



2009 BIENNIUM TSEP FUNDING

Final Funding and Future Implications

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The Legislative Finance Committee (LFC) of the 2007 through 2008 interim appointed a subcommittee to analyze several issues related to the work of the Long-Range Planning (LRP) subcommittee of the House Appropriations Committee and the Senate Finance and Claims Committee. Among the issues discussed was the 2009 biennium TSEP funding issue. One of the determinations of the subcommittee was that there were numerous questions that would not be finally determined until the end of the 2009 biennium. As the biennium has now ended, the various questions are now fully answered. This report will review the solution to the TSEP funding issue and provide an analysis of the future impacts related to the resolution.

Background and History

The Treasure State Endowment Program (TSEP) performs a vital service to local governments in the state of Montana by providing funds for water and wastewater projects. TSEP is a state infrastructure-financing program approved by Montana voters with the passage of Legislative Referendum 110 in June 1992. Grant funding for the program is derived from investment earnings on coal severance tax funds, which are invested in an endowment. Infrastructure projects include drinking water systems, wastewater treatment facilities, sanitary sewer or storm water systems, solid waste disposal and separation systems, and bridges. Eligible applicants include cities, towns, counties, and tribal governments, or county or multi-county water, sewer, or solid waste districts, which will hereafter be referred to as local governments. The TSEP program is administered by the Department of Commerce (DOC), who accept applications biennially and evaluates and ranks projects according to a two-step process which includes an analysis of the seven statutory priorities, including a financial need analysis. The ranked list is presented to the governor and then to the legislature for project authorization and fund appropriation.

In the 2007 legislative session, the DOC prepared a ranked list of 56 projects, from which 31 projects were recommended to be awarded \$17.3 million in grants from the expected interest earnings. The Sixtieth Legislature passed HB 512 which provided an appropriation of \$17.6 million in borrowed funds to finance all 56 TSEP projects and a \$2.2 million grant to the renewable resource grant and loan program (RRGL). The TSEP program would have been required to repay the loan from the endowment earnings. If the entire loan appropriation of \$17.6 million was needed, at an interest rate of 5.45 percent, then the debt service on the borrowed funds would have been approximately \$1.8 million per year for 15 years (\$3.5 million/biennium). In terms of TSEP grants, that is equal to 4.7 grants each biennium for 7.5 biennia.

The LFC (of the 2007 through 2008 interim) appointed a subcommittee to analyze the TSEP funding issue and make recommendations to the full committee. The subcommittee analyzed and discussed different scenarios for the payment of the loan, including the potential for the program to pay off the debt over various amounts of time and the benefits of paying the loan off in one or two biennia. The subcommittee also discussed the potential that the total loan would be reduced by \$2.2 million, because the RRGL/natural resource project account anticipated the receipt of earnings in excess of the original estimates. The "excess" RRGL earnings could be used to fund all the RRGL grants without the need for the \$2.2 million TSEP grant. The subcommittee also attempted to make estimates as to how many of the local governments would be able to meet the "start-up" conditions and request their grant prior to the deadline established at the end of the 2009 biennium. Ultimately, the subcommittee did recommend that the LFC request that the Sixty-first LRP to consider appropriating \$2.2 million of the excess RRGL funds for grants authorized for the 2009 biennium. However, due to the uncertainty of the final loan amount, the subcommittee decided to forego making a recommendation related to the pay off of the loan.

TSEP Funding Resolution

During the Sixty-first Legislative session, the legislature passed HB 645 (Montana Economic Stimulus Bill), which contained a transfer of \$23 million from the state general fund to the TSEP state special revenue account. The intent of the transfer was to 1) provide the necessary funding so all grants authorized by the Sixtieth Legislature who were able to meet start-up conditions by the end of the 2009 biennium would receive a grant, 2) eliminate the need for the TSEP program to borrow funds to pay for all the 2009 grants that met start-up conditions, and 3) expand the funding of grants for the 2011 biennium. The appropriation of the transferred funds was made in HB 11 as an amendment to HB 512 from the Sixtieth session. The appropriation was stated as follows:

“Section 11. Section 1, Chapter 383, Laws of 2007, is amended to read:

Section 1. Appropriation from treasure state endowment state special revenue account. (1) There is appropriated to the department of commerce ~~\$17,333,653~~ up to \$40,173,080 of the interest earnings from the treasure state endowment state special revenue account and from other funds to finance grants authorized by this section.”

HB 512 as amended in HB 11, 2009 Session

*Note: The revised appropriation in HB 512 is not equal to the transfer of \$23 million because HB 645 contained an administrative appropriation of \$160,573 from the TSEP state special revenue account.

