

**Additional Analysis of Revenue Bill Rereferral**  
Prepared for the Revenue and Transportation Interim Committee  
By Megan Moore, committee staff

May 2016

This briefing provides more information about the outcome of revenue bills introduced in the taxation committees in the previous two legislative sessions and a summary of the discussion that took place during the last meeting.

**Additional Analysis of Taxation Committee Revenue Bills**

The graphics beginning on the next page show the final outcomes of revenue bills that originated in the House and Senate Taxation Committees in the 2013 and 2015 legislative sessions. The total number of revenue bills originating is shown and the bills are then split based on whether the bill was covered by the informal agreement as those agreements are understood by staff.

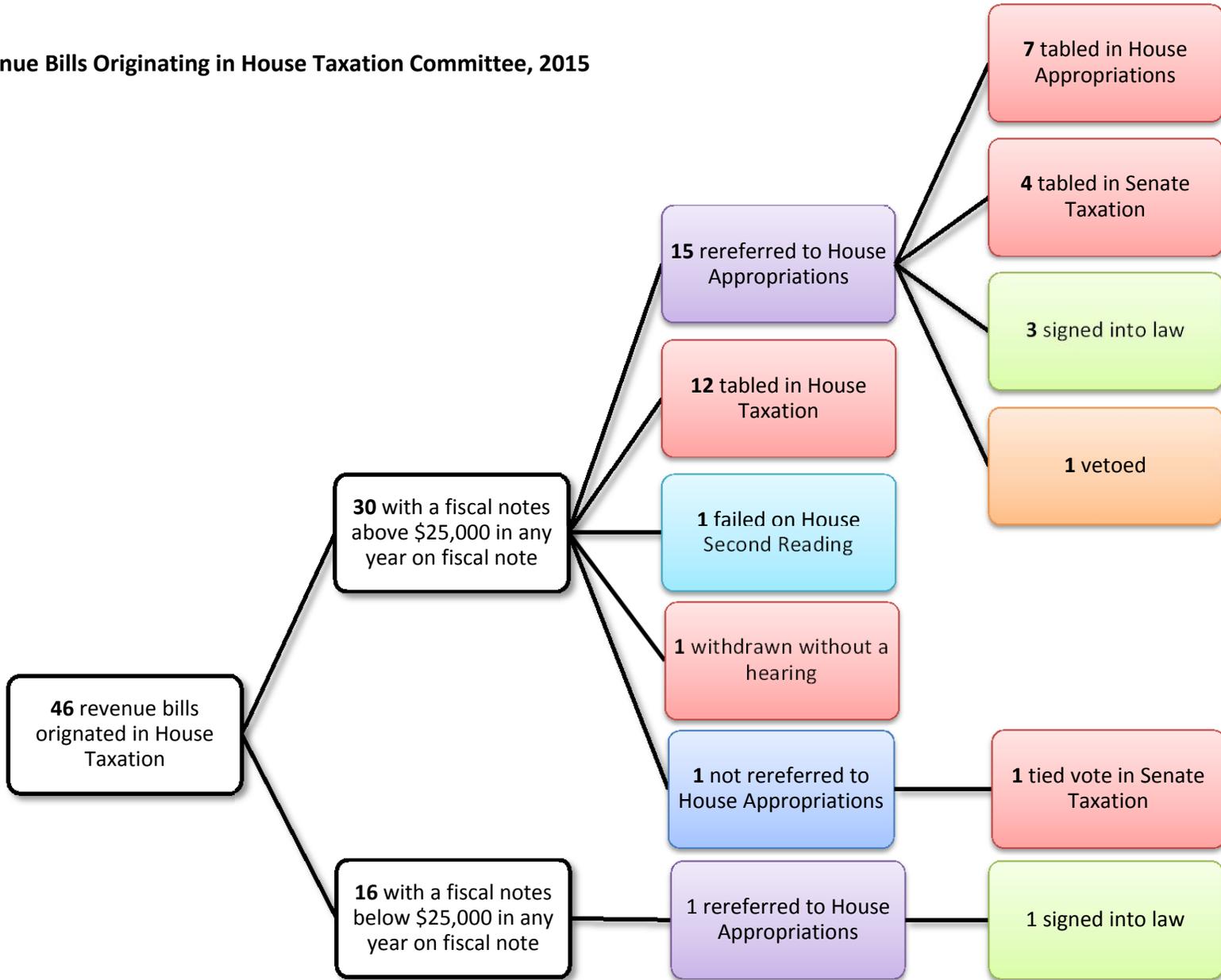
Information on the informal agreements was obtained from communications with the leaders that entered into the agreements. The agreements are summarized in the following table.

