

Corrections and Public Safety Appropriations Subcommittee
Orientation - 2005 Session

EXHIBIT _____
DATE _____
HB _____

Subcommittee Members

- Representative Tim Callahan, Chairman (Returning member)
- Senator Trudi Schmidt (Returning member)
- Senator Keith Bales (Returning member)
- Senator Steve Gallus
- Representative Walter McNutt
- Representative Cynthia Hiner
- Representative John Witt

EXHIBIT 2
DATE Jan. 6, 2005
HB 2; Orientation

LFD Staff Members and Agency Assignments

Harry Freebourn: Montana Board of Crime Control, Public Service Regulation, Dept. of Justice, and Dept. of Corrections
Shane Sierer: Military Affairs and Department of Labor and Industry

Office of Budget and Program Planning (OBPP) Budget Analyst: Brent Doig

Use of Legislative Fiscal Division (LFD) Staff

The LFD is here to assist you by providing the fiscal information that you need to make informed decisions. The LFD can explain the budget and appropriation process. The LFD are your staff and are here to assist you. However, there is a limit on the amount of time that a staff member can research and gather information because of many competing requests.

Workings of the Subcommittee

- Schedule: The draft schedule for this subcommittee is attached. The order of events is subject to change.
- Budget Presentation Procedure: Hearings will be in the order of:
 - Agency and program overviews and in certain cases tours (Agency)
 - Discussion of global LFD issues and comments (LFD and Agency)
 - Discussion of individual program decision packages and issues (LFD and Agency)
 - Comments and/or presentation on behalf of the Governor (OBPP)
 - Public testimony
- Executive Action (after all testimony is heard)
 - LFD review of the decision package and any issues/comments
 - OBPP comments
 - Agency response
 - Motion
 - Votes
 - Move to next decision package
- Quorum:
 - A quorum consists of 4 committee members. A quorum is necessary to conduct subcommittee business and vote.
 - If a subcommittee member has to leave the meeting, please leave a note with the Chairman stating that you have left your proxy with another subcommittee member
- Motions:
 - Motions do not require a second
 - The Chairman is allowed to make a motion

Examples of Motions

Global Motions

Proposed Motion to begin executive action on each program:

“(Mr./Madam) Chair: I move the base level of funding plus statewide present law adjustments (to include DP 699 – added vacancy savings) for the _____ program.”

Amendment motions for present law and new proposals for the program would follow.

Proposed motion for final adoption of each program budget:

“(Mr./Madam) Chair: I move adoption of the budget as amended for the _____ program.”

Agency Motions

"I move to accept present law adjustment number XX."

"I move to accept present law adjustment numbers XX through XX, with the exception of items X, etc."

"I move to accept new proposal number XX."

LFD Budget Analysis

The LFD's analysis of the governor's budget can be found in Volume 3 and Volume 4 of the Legislative Budget Analysis 2007 Biennium. The Corrections and Public Safety Appropriation Subcommittee's agencies are found in Volume 4. Each agency has its own section that includes: (a) an agency proposed budget, (b) an agency description, (c) agency highlights, (d) a funding table, (e) a biennium budget comparison, (f) discussion of supplemental funding – if necessary, and agency issues. This information also includes decision packages for present law adjustments and new proposals. In some cases these adjustments are accompanied by a "LFD Issue or LFD Comment." The LFD has not developed its own budget and has not "approved" or "disapproved" any of the decision packages.

