

STATUTORY APPROPRIATIONS

A Report Prepared for the
Legislative Finance Committee

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INTRODUCTION

Since the December LFC meeting staff have continued to analyze statutory appropriations as requested by the LFC. Included in this memo are the following: a table of 2017 biennium projections for all statutory appropriations, an update of 17-1-508(2), MCA guideline analysis, and each statutory appropriation was analyzed for growth components.

STATUTORY APPROPRIATIONS: 2015 ACTUALS AND 2017 BIENNIUM PROJECTED

The following table shows FY 2015 actuals and statutory appropriation estimates for FY 2016 and FY 2017. Note that the 2017 Biennium estimates are the same as those used in the Fiscal Report in June of 2015.

Statutory Appropriation Estimates FY 2016 & FY 2017			
	FY 2015	FY 2016	FY 2017
General Fund			
Entitlement Share	\$123,687,680	\$126,658,863	\$130,458,629
HB 454 Pensions	31,478,050	33,704,566	34,467,352
Fire/Police Retirement	29,416,956	30,677,412	31,904,509
Teachers' Retirement	43,389,534	44,125,115	44,890,120
Local Gov Retirement	980,835	1,020,069	1,060,872
SB 405*	-	8,681,611	17,810,757
Remaining GF	29,806,481	29,806,481	29,806,481
Total GF	\$258,759,537	\$274,674,117	\$290,398,719
State Special			
Guarantee Account	60,085,104	46,409,953	45,423,863
Local Oil & Gas	63,309,001	45,104,235	47,793,183
Remaining SSR	129,528,672	136,005,105	136,005,105
Total SSR	\$252,922,776	\$227,519,293	\$229,222,151
Federal Special			
SB 405*	0	99,012,614	237,671,831
Remaining FSR	39,610,330	37,754,304	37,754,304
Total FSR	\$39,610,330	\$136,766,918	\$275,426,135
Remaining Funds			
Capital Projects	389,473	400,000	400,000
Enterprise	43,699,510	44,699,510	44,699,510
Total Statutory	\$595,381,626	\$684,059,838	\$840,146,515
* Estimates as of April 2015.			

FURTHER ADMINISTRATIVE COSTS 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.

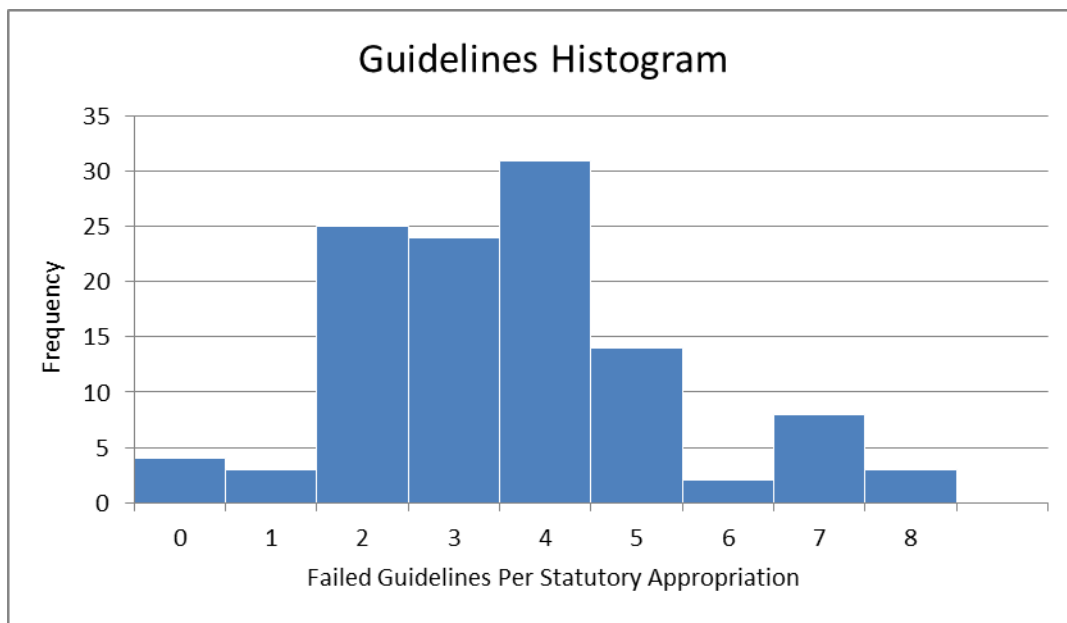
- Assumed general fund as a continuing and reliable source of revenue
- Used the accounting codes for personal services, operating expenses, and equipment as parameter to determine if administrative costs were used
- Researched all statutory appropriations to determine if capped in any way either as 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 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 was appropriate given 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.



Appendix A contains a summary of the guidelines, as well as the number of statutory appropriations that are appropriate under each guideline. In addition, a chart of those statutory appropriations that fail to meet five or more of the guidelines is included.

