



WYOMING LEGISLATIVE SERVICE OFFICE

Memorandum

DATE May 22, 2018
TO Members, Joint Appropriations Committee
FROM Tamara Rivale, Senior Staff Attorney
SUBJECT Constitutional and Statutory Parameters – Legislative Sessions

The Committee's first interim study topic concerns revenue streams and simplification of the budgeting process. This includes review of the constitutional and statutory timelines related to the Legislature's budget and general sessions. Attached are the following documents for the Committee's review:

- **Attachment A:** Wyo. Const. Article 3, Section 6. Compensation of members; duration of sessions.
- **Attachment B:** Wyo. Const. Article 3, Section 7. Time and place of sessions.
- **Attachment C:** W.S. 28-1-102. Length of legislative sessions.
- **Attachment D:** 1971 Senate Enrolled Joint Resolution 3.
- **Attachment E:** History of the Legislature's Budget Session (LSO Research Memo, 2005).

Briefly stated, Article 3, Sections 6 and 7 provide for the following constitutional parameters on legislative sessions:

- Maximum of 60 legislative working days during the term of House members;
- The Legislature may divide the 60 days between general and budget sessions but may not meet for more than 40 legislative working days (excluding Sundays) in any calendar year;
- Special sessions are authorized and excluded from these limits;
- During the budget session no bills except the budget bill may be introduced unless placed on call by a two-thirds vote of either house;
- The Legislature shall meet on odd-numbered years for a general session at 12:00 p.m. on the Second Tuesday of January;
- The Legislature may meet on even-numbered years for the budget session at 12:00 p.m. on the second Tuesday of January.

W.S. 28-1-102 provides for the following statutory parameters on legislative sessions:

- The general session shall commence on the second Tuesday of January of odd-numbered years and shall continue for an additional thirty-nine (39) legislative working days unless both houses agree to an earlier adjournment;
- There shall be a budget session each even-numbered year. The budget session shall commence on the second Monday of February and shall continue for an additional number of legislative working days as agreed by both houses of the legislature or as limited by the Wyoming constitution.

ATTACHMENT A

Article 3, Section 6 Compensation of members; duration of sessions.

The legislature shall not meet for more than sixty (60) legislative working days excluding Sundays during the term for which members of the house of representatives are elected, except when called into special session. The legislature shall determine by statute the number of days not to exceed sixty (60) legislative working days to be devoted to general and budget session, respectively. The legislature shall meet on odd-numbered years for a general and budget session. The legislature may meet on even-numbered years for budget session. During the budget session no bills except the budget bill may be introduced unless placed on call by a two-thirds vote of either house. The legislature shall meet for no more than forty (40) legislative working days excluding Sundays in any (1) calendar year, except when called into special session. The compensation of the members of the legislature shall be as provided by law; but no legislature shall fix its own compensation.

ATTACHMENT B

Article 3, Section 7 Time and place of sessions.

(a) The legislature shall meet at the seat of government at twelve o'clock noon, on the second Tuesday of January of the odd-numbered years for general and budget session and may meet on the second Tuesday of January of the even-numbered years for budget session, and at other times when convened by the governor or upon call of the legislature as herein provided. The governor by proclamation may also, in times of war or grave emergency by law defined, temporarily convene the legislature at a place or places other than the seat of government. The legislature may convene a special session not to last longer than twenty (20) working days as follows:

(i) Upon written request to the presiding officer of each house of the legislature by a majority of the elected members of each house, the legislature shall convene in special session; or

(ii) The presiding officers of each house shall also jointly call a special session for the purpose of resolving a challenge or a dispute of any kind in the determination of the presidential electors.

ATTACHMENT C

28-1-102. Length of legislative sessions.

(a) The general and budget session of the Wyoming legislature shall commence on the second Tuesday of January of odd-numbered years and shall continue for an additional thirty-nine (39) legislative working days unless both houses agree to an earlier adjournment.

(b) There shall be a legislative budget session each even-numbered year to consider the state budget and any other business the legislature deems desirable. The budget session of the Wyoming legislature shall commence on the second Monday of February of even-numbered years and shall continue for an additional number of legislative working days as agreed by both houses of the legislature or as limited by the Wyoming constitution.

(c) As used in this section "legislative working day" means every day of the week when either the senate or house of representatives convenes, exclusive of Sundays.

(d) Members of the legislature shall be paid salary and per diem for each calendar day from the first legislative working day of each session through and including the last legislative working day of each session.

