



MONTANA LEGISLATIVE BRANCH

Legislative Fiscal Division

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Director
AMY CARLSON

DATE: June 28, 2010

TO: Legislative Finance Committee

FROM: Greg DeWitt, Senior Fiscal Analyst

RE: Montana Lottery Supplemental Appropriation Proposal

On June 25, 2010, the Governor's budget director sent notice to the Legislative Fiscal Analyst of a proposed supplemental appropriation request to transfer \$650,000 in state lottery enterprise fund authority from FY 2011 to FY 2010 for the Montana Lottery. It is the role of the Legislative Finance Committee (LFC) to report to the Governor whether, in the committee's view, the request meets statutory criteria and to raise any necessary compliance issues. If the LFC does not provide a report, the Governor can authorize the transfer 90 days after the date the request was forwarded to the committee. The LFC does not approve or deny the request. However, the LFC may want to consider the consequences of not reporting back to the Governor as the fiscal year would be concluded and the books closed prior to expiration of the 90 day statutory allowance for the Governor to approve the request without an LFC report.

Statute requires two things before a request to move authority from the second year of the biennium to the first can be made:

1. Expenditures must be for an unforeseen and unanticipated emergency that cause the appropriation for the year to be insufficient for the operation and maintenance of the agency in that year; and
2. The requesting agency must present a plan for reducing expenditures in the second year of the biennium that allows the agency to contain expenditures within appropriations.

STAFF REVIEW

Staff has reviewed the proposed supplemental appropriation request in accordance with the requirements in 17-7-301, MCA. Two factors have been stated as drivers for this request:

1. Linkage between increased ticket sales and corresponding increased vendor fees account for \$225,000 of the request; and
2. A contract to purchase 60 lottery ticket vending machines accounts for \$425,000 of the request.

The statutory requirement of being an unforeseen and unanticipated emergency appears to be difficult to defend as it applies to the purchase of the ticket vending machines. The LFC may want to ask the department how purchasing additional equipment beyond that anticipated in the agency's budget request constitutes an unforeseen and unanticipated emergency. The FY 2010

budget for equipment was \$42,077 and this constraint should have been considered prior to committing to the purchase of equipment.

In regards to the plan to reduce expenditures in the second year to contain expenditures within appropriations, the following concerns are raised:

- The FY 2011 cost for the lease cost for 30 lottery ticket vending machines would add \$72,000 to the costs for the second year of the biennium
- If ticket sales increase over FY 2010 levels as they are expected to over the FY 2009 levels additional costs for vendor fees would be expected in FY 2011
- Although the legislature doesn't approve budgets at the third level of accounting, the combined FY 2011 budgets for promotional aids and non-recruiting advertisements as they were recorded in the state budgeting system total roughly \$872,000

Given the above, it appears that significant risk exists for a supplemental appropriation in the 2011 legislative session.

OPTIONS

The committee may take one of three actions for this transfer:

1. Inform the Governor that the committee does not raise any issues of statutory compliance with the proposed transfer,
2. Inform the Governor of statutory compliance issues with the proposed transfer (e.g., that the purchase of lottery ticket vending machines does not constitute an unforeseen and unanticipated emergency), or
3. Take no action.