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Short Subjects

TITLE: Legislative Capital Budgeting: Options for Change

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The National Conference of State Legislatures (NCSL) recently completed a review of capital budgeting procedures in use by the 50 state legislatures. This memo outlines some key features of the Minnesota capital budgeting process, and presents an alternative model suggested by the NCSL.

1. GOALS FOR LEGISLATIVE CAPITAL BUDGETING

* Capital budgeting should be thoughtful, with adequate time for planning, site visits, and cost comparisons.

* The Legislature should have a significant role early in the process in deciding which capital projects should be funded, and when these projects should be funded.

* In line with legislative control over spending and taxation issues, the Legislature should continue to determine exactly what the State's debt policy will be.

* Project costs should be important, including possible impacts on operating costs. Alternatives for each new building such as leasing, upgrading existing buildings, or just making do for awhile, should be considered.

* Legislators should keep in mind that new buildings are a significant contribution to the heritage of the state, to the local economies where they are built, and to the efficiency of the programs which will occupy them.

* Any capital budgeting process must include time for public comment.

* The Governor should be able to insert his or her own priorities into the capital budgeting process.

2. HOW WE USED TO DO IT: Minnesota's Legislative Building Commission

* In 1955, because of difficulties the legislative and executive branches experienced putting together a capital budget, an interim building commission was created to study the state's building needs. In 1957, the group returned to the Legislature and recommended the creation of a permanent body to carry on the work, and the Legislative Building Commission (LBC) was born.

* From its creation until it was abolished in 1973, the LBC was the main player in the state's capital budgeting process.

* The commission was comprised of five Senators and five House members who for the most part were the chairs of the divisions of the Senate Finance and House Appropriations Committees. The minority party of each house was also represented on the commission and the Commissioner of Administration was an ex officio member.

* The commission made a list of all proposed state building projects and spent the interim between the biennial sessions traveling the state and visiting all of them.

* The commission had a rule that no appropriation for a project could be included in a bill unless the site had been visited. That rule gave legislative leaders a right to say no to an appropriation request that came up on short notice. Typically it took four to six years from the first time the commission visited a project until it recommended the funding for planning.

* The LBC submitted its recommendations to the Legislature, and to the Governor through the Department of Administration. The Governor would approve or modify the recommendations and they became his capital bonding bill. With very few exceptions, governors accepted the LBC recommendations intact.

* The LBC bonding bills typically had the support of the Governor and key members of both houses' money committees and faced little opposition in the Legislature.

* The LBC was abolished in 1973 and its responsibilities were transferred to the chairmen of the Senate Finance and House Appropriations Committees. A variety of reasons have been given for its demise, such as a projected decrease in the need to build state buildings, and the displeasure of some legislators with specific projects which received LBC approval.

3. THE CURRENT MINNESOTA LEGISLATIVE CAPITAL BUDGETING PROCESS

a. Overview

* The governor must submit a capital budget to the Legislature by April 15 of the odd-numbered year. Typically, this budget is actually delivered in March. This deadline allows the Legislature to determine the financial impact of capital improvements on the overall budget. There are no mandated components of this executive capital budget.

* Typically, there is one major capital budget bill in each house, although in some years capital projects have been included in various spending bills.

* Since the Legislative Building Commission was abolished in 1973, a significant capital budgeting bill has passed every year except 1980, 1986, and 1988.

b. Process

* The Minnesota version of legislative capital budgeting has been described as a slightly expanded version of the way all Minnesota spending bills become law.

* Capital budget bills are sent for review to the Finance Committee in the Senate and the Appropriations Committee in the House.

* Review of the capital budget should be accomplished in the divisions. Each division is to review those pieces of the capital budget appropriate to its areas of responsibility.

* Interim site visits are made by divisions, and are carried out at the discretion of the division chair and members, if time permits. The number of site visits made has varied from year to year.

* Chairs, members, and fiscal analysts assigned to the Senate Finance and House Appropriations Committees are responsible for review of the operating budget and the capital budget in their areas of expertise. There are no fiscal analysts in either body whose only responsibility is capital budgeting.

* After review and allocations in divisions, a capital budget bill is assembled by the full

committee. After committee passage, the capital budget bills are sent to the floor of each house.

