

# **EVALUATION OF STATE SPECIAL REVENUE FUNDS AND STATUTORY APPROPRIATIONS**

A Report Prepared for the  
**Legislative Finance Committee**

By  
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## INTRODUCTION

This report seeks to establish a process to review state special revenue funds based on dedicated revenue provisions in state law and statutory appropriations based upon statutory guidelines review. This activity rated six in the work planning session. The goal is to create a process in which the Legislative Finance Committee (LFC) can examine the characteristics of the funds and appropriations against standards set in law and create dialogue around this issue to determine what if any changes need to occur to clarify the use of state special revenue and statutory appropriations. This project is not about raising issues with whether any programs either funded with state special revenue or through a statutory appropriation should continue to be funded, , but rather with whether the current funding source and/or appropriation method is appropriate.

## INVENTORY OF TOOLS

The Legislative Fiscal Division (LFD) has a number of “tools” available to begin evaluating both statutory appropriations and state special revenue. This includes a data base of all statutory appropriations and a reporting tool that allows staff to pull state special revenue history. Both tools are in need of some updating to make this process go smoothly.

### Statutory Appropriations

The statutory appropriations data base includes historical expenditures, a score of how closely the appropriation conforms to statutory guidelines (relevancy score), and the corresponding MCA authority.<sup>1</sup> This data needs to be updated to include statutory appropriations that were impacted or created in the last legislative session and the evaluation tool needs further definition in order to create reports based upon statutory requirements being met or not. These are relatively simple improvements that can be made within normal working hours and be completed in time to provide a report at the December 2011 LFC meeting.

### State Special Revenue

State special revenue funds pose a different challenge. Reports are available to provide expenditure data from the funds but there is no central database that collects the characteristics of the funds. Characteristics include such items as revenue source, restrictions on use, MCA site, annual revenues, etc. Without the collection of the characteristics, we are unable to determine consistency with state law. Currently, LFD staff is leaning towards utilizing data from the current report to establish a database where analysts can load the characteristics, evaluate the fund against the statutory criteria, and run customized reports. There is a potential that the federal funds database could be adapted to fulfill this need. This approach would also provide the LFD with a searchable database of state special revenue to assist with legislative requests, budget analysis, and other functions. This process would require coordination with the Office of Legislative Information Technology, staff training, and report formatting. However, it could most likely be completed in time to provide a report at the March 2012 LFC meeting.

## TIME LINE AND DELIVERABLES

### Statutory Appropriations

Evaluate the statutory appropriations in terms of statutory conditions, determine consistency with statutory guidelines, and provide options for addressing identified issues.

#### For December 2011 meeting:

1. Update and complete changes to the database
2. Complete a checklist function in the database to determine if the following are met:<sup>2</sup>
  - a. Requires an appropriation

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<sup>1</sup> See appendix for report example

<sup>2</sup> As per 17-1-508 (2), MCA

- b. Monies are not from and continuing, reliable source
  - c. Use of the appropriation/expenditure is not predictable
  - d. Authority does not exist elsewhere
  - e. Alternative appropriation is not practical, available, or effective
  - f. Does not appropriate general fund (except for emergencies)
  - g. Money is dedicated for a specific purpose
  - h. Cap and sunset date are included (where feasible)
  - i. May not cover administration costs (exception is 77-1-108, MCA - Morrill Trust)
  - j. Transfer to local government – committee request
  - k. Voter initiative – committee request
3. Determine overall consistency with statute to give LFC a big picture, then break down to find the issue areas – Situational analysis such as:
    - a. X% of statutory appropriations do not meet the guidelines of 17-1-508, MCA
    - b. “X” statutory appropriations do not have a sunset date
    - c. General fund is appropriated X times for non-emergencies, etc.
  4. Discussion of next steps to determine legislative options

For March 2012 meeting:

1. Brief analysis of controlling statutes for statutory appropriations
2. Summary of legislative options
  - a. Provide options to the legislature, including but not limited to:
    - i. Isolation of statutory appropriations for further work
    - ii. Analysis of 17-1-508, MCA for potential changes to the guidelines
    - iii. Draft legislation
    - iv. Changes to budget rules
    - v. Balance Sheet

## **State Special Revenue**

Inventory, screen, and analyze the state special revenue funds to determine consistency with statute and provide options for addressing identified issues. Establish a state special revenue database for future legislative needs to find sources of revenue to fund projects and or cash balances.

For March 2012 meeting:

1. Completed data base for state special revenue funds based on the database created to track federal revenue
2. Complete a checklist function in the database to determine if one of the following are met to justify revenue dedication:<sup>3</sup>
  - a. Person or entity paying the tax, fee or assessment is the direct beneficiary of the specific activity, the entire cost of the activity is paid by the beneficiary and the tax, fee or assessment is commensurate with costs
  - b. Expectation that donated funds will be used for a specific purpose
  - c. There is a constitutional or federal mandate or statutory requirement in which a source of funds is designated for a specific purpose
  - d. Recognized need for accountability through a separation of funding from the general fund

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<sup>3</sup> As per 17-1-507(1), MCA

3. Complete a check list function in the data base to determine if one of the following are met to indicate a revenue dedication is not justified:<sup>4</sup>
  - a. A general fund appropriation is needed to supplement the dedicated revenue
  - b. The revenue source or portion of the revenue sources diverts funds that could be considered a general fund revenue source
4. Summarize results by budget section focusing on:
  - a. Providing a summary of state special revenue funds by agency
  - b. Analyzing funds to meet the dedicated revenue statute
  - c. Identifying issues that may need to be resolved
5. Brief analysis of related statutes
6. Summary of legislative options
  - a. Provide options to the legislature, including but not limited to:
    - i. Isolation of state special revenue funds for further work
    - ii. Analysis of 17-1-507, MCA for potential statutory changes to the current policy guidelines for revenue dedication
    - iii. Draft legislation
    - iv. Changes to budget rules
    - v. Balance Sheet

## **Legislative Action**

After the databases have been populated and the analysis completed, the committee may choose to address identified issues by proposing legislation or adopting global motions for budget deliberations. If this is the case, draft legislation and global budget motions would be available for committee review at the June 2012 meeting and finalized at the October 2012 meeting.

