Fiscal Note Study
of
2008 Legislation

Conducted by the
Legislative Auditor's Office
Performance Evaluation and Research Division

The Legislative Auditor Found That Only Ten Fiscal Notes for Bills That Passed the 2008 Legislative Session Which Had a Fiscal Impact Correctly Estimated the Actual Fiscal Impact Within Ten Percent.

This report is a follow-up to the Legislative Auditor's Fiscal Note Study of 2007 Legislation. In order to determine how accurately state agencies estimated expenditures and/or revenue in fiscal notes, the Legislative Auditor reviewed all legislation that passed the 2008 legislative session which had fiscal notes assigned to them. The fiscal note estimates were then compared with the actual fiscal impact as stated by the agencies for fiscal years 2008 and 2009 or the first year after full implementation. In 2008, the Legislature passed 71 bills with fiscal notes attached; some bills had multiple fiscal notes. Therefore, a total of 75 fiscal notes were examined in this study. The Legislative Auditor contacted the state agency representatives that originally completed the fiscal note in 2008 and requested that they provide the actual costs or revenue to the State as a result of the bill's passage for each fiscal year separately from 2008 and 2009 or the first year after full implementation. Similar to data requested in a fiscal note, the agency's response was to include increases or decreases in:

- total costs,
- personal services,
- expenses,
- repairs and alterations,
- assets,
- other expenses, and
- revenue.

Additionally, agency representatives were asked to provide a detailed explanation as to why the actual costs/revenues were different from the fiscal notes submitted to the Legislature, and to provide an explanation of whether or not the fiscal note summary and the fiscal note memorandum were accurate following implementation of the legislation. **It must be noted that the Legislative Auditor did not independently verify the accuracy of the agencies' responses.** Table 1 shows all of the agencies assigned fiscal notes for legislation that passed the 2008 session. Some fiscal note requests were sent to multiple agencies for the same bill.

Table 1 State Agencies Assigned Fiscal Notes	
Agency	**Number of Bills**
State Tax Department	24
Consolidated Public Retirement Board	5
Department of Education	5
PEIA	4
Department of Environmental Protection	4
Higher Education Policy Commission	4
Treasurer's Office	3
Department of Health and Human Resources	3
Insurance Commission	3
Division of Natural Resources	3
State Police	2
Supreme Court of Appeals	2
Court of Claims	2
Division of Veteran Affairs	2
Division of Corrections	1
Health Care Authority	1
Adjutant General	1
School Building Authority	1
Division of Personnel	1
Public Defenders Services	1
Prosecuting Attorneys Institute	1
Lottery Commission	1
Legislative Auditor	1
Source: Bill Status	

Estimates for Thirteen Fiscal Notes Which Had a Fiscal Impact Were Inaccurate By More Than Ten Percent When Compared to the Actual Fiscal Impact Following Implementation

The Legislative Auditor examined each original fiscal note from 2008, and each agency response. The fiscal note estimate was then compared to the actual fiscal impact as provided by the agency for the first full year of implementation of the bill. Table 2 breaks down the number of fiscal notes that fell within each category of accuracy. Twenty-five (25) of the 75 fiscal notes in 2008 were estimated by the state agency to have no fiscal impact following passage. The state agencies reported that the fiscal notes were correct and that there was no fiscal impact as a result

of passage of the bill. Thus, 50 of the fiscal notes in 2008 estimated some form of fiscal impact either with a change in revenue and/or expenses. The Legislative Auditor categorized 27 fiscal notes and agency responses as being unable to calculate for various reasons, most common being the final bill changed to a point where the fiscal note estimates were no longer valid. Other reasons include that the nature of the bill included elements that the agency could not initially estimate in the fiscal note such as death and criminal activity or that programs in the bill have yet to be implemented. Seventeen (17) percent or 13 of the fiscal notes were categorized as being inaccurate by more than 10 percent. Ten of the fiscal note estimates were categorized as being 10 percent or less within the actual fiscal impact.

