

12-1-2007

## Fiscal News, December 2007

Maine State Legislature

Office of Fiscal and Program Review

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### Recommended Citation

Maine State Legislature; Office of Fiscal and Program Review; and Pennoyer, Grant T., "Fiscal News, December 2007" (2007). *Office of Fiscal and Program Review*. 85.

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# FISCAL NEWS

MONTHLY NEWSLETTER OF THE OFFICE OF FISCAL AND PROGRAM REVIEW

DECEMBER 2007

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The Office of Fiscal and Program Review (OFPR) is a nonpartisan staff office of the Legislative Council providing budget, tax and general fiscal research and analysis for the Maine State Legislature.



## Month In Review

General Fund and Highway Fund revenue for the month of November remained under projections based on the old forecast prior to the December revenue revisions. November’s performance was consistent with the revenue revisions that created a General Fund shortfall of \$95 million and a Highway Fund shortfall of \$16 million.

In response to the General Fund revenue revisions, the Governor issued an Executive Order curtailing spending for FY 2008 by \$37.8 million pursuant to emergency curtailment authority. These spending limitations will stay in effect unless the Legislature intervenes.

The Commissioner of Education’s recommended funding level for FY 2009 education funding came in \$11 million higher than the amounts appropriated.

Legislative adjustments will be required in order to stay within amounts appropriated. The curtailment order may also result in the deferral of school subsidies from FY 2008 and FY 2009 potentially increasing the FY 2009 adjustments.

The Commissioner of Education reported good news on the progress of the school district reorganization effort. Based on plans submitted, the number of school administrative units will be below the goal of 80 units. A bill to address some financial hurdles to this effort has been heard and reported out of the Education Committee and will be ready for the Legislature when it returns on January 2<sup>nd</sup>.

The Appropriations Committee concluded its interim work on “The Initiative” to Streamline State Government achieving the required \$10.1 million in General Fund savings. These recommendations will be submitted to the Legislature and have public hearings during the early part of the 2<sup>nd</sup> Regular Session.

## General Fund Revenue Update

### Total General Fund Revenue - FY 2008 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
November	\$224.7	\$216.6	(\$8.1)	-3.6%	\$207.3	4.5%
FYTD	\$1,064.0	\$1,052.6	(\$11.3)	-1.1%	\$1,033.3	1.9%

General Fund revenue for November was under budget by \$8.1 million, increasing the negative variance for the Fiscal Year-to-date (FYTD) to \$11.3 million or -1.1%. This variance is based on the forecast prior to the December revisions. The distribution of the December revenue revisions will be reflected in the December revenue report. The FYTD growth of General Fund revenue over last month’s growth figure but remains modest at 1.9%. There is nothing in the November revenue variances that is inconsistent with the December revisions, although the sales tax line was under budget by less than expected.



## *Highway Fund Revenue Update*

### **Total Highway Fund Revenue - FY 2008 (\$'s in Millions)**

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
November	\$28.6	\$28.5	(\$0.1)	-0.3%	\$27.6	3.1%
FYTD	\$126.1	\$120.7	(\$5.4)	-4.3%	\$121.0	-0.2%

Highway Fund revenue was under budget in November by \$0.1 million, increasing the negative variance of the FYTD to \$5.4 million or 4.3%. As with the General

Fund, this variance is based on the forecast prior to the December revenue revisions. Highway Fund revenue showed negative growth of 0.2% for the first 5 months of FY 2008 over the same period in FY 2007. The variances in the November report are consistent with the revised forecast, which will be reflected in the December revenue report.

## *Emergency Curtailment of General Fund Spending*

Given the size of the General Fund revenue revision for FY 2008 (\$37.8 million) and the limited amount of time to offset this shortfall, the Governor felt obligated to implement his emergency authority pursuant to 5 MRSA §1668 to temporarily curtail spending. The Governor's authority to slow spending is limited and must be done "equitably" and must be consistent with legislative intent. A summary of the Governor's curtailment proposals and impacts are posted at <http://www.maine.gov/governor/baldacci/policy/Curtailing.html>.