## **NEXT STEPS**

To proceed with this project, the staff is requesting adoption of the proposed work plan and timelines. In addition, the committee may wish to appoint two point persons to serve as a sounding board for staff in the event that timelines have to be changed or unanticipated outcomes occur.

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<sup>4</sup> As per 17-1-507(2), MCA

# APPENDIX

## EXAMPLE OF STATUTORY APPROPRIATIONS REPORT

<b>Legislative Fiscal Division</b>	
<b>Statutory Appropriation System</b>	
<b>Expenditures By Agency, Fund, MCA, Rev. Source</b>	<b>SABHRS Data as of 09/15/11 05:23:09 AM</b>

<b>Agency Name</b>	(All)
<b>Fund Name</b>	(All)
<b>Status</b>	(All)

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MCA and Name	Revenue	Fiscal Year	Total
<b>3-5-901 Fund certain district court expenses</b>			<b>16,990,684.36</b>
	<b>Fees and taxes on light motor vehicles</b>		<b>16,990,684.36</b>
		2000	6,430,188.74
		2001	5,413,303.97
		2002	5,743,041.90
		2003	(595,850.25)
<b>41-5-2011 Youth court intervention and prevention</b>			<b>11,463,272.51</b>
	<b>Transfers of money &amp; unspent money</b>		<b>11,463,272.51</b>
		2005	683,909.14
		2006	632,447.15
		2007	1,186,277.85
		2008	2,012,567.74
		2009	2,213,167.36
		2010	2,073,440.91
		2011	2,610,239.15
		2012	51,223.21
<b>Grand Total</b>			<b>28,453,956.87</b>

## REFERENCED MCA CITES

17-1-507. **Principles of revenue dedication.** (1) It is the policy of the legislature that a revenue source not be dedicated for a specific purpose unless one or more of the following conditions are met:

(a) The person or entity paying the tax, fee, or assessment is the direct beneficiary of the specific activity that is funded by the tax, fee, or assessment; the entire cost of the activity is paid by the beneficiary; and the tax, fee, or assessment paid is commensurate with the cost of the activity, including reasonable administrative costs.

(b) There is an expectation that funds donated by a person or entity will be used for a specified purpose. Grants from private or public entities are considered donations under this subsection.

(c) There is a legal basis for the revenue dedication. A legal basis is a constitutional mandate, federal mandate, or statutory requirement in which a source of funds is designated for a specific purpose.

(d) There is a recognized need for accountability through a separation of funding from the general fund consistent with generally accepted accounting principles.

(2) The total funding for a program is a legislative budget and policy issue for which a dedicated revenue provision may not be justified if:

(a) a general fund appropriation is needed to supplement the dedicated revenue support for the program or activity; or

(b) dedicating a revenue source or portion of a revenue source diverts funds that could be considered a general revenue source.

(3) In the consideration of the general appropriations act for each biennium, the legislature shall determine the appropriateness of dedicating revenue to a program or activity under conditions described in subsection (2). The office of budget and program planning shall describe the occurrence in its presentation of the executive budget, and the legislative fiscal analyst shall highlight the issue in the budget analysis and for the appropriations subcommittee considering the revenue dedication.

History: En. Sec. 19, Ch. 509, L. 1995.

Compiler's Comments:

Effective Date: Section 84, Ch. 509, L. 1995, provided that this section is effective July 1, 1995.

17-1-508. **Review of statutory appropriations.** (1) Each biennium, the office of budget and program planning shall, in development of the executive budget, review and identify instances in which statutory appropriations in current law do not appear consistent with the guidelines set forth in subsection (2).

(2) The review of statutory appropriations must determine whether a statutory appropriation meets the requirements of 17-7-502. Except as provided in 77-1-108, a statutory appropriation from a continuing and reliable source of revenue may not be used to fund administrative costs. In reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines. A statutory appropriation may be considered appropriate if:

(a) the fund or use requires an appropriation;

(b) the money is not from a continuing, reliable, and estimable source;

(c) the use of the appropriation or the expenditure occurrence is not predictable and reliable;

(d) the authority does not exist elsewhere;

(e) an alternative appropriation method is not available, practical, or effective;

(f) other than for emergency purposes, it does not appropriate money from the state general fund;

(g) the money is dedicated for a specific use;

(h) the legislature wishes the activity to be funded on a continual basis; and

(i) when feasible, an expenditure cap and sunset date are included.

(3) The office of budget and program planning shall prepare a fiscal note for each piece of legislation that proposes to create or amend a statutory appropriation. It shall, consistent with the guidelines in this section, review each of these pieces of legislation. Its findings concerning the statutory appropriation must be contained in the fiscal note accompanying that legislation.

History: En. Sec. 20, Ch. 509, L. 1995; amd. Sec. 19, Ch. 422, L. 1997; amd. Sec. 4, Ch. 8, L. 1999; amd. Sec. 44, Ch. 51, L. 1999; amd. Sec. 2, Ch. 554, L. 2001; amd. Sec. 1, Ch. 247, L. 2007.