



MONTANA LEGISLATIVE BRANCH

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DATE: September 24, 2007

TO: Legislative Finance Committee

FROM: Terry W. Johnson
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RE: May 2007 Special Legislative Session Fiscal Policy Triggers

BACKGROUND

During the May 2007 Special Legislative Session, the legislature enacted two bills that contain fiscal policy "triggers" that are dependent upon the amount of general fund revenue received in fiscal year 2007. The two bills enacted were HB 2 - General appropriations act and HB 9 - \$400 rebate for property taxes paid.

HB 2 appropriates up to \$30.0 million to the Office of Public Instruction for distribution to schools for capital investment and deferred maintenance payments. This appropriation is contingent upon fiscal year 2007 revenues exceeding \$1,762,355,000. This dollar amount represents the "current law" revenue estimate for fiscal year 2007 contained in HJ 2, the revenue estimate resolution of the regular legislative session. The language contained in HB 2 states "*if the unaudited general fund revenue received in fiscal year 2007 exceeds \$1,762,355,000, then the amount of the general fund unaudited revenue for fiscal year 2007 that exceeds \$1,762,355,000, up to \$30 million, is appropriated to the office of public instruction for distribution to schools in accordance with [LC 4] for the capital investment and deferred maintenance one-time-only payment.*"

HB 9 contains a similar trigger except that the available funds are used to determine the amount of tax credits to be claimed on individual income tax returns. This trigger is based on fiscal year 2007 general fund revenues exceeding \$1,802,000,000. In essence, for every million dollars the collections exceed this amount, \$1.0 million in tax credits is provided for individual income taxpayers. The legislation did not provide for an upper limit or cap on the amount of tax credits allowed. The language contained in HB 9 states "*(ii) The department of administration shall certify to the budget director on August 1, 2007, the amount of unaudited general fund revenue received in fiscal year 2007 as recorded when the fiscal year 2007 statewide accounting, budgeting, and human resources system records are closed in July 2007. Fiscal year 2007 is the period from July 1, 2006, to June 30, 2007. General fund revenue is as recorded in the statewide accounting, budgeting, and human resources system using generally accepted accounting principles in accordance with 17-1-102(2). If the unaudited general fund revenue received in fiscal year 2007 exceeds \$1,802,000,000, for each \$1,000,000 greater than \$1,802,000,000, the factor in subsection (1)(b)(i) must increase by 0.1 for tax year 2007 only.*"

WHAT HAPPENED

HB 2 Trigger - Based on the letter of certification from the Department of Administration to the budget director, total general fund revenues for fiscal year 2007 were \$1,838,053,331. It should be noted this amount was corrected for an accounting error (\$8.2 million) discovered after the close of the state's financial records for fiscal year 2007. Total collections as reported when the books were closed were \$1,829,821,621. Based on the certification letter, the maximum appropriation amount of \$30.0 million is appropriated to the Office of Public Instruction for distribution to public schools. This appropriation has been established on the state accounting system for fiscal 2008.

HB 9 Trigger - As stated above, the certified revenue amount was \$1.838 billion (rounded to the nearest million) which is \$36 million more than the trigger amount of \$1.802 billion. This means that, in total, taxpayers will receive \$36 million in tax credits that will be claimed on their 2007 tax returns. Based on the "relief multiple" specified in HB 9, individual income taxpayers will be eligible to claim approximately \$140 in tax credits on their 2007 tax returns¹. Most of these returns will be filed between January 1, 2008 and April 15, 2008.

ISSUES

There are two issues regarding the implementation of these fiscal policy triggers.

1. As shown above, the language contained in HB 2 and HB 9 does not allow the executive the authority to adjust the fiscal year 2007 revenue collection amounts. While HB 2 language references fiscal year 2007 revenue collections in general terms, HB 9 specifies that the fiscal year 2007 revenues are "*as recorded when the fiscal year 2007 statewide accounting, budgeting, and human resources system records are closed in July 2007*". The certification letter from the Department of Administration (attachment) acknowledges that the fiscal year 2007 certified revenue amount "includes an error that was discovered after the records were closed in July 2007". This means the certified revenue amount was overstated by \$8.2 million; and
2. The language in HB 9 states, in part, that "*general fund revenue is as recorded in the statewide accounting, budgeting, and human resources system using generally accepted accounting principles in accordance with 17-1-102(2)*". Based on information from the Department of Administration, state accountant, general fund revenue as defined by generally accepted accounting principles does not include certain items. These items are transfers, proceeds of general fixed asset disposition, and inception of lease amounts. If these items had been excluded, then fiscal year 2007 revenues as defined by generally accepted accounting principles would have been \$1,769,007,440 or about \$69 million less than the amount certified by the executive. If this definition had been used as prescribed by law, then no funds would be available for tax credits. In the certification letter, the Department of Administration points out that the certified revenue amount is different than the amount used in the preparation of the state's comprehensive annual financial report (CAFR). The CAFR is prepared according to generally accepted accounting principles.

¹State taxes (95 mills) on \$20,000 market value times the "relief factor"
 $\$20,000 * 66.8\% * 3.07\% * 9.5\% * 3.6 = \140

REVENUE AND TRANSPORTATION INTERIM COMMITTEE ACTION

The Revenue and Transportation Interim Committee (RTIC) was presented this report on September 19, 2007. After considerable discussion, the RTIC voted to request a formal legal analysis regarding the language in each bill from the code commissioner, Greg Petesch. The results, if available, will be provided to the Legislative Finance Committee on October 9.

Attachment

S:\Legislative_Fiscal_Division\LFD_Finance_Committee\MailOut_2007_2008\October_2007\Trigger memo.doc