



Legislative Office of Fiscal
Transparency

Rapid Response Evaluation: State Board of Equalization

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Legislative Office of Fiscal Transparency
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Key questions:

- In recent years, how have certified revenues differed from actual revenues?
- How does Oklahoma declare budget shortfalls, and how can the state better plan for financial challenges?
- What is the process leading up to the presentation of revenue figures to the BOE?
- What opportunities exist to better inform policymakers of revenue trends and economic conditions?

Executive Summary

The primary role of the Oklahoma Legislature is to enact laws, and a required function within that role is to appropriate funds to state programs and services. Each year, the Legislature develops a budget, which is submitted to the Governor for approval.

As a mechanism contributing to meeting the State's balanced budget requirement, the funds certified by the State's Board of Equalization (BOE) are subject to an appropriation limit up to 95 percent of their total estimate. However, in recent years, economic events have resulted in dramatic fluctuations in this figure and added uncertainty to the budgeting process, mainly due to the volatility of gross production and corporate income taxes.¹

Through this limited scope evaluation, the Legislative Office of Fiscal Transparency (LOFT) sought to provide clarification to the Legislative Oversight Committee about the accuracy, communication, and revenue certification processes of the BOE. LOFT analyzed the accuracy of the revenue estimates, assessed the State's strength to respond to economic fluctuations impacting accuracy, examined steps leading to determining those estimates, and finally, identified opportunities for policy changes to elevate efficiency and transparency.

This report examines current policies and practices related to determining the State's budget, their outcomes, and identifies process improvements, including expanding the information provided to the BOE, engaging the Legislature in the creation of estimates, enabling both the Executive and the Legislative branches to work from the same estimates, folding the State's budget management into the revenue management process, and adjusting the apportionment of taxes according to the State's priorities.

¹ [O.C. Article 10, Section 23, "State's Balanced Budget Requirement"](#)

Summary of Findings

Finding 1: The revenue estimation process results in inefficiency of agency resources and time, and insufficient communication of actions and data.

Due to statutory constraints, the deadline for the Governor's Executive Budget is poorly timed when compared to the release of BOE estimates and legislative deadlines. The constitutional constraints of BOE's revenue certification meetings and lack of alignment between the Executive and the Legislature leads to a budget process that begins in conflict.

Additionally, lack of policy guidelines leaves the revenue estimation process, particularly the special revenue failure certification and advisory meetings, subject to interpretation regarding deliverables.


Statutory separation of the revenue estimation processes and failure management between the Office of Management and Enterprise Services (OMES) and the Oklahoma Tax Commission (OTC) further contributes to inefficiencies in timely delivery of crucial information to the Legislature. Last, after the February revenue estimates are certified, the process does not allow flexibility to adapt to changing conditions.

Policy Considerations

- Ensure the Oklahoma Tax Commissioners are involved and informed about the preparation of budget estimates by enacting a statutory requirement. Although internal policies are currently in place, a statutory requirement would assure consistent policies across administrations
- Align the certification of estimates with the Governor's Executive Budget to ensure that the Executive and Legislative Branches are building budgets from the same figures
- Codify current policies of the Oklahoma Tax Commission for frequent reporting of revenue trends that may impact state budgeting
- Allow for adjustments to estimates in the event of a revenue failure
- Expand data provided to all stakeholders involved in developing the budget to include the logic and methodology used in the selection of gross estimates, as well as all estimates considered

Key Statistics:

- Between FY09-20, revenue projections were overestimated an average of 2.3%; however, GRF projections without GPT were underestimated by 1.4% on average
- Out of eight years that GPT was overestimated, GRF estimates without GPT were exceeded by actuals half of the time.
- GPT actuals are \$.89 for every \$1.00 estimated.
- The combined balance of the Constitutional Reserve Fund (Rainy Day Fund) and Energy Stabilization Fund is 3.4% (\$230M) of GRF FY21 June estimate.

- 
- Enhance the transparency and communication about state revenues by involving the Legislature in the revenue forecasting process, and/or combining the budgeting office (OMES) with the taxation and revenues office (OTC)

Finding 2: Volatility of revenue sources negatively impacts budget estimate accuracy.

Gross Production Tax (GPT) is the largest of the two volatile revenue sources Oklahoma uses to build its budget. As shown in Key Statistics (page 5), the volatile nature of GPT hinders Oklahoma's ability to accurately forecast this revenue source on a consistent basis, even in strong U.S. and Oklahoma economic conditions. As such, the volatility impacts the State's ability to build stable budgets, while additionally impacting the State's ability to invest into stabilization funds intended to dampen the effects of the volatility of revenue sources and economic uncertainty.

Policy Considerations

- Review reserve funds to identify opportunities to better prepare for the volatility of Oklahoma's Gross Production Revenues

Finding 3: Shifting tax dynamics highlight need for more inclusive estimation process.

GPT and Corporate Income Tax represent an increasing share of the State's general revenues. Despite the importance of these inflows, the Board of Equalization membership or internal process does not currently include experts in these fields. This leads to estimation inaccuracy; Oklahoma has overestimated revenue in 7 of the last 12 years. Utilizing a more consensus-driven model, a noted best practice, can improve estimation accuracy.

Policy Considerations

- Enhance or change the composition of the BOE to include representation from Oklahoma's leading economic sectors, including experts from volatile revenue streams

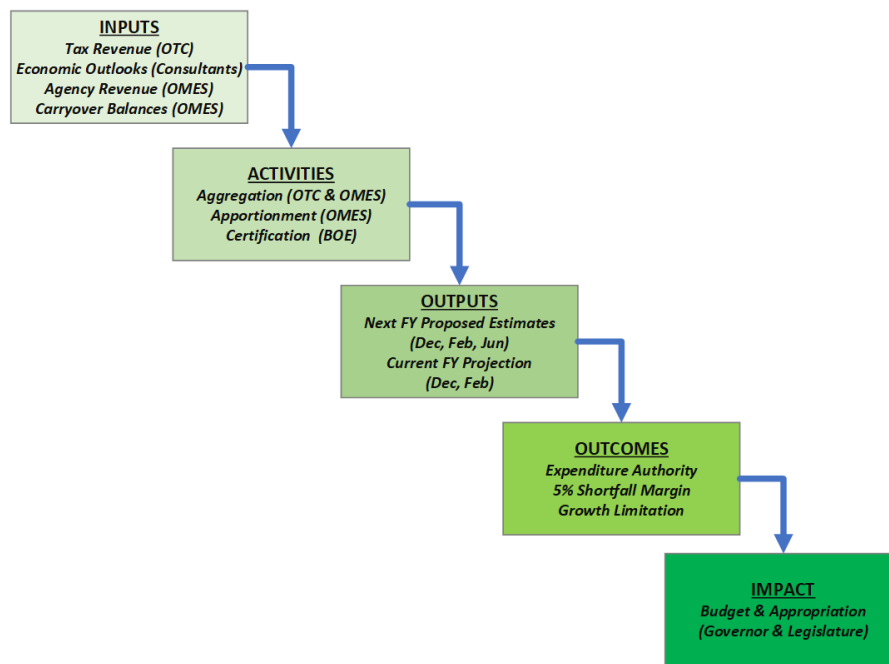
Introduction

Certified revenue estimates are necessary for the Governor and the Legislature to determine budget priorities for the upcoming fiscal year, and to react to adverse revenue fluctuations. When revenues exceed estimates, state programs miss funding opportunities, but the State's reserves grow. When revenues fall short of estimates, over appropriations must be adjusted to balance the budget.

In Oklahoma, this estimation is performed by the Board of Equalization (BOE). Among other duties, the role of the BOE is to certify sources of revenue subject to general appropriation by setting the overall appropriation constraints. To fulfill this function, the BOE relies on figures provided by the Oklahoma Tax Commission (OTC) and other state agencies through the Office of Management and Enterprise Services (OMES).

Below is a high-level overview of these processes and their result. Detailed analysis is captured in the Processes Supporting Authorization section of the report and Detailed Process Review in Appendix G (page 57).

Figure 01: Revenue Certification Logic Model.²



Source: Legislative Office of Fiscal Transparency

² Oklahoma Constitution, Statutes, and agencies' internal procedures

This review focuses on how the revenue estimates are certified and the process for declaring a revenue failure; therefore, methods around these BOE duties are explained in greater detail.

Roles of Key Contributors

Board of Equalization

The Board of Equalization (BOE) was created in 1907 with the ratification of Oklahoma's Constitution. The BOE is responsible for setting the appropriation limits on certified funds. Since the 1979 amendment to Section 21, the limit is certified by the seven BOE members, one appointed and six elected:

- the Governor (Chair of BOE),
- the Lieutenant Governor,
- the State Auditor and Inspector,
- the State Treasurer,
- the Attorney General,
- the Superintendent of Public Instruction, and
- the President of the Board of Agriculture.

Duties

The BOE is primarily defined under Article X, Sections 21 and 23 of the Oklahoma Constitution, and several additional sections of Article X "Revenue and Taxation" of the Oklahoma Constitution address its duties, which include:

- Certifying revenue estimates,
- Determining revenue failure,
- Equalizing the valuation of real and personal property in the state (ad valorem taxation),
- Assessing all railroad and public service corporation property, and
- Evaluating whether appropriations from the Oklahoma Education Lottery Trust Fund, and Rebuilding Oklahoma Access and Driver Safety Fund were used to enhance or supplant funding.

By statute, the projected budgets of the following programs or funds impact the revenues available for certification by the BOE:

- Funding of Oklahoma Higher Learning Access Program (62 O.S. § 34.87),
- Rebuilding Oklahoma Access and Driver Safety Fund (69 O.S. § 1521), and
- Oklahoma Education Lottery Trust Fund (O.C. Article X, Section 41; 3A O.S. § 713).

The BOE certifies revenue three times a year, and if warranted by economic conditions, may also meet in special session to declare a revenue failure.

Figure 02: Timeline of FY21-22 Revenue Certification and FY20 Failure Declaration Events³



Source: Legislative Office of Fiscal Transparency

³ <https://omes.ok.gov/services/budget>
https://www.ok.gov/tax/Forms_&_Publications/Publications/Commission_Agendas_-_Archive/index.html
https://www.ok.gov/tax/Forms_&_Publications/Publications/Commission_Meeting_Minutes/index.html
https://www.sai.ok.gov/board_of_equalization/agenda.php
<https://www.sos.ok.gov/gov/execorders.aspx>



Oklahoma Tax Commission

Title 68 of the Oklahoma Statutes defines the core duties of the Oklahoma Tax Commission (OTC). The agency is managed by an administrator who is appointed by a three-member commission, each of whom are appointed by the Governor and serve six-year terms.

Under 62 O.S. § 34.2., two weeks prior to a BOE meeting, the OTC is required to provide “a comprehensive economic report” to the Office of Management and Enterprise Services (OMES), and “estimates, explanations, statements, projections, reports and other documents” to the Legislature.

68 O.S. § 102.3 mandates OTC to monitor the State’s economy and its impact on the tax revenue. The agency is required to report observed revenue declines to the Governor, Speaker of the House of Representatives, and President Pro Tempore of the Senate by the second Tuesday of every year.

68 O.S. § 117 indicates that, upon request, OTC shall provide OMES and both houses of the Legislature with electronic access to any aggregate data and reports used by OTC in developing revenue estimates and economic forecasts. The following section also requires that OTC respond within two weeks to a written request from the Legislature to provide the methodology used for BOE estimates.

Office of Management and Enterprise Services

As mentioned above, 62 O.S., Section 34.2 links OMES to the BOE by mandating the OTC provides “a comprehensive economic report” to OMES no later than two weeks before either of the constitutionally scheduled, regular BOE meetings (December and February).

Appointed by the Governor, the Director of OMES oversees an agency whose duties range from budget planning and accounting to managing the State’s information technology, health benefits, payroll, purchasing, real estate, and other agency support services.

The budget management functions are prescribed under various sections of the Title 62 (see Appendix H, page 72), and accounting functions under Section 34.11. As part of its budget management functions, OMES is tasked with reducing the allotment of appropriations during a revenue failure. The agency is also responsible for preparing the Governor’s Executive Budget.

According to a 2018 comprehensive performance audit of OMES, Oklahoma is one of 19 states where an administrative services agency oversees state budget processes.⁴

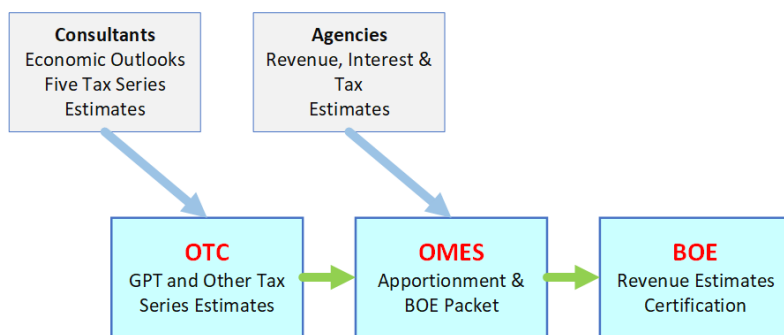
⁴[Agency Performance and Accountability Commission, PFM Group Consulting LLC, Pages 12, 140](#)

Finding 1: The revenue estimation process results in inefficiency of agency resources and time, and insufficient communication of actions and data.

Processes Supporting Authorization

Oklahoma's Constitution and Statutes provide authorization and guidance for most steps leading to the BOE's certification of revenues. Least structured are the actions leading to the BOE declaring a revenue failure. Figure 03 and Table 01 (below) provide a high-level overview of the BOE's processes. For a more detailed guide, see Appendix G. Detailed Process Review, page 57.

Figure 03: High-Level View of Key Steps Leading to BOE Revenue Certifications⁵



Source: Legislative Office of Fiscal Transparency

In October of each year, OMES requests agencies submit their revenue estimates, which are received mid-November (see Figure 04, page 12). Near the end of November, OTC obtains estimates from two independent economists that provide consulting services to the agency. OTC also employs three economists. Using both external and internal forecasts, OTC compiles one set of estimates that is provided to OMES, which then apportions both OTC and agencies' revenue forecasts and summarizes them in the BOE packets. The cycle repeats two months later, leading to the annual February BOE meeting. After the legislative session, OMES updates the February packet in June with any statutory revenue changes enacted during the session. Providing there is a balance in the Rainy Day Fund, if the OMES Director observes that revenue decline trends may result in insufficient funds to meet appropriations, a special BOE meeting may be called to declare a revenue failure to enhance greater access to the Rainy Day Fund.

Oklahoma revenue estimation process follows a one-sided model where one estimate is provided to the Legislature by the Executive branch without any form of legislative input.

⁵ Oklahoma Constitution, Statutes, and agencies' internal procedures

Figure 04: State's Budget Cycle⁶

OKLAHOMA BUDGET PROCESS AND CYCLE

	PHASE ONE	PHASE TWO		PHASE THREE	PHASE FOUR		PHASE FIVE			
	Agency Budget Request Development	Certification Estimated Revenue		Governor's Review and Preparation of Executive Budget	Legislative Consideration of Executive Budget/Budget Issues		Legislative Enactment of Appropriation Bill/Governor Vetos or Signs			
JUL	Agencies review program needs and prepare Budget Requests & Strategic Plans Agencies submit budget requests by Oct 1st									
AUG										
SEP										
OCT		Agencies & Consultants submit revenue estimates for BOE certification	OMES reviews budget requests & strategic plans to develop Executive Budget							
NOV										
DEC			December BOE meeting							
JAN				Update revenue estimates for Feb BOE meeting						
FEB				Governor submits Executive Budget & legislative session begins	February BOE meeting	Legislature reviews agency budget and appropriation requests				
MAR										
APR						Legislature develops FY appropriation bill sends to Governor				
MAY								Governor acts on appropriation bill		
JUN								June BOE meeting		

Source: Legislative Office of Fiscal Transparency based on Oklahoma Statutes and the Constitution

⁶ Ibid. (See also Appendix H, Oklahoma State Budget Process, page 72)

Table 01: Overview of Key Revenue Estimations and Certification⁷

Meeting	Description	Citation
D,F	OMES requests for agencies' revenue estimates	62 O.S. § 34.2 A
D,F,S*	OMES requests OTC for revenue estimates	62 O.S. § 34.2
D,F,S		68 O.S. § 117
D*,F*,S*	OTC seeks economic outlook and estimates from two independent consultants	internal practice
D,F,S	for five tax series	O.C. Article X, § 23, 1
D,F,S	OTC conducts gross production estimates	68 O.S. § 102.3
		68 O.S. § 118C
		O.C. Article X, § 23, 1
D,F,S	OTC conducts medium and smaller tax series estimates	O.C. Article X, § 23, 1
D,F,S*	OTC provides OMES and the Legislature with an economic outlook (2-weeks mark)	62 O.S. § 34.2 B and C
D*,F*,S*	OTC Commissioners review revenue estimates	internal practice
D,F,S	OTC provides OMES with gross estimates	62 O.S. § 34.2 A
		68 O.S. § 117
		62 O.S. § 34.2 C
D,F,S*	OTC provides the Legislature with gross estimates	62 O.S. § 34.2 C
D,F,J*,S*	OMES prepares BOE Packet	62 O.S. § 34.2 B
D, F,J	BOE meets to certify the amount the Legislature can use for appropriation.	O.C. Article X, § 23,1-3
D	The Governor provides the Legislature with a budget proposal at the beginning of the regular session of the Legislature.	62 O.S. § 34.37
S	OTC monitors revenues for declines	68 O.S. § 102.3
S	OMES may declare a revenue failure and reduce apportionment.	62 O.S. § 34.49 F.
S	BOE may declare a revenue failure the amount the Legislature can use for appropriation.	O.C. Article X, § 23, 6-8
S	Governor may declare emergency conditions, or health emergency	O.C. Article X, § 23,8 63 O.S. § 6401
S	Legislature may declare emergency conditions	O.C. Article X, § 23,8
S	Utilization of the Rainy Day	O.C. Article X, § 23,6-8

D - December, F - February, J - June, S - Shortfall (special "advisory" meeting);

*D,F,J,S - no policy mandate

	Constitution
	Statute
	Internal Practice

Source: Legislative Office of Fiscal Transparency

⁷ Ibid.

Inefficiencies

The review of revenue estimation processes (see Appendix G. Detailed Processes Review, page 57) revealed the following gaps in communication, and policy deficiencies:

Contextual data about revenue estimates are not proactively provided to the Legislative branch.

- Estimates are neither inclusive of all scenarios considered (see Table 02), nor of the justification for the final selection of figures as part of each BOE packet or Economic Outlook. This information is especially valuable during revenue failures, because it helps to provide the Legislature with context needed to confidently plan the budget.

Table 02: All Estimates Provided to the OTC by Consultants for 2020 December Revenue Certification⁸

External forecast	Jul. 2020	OSU, 11-30-2020		RegionTrack, 11-23-2020					
FY2021 Re-Estimate/FY2022 Forecast	Actual	Base Case		Low Case		Base Case		High Case	
	FY20 (A)	FY21 (RE)	FY22 (F)	FY21 (RE)	FY22 (F)	FY21 (RE)	FY22 (F)	FY21 (RE)	FY22 (F)
Individual Income Tax Net Collection Adj	\$3,365,019,426	\$3,721,439,781	\$3,683,606,353	\$3,393,217,615	\$3,106,908,726	\$3,413,106,353	\$3,197,846,787	\$3,435,709,068	\$3,303,473,460
		10.59%	-1.02%	0.84%	-8.44%	1.43%	-6.31%	2.10%	-3.85%
Corporate Income Tax Apportioned Adj	\$ 307,432,226	\$ 311,586,609	\$ 371,071,022	\$ 299,791,901	\$ 288,002,995	\$ 299,791,901	\$ 288,002,995	\$ 299,791,901	\$ 288,002,995
		1.35%	19.09%	-2.49%	-3.93%	-2.49%	-3.93%	-2.49%	-3.93%
Sales Tax Apportioned Adj	\$2,389,493,376	\$2,307,866,207	\$2,328,033,100	\$2,270,679,295	\$2,233,885,380	\$2,279,722,652	\$2,286,520,405	\$2,289,957,982	\$2,347,202,419
		-3.42%	0.87%	-4.97%	-1.62%	-4.59%	0.30%	-4.17%	2.50%
Use Tax Apportioned Adj	\$ 413,010,733	\$ 427,050,801	\$ 491,152,300	\$ 411,160,132	\$ 431,489,291	\$ 413,473,840	\$ 445,621,482	\$ 416,110,466	\$ 462,164,603
		3.40%	15.01%	-0.45%	4.94%	0.11%	7.78%	0.75%	11.07%
Motor Vehicle Tax Collections Only Adj	\$ 711,023,404	\$ 704,013,783	\$ 715,395,200	\$ 680,578,077	\$ 669,532,474	\$ 682,314,698	\$ 678,240,147	\$ 684,273,210	\$ 688,172,286
		-0.99%	1.62%	-4.28%	-1.62%	-4.04%	-0.60%	-3.76%	0.57%
Total	\$7,185,979,166	\$7,471,957,182	\$7,589,257,974	\$7,055,427,020	\$6,729,818,866	\$7,088,409,444	\$6,896,231,815	\$7,125,842,627	\$7,089,015,763
		3.98%	1.57%	-1.82%	-4.62%	-1.36%	-2.71%	-0.84%	-0.52%

- Estimate Selected by OTC

Source: Oklahoma Tax Commission, enhanced by the Legislative Office of Fiscal Transparency

- During the 2020 session, HB 4142 was enacted, adding to items the Tax Commission must provide, “upon receipt of a written request” from the Legislature, “a written statement outlining all analysis and methodology provided by or made available by the Tax Commission to the State Board of Equalization.” The bill also struck from law the ability for OTC to not fulfill requests within a two-week timeframe. These statutory changes indicate that information provided by OTC to the Legislature has not been sufficient in depth of data, nor timely.⁹

⁸ OTC

⁹ [68 O.S. § 118 A. 3.](#)

Timing of figures used in the budget process lags between the Governor and the Legislature.

- In accordance with 62 O.S. § 34.37, the Governor releases the Executive Budget at the beginning of the legislative session. However, the executive proposal is based on *December* BOE estimates. The Legislature creates its budget based on certified figures from *February's* BOE meeting. This difference creates disparities and inherent conflict between both branches.
- Due to the February BOE certification being conducted during the legislative session, there is little opportunity to conduct a constructive review of agencies' budget requests in the context of expected revenue forecasts.
- Certifying final estimates during the session is not optimal; an extended gap between the final estimates and the Legislative session would enhance the ability to review agencies' budget requests. In 2015, Senate Joint Resolution 29 attempted to resolve the gap issue by proposing the first BOE revenue certification meeting be moved from December to October, and the second and final meeting from February to December.¹⁰ Had the resolution been adopted, it would have facilitated more time for the two branches to present budget perspectives originating from the same estimate figures like in New Mexico.¹¹ That, in turn, would enable both branches to focus on agencies' budget proposals and provide more time for budget creation during the session. Making this adjustment would also enhance the timing of the Governor's Executive Budget release.

Had the December estimates been used instead of February, the overestimation would have been 2.9% instead of 2.3%

Pro: Gain two months for budget development

Con: 0.6% points loss in accuracy

¹⁰ http://webserver1.lsb.state.ok.us/2015-16bills/SB/sjr29_engr.rtf

¹¹ [The Fiscal Structure of New Mexico, page 12](#)



Statutory policies indicate both overlaps and gaps in communication.

- No policy requiring the OTC Director to update the Tax Commission with estimates
- No policy stating when OTC estimates are to be provided to OMES
- No policy stating when the annual BOE packet is to be furnished to the BOE before the meeting
- No policy stating who is supposed to receive the informational packet ***before*** all BOE revenue certification meetings (the Constitution only states who should receive the certified packet, which contains figures approved at the meeting, and title 62 O.S. § 34.2 details recipients of OTC's economic outlook and estimates)
- 68 O.S. § 102.3 and 62 O.S. § 34.49 require both agencies to report revenue declines; these policies hold distinctive differences, yet they share the same spirit of monitoring and reporting revenue declines both by OTC and OMES
- Information regarding revenue estimates is communicated in three different forms and at different times: economic outlook is released first, then gross estimates, and finally the BOE packet (see Appendix G. Detailed Processes Review, page 57)

Current revenue estimation policies results in an inflexible environment for adjusting estimates after the February BOE meeting, which, during a revenue decline, creates an irrelevant appropriation limit.

- O.C. Article X, § 23,6-8 does not stipulate the possibility of adjusting certified estimates

Policy Considerations

The Legislature may consider the following policy changes:

Enable the Governor and the Legislature to work from the same and final BOE estimates.

- 62 O.S. § 34.37 - adjust by removing the word “immediately”; this would enable the Executive Budget to be submitted based on the February BOE certification, and make sure both branches utilize the same estimates for budget planning

Consolidate OMES budget planning operations with the Oklahoma Tax Commission to achieve vertical integration through efficiencies of time, effort, and information.

- 62 O.S. § 34.49 and 68 O.S. § 102.3 - merging statutes would allow for moving the State’s budget functions to OTC, which is already responsible for reporting revenue declines
- 68 O.S. § 102.3 - change to provide OTC with greater flexibility in reporting revenue declines
- 62 O.S. § 34.2 - change to make sure that BOE packets are inclusive of all economic outlook data, gross OTC estimates, and that packets are distributed sooner to its designated recipients

Facilitate sharing of information about estimates with the Legislature.

