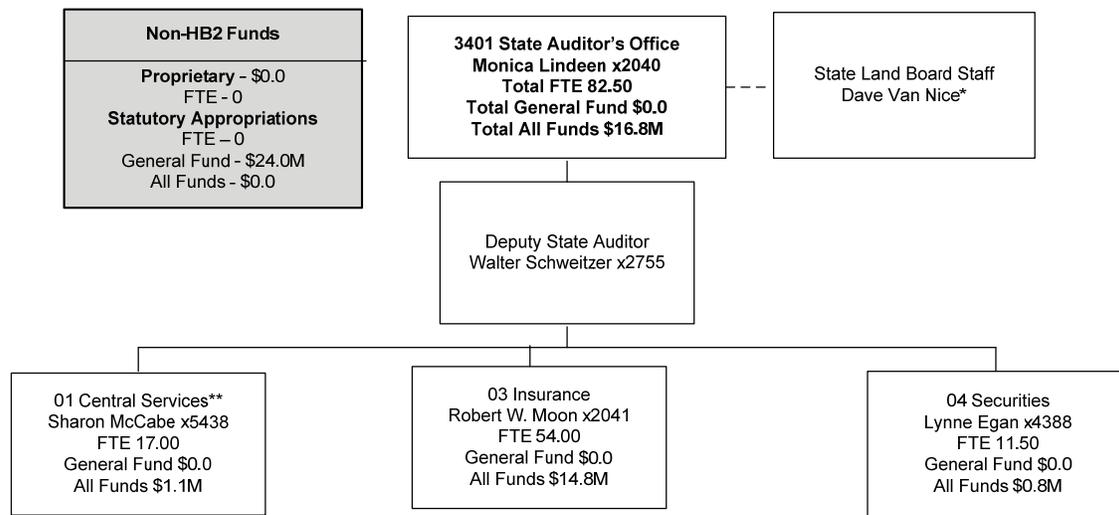


Agency Budget Comparison

The following table summarizes the total executive budget for the agency by year, type of expenditure, and source of funding.

Agency Budget Comparison								
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE	82.50	82.50	84.50	84.50	82.50	84.50	2.00	2.42%
Personal Services	4,744,653	4,838,404	5,216,716	5,215,431	9,583,057	10,432,147	849,090	8.86%
Operating Expenses	1,743,953	2,658,289	2,797,663	2,454,027	4,402,242	5,251,690	849,448	19.30%
Equipment & Intangible Assets	13,751	0	13,751	13,751	13,751	27,502	13,751	100.00%
Benefits & Claims	10,253,392	11,498,655	11,194,769	11,194,769	21,752,047	22,389,538	637,491	2.93%
Transfers	0	0	0	0	0	0	0	n/a
Total Costs	\$16,755,749	\$18,995,348	\$19,222,899	\$18,877,978	\$35,751,097	\$38,100,877	\$2,349,780	6.57%
State Special	16,755,749	18,995,348	19,222,899	18,877,978	35,751,097	38,100,877	2,349,780	6.57%
Other	0	0	0	0	0	0	0	n/a
Total Funds	\$16,755,749	\$18,995,348	\$19,222,899	\$18,877,978	\$35,751,097	\$38,100,877	\$2,349,780	6.57%

The following is the agency organizational chart, with contact information. The chart has been modified by the LFD to include the FY 2010 base budget FTE, general fund, and total funds for each program. As applicable, total agency proprietary funds and statutory appropriations, along with associated FTE, are also shown.



**Elected officials included

* Supporting FTE included in administration

A portion of this agency's on-going funding does not appear in the table because it does not require a specific appropriation. Further information is provided in the funding section.

Agency Description

The Office of the State Auditor is authorized under Article VI of the Montana Constitution. The State Auditor is the ex-officio Commissioner of Securities and Insurance and is responsible for licensing and regulating insurance companies and agents, and registering and regulating securities firms and representatives that transact business to or from Montana. The Commissioner of Securities and Insurance adopts rules and administers reform for the securities and insurance industries operating in the state. The Commissioner also serves as a member of the Land Board and the Crop Hail Insurance Board. The Office of the State Auditor has three divisions: Central Services, Insurance, and Securities.

The State Auditor’s Office (SAO) is also responsible to pass through funding for local police and firefighter retirement programs (Municipal Police Officers’ Retirement System, Firefighters’ Unified Retirement System, the Volunteer Fire Fighters’ Compensation Act, local fire department relief associations, municipalities with police department trust funds, and local police pension funds for supplemental benefits). The retirement programs are funded from general insurance (33-2-705, MCA) and fire insurance premium taxes (50-3-109, MCA) - \$24 million in FY 2010. Because these funds are statutorily appropriated, the expenditures are not included in the general appropriations act.

The agency consists of three divisions with the following functions:

- The Centralized Management Division (17.00 FTE) provides management and administrative services for the agency including agency leadership, accounting, budgeting, and human resources
- The Insurance Division (54.00 FTE) is responsible for oversight and regulation of the insurance industry in Montana
- The Securities Division (11.50 FTE) is responsible for oversight and regulation of the securities industry in Montana

Agency Highlights

Office of the State Auditor Major Budget Highlights
<ul style="list-style-type: none"> ◆ The State Auditor’s Office (SAO) budget request increases \$2.3 million compared to the 2011 biennium due primarily to: <ul style="list-style-type: none"> • \$0.8 million in personal services to: <ul style="list-style-type: none"> ○ Make 2.00 FTE funded from one-time funding in the 2011 biennium permanent ○ Annualize pay plan health insurance increases funded by the legislature in the 2011 biennium • \$0.8 million in operating cost increases for: <ul style="list-style-type: none"> ○ Contracted services for examinations of insurance companies ○ In-house administration of the captive insurance industry ○ Office rent • \$0.6 million net increase to continue the Insure Montana base level program funding ◆ Elected Official Proposal <ul style="list-style-type: none"> • \$6.0 million in tobacco tax health and Medicaid initiatives state special revenue to continue one-time funding to expand Insure Montana (HB 258 - 2009 session)

Legislative Action Issues

- ◆ The legislature may wish to consider whether and how to monitor SAO activities related to implementation of federal health insurance reform (Patient Protection and Affordable Care Act of 2010 - PPACA) during the interim
 - Implementation of federal health insurance reform is identified as a critical goal by the SAO as well as the Legislative Finance Committee
 - Development of the health insurance exchange design must be completed and submitted to the U.S. Department of Health and Human Services by January 1, 2013, curtailing the opportunity to review the submission by the next legislature and potentially driving some elements of the 2015 biennium budget request
 - Significant cooperation and work with other state agencies must be undertaken to develop the health insurance exchange design
 - Implementation of a new function to review and approve health insurance rates will be undertaken if LC 269 is passed and approved
- ◆ The legislature may wish to request that an interim legislative committee review how Insure Montana can be integrated into federal health insurance exchanges and make recommendations to the 2013 Legislature including identification of:
 - Areas of duplication between the state and federal programs
 - Types of efficiencies that might be achieved
- ◆ Interim committee recommendations
 - The Economic Affairs Committee approved several bill draft requests made by the SAO, most in conjunction with federal health care reform
 - The Legislative Finance Committee recommends that the starting point for budget deliberations be the adjusted base minus 5%

Agency Discussion

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the legislature may wish to review the following:

- o Goals, objectives and year-to-date outcomes from the 2011 biennium.
- o Critical agency goals, objectives, and anticipated outcomes and their correlation to the executive's budget request for the 2013 biennium.