Many legislators may be concerned about the effects of some of these proposals. Most of these proposals could be preempted by swift legislative action during the 2<sup>nd</sup> Regular Session. The Governor indicated during the press conference that more specific proposals would be submitted as part of his supplemental budget.

The largest reductions in this curtailment order include \$20.2 million or 53.4% from General Purpose Aid for Local Schools and \$13.5 million or 35.8% from programs within the Department of Health and Human Services.

## *"The Initiative" to Streamline State Government*

The committee completed its interim work on "The Initiative" to Streamline State Government on Thursday December 13th. At the end of the November meetings, the committee thought it had exceeded its target of \$10.1 million; the subsequent recalculation of two initiatives resulted in a reduction of savings of a little over \$500,000. At the end of the committee's December meetings, members of the committee proposed three additional initiatives with a total savings of \$400,000 in the current biennium and voted in a previously discussed but not voted upon initiative which will save \$30,000 per year starting in FY 2009. The savings of all the initiatives voted in totaled \$10,109,790 for the current biennium. Administration proposals adopted by the committee totaled \$9,363,712. Legislative proposals voted in totaled \$400,000 (this includes one proposal which was a scaled down version of administration proposal #31). Public input proposals voted in totaled \$346,078. Many of the proposals suggested by the public were voted out because the ideas were already being implemented and the savings accounted for or because the ideas, though worthwhile, would have resulted in no savings to the General Fund.

The committee moved to vote on the package and send it out. The motion carried 9-2. The bill representing the recommendations will be printed in early January. There were concerns expressed by the two dissenting members that at least one of the largest initiatives did not meet the criteria of "streamlining government."

The committee expressed its commitment to review the OPEGA report on administrative positions within state agencies and any subsequent analysis by the Office of Fiscal and Program Review and incorporate resulting recommendations in the next supplemental budget bill.

A listing of the results of the committee's recommendations (including the three initiatives added by the committee) as well as Agency and Policy Committee submittals and responses may be found on the web page at <http://www.maine.gov/legis/ofpr/afaInitiative.html>.



### Cash Balances Update

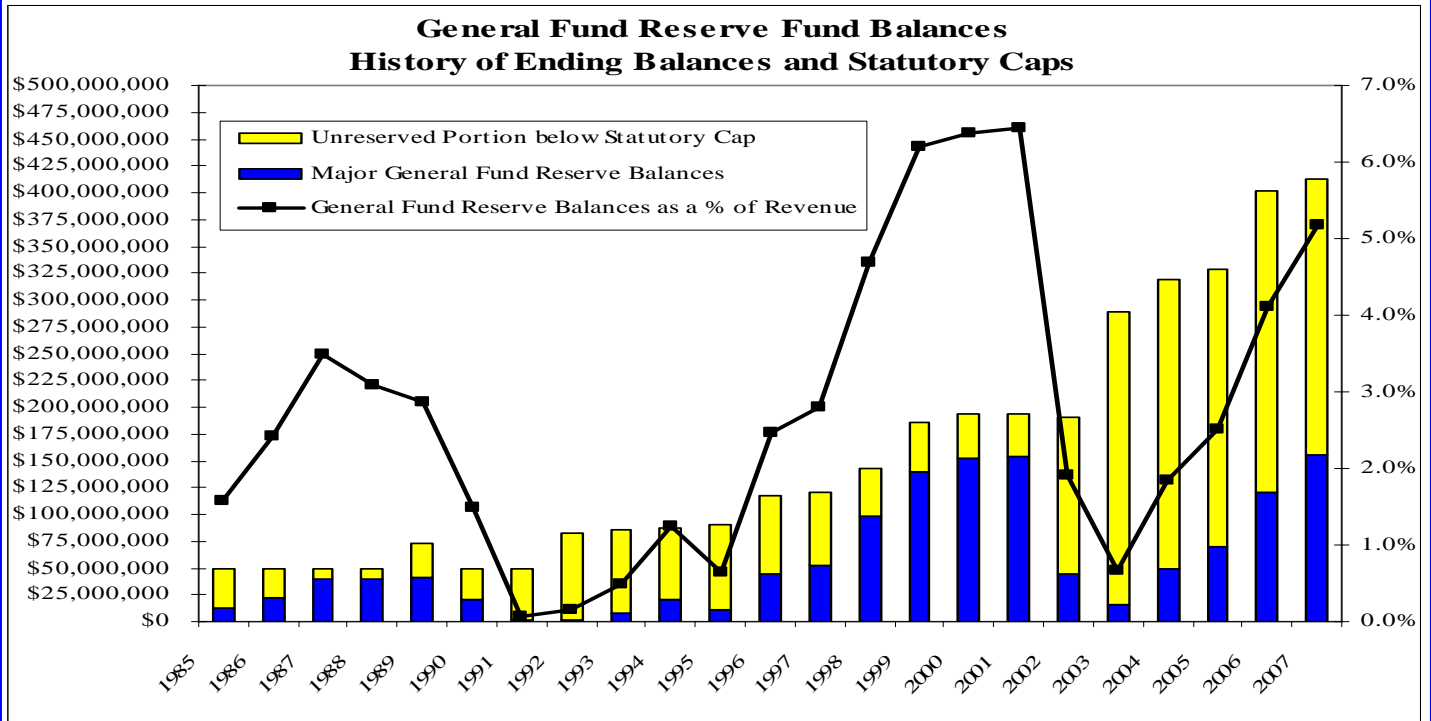
Average balance for the total cash pool in November was \$613.4 million. This is above the average balance for the month of October for the last 6 years of \$562.9 million. Cash balances continue to remain close to or above averages despite the fact that the State has relied on internal borrowing from within the cash pool rather than going out to external, short-term borrowing, such as Tax Anticipation Notes. There is no indication that this reliance on internal borrowing as opposed to external borrowing will change in the short term.

