized but under the control of an overarching leadership group. Congress does some of each.

In Maryland the tradition of strong committees with discrete jurisdictions has made coordinated fiscal policymaking difficult. In recent years tensions have grown between the policy committees and the committees responsible for the budget. This typically arises with respect to legislation pending in the policy committees with significant potential impact on spending or revenues. The situation in the House of Delegates is somewhat more acute because tax and spending policies are assigned to separate committees. These issues might be addressed by fostering a greater sense of collective ownership of budget matters through education and participation.

Several measures might be undertaken to increase fiscal knowledge in the legislature, particularly on the policy committees. Shortly after the budget is introduced, each committee receives a "fiscal briefing" that addresses the budget situation in an overall sense. However, each policy committee also has interests in specific agencies and issues in the budget. It might also be helpful if the policy committees received additional briefings, preferably jointly with the budget subcommittees, on major agencies or budgets, like Medicaid. Also helpful in this regard could be the further consolidation of bill analyses and fiscal notes for the policy committees: in 2001 the format of the fiscal note was revised to facilitate this combination, and in the 2002 session, several committees intend to use a consolidated document as a resource to members. (The notes are also available to the public through the Internet.)

Collective responsibility might also be fostered through wider participation in fiscal policymaking. This might start with the Spending Affordability Committee, the membership of which could be altered to include at least one senior member of each policy committee. Taking this concept further, perhaps certain members of the policy committees could be dually assigned to budget subcommittees. Conversely, it might be desirable to provide for secondary referral of all bills with significant budget (revenue or spending) impact to the appropriate fiscal committee for review. Finally, consideration might be given to expanding the budget conference committee to include representatives of policy committees as appropriate and refer to that conference other legislation with significant fiscal impact.

Control of the Fiscal Agenda

The Constitution establishes a schedule for consideration of the budget which assumes it will be enacted by the 83rd day. Certain legislation, bond bills and other supplementary appropriation acts, may not be finally passed until the budget is enacted. However, the Governor may submit supplemental budgets anytime before final enactment of the budget. Bills affecting revenues may pass anytime before sine die, as may bills creating new programs and future spending mandates, whether or not they are funded in the budget.

Arguably this process could benefit from some rationalization of the schedule. Ideally the budget should not be passed until all matters bearing on its balance are resolved. This would mean that measures significantly reducing revenues, providing for additional revenues needed to balance the budget, or potentially increasing costs within existing revenues would be addressed along with the budget itself. Likewise, the legislature should have adequate opportunity to review items proposed by the Governor in the budget. Accordingly supplemental budgets should be received in sufficient time for them to be scrutinized by the budget committees and both chambers of the legislature.

The supplemental budget is the most vexing aspect of the budget schedule. The final supplemental arrives very late in the process, frequently shortly before the constitutional deadline for passage. Although some might disagree, the review of supplemental budgets might benefit from more time. Accordingly, it would be helpful to require the Governor to submit supplemental budgets no later than seven days after revised revenue estimates are issued or the 75^{th} day of session, whichever comes first. This should make it possible for the supplemental budget to be considered by each committee and put before the chambers before the budget is in conference. Of course, if implemented by rule, a later supplemental budget could be accepted if the bodies consent to waive the rule.

Conclusion

The above observations are not intended to indicate that Maryland's budget process is flawed in the same manner or degree as the one that precipitated the 1916 budget amendment. Modern Maryland has a reputation for prudent financial management as evidenced by its AAA bond rating. At the same time, it is clear that the constitutional limits and current practices of the Maryland legislature inhibit the role of the legislature as an effective and equal branch of government in an important policymaking context. As such, it becomes a policy decision for both the legislature and the citizens of Maryland to determine the extent it is desirable to equalize the budgetary powers of the respective branches of State government.

Summary of Options to Revise Budget Process

1. Amend to allow the legislature to treat the general fund PAYGO appropriation as a lump sum and to allocate the total capital appropriations, PAYGO and debt combined, as a capital budget bill.

2. Amend to permit the legislature to reallocate resources within the total appropriations estimated by the Governor but not the total amount allocated.

3. Require the budget to be introduced earlier.

4. Alter function of SAC Committee to more resemble that of the Congressional Budget Committee.
   a. Set revenue targets.
   b. Set spending targets by function.

5. Increase budget literacy of the body.
   a. Hold fiscal briefings for all committees.
   b. Conduct agency budget overviews for committees, possibly joint with budget committee.
   c. Consolidate bill analysis and fiscal note analysis for committees and chambers.

6. Involve policy committee members in budget decisions and budget committees in legislation with big price tags.
   a. Broaden SAC membership to include all policy committees.
   b. Include policy committee members, possibly vice-chairs on budget subcommittees.
   c. Make secondary referral of all bills with significant budget impact to appropriate fiscal committee.
   d. Expand budget conference committee to include representatives of policy committees as appropriate and refer to that conference other legislation with significant fiscal impact.

7. Take better control of the fiscal agenda.
   a. Require Governor to submit supplemental budgets no later than seven days after revised revenue estimates are issued or the 75^{th} day of session, whichever comes first.
   b. Resolve legislation with budget impact before or with the budget itself.

LEGISLATIVE BUDGET PROCEDURES

A Guide to Appropriations and Budget Processes in Eight States

A Report for the Office of Policy Analysis, Maryland Department of Legislative Services

by

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INTRODUCTION

This report responds to questions about the legislative appropriations process in seven states selected by the Office of Policy Analysis of the Maryland Department of Legislative Services. The report includes corresponding information about the Maryland process for comparative purposes. The seven states the Maryland staff selected are Colorado, Delaware, Indiana Minnesota, Missouri, New Jersey and North Carolina. The table below indicates the size of the chambers and partisan control in 2001.

STATE GOVERNMENT PARTISAN CONTROL AND SIZE OF CHAMBERS					
	Governor's	Senate		House	
State	Party	Members	2001 Control	Members	2001 Control
Colorado	R	35	D	65	R
Delaware	D	21	D	41	R
Indiana	D	50	R	100	D
Maryland	D	47	D	141	D
Minnesota	Reform	67	D	134	R
Missouri	D	34	R	163	D
New Jersey	R	40	R	80	R
North Carolina	D	50	D	120	D

Source: National Conference of State Legislatures, January 2001.
Key:
D= Democratic
R= Republican

The text of the report is organized according to following questions asked by the staff of the Office of Policy Analysis. Tables in the text are numbered to match the question to which they respond and are not numbered consecutively.

Unless noted otherwise, the information reported here is the result of telephone interviews conducted by Corina Eckl, Ronald Snell and Trinity Tomsic of the NCSL Denver staff in June 2001. The interview questions and a list of people interviewed can be found in the Appendix.

1. BUDGET BILL

1-1. One bill or several?
1-2. Capital and operating combined?
1-3. Organization?
1-4. Detail and level of appropriation?
1-5. Supporting materials?

2. FORMULATION, LIMITATIONS AND SCHEDULE?

2-1. Who prepares and submits?
2-2. Required to be balanced?
2-3. How is balance defined?
2-4. Is there a revenue or spending limit and applicable to what?
2-5. Legislative power to amend or substitute?
2-6. Supplemental budgets?
2-7. Governor's role vis-a-vis the legislative and judicial budgets?
2-8. Schedule for passage?
2-9. Biennial or annual? In biennial, nature of off-year action?

3. REVENUE ESTIMATES

3-1. Who prepares the revenue estimate?
3-2. What is the Legislature's role?
3-3. What is the schedule of reports?
3-4. How is the impact of impending legislation incorporated?

4. DELIBERATION

4-1. What is the committee structure?
4-2. What are the respective roles of leadership, caucuses, policy committees, appropriating committees or other entities in:

(1) setting aggregate appropriation levels;
(2) allocating funds across broad budget categories;
(3) determining specific appropriations;
(4) adopting budget language and
(5) adopting substantive legislation with budget impact.

4-3. How are differences between the houses reconciled?

5. ENACTMENT AND VETO

5-1. Majority or super-majority requirements for passage?
5-2. Executive veto provisions? Are they line item or whole budget?
5-3. Is a special session required to override and if so, when, and can it only consider the overrides?
5-4. If an addition is overridden, I assume the budget goes back to its amount as originally submitted but can the Governor veto a cut in the budget? If so, how does the budget stay in balance?

6. STAFF SUPPORT

6-1. Partisan or nonpartisan?
6-2. Central or separate by chamber?
6-3. Staff role in budget process?
6-4. Staff role in costing additions to the budget?

7. BUDGET REALLOCATION

7-1. Can the Legislature increase the total budget?
7-2. Are there any items that cannot be increased?
7-3. How common are decisions to re-allocate? Examples? Where in the legislature did they originate? How are they costed? By whom?
7-4. How are they considered; (1) at committee level; (2) by the chambers; (3) for purposes of veto?

APPENDIX

1. BUDGET BILL

Questions from Maryland Office of Policy Analysis:
1-1. One bill or several?
1-2. Capital and operating combined?
1-3. Organization?
1-4. Detail and level of appropriation?
1-5. Supporting materials?

Questions 1-1 and 1-2: One bill or several? Capital and operating combined?

Table 1-1 shows whether states use one appropriations bill or more and whether operating and capital appropriations are combined in one bill.

Table 1-1: AVERAGE NUMBER OF APPROPRIATIONS BILLS

State	Single	Multiple †
Colorado	■	—
Delaware		3: A budget bill, a "bond" or capital bill, and a grants-in-aid bill
Indiana	■	—
Maryland	—	2: One for the operating budget and one for the capital budget
Minnesota	—	10: Nine plus one tax bill
Missouri	—	17–18
New Jersey	■	
North Carolina	—	3*: One for the continuation budget, one for the expansion budget and one for the capital budget

Source: National Conference of State Legislatures, December 1997.
Key:
† = This count does not include companion bills or supplemental bills.
— = Not applicable

***Notes:**
North Carolina—In 1997, for the first time, the continuation, expansion and capital budgets were combined into one bill.

Question 1-3: Organization of bill?

Tables 1-3A, 1-3B and 1-3C show the organization and contents of major appropriations bills.

Table 1-3A: ITEMS APPEARING IN MAJOR APPROPRIATIONS BILLS

State	Appropriations for Major Departments	Appropriations for Individual Agencies/ Programs	Object of Expen-diture	Positions Within a Dept. or Agency	Federal Grants	Federal Funds for Each Agency	Purpose, Intent, or Limits on Language	Substantive Language
Colorado	■	■	■	■	■*	■	■	—
Delaware	■	■	■	■	—	—	■	■
Indiana	■	■	■*	—	■	—	■	■
Maryland	■	■	—	—	—	■	■	—
Minnesota	■	■	■*	—	—	■*	■	■
Missouri	■	■	■	■	■	■	■	—
New Jersey*	■	■	■		■	■	■	
North Carolina	■	■	—	—	■	—	■	■

Source: National Conference of State Legislatures, December 1997.

Key:

Objects of expenditure in an agency's budget may represent a program or may represent travel, salaries, equipment, etc.

— = Not applicable

***Notes:**

Colorado—Some federal grants are itemized in budget bill language.

Indiana—Objects of expenditures include personal services and other operating expenses.

Minnesota—Appropriations by object or line item occur rarely. Federal funds are sometimes directly appropriated.

New Jersey—Revenue and fund balances appear as an information item.

Question 1-3: Organization of bill? (continued)

Table 1-3B: Location of Legislative Intent Language Appropriations Bill					
State	None	Line Item	Footnote	Section	Other
Colorado	—	—	■	—	—
Delaware	—	—	—	■	—
Indiana	—	—	—	■	—
Maryland	—	■	—	■	—
Minnesota	—	—	—	■*	—
Missouri	■	—	—	—	—
New Jersey	—	■	■	■	—
North Carolina	—	■	—	■	—

Source: National Conference of State Legislatures, December 1997.
Key:
— = Not applicable

***Notes:**
Minnesota—Purpose or intent statements may be included as a section in any bill.

Table 1-3C: Location of Legislative Intent Language Other Documents						
State	None	Committee Report	Letter of Intent	Legislative Journal	Legislative Staff Report	Other
Colorado	■	—	—	—	—	—
Delaware	■	—	—	—	—	—
Indiana	■	—	—	—	—	—
Maryland	—	■	—	■	—	—
Minnesota	—	—	—		—	■*
Missouri	—	—	■	—	—	—
New Jersey	■	—	—	—	—	—
North Carolina	—	■	—	—	—	—

Source: National Conference of State Legislatures, December 1997.
Key:
— = Not applicable

***Notes:**
Minnesota—Purpose or intent statements may be included as a section in any bill.

2. FORMULATION, LIMITATIONS AND SCHEDULE?

Questions from Maryland Office of Policy Analysis:
2-1. Who prepares and submits?
2-2. Required to be balanced?
2-3. How is balance defined?
2-4. Is there a revenue or spending limit and applicable to what?
2-5. Legislative power to amend or substitute?
2-6. Supplemental budgets?
2-7. Governor's role vis-a-vis the legislative and judicial budgets?
2-8. Schedule for passage?
2-9. Biennial or annual? In biennial, nature of off-year action?

