

January 23, 2017

To: Economic Revenue Forecast Council

From: State Budget Outlook Workgroup

Subject: Criteria for use of future biennia resources from an expected federal act

The budget documents for the Governor's proposed FY 2017-19 operating budget included an assumption that the federal government would enact legislation that would result in an increase of Washington State revenue related to internet sales. At the January 17, 2017 Outlook meeting, the ERFC directed the workgroup to exclude this assumption from the outlook being prepared on the Governor's proposed budget. The ERFC requested the workgroup develop options regarding criteria or rules for when new revenue may be reflected in the outlook and present these to the ERFC at the January 23, 2017 meeting.

Prior ERFC Agreement

The ERFC has already considered a similar question with respect to treatment of resource redirections or transfers in the outlook and adopted the following criteria at the November 4, 2014 meeting:

“The Outlook may assume a resource related to a revenue redirection or transfer in the ensuing biennium, provided:

- A. Enactment of separate legislation requiring the revenue redirection or transfer in the ensuing biennium, or
- B. Absent separate legislation, the current biennium's budget provides legislative intent language to continue the current budget's revenue redirection or transfer in the ensuing biennium's budget. The revenue redirection or transfer in the ensuing biennium (1) may be assumed only to the extent there is a projected balance in the fund in the ensuing biennium; and (2) must be consistent with and not exceed the policy in the current budget. Fund balance determination in the ensuing biennium must reflect the continuation of the current budget's policy and the official revenue forecast as adjusted to reflect the current budget's policy.”

Guiding Statutes

The statute providing guidance to the budget adopted by the legislature (RCW 43.88.055) states:

- “1) The legislature must adopt a four-year balanced budget as follows:
 - (a) Beginning in the 2013-2015 fiscal biennium, the legislature shall enact a balanced omnibus operating appropriations bill that leaves, in total, a positive ending fund balance in the general fund and related funds.

- (b) Beginning in the 2013-2015 fiscal biennium, the projected maintenance level of the omnibus appropriations bill enacted by the legislature shall not exceed the available fiscal resources for the next ensuing fiscal biennium.
- (2) For purposes of this section:
 - (a) "Available fiscal resources" means the beginning general fund and related fund balances and any fiscal resources estimated for the general fund and related funds, **adjusted for enacted legislation**, and with forecasted revenues adjusted to the greater of (i) the official general fund and related funds revenue forecast for the ensuing biennium, or (ii) the official general fund and related funds forecast for the second fiscal year of the current fiscal biennium, increased by 4.5 percent for each fiscal year of the ensuing biennium;
 - (b) "Projected maintenance level" means estimated appropriations necessary to maintain the continuing costs of program and service levels either funded in that appropriations bill or mandated by other state or federal law, and the amount of any general fund moneys projected to be transferred to the budget stabilization account pursuant to Article VII, section 12 of the state Constitution, but does not include in the 2013-2015 and 2015-2017 fiscal biennia the costs related to the enhanced funding under the new definition of basic education as established in chapter 548, Laws of 2009, and affirmed by the decision in *Mathew McCleary et al., v. The State of Washington*, 173 Wn.2d 477, 269 P.3d 227, (2012), from which the short-term exclusion of these obligations is solely for the purposes of calculating this estimate and does not in any way indicate an intent to avoid full funding of these obligations;
 - (c) "Related funds," as used in this section, means the Washington opportunity pathways account and the education legacy trust account.
- (3) Subsection (1)(a) and (b) of this section does not apply to an appropriations bill that makes net reductions in general fund and related funds appropriations and is enacted between July 1st and February 15th of any fiscal year.
- (4) Subsection (1)(b) of this section does not apply in a fiscal biennium in which money is appropriated from the budget stabilization account.”

Emphasis added.

RCW 82.33.060 provides that:

“(5) Each January, the state budget outlook work group shall also prepare, subject to the approval of the economic and revenue forecast council, a state budget outlook for state revenues and expenditures that reflects the governor's proposed budget document submitted to the legislature under chapter 43.88 RCW. Within thirty days following enactment of an operating budget by the legislature, the work group shall prepare, subject to the approval of the economic and revenue forecast council, a state budget outlook for state revenues and expenditures that reflects the enacted budget.”

The statute does not specify when a new revenue stream assumed in the Governor's budget document can be assumed in the outlook for the Governor's proposed budget. The statute does require that the budget adopted by the legislature not exceed “available fiscal resources” as defined above. The statute also requires that the methodology for the outlooks must be published and clearly state adjustments made to baseline revenue estimates.

Additional Discussion

The issue raised by the Governor's revenue assumption is different from previous questions in that it requires a federal act of congress. Previous guidance issued by the council regarding assumed resources is premised on *state* resources, i.e., proposals that are within the legislature's power to enact. The state cannot compel that federal legislation is passed. In addition to defining "available fiscal resources," the outlook statute also states that the outlook must "address major budget and revenue drivers, including trends and variability in those drivers." These assumptions are subject to the approval of the ERFC.

Options

1. Apply the current ERFC criteria for assuming state revenue redirections and transfers of existing state revenues to assumptions for estimated revenue changes from a federal act.
2. A bill or a back of the budget amendment to broaden the definition of "available fiscal resources" during the current biennium to include estimated revenue from an expected federal act.