



MONTANA LEGISLATIVE BRANCH

Legislative Fiscal Division

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Legislative Fiscal Analyst
CLAYTON SCHENCK

DATE: March 2, 2010

TO: Legislative Finance Committee

FROM: Pat Gervais, Legislative Fiscal Division

RE: Office of Public Defender Supplemental Appropriation

SUMMARY OF REQUEST

In correspondence dated March 1, 2010, the Governor's budget director sent notice to the Legislative Fiscal Analyst of a proposed supplemental appropriation request to transfer \$800,000 of general fund authority from FY 2011 to FY 2010 for the Office of Public Defender (OPD). The budget director's memo indicates two main reasons that this transfer is needed: 1) the imposition of increased vacancy savings (7 percent); and, 2) an across the board reduction in general fund support for agencies of 2 percent for the 2011 biennium. The combined FY 2010 funding impact of these two items was a reduction of \$759,260 in general fund support. Legislative staff has reviewed this request and raises no concerns with the request meeting statutory requirements.

BACKGROUND

Attached to the letter from the budget director is a memorandum from the OPD updating the Office of Budget and Program Planning (OBPP) on the agency's estimated shortfall for the 2011 biennium and agency efforts to mitigate 2011 biennium costs. The agency's first estimate completed in May 2009 projected expenditures in excess of appropriations of \$1.2 million each year of the 2011 biennium. This estimate has been revised downward twice to the current projection of \$800,000.

Per statute the agency must implement a plan to reduce expenditures in the second year of the biennium so that expenditures are limited to the appropriation level for the biennium. Also included in the memo from the OPD is information about the agency's efforts to mitigate expenditures in the 2011 biennium to avoid the need for a supplemental appropriation by the 2011 Legislature. The agency indicates it has identified four ways to mitigate expenditures including: 1) increasing funding sources, 2) reducing expenditures, 3) increasing productivity; and, 4) reducing services. Examples of items that fall into these categories are:

- Obtaining federal grant funds

- Reorganization of central office functions and creation of a major crime unit to create greater efficiencies
- Utilizing more internal resources and fewer contract resources
- Exploration of ways to limit or minimize involvement in certain types of cases

The agency will continue to implement these mitigation efforts in an attempt to reduce expenditures for the 2011 biennium to the level of appropriation available.

COMMITTEE OPTIONS

As directed in statute, the Legislative Finance Committee has the following options for this supplemental appropriation request:

- o Provide a written report to the Governor stating the committee has reviewed the request
- o Remain silent and not provide a written report regarding the committee's review of the request

PROVIDE A WRITTEN REPORT

Whether or not the committee has concerns with the request, the committee can provide a written report to the Governor stating it has reviewed the request. The committee may include any comments about the request that it wishes in the report. If the committee provides a written report to the Governor, the Governor may, upon receipt of the report approve or deny the request, regardless of the committee's position. The written report, if directed, must be provided within ten days after committee consideration.

REMAIN SILENT AND NOT PROVIDE A WRITTEN REPORT

If the committee takes no action to direct a report to the Governor on this topic, the Governor may not approve or deny the supplemental request until 90 calendar days have passed. However, after 90 calendar days from the date the proposed supplemental appropriation request was forwarded to the committee, the Governor can either approve or deny the request. Given that the request was forwarded to the LFC on March 5 the passage of 90 calendar days will occur on June 3, which is the proposed date of the next LFC meeting.

The following options are provided for committee action:

Option 1: Prepare a report to the Governor that the committee has reviewed the proposed request to move funding from FY 2011 to FY 2010.

Option 2: Take no action. In this case a report to the Governor will not be prepared and the Governor must then wait 90 days before approving the request.