2-1. Who prepares and submits the budget?

In each state surveyed, the governor submits budget recommendations to the Legislature near the beginning of the session in which the budget will be submitted as shown in table 2-1A. The following table, table 2-1B, shows what agency writes the budget bill as introduced.

Table 2-1A: Budget Calendars

State	Budget Guidelines Sent to Agencies	Agency Requests Submitted to Governor	Agency Hearings Held	Governor Submits Budget to Legislature	Legislature Adopts Budget	Fiscal Year Begins
Colorado	June	August 1-15	August/ September	November 1	May	July
Delaware	August	October/ November	October/ November	January	June	July
Indiana	May	August	September/ November	January	April	July
Maryland	June	August 31	October/ November	January	April	July
Minnesota	May/June	October 15	September/ October	January (4th Tuesday)	May	July
Missouri	July	October	December/ February*	January	April/May	July
New Jersey	July/August	October	April/May	January	June	July
North Carolina	January	August	September/ November	February	June*	July

Source: National Association of State Budget Officers, *Budget Processes in the States,* September 1997; and National Conference of State Legislatures update, December 1997; NCSL survey, 2001.

*Notes:
Missouri—The Legislature holds agency hearings in January and February in the session that begins after an election. For the following session, the hearings may begin in December.
North Carolina—The state often misses its June 30 budget deadline.

The budget the governor submits takes the form of bills in some states, but in other states it is presented as a "budget book" (sometimes in several volumes) and legislative staff prepare the actual budget bill or bills for introduction: table 2-1B.

Table 2-1B: ENTITY THAT WRITES THE APPROPRIATIONS BILL(S) TO BE INTRODUCED IN THE LEGISLATURE

State	Executive Branch	Nonpartisan Fiscal Staff Office	Other
Colorado	—	■*	—
Delaware	—	■*	—
Indiana	—	—	■*
Maryland	■	—	—
Minnesota	■*	—	—
Missouri	■	—	—
New Jersey		■*	■*
North Carolina	—	—	■*

Source: National Conference of State Legislatures, December 1997.
Key:
— = Not applicable

***Notes:**
Colorado—Staff of the Joint Budget Committee prepare the appropriations bill introduced in the General Assembly.
Delaware—The Office of the Comptroller General prepares the appropriations bills introduced in the General Assembly.
Indiana—The Budget Committee, which consists of four legislators and the state budget director, reviews requests and makes a recommendation for appropriations. Bills are drafted by the Office of Bill Drafting and Research.
Minnesota—The executive branch writes bills for introduction. The House and Senate staff write the bills for each body—they may include much of the language from the executive branch bills.
New Jersey—The Senate and Assembly appropriations committees each act to revise the governor's appropriation recommendations and the central, nonpartisan Office of Legislative Services drafts separate bills for introduction in each house, at the direction of the chairs. The bills, however, tend to be identical.
North Carolina—The Bill Drafting Division, a nonpartisan legislative office serving both houses, writes the appropriations bills that are introduced in the General Assembly.

2-2. Is the budget required to be balanced?

TABLE 2-2: BALANCED BUDGET REQUIREMENTS			
State	Governor Must Submit Balanced Budget	Legislature Must Pass Balanced Budget	Cannot Carry Over Deficit
Colorado	C	C	■
Delaware	C, S	C, S	■
Indiana	—	--	■
Maryland	C	C	—
Minnesota		S	■
Missouri	C	--	■
New Jersey	C	C	
North Carolina	C,S	S	■

Source: Ronald Snell, *State Balanced Budget Requirements: Provision and Practice* (Denver, Colo.: National Conference of State Legislatures, December 1997).

Keys:
- C=Constitutional
- S=Statutory

2-3. How is balance defined?

COLORADO
Constitution, Article 10, Section 16: No appropriation shall be made, nor any expenditure authorized by the general assembly, whereby the expenditure of the state, during any fiscal year, shall exceed the total tax then provided for by law and applicable for such appropriation or expenditure....

DELAWARE
Constitution, Article VIII, Section 6: (b) No appropriation, supplementary appropriation or budget act shall cause the aggregate State General Fund appropriations enacted for any given fiscal year to exceed 98 percent of the estimated State General Fund revenue for such fiscal year from all sources, including estimated unencumbered funds remaining at the end of the previous fiscal year. *Note*--Emergencies are excepted.

INDIANA
Constitution Article 10, Section 5: No law shall authorize any debt to be contracted, on behalf of the State, except in the following cases: to meet casual deficits in the revenue; to pay the interest on the State Debt; to repel invasion, suppress insurrection, or, if hostilities be threatened, provide for the public defense.

MARYLAND
Constitution, Article III, Section 52(5a): The Budget and the Budget Bill as submitted by the Governor to the General Assembly shall have a figure for the total of all proposed appropriations and a figure for the total of all estimated revenues available to pay the appropriations, and the figure for total proposed appropriations shall not exceed the figure for total estimated revenues.

MINNESOTA

Statutes, Section 16A.11, subdivision 2: Part one of the budget, the governor's message, shall include the governor's recommendations on the financial policy of the state for the coming biennium, describing the important features of the budget plan, embracing a general budget summary setting forth the aggregate figures of the budget so as to show the balanced relation between the total proposed expenditures and the total anticipated income, with the basis and factors on which the estimates are made, the amount to be borrowed, and other means of financing the budget for the coming biennium, compared with the corresponding figures for at least the last two completed fiscal years and the current year.

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

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

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

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

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

MISSOURI

Constitution, Article 3, Section 37: The general assembly shall have no power to contract or authorize the contracting of any liability of the state, or to issue bonds therefor, except (1) to refund outstanding bonds, the refunding bonds to mature not more than twenty-five years from date, (2) on the recommendation of the governor, for a temporary liability to be incurred by reason of unforeseen emergency or casual deficiency in revenue, in a sum not to exceed one million dollars for any one year and to be paid in not more than five years from its creation, and (3) when the liability exceeds one million dollars, the general assembly as on constitutional amendments, or the people by the initiative, may also submit a measure containing the amount, purpose and terms of the liability, and if the measure is approved by a majority of the qualified electors of the state voting thereon at the election, the liability may be incurred....

NEW JERSEY

Constitution, Article 8, Section 2, par. 2: No general appropriation law or other law appropriating money for any State purpose shall be enacted if the appropriation contained therein, together with all prior appropriations made for the same fiscal period, shall exceed the total amount of revenue on hand and anticipated which will be available to meet such appropriations during such fiscal period, as certified by the Governor.

Article 8, Section 2 par. 3: The Legislature shall not, in any manner, create in any fiscal year a debt or debts, liability or liabilities of the State, which together with any previous debts or liabilities shall exceed at any time one per centum of the total amount appropriated by the general appropriation law for that fiscal year, unless the same shall be authorized by a law for some single object or work distinctly specified therein.

Except as hereinafter provided, no such law shall take effect until it shall have been submitted to the people at a general election and approved by a majority of the legally qualified voters of the State voting thereon.

NORTH CAROLINA

Constitution, Article III, Section 5(3): The Governor shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. The budget as enacted by the General Assembly shall be administered by the Governor. The total expenditures of the State for the fiscal period covered by the budget shall not exceed the total of receipts during that fiscal period and the surplus remaining in the State Treasury at the beginning of the period.

Source: Ronald Snell, *State Balanced Budget Requirements: Provision and Practice* (Denver, Colo.: National Conference of State Legislatures, December 1997).

2-4. Is there a revenue or spending limit and applicable to what?

COLORADO

The General Assembly enacted an expenditure limit by statute in 1991. It limits general fund expenditure growth to the lesser of 6 percent of the previous year's general fund appropriations or 5 percent of state personal income, with exemptions from the limit for the first year of a new federal mandate, requirements of final court orders, and voter-approved increases.

In addition, Colorado voters adopted a constitutional revenue and expenditure limit by initiative in 1992. It applies to all state and local revenues including fees and charges. Annual revenue growth in any jurisdiction in the state (including state government) in excess of the combined percentage increase in population and the Consumer Price Index must be returned to the people. Current spending limits may not be weakened without voter approval. Any revenue law changes require voter approval (but in practice, voter approval has not been required for tax cuts).

DELAWARE

A 1978 constitutional amendment created an expenditure limit of 98 percent of estimated general fund revenue and prior year's unencumbered funds. The limit can be exceeded by the declaration of an emergency and three-fifths vote of each chamber of the Legislature.

INDIANA
None.

MARYLAND
None.

MINNESOTA
None.

MISSOURI
An initiative in 1980 created a constitutional revenue limit applicable to all state revenue. Revenue shall not exceed the ratio of FY 1980-81 state revenue to 1979 state personal income, multiplied by the greater of state personal income in any calendar year or the average state personal income over the previous three calendar years. Exceptions may occur only upon the governor's declaration of an emergency with concurrence of a two-thirds majority of each chamber of the Legislature. Revenues exceeding limit by 1 percent or more shall be used for tax refunds set in proportion to income tax liability. Excess less than 1 percent may be transferred to the general revenue fund.

Also in Missouri, a 1996 initiative amended the constitution to require voter approval for any tax or fee increase that will produce revenues greater than:

- $50 million adjusted annually by the percentage change in state personal income for the second previous fiscal year, or
- One percent of the state revenues for the second fiscal year prior to the legislature's action, whichever is less.

The same provisions for an exception apply.

NEW JERSEY
In 1990, the Legislature adopted a statutory expenditure limit on state appropriations less exemptions for debt service, state aid, grants-in-aid and capital construction. Appropriations are not to exceed the average of growth rates for personal income for the three previous years. The provision may be waived by a two-thirds vote of the Legislature.

NORTH CAROLINA
In 1991, the Legislature adopted a statutory expenditure limit on state appropriations. The fiscal year operating budget shall not be greater than 7 percent of the projected total state personal income for that fiscal year. The limit may be exceeded to the extent that Medicaid, prison operations or state health insurance increases exceed increases in state personal income.

Source: Mandy Rafool, "The Fiscal Perspective: State Tax and Expenditure Limits," *NCSLNet Fiscal Letter* (July 29, 1999). http://204.131.235.67/programs/fiscal/tl196n5p.htm

2-5. Legislative power to amend or substitute?

In each of the states under consideration except Maryland, the Legislature has the power to increase, decrease, amend, alter, change, make substitutions for or ignore the governor's budget recommendations in any way that it sees fit, subject only to the governor's general approval and veto authority.

2-6. Supplemental budgets?

In the seven states under consideration other than Maryland, the term "supplemental budget" has a different meaning from its meaning in Maryland. As the authors of this report understand it, in Maryland the term refers to an additional budget recommendation that the governor makes some time after the original recommendation. Without such a supplemental budget recommendation, the Maryland Legislature cannot increase an appropriation from the governor's initial recommendation.

This usage does not apply to the other states included in this report. Legislatures in those seven states have the power to increase appropriations above the governor's recommendation . The other seven legislatures do not need to request a supplemental budget from the governor to increase or change an appropriation. They have the power to do that.

In those seven states, a supplemental *appropriation* is an appropriation for the current year to meet a need not foreseen when the original budget was enacted. Examples might be unforeseen increases in K-12 enrollment, corrections spending, or the needed Medicaid match. A governor may recommend such a supplemental appropriation, but a gubernatorial recommendation is not required to enable the legislature to enact a supplemental appropriation and submit it for the governor's approval.

2-7. Governor's role vis-a-vis the legislative and judicial budgets?

In the seven states under consideration other than Maryland, the governor's budget recommendations include amounts recommended for the legislative and judicial budgets. The authors of this report are not aware of constitutional limits on the governor's ability to make such recommendations in these states. The general practice is for the Legislature to respect the governor's request for his own office's budget and for the governor to respect the Legislature's request for its budget. The general practice is for judicial agencies to make budget requests as do executive branch agencies, although exactly how this is done and the extent to which the Legislature and executive honor judicial branch requests depends, in part, on how the division of authority among the three branches is constitutionally determined or otherwise understood in a given state. We have not explored this issue definitively, but will gladly do more research if it is needed on this question.

