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Revenue and Transportation Interim Committee

62nd Montana Legislature

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February 10, 2012

TO: Revenue and Transportation Interim Committee

FROM: Jeff Martin, Legislative Research Analyst

SUBJECT: Revenue estimating process

Last December, members of the Legislative Council, the Legislative Finance Committee, and the Revenue and Transportation Interim Committee (RTIC) met to consider ways to improve the revenue estimating process. The topic areas included the legislative process, independence and expertise, frequency of estimates or updates, managing volatility, and accuracy of the estimates (this last area was added by the roundtable participants).

Virginia Tribe, the facilitator of the roundtable discussion, summarized participant comments. Based on the summary, legislative staff developed some options for consideration on each topic.

Representatives from each of the committees met January 30, 2012, to discuss the options and decide on which committee or committees should take the lead on exploring a particular option in more detail.

The balance of this memo is organized by topic, beginning with a summary table of what the small group discussed for each topic area, followed by a brief explanation for each topic. The summary tables are based on a compilation prepared by Amy Carlson, Legislative Fiscal Analyst, with a few modifications.

Table 1: Legislative Process		
Option	Lead Committee(s)	Comments
Amend 5-5-227(3) to remove the "failsafe" provision relating to the Legislature's current revenue estimate.	Legislative Council (RTIC)	
Introduce the resolution in the Senate	Legislative Council, RTIC	Revise joint rules
Introduce revenue estimates as a bill	Legislative Council, RTIC	Revise joint rules
<p>Revise legislative process for considering estimate:</p> <p><i>RTIC adopts initial revenue estimate</i></p> <p><i>Establish joint revenue estimating subcommittee to review RTIC estimates</i></p> <p><i>Make recommendations to Senate Tax Committee by 20th legislative day</i></p> <p><i>Transmit to House by 45th legislative day (or well before HB 2 transmittal deadline)</i></p> <p><i>Return to Senate before HB 2 is returned to House</i></p> <p><i>Conference committee, if necessary</i></p>	Legislative Council	<p>Revise joint rules</p> <p>The change in the process described here would be refined by the Legislative Council</p>

One of the guiding principals adopted at the roundtable discussion on the legislative process is that both the Senate and the House of Representatives should "have legitimate roles, influence, and relevancy" in the revenue estimating process.

A starting point to achieve these goals would be to introduce the revenue estimating resolution in the Senate. Joint Rule 30-60 requires that the RTIC introduce a House joint resolution for the purposes of estimating revenue. The Legislative Council and the RTIC would be involved in revising the joint rules to require that the resolution be introduced in the Senate. The revenue estimate could also be introduced as a bill.

A technical difficulty is that legislation introduced by the request of an interim committee must be preintroduced by December 15 prior to the session. That may require the introduction of two resolutions, one in the House to comply with the current rule and one in the Senate to comply with the revised rule.

A significant change to the legislative process for considering the revenue estimate would be to create a joint revenue estimating subcommittee, probably consisting of members of the House and Senate taxation committees. Creating a subcommittee could be implemented independent of the options the various committees are considering.

The process is outlined in Table 1. The joint subcommittee would make recommendations to the Senate Taxation Committee (if that option is adopted) by a date certain, and the Senate would transmit the revenue estimate to the House well before the transmittal of appropriations bills from the House (67th legislative day, Joint Rule 40-200(1)(d)(i)). Similarly, the revenue estimate would be returned to the Senate before appropriation bills are returned to the House.

Another way to ensure that both the House and the Senate consider the revenue estimate is to revise the effect of the revenue estimating resolution (or bill). Section 5-5-227(3), MCA, provides that:

(3) The committee's estimate, as introduced in the legislature, constitutes the legislature's current revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the legislature's estimates and the assumptions underlying the estimates will be used by all agencies with responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

Subsection (3) could be amended to require that both houses concur in the revenue estimate to be effective. Senate Bill 28, introduced by the RTIC during the 2009 legislative session, took a step in that direction by providing that:

The committee's estimate, as introduced in the legislature, constitutes the legislature's current revenue estimate until both houses concur in a final estimate.

More precise language would have to be developed to ensure that the resolution progressed through the legislative process. Legislation could be introduced this session for implementation during the next revenue estimating cycle.

Senate Bill No. 28 also would have required the resolution to be introduced in the Senate.

Table 2: Independence and Expertise		
Option	Lead Committee(s)	Comments
Hire in-state consultant to review the estimates	RTIC	May be difficult to agree upon consultant. See last option under "Accuracy of the Estimate"
Obtain perspectives on assumptions for specific revenue sources	RTIC	RTIC requests participation in November before session, joint subcommittee during session

A guiding principle formulated during the roundtable discussion was that the participants believed the Legislature receives an independent revenue forecast, but confidence in the estimate would be improved by enhancing legislative knowledge of the process and by obtaining an external review of the estimate.

At the January 30 meeting, concern was expressed about whether an agreement could be reached on an in-state consultant to conduct the external review. For an alternative approach, see the discussion under "Accuracy of the Estimate".

