

2019 INTERIM WORK PLAN

A Report Prepared for the
Legislative Finance Committee

By
Amy Carlson, Director

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May Legislative Finance Committee (LFC) discussion

These are the work plan items that were discussed at the May meeting of the LFC. Given recent budget events, this work plan may need to be revised and shortened to reflect the staff time committed to the immediate budget issues.

Note that this document does not include standard work items such as the 2021 Biennium Outlook, the Budget Analysis, the Fiscal Report and many other standard work items. This document only addresses the items that are specific to this interim for the LFC.

1) Budget Policy Area: Subcommittee training and operations

Develop training materials and operational procedures for Joint Appropriation Subcommittee (subcommittee) members to enhance legislative understanding of the budget process, inform members of legislative studies and recommendations developed during the interim, and establish communication between policy and budget committees. The LFD anticipates developing training materials and an operations manual for subcommittees for the LFC to consider during the interim. Preliminary work would include a survey of legislative training needs in September 2017 with development of specific training modules throughout the interim. The operational manuals would provide items such as subcommittee schedules, basic information on each state agency, references to annual reports prepared by state agencies, interim subcommittee studies and recommendations for state agencies, and potential joint meeting topics with other subcommittees and policy committees.

Training being considered for all subcommittee members includes:

- a. Budget basics – HB 2 base budgets, present law, new proposals, restrictions, first level expenditures, and funding types
- b. Statutory Appropriations, HB 2 appropriations, non-budgeted proprietary funds
- c. Companion bills
- d. Personal services budgeting
- e. Revenues

Proposed training specific to applicable subcommittees includes:

- f. State special funds: history, formal review of large funds
- g. Federal special funds; review of large funds, changes at the federal level
- h. Rates and rents training
- i. Medicaid: Provider rates, entitlement versus waivers, waiting lists, policy

2) Child and Family Services and operations of the DPHHS

Two part study of DPHHS

- A) HB 639 included an appropriation and language directing DPHHS to complete an interim study creating a metrics-based approach to program review. The LFD will monitor this study, analyze the proposed metrics, and report to the LFC.
- B) Subcommittee will work with Pew Charitable Trusts to implement the “Results First” approach with a specific focus on the Child & Family Services Division of DPHHS, the Office of Public Defender, and the Judiciary. The subcommittee members are Rep. Ballance, Rep. Holmlund, Rep. Ryan, and Rep. Dudik.

Specific goals are to improve the protection of children through the evaluation of the system to include foster care and the legal side of the program. The subcommittee will give a progress report during each LFC meeting.

3) **HB 661 Interim study on Montana State University Laboratories**

The Legislative Finance Committee will direct a study of the long-term future of and possible efficiencies to be gained from state supported labs on the Montana State University campus in Bozeman, including: the veterinary diagnostic lab; the wool lab; the wildlife lab; and the seed lab. The study is directed to include a bipartisan subcommittee of two LFC members (Sen. Moore and Rep. McCarthy) two economic affairs interim committee members (Sen. Vance and Sen. Facey), and two members of the environmental quality council (Rep. Hamlett and Rep. White), with one member from each political party.

Specifics, to gain an understanding of:

- The function, condition, and effectiveness of each lab
- The services provided and the cost of providing those services
- How other states provide similar services and at what cost
- The availability, cost, and feasibility of providing those services through other means (other state or private labs)
- Common lab functions, and the viability of gaining efficiencies by combining lab facilities or constructing a new combined lab
- The possible transformation of labs into a state/MUS facility with educational purpose

4) **State Information Technology**

HB 2 contains the following language:

It is the intent of the legislature that the legislative finance committee include a study of enterprise, data storage, and network services as part of its 2019 biennium interim work. In addition, as part of the study, the legislative finance committee shall include a customer satisfaction survey to assess agency needs and challenges that may need to be addressed by the state information technology services division of the department of administration.

The study for the 2019 biennium will include the following components:

- A) Customer satisfaction survey. Interviews with state agencies to understand agency satisfaction with SITSD: services provided, adoption of new technology, and competitiveness with private services in speed, cost, and service. Information gained through these surveys will be used to identify information technology services warranting additional research and analysis
- B) Case study of the Legislative Branch. Detailed study and analysis of the cost/benefits of IT convergence versus decoupling from the current centralized services model
- C) Academic input about industry trends related to centralized versus de-centralized IT services

Contact members assigned to provide guidance for this study are Sen. Jones, Rep. Ballance, and Rep. McCarthy. It is anticipated that a portion of this study will be included in every LFC agenda.