The only limits on a governor's authority vis-à-vis the legislative and judicial budgets we have been able to find are that the governors of Hawaii and Michigan are prohibited from vetoing the appropriations for the legislative and judicial branches.

Source: National Conference of State Legislatures and the American Society of Legislative Clerks and Secretaries, *Inside the Legislative Process* (Denver, Colo., 2000), Chapter 6.

2-8. Schedule for passage?

The general schedule for passage of the budget is summarized in table 2-1, above. Tables 2-8 A – 2-8C document the length of legislative sessions, the timing of legislative receipt of agency budget requests and the annual legislative budget calendars.

Table 2-8A: Legislative Sessions

State	Annual	Biennial	Approximate Session Length ‡	Legal Limits on Length of Session
Colorado	■		January–early May	120 C
Delaware	■		January–June 30	June 30
Indiana	■		Odd: January–April 30; Even: January–March 15	Odd: 61 L or April 30; Even: 30 L or March 15
Maryland	■		January–mid-April	90 C*
Minnesota	■		Odd: January–late May* Even: January–April	120 L or 1st Monday after 3rd Saturday in May
Missouri †	■		January–mid-May	May 30
New Jersey †	■		All year	None
North Carolina	■		January–July*	None

Source: National Conference of State Legislatures, December 1997; and Council of State Governments, *The Book of the States, 1996–1997.*

Key:

‡ = Approximate session lengths are NCSL averages of the lengths of the 1993-1996 legislative sessions. Although New Jersey considers its legislative sessions to be "year-round," the Legislature may adjourn *sine die* and convene in special sessions during the year.

L = Legislative day (in some states "legislative day" is called a "session day" or "workday." Definitions may vary slightly but the term generally refers to any day on which either house of the Legislature is in session.

C = Calendar day

† Some legislatures also will reconvene after a normal session to consider bills vetoed by the governor.

Missouri—If the governor returns any bill on or after the fifth day before the last day on which the General Assembly may consider bills (in even-numbered years), the Legislature automatically reconvenes on the first Wednesday following the second Monday in September for a maximum 10-calendar-day session.

New Jersey—The state's legislative session consists of two years. On the 45th calendar day after *sine die* adjournment of a regular session, the Legislature meets in special session (without call or petition) to act on bills returned by the governor. If the legislature is in the second year of the session, and that second year has expired before the 45th calendar day, the Legislature meets for special session on the day preceding the end of the legislative year.

***Notes:**

Maryland—A session may be extended by a maximum of 30 calendar days with a vote of three-fifths of the members in both houses (or if the budget is not passed by seven days before the end of the session, the governor issues an executive order extending the session).

Minnesota—There is a legal provision for a session in an odd-numbered year; however, the Legislature may divide—as in practice it has divided—to meet in even-numbered years as well.

North Carolina—There is a legal provision for a session in an odd-numbered year; however, the General Assembly may divide—as in practice it has divided—to meet in even-numbered years as well.

Table 2-8B: Timing of Legislative Receipt of Agency Budget Requests					
State	Never †	Before Executive Budget Prepared	After Budget Prepared but Before Submission	After Budget Submitted to Legislature	Other
Colorado	—	—	—	—	■*
Delaware	—	■	—	—	—
Indiana	—	■	—	—	—
Maryland	■*	—	—	—	—
Minnesota	■	—	—	—	—
Missouri	—	■	—	—	—
New Jersey	—	■*	—	—	—
North Carolina	—	—	—	■	—

Source: National Conference of State Legislatures, December 1997.

Key:

† = The legislature receives the executive budget only, not individual agency budget requests.

— = Not applicable

***Notes:**

Colorado—By statute, all departments' requests are submitted to the Joint Budget Committee by November 1. The final executive budget is due to the General Assembly in January.

Maryland—Although the General Assembly does not formally receive agency requests, requests customarily are submitted to legislative staff on a confidential basis.

New Jersey—The Legislative Budget and Finance Office is supposed to receive agency requests by October 1. In reality, they are received well after that date, and some are never received.

Table 2-8C: State Budget Calendars *Note—These states use a July 1 – June 30 fiscal year*					
State or other Jurisdiction	Budget Guidelines Sent to Agencies	Agency Requests Submitted to Governor	Agency Hearings Held	Governor Submits Budget to Legislature	Legislature Adopts Budget
Colorado	June	August 1-15	August/ September	November 1	May
Delaware	August	October/ November	October/ November	January	June
Indiana	May	August	September/ November	January	April
Maryland	June	August 31	October/ November	January	April
Minnesota	May/June	October 15	September/ October	January (4th Tuesday)	May
Missouri	July	October	December/ February*	January	April/May
New Jersey	July/August	October	April/May	January	June
North Carolina	January	August	September/ November	February	June*

Source: National Association of State Budget Officers, *Budget Processes in the States,* September 1997; and National Conference of State Legislatures update, December 1997.

***Notes:**

Missouri—The Legislature holds agency hearings in January and February in the session that begins after an election. For the following session, the hearings may begin in December.

North Carolina—The state often misses its June 30 budget deadline.

2-9. Biennial or annual budgets? In biennial states, what is the nature of off-year action?

Table 2-9 shows budget cycles and the beginning dates for fiscal years. The narrative that follows discusses, in general, the nature of off-year action.

Table 2-9: STATE BUDGET CYCLE

State or other Jurisdiction	Annual Budget	Biennial Enactment of Two Annual Budgets	Biennial Enactment of a Single Biennial Budget	Legal Authority for Budgeting Period	Fiscal Year Begins
Colorado	■	—	—	S	July 1
Delaware	■	—	—	C	July 1
Indiana	—	■	—	C	July 1
Maryland	■	—	—	C	July 1
Minnesota	—	■	—	C,S	July 1
Missouri	■*	—	—	C	July 1
New Jersey	■	—	—	C	July 1
North Carolina	—	■	—	S	July 1

Source: National Conference of State Legislatures, March, 2000.
Key:
C = Constitutional
S = Statutory
— = Not applicable
***Notes:**
Missouri—The operating budget is annual, and the capital budget is biennial.

In biennial states, what is the nature of off-year action?

In biennial budgeting states, the nature of off-year activity varies, largely according to the fiscal circumstances of the state. Legislatures can review budgets in light of revenues substantially in excess of, or below, estimates. When revenues are largely in accord with the figures on which budgets are based, the Indiana, Minnesota and North Carolina Legislatures are unlikely to revise budgets significantly, except to respond to the needs of particular agencies or programs (such as Medicaid or corrections).

However, in times of fiscal stress, these and other biennial-budget states with annual sessions may revise the budget substantially. In the late 1980s and early 1990s, the Indiana budget was under such stress that the budget was substantially revised in the off-years, a practice that some other biennial states followed at the time. Through most of the 1990s, this was not necessary and Indiana and other states tended only to fine-tune their budgets in the off-years, in much the same way that annual-budget states routinely enact a supplemental appropriation bill for the current fiscal year to correct errors, adjust appropriations and address needs unforeseen in the enactment of the regular budget.

None of these three biennial-budget states (or any other biennial-budget states, for that matter) makes particular use of the off-year for performance review and evaluation.

Source: Ronald K. Snell, *Annual and Biennial Budgeting: The Experience of State Governments* (Denver, Colo: National Conference of State Legislatures, March 2000).

3. REVENUE ESTIMATES

Questions from the Maryland Office of Policy Analysis:
3-1. Who prepares the revenue estimate?
3-2. What is the Legislature's role?
3-3. What is the schedule of reports? (*No information*)
3-4. How is the impact of impending legislation incorporated? (*See part 4-2, below*).

Table 3-1: REVENUE FORECASTS

State	Primary Responsibility for Official Revenue Forecast? †	Who Participates in the Development of the Official Revenue Forecast?	Does the Official Revenue Forecast Bind the Budget?
Colorado	O*	Office of State Planning and Budgeting, Legislative Council	No
Delaware	C	25 members appointed by the governor: includes members of House and Senate and cabinet, Office of the Controller General, private sector and university representatives	Yes*
Indiana	C	Revenue Forecast Technical Committee: fiscal analysts of the four caucuses, governor's designee, and ex-officio members, usually former fiscal analysts	No
Maryland	E	Board of Revenue Estimates: state comptroller, state treasurer, secretary of budget and planning	No
Minnesota	E	Department of Finance	No
Missouri	C*	House and Senate appropriations staffs (and chairs), Division of Budget and Planning (and governor)	Yes
New Jersey	E*	Department of Treasury	Yes*
North Carolina	C*	Legislative fiscal office, state budget office	Yes

Source: National Conference of State Legislatures, December 1997.
† Key:
C = Consensus (For the purposes of this table, "consensus" defines the process used to arrive at a revenue forecast. The term does not imply, however, that the consensus forecast binds the budget.)
E = Executive
O = Other

***Notes:**
Colorado—Statutes provide that the General Assembly adopt a revenue resolution each year by February 1 after taking into consideration estimates from the governor's office and the Legislative Council staff.
Delaware—An official revenue resolution is passed before a budget is enacted. Delaware appropriates only up to 98 percent of revenue by constitution.
Missouri—Although the responsibility lies with the governor, consensus has been the practice for several years; it is not required, however.
New Jersey—The Department of the Treasury produces the basic revenue forecast that the governor certifies. The governor has the constitutional responsibility to "certify" that revenues will be sufficient to support appropriations. That certification constitutes the official revenue forecast at the time the budget is signed into law. The office of Legislative Services produces informal, advisory forecasts for the Legislature in drafting the budget bill and at other times.
North Carolina—There are no statutory guidelines, but during the 1997 session the Legislative Fiscal Office and State Budget Office were directed to reach a consensus. In other years the two offices have been encouraged to discuss independent estimates and to try to reach agreement. In years in which agreement is not achieved, the General Assembly uses the legislative fiscal office estimate.

4. DELIBERATION

4-1. What is the committee structure?
4-2. What are the respective roles of leadership, caucuses, policy committees, appropriating committees or other entities in:
(1) setting aggregate appropriation levels;
(2) allocating funds across broad budget categories;
(3) determining specific appropriations;
(4) adopting budget language and
(5) adopting substantive legislation with budget impact.
4-3. How are differences between the houses reconciled?

Note: The order in which the questions are answered is slightly different from the order in which they were asked, to simplify the response.

4-1. What is the committee structure?

Tables 4-1A and 4-1B describe the committees responsible for budget and appropriations and their subcommittees.

Table 4-1A: APPROPRIATIONS STANDING COMMITTEES—STRUCTURE AND SIZE

State	Appropriations Committees				Joint Appropriations Committees			
	House		Senate		House		Senate	
	No. of Members	% of Total	No. of Members	% of Total	No. of Members	% of Total	No. of Members	% of Total
Colorado	11*	17	10*	29	3*	5	3*	9
Delaware	8*	20	6*	29	8*	20	6*	29
Indiana	25–C*	25	15–C*	30	—	—	—	—
Maryland	27	19	13–C	28	—	—	—	—
Minnesota	25	19	67–C*	100	—	—	—	—
Missouri	110*	68	14	41	—	—	—	—
New Jersey	13–C	16	7–C	18	*	—	*	—
North Carolina	77*	64	20*	40	*	—	*	—

Source: National Conference of State Legislatures, 1997, 2001, and *Congressional Quarterly State Staff Directory*, 1997.
Key:
— = Not applicable
C = Combined appropriations and revenue jurisdiction

*Notes:
Colorado—Joint Budget Committee (JBC) members sit on their respective Appropriations Committee; the JBC chair chairs his or her Appropriations Committee and the JBC vice-chair, who is from the other chamber, chairs his or hers. The Joint Budget Committee is the principal deliberating body on the budget. Members of the JBC also serve on the respective House or Senate appropriations committee but do not serve on other standing committees. Non-JBC members of the appropriations committees can serve on other standing committees.
Delaware—The Joint Finance Committee comprises the House Appropriations Committee and the Senate Finance Committee. The only tasks of the Joint Finance Committee are to complete a budget bill and grant-in-aid bill.
Indiana— The Indiana budget process begins with a legislative-executive Budget Committee, made up of the four caucus chairs and the State Budget Director. It generally recommends a budget at the beginning of the

process, although it did not do so in 2001. Its recommendation is generally the governor's recommendation or something similar. In 2001, the process began with a legislative proposal.