- 68 O.S. § 118
 - Facilitate making the BOE packet available to BOE members and the Legislature within 48 hours of the regular and special certifications and advisory meetings
 - Change existing statutory requirement that makes information available “upon request” to language that requires BOE estimates to be accompanied with a list of all estimates considered, justification for selections made, and the economic outlooks received from consultants

Empower the OTC Commissioners.

- 68 O.S. § 102.3 - add a requirement that gross revenue estimates provided to OMES for regular and special BOE meetings must be approved by the Commission, and define the timing of such Commission approval meetings before BOE meetings



***Codify processes leading to the declaration of a revenue failure.***

- 62 O.S. § 34.2 - create new policy to identify responsibilities for preparing packets for special BOE meetings according to O.C. Article X, § 23,6-8
- O.C. Article X, Section 23 - modify to enable adjustment of the February estimates in the event of a revenue gap

Create policies providing communication parameters.

- 62 O.S. § 34.2 - create new policy to establish *when* OTC is required to provide estimates to OMES
- 62 O.S. § 34.2 - create new policy under to direct *when* OMES is required to provide packets before the regular and special BOE meetings
- O.C. Article X, Section 23 - modify to align BOE's December and February meeting dates with agencies' budgeting deadlines and provide state leadership with the ability to maximize outcomes of state programs

Summary

Gaps and overlaps in policies result in timing of information that is either too far in advance or too early to be relied on, and a lack of transparency in data provided to the Legislature, which is particularly problematic when the State faces a revenue decline.

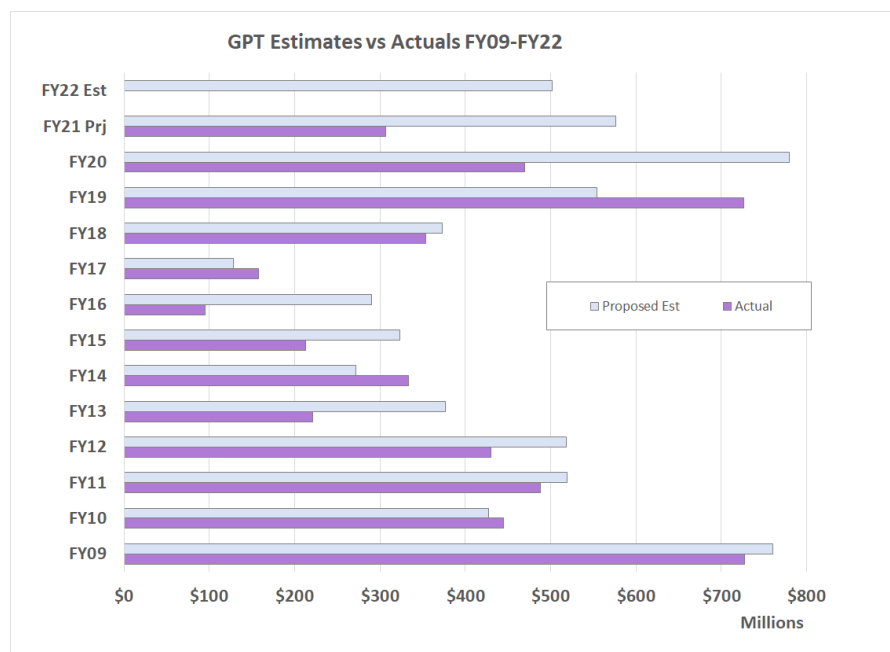
Implementing measures to enhance transparency in forecasting and alignment in timing should further improve the State's ability to reduce the need for substantial adjustments and disruptive declarations of revenue failure.

Finding 2: Volatility in revenue sources negatively impacts estimate accuracy.

Despite OTC's robust gross production tax (GPT) estimation process, the Board of Equalization (BOE) has overestimated GPT approximately 67 percent of the time between FY09 to FY20. On average, for every \$1 of estimated GPT revenue, only \$0.89 was collected. This variance equals an average impact of more than \$107 million to Oklahoma's state budget.

In general, Oklahoma's budget process is relatively accurate in normal economic conditions (see Appendix D Accuracy of Revenue Estimates, page 36). However, even in normal economic cycles, GPT remains difficult to forecast. Data from the Pew Research Center shows GPT is one of the most volatile sources of state revenue.¹² In Oklahoma, GPT has the second highest volatility of all GRF revenue sources (32.95 percent standard deviation), behind only Corporate Income Taxes (39.83 percent standard deviation).¹³

Chart 01: Gross Production BOE Revenue Estimates vs Actuals¹⁴



Source: Legislative Office of Fiscal Transparency

On average, for every \$1 of estimated GPT revenue, only \$0.89 was collected.

Between FY09-20:

- GPT forecasts were overestimated by 11.2 percent
- GRF forecasts were overestimated by 2.3 percent
- GRF forecasts without GPT were underestimated by 1.4 percent

¹² [Pew: States' Tax Revenue Volatility Poses Varying Budget Challenges-2018](#)

¹³ [Volatile revenue sources make budgeting difficult \(Shelton, 2018\)](#)

¹⁴ June BOE Packet FY08 to FY22; see also Appendix D, page 36

Gross Production Tax (GPT) is a tax levied on the oil and gas produced in Oklahoma.

After the first \$150M is apportioned among seven different funds, the revenue is deposited in the State's general revenue fund.

From FY09 to FY20, there has been only one national recession, the “Great Recession” (2007-2009). The U.S. economy has been relatively stable since 2009, but GPT remains difficult to forecast due to its volatility.

As the third largest GRF source of revenue, GPT revenue has a significant impact on Oklahoma's budget.¹⁵ Depending on the economic cycle, GPT revenue comprises anywhere between three to eleven percent of total GRF. Years in which GPT has been five percent or below, GPT was still the third largest source of revenue, further illustrating the State's reliance upon this revenue source. Chart 01 shows the volatility impact on the State's budget.

After statutory apportionments, the remaining GPT revenues are deposited into the General Revenue Fund. The year-to-year analysis of Chart 01 indicates the volatility of GPT. From FY08 to FY10, the deposits to the State's budget decreased by \$380 million. By FY16, the negative impact was \$730 million. This type of volatility is why the Rainy Day Fund and Revenue Stabilization Fund were created.

Reserve Funds

Oklahoma utilizes two stabilization funds: the Constitutional Reserve (Rainy Day) and the Revenue Stabilization Fund (Stabilization Fund). The Rainy Day Fund was created in 1985 in response to consequences of the “the oil bust”, while the Stabilization Fund was created in 2016 in response to the energy crisis. The Stabilization Fund was created through statute and offers less constitutional protection than the Rainy Day Fund. Additionally, there are several thresholds which must be met before a mandatory investment is made into the fund, one of which provides that General Revenue collections from the preceding year must first exceed \$6.6 billion.¹⁶ After achieving this threshold, tax collections for the volatile funds must exceed the five-year average for GPT and Corporate Income Tax. One hundred percent of the difference between estimated tax collection and the five-year average would be deposited into the stabilization fund, while only 25 percent of Corporate Income Tax would be deposited into the fund. In 2019, the deposits into the Stabilization Fund were capped at 3 percent of certified

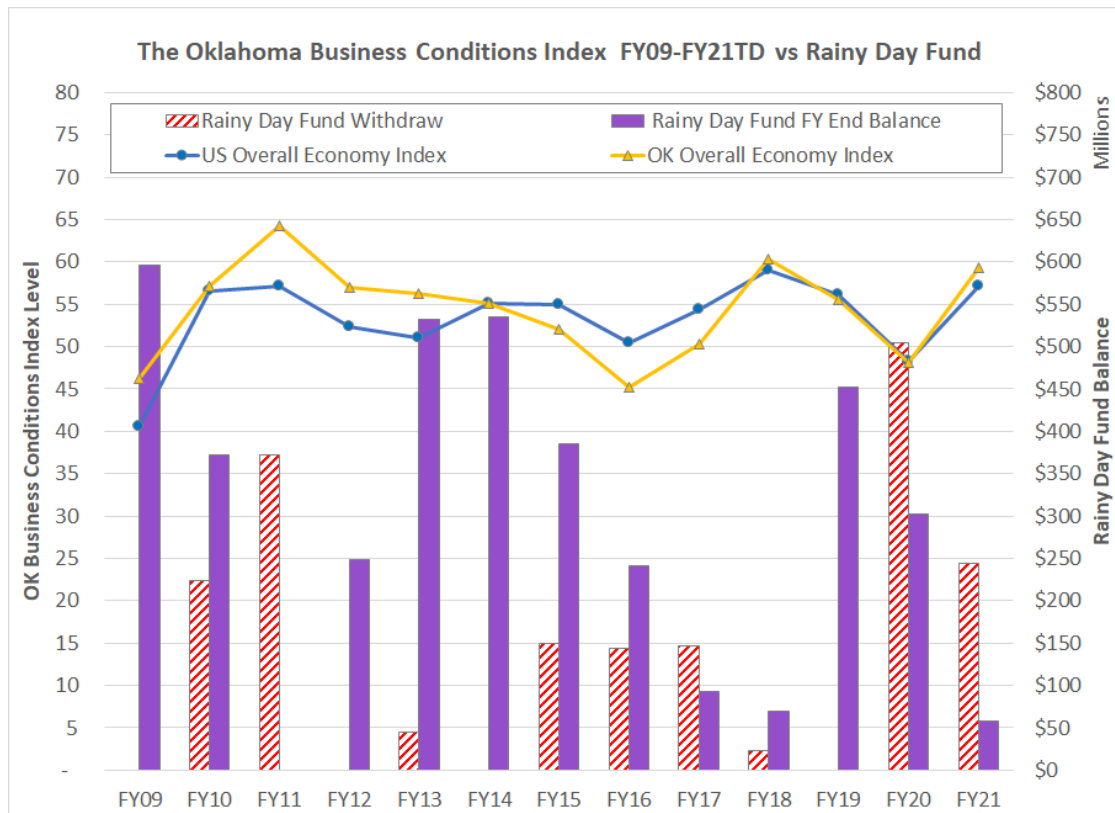
¹⁵ June BOE Packets from FY 2008 to FY 2020 provided data for this analysis.

¹⁶ [Revenue Stabilization Fund OKPolicy.Org-2020](https://www.okpolicy.org/2020/04/20/revenue-stabilization-fund-okpolicy-org-2020/)

GRF for the current fiscal year. As Chart 01 and Chart 02 show, the volatility of GPT and its impact on the State's budget gives cause for concern if any consistent, meaningful investment can be made into the Stabilization Fund based on the General Revenue collections alone.

The volatility of the GPT is also reflected within the balance of the Rainy Day Fund as illustrated in Chart 02.

Chart 02: Utilization of Constitutional Reserve Fund Compared to Economic Indexes¹⁷



Source: Legislative Office of Fiscal Transparency, based on PeopleSoft data (as of 12/02/2020), and Creighton University Mid-American Indexes (as of 01/05/2021)

From FY09 to FY21 (13 years), the State made nine withdrawals and six deposits. The Rainy Day Fund stabilizes the State's budgets from one budget year to the next as it is used to fill budget gaps. The positive volatility of the GPT triggers investment in the Stabilization Fund, but negative volatility necessitates using the Rainy Day Fund. The constitutional constraints of the Rainy Day Fund, combined with the volatile nature of GPT, provide budgetary challenges as well.

Contributions into the Rainy Day Fund are limited to fifteen percent of the previous year's General Revenue Fund certified actuals amount. Additionally, there is no universal method on how cash exceeding the fifteen percent threshold should be appropriated or deposited.

¹⁷ <https://www.creighton.edu/economicoutlook/midamericaneconomy/midamericanhistoricaldatabystate/>

Between FY09-21:

- The state made nine withdrawals and six deposits into the State's Rainy Day Fund while experiencing one economic recession.
- Withdrawals exceeded deposits by \$513M

On Dec 02, 2020 reserve funds compared to estimated FY21 GRF were:

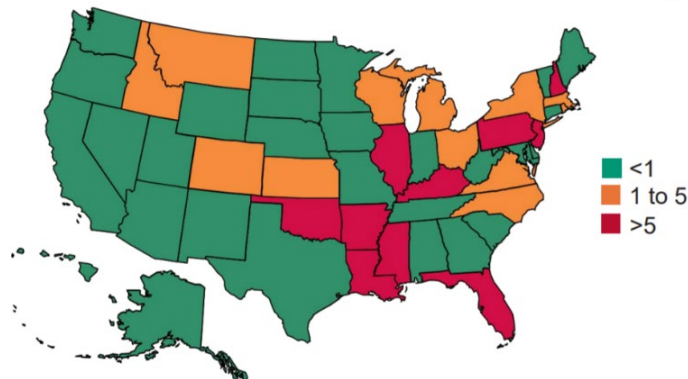
- Rainy Day Fund - 0.9%
- Energy Stabilization Fund - 2.5%

This means Oklahoma only contributes to the Rainy Day Fund in “good” economic years, those that surpass certified expectations. There is no consensus approach to ensuring long-term stability to the overall state budget.

As noted in Chart 02, Oklahoma has had to withdraw from the Rainy Day Fund \$513M more than the State has contributed to the Fund over a 13 budget-year period. This is of note, again, as there was only one recession during those budget years, thus showing Oklahoma's dependence on volatile revenue streams to build a budget. This practice has resulted in Moody's Analytics labeling Oklahoma as a bottom ten state which is “least ready to withstand a moderate to severe recession.”¹⁸

Chart 03: More States Ready for Recession¹⁹

Difference between actual and necessary total balances, ppts



Sources: NASBO, Moody's Analytics

The Moody's study indicates the State's reserve balances are not within a range that would allow the State's budget to withstand a moderate to severe recession, with a large contributing factor being the volatility of revenue streams to the State. The study further indicates recessions have a larger detrimental impact on Oklahoma's budget based on the State's growing dependence upon volatile revenues to build both the state budget (See Finding 3) and its reserve funds. Chart 02 confirms that when the U.S. economy is on the rise, Oklahoma indexes are growing at higher rate than the nation. Likewise, when there is a national decline, Oklahoma indexes fall even more quickly.

¹⁸ [Moody's Analytics: Stress-Testing States 2019](#)

¹⁹ Ibid.

Policy Considerations

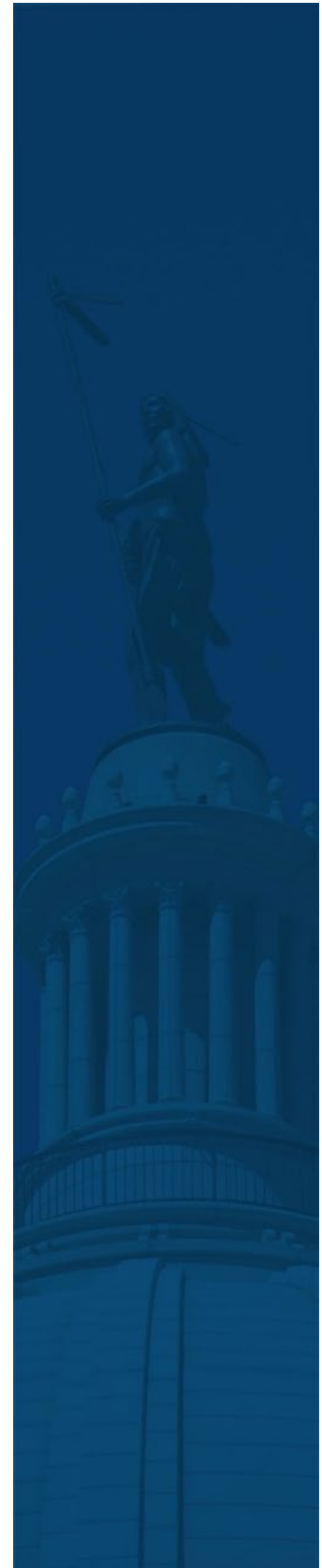
The Legislature may consider the following policy changes:

Reduce reliance on the GPT in a present budget cycle to focus on long-term stability.

- 68 O.S. § 1004 - review the apportionment for gross production revenue
- 62 O.S. § 34.103 – lift the cap on total deposits possible to the Stabilization Fund
- O.C. Article X, § 23.5
 - increase or remove maximum balance limit
 - change the reference from the balance to yearly deposit
 - change the reference from the preceding fiscal year to current.
 - build a constitutionally protected trust fund, the proceeds of which appropriations would be made with limited impact of economy fluctuations; (see Appendix F. Volatility of the Gross Production, page 49)

Summary

State budgeting is complicated and time consuming. The use of best practices (see Appendix D. Accuracy of Revenue Estimates, page 36) helps alleviate some of the risks of possible revenue failures and shortfalls or buffer their impact. Best practices do not eliminate the unpredictability of economies. Creation of, and recent policy enhancements to, the Stabilization Fund were steps toward limiting reliance on volatile taxes of gross production and corporate income. However, the current reserves balances are insufficient to withstand volatility of the economy and macro-level impacts like a global pandemic.



**The State's
reliance on
volatile revenue
sources has
doubled
between FY17
and FY22**

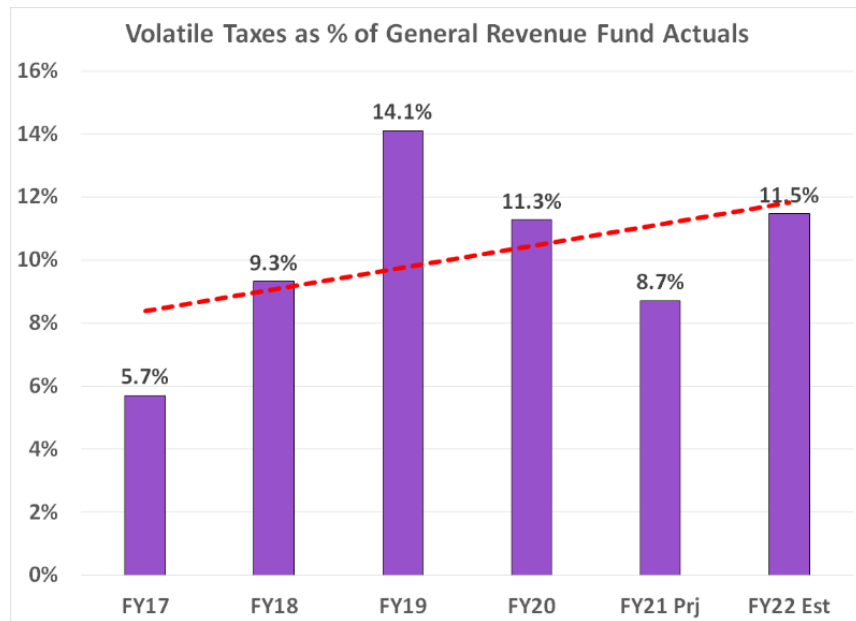
Finding 3: Shifting tax dynamics highlight need for more inclusive estimation process.

Oklahoma is partially and consistently reliant on gross production and corporate income taxes, indicating the need for the addition of expertise to the Board of Equalization.

As Chart 04 shows (see also Appendix F, page 54), the State's reliance on these dollars has doubled from a combined total of 5.7 percent of total general revenues in FY17 to an estimated combined total of 11.5 percent of total general revenues in FY22 (12.16 percent was an average between FY08-20 - see Appendix F, page 53).

It should be noted that total general revenue has also expanded during this same time, rising from approximately \$5 billion in FY17 to a projected \$6.1 billion in FY21.

Chart 04: Contribution of Key Volatile Tax Revenues to GRF²⁰



Source: Legislative Office of Fiscal Transparency, based on BOE packets

Therefore, Gross Production and Corporate Income Tax (collectively referred to as “Volatile Taxes” below) represent a bigger portion of an

²⁰ BOE packets

expanding total and, as such, are important stabilizers for total general revenue. Despite the State's increasing reliance on these sources, they remain unpredictable.

Finding 2 addressed the volatility of Gross Production Tax, but Corporate Income Tax also varies widely. A 2018 Pew analysis of all 50 states notes that Oklahoma is ranked 12th in the country for volatile corporate income tax revenue.²¹

Part of the purpose of the BOE meetings is to validate the accuracy of estimates for a current year with previously generated projections, propose estimates for the next fiscal year, and set maximum appropriation limits based on these figures. Therefore, there appears to be an opportunity to expand the BOE to include experts in GPT and Corporate Income inflows to ensure that forecasting accuracy is continuously improved for these two revenue sources.

Furthermore, allowing the Legislature to select those experts would itself contribute to estimation accuracy. In most benchmarked states (see Appendix E. Other States Revenue Certification Process, page 42), the Legislature is part of the revenue estimation process, a noted best practice that has been examined by Pew²² and NCSL²³. While the objective for legislative inclusion is to reduce political conflict in the budgeting process, data suggests legislative input does not adversely impact the accuracy of estimations. In fact, benchmarking Oklahoma to other states that involve the Legislature in estimating revenue reveals other states are typically more accurate compared to Oklahoma, as displayed in Chart 05.

Data reviewed by LOFT indicates that, in comparison to these four other states (see Appendix D, Table 03, page 40), Oklahoma overestimated revenue in seven of these twelve years, with an average overestimate of approximately 7.3 percent. In fact, Oklahoma is the only state in this comparison group in which the number of years that revenue is underestimated is less than six of the twelve years examined.

²¹ [“States’ Tax Revenue Volatility Poses Varying Budget Challenges”, published by Pew in 2017](#)

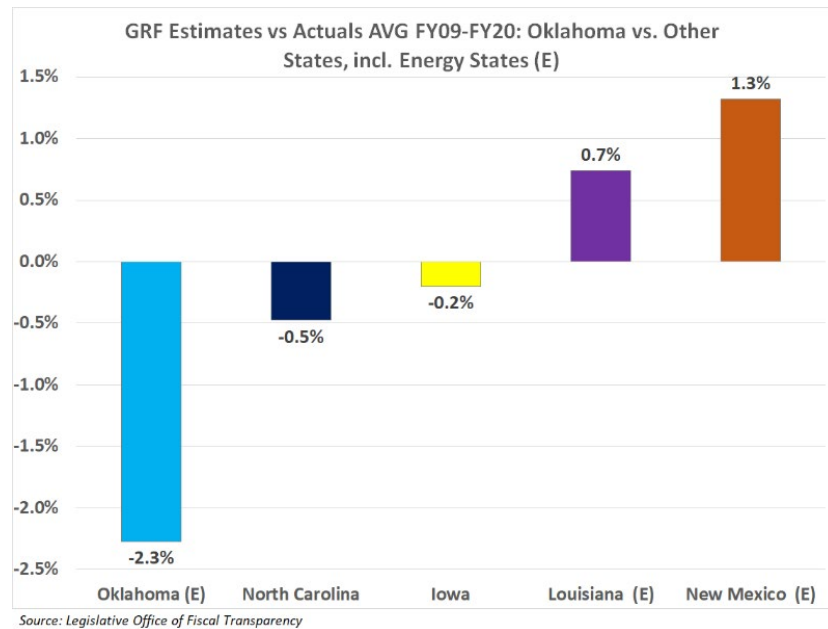
²² [“States’ Revenue Estimating: Cracks in the Crystal Ball”, published by Pew in 2011](#)

²³ [“A Guide to Better State Budgeting Practices”, published by NCSL in October 2016](#)



Oklahoma overestimated revenue in seven of twelve years, with the average overestimate being approximately 7.3 percent.

Chart 05: Oklahoma vs. Other States GRF Estimates Accuracy²⁴



While states that utilize a consensus model are different in makeup, one pattern is clear: representatives from the Legislature, Governor, revenue-generating departments, and economists are present in estimating groups (see Appendix E. Other States Revenue Certification Process, page 42). This makeup ensures all budget writers work with the same estimates and have the expertise to generate viable economic assumptions. Inclusion of the Legislature, or legislative appointees, could reduce the variability of estimates and provide insight into the macro-economic factors that influence them.

Policy Considerations

The Legislature may consider either of the following policy changes.

Expand BOE composition.

- O.C. Article X, Section 21 – expand the composition of the BOE with the Legislature appointing experts regarding volatile revenue sources

Create new composition of BOE.

- O.C. Article X, Section 21 – Replace BOE with body consisting of members appointed by the Executive and Legislative branch and inclusive of the volatile industry experts (see Appendix E, Other States Revenue Certification Process, page 42)

²⁴ Based on BOE packets and data provided by other states (see Appendices B and D)

Policy Considerations Summary

The Legislature may consider the following policy changes:

Finding 1: The revenue estimation process results in inefficiency of agency resources and time, and insufficient communication of actions and data.

Enable the Governor and the Legislature to work from the same and final BOE estimates.

- 62 O.S. § 34.37 - adjust by removing the word “immediately”; this would enable the Executive Budget to be submitted based on the February BOE certification, and make sure both branches utilize the same estimates for budget planning.

Consolidate OMES budget planning operations with the Oklahoma Tax Commission to achieve vertical integration through efficiencies of time, effort, and information.

- 62 O.S. § 34.49 and 68 O.S. § 102.3 - merging statutes would allow for moving the state’s budget functions to OTC, which already is responsible for reporting revenue declines
- 68 O.S. § 102.3 - change to provide OTC with greater flexibility in reporting revenue declines
- 62 O.S. § 34.2 - change to make sure that BOE packets are inclusive of all economic outlook data, gross OTC estimates, and that packets are distributed sooner to its designated recipients

Facilitate sharing of information about estimates with the Legislature.

- 68 O.S. § 118:
 - Facilitate making the BOE packet available to BOE members and the Legislature within 48 hours of the regular and special (advisory) meetings
 - Change existing statutory requirement that makes information available “upon request” to language that requires BOE estimates to be accompanied with a list of all estimates considered, justification for selections made, and the economic outlooks received from consultants

Empower the OTC Commissioners.