The balances of the major General Fund reserves, the Budget Stabilization Fund and the Reserve for Operating Capital, are at their highest levels, surpassing the previous peak at the end of FY 2001 of \$154.2 million. November's average balances totaled \$157.7 million. See graph below. Interest of roughly \$500,000 per month accrues to the Budget Stabilization Fund until it reaches its statutory cap. Although the current reserve balances are at their highest level in dollar terms, they are only 5.2% of General Fund revenue at the end of FY 2007 compared to 6.5% at the end of FY 2001. Despite these high reserve balances, General Fund balances as measured by the "Other General Fund Cash" remain at a substantial negative balance (\$220.0 million in November).

The \$20 million that is currently tied up in the potentially unproductive Mainsail II investment has reduced cash pool earnings. The rates of return on the cash pool have dropped over the last 3 months. Some of this can be attributed to the freezing of the \$20 million Mainsail II

Summary of Treasurer's Cash Pool	
November 2007 Average Daily Balances	
Millions of \$'s	
General Fund (GF) Total	\$22.1
General Fund (GF) Detail:	
Budget Stabilization Fund	\$117.1
Reserve for Operating Capital	\$40.6
Tax Anticipation Notes	\$0.0
Internal Borrowing	\$84.3
Other General Fund Cash	(\$220.0)
Other Spec. Rev. - Interest to GF	\$77.6
Other State Funds - Interest to GF	\$2.4
Highway Fund	\$35.7
Other Spec. Rev. - Retaining Interest	\$77.7
Other State Funds	\$263.5
Independent Agency Funds	\$134.4
<b>Total Cash Pool</b>	<b>\$613.4</b>

investment. September's annualized rate of return dropped approximately 25 basis points from August (5.30% to 5.05%). The Federal Reserve Bank's interest rate declines will also bring down rates of return on cash pool investments. In November, the cash pool earned a rate of return of 4.76%. The future impact of this non-performing asset will depend on whether Maine's "senior debt" position results in a full repayment with accrued interest or only a portion of the frozen asset's value. If the latter occurs, then there will be an additional reduction of future cash pool earnings as the asset is "written off."





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### *Commissioner's Recommendations for School Funding*

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Pursuant to Title 20-A, §15689-C, the Commissioner of Education with the approval of the State Board of Education provided to the Governor and the Department of Administrative and Financial Services, Bureau of the Budget the funding levels that the Commissioner recommends for the essential programs and services (EPS) model for the upcoming fiscal year. This recommended funding level, which must be submitted by December 15<sup>th</sup> annually, must be based on current statutory requirements.