Minnesota—Of this total, 44 members serve on a budget division: Education Finance, State Government Finance, Human Resources Finance. While mainly having appropriations jurisdiction, there are a few exceptions. Twenty-three members serve on the Senate Taxes and Finance Committee, which has combined jurisdiction over appropriations and revenue bills.

Missouri—In the House, there are separate appropriations committees for Education and Public Safety (24 members), General Administration (18 members), Health and Mental Health (18 members) Natural and Economic Resources (26 members) and Social Services and Corrections (24 members). The Senate has a single appropriations committee. The Missouri House has a Budget Committee as an umbrella committee for the appropriations committees. The Budget Committee includes 3 or 4 members from each appropriations committee, usually including the chairs and vice chairs. In 2001, the speaker made all the vice chairs freshmen, for training purposes in response to term limits. He therefore did not put the vice chairs on the BC. Formerly the practice was to appoint the chair, vice chair, two majority and two minority members. There were up to 42 BC members in previous years, and there were 38 in 2001. No consistent effort is made to include the chairs of standing committees. The Budget Committee reviews and can amend legislation the appropriations committees report to it, and reports appropriation bills to the House.

New Jersey—The Senate Budget and Appropriations Committee and the Assembly Appropriations Committee conduct an independent review of the governor's budget recommendations and each committee reports an annual appropriations bill. Differences between bills are reconciled by amendment or substitute bill after the committees have completed the review. A Joint Budget Oversight Committee (six members) is established in Joint Rules to approve transfers of appropriations during the fiscal year and other responsibilities as required by law or rule.

North Carolina—Meeting jointly, 77 members serve on the Appropriations Committee from the House and 20 members serve on the Appropriations Committee from the Senate. (House and Senate committees may vote independently.) In addition, 34 members serve on a Base Budget Committee.

Table 4-1B: SUBCOMMITTEES OF APPROPRIATIONS—NUMBER, SIZE AND HEARINGS
NOTE—Colorado, Delaware and New Jersey do not make use of subcommittees.

State	Subcommittees of Appropriations: Assembly or House No. †	Size †	Senate No.	Size	Joint No.	Size	Subcommittees Hold Hearings?	Do the Full Committees Also Hold Hearings on Same Subject?
Colorado	—	—	—	—	—	—	—	—
Delaware	—	—	—	—	—	—	—	—
Indiana	1	9	3*	6	—	—	Yes	Yes
Maryland	4	5–7	3*	6–7	V	V	Yes	No
Minnesota	11*	11–21	9*	9–14	1	6	Yes	No
Missouri	5*	18–26	—	—	—	—	Yes	Yes
New Jersey	—	—	—	—	—	—	—	—
North Carolina	7*	7–17	7*	4–13	—	—	Yes	Yes

Source: National Conference of State Legislatures, 1997, 2001

Key:

† No. = Number of subcommittees

† Size = Number of members that serve on each subcommittee

V = Varies

— = Not applicable

***Notes:**

Indiana—The Senate subcommittees are Budget, State and Local Government, and Taxation. The budget subcommittee is an informal subcommittee that does not vote on the budget. The full committee discusses all important issues. On the House side, there are no formal subcommittees, but the chair may use majority caucus members as an informal subcommittee for recommendations on specific issues.

Maryland—The Senate divides into two subcommittees for certain agencies and programs. The full committee will hold hearings on some areas of the budget. A separate subcommittee reviews capital projects.
Minnesota—The House and Senate fiscal subcommittees are divisions of policy committees.
Missouri—These are not actually subcommittees but, in fact, standing appropriations committees, although the Missouri House does have a Budget Committee that considers and approves the recommendations of the standing appropriations committees.
North Carolina—The House and Senate appropriations subcommittees hold some joint hearings.

4-2. What are the respective roles of leadership, caucuses, policy committees, appropriating committees or other entities in:

> **(1) setting aggregate appropriation levels; and**
> **(2) allocating funds across broad budget categories?**

COLORADO The governor traditionally plays little role in the process. Allocations and appropriations are set by the General Assembly. Its Joint Budget Committee (JBC) recommends a state budget to the two appropriations committees.

No one sets aggregate appropriation levels explicitly, but some decisions are nearly determined by the interaction of the limit on appropriations and the funding needs of K-12, Medicaid and corrections. Staff suggests a level of funding for those programs and reports the amount that remains for the JBC to use at its discretion. The committee then makes recommendations. No running total is kept to give everyone an equal chance to make his/her case. At the end of the process, appropriations are added up. In the last two years, the JBC has had to go back and cut to make appropriations fit within the spending limit.

DELAWARE
The governor makes definite recommendations. Governors get most of what they want. (The General Assembly's goals are more diffuse.) The governor's recommendations are expressed in a bill the executive budget office submits to the General Assembly in January.

The Joint Finance Committee (JFC) follows the governor's recommendations for aggregate appropriation levels and broad allocations. In the last four or five years, when extra money has been available, the leaders have met when the budget work is nearly done to decide allocation of the surplus. This includes the two leaders from each caucus and the money chairs. Otherwise, the JFC makes decisions on total budget and allocation, within the governor's recommendations.

INDIANA
The Indiana budget process begins with the Budget Committee, made up of the four caucus chairs and the State Budget Director. It generally recommends a budget at the beginning of the process, although it did not do so in 2001. Its recommendation is generally the governor's recommendation or something similar. The starting point in 2001 was a budget proposal by the Chair of the House Ways and Means Committee, who was also the Budget Committee Chair.

The aggregate appropriations level and broad allocations are determined by negotiations among the two chambers and the governor. Although the process begins with the governor's recommendations, the Senate considers how it wants to allocate money (not just incremental changes from the base) while the House is considering the budget, which it always does before the budget bill goes to the Senate. The House, Senate and Governor may disagree on the definition of "base."

MARYLAND

The governor makes specific budget recommendations and the Legislature does not have the power to increase an appropriation over the governor's recommendation. The Legislature therefore has no formal process for setting an aggregate appropriation level or broad allocation amounts.

The legislature influences future allocations by mandating the levels for future appropriations for particular programs (e.g. education aid, tourism promotion, arts funding, etc.). Although the Legislature cannot increase spending in a budget currently under consideration, it can mandate that the governor include funding for certain items in next budget he or she submits. This means delaying funding until the second following fiscal year. The mandated spending must be an "ascertainable amount" such as the prior year amount plus inflation or a specific dollar amount. The Legislature mandates some spending, but the amounts tend to be small (since a good portion of the budget already is spoken for anyway). The governor must sign the bills mandating future spending.

The process of making decision about allocations is somewhat ad hoc. Staff review of the budget identifies areas which are arguably "over-funded" and areas which may be "under-funded". The political process determines whether additional funds are actually required and, if so, negotiated with the governor for inclusion in a supplemental budget. This occurs in small ways all the time, but not usually for large amounts.

MINNESOTA

In recent years, the governor's budget recommendations have not been as significant in determining total budget decisions and broad allocation issues as the Legislature's recommendations have been.

The House Ways and Means Committee adopts a budget resolution which the House adopts. Then Ways and Means sets finance committee targets. The targets are set by leadership in conjunction with chairs and the caucus, which is very powerful in the process. The majority caucus meets several times on the budget structure before it goes to Ways and Means. In 2001, the relatively small Republican majority (69-65) and internal Republican differences of opinion led to creation of an Executive Board, which also had a role in setting the targets. The Executive Board included the Speaker, majority leader and seven members elected by the Republican caucus.

The Democratically-controlled Senate has a somewhat similar process. The majority leader and assistant majority leader assemble an ad hoc budget group – the nine budget and tax chairs – and set spending targets for areas. In the past, the ad hoc budget group worked from the governor's recommendations and filled in the holes with their priorities. That changed in 2001. They did not start from the governor's recommendations, but instead from the base budget and spent the forecast. In 2001 they adopted a budget resolution for each spending area, which was adopted by the Senate Finance Committee and reported to the Senate for adoption as a Senate Resolution.

Any differences between the House and Senate allocations for the nine major budget areas have to be resolved by the leadership at the time of the conference committees on the appropriations bills.

MISSOURI

The governor makes the basic allocations in his budget recommendations and, except in limited cases, the legislature reacts to them. The governor's recommendations constitute the appropriation committees' targets, that is, the broad allocation decisions. The General Assembly generally follows the governor's recommendations; it may make changes, but they are minimal.

NEW JERSEY

The governor makes initial budget recommendations in the form of a Budget Book, not a bill, in late January. It recommends an aggregate level, general allocations and specific appropriations.

The House and Senate budget committees hold separate agency hearings on the budget from early April to mid-May while the rest of the Legislature is on break. Allocations are based on the governor's recommendations. When the Legislature reconvenes in mid-May, the budget committee chairs, their staff and the governor's staff negotiate the final details of the budget. The budget bill is produced about June 20, is reconciled with a final budget estimate, due from the Treasurer in June, and enacted by the end of June in identical form in both houses.

When the two chambers and the governor are of the same party, the budget reflects the governor's recommendations. In the last year of Governor Florio's Democratic administration, however, the Republican Legislature cut $1.1 billion from his recommended budget. One observer reports that in recent years, when the governor and Legislature have been Republican in control, 99 percent of the governor's recommendations are followed unless fiscal constraints have intervened.

NORTH CAROLINA

At the start of the biennium, the governor submits a budget and revenue estimates. The governor's budget comprises a continuation budget and an executive summary of expansion items. The continuation budget increases between 1 percent and 3 percent year over year. The expansion budget is the balancing request—it consists of salary increases, expansion and capital improvement requests and so on. The Legislature does not necessarily try to accommodate the governor's budget requests. It has substantial freedom to act because the governor lacks a line-item veto and has never used the power to veto an entire appropriation bill.

The Legislative Fiscal Research Division and the governor's office discuss the revenue estimates in order to reach a consensus..

Both chambers use a committee/subcommittee system with seven appropriations subcommittees with matching jurisdictions. Leadership sets the subcommittees' expenditure targets. The subcommittees fit their budgets within their targets. Doing so can require negotiation among subcommittee chairs, committee chairs, the Speaker and the Senate President Pro Tem.

The leadership has its largest role in setting salaries and other compensation policy, education (about 65% of the total budget) and taxation, and in matters concerning the judicial branch (a matter of tradition for the North Carolina legislative leadership).

Expansion money is not necessarily available for subcommittees' discretionary use. It goes to these purposes, in this order:

Salary increases. (The state funds teacher salaries.)
Medicaid.
Public schools, community colleges, universities for non-salary purposes
Corrections
Health and Human Services

These traditional purposes eat up about 80 percent to 85 percent of the total available (all funds). These major divisions are made by the appropriations chairs, as are decisions on benefits and retirement funding. The chairs also informally track subcommittee activity.

Source: NCSL survey, 2001

4-2. What are the respective roles of leadership, caucuses, policy committees, appropriating committees or other entities in:

(3) determining specific appropriations.
(4) How are differences between the houses reconciled?

This section discusses the role of the governor and legislative leaders, caucuses and committees, including conference committees if applicable in determining specific appropriations levels. New Jersey and Delaware do not make use of conference committees.

COLORADO

The Joint Budget Committee (JBC) makes specific recommendations. No running total is kept to give everyone an equal chance to make his/her case. At the end of the process, appropriations are added up. In the last two years, the JBC has had to go back and cut to make appropriations fit within the spending limit.

Leadership involvement. The leadership role is to encourage decision making and move the process along, except that the House Speaker appoints the House majority members of the JBC and they are mindful of that. The JBC has two majority and one minority members from each chamber. Other members are elected by caucuses. Overall the JBC has a lot of latitude vis-à-vis the leadership. The Speaker selects the two House majority members of JBC, and they are somewhat more responsive to his concerns than the other JBC members are to their leadership.

Caucus involvement. Three of the four caucuses have a direct role, electing JBC members. Committee members' responsiveness to the caucus varies with caucuses. The Senate R's have a lunch every two weeks, and when Senator Lacey chaired JBC (in the 1999 and 2000 sessions), she asked the staff director of the JBC to report at each meeting to the R caucus. There's been less formal reporting in 2001 and it is less formal with the House. When the appropriations bill is ready, JBC members explain it to their respective caucuses. The caucuses review the budget bill for approximately two weeks. Caucus members propose amendments. The amendment process is governed by the need for members to find funding for proposed additions to the budget by cutting somewhere else – the total has to fit within budget constraints.