- 68 O.S. § 102.3 - add a requirement that gross revenue estimates provided to OMES for regular and special BOE meetings must be approved by the Commission, and define the timing of such Commission approval meetings before BOE meetings

Codify processes leading to the declaration of a revenue failure.

- 62 O.S. § 34.2 - create new policy to identify responsibilities for preparing packets for special BOE meetings according to O.C. Article X, § 23,6-8
- O.C. Article X, Section 23 - modify to enable adjustment of the February estimates in the event of a revenue gap

Create policies providing communication parameters.

- 62 O.S. § 34.2 - create new policy to establish when OTC is required to provide estimates to OMES
- 62 O.S. § 34.2 - create new policy under to direct when OMES is required to provide packets before the regular and special BOE meetings
- O.C. Article X, Section 23 - modify to align BOE's December and February meeting dates with agencies' budgeting deadlines and provide state leadership with the ability to maximize outcomes of state programs

Finding 2: Volatility in revenue sources negatively impacts estimate accuracy.

Reduce reliance on the GPT in a present budget cycle to focus on long-term stability.

- 68 O.S. § 1004 - review the apportionment for gross production revenue
- 62 O.S. § 34.103 – lift the cap on total deposits possible to the Stabilization Fund
- O.C. Article X, § 23.5:
 - increase or remove maximum balance limit, and / or,
 - change the reference form the balance to yearly deposit, and / or,
 - change the reference from the preceding fiscal year to current.
 - build a constitutionally protected trust fund, the proceeds of which appropriations would be made with limited impact of economy fluctuations; (see Appendix F. Volatility of the Gross Production, page 49)

Finding 3: Shifting tax dynamics highlight need for more inclusive estimation process.

Change the composition of BOE.

- O.C. Article X, Section 21
 - expand the composition of the BOE with the Legislature appointing experts in the volatile revenue sources, or
 - replace BOE with body consisting of members appointed by the Executive and Legislative branch and inclusive of the volatile industry experts

About the Legislative Office of Fiscal Transparency

Mission

To assist the Oklahoma Legislature in making informed, data-driven decisions that will serve the citizens of Oklahoma by ensuring accountability in state government, efficient use of resources, and effective programs and services.

Vision

LOFT will provide timely, objective, factual, non-partisan, and easily understood information to facilitate informed decision-making and to ensure government spending is efficient and transparent, adds value, and delivers intended outcomes. LOFT will analyze performance outcomes, identify programmatic and operational improvements, identify duplications of services across state entities, and examine the efficacy of expenditures to an entity's mission. LOFT strives to become a foundational resource to assist the State Legislature's work, serving as a partner to both state governmental entities and lawmakers, with a shared goal of improving state government.

Authority

With the passage of SB 1 during the 2019 legislative session, LOFT has statutory authority to examine and evaluate the finances and operations of all departments, agencies, and institutions of Oklahoma and all of its political subdivisions.

Created to assist the Legislature in performing its duties, LOFT's operations are overseen by a legislative committee. The 14-member Legislative Oversight Committee (LOC) is appointed by the Speaker of the House and Senate Pro Tempore, and receives LOFT's reports of findings.

The LOC may identify specific agency programs, activities, or functions for LOFT to evaluate. LOFT may further submit recommendations for statutory changes identified as having the ability to improve government effectiveness and efficiency.

References

Main BOE Processes

- Oklahoma Constitution, Article X, Section 21 - State Board of Equalization - Assessment levels
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=85065>
- Oklahoma Constitution, Article X, Section 23 - Balanced Budget - Procedures
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=85067>
- 62 O.S. § 34.2 - Itemized Estimate of Funds Expected - Comprehensive Economic Report
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=456716>
- 68 O.S. § 102 - Creation of Oklahoma Tax Commission - Term of Office of Members
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=91843>
- 68 O.S. § 117 - Electronic Access to Aggregate Data and Reports Used by Oklahoma Tax Commission
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=91861>
- 68 O.S. § 118 - Information Provided upon Written Request from Member or Employee of Legislature - Estimate and Statement
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=437425>

BOE Budget Supplantation Reviews

- Oklahoma Constitution, Article X, Section 41 - Oklahoma Education Lottery Trust Fund
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=434356>
- 3A O.S. § 713 - Oklahoma Education Lottery Trust Fund - Appropriations - Examination - Oklahoma Education Lottery Revolving Fund - Investments
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=441369>
- 69 O.S. § 1521 - Rebuilding Oklahoma Access and Driver Safety Fund
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=443764>

Other BOE Considerations

- 62 O.S. § 34.87 - Procedure to Ensure Full Funding of Oklahoma Higher Learning Access Program
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=456696>

Office of Management and Enterprise Services

- 62 O.S. § 34.6 - General Powers and Duties of Director
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=456770>
- 62 O.S. § 34.7 - Experts and Assistants
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=456772>
- 62 O.S. § 34.11 - Duties and Functions of Division of Central Accounting and Reporting
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=456776>
- 62 O.S. § 34.34 - Duty to Prepare Budget
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=456789>
- 62 O.S. § 34.37 - Copies of Budget Submitted to Presiding Officer of Each House
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=456793>

Oklahoma Tax Commission

- 68 O.S. § 102 - Creation of Oklahoma Tax Commission - Term of Office of Members
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=91843>
- 68 O.S. § 102.3 - Additional Duties and Compensation for Commissioners
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=91846>

Emergency and Revenue Failure Measures

- 62 O.S. § 34.49 - Allotment of Appropriations and Federal Funds - Exemption for Legislature
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=456811>
- 62 O.S. § 34. 102 – Revenue Stabilization Fund
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=478552>
- 62 O.S. § 34. 103 – State Board of Equalization to Certify Certain Revenues - Apportionments to General Revenue Fund, Revenue Stabilization Fund, and Constitutional Reserve Fund
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=478553>
- 63 O.S. § 6401 - Declaration by Governor of Catastrophic Health Emergency
<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=437815>

Other References

- IHS Global Insight
<https://ihsmarkit.com/index.html>
- Region Track
<https://www.regiontrack.com>
- OSU Center for Applied Economic Research (“OSU Econometric Model”)
<https://business.okstate.edu/economy/>

Appendices

Appendix A. Key Terms

Most columns of data tables include these data types.

- Actual: true and confirmed figures of revenue that were recorded in the past fiscal year
- Appropriations Authority: limit of appropriation of estimated revenues discounted by 5 percent
- Authorized Expenditure: the total appropriated the budget, (“Total Authorized Budget” figure, June packet Appendix A-2)
- Appropriation Limitation: the appropriation growth limitation is a second limit of setting up how much can be appropriated in comparison with the preceding year’s actual appropriation
- Certified Fund: a fund that is subject to direct legislative appropriations
- Estimate: revenue forecast made in the past fiscal year for the current fiscal year
Note: “Estimate” is used to identify an older version of the next fiscal year estimate when comparing against the current proposed estimate, e.g., Dec vs. Feb.
- Expenditure Authority: the total limit the Legislature can appropriate the budget
- Policy: for the purpose of this report and its primary audience (the Legislature) means Oklahoma Constitution and Statutes
- Projected: current year revenue forecast based on the monthly actual figures and indicators
- Proposed estimate: revenue forecast made in the current fiscal year for the next fiscal year

Appendix B. Methodology

After reviewing BOE's processes and conducting a benchmarking study, the observations of this review are presented according to the following order:

Finding > Background > Policy Considerations > Summary.

Finding

The pursuit of seeking answers to the key questions of this review resulted with gathering facts and observations, the conclusion of which is summarized in an overarching statement.

Background

To satisfy the review's objectives, LOFT undertook the following activities:

- Reviewed models of estimates creation and review in other states
The following states were assessed for their process of estimating revenues: Arizona, Arkansas, Iowa, Kansas, Kentucky, Louisiana, New Mexico, North Carolina, North Dakota, Texas, and Wyoming. These states were mentioned in various resources.
- Analyzed trends and assessed gaps in estimates
 - Unless indicated otherwise, the analysis was based on the General Revenue Fund actuals compared to February BOE estimates adjusted for revenue changes during the session (June BOE estimates).
 - Analysis focused on two Oklahoma neighboring energy states: Louisiana and New Mexico. Additionally, ethanol-producing Iowa²⁵ and aerospace-oriented North Carolina²⁶ were states that had data readily accessible.
- Reviewed processes and their supporting authorization
- Assessed contribution of current policies to creating a transparent environment

Policy Considerations

Policy considerations are that the Legislature may consider pursuing, which may result in greater transparency of processes, and cohesive and inclusive communication.

The pursuit of these outcomes can occur by facilitating changes in the Oklahoma Statutes and the Constitution.

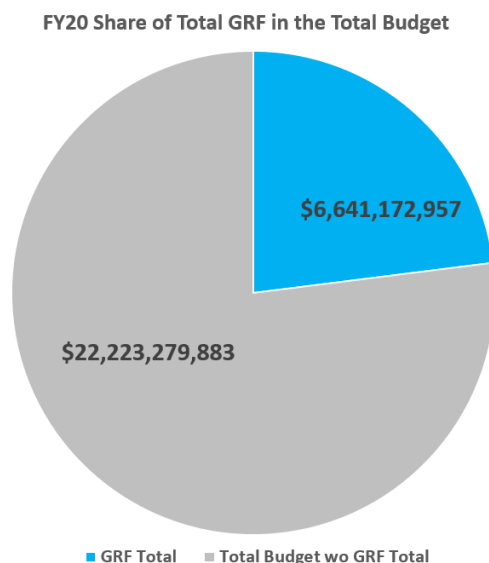
²⁵ <https://www.eia.gov/todayinenergy/detail.php?id=36892>

²⁶ <https://www.nccommerce.com/business/key-industries-north-carolina>

Appendix C. BOE's Role and Part in State Budgeting

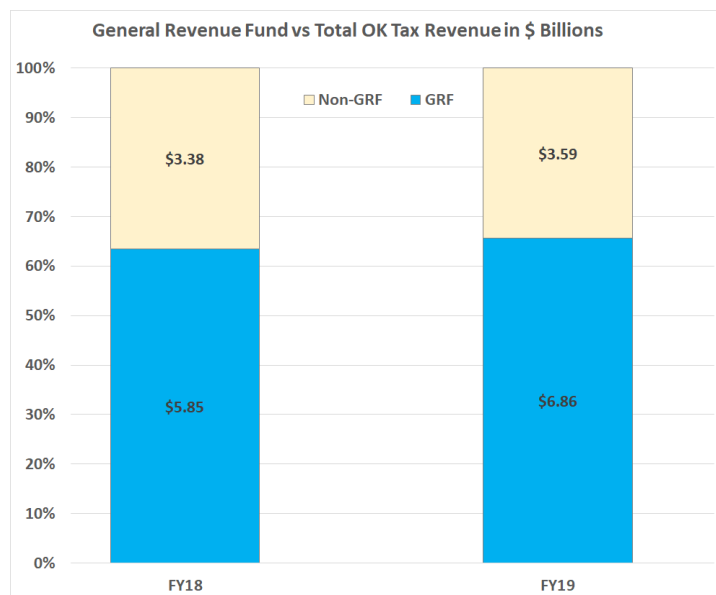
The term “Total Budget” used by the Legislature means budgets of state agencies from all sources: appropriated, dedicated (revolving funds), interagency, and other (federal sources, grants, etc.). The BOE is responsible for setting the appropriation limits on certified funds, which do not represent the total budget but just its share. Chart 06 indicates 23 percent share of that total budget, and Chart 07 indicates 66 percent share of the tax revenue.

Chart 06: GRF Share in the Total Budget



Source: Legislative Office of Fiscal Transparency analysis, based on BOE June Packet and Senate Records

Chart 07: GRF Share Among OK Taxes²⁷



Source: Legislative Office of Fiscal Transparency analysis, based on CAFR 2018 and 2019

From the bird's eye view, Oklahoma's government functions (Chart 08) are funded by sources of revenue which fall into these categories: total tax revenues, federal grants, revolving revenues, trusts and investments.

These sources are deposited into various government and other funds. Within government funds there is the General Fund, and permanent funds. The General Fund is the main operating fund of the State and is comprised of the General Revenue Fund (GRF), revolving funds, federal grants proceeds, and other.

Of these, GRF is the main benchmark of state fiscal performance; it is a fund that collects monies that do not have otherwise specified deposit funds. However, all tax revenue is not deposited in GRF due to statutory apportionment of each tax series to a designated authorized and certified fund. According to the 2018 and 2019 Comprehensive Annual Financial Report, taxes deposited into the budgetary

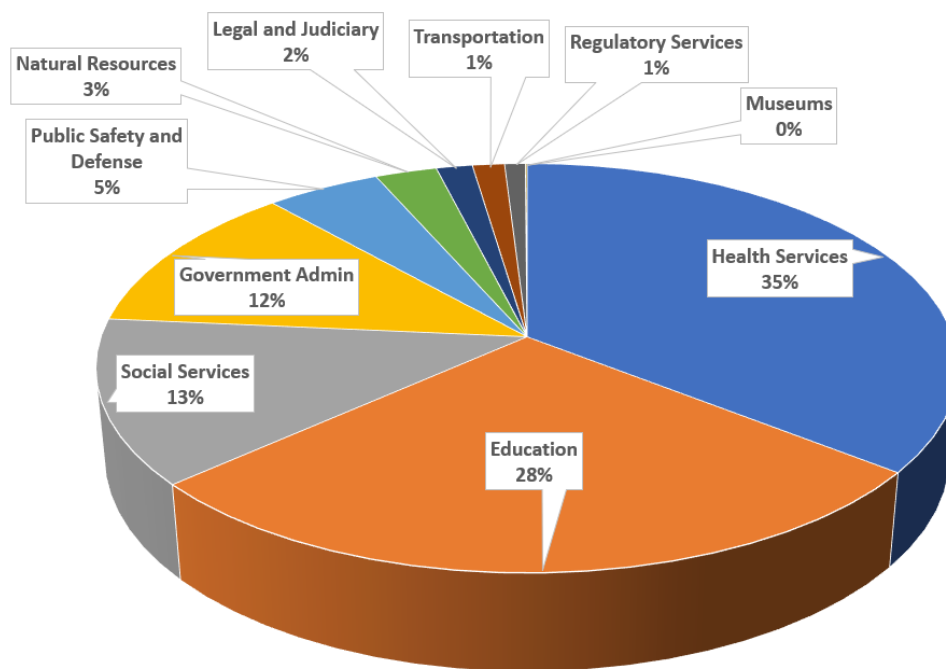
²⁷ [CAFR 2018](#), Page 12; [CAFR 2019](#), Page 13

General Revenue Fund were approximately 75 percent of the total tax revenues.²⁸ However, comparing GRF actuals from FY18 and FY19 indicates that the share was 63 percent and 66 percent, respectively. Additionally, GRF's share against state and federal revenue was 37 percent and 40 percent respectively, and against all CAFR revenues sources was 32 percent and 34 percent.

The FY21, \$7.8B state budget authorized expenditures consist of certified, authorized, and special adjustments and transfers. The BOE packet also provides a different view of that figure. If adjustments and transfers are organized according to certified and authorized, which they relate to, then the budget consists of non-restricted and restricted funds.

For FY21, certified funds were about 70 percent of authorized expenditures. GRF was 95 percent of total certified funds, 92 percent of non-restricted (all certified, prior year certification balance and cash), and 67 percent of all authorized expenditures (BOE total budget).

Chart 08: State's General Revenue Top Expenditures by Government Function in FY19²⁹



Source: Legislative Office of Fiscal Transparency, based on CAFR 2019

²⁸ CAFR 2018, page 14, CAFR 2019, page 15

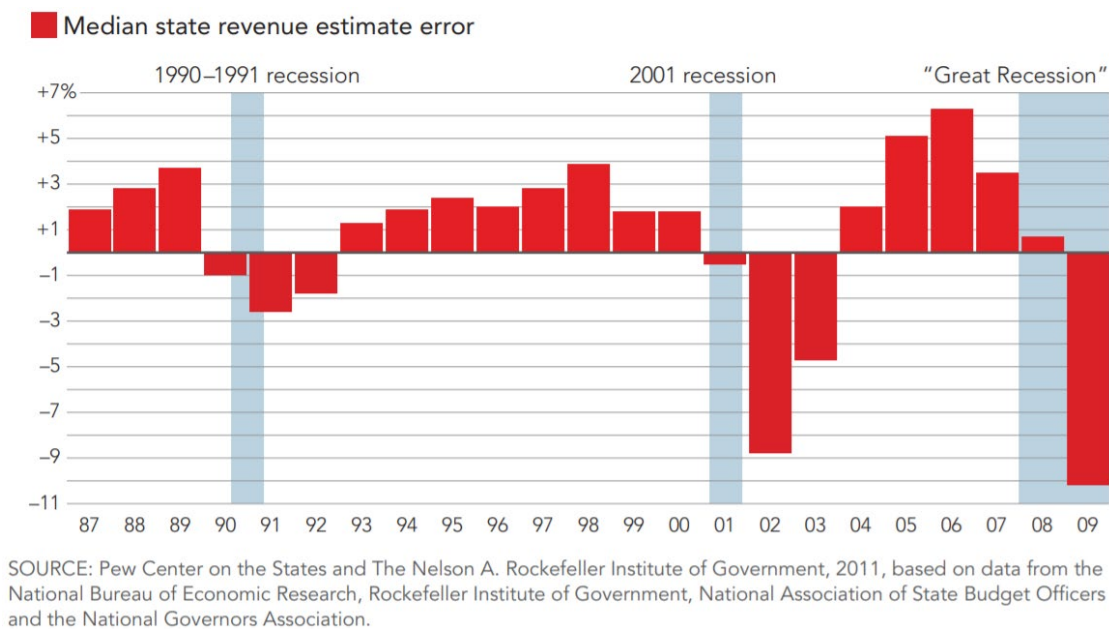
²⁹ CAFR 2019, page 54 (Expenditures without Capital Outlay and Debt Service)

Appendix D. Accuracy of Revenue Estimates

National Outlook

A 2011 Pew Center on the States Report, in conjunction with the Nelson A Rockefeller Institute of Government, analyzes the impact of the revenue estimating errors in each state resulting from or faced during the Great Recession of 2007-2009. The report also examines trends in revenue forecasting throughout the two previous national economic downturns in 1990 – 1992 and 2001 – 2003, the “dot com” bubble. Chart 09 indicates the growing gap between estimates and actual revenues across the United States.³⁰

Chart 09: Median All States Revenue Estimate Error



The report’s primary finding is that the magnitude of inaccurate estimates has generally grown for the fiscal years within those economic downturns. The Great Recession impacted a variety of tax bases. In contrast, earlier economic events affected fewer: during the mortgage crisis and ensuing instability, personal income taxes, corporate incomes, and sales taxes all declined precipitously.

The Pew identifies several pitfalls of statistical modeling that impact states' estimates:

- recent experience when estimating revenue inflows (also known as the recency bias), and
- statistical models, as advanced as they are, which tend towards the status quo and thus
 - overestimate revenue when conditions begin to deteriorate and
 - underestimate revenue when conditions begin to improve (also known as reversion to the mean).

³⁰ Ibid.

Recommendations for improving revenue forecasting processes:

- improving the process itself, and
- managing the effects of instability.

Pew recommended four approaches, the implementation of which can result in improvements.

Comparing Pew's recommended practices with Oklahoma's policies revealed the following:³¹

- **Analyzing errors and refining assumptions**

Having legislative, executive, and academic experts continually examine the methodology and formulas to achieve budget planning efficiencies.

👍 - OTC added a second independent economist in 2008 into their estimation process

👎 - The formulas are not made available; in the wake of the spring 2020 revenue failure, the Legislature added 68 O.S. § 118.3 to obtain methodology used in estimates.

- **Making frequent estimates**

Adjust revenue estimates frequently to help policymakers crafting budgets.

👍 - Providing reserve funds balances are available, the revenue failure declaration by BOE enables greater access to the Rainy Day fund, and the Legislature also has the ability to appropriate.

👎 - Once the February revenue estimates are certified, there is no mechanism to adjust them due to changing economic conditions.

- **Ensuring independence from the political process**

Keep the executive and legislative branches on the same page to achieve efficiencies.

👎 - State's revenue estimation process is not consensus based

👎 - Certification estimates provided to the Legislature do not provide sufficient background for budget planning

- **Adding expertise**

Many states seek outside experts, both from the business community and academia, to contribute an independent opinion on revenue estimates.

👍 - OTC seeks estimates input from two independent economist groups

👎 - BOE composition does not include experts specializing in the most volatile revenues

³¹ Ibid.

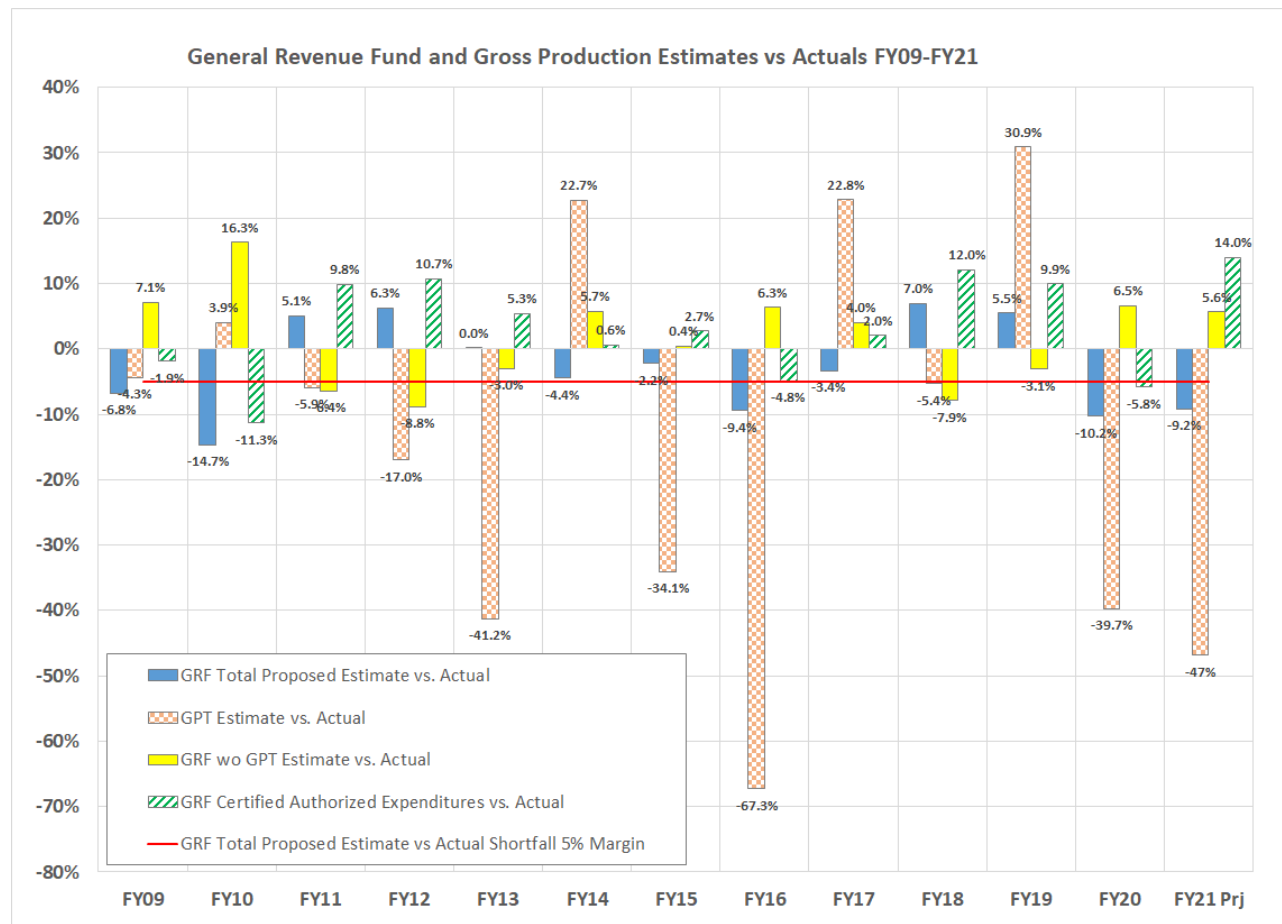
Oklahoma Revenue Estimates Accuracy

Pew reported that the average gap for overestimating revenues in FY09 was 10.2 percent (-10.2%) while Oklahoma's was 6.8 percent (-6.8%). Overall, in Oklahoma between FY09-FY20 there was a 2.3 percent overestimation (-2.3%) of GRF; in the economic downturn, estimates were overestimated by 7 out of 12 years and by 7.3 percent (-7.3%), on average; underestimates occurred 5 out of 12 years and by 4.8 percent (4.8%), on average.

Out of eight years that GPT was overestimated, GRF estimates without GPT were exceeded by actuals 50 percent of the time.

Chart 10 depicts the same approach of analysis for Oklahoma but with three more dimensions of data.

Chart 10: Gross Production BOE Revenue Estimates vs Actuals³²



Source: Legislative Office of Fiscal Transparency analysis, based on BOE Packets

³² <https://omes.ok.gov/services/budget>
<https://omes.ok.gov/pages/june-2020-financial-data-tables>

- **GRF Total Proposed Estimate vs. Actual**

It is the official formula that governs analysis of whether Oklahoma's fiscal discrepancy is going to exceed the 5 percent gap that leads to declaring the budget failure. During the fiscal year, as the full year actuals are not known, the State compares estimate figures to a projected revenue forecast that is issued both for December and February BOE certification meetings.