On Wednesday, December 12<sup>th</sup>, the Commissioner recommended a funding level for FY 2009 EPS of approximately \$1.875 billion. In FY 2009, the final year of the phased-in increase of the State's share to the full 55% of EPS, the State's share is required to be \$1.032 billion. This amount is approximately \$11.0

million over the current General Fund appropriation for FY 2009. The primary factors driving this increase are a higher than anticipated inflation rate for 2009 and a net loss of teaching personnel whose salary was at the lower end of the pay scale. The EPS model assumed a net loss of teachers with salaries at the higher end of the pay scale.

Given the General Fund budget shortfall facing the 2<sup>nd</sup> Regular Session of the 123<sup>rd</sup> Legislature, it is unlikely that the Commissioner's recommended funding level will be fully funded. In addition to an adjustment to bring the State's share within or closer to the amounts appropriated, the curtailment initiative may also defer some subsidy payments from FY 2008 to FY 2009, requiring even greater adjustments to the State's share.

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### *School District Reorganization Update*

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At the Appropriations and Financial Affairs Committee meeting on December 12<sup>th</sup>, the Commissioner of Education reported that, after an initial review of reorganization plans submitted by school administrative units, the State will meet its target of having fewer than 80 school administrative units (SAU's) once the school district reorganization is complete. All but one of the existing SAU's submitted or are in the process of submitting some form of communication to the Department of Education indicating their plans to reorganize into regional school units. The Commissioner met the December 15<sup>th</sup> deadline to either approve or disapprove the plans and provide guidance and recommended changes to the plans that were not approved. Those SAU's with disapproved plans or plans with suggested changes have until February 1<sup>st</sup> to submit a revised plan.

As noted in the November 2007 Fiscal News, certain financial barriers have been identified that may hinder the reorganization of certain school administrative units. Those financial barriers center on: 1) the sharing of costs among the SAU's; 2) the loss of special education subsidy to certain minimum receivers; and 3) the requirement that SAU's contribute a minimum of 2.0 mills towards total education spending.

On December 12th and 13th, the Joint Standing Committee on Education and Cultural Affairs held a public hearing and work session on emergency legislation submitted by the Department of Education to address these barriers. The department's proposal provided SAU's with the flexibility to develop cost sharing proposals that address how costs outside of the EPS formula are to be shared. The bill also proposed removing the 2.0 mill minimum requirement and provided a method to allow current minimum receivers to continue to receive the special education subsidy even after joining a regional school unit (RSU).

The Education Committee amended the bill by postponing the implementation of a budget validation process, which creates a uniform process statewide for the development and approval of school budgets, until the 2009-10 school year. The committee also added clarifying language around cost-sharing agreements. The committee voted in favor of the department's bill, as amended, by a 10-3 vote. The bill will be presented to the full House and Senate for a vote in early January.



## *MaineCare Spending Update*

Consistent with the provisions of Part X of the 2008-2009 Biennial Budget Bill (PL 2007, c. 240), the Department of Health and Human Services (DHHS) has continued to provide weekly MaineCare spending and interim payment recovery reports to the Appropriations and the Health and Human Services Committees. Based on these reports, aggregate MaineCare spending appears to be on track with budgeted funding levels for the year, although a number of issues discussed below could affect the final status of the MaineCare budget for the year.

DHHS has also provided the committees with updates on the various MaineCare budget initiatives for the biennium (e.g., managed care for mental health services, clinical care management for high-end utilization of services; increased recoveries from third party payers, etc.). While the department's report indicates some savings are being achieved, at this point it is not possible to fully validate these savings or make a definitive determination of the overall success of each initiative in achieving budgeted savings targets.

