New York State
School Boards Association

A School Board Member's Guide to the New York State Budget Process

New York's state constitution requires the governor to submit a balanced budget plan to the Legislature every year together with any legislation – the appropriation bills and the non-appropriation budget language bills – needed to implement the executive budget plan for the upcoming fiscal year. The Legislature in turn examines and critiques the governor's budgetary proposals, makes its constitutionally permissible changes and enacts a state budget. Article VII of the New York State Constitution describes the state's executive budget process

While the governor is constitutionally required to annually submit a balanced budget to the Legislature by a certain date, there is no corresponding constitutional requirement for the Legislature to enact a balanced budget. Contrary to popular conception, there is no constitutional or statutory requirement for the Legislature to enact a state budget by the start of the state's fiscal year, but no new funds may be spent.

Once the state budget is adopted, the governor is charged with implementing it while the Legislature oversees the process. During budget implementation, if not sooner, preparation for the next budget begins anew.

Stage I: Preparation of the Governor's Budget Proposal

Budgeting in New York is a continuous process. State agencies begin formulating their spending requests for the ensuing fiscal year almost a year in advance. However, the "official" start of the preparation of the executive budget usually does not commence until early autumn when the governor's budget director asks state agencies to submit their annual budget requests. These agency requests must comply with fiscal parameters set by the budget director who in turn receives policy direction from the governor.

The process used for agency budget request formulation differs from agency to agency, but ultimately top agency staff decide the contents of an agency's submission. Although agency officials are responsible for fulfilling their statutory missions and serving their agency's constituencies, they must also work within the policy parameters set forth by the budget director and the governor who appointed them.

The state budget division's examination units analyze each agency's budget request. It is the job of the examiners to be familiar with the program, personnel and operations of the agencies they review and to adhere to the governor's general fiscal and policy guidelines when making a determination on the merits and compliance of agencies' budget requests.

Formal budget hearings are usually conducted by the budget division on the requests of the larger state agencies and departments, but these hearings are closed to the public. Only representatives of the legislative fiscal committees have the constitutional right to attend and ask questions at these hearings, otherwise the entire preparation of the executive budget in conducted in secrecy.

Once all of the examiners' recommendations have been aggregated and the receipt and disbursement forecasts finalized, the executive budget proposal begins to take shape. A proposed state financial plan, balancing anticipated receipts and proposed disbursements, is prepared together with the appropriation bills required to legally authorize the requested spending. Other legislation deemed necessary to implement a balanced executive budget is also prepared. These bills are often referred to as *the Article VII budget bills or the non-appropriation bills* to distinguish them from the governor's *appropriations bills*.

It is a fundamental principle of executive budgeting that the governor is ultimately accountable for the budget proposed and speaks for the entire executive branch with one authoritative voice.

The governor must submit the executive budget by "... the second Tuesday following the first day of the annual meeting of the Legislature" (in January), or by February 1st following a gubernatorial election year, but nothing constitutionally precludes an earlier submission by the governor. Traditionally, the governor submits several major appropriation bills to the Legislature for the support of government. Among these bills are appropriations for the executive branch agencies loosely organized by functional areas (e.g., education, labor and family assistance appropriation bill; transportation and economic development appropriation bill, etc.), for state debt service, and for the state Legislature and judiciary. Each of these major executive budget appropriation bills are voted upon separately by both houses of the Legislature. The governor also submits the "Article VII budget bills" necessary to implement the governor's budget as proposed. The Article VII implementing bills are of three types:

- tax and revenue proposals;
- government reorganization or economy and efficiency proposals; and,
- miscellaneous measures necessary to implement provisions of the budget.

At any time within 30 days of submitting the executive budget and implementing bills to the Legislature, the governor may unilaterally amend or supplement the budget plan or any of the bills. These changes to the executive's budget proposal are known as *30-day Amendments.* After the 30 day period, the governor must obtain approval from the Legislature to make further amendments.