- between FY09-20, forecasts were overestimated by 2.3 percent, on average.
- the highest degree of accuracy occurred in FY13: close to 0 percent
- the highest degree of overestimating revenues occurred in FY10: 14.7 percent
- the highest degree of underestimating revenues occurred in FY18: 7.0 percent

- **GPT Proposed Estimate vs. Actual**

- between FY09-20, forecasts were overestimated as average of 11.2 percent (-11.2%)
- the highest degree of accuracy occurred in FY10: 3.9 percent (3.9%, underestimate)
- the highest degree of overestimating occurred in FY16: 67.3 percent (-67.3%)
- the highest degree of underestimating occurred in FY19: 30.9 percent (30.9%)

- **GRF without GPT Estimate vs. Actual**

- between FY09-20, forecasts were underestimated an average of 1.4 percent (1.4%)
- the highest degree of accuracy occurred in FY15: 0.4 percent (0.4%, underestimated)
- the highest degree of overestimating occurred in FY12: 8.8 percent (-8.8%)
- the highest degree of underestimating occurred in FY10: 16.3 percent (16.3%)

- **GRF Certified Authorized Expenditure vs. Actual**

It represent the formula that reflects the state's actual fiscal position (surplus or deficit) because it compares what the Legislature appropriated against the incoming revenue. During a present fiscal year, the projected values can only be used in place of actuals.

- between FY09-20, appropriations resulted in a 2.4 percent surplus on average (2.4%)
- the highest degree of accuracy occurred in FY14: 0.6 percent (0.6%)
- the highest relative deficit occurred in FY10: 11.3 percent (-11.3%)
- the highest relative surplus occurred in FY18: 12.0 percent (12%)

Estimates Accuracy of Oklahoma vs. States that Involve the Legislature in the Process

Table 03 indicates that three other states were overestimating, on average, in the last twelve years, but Oklahoma's average was the highest.

The average absolute value of discrepancies attempts to measure the range of error regardless of surplus or shortfall. New Mexico missed estimates by the widest margin due to double-digit underestimates in FY18 and 19 caused by the rapid development of the oil and gas industry. New Mexico estimates variance used to be within 1-2 percent, but the 2018 energy-driven boom has since caused estimates to be underestimated.

Louisiana's Legislature has participated in the revenue estimating process since 1989 and North Carolina's since the '70s. Louisiana achieved the most accurate estimates among the three energy (E) states (Louisiana³³, New Mexico³⁴ and Oklahoma), with the least spread between maximum and minimum and least years with overestimates.

Table 03: Revenue Estimates vs. Actuals Oklahoma vs. Other States Statistical Summary³⁵

FY09-20 Summary	Oklahoma (E)	North Carolina	Iowa	Louisiana (E)	New Mexico (E)
FY20	-10.2%	-4.5%	1.0%	2.2%	5.4%
Total AVG	-2.3%	-0.5%	-0.2%	0.7%	1.3%
Total ABS AVG	6.2%	3.5%	4.5%	2.1%	7.8%
Overestimate Years	7	4	6	4	4
Underestimate Years	5	8	6	8	8
Overestimate AVG	-7.3%	-5.9%	-4.7%	-2.0%	-9.7%
Underestimate AVG	4.8%	2.2%	4.3%	2.1%	6.8%
Max Overestimate	-14.7%	-15.5%	-9.0%	-4.0%	-13.6%
Max Underestimate	7.0%	3.7%	8.4%	4.8%	21.7%

(E) - Energy State

Source: Legislative Office of Fiscal Transparency analysis

³³ Louisiana, Legislative Fiscal Office, Forecast Errors, page 2

<http://lfo.louisiana.gov/files/revenue/1A%20REC%20Fcst%20Error%20WriteUp%20Complete%20FY20.pdf>

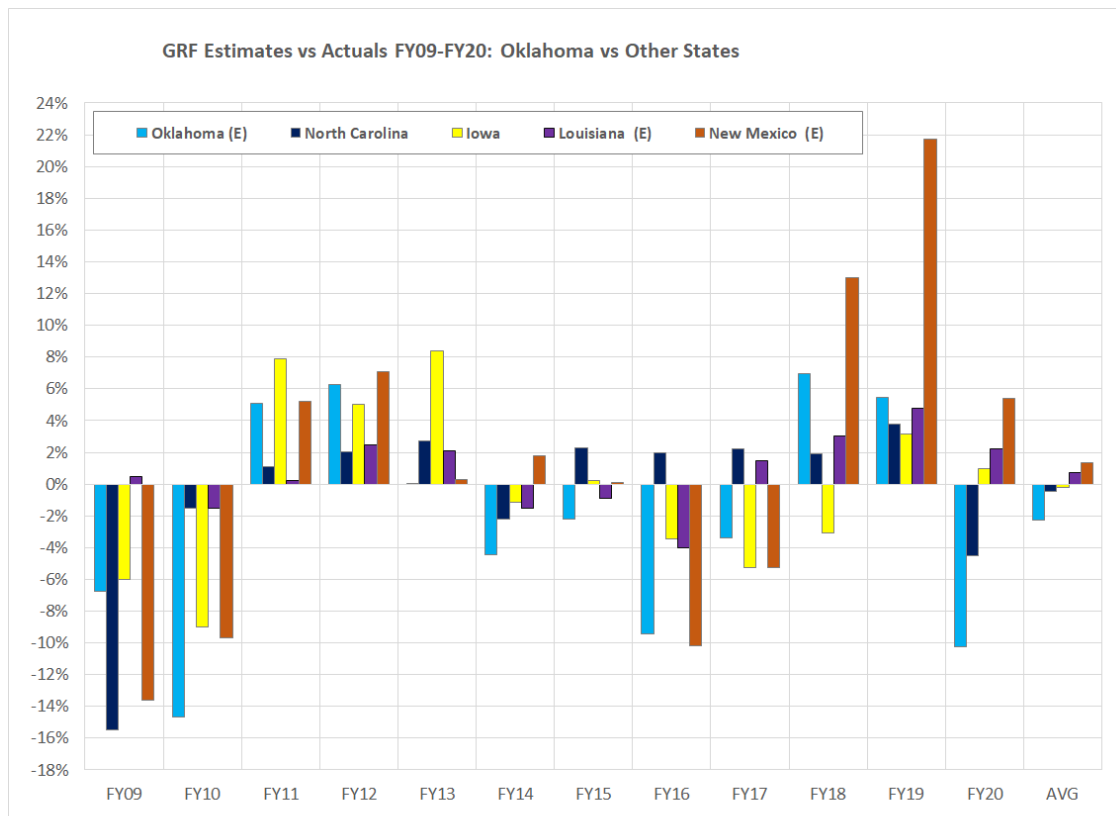
³⁴ New Mexico Legislative Finance Committee, Money Matters, Attachment 14, page 28

https://nmlegis.gov/Entity/LFC/Documents/Revenue_Reports/General_Fund_Revenue_Forecast/2021/Consensus%20Revenue%20Estimate%20-%20December%202020.pdf

³⁵ Based on BOE packets (see Chart 10, page 38) and data provided by other states

Chart 11 demonstrates trends for four states total where the executive branch achieves consensus with the Legislature in estimating revenue.

Chart 11: Revenue Estimates vs Actuals Oklahoma vs. Other States³⁶



Source: Legislative Office of Fiscal Transparency analysis

The Oklahoma Legislature is not involved in the revenue estimation, nor is it apprised of the various revenue scenarios that were considered, but not selected. Benchmarked states' budget planning process is consensus-driven and involves both the Legislature and the Governor in developing the budget estimates.

In most examined states, the Legislature is part of the process; therefore, their knowledge of the economic developments is provided faster and with greater confidence of lack of bias.

While consensus states are different in makeup, one pattern is clear: representatives from the Legislature, Governor, revenue-generating departments, and economists are present in their estimating groups. This makeup ensures all budgets work with the same estimates and have the expertise to ensure that economic assumptions are viable.

³⁶ Based on BOE packets (see Chart 10, page 38) and data provided by other states

Appendix E. Other States Revenue Certification Process

Every state has a process for forecasting revenues, yet those processes differ. For some, it is a certifying body; for others, it is a body that aggregates estimates from different sources or agencies. Some states (e.g., North Dakota) do not have an independent body but forecast from within their budget or revenue office and provide data directly to the Legislature.

The review of other states' revenue estimating models indicates their BOE-equivalent review bodies are typically smaller and more engaged with the Legislature.

LOFT reviewed the following states' revenue estimation processes and compared them to Oklahoma's: Arizona, Arkansas, Iowa, Kansas, Kentucky, Louisiana, New Mexico, North Carolina, North Dakota, Texas, and Wyoming.

A 2015 NASBO report indicates that thirty-one states have a revenue estimating group, including Oklahoma. The report depicts that in eight states, a budget agency (similar to OMES) is solely responsible for revenue forecasting, while three states have this function performed by a revenue agency (similar to OTC).³⁷

The vertical integration of the budget and revenue office has been adopted by Arkansas³⁸ and Texas³⁹ where the Director's and Comptroller's respective offices operate under OTC's equivalent. Structuring the agency this way creates one point of contact to retrieve information. It would also eliminate an overcommunication where both OMES and OTC are engaged in monitoring and reporting revenue declines.

LOFT examined the functionality of several states' revenue estimating groups. Four models of estimating processes were identified: one-sided, consensus, negotiated, and hybrid.

³⁷ [Budget Processes in the States, 2015, pages 7 and 31](#)

³⁸ <https://www.dfa.arkansas.gov/office/details/directors-office>
https://governor.arkansas.gov/images/uploads/190607_Org_Chart.pdf

³⁹ <https://comptroller.texas.gov/about/mission/>

One-Sided Model

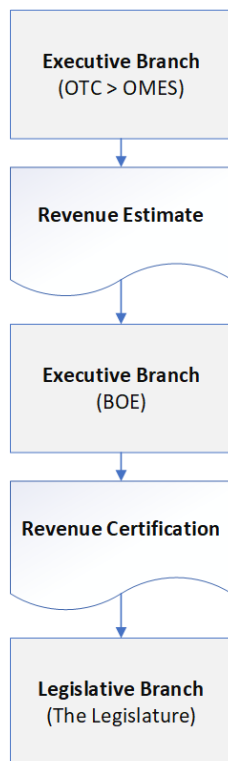
One-sided model is currently adopted in Oklahoma. Its characteristics are simple. This model reflects a process where one estimate is provided to the Legislature by the executive branch.

A 2018 OMES report stated that Oklahoma's revenue forecasting is based on a consensus. The review of processes in other states indicate the contrary.⁴⁰

Consensus model is where one estimate can be accepted over another, or a final estimate is derived from the combination of multiple estimate proposals. Although top five tax series are presented by two consultants to OTC, the key difference from consensus states is that various estimates are presented by more than one branch of government, or set of estimates is validated by a body that is inclusive of the member appointed by the Legislature. The true consensus is inclusive of the following elements, and neither of which is part of the Oklahoma's process:

- having more than one branch provide an estimate for the same revenue source, and
- having a review process or body whose members comprise both the executive and legislative branches, or are selected by both branches.

Figure 05: Oklahoma Revenue Estimates Model

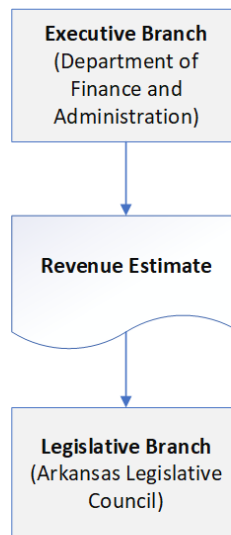


Source: Legislative Office of Fiscal Transparency analysis, based on Oklahoma regulatory references

⁴⁰ [OMES, Agency Transition Documents, 2018, page 7](#)

Arkansas model (Figure 06) is one-directional or executive branch-driven as it is in Oklahoma. However, there are distinctive differences.

Figure 06: Arkansas Revenue Estimates Model⁴¹



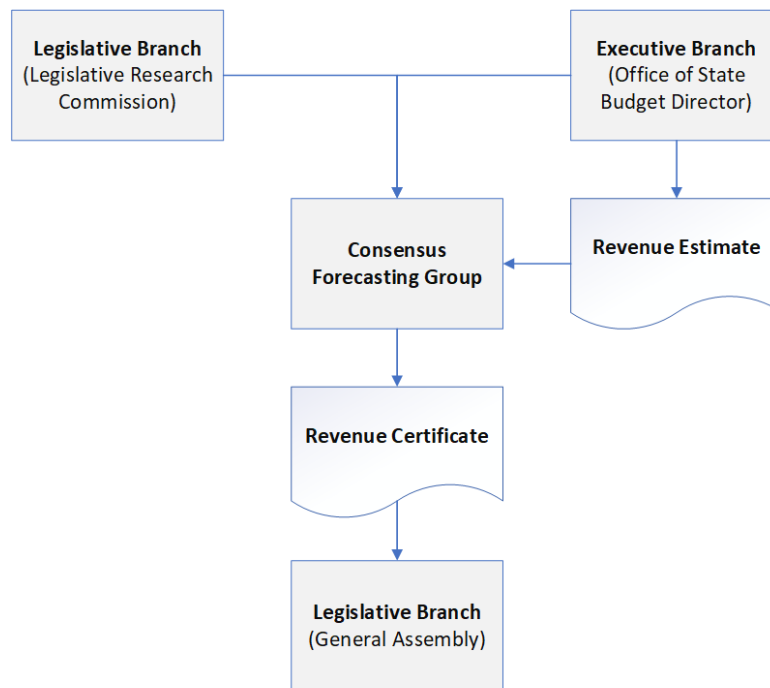
Source: Legislative Office of Fiscal Transparency analysis, based on research

- It involves fewer steps the Legislature receives estimates directly from the budget office.
 - the state budget office and tax/revenue office are one agency
 - there is no revenue certification body equivalent to BOE
- Arkansas budget is set bi-annually.
- The estimates packet provided to the Legislature is:
 - narrative in comparison to Oklahoma's, describes changes and trends, and
 - provides economic outlook within the packet to relate data with the assumptions.

Consensus Model

Before 1996, Kentucky's revenue estimation process resembled Oklahoma's. Then the Legislature required the Office of State Budget Director to form with the Legislative Research Commission the consensus forecasting group (KRS 48.115 and 120). Kentucky's group now consists of academics and former revenue secretaries to which the Office of the State Budget and Management presents its estimates. Approved figures are the official revenue estimates for the Commonwealth of Kentucky.

⁴¹ https://www.dfa.arkansas.gov/images/uploads/directorsOffice/fy21_gr_forecast_November2020.pdf

Figure 07: Kentucky Revenue Estimation Model⁴²

Source: Legislative Office of Fiscal Transparency analysis, based on research

Iowa's estimation process is similar to the current Kentucky model, where the certifying /validating body is called the Revenue Estimating Conference (REC).⁴³ The REC is a three-person panel with two individuals representing the Legislative and Executive branches, who appoint a third member from the general public. Iowa's legislative branch is represented by the director of the office equivalent to LOFT in Oklahoma.

Kansas also uses a "consensus budget" model of estimation where the Governor and the Legislature are working with the same budgeting figures. Kansas's Office of Consensus Revenue is comprised of representatives from the Division of the Budget, the Department of Revenue, Legislative Research Department, and an economist from each of the following universities: University of Kansas, Kansas State University, and Wichita State University.⁴⁴

Negotiation Model

North Carolina adopted an unregulated form of a consensus budget planning process. Neither the North Carolina Constitution nor the state's general statutes provide any mandates. Instead, the economist team from the General Assembly and the economists from the Office of the State Budget

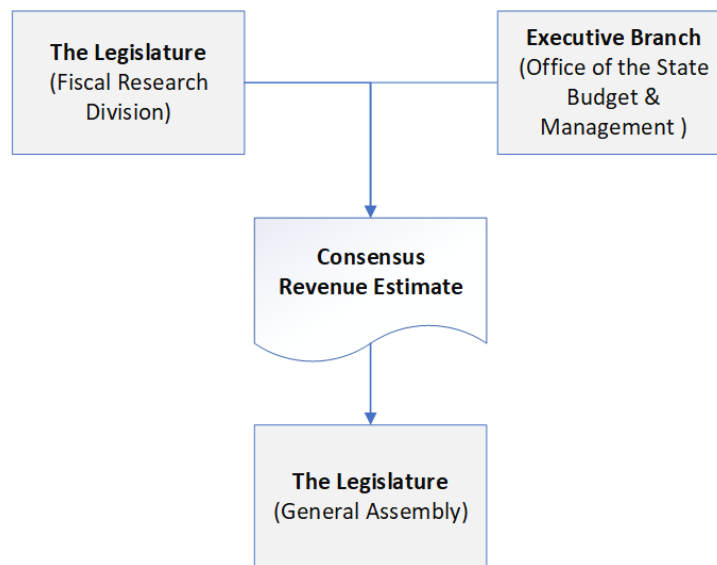
⁴² <https://apps.legislature.ky.gov/law/statutes/chapter.aspx?id=37263>

⁴³ <https://www.legis.iowa.gov/docs/publications/IR/1048982.pdf>

⁴⁴ <https://budget.kansas.gov/estimates/>

and Management reach an agreement on estimates from which the State's budget is formed. Except for a few years, this informal process has worked since the 1970s.

Figure 08: North Carolina Revenue Estimation Model⁴⁵



Source: Legislative Office of Fiscal Transparency analysis, based on research

Unlike North Carolina, Wyoming codified its negotiation model in 1983, calling it the Consensus Revenue Estimating Group (CREG). However, the State found itself too many times with irreconcilable differences in estimates between branches. Therefore in 2016 the State converted the process to a hybrid model.⁴⁶

⁴⁵ [North Carolina General Fund Revenue Consensus Forecast \(May 2020\)](#)

⁴⁶ W.S. 9-2-1002: <http://wyoleg.gov/statutes/compress/title09.docx>, page 161

Hybrid Model

There are twenty-five states that use the consensus revenue forecast model.⁴⁷ However, these states do not operate the same way. Some states developed a hybrid of negotiation and consensus models.

New Mexico uses the Consensus Revenue Estimating Group (NM-CREG), NM-CREG includes the Legislative Finance Committee (which uses staff economists), Department of Finance and Administration, Taxation and Revenue Department, and Department of Transportation.⁴⁸

Every agency provides revenue estimates from the category they oversee. However, key executive and legislative agencies propose estimates individually for primary revenue sources like sales, income, and gross production, culminating in negotiation of figures.

NM-CREG provides initial estimates in August before agencies' budgets are due in September. In December, about a month before the legislative session, which starts in mid-January, working estimates are provided to the Legislature. Finally, at the end of February, the December estimates are validated.

Since the pandemic, though, NM-CREG reconvenes monthly for unofficial meetings to monitor the economy and revenue development. Because of the interactive nature, the NM-CREG sessions last four to six weeks, meeting up to two times a week.

Wyoming also adopted the hybrid process. WY-CREG is reflective of the energy dominated economy by composing its members from the Legislative Service Office, Department of Administration and Information, Department of Revenue, from the Governor's Office (contract consultant) Oil and Gas Commission, Geological Survey, University of Wyoming, State Auditor's Office and the State Treasurer's Office.⁴⁹

Wyoming's Treasurer provides estimates for return on investments on the \$8B Permanent Wyoming Mineral Trust Fund and \$3.5B other investments, including \$1.5B in Legislative Stabilization Reserve Account (rainy day fund). The Department of Administration and Information provides sales use tax; the Legislative Service Office estimates the production and the commodity price. Wyoming does not levy an income tax. Wyoming's estimates do not include revenue from the capital gains, but are later part of the actuals.

⁴⁷ [Budget Processes in the States, 2015, pages 7 and 31](#)

⁴⁸ <https://www.nmlegis.gov/Entity/LFC/Default>

⁴⁹ [Wyoming, Budget Fiscal Data Book, page 3](#)

Louisiana's Revenue Estimating Conference (REC) consists of the Governor (with the Secretary of Administration acting as a designee), the President of the Senate, the Speaker of the House of Representatives, or their designees, and a faculty member of a university or college in Louisiana who has expertise in forecasting revenue.⁵⁰ Economists from both branches (the Department of Administration and Legislative Fiscal Office) independently develop their estimates and present them to the Revenue Estimating Conference. One of the estimates is unanimously selected and in full; there is no adjustment of estimates or specific selection between proposals.

There are four benefits to this model for Louisiana:

- REC consists of only key revenue decision-makers in the state (plus a validating expert),
- Since the process adoption in 1989, the estimates are more accurate (see Chart 11),
- The process forces both sides to present a reasonable figure, and
- Interaction facilitates a dialogue throughout the year between both branches.

⁵⁰[Louisiana, Revenue Estimating Conference](#)

Appendix F. Volatility of the Gross Production

All states with oil and gas production experience fluctuations due to the industry's volatility. The bigger the share of the energy industry in a state's economy, the greater the discrepancies.

Energy driven state economies have employed the following strategies to diversify risks:

- Wyoming operates on a 100 percent reserve-based budget, and utilizes several trust and investment funds,
- In Texas, 25 percent of gross production is deposited into the Foundation School Fund and 75 percent into the state's General Revenue Fund, and
- New Mexico's severance tax is deposited into the severance tax bonding fund, and remaining revenues are deposited into the severance tax permanent fund, whose balance is currently \$5.4B. From that, 4.7 percent interest generated \$225M in revenue for FY20, which was deposited to their General Revenue Fund (GRF). Additionally, since 2020, collection of federal mineral lessor payments are deposited into the State's Early Childhood Trust Fund.

Oklahoma's gross production is not deposited into the State's General Revenue Fund until it exceeds \$150M. Per 68 O.S. § 1004, the first \$150M of oil and gas revenues are distributed among the following funds:

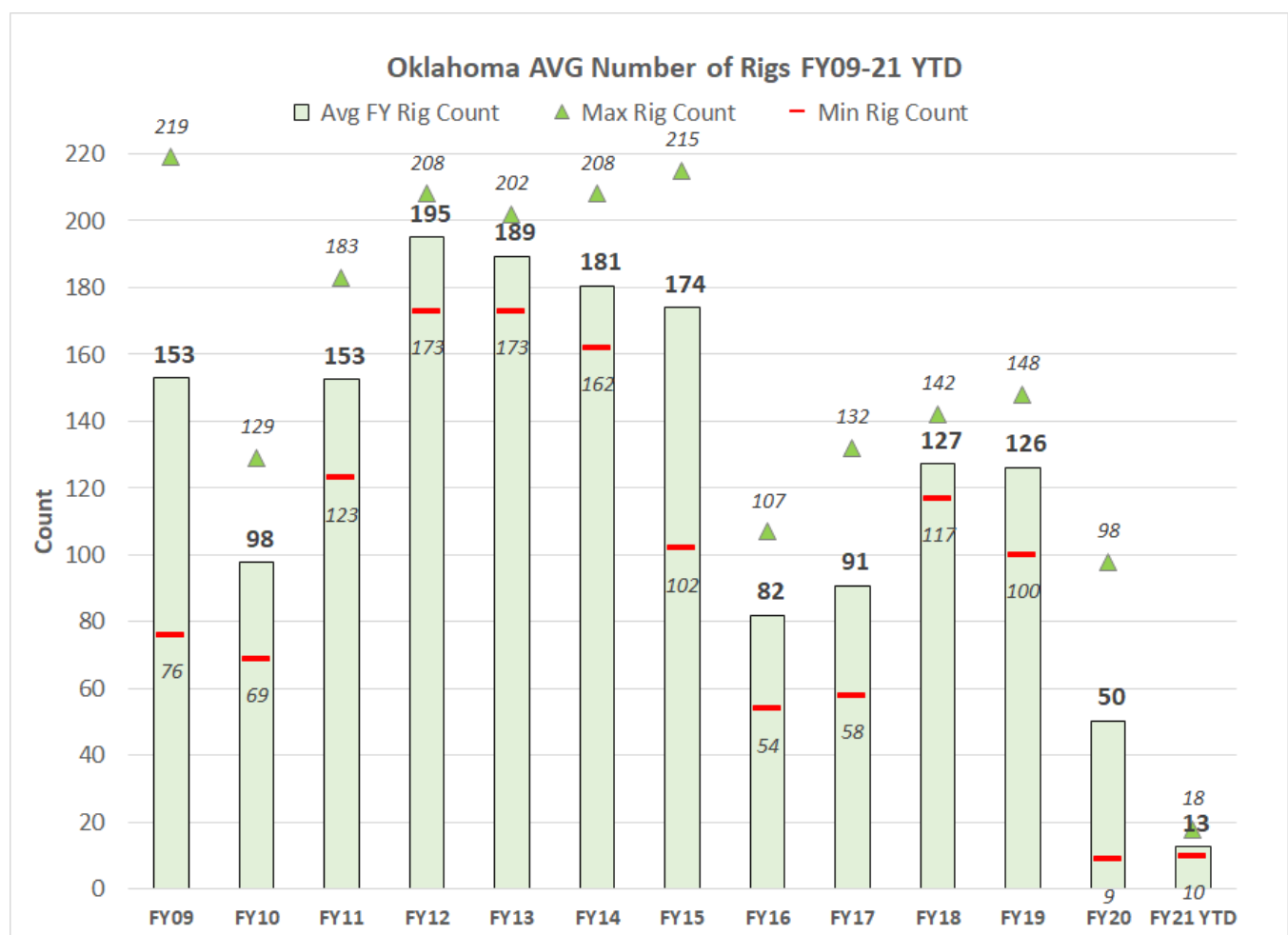
- Common Education Technology Revolving Fund,
- Higher Education Capital Revolving Fund,
- Oklahoma Student Aid Revolving Fund,
- Rural Economic Action Plan Water Projects Fund,
- Oklahoma Tourism and Recreation Department Capital Expenditure Revolving Fund,
- Oklahoma Conservation Commission Infrastructure Revolving Fund, and
- Community Water Infrastructure Development Revolving Fund.