2011 Biennium Goals

The following discussion provides an update of the goal monitored by the Legislative Finance Committee during the 2011 biennium.

Goal: Maximize the number of individuals covered (in the Insure Montana program) with the given funding.

The performance measures for the goal were gross enrollment and cost per individual covered.

This goal and performance measure are included as part of the more detailed discussion in the Insurance Division budget request.

2013 Biennium Goals

During the interim the LFC met with the agency to select critical goals and performance measurements for the legislature to consider during the appropriation process. The identified critical goals are:

Goal 1: Implement and comply with new federal health insurance laws.

Goal 2: Respond to and resolve consumer complaints against insurance entities in a timely fashion.

Goal 3: Make investor education available to all Montanans through investor outreach, publications, public service announcements, and formal classroom teaching.

Each of these overarching goals is reviewed in greater detail in the division budget discussions.

Agency Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Labor Market Experience** - Although hiring pools have been very high, qualified applicants were not available from the pool. As a result extensive training was required for new hires in order for the duties to be fulfilled.
- o **Pay Philosophy** - In the 2013 biennium, provided funding is available, SAO will attempt to place new hires at 80% to 95% of market depending upon experience and qualifications of the applicant. If qualified applicants are not available SAO will provide training assignments in order to satisfy the needs of the agency.
- o **Obstacles** - At this time, funding is the main obstacle to attracting and retaining qualified workers. The other obstacle is the lack of qualified applicants in the specialized areas of the agency. The majority of the positions in this agency are specialized in the securities and insurance professions; as a result it is difficult to hire new employees who have the qualifications required to fill the positions.

Agency Overview

The 2013 biennium SAO budget request grows \$2.3 million from the 2011 biennium. About \$0.6 million would maintain the amount appropriated for base spending for Insure Montana funded from HB 2. Personal services increases fully fund the health insurance pay plan increase funded by the 2009 Legislature and make permanent 2.00 FTE funded from one-time appropriations. Operating cost increases primarily fund additional examinations of insurance and securities companies.

As discussed below, the auditor is also seeking an additional \$6.0 million for the Insure Montana Program to reinstate one-time-only funds included in HB 258 by the 2009 Legislature.

Federal Health Insurance Legislation will have Major Impacts During 2013 Biennium

The first critical goal recommended for consideration by the Legislative Finance Committee in establishing the SAO budget for the 2013 biennium reflects a significant component of the SAO interim workload to implement or begin the development of key components of the Patient Protection and Affordable Care Act of 2010 (PPACA).

In summary, the major near term impacts of PPACA related to SAO duties and the timeline for implementation are:

- o Expansion of the state high risk insurance pool funded by a \$16.0 million multiyear federal grant awarded to the Montana Comprehensive Health Association (grant submitted by SAO), implemented July 1, 2010
- o Development of a proposal for a state managed health insurance exchange (internet based computer application where people can compare and purchase health insurance) with general authority pending passage and approval of LC 270, with a proposal due to the federal government for review by January 1, 2013 and implementation on January 1, 2014, funded by a \$1.0 million federal grant
- o Implementation of SAO authority to review and approve major health insurance rates, effective April 2011 pending passage and approval of LC 269, funded by a \$1.0 million federal grant

Very little of the budget request is tied to or reflects the changes necessary to implement PPACA since the federal grants received to date have been added by budget amendment so these funds are not included in base expenditures. Neither

does the budget request reflect the significant changes in SAO duties included in bills to implement PPACA that have been proposed by SAO and requested by the Economic Affairs Interim Committee (discussed below under “Legislative Committee Bills and Legislation”).

Interagency Impacts

PPACA will have impacts across state government and will require interagency cooperation, particularly with the Department of Public Health and Human Services (DPHHS), to implement some key components. For instance, PPACA requires that health insurance exchanges be able to determine a person’s eligibility for a federal tax credit to subsidize the cost of insurance and whether a person who is not blind, disabled, or aged is eligible for Medicaid.

PPACA expands and simplifies Medicaid eligibility by tying it to income reported on federal tax forms. It is not clear whether the exchange must communicate with a Medicaid eligibility system administered by DPHHS or whether the exchange could determine Medicaid eligibility and notify the DPHHS system. There may be opportunities to streamline state administration of Medicaid eligibility depending on federal guidance regarding insurance exchanges.

SAO Duties

The legislature will consider a bill requested by SAO to authorize state review and approval of health insurance rate changes. The new process will be implemented during the 2013 biennium. PPACA requires states to provide certain health insurance rate information for federal consideration.

Integration of Existing State Programs

Some state programs include elements of PPACA. For instance, Insure Montana (administered by SAO) provides subsidies for insurance premiums and tax credits for small employers as does PPACA. The state high risk insurance pool provides coverage for persons with pre-existing health conditions and when health insurance exchanges are implemented, denial of coverage for pre-existing exclusions will be prohibited. The state funds premium assistance for low-income seniors to help them purchase Medicare Part D drug insurance (Big Sky Rx administered by DPHHS).

2015 Biennium Budget Impacts

Most likely, there will be proposals related to PPACA included in the budget request considered by the next legislature. For instance, the Medicaid expansion will increase the number of persons eligible for Medicaid, but the cost will depend on federal guidelines, yet to be published, establishing the medical services that must be covered and which expansion populations are eligible for enhanced federal Medicaid funding. At this point, it is not possible to estimate the fiscal impact to Montana of expanding Medicaid.

