



MONTANA LEGISLATIVE BRANCH

Legislative Fiscal Division

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Director
AMY CARLSON

DATE: September 2, 2011

TO: Members of the 2011 Long-Range Planning Subcommittee

FROM: Cathy Duncan, Senior Fiscal Analyst, LFD

RE: TSEP Funding and Appropriations

The Long-Range Planning Subcommittee (LRP) conducted hearings on and the 2011 Legislature passed HB 351, which contained appropriations for the 2013 biennium Treasure State Endowment Program (TSEP). The legislation included reporting requirements for the Department of Commerce (DOC) and the Board of Investments (BOI) related to the funding of grants awarded in the 2011 biennium and the costs associated with funding those grants. The reporting requirements served as a mechanism to facilitate the conditional increase of the TSEP grant appropriation. Given the results of the DOC and BOI reports, the TSEP grant appropriation (HB 351, Sec. 1) will be increased by \$339,601 resulting in a total revised appropriation of \$14,093,179 ($\$13,753,578 + \$339,601 = \$14,093,179$). The increased appropriation will be sufficient to fund all the grant authorizations in HB 351 that were not line item vetoed by the Governor.

Background

The TSEP is a state infrastructure financing program approved by the Montana voters with the passage of Legislative Referendum 110 in June 1992. The program provides grants to local governments for water, wastewater, storm water, and bridge projects. Grant funding is derived from the investment earnings of a sub-trust of the coal tax permanent trust. Income from the trust is never sufficient to fund all grant requests, so grants are awarded through a competitive ranking process with the approval of the legislature. In any given biennium, there is uncertainty related to how many of the authorized grant requests will actually be funded, as it takes a significant effort for the local governments to meet all the conditions (laid out in the legislation and referred to as "startup conditions") required for receipt of the grant.

The 2009 Legislature made accommodations to fund all TSEP local government grant requests for the 2011 biennium. To fully fund all the requests, the legislature relied on a variety of funding mechanisms including the trust earnings, general fund transfers, and funds that could be borrowed from the BOI. During the 2009 session, the LRP estimated that the TSEP would need to borrow \$6.5 million to fund all the grant requests. The subcommittee recognized that that estimate would change as projects failed to satisfy start up conditions and depending on the actual earnings of the trust. If TSEP needed to use borrowed funds to cover the costs of the grants, the debt service on the loan would be paid with the future income from the trust and the amount required for servicing the debt would change with the amount of the loan.

Reporting Requirements

By the 2011 Session, the loan estimate had declined to \$3.3 million. The LRP determined that the costs of the loan would be \$840,000 in the 2013 biennium and set that amount aside to pay the costs of the debt. However, with continued uncertainty of the number of local governments that would satisfy the startup conditions, the legislature added reporting requirements in HB 351 for the DOC and the BOI (see Appendix 1). The language included in Section 2 then provided that if the full debt service “set aside” of \$840,000 was not required to repay the costs of borrowed funds, then the local government grant appropriation would be increased by the difference between the estimated cost and the reported cost. The reporting of the DOC and the BOI (see Appendices 2 and 3) confirms that as of the end of FY 2011 the amount of borrowed funds will be \$2.625 million (5 local governments were unable to satisfy startup conditions and are shown in an attachment to this report) and the debt service amount is estimated to be \$333,599 per year (the BOI is shown in draft form because the loan has not been issued yet). The assumptions used by the BOI indicate that three payments amounting to \$500,399 will be due in the 2013 biennium. The progression of the estimated loan amount and debt service cost is shown in the table below.

