



OFFICE OF THE STATE PUBLIC DEFENDER STATE OF MONTANA

MEMORANDUM

TO: Brent Doig

FROM: Harry Freebourn

DATE: March 6, 2014

RE: Agency Mitigation Plan – 2015 Biennium

In a letter to Mr. Dan Villa, Budget Director, dated February 25, 2014, the Office of the State Public Defender (OPD) requested that it be authorized to transfer up to \$1.6 million in general fund from fiscal 2015 to fiscal 2014 for reasons outlined in that letter. In accordance with 17-7-301, MCA, if an agency requests a transfer of funds from the second year of the biennium to the first, the request must be accompanied by plan(s) for reducing expenditures in the second year of the biennium that allows the agency to contain expenditures within appropriations. This memorandum provides our plans by program or function as outlined below.

Public Defender Program (Program 1) – Non-Capital Defense

Program 1 would need to take two actions to mitigate the effect of the fiscal transfer of funds from fiscal 2015 to fiscal 2014. First, it would need to either receive additional SB 410 funds to pay for the modified positions established during fiscal 2014 or delete the positions. This action is necessary because there are no other sources of funds to pay for the positions. Second, it would need to reduce contract expenditures to mitigate the remaining effect of the transfer. In order to reduce contract expenditures, the Chief Public Defender would file motions in courts around the state. These motions would ask courts to cease appointing the agency to represent clients until it can secure the resources necessary to represent them. Specific details regarding where and when the Chief will ask for cases to cease is under review.

Appellate Defender Program (Program 2)

Program 2 would need to take two actions (and consider taking a third action) to mitigate the effect of the fiscal transfer of funds from fiscal 2015 to fiscal 2014. First, it would need to delete the modified position established during fiscal 2014. Second, it would need to reduce contract expenditures. In order to reduce contract expenditures, the Chief Appellate Defender would inform contract attorneys to cease work on their cases until resources are available. Specific details regarding when program 2 will

order cessation of contractor work is still under review. If cessation of contractor work fails to provide the needed relief, the Chief Appellate Defender will consider declining to take appellate referral from OPD Program 1 as well as direct appellate appointments from the Supreme Court.

Please be aware that the agency is required by both the US and Montana Constitutions to serve clients that are guaranteed the right to counsel where fundamental liberty interests are at stake. Given this requirement, it is difficult for the agency to control caseloads. The agency will provide you with periodic updates on its' efforts.

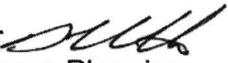
OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING
STATE OF MONTANA



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TO: Amy Carlson, Legislative Fiscal Analyst
Legislative Fiscal Division

FROM: Dan Villa, Budget Director 
Office of Budget and Program Planning

DATE: March 7, 2014

SUBJECT: LFC Review and Comment on a Fiscal Year Transfer Supplemental
Appropriation for Public Defender Costs

In accordance with Title 17, Chapter 7, part 3, MCA, the Governor's Office of Budget and Program Planning is submitting for review and comment a proposed supplemental appropriation to transfer FY 2015 authority to FY 2014.

This transfer will be in the amount of up to \$1.6 million. The cause of this shortfall is due mainly to: the agency's inability to achieve the applied vacancy savings reduction, increased contract attorney expenditures due to increased caseload in both the Appellate and Public Defender programs, and a shortfall in funding for capital defense. The agency has been taking steps to mitigate this shortfall and will continue in the months to come. Attached is a proposed mitigation plan for the 2015 biennium.

CC: Richard "Fritz" Gillespie
Bill Hooks
Wade Zolynski
Harry Freebourn

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FISCAL ANALYST

Attachment: Mitigation Plan