<b>Chamber</b>	<b>Year</b>	<b>\$ Amount</b>	<b>Time Period</b>
House	2015	+/- \$25,000	Any year on fiscal note
House	2013	+/- \$25,000	Any year on fiscal note*
Senate	2015	+/- \$50,000	Next biennium
Senate	2013	Unknown	Unknown

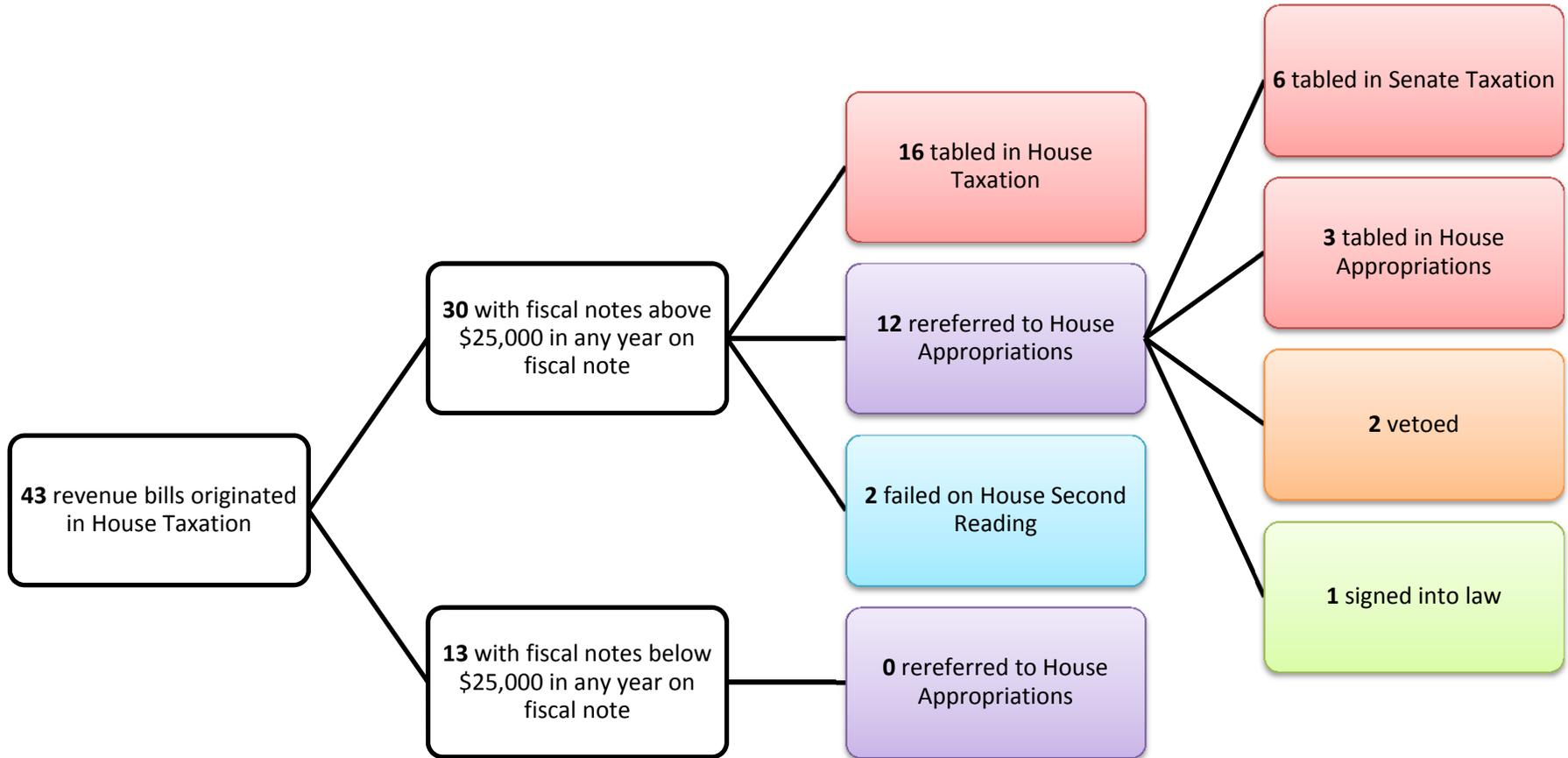
House leadership from the 2013 legislative session provided mixed responses about whether the agreement applied to the next biennium or to any fiscal year. The actual rereferrals, however, indicate the agreement likely applied to any fiscal year.