In addition to implementing these budget initiatives, other issues that will affect the budget status of the MaineCare program for the remainder of the current fiscal year and the 2008-2009 biennium, include:

- 1. Interim payment recoveries.** DHHS has continued to make progress in the recovery of the interim payments that were made to providers when the MaineCare claims processing system was not making timely payments, but significant amounts have yet to be recovered. The impact on the budget status of the MaineCare program will depend on how much of these balances will be collected relative to budgeted amounts, as well as the amount of recoveries that have been and will need to be used to repay the federal government and to offset receivables already established.
- 2. Hospital payments.** As discussed in previous issues of the Fiscal News, in order to help fund increases in MaineCare prospective interim payments to hospitals, \$17.8 million has been transferred from the unanticipated Fiscal Year 2007 General Fund surplus to MaineCare (see July 2007 Fiscal News) and \$9.6 million has been certified by the State Controller as "the true unencumbered unobligated carry forward

available for MaineCare" of last year's \$30 million contingency appropriation. (see August 2007 Fiscal News). To date it appears that only the \$9.6 million has been allotted, leaving the \$17.8 million available for allotment for this purpose in the second half of the fiscal year.

- 3. Selection of MaineCare Fiscal Agent.** On December 12, 2007, DHHS provided the Appropriations and Health Human Services Committees with its latest monthly report on the MaineCare claims management system (MECMS) and the transition to a Fiscal Agent to administer MaineCare. The department's review of three submitted Fiscal Agent bids is underway and is scheduled to be completed on December 21, 2007, with an announcement of the selected vendor to follow. It is assumed implementation will take 24 months from this point. On a parallel course, work continues on making required modifications to the current MECMS system and improving its performance.

- 4. Federal audit recoveries.** Also at the December 12th Appropriations Committee meeting, DHHS notified the committee that the Office of the Inspector General (OIG) in the federal Department of Health and Human Services has released its final report regarding Maine's Medicaid targeted case management (TCM) services billings during fiscal years 2002 and 2003. The report's major recommendation is that Maine reimburse the federal government \$29.8 million in costs it believes were not allowable for TCM services billed during this period. The OIG recommendations will now go to the Centers for Medicare and Medicaid Services (CMS) for final consideration. The State continues to dispute the findings of the report and will address these concerns with CMS. At this point, it is unclear what the State will ultimately owe regarding this matter and when any payments will be due.

**General Fund and Highway Fund Revenue**  
**Fiscal Year Ending June 30, 2008**  
**Reflecting Budgeted Amounts Through 123rd Legislature, 1st Regular Session \***

