OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR

PO BOX 200802
HELENA, MONTANA 59620-0802

TO: Amy Carlson, Legislative Fiscal Analyst
Legislative Fiscal Division

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

DATE: March 8, 2018

SUBJECT: LFC Review and Comment on a Fiscal Year Transfer Supplemental Appropriation for Department of Public Health and Human Services

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 2019 state special revenue and general fund authority to FY 2018. The state special revenue authority is requested as part of a strategy to mitigate needed general fund authority.

This transfer will be in the amount of up to $20.579 million general fund and $600,000 state special revenue. The shortfall is caused by: 2019 biennium Medicaid caseloads were funded below the projected amounts included in the Executive Budget; benefits, operating, and caseload costs at the Child and Families Services (CFS) as well as Disability, Employment and Transitions (DET) divisions; and private contractor cost increases at the Montana State Hospital. The agency has been taking significant steps to mitigate this shortfall and will continue in the months to come. Attached is a proposed mitigation plan and agency appropriation deficit overview for the 2019 biennium.

CC: Sheila Hogan

Attachment: Legislative Finance Committee Request Overview

TELEPHONE: (406) 444-3616 FAX: (406) 444-4670

Legislative Fin~~e Committee Request Overview 3/8/2018

Projected GF Deficit as of 2/9/2018	**($20,579,231)**	**($9,925,162)**
3/15/2018 Supplemental Request	$20,579,231	($20,579,231)
Remaining anticipated Biennial Balance 6/30/2019	**$0**	**($30,504,392)**

Projected General Fund Deficit by Program and Year - Before Mitigation

Program	FY 18 GF	FY 19 GF	
Program 01 - DETD	(2,536,546)	(2,564,401)	Voc Rehab Benefits
Program 03 - CFSD	(9,239,552)	(5,698,057)	Personal Services, Operating, Caseload
Program 10 - DSD	(4,644,687)	0	Medicaid Caseload
Program 11 - HRD	(8,757,275)	(7,723,542)	Medicaid Caseload
Program 22 - SLTC	(2,235,776)	0	Personal Services, Caseload
Program 33 - AMDD (Montana State Hospital)	(2,086,335)	(871,870)	Montana State Hospital, Personal Services/Operating
total	**(29,500,172)**	**(16,857,870)**	**(46,358,041)**

Projected General Fund Deficit by Program and Year - After Mitigation

Program	**FY 18 GF**	**FY 19 GF**	
Program 01 - DETD	(2,536,546)	(2,564,401)	Voc Rehab Benefits
Program 03 - CFSD	(9,239,552)	(5,698,057)	Personal Services, Operating, Caseload
Program 10 - DSD	(685,527)	0	Medicaid Caseload
Program 11 - HRD	(5,355,552)	(937,465)	Medicaid Caseload
Program 22 - SLTC	(888,482)	0	Personal Services, Caseload
Program 33 - AMDD (Montana State Hospital)	(1,873,571)	(725,239)	Montana State Hospital, Personal Services/Operating
total	**(20,579,231)**	**(9,925,162)**	**(30,504,392)**

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BUDGET AND PROGRAM PLANNING
STATE OF MONTANA

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HELENA, MONTANA 59620-0802

TO: Amy Carlson, Legislative Fiscal Analyst
Legislative Fiscal Division

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

DATE: March 8, 2018

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 2019 authority to FY 2018.

This transfer will be in the amount of up to $3.0 million. The shortfall is caused by: 2019 biennium caseload was appropriated at levels below FY 2017 as well as an unfunded capital case. The agency has been taking significant steps to mitigate this shortfall and will continue in the months to come. Attached is a proposed mitigation plan for the 2019 biennium.