Appropriations committees involvement. Committee action is routine. The committee does not hear amendments. It moves the bill to the floor. The major activity of the appropriations committees is the review of legislation with a fiscal impact.

Standing committees involvement. By rule, JBC is supposed to meet with all standing committees within the first 30 days of session to solicit feedback and make others feel part of the process. This year, JBC staff did more work in the orientation program to give legislators advice about getting involved in the budget process.

Floor Action. All amendments are heard on Second Reading. JBC members in each house speak against amendments, which can pit them against their caucus. Few amendments pass because of the requirement for a member to find the money to pay for any addition to the budget.

Conference committee involvement. The conference committee traditionally has the same membership as the JBC. Its members to this point have been united. But during conference, their role changes. Majority party members will defend their chamber's position on the Long Bill. Until 2001, this meant R's versus R's (because through the 1980s and 1990s R's controlled both chambers). The dynamic changed in 2001 because Democrats took control of the Senate in the 2000 elections.

Governor Owen (R) has been more active in conference committee negotiations than his two Democratic predecessors Lamm and Romer were—they were hands off. This year was hard for Governor Owen because of D control of the Senate.

DELAWARE

House Appropriations and Senate Finance each include six legislators – four from the majority and two from the minority. These members make up the Joint Finance Committee (JFC), which recommends specific appropriations to the two chambers. Because control of the legislature in 2001 is split, JFC is evenly split.

JFC reports a budget bill in June that includes specific appropriations. About 95-97 percent of the budget is driven by formula, like education funding, or is otherwise heavily influenced by previously-made decisions. The legislature routinely enacts the governor's recommendations.

Leadership involvement. In the last four or five years, when extra money has been available, the leaders have met when the budget work is nearly done to decide allocation of the surplus. This includes the two leaders from each caucus and the money chairs.

Caucus involvement. The members of JFC report to their caucuses. Caucus interests in the budget process are funneled through their respective JFC representatives. When JFC agrees on a bill, the caucuses are assumed to support it.

Standing committees involvement.

Floor Action. Floor amendments are frowned upon. Amendments typically are used to correct technical mistakes.

Conference committee. None.

INDIANA

The Indiana budget process begins with the Budget Committee, made up of the four caucus chairs and the State Budget Director. It generally recommends a budget at the beginning of the process, although it did not do so in 2001. Its recommendation is generally the governor's recommendation or something similar. The starting point in 2001 was a budget proposal by the Chair of the House Ways and Means Committee, who was also the Budget Committee Chair. The Budget Committee does not play a role after the budget is introduced in the House. The active committees are the House Ways and Means Committee and the Senate Finance Committee. About 80 percent of what the governor proposes is enacted.

Leadership involvement. The leadership sets general policy and overall parameters (e.g., gambling will be off the table for consideration). Leadership doesn't get involved in negotiations or setting final numbers. The leadership will become involved in issues that a conference committee cannot resolve. The leaders' role varies from time to time; the fiscal chairs' role is crucial.

Caucus involvement. Majority members of the Senate Finance Committee have their own mini caucuses with the Finance Chair and the Budget chair, meet often and have a lot of exchange. Caucus members are kept informed on the budget through routine briefings, they vote on the budget, and may become involved in decisions on particular programs and projects.

Appropriations committees involvement. Appropriation chairs have the most influence over the final outcome. There is some direction from the caucuses and leadership. The chairs sit on the conference committee, discuss issues with the caucuses and leadership and make specific allocations. The committees modify the specific recommendations made by the budget committee.

Generally the budget is drafted by a group within House Ways and Means or Senate Finance. The whole committee holds hearings, but the chairs work through caucus members to draft the budget. These selected members are a sort of subcommittee, but not a formal subcommittee, with the purpose of focusing on details and reporting to the committee. On Senate Finance, two senators are assigned to specialize in education and Medicaid issues. The Senate won't take up the budget until it passes the House.

Standing committees involvement. Consultation is informal. The bills put into the appropriations bill are those with fiscal impact from the standing committees.

Floor action. Floor action can be lively because this is the first opportunity for minority party amendments. Although amendments are offered, none has been adopted on the Senate floor in the past nine years. Technical problems or glitches are fixed through amendments. In the House, few amendments other than technical amendments are adopted.

Conference committee involvement. Ordinarily, the structure is the two fiscal committee chairs and the two ranking minority members, who have to sign the conference committee report, and their legislative advisors, who do not sign the report. (The legislative advisors are other legislators.) The committee does not take votes. All budget items are subject to revision in conference committee, and the conference can add items to the bill. Most decisions are made behind closed doors. The Speaker and the Senate President Pro Tem can remove conference committee members and replace them (although they don't have to replace them with legislators from the same chamber or party). Executive Budget Office staff sometimes play a large role in discussions in the conference committee.

MARYLAND

Leadership involvement. In both chambers, leadership groups guide development of consensus. Presiding officers try to veto concepts perceived as impractical or impolitic. The meetings also provide a forum for reconciling the different interests of committees and groups. Budget matters are not, however, the primary focus of leadership meetings.

The House has two leadership groups: a small senior leadership consisting of chairs, top chamber officers and selected others and a larger group bringing in whips, etc. Each meets weekly. The minority party is excluded from leadership meetings in the House. The rank and file can attend weekly caucus meetings. The Senate has a bipartisan leadership group which last year met bi-weekly. The Democratic caucus meets in alternate weeks.

There is also a "fiscal leaders group" consisting of the chairs of the fiscal committees, the presiding officers and others. This group meets 2-3 time a month after the budget is introduced and receives staff briefings on the status of the budget.

Caucus involvement. Caucus involvement is slight for the Ds, typically limited to updates from the chairs. However, briefings will be held on controversial bills, sometimes bearing on fiscal impact.

Appropriations committees involvement. The House Appropriations Committee and the Senate Budget and Taxation Committee each tend to ratify subcommittee decisions concerning budget reductions and restrictive language. Certain matters (i.e. employee compensation issues, information technology, any across-the-board items such as reductions in travel or auto fleet) are reserved for the full committee. In each case the chair has considerable influence, particularly in matters related to the bond financed capital program.

In each chamber, subcommittees are responsible for review of the budget details and deciding actions to take. For items in their jurisdiction subcommittees decide what to cut. They are sometimes, however, given targets as a mechanism for assuring that the committee as a whole reports a balanced budget within the operating spending limit. Subcommittee reports are usually adopted by the full committee with little amendment.

Standing committees involvement.

Floor action. While debate can be intense on emotional social issues, the committee recommendations are almost always adopted. Occasionally floor amendments that reflect individual members' interests are accepted or adopted, typically in the Senate. In some years debate has been concluded in as little as an hour. However, last year it went on considerably longer.

Conference committee involvement. Conference is limited to the items at issue. The conference committee consists of five members each from the Senate and House committees. They have considerable latitude with respect to open (unresolved) items. Their power is magnified by the fact that the governor has tended to hold his last supplemental budget (additional budget recommendations for the coming fiscal year) until the conference has convened and the budget deadline looms.

By law, the governor can submit one or more supplemental budgets at any time during the budget process. The governor has chosen to wait until conference committee deliberations to by-pass full chamber deliberations on the supplementals. In its deliberations, the conference committee focuses on the budget balance and the limit on operating spending.

MINNESOTA

In recent years, the governor's budget recommendations have not been as significant in determining budget decisions as the Legislature's. However, 85 percent to 95 percent of the governor's recommendations are enacted, but this represents the budget base. On the increment, it varies from year to year – maybe 50% in 2001. How much of the governor's incremental recommendations are enacted depends on partisan control.

Leadership involvement. Leadership is involved in setting appropriations targets for committees at the beginning of the process, and in resolving differences between chambers in the conference process. Committee chairs have a lot of authority to make spending changes within the target.

Caucus involvement. The caucuses help to select the members of the finance (appropriations and tax) committees in each chamber. The Senate caucus's role is very general. An ad hoc budget group meets three times and may meet with the caucus afterward to get feedback. It may revise targets according to the caucus comments, but most decisions already are made.

Appropriations committees involvement. The House structure consists of a Ways and Means Committee and 10 finance (appropriations or tax) committees—not subcommittees—each of which produces one appropriations bill that is referred to Ways and Means. Among them, the committees include all House members. The Senate structure is similar but not identical, with somewhat fewer committees but the same goal of having all members on a spending or tax committee. Since each committee produces a bill, there are difficulties in conference because the subjects of the two chambers' appropriations bills do not coincide.

The finance committees look at the base budget, the governor's recommendations and the target, and produce a bill within the target. Each committee comes up with one bill. All House finance bills go to Ways and Means, except the Education Bill, which also goes to the Tax Committee. All Senate appropriations bills go to its comparable umbrella committee, called Finance, and the education appropriations bill also goes to Tax and, uniquely, to the policy committee on education.

The House Ways and Means Committee and the Senate Finance Committee can change the appropriations committees' budget recommendations, but rarely do so.

Standing committees involvement. All legislators are members of a fiscal committee. The K-12 finance bills are referred to the education policy committees, but other no other appropriations bills are referred to policy committees. Membership of related standing and finance committees overlaps.

Floor Action. Amendments are allowed on the floor in both chambers but they must be consistent with the budget resolution. Few are successful and they tend to make minor changes.

Conference committee involvement. There is a separate conference committee for each bill. In past years, the Senate and House had parallel committee/division structures which facilitated planning for conference. Because the Senate structure changed for 2001, a number of jurisdictional issues arose. Leadership from the two sides had to agree on spending targets for various appropriations subject areas, defined differently in the two houses. The conference committees consist of five members from each side, mostly drawn from the committees of jurisdiction. In general, a member must have voted for a bill to be on the conference committee; however, this is sometimes violated. When conference committees cannot agree, the leadership makes decisions.

MISSOURI

The governor's recommendations constitute the appropriation committees' targets, that is, the broad allocation decisions. The General Assembly generally follows the governor's recommendations; it may make changes, but they are minimal.

Leadership involvement. The direct role of leadership is usually minimal. They work through the chairs of the budget committee or appropriations committees on particular concerns, but are not generally active in the budget process.

Caucus involvement. The caucus's role is behind the scenes. Both caucuses meet regularly and may give direction to the chair or ranking minority member of the appropriations committee. When the budget is through committee, the caucuses discuss it and react to previous decisions, rather than before the fact.

Appropriations committees involvement. The Senate has an Appropriations Committee of 13 members, seven Republicans, six Democrats. Membership is based on tenure. The committee has no formal subcommittees.

The process begins with the governor's presentation of the State of the State with priorities for the budget. Budget bills traditionally are generated on the House side. The committee brings in agencies for hearings, and works from the governor's recommendations. Non-committee members are encouraged to work through members. There are simultaneous hearings with the House, but no markup until the bill comes to the Senate from the House.

The Missouri House has a Budget Committee (BC) and seven appropriations committees, a structure that corresponds to the committee/subcommittee structure in other states.

Appropriation bills are referred to the BC, which refers them to the seven area-specific appropriations committees. They hold hearings, do mark-up and report to the BC. The BC can accept reports as submitted, change them, or return them to an appropriations committee for revision. BC changes 20 percent to 25 percent of the items that the appropriations committees recommend, but the dollar amounts of the changes tend to be small.

The BC includes 3 or 4 members from each appropriations committee, usually including the chairs and vice chairs. In 2001, the speaker made all the vice chairs freshmen, for training purposes in response to term limits. He therefore did not put the vice chairs on the BC. Formerly the practice was to appoint the chair, vice chair, two majority and two minority members. There were up to 42 BC members in previous years, and there were 38 in 2001. No consistent effort is made to include the chairs of standing committees.

More than 50 percent of the House membership is on an appropriations committee. They range in size from 15 to 23 members. The partisan division in appropriations committees mirrors that of the chamber. No one sits on more than one appropriations committee.

A committee that wants to exceed a target has to find the money somewhere. The governor's recommendations are the default level unless there's a motion to change one. Some chairs want to make significant changes—for example Social Services in recent years. Others do very little. This is true whoever is governor. The Budget Committee (which balances all appropriations committees' recommendations against each other, and may change appropriations committee recommendations) will support some changes. The other chamber may return to the governor's recommendations and make changes an issue in conference committee.

Standing committees involvement. No formal involvement in the budget.

Floor Action. There is extensive debate on the floor of the House (members don't feel bound by the BC recommendation), and many amendments are offered. Few are approved unless they are supported by the budget committee or appropriations committee chair. In the Senate there are fewer amendments, and few adoptions. The budget must be passed one week prior to the end of session. Most other bills pass after that point.

