

# Legislative Fiscal Office

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## Budget Information Brief / 2020-2

### Governor Allotment Reduction Authority

Since 2003, Oregon statute has allowed a Governor to take across-the-board reductions to prevent an officially forecasted General Fund biennial budget deficit. Beginning in 2002, Governors have exercised allotment reductions on five occasions, each coinciding with an economic recession.<sup>1</sup> For an allotment reduction, the Governor must assume that all General Fund appropriations have the same priority and reduce each by the same percentage and for only those agencies under allotment authority. The Legislature may decide to either let the Governor's across-the-board allotment reductions stay in place, or to convene in regular or special session to consider alternative plans to rebalance the budget. A legislative rebalance plan is unbounded by the Governor's across-the-board allotment reductions and may consider any reduction or other adjustment, including a revenue increase, to bring the budget back into balance. The Emergency Board has no legal authority to reduce state spending and rebalance the budget in the case of a budget deficit.

#### **Appropriations and Expenditure Limitations**

Across-the-board allotment reductions requires an understanding of the appropriation and allotment processes. Article IX, Section 4 of the Oregon Constitution establishes the basis for an appropriation, which is the legislatively approved amount of funds that an agency can legally expend.<sup>2</sup> The Legislature establishes separate appropriations and expenditure limitations for General Fund, Lottery Funds, Other Funds, and Federal Funds expenditures and, at times, multiple appropriations within each fund type. The cumulative total of all of these funds becomes an agency's legislatively approved budget.

Appropriations and expenditure limitations, as detailed in bills enacted by the Legislature, serve as the primary budgetary control over the expenditure of funds and ensure that state funds are not over-expended. Once law, appropriations reflect the priorities of the Legislative Assembly for a single biennium. After an appropriation measure is signed into law, the budget is reconciled in the state's budget and accounting systems. This allows for administrative control of the appropriation to ensure that the legal or maximum appropriation amount is not exceeded and to provide a mechanism for the tracking of expenditures.

#### **Allotment Authority (ORS 291.232)**

The Department of Administrative Services (DAS) is responsible for working with agencies to allot appropriations and expenditure limitations across the eight quarters of the biennium (for

<sup>1</sup> The first use of allotment reductions was by Governor Kitzhaber prior to passage of the authorizing statute.

<sup>2</sup> No money shall be drawn from the treasury, but in pursuance of appropriations made by law.

those agencies subject to allotment authority). An allotment plan is the anticipated spending plan for a state agency subject to allotment authority; only funds included on an allotment plan may be spent. An agency's authorized budget is automatically available for allotment unless otherwise excluded. Under an approved allotment plan, the authorized budget of an agency is deemed *scheduled* and available to be spent. Only funds included in the allotment plan may be spent. The allotment of funds prohibits an agency from expending its entire appropriation prior to the end of the biennium (June 30th of each odd numbered year).

The *unscheduling* of funds is the administrative withholding of allotment authority for a portion of an agency's legally authorized budget.<sup>3</sup> Technically, across-the-board allotment reductions taken by action of a Governor are administratively unscheduled because only the Legislature can reduce appropriations through budget bills during a legislative session. It should be noted that only the Legislature has the authority to eliminate a statutorily authorized program or service.

### **Governor's Allotment Reduction Authority (ORS 291.261)**

The Office of Economic Analysis (OEA) within DAS prepares an official General Fund revenue forecast for each quarter of the biennium (ORS 291.348 and 291.349). A projected deficit is declared if a quarterly forecast estimate projects that the General Fund balance at the end of the biennium will be less than zero.

By statute, DAS, with the approval of the Governor, may act to prevent a deficit. The means for this is through the allotment process. The allotment statute, and associated administrative rule, give the Governor the authority to reduce allotments across-the-board for those agencies subject to allotment authority. The only exclusion is General Fund debt service (per ORS 291.261[4]), which, as a contractual obligation of the state, must be paid. The Governor may not reduce allotments by an amount that exceeds what is necessary to bring the estimated General Fund ending balance to zero, nor may the Governor leave a forecasted deficit unresolved by any amount.

Across-the-board allotment reductions do not necessarily mean immediate service cuts, since allotment reductions may be implemented over the remainder of the biennium. Additionally, across-the-board allotment reductions are one-time reductions limited to the remainder of the biennium. No allotment reduction is permanent or may extend beyond the last day of the biennium. Again, as noted above, the allotment reductions prevent agencies from spending funds but do not officially rebalance the budget.

The Governor's across-the-board allotment reduction authority pertains only to Executive Branch agencies that are statutorily subject to allotments. Legislative and Judicial branch agencies, the State Treasurer, the Secretary of State, semi-independent agencies, the Lottery Commission, public corporations, and public universities are exempt from allotment authorities. Therefore, these agencies, even if funded with a General Fund appropriation, are not subject to the Governor's across-the-board allotment reduction authority. The only exception may be if General Fund support passes *through* a state agency that is subject to allotment authority (e.g., General Fund support for public schools). The allotment reduction

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<sup>3</sup> See LFO budget brief #2020-1 "Unscheduled and Scheduled Budget Authority" at <https://www.oregonlegislature.gov/lfo/Documents/2020-1%20Unscheduled%20and%20Scheduled.pdf>

statute excludes Lottery, Other, and Federal Funds, even though other fund-types may be impacted by a General Fund allotment reduction (e.g., matching Federal Funds).