CC: Harry Freebourn

Attachment: Mitigation Plan

TELEPHONE: (406) 444-3616 FAX: (406) 444-4670

OFFICE OF THE STATE PUBLIC DEFENDER
STATE OF MONTANA

TO: Malissa Williams

FROM: Harry Freebourn

RE: 2019 Biennium Mitigation Plan

DATE March 8, 2018

This memorandum provides a plan to mitigate a financial shortfall faced by the Office of the State Public Defender (OPD) for FY 2018 and FY 2019. **All dollar amounts are estimates and subject to change.**

The beginning assumption is that OPD starts each fiscal year with a $5 million projected shortfall. Added to this shortfall is an estimate for improvements made by the agency to address inefficiencies and other issues. For example, the agency hired 20.50 modified FTEs to replace more expensive contract attorneys with state-employed attorneys where practical. Deducted from this shortfall are planned savings from reducing contractor costs, an increased effort to scrutinize all expenditures, and excess vacancy savings caused by an excessive turnover rate in our staff attorney positions.

To get FY 2018 to zero, OPD requests that a fiscal transfer of up to $3 million from FY 2019 be approved. This action will increase OPD's beginning FY 2019 shortfall from $5 million to $8 million.

During FY 2019 the following mitigation actions would address the shortfall:

1. The modified positions will remain in place and continue to provide a net savings to the system by reducing more expensive contractor costs.
2. The agency will continue to reduce contracting costs where practical. The agency will work to return to a normal vacancy savings rate because keeping staff attorneys in our workforce allows the agency to avoid sending cases to more expensive contract attorneys. These actions will provide a $3 million reduction.
3. OPD requests that certain items with an estimated value of $3.1 million be placed into a supplemental funding status since the agency neither has funding to cover them nor control over their occurrence. They include:
    a. An estimated $1.2 million for a death penalty case.
    b. An estimated $500,000 for costs created by court orders, such as orders to staff certain treatment courts, motions to rescind appointments for ineligible clients denied by judges, and transcript costs for dependent and neglect cases.
    c. An estimated $600,000 for leave payouts.
    d. An estimated $800,000 for unfunded growth experienced during FY 2017 which is expected to continue into FY 2018 and FY 2019, mostly in dependent and neglect cases.
4. Reduce contract provider service rates by about 10% and reduce travel pay by about 27%. This is expected to provide an estimated $1.2 million savings in FY 2019 and some savings in FY 2018.
5. The last action that may be necessary would be to implement a plan to cease providing services for a period. This may be in the form of a "system shutdown" for a certain number of consecutive days. Agency management is working on the details of this plan that would provide the least amount of disruption to our clients and the legal system.

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OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING
STATE OF MONTANA

STEVE BULLOCK
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PO BOX 200802
HELENA, MONTANA 59620-0802

TO: Nancy Balance, Chair, Legislative Finance Committee
Other Committee Members

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

DATE: March 8, 2018

SUBJECT: LFC Review and Comment on a Fiscal Year Transfer Supplemental Appropriation for Issues with HB 2 reductions as implemented during November 2017 Special Session

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 set of proposed supplemental appropriations to transfer FY 2019 authority to FY 2018.

The following list described the issues that have arisen due to the way reductions were made by the legislature during the November 2017 Special Session and proposed solutions along with mitigation plans.

- Public Service Commission: Revenue to fund the budget for the Public Service Commission comes from an assessment on regulated utilities based upon the appropriations from the legislature to the agency. HB 1, passed in the November 2017 Special Session, transferred cash from the Public Service Commission special revenue fund equal to the average reduction of other agencies. This cash transfer acted as the equivalent of reducing the agency's budget by the average reduction of other agencies. This scenario worked as long as the agency appropriation was not reduced. However, the appropriation for the agency was also reduced in HB 2. Therefore, the revenue that can be collected is also reduced – essentially cutting the agency twice the average reduction of other agencies. To avoid the double reduction, the proposed transfer would move $276,964 from FY 2019 to FY 2018 to backfill the reduction to Public Service Commission. If the transfer were not approved, and the agency were required to implement the reductions, mitigation would involve reductions in personal services, contracted services, and operating expenses.
- Department of Justice: One of the reductions included in the Department of Justice 17-7-140, MCA, proposal was to reduce funding for the 24/7 program. However, when the legislature included the reduction in HB 2, the line item appropriation for the 24/7 program was not reduced. Instead, the appropriation for the Motor Vehicle Division operations was reduced. The transfer would move $141,272 general

fund from FY 2019 to FY 2018 to restore the operations cuts to the Motor Vehicle Division. Mitigation would come from a reversion of a like amount from the line item appropriation for 24/7 testing.

