

General Government and Transportation
Appropriations Subcommittee
Orientation - 2005 Session

EXHIBIT 3
DATE 1/6/05
HB 2

Committee Chair: Representative John Sinrud Committee Vice-Chair: Senator Lane Larson

Committee Members: Representative Rosalie Buzzas Senator Mike Cooney
Representative Jon Sesso Senator Rick Laible
Representative Janna Taylor Senator Corey Stapleton

Staff Members

Legislative Fiscal Division (LFD) staff:

Greg DeWitt (Secretary of State, Department of Transportation, Department of Revenue, Department of Administration, Appellate Defender, Montana Consensus Council)
Room 119 - State Capitol
444-5392

Marilyn Daumiller (Commissioner of Political Practices, Governor's Office, State Auditor, Chiropractic Legal Panel, Consumer Counsel, Legislative Branch)
Room 108B - State Capitol
444-5386

Harry Freeborn (Judiciary)
Room 108I - State Capitol
444-5834

Use of LFD Staff

The LFD staff is here to assist you by providing whatever fiscal information you need to make informed decisions. Do not hesitate to ask them for what you need. Also, feel free to have them explain any part of the budget/appropriations process that you are uncertain about, such as budget terminology, impacts of other bills, etc. This offer is for anytime during and after the session, not just for subcommittee. We are your staff and are here to assist you.

Governor's Office of Budget and Program Planning (OBPP) Staff:

Christi Moyer Eileen Rose Brent Doig

Workings of the Subcommittee

- The scheduled order of the 12 agencies/programs is listed on the attached "General Government and Transportation" schedule, subject to change by Chairman Sinrud.
- It is anticipated that the Subcommittee will complete the daily scheduled events. Should members have pressing House or Senate actions, the Chair may exercise the option of recessing the subcommittee and reconvening later that day.
- A quorum consists of 5 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 Chairman Sinrud stating that you have left your proxy with another subcommittee member.
- Motions do not require a second.
- Agencies will be heard first at the agency level followed by the hearings for each program, where necessary. Hearings will be in the order of:
 - LFD overview, issues, and comments
 - Agency overview presentation
 - OBPP comment/presentation
 - Other testimony
- Each program will be closed when the Chairman determines that all discussion, public testimony, questions, and presentations have been completed.
- Executive action will be taken typically a day following the close of hearings of all programs of the agency. Executive action does not need to be taken immediately. By the direction of the Chair, additional research may be completed by

- staff and reported before executive action is completed, if there exists an unresolved point of legislative interest.
- The House Appropriations and Senate Finance committees have recommended that the subcommittee pass motions to:
 - Approve the "Statewide Present Law Adjustments" for each agency and make separate adjustments (if any) to the statewide present law items as needed to meet the specific circumstances of the agency or program. See "Present Law" below for an explanation of these items.
 - Approve the base budget for each agency and make adjustments (if any) to it.

Explanation of LFD Budget Analysis:

Legislative Budget Analysis 2007 Biennium, Volume 3 – Agency Budgets, Section A, General Government and Transportation:

Sample agency on page A-97 (Department of Transportation)

Sample program on page A-193 (Department of Administration – General Services Program)

LFD Issues - If a requested increase to present law or a new proposal needs further explanation or requires additional legislative consideration, it will be followed by "LFD Issue" or "LFD Comment". In some cases, options are given for the legislature to consider. Options always available to the legislature are to appropriate funding for the same level of services provided by base expenditures in fiscal 2004, or to take no action. The LFD has not developed its own budget and has not "approved" or "disapproved" any of the base changes. Just because an increase to the base has no "LFD Issue" does not mean that it is "approved" by the LFD, it simply means that no additional explanation seems to be needed for that specific matter.

FTE/Personal Services

- Vacancy Savings - This is a term you will be hearing often. Because 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 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.
- Changes to FTE will cause permanent changes to personal services appropriations (i.e. changes will be continued/reflected in the 2007 biennium budget request). In contrast, changes only to personal services appropriations (i.e. vacancy savings) will only be one-time in nature and will not continue in the next biennium.
- 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

To understand present law, one must understand the base. The base is the amount of money spent to produce the level of services and operations provided in fiscal year 2004 (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 fiscal years 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 fiscal years 2006 and 2007, as was provided by the amount spent in FY 2004 (the base year). Usually 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. Inflation is one factor that increases the costs for providing the same level of service. Legislative approved increases are another. For example, some new proposals approved at session may be phased-in and have greater funding and FTE in FY 2005 (and into the 2007 biennium) than reflected in FY 2004 expenditures.