LFD ISSUE

Legislative Oversight of Implementation of PPACA

Development of the Montana processes, proposals, and cost estimates to implement major components of federal health insurance reform will take place during the interim between the 2011 and 2013 legislative sessions. A very significant part of PPACA – the health insurance exchange - must be designed and submitted for federal review prior to the convening of the next session. The legislature may consider whether it would desire to monitor and review the processes and proposals during the coming interim

**LFD
ISSUE CONT.**

- Monitoring implementation of PPACA during the interim would allow legislators to:
- Become informed about changes that will be presented for consideration by the 2013 Legislature including budget impacts for new administrative requirements and services expansions
 - Potentially influence some of the proposals, including policy choices, that will be submitted for federal review prior to the next legislative session, specifically those dealing with the state health insurance exchange
 - Insure that all state agencies are working together and that legislators understand potential policy choices and the reasons underpinning decisions
 - Communicate effectively with Montana’s congressional delegation if the legislative oversight body has concerns

If the legislature wishes to monitor implementation of components of PPACA during the interim it could consider directing an interim committee to assume the task or forming a special interim committee.

The legislature could consider requesting any of the following committees to assume oversight functions: Economic Affairs; Children, Families, Health and Human Services; or the Legislative Finance Committee. Alternatively, the legislature could consider a special committee with members appointed from each of the interim committees noted or request that a select committee be established.

- Depending on the option chosen, the legislature has several choices in how it would implement oversight. It could:
- Pass an interim study resolution
 - Pass a bill to establish a temporary select committee or to form a committee from members of selected interim committees.

The legislature may also wish to consider whether to fund the committee separately or to request existing committees fund the work from existing appropriations.

Common Purpose Decision Packages

Each program includes a request to increase funding for rent for an annual increase of about \$140,000. The SAO acquired additional space and negotiated a new five-year lease, which was effective in February 2010. The 2009 Legislature appropriated funds in the 2011 biennium for these purposes. Figure 1 shows the FY 2011 rent appropriation compared to the agency request. As shown, while rent is higher than FY 2010 actual expenditures, it is \$260,000 lower than the amount authorized by the 2009 Legislature when it approved the 2011 biennium budget.

Figure 1

2013 Biennium Rent Compared to FY10 Base Budget and FY11 Appropriation	
Budget Request/Actual/ Expected Amount/Change	Annual Amount
Budget Request	\$440,183
FY 2010 Actual/Base*	<u>300,313</u>
Present Law Increase	\$139,870
Expected Annual Amount**	\$698,008
Budget Request	<u>440,183</u>
Savings from FY11 Appropriated Level	<u>(\$257,825)</u>
*Rent change was effective late in FY10.	
**Ongoing rent is lower than the rent increase approved by the 2009 Legislature.	

Legislative Committee Bills and Recommendations

The Economic Affairs Interim Committee requested the following bills at the request of the SAO. These bills implement major provisions of the federal health insurance reforms included in PPACA.

LC 269 – Provide Insurance Commissioner Authority to Review and Approve Health Insurance Premiums – This bill would give the SAO the authority to review and approve health insurance rates. This bill would also give SAO the authority to collect, review, and transmit to HHS health insurance rate data as required under PPACA.

LC 270 - Create a State-Level Health Insurance Exchange – This bill would give the SAO general authority to develop a state health insurance exchange to meet the requirements of PPACA. The bill proposes an

outline for governance of the exchange, as well as the powers, duties and oversight of the exchange authority. The state proposal for the exchange would be submitted for federal review January 1, 2013 with anticipated implementation January 1, 2014.

LC 271 - Revise Health Insurance Laws to Meet Minimum Federal Health Insurance Reforms – PPACA enacted market reforms that preempt state law. This law would amend existing health insurance statutes to comply with the minimum federal floor of consumer protections, so that the State of Montana can retain its ability to be the primary regulator of private health insurance.

LC 272 - Create State-level External Review Process for Health Insurance – This bill would adopt the National Association of Insurance Commissioners (NAIC) external review model act. The model language was incorporated into PPACA and subsequent federal regulation requires health plans to comply with external review processes whereby a consumer can seek independent medical review of claims denied by an insurance company for medical necessity reasons.

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

Figure 2

Total 5% Reduction Plan State Auditor's Office Included and Not Included in Executive Budget 2013 Biennium					
Program/DP Number/Description	FTE	General Fund	% of Total	State Special Revenue	% of Total
<u>Central Management</u>					
<i>Not Included in Executive Budget</i>					
Personal Services Reduction	0.20	\$0	n/a	\$10,778	20.4%
<u>Insurance Division</u>					
<i>Not Included in Executive Budget</i>					
Travel - Insurance - Captives	0.00	\$0	n/a	\$1,029	2.0%
<u>Securities Division</u>					
<i>Not Included in Executive Budget</i>					
Personal Services - Securities	0.35	\$0	n/a	\$20,580	39.0%
Travel - Securities	0.00	0	n/a	7,000	13.3%
Communications	0.00	0	n/a	737	1.4%
Contracted Services - Securities	<u>0.00</u>	<u>0</u>	n/a	<u>12,600</u>	<u>23.9%</u>
Subtotal Not Included in Executive Budget	<u>0.35</u>	<u>\$0</u>	n/a	<u>\$40,917</u>	77.6%
<u>Total Reduction Plan</u>					
Included in Executive Budget		\$0	n/a	\$0	0.0%
Not Included in Executive Budget	<u>0.55</u>	<u>0</u>	n/a	<u>\$52,724</u>	100.0%
Total Agency Reduction Plan	<u>0.55</u>	<u>\$0</u>	n/a	<u>\$52,724</u>	100.0%

Figure 2 shows the 5% reduction plan submitted by SAO, which includes elimination of 0.55 FTE and a reduction of \$52,724 state special revenue authority each year of the biennium. None of the items in Figure 2 is included in the Governor's budget request. Each of the items included in the 5% reduction plan is discussed in the division budget narratives.

LFD COMMENT

General Fund Impact of the 5% Reduction Plan is Less than \$52,724

The SAO reduction plan includes reductions to costs funded from two state special revenue accounts required to transfer balances to the general fund at fiscal year end: security fees and the 5% retained from insurance premiums paid by captive insurance companies.

A portion of the security fee revenues identified in the 5% reduction plan is essentially pass through funds for examinations of securities industry personnel and firms. The SAO administers the examination and is reimbursed for the cost. Reducing pass through funds will not result in a higher transfer to the general fund at fiscal year end.