Stage II: Legislative Review and Enactment of the State Budget

When the governor submits the proposed appropriation bills and other implementing budget bills, the Legislature has at most 10 weeks to review, revise, and enact a state budget if it is to meet the state's current April 1st fiscal year start. This is the shortest budget consideration period among the states (most begin July 1st). In years following a gubernatorial election, when submission is permitted to be as late as February 1st, the Legislature's deliberation period is cut even further. While there is no constitutional or statutory requirement that the Legislature enact a state budget by the start of the state's fiscal year, it is nevertheless a very real deadline. Without new appropriation authority or reappropriation authority, no funds can be spent from the treasury. Appropriations lapse automatically at the end of the fiscal year unless measures have been taken to extend access to any remaining unspent funds by "encumbering" them for up to several more months.

Because of the challenge encountered in processing the voluminous governor's budget, one of the first tasks the Legislature's fiscal committee staffs undertake upon receiving the executive budget is the preparation of more concise summaries. The "Statistical and Narrative Summary of the Executive Budget," or *Yellow Book* (because of the color of its cover), is produced by the assembly ways and means committee. The senate finance committee likewise prepares its own *White Book* summary. Both are distributed shortly after the submission of the executive budget to present the members of the Legislature and the public with a summary description of the executive's budget proposal and a ready tool to begin review and analysis.

Following their initial review of the governor's executive budget proposal, the legislative fiscal committees conduct joint public hearings to make inquiries about the governor's budget. These hearings are the public's first formal opportunity to participate in the formulation of the state's budget for the process up to that point is closed to the public. Following these hearings, more specific departmental budget public hearings are conducted by the fiscal committees to make direct inquiries to the governor's agency heads and the interested public. These exhaustive hearings continue through most of February.

While the governor's spending requests are being examined by the budget staffs of the legislative fiscal committees, the basis for the projected revenues in support of the proposed expenditures are simultaneously scrutinized by the committees' fiscal staffers. Beginning in 1997, the chairs and ranking minority members of the legislative fiscal committees, together with the budget director, began a process of annually convening in early March a consensus economic and revenue forecasting conference. Initially, economists and financial experts testify regarding their views of the national, regional, state and sub-state economies. With this information and their own expert analytical capabilities, the respective parties to the forecast conference work to build a three-way consensus by March 10th. At that time, the budget director and fiscal committee secretaries (chiefs of staff) are required to issue a report of their findings. The conferences have produced open and public discussion of the economy and projected receipts, but they have yet to achieve a consensus at this stage of the budget process.

In acting upon the governor's proposed appropriation bills, the constitution authorizes the Legislature to reduce proposed items of appropriations, but it may not alter the accompanying language describing the purpose and conditions attached to the dollar amount. The Legislature may also or strike out entirely a proposed item and its accompanying language. Finally, the Legislature is permitted to add items of appropriation so long as they do not constitute a substitution for a governor’s appropriation item cut elsewhere and are presented in a form that the governor can item veto (laid out separately and distinctly). These legislative "cuts and adds" are governed by the Article VII, §4, of the state constitution:

> The Legislature may not alter an appropriation bill submitted by the governor except to strike out or reduce items therein, but it may add thereto items of appropriation provided that such additions are stated separately and distinctly from the original items of the bill and refer each to a single object or purpose.

The Legislature is far less constrained by the state constitution in its ability to amend the executive's implementing Article VII budget bills, such as tax and fee proposals, because they are not governed by the same special restrictions applying to alteration of the governor's appropriation bills. These bills are treated like any other legislation and may be rejected or amended by the Legislature before approving them. They can then be either vetoed or approved by the governor in their entirety.

Proper action by the Legislature can be complicated, however, by intertwining of language in the governor’s appropriation and budget bills. For example, the governor may propose an agency reorganization in a budget bill and at the same time only request appropriation authority (funding) for the proposed new entity leaving none for the existing entity. While the Legislature may reject the budget bill reorganization language and also strike out the accompanying appropriation authority funding the new entity, by doing so it eliminates funding for the entire function, because it possesses no constitutionally permitted authority to restore funding to the existing agency in the process. The Legislature is forbidden to strike the one appropriation and substitute its judgment for the governor’s by restoring (adding) an appropriation for the existing entity that it prefers.