Table 2
Breakdown of 2008 Fiscal Note Estimates Compared to Actual Impact

Margin of Accuracy	Number of Fiscal Notes
Within 10% of Estimate	10
11-30% of Estimate	9
31-50% of Estimate	1
Over 50% of Estimate	3
No Fiscal Impact	25
Unable to Calculate	27
Total	**75**

Source: Bill Status and the respective state agencies

A total of 13 or 57 percent of the 23 fiscal notes that were estimated to have a measurable fiscal impact were over 10 percent of the actual fiscal impact (above or below). **Three of those fiscal notes had estimates that were over 50% of the actual fiscal impact.** State agencies identified various reasons for the estimates being incorrect, but the estimates were primarily above the actual numbers. This was also found to be true in the study of 2007 fiscal notes. Of the 13 fiscal notes that were estimated at over 10% of actual impact, only 4 of them were underestimated. Table 3 displays the bills with fiscal note estimates within 10 percent of the actual impact, while Table 4 displays the bills that were over ten percent of the actual fiscal impact. The reasons for the estimates being incorrect are included.

Table 3
2008 Fiscal Note Estimates Accurate Within Ten Percent

Bill Number	Bill Summary	Fiscal Estimate	Fiscal Actual	Percentage Difference	Agency
HB 4076	Related to the compensation and expenses of legislators	$670,000 in cost	$670,000	0%	Legislative Auditor
HB 4355	Allowed Hatfield-McCoy Regional Recreation Authority to retain civil penalties imposed for violation of authority rules	$5,000 in cost	$5,000	0%	Treasurer's Office
HB 4402	Related to compulsive gambling	$1,600,000 in revenue	$1,600,000	0%	Lottery Commission
HB 4421	Repealed the corporate license tax, and created corporate license tax replacement fees	$6,400,000 in lost revenue	$6,494,621	2%	State Tax Department
HB 4477	Related to payment of GED exam fees	$260,000 in cost	$260,000	0%	Department of Education
SB 101	Exempted nonprofit companies providing electricity from property tax	$280,000 in lost revenue	$307,800	10%	State Tax Department
SB 545	Related to tax administration efficiency	$1,700,000 in revenue	$1,770,648	4%	State Tax Department
SB 574	Increased State Police compensation	$1,757,515 in cost	$1,665,698	5%	State Police
SB 641	Created Water Resources Protection and Management Act	$568,775 in cost	$553,989	3%	Department of Environmental Protection
SB 751	Related to Surface Coal Mining and Reclamation Act	$10,700,000 in revenue	$10,973,166	3%	State Tax Department

Source: Bill Status and the respective state agencies

Table 4 2008 Fiscal Notes with Estimates Over10 Percent of Actual Fiscal Impact						
Bill Number	**Bill Summary**	**Fiscal Estimate**	**Fiscal Actual**	**Percentage Difference**	**Agency Explanation**	**Agency**
HB 4022	Related to compensation and expenses of panel attorneys providing public defender services	$7,500,000 in total cost over two years	$10,611,325	42%	Unable to anticipate the amount of attorney voucher submissions.	Public Defenders Services
HB 4041	Related to the regulation and treatment of the production of natural gas and coalbed methane	$1,000,000 in revenue	$454,410	55%	Natural gas prices fell 41% due to recession.	State Tax Department
HB 4117	Expanded eligibility for state minimum salary supplements for classroom teachers achieving certain national certification	$60,188 in cost	$51,135	15%	None	Department of Education
HB 4404	Discount Medical Plan Organizations and Discount Prescription Drug Plan Organizations Act	$33,750 in cost	$13,500	58%	Not as many applicants as anticipated.	Insurance Commission
HB 4434	Established a higher education energy and water savings revolving loan fund	$700,000 in loan disbursements	$560,000	20%	Two loans made in 2011	Higher Education Policy Commission