LFD staff has requested that SAO provide the legislature with an estimate of how much of the 5% plan will result in additional funds being transferred to the general fund. The legislature can consider whether to request options that would increase the transfer.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Agency Funding 2013 Biennium Budget			
Agency Program	State Spec.	Grand Total	Total %
01 Central Management	\$ 2,463,095	\$ 2,463,095	6.46%
03 Insurance	33,527,248	33,527,248	88.00%
04 Securities	<u>2,110,534</u>	<u>2,110,534</u>	<u>5.54%</u>
Grand Total	<u>\$ 38,100,877</u>	<u>\$ 38,100,877</u>	<u>100.00%</u>

The SAO is funded entirely from state special revenue in the general appropriations act. The source of funding, percentage of total 2013 biennium budget request, and functions supported are:

- Health and Medicaid indicatives tobacco tax revenue (63% of total) pays for premium assistance and tax credits to help small employers provide group health insurance to their employees
- Insurance fees such as registration/licensure (26% of total) pay for insurance regulation functions
- Security fees such as portfolio filing and reimbursements for examinations (6% of total) pay for security regulation functions
- Tobacco settlement funds (4% of total) pay for premium assistance for low-income persons participating the state high risk health insurance pool (Montana Comprehensive Health Association)
- Captive account fees (5% of the premium tax collected from captive insurers). These fees (less than 1% of total) pay for regulation of groups formed to insure a specific business or businesses

Two of these accounts – security fees and captive account fees – must transfer balances to the general fund at fiscal year end. The SAO also collects other fees and taxes levied on the insurance industry such as premium taxes, which are transferred to the general fund and to the account that funds the Healthy Montana Kids program administered by DPHHS, and which are passed through to retirement funds for local police and firefighters.

Tobacco tax health and Medicaid initiatives state special revenue is also appropriated to DPHHS to support Healthy Montana Kids, Medicaid provider rate increases and service expansions, and Big Sky Rx, a program to help low-income Medicare beneficiaries pay a portion of Medicare Part D drug insurance. The total funded from this account in the executive budget proposal is discussed in the Insurance Division budget request in conjunction with Insure Montana funding.

In addition to HB 2 appropriations, the SAO received about \$2.0 million in federal funding in the 2011 biennium to implement portions of PPACA, including grants to:

- Review health insurance rate changes
- Design a state health insurance exchange

The federal grant authority was added through the interim budget amendment process and will not be reflected in the budget tables that track spending and appropriations from the general appropriations act.

Statutory Appropriations

The following table shows the total statutory appropriations associated with this agency. Because statutory appropriations do not require reauthorization each biennium, they do not appear in HB 2 and are not routinely examined by the legislature. The table is provided so that the legislature can get a more complete picture of agency operations and associated policy.

As appropriate, LFD staff has segregated the statutory appropriations into two general categories: 1) those where the agency primarily acts in an administrative capacity and the appropriations consequently do not relate directly to agency operations; and 2) those that have a more direct bearing on the mission and operations of the agency.

Statutory Appropriations State Auditor's Office					
Purpose	MCA #	Fund Source	Fiscal Year 2010	Fiscal Year 2012*	Fiscal Year 2013*
<i>No Direct Bearing on Agency Operations</i>					
Transfers from taxes on portions of insurance premiums for the following retirement systems for municipal police officers and municipal and volunteer firefighters	33-2-705 & 50-3-109	GF	\$24,009,084	\$24,009,084	\$24,009,084

Elected Official Proposal

The SAO budget request includes one elected official proposal, which is not included in the Governor’s budget request. The following proposal is discussed in more detail in the Insurance Division budget request.

Insure Montana Authority Increase – This request reinstates \$6.0 million in one-time funding for Insure Montana that was appropriated in HB 258 by the 2009 Legislature. Funds are from the tobacco tax health and Medicaid initiatives state special revenue account and include 1.00 FTE to administer the expansion in the Insure Montana program.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	0	0	0	0.00%	16,755,749	16,755,749	33,511,498	87.95%
Statewide PL Adjustments	0	0	0	0.00%	334,090	297,319	631,409	1.66%
Other PL Adjustments	0	0	0	0.00%	1,995,229	1,687,429	3,682,658	9.67%
New Proposals	0	0	0	0.00%	137,831	137,481	275,312	0.72%
Total Budget	\$0	\$0	\$0		\$19,222,899	\$18,877,978	\$38,100,877	

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE	17.00	17.00	17.00	17.00	17.00	17.00	0.00	0.00%
Personal Services	946,396	1,014,726	1,024,703	1,024,169	1,961,122	2,048,872	87,750	4.47%
Operating Expenses	186,251	314,056	207,954	200,669	500,307	408,623	(91,684)	(18.33%)
Equipment & Intangible Assets	2,800	0	2,800	2,800	2,800	5,600	2,800	100.00%
Total Costs	\$1,135,447	\$1,328,782	\$1,235,457	\$1,227,638	\$2,464,229	\$2,463,095	(\$1,134)	(0.05%)
State Special	1,135,447	1,328,782	1,235,457	1,227,638	2,464,229	2,463,095	(1,134)	(0.05%)
Total Funds	\$1,135,447	\$1,328,782	\$1,235,457	\$1,227,638	\$2,464,229	\$2,463,095	(\$1,134)	(0.05%)

Program Description

The Central Management Division is responsible for the administrative, personnel, budgeting, and accounting functions for the State Auditor's Office. The division also provides support to the Commissioner in fulfilling duties as a member of the State Land Board and Crop Hail Insurance Board.

Program Highlights

Central Management Division Major Budget Highlights
<ul style="list-style-type: none"> ◆ The difference between the 2011 biennium and the 2013 biennium budget request for the Central Management Division is negligible <ul style="list-style-type: none"> • Personal services grow due to fully funding all positions and state health plan cost increases from FY 2010 to FY 2011 • Operating costs decline due to reductions in state centralized services costs and smaller increases in rent costs compared to the FY 2011 appropriation

Program Narrative

The Central Management Division 2013 biennium budget request changes very little compared to the 2011 biennium. The most significant difference is between the base budget year and FY 2011. Some of the difference between those fiscal years is:

- An increase in the cost of office space that was delayed until late FY 2010 and ongoing rent costs that are less than the FY 2011 appropriation
- Vacancies in the base year compared to fully funding positions in FY 2011

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

There is a table in the agency overview that summarizes the 5% reduction plan for SAO. There is one proposal for Central Management:

- Elimination of a 0.20 FTE that has been filled intermittently

The funds supporting the 0.20 FTE are from security fee state special revenue. Excess funds from the account are transferred to the general fund at fiscal year end.

