

## Section 6

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# Fiscal Practices

DELAWARE

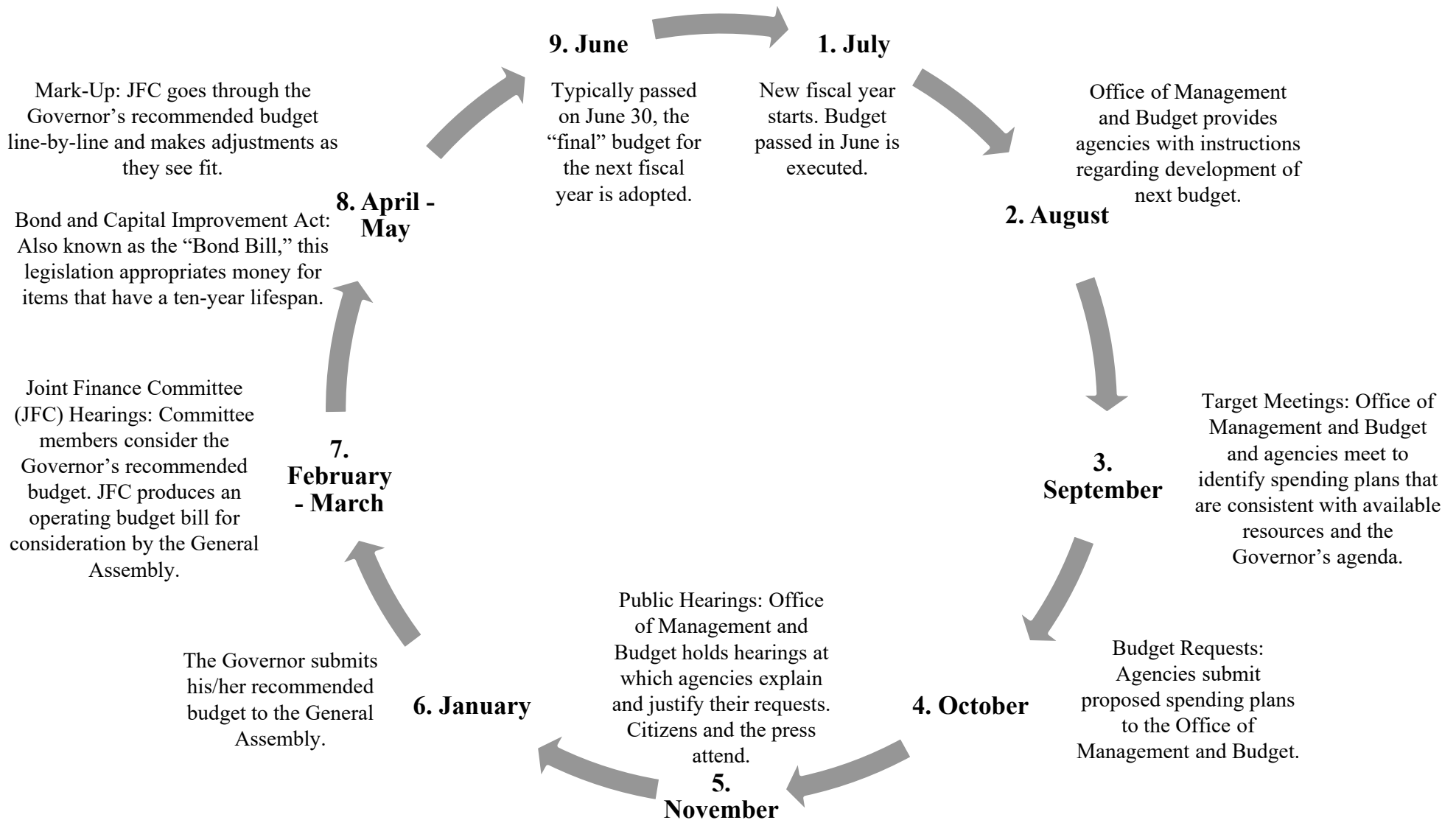


FISCAL NOTEBOOK

2024 Edition

*Department of  
Finance*

# The Operating Budget Cycle



## **The Delaware Economic & Financial Advisory Council (DEFAC)**

### **HISTORY**

In 1977 Governor Dupont issued an Executive Order creating the Delaware Economic and Financial Advisory Council (DEFAC). Envisioned as a tool to improve the State's fiscal management practices, DEFAC was conceived to advise the Governor and Secretary of Finance with respect to:

