

# **STATUTORY APPROPRIATIONS: A REVIEW PROPOSAL**

A Report Prepared for the  
**Legislative Finance Committee**  
**Subcommittee on Budget and Appropriation Processes**

By  
Roger Lloyd

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**Legislative Fiscal Division**



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# PURPOSE

At its last meeting, the Subcommittee on Budget and Appropriation Processes discussed various options for reviewing statutory appropriations and directed staff to bring a more specific proposal to the next meeting. This paper presents the following groups of specific statutory appropriations that could be reviewed based on ideas discussed by the subcommittee:

1. Criteria ranking
2. Personal services expenditures in FY 2007
3. Those that are not used, could be consolidated, or are invalid
4. Staff discretion

The subcommittee can use these ideas, variations of these ideas, or propose other methods for determining which statutory appropriations it wants to review. A section outlining various options for action that the subcommittee could take on those it wants to review is also included along with a section on the role of statutory appropriations in the ability of the governor to reduce general fund expenditures in times of a budget deficit.

As a goal of the next meeting, the subcommittee should decide on a definitive list of statutory appropriations it wants to review and, time permitting, consider various options for changes to recommend to the Legislative Finance Committee.

## GROUPINGS OF STATUTORY APPROPRIATIONS

### Criteria Ranking

As requested by the subcommittee, all statutory appropriations were ranked based on the nine criteria in statute and assigned a percentage score based on how many of the criteria were considered appropriate. Scores ranged from a low of 44 percent (meaning it met four of the nine criteria) to a high of 100 percent (meaning it met all of the criteria). The 25 statutory appropriations with a rank of 44 percent are listed below. Ten of these involve retirement funds (those in Title 19). In the ranking process of these retirement statutory appropriations, it was assumed that the amount of expenditure could be estimated (at least to the same degree of accuracy as other HB 2 appropriations) and thus appropriated in HB 2. The ranking did not account for any degree of obligation that the legislature might have to fund retirement systems. For a refresher, the statutory criteria are: [a statutory appropriation may be appropriate if...]

- the fund or use requires an appropriation
- the money is not from a continuing, reliable, and estimable source
- the use of the appropriation or the expenditure occurrence is not predictable and reliable
- the authority does not exist elsewhere
- an alternative appropriation method is not available, practical, or effective
- other than for emergency purposes, it does not appropriate money from the state general fund
- the money is dedicated for a specific use
- the legislature wishes the activity to be funded on a continual basis
- when feasible, an expenditure cap and sunset date are included

<u>MCA</u>	<u>Name</u>	<u>Revenue Source</u>
5-11-120	Legislative branch retirement termination	One-time general fund transfer
5-11-407	Major information technology projects	Feed bill & carry forward
7-4-2502	County attorney' salaries	General Fund
10-1-1303	MT military family relief	Tax check off, donations
10-2-603	State veterans' cemeteries	GF transfers, donations

15-1-121	Local government entitlement	General Fund
15-1-218	Dept. of Revenue out-of-state tax collections	General Fund
16-11-509	Recoveries from tobacco settlement litigation	General Fund
17-6-101	Bd. of Investment contracted banking services	General Fund
17-7-304	MUS deferred maintenance & equipment	Reversions of appropriated money
19-3-319	Local government & school employee retirement	General Fund
19-6-404	Highway Patrol retirement	General Fund
19-9-702	Municipal police retirement	General Fund
19-13-604	MT firefighters' unified retirement	General Fund
19-17-301	Volunteer firefighters' retirement	General Fund
19-18-512	Local firefighters' retirement	General Fund
19-19-305	Other municipal police retirement	General Fund
19-19-506	Other municipal police supplemental retirement	General Fund
19-20-607	Supplemental teachers' retirement	General Fund
19-21-203	MUS optional retirement	General Fund
42-2-105	Adoption services	Fees for service
44-13-102	Support of state and local law enforcement programs	Federal property and money forfeited
77-1-108	Administer Morrill Act land grant	Transfer of general fund
90-3-1003	Fund research and commercialization projects	GF transfer of coal trust earnings
Uncodified	\$400 one-time tax rebate	General Fund

## Personal Services Expenditures in FY 2007

At its last meeting, the subcommittee expressed interest in statutory appropriations that funded personal services. The table below shows the 16 statutory appropriations that had personal service expenditures in the period FY 2003 through FY 2008 (to date) and the amount spent for personal services in FY 2007.