Chart 01 indicates that in FY09-20 gross production estimates were higher than actuals 8 out of 12 years. Chart 10 demonstrates the average gap in gross production estimates was 11 percent (overestimate). However, the gap ranged from 67 percent (overestimate) to 31 percent (underestimate). In relation terms: for every \$1 of estimates, actuals were \$0.89.

Oklahoma Production Trends

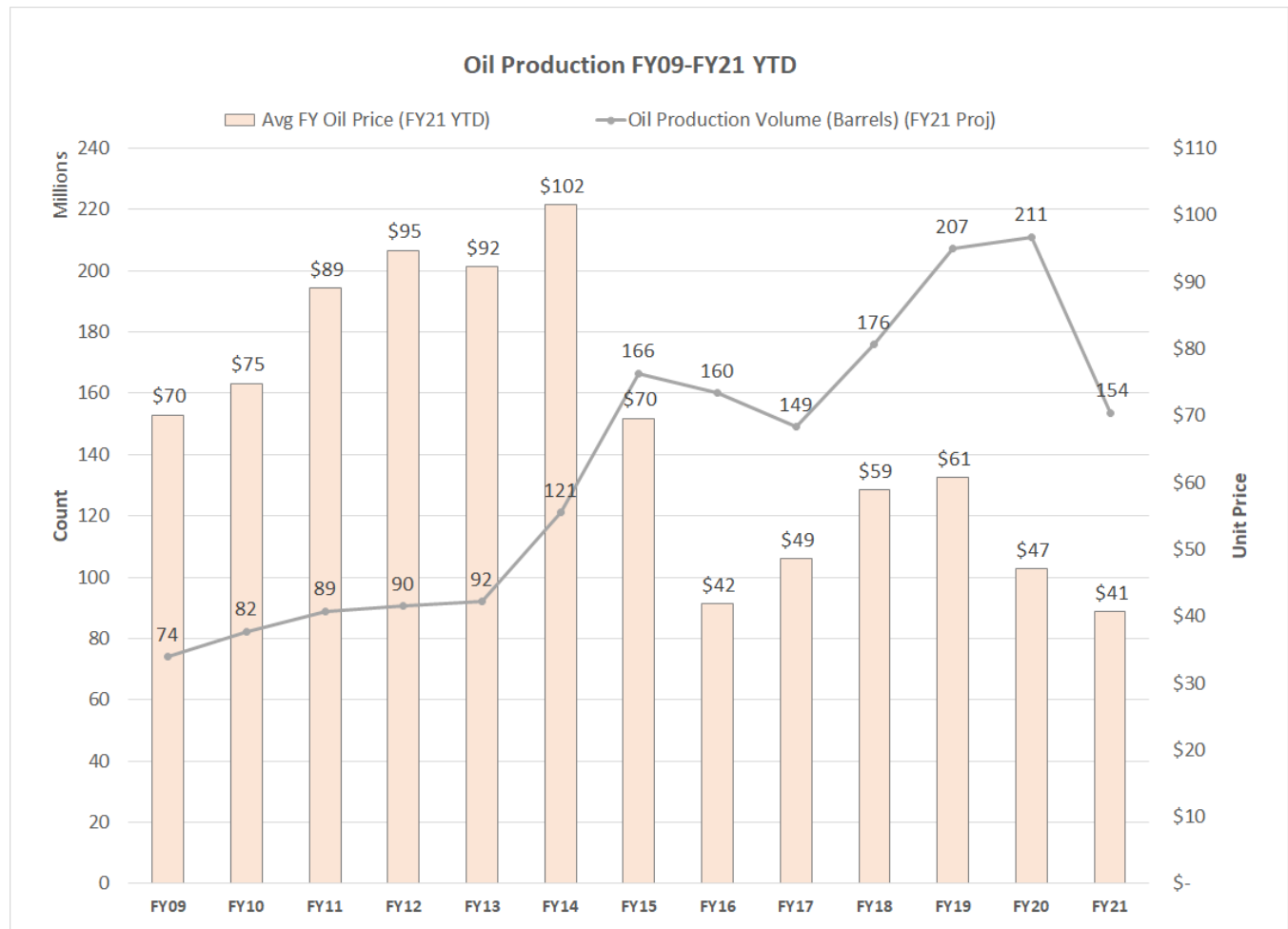
Charts 12 through 14 depict the past 13 years of the Oklahoma energy industry. There is a strong and positive correlation between the oil price and active rigs. Even an increase in the gross production tax (like in 2018) does not contribute to the revenue decline as much as the overall price change does. Number of rigs is correlated to the price of oil, causing volatility to gross production revenue and disparity in estimates. Oklahoma's rig count dropped more than ten times in FY20 (New Mexico number of rigs decreased by half).

Chart 12: Oklahoma Rig Count⁵¹



Source: Legislative Office of Fiscal Transparency, based on Baker Hughes Company as of January 8, 2021

⁵¹ <https://bakerhughesrigcount.gcs-web.com/na-rig-count>

Chart 13: Oklahoma Oil Production⁵²

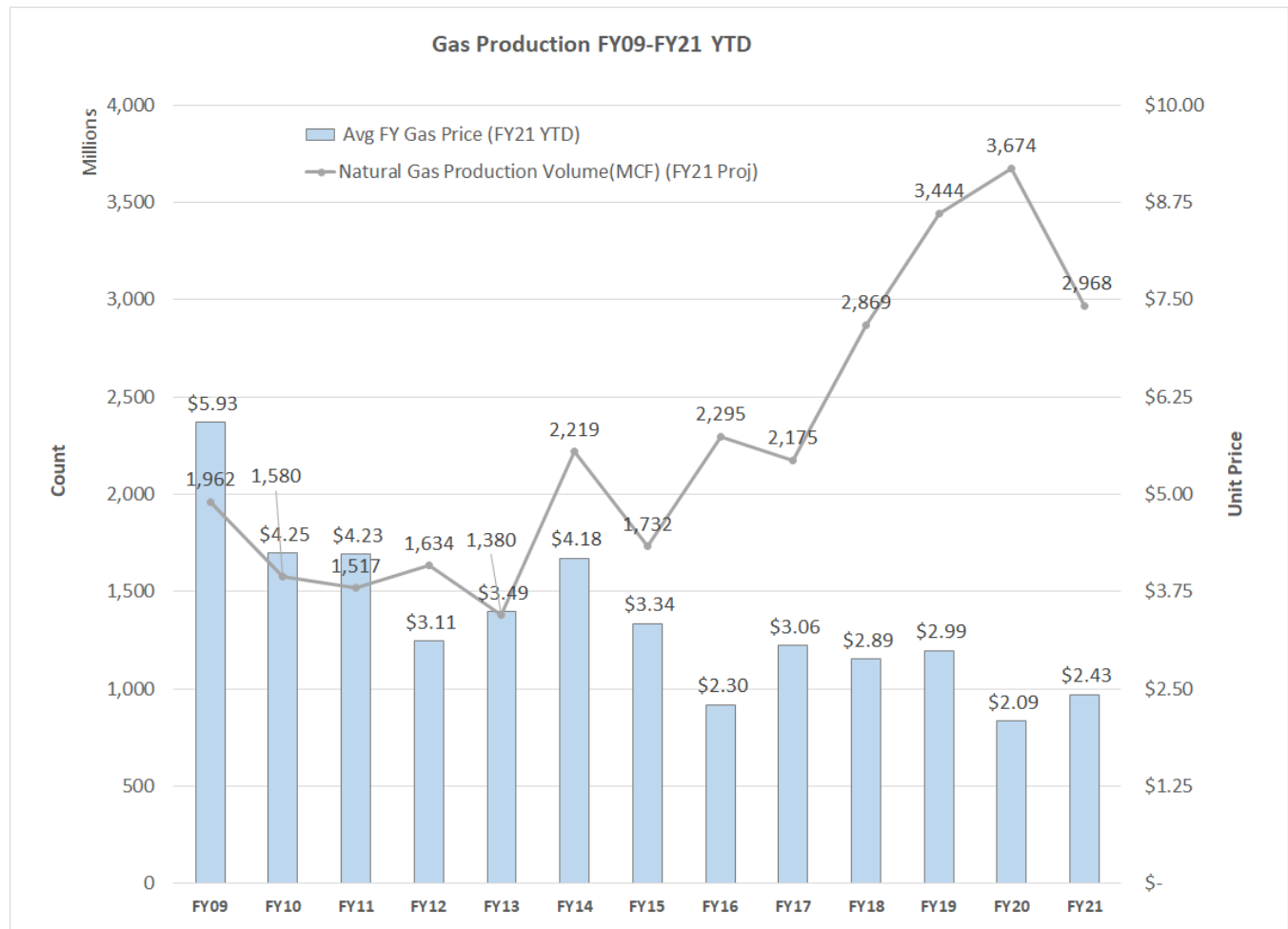
Source: Legislative Office of Fiscal Transparency analysis, based on various sources (as of December 4, 2020)

⁵² <https://oilprice.com/>

www.eia.gov

NASDAQ Historical

OTC

Chart 14: Oklahoma Gas Production⁵³

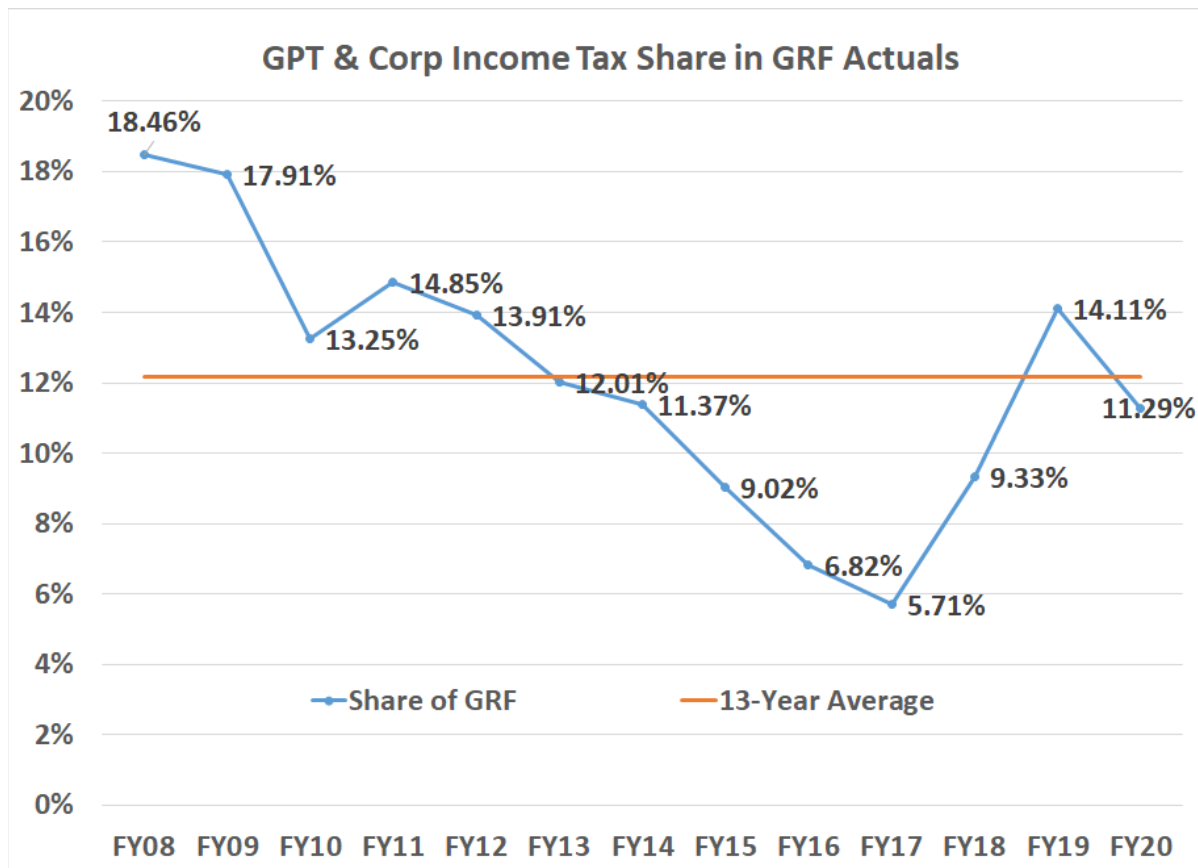
Source: Legislative Office of Fiscal Transparency analysis, based on various sources (as of December 4, 2020)

⁵³ Ibid.

Volatile Revenue Analysis

The share of total Gross Production Tax and Corporate Income Tax as components of General Revenue has exhibited volatility, starting from 18.46 percent in FY08 and reaching 5.71 percent in FY17 before climbing to 14.11 percent in FY19. The FY08-20 average was 12.16 percent.⁵⁴

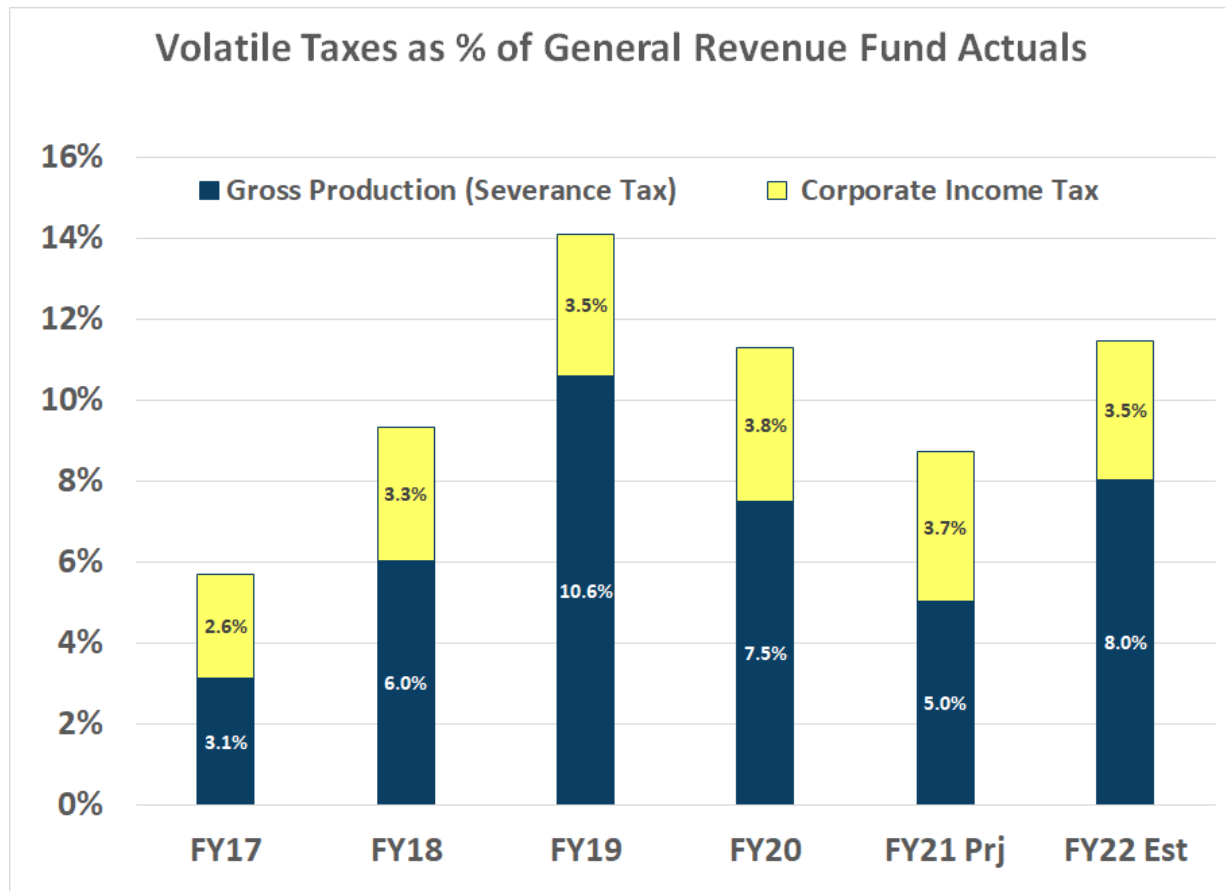
Chart 15: Volatile Revenue Share in GRF between FY08-20⁵⁵



Source: Oklahoma Tax Commission, enhanced by the Legislative Office of Fiscal Transparency

⁵⁴ BOE packets

⁵⁵ Ibid.

Chart 16: Contribution of Gross Production and Corporate Income Taxes to GRF⁵⁶

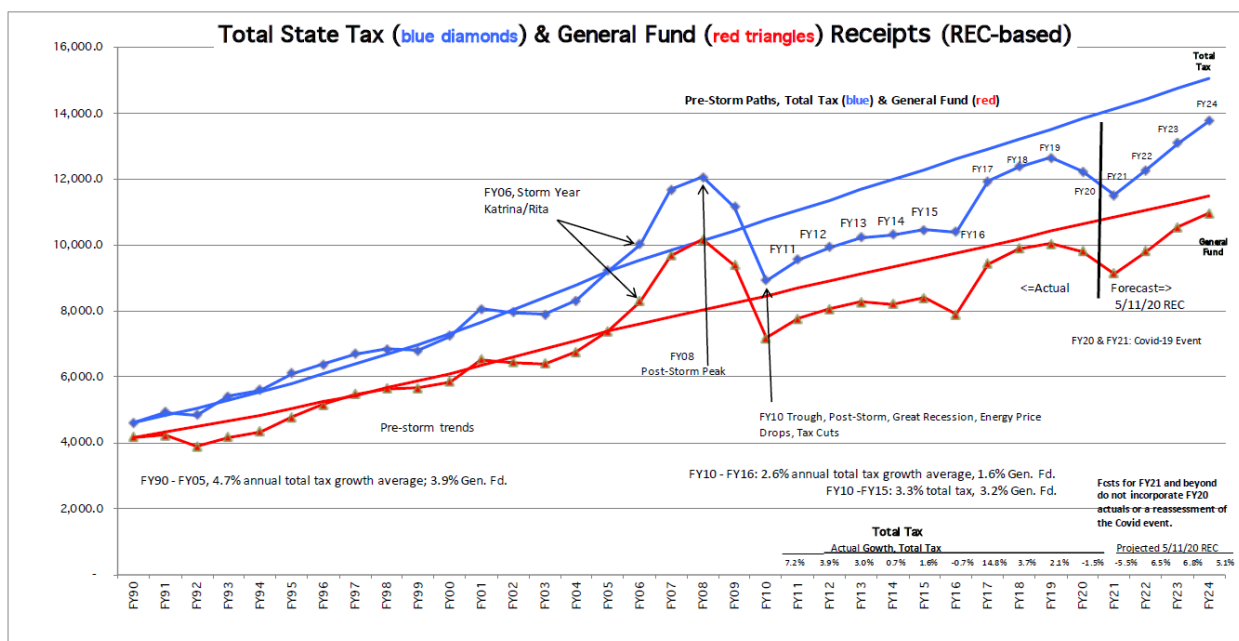
Source: Legislative Office of Fiscal Transparency

⁵⁶ Ibid.

Reserve Funds Health

Only funds which exceed revenue estimates are placed in the Rainy Day Fund, and those deposits are capped by constitutional limits. Excess funds are typically derived from the GPT, which again, shows the volatile nature of the Rainy Day Fund itself. This was a contributing factor to a 2019 Moody's Analytics study that ranked Oklahoma in the bottom ten for states ready for a recession. Other energy states, like Louisiana (Chart 17) and Pennsylvania, also made the list for being the least ready to withstand a moderate or severe recession.⁵⁷

Chart 17: Louisiana Revenue Trends between FY90-FY24⁵⁸



Source: Louisiana Legislative Fiscal Office

The Center on Budget and Policy Priorities recommends that reserves be at least 15 percent of the state's annual budget.⁵⁹ Neither of Oklahoma's reserve funds are benchmarked to the State's annual budget. Deposits to the State's Rainy Day Fund are limited to 15 percent of the previous year's general revenue certified estimates. The Stabilization Fund is capped at 3 percent of current fiscal year estimate.

⁵⁷ Ibid.

⁵⁸ Louisiana Legislative Fiscal Office

⁵⁹ [Some States Much Better Prepared Than Others for Recession, \(March 20, 2020\)](#)

Table 04: Reserve Funds vs. GRF⁶⁰

FY	Balance Perspective	Reserve Funds Total
FY19	Beginning Balance & Deposits	6.9%
	Ending Balance	6.9%
FY20	Beginning Balance & Deposits	17.2%
	Ending Balance	8.9%
FY21	Beginning Balance & Deposits	9.5%
	Current Balance	3.4%

Source: Legislative Office of Fiscal Transparency analysis, based on PeopleSoft (as of 12/02/2020) and BOE Packets

Apart from an economic resurgence or above-expected energy revenues, the State's options for building its reserve funds require changing reserve funds policies.

⁶⁰ PeopleSoft and BOE packets

Appendix G. Detailed Process Review

Revenue Certification BOE Meetings Type and Purpose

Meetings Types

BOE packets are prepared in advance of meetings when revenue certification needs to occur, which can happen during the regular and special meetings.

BOE meetings that are reported to the Secretary of State by December 15th of the preceding year are called regular. All others are called special meetings.

For the sake of this report, there is also another classification of BOE meetings: certification and non-certification meetings. Both types of those meetings can be either regular or special.

The occurrence of regular certification meetings is defined by the Constitution and relates to revenue for appropriation certification. The Constitution provides a formula for the December and February BOE regular certification meeting and justifies the third meeting, which occurs in June.

Regular non-certification meetings occur to conduct BOE duties outside revenue certification within the BOE's constitutionally defined mission.

Special certification meetings occur for one of two possible reasons:

- recertification of the already made certification, e.g., due to a calculation error, and
- revenue failure declaration.

Certification Meeting Purpose

In a year, BOE conducts three regular certification meetings. Apart from rare circumstances when a regular meeting needs to be rescheduled, a special certification meeting is called to declare a revenue failure.

Certification meetings share the purpose but differ in decision impact. BOE certifications' impact on state budgeting processes depends on when the meeting occurs according to the legislative cycle and constitutional requirements.

During the December meeting, BOE certifies the preceding year's actual revenue, updates estimates for a current year made in the preceding year with projections, proposes estimates for the next fiscal year, and sets amounts certified as available for appropriation based on these figures.

During the February meeting, BOE updates proposed estimates from December, sets the appropriation limitation, and provides other supplemental information (see Appendix I, page 73).

During the June meeting, BOE updates proposed estimates from February, with any other revenue changes established during the legislative session, and presents final appropriation figures for the upcoming fiscal year.

During a special BOE session a revenue failure may be declared. BOE's current fiscal year projections are weighted against the year estimates to identify a more than 5 percent negative gap. Such certification authorizes the Legislative and Executive branches to initiate countermeasures relating to the use of the Constitutional Reserve Fund.

The Oklahoma Tax Commission (OTC) provides gross figures, and on some tax revenue series also apportioned figures, to the Office of Management and Enterprise Services (OMES) for the December, February, and special (advisory) certification meetings. Since the June BOE certification's primary purpose is to update the February certification with the legislative session's revenue changes, at that time, OTC does not provide updated forecasts but only revenue changes after the session. OMES does not collect updated estimates from agencies, the Treasurer's Office, nor the Insurance Department.

Organization of Packets

Regular and special BOE meeting packets include data tables with the same titles. Each packet consists of several data tables, which are organized as schedules or appendices.

Some packets include data tables that others do not, e.g., the February packet includes the official appropriation limitation and other funds analysis. Therefore, the packet for that meeting includes data tables that other meetings packets do not. That causes equivalent data tables to be numbered differently depending on the meeting type, e.g., "Itemized Estimates of Revenues" was under Schedule 2 in the regular December and June packet for FY-21. However, in the February packet, it was located under Schedule 7.