Ultimately, in the 2009 biennium 49 of the 56, or 87.5 percent, local governments were able to meet start-up conditions and have been or will be provided TSEP grants, at a total cost of \$27,632,915. The TSEP program will not need to obtain a loan to finance grants in the 2009 biennium. From the original list, the authorized grant to the town of Fairfield was reduced by \$108,800 due to a change in project scope. The Sixty-first Legislature struck the grants to the town of Carter and the town of Loma from the original 2009 biennium grant list, as the towns had reapplied for grants in the 2011 biennium. Five of the local governments, with grant requests of \$3,498,800, were unable to meet the start-up conditions. The local governments who did not receive grants in the 2009 biennium are the Dayton-Lake County Water and Sewer Water District, Gallatin County (for Hebgen Lake Estates), the Mineral County Saltese Water and Sewer District, the town of Sheridan, and the city of Three Forks.

Subsequent Legislative Actions for the 2011 Biennium

In providing a transfer of \$23 million to the TSEP program, the legislature transferred funds in excess of what was needed for the 2009 biennium and provided an expansion of the number of grants that could be authorized in the 2011 biennium. The Sixty-first Legislature again chose to provide funding for all of the grants recommended in the 2011 biennium. The DOC presented a list of 64 recommended projects (TSEP actually presented 65 projects, but one of the projects was duplicated. The duplication was eliminated.), and the legislature added two projects for a total of 66 projects. The legislature appropriated \$17.8 million of the TSEP interest earnings to fund 33 projects in HB 11. The legislature made provision for the remaining funds to be used for the 2011 grant program in language in HB 11 as follows:

“Section 1. Appropriations from treasure state endowment state special revenue account. (1) There is appropriated to the department of commerce \$17.8 million of the interest earnings from the treasure state endowment state special revenue account and any funds appropriated to the department in [section 11] remaining after all obligations to fund eligible projects identified in [section 1(3)] have been fully met, to be used to finance grants authorized by this section.”

HB 11, 2009 Session

While the legislature was in session, there was still uncertainty of how much funding would be required to fully fund all of the grants from the 2009 biennium. Estimates showed that approximately \$8.3 million would be available to expand the grant program of the 2011 biennium. The total amount of grant requests was \$32.6 million, and the cumulative (estimated) amount of funding provided was \$6.5 million short of funding the entire list (\$32.6 - \$17.8 - \$8.3 = \$6.5). Consequently, the legislature once again provided an appropriation for borrowed funds for the 2011 TSEP program. The appropriation language is seen in HB 11 as follows:

“If funds appropriated in subsection (1) are insufficient to fund any of the projects that have satisfied the conditions described in [section 3(1)] prior to June 30, 2011, the treasure state endowment program shall fund

the projects by borrowing money from the board of investments pursuant to 90-6-701(1)(b). There is appropriated to the department of commerce up to \$6,512,000 of funds borrowed from the board of investments.”

HB 11, Section 1 (6), 2009 Session

Again, the TSEP program faces the possibility of needing to borrow funds to finance all the grants authorized in the 2011 biennium, however the amount of the estimated loan is significantly smaller. The debt service over a 15 year period for a loan of \$6.5 million is estimated to be \$659,424 per year, \$1.3 million a biennium, and is significantly less than the debt service estimated when a loan was contemplated for the grants authorized by the Sixtieth Legislature.

Estimates Aside

The calculation used to determine the amount of funds remaining to finance grants in the 2011 biennium was based on estimates of funding needed for the grants authorized in the 2009 biennium. Estimates were required because of the uncertainty of the number of grants that would complete start-up conditions and obtain their TSEP grant. The estimates used in the calculation assumed that all recommended grant requests for the 2009 biennium, with the exception of the two grants that were eliminated by the Sixty-first Legislature, would meet start-up conditions and be requested. As mentioned earlier, five local governments were not able to meet the start-up conditions. Consequently, the amount of the transferred funds that can be used for grants in the 2011 biennium has increased and the amount of borrowed funds needed to fund all 66 of the 2011 biennium TSEP grants has declined. The table below shows the TSEP funding as originally conceived by the Sixty-first Legislature:

Treasure State Endowment Fund (02270)		
Fund Balance Projection 2011 Biennium (from Fiscal Report)		
Changes from Projected Earnings and Costs	\$68,866	
HB 645 OTO General Fund Transfer (2009 biennium)	23,000,000	The HB 645 transfer was shown in the LFD fiscal report (June 2009, Volume 4, Section F, page F-32) and was presented in HB 11 as a deposit to the TSEP state special revenue fund in the 2009 biennium.
2009 Biennium Projects Payable with HB 645 Transfer	(14,526,695)	
Estimated Beginning Fund Balance (7/01/2009)	8,542,171	
Revenue Projections ¹		The estimated beginning fund balance for 7/01/2009 represents the amount of funding estimated to be available, or remaining from the transfer, for the grants of the 2011 biennium.
FY 2010 Investment Earnings	\$9,712,000	
FY 2011 Investment Earnings	10,492,000	
TSEP Loan, 2011 Biennium	6,512,000	The Sixty-first Legislature assumed that a loan of \$6.5 million would be required to fund all the grants authorized for the 2011 biennium.
2011 Biennium Revenues	\$26,716,000	
Proposed Expenditures		
Administration - Commerce ²	(\$1,330,750)	From the funds transferred in HB 645, the legislature estimated that \$8.3 million would be appropriated for 2011 biennium grants.
Administration - DNRC	(56,000)	
Emergency Grants	(100,000)	
Preliminary Engineering Grants	(900,000)	The Sixty-first Legislature appropriated \$6.5 million of borrowed funds to finance of all recommended grants in the 2011 biennium.
TSEP Basic Grants Appropriation	(17,800,000)	
TSEP Expanded Grants Appropriation	(8,312,732)	
Loan Appropriation for Grants	(6,512,000)	
Total Expenditures	(\$35,011,482)	
Estimated Ending Fund Balance - (6/30/2011)	\$246,689	

