

# Legislative Fiscal Office

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## Budget Information Brief / 2008-2

### Referral of Measure to a Budget Committee

One of the more persistent questions in the flow of bills through the Oregon legislative process is the issue of when to refer a substantive or policy bill to a budget committee, generally the Joint Committee on Ways and Means (JWM). This brief explains the budgetary reasons for a measure's referral to JWM, commonly known as a "subsequent referral."

#### Legislative Leadership Decides Subsequent Referrals

The President of the Senate or the Speaker of the House may place a subsequent referral to JWM on a measure after it is introduced in each respective chamber and as it is assigned to a substantive committee(s). The referral is at the sole discretion of the President or the Speaker; there are no House or Senate rules requiring a subsequent referral to JWM. Legislative leadership offices may confer with the Legislative Fiscal Office (LFO) regarding subsequent referrals to JWM on a case-by-case basis since every measure is unique and has its own relationship to the state's budget.<sup>i</sup>

#### Dispelling the \$50,000 Myth

For a number of years, there has been the perception that any bill with a fiscal impact of more than \$50,000 requires a subsequent referral to JWM.<sup>ii</sup> While such a standard would make the referral decision-making process simple, it would have certain unintended consequences. The underlying criterion is the charge to JWM and LFO to manage the Legislature's duty to enact a balanced budget. Adhering to a strict interpretation of a \$50,000 limit for referral would lead to a potential log-jam of bills in JWM. When asked by legislative leadership, LFO attempts to apply the "\$50,000 rule" with discretion, considering the actual amount of the fiscal impact, the nature of the funding source for the fiscal impact, the nature and complexity of the agency responsible for the fiscal impact, and whether or not the fiscal impact is assumed in the anticipated legislatively adopted budget.

#### Subsequent Referral Guidelines

In general, there are two categories of guidelines related to referrals to JWM. The first category is the most easily understood because there is a budgetary change or potential for a budgetary change.

- 1) If the bill requires the appropriation of General Fund or the allocation of Lottery Funds, regardless of the amount, the bill must be referred to JWM.
- 2) If the bill adds new positions, months (full-time equivalents [FTE]) to existing positions, or funding for new positions or FTE, the bill must be referred to JWM.
- 3) If the bill includes a primary funding mechanism which uses language of "subject to available funds," "from gifts, grants, or donations," or otherwise ambiguous funding language that potentially could obligate state funding, then the bill should be referred to JWM.

<sup>i</sup> Substantive committees can request, generally prior to a vote on a measure, permission from legislative leadership to rescind a subsequent referral. This would be appropriate when an amendment eliminates or reduces the budgetary impact of the measure below the threshold established by leadership, or when a referral has been mistakenly applied. In either case, leadership generally requires committee staff obtain from LFO a fiscal impact statement categorizing the measure as having either no fiscal impact or a "minimal" fiscal impact.

<sup>ii</sup> There can be some confusion between the "\$50,000 rule" and a minimal fiscal impact, which is narrowly defined to mean a substantive measure's fiscal impact is less than \$50,000 (or some other level established by legislative leadership) and that the impact can be absorbed or accommodated within an agency's existing budget. Minimal fiscal impacts generally do not require subsequent referrals to JWM.

- 4) If the bill changes the budgetary process, with regard to either monitoring expenditures or development of the budget, the bill should be referred to JWM.

The second category, pertaining to Other and Federal Funds, is more complex and relies upon the application of judgment.

- 5) If the bill causes an increase in agency expenditures from an Other Funds or Federal Funds revenue source, and the increase in expenditures is significant when compared to the affected agency's previous biennium legislatively approved budget, the bill should be referred to JWM.
- 6) If the increase in expenditures is projected to be above \$50,000, but is not significant to the affected agency because of the size of the agency budget, then the following options are available:
  - a) Do not refer the bill to JWM, but rely on LFO staff to monitor substantive legislation with the assistance of Legislative Committee Services' staff.
  - b) If a measure passes with a fiscal impact covered by a revenue source, the necessary additional expenditure limitation can be either added to the agency's budget if it has not yet been passed by the Legislature, or it can be added to an "end-of-session" omnibus adjustment bill, or it can be addressed during the interim by the Emergency Board as an increase to the agency's legislatively approved budget.
  - c) Refer the bill to JWM and have the bill worked along with the agency budget; the necessary expenditure limitation can be included either in the agency's budget bill or directly in the policy bill. If the budget has already been passed, then the expenditure limitation can be included in the policy bill or in an end-of-session adjustment bill.

### **Fiscal Impact Process**

The fiscal impact process serves as a fail-safe to alert legislative leadership, other legislators, and committee staff when a subsequent referral to JWM is, or is no longer, required. For example, an amendment may eliminate a General Fund appropriation or reduce the fiscal impact, thereby eliminating the need for a subsequent referral. A measure may have a fiscal impact above the threshold, but if the impact is "indeterminate" and cannot be quantified, a subsequent referral may not be appropriate as JWM may lack the (quantifiable) information necessary to adjust the budget.

### **Conclusion**

Oregon's constitution mandates that the state maintain a balanced budget. Given the volume of measures filed each session, avoiding a review of a bill's budgetary impact could cause more moneys to be allocated than are available. Measures are referred to JWM so that the impact on the state budget can be properly considered in the context of available resources and competing priorities. In the absence of a subsequent referral to JWM, the implementation of the measure could become problematic and affect an agency's ability to fulfill its statutory responsibilities.

**For additional information, contact:  
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**This brief is available on the Legislative Fiscal Office website at [www.leg.state.or.us/comm/lfo/](http://www.leg.state.or.us/comm/lfo/)**