<u>MCA*</u>	<u>Name</u>	<u>Revenue Source</u>	<u>FY 07 \$</u>
5-13-403	LAD audits	Payment for audits	124,638
10-3-203	Federal \$ for disasters and fire suppression	Fed. disaster payments	1,188,085
10-3-312 A	Governor declared emergency/disaster	General Fund	3,971,712
15-35-108	Coal tax earnings for economic development	General Fund	200,873
15-65-121	Tourism promotion and related activities	Lodging facility use taxes	1,952,816
18-11-112	Tribal reimbursements and DOR administration	Alcohol, tobacco & cigarette taxes	33,995
20-26-1503	Pay debt and costs of rural physician incentive program	Bd of Regents medical student fees	New
22-3-1004	Purchase, maintain & operate historic properties	Lodging taxes, vehicle & gate fees, federal	866,290
44-1-504	Partially fund highway patrol officers' salaries	\$5 motor vehicle registration fee	2,107,429
44-12-206	Enforcement of drug laws	Sale of seized or forfeited property	53,943
44-13-102	Support of state and local law enforcement program	Federal property and money forfeited	0
53-1-109	For the needs of the prison inmates and their families	Sale of goods & contraband, other	48,463
80-11-518	Agricultural commodity research & market development	Commodity assessments, penalties	5,119
82-11-161	Oil and gas production damage mitigation	RIT interest, forfeited bonds	7,840
90-1-205	Assist economic development in Montana	Big sky coal trust fund earnings	56,781
90-3-1003	Fund research and commercialization projects	GF transfer of coal trust earnings	97,236

\* If there is more than one statutory appropriation within the same MCA section, they are differentiated by a letter at the end.

## Not Used, Could be Consolidated, or are Invalid

The subcommittee directed staff to determine if there are statutory appropriations that are not being used, could be consolidated, or are invalid according to 17-7-502, MCA. The following are lists of these statutory appropriations.

### 1. Not used

<u>MCA</u>	<u>Name</u>	<u>Revenue Source</u>
10-2-603	State veterans' cemeteries	GF transfers, donations
17-7-304	MUS deferred maintenance & equipment	Reversions of appropriated money
53-6-703	Defray the managed care application review cost	Managed care application review fee
61-3-415	Grants wishes to chronically or critically ill children	Special motorcycle license plate
75-5-1108	Loans for water pollution control	Federal funds, transfers, bond proceeds
75-6-214	Financial assistance to public water systems	Federal funds, transfers, bond proceeds
80-5-510	Administer agricultural seed dispute resolutions	Filing fees and reimbursed costs
87-1-513	Grants to the Montana food bank network	Proceeds from sale of seized game meat

## 2. Could be Consolidated

<u>MCA</u>	<u>Name</u>	<u>Revenue Source</u>
23-4-105	For the good of the existing horseracing industry	Percent of wagered amounts
23-4-202	For the good of the existing horseracing industry	Percent of wagered amounts
23-4-204	For the good of the existing horseracing industry	Percent of wagered amounts
23-4-302	For the good of the existing horseracing industry	Percent of wagered amounts
23-4-304	For the good of the existing horseracing industry	Percent of wagered amounts

## 3. Invalid

Section 75-10-622, MCA, states:

“CERCLA match debt service fund. (1) There is a CERCLA match debt service fund within the debt service fund type established in 17-2-102.

(2) The state pledges, allocates, and directs to be credited to the CERCLA match debt service fund money from the resource indemnity and ground water assessment tax, as provided in 15-38-106, and from the CERCLA cost recovery account, as provided in 75-10-631.

(3) Money in the CERCLA match debt service fund is statutorily appropriated, as provided in 17-7-502(4).”

Because this section is not listed in 17-7-502(3), MCA, subsection 3 above is not a valid statutory appropriation. Subsection three can be eliminated.

## Staff Discretion

The subcommittee asked staff to use its discretion in determining possible statutory appropriations the subcommittee could choose to review. One way of viewing statutory appropriations is to look for commonalities in how the money is spent. The state accounting system can be used to determine how much money is spent for various purposes. Staff chose the following four purposes:

- Local assistance
- Grants
- Benefits & claims
- Transfers

The statutorily appropriations that have expenditures in each of these categories are listed in the following tables. Included are expenditure amounts for FY 2007 and totals for the period FY 2000 through 2007. Because a single statutory appropriation can have expenditures in more than one of the categories, it may appear in more than one table. Agency personnel determine the coding of the expenditures on the state accounting system.