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding Table						
Central Management						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
02000 Total State Special Funds	\$ 1,135,447	100.0%	\$ 1,235,457	100.0%	\$ 1,227,638	100.0%
02235 Insurance Fee Account	918,414	80.9%	988,366	80.0%	982,110	80.0%
02283 Securities Fee Account	<u>217,033</u>	<u>19.1%</u>	<u>247,091</u>	<u>20.0%</u>	<u>245,528</u>	<u>20.0%</u>
Grand Total	<u>\$ 1,135,447.00</u>	<u>100.0%</u>	<u>\$ 1,235,457.00</u>	<u>100.0%</u>	<u>\$ 1,227,638.00</u>	<u>100.0%</u>

The Central Management Division is supported solely by state special revenue from insurance and security industry fees. Insurance fees support about 80% percent of the total and the balance is from security fees.

- o Insurance fees, listed in 33-2-708, MCA, are collected from insurance companies and producers to operate in Montana
- o Security fees consist of portfolio notice filing fees collected under 30-10-209(1)(d),MCA and examination costs collected under 30-10-210, MCA

Funds remaining in the securities fees state special revenue account at fiscal yearend are transferred to the general fund.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	0	0	0	0.00%	1,135,447	1,135,447	2,270,894	92.20%
Statewide PL Adjustments	0	0	0	0.00%	78,081	70,262	148,343	6.02%
Other PL Adjustments	0	0	0	0.00%	21,929	21,929	43,858	1.78%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$0	\$0	\$0		\$1,235,457	\$1,227,638	\$2,463,095	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments	-----Fiscal 2012-----					-----Fiscal 2013-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					116,475					115,932
Vacancy Savings					(38,168)					(38,159)
Inflation/Deflation					114					138
Fixed Costs					(340)					(7,649)
Total Statewide Present Law Adjustments		\$0	\$78,081	\$0	\$78,081		\$0	\$70,262	\$0	\$70,262
DP 101 - Rent Increase	0.00	0	21,929	0	21,929	0.00	0	21,929	0	21,929
Total Other Present Law Adjustments	0.00	\$0	\$21,929	\$0	\$21,929	0.00	\$0	\$21,929	\$0	\$21,929
Grand Total All Present Law Adjustments	0.00	\$0	\$100,010	\$0	\$100,010	0.00	\$0	\$92,191	\$0	\$92,191

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Pay Plan Exceptions** – None granted.
- o **Vacancy** – This program doesn't have any occupations with high turnover rates or high rates of vacancies.
- o **Legislatively Applied Vacancy Savings** - The agency was able to absorb 2011 biennium vacancy savings as a result of vacant positions and lower personnel expenditures compared to budget as a result of a decrease in longevity with the new administration.
- o **Retirements** - The program doesn't anticipate any retirements in the 2013 biennium.

DP 101 - Rent Increase - In February 2010 the State Auditor's Office entered into a five year lease for office space. This request adds \$21,929 of state special revenue authority each fiscal year to cover the increased cost of the lease. Base expenditures were \$65,579. This request represents a 33% increase in rent, but is lower than the amount anticipated by the 2009 Legislature.

LFD COMMENT	<u>Agency Wide Rent Increase</u> The SAO rent increase is discussed in the agency overview because it affects all programs. The 2013 biennium rent increase is less than the FY 2011 appropriation approved by the 2009 Legislature.
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Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE	54.00	54.00	55.00	55.00	54.00	55.00	1.00	1.85%
Personal Services	3,158,219	3,148,162	3,394,469	3,392,475	6,306,381	6,786,944	480,563	7.62%
Operating Expenses	1,376,367	2,037,678	2,331,826	2,000,826	3,414,045	4,332,652	918,607	26.91%
Equipment & Intangible Assets	9,057	0	9,057	9,057	9,057	18,114	9,057	100.00%
Benefits & Claims	10,253,392	11,498,655	11,194,769	11,194,769	21,752,047	22,389,538	637,491	2.93%
Transfers	0	0	0	0	0	0	0	n/a
Total Costs	\$14,797,035	\$16,684,495	\$16,930,121	\$16,597,127	\$31,481,530	\$33,527,248	\$2,045,718	6.50%
State Special	14,797,035	16,684,495	16,930,121	16,597,127	31,481,530	33,527,248	2,045,718	6.50%
Other	0	0	0	0	0	0	0	n/a
Total Funds	\$14,797,035	\$16,684,495	\$16,930,121	\$16,597,127	\$31,481,530	\$33,527,248	\$2,045,718	6.50%

Program Description

The Insurance Division regulates the insurance industry in Montana. The Policyholder Services Unit is responsible for resolving insurance consumer inquiries and complaints involving agents, coverage, and companies. The Examinations Bureau monitors the financial solvency of insurance companies, collects premium taxes and company fees, and audits insurance company annual statements. Also housed in this bureau is the Captive Insurance program, which promotes and regulates captive insurers in the state. The Rates Bureau and the Forms Bureau review form filings and rate filings to ensure compliance with the applicable insurance code. The Licensing Bureau licenses and provides continuing education to insurance agents, agencies, and adjusters. The Insure Montana Bureau administers the Small Business Health Insurance Purchasing Pool and Tax Credit program. The Legal Unit, which serves both the Insurance and Securities Divisions, provides legal support to the divisions. Investigations, which is part of the Legal Unit, researches code and rule violations, including possible criminal violations, and recommends referral of cases to county attorneys for prosecution.

Program Highlights

Insurance Division Major Budget Highlights
<ul style="list-style-type: none"> ◆ The Insurance Division 2013 biennium budget request grows \$2.0 million compared to the 2011 budget biennium due to: <ul style="list-style-type: none"> • \$0.6 million net change to continue the Insure Montana base level program funding • \$0.5 million in personal services to: <ul style="list-style-type: none"> ○ Make permanent 1.00 FTE for insurance forms review funded from one-time funding in the 2011 biennium ○ Annualize pay plan health insurance increases funded by the legislature in the 2011 biennium • \$0.9 million in operating cost changes to: <ul style="list-style-type: none"> ○ Examine insurance companies ○ Annualize the cost of in-house administration of surplus lines insurance ○ Fund increases in office rent ◆ The Insurance Division budget request also includes an elected official proposal to add 1.00 FTE and \$6.0 million in tobacco tax health and Medicaid initiatives state special revenue to continue one-time funding to expand Insure Montana (HB 258 - 2009 session)
Major LFD Issues
<ul style="list-style-type: none"> ◆ The legislature may wish to establish an interim process to determine how to integrate the Insure Montana program with federal health insurance reform since both include premium subsidies and tax credits for certain small employers to provide group health coverage to employees ◆ The legislature may wish to evaluate updated Insure Montana enrollment data to determine ongoing costs from the request to continue one-time funding to expand Insure Montana

Program Narrative

Goals and Objectives

2013 Biennium Goal

The Legislative Finance Committee recommends the legislature consider the following critical goal and performance measurement(s) as part of its decisions on the executive's budget requests for this program.