Progression of Loan and Debt Service Estimates			
	2009 Session	2011 Session	Reported
Loan Estimate / Actual	\$6,512,000	\$3,300,000	\$2,625,000
Change in Loan Estimates		(\$3,212,000)	(\$675,000)
Biennial Debt Service Estimate	\$1,318,848	\$840,039	\$500,399
Change in Debt Service Estimates		(\$478,809)	(\$339,601)

Conclusion

The reports of the DOC and the BOI provide the framework for an increase of the local government grant appropriation, set in HB 351 at \$13,753,578. HB 351 directs that the appropriation will be increased by the difference between the debt service estimate of \$840,000 and the debt service calculated by the BOI. After the reporting of the DOC and the BOI, the debt service is now expected to be \$500,399 in the 2013 biennium, a difference of \$339,601 from the amount expected during the session. Consequently, the local government grants appropriation in HB 351 is increased by \$339,601 and the total local government appropriation is now \$14,093,179. The change in the local government appropriation is now sufficient to fund all the grant authorizations in HB 351 that were not line item vetoed by the Governor, which amount to \$13,919,746, with excess appropriation of \$173,433.

Appendix 1 - HB 351, Section 2

Section 2. Contingent appropriation from treasure state endowment state special revenue account. (1) On or before July 15, 2011, the department of commerce shall determine how much of the loan of \$6,512,000 authorized by subsection (6) of section 1, Chapter 458, Laws of 2009, was borrowed from the board of investments, how many projects satisfied the conditions described in subsection (1) of section 3, Chapter 458, Laws of 2009, the amount of the loan that will not be encumbered based on the inability of projects to satisfy the conditions, and the difference between the \$6,512,000 loan and the amount of the loan that will not be encumbered. The department shall report these findings to the board of investments, the legislative fiscal division, and the office of budget and program planning on or before July 19, 2011.

(2) The board of investments shall use the difference between the \$6,512,000 loan authorization and the amount of the loan authorization that will not be encumbered to determine the maximum level of debt service that may be required by the treasure state endowment program for fiscal years 2012 and 2013. For the purpose of this analysis, the board of investments shall assume that the amount reported by the department was an obligation of the treasure state endowment program on July 1, 2011, and the cost of the loan will be an obligation to the program. On or before August 1, 2011, the board of investments shall certify the resulting maximum level of debt service for fiscal years 2012 and 2013 to the department, the legislative fiscal division, and the office of budget and program planning.

(3) Subject to an appropriation limit, as provided in this subsection, if the maximum level of debt service for fiscal years 2012 and 2013 is less than \$840,000, then the difference between \$840,000 and the maximum level of debt service is appropriated from the treasure state endowment state special revenue account to the department of commerce to finance the grants authorized in [section 1]. The appropriation provided for in this subsection may not exceed \$840,000.

(4) If funds are appropriated in this section, they must be used to increase the appropriation in [section 1(1)] for the purpose set forth in [section 1].

Appendix 2 - Department of Commerce Report, Dated July 19, 2011



Dore Schwinden, Director

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Phone 406-841-2700 ★ Fax 406-841-2701 ★ TDD: 406-841-2702 ★ <http://commerce.mt.gov>

July 19, 2011

Ms. Amy Carlson
Legislative Fiscal Analyst & Director
Legislative Fiscal Division
P.O. Box 201711 (SENT VIA FAX and DEADHEAD MAIL)
Helena, MT 59620-1711

Dear Amy:

HB 351 (Chapter 389, Laws 2011) requires the Department of Commerce to report the following findings to the Board of Investments, the Legislative Fiscal Division, and the Office of Budget and Program Planning on or before July 19, 2011:

1) How much of the loan of \$6,512,000 authorized by subsection (6) of section 1, Chapter 458, Laws of 2009, was borrowed from the Board of Investments?

As of July 15, 2011, no loan has been borrowed from the Board of Investments. The Department of Commerce has determined that a maximum loan of **\$2,625,000** will be required to fund the obligations to the projects identified in subsection (2) of section 1, Chapter 458, Laws of 2009.

2) How many projects satisfied the conditions described in subsection (1) of section 3, Chapter 458, Laws of 2009?

Fifty-nine of the 66 projects approved by the 2009 Legislature satisfied the start up conditions described in subsection (1) of section 3, Chapter 458, Laws of 2009 on or before June 30, 2011. An additional two projects have until December 31, 2012 to satisfy start up conditions; therefore, the Department remains obligated to fund those projects at this time.