ATTACHMENT D

Original Senate
Joint Resolution

No. 1

Enrolled Joint Resolution No. 3, Senate

2/20
FORTY-FIRST SESSION OF THE STATE LEGISLATURE OF
THE STATE OF WYOMING

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Wyoming amending Sections 6 and 7, Article 3 thereof, providing for annual sessions of the Wyoming legislature, not to exceed sixty (60) legislative working days in a biennium period.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF WYOMING, two-thirds of all members of the two houses, voting separately, concurring therein:

Section 1. That the following amendment to Sections 6 and 7, Article 3 of the Constitution of the State of Wyoming is proposed for submission to the electors of the State of Wyoming at the next general election to be held in the state, for approval or rejection, to become valid as a part of this Constitution if ratified by a majority of these electors. The amendment is as follows:

(a) Section 6. The legislature shall not meet for more than sixty (60) legislative working days excluding Sundays during the term for which members of the house of representatives are elected, except when called into special session. The legislature shall determine by statute the number of days not to exceed sixty (60) legislative working days to be devoted to general and budget session, respectively. The legislature shall meet on odd-numbered years for a general and budget session. The legislature may meet on even-numbered years for budget session. During the budget session no bills except the budget bill may be introduced unless placed on call by a two-thirds vote of either house. The legislature shall meet for no more than forty (40) legislative working days excluding Sundays in any (1) calendar year, except when called into special session. The compensation of the members of the legislature shall be as provided by law; but no legislature shall fix

ATTACHMENT D

Original Senate
Joint Resolution

1

Enrolled Joint Resolution No. 3, Senate

FORTY-FIRST SESSION OF THE
STATE LEGISLATURE OF
THE STATE OF WYOMING

its own compensation.

(b) Section 7. The legislature shall meet at the seat of government at twelve o'clock noon, on the second Tuesday of January of the odd-numbered years for general and budget session and may meet on the second Tuesday of January of the even-numbered years for budget session, and at other times when convened by the governor. The governor by proclamation may also, in times of war or grave emergency by law defined, temporarily convene the legislature at a place or places other than the seat of government.

Section 2. The following statement shall be endorsed on the foregoing proposed amendment by the Secretary of State of Wyoming:

(a) This proposed amendment to the Constitution of the State of Wyoming provides that the legislature shall meet for not more than sixty (60) legislative working days during a two-year period for either budget or general session. The legislature shall meet for no more than forty (40) legislative working days excluding Sundays in any one (1) calendar year, except when called into special session. The legislature has the discretion to allot the period of time within the sixty-day limit they shall meet during the biennium in budget or general session. The budget session may be on even-numbered years and the general and budget session shall be on odd-numbered years. In addition, it provides that during the budget session no bills except budget bills may be considered unless placed on call by a special two-thirds vote of either house.

Ward A. Myers
Speaker of the House

Peter E. Madsen
President of the Senate

APPROVED
5:00 P.M.
FEB 26 1971
[Signature]
CLERK

ATTACHMENT E



WYOMING LEGISLATIVE SERVICE OFFICE

Research Memo

05 RM 039

Date: April 8, 2005

Author: Don Richards, Senior Research Analyst

Re: History of the Legislature's Budget Session

PURPOSE

Summarize the origin of the Legislature's budget session and identify the rationale, or justification, as to the timing of the Legislature's budget session and general and budget session.

RESULTS IN BRIEF

Annual convening of the Wyoming Legislature, through the creation of a separate "budget session," was adopted in 1972 through a constitutional amendment. Before 1972, the Legislature was limited to biennial meetings of no more than forty days in the year following the general election of house members. A joint Legislative-Executive Commission on Reorganization of State Government initiated the constitutional change, and a national critique of state legislatures, released shortly thereafter, may have provided additional support for the change. Though LSO will not presume to discern legislative intent, the language of the constitutional amendment and the recorded dialog at the time indicated the need to expand the total meeting time of the Wyoming Legislature. The result was an extension of the biennial 40-day limitation to a mandatory "general and budget session" in odd-numbered years and an optional "budget session" in even numbered years. LSO Research staff could not identify any discussion as to the order of the two sessions.

BACKGROUND

The requirements and guidelines for the Legislature's meeting schedule are set forth in Article 3, Section 6, Compensation of members;

duration of session, and Section 7, Time and place of sessions, of the Wyoming Constitution. W.S. 28-1-102 further articulates the structure and length of legislative sessions.