**NOVEMBER 2007 REVENUE VARIANCE REPORT**

Revenue Line	November '07 Budget	November '07 Actual	November '07 Variance	FY08 YTD Budget	FY08 YTD Actual	FY08 YTD Variance	FY08 YTD Variance %	FY08 Budgeted Totals
<b>General Fund</b>								
Sales and Use Tax	80,111,121	79,606,289.93	(504,831.07)	371,911,477	365,583,284.40	(6,328,192.60)	-1.7%	1,006,131,180
Service Provider Tax	3,705,218	4,250,762.43	545,544.43	16,631,789	17,421,407.83	789,618.83	4.7%	51,181,910
Individual Income Tax	107,698,641	104,070,392.88	(3,628,248.12)	453,925,551	462,519,623.83	8,594,072.83	1.9%	1,382,788,225
Corporate Income Tax	(1,000,000)	(90,557.91)	909,442.09	58,750,000	51,233,529.33	(7,516,470.67)	-12.8%	202,052,405
Cigarette and Tobacco Tax	14,852,033	11,377,800.19	(3,474,232.81)	73,463,355	67,440,425.79	(6,022,929.21)	-8.2%	163,774,241
Public Utilities Tax	0	0.00	0.00	0	347,980.26	347,980.26	N/A	17,476,987
Insurance Companies Tax	5,091,460	3,890,428.07	(1,201,031.93)	11,828,120	13,439,459.68	1,611,339.68	13.6%	76,751,673
Estate Tax	3,800,000	4,534,935.15	734,935.15	11,100,000	8,428,859.78	(2,671,140.22)	-24.1%	45,258,169
Property Tax - Unorganized Territory	0	0.00	0.00	10,403,375	10,238,664.00	(164,711.00)	-1.6%	12,263,986
Income from Investments	400,000	372,589.00	(27,411.00)	1,700,000	1,718,899.41	18,899.41	1.1%	1,424,000
Transfer to Municipal Revenue Sharing	(9,716,265)	(9,579,681.26)	136,583.74	(45,962,161)	(45,734,650.11)	227,510.89	0.5%	(134,749,842)
Transfer from Lottery Commission	3,833,400	2,952,153.82	(881,246.18)	20,125,362	20,704,169.39	578,807.39	2.9%	49,834,250
Other Revenue	15,959,036	15,214,348.81	(744,687.19)	80,090,617	79,301,197.18	(789,419.82)	-1.0%	231,506,341
<b>Totals</b>	<b>224,734,644</b>	<b>216,599,461.11</b>	<b>(8,135,182.89)</b>	<b>1,063,967,485</b>	<b>1,052,642,850.77</b>	<b>(11,324,634.23)</b>	<b>-1.1%</b>	<b>3,105,693,525</b>
<b>Highway Fund</b>								
Fuel Taxes	19,599,492	19,063,193.48	(536,298.52)	83,128,642	78,374,257.70	(4,754,384.30)	-5.7%	234,550,398
Motor Vehicle Registration and Fees	5,706,945	6,370,451.17	663,506.17	34,435,973	33,957,048.96	(478,924.04)	-1.4%	87,290,064
Inspection Fees	430,020	231,137.31	(198,882.69)	1,977,388	1,660,148.01	(317,239.99)	-16.0%	4,433,458
Fines	165,915	305,722.34	139,807.34	841,274	739,551.62	(101,722.38)	-12.1%	2,018,239
Income from Investments	85,000	172,003.06	87,003.06	385,000	614,953.10	229,953.10	59.7%	795,000
Other Revenue	2,567,416	2,332,375.08	(235,040.92)	5,366,474	5,341,369.41	(25,104.59)	-0.5%	10,195,906
<b>Totals</b>	<b>28,554,788</b>	<b>28,474,882.44</b>	<b>(79,905.56)</b>	<b>126,134,751</b>	<b>120,687,328.80</b>	<b>(5,447,422.20)</b>	<b>-4.3%</b>	<b>339,283,065</b>

\* Does not reflect the December 2007 Revenue Forecasting Committee forecast.