To help forge consensus on the financial plan, as well as to promote public discussion of spending priorities and ultimately to facilitate passage of an on-time budget, the Legislature once again experimented in 1998 with utilizing its conference committee mechanism for the budget process, a process it had abandoned decades before despite long previous and successful use. After years of very late budgets, it was argued that opening up the decision process to the members and public would also help facilitate more timely passage of the budget. This experiment was short-lived, because the Republican governor exacted retribution for being excluded from the process by vetoing all of the budget conference committee's compromise spending proposals for the Assembly Democrats. Needless to say, budgets have continued to be late. Still, the requirement remains that both houses must pass identical budget legislation, no matter how they achieve it, for final legislative action on the governor's proposed budget to be considered concluded.

When the Legislature's respective houses complete their final action on the appropriations and other legislation required to authorize implementation of the state budget, the legislative fiscal committees prepare a comprehensive statement of the Legislature's actions on the governor's proposals. Called the "Report of the Fiscal Committees on the Executive Budget," or the *Green Book* because of the color of its cover, the report details the Legislature's findings and states the intent behind its actions on the governor's proposal.

Upon receiving the budget legislation passed by the Legislature, the governor is authorized to line-item veto any legislative additions to the appropriation bills. However, the governor cannot veto any portions of the bills left unchanged by the Legislature nor use the veto power to undo any legislative cuts or eliminations, because these automatically become law when passed by the Legislature. The Legislature may override a governor's line item appropriation veto if two-thirds of the members of each house approve. If the Legislature does not override, then the governor's item veto is sustained. Shortly after the conclusion of the budget passage process, the governor's budget division prepares a report on the enacted budget.

Stage III: State Budget Implementation

The passage of the state's budget bills provides the legal foundation for the disbursement of funds from the state treasury through the state fiscal year (currently April 1 to March 31). At this stage, the state budget process enters the budget implementation phase.

During implementation, the governor manages the budget through the division of the budget. Before an agency can actually spend against its appropriation authorization, it must receive various approvals from the budget director. This approval documentation must be shared with the legislative fiscal committees.

The state budget is constantly evolving during the fiscal year as the result of supplemental and special appropriations, new programmatic laws, economic and financial shifts, emergencies, and other executive or legislative actions increasing or decreasing available state receipts and disbursements. Changing circumstances may also affect agency spending needs, and the *State Finance Law* allows for limited movement of appropriation authority between programs of an agency to accommodate such circumstances. Transfers of appropriations authority between agencies, however, is prohibited unless specifically approved in the enacted appropriation laws.

The executive monitors the implementation of the state financial plan and issues quarterly updates. These updates reflect the fact that the plan is predicated upon a number of economic, financial and demographic assumptions. Actual tax receipts may be higher or lower than anticipated for a certain quarter; payments for local assistance programs, such as Medicaid, may be higher or lower than previously estimated.

If the state financial plan becomes seriously out of balance, the governor may propose measures to increase revenues or reduce spending, a situation which did in fact result in substantially reduced education expenditures one year in the early 1990s. If budget cuts or revenue enhancements are not sufficient to produce a year-end cash balanced budget, deficit notes may be issued. Because the state has an annual budget process and the governor's next executive budget must be balanced, any shortfalls from the previous year must be immediately addressed.

If revenues are greater than expected, this too must be addressed. Depending upon the source of revenue, deposits are made in reserve funds. In the case of the General Fund, the major tax-supported operating fund of the state, any surplus (within certain limits) must be deposited in the tax stabilization reserve fund. In any case, the goal is a balanced budget with revenues neither exceeding nor falling short of spending plans.

The Legislature's role does not end with its action on the governor's proposed budget. It oversees the governor's implementation of the adopted state budget to ensure that the budget laws are faithfully executed by the governor as required by the constitution. The Legislature, primarily through its fiscal committee staffs, also monitors executive compliance with the Legislature's budgetary intent. Issues not resolved can be addressed in the courts, the court of public opinion, or in the next budget, because the budget cycle is continuous and soon begins anew.

Note to the reader: The budget process in New York is fluid and changes routinely occur due to both changes in law and court decisions. Therefore, while every effort has been made to make this document definitive as of the date below, the reader is cautioned that in time this version will undoubtedly become dated.

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January 28, 2005