

PRESENTATION TO THE PENNSYLVANIA JOINT APPROPRIATIONS COMMITTEE
REGARDING ESTABLISHMENT OF A LEGISLATIVE FISCAL OFFICE

MARCH 10, 2010

I have been asked to speak to you today to share my insights and experience regarding a legislative fiscal office and the workings of such an office in North Carolina state government. It is my understanding that you are contemplating the establishment of such an office in the Pennsylvania legislature and you are seeking 'best practices' and input from those states where such an office exists. This document will be submitted for the record; however my comments will be less structured and will not necessarily follow this same outline.

First, some background about me and my career. I am a recently retired North Carolina state government career employee having served 37 years in and around state government. This included 25 years in the North Carolina Office of State Budget and Management, 12 of which I was the Deputy State Budget Officer. The last 7 years (2001-2008) of my career, I served as North Carolina State Controller. I joined the Office of State Budget and Management in 1977, only 6 years after the NC General Assembly established a legislative fiscal office, known in North Carolina as the Fiscal Research Division (FRD), and have watched the evolution of that office over the next 30 years. I can attest that the office has grown both in terms of numbers and quality over those years and has now established itself as an integral part of the budget development process for the legislature while also becoming a viable watchdog for budget execution when the legislature is not in session.

Prior to 1971 North Carolina budget development and execution was strictly a function of the executive branch as outlined in the Executive Budget Act adopted in 1925. In the early 1970s, North Carolina had a very powerful executive branch. This was not only because of control of budget development

and execution, but more importantly, because all information was under the executive umbrella with the legislative branch dependent on the executive agencies---that is, the Governor, for any information required. Additionally, the Office of State Budget and Management, known at the time as the Budget Division, was the sole staff for all budget development, budget execution, programmatic data, and revenue forecasting/monitoring. In short, the Budget Division was the staff to not only the Governor but also the legislative appropriations committees. Executive branch budget staff would be a part of all appropriations meetings and would provide information, guidance, advice, and recommendations to the legislature which had few resources to aid in challenging data or revenue projections. Consequently, the legislative branch was very dependent on the executive agencies to provide information as they deemed appropriate and as allowed by the Governor. This may appear to have been a one-sided activity during these years, but it should also be noted that NC had Democrats for Governor for the entire century, and the legislature was also controlled by Democrats. This single party control often led to many decisions being made prior to the public discussions about the budget. It was, in many ways, quite a different time in history. Another important fact to note is that up until 1973, the North Carolina legislature only met every other year to conduct business and to adopt a biennial budget—a very different process than you had here in Pennsylvania. Therefore the legislature was limited to review, input, and adoption of a budget every two years. This was to soon change, however, as legislators became more aware of the importance of state spending and the need to have independent fiscal evaluation.

In the 1971 Session of the General Assembly, a bill was introduced to establish a staff within the legislature to provide independent support for review and monitoring of budget and revenue activity. The effort was not a reaction to a change in political leadership in the state since the Governor at the time was a Democrat and the legislature was controlled by democrats. It was intended to provide a separate staff engaged by the legislature to provide expertise in the areas of budget and revenue forecasting. This would allow the

General Assembly to be better informed as they deliberated the Governor's budget and established spending goals and policies for the State. Ironically, in 1973 North Carolina elected the first Republican Governor in the 20th century and at that point the legislature, still controlled by Democrats, recognized how valuable their own staff would be in the years ahead.

The early staffing of the FRD was less than 10 employees (actual numbers are difficult to confirm) and knowledge base primarily consisted of people who were either retired from the Budget Division or were recruited from the Budget Division. As the FRD worked to establish an operational mode and create an identity with the Budget Division and state agencies, they were still dependent on the executive branch for information and therefore their role was limited to evaluation of data prepared for them. As the staff worked to develop confidence from legislators and to develop knowledge and data bases, there remained a heavy dependency on the Budget Division for data and this often restricted their effectiveness. The strength of the budget development process and the control of the execution of North Carolina's budget continued to lean heavily on the side of the executive branch both in terms of policy, practice, and statutory authority. The balance of power began to change in 1980 when a judicial opinion clarified the separation of powers required between the executive and legislative branches of North Carolina, effectively removing any 'execution' opportunities for legislators on executive committees or commissions. The effect of this was to place the legislature in a posture of reacting to budget issues rather than being a part of the discussion in the execution process. This resulted in the recognition by the legislature of the need to enhance the FRD and to develop a staff and information base equal to the executive branch, and to establish oversight and interim study committees to monitor executive budget activities when not in session. Accordingly, the staff, the powers and the support for the Fiscal Research Division grew significantly in the 1980's the 1990's to the current staffing and funding levels.

The FRD of the General Assembly now employs 38 staff members, 36 of whom are professional level directly associate with analyzing budgets of state agencies and providing staffing to all legislative committees. The staff is divided into 11 teams focused on subject matter in all programmatic areas of state government. The total budget for the FRD is \$4.5 million for FY 2009-10. The FRD is managed by a Director employed by the Legislative Services Commission, a body of legislators who provide operations guidance to the legislative staff, and the hiring of staff is based on a recommendation to the Commission by the Director. It is intended that the staff be independent in terms of political affiliation with hiring, promotions and other personnel activity based solely on performance without partisan influence.

The primary functions of the FRD include but are not limited to the following:

1. Conduct the budget review process when the General Assembly is in session.
2. Analyze the Governor's proposed budget including continuation, expansion, capital improvements and tax implications.
3. Aid in the development of legislation with budget implications as directed by legislators.
4. Provide fiscal notes for all legislation requiring or impacting state appropriations.
5. When the legislature is not in session, monitor programmatic activities of state agencies to insure compliance with adopted legislation.
6. Track spending and federal legislation that may impact the State.
7. Provide staff to standing and ad hoc committees of the legislature.
8. Monitor economic indicators and evaluate revenue collections to provide impact of current year spending projections and update out-year revenue forecast.

