

HJ 27 STUDY ON STATUTORY APPROPRIATIONS

A Report Prepared for the
Legislative Finance Committee

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INTRODUCTION

This is the final report of the interim study of statutory appropriations requested in HJ 27. Since September 2015 staff have analyzed statutory appropriations as instructed by [HJ 27](#) and the LFC. Included in this report are highlights from all the previous reports since September 2015, as well as FYE 2016 actual statutory appropriations.

The following are included in this synopsis:

- FYE 2016 statutory appropriations and updated FY 2017 projections
- historical general fund statutory appropriations including percent of total general fund expenditures
- list of statutory appropriations with termination dates
- analysis of 17-1-508, MCA statutory appropriation guidelines
- analysis of statutory appropriations subject to growth
- [LC0051: proposed](#) LFC committee bill to repeal [15-70-601, MCA](#)
- training [guide](#) for legislators and staff on understanding and constructing statutory appropriation legislation

FYE 2016 ACTUALS AND FY 2017 PROJECTIONS

Total actual statutory appropriations for all funds were \$716.0 million in FY 2016. The following tables provide FY 2016 actuals and FY 2017 budgeted for all statutory appropriations.

GENERAL FUND STATUTORY APPROPRIATIONS

Actual general fund statutory appropriations for FY 2016 were lower than budgeted as actual expenditures for emergency and disaster appropriations were \$889,155, versus a budget of \$8.0 million for FY 2016.

General Fund	FY 2015 Actuals	FY 2016 Actuals	FY 2017 Budgeted
Retirement			
15-35-108(9)(a) Coal Severance to PERS	\$16,062,810	\$14,235,649	\$14,842,000
15-35-108(9)(b)(v) Coal Severance to PERS (Interest)	18,102,971	16,076,171	17,094,000
19-3-319 Local Gov. Retirement Contribution	980,835	1,005,358	1,260,862
19-6-404 MHP Retirement Transfer	1,386,475	1,472,757	1,520,659
19-6-410 MHP Supplemental Retirement Transfer	261,551	242,749	300,000
19-9-702 Police Retirement Contribution	13,432,838	13,751,561	14,650,899
19-13-604 Firefighters' Association Contribution	13,572,990	13,969,719	14,574,065
19-17-301 Volunteer Firefighter Fund Contribution	1,913,482	2,036,297	2,037,263
19-18-512 Fire Department Relief Association Contribution	349,820	464,238	470,586
19-19-305 Police (Non-PERS) Retirement Contribution	183,603	180,651	266,663
19-19-506 Police Officer Pension Supplemental Contribution	-	-	1
19-20-604 Teacher's Retirement Supplemental Contribution	845,084	865,444	928,000
19-20-607 Teachers' Retirement System Contribution	42,544,450	43,037,162	43,758,648
19-21-203 MUS Retirement Contribution	1,634,232	1,714,016	1,725,100
Subtotal	\$111,271,141	\$109,051,773	\$113,428,746
Economic Development			
15-35-108(9)(b)(i) Coal Severance to Cooperative Develop Center	65,000	65,000	65,000
15-35-108(9)(b)(ii) Coal Severance to Growth Through Ag	619,425	615,319	625,000
15-35-108(9)(b)(iii) Coal Severance to Research and Commerc.	1,275,000	-	-
15-35-108(9)(b)(iv) Coal Severance to Department of Commerce	1,084,712	1,098,420	1,100,000
15-70-369 Biodiesel Tax Refunds	-	-	-
15-70-601 Biodiesel Tax Incentives	-	-	-
Subtotal	\$3,044,137	\$1,778,739	\$1,790,000
Local Assistance			
7-4-2502 Payment of County Attorneys	2,977,994	3,268,393	2,998,063
15-1-121 Local Government Combined Distribution	126,322,284	129,236,950	134,403,887
22-1-327 State Aid to Public Libraries	-	395,766	395,766
Subtotal	\$129,300,278	\$132,901,109	\$137,797,716
Other			
10-1-1202 National Guard Death Benefit	-	-	-
10-3-310 Incident Response Appropriation	-	-	-
10-3-312 Emergency and Disaster Appropriation	643,015	889,155	15,610,845
15-1-218 Out of State Collections	172,083	400,000	236,697
16-11-509 Tobacco Enforcement	-	-	-
17-3-106 Return of Federal Grant Interest	4,506	90	-
17-3-106 Return of Federal Grant Money (GSD Only)	178,024	294,092	133,014
17-3-106 Return of Federal Grant Money	219,244	379,258	101,000
5-13-406 Legislative Audits	369	-	-
17-6-101 Banking Charges	2,264,788	2,337,651	2,395,474
17-7-502(4) Bond Fees & Costs	14,141,947	12,167,717	12,886,390
SB 405 HELP Act	-	4,968,280	9,733,351
Subtotal	\$17,623,976	\$21,436,243	\$41,096,771
General Fund Total	\$261,239,532	\$265,167,864	\$294,113,233

STATE SPECIAL STATUTORY APPROPRIATIONS

State special statutory appropriations for FY 2016 were lower than estimated as less than anticipated oil and gas revenues resulted in lower distributions to counties.

