

IV. THE BUDGET PROCESS AND POSSIBLE REFORMS

Executive Actions and Legislative Budgeting

Governor Riley implemented a system of performance budgeting in FY2004 labeled SMART Budgeting (Specific, Measurable, Accountable, Responsive, and Transparent) as an executive branch management and accountability tool. It is explained at www.governor.state.al.us.

Those knowledgeable about the legislative process indicate that the system has had little, if any, impact on legislative budgeting and is unlikely to have any impact in the near future.

Performance budgeting systems such as SMART budgeting are most useful to a legislative body when it has flexibility in the allocation of funds. Constitutional restraints on the budgetary process (earmarking and taxation limits in particular) deny the Alabama Legislature such flexibility. In addition, two-party and ideological divisions within the legislature and between the legislative majority and the governor make adoption and implementation of the system difficult to achieve. Another limitation is the absence of a nonpartisan policy analysis legislative support agency.

Performance Budgeting

A true performance budget identifies the activities performed by government (outputs or actions taken) and analyzes their impacts (positive and negative results). Based on the performance information for the current and previous years, the budget for the coming year is developed. At minimum it requires clearly established goals and objectives, ways to measure administrative performance, calculation of costs, and open access to information.

Executive branch changes in the budgeting process such as SMART budgeting frequently are changed or abandoned by the executive branch whenever the occupant of the chief executive position changes.

The Legislative Process and the Budgets

The General Fund and Education Budgets should be thought of as having two parts: a part the legislature can control (discretionary funding) and a part it cannot control (earmarked funding). The part that can be controlled is the major area of debate in each legislative session. The Education Budget receives the bulk of the funds generated by economic growth. Debate over the Education Budget usually focuses on the division of funding between K-12 and higher education. The General Fund supports all other governmental services, including Medicaid, the prisons, the mental health system, transportation, and the budgets for the legislature and the court system. Alabama Arise estimates that General Fund Budget debate centers on discretionary funds that compose about seven percent of this budget.

Legislative involvement with the budget begins prior to the legislative session. An interim committee(s) holds hearings on the budget. These hearings usually begin with testimony from the Director of the Legislative Fiscal Office (LFO) and the Revenue Commissioner (appointed by the governor). They receive extensive coverage by public television and major radio, newspaper, and television outlets.

The LFO Director and the Revenue Commissioner outline the financial situation of the state and report on potential revenue levels. The two offices have a variety of forecasting models available to them with each model built on a set of assumptions that vary across the models. As a result, the analyses each office relies on may result in different revenue projections. Legislators individually may rely on still other forecasts.

The norm for professional forecasters is to take what is known as a conservative approach, that is, to rely on the lower estimates of revenue

in planning. (This approach also tends toward relying on higher estimates of likely spending needs.)

The LFO and the Revenue Commissioner are also in communication with the Finance Office, Governor's Office, and other major actors in the development of the executive budgets that are sent to the legislature. Hearings are held with the major state agencies. At these hearings the agencies present their budgets and answer questions from the committee. The legislature does not have the staff that would be required to make field visits to state agencies.

As the preceding information indicates, the Legislative Fiscal Office is the key agency that assists the legislature in the development of the state budgets. Among legislators, governors, executive branch agencies, and knowledgeable observers, the LFO has a reputation for fairness, trustworthiness, nonpartisanship, and professionalism. This positive reputation stems from the priorities set by the leadership of the LFO and from the fact that the LFO was created before two-party competition (and intense ideological debate) happened in the state.

Organized as a unified structure, the LFO serves and is responsible to both houses of the legislature. Most of its work involves supporting the operations of the budget committees in each house and helping them to analyze the executive budget and develop budget legislation. The LFO is also responsible for the creation of fiscal notes that are attached to each piece of legislation and indicate the basic costs associated with each proposal. The agency tracks word changes and money changes in legislation as it progresses through the legislative process and calculates changing appropriations totals. At the same time, the LFO updates revenue forecasts.

The LFO has neither the staff nor the time to conduct policy analyses of legislative proposals.

In the House of Representatives, the Education Finance and Appropriations Committee handles the Education Budget, and the House Government Finance and Appropriations Committee handles the General Fund. The comparable Senate committees are called Finance and Taxation Education and Finance and Taxation General Fund. The committees handle both the revenue and appropriations.

Changes in the budgetary process

Those who have observed the budgetary process over an extended period of time indicate several changes in the legislative budget process in recent years:

1. There is more committee involvement with the actual writing of the budgets today. In the past committee chairs (especially in the House) basically wrote the budget and then presented it to the committee and the chamber.
2. The executive budget is not automatically the focus of legislative deliberations.
3. Committee chairs and chamber leadership are making a concerted effort to produce a budget document early in the legislative session, not at the last minute and to produce a document that is complete and in the hands of members prior to floor votes.
4. On the House side a conscious effort has been made to avoid late House passage of a budget that would send the legislation to the Senate or a conference committee for action on the last day of the session.
5. A formal rule is now in place that requires both the House and the Senate to hold separate votes on any language change from the conference or any conference-created change in an appropriation over the amount of original passage in either house.

6. Greater transparency now exists in legislative actions including the budget, which has resulted in greater public and lobbyist access to information. (See *Appendix B, Budget Transparency.*)
7. Members now have more time to read and digest LFO reports on wording and monetary changes in legislation as the budget moves through the legislative process.
8. Legislative leaders recognize the need for "rainy day" accounts and restraints on spending in strong economic times in order to make funds available in poor economic times.

Several factors have been identified in interviews as the reasons for these changes. They include:

1. Members have called for greater input in budget formulation in committee and on the floor. Members wanted an end to last-minute budget arrivals and last-minute conference reports with little, if any, time to read the reports, identify changes and their impact, and debate the legislation.
2. Daily legislative operations are more organized than in the past, with the level of organization greater in the House than in the Senate.
3. The House has gained control of the Speaker's election from the Governor, and the Lt. Governor's powers have been weakened. Both have resulted in greater internal control over legislative operations including committee appointment powers.

House organizational and procedural changes (e.g., announced meeting dates and times, end-of-day target times, more web posting of information) initiated by the Speaker, have facilitated budgetary decision making in that chamber. The Speaker's inclusion of the three major House factions on

House committees also has helped the process. (See *The Committee System* and *Citizen Access* for related discussions.)

The major constraints on the budget process continue to be constitutionally mandated: earmarking of funds (approximately 90% of all monies), set rates and limits on the property tax and income tax, the regressive nature of the income tax, and the listing of specific deductions, and tax exemptions.

V. LOCAL LEGISLATION

Because Alabama's 1901 Constitution prohibits "home rule," the Alabama Legislature spends an estimated 40% of its time on legislative acts or constitutional amendments authorizing acts that local governments perform in other states. Already overwhelmed by state bills that they have inadequate time to study, legislators must decide, with no knowledge of local conditions, whether to permit a county to sell bonds for industrial development, provide small raises to local officials, or increase their taxes for better schools or public transportation.

This situation arises partly because the Alabama Constitution and laws place the state under Dillon's Rule. Judge Dillon, a late 19th century Iowa judge, called Local Governments "creatures of the state" that have only those powers expressly granted to them by state constitutions and statutes. This principle reverses the federal/state provision in the U.S. Constitution, which reserves all powers not specifically assigned to the federal government to the states or people. (Williams and Horn, pages 246-247. See the essay in *Selected References* for fuller explanations.)

Local legislation generally applies to particular places, like one county or city, as distinguished from general law that applies to the state as a whole. Because the Alabama Constitution specifically prohibits 31 kinds of local laws (Section 104) many local bills must be passed as constitutional amendments.