- Judicial Branch: The Judicial Branch was not legally required to make reductions in accordance with 17-7-140, MCA. However, the branch offered voluntary reductions to help with the general fund shortfall. When the reductions were taken by the legislature, the reductions were not made to the correct appropriations. Therefore, the branch is left short of funding for current level operations in areas where voluntary reductions were not made.
    - The Supreme Court Operations Program was reduced by $80,000 general fund each year. However, the reduction should have been made to the Sentencing Commission and Senate Bill 65 appropriation contained in HB 2 providing funding for pre-trial diversion. The transfer would move $80,000 from FY 2019 to FY 2018 to backfill the reduction to Supreme Court Operations. Mitigation would come from an $80,000 reversion in the line item appropriation where the reduction was originally intended.
    - The Law Library Program was reduced by $40,000 general fund each year. However, the reduction should have been made to the cat/dog appropriation in HB 70 to provide funding for the WINGS program. The transfer would move $40,000 from FY 2019 to FY 2018 to backfill the reduction to Law Library. Mitigation would come from a $40,000 reversion in the appropriation in HB 70.
- Department of Administration: One component of the 17-7-140, MCA, budget reduction plan for the Department of Administration was to transfer $500,000 of fund balance over the biennium from the SABHRS proprietary fund to the general fund. In order to gain $500,000 of general fund revenue from the transfer, approximately $633,000 would be required to be transferred so the federal government could be reimbursed for its portion of the funding. However, instead of recording the general fund impact as revenue, the HB 2 general fund budget for the State Financial Services Division was reduced by $500,000. This general fund authority is appropriated to fund the Local Government Services Bureau within the division and is unrelated to SABHRS. In addition, the straight general fund reduction, precludes the recapture of non-general fund and non-federal funds that also contributed to the SABHRS account. The transfer would move $200,000 from FY 2019 to FY 2018 to backfill the reduction. Mitigation would come from the transfer of the fund balance from the SABHRS proprietary fund to the general fund. If the transfer were not approved, mitigation would come directly from reduced services to local governments currently provided by the Local Government Services Bureau. Local governments would also incur additional costs as they would need to seek these services elsewhere.
- Department of Public Health and Human Services: There are two issues affecting the Department of Public Health and Human Services:
    - The Technology Services Division requires budget adjustments related to the line item appropriation for State Information Technology Services Division (SITSD) payments. First, the numbers captured in the bill for the line item were captured during the midst of the processing of a budget change document (BCD) and therefore were not accurate. Second, reductions included in the agency's 17-7-140, MCA, proposal that the legislature

included in HB 2 related to payments to SITSD were not reduced from the SITSD line item but were instead reduced from the general operations budget for the Technology Services Division. Finally, because of the preceding two issues that subsequently overstated the SITSD line item budget, the budget was reduced by a larger amount than should have been reduced in the 6.61% SITSD budget reduction. The net effect of these issues is that the SITSD line item for the Technology Services Division is overstated by $1,816,536 in FY 2018 and the general operations line item for the division is understated by a like amount. The transfer would be $726,289 general fund, $158,189 state special revenue, and $932,058 federal special revenue from FY 2019 to FY 2018. Mitigation would come from a reversion of a like amount in the SITSD appropriation.