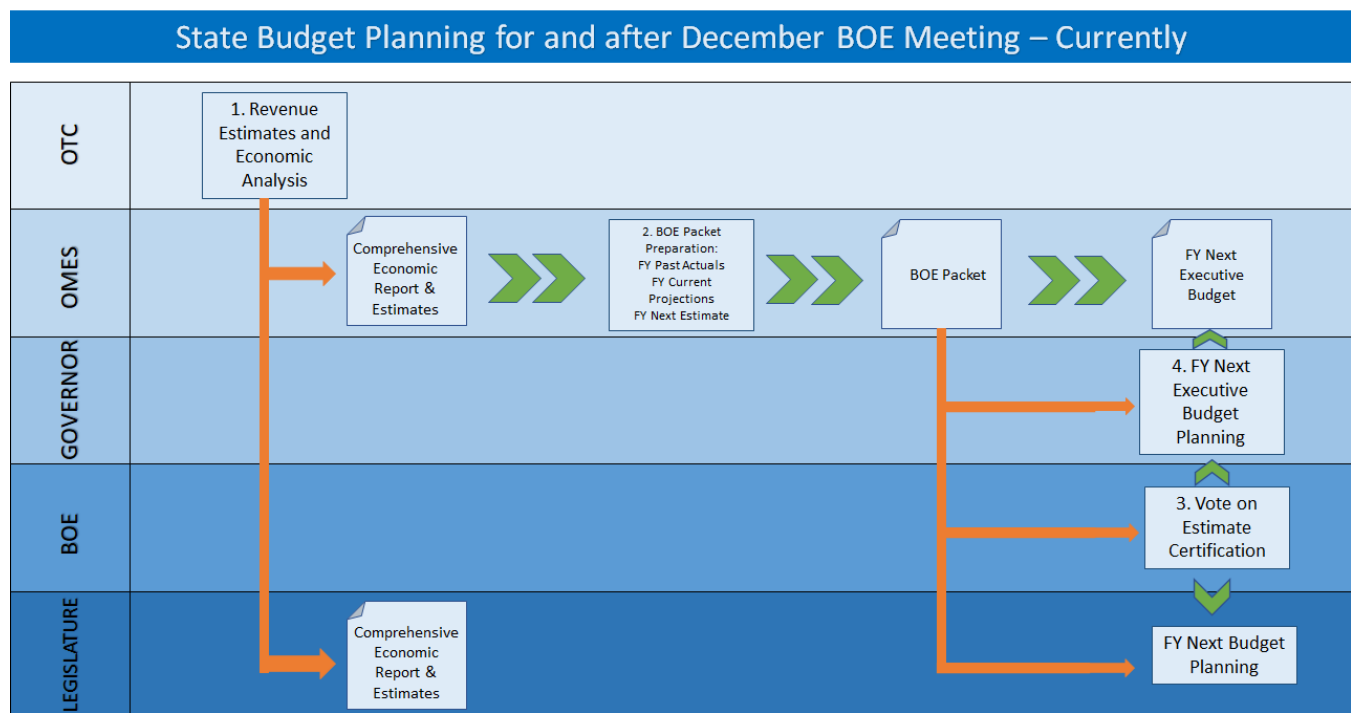
Also, the titles of schedules and appendices and titles of columns in the data tables have changed over the years. The listed reading outline applies to the fiscal year 2021 format (see Appendix I, page 73).

BOE Regular Certification Meetings

First Estimate

In December, BOE certifies the Appropriations Authority (December Packet, Schedule 1, Column 3), which is the estimate of revenues (Column 2) discounted by 5 percent (i.e., the appropriation of certified funds cannot be higher than 95 percent of certified funds estimates). GRF is the primary certified fund and the breakdown of its contributing revenue estimates is listed in Schedule 2. The Appropriations Authority is part of the Expenditure Authority, the maximum limit of appropriations (December Packet, Appendix A-1 and A-2). Figure 08 depicts December estimation process.

Figure 08: State Budget Planning for and after December BOE Meeting - Currently⁶¹



Source: Legislative Office of Fiscal Transparency

⁶¹ Oklahoma Constitution, Statutes, and agencies' internal procedures

Table 05: December Estimates Steps

Step	Description	Authority
1.1	OTC seeks economic outlook and estimates from two consultants	internal practice
1.2	OTC conducts gross production estimates	68 O.S. § 102.3 68 O.S. § 118C
1.3	OTC conducts medium and smaller tax series estimates	-
1.4	OTC provides OMES and the Legislature with an economic report	62 O.S. § 34.2 B and C
1.5	OTC Commissioners review revenue estimates	internal practice
1.6	OTC provides OMES and the Legislature with estimates	62 O.S. § 34.2 B and C 68 O.S. § 117
2.1	OMES aggregates agencies' revenue estimates	62 O.S. § 34.2 A
2.2	OMES prepares BOE Packet receives OTC estimates	62 O.S. § 34.2 B
2.3	OMES provides BOE Packet	62 O.S. § 34.2
3	BOE meets within 35-45 days before the regular legislative (second half of December) session to authorize the amount the Legislature can use for appropriation.	O.C. Article X, § 23,1.
4	The Governor provides the Legislature with a budget proposal at the beginning of the regular session of the Legislature.	62 O.S. § 34.37

Source: Legislative Office of Fiscal Transparency analysis

In reference to step 1.1 listed above, it does not seem as if there is a specific policy that mandates the practice of seeking contribution from external consultants. Seeking independent input, OTC contracts with the OSU Center of Applied Economic Research, and, since the 2008 recession, Region Track, to receive estimates and economic outlook commentary. OSU utilizes a top-down approach analyzing how the global and U.S. economy impacts Oklahoma's energy and manufacturing sectors. Region Track adopted a bottom-up approach analyzing Oklahoma industry sectors and employment trends.

These consultants generate revenue projections by providing estimates for each of the five tax series⁶²:

- Individual income tax,
- Corporate income tax,
- Sales tax,
- Use tax, and
- Motor vehicle tax.

Both consultants conduct estimates based on data up to the current fiscal year first quarter. OSU provides estimates to OTC around November 30th and RegionTrack between November 20-22nd annually. RegionTrack provides three estimates per tax series: base (most likely), high, and low. OSU provides base, low during a decline, and high when specifically requested.

OTC economists take a balanced approach and alternate the selection of estimates provided between consultants starting from the largest tax series. OTC compares consultants' forecasts, selects one case

⁶² Table 02, page 14

most likely to occur from each forecast entity according to their forecast assumptions and current developments. Usually, it is the base case. Then, if the forecast of the largest tax revenue is chosen from one entity, in order to achieve balance, the second largest would be selected from the other entity. OTC usually estimates the motor vehicle tax since it is relatively stable and the most straightforward of the five to predict. OTC further adjusts selected estimates with federal and Oklahoma law changes, applicable sales taxes, and current trends.

In reference to step 1.2 above, OTC generates revenue projection on the gross production taxes for oil and gas. Conducting estimates for these tax series is mandated by 68 O.S. § 102.3. Also, Section 118C further enables OTC to utilize outside resources to forecast gas prices.

Regarding step 1.3, OTC estimates (for packets) seven other tax series:

- Alcohol beverage tax,
- Mixed beverage receipts tax,
- Beverage tax (repealed 10/2018),
- Cigarette tax,
- Tobacco products tax,
- Franchise tax/Business activity tax, and
- Estate tax (repealed 01/2010).

Concerning step 1.4, the statute refers to the Constitution relating to the December meeting. The statute indicates that OMES receives an “economic outlook” and provides “estimates, explanations, statements, projections, reports and other documents” to the Legislature. The same document is provided to all recipients two weeks before the BOE meeting. Economic outlook documents do not include estimates. Estimates are provided after the economic outlook is released.

In reference to step 1.5, current OTC policy is that Commissioners are debriefed individually and provided one set of revenue estimates for review before the Commission meeting. Once the OTC estimates are approved, OTC provides the set of over twenty tax series estimates to OMES.

Statutes do not require action by Commissioners on OTC’s estimates prior to BOE meetings, but Figure 02 indicates that FY21 estimates for the December 20th, 2019 BOE meeting were voted on by the Commission on December 12th. FY22 estimates for the December 18th, 2020 BOE meeting were approved by the Commission on December 15th, 2020.

With respect to step 1.6, there is no policy stipulating when estimates from OTC must be provided to OMES and the Legislature. The statutes just cover that once estimates are established, they must be provided to recipients defined in the statute.

As for step 2.1, beside agencies revenues that contribute to GRF under “Other”, the Insurance Department provides estimates for the Insurance Premium Tax and the Treasurer’s Office for Interest and Investments.

With reference to step 2.2, several steps lead to creating BOE packets:

- Aggregating collections made by state agencies, the revenue of which is directed to the General Revenue Fund,
- Apportionment (breakdown) of total GRF as well as apportionments to the 1017 Fund for education, and other certified funds revenue (tax series and agencies collections) according to the statutes,
- Reduction of the income revenue by the estimate for Oklahoma Higher Learning Access Program (OHLAP), also known as “Oklahoma’s Promise”, and
- Preparing the document itself.

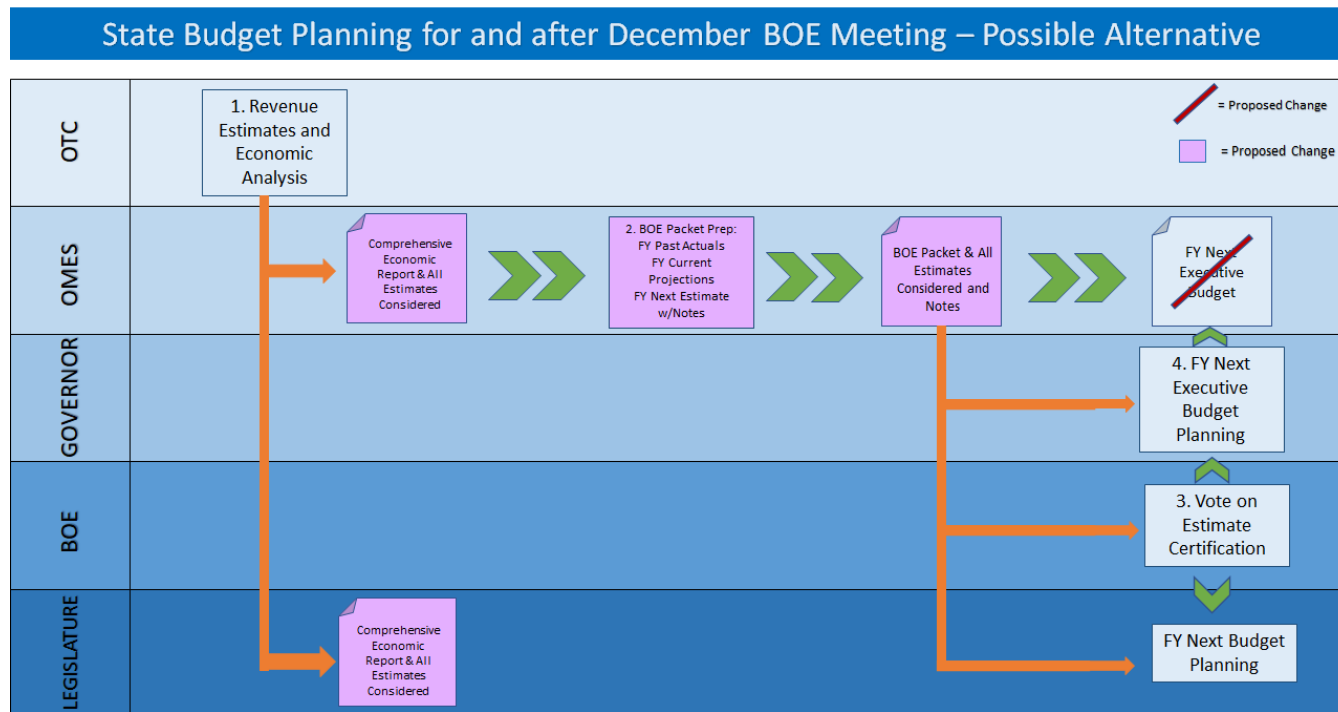
In reference to step 2.3, there is no policy for when to provide the estimates packet to BOE. According to OMES internal procedures, BOE packets are provided within two days before a BOE meeting.

As for step 3, December BOE meeting certifies past year actual revenue, provides first projections for the current fiscal year, and the first set of estimates for next fiscal year.

Concerning step 4, the statute mandates the Governor to immediately provide the Executive Budget at the beginning of the legislative session. However, it is about two weeks before the February BOE meeting based on which the Legislature develops the budget.

Figure 09 reflects how proposed statutory changes might alter the process

Figure 09: State Budget Planning for and after December BOE Meeting – Possible Alternative⁶³



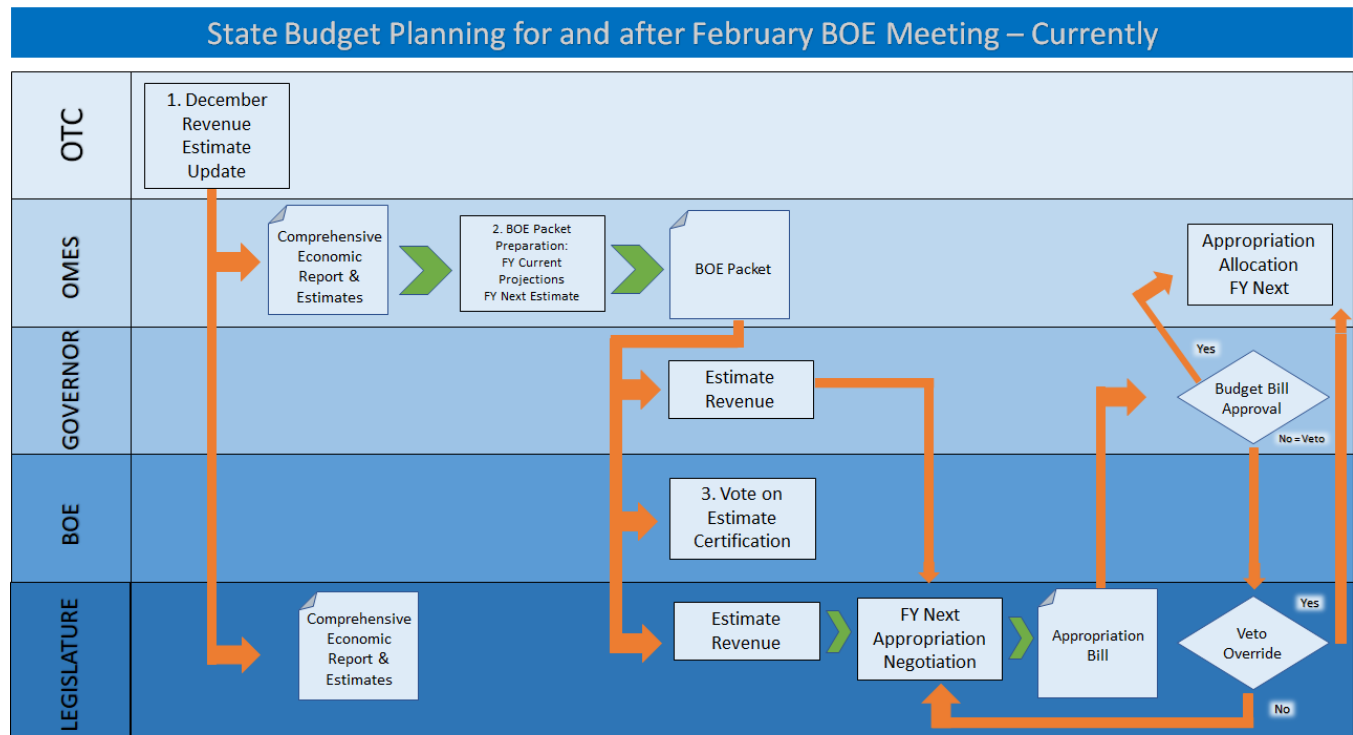
Source: Legislative Office of Fiscal Transparency

Second Estimate

When meeting within five (5) days after the monthly distribution of appropriations in February, BOE makes a one-time correction to its December estimates and the Appropriations Authority. At that time, BOE also sets the second type of limit for appropriations, which cannot be higher than the current year total appropriation (June packet certified in the previous year, Appendix A-2, Authorized Expenditures, Column 3) adjusted by 12 percent and for inflation.⁶⁴ The Legislature prepares the budget based on February estimates.

⁶³ Ibid.

⁶⁴ [BLS.gov](https://www.bls.gov)

Figure 10: State Budget Planning for and after February BOE Meeting - Currently⁶⁵

Source: Legislative Office of Fiscal Transparency

Table 06: February Estimates Steps

Step	Description	Authority
1.1	OTC seeks economic outlook and estimates from two consultants	internal practice
1.2	OTC conducts gross production estimates	68 O.S. § 102.3 68 O.S. § 118C
1.3	OTC conducts medium and smaller tax series estimates	-
1.4	OTC provides OMES and the Legislature with a economic report	62 O.S. § 34.2 B and C
1.5	OTC (informally) provides OMES with estimates	68 O.S. § 117
1.6	OTC Commissioners review revenue estimates	internal practice
2.1	OMES aggregates agencies' revenue estimates	62 O.S. § 34.2 A
2.2	OMES prepares BOE Packet receives OTC estimates	62 O.S. § 34.2 B
2.3	OMES provides BOE Packet	62 O.S. § 34.2
3	BOE meets within five (5) days after the monthly apportionment in February to authorize the amount the Legislature can use for appropriation.	O.C. Article X, § 23,3.

Source: Legislative Office of Fiscal Transparency analysis

In reference to step 1.4, the statute refers to the Constitution relating to February meeting.

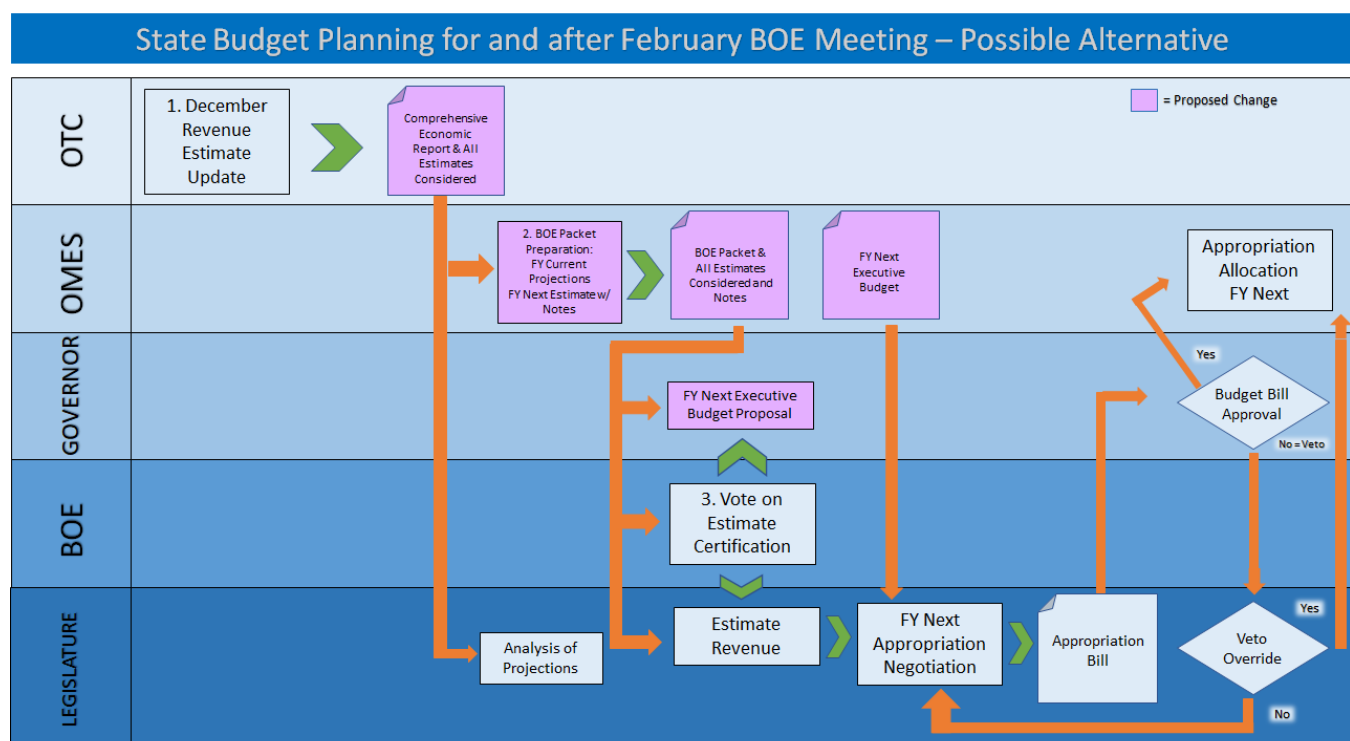
Concerning step 2.1, agencies update their revenue estimates in January.

⁶⁵ Oklahoma Constitution, Statutes, and agencies' internal procedures

Regarding step 2.2, OMES updates December estimates and Appropriation Authority, assess limit for appropriations, makes further review against supplantation of the Rebuilding Oklahoma Access and Driver Safety Fund (ROADS Fund), and Oklahoma Education Lottery Trust Fund; provides a 5-year analysis of averages for the Revenue Stabilization Fund, and determines a baseline for the Teachers' Retirement System (see Appendix H on page 72 for list of February schedules, and see References on page 30 for statutes).

Figure 11 reflects how proposed statutory changes might alter the process .

Figure 11: State Budget Planning for and after February BOE Meeting - Possible Alternative⁶⁶

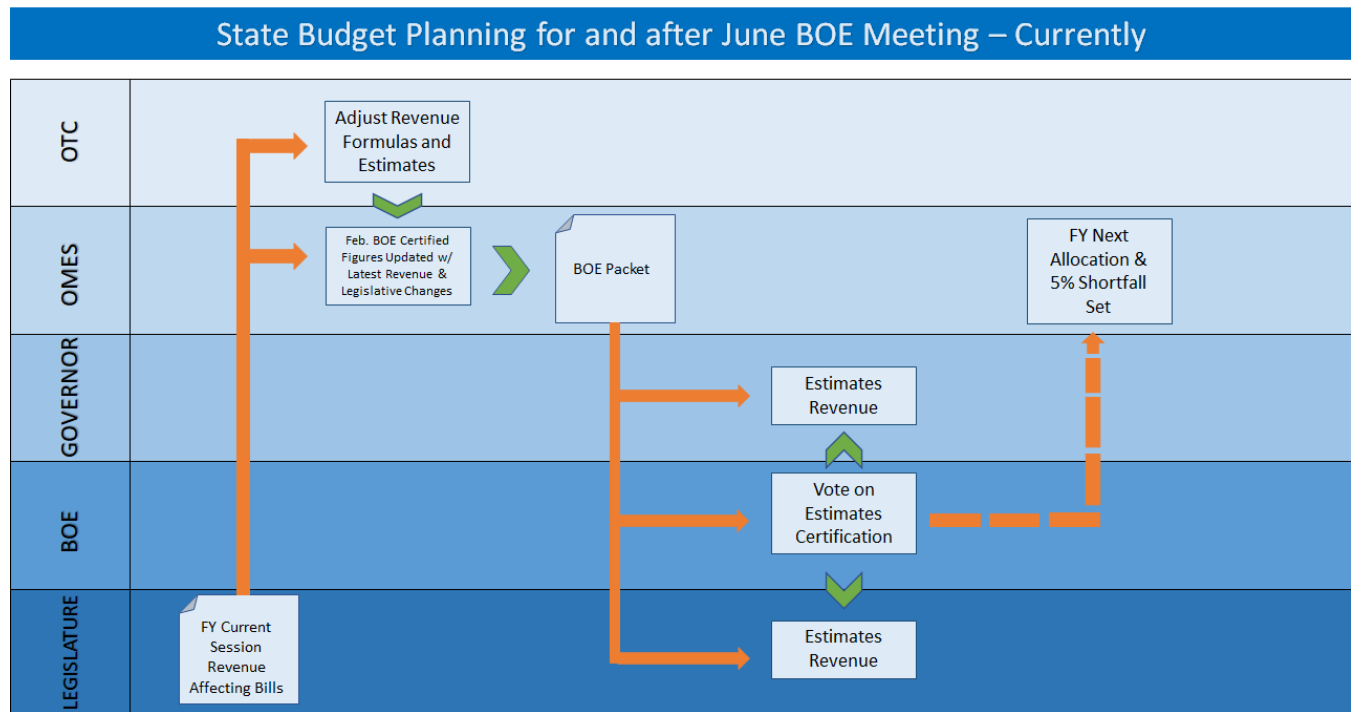


Source: Legislative Office of Fiscal Transparency

Final Estimate

In June, a month after the end of the legislative session, BOE releases final estimates that are comprised of the February certified estimates and the appropriation limit, adjusted by any legislative revenue changes. Besides the expenditure authority limit, the Legislature retains the ability to appropriate any cash funds on hand.

⁶⁶ Ibid.

Figure 12: State Budget Planning for and after June BOE Meeting -Currently⁶⁷

Source: Legislative Office of Fiscal Transparency

Table 07: June Estimates Steps

Step	Description	Authority
1	OTC provides to OMES information reflecting the revenue impact of statutory changes enacted during session	implied by 68 O.S. § 118 O.C. Article X, § 23,2.
2	OMES prepares next FY BOE Packet	implied by 62 O.S. § 34.2 B
3	BOE meets in June to confirm that appropriations do not exceed February's appropriation limits, after adjustments for statutory changes	O.C. Article X, § 23,2.
4	OMES allocation and revenue failure margin set	62 O.S. § 34.49

Source: Legislative Office of Fiscal Transparency analysis

In reference to step 1, the Constitution requires that February estimates are updated to reflect the projected impact of statutory changes enacted during the session. 68 O.S. § 118 requires OTC to provide the Legislature during the session with revenue impact statements. Based on policies adopted, such statements become part of the June certification.

Regarding step 2, The statute references the section of the constitution that promulgates the December and February certification meeting but not the update of the certified revenues with the legislative session revenue policy changes.

⁶⁷ Ibid.

