



CREATING A BILL WITH A STATUTORY APPROPRIATION

You may request – or be asked to support – legislation that includes a statutory appropriation. Statutory appropriations ensure that a certain level or source of funding is always available to support the operation the bill addresses. As previously stated, the legislature does not review all statutory appropriations regularly, in order to determine either whether the function should continue, and/or that the level or method of funding remains appropriate. Because of this lack of regular, periodic review, the legislature has established guidelines in statute addressing the circumstances under which statutory appropriations are most appropriate.

When crafting or reviewing legislation, you may wish to consult these statutory guidelines. While they do not prohibit the creation of statutory appropriations that fall outside the parameters, they do provide a means for determining whether or not a statutory appropriation follows the general philosophy of the legislature and whether it demonstrates appropriate legislative review and control.

The following guidelines are contained in 17-1-508 of the Montana Code Annotated (MCA).

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. **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.

Note: If you are unsure or want some general advice, please contact the Legislative Fiscal Division and we will be happy to assist you.