## Comparison of Actual Year-to-Date Revenue Through November of Each Fiscal Year

REVENUE CATEGORY	FY 2004	% Chg	FY 2005	% Chg	FY 2006	% Chg	FY 2007	% Chg	FY 2008	% Chg
<b>GENERAL FUND</b>										
Sales and Use Tax	\$337,461,671.62	6.5%	\$336,338,857.49	4.1%	\$347,412,686.14	3.3%	\$359,721,619.31	3.5%	\$365,583,284.40	1.6%
Service Provider Tax	\$0.00	N/A	\$14,808,699.07	N/A	\$13,697,481.02	-7.5%	\$15,992,103.97	16.8%	\$17,421,407.83	8.9%
Individual Income Tax	\$406,328,156.89	3.5%	\$446,444,778.74	9.9%	\$469,860,736.59	5.2%	\$505,971,284.98	7.7%	\$527,709,442.60	4.3%
Individual Income Tax (Circuitbreaker)	\$0.00	N/A	(\$21,922,405.42)	N/A	(\$30,910,949.33)	-41.0%	(\$32,947,950.46)	-6.6%	(\$33,937,452.77)	-3.0%
Individual Income Tax (BETR)	\$0.00	N/A	\$0.00	N/A	(\$39,270,908.10)	N/A	(\$34,145,786.80)	13.1%	(\$31,252,366.00)	8.5%
Corporate Income Tax	\$24,790,923.79	5.8%	\$39,582,527.66	59.7%	\$53,737,876.19	35.8%	\$45,613,413.73	-15.1%	\$51,233,529.33	12.3%
Cigarette and Tobacco Tax	\$42,331,514.08	-2.6%	\$43,031,562.75	1.7%	\$59,923,162.72	39.3%	\$72,612,503.63	21.2%	\$67,440,425.79	-7.1%
Public Utilities Tax	(\$293,687.83)	-106.0%	(\$150,000.00)	48.9%	\$0.00	100.0%	(\$116,564.00)	N/A	\$347,980.26	398.5%
Insurance Companies Tax	\$12,042,356.15	6.3%	\$14,150,166.45	17.5%	\$11,897,839.03	-15.9%	\$11,621,238.40	-2.3%	\$13,439,459.68	15.6%
Estate Tax	\$6,141,790.43	21.9%	\$7,617,912.95	24.0%	\$38,283,546.95	402.5%	\$18,902,490.83	-50.6%	\$8,428,859.78	-55.4%
Property Tax - Unorganized Territory	\$8,937,092.00	-3.9%	\$9,638,377.00	7.8%	\$9,560,399.00	-0.8%	\$10,403,375.00	8.8%	\$10,238,664.00	-1.6%
Income from Investments	\$885,155.19	-22.0%	\$1,544,452.58	74.5%	\$2,429,322.28	57.3%	\$1,919,702.20	-21.0%	\$1,718,899.41	-10.5%
Revenue Sharing Transfers	(\$39,197,618.38)	-4.9%	(\$41,577,875.32)	-6.1%	(\$41,540,873.04)	0.1%	(\$43,870,438.92)	-5.6%	(\$45,734,650.11)	-4.2%
Liquor Transfers	\$12,099,832.46	3.3%	\$50,013,012.14	313.3%	\$10,950.00	-100.0%	\$11,671.36	6.6%	\$0.00	-100.0%
Lottery Transfers	\$17,226,825.11	7.7%	\$20,796,702.47	20.7%	\$20,906,831.99	0.5%	\$21,923,100.30	4.9%	\$20,704,169.39	-5.6%
Other Revenue	\$74,779,749.91	28.4%	\$77,776,254.91	4.0%	\$78,746,885.26	1.2%	\$79,673,388.94	1.2%	\$79,301,197.18	-0.5%
<b>TOTAL GENERAL FUND REVENUE</b>	<b>\$903,533,761.42</b>	<b>6.1%</b>	<b>\$998,093,023.47</b>	<b>10.5%</b>	<b>\$994,744,986.70</b>	<b>-0.3%</b>	<b>\$1,033,285,152.47</b>	<b>3.9%</b>	<b>\$1,052,642,850.77</b>	<b>1.9%</b>
<b>HIGHWAY FUND</b>										
Fuel Taxes	\$75,017,840.73	16.0%	\$79,919,953.51	6.5%	\$78,556,059.52	-1.7%	\$79,276,851.38	0.9%	\$78,374,257.70	-1.1%
Motor Vehicle Registration and Fees	\$30,443,693.56	-1.8%	\$31,216,635.62	2.5%	\$33,856,608.25	8.5%	\$33,545,831.71	-0.9%	\$33,957,048.96	1.2%
Inspection Fees	\$1,944,566.00	17.5%	\$1,667,933.96	-14.2%	\$1,934,973.29	16.0%	\$1,883,687.32	-2.7%	\$1,660,148.01	-11.9%
Fines	\$802,713.05	-24.7%	\$744,564.05	-7.2%	\$780,476.21	4.8%	\$762,928.45	-2.2%	\$739,551.62	-3.1%
Income from Investments	\$211,627.18	-62.1%	\$303,172.28	43.3%	\$742,565.25	144.9%	\$376,613.21	-49.3%	\$614,953.10	63.3%
Other Revenue	\$4,781,010.93	0.1%	\$2,947,539.94	-38.3%	\$4,826,271.40	63.7%	\$5,143,614.11	6.6%	\$5,341,369.41	3.8%
<b>TOTAL HIGHWAY FUND REVENUE</b>	<b>\$113,201,451.45</b>	<b>9.1%</b>	<b>\$116,799,799.36</b>	<b>3.2%</b>	<b>\$120,696,953.92</b>	<b>3.3%</b>	<b>\$120,989,526.18</b>	<b>0.2%</b>	<b>\$120,687,328.80</b>	<b>-0.2%</b>

Adjusted for Service Provider Tax Split