



MONTANA LEGISLATIVE BRANCH

Legislative Fiscal Division

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Legislative Fiscal Analyst
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DATE: September 26, 2008
TO: Legislative Finance Committee
FROM: LFD Staff
RE: Summary of LFC Bill Drafts

This memo summarizes each of the bill drafts requested by the Legislative Finance Committee (LFC) at the March and June 2008 meetings. The committee action required on each of these bill drafts is to

- o Approve the bill draft and assign a sponsor
- o Reject the bill draft
- o Request the bill draft be modified and brought back to the November 2008 LFC meeting for final approval and sponsor assignment

Also included is a report on options for a potential bill draft, as requested by the LFC.

LC 0147 – Study Student Loan System

LC 0147 is a joint resolution requesting an interim study of the student loan system in Montana. The bill draft requests the Legislative Council designate the interim Legislative Finance Committee (LFC) or direct sufficient staff resources to study the student loan system in Montana and make recommendations to the 61st Legislature.

At the end of the June 2008 Legislative Finance Committee meeting, the committee approved a motion to request a bill draft to study a number of issues relating to the student loan system, including:

1. A comparative analysis of the guaranteed student loan program currently used in Montana to the direct student loan program, which is an alternative to the guaranteed student loan program.
2. Options for identifying the optimum level of student debt load for Montana resident students in order to identify funding benchmarks for student financial assistance and tuition.
3. Policy options related to state funding of need-based financial aid versus merit-based financial aid for Montana resident students.

The bill draft also directs that the report include:

1. Policy options for the legislature to consider in regard to
 - a. Continuing with the guaranteed student loan program
 - i. If so, whether any changes are recommended to that program including additional governmental oversight to the Montana Higher Education Student Assistance Corporation (MHESAC)
 - b. Changing to the federal direct student loan program
 - ii. If so, the process required to implement the change
2. An assessment of the impact of changing to the federal direct student loan program on primary and secondary student loan providers in Montana, particularly MHESAC

Definition of “Income” (no current bill draft)

As requested by the LFC, this report summarizes and presents options for LFC consideration to define the term “income” used in 17-7-301 (supplemental appropriations) originally raised in relation to a staff report on the expenditure of non-general fund prior to the expenditure of general fund at the June LFDC meeting. Because the definition of “income” chosen could be different based upon the original issue raised, it is again briefly revisited.

Recommendations of the Appropriations and Budget Subcommittee

The following seven bill drafts contain recommendations as a result of the LFC Appropriation and Budget Subcommittee.

LC 0269 – Generally revise appropriation and budget statutes

LC 0269 is a housekeeping bill that replaces the inappropriate use of the terms “appropriate” or “appropriated” in current statute with a term that does not imply an appropriation is made, repeals obsolete statutes, and includes other housekeeping changes.

LC 0270 – Revise revenue streams to oil, gas, and coal natural resource account

LC 0270 clarifies the use of the coal tax revenue currently deposited into the account oil, gas, and coal natural resource account and revises the revenue streams to the oil, gas, and coal natural resource account into two separate state special revenue accounts and.

The 2005 Legislature passed HB 758, a bill intended to earmark funding for local government (counties, cities and towns) to address local impacts caused by oil, gas and coal resource development. The legislation redirected a portion of the coal tax shared account and identified oil and gas production taxes to be deposited to the newly created oil, gas, and coal natural resource account (codified in 90-6-1001).

The oil and gas production taxes were intended to be used for distribution to counties (one-third) and incorporated cities and towns (two-thirds) impacted by oil and gas production. The coal severance tax was intended to be used as it had historically for local impact grants as determined by the Coal Board that is administratively attached to the Department of Commerce. The allocation of oil and gas tax revenues to local governments was achieved in HB 758, but there was no language in the bill that allocates the coal tax funds to the Coal Board.

At the June 2008 meeting, the LFC recommended this bill draft to identify, in statute, the use of the redirected coal tax for the Coal Board and local impact grants. The committee also

recommended that the bill draft separate the two revenue streams created by HB 758 (oil and gas taxes and coal severance tax) into two separate SSR accounts.

LC 0271 – Revise appropriations for aerospace and technology projects

LC 0271 deletes an invalid appropriation in current statute that appropriates bond proceeds to the Department of Commerce for aerospace and technology projects and inserts a new appropriation for the same amount (\$20 million) and purpose as current statute.

Section 17-5-820 was enacted by the 1999 Legislature to provide general obligation bond authority for the venture star project. The May 2000 special legislative session amended the statute to appropriate the bond proceeds to the Department of Commerce, not to exceed \$20 million. The use of the bond proceeds has been expanded over the years, via statutory amendment, to include the purposes listed in the current statute. No bonds have been issued under the authorization in 17-5-820.

The legislature's Director of Legal Services advised that the appropriation in 17-5-820 is no longer valid. It was valid for the biennium in which the appropriation was made, in the same way other "cat and dog" appropriations are valid under 17-7-501(1) [temporary appropriation].