The three goals recommended by the LFC were proposed by the SAO are noted in the agency overview. Two of the goals impact the Insurance Division.

Goal 1: Implement and comply with new federal health insurance laws

Performance Measures:

- Work with the U.S. Department of Health and Human Services (HHS) to:
- Implement available grants to plan a state health exchange network
 - Provide premium rate authority

- Develop a consumer education/complaint system
- Administer a high risk health insurance pool and other aspects of the new federal laws

Coordinate work to implement the federal health insurance laws with the existing health care network and Montana legislature

-
- Goal 2: Respond to and resolve consumer complaints against insurance entities in a timely fashion.

Performance Measure:

Work with HHS to implement available grants to develop and expand the current consumer education/complaint programs and complaint system to respond to customers in a timely fashion

2011 Biennium Goal

The LFC reviewed the following goal related to the Insure Montana program during the 2011 biennium interim and recommended that the appropriations subcommittee review the information related to the goal during its proceedings.

Goal: Maximize the number of individuals enrolled (in Insure Montana) with the given funding

The LFC requested that SAO provide the following information to the appropriations subcommittee:

- How does the new federal health reform legislation impact these programs? How does the new federal tax credit for small businesses compare with tax credits funded under the Insure Montana Program?
- What is the change in cost per person enrolled in the system over the lifetime of the program?
- What eligibility criteria have been in place during the history of the program and how and when have eligibility changes been implemented?

LFD COMMENT

Enrollment in Insure Montana

The Insure Montana program is discussed in greater detail in the budget request discussion. Information related to the 2011 biennium goals is presented in that discussion.

LFD ISSUE

Integrating Insure Montana into Federal Health Insurance Reform and Fund Balance Issue

The Patient Protection and Affordable Care Act of 2010 includes elements similar to the Insure Montana program such as a tax credit for small employers (effective for tax year 2010) and premium assistance for persons with incomes under 400% of the federal poverty level (\$88,200 for a family of four) effective January 2014. As noted in the agency overview, the legislature may wish to devise a strategy to monitor implementation of the federal changes and determine whether to continue the Insure Montana program as it is currently constituted or make changes to the state program.

The tobacco tax health and Medicaid initiatives state special revenue supporting Insure Montana also funds services administered by the Department of Public Health and Human Services, including Healthy Montana Kids, Big Sky Rx (premium assistance for low-income seniors to purchase Medicare Part D prescription drugs), and some Medicaid and state funded mental health services. The account balance is projected to be sufficient (\$5.7 million ending balance) to continue funding for all programs supported by health and Medicaid initiatives state special revenue through the end of FY 2013, including the SAO elected official proposal. A table showing the expected revenues and executive budget request from the account is included in the DPHHS agency overview.

Legislative Performance Audit

The Legislative Audit Division (LAD) completed and presented a performance audit of the Insure Montana program in December 2010. The audit was not published until after the budget analysis was completed. However, the audit findings and recommendations will be presented for legislative consideration during joint appropriation subcommittee hearings.

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

There is one item for this division included in the 5% reduction plan, which is summarized in the table in the agency overview. The item reduces state special revenue security fees and insurance fees:

- o Personal services – eliminate 0.20 FTE - \$10,778

The 5% reduction plan notes that this FTE has been filled intermittently. Eliminating the FTE would shift work to existing employees.

LFD COMMENT	<p><u>Funding of 0.20 FTE</u></p> <p>LFD staff has requested specific funding information for this FTE. If it is supported by security fee state special revenue, and would therefore increase the transfer to the general fund if the legislature adopts this item.</p>
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Discussion of Budget Request

The 2013 biennium budget request is \$2.0 million higher than the 2011 biennium budget. The budget request includes 1.00 FTE to continue timely review of insurance form reviews funded from a one-time appropriation in the 2011 biennium. The majority of the increase in total funding is due to reinstate HB 2 base funding to continue Insure Montana at the level appropriated by the 2009 Legislature. Other items include increases in funding for insurance examinations and rent costs.

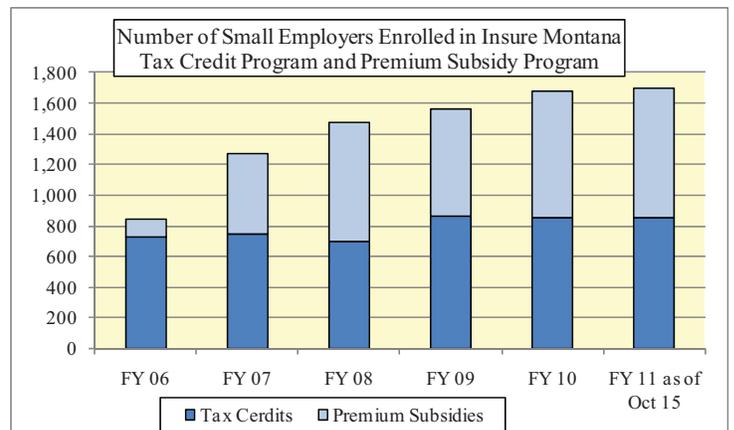
Elected Official Proposal

This division budget request also includes a elected official proposal to continue \$6.0 million in one-time funding for Insure Montana appropriated in HB 258 by the 2009 Legislature. One-time funding is removed from the base budget. The request includes funding for 1.00 FTE to administer the expansion of the Insure Montana program.

Insure Montana – Enrollment and Benefits Cost

The single largest expenditure in this division is for Insure Montana, a program that provides subsidies to small employers that provide group health insurance to employees who earn less than \$75,000 per year. Figure 3 shows the average annual number of businesses enrolled by fiscal year through October 15, 2010. Total enrollment more than doubled from its start in FY 2006 with 841 participating employers to 1,696 in mid October 2010.