## Local Assistance

<u>MCA *</u>	<u>Name</u>	<u>Revenue Source</u>	<u>FY 2007</u>	<u>FY 2000-2007</u>
10-4-301	Reimburse telephone companies for 911 costs	Telephone access fee	\$6,149,176	\$44,195,725
15-1-111	Reduced property tax reimbursement	General Fund	2,408,411	55,008,308
15-1-121	Local government entitlements	General Fund	85,708,417	508,163,546
15-23-706	Redistribution of coal gross proceeds	Coal gross proceeds taxes	1,271,087	9,125,004
15-35-108	Coal tax earnings for economic development	General Fund	0	3,000,000
15-36-332	Distribute O&G production taxes to eligible counties	Oil and gas production taxes	102,580,688	485,996,845
15-37-117	Distribution to counties impacted by mining	Metalliferous mines license taxes	3,638,075	15,007,106
15-39-110	Bentonite tax distribution to eligible counties	Bentonite taxes	1,061,048	1,061,048
15-65-121	Tourism promotion and related activities	Lodging facilities use taxes	4,177,356	23,583,921
17-3-212	Federal forest \$ to eligible counties	Federal forest reserve funds	12,934,779	90,078,219
17-3-222	Taylor grazing \$ to eligible counties	Federal taylor grazing act funds	134,690	1,754,211
17-3-241	US royalty to eligible counties from mineral account	U.S. mineral royalty revenue	9,535,674	26,738,234
18-11-112	Tribal reimbursements and DOR administration	Alcohol, tobacco & cigarette taxes	8,535,093	20,735,304
19-13-604	MT firefighters' unified retirement	General Fund	15,489,964	51,179,971
19-17-301	Volunteer firefighters' retirement	General Fund	1,660,695	10,640,616
19-18-512	Local firefighters' retirement	General Fund	265,000	1,782,954
19-19-305	Other municipal police retirement	General Fund	250,000	2,302,725
19-19-506	Other municipal police supplemental retirement	General Fund	20,500	158,509
19-20-604	Teachers' retirement	General Fund	720,266	5,058,445
19-3-319	Local government & school employee retirement	General Fund	445,784	3,164,736
19-9-702	Municipal police retirement	General Fund	16,859,289	57,195,720
20-9-534	School technology purchases	Common school trust timber revenue	0	47,290,296
20-9-622	School equalization from the guarantee account	Common school trust I & I	53,607,519	231,388,822
23-5-306	Card table fees to local governments	Live card game table permit fee	95,650	454,750
23-5-409	Keno & bingo taxes to local governments	Keno & bingo gross proceeds tax	15,516	162,272
23-5-612	Video gambling permit fee to local governments	Video gambling machine permit fee	1,959,775	14,941,325
53-24-108 A	Grants for private or public alcoholism programs	% of liquor, beer, wine taxes	<u>1,565,484</u>	<u>10,331,380</u>
	<b>Totals</b>		<b>\$331,089,939</b>	<b>\$1,720,499,994</b>

\* If there is more than one statutory appropriation within the same MCA section, they are differentiated by a letter at the end.

## Grants

<u>MCA*</u>	<u>Name</u>	<u>Revenue Source</u>	<u>FY 2007</u>	<u>FY 2000-2007</u>
10-3-203	Federal \$ for disasters and fire suppression	Federal disaster payments	\$35,607	\$9,098,731
10-3-312 A	Governor declared emergency/disaster	General Fund	201,525	4,492,761
15-35-108	Coal tax earnings for economic development	General Fund	493,033	4,356,098
15-65-121	Tourism promotion and related activities	Lodging facilities use taxes	705,001	7,508,930
15-70-101	Fuel taxes to local govt. for road work	Fuel taxes	16,766,000	134,128,000
20-26-1503	Pay debt and costs of rural physician incentive program	Bd of Regents medical student fees	155,870	1,356,406
75-1-1101	Contingency to address environmental problems	Portion of RIT interest earnings	200,000	261,657
80-11-518	Ag. commodity research & market development	Commodity assessments, penalties	19,885	94,085
90-1-115 A	Support projects related to Lewis and Clark	L & C bicentennial license plate sales	24,998	24,998
90-1-115 B	Support projects related to Lewis and Clark	L & C bicentennial license plate sales	11,375	127,192
90-1-205	Assist economic development in Montana	Big sky coal trust fund earnings	1,272,490	1,429,653
90-3-1003	Fund research and commercialization projects	GF transfer of coal trust earnings	3,660,993	15,910,525
90-9-306	Fund ag. development & research projects	Loan repayments, grants, donations	<u>0</u>	<u>130,124</u>
	<b>Total</b>		<b>\$23,546,776</b>	<b>\$178,919,160</b>

\* If there is more than one statutory appropriation within the same MCA section, they are differentiated by a letter at the end.

## Benefits & claims

<u>MCA*</u>	<u>Name</u>	<u>Revenue Source</u>	<u>FY 2007</u>	<u>FY 2000-2007</u>
10-3-312 A	Governor declared emergency/disaster	General Fund	\$0	\$0
17-3-212	Federal forest \$ to eligible counties	Federal forest reserve funds	3,165	3,165
37-51-501	Pay real estate claims for unsatisfied judgments	Real estate licensee assessment	0	74,434
39-71-503	Payment of uninsured benefits	Uninsured employers' fund	1,056,844	5,240,730
41-5-2011	Youth court intervention and prevention	Transfers of money & unspent money	1,186,278	2,502,634
42-2-105	Adoption services	Fees for service, GF transfer	76,340	473,139
75-1-1101	Contingency to address environmental problems	Portion of RIT interest earnings	0	8,219
75-11-313	Petroleum tank release cleanup	Fuel taxes	7,554,982	43,461,124
80-2-222	Hail insurance except administration	All board of hail insurance funds	<u>1,576,234</u>	<u>15,754,158</u>
Totals			\$11,453,843	\$67,517,603

\* If there is more than one statutory appropriation within the same MCA section, they are differentiated by a letter at the end.