- The State's overall financial condition,
- Tax policy,
- Debt management issues, and
- Current and projected trends in the national and local economies that may affect the State.

Finally, and perhaps most importantly, the Council was charged with providing non-partisan and objective revenue and expenditure estimates to the Governor and General Assembly. The revenue estimates are intended to meet the requirements of Title 29, §6534 of the Delaware Code, which states:

The Governor shall submit to all members of the General Assembly and the Controller General an estimate of anticipated General Fund revenues by major categories for the current and next immediate fiscal year. Such report shall be made not later than October 25, December 25, March 25, May 25, and June 20.

In addition, DEFAC forecasts Transportation Trust Fund revenues and expenditures, provides recommendations on measuring and adhering to the economically sustainable rate of budget growth per the requirements of Executive Order No. 21, and occasionally advises policymakers with respect to unique fiscal or economic issues facing the State.

Over the years, DEFAC, by providing State officials with conscientious, non-partisan guidance, has operated in a manner consistent with the fiscal blueprint conceived in 1977. Because both the Governor and General Assembly accept DEFAC's revenue projections as "the estimate," others recognize the DEFAC process as a model for eliminating politics from revenue and expenditure estimates.

## **DEFAC STRUCTURE**

DEFAC is currently comprised of 31 members representing academia and the business community as well as the General Assembly and executive branch of state government. DEFAC's chairperson is Michael Houghton. DEFAC has three standing subcommittees: The Revenue Subcommittee (chaired by Lindsay Davis Burnham), the Expenditure Subcommittee (chaired by Edward Ratledge), and the Healthcare Spending Benchmark Subcommittee (chaired by Josette Manning). The Department of Finance provides staff support to DEFAC.

Beginning with the Executive Order issued by Governor Carper in 1993, DEFAC is required to prepare annual five-year forecasts. The long-term forecast is presented at the October meeting and is intended to provide policymakers with an early warning system with respect to long-term fiscal challenges and opportunities. Additionally, each October, DEFAC verifies Delaware's annual inflation adjustments to filing thresholds for various tax types.

DEFAC has traditionally met on the third Monday of the designated months; from fiscal year 2022, the June meeting date is adjusted, if necessary, to comply with the statutory requirement that the reports be submitted by June 20. The Subcommittees meet to deliberate on economic and fiscal trends and to prepare a report for the full Council meeting. Mr. Houghton presides over the meeting of the full Council. Typically, meetings begin with the approval of minutes followed by Expenditure and Revenue Subcommittee estimate presentations. The subcommittee reports are debated and revised, if necessary. Once approved, the results of these presentations are used to determine key elements of the following fiscal year's budget. DEFAC estimates are the basis for:

- The amount of General Obligation debt the State may issue,
- The funding level required for the State's "Rainy Day Fund," and
- Estimated revenues and cash carryover, which together determine the maximum size of the operating budget.

A similar process takes place for the Transportation Trust Fund. Revenue and expenditure estimates are presented and reviewed and they, too, provide the basis for the subsequent fiscal year's operating and capital budgets.

## **2025 MEETING DATES**

According to the terms set forth in the Delaware Code and Governor Carney's Executive Order Number 62, DEFAC's tentative meeting dates for CY 2025 are as follows:

- March 17, 2025
- May 19, 2025
- June 16, 2025
- October 20, 2025
- December 15, 2025

These dates are subject to change. DEFAC's Chairperson may also schedule additional meetings.