Initial Session Parameters. From inception through 1972, the Wyoming Constitution permitted a maximum of 40-day sessions to be held in alternating years, immediately after the general election.¹ The Constitution originally stated,

The legislature shall meet at the seat of the government at twelve o'clock noon, on the second Tuesday of January, next, succeeding the general election provide by law, at twelve o'clock noon, on the second Tuesday of January of *each alternate year thereafter*, and at other times when convened by the governor. (emphasis added, Article 3, Section 7, unamended Wyoming Constitution)

Further, Article 6 originally limited the length of sessions by stating, "No session of the legislature after the first, which may be sixty days, *shall exceed forty days.*" (emphasis added)

Creation of a Budget Session. In 1971, Senate Joint Resolution (SJR) No. 1 proposed changes to both the length and structure of future legislative sessions. Specifically, it added language specifying, "The legislature shall meet on odd-numbered years for a general and budget session.

¹ This discussion excludes meetings convened by the Governor, and later, the Legislature itself.

The legislature may meet on even-numbered years for budget session." The total working days were also increased to sixty days from forty.² The Legislature approved the resolution in 1971, and the electorate adopted it in the following general election - 1972. (See Attachment A for a copy of Article 3, Sections 6 and 7, in their current form.)

The resolution was an outgrowth of the Legislative-Executive Commission on Reorganization of State Government. ('69 Laws, Ch. 196) As one of four recommendations of the Commission, three legislative members of the Commission sponsored this resolution. The stated rationale for the extended meeting time included the belief that the constitutionally restricted biennial forty-day session "may not permit sufficient flexibility in this modern era to enable the Legislature to adequately perform its duties." The justification goes on to say, "It is becoming increasingly difficult to anticipate the financial needs of the state two years in advance." (See Attachment B for a copy of the Commission's full explanation of the need for the constitutional change.)

RATIONALE, JUSTIFICATION, AND INTENT

The Legislative Service Office cannot make judgments on legislative intent. Complicating matters in this particular review include the following:

- No amendments were offered that would address the issue of the order of the budget and general session; or put differently, whether the budget sessions would be in odd or even-numbered years;
- The limited information in the journal provides the only official record into the full Legislature's consideration of this issue; and
- LSO was not yet in existence at the time of this resolution's consideration.

² The requirement of a two-thirds vote for non-budget related bills during a budget session was also included in the revision.

Despite these substantial limitations, one can look to both scholarly accounts of the development of Wyoming's Constitution and press accounts during the time of the changes. Also, a careful review of the wording of the change makes it clear that the Legislature's General Session is mandatory (shall) and the Budget Session is optional (may).³

Scholarly publications. *The Wyoming State Constitution: A Reference Guide* by Robert B. Keiter and Tim Newcomb (1993) states, "In 1972, in response to escalating demands on the legislature, this section [Section 7] was amended to authorize annual sessions, with a general session scheduled in odd-numbered years and a budget session scheduled in even-numbered years. (emphasis added)

Newspaper Articles. LSO Research staff reviewed archived newspapers from the Casper Star Tribune from January through February 1971 to gain additional insight into debates regarding the creation of a budget session.⁴ LSO Research staff identified eight separate articles, which collectively offer some additional insight into the passage of 1971 SJR No. 1.

The articles appear to suggest that the original proposal was forwarded to add additional legislative meeting time either through an extended general session or the creation of a new budget session. After the introduction of the resolution, a poor ranking of Wyoming's Legislature by a national study criticizing several aspects of Wyoming Legislature was covered in the press. Later accounts address the report, which appeared to be used by some to bolster the arguments of extending Wyoming's Legislative session. This discussion was dovetailed with other suggested organizational and structural revisions to the operation of the Legislature,

³ One must obtain the original resolution to discern this fact. Due to a misprint in the 1971 Session Laws, that publication leaves the appearance that both sessions are mandatory.

⁴ Other press sources and other time periods may provide additional analysis.

including the creation of the Legislative Service Office. ('71 Laws, Ch. 113) Nevertheless, LSO Research staff could not identify any account of a substantive debate as to the order of the general session and a budget session. In sum, the push to create a budget session resulted in an (optional) extension of the legislative meeting time during the general session, annual legislative meetings, or both. No discussion of a budget session as a precursor to a subsequent general session could be identified.