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 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 recommend that legislation be written to repeal 15-70-601 and to amend 17-7-502 to strike the reference. If the committee wishes to pass a motion to ask staff to draft the legislation, then we will prepare it for the June meeting.

NEXT STEPS

At the June LFC meeting, staff will prepare a training document for legislators and legislative staff that will include the structure, format, and best use for statutory appropriations. Also in June, staff will explain the process for communicating to legislators requesting statutory appropriation bills the pros and cons of this type of appropriation method.

APPENDIX A

STATUTORY APPROPRIATION GUIDELINE ANALYSIS

1. 17-1-508 (2) (a) A proposed or existing statutory appropriation may not be considered appropriate if the money is from a continuing, reliable, and estimable source. Is the appropriation appropriate under this guideline?
YES: 42 NO: 70
2. 17-1-508 (2) (b) A proposed or existing statutory appropriation may not be considered appropriate if the use of the appropriation or the expenditure occurrence is predictable and reliable. Is the appropriation appropriate under this guideline?
YES: 45 NO: 67
3. 17-1-508 (2) (c) A proposed or existing statutory appropriation may not be considered appropriate if the authority exists elsewhere. Is the appropriation appropriate under this guideline?
YES: 88 NO: 24
4. 17-1-508 (2) (d) A proposed or existing statutory appropriation may not be considered appropriate if an alternative appropriation method is available, practical, or effective. Is the appropriation appropriate under this guideline?
YES: 50 NO: 62
5. 17-1-508 (2) (e) A proposed or existing statutory appropriation may not be considered appropriate if it appropriates state general fund money for purposes other than paying for emergency services. Is the appropriation appropriate under this guideline?
YES: 72 NO: 40
6. 17-1-508 (2) (f) A proposed or existing statutory appropriation may not be considered appropriate if the money is used for general purposes. Is the appropriation appropriate under this guideline?
YES: 81 NO: 31
7. 17-1-508 (2) (g) A proposed or existing statutory appropriation may not be considered appropriate if the legislature wishes to review expenditure and appropriation levels each biennium. Is the appropriation appropriate under this guideline?
YES: 83 NO: 29
8. 17-1-508 (2) (h) A proposed or existing statutory appropriation may not be considered appropriate if an expenditure cap and sunset date are excluded. Is the appropriation appropriate under this guideline?
YES: 22 NO: 90

The statutory appropriations that failed to meet five or more of the guidelines are displayed in the chart below.

Statute	Description	FY 2015	Fund Type
77-1-108	Administer Morrill Act land grant	\$ 24,205.55	GF
15-35-108(9)(a)	Provide funding for PERS defined benefit plan	\$ 15,444,445.43	GF
17-6-101	Board of Investment contracted banking services	\$ 2,264,787.95	GF
19-20-607(1)(a)	Supplemental teachers' retirement	\$ 17,544,450.24	GF
19-20-607(1)(b)	Increase contributions and funding for TRS	\$ 25,000,000.00	GF
19-3-319	Local government & school employee retirement	\$ 980,835.49	GF
16-11-509	Recoveries from tobacco settlement litigation	\$ 15,000.00	SSR
23-5-612	Video gambling permit fee to local governments	\$ 1,703,500.00	SSR
15-70-101	Fuel taxes to local government for road work	\$ 16,766,000.00	SSR
15-70-601	Tax incentive for biodiesel producers (sunsetting)	\$ -	GF
53-24-108(b)	Treatment of mental illness & chemical dependency	\$ 199,502.41	SSR
53-24-206	To counties for chemical dependency programs	\$ 2,157,628.04	SSR
23-4-105(a)	For the good of the horseracing industry	\$ -	SSR
23-4-105(b)	For the good of the horseracing industry	\$ -	SSR
15-35-108	Coal tax earnings for economic development	\$ 3,043,952.91	GF
53-1-109	For needs of prison inmates and their families	\$ 583,464.17	SSR
23-5-306	Card table fees to local governments	\$ 43,300.00	SSR
23-5-409	Keno and bingo taxes to local governments	\$ 8,082.54	SSR
44-12-213	Enforcement of drug laws	\$ 15,000.00	SSR
44-13-102	Support of state and local law enforcement program	\$ 93,277.52	FSR
44-4-1101	Water right judicial enforcement	\$ -	SSR
61-3-415	Grant wishes to chronically or critically ill children	\$ -	SSR
7-4-2502	County attorney salaries	\$ 2,977,994.44	GF
60-11-115	Railroad and intermodal transportation facility loans	\$ -	FSR
53-6-1304	SB 405 Medicaid Expansion	\$ -	GF & FSR
53-24-108A	Grants for private or public alcoholism programs	\$ 2,357,130.45	SSR
41-5-2011	Youth court intervention and prevention	\$ 25,000.00	SSR