Conference committee involvement. Conference committee consists of five members from each chamber. On the Senate side they are the Appropriations Committee chair, vice chair, senior majority member, and two long-tenured minority members from the committee. House members include the relevant appropriations committee members. If they receive authority from the chambers, the conference committee members can add new material to the bill; otherwise it is a reconciliation of the two chambers' bills as passed. The biggest issues tend to be budget language.

NEW JERSEY

The governor makes initial budget recommendations in the form of a Budget Book, not a bill, in late January. It recommends an aggregate level and general allocations (as well as specific appropriations). The governor's recommendations drive the process, particularly when, as at present, the governor and the majorities in the two chambers are of the same party.

Leadership involvement. Leadership operates from behind the scenes. It sets overall parameters—like the size of the needed surplus or the overall spending level—not the budget detail, on which it defers to the appropriations committees. When substantive legislation is needed to make budget provisions work, leadership is heavily involved. Leaders will participate in any final decisions on which the chambers disagree.

Caucus involvement. The caucuses have no formal role beyond gathering votes. The minority caucuses have little say. The majority caucuses are kept apprised of budget developments. Caucus members are invited to submit "legislative priority" items—district projects—but do not have much involvement in substantive issues. Most of their participation comes at the end of the process, but it's ongoing. The Appropriations chair and staff will inform caucus before the final bill is introduced. Staff meet constantly with the leader and chair. The leadership has more influence than the caucus in general.

Appropriations committees involvement. The House and Senate committees conduct the budget process. They do not use subcommittees. They hold both public and agency hearings. There is no bill at the beginning of the process.

The House and Senate budget committees hold separate agency hearings on the budget from early April to mid-May while the rest of the Legislature is on break. Allocations are based on the governor's recommendations. When the Legislature reconvenes in mid-May, the budget committee chairs, their staff and the governor's staff negotiate the final details of the budget in informal, undocumented negotiations. The budget bill is produced about June 20, is reconciled with a final budget estimate, due from the Treasurer in June, and reported to the two chambers.

The committees report one bill, with possibly a supplemental bill at the end of the process to correct errors and tie up details. There may also be "accompanying legislation" to express purposes and changes in programs. The budget document can override any other legislation except that it's not possible to raise or lower taxes in the budget bill.

Standing committees involvement. No formal involvement.

Floor Action. The bill is essentially done when it hits the floor and is not open for amendments or debate. The vote is straight up or down. The goal is unanimous approval. In the past ten years, the two houses have never reported separate budget bills.

Conference committee involvement. New Jersey passes identical bills in both chambers. There is no provision for a conference committee.

NORTH CAROLINA

The North Carolina budget is largely controlled by the Legislature because of the lack of a line-item gubernatorial veto. Although the governor can veto an entire appropriation bill, that has never happened. The process begins with the governor's budget and revenue recommendations.

Leadership involvement. The leadership sets general policy and oversee the process. The leadership has its largest role in setting salaries and other compensation policy, education (about 65% of the total budget), taxation and matters concerning the judicial branch (as a matter of tradition for the NC leadership)..

Caucus involvement. Before 1989, the caucus role was largely perfunctory because there was a predominant party in each chamber. The bipartisan 1989 coalition in the House made the caucus role critical. Now the Senate votes on the budget tend to be strictly party-line, 35-15. Since 1998, when Republicans took control of the House, the Republican caucus has been critical in maintaining a party position. On crucial bills, like salary increases and decreases or a final vote on the House budget package, the caucus role is to maintain party discipline. The caucus is a discussion forum. The Speaker and Senate President Pro Tem guide the process and the caucus is a way to disseminate information and allow members to air concerns.

Appropriations committees involvement. At the start of the biennium the governor submits a budget and revenue estimates. The governor's budget staff brief the appropriations committees on the entire budget. Executive and legislative staff reach a consensus on the revenue projection.

Both chambers use a committee/subcommittee system with seven appropriations subcommittees with matching jurisdictions. All 170 legislators are members either of appropriations or finance committees.

The subcommittees meet jointly for hearings on agency budget requests as a matter of efficiency. They meet jointly for these briefings, until one house is ready to pass the budget (the chamber the budget bill originates in alternates from budget to budget). If there are many new members of the subcommittee, staff spend considerable time on education. If there are fewer new members, staff spend more time on comprehensive reviews. Staff make informal recommendations on the budget.

The subcommittees have an expenditure target set by leadership and they fit their budget within the target. Requests for changes are negotiated among subcommittee chairs, committee chairs, the Speaker and the Pro Tem.

While the subcommittees meet, the full committee chairs are also negotiating a schedule for the process. All the chairs participate. The Fiscal Research Division and legal staff assemble the budget bill for the committee; the subcommittees file reports.

Standing committees involvement. No formal role in the process.

Floor Action. House votes are now close, with only a few members separating the party membership (Senate votes are not so close). Amendments depend on politics and how much has already been worked out. There is no rule to govern the number of amendments. The sponsor of an amendment has to find funding for an addition—that's not in the rules, that's the practice. Amendments sometimes pass. Leadership tries to contain the process before the fact.

Conference committee involvement. The conference committee is large (there is no limit on size), and includes the appropriations and Finance Committee chairs. They don't negotiate in public meetings. Instead, documents are sent back and forth. Most decisions are made in private. There is considerable involvement of the Speaker and the Pro Tem. Sometimes the conference committee has added substantive language to the bill. Items must have passed in one house to be taken up by the conference committee, and the rules forbid increases in appropriations in conference. In practice, the conference committee can make whatever decision necessary to complete the process.

After the conference committee reports, there is as little as one day for members to review the bill before voting.

Source: NCSL survey, 2001

4-2. What are the respective roles of leadership, caucuses, policy committees, appropriating committees or other entities in:

(5) adopting substantive legislation with an impact on the budget.

COLORADO

Bills with a fiscal impact are referred to the House and Senate appropriations committees, not to the Joint Budget Committee (JBC). The appropriations committees are, in effect, affordability committees.

Notes are done on introduction of a bill and revised as a bill is amended. Every bill has a fiscal note. A House rule requires a fiscal note before a bill can be reported from the first committee of reference. The Senate lacks that rule, but staff follow the same practice for the Senate as for the House.

The appropriations committee receives the fiscal note along with reports of the committees that have heard the bill. Bill sponsors may offer amendments to their bills in appropriations committee, and are supposed to give the amendments to JBC staff before the hearing. JBC staff make sure the fiscal impact is up to date. They draft an appropriation clause for the separate bill. The committee can fund the bill, can strike the cost, or can vote to postpone indefinitely to kill the bill.

The appropriations committees tend to hold bills with a fiscal impact until the main budget bill (the "Long Bill") has passed. Since it appropriates available funds, bills with a fiscal impact are likely to be killed, unless they have been seen as urgent and fast-tracked so they can be funded in the Long Bill.

Committees and legislators use the fiscal notes as a bill summary. Fiscal notes are sometimes used on the floor to make a point or for the bill summary. Fiscal impact is not debated.

DELAWARE

In the House, bills with an impact over $50,000 may be assigned to any committee, but will be reassigned to the Appropriations Committee upon clearing the original committee assignment. Senate practice does not include this rule. In the House, there's a tendency to hold fiscal impact bills until late in session. Some come out early and the budget is adjusted. Most bills come out before the budget bill, and it can be adjusted to reflect their cost. Bills sometimes are passed with a proviso making them subject to an appropriation of the General Assembly. The fiscal staff track all bills with a budgetary impact.

INDIANA

Senate and House rules require referral of bills with an impact of more than $50,000 to an appropriations committee. Any appropriations in substantive bills are stripped and put into the appropriations bill if the committee approves, although there can be exceptions. The remainder of bill can be reported from committee; alternatively the entire bill and appropriation can be killed in committee. The leadership and the appropriations committees track such bills closely.

MARYLAND

Bills with a fiscal impact are not referred to the appropriations committee but they are summarized in a data base circulated to fiscal leaders. Because the Legislature cannot add to the budget, those bills/items are pushed to the next year. More attention is given to revenue bills. The fiscal staff keep track of these and try to determine how much is available for tax cuts (which has been the nature of revenue bills in recent years).

The Legislature has two ways to get funding for current new legislation included in the coming year's budget:

1) the Legislature can try to convince the governor to include the funding in the supplemental budget request or
2) the Legislature can use the Supplementary Appropriations Act—which requires the legislature to raise taxes sufficient to cover the appropriation to fund the legislation.

MINNESOTA

According to House and Senate rules, bills with a fiscal impact are supposed to be referred to an appropriations committee, but sometimes are not. The appropriations committee can incorporate the bill into its appropriations bill, kill the bill, or (rarely) report it as part of the appropriations bill without funding.

MISSOURI

Fiscal notes are done on all bills. Bills with an impact of more than $100,000 are referred to an affordability committee—the Senate Budget Control Committee or the House Fiscal Review Committee. There is some overlapping membership with the appropriations committee in both chambers, but the House chair is not on a House appropriations committee.

The affordability committees' responsibility is to review the cost of legislation, not the merits of legislation. They don't have power to amend a bill, but they can hold or kill a bill because of the fiscal impact. Members review the fiscal note and the sponsor explains the costs. If the sponsor disagrees with the cost estimate in the fiscal note, the sponsor has to go to the Joint Oversight Committee to request a revised fiscal note—the committees do not hear challenges to a fiscal note, and cannot revise a fiscal note.

Because the committee cannot amend a bill, the House Fiscal Review Committee has developed a process of asking for a commitment from the sponsor to amend the bill or develop a committee substitute in the Senate to make the changes Fiscal Review wants to reduce the bill's costs. The sponsor agrees to bring it back to the House from Conference Committee with the changes in it.

The chair of House Fiscal Review works closely with the Budget Chair, Speaker and governor's office on the numbers and respects their priorities, and also works closely with the Senate Budget Control Chair. They compare notes, discuss proposals, keep in synch with each other. Their job is to protect the budget. The chair also reports to the Leadership meetings.

In the House, there's some concern over the potential power of the committee. It was set up three years ago to reduce the work of the Budget Committee, which used to perform its function. The responsibility of Fiscal Review is still under consideration. For example, it only hears bills that would affect the General Revenue Fund. One question is whether bills that affect trust funds or other funds should also go through Fiscal Review.

Another question is whether the Fiscal Review Committee should again review a fiscal note when a bill it has rejected or asked to be changed is added by amendment to another bill. This is not now the practice, and the only way to address the situation is by the Chair raising the issue in floor debate. The committee members have to track all amendments. This is especially important near the end of session as members attempt to add their proposals to other bills. A bill that Fiscal Review has killed can resurface on the floor.

NEW JERSEY

Fiscal notes are prepared if the Legislative Budget and Finance Officer certifies that one is needed. Bills with an impact of $100,000 or more are first considered by the appropriate policy committee and are referred to the appropriations committee. Leaders can suspend this requirement. Tax bills go directly to appropriations because there is no separate taxation committee. The appropriations committees have the full range of options with such bills, but it's generally understood that bills posted to appropriations will be released. Occasionally they're held. Most decision are made before a bill is posted to appropriations.

NORTH CAROLINA

Bills with a fiscal impact are typically referred to an appropriations committee or subcommittee, but not all bills receive fiscal notes. Law requires fiscal notes on revenue bills, bills that have an impact on incarceration and bills that affect the pension or health plans. By rule, only a limited number of people can request a fiscal note on the floor of either house. In practice, any member can ask for one, when not on the floor, and this practice has not been abused. Fiscal note revisions occur at each stage of the process.

Bills are tracked daily against "Availability" to make sure funds are available. If a bill carries sufficient weight, it will be folded into the appropriations bill. The full range of options is available to the fiscal committees with respect to referred bills. By rule, Senate Appropriations does not have to report all bills, but the House Committee has to clear its agenda by the end of session, a process known as "clearing the box."

Source: NCSL survey, 2001

5. ENACTMENT AND VETO

5-1. Majority or super-majority requirements for passage?
5-2. Executive veto provisions? Are they line item or whole bill only?
5-3. Is a special session required to override and if so, when, and can it only consider the overrides?
5-4. If an addition is overridden, I assume the budget goes back to its amount as originally submitted but can the Governor veto a cut in the budget? If so, how does the budget stay in balance?

5-1. Majority or super-majority requirements for passage?