Revised Fund Balance & Loan Requirement

As mentioned, the above fund balance analysis presents the legislative actions of HB 11 and is based on estimates for the amount of funds remaining after financing all of the requested grants authorized for the 2009 biennium. Now that the 2009 biennium has ended and all the local governments that were able to meet start-up conditions have requested their grants, the transfer funds available for grants in the 2011 biennium can be firmly calculated. The table below shows a recalculated fund balance. This analysis is intended to present a revised estimate of the loan that may be

needed to finance all the grants in the 2011 biennium. The first half of the table captures the actual 2009 biennium revenues and expenditures from the state accounting system. The second part of the table provides the revised estimate of the 2011 ending fund balance as calculated using the estimates of revenue per HJ 2 and the appropriations for administration and grants from HB 2, HB 645, and HB 11.

Treasure State Endowment Fund (02270) Fund Balance Projection 2009 Biennium		
Beginning Fund Balance (July 1, 2007)	\$38,029	The legislature assumed interest earnings for FY 2009 to be \$814,593, or 8.8 percent, greater than the amount realized. This change increased the amount of the HB 645 transfer that was needed for grants in the 2009 biennium.
Revenues		
2008 Interest and Earnings	\$9,160,710	As appears in the table, the HB 645 transfer was made in FY 2009, providing a substantial beginning fund balance in the 2011 biennium.
2009 Interest and Earnings	8,436,461	
Total 2009 Biennium Interest and Earnings	17,597,170	The total amount of grants that were provided grant funding in the 2009 biennium cost \$27.6 million.
GF OTO (HB 645) Transfer to TSEP	23,000,000	
Expenditures		The TSEP program has a beginning fund balance of \$11.2 million at the end of the 2011 biennium, funds that could finance 2011 biennium grants.
2008 Administrative Costs	(\$517,553)	
2009 Administrative Costs	(612,185)	Loan funds are still appropriated at \$6.5 million for grants in the 2011 biennium.
2009 Bien. Other Grants (Emerg. & Prelim. Eng.)	(663,287)	
Total 2009 Biennium Expenditures	(1,793,025)	Administrative costs include the additional appropriations of \$160,573 included in HB 645.
2009 Biennium Grants Issued or Encumbered	(27,632,915)	
Ending Fund Balance (June 30, 2009)	<u>\$11,209,259</u>	Appropriations exist for the entire list of TSEP projects in the 2011 biennium.
Treasure State Endowment Fund (02270) (Revised) Fund Balance Projection 2011 Biennium		
Beginning Fund Balance (July 1, 2009)	\$11,209,259	If the all loan proceeds are accessed, TSEP would end the biennium with \$2.9.
Revenue Projections (2011 Biennium)		
FY 2010 Investment Earnings	\$9,712,000	Reducing the expected loan amount by the calculated ending fund balance produces a loan need of \$3.6 million to finance all 2011 grants.
FY 2011 Investment Earnings	10,492,000	
2011 Biennium Loan Appropriation	6,512,000	
2011 Biennium Revenues	26,716,000	
Expenditures		
Administration - Commerce (HB 2 and HB 645)	(\$1,328,261)	
Administration - DNRC	(56,000)	
Emergency Grants	(100,000)	
Preliminary Engineering Grants	(900,000)	
2011 Biennium TSEP Grants Authorized	(32,623,541)	
Total Expenditures	(35,007,802)	
Estimated Ending Fund Balance - (6/30/2011)	<u>\$2,917,457</u>	
Revised Loan Requirement		
Revised Loan Requirement for 2011 Biennium		
2011 Biennium Loan Appropriation	\$6,500,000	
Estimated Ending Fund Balance	2,917,457	
Total Required Loan	\$3,582,543	

Note: If a TSEP loan would have been required in the 2009 biennium, it would have amounted to approximately \$11.8 million.

The assumptions used in these calculations continue to be based on estimates and suggest that the loan for TSEP grants authorized by the Sixty-first Legislature (2011 biennium) will need to be approximately \$3.6 million. While the 2009 biennium components of the estimate are now realized, uncertainty remains related to both the actual TSEP investment earnings of the 2011 biennium and the number of local governments that will be able to meet start-up conditions and access their grant funds. Changes in either of these assumptions will have the potential to change the amount of the TSEP loan in the 2011 biennium. The LFC may wish to review the status of the TSEP loan question as the interim draws to a close.