Leadership of the 2013 Senate could not recall the fiscal impact that triggered rereferral. The graphic uses \$50,000, which was the amount of the 2015 agreement. Analysis of the actual bills rereferred indicates that the agreed upon amount to trigger rereferral was likely higher because five bills with a fiscal impact above \$50,000 in the next biennium were not rereferred.

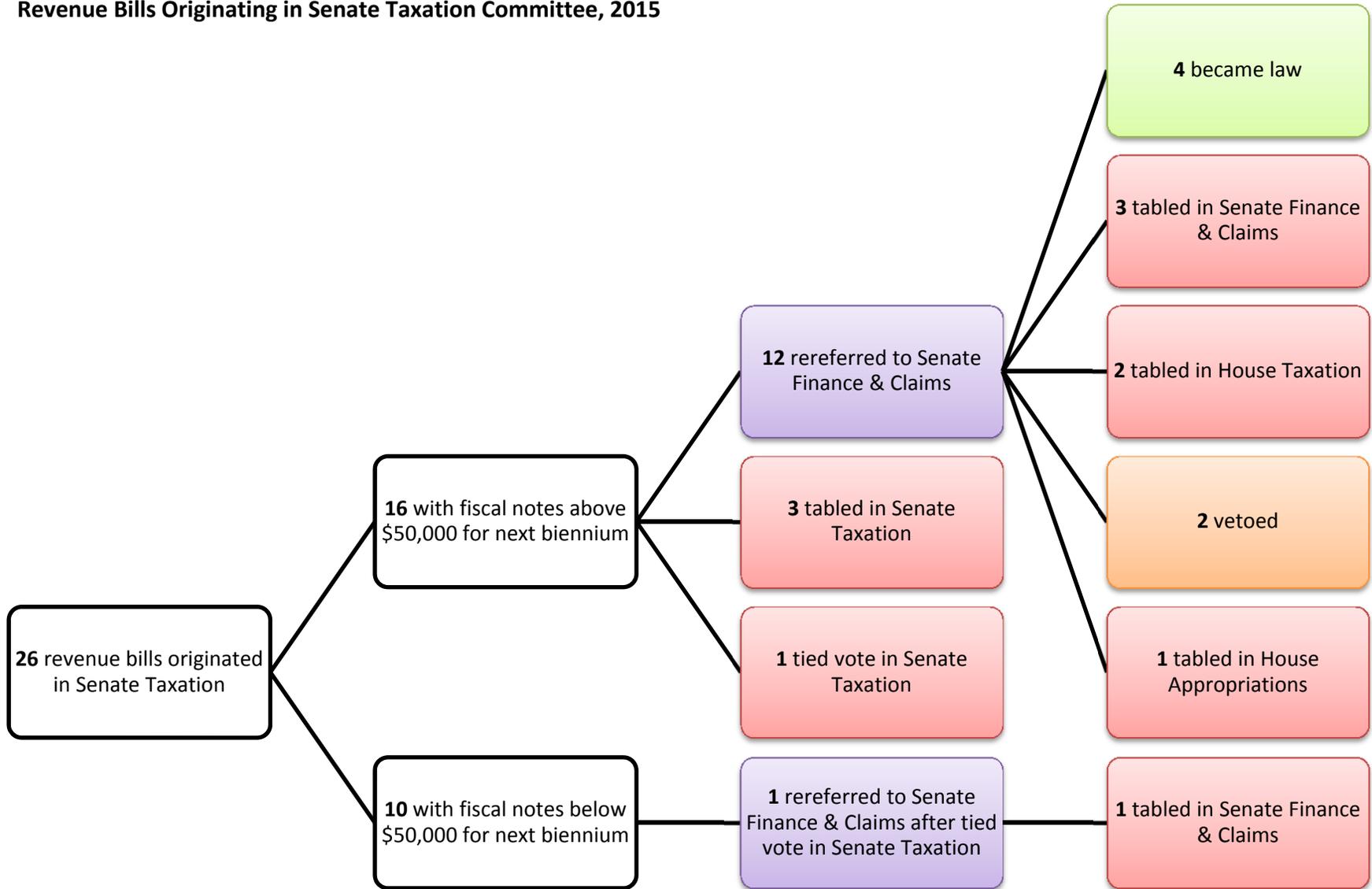
**Revenue Bills Originating in House Taxation Committee, 2015**