State Special Funds			
20-9-622 Guarantee Account to BASE Aid	\$60,085,104	\$47,053,496	\$48,952,000
15-36-332 Oil & Gas Distribution to Counties	63,431,363	37,865,148	48,598,535
15-65-121 Lodging Tax Distribution	22,791,227	23,374,407	25,765,557
17-3-241 Mineral Impact Account	9,530,784	8,894,445	8,186,000
All Other State Special	<u>97,894,393</u>	<u>93,712,558</u>	<u>116,468,311</u>
State Special Total	\$253,732,871	\$210,900,055	\$247,970,403

FEDERAL SPECIAL STATUTORY APPROPRIATIONS

Federal special statutory appropriations for FY 2016 were \$54.6 million higher than anticipated due to more enrollments for expanded Medicaid recipients (SB 405 HELP Act) than was estimated during the 2015 legislative session.

Federal Special Funds			
53-6-1304 SB 405 HELP Act	\$0.00	\$153,601,319	\$277,944,424
17-3-212 Federal Forest Funds to Counties	17,832,005	15,938,821	18,017,000
17-7-502 Highway 93 Debt Service	15,500,463	15,597,413	15,000,000
All Other Federal Funds	<u>6,262,382</u>	<u>12,069,535</u>	<u>8,608,552</u>
Federal Special Total	\$39,594,850	\$197,207,088	\$319,569,976

CAPITAL PROJECTS & ENTERPRISE FUND STATUTORY APPROPRIATIONS

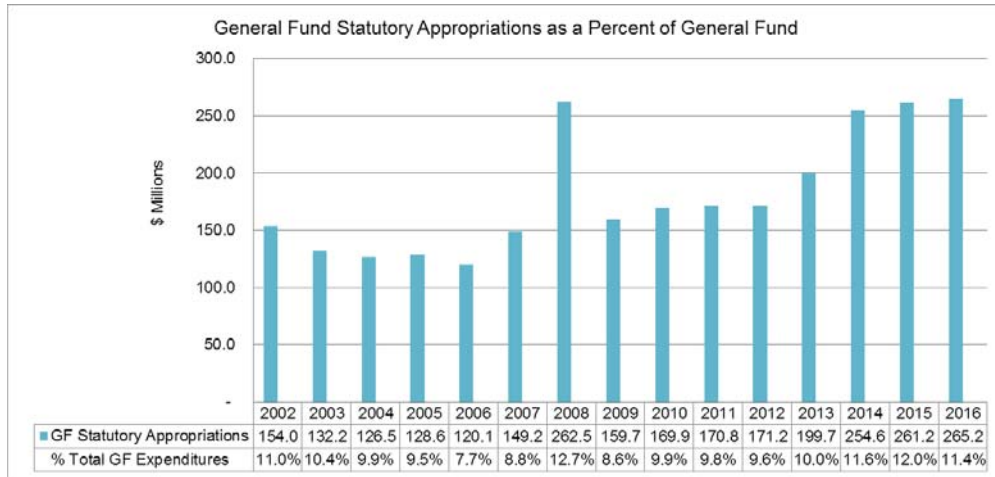
Capital projects and enterprise fund statutory appropriation actuals for FY 2016 were lower than expected by about \$2.0 million primarily due to lower hail insurance payments than were previously estimated.

Capital Projects and Enterprise Funds			
23-7-402 Lottery Prizes	\$29,256,471	\$33,677,848	\$30,884,197
All Other	<u>14,831,954</u>	<u>9,137,391</u>	<u>16,517,797</u>
Capital Projects and Enterprise Funds Total	\$44,088,425	\$42,815,239	\$47,401,994

RECAP OF INTERIM HJ 27 STUDY

The next section of the report is a compilation of all the material provided to the LFC during the course of the interim period June 2015 – June 2016.

HISTORICAL REVIEW OF GENERAL FUND STATUTORY APPROPRIATIONS



STATUTORY APPROPRIATIONS WITH TERMINATION DATES

The following list shows the fifteen statutory appropriations that include termination dates:

- [15-35-108](#) Disposal of severance taxes.
- [90-6-331](#) Payment to counties – statutory appropriation.
- [76-13-416](#) Fire hazard reduction fund.
- [17-7-215\(b\)](#) Transfer of budgeted utility funds – special revenue account – university plant subfunds.
- [53-9-113](#) Crime victims compensation account.
- [37-50-209](#) Enterprise fund.
- [81-1-112](#) Livestock loss mitigation restricted account.
- [81-7-106](#) Predatory animal state special revenue account.
- [50-1-115](#) Special revenue account – statutory appropriation.
- [53-6-1304](#) Montana HELP Act Program – eligibility for coverage of health care services – statutory appropriations – federal special revenue.
- [22-3-116](#) Montana historical society membership special revenue account – use – statutory appropriation.
- [22-3-117](#) Montana original governor’s mansion special revenue account – use – statutory appropriation.
- [20-9-517](#) State school oil and natural gas impact account.
- [20-9-905](#) Educational improvement account – revenue allocated – appropriations from account.
- [30-10-1004](#) Creation of securities restitution assistance fund.