Figure 3



Insure Montana has two basic types of subsidies to small employers:

- Premium assistance to purchase group coverage through a pool or a qualified association plan
- Refundable state income tax subsidies for part of the cost of employer provided group insurance

The program received an ongoing, base appropriation in HB 2 for subsidies (\$10.6 million each year of the biennium) and one-time appropriations in HB 258 (\$3.0 million each year of the biennium). Statute (33-22-2008(3)(a), MCA) directs that not more than 95% of the appropriation for Insure Montana be expended in each fiscal year. In FY 2010, the base level appropriations supported:

- 833 businesses participating in the purchasing pool/association plans (\$5.6 million expended)
- 751 businesses receiving state income tax credits (\$3.8 million expended)

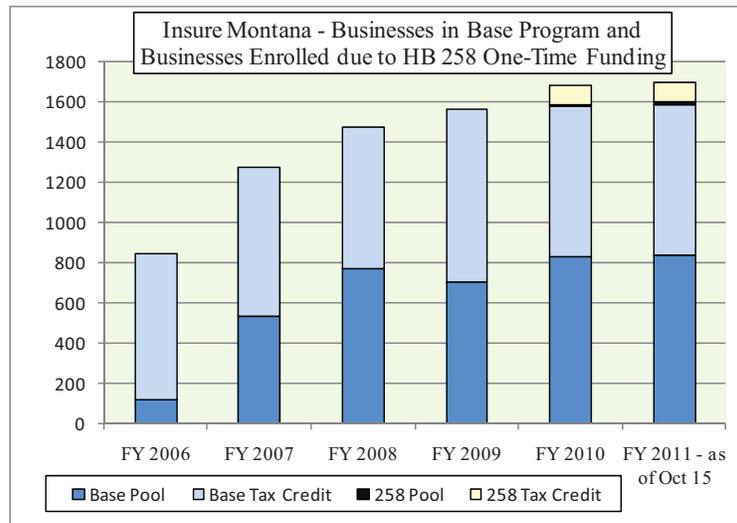
The amount spent and businesses supported from the one-time appropriation in FY 2010 from HB 258 were:

- 4 businesses participated in the purchasing pool/association plans (\$22,092 total expended)
- 97 businesses received state income tax credits (\$514,729 total expended)

2011 Biennium Goal – Enrollment Levels

One of the 2011 biennium goals tracked by the LFC was maximizing enrollment in Insure Montana. Because so little of the \$3.0 million HB 258 appropriation was expended in FY 2010, enrollment was not as high as it could have been. Figure 4 shows Insure Montana enrollment levels funded by HB 2 and HB 258 by major program component for FY 2010 and as of October 15, 2010.

Figure 4



There are several reasons HB 258 expenditures were low in FY 2010:

- Businesses supported with base level HB 2 funding discontinued participation in the program at higher numbers than anticipated due to:
 - Increasing cost of insurance
 - Challenging economic conditions for small employers
 - Switching dependent children from Insure Montana to the Healthy Montana Kids (HMK) program due to raising financial eligibility for HMK
 - Barring subsidies for the cost of insurance for a business owner who earned more than \$75,000
 - Implementing audits of income eligibility for employees
 - Changing employment levels for participating employers
- Take up rates for participation in the premium subsidy expansion were much lower than anticipated
- Confusion about the program services, including lack of knowledge about the program

**LFD
ISSUE**FY 2011 Estimated Spending from HB 258 Appropriation and Legislative Action Regarding Elected Official Request to Continue One-Time Appropriation

LFD staff has requested that the SAO update FY 2011 enrollment and spending projections for Insure Montana for presentation to the General Government Joint Appropriations Subcommittee so that decision parameters are better known.

The legislature can evaluate current enrollment in Insure Montana to determine whether to continue all, a portion of, or none of the one-time funding from HB 258.

LFD staff asked what recommendations the SAO would have to reduce Insure Montana if the one-time funding were not continued in the 2013 biennium. Since the SAO is recommending continuation of the funding, it did not provide recommendations. The legislature may wish to know how program enrollment or costs could be reduced with the least impact to participating employers if the funding is not continued. It could consider the following options during appropriations subcommittee action:

1. Ask the SAO if it has a preferred option and if so to describe it.
2. Ask the SAO to provide the pros and cons of the following strategies:
 - a. Reducing enrollment by natural attrition from the program
 - b. Reducing the amount of purchasing pool assistance and tax credit provided proportional to the cost of projected enrollment compared to the appropriation
 - c. Discontinuing enrollment for the businesses most recently added.

Insure Montana – Operating Cost

About \$664,000 was spent on direct administrative costs for the Insure Montana program - 7% of base level expenditures.

**LFD
ISSUE**Operating Cost Reduction

SAO staff noted at an Insure Montana advisory council meeting in October 2010 that contracted services for system development costs will be reduced from the projected level of \$439,000 in the 2013 biennium. This decision is not reflected in the agency budget submission, and no decision had been made at the time of this writing. The legislature may wish to ask how much the system development budget will be reduced and whether funds could be used in other ways such as increasing premium subsidies or tax credits. The legislature could also consider reducing the program appropriation by that amount or a portion of the amount.

High Risk Pools

The Insurance Division also provides funding for two programs administered by the state high risk health insurance pool – the Montana Comprehensive Health Association (MCHA):

- The premium assistance plan funded from tobacco settlement funds and premium payments
- Montana Affordable Care Plan (MAC), funded from a grant through the Patient Protection and Affordable Care Act of 2010 (federal health insurance reform) and premium payments

The MCHA premium assistance appropriation from tobacco settlement funds is funded in HB 2, while the MAC appropriation was provided by a federal grant, which passed through to MCHA.

MCHA Premium Assistance

Enrollment in premium assistance MCHA plan supported by state special revenue funds was 284 during FY 2010 with an average annual cost per enrollee of \$3,259. Base expenditures for the program were \$925,563 and enrollment in the plan is capped. The 2013 biennium budget request continues FY 2010 funding without a change.

In order to participate in MCHA premium assistance plan, a person must:

- Be a Montana resident
- Have income below 150% of the federal poverty level (\$33,075 for a family of four in 2010)
- Been rejected or offered a restrictive rider by two insurers within the last six months or have certain specified major illnesses
- Be paying more than 150% of the average premium rate used to calculate MCHA premium rates for comparable coverage

Premium assistance supports 45% of the cost. Premium and co-pay amounts vary by type of plan selected and the age of the participant. After deducting the subsidy, the premium rate varies from a low of \$117 per month for persons 0 to 17 to a high of \$624 per month for persons over 64. There are also Medicare carve out plans with lower premiums.

MAC

PPACA included federal grants to establish high risk pools in states without programs and to add additional funds to existing state programs. The federal grant program has different eligibility criteria than other plans administered by MCHA, including the premium assistance plan.