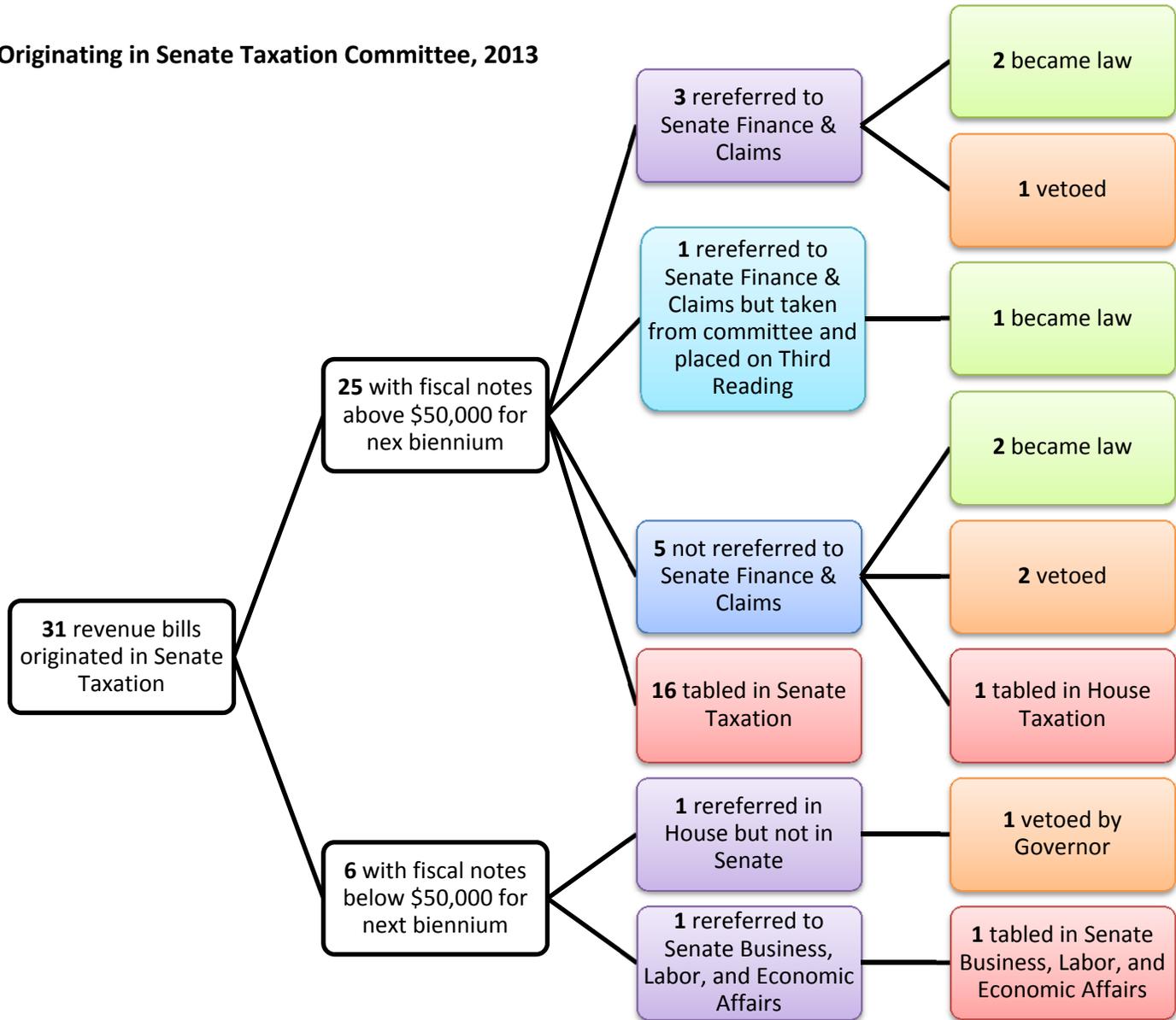
# Revenue Bills Originating in House Taxation Committee, 2013