3) What is the amount of the loan authorization that will not be encumbered based on the inability of projects to satisfy the conditions?

The amount of the loan authorization that will not be encumbered is **\$3,887,000**. This reduction is due to the failure of five 2007 and five 2009 biennium projects to meet start up conditions, as well as reductions in a number of 2009 and 2011

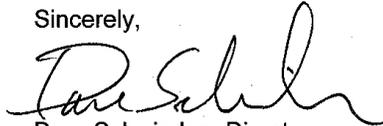
BRIAN SCHWEITZER, GOVERNOR

project awards for various reasons, including reduced project expenses, increased matching grant funds, and reductions in the scope of projects.

4) What is the difference between the \$6,512,000 loan authorization and the amount of the loan that will not be encumbered?

As of July 15, 2011, the Department will need to secure a total loan of **\$2,625,000** from the Board of Investments to fund the obligations to the projects identified in subsection (2) of section 1, Chapter 458, Laws of 2009. As of July 15, 2011, there is \$15,342,396 in STIP and cash in the TSEF account (almost \$2.5 million less than the interest earnings estimated for the 2011 biennium), with \$3,757,733 in HB 645 fund accruals, \$12,321,839 in interest earning accruals, and \$1,886,126 in unexpended project grant funds.

Sincerely,



Dore Schwinden, Director
Department of Commerce

cc: Cathy Duncan, Legislative Fiscal Division

Appendix 3 – BOI Report Dated August 22, 2011

DRAFT						
MONTANA BOARD OF INVESTMENTS						
Borrower:	Department of Commerce			Final Payment:	July 1, 2021	
	Treasure State Endowment Program			Total # of Payments:	20	
Loan Amount:	\$2,625,000.00			Loan Date:	July 1, 2011	
<u>Payment</u>	<u>Interest</u>	<u># Days</u>	<u>Interest</u>	<u>Principal</u>	<u>O/S Loan</u>	<u>Total Amount</u>
<u>Due</u>	<u>Rate</u>	<u>Due</u>	<u>Payment</u>	<u>Payment</u>	<u>Balance</u>	<u>of Payment</u>
			Beginning Balance		2,625,000.00	
01/01/12	4.800%	184	63,517.81	103,281.91	2,521,718.09	166,799.72
07/01/12	4.800%	182	60,190.52	106,609.20	2,415,108.88	166,799.72
01/01/13	4.800%	184	58,279.35	108,520.37	2,306,588.51	166,799.72
07/01/13	4.800%	181	54,903.13	111,896.60	2,194,691.91	166,799.72
01/01/14	4.800%	184	53,105.53	113,694.19	2,080,997.72	166,799.72
07/01/14	4.800%	181	49,533.45	117,266.27	1,963,731.45	166,799.72
01/01/15	4.800%	184	47,516.92	119,282.80	1,844,448.65	166,799.72
07/01/15	4.800%	181	43,902.93	122,896.79	1,721,551.86	166,799.72
01/01/16	4.800%	184	41,656.84	125,142.88	1,596,408.97	166,799.72
07/01/16	4.800%	182	38,104.45	128,695.27	1,467,713.70	166,799.72
01/01/17	4.800%	184	35,417.62	131,382.11	1,336,331.60	166,799.72
07/01/17	4.800%	181	31,808.35	134,991.37	1,201,340.23	166,799.72
01/01/18	4.800%	184	29,069.14	137,730.58	1,063,609.65	166,799.72
07/01/18	4.800%	181	25,316.82	141,482.90	922,126.75	166,799.72
01/01/19	4.800%	184	22,312.94	144,486.78	777,639.97	166,799.72
07/01/19	4.800%	181	18,509.96	148,289.76	629,350.21	166,799.72
01/01/20	4.800%	184	15,228.55	151,571.17	477,779.04	166,799.72
07/01/20	4.800%	182	11,404.04	155,395.68	322,383.36	166,799.72
01/01/21	4.800%	184	7,779.48	159,020.24	163,363.12	166,799.72
07/01/21	4.800%	181	<u>3,888.49</u>	<u>163,363.12</u>	0.00	<u>167,251.61</u>
			711,446.32	2,625,000.00		3,336,446.32