FTE/Personal Services

- Vacancy Savings – All FTE (full time equivalent - which consists of 2080 hours worked in one year) are fully funded in the budget process. Savings result during a year when a position is vacant (due to normal turnover) or if a vacant position is filled with a less expensive person (a lower grade for instance). By anticipating that a certain amount of vacancy savings will occur naturally, the budget could be reduced. This is called "imposing vacancy savings".
- If you want to eliminate funding for personal services, please instruct LFD staff to increase or decrease the number of FTE and let the budgeting system (MBARS) determine the amount of money (which is based on complex formulas). It is best to do it this way rather than reducing the budget and having staff figure out the amount of FTE.
- The legislature does not "appropriate" FTE. The legislature appropriates funding for personal services expenditures while the executive determines the number of FTE. FTE are used to assist in the budgeting process of determining the amount of money needed to fund personal service costs. For example, agencies may use the appropriated funds to hire more FTE at lower grades or fewer FTE at higher grades. The executive has full authority to create or not fill FTE.
- Agencies may use money appropriated for operations, equipment, grants, benefits, etc. to hire additional FTE that are never budgeted directly by the legislature.

The Base

The base is the amount of money expended to produce the level of services and operations provided in FY 2004. The base has been reduced by amounts of budget amendments or other one-time expenditures that do not occur in subsequent years. Please keep in mind that the base (FY 2004) is being used to build a budget for FY 2006 and 2007- two and three years in the future. All present law adjustments and new proposals are in addition to what is requested in the base.

Present Law

Present law is the amount of funding needed to provide the same level of services and operations for FY 2006 and FY 2007 as was provided by the amount spent in FY 2004. It is possible that this amount of funding would be the same as the base amount, but in some instances, the amount spent in FY 2004 is not adequate. Increases or decreases in caseload or workload could require an adjustment to present law to cover these changes. Inflation and deflation are other factors that change the costs for providing the same level of service. To accurately reflect the real cost of the whole program as anticipated by the legislature, the amount spent in FY 2004 is adjusted.

There are two types of present law adjustments:

"Statewide Adjustments" - These are adjustments for which the legislature could make decisions statewide (globally) for all agencies. The three adjustments are:

- **Personal Services:** Increases are due to the pay plan and benefit adjustments passed last session and to pay increases for elected officials that are part of a regional survey. Part of any increase may be due to the fact that funding is provided for positions that were vacant for part of the base year but fully funded in the budget.
- **Inflation and deflation:** As mentioned above, inflation is an increase that is necessary to maintain the same level of service provided in FY 2004. Deflation is a decrease.
- **Fixed Costs:** Agencies receive certain services provided by programs located in other agencies, such as computer support, building rent, insurance, mail service, payroll, and legislative audit costs. The charges for these services are called fixed costs because, once they are determined, the agency receiving the service must pay that fixed amount. The rate charged for a service is determined by the subcommittee that reviews the program that charges the rate to other agencies.

"Present Law Adjustments via DP's" - A table for each program is provided in the LFD Budget Analysis that summarizes requested adjustments from the FY 2004 base expenditures. These can be increases or decreases. A narrative follows the table consisting of the explanation for the executive adjustment and, if applicable, followed by an **"LFD Comment"** or **"LFD Issue"**. This information will assist you to understand the change and help you make informed decisions. **Always remember that the dollar amounts in the table are the changes from the base requested in the Executive Budget and not the total being requested.** The total amount is the sum of base expenditures and the amounts in the table.

New Proposals

New proposals are requests to provide new non-mandated services, to change program services, to eliminate existing services, or to change the source of funds. They are provided in the form of decision packages.

Appropriation Power

The ultimate power of the legislature is the ability to appropriate money. Only the legislature can do this. However, the following are a few things to keep in mind:

- The legislature has entrusted this power to other entities in some cases. The executive branch can approve budget amendments if certain criteria are met. Some types of money can be spent without an appropriation. In the 1995 session, HB 576 allowed proprietary funds to be spent without an appropriation. Some money and uses are statutorily appropriated which means that a permanent appropriation has already been provided by the legislature in statute.
- The amounts and type of money the legislature appropriates are those shown in HB 2. The individual amounts and items approved by the subcommittee are not necessarily the appropriations. The subcommittee makes numerous decisions on individual items that roll-up to a single appropriation in HB 2. The subcommittee process is a means to arrive at a single appropriation. This means that even though the subcommittee may approve an amount for a specific

purpose, a new proposal for example, it is the executive who determines if the appropriation will be spent for that or another purpose