One area that was not discussed by the group on January 30 to improve confidence in the revenue estimate, but that was included in the "Revenue Process Roundtable Paper - Using Pew Promising Approaches" is to solicit comments about assumptions from representatives of the various sectors of the economy, state agencies, and the university system.

Although the RTIC has taken public comment on economic and other trends when considering the revenue estimates, the RTIC may improve the initial revenue estimate by hearing what experts have to say about the major assumptions. Likewise, the joint revenue estimating subcommittee could set up a similar process.

Table 3: Frequency of Estimates or Updates		
Option	Lead Committee(s)	Comments
Revise revenue estimate in February based on joint subcommittee recommendations	RTIC	RTIC would decide whether to adopt revenue estimates contained in the Governor's budget recommendations.
Extend legislative session into May.	Legislative Council and Legislative Finance Committee	The Legislature would not meet on Saturdays. Delaying the start of the legislative session would require statutory change.

Participants at the roundtable discussion identified three problems with the revenue estimating process:

- the initial revenue estimate is adopted 30 months before the end of the next biennium;
- current updates are not adopted; and
- the timing of the legislative session prevents the Legislature from considering more timely information.

One way to mitigate the problems would be to extend the session into May, either by not meeting on Saturdays or by delaying the start of the session until February in order to make use of more timely information.

Rather than spending time on revenue estimating recommendations from legislative staff and the Governor's budget staff in November, the RTIC could adopt the revenue estimates contained in the Governor's proposed budget. The joint revenue estimating subcommittee would consider revising the estimate during the legislative session based on an evaluation of the assumptions by the Legislative Fiscal Division with, possibly, input from other sources.

Because a new governor will be elected in November, it may difficult to implement this option until next interim.

Table 4: Accuracy of the Estimate		
Option	Lead Committee(s)	Comments
Compare the post-session revenue estimate with actual revenue to determine whether accuracy increased. Determine if session should be extended.	Legislative Council, Legislative Finance Committee, and RTIC	Legislative Fiscal Division staff would report on the progress of the year-to-date analysis, historical comparisons, and the model revisions to all three committees.
Determine if income tax data from DOR scan process improves the accuracy of the estimates.	LC, LFC, RTIC	
Review historical data to determine if year-to-date collection information is useful to the year-end forecast.	LC, LFC, RTIC	
Maintain well-trained, nonpartisan LFD staff with continual education and skill refinement		
Conduct a periodic review of critical components of the revenue estimating models, including data and processes. Identify "triggers" that may indicate when model might be breaking down.	LFC and RTIC	Contract with national economic forecasting firm (e.g., Global Insight or Moody's)

The options listed in Table 4 were developed at the roundtable discussion and identify several tasks that would help the Legislature and legislative interim committees to assess the accuracy of the revenue models and the overall estimate.

A significant proposal would include conducting a periodic review of the critical components of the revenue estimating models. This proposal is similar to obtaining an external review of the models contained in the "Independence and Expertise" section, but the review would be conducted by a national economic forecasting firm.

Table 5: Managing Volatility		
Option	Lead Committee(s)	Comments
Use ending fund balance or rainy day fund	Legislative Finance Committee	LFC would review overall policy of what level of ending fund balance is appropriate and other means of managing volatility for appropriate fiscal management. Need to differentiate from a "surplus". Consider changing language used to describe ending fund balance.
Consider whether to limit a proportion of volatile revenue sources available for appropriation with the remaining portion held in reserve.	LFC	

The two options listed in Table 5 are derived from the Pew report ("States' Revenue Estimating: Cracks in the Crystal Ball", pp. 33-34). The Pew report focuses on setting up a rainy day fund, but also says the same result may be achieved through the ending general fund balance. For example, the Legislature could set an ending fund balance that is at least equal to a certain percentage of general fund expenditures.

Summary

This memo has summarized several options that the Legislative Council, the Legislative Finance Committee, and the RTIC may consider to improve the legislative process for adopting the general fund revenue estimate and to enhance the confidence in the estimate. The discussion of options should continue through the rest of the interim.

Specifically, the RTIC may decide to consider whether to introduce the resolution in the Senate or introduce it as a bill. The RTIC may also discuss whether to engage an in-state consultant to review the estimates or to work with the Legislative Finance Committee to contract with an economic forecasting firm to review the models.

The committee has generally adopted the Legislative Fiscal Division's revenue estimate. If it decides to continue this practice, it may want to prepare a list of persons to comment on the assumptions and develop specific questions about the assumptions.

If the Committee decides to adopt the Governor's revenue estimate, it may not be necessary to invite testimony. That task would fall to the joint revenue estimating subcommittee. As noted above, this option likely could not be implemented until next interim.

Regardless of which committee has the lead on a particular option, the committees can work together on the overall project. The Legislative Council is meeting March 7 and the Legislative Finance Committee is meeting March 8 and 9, providing an opportunity for the RTIC to make comments to the other committees.

In addition, the small group is scheduled to meet March 21. Three members of the RTIC and three members of the Legislative Finance Committee serve on Legislative Council.

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