Since it was established, the FRD has proven itself as a viable entity, respected and used by legislators and other state stakeholders involved with the budget process. Although the FRD has provided the necessary budget and tax development, analysis, and monitoring required for a comprehensive approach to the process, there remained the lack of comprehensive program evaluation at the legislative level for programs authorized by the General Assembly. In 2007, the General Assembly enacted legislation to establish the Program Evaluation Division (PED) of the General Assembly to address this issue. The PED fulfilled one of the original concepts of a legislative staff by providing a programmatic “evaluation” of the programs operated by state government. It was established to provide an independent and objective source of information to be used in evaluating whether programs are being implemented in an effective and efficient manner consistent with law. The division is also managed by a director with a staff of 11 and a budget of \$1.6 million all of which is under the umbrella of the Legislative Services Commission. The PED division has the following objectives under law:

1. To evaluate the merits of a program and the agency’s effectiveness in carrying out the activity.
2. To develop quantitative indicators for measuring activities and the extent to which results are being achieved.
3. To develop unit cost measures to determine cost of providing services.
4. To determine agency compliance with law relative to the program.
5. To make recommendations for improvements to a program.
6. To determine compliance with recommendations for improvements.
7. To provide written reports and updates of savings achieved through implementation of recommendations.

The PED has been in existence for just over two years but has had significant impact on the programs evaluated to date. It appears to be well on its way to becoming a strong complement to the more established FRD.

The preceding is intended to provide a brief history of the legislative fiscal staffing of the North Carolina General Assembly over the past forty years. To help you in your deliberations for such a staff, I would like to offer some thoughts on the key issues that the North Carolina General Assembly considered as they moved ahead with a legislative staff. I compiled this information from interviews with people who were a part of the original concept, as well as those who were a part of the growth and development of the two staffs over the years. These concepts include the following:

- 1. The staff is identified and selected as professionals without influence of partisan political affiliations and conduct their duties without influence of politics. Independence is a key factor for the recruitment, selection and retention of a qualified staff. The development of institutional knowledge and data bases will improve the overall quality of the organization over time and, equally important, avoids the potential for majority/minority staffs.**
- 2. Legislation was adopted to require state agencies to provide to legislative staff any information regarding state programs, budgets, revenues or any other information requested. North Carolina also has legislation that prohibits legislative staff from advising agencies as to what legislator is requesting the information or why they are asking for it. In short, the legislative staff has access to all information and data bases that the Governor has in North Carolina.**
- 3. The staff is directed to provide “options” as opposed to “recommendations” for legislators as they deliberate budget**

matters. It is believed that requiring staff to make recommendations places them in the position of “owning” the issue and this is not their role. They are expected to be independent consultants to all legislators providing unbiased and accurate information for decision-making.

- 4. The staff is required to provide fiscal notes that are “readable and understandable” and display long-range impact to the budget or revenue.**
- 5. Enacted legislation to require the FRD to participate with the Office of State Budget and Management in the development of consensus revenue forecast to be used for final budget development each fiscal year.**
- 6. Evaluated the impact of the legislation to state agencies in terms of technology, staff, and program services of requiring information to be provided to legislative staff. In other words, who has the information now and how will that change when the staff is employed.**

As a former state official who has experienced the growth of the North Carolina legislative fiscal office, I offer you the following observations regarding that entity:

- 1. The office provides a valuable service to the legislative branch in terms of supporting independent and alternative guidance for state government. Prior to the establishment of the FRD, there was too much dependency and reliance on the executive branch for information, thereby leading to a one-sided approach to governing the people of North Carolina. The information and advice provided**

by the FRD provides the opportunity for independent and alternative approaches to issues.

2. **Transparency in sharing data bases has opened up the review process for North Carolina state government. This has occurred in part from the establishment of the FRD and the requirement that information be shared outside of the executive branch. Additionally, the FRD has established its own set of data bases that are used in providing independent information, analysis and guidance to legislators.**
3. **The legislative fiscal office provides an alternative avenue for state agencies not under the Governor's control to seek support for programs. For example, if a statewide elected official has a funding request that fails to get into the Governor's budget, they can seek support for funding through the legislative fiscal office. Frequently, statewide elected officials will elect to approach the FRD with funding requests if the Governor does not support their request.**
4. **The newly established Performance Evaluation Division works with the legislative fiscal office to provide an independent, non-partisan review of programs. The coordination of these two legislative offices with a goal of identifying programs for evaluation in state government has spurred agencies to re-evaluate performance of the programs to insure effective and efficient use of state funds.**
5. **Debate and alternative views provide the basis for best results. The FRD, through its information bases and institutional knowledge, provides legislators—old and new—the level of support and guidance necessary to challenge executive branch recommendations. Without this support, the legislative branch**

would continue to depend on the executive branch for information, solutions, and budget execution.

6. As legislators and legislative leadership changes, the FRD can bring consistency of information and institutional knowledge to help new leaders become familiar with issues. This efficiency is necessary to provide continuity of activity within the legislative branch of government. As a word of note, legislators should be cautious of staff becoming too involved with issues and subsequently developing their own agenda. Such personal agendas could result in difficult positions for elected officials. The staff should be independent both in terms of politics and issues, and should not be allowed to develop personal agendas.

Mr. Chairman and members of the Committee, I appreciate the opportunity to offer these thoughts and observations regarding the North Carolina legislative Fiscal Research Division and Performance Evaluation Committee and I will be glad to provide more information as requested.