

Natural Resources & Commerce
Appropriations Subcommittee
Orientation - 2005 Session

EXHIBIT 1
DATE 01/06/2005
HB 2

Committee Members

Representative Rick Ripley, Chair
Representative Walter McNutt
Representative John Musgrove
Representative Rosie Buzzas
Senator Bob Hawks
Senator Ken Hansen, Vice Chair
Senator Gregory Barkus

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Role of the LFD Staff

We are staff to the committee and are here to assist you. The LFD staff is responsible for the budget analysis, general fiscal information and guidance regarding the budget/ appropriations process. Should you need fiscal information, procedural clarification or other guidance, do not hesitate to call upon staff. This offer is for anytime during and after the session, not just for subcommittee activities.

Basic Guidelines for Subcommittee

- ✓ The "Natural Resources Appropriations Subcommittee" schedule provides the order of agencies for hearing purposes and is subject to change by Chairman Ripley.
- ✓ Agencies will be heard first at the agency level followed by the hearings for each program. Hearings will be in the order of: Agency overview presentation, LFD issues and comments, OPBB comment/presentation, and other testimony. Please see the schedule.
- ✓ Each program will be considered completed when all discussion, public testimony, questions, and presentations has taken place
- ✓ Executive action will be taken after all programs within the agency have been heard.
- ✓ A quorum for the purpose of subcommittee business, including voting, is one half plus one of the total committee, or in this case four committee members
- ✓ If a subcommittee member needs to leave the meeting, please complete the proxy form and leave with Chairman Ripley or Secretary Brit.

Mechanics of Motions

- ✓ Example of motions are attached for reference
- ✓ The chair is allowed to make the motion
- ✓ A second is not needed for the motion
- ✓ It is expected that a joint meeting between House Appropriations and Senate Finance will ask all subcommittees to pass a motion to approve the base budget in all agencies and make adjustments (if any) to it (please see attached "Suggested Motions").
- ✓ It is expected that a joint meeting between House Appropriations and Senate Finance will ask all

subcommittees to approve the "Statewide Adjustments" for all agencies (except vacancy savings) and make adjustment (if any) to it (please see attached "Suggested Motions"). Please see "Present Law" below for an explanation of these items.

Anatomy of the Budget Analysis

- ✓ Agency Summary Contains:
 - Agency proposed budget by major category and fund type
 - Highlights table alerting reader to key activities and major LFD issues
 - Biennium budget comparison table comparing the 2005 Biennium to the 2007 Biennium
 - New proposal table listing the executives recommendations for new proposals
 - Agency issues; in depth writing of major issues that may affect all programs or total agency operations
- ✓ Program Summary Contains
 - Program level budget by major category and fund type
 - Highlights table alerting reader to key activities and major LFD issues
 - Funding table listing funding source by base year and proposed FY 2006 & FY 2007
 - Present law adjustment (PLA) table listing executive recommended adjustments to continue program operations at the present level.
 - Decision packages for PLA – description of each present law decision package
 - New proposal table listing the executive recommendations for new proposals
 - Decision packages for NP – description of each new proposal decision package

Issues and Comments:

If a requested change to present law or a new proposal needs further explanation or requires additional legislative consideration, "LFD Issue" or "LFD Comment" may follow it. In some "Issue" 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. LFD Comments general provide background or historical information that is pertinent to making an informed decision regarding the decision package.

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 or a new proposal does not have an "LFD Issue" does not mean that it is "approved" by the LFD.

Key Budgeting Terms/Concepts

The Base

The base is the amount of money spent to produce the level of services and operations provided in fiscal 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 (fiscal year 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 fiscal 2004. Usually this amount of funding would be the same as the base amount, but in some instances, the amount spent in fiscal 2004 is not adequate, or does not represent normal operations. 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 last session may be phased-in and have greater funding and FTE in fiscal 2005 (and into the 2007 biennium) than reflected in fiscal 2004 expenditures.

To accurately reflect the real cost of the whole program as anticipated by the legislature, the amount spent in fiscal 2004 has to be adjusted upwards. The pay plan approved by the last legislature is another similar

factor. Since the pay plan became effective part way through fiscal 2005, the base year does not reflect the full impact of the increase. Therefore, increases above the base amount are needed to accurately reflect the 2007 biennium budget.