**Revenue Bills Originating in Senate Taxation Committee, 2015**



**Revenue Bills Originating in Senate Taxation Committee, 2013**



**Discussion at Last Meeting**

During the last committee meeting, members discussed the current rereferral process and asked staff to summarize the discussion in a draft memorandum that could be presented to Legislative Council. The draft memorandum is included beginning on the following page.

The memorandum only sets forth points made during the committee's discussion and asks Legislative Council to reconsider the rereferral of revenue bills originating in the taxation committees. If the committee makes a recommendation at the June meeting, the memorandum can be revised to reflect the recommendation.

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## Revenue and Transportation Interim Committee

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### 64th Montana Legislature

#### SENATE MEMBERS

FRED THOMAS--Chair  
DICK BARRETT  
MARK BLASDEL  
BRIAN HOVEN  
CHRISTINE KAUFMANN  
SUE MALEK

#### HOUSE MEMBERS

TOM JACOBSON--Vice Chair  
JEFF ESSMANN  
GREG HERTZ  
RAE PEPPERS  
ALAN REDFIELD  
BRIDGET SMITH

#### COMMITTEE STAFF

MEGAN MOORE, Lead Staff  
JARET COLES, Staff Attorney  
FONG HOM, Secretary

TO: Legislative Council

FROM: Revenue and Transportation Interim Committee

RE: Request for Reconsideration of Rereferral of Revenue Bills Originating in Taxation Committees

DATE: [DATE]

The Revenue and Transportation Interim Committee has concerns about the rereferral of revenue bills that originate in the taxation committees to the House Appropriations Committee or the Senate Finance and Claims Committee.

The committee requests that Legislative Council consider the points discussed below to determine whether an alternate process could resolve the concerns raised. The memorandum includes background on the rereferral process and summarizes committee discussion about the rereferral process.

#### Background on Rereferral of Revenue Bills

Since the 2005 legislative session, some revenue bills that passed out of the House Taxation Committee and Senate Taxation Committee have been rereferred to the House Appropriations Committee or Senate Finance and Claims Committee. Data show that revenue bills originating in the taxation committees were not rereferred in the 1999 through 2003 legislative sessions and electronic data is not available prior to 1999.