Table 5-1: VOTE REQUIRED TO PASS THE BUDGET

State	Majority	Majority Elected	Other
Colorado	—	■	—
Delaware	■	—	—
Indiana	■	—	—
Maryland	—	■	—
Minnesota	—	■	—
Missouri	—	■	—
New Jersey	■	—	—
North Carolina	■	—	—

Source: National Conference of State Legislatures, December 1997; and Council of State Governments, *The Book of the States, 1996–1997.*
Key:
— = Not applicable

5-2. Executive veto provisions? Are they line item or whole budget?

Governors in 43 states have line-item veto authority. Case law has shown it is remarkably difficult to define the term "line-item" precisely, but the general sense is not difficult—a line item is a specific appropriation or provision within a bill that may be vetoed without an impact upon the rest on the bill. Governors of those 43 states may also veto entire bills. Governors in six states have only the power to veto entire bills. Maryland now is the only state where the governor has no veto power over budget legislation. North Carolina, the other recent exception, gave the governor the power to veto bills (but not the line-item veto) in 1991.

The governors of 12 states have the power to reduce appropriations without vetoing a line item. Some of these governors also have line-item and bill veto authority. Among the states covered in this study, the governors have power to reduce appropriations in Missouri and New Jersey. The power is very rarely used.

Until recent years, the governor of Wisconsin had the authority (unique among governors) to strike individual letters (or entire words) and individual digits or entire numbers in an appropriations bill, with the potential of changing the sense of language in an appropriation (for example, by striking the word "not" in a provision) or the amount of an appropriation. The Wisconsin governor did not have the power to substitute other letters or digits for those stricken. This power was limited to appropriations bills. The voters have removed this unique veto authority in a constitutional amendment known as the "Vanna White" amendment.

Table 5-2: GUBERNATORIAL VETO AUTHORITY WITH RESPECT TO MAJOR BUDGET BILL(S)								
State	Funding for a Particular Line Item	Funding for an Entire Program or Agency	Language Accompanying Approp. Itself †	Language in Footnote or Following Approp. Explaining How Money to Be Spent †	Proviso or Contingency Language on Expend. of Approp. †	Entire Bill Only	Reduce (R) Approp. or Substitute(S) New Measure for Consideration	Other
Colorado	■	■	—	■*	■*	—	—	—
Delaware	■	—	—	—	—	—	—	—
Indiana	—	—	—	—	—	■	—	—
Maryland	—	—	—	—	—	—	—	■*
Minnesota	■	■	—	—	—	—	—	—
Missouri	■	■	—	—	—	—	R	
New Jersey	■	■	■	■	■	—	R	—
North Carolina	—	—	—	—	—	■	—	—

Source: National Conference of State Legislatures, December 1997.
Key:
— = Not applicable
N/R = No response
† = *Language Accompanying Appropriation*: Language that describes an appropriation and is next to the appropriation. This may be a title or short description.
† = *Footnote Language*: Language that describes how money is to be spent. Footnotes also may be called legislative intent language. Footnotes usually appear on the bottom of the page with the corresponding appropriation.
† = *Proviso Language*: Language that explains what the executive, legislative or judicial agency has to do to receive an appropriation. This also is known as contingency language.
***Notes**:
Colorado—Intent language and contingency language may be vetoed only if it is unconstitutional.
Maryland—The governor has no veto power over the budget bill.

5-3. Is a special session required to override and if so, when, and can it only consider the overrides?

Only eight states among the 50 provide for special veto sessions. Among the eight states reviewed in this report, only Missouri's and New Jersey's constitutions provide for veto sessions. The eight states' practices are summarized below.

COLORADO

During session, bills become law unless vetoed within 10 days including Sundays. After adjournment, the governor has 30 days, including Sundays, to veto a bill. The bill becomes law unless it is vetoed. Bills vetoed after adjournment are not returned to the legislature for reconsideration.

A veto override requires a 2/3 vote of the elected membership. There is no provision for an override session.

DELAWARE
During session, bills become law unless vetoed within 10 days. After adjournment, bills die unless they are signed within 30 days.

A veto override requires a 3/5 vote of the elected membership. There is no provision for an override session. Vetoes may be considered at the next special session after the veto or at the next regular session, if (in both cases) no election has intervened.

INDIANA
During session, bills become law unless vetoed within seven days not including Sundays. After adjournment, bills become law unless vetoed within seven days after their presentation to the governor, including Sundays. Bills vetoed after adjournment are not returned to the legislature for reconsideration

A veto override requires a majority vote of elected members. There is no provision for an override session. The General Assembly may consider vetoes at the next regular session even if an election has intervened, or at a technical correction day scheduled by concurrent session.

MARYLAND
During session, bills become law unless vetoed within six days, not including Sundays. After adjournment, bills become law unless vetoed within 30 days after their presentation to the governor, including Sundays. Bills vetoed after adjournment are returned to the legislature for reconsideration during the same session of the General Assembly.

A veto override requires a 3/5 vote of the elected membership. There is no provision for an override session.

MINNESOTA
During session, bills become law unless vetoed within three days, not including Sundays. After adjournment, bills die unless they are signed within 14 days after adjournment.

A veto override requires a 2/3 vote of the elected membership. There is no provision for an override session.

MISSOURI
During session, bills become law unless vetoed within 15 days, including Sundays. After adjournment, bills become law unless vetoed within 45 days after presentation to the governor, including Sundays.

A veto override requires a 2/3 vote of the elected membership. If the governor returns any bill on or after the fifth day before the last day on which the Legislature may consider bills (that is, in even-numbered years), the Legislature automatically reconvenes on the first Wednesday following the second Monday in September for a maximum 10-calendar day session.

NEW JERSEY
During session, bills become law unless vetoed within 45 days, including Sundays (with some exceptions and conditions: see *Book of the States*, vol. 33 (2000-2001 edition), table 3.16, note w). After adjournment, bills become law unless vetoed within 45 days after presentation to the governor with some exceptions and conditions: see *ibid.*

A veto override requires a 2/3 vote of the elected membership. If the Legislature is in adjournment *sine die* on the 45th day after a bill is presented, a special session is convened without call or petition for the sole purpose of acting upon bills returned by the governor.

NORTH CAROLINA

During session, bills become law unless vetoed within 10 days, not including Sundays. After adjournment, bills become law unless vetoed within 30 days after adjournment.

A veto override requires a 3/5 vote of the elected membership. The legislature convenes in a special veto session upon call of the governor.

Source: National Conference of State Legislatures and the American Society of Legislative Clerks and Secretaries, *Inside the Legislative Process* (Denver, Colo., 2000), Chapter 6; Council of State Governments, *The Book of the States, 2000-01*, vol. 33 (Lexington, Ken., 2001), table 3-16.

5-4. If an addition is overridden, I assume the budget goes back to its amount as originally submitted but can the Governor veto a cut in the budget? If so, how does the budget stay in balance?

Legislature in states other than Maryland do not consider appropriations in the same terms or concepts that Maryland uses because there is no constitutional limit on their ability to appropriate amounts different from the governor's recommendations. Most legislatures can appropriate less than, the same amount as, or more than a governor recommends, or can make no appropriation whatever in response to a governor's recommendation.

Therefore, when a governor line-item vetoes an appropriation, or vetoes an appropriation bill, the entire appropriation is completely done away with. No appropriations exists for that purpose unless the Legislature overrides the governor's veto or enacts a new appropriation. If the governor vetoes an entire appropriation bill (as occasionally happens, as in New Jersey in 1991), the Legislature must either override the veto or enact a new appropriation bill that the governor is willing to sign for agencies to receive appropriated funding. In these cases, if a state constitution does not provide for a veto-override session, or if the Legislature cannot override the veto, it is possible that a governor might have to call a special session to resolve such a budget crisis.

The question whether a governor can veto a cut in the budget requires a look at the circumstances in which that might happen in states other than Maryland.

Example A. Suppose that a Legislature is enacting a budget for the following fiscal year. It could cut the budget by appropriating less for an agency (or for more than one agency) than had been appropriated for the current fiscal year. That would constitute a line-item or program appropriation. The governor could veto this cut in the budget. If the governor vetoed it, there would be no appropriation for that line-item or program (unless further action should be taken). This would reduce state spending even beyond the cut the Legislature had envisioned, and keep the budget in balance.

Example B. Suppose a Legislature is cutting the budget for the current fiscal year because of lower-than-forecast revenues. Legislatures sometimes do this in times of fiscal stringency in states where the governor's ability to cut spending does not exist or is constitutionally limited.

The Legislature could (depending on its customary practice) amend the original appropriation act by reducing the amounts set in it, or repeal the original appropriations act and enact a new one with smaller amounts. If the governor vetoed lines in such revised legislation, that would prevent the reduction from taking place, and the original budget would remain in force. In this case, it is conceivable that other action to produce a balanced budget might be necessary.

6. STAFF SUPPORT

6-1. Partisan or nonpartisan?
6-2. Central or separate by chamber?
6-3. Staff role in budget process?
6-4. Staff role in costing additions to the budget?

6-1 and 6.2. Partisan or nonpartisan fiscal staff? Central or separate by chamber?

Four of the eight states being compared have only central nonpartisan fiscal staff: Colorado, Delaware, Maryland and North Carolina.

Two of the eight states being compared have partisan staff for the four caucuses in addition to central nonpartisan staff: Indiana and New Jersey.

Two of the eight states being compared have only nonpartisan chamber staff for the appropriations and tax committees: Minnesota and Missouri. Those two states do not have partisan fiscal staff.

Table 6-1: Legislative Fiscal Offices

State	House	Senate	Joint/Central Nonpartisan Agency
Colorado	—	—	Joint Budget Committee Staff
Delaware	—	—	Office of Controller General
Indiana	Republican Fiscal Staff Democratic Fiscal Analyst Office	Finance Committee—Majority Fiscal Analyst Office Finance Committee—Democratic Fiscal Analysis	Legislative Services Agency—Office of Fiscal and Management Analysis
Maryland	—	—	Department of Legislative Services—Office of Policy Analysis
Minnesota	Ways and Means Committee Taxes Committee	Office of Fiscal Policy Analysis Committee on Taxes	—
Missouri	Appropriations Committee Research Office—Ways and Means Committee Staff -- Nonpartisan	Appropriations Committee Research Office—Ways and Means Committee Staff – Nonpartisan	—
New Jersey	Democratic Office—Budget and Fiscal Analysis Majority Office—Budget Staff	Democratic Office—Budget Staff Majority Office-Budget Staff	Office of Legislative Services—Legislative Budget and Finance Office
North Carolina	—	—	Legislative Services Commission—Fiscal Research Division

Source: National Conference of State Legislatures, December 1997 and Council of State Governments, *State Legislative Leadership Committees and Staff*, 1997.
Key: — = Not applicable

6-3 and 6.4. Staff role in budget process? Staff role in costing additions to the budget?

Table 6.3 summarizes the major responsibilities of legislative fiscal offices.

TABLE 6.3. RESPONSIBILITIES OF LEGISLATIVE FISCAL OFFICES

Budget Responsibilities	CO	DE	IN	MD	MN	MO	NJ	NC
Staff budget committee (s)	P	P	A	P	P	P	P	P
Write budget instructions for use of state agencies	A	A	—	—	A	A	—	—
Review/analyze agency budget requests	P	P	—	P	P	P	P	P
Secure budget justification data from state agencies	P	P	—	P	P	P	A	P
Prepare recommendations for budget committee	P	P	—	P	P	P	A	P
Prepare amendments to budget bills	P	P	A	P	P	P	P	A
Track state agency expenditures	A	A	—	A	P	P	A	P
Budget oversight functions	A	A	—	P	P	P	P	P
Expenditure forecasting	P	A	A	P	A	P	A	P
Monitor or track federal funds receipt	P	A	A	A	*	P	A	—
REVENUE RESPONSIBILITIES	**CO**	**DE**	**IN**	**MD**	**MN**	**MO**	**NJ**	**NC**
Staff revenue committee	A	P	P	P	P	—	—	P
Analyze tax legislation	A	P	P	P	P	—	A	A
Conduct revenue forecasts	—	A	A	P	A	A	P	P
Prepare legislative alternatives to executive branch revenue forecast	A	—	—	—	P	—	P	P
Participate in consensus revenue forecasting process	—	A	A	P	—	P	—	P
Monitor state revenue collections	—	A	A	A	A	A	P	—
Prepare recommendations for revenue committee	—	A	A	P	P	—	A	A
Prepare amendments to revenue bills	—	A	A	P	P	—	—	A
RESEARCH/ANALYSIS	**CO**	**DE**	**IN**	**MD**	**MN**	**MO**	**NJ**	**NC**
Conduct fiscal research	no	yes	yes	yes	yes	no	yes	yes
Analyze budget trends	no	yes	yes	yes	yes	yes	yes	yes
Conduct demographic forecasting	no	no	yes	no	no	no	no	no
Backgrounders on the legislative budget process	no	yes	yes	yes	yes	yes	yes	yes
Track economic conditions	no	yes	yes	yes	yes	yes	yes	yes
Prepare citizens' guide to the budget	no	no	no	yes	yes	yes	yes	yes
Summarize fiscal enactments	no	yes	yes	yes	yes	no	no	yes

Source: NCSL, November 1998. Reporting offices: Central nonpartisan offices in CO, DE, IN, MD, NJ and NC; House nonpartisan fiscal agencies in MN and MO.