Determining Revenue Failure

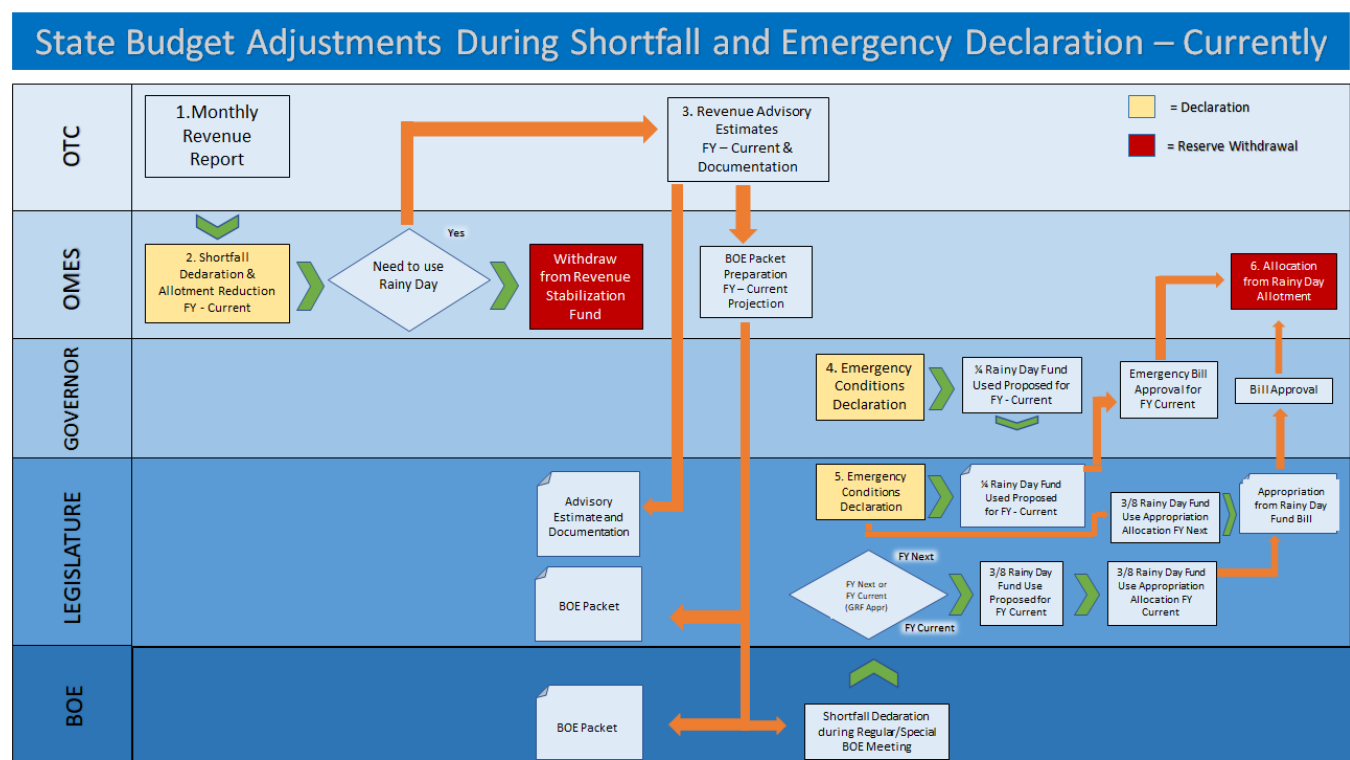
General Processes Overview

Monthly, the OMES Director monitors if BOE certified estimates for the current fiscal year (that were made in the preceding fiscal year) are more than 5 percent than the current fiscal year projections. But the revenue failure is declared in a situation when the OMES Director does not believe the collections for an entire fiscal year are sufficient to cover appropriations. At that time allocations to agencies are reduced. It is also the discretion of the OMES Director to seek BOE's assistance in declaring a revenue failure to enable greater access to the Rainy Day Fund by the Legislature.

Revenue failure can be declared in two sequential actions:

- 62 O.S. § 34.49, and 69 O.S. § 1521 F more precisely, indicates that the OMES Director can declare a revenue failure, which authorizes a reduction in allocations to agencies, and
- Based on a declaration by the OMES Director, OMES and OTC can execute a process to satisfy provisions of the Article X, Section 23, 7., for BOE to determine a revenue failure; such determination authorizes the Legislature to appropriate three-eighths of the Rainy Day balance.

Figure 13: State Budget Adjustments during Revenue Failure - Currently⁶⁸



Source: Legislative Office of Fiscal Transparency

⁶⁸ Ibid.

Table 08: Revenue Failure Steps

Step	Description	Authority
1	OTC monitors for a revenue decline	implied by 68 O.S. § 102.3
2.1	OMES declares revenue failure and reduces agencies allotment	62 O.S. § 34.49
2.2	OMES may withdraw from the Stabilization Fund	62 O.S. § 34.102
2.3	OMES may request estimates from OTC	68 O.S. § 117
3.1	OTC seeks estimates from two consultants, and conducts gross production, medium and smaller tax series projections internally	-
3.2	OTC Commissioners review revenue estimates	implied by 68 O.S. § 102.3
3.3	OTC provides OMES with revenue estimates	68 O.S. § 117
3.4	OMES prepares BOE Packet	-
3.5	BOE certifies revenue failure	O.C. Article X, § 23,6-8
4	Governor may declare emergency conditions, or health emergency	O.C. Article X, § 23,8 63 O.S. § 6401
5	Legislature may declare emergency conditions	O.C. Article X, § 23,8
6	Utilization of the Rainy Day	O.C. Article X, § 23,6-8

Source: Legislative Office of Fiscal Transparency analysis

In reference to step 1, 68 O.S. § 102.3 indicates that OTC is to report revenue declines; however, the statute limits the event to the second Tuesday of every year; the time limitation appears to be antiquated as a process in place before SQ587 facilitated an amendment to the Constitution stipulating December and February certifications meetings (and also creation of the Rainy Day Fund).

Concerning step 2, OMES revenue failure declaration can be triggered by regular OTC collections reporting, or OTC by specific report according to 68 O.S. § 102.3.

Note: The 2019 Comprehensive Annual Financial Report stated that “the Director of [OMES] is mandated by the Oklahoma Constitution to declare a revenue failure and reduce appropriations, as required, to allow appropriations to be covered by current year tax collections.” Point 10, of Section 23, of Article X of the Oklahoma Constitution, indicates that the Legislature establishes allocation method. 62 O.S. § 34.49 indicates that OMES controls the allotment. OMES is authorized to declare revenue failures in the statute, not in the Constitution. 69 O.S. § 1521 F. makes this authority even more explicit.⁶⁹

Regarding step 3.2, Figure 02 indicates that estimates for April 6th (although canceled) and 20th BOE meeting were not on any of the Commission March or April meetings agenda and minutes.

With respect to step 3.3, neither 62 O.S. § 34.2, nor any other statute, nor the Constitution provide a stipulation if, and when the economic outlook and estimates should be provided and to whom for the BOE revenue failure declaration meeting. When requested for a timeline, OTC provided “An advisory estimated fiscal economic impact was provided to the Legislature (Chair of the House Appropriations

⁶⁹ CAFR 2019, page 7

and Budget Committee and Chair of Senate Appropriations) prior to the special meeting of the Board of Equalization on April 20, 2020. Documents supporting the advisory estimate for FY21 were provided to the BOE and the Legislature on April 21, 2020.”

As for step 3.4, the Director of OMES notifies the Chair of the BOE, the Governor, to call a BOE meeting.

With reference to step 4, the Governor can also declare a health emergency, as defined in 63 O.S. § 6401.

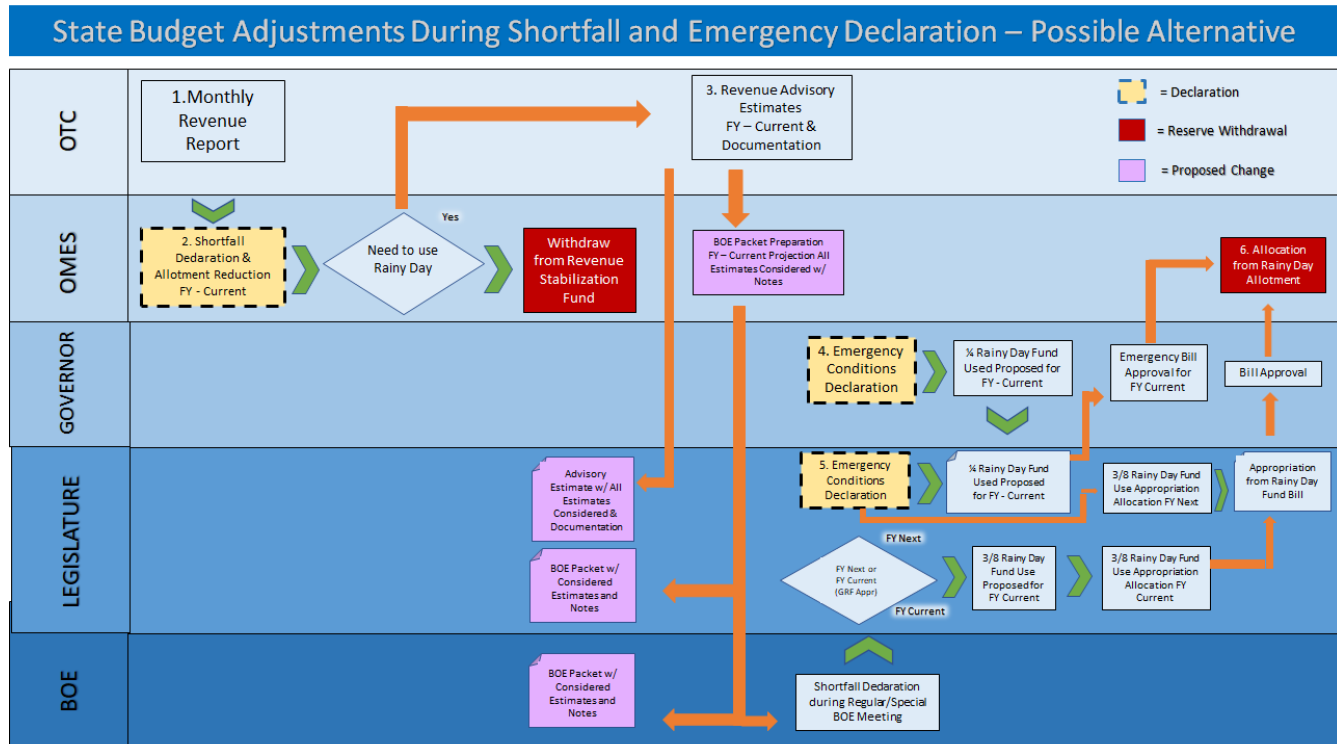
Note: Section 23, of Article X 10 of the Oklahoma Constitution, also provides the Governor with the discretion to issue deficiency certificates to the State Treasurer for the payment of claims when actual revenues are under appropriations.

Regarding step 5, both legislative houses may issue a joint declaration of emergency conditions.

In reference to step 6, the Governor with the two-third support from the Legislature or the Legislature with three-fourths vote can initiate accessing one-fourth of the Constitutional Reserve Fund in the current fiscal year, independently from the BOE regular or special meeting to counteract a revenue failure.

BOE’s revenue failure determination enables the Legislature to use up to three-eighths of the Constitutional Reserve Fund (Rainy Day Fund) in the current and/or forthcoming fiscal year up to the amount of the declared revenue failure.

Figure 14 reflects how proposed statutory changes might alter the process.

Figure 14: State Budget Adjustments during Revenue Failure –Possible Alternative⁷⁰

Source: Legislative Office of Fiscal Transparency

⁷⁰ Ibid.

Calculation

For the purpose of illustrating the process of calculating a revenue failure gap, Exhibit 01 (below) uses data available for the February 2020 BOE meeting. No projected budget failure was declared at this time, although FY20 closed with a 10.2 percent failure gap (Chart 10).

Exhibit 01: BOE Revenue Failure Evaluation Based on Estimate vs Projected⁷¹

Schedule 2				
(...)				
Column 1	(...)	Column 3	Column 4	
FUND NAME		FY-2020 ESTIMATE 27-Jun-19	FY-2020 PROJECTED 18-Feb-20	
GENERAL REVENUE				Step 1:
Alcohol Beverage Tax		\$33,238,000	\$39,225,000	$\$6,989,246,495 \times 0.05 =$
Mixed Beverage Receipts Tax		78,213,000	86,030,000	$\$349,462,324.75 (5.0\%)$
Beverage Tax		0	0	
Cigarette Tax		44,064,213	48,982,139	Step 2:
Tobacco Products Tax		34,439,552	33,695,973	$\$6,669,649,807 -$
Franchise/Business Activity Tax		51,175,000	57,329,000	$\$6,989,246,495 =$
Gross Production Tax-Gas		412,191,000	177,238,000	$-\$319,596,688$
Gross Production Tax-Oil		367,226,000	345,306,000	
Income Tax-Individual		2,729,089,895 *	2,623,305,378 *	
Income Tax-Corporate		195,972,700	312,280,050	
Estate Tax		0	0	Step 3:
Insurance Premium Tax		111,660,152	113,498,495	$[-\$319,596,688] <$
Motor Vehicle Taxes		25,747,000	25,818,000	$\$349,462,324.75,$
Sales Tax		2,215,559,022	2,148,863,118	or
Use Tax		350,807,912	323,782,233	$\$319,596,688 / \$6,989,246,495$
Interest & Investments		115,000,000	105,000,000	$= 4.6\%,$
Other (Schedule 3)		223,863,049	228,296,420	Conclusion:
General Revenue Totals		\$6,988,246,495	\$6,668,649,807	$4.6\% < 5.0\%$
Transfers & Lapses		1,000,000	1,000,000	
Revenue Comparison		\$6,989,246,495	\$6,669,649,807	
One-Time Receipts		0	0	
Total General Revenue	➡	\$6,989,246,495	➡	\$6,669,649,807

Source: Legislative Office of Fiscal Transparency analysis, based on BOE Packet Feb 2020

Step 1: Assess revenue failure safety range (5%) of the Total General Revenue current FY Estimate.

Step 2: Assess the difference between Total General Revenue current “FY Projected” (Column 4) and “current FY Estimate” (Column 3) (or difference between Column 5 and Column 3 of the packet for special BOE meeting).

Step 3: Assess if the Step 2 value is negative and if its absolute value is greater than Step 1 outcome.

⁷¹ <https://omes.ok.gov/services/budget>

Appendix H. Oklahoma State Budget Process

State Fiscal Year is July 1 through June 30.⁷²

- 1 Agencies review program performance and financial needs for preparation of their Budget Request and Strategic Plan.
- 2 The Budget Request is the legal document that contains all financial and program information for each agency, including a listing of all requests for additional state funds and changes in revolving or federal funds. Budget Requests must be submitted October 1 of every year under Section 34.36 of Title 62.
- 3 Agency Strategic Plans include each agency's mission, goals, indicators used to measure outputs and outcomes of agency programs, and other information as required by the Office of Management and Enterprise Services within a five-year timeline. Section 45.3 of Title 62 requires strategic plans to be submitted October 1 of every even-numbered year.
- 4 The Office of Management and Enterprise Services Budget division reviews agency budget requests and holds agency budget request hearings as necessary for development of the Executive Budget.
- 5 December Equalization Board Meeting – The Equalization Board is the constitutional body responsible for setting revenue and expenditure authority for the Governor and Legislature (Section 23, Article 10 of the Oklahoma Constitution). The expenditure authority approved at this meeting is the base amount used for development of the Executive Budget Book.
- 6 Submission of Executive Budget – The Governor is required to submit an Executive Budget to the Legislature on the first Monday of each regular legislative session. The budget must be balanced using the December Equalization Board amounts and any additional proposed revenues. (Title 62, Section 34.7)
- 7 February Equalization Board Meeting – The Board is constitutionally required under Section 23, Article 10 of the Oklahoma Constitution to meet again and incorporate economic adjustments to the revenue and expenditure authority. The limit approved at this meeting constitutes the limit for Legislative appropriations.
- 8 Legislative Appropriations Process – The appropriations subcommittees and legislative staff of each house review agency budgets and budget requests and pass appropriation bills.
- 9 The Governor acts, within constitutional timelines set forth in Sections 11 and 12 of Article VI of the Oklahoma Constitution, to sign, veto or pocket veto appropriation bills.
- 10 June Equalization Board Meeting – The Board is authorized in Section 23 of Article X of the Oklahoma Constitution to meet and incorporate statutory changes that increase or decrease revenue and expenditure authority for the coming fiscal year.
- 11 Agency Budget Work Programs are required under Section 34.42 of Title 62 and serve as the official plan of how the agency intends to utilize available funds to accomplish statutory duties and responsibilities. This document is due on June 1, or as close thereafter as possible, and is approved by July 1.

⁷² Provided by OMES

Appendix I. BOE Packets Data Tables

Table 09: BOE Packets Data Tables

Data Table	December	February	June
Appropriation Limitation	-	Schedule 1	-
FY-Next Funds to be Certified	Schedule 1	Schedule 2	Schedule 1
ROADS Fund Apportionment Summary	-	Schedule 3	-
Oklahoma Education Lottery Trust Fund [February Appropriations Analysis]	-	Schedule 4	-
Certification of 5-Year Averages - Revenue Stabilization Fund	-	Schedule 5	-
Oklahoma Teachers' Retirement System Baseline Determination		Schedule 6	
Itemized Estimates of Revenue	Schedule 2	Schedule 7	Schedule 2
Itemized Estimates of "Other" Revenue General Revenue Fund	Schedule 3	Schedule 8	Schedule 3
Comparison of Revenue Estimates: Detail FY-Current Estimate (June of FY-Past) vs. Proposed FY-Next Estimate (Dec of FY-Current)	Schedule 4	-	-
Comparison of Revenue Estimates: Detail FY-Current Estimate (Jun FY-Past) vs. Proposed FY-Next Estimate (Feb FY-Current)	-	Schedule 9	-
Comparison of Revenue Estimates: Detail FY-Current Projection (Feb) to Proposed FY-Next Proposed Estimate (Jun)	-	-	Schedule 4
Comparison of Revenue Estimates: Detail FY-Current Projection (Dec FY-Current) vs. Proposed FY-Next Estimate (Dec FY-Current)	Schedule 5	-	-
Comparison of Revenue Estimates: Detail FY-Current Projection (Feb FY-Current) vs. Proposed FY-Next Estimate (Feb FY-Current)	-	Schedule 10	-
Legislated Revenue Adjustments	-	-	Schedule 5
Comparison of Revenue Estimates: Detail FY-Current Estimate (Jun FY-Past) vs. FY-Current Projection (Dec FY-Current)	Schedule 6	-	-
Comparison of Revenue Estimates: Detail FY-Current Estimate (Jun FY-Past) vs. FY-Current Projection (Feb FY-Current)	-	Schedule 11	-
Education Reform Act - HB1017	-	-	Schedule 6
Comparison of Revenue Estimates: Detail FY-Current Projection (Dec FY-Current) to FY-Current Projection (Feb FY-Current)	-	Schedule 12	-
Comparison of Revenue Estimates: Detail FY-Next Estimate (Dec FY-Current) to Proposed FY-Next Estimate (Feb FY-Current)	-	Schedule 13	-

Data Table	December	February	June
Legislated Revenue Adjustments: Informational ROADS Fund Apportionment Summary	Schedule 8	-	-
Detailed Comparison of Authorized Expenditures FY-Current [Jun Past Session] to Proposed Expenditure Authority FY-Next [Dec Current Session]	Appendix A-1	-	-
Comparison of Expenditure Authority FY-Next [Dec Current Session] to Proposed Expenditure Authority FY-Next [Feb Current Session]	-	Appendix A-1	-
Comparison of Expenditure Authority FY-Next (Feb Current Session) to Expenditure Authority FY-Next (Jun Current Session)	-	-	Appendix A-1
Summary Comparison of Authorized Expenditures FY- Current (June Past Session) to Proposed Expenditure Authority FY-Next (Feb Current Session)	Appendix A-2	-	-
Authorized Expenditures FY-Current [June Past Session] to Proposed Expenditure Authority FY-Next [Feb Current Session]	-	Appendix A-2	-
Comparison of Expenditure Authority FY-Next (June Current Session) to Authorized Expenditures FY-Next (Jun Current Session)	-	-	Appendix A-2
Comparison of Expenditure Authority Summary FY- Current (June Past Session) to Proposed Expenditure Authority FY-Next (Feb Current Session)	-	Appendix A-3	-
Comparison of Authorized Expenditures for FY-Current (June Past Session) to Authorized Expenditures for FY- Next (Jun Current Session)	-	-	Appendix A-3
Comparison of Authorized Expenditures Summary FY- Current (June Past Session) to Authorized Expenditures Summary FY-Next (June Current)	-	-	Appendix A-4

Source: Legislative Office of Fiscal Transparency based on FY21 BOE Packet

Responses

- LOFT's response to OMES and OTC responses, January 14, 2021
- OMES, January 8, 2021
- OTC, January 11, 2021

January 14, 2021



LOFT's consolidated comments on the responses from the Oklahoma Tax Commission and the Office of Management and Enterprise Services

As part of LOFT's protocol, agencies are provided the opportunity to respond to evaluation reports and findings. For the review of the State's Board of Equalization, LOFT engaged with two agencies: the Oklahoma Tax Commission (OTC) and the Office of Management and Enterprise Services (OMES), specifically, the Budget Division. Both agencies' responses are included with LOFT's report. Some portions of those responses warrant clarification. With this response, LOFT seeks to address questions of fact, and not necessarily address differences of opinion.

Policy Considerations

For general context about the policy recommendations contained within the report, LOFT evaluated current processes related to revenue estimation, identified opportunities for improvement, and presented multiple options for the Legislature to consider. In this report, LOFT did not label these options as "recommendations," as there are various paths to improvement. For example, multiple times the report offers options to address an issue either through a statutory change *or* by amending the state Constitution.

In response to Finding 1: "The revenue estimation process results in inefficiency of agency resources and time, and insufficient communication of actions and data," LOFT offered six main areas of policy changes for policymakers to consider. The last of these six is:

"Consolidate OMES budget planning operations with the Oklahoma Tax Commission to achieve vertical integration through efficiencies of time, effort, and information."

The responses from both OMES and OTC expressed concerns with this option.

OTC emphasized and encouraged a "clear separation between the forecasting and budget execution to maintain independence and internal integrity."

The current process does not include the Legislative branch, and currently, there are no processes that would prevent undue influence. The Director of OMES is appointed by the Governor, whereas the Director of the Tax Commission is appointed by the Commissioners. Under current process, OTC provides revenue data to OMES, which then prepares the revenue figures for certification by the Board of Equalization.

The separation of budgeting and revenue functions between two agencies may be unnecessary; they are already two distinct functions and would remain so even if housed within one agency. However, if both sets of data are under one agency, the availability of that information is streamlined and could lead to better communication and efficiencies.

January 14, 2021



OTC's call for "clear separation" requires further explanation. Separation of duties is an internal control instituted by organizations. Internal controls are commonplace within the private sector, with duties divided between departments for separation and protection against fraud and abuse. A state example would be Arkansas, whose Department of Finance and Administration has a total of 16 divisions, including Tax Collection, Revenues, and Budget.

OMES and OTC currently provide different duties within the same process. Neither provides a second set of eyes for the other. The integrity called for can be achieved under a consolidated model. Having separate divisions for different functions is an effective internal control.

Regarding the consolidation option, OMES states that LOFT "resisted multiple attempts" to convey the complexity of the budget division's duties. A potential consolidation of certain government functions is not the focus of the evaluation, but rather a by-product of observations made throughout the project.

Each evaluation by LOFT includes comparative analysis of Oklahoma to other states to observe policies that may enhance our state's outcomes. LOFT recognizes that each state is unique, and there is no state employing an estimation and budget process exactly comparable to Oklahoma. LOFT examined several states for their use of different processes that are worth consideration: more inclusive inputs, a centralized point for information, and more open communication. LOFT offered two neighboring states as examples of a more vertically integrated process: Texas and Arkansas.

If policymakers choose to pursue a proposal to align the functions of estimating and budgeting, there are many options from which to choose. LOFT's role is not to develop legislative proposals – that is the role of the Legislature – but to instead provide information from which legislators may be in a better position to ask informed questions or shape policy.

Regarding the two examples detailed in Appendix E of the report, OMES' response incorrectly states that LOFT claims Texas and Arkansas consolidated operations. LOFT's report instead notes that "the vertical integration of the budget and revenue office has been adopted by Arkansas and Texas."

Texas has a far larger state budget than Oklahoma and operates on a biennial budget cycle. Yet, Texas' process for certifying revenues is much more streamlined. It also allows for flexibility to adjust for changing conditions, another potential policy change proposed in LOFT's report.

While Oklahoma is unlikely to adopt the Texas model exactly, the contrast suggests that Oklahoma's process may be overly complex and restrictive. Under Texas' process, the Comptroller (an elected executive branch position that serves as the state's chief financial officer, accountant, treasurer and economic forecaster) submits to the Legislature at the start of each session an estimate of anticipated revenue. After a budget agreement is reached, but before it is sent to the Governor for approval, the Comptroller is responsible for certifying there are appropriate revenues to support the appropriations. The Texas Comptroller also has responsibility for collecting state taxes, tracking almost 600 separate revenue and spending funds, and ensuring that state agencies stay within their budgets – a combination of duties performed by Oklahoma's Tax Commission and the OMES budget and accounting divisions.

January 14, 2021



Last, the suggestion by OMES that merging the revenue estimation and budgeting functions would limit the Governor's ability to have his own fiscal staff is unfounded. Under the Texas model, the Governor maintains an Office of Budget and Policy.

LOFT's response to claims of inaccuracy within report:

- 1) The response from OMES claims contradictory statements are made with LOFT's reference to the statutory responsibilities of OTC as they relate to OMES. LOFT references Title 62, Section 34.2 for its connection of OTC and OMES. This statute sets into motion action by OTC, which then sets into motion actions by OMES.
- 2) The response from OMES claims contradictory statements are made by LOFT regarding the proposal to allow for estimates to be certified earlier, juxtaposing one statement related to the efficiencies of having the Legislature and the Governor working from the same set of budget numbers with another statement specific to earlier estimates resulting in (marginal) loss of accuracy.