Two Types of Present Law

"Present Law Adjustments" - A table for each program is provided in the LFD Budget Analysis that summarizes requested adjustments from the fiscal 2004 base expenditures. These can be increases or decreases. 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 - provides for the funding of all positions captured in the personal services "snapshot" and annualizes the pay plan passed last session, which provided a pay raise in mid FY 2005.
- ✓ Vacancy Savings - savings gained as a result of position vacancy, due to normal turnover, or the vacant position is filled with a less expensive person. By anticipating that a certain amount of vacancy savings will occur naturally, the personal services budget is reduced.
- ✓ Inflation - an increase, applied to specific expenses, such as utilities, that is necessary to maintain the same level of service provided in fiscal 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.
 - For example, this subcommittee will set the rate charged to other agencies for services provided for maintenance of the capitol grounds because that service is provided by the Department of Fish, Wildlife and Parks. The subcommittee's decision on this rate will determine what other agencies have to pay for that service.

New Proposals:

New proposals are those decision packages, which request to change or eliminate existing services; change funding sources or provide a new non-mandated service. The funding for a new proposal is in addition to the base or any present law adjustments made.

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 during the interim 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 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. To ensure that the money is spent for a specific purpose, the appropriation can be line itemed with a designation as discussed below.

The department must have an appropriation and corresponding cash to pay personnel and operating costs to perform its statutory duties. Cash can come via federal funds, general fund or state special revenue funds earmarked in statute for a particular use. An appropriation is the authority by the legislature that

allows an agency to spend that money. Therefore the limit on the amount of money that an agency can spend is the lesser of:

- 1) The amount of money available; and
- 2) The appropriation amount set by the legislature.

A word of caution: 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. Again, to make certain that funds are expended for a specific purpose, the appropriation can be line itemed with a designation as discussed below.

House Bill 2 Language – Designations

The following options are available to the committee to line item an amount. These options are not mutually exclusive.

- 1) 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";
- 2) 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;
- 3) A biennial appropriation is an amount of money appropriated in fiscal 2006 but which can be spent in either or both years of the biennium. These appropriations are also restricted and will show as separate line items in HB 2. No language is necessary for a biennial appropriation rather 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 fiscal 2006.

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.

- ✓ For example: In the Oil and Conservation Division of DNRC, language appropriation is requested due to the unknown amount of the federal Environmental Protection Agency (EPA) grant. (C-137)

Keep in mind that the use of language in the general appropriations act is restricted to fiscal matters and language in the appropriations act (HB 2) cannot override substantive law.

Contingency Language (impact of legislation)

Contingency language, to coordinate with other bills should they pass, is normally 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:
 - Authority may be transferred to other programs where excess cash is available and increase expenditures for an activity not specifically approved by the legislature
 - Authority may be transferred to other agencies where excess cash is available if the purpose of the original appropriation is maintained
 - Excess authority may be used to spend funds that might be used to offset other funding sources, such as general fund; and
 - Other mechanisms exist to provide funding in unanticipated circumstances such as budget

amendments, appropriation transfers, 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.

Other issues of importance:

Proprietary Funds and Rate Setting

Proprietary funds can be spent without an appropriation. There are two types of proprietary funds, internal service funds and enterprise funds. This committee will be reviewing both types of funds.

Internal services funds are used when a service is provided to a number of programs within a department or to a number of agencies. For example, some centralized services divisions are handled this way. A department rate is developed and department programs using the service must pay the rate. Often this rate is referred to as an indirect rate. When the rate is applied across all agencies, it is a fixed cost, such as grounds maintenance through Fish, Wildlife and Parks. Legislative control lies in the ability 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.

An enterprise fund accounts for operations that provide goods or services to the public on a user charge basis. The public can include another sector of state government. This type of fund tracks revenues and expenditures, working capital and set asides for equipment and inventory. The legislature reviews these funds for the purpose of financial stability

FTE/Personal Services

Budgeting for personal services can be tricky. The following provides guidelines for the process:

- ✓ 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.
- ✓ Statewide adjustments provide the net increase for personal services by providing an adjustment to fully fund personal services and subsequently reduce the amount by vacancy savings.
- ✓ 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).
- ✓ Changes in the number of FTE will cause permanent changes to personal services appropriations (i.e. changes will be continued/reflected in the 2009 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.
- ✓ Some quasi-judicial boards have the authority to set salaries for their employees. This is the case for the employees of the Montana Board of Oil and Gas, which is attached to DNRC.

Further resources:

- ✓ Ask LFD staff, if we don't know, we will find out.
- ✓ Refer to: "Understanding State Finances and The Budgeting Process" available at www.leg.state.mt.us

Natural Resources and Commerce Appropriations Subcommittee Suggested Motions 2005 Session

Global Motion

1. Proposed Motion to begin executive action on each program:

"(Mr./Madam) Chair: I move the base level of funding plus statewide present law adjustments (or the _____ program.)"

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

3. 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."