Status of 2011 Biennium TSEP Projects (as of 8/24/2011)

Grantee	TSEP Grant Award Amount	Amount of HB 645 Funds Committed	Amount of HB 645 Funds Expended	Amount of State Special Revenue Funds Committed	Amount of State Special Revenue Funds Expended	Contract Initiated	Contract Signed	Approved Management Plan	Approved Accounting System and Reporting in Compliance	Other Funds Firmly Committed	Notice to Proceed Has Been Issued
Beaverhead County	\$290,668	\$290,668	\$271,193			✓	✓	✓	✓	✓	✓
Big Sandy, Town of	\$500,000			\$500,000	\$0	✓	✓	✓	✓	✓	✓
Bigfork Co. W&S District	\$750,000			\$750,000	\$735,000	✓	✓	✓	✓	✓	✓
Blaine County	\$384,160			\$384,160	\$310,679	✓	✓	✓	✓	✓	✓
Bozeman, City of	\$500,000			\$500,000	\$0	✓	✓	✓	✓	✓	✓
Bridger Pines Co. W&S District	\$400,000			\$400,000	\$0	✓	✓	✓	✓	✓	✓
Broadview, Town of	\$500,000			\$500,000	\$8,137	✓	✓	✓	✓	✓	✓
Bynum/Teton Co. W&S District	\$567,000			\$567,000	\$105,756	✓	✓	✓	✓	✓	✓
Carbon County	\$492,915	\$492,915	\$320,798			✓	✓	✓	✓	✓	✓
Carter Chouteau Co. W&S District	\$750,000			\$178,000	\$171,889	✓	✓	✓	✓	✓	✓
Cascade, Town of	\$625,000	\$625,000	\$625,000			✓	✓	✓	✓	✓	✓
Choteau, City of	\$500,000			\$500,000	\$500,000	✓	✓	✓	✓	✓	✓
Crow Tribe	\$750,000					✓	✓	✓	✓	✓	✓
Cut Bank, City of	\$500,000			\$500,000	\$499,838 *	✓	✓	✓	✓	✓	✓
Dutton, Town of	\$500,000	\$500,000	\$500,000			✓	✓	✓	✓	✓	✓
Em-Kayan Co. W&S District	\$290,619			\$290,619	\$287,119 *	✓	✓	✓	✓	✓	✓
Eureka, Town of	\$625,000			\$625,000	\$108,899	✓	✓	✓	✓	✓	✓
Fallon Co. North Baker W&S District	\$120,000			\$120,000	\$0	✓	✓	✓	✓	✓	✓
Fergus County	\$167,200			\$111,097	\$107,913	✓	✓	✓	✓	✓	✓
Flathead Co. WD #8 (Happy Valley)	\$500,000	\$500,000	\$485,679			✓	✓	✓	✓	✓	✓
Flathead County for Bigfork	\$625,000			\$519,184	\$395,668	✓	✓	✓	✓	✓	✓
Fort Smith W&S District	\$500,000			\$500,000	\$272,047	✓	✓	✓	✓	✓	✓
Gardiner Park Co. W&S District	\$358,000			\$358,000	\$341,831	✓	✓	✓	✓	✓	✓
Gildford Co. W&S District	\$538,000			\$538,000	\$534,976 *	✓	✓	✓	✓	✓	✓
Gore Hill Co. Water District	\$250,300			\$250,300	\$250,300	✓	✓	✓	✓	✓	✓
Granite County	\$197,000			\$197,000	\$188,011	✓	✓	✓	✓	✓	✓
Hardin, City of	\$500,000	\$500,000	\$95,125			✓	✓	✓	✓	✓	✓
Harlowton, Town of	\$500,000			\$500,000	\$9,394	✓	✓	✓	✓	✓	✓
Homestead Acres W&S District	\$573,325			\$573,325	\$4,142	✓	✓	✓	✓	✓	✓
Jefferson County	\$160,690	\$160,690	\$135,544			✓	✓	✓	✓	✓	✓
Jette Meadows W&S District	\$750,000	\$750,000	\$750,000			✓	✓	✓	✓	✓	✓
Judith Gap, Town of	\$750,000			\$750,000	\$685,715	✓	✓	✓	✓	✓	✓
Kevin, Town of	\$500,000	\$500,000	\$124,243			✓	✓	✓	✓	✓	✓
Laurel, City of	\$625,000	\$625,000	\$612,500			✓	✓	✓	✓	✓	✓
Lewis and Clark County	\$456,628	\$456,628	\$334,887			✓	✓	✓	✓	✓	✓
Livingston, City of	\$500,000	\$500,000	\$500,000			✓	✓	✓	✓	✓	✓
Lockwood Sewer District	\$500,000	\$500,000	\$500,000			✓	✓	✓	✓	✓	✓