* Passage of a capital budget bill requires a three-fifths vote of all members.

* Capital budget bills are sent to conference committees in order to reconcile differences between House and Senate versions.

* Passage of the conference reports by each house (with three fifths majority) is followed by the Governor's signature, line item veto, or veto.

* Before a project begins, the chairs of the Senate Finance and House Appropriations Committees are notified.

4. THE LEGISLATIVE MODEL FOR CAPITAL BUDGETING

For most states, capital budgets in coming years will have to deal with declining federal assistance, an aging capital stock, and a more complex financial picture. States will face a larger burden of responsibility. Therefore, the NCSL recommends that legislatures strengthen their legislative machinery for dealing with infrastructure issues.

a. Structural Reforms

* The NCSL feels that legislatures need two separate stages of review. First, each legislature needs a long-term planning stage, with site visits, detailed review, and preliminary legislative approval of all proposed projects. Second, finance and appropriations committees must give fiscal consideration to a given year's projects.

* In order to accomplish the long-term planning review of capital budgets, the NCSL offers two alternative structural reforms. First, a separate capital policy committee could be established in each house, or a separate capital subcommittee of the finance and appropriations committees. Second, a legislative or citizen's advisory commission could be given the responsibility of review during the interim.

* If a separate policy committee or a separate subcommittee were established, this body should be given responsibility for interim site visits, planning, and approval of a legislative plan for capital improvements. This body should originate the capital budget bill, and should approve each project in two stages: a separate

planning authorization, and a construction appropriation authorized in a later session.

* If a commission were to be established, it could be made up of citizens, including former governors, legislators, university presidents, labor leaders, and other influential citizens. The commission might also be a purely legislative body, made up of key, experienced legislative leaders. In either case, the commission should report its version of a six-year plan to both the legislature and the executive.

* According to the NCSL, the recommendations of this policy group should be referred next to the existing finance and appropriations committees, where a final review would consider the fiscal advisability of the bill, while maintaining the integrity of the long-term legislative plan.

b. Inventory and Needs

* Currently, the Minnesota Department of Finance prepares a long-range plan, based on needs assessments from the various state agencies. The Minnesota Legislature is limited to an advisory and oversight role in the formation of the agencies' six-year capital budget plans, and many legislators are not aware that the six-year plans exist.

* In six states, the executive must consult the legislature in compiling a long-range plan. In five states, the legislature must approve the long-range plan.

c. Assessment of Projects

* The NCSL recommends that legislatures develop and use explicit evaluation criteria, such as measures of fiscal impacts or economic effects, as a means of selecting projects rationally, and avoiding "an increased tendency to select projects on the basis of a political beauty contest or 'delivering the pork.'" Only four state legislatures use explicit criteria; Minnesota is not one of these four.

* The Minnesota Department of Finance currently rank orders the capital requests of a particular agency. The NCSL recommends that executive requests also rank order projects within departments, and across departments. However, some experts feel that this is a legislative function.

* The Minnesota legislative staff currently has no responsibility to routinely prepare reports on capital outlay and capital appropriations.

5. CONCLUSION

* In the view of the NCSL, legislatures need a separate structure with planning and project approval responsibilities. However, the existing spending committees must also be allowed to give a financial inspection to each year's proposed capital package. In this manner, long-range plans will guide the capital process, but realistic financial decisions will determine what can be done each year.

* The Legislative Building Commission abolished in 1973 closely fits one of the National Conference of State Legislature's 1988 reform suggestions.

* The NCSL model differs from the Minnesota method of capital budgeting in the following ways:

  -- The NCSL calls for a separate policy and planning structure within the legislature: either a commission or a separate capital committee or subcommittee.

  -- The NCSL calls for a legislatively approved six-year plan. Alternatives to legislative six-year plans, which tend to commit future legislatures, are: separate passage of planning and construction phases of each project; a requirement that a site visit must have been made before a project can be approved; and a requirement that capital budget bills may only be passed in the second year of the biennial session.

  -- The NCSL calls for specialized capital budgeting staff, with definite responsibilities for annual review of capital needs.

* If the Minnesota Legislature wishes to increase its oversight and control of the capital budgeting process, it must develop and maintain sufficient member and staff expertise and planning capabilities.