

OFFICE OF THE GOVERNOR
STATE OF MONTANA

BRIAN SCHWEITZER
GOVERNOR



JOHN BOHLINGER
LT. GOVERNOR

April 11, 2011

Steve Bullock
Montana Attorney General's Office
215 N. Sanders Street
Helena, MT 59620

Dear Steve:

Anticipating that the 2011 Montana Legislature might not present me with a budget that adequately funds government services for fiscal years 2012 and 2013, I need to begin preparing for a possible shutdown of state government that would occur on July 1, 2011. As you are well aware, Article VIII, section 14 of the Montanan Constitution prohibits paying any money out of the state treasury without an appropriation made by law. Without a state budget on July 1, 2011 employees must be furloughed and programs must cease providing services.

To prepare for this contingency, I am requesting from you a detailed legal memorandum that defines the state's obligations during an executive branch shutdown. I would like this memo to define key terms such "essential services," "essential employees" and "essential payments," and provide a full analysis and conclusion as to which employees, payments and services would remain in place as "essential".

The prospect of a shutdown raises large-scale questions which I hope you will address for me. What employees, for example, can be retained at the State Prisons or the State Hospital at Warm Springs, or Pine Hills School for Boys, or our state National Guard? Can we keep all highway patrol officers on duty? Are there powers unique to these circumstances that I may exercise to soften the financial losses to the state that will result from the closure of "non-essential" services such as state parks, museums, the lottery, state liquor stores and drivers' license stations? Are there any extraordinary steps I may take to prepare the thousands of state workers who will be furloughed from "non-essential" programs? In the event of a shutdown, the State will have the ability to refuse payment to any of thousands of vendors who do business with the State. On which of these contracts may the state withhold payment? Are rent payments to landlords, for example, considered to be "essential" payments that must continue?

Unfortunately this request is not a mere hypothetical exercise. I believe that the ruling party in the 62nd Montana Legislature intends to continue on a path that will not produce a reasonable budget that I can sign during the regular session.

Thank you for your assistance in this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "B. Schweitzer", followed by a long, horizontal, wavy line.

BRIAN SCHWEITZER
GOVERNOR