When implementing across-the-board allotment reductions, the Governor first determines the percentage to be applied based on the ratio of the projected biennial deficit to the cumulative total of all appropriated General Fund (including to agencies that are not subject to the allotment process) minus General Fund debt service. This percentage is a uniform rate that is then applied to reduce General Fund appropriations across agencies that are subject to allotment authority. In other words, the Governor assumes that all subject General Fund appropriations have the same priority. As the OEA General Fund revenue forecast changes over the course of a biennium, the percentage of allotment reduction will change.

### **Effect of Across-the-Board Allotment Reductions**

An across-the-board allotment reduction reduces an agency's ability to spend its General Fund appropriation. Again, each General Fund appropriation must be reduced proportionately regardless of the reduction's impact. This constrains an agency to identifying reductions within an appropriation based on the amount of the reduction; agencies have no ability to make more strategic or practical reductions based on priorities or other information. The only discretion for agencies is to decide which programs or subprograms within each General Fund appropriation are to be reduced. For example, an allotment reduction to an administration program's General Fund appropriation would require an agency to decide what various subprograms would need to be reduced, such as budget, accounting, payroll, human resources, etc. In other words, an across-the-board allotment reduction does not have to be spread equally among all the subprograms, as long as those subprograms are all within a single General Fund appropriation.

The Governor's across-the-board allotment reductions differ from the standard 10% reduction option plans required by statute (ORS 291.216). It is important to remember that these plans are for the purpose of providing information to the Governor and to the Legislature as decisions are being made about balancing a future budget, not about responding to a current biennium budget deficit. Additionally, reduction options requested by DAS or the Legislative Fiscal Office usually give agencies discretion to determine where the proposed reductions would occur and in what amounts, as long as the overall reduction target is met.

### **Across-the-Board Allotment Reductions versus Legislative Reductions**

There are important distinctions between a Governor's allotment reductions and legislatively enacted reductions. First, the Legislature is faced with a decision on whether to let the Governor's across-the-board allotment reductions stay in place or to convene in order to consider either codifying the Governor's allotment reductions or developing an alternative reduction plan. Under Article IX, Section 2 of the Oregon Constitution, the Legislature is required to enact a balanced budget; however, that does not mean that the Legislature must take immediate action to convene to balance the budget. The requirement is that the budget is balanced on June 30th of each odd numbered year (the last day of the biennium).

If convened, either in regular or special session, the Legislature is not bound by the Governor's across-the-board allotment reductions and is free to consider any reduction, including those proposed in the Governor's across-the-board allotment reduction plan. Besides General Fund,

the Legislature may also choose to eliminate positions and full-time equivalents, as well as any associated Other Funds or Federal Funds. In addition, the Legislature may reduce any agency budget that falls under the legislative budget review process, not just those agencies under allotment authority. The Legislature may consider other options to balance the budget apart from reductions, such as through reappropriations, which is the transfer of excess Other Funds to the General Fund for general governmental purposes; deploying reserve funds; or raising revenue.

If the Legislature does act to bring the biennial budget into balance with forecasted revenues, then the Governor's across-the-board allotment reductions become moot since the basis for the allotment reductions (a budget deficit) no longer exists. Again, the Legislature has flexibility in how to bring the budget into balance and could choose an approach that includes some across-the-board allotment reductions.

It is important to note that the Emergency Board is not authorized by law to reduce an appropriation or expenditure limitation; what it can do is *transfer* an appropriation if it is balanced by an equivalent increase elsewhere *within the same agency*. The Emergency Board's power to authorize the transfer of existing appropriations, including expenditure limitations, applies only within an agency budget. In short, the Emergency Board does not have the authority to resolve a biennial General Fund deficit.

### **History of Governor Allotment Reduction**

Prior to the Legislature's enactment of the across-the-board allotment reduction statute, the Legislature simply met in a regular or special session to address a biennial budget deficit. This changed with five concurrent special sessions during the 2001-03 biennium. In March 2002, the Legislature met for a second special session that biennium to address a projected budget deficit. Governor Kitzhaber line-item vetoed elements of the legislatively adopted rebalance law, which created an \$81 million General Fund deficit. The Governor directed DAS to use the statutory allotment authority that was in place at the time to make *selective* allotment reductions to state programs. The Governor then called the Legislature back into special session after the release of the June 2002 revenue forecast to renegotiate a rebalance plan.

The following year, the Legislature amended the allotment statutes to clarify the Governor's statutory authority regarding allotment reductions (section 12, chapter 734, Oregon Laws 2003). This action made it clear that a Governor may not make selective allotment plan reductions. The statute was later modified to exclude debt service from the allotment reduction calculations (section 2, chapter 1, Oregon Laws 2009), as debt service is a contractual obligation of the state.

The following table summarizes the history of authorizations by a Governor to implement allotment reductions, which include one administratively selective reduction (March 2002) and four statutorily-allowed across-the-board reductions.

### History of Authorizations of Allotment Reductions

Biennium	Month Year	Forecasted Deficit	Reduction %	Reason
2001-03*	March 2002	\$81 million	0.8018% (est.)	Governor's veto of Legislature's rebalance plan (Special Session #2)
2001-03	January 2003	\$111.8 million	1.1646% (est.)	Economic recession
2007-09	December 2008	\$140 million	1.0037% (est.)	Financial crisis/ Economic recession
2009-11	May 2010 (original)	\$562.6 million	4.6282%	Economic recession
2009-11	September 2010 (revised)	\$940.1 million	7.6457%	Economic recession

\*Non-statutorily authorized across-the-board reduction plan at the direction of the Governor.