5) **Alternative Funding Options for Infrastructure**

During the 2017 interim, staff built upon the research and reporting on infrastructure in Montana completed in the previous interim, by providing further research and presentations on state-owned and operated buildings and related infrastructure. The research focused on general fund supported infrastructure, but also touched on infrastructure supported through other funding mechanisms that if not sufficient for facility maintenance and upkeep may result

in pressure on the general fund. SB 43 was passed and approved this legislative session, putting into place a facility assessment process as a first step to address the lack of information raised in the last interim study.

Given the current difficulty in getting a two-thirds vote to pass bonding, it is proposed to evaluate various funding options for infrastructure other than bonding. Staff will use Section F assigned contact members, Sen. Sesso, Rep. Hopkins, to provide guidance for this study.

- Is there a simple majority concept that can pass the legislature
- Create other funding source
- Double down existing sources ex:
 - Bed tax – museum
 - Cigarette tax increase similar to the Southwest Vets Home
 - % of LRBP – Romney
- Lease to own, Certificates of participation
- Expand eligibility/define eligibility of Build MT sub trust

6) **SB 261 Budget Stabilization Plan**

SB 261 contains the following language:

(2) (a) the legislature directs the staff of the legislative fiscal division and the office of budget and program planning to study, analyze, and make recommendations regarding the budget stabilization policies to the legislative finance committee by May 1, 2018. The study should address:

(i) trigger levels in 17-7-140;

(ii) legislative and executive access to the budget stabilization reserve fund;

(iii) deposit rules into the budget stabilization reserve fund; and

(iv) the level of operating reserve.

(b) The legislative fiscal division and the office of budget and program planning shall work jointly toward development of a set of best practices for the fund by September 1, 2018.

The LFD has coordinated with the Office of Budget and Program and has a preliminary timing of reports as follows:

September 25 and 26, 2017

The LFD will present an overview of all state rainy day fund policies: summary of all states, summary of states more like Montana, and what academics are considering to be improved practices.

January 2018

LFD Revenue volatility study

LFD Montana specific analysis and comparison to other states: compare to other states total fund size, executive versus legislative access, all available tools for managing volatility of states, examples of how other states work

March 2018 LFC meeting

Presentation of LFD reports

Pew present in person to the LFC: review of options for managing volatility and insights to choices available

May 1, 2018

Reports from OBPP and LFD due to LFC

June 2018 LFC meeting

Presentation of both offices of the May 1 reports and feedback from the LFC

September 1, 2018

Summary of best practices from LFD and OBPP due to the LFC

September meeting

LFC follow up with any legislation recommendations of the LFC

December meeting

Finalize LFC recommended legislation (if any)

7) **Community College Funding study**

A study of the community college funding formula every six years has been recommended by previous LFC and is currently designated to be studied this interim. Staff will work with the community colleges, the Office of the Commissioner of Higher Education, and the Office of Budget and Program Planning to evaluate community college funding and report to the LFC. Staff will use Section E assigned contact members for guidance for this study. Target date for completion of the study will be September 1, 2018.

8) **Evaluate the long term viability of Montana's current tax structure relative to the changing economy**

Based on direction from the Legislative Finance Committee to study Montana's tax structure sufficiency for the future, LFD revenue staff proposes the following options for analysis:

A. Source-by-source analysis of underlying tax structure.

Do Montana's revenue sources have a structure that allows them to keep pace with inflation? Some revenue sources are taxed as a flat fee while others have a percentage-based tax rate. Those taxes that are levied as a flat fee are expected to grow as the population increases. However, this does not necessarily materialize. As part of this analysis the LFD would analyze those sources that are taxed as a flat fee, and calculate the fiscal impact if these sources had grown with inflation over the last 10 years.