## **FISCAL REGULATORS**

The following practices govern Delaware’s financial operations:

**State Fiscal Year** – The state fiscal year runs from July 1 through June 30.

**Appropriation Limit** – Frequently referred to as the “**98% rule**,” the State Constitution (Article VIII, Paragraph 6, Subsections b-c) restricts annual appropriations to 98% of the sum of estimated revenues plus the unencumbered General Fund balance from the previous year. To appropriate more than the 98% of available resources, the Legislature must declare an emergency.

**Debt Limit** – Delaware’s borrowing practices are governed by three restrictions:

1. Frequently referred to as the “**5% rule**,” the amount of new tax supported obligations of the State that may be authorized in one fiscal year may not exceed 5% of the estimated net General Fund revenue for that year. (Title 29, Ch. 74, section 7422(b))
2. No tax-supported obligations of the State and no transportation trust fund (TTF) debt obligations may be incurred if the aggregate maximum annual payments on all such outstanding obligations exceed 15% of the estimated General Fund and TTF revenue. (Title 29, Ch. 74, section 7422(c))
3. No general obligation debt may be incurred if the maximum annual debt service payable in any fiscal year on all such outstanding obligations will exceed the estimated cumulative cash balances. (Title 29 Ch. 74 section 7422(d))

**Budget Reserve Account** – Also known as the “**Rainy Day Fund**,” the State Constitution (Article VIII, Paragraph 6, Subsection d) states that within 45 days after the end of any fiscal year, the excess of any unencumbered funds remaining from said fiscal year shall be paid by the Secretary of Finance into the Budget Reserve Account, provided, however, that no such payment will be made which would increase the total of the Budget Reserve Account to more than five percent of the estimated gross General Fund revenues. The General Assembly, by three-fifths vote of the elected members of each house, may appropriate from the Budget Reserve Account such additional sums as may be necessary to fund any unanticipated deficit in any given fiscal year or to provide funds required as a result of any revenue reduction enacted by the General Assembly.

**Budget Benchmark Process** – Governor Carney’s Executive Order No. 21 requires DEFAC to calculate a “Benchmark Index” consisting of the 3-year average of Delaware personal income growth, Delaware population growth, and inflation reflecting government purchases of goods and services. DEFAC must also calculate a “Benchmark Appropriation” defined as the previous fiscal year’s budget act and appropriations for grants in aid grown by the Benchmark Index, plus an amount, not to exceed 1% of the previous fiscal year’s budget act, if such an amount was directed as a supplemental appropriation to the bond bill. The Benchmark Appropriation is compared to the 98% rule appropriation limit to determine if current revenues are extraordinary or fall short of what Delaware’s economy can sustain.

**Budget Stabilization Fund** – Governor Carney’s Executive Order No. 21 created a Budget Stabilization Fund (BSF) for reporting and budget planning purposes only. The Executive Order No. 21 BSF includes the unencumbered General Funds forecasted at the end of a fiscal year in excess of the 2 percent set-aside as determined by the 98 percent appropriation limit set forth in Article VIII, § 6 of the Delaware Constitution. The amount to be allocated to the Executive Order No. 21 BSF is included in the monthly financial report submitted by the Secretary of Finance to the Governor and General Assembly. The FY 2024 Operating Budget Act (84 Del. Laws c 295; HB 195) creates a special fund holding account, the Epilogue BSF. The Epilogue BSF includes the unencumbered General Fund balance at the end of each fiscal year in excess of the 2 percent set-aside as determined by the most recent revenue resolution for such fiscal year as per the Delaware Constitution and 29 Del. C. § 6533. Allocations from the Epilogue BSF can only occur through an act of the General Assembly.

In 2024, following a review of the BSF process by a DEFAC subcommittee, the BSF process was codified (84 Del. Laws c 294; SB 270). The Governor’s recommended Budget Appropriation Bill must consider the BSF process unless any changes are deemed necessary or desirable; the Governor may explain any deviations from the BSF requirements.