Short summaries, or pertinent excerpts, from the eight identified articles follow for quick reference, and each are also included as Attachments C through J, respectively.⁵

- "60-Day Session Asked in Bill," UPI, Casper Star Tribune, January 14, 1971, p.1 – Report of the introduction of a joint resolution permitting the extension of the off-year session or creating a separate budget session in even-numbered years, sponsored by Senate Vice President and Secretary of the Legislative-Executive Commission, Howard Flitner.
- "Wyoming Legislature Is Rated Second Worst," Casper Star Tribune, January 31, 1971, p. 13 – Discussion of a study prepared by the Citizens Conference on State Legislatures. The study reportedly criticizes Wyoming's Legislature stating, "The fundamental problem of the legislature is a

lack of time imposed by sessions limited to 40 calendar days per biennium."⁶

- "Legislators Say Survey 'No Fair'," Joan Wheelan, Casper Star Tribune, February 2, 1971, p.6 – Summarizes reaction by legislators to the Citizens Conference report and opportunities for improvements.
- "Speight Hails Criticism of Legislature," Casper Star Tribune, February 3, 1971, p. 1 – As administrative assistant to Governor Hathaway as well as Staff Attorney for the Executive-Legislative Commission, this article is the first evidence identified that *clearly* couples the Citizens Commission criticism of the Wyoming Legislature with the proposed Constitutional change.
- "Speaker Thinks Conference Report Can Do Some Good," Jeane Wagner, Casper Star Tribune, February 4, 1971, p. 23 – Speaker of the House Ward Myers responds to the Citizens Conference on State Legislatures report. He responds to the recommendation for "unlimited annual sessions" by indicating, "Wyoming won't buy it." According to the Casper Star Tribune, he adds, "At present we are trying to get approval for 40 days in the odd years and 15 in the even years for a fiscal meeting. This would make it possible to recheck budget appropriations in the off years."
- "Evaluating the Conference Report: Do We Need a Pro Legislature?" Sandra Michel, Casper Star Tribune, February 5, 1971, p. 4 – In an opinion piece, a Casper Star Tribune staffer argues in favor of lengthening the session or allowing the Legislature to meet annually. The author makes the case in part by suggesting that citizens must operate with errors in bills for two years. The author also raises a potential argument of the opposition -

⁵ LSO Research will not perform research on any current or former legislator, including their voting history. Attribution of ideas to specific legislators is used exceedingly sparingly, and only when it provides integral context or in the event a member provides a unique contribution to the discussion that cannot be identified elsewhere. In this report, the attribution is offered strictly for context and not to elevate or demote the historical contribution of the member to this, or any, policy matter.

⁶ As the Casper Star account indicates, the study would be later made into a book: Burns, John, *The Sometime Governments: A Critical Study of the 50 American Legislatures*, Bantam Books, 1971.

that expanded sessions could present a hardship and deter potential candidates.

- "Senate Okays Lengthening Of Sessions," UPI, Casper Star Tribune, February 6, 1971, p. 1 – This article is limited to basic information on the passage of the resolution through the Senate, offering no new insights to the debate.
- "Comment on Session," Casper Star Tribune, February 24, 1971, p. 10 – Eight different legislators offer their opinions on the 1971 Session. Included in nearly all of their summaries is at least one comment on the proposal to expand the length of a legislative session – either for or against. Representative Russ Donley suggested his support by stating, "It's a lot easier to budget for one year than for two." Representative Tom Strook's quote appears to suggest support for a single 60-day session. Representative Joe Stewart recommended two 30-day sessions, and Representative Dick Sedar concluded, "[He] does not think that a longer session would be of any benefit."

CONCLUSION

Ample evidence suggests that the constitutionally mandated length and frequency of Legislative sessions were generally perceived as insufficient. A national report criticizing Wyoming's Legislature potentially bolstered support for annual meetings, or at least encouraged expanded time for the general session. No justification or even debate could be identified as to the order of the "general" and "budget" sessions. The language of the Constitution, i.e., mandatory "general and budget session" followed by an optional "budget" session, as well as recorded comments at the time of debate do begin to sketch a picture of what select Legislators were envisioning. Nonetheless, end of session interviews of selected legislators illustrate the variety of opinions on a revised legislative meeting structure. Whatever the inspiration or rationale(s), the outcome in 1971 was a resolution that allowed a budget session in even-numbered years.