



# MONTANA LEGISLATIVE BRANCH

## Legislative Fiscal Division

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DATE: November 13, 2006  
TO: Legislative Finance Committee  
FROM: Lois Steinbeck  
RE: Degree of Appropriation Flexibility – Supplemental Appropriations

The degree of flexibility delegated to agencies in the management of appropriations is a point of balance between legislative policy and executive budget implementation and program management. Various statutes and appropriation practices govern the appropriation management authority delegated to agencies by the legislature.

The legislature enacted several statutes that allow the restriction of appropriations and conversely allow the ability to reestablish a portion of a reverted appropriation for expenditure in the following fiscal years. Restricting an appropriation ensures that it will be used only for the purpose for which it was established.<sup>1</sup> Allowing agencies to reestablish up to 30 percent of unexpended appropriations, excluding funding for benefits and grants, can provide an incentive for agencies to conserve appropriation authority as well as allow a degree of flexibility in budget management in future years.

Biennial appropriations are another tool that the legislature can use to provide flexibility in budget management. However, unrestricted biennial appropriations can provide a way to bypass the 30 percent carry forward limit entirely and retain funds that would otherwise revert. Biennial appropriations also can be used to transfer benefits and grants appropriation forward from the first year of the biennium to the second year of the biennium, which was expressly prohibited in the statute allowing a 30 percent carry forward.

This carry forward can occur if there are one or more unrestricted biennial appropriations and unspent authority in unrestricted annual appropriations in the first year of the biennium. The process occurs under the following scenario:

- o Authority remains in an annual appropriation
- o Expenditures from a biennial appropriation are transferred to the annual appropriation
- o Authority from the biennial appropriation rolls forward into the second year of the biennium with fewer or no expenditures against the appropriation

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<sup>1</sup> Restricting an appropriation does not guarantee that the executive will implement the function envisioned by the appropriation, unless there is a statutory duty to fulfill or perform the function. Restricting an appropriation can only ensure that it is not spent for other purposes. If the legislature wants to ensure that an action be taken, it must enact statute to assure that an action will be taken. Otherwise, the executive has the choice of whether to implement a restricted appropriation for a permissive function.

This process is legal. It does not violate statute. Figure 1 shows a hypothetical example in which the entire balance of a biennial appropriation shifts forward into the second year of the biennium.<sup>2</sup> If the annual appropriation had reverted \$100,000 of authority in the above example, only \$30,000 could be re-established in a later year of the appropriation supported operating costs.

Figure 1 Hypothetical Example of Increase in Appropriation in Second Second Year of a Biennium if Annual Appropriation Augments Biennial Appropriation		
Amounts	Appropriation	
	Annual	Biennial
Appropriation	\$500,000	\$200,000
First Year Expenditures	<u>(400,000)</u>	<u>(100,000)</u>
Year End Balance	\$100,000	\$100,000
Amount Available to Spend in Next Year Assuming 30% Carry Forward	\$30,000	\$100,000
Amount Available to Spend in Next Year if Year End Balance in Annual is Used to Augment Biennial Appropriation	\$0	\$200,000
Net Possible Increase		\$70,000

This issue is raised for legislative consideration because biennial appropriations can allow agencies to bypass the 30 percent carry forward threshold in statute and transfer forward:

- 1) More than 30 percent of an appropriation that would otherwise revert; and
- 2) Authority equal to costs transferred from biennial appropriations to annual appropriations for benefits and grants, which otherwise would have been reverted.

Either of these actions reduces the general fund balance available for consideration by the next legislature.

The Legislative Finance Committee may wish to consider whether to address this issue. If so, it could consider the following options:

- 1) Amend statute to restrict all biennial appropriations, or
- 2) Direct legislative staff to request whether the legislature wishes to restrict a biennial appropriation at the time the legislature establishes the appropriation.

Amending statute would reduce agency flexibility to manage appropriations during the interim, but would prohibit the actions illustrated in Figure 1. Directing staff to query the legislature each time a biennial appropriation would allow each appropriation to be considered on its own merits, but would be cumbersome and could be inadvertently disregarded.

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<sup>2</sup> This process has been used by an agency to help offset a supplemental cost over run in FY 2007.