To accurately reflect the real cost of the whole program as anticipated by the legislature, the amount spent in FY 2004 has to be adjusted upwards. The pay plan approved by the last legislature is another similar factor. Since the FY 2004 pay plan became effective part way through FY 2004, the base year does not reflect the full impact of the increase. In addition, the base year does not contain the FY 2005 increase authorized by the legislature in the pay plan. Therefore, increases above the base amount are needed to accurately reflect the 2007 biennium budget.

New Proposals

This section lists each of the new areas of spending that the executive budget proposes to add to the agency budget. The new proposals are intended to be above and beyond the present law by adding a new function, program, FTE to perform new work tasks, etc.

Decision Package

To make changes to The Base, either through Present Law or New Proposals, each change is bundled into a Decision Package (DP) that describes the expenditure in terms of the amount, the source of funding, and the purpose/function of the expenditure. The budget is, essentially, the aggregate of the base and all of the DP's for present law and new proposals. The budget is approved in total by approving (as presented or with changes) or rejecting each of these components, including each DP. Statewide adjustments (see below) are not presented in a DP, as the statewide adjustments to the base are made globally and applied to each program and agency.

"Present Law Adjustments" - 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. Narrative follows the table consisting of the explanation for the executive adjustment and, if applicable, followed by an **"LFD Comment"** or **"LFD Issue"**. These pieces of information are to assist you in understanding the requested changes and to help you make informed decisions. **Always remember that the numbers 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.

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

- **Personal Services:** Much of the increase is due to the pay plan passed last session, which phased-in pay raises. Some agencies may have had large retirement payouts in FY 2004. Since these are in the base but are not in the executive budget, they actually cause a reduction to this difference. These types of differences, in most cases, should not be of great concern to the legislature. However, the legislature may be more interested in some of the other differences. Overtime and proposed vacancy savings are two that the legislature may want to look at more closely. Vacancy savings are one-time in nature and, if used to fund other expenditures (for example - a pay plan in the 2007 biennium) will not be available to continue funding the item in future biennia. If permanent reductions are desired, FTE should be reduced.
- **Inflation:** As mentioned above, inflation is an increase that, for certain items, is necessary to maintain the same level of service provided in FY 2004.
- **Fixed Costs:** Agencies receive certain services provided by programs in other agencies, such as computer support, building rent, insurance, mail service, payroll, and legislative audit. The charges for these services are called fixed costs because, once they are determined, the agency receiving the service must pay that fixed amount. What is important to the legislature is that the budget of the program and subsequent rate for providing these services is set at the level the legislature wants. This is determined in whatever subcommittee the program that provides that service is in.

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. Budget amendments can be approved by the executive branch 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. A budgeting tool to ensure that the money is spent for a specific purpose is discussed in "House Bill 2 Language" below.

There is a difference between "money" and an "appropriation". Money comes from a tax, fee, or other revenue source and is used by an agency to pay personnel and operating costs to perform 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 2) the appropriation amount set by the legislature.

- 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 (discussed in "House Bill 2 Language" below) is to restrict the appropriation so it can't be used for anything else.

Proprietary Funds and Rate Setting

As mentioned above, some funds such as proprietary funds, can be spent without an appropriation. Internal services funds are a type of proprietary funds 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 who 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.
- Language in an appropriations act (HB 2) cannot override substantive law.
- 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 fiscal 2006 base for purposes of setting the 2009 biennium budgets.

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."

- Instances where the legislature may want to consider restricting an appropriation are pointed out in an "**LFD Issue**".
- "Biennial appropriation" is an amount of money appropriated in FY 2006 but which can be spent in either or both years of the biennium. These appropriations are restricted and will show as separate line-items in HB 2. No language is necessary for a biennial appropriation. Usually, the entire amount of a biennial appropriation is budgeted in the first year and the agency has two years to use the appropriation. 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 legislature 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.