

STATUTORY APPROPRIATION REPORT FOLLOW UP

A Report Prepared for the
Legislative Finance Committee

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INTRODUCTION

At the Legislative Finance Committee's December meeting, Legislative Fiscal Division (LFD) staff presented a report containing the following information requested by the committee on statutory appropriations:

- Analyze the guidelines outlined in 17-7-502, MCA, for each statutory appropriation
- Research how many statutory appropriations have been enacted by voter initiatives
- Research how many statutory appropriations transfer money to local governments

In the process of analyzing the statutory appropriations, LFD staff discovered the following nine issues that were presented to the committee:

- 1) Certain statutory appropriations are not allowed to fund administrative costs, but there is no definition of "administrative costs";
- 2) Eliminate one guideline and remove the word "not" from the guidelines to make the intent clearer
- 3) Outdated references to Senate Bill 495 from the 2001 session could be removed;
- 4) Money for the veterans' cemeteries program is appropriated twice. The statutory appropriation should be assigned to the Department of Military Affairs;
- 5) There may be a more efficient process for providing money to the Department of Natural Resources and Conservation to administer the Morrill Act;
- 6) The method of providing money to the research and commercialization state special revenue account results in a doubling of expenditures on the state accounting system. Agencies responsible for the statutory appropriations need to be named;
- 7) The statutory appropriation to spend ARRA funds could be sunset when all federal funds and earnings have been received and spent;
- 8) The statutory appropriation to spend fee revenue for certificates of public advantage could be eliminated. This was recommended by the Department of Justice; and
- 9) Small technical appropriation issues can be resolved between staff and the Office of Budget and Program Planning (OBPP).

ANALYSIS AND RECOMMENDATIONS

The following are the issues outlined above that the committee directed staff to address. Suggested recommendations are included.

- 1) Administrative costs: The only definition of "administrative" costs found in statute includes all personal services, operating expenses, and capital purchases such as equipment. However, there are instances when it is appropriate to use one of these expenditure codes for activities that are an integral part of the purpose of the statutory appropriation, rather than for what might traditionally be thought of as "administrative".

For example, the State Lottery has significant expenditures from categories classified as administrative expenses (operating expenses). However, those expenditures consist of such activities as vendor payments and prizes. Therefore, it is appropriate for this function to use the statutory appropriation for "administrative costs" as it is currently broadly defined.

One of the goals as staff moves forward on this issue is to refine the definition of "administrative costs" to meet the intent of the legislature when including this criterion in statute, while giving leeway to agencies to use these expenditure codes when appropriate.

Staff has examined those instances where the statutory appropriation has been used for ongoing personal services costs, and will expand the analysis into all other areas of administrative costs in the coming weeks.

- 2) Statutory appropriation guideline recommendations: It is recommended that legislation be drafted to:

- a. Eliminate the guideline “The fund or use requires an appropriation”
 - b. Remove the word “not” from the guidelines
- 3) Outdated references to Senate Bill 495 recommendations: It is recommended that legislation be drafted to repeal these references. The Office of Public Instruction and the Department of Natural Resources and Conservation concur with this recommendation.
 - 4) Veterans’ cemeteries program recommendations: LFD staff met the Department of Military Affairs and OBPP staff on this issue. It is recommended that legislation be drafted to clarify that the statutory appropriation is to the Department of Military Affairs for use by the Veterans Affairs Division. The department and OBPP concur with this recommendation. LFD staff will inform the 2013 appropriations subcommittee that money for the veterans’ cemeteries program should not be appropriated in HB 2. The department and OBPP concur with this recommendation.
 - 5) Morrill Act funding recommendations: LFD staff met with Department of Natural Resources and Conservation and OBPP staff to discuss the available options. The executive agencies do not recommend any changes. The current methodology allows for the accumulation of fund balance in the state special revenue account.
 - 6) Department of Commerce double expenditures: The LFC directed LFD staff to eliminate the doubling of expenditures. LFD staff met with Department of Commerce and OBPP staff to discuss and resolve the issue. It is recommended that legislation be drafted to eliminate the general fund appropriation and replaced it with a transfer of general fund money to the research and commercialization account in the same amount as the general fund statutory appropriation. The Department of Commerce and OBPP concur with this recommendation.
 - 7) Sunset of the statutory appropriation to spend ARRA funds: It is recommended that legislation be drafted to sunset the statutory appropriation to spend interest earnings from federal ARRA funds when all federal funds and interest earnings have been received and spent. There is no specific agency assigned to administer this statutory appropriation.
 - 8) Certificates of public advantage: It is recommended that legislation be drafted to sunset the statutory appropriation and eliminate the revenue source. The Department of Justice makes this recommendation and the LFD agrees with the recommendation.
 - 9) Discussions with OBPP over minor statutory appropriation issues will be addressed as they arise.

OPTIONS

- o Request staff to draft legislation for the committee to review in September
- o Take no further action