In the past two legislative sessions, majority and minority leadership in the House and Senate has entered into informal and unwritten agreements that provide for the rereferral to the House Appropriations Committee or Senate Finance and Claims Committee of bills with fiscal note impacts above a certain threshold. The threshold in the House was \$25,000 in the 2013 and 2015 legislative sessions. The Senate threshold was \$50,000 in the 2015 legislative session. Informal agreements may have been used in legislative sessions prior to 2013 but collecting information on the agreements is difficult because the agreements are generally unwritten.

#### Revenue and Transportation Interim Committee Concerns

Nearly all members of the Revenue and Transportation Interim Committee serve on the House Taxation Committee or Senate Taxation Committee and take seriously our role of evaluating tax policy legislation with revenue impacts. We have concerns about whether revenue bills originating in the taxation committees should be rereferred to the House Appropriations Committee and the Senate and Finance and Claims Committee and, if these bills are rereferred, the process used to set the rereferral terms.

Both are discussed in more detail below.

### Should Revenue Bills Originating in Taxation Committees Be Rereferred?

During a committee discussion about the rereferral of revenue bills, committee members offered the following reasons rereferral of revenue bills originating in the taxation committees may not be the best policy:

- Rereferral of revenue bills takes responsibility away from the taxation committees. This may take the form of the House Appropriations Committee or Senate Finance and Claims Committee tabling a bill that was vetted by the committees with tax policy expertise. Another outcome may be that members of the policy committees vote to advance a bill knowing that the House Appropriations Committee or Senate Finance and Claims will "take care of" the bill later.
- The House Appropriations Committee and Senate Finance and Claims Committee hear testimony only on the fiscal implications of the legislation and not on the policy of the legislation. It is unclear how fiscal and policy considerations can be entirely separated. Members of the public have complained about the testimony limits.
- Rereferral of most revenue bills results in a longer, more cumbersome legislative process.
- The [status sheets](#) prepared by the Legislative Fiscal Division show the fiscal impact of revenue bills considered in the taxation committees.

### Processes Related to Rereferral

The Revenue and Transportation Interim Committee also voiced concerns about the rereferral agreements and the process used by the Senate last legislative session to route rereferred bills.

The concerns with informal agreements to rerefer bills include the following:

- Because the agreements are informal and unwritten, they can be changed at any time or not consistently followed.
- Bills originating in the taxation committees with fiscal impacts above a certain level should not be automatically rereferred. Taxation committee bills with large fiscal impacts could still be rereferred to House Appropriations or Senate Finance and Claims on a case-by-case basis upon the motion of a legislator without a rereferral agreement.
- The thresholds used in the rereferral agreements may be too low.
- The motion to rerefer revenue bills to the House Appropriations Committee or Senate Finance and Claims Committee often includes multiple bills and the rereferrals are made "without objection." There is some concern this makes it more difficult for legislators to object to rereferral and request a vote of the body. Some committee members also stated that they are hesitant to object because the agreement is entered into by leadership from both parties.
  - The committee discussed a couple of possible remedies:
    - disallowing a rereferral "without object" for revenue bills originating in the taxation committees and instead requiring a vote; or
    - not rereferring a bill if a super majority (such as three-fourths) votes for the bill on second reading.

Senators who serve on the Revenue and Transportation Interim Committee were also dissatisfied with a change in Senate process that occurred on February 23, 2015. The House and Senate used essentially

the same process for routing revenue bills subject to the agreement at the beginning of the 2015 legislative session: after positive action by the policy committee, the body would hold second reading on the bill and, if passed by the body, rerefer the bill to House Appropriations or Senate Finance and Claims. The Senate revised its process to rerefer bills subject to the agreement directly to Senate Finance and Claims and to hold second reading only if the bill passed out of the Senate Finance and Claims Committee.

[House Rule 40-80\(2\)\(b\)\(i\)](#) provides that a bill that has passed second reading, been rereferred to the House Appropriations Committee, and reported from that committee without amendments may be placed on third reading with the consent of the majority leader, the minority leader, and the bill sponsor. The committee favored the Senate adopting a similar rule so that the process is consistent in both chambers.

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