B. Literature review of gambling revenues.

Video gambling revenue is currently taxed at a rate of 15% of total profits. Though the percentage-based tax rate more easily allows this source to grow with inflation, over the past few years growth has been flat. Slowed gambling revenue is not unique to Montana as recent literature suggests that this source is declining in real terms across many states, and is a trend that may continue. The LFD suggests doing a literature review of this topic which would explore reasons for the decline as well as other states' possible solutions.

C. Corporation income tax

E-commerce may hinder corporation income tax growth in Montana as corporation tax revenue may accrue to another state.

For a corporation doing business in multiple states, the tax owed to a particular state is calculated based upon the state's relative payroll, property, and sales compared to the corporation's total across all states. This is known as a state's apportionment factor, and is applied to a corporation's net income to calculate taxable income in that state. It is possible that over the years e-commerce sales have reduced corporation tax liability owed to Montana. As goods are purchased online, this would reduce the need for a physical presence (property, payroll, and sales) in the state, thus ultimately reducing Montana's apportionment factor for certain sectors of the economy. Possible

areas of research in corporation tax would be exploring sector-by-sector changes in Montana's corporate apportionment factor and studying if there is a significant change that may be explained by e-commerce.

International accounting for profits may result in a disproportionate share of profits to be recorded in another country.

There appears to be a trend of international corporations storing profits overseas and not recognizing profits in the U.S. According to the Economic Policy Institute (EPI), at the trough of the recession in 2008 after-tax corporate profits as a percent of GDP were 6.6% and had grown to 8.5% in 2015. In comparison, federal corporate income tax revenue in 2008 as a percent of GDP was 2.1% and by 2015 was 1.9%. The EPI states that "The driving force behind the recent erosion of the corporate income tax base is the largest corporate loophole—deferral of taxes paid on profits booked abroad."

Montana's apportionment factor is applied to a corporation's U.S. income. If a corporation has income outside of the United States they have the ability to file for a "water's edge" election. This allows them to apply Montana's apportionment factor to only income earned within the United States. If a corporation chooses to file for a water's edge election, they pay a tax rate of 7.0% instead of 6.75%. However, if income outside of the United States is large enough, it is beneficial for a corporation to pay the higher rate, as they would be paying it on a much smaller taxable income. Research could be performed to explore the effects of removing the "water's edge" election as well as effects of increasing the tax rate for those corporations that choose to file for this election.

D. Expand sales taxes to goods desired by tourists.

Currently Montana levies a sales tax on both rental cars and lodging, two items that are desired by tourists. Are there additional items that would make sense to levy a sales tax on that would be directed towards tourists? What would be the impact of additional sales taxes on Montana residents?

9) Increase the number and quality of the LFD communication tools like brochures, chart of the week, and primers

- Property tax
- Specific state special funds
- Other

10) Standard meeting items

The budget status reports keep the legislature abreast of changes in revenues, expenditures, budgets, information technology items and Medicaid appropriations and budgets. All analytical staff work on these reports. Specific to this interim, the LFD will report and track: Sentencing commission, Medicaid expansion, Medicaid Monitoring, Board of Crime Control status update, Gas tax, Montana Developmental Center changes, motor vehicle fee changes.

Items that have come up over the summer to consider adding to the work plan

11) Review previous studies of Broadband pay and determine if additional work is needed

A summary of previous work will be presented to the September 2017 LFC meeting. If the LFC desires additional analysis, the LFD will follow up. (This was completed in October 2017.)

12) Develop a communication tool on the healthcare market and the choices for the 2019 session

The LFD proposes a multi-step approach to communicate the recent history of the healthcare market and the choices for Montana in 2019.

1. History of the healthcare picture in the United States from 2000 to present
 - a. Changes in healthcare expenditures
 - b. Changes in health outcomes
 - c. Major federal healthcare policy reforms
2. Montana choices and options
 - a. Specific options in light of the 2019 HELP Act sunset
 - b. Expanded state-level options involving both Medicaid and the private insurance marketplace
 - c. Continued monitoring of federal actions and implications for state-level policies and outcomes

December: Overview of economic and demographic items

March: Update on Federal changes and other states experiences with Medicaid expansion

June: Update on Federal changes and description of the 1332 waiver options including examples of other states application or implementation of 1332 waivers

September: Update on Federal changes and potential policy changes to Montana expansion

The LFD will research if Pew has expertise and if they are willing to come to Montana to discuss healthcare with the LFC.