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Loma County W&S District	\$750,000			\$750,000	\$686,663	✓	✓	✓	✓	✓	✓
Madison County	\$413,203	\$413,203	\$385,206			✓	✓	✓	✓	✓	✓
Melstone, Town of	\$625,000			\$625,000	\$0	✓	✓	✓	✓	✓	✓
Nashua, Town of	\$421,300	\$319,244	\$272,500	\$102,056	\$0	✓	✓	✓	✓	✓	✓
Philipsburg, Town of	\$750,000	\$750,000	\$156,582			✓	✓	✓	✓	✓	✓
Powell County	\$304,248					✓	✓				
Ravalli County	\$137,193	\$137,193	\$137,193			✓	✓	✓	✓	✓	✓
Ronan, City of	\$750,000			\$750,000	\$227,238	✓	✓	✓	✓	✓	✓
Rudyard County W&S District	\$319,000	\$319,000	\$279,072			✓	✓	✓	✓	✓	✓
Shelby, City of	\$625,000			\$625,000	\$603,144	✓	✓	✓	✓	✓	✓
South Chester County Water District	\$131,000			\$131,000	\$50,332	✓	✓	✓	✓	✓	✓
St. Ignatius, Town of	\$253,000			\$253,000	\$8,880	✓	✓	✓	✓	✓	✓
Stevensville, Town of	\$500,000			\$500,000	\$0	✓	✓	✓	✓	✓	✓
Stillwater County	\$292,979			\$292,979	\$248,169	✓	✓	✓	✓	✓	✓
Sweet Grass Community Co. W&S	\$625,000			\$625,000	\$582,897	✓	✓	✓	✓	✓	✓
Sweet Grass County	\$93,360			\$93,360	\$0	✓	✓	✓	✓	✓	✓
Troy, City of	\$715,000	\$715,000	\$698,993			✓	✓	✓	✓	✓	✓
Upper & Lower River Rd W&S District	\$500,000	\$500,000	\$406,076			✓	✓	✓	✓	✓	✓
Valier, Town of	\$625,000	\$625,000	\$612,500			✓	✓	✓	✓	✓	✓
Whitefish, City of	\$500,000			\$500,000	\$405,663	✓	✓	✓	✓	✓	✓
Wibaux, Town of	\$500,000			\$500,000	\$477,682	✓	✓	✓	✓	✓	✓
Winifred, Town of	\$500,000	\$500,000	\$500,000			✓	✓	✓	✓	✓	✓
Wolf Creek Co. W&S District	\$750,000			\$750,000	\$171,025	✓	✓	✓	✓	✓	✓
Yellowstone County	\$228,753	\$228,753	\$156,413			✓	✓	✓	✓	✓	✓
Brockton, Town of	\$750,000										
Greater Woods Bay Sewer District	\$488,000										
Seeley Lake Sewer District	\$750,000										
Sheaver's Creek W&S District	\$600,000										
Woods Bay Homesites W&S District	\$730,000										

Project in progress

Project completed

Has not yet met start-up conditions; statutory deadline of 12/31/2012

Grant terminated - did not meet start-up conditions by statutory deadline of 6/30/2011

***Funds remaining for pending audits**