

# **THE LFC AND BUDGETS DURING THE INTERIM**

A Report Prepared for the  
**Legislative Finance Committee**

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## STATUTES AND COURT CASES

Both the statutes that delineate Legislative Finance Committee (LFC) role and powers and court cases define what and within what parameters the LFC examines budget actions during the interim.

### Statutes

The statute establishing the Legislative Finance Committee (LFC) states the following:

“5-12-101. Title and purpose of chapter. (1) This chapter may be cited as "The Legislative Finance Act".  
...(2) Because the legislature is responsible for appropriating public funds, it must provide for fiscal analysis of state government to accumulate, compile, analyze, and furnish such information bearing upon the financial matters of the state that is relevant to issues of policy and questions of statewide importance.” [LINK]

The actual statutory duties of the LFC under the Legislative Finance Committee Act are not specifically expansive. Those duties not specifically related to administration of the committee and with information technology are:

“5-12-205. Powers and duties of committee. The committee:  
...(7) shall, before each regular and special legislative session involving budgetary matters, prepare recommendations to the house appropriations committee and the senate finance and claims committee on the application of certain budget issues. At a minimum, the recommendations must include procedures for the consistent application during each session of inflation factors, the allocation of fixed costs, and the personal services budget. The committee may also make recommendations on other issues of major concern in the budgeting process, such as estimating the cost of implementing particular programs based upon present law.” [LINK]

However, the LFC has other statutory duties embedded within other parts of appropriations statutes. In addition, the general purpose statement of the Legislative Finance Act covers a broad array of other activities related to expenditure and appropriations monitoring not discussed in this report.

### Court Cases

The primary court case that sets parameters around LFC action during the interim is *Judge v. Legislative Finance Committee*. The original statute establishing the LFC included a provision that the LFC would approve or disapprove potential budget amendments. However, the court ruled that the legislature could not give to a subset of itself powers that were reserved only to it in the constitution (specifically, the power to appropriate). Therefore, the LFC’s role is an advisory one, as will be laid out in the sections that follow.

## WHAT ARE THE SIGNIFICANT APPROPRIATIONS/SPENDING BUDGET LAWS AND WHAT IS THE LFC ROLE?

The following is a brief discussion of specific appropriations law and the related LFC process, if any.

### Establishing Appropriations/ Changing Operating Plans (Title 17, Chapter 7, MCA)

1. The agency must establish appropriations
  - a. All HB 2 line-items and other appropriations bills (with the exception of the pay plan) must be separately tracked
  - b. The agency must establish operations plans that conform to the main tables in the LFD Fiscal Report by first level (i.e. personal services, equipment, benefits, etc.). This is the starting point from which all changes are made

Your LFD staff monitors this process and brings any discrepancies to the attention of the executive and if necessary the LFC.

2. Agencies have flexibility to change the operating plan through budget change documents (BCDs) that are for most agencies approved by the Governor’s Office of Budget and Program Planning (OBPP)<sup>1</sup>. There are three main budget change types:
  - a. Operating plan changes and program transfers (17-7-138, 17-7-139, MCA)
  - b. Budget amendments (17-7-part 4, MCA)
  - c. Appropriations transfers (supplementals) (17-7-part 3, MCA)

The LFD receives all BCD requests when they are first submitted to OBPP.

### ***Operating Plan Changes and Program Transfers***

- The agency may transfer funds between first level expenditures (e.g. personal services to operating expenses), or from one program to another.
- All changes are done through BCDs
- If the BCD meets a certain threshold that is used as a proxy for a significant and/or policy change, the LFC must be given an opportunity to review and comment before the executive can approve the change
  - The LFC cannot prevent the approving authority from approving the change
  - The LFC may on occasion take either policy and/or legal issue with any change
- **LFC Process** – “Operating Plan Changes” under Required Reports on the agenda for each LFC meeting for review and comment

### ***Budget Amendments***

- Agencies are allowed, under certain circumstances, to add federal funds during the interim. If an emergency exists, the agency can add certain state special revenue funds.
  - The approving authority can approve budget amendments without any LFC review
- The budget amendments must meet statutory requirements. LFD staff review any proposed budget amendments and alert the approving authority of any issues with legality prior to approval
- The LFC is given a report for informational purposes listing all approved budget amendments, and any identified legal issues on any of those approved
- **LFC Process** – “Budget Amendments” under Required Reports on the agenda for each LFC meeting for review and comment

### ***Appropriations Transfers (Interim Supplementals)***

- Agencies may move funds from the second year of the biennium to the first year if first year appropriations are insufficient to meet anticipated expenditures
  - No authority is added – the agency will have a reduced appropriation level in the second year
  - Any transfer must follow statutory requirements, including in most instances provision of a plan for how the agency will now operate within the biennial budget
- The approving authority cannot move funds until the LFC has reviewed
- The LFC cannot approve or disapprove of a proposed appropriations transfer
  - The LFC may either report or not report
    - If the LFC reports, the approving authority may go forward with the transfer
    - If the LFC chooses not to report, the authority must wait 90 days before the transfer can go forward

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<sup>1</sup> Approving authorities:

- 1) Executive agencies – OBPP
- 2) Judicial Branch – Supreme Court
- 3) University System – Board of Regents
- 4) Legislative Staff – Respective standing committees (LFC, Council, LAC)

- **LFC Process** – Review and choose whether to report when occurring

### ***Required Reductions in Spending***

- If the general fund ending fund balance is projected to go below a statutorily defined level, the Governor is required to reduce expenditures to maintain a minimum ending fund balance (17-7-140, MCA)
- **LFC Process** - The LFC must meet within 20 days of the proposed changes to review and potentially make recommendations to the Governor

### **Other Significant Budget Statutes**

There are a number of other types of issues related to financial law that the LFC may encounter or deal with during the interim. While the LFC does not have specific duties on any of the following, the committee receives reports and may study, review, and/or make recommendations as issues arise.

- Any funds with negative fund balances (17-2-107, MCA, 17-2-304, MCA)
- Review of dedicated revenue sources (17-1-505, MCA)
- State special revenue (17-2-111, MCA) – Department of Administration provides information as requested by the committee
- Encumbrances (17-1-102, MCA)
- Nature, status, and justification of any new proprietary funds (17-8-101, MCA)
- Transfers between agencies for like purposes(17-8-101, MCA)