Key:
P = principal role
A = advisory role
— = Not applicable

***Notes:**
Minnesota: Limited responsibility for tracking federal funds.

The following additional information on staff roles is available for some of the states included in this report.

COLORADO

Joint Budget Committee (JBC) staff makes recommendations within the broad policies the committee members set on such matters as inflationary allowances and personnel services policy. Staff makes recommendations in all areas. The committee begins with departmental requests and staff recommendations, and makes its decisions from those.

The staff role in costing additions to the budget is partly that of the JBC staff in making recommendations to the committee on changes in a proposed budget from the existing budget, and partly in fiscal notes on non-appropriations bills. A Legislative Council staff group separate from the JBC staff prepares fiscal notes on all legislation, writes memos on the cost of proposed committee amendments and updates the fiscal notes to reflect committee actions.

JBC staff brief the four caucuses on budget development as requested. JBC staff are also responsible for training committee members on the budget process—a role the staff has absorbed in the wake of term limits, which has produced a previously-unknown level of change in committee membership.

INDIANA

Staff include a central nonpartisan fiscal staff and a small number of partisan fiscal staff (the House committee has two majority and minority fiscal staff. The partisan and nonpartisan staff hold joint briefings during the Interim. Partisan staff work through technical nonpartisan issues together, and senior, experienced staff have been able to work out tentative agreements on some policy issues. They provide technical support and track the fiscal impact of policy legislation.

Caucus analysts are involved in the closed-doors negotiations of the conference committee; nonpartisan staff attend only the open meetings.

NEW JERSEY

The Legislative Budget and Finance Office (LBFO) reviews and analyzes the governor's budget recommendations from January into March. When the budget committees begin consideration of the budget, majority caucus staff are involved in negotiations between the chambers—the minority caucuses and their staffs have little role. At the end of the process, LBFO staff plays a consultative and supportive role, and prepares a final revenue estimate. LBFO helps evaluate the policy options offered by the governor and also produces the budget bill itself (a 250 page document). The Legislative Fiscal Officer attends negotiations to track and deal with technical issues.

Caucus staff and the fiscal office staff assists committees in adding language to the bills to define and control the purposes of appropriations. The fiscal office staff prepare fiscal notes on policy bills.

NORTH CAROLINA

Fiscal analysts work closely with subcommittee chairs to determine bill content. If there are many new members of the subcommittee, staff spends considerable time on education. If there are fewer new members, staff spends more time on comprehensive reviews. Staff makes informal recommendations on the budget.

7. BUDGET REALLOCATION

7-1. Can the Legislature increase the total budget?

7-2. Are there any items that cannot be increased?
7-3. How common are decisions to re-allocate? Examples? Where in the legislature did they originate? How are they costed? By whom?
7-4. How are they considered; (1) at committee level; (2) by the chambers; (3) for purposes of veto?

7-1. Can the Legislature increase the total budget?

In all seven states other than Maryland reviewed in this report, the Legislature has full power to increase or decrease the budget total independently from any recommendation of the governor, subject only to state provisions regarding a balanced budget, availability of resources, and any limits that exist on the rate of growth of state expenditures or general fund expenditures (see part 2-4, above).

The authors of this report asked survey respondents the questions listed in table 7-1 (following page) to provide a further response to this question.

7-2. Are there any items that cannot be increased?
There are no items that cannot be increased.

7-3. How common are decisions to reallocate? Examples? Where in the legislature did they originate? How are they costed? By whom?

By "re-allocate" the authors of this report assume that Maryland staff are referring to the removal of funding from one purpose for the sake of increasing funding for another purpose. Legislatures can reallocate funds whenever they wish to do so. In practice, they tend to do so only in times of fiscal stress.

Such decisions may originate with a governor's, a fiscal staff, or a committee recommendation. The process in each state would follow that described above in Section 4 on budget deliberation. Costing is done, depending on state practice, by executive and legislative fiscal staff and fiscal notes agencies.

7-4. How are they considered; (1) at committee level; (2) by the chambers; (3) for purposes of veto?
Such issues are considered in the same way as other budget decisions, of which they are an integral part. See Section 4, above.

TABLE 7-1: BUDGET REALLOCATION QUESTIONS

	CO	DE	IN	MN	MO	NC	NJ
1. Are there any constitutional or statutory limits on the Legislature's power to appropriate such as a legal requirement to follow a governor's recommendations?	No	No	No	No	No	No	No
2. Is the legislature empowered (whether or not it chooses to do so) to appropriate different amounts than the governor recommended?	Yes	Yes	Yes	Yes	Yes	Yes	Yes
3. Can the legislature reduce or increase appropriations for the next budget from the level of the existing year?	Yes	Yes	Yes	Yes	Yes	Yes	Yes
4. To what degree does the legislature enact the governor's budget recommendations?	Sometimes	Routinely	Sometimes	Sometimes	Routinely	Routinely	Routinely
5. Does the governor veto line-items in the budget?	Rarely	Never (see note)	No line-item veto	Sometimes	Sometimes	No line-item veto	Routinely
6. Does the legislature override the governor's line-item vetoes?	Never	See note	See note	Rarely (see note)	Rarely (see note)	See note	Rarely

DE: There have been no line-item vetoes in the past 20 years. The Legislature last overrode a line-item veto in 1978.

IN: In 1993, the governor vetoed the budget bill and the legislature overrode the veto (requirement is 51 percent of membership).

MN: Four veto overrides in 2000 were the first in 30 years.

MO: The last veto override was in 1983; there have been only two in the past 25 years.

NC: The governor was given the veto power only in 1993. It has never been used.

APPENDIX. SURVEY QUESTIONS AND LIST OF PEOPLE INTERVIEWED

I. SURVEY QUESTIONS:

MARYLAND PROJECT: THE LEGISLATIVE BUDGET PROCESS
INTERVIEW QUESTIONS

STATE: RESPONDANT:
DATE:

1. LEGISLATIVE DELIBERATION

A. In general, what role does each play in the legislative budget process?
1. Leadership
2. Caucus
3. Appropriations committee
4. Appropriations subcommittees
5. Action on the floor
6. Conference committee

B. Are available funds allocated to broad purposes (K-12, higher ed, children) or subcommittees at the beginning of the appropriation process? (This is not about revenue estimates).
If so, who makes the decision about allocations?
Can the decision be changed? How does that work?
What happens if a subcommittee exceeds its allocation?

C. Who sets specific appropriations? (leadership, caucus, committee, subcommittee?)
If subcommittees do that, do committees change the level or instruct the subcommittee to reconsider? (Never, rarely, sometimes, routinely).

D. Who decides on budget language like notes, provisos, conditions or limits on the use of the appropriation? (leadership, caucus, committee, subcommittee?)
If subcommittees do that, do committees change the language or instruct the subcommittee to reconsider? (Never, rarely, sometimes, routinely).

E. Can budget committees put substantive language (statutes and amendments to existing statutes) in a budget bill?
If so, are substantive committees consulted?
Is such language referred to substantive committees?

F. Are bills with a fiscal impact referred to the appropriations committee or a subcommittee?
If so, what's the process of consideration (by appropriations committee or subcommittee)?
What happens if the appropriations committee or subcommittee rejects the referred bill? Is it dead or just not funded?

G. How are differences between chambers resolved?
What are the roles of leadership and of conference committees?
Are the members of conference committees drawn from the appropriations committee or does a conference committee include non-appropriations members?

2. BUDGET REALLOCATION (This terminology refers to the Maryland legislature's lack of constitutional power to increase appropriations above the governor's recommendations. If it wants to fund a new program, it has to "reallocate" money from some existing program. It does have the power to appropriate less than a governor recommends.)

A. Are there any constitutional or statutory limits on the Legislature's power to appropriate such as a legal requirement to follow a governor's recommendations?

B. Is the legislature empowered (whether or not it chooses to do so) to appropriate different amounts than the governor recommended?

C. Can the legislature reduce or increase appropriations for the next budget from the level of the existing year?

D. To what degree does the legislature enact the governor's budget recommendations?
- Never
- Rarely
- Sometimes
- Routinely

E. Does the governor veto line-items in the budget?
- Never
- Rarely
- Sometimes
- Routinely

F. Does the legislature override the governor's line-item vetoes?
- Never
- Rarely
- Sometimes
- Routinely

II. LIST OF PEOPLE INTERVIEWED

STATE	CONTACT	TITLE
Colorado	Kenneth Conahan	Staff Director, Joint Budget Committee
	Lon Engelking	Manager, Fiscal Notes Division, Legislative Council
Delaware	Russ Larson	Controller General
Indiana	Diane Powers	Director, Fiscal and Management Analysis, Legislative Services Agency
	Representative Paul Mannweiler	House Majority Leader
	Gretchen Gutman	Senate Majority Fiscal Analyst
Maryland	Warren Descheneaux	Director, Office of Policy Analysis, Department of Legislative Services
Minnesota	Mark Misukanis	Senate Director of Fiscal Policy Analysis
	Bill Marx	Chief Fiscal Analyst, House of Representatives
Missouri	Steve Price	Staff Director, House Appropriations Committee
	Marty Drewel	Director of Appropriations Research, Senate Appropriations Committee
	Representative Kate Hollingsworth	Chair, Committee on Fiscal Review and Government Reform
New Jersey	Alan Kooney	Legislative Budget and Finance Officer
	David Rousseau	Budget Director, Senate Democratic Staff
	Rosemary Pramuk	Budget Director, Senate Majority Office
North Carolina	Jim Johnson	Director, Fiscal Research Division
	Thomas Covington	Executive Director, North Carolina Progress Board, former Fiscal Research Division Director

THOMAS V. MIKE MILLER, JR.
PRESIDENT OF THE SENATE

CASPER R. TAYLOR, JR.
SPEAKER OF THE HOUSE

MARYLAND GENERAL ASSEMBLY
STATE HOUSE
ANNAPOLIS, MARYLAND 21401-1991

August 6, 2001

Warren G. Deschenaux, Director
Office of Policy Analysis
Department of Legislative Services
90 State Circle
Annapolis, Maryland 21401

Dear Mr. Deschenaux:

The Maryland General Assembly is justifiably proud of the State's AAA bond rating and committed to maintaining the historically conservative budget approach that has allowed us to retain that rating.

However, during the course of the 2001 legislative session, several criticisms of our budgetary process were mounted from various perspectives. Non-fiscal committees expressed concern about their ability to impact important programs, fiscal committees expressed frustration with short time frames for the review of supplementary budgets, and a number of members of the Legislature from various committees expressed concern about the Legislature's limited power to assure that base level funding for particular programs is adequate.

These and related budget matters are of continuing concern to many members of the General Assembly. In order to provide additional context for our continuing examination of these issues, the Office of Policy Analysis is requested to analyze the strengths and weaknesses of Maryland's budgetary system and to recommend options for changes to laws or legislative rules and procedures which might improve that system. This analysis should address, but need not be limited to, the following aspects of the budget process:

- developing revenue estimates and their incorporation in the State budget;
- formulating the budget and establishing priorities for the initial budget;
- submitting and considering supplemental budgets;
- developing legislative policy with respect to revenue and spending matters, including the role of the Spending Affordability process; and

- deliberating on the budget, including the roles of legislative committees, legislative staff, and legislative powers over the budget.

We expect this analysis to consider both historical and comparative data, including research provided through the National Conference of State Legislatures, and should consider the viewpoints of the various actors in the budget process. For purposes of focusing your efforts, given the State's conservative budget philosophy, the Legislature would not consider any option that would allow adding money to a balanced budget.

A report summarizing your findings and recommendations should be available for our consideration at the start of the 2002 session.

Sincerely,

Thomas V. Mike Miller, Jr.
President of the Senate

Casper R. Taylor, Jr.
Speaker of the House

TVMM:CRT/mlw

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