HB 4438	Related to air pollution control	$62,142 in cost	$69,014 in cost	11% in cost	Underestimation of costs.	Department of Environmental Protection
HB 4624	Provided per diem pay for volunteers who drive veterans to hospitals	$650,000 in cost	$511,875	21%	Program just getting started.	Department of Veterans Affairs
SB 234	Created Maternal Mortality Review Team	$24,952 in cost	$31,443	26%	Associated expenses increased since preparation of the fiscal note	Department of Health Human Resources
SB 265	Created Special Aircraft Property Valuation Act	$2,300,000 in lost revenue	$2,000,000	15%	Estimate based on 2007 tax figures.	State Tax Department
SB 535	Modified certain penalties for DUI	$160,205 in cost	$138,155	14%	Travel and other expenses were decreased when the initial program manager left the position.	Dept. of Health and Human Resources
SB 541	Continued personal income tax adjustment to certain retirees' gross income	$500,000 in lost revenue	$390,000	22%	Anticipated more taxpayers would be eligible for the credit.	State Tax Department
SB 671	Increased compensation of Court of Claims' judges	$6,800 in cost per judge	$7,818 average per judge	15%	Estimate based on 100 day schedule per judge. Judges may work more or less.	Court of Claims
SB 704	Regulated viatical life insurance settlements	$53,000 in cost $55,000 in revenue	$2,650 in cost $3,100 in revenue	95% cost 94% revenue	Not as many applicants as anticipated.	Insurance Commission

Source: 2008 Legislative Session Fiscal Notes; Agency Responses

Table 5 compares the total dollar amount with the actual fiscal impact of the 23 measurable fiscal notes included in Tables 3 and 4. Despite the majority of estimates being overstated, HB 4022 was underestimated by more than $3 million which caused the estimate totals to be lower than the actual total. It should be noted that these estimates would include loss, cost, savings and revenue as absolute numbers.

Table 5
Accuracy of 28 Fiscal Note Estimates with Measurable Fiscal Impact

Fiscal Note Accuracy	Total Fiscal Note Estimate	Total Actual Fiscal Impact	Monetary Difference	Percentage Difference
Accurate Within 10%	$23,941,290	$24,300,922	$359,632	2%
Inaccurate Over 10%	$13,106,037	$14,844,425	$1,738,388	13%
Total	$37,047,327	$39,145,347	$2,098,020	6%

Source: Bill Status and the respective agencies

Conclusion

Similar to the previous study of 2007 fiscal notes, 13 percent of 2008 fiscal notes were accurately estimated within 10 percent of actual fiscal impact. Although in 2007, there were 12 fiscal notes in which the actual fiscal impact was estimated inaccurately by over 50 percent; in 2008 there were only three. This may be, in part, due to the fact that in 2008 there were several more fiscal notes that had no fiscal impact or were categorized as Unable to Calculate than in 2007. Table 6 compares the breakdown of fiscal note accuracy from 2007 and 2008.

Table 6
Breakdown of 2007 and 2008 Fiscal Note Estimate Accuracy Compared to Actual Impact

Margin of Accuracy	2007 Fiscal Notes	2008 Fiscal Notes	2007/2008 Combined
Within 10% of Estimate	13%	13%	13%
11-30% of Estimate	6%	12%	9%
31-50% of Estimate	4%	1%	3%
Over 50% of Estimate	18%	4%	10%
No Fiscal Impact	28%	33%	31%
Unable to Calculate	31%	36%	34%
Total Fiscal Notes Examined	**68**	**75**	**143**

Source: Bill Status and the respective agencies

In both studies it was found that a majority of the inaccuracies were due to overestimation in the fiscal note compared to the actual fiscal impact. Of the fiscal notes

categorized as inaccurate by the Legislative Auditor; 69 percent were overestimated in 2008. In 2007, 84 percent of the inaccurate fiscal notes were overestimated. Thus, based on the two studies, agencies were more prone to provide the Legislature with information estimating that a bill's fiscal impact will have higher costs, revenues, losses or savings than what ultimately occurred. This study did identify that 10 fiscal note estimates were within ten percent of the actual fiscal impact and that 25 fiscal notes correctly determined that there would be no financial impact.