- An omission was made in the LFD calculation that determined the amounts to be reduced from agency budgets for the 2-month state share holiday. For agencies with positions that are split between bureaus or other budget segments (reporting levels), the reduction was taken multiple times for the same position. To restore the cut back to the level contemplated by SB 3, transfers are required across the department. The transfer would move $27,400 general fund, $9,070 state special revenue, and $26,243 federal special revenue from FY 2019 to FY 2018. If the correction were not approved, the agency would have to incur additional vacancy savings, operating, or benefits reductions of $62,713 over and above budget reductions made in regular session, SB 261, and special session.
- The agency's 17-7-140, MCA, proposal included a reduction to the One-Time-Only appropriation for Youth Crisis Diversion. When the legislature included the reduction in HB 2 during the special session, the reduction was not made to the line item appropriation for Youth Crisis Diversion. Instead, the operating budget for the Development Services Division was reduced. This reduction was $91,000 in FY 2018 and $300,000 in FY 2019. While the agency is able to work within existing appropriations for the 2019 biennium, the reduction will impact the base budget for the 2021 biennium. There is no fiscal supplemental transfer requested for this item. However, this item is requested to be included in the development of the 2021 base budget as requested later in this memorandum.

- <u>Department of Environmental Quality:</u> An omission was made in the LFD calculation that determined the amounts to be reduced from agency budgets for the 2-month state share holiday. For agencies with positions that are split between bureaus or other budget segments (reporting levels), the reduction was taken multiple times for the same position. To restore the cut back to the level contemplated by SB 3, transfers are required in two programs. In the Waste Management & Remediation Division, the transfer would move $40,182 state special revenue, and $88,406 federal special revenue from FY 2019 to FY 2018. In the Air, Energy & Mining Division, the transfer would move $3,471 general fund, $51,950 state special revenue, and $94,247 federal special revenue from FY 2019 to FY 2018. If the correction were not approved, the agency would have to incur additional vacancy savings or operating reductions of $149,668 over and above budget reductions made in regular session, SB 261, and special session.

- Department of Natural Resources and Conservation: An omission was made in the LFD calculation that determined the amounts to be reduced from agency budgets for the 2-month state share holiday. For agencies with positions that are split between bureaus or other budget segments (reporting levels), the reduction was taken multiple times for the same position. To restore the cut back to the level contemplated by SB 3, transfers are required in across the agency. The transfer would move $48,720 general fund, $131,772 state special revenue, and $9,228 federal special revenue from FY 2019 to FY 2018. If the correction were not approved, the agency would have to incur additional vacancy savings, operating, equipment, or grant reductions of $189,720 over and above budget reductions made in regular session, SB 261, and special session.
- Department of Fish, Wildlife & Parks: An omission was made in the LFD calculation that determined the amounts to be reduced from agency budgets for the 2-month state share holiday. For agencies with positions that are split between bureaus or other budget segments (reporting levels), the reduction was taken multiple times for the same position. To restore the cut back to the level contemplated by SB 3, transfers are required in across the agency. The transfer would move $272,703 state special revenue, and $85,642 federal special revenue from FY 2019 to FY 2018. If the correction were not approved, the agency would have to incur additional vacancy savings, operating, equipment, or other reductions of $358,360.
- Department of Agriculture: An omission was made in the LFD calculation that determined the amounts to be reduced from agency budgets for the 2-month state share holiday. For agencies with positions that are split between bureaus or other budget segments (reporting levels), the reduction was taken multiple times for the same position. To restore the cut back to the level contemplated by SB 3, transfers are required in across the agency. The transfer would move $5,234 general fund, $88,521 state special revenue, $10,592 federal special revenue, and $3,162 proprietary funds from FY 2019 to FY 2018. If the correction were not approved, the agency would have to incur additional vacancy savings, operating, equipment, or other reductions of $107,508 over and above budget reductions made in regular session, SB 261, and special session.

Because of the nature of the issues with HB 2 reductions in the Public Service Commission, Department of Justice, Judicial Branch, Department of Administration, and Department of Public Health and Human Services, there are far reaching unintended consequences. These agencies are not only in the position of dealing with the issues for the 2019 biennium, but for the 2021 biennium as well. The agencies are in the position of having to request funding from the legislature for programs where it was neither the executive's nor the legislature's intent for the specific programs to be reduced. I am requesting confirmation and agreement from the Legislative Finance Committee to allow the Office of Budget and Program Planning to correct the issues when developing the base budget for the 2021 biennium.

CC: Amy Carlson, Legislative Fiscal Analyst