17-1-508, MCA GUIDELINES ANALYSIS

Further analysis was conducted on 17-1-508 (2), MCA which states “. . . 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.”. . . The following were used to determine which statutory appropriations did not meet this intent.

- o Assumed general fund as a continuing and reliable source of revenue

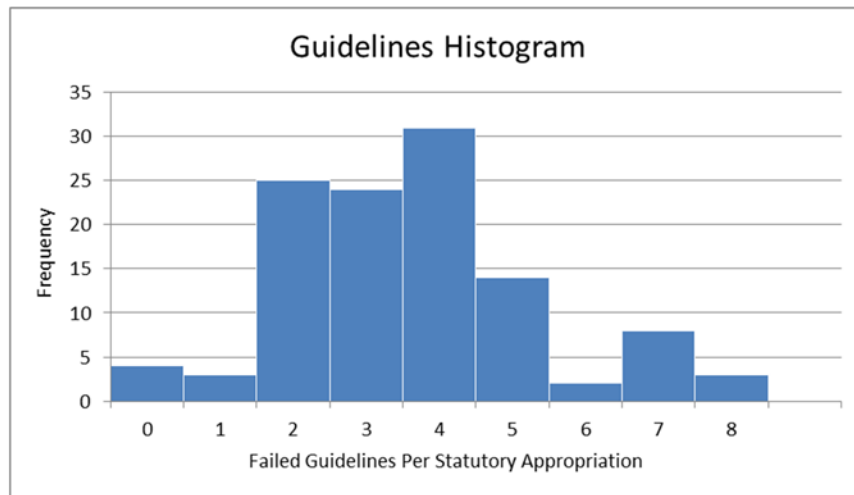
- Used the accounting codes for personal services, operating expenses, and equipment as parameter to determine if administrative costs were used
- Researched all statutory appropriations to determine if capped in any way either as defined in statute or by revenue source (example: video gambling permit fee to local government: machines permits are limited by liquor license laws, therefore the revenue source has a limit or cap)

The results of the guideline analysis are shown below:

17-6-101 *Board of Investment Contracted Banking Services* *FY 2015 - \$2,264,788* *GF*
Determination: Contracted banking services are negotiated without legislative approval and have no limit either statutorily or by revenue source

53-6-1304 *SB 405 Medicaid Expansion* *FY 2015 - \$0* *GF and FSR*
Determination: Currently no limit either statutorily or by general fund revenue source, but current statute sunsets in June 2019

In addition to researching those statutory appropriations that fund administrative costs, the LFD staff updated the 2011 study by analyzing the eight statutory appropriation guidelines listed in the MCA. The LFD staff analyzed each statutory appropriation and determined whether it conformed with the guidelines provided in 17-1-508(2)(a)–(h), MCA. In general, most statutory appropriations met over half of the guidelines, but few met more than six. The histogram below displays the number of guidelines each statutory appropriation failed to meet.



STATUTORY APPROPRIATION GROWTH ANALYSIS

In addition to the guidelines analysis, each statutory appropriation was analyzed to determine if statute contained an estimable growth component and whether the appropriation can or would be expected to grow. In general, statutory appropriations that are expected to grow are appropriations related to the distribution of a tax or are used to fund pension obligations. For instance, entitlement share payments are based in part on personal and corporation income tax revenues amongst others. There is a Teachers' Retirement System (TRS) statutory appropriation that is defined as 2.38% of the total compensation, therefore as salaries grow this appropriation will also grow. After analyzing each statutory appropriation, it was determined that 33 were expected to grow year-over-year while 81 were expected to not grow. Of these appropriations that are expected to grow, twelve are related to pension funding.

RECOMMENDATION FOR REPEAL

[15-70-601](#), biodiesel production incentive appropriation (enacted in ???) does not contain sunset language, however subsection (2) states, “Except as provided in subsection (3), the tax incentive on each gallon of increased biodiesel production over the previous year, in accordance with subsection (1), is 10 cents a gallon for each gallon of increased production. Beginning July 1, 2010, there is no tax incentive.” Since there is no longer a tax incentive and there are no other references to 15-70-601 in statute, we recommended that legislation be written to repeal 15-70-601 and to amend [17-7-502](#) to strike the reference.

The committee passed a motion requesting staff to draft repeal legislation. [LC0051](#) is drafted as a committee bill and needs an official sponsor for the 2017 Legislative Session. The LFC may choose to put forward a motion to select a sponsor during the committee business portion of the September 2016 meeting.

STATUTORY APPROPRIATIONS GUIDE TO LEGISLATORS

At the request of the LFC, a [guide](#) was developed to help legislators when considering, crafting, or reviewing statutory appropriation legislation. The training brochure outlines the guidelines written in [17-1-508](#), MCA and instructs lawmakers on the construction of statutory appropriation legislation. The guide is available online and will be used on December 8, 2016 at budget training and offered during the 2017 Legislative Session at a Saturday training.