In order for the department of commerce to spend any bond proceeds, if bonds are ever issued, the legislature will have to provide the appropriation authority.

At the June 2008 meeting, the LFC requested a bill draft that repeals the invalid appropriation currently in law, and includes language that authorizes and appropriates bond proceeds for the 2011 biennium for the same amount (\$20 million) and purpose as current statute.

LC 0272 – Repeal bonding authority for aerospace projects

LC 0272 repeals Section 17-5-820, MCA, as the bonding authority authorized in this statute since 1999 has never been used. This bill draft is related to LC 0271 and was requested by the LFC at its June 2008 meeting after hearing discussion of the issues related to LC 0271.

LC 0273 – Amend definition of enterprise funds subject to appropriation

LC 0273 clarifies when enterprise funds are subject to appropriation. Current statute includes two similar, but different, definitions and is unclear. The bill draft defines enterprise funds subject to appropriation in one place in statute (17-8-101(8)) and then amends other sections of statute by referring to this statutory definition.

LC 0065 – Eliminate certain general fund transfers

LC 0065 eliminates on-going general fund transfers in accordance with its following policy:

"It is the policy of the Legislative Finance Committee that the legislature does not enact legislation that transfers general fund in an on-going manner to another account from which it can be appropriated. Such action obfuscates the true source of funding, reduces the fund balance without any review by the appropriations subcommittees, and is inefficient. A better method is to directly appropriate the funding for the intended use. This policy also applies to non-general

fund on-going transfers. LFD staff is instructed to inform legislators, legislative committees, and others as it deems necessary of this policy.”

LC 0066 – Revise or eliminate certain statutory appropriations

LC 0066 eliminates statutory appropriations that have not been used since at least FY 2001, consolidates five horse racing statutory appropriations into one, and eliminates one invalid statutory appropriation. The committee included the elimination of the statutory appropriation for highway patrol officers’ salaries (44-1-504, MCA) at the request of the Department of Justice.

The LFC adopted the following statement: “It is the policy of the Legislative Finance Committee that the legislature does not enact legislation establishing a statutory appropriation unless a termination date is included”.

For both bill drafts, the committee was clear in its intention not to eliminate programs, but to change the method of funding to HB 2 appropriations.

LC 0146 – State rainy day fund

LC 0146 would establish a budget stabilization account (rainy day fund) as an account that would hold moneys in reserve for periods of revenue shortfalls. Moneys would be transferred to the account by a couple of mechanisms: 1) on or before 1/1/2011, OBPP would direct the transfer an amount anticipated to be in excess of a \$100 million fund balance for FY 2011, and 2) a statutory provision in the bill would direct the transfer of 50 percent of the amount by which the audited general fund unreserved ending fund balance exceeds 5 percent of general fund appropriations and transfers for the prior biennium, the first occurring by December 31, 2011, if moneys are available. The fund would be capped at 9 percent of general fund appropriations and transfers for the biennium. The Governor could use the funds only to avoid spending reductions directed under 17-7-140, reductions that are “triggered” when the projected ending fund balance drops below one percent. The Governor would be limited to using 80 percent of the balance in a biennium and the balance cannot drop below \$5 million once it has reached that level. The bill would be effective on passage and approval, with the first potential transfer in the bill not occurring until December 2010, although nothing would prevent the legislature from transferring moneys to the account sooner.

LC 0103 – Land board approval for abandoned mine and reclamation program land transactions

LC 0103 requires that purchases of abandoned mine land be approved by the Board of Land Commissioners. This type of land transaction is currently not subject to board review and approval. Most state land transactions require such approval.

LC 0268 – Increase limit on budget change documents

LC 0268 increases the limit on the size of program transfers or operating plan changes that trigger the need for LFC review before they can be acted upon by the approving authority (usually the Governor) from 25 percent and \$25,000 to 25 percent and \$75,000. All changes of at least \$1.0 million will still require review regardless of percentage change.

LC 0144 – Revise law for acquisition of state office space

LC 0144 revises the requirements for state facility planning and management, including additional analysis and review, accountability, and oversight. The bill requires the design, implementation, and use of a space needs analysis; the design, implementation, and deployment of a cost-effective life-cycle cost model; the creation and presentation to the next legislature of a facility plan; and the development and maintenance of an inventory database. The bill also places a limit on the length of leases into which the Department of Administration may enter.

LC 0115 – Study Long-Term impacts of budget and demographics driving costs

LC 0115 creates a demographic, economic, and government trend analysis interim committee to conduct a study of the potential long-term effects of such trends in Montana on state and local government programs and services and on state and local revenue systems. It directs the Department of Revenue and other state agencies to provide information, within the limits of state and federal confidentiality requirements, and requires the involvement of various interested parties in the conduct of the study. The bill includes a total appropriation of \$300,000 general funds to conduct the study and is effective upon passage and approval.

The above provides a brief summary of the various committee bill drafts. The actual bill drafts can be found at <http://leg.mt.gov/css/committees/administration/Finance/Default.asp>