Positioning these statements aside each other can be perceived as a conflict. However, LOFT's report is presenting two changes that can be considered independently from each other: 1) that the process be moved up to allow for more time to build a budget, and 2) that the timing be changed so that the Legislature and the Governor begin the budget process working from the same set of numbers. Oklahoma could choose to do both: move the process up to allow for more time for budgeting and enable the two branches to work off the same numbers. Based on feedback from OTC, the optimal time would be January, when a longer range of estimates can be captured, but still allows for a longer period for budget building.

- 3) The response from OMES claims inaccuracy with the report's observed lack of policy for when OTC estimates are to be provided to OMES. The agency contends that the sequence of events is defined. What is not defined is the **timing** of that sequence.
- 4) The response from OMES claims inaccuracy with LOFT's assessment of no statutory policy stating when the BOE packets are to be provided to the BOE prior to a meeting. OMES cites internal office policy to provide draft packets to BOE members at least 48 hours prior to each meeting. LOFT has documentation reflecting the packets for the December 2020 were provided less than 48 hours prior to the meeting. Additionally, internal policy or practice does not provide assurance that this policy will be consistently adhered to, or continue across changes in the agency's administration.
- 5) The response from OMES claims inaccuracy with LOFT's identification as an inefficiency the fact that revenue estimates are provided in three different data sets at different times. OMES does not refute the number of steps and fragmented information, instead explaining the policies that create these steps. One consolidated final document would assist policymakers and ensure that all data is easily and readily available. As a point of reference, Arkansas' comparable department issues one

January 14, 2021



document, the “Official General Revenue Forecast,” to the Legislature. This document, provided 60 days prior to the start of their legislative session, provides a summary of net available revenues, all selected economic assumptions, and details of revenue forecasts.

- 6) OMES suggests that page 25 of the report is misleading, perhaps implying that Legislative involvement in the estimation process would result in increased accuracy. LOFT should have made clear that the inclusion of experts on the volatile revenue sources could lead to better estimation accuracy, not the manner in which they were selected. The paragraph leading into that statement discusses the opportunity for expanding BOE to include experts in GPT and Corporate Income inflows. The subsequent paragraph suggests those additions could be selected by the Legislature.

LOFT included the Pew comparative research to demonstrate that involving the Legislature in the decision-making process does not adversely impact accuracy. But, the key objective to this inclusive style is better communication between the Legislative and Executive branches. Accuracy in those states reflected in the Pew report are likely a by-product of better communication and information and not a direct result of legislative involvement. Appendix E of the report enumerates benefits of Louisiana's process.

- 7) The response by OTC refutes LOFT’s assertion that revenue estimates and justification for the final selection of figures are not transparently communicated to the Legislative branch, citing documents shared on Dec. 18, 2020. This information was provided by OTC upon request by the Legislature. LOFT contends that while this information exists, it is not readily available. Likewise, while a Report of Taxes Collected can be found on OTC’s website, the information lacks descriptive context.
- 8) OTC claims LOFT ignores the agency’s internal policies and practices regarding communication. LOFT's review analyzed mandates, either in statute or the constitution. LOFT recommends codification of several policies and practices to ensure consistency of information and that internal policies will always be followed. Without a mandate, there are no assurances that current administrative policies will continue as administrations change.
- 9) The response from OTC noted the omission of referencing statewide recessions in LOFT’s evaluation of the state’s reserves from FY09 to FY20. LOFT pointed out the one national recession that occurred during that time. The purpose of this section was to acknowledge the volatility of the local economic environment, which requires the state to establish protective mechanisms. Oklahoma’s budget has weathered national recessions fairly well, often due to federal support. Local recessions are harder for the state budget to overcome.



Evaluation Report: Rapid Response Evaluation of the Board of Equalization

January 8th, 2021

Dear Director Jackson and LOFT Team,

Thank you for engaging with our team in a review of the OMES Budget Division's role in the Board of Equalization process. Please find our response herein.

I. Introductory Comments from Agency regarding the subject of evaluation

Although an official scope of work was never presented to our team, the "Key questions" stated in the Executive Summary of the final review document are relevant and worthy of review. For the portion of the report related to duties of the Office of Management and Enterprise Services (OMES), it is acknowledged that LOFT did indeed conduct research into each of the areas identified. We cannot speak to the portions related to work and requirements of the Oklahoma Tax Commission (OTC). Generally, the information detailed within the report related to this OMES-specific research is only partially accurate as included in the final report provided to our team. (Specific inaccuracies will be noted within the body of this response.)

While the questions are relevant and research was conducted related to the identified questions, an incomplete understanding appears to exist regarding the difference between Constitutional or statutory requirements; accounting and reporting rules of the State; and agency policies and standard operating procedures employed at the agency level for decades. While there is a lot of good in this report, this confusion contributes to some inaccurate conclusions and insufficiently-developed recommendations.

II. Introductory Section: Technical response to findings and/or recommendations

Other than one omission of a statutory duty on page 8, most introductory materials presented, related to the OMES responsibilities, are adequately presented in this section.

It should be noted that in the section presenting statutory responsibilities of the Oklahoma Tax Commission, the entirety of Title 62, Section 34.2 applies to OTC as an

agency "responsible for the collection of monies deposited to the credit of the General Revenue Fund and each of the Special Revenue Funds..." For clarity, this information requires them to provide estimates to OMES within the constraints of an OMES request and is in contradiction to the second bullet point on page 16 as well as the first bullet point on page 28. This information would also be helpful if included in several other locations in the report, such as in the chart on page 13; the chart on page 57 and explanation on page 59; and the chart on page 61.

III. Introductory Section: Policy response to findings and/or recommendations

One of the key policy changes highlighted several times in the study is a consolidation of the Oklahoma Tax Commission and the OMES Budget Division. We think this would be highly problematic and would create more problems than it solves. In addition the scope of this engagement was a fraction of the duties of the two entities. When we raised this issue in our exit conference and suggested that LOFT might advise the legislature of the complexities associated with this recommendation, your team resisted multiple attempts to convey this complexity to your Oversight Committee, suggesting it is merely a "policy consideration." The report carries with it the weight of a recommendation, and we don't think it is responsible to shield the Legislative Oversight Committee from full information.

It is imperative that the Budget Division, which functions as the Governor's fiscal staff, be located in an organization where leadership reports directly to the Governor. It would be inoperable to accomplish the role as the Governor's fiscal staff and also provide adequate agency budget oversight and customer service if the state's budget functions were moved to OTC. The separation of duties in estimate preparation and revenue reporting between the OTC and the OMES is a rational and important delegation of responsibilities to avoid manipulation of estimates on either side of the process.

The focus of this review relates to only a very small portion of the responsibilities of the Budget Division of OMES required to assist the Governor and agencies with management of the Executive Budget. The Executive Budget, like the Appropriations that come from the budget developed by the legislature, has both revenue and agency

expense components, and the OTC has no involvement or expertise in agency expense budgeting. The result of the recommended consolidation would include less checks in the revenue estimation and reporting processes and the introduction of multiple inefficiencies when coordinating operations with CAR for monthly agency allocations and end-of-year GRF reconciliation to name but a few required agency interactions.

We would recommend LOFT further research the roles and responsibilities of the Budget Division and its relationship with CAR, state agencies, and the Governor's office to inform legislators of the implications and negative aspects of integrating the Budget Division with OTC. The report is misleading by only considering positive efficiencies for consolidation of OTC and Budget Division and not reviewing the full scope of the entities involved.

Finding 1: The revenue estimation process results in inefficiency of agency resources and time, and insufficient communication of actions and data.

Does the agency agree with the facts as presented? No. Research facts contain inaccuracies and inconsistencies.	Does the agency agree with the recommendations related to this finding? No.
<p>Agency Comments and Clarifications (Technical response)</p> <p>"Inefficiencies" Section:</p> <p><u>Contradictory information and statements</u> are found within information presented on pages 15, 17, and 27 regarding the optimal process and time of certifications. Page 15 states that "Due to the February BOE certification being conducted during the legislative session, there is little opportunity to conduct a constructive review of agencies' budget requests in the context of expected revenue forecasts," and implies that efficiencies would be gained by using an earlier estimate. On the same page, and again implied on page 18, the report acknowledges that there would be a loss of accuracy if earlier estimates were used. Yet, on pages 17 and 27, the policy consideration is that both the Governor's budget and the final budget be based on February estimates. (In actuality the Governor and Legislature do both work from the February estimates to create a final budget for each fiscal year.)</p> <p><u>Inaccurate statements concerning "overlaps and gaps in communication"</u>, page 16:</p> <ul style="list-style-type: none"> • "No policy stating when OTC estimates are to be provided to OMES" – This is statutory. Title 62, Section 34.2 applies in its entirety to OTC as an agency "responsible for the collection of monies deposited to the credit of the General Revenue Fund and each of the Special Revenue Funds..." (paragraph A) 	

- “No policy stating when the annual BOE packet is to be furnished to the BOE before the meeting” – A policy has existed within the agency for decades that draft packets be provided to Board members at least 48 hours prior to each meeting. There is no specific statute; however, if one were enacted a small technical issue could conceivably cause a meeting to be cancelled at a critical time.
- “Revenue estimates are provided in three different data sets at different times: economic outlook is released first, then gross estimates, and finally the BOE packet (see Appendix G. Detailed Processes Review)” – This statement is true. However, rather than being an example of either an overlap or gap in communication as indicated, this timing is driven by statutes, agency policy, and the timing of processes to facilitate each of the desired deliverables.

Policy Considerations:

“Consolidate OMES budget planning operations with the Oklahoma Tax Commission to achieve vertical integration through efficiencies of time, effort, and information”

- **Merging of 62 O.S. § 34.49 and 68 O.S. § 102.3** would not begin to facilitate a move of the state’s budget functions to OTC. While 62 O.S. § 34.49 speaks in part to several different budget functions, including agency budget requests, as well as declaration of a revenue failure, this is only one of a myriad of statutes throughout Title 62 and other statutory titles which dictate responsibilities of the budget division. Additionally, Title 68, Section 102.3 speaks to duties of Tax Commissioners in a capacity of general oversight.
- **Further, as noted in our introductory comments, there are significant other complexities associated with this recommendation. Whatever minor synergies might exist on a streamlining of revenue estimation are massively outweighed by potential separation of power issues and the significant non-overlapping scope of work managed by the two entities, which LOFT did not review.**

“Facilitate sharing of information about estimates with the Legislature”

- **“Facilitate making the BOE packet available to BOE members and the Legislature within 48 hours of the regular and special certifications and advisory meetings”**

As detailed earlier in our response, a policy has existed and been followed by OMES Budget Division to distribute draft BOE packets to board members at least 48 hours prior to each scheduled meeting. It has also been policy to distribute a complimentary copy of the draft packet to House and Senate Fiscal Directors at that time, so that the contents may be shared with House and Senate members as desired.

It should be noted that, since these figures are not official until acted upon by the Board, the estimates and information are subject to change until that time. Public or widespread release of these packets may cause confusion or a misrepresentation of

the State's revenue outlook. In fact, prior to the last December meeting premature sharing of an "unofficial" BOE packet resulted in a media release claiming the packet indicated there would be a revenue failure for the current fiscal year which would necessitate reductions to state agency budgets.

ITEMS RELATED TO THIS FINDING:

Factual Inaccuracies Regarding Arkansas and Texas Budget and Revenue Administration Functions, Appendix E, page 42:

We did not review every single state cited by LOFT based on the 2015 NASBO report; however, the two neighboring states that LOFT says have consolidated these functions have not, in fact, done so. We have objections to the merits of this recommendation; the fact that the two states LOFT cites have not made this change gives us even more reason to feel as if this recommendation is insufficiently robustly considered.

Arkansas Department of Finance and Administration has separate Budget and Revenue Administration Divisions (those aren't the exact names – but rather functions). Those divisions are peers on the organizational chart and both report to the Governor-appointed Secretary of Finance and Administration. Combining the Budget Division with the Tax Commission does not result in the same outcome.

The Texas Budget and Policy Division, with similar functions as the OMES Budget Division as the Governor's fiscal staff, is housed in the Office of the Governor. Revenue administration for the state of Texas is done by the Comptroller's office. The Comptroller's office has a Budget and Finance section on their website regarding transparency but, their involvement in the budget is to issue the biennial revenue estimate (BRE), a careful estimate of the funds likely to be available from taxes and other revenue sources over the next two years. So, these functions are also separate in Texas.

<https://comptroller.texas.gov/transparency/budget/>

**Budget and Finance - Texas Comptroller of Public
Accounts**

Budget Process Primer. Use this resource to understand how Texas' budget process progresses, from its beginning in the year before each regular session of the Legislature up through the budget's certification for an additional two years.

comptroller.texas.gov

Finding 2: Volatility of revenue sources negatively impacts budget estimate accuracy.

Does the agency agree with the facts as presented? Yes, in general.	Does the agency agree with the recommendations related to this finding? Yes, in general.
Agency Comments and Clarifications (Technical response)	
<p>It has long been established that volatility of collections from gross production taxes and Corporate income taxes are problematic to Oklahoma's budget structure. This is why the Revenue Stabilization Fund was created.</p> <ul style="list-style-type: none">• We agree that apportionments from gross production tax collections should be reviewed to allow a more accurate picture of collections for making clear policy decisions related to this source of revenue.• We agree that the cap on total deposits to the Stabilization Fund should be removed and further, that other provisions related to fund limitations should be reviewed.• We support consideration of a constitutionally protected trust fund for limited use in specific times of economic fluctuations. <p>We would note that an arguably equal problem exists in Oklahoma's budget structure, overall, as a result of "off the top" apportionments from all major revenue sources, and we recognize that several legislators believe this as well.</p>	

Finding 3: Shifting tax dynamics highlight the need for a more inclusive process.

Does the agency agree with the facts as presented? Although the finding is accurate, the claims made are conflicting and do not support the conclusion.	Does the agency agree with the recommendations related to this finding? Yes, generally.
Agency Comments and Clarifications (Technical response)	
<p>Page 25 contains two different claims regarding Legislative participation in revenue estimating. It is first claimed that "allowing the Legislature to select those experts would itself contribute to estimation accuracy," and then later claimed that "data suggests legislative input does not adversely impact the accuracy of estimations." Pew research supports the latter claim, stating "While we found evidence that consensus forecasting can help mitigate the role of politics in the budget process, we did not find that the method produced more accurate estimates" (States' Revenue Estimating: Cracks in the Crystal Ball, p19).</p>	

The benchmarks also do not suggest legislative participation enhances estimation accuracy. For instance, Oklahoma estimates were more accurate than New Mexico 9 of the 13 past years. Iowa and North Carolina lack GPT volatility to be structurally comparable, and Louisiana has a more stable blend of revenue sources.

General Revenue estimation accuracy could actually be enhanced by expanding on Finding 2's recommendations on analyzing GPT apportionments. Moving away from off-the-tops, for instance, will reduce inaccuracy because estimates are made at the gross receipts level, so that volatility is currently exaggerated by the apportionment formula into General Revenue.

One point can be agreed upon, which is involvement from legislative appointees in analysis of volatile sources could help "generate viable economic assumptions" and "provide insight into the macro-economic factors that influence them," but this is noted far down in the finding and overshadowed by claims that estimate accuracy will be increased.

We suggest that LOFT and the legislature consider whether legislators or their appointees would best be suited as full BOE members, ex officio members, or advisory panel members. We believe that separation of powers considerations are worth contemplating.

Thank you again for engaging with us and giving us the opportunity to respond.



John Budd
Chief Operating Officer,
State of Oklahoma



Brandy Manek
Director of Policy and Gaming,
OMES



Shelly Paulk
State Budget Director,
OMES



Evaluation Report: Rapid Response Evaluation of the Board of Equalization

January 11, 2021

Dear Director Jackson and LOFT Team,

Thank you for the professionalism and cooperation you and your team exhibited throughout the evaluation and review process. Outlined below is our response to your draft report Rapid Response Evaluation: State Board of Equalization.

1. Introductory Comments from Agency regarding the subject of evaluation

The Oklahoma Tax Commission's ("OTC") response to the Legislative Office of Fiscal Transparency ("LOFT") report entitled Rapid Response Evaluation: State Board of Equalization only relates to the responsibility charged to the OTC of providing the Office of Management and Budget ("OMES") with estimates of future expected revenues that fund General Revenue. The research, analysis and methodology employed by the Tax Policy & Research Division to accomplish this significant task are complex and involve many intricate steps which includes accounting for changing economic conditions in the state, nation and global environments. The OTC employs three in-house PhD economists and contracts with two outside PhD economists with the Oklahoma State University Spears College of Business ("OSU") and Regiontrack – Regional Economic Forecasting and Analysis to provide revenue estimates for the five major revenue sources attributable to motor vehicle, corporate and individual income tax, sales and use tax and gross production tax. The estimates determined to be the most likely to occur based on the economists' experience and expertise using the best available data, information and resources, are provided to the Commission for consideration and approval. To outline, explain and detail the revenue estimating processes, representatives of the OTC met with members of the LOFT Team, provided requested data and responded to requests. The OTC appreciates the level of communication maintained and the efforts taken by the LOFT team to represent as appropriate the referenced revenue estimating processes. Dialogue and discussions have occurred with certain issues clarified and resolved. Matters which may still be of concern or are deemed to require additional comment are outlined and explained in Section 3 of this response.

2. Introductory Section: Policy response to findings and/or recommendations

Certain factual inaccuracies with the initial draft of the Introduction Section of this report were identified. After discussion with the LOFT team those identified items have been corrected to the satisfaction of the OTC.

3. Policy response to findings and/or recommendations

Finding 1: The revenue estimation process results in inefficiency of agency resources and time, and insufficient communication of actions and data.

Does the agency agree with the facts as presented? Agree in part and disagree in part as outlined below.	Does the agency agree with the recommendations related to this finding? Agree in part and disagree in part as outlined below.
Agency Comments and Clarifications (Technical response)	
<p>Regarding the policy consideration to allow for adjustments to estimates in the event of a revenue shortfall, <i>the function of the estimate (February) is for the Board of Equalization ("BOE") to certify funds available for legislative appropriation, the legislature then makes appropriations for the upcoming fiscal year. Any potential revenue failure is actually a cash flow issue and adjusting the estimate doesn't address the cash flow issue.</i></p> <p>Regarding the proposition to combine the budgeting office (OMES) with the taxation and revenues office (OTC), the Tax Commission emphasizes and encourages a clear separation between the forecasting and budget execution to maintain independence and internal integrity.</p> <p>Assertions are made in the LOFT Report that revenue estimates are not transparently communicated to the Legislative branch and that estimates are neither inclusive of all scenarios considered (see Table 02), nor of the justification for the final selection of figures as part of each BOE packet or Economic Outlook; this information is especially valuable during revenue shortfalls, because it helps to provide the Legislature with the context needed to confidently plan the budget."</p> <p>All scenarios were taken into account and justification was provided. On December 18, 2020, correspondence outlining the analysis and methodology provided by the Tax Commission to the State Board of Equalization which served as the basis for the numbers certification undertaken by the BOE on December 18th was furnished to Anthony Sammons, Director of Fiscal Staff Oklahoma State Senate, other members of the House and Senate fiscal staffs and Legislative leadership as part of a presentation conducted by the Executive Director of the Tax Commission for these named groups to detail and explain the current revenue forecasts and address any questions or concerns. (See attachment A). In addition to the economic outlook provided two weeks prior to the scheduled BOE meeting, the referenced document outlining forecast support and justification, and December and February estimates prepared by the OTC, legislative fiscal staff, in addition to OMES, are furnished on a monthly basis a General Revenue</p>	

Report and a Distribution of State Funds Report. Additionally, a public Daily Report of Taxes Collected is detailed on the OTC website.

In addition, OTC responded to LOFT's inquiries on Dec. 18, 2020 with the following explanation:

For the current forecast, OTC received three scenarios from RegionTrack (base case, high case, and low case) and one base case from Oklahoma State University ("OSU"). Given the promising COVID vaccines and rebound in energy prices, there are more risks to the upside than to the downside, so OSU does not provide an additional low case forecast. The three cases provided by RegionTrack are based on different growth scenarios for U.S. employment - high, base and low. The U.S. employment changes drive through the state model. All three scenarios are basically 'growth' scenarios, with no real contraction scenario. The strongest is roughly a return to the prior growth trajectory. The weakest is only a slight upward move in employment through 2024. Because there is no recession or contraction scenario, the gap between the strongest and weakest tax scenarios is not as large as might typically occur. OSU's base case assumes a widely distributed and adopted COVID-19 vaccine by the spring and summer of 2021, which is not the underlying assumption for RegionTrack. However, after evaluating current conditions, the OTC deemed it appropriate to include the availability of a vaccine in the forecast. A vaccine would accelerate the pace of recovery both domestically and internationally. Many depressed segments of the economy involving close customer contact would see a resurgence in activity. Therefore, the high growth scenario is selected from RegionTrack, accounting for the potential positive impact of a vaccine.

Concerns and observations regarding the proposal to move the December BOE meeting to October and the February meeting to December are outlined as follows:

Consideration must be given to the fact that the first quarterly data point of a new fiscal year is not available until early October. In addition, many year-end activities are reflected in the second quarterly data point that is available in early January. Critical information needed to forecast revenues would not be captured/available if the forecast deadlines were changed in the manner described above. Some of the Energy Information Administration ("EIA") data which is relied on for the extended forecast is not available until January. Essentially, waiting until the January report is released by the EIA provides an additional one year (12 months) of forecasted data and includes data for the entire upcoming fiscal year. Relying on December data would only provide forecasted prices for half of the upcoming fiscal year. Thus, waiting for the extended forecasting data from the EIA allows forecasts to be more accurate. Moreover, forecasting becomes less reliable the further out it is done (i.e., oil and gas prices etc.).

The proposition/assertion that statutory policies indicate both overlaps and gaps in communication ignores the fact that while statutory mandates do not exist for certain

procedural aspects relating to the provision of revenue estimates to some of the relevant parties, the agency in relation to official, constitutionally mandated forecasts, long standing policies and established practices which are consistently adhered to exist regarding the following:

- The Tax Policy Division fully apprises the Executive Director and Commissioners of the forecast, methodology and underlying economic assumptions.
- Forecasts are placed on the Commissioner's Agenda for their consideration and approval before the forecasts are provided to OMES which is translated to the General Revenue funds available for appropriations.
- Upon approval by the Commission, the forecasts are immediately provided to OMES, Legislative leadership and staff.

Finding 2: Volatility of revenue sources negatively impacts budget estimate accuracy.

Does the agency agree with the facts as presented? Agree in part and disagree in part as outlined below.	Does the agency agree with the recommendations related to this finding? Agree in part and disagree in part as outlined below.

Agency Comments and Clarifications (Technical response)

As stated in the first paragraph on page 20 and also on page 22, the "Great Recession" is not the only recession which occurred from FY 09 through FY 2020. The Great Recession in 2008/2009 was a national recession but Oklahoma also faced a statewide recession in 2015 - 2016. An oil bust occurred during this time period, when the price of crude oil plunged from more than \$100 per barrel in the summer of 2014 to below \$30 in early 2016. Moreover, the pandemic hit in early 2020 and the corresponding shutdown occurred in April, which transpired in FY20.

Gross Production tax is a volatile tax stream and most of that volatility is due to the unstable nature of the price of oil and natural gas. Pursuant to 68 O.S. §118(C) the Tax Commission is required to use outside resources i.e., Energy Information Administration for benchmark prices, calculate the differential using 24 of the preceding 36 months and apply that differential to forecast the Oklahoma prices. Beginning December 2019, the OTC has adopted a more conservative approach by selecting the highest 24 month differential from the preceding 36 months to calculate the average differential. This approach is expected to address much of any overestimation of GP revenues in normal economic conditions. Moreover, pertaining to the FY09-FY20 range for accuracy of GPT forecast: this time period includes the oil bust of FY15/16

and the COVID pandemic in FY20. LOFT's analysis does not comment on this nor does it account for these in regards to volatility in "normal economic cycles". (ie: during these years GPT revenues were "overestimated" but the analysis artificially increases the overestimation percentages). For Example, on pg 39 of the Report: the highest degree of overestimating GPT estimate vs actual occurred in FY16, during the Oklahoma oil bust.

Finding 3: Shifting tax dynamics highlight need for more inclusive estimation process.

Does the agency agree with the facts as presented? Agree in part and disagree in part as outlined below.	Does the agency agree with the recommendations related to this finding? Agree in part and disagree in part as outlined below.
<p>Agency Comments and Clarifications (Technical response)</p> <p>Relating to Table 04: Steps Leading to December Estimates, RE 1.5, the OTC provides more than fourteen tax series estimates to OMES. Tax series estimates are provided for all major, medium and small taxes administered by the OTC which are relevant to General Revenue.</p> <p>Further explanation of Chart 15: Volatility Analysis, FY 08-20 necessitated by the subject matter is set forth as follows:</p> <p>Actual collections of general revenue funds were compared with the certified BOE estimates. This provides a comprehensive view of the revenue forecast. During this time period, a few revenue failures occurred, all of which corresponded to major economic recessions. Volatile tax sources such as gross production and corporate income taxes accounted for 12.16% of GR, on average. The share was as high as 18.46% in FY2008 and then declined through FY2017. It reached the lows of 6.8% and 5.7% in FY2016 and FY2017 respectively, due to the collapse of oil prices and consequently resulted in a budget shortfall. Hence, in FY2018, there were increases in various tax rates, including gross production tax. The incentive rate on the production from new wells was raised from 2% to 5%, thus the share climbed significantly. In FY2020, this share was 11.29%, below the historical average.</p>	

Thank you again,



Jay Doyle, Executive Director
Oklahoma Tax Commission