

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING
STATE OF MONTANA

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April 11, 2016

Ryan Lynch, Chair
Members of the Economic Affairs Interim Committee

Dear committee members:

As you know, the 2015 Legislature approved the budgets for both the Office of Public Defender and the Department of Livestock as one-time-only. What this means is each of these agencies must present their budget request for the 2019 biennium from a "starting point" of zero, where all other state agencies and branches of government will present their budget request from a "starting point" of their 2017 legislatively appropriated budget.

OBPP has been working with these agencies as well as staff from the Legislative Fiscal Division to determine how these budgets would functionally fit into the budget development process for the 2019 biennium and how they would look in the budget presentation. I have been asked by your committee staff for information about this process specifically as it relates to the Department of Livestock.

In terms of process and presentation, I am including an excerpt from a report made to the Legislative Finance Committee by the Legislative Fiscal Division regarding this subject. I believe it provides sufficient explanation of the technicalities of the budget presentation.

Both of these offices have current and future constitutional and/or statutory obligations, none of which have been altered at the time of their one-time-only budget designation. Their operations must continue under current law and will be funded in the Governor's Executive Budget proposal as ongoing to continue meeting these constitutional and statutory requirements.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan Villa".

Dan Villa, Budget Director

From the March 10, 2016 report from the Legislative Fiscal Division to the Legislative Finance Committee titled "Budget Policy Choices II":

In the 2015 session, the legislature applied the one-time-only (OTO) restriction to almost the entire budgets of the Office of Public Defender and the Department of Livestock. The purpose of this effort was for the 2017 legislature to apply closer examination to the expenditures and subsequent budgets of the Office of Public Defender and the Department of Livestock.

Per Section 5 of HB 2, these appropriations cannot be part of the base or starting point. This means the agency's budget could start at zero, or more commonly known as Zero Based budgeting. Zero Based budgeting is an approach to planning and decision-making that changes the working process of the legislature's traditional budgeting method. Incremental budgeting requires justification of variances to the base budget. Zero Based requires justification from zero. While a valid budget technique, Zero Based budgeting does create a few challenges.

There are two concerns with this process:

- 1) While these budgets are labeled OTO, the majority of expenditures are clearly ongoing. This could cause concern if the base portion of the budget was not used in calculating structural balance. Structural balance is a key tool the legislature uses to maintain ongoing expenditures with ongoing revenues.

The 2015 session addressed this concern, by including these OTO appropriations on the status sheets in a separate calculation of structural balance. This allowed for the accounting of OTO appropriations and included the expenditures in the structural balance.

- 2) The OTO label on a statutorily required program creates a conflict within the statutory definition of "Present law base". The definition requires both the inclusion of the level of service necessary to maintain statutorily required caseloads (referred to as current service level or CSL) and to eliminate non-recurring (OTO) appropriations.

MCA 17-7-102 (10) "Present law base" means that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

- a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;*
- b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;*
- c) inflationary or deflationary adjustments; and*
- d) elimination of nonrecurring appropriations.*

The LFD discussed with the executive that the 2017 OTO appropriations should be eliminated from the base budget, and that present law change packages will be created to potentially restore the agency's budget to the current service level. The LFD intends to make note of the statutory conflict, but will not raise issue with defining these change packages as present law.

Current statute provides a process and requirements for the executive budget submission. The statutes do not address the Zero Based budget approach. As it stands, the executive budget submission will follow 17-7-102, with the agreed upon exception as stated in the previous paragraph. The most current piece of legislation that addressed Zero Based budgeting was HB 343 of the 2011 legislative session (appendix C) sponsored by Representative Rob Cook. This piece of legislation detailed what information was to be submitted to the legislature when a Zero Based budget was involved. Some requirements are similar to current law, but additional information such as legal justification for services and the priority ranking of such services were included. HB 343 could be used as a basis for creating the presentation method for these agencies. Is the LFC interested in the LFD, OBPP and the impacted agencies working together to make recommendations at the June LFC meeting on how these agencies will present their budgets?