- **There is a difference between “money” and an “appropriation”.** Money comes from a tax, fee, or other source and is used by an agency to pay personnel and operating costs to performed its statutory duties. An appropriation is the authority by the legislature that allows an agency to spend that money. Without it, no money can be spent. The limit on the amount of money that an agency can spend depends on the lesser of: 1) the amount of money available; and the appropriation amount set by the legislature (example: refer to the issue in the Law Enforcement Academy).
- Be careful in setting appropriations, particularly if you hear **“if we don’t get the money, then we can’t spend it”**. Although this is true, if the appropriation amount is greater than the money that will be received, an agency can move the authority to where there is extra money and use it to spend that money. **This can result in money being spent from revenue sources and for purposes never contemplated by the legislature.** In these cases, a budgeting tool available to you is to restrict the appropriation so it can’t be used for anything else.

Proprietary Funds and Rate Setting

Proprietary funds can be spent without an appropriation. Internal services funds are a type of proprietary fund and are not appropriated by the legislature. Internal services funds are used when a service is provided to a number of programs within a department (or to a number of agencies – called “fixed cost”). For example, some agencies’ centralized services divisions are handled this way. A rate is developed and those programs using the service must pay the rate. Legislative control lies in the legislature’s requirement to set the rate charged by the provider of the services and then appropriate money to those programs that use the services so they can pay the rate. This subcommittee will be setting the rates for several proprietary funds.

House Bill 2 Language

Please try to limit the use of language in the general appropriations act to fiscal matters. For example “Language in HB 2 cannot override substantive law. Therefore, language that attempts to do this can jeopardize the legality of the bill

- **One-time-only:** If the legislature wants an appropriation to be one-time only (called an OTO), the LFD should be directed to line item the amount and denote it as OTO. The expenditures from this item will then be excluded from the FY 2006 base for purposes of setting the 2009 biennium budgets.
- **Restricted:** Once the legislature sets an appropriation for a specific purpose, the executive may use the authority for a different purpose. If the legislature wants an appropriation to be used only for the stated purpose and no other, then the LFD should be directed to line-item the amount and designate it as “Restricted.”
- **Biennial appropriations:** These appropriations are budgeted in the first year and the agency has two years to use it. If the legislature wants to give biennial appropriations, it should appropriate the entire amount in FY 2006.
- **Contingency language,** to coordinate with other bills if they are passed, is usually done with language in the general appropriations act after the legislation passes. In some cases, the executive is requesting that the subcommittee make budget changes based on proposed legislation. It is recommended that these budget changes be made once the legislation is passed and not in subcommittee.

Contingency Appropriations (excess authority)

Requests for “contingency” appropriations occur when an agency wants the authority just in case an event (of which the agency is unsure) happens which requires the expenditure of funds or if the receipt of the money itself is uncertain.

- In general, the legislature may want to limit “contingency” type of additional authority because: 1) authority may be transferred to other programs where excess cash is available and increase expenditures for an activity not specifically approved by the legislature; 2) authority may be transferred to other agencies where excess cash is available if the purpose of the original appropriation is maintained; 3) excess authority may be used to spend funds that might be used to offset other funding sources, such as general fund; and 4) other mechanisms exist to provide funding in unanticipated circumstances such as budget amendments, appropriation transfers, and appropriations in the budget amendment and supplemental bills.
- If the legislature approves “contingency” appropriations, it may want to restrict such appropriations to only the stated

purpose so it would not be used for some other purpose.

Language Appropriations

The legislature should consider language appropriations carefully. A language appropriation becomes an appropriation by the legislature only if some circumstance happens (such as receipt of the money or the occurrence of some event). The appropriation is in language only and does not show up in the numbers portion of HB 2. In general, the legislature may want to limit language appropriation only to special circumstances.