## Transfers

<u>MCA</u>	<u>Name</u>	<u>Revenue Source</u>	<u>FY 2007</u>	<u>FY 2000-2007</u>
10-3-203	Federal \$ for disasters and fire suppression	Federal disaster payments	\$0	\$41,469,869
15-35-108	Coal tax earnings for economic development	General Fund	0	191,430
15-65-121	Tourism promotion and related activities	Lodging facilities use taxes	1,073,532	3,746,590
17-7-304	MUS deferred maintenance & equipment	Reversions of appropriated money	0	668,787
17-7-502	Debt service payments & issuing costs	General fund & various agency funds	33,371,994	204,589,432
2-17-105	State building damage repair	Insurance proceeds	103,808	3,499,098
22-3-1004	Purchase, maintain & operate historic properties	Lodging taxes, vehicle & gate fees,federal	408	408
37-51-501	Pay real estate claims for unsatisfied judgments	Real estate licensee assessment	0	24,281
75-1-1101	Contingency to address environmental problems	Portion of RIT interest earnings	0	100,306
77-1-108	Administer Morrill Act land grant	Transfer of general fund	58,021	58,021
80-2-222	Hail insurance except administration	All board of hail insurance funds	50,009	260,017
90-3-1003	Fund research and commercialization projects	GF transfer of coal trust earnings	<u>3,650,028</u>	<u>17,000,028</u>
Totals			\$38,307,800	\$271,608,267

## ACTION OPTIONS

Many options are available to the subcommittee if it wants to make changes to statutory appropriations. Below are just a few:

- Eliminate all or selected statutory appropriations shown in the above lists and replace them with appropriations in HB 2
- Same as above except de-earmark the designated revenue (if other than general fund) to the general fund and replace the statutory appropriation with a general fund appropriation in HB 2
- Establish a sunset date for all or selected statutory appropriations shown in the above lists
- Change the amount statutorily appropriated by:
  - limiting the growth from the previous year to a set percentage (i.e. 1 percent)
  - capping it at a maximum amount (i.e. the amount distributed in FY 2003, \$1,000,000)
  - changing the percentages or dollar amounts of revenue designated to be statutorily appropriated
  - prohibiting the use of statutory appropriations to fund certain types of expenditures such as personal services costs. Exceptions might be considered for certain ones such as the emergency statutory appropriations in 10-3-203 and 10-3-312, MCA.
- Consolidate certain statutory appropriations by eliminating them and creating a single new statutory appropriation that appropriates the revenue, such as the horse racing statutory appropriations in Title 23, Chapter 4
- Eliminate all invalid statutory appropriations that do not appear in the list of valid statutory appropriations in 17-7-502(3), MCA.
- Provide more specific legislative direction on how the money should be used or allocated (i.e. schools, roads)
- Maintain the status quo

# **GOVERNOR EXPENDITURE REDUCTIONS AND GENERAL FUND STATUTORY APPROPRIATIONS**

The subcommittee discussed including general fund statutory appropriations when determining a projected general fund budget deficit according to 17-7-140, MCA, and in the governor's authority to reduce general fund expenditures. A brief, informal discussion with Greg Petesch about this subject indicated that general fund statutory appropriations are already covered by this statute. However, certain ones probably could not have expenditures reduced because they would jeopardize contracts, such as the retirement statutory appropriations, or have statutory limitations, such as the local government entitlement statutory appropriation that requires a 3/5<sup>th</sup> vote of the legislature to reduce the entitlement share.

## **CONCLUSION**

In this paper, the subcommittee was presented four groups of specific statutory appropriations that could be reviewed. The groups were determined by:

1. Criteria ranking
2. Personal services expenditures in FY 2007
3. Those that are not used, could be consolidated, or are invalid
4. Staff discretion
  - a. Local assistance
  - b. Grants
  - c. Benefits & claims
  - d. Transfers

Various options for making changes to statutory appropriations were presented. It appears that general fund statutory appropriations are already included in governor's ability to reduced general fund expenditures in times of a budget deficit.

At its next meeting, the subcommittee should be prepared to select statutory appropriations for review based on the groupings or individual statutory appropriations discussed in this paper. It may also choose any other grouping method or individual statutory appropriations. Once selected and time permitting, it should provide staff with direction on what it wants done with the statutory appropriations. The subcommittee can choose from the list of options provided or provide other direction.