The MAC program is funded from premium payments and a \$16.0 million federal grant that supports program costs until the health insurance exchanges are activated January 1, 2014. MAC began accepting applications July 1, 2010 with coverage in place August 1. As of November 1, 156 persons were enrolled. The planned grant expenditures and enrollment for MAC by plan year (calendar year) are:

1. Plan year 2010 - \$180,000 in expenditures for August - December
2. Plan year 2011 – enrollment of 250 and \$2.2 million in expenditures
3. Plan year 2012 – enrollment of 410 and \$4.6 million in expenditures
4. Plan year 2013 – continue maximum enrollment of 410 and \$7.2 million in expenditures with balance of the grant to pay claims that are incurred but not reported

Federal funding is capped and may not be increased if states run out of funds for the federally supported high risk pools. Montana grant expenditures and enrollment levels could change depending on claims experience and medical inflation.

Funding will be used on a first come, first serve basis. To qualify, an individual must:

- Be a citizen or national of the United States, or lawfully present,
- Be a Montana resident
- Have a preexisting medical condition
- Have been uninsured for at least 6 months before applying for the federal program

Costs are based on a person's age and for plan year 2010 range from a monthly premium of:

- \$190 for a person under 18
- \$615 for a person over 65

When federal funding for MAC is exhausted, persons may continue coverage through the MCHA and must pay the full premium.

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding Table						
Insurance						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
02000 Total State Special Funds	\$ 14,797,035	100.0%	\$ 16,930,121	100.0%	\$ 16,597,127	100.0%
02235 Insurance Fee Account	3,858,696	26.1%	4,983,972	29.4%	4,644,718	28.0%
02528 Captive Account	20,577	0.1%	53,000	0.3%	61,000	0.4%
02769 Health Insurance Premium Assistan	5,746,420	38.8%	6,580,552	38.9%	6,579,508	39.6%
02770 Health Insurance Tax Credits	4,245,779	28.7%	4,387,034	25.9%	4,386,338	26.4%
02789 6901-Chip/Mcha Tobacco Sett Fd	925,563	6.3%	925,563	5.5%	925,563	5.6%
Grand Total	\$ 14,797,035	100.0%	\$ 16,930,121	100.0%	\$ 16,597,127	100.0%

The Insurance Division is funded from three state special revenue sources:

- Insurance licensure fees, examination fees, and penalties, which fund program functions related to insurance regulation
- Health and Medicaid initiatives (tobacco taxes), which funds the Insure Montana program
- Tobacco settlement revenues, which supports premium subsidies for coverage through the MCHA

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	0	0	0	0.00%	14,797,035	14,797,035	29,594,070	88.27%
Statewide PL Adjustments	0	0	0	0.00%	186,737	161,650	348,387	1.04%
Other PL Adjustments	0	0	0	0.00%	1,900,560	1,592,760	3,493,320	10.42%
New Proposals	0	0	0	0.00%	45,789	45,682	91,471	0.27%
Total Budget	\$0	\$0	\$0		\$16,930,121	\$16,597,127	\$33,527,248	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments	-----Fiscal 2012-----					-----Fiscal 2013-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					329,987					328,022
Vacancy Savings					(139,526)					(139,448)
Inflation/Deflation					1,610					1,713
Fixed Costs					(5,334)					(28,637)
Total Statewide Present Law Adjustments		\$0	\$186,737	\$0	\$186,737		\$0	\$161,650	\$0	\$161,650
DP 301 - Rent Increase	0.00	0	86,593	0	86,593	0.00	0	86,593	0	86,593
DP 302 - Insure Montana Present Law Request	0.00	0	956,596	0	956,596	0.00	0	956,596	0	956,596
DP 305 - Contract Examinations - Biennial	0.00	0	747,605	0	747,605	0.00	0	435,605	0	435,605
DP 306 - Financial Regulation - Captive Insurance Companies	0.00	0	32,630	0	32,630	0.00	0	28,830	0	28,830
DP 307 - Financial Regulation of Insurance Companies	0.00	0	10,713	0	10,713	0.00	0	10,713	0	10,713
DP 308 - Captives Insurance Regulatory and Supervision	0.00	0	32,423	0	32,423	0.00	0	40,423	0	40,423
DP 309 - Establish Surplus Lines Regulation In-House	0.00	0	34,000	0	34,000	0.00	0	34,000	0	34,000
Total Other Present Law Adjustments	0.00	\$0	\$1,900,560	\$0	\$1,900,560	0.00	\$0	\$1,592,760	\$0	\$1,592,760
Grand Total All Present Law Adjustments	0.00	\$0	\$2,087,297	\$0	\$2,087,297	0.00	\$0	\$1,754,410	\$0	\$1,754,410

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Program Specific Obstacles** - Funding (specifically the restrictions of the pay plan) is the main obstacle for attracting and retaining qualified workers. Since the program is specialized to insurance or securities professions, qualified applicants are limited and training has to be provided in order to have qualified applicants to meet the mission of the agency.
- o **Vacancy** - This program doesn't have any occupations with high turnover rates or high rates of vacancy.
- o **Legislatively Applied Vacancy Savings** - The agency was able to absorb the vacancy savings as a result of vacant positions during the fiscal year and lower personnel expenditures compared to budget as a result of a decrease in longevity, with the new administration.
- o **Retirements** - The program has four employees available for full retirement at a cost of approximately \$85,000. At this time if the four employees retire, the impact on the program will be substantial. The employees are expert in their fields and have many years of experience. Before that time comes, the agency will develop vast recruitment options to enable filling these key positions and plan to provide training assignments when necessary.

DP 301 - Rent Increase - In February 2010 the State Auditor's Office entered into a five year lease for office space. This request adds \$86,593 of state special revenue authority each fiscal year to cover the increased cost of the lease. Base expenditures were \$183,962. This request increases rent costs by 47%, but 2013 biennium costs are lower than the FY 2011 appropriation approved by the 2009 Legislature.

**LFD
COMMENT**Agency Wide Rent Increase

The SAO rent increase is discussed in the agency overview because it affects all programs.

DP 302 - Insure Montana Present Law Request - This request adds \$1.9 million of health and Medicaid initiatives tobacco tax state special revenue over the biennium for the Insure Montana program to restore the funding to the level appropriated in HB 2. Base expenditures were \$9.3 million, not including about \$540,000 from the one-time appropriation in HB 258. The program spent approximately 91% of the appropriated base budget in FY 2010 and anticipates expending 95% of the FY 2011 appropriation (33-22-2008(3)(a)MCA limits expenditures to not more than 95% of the appropriated budget).

**LFD
COMMENT**Appropriation and Spending Levels with the 95% Statutory Restriction

If the legislature approves this request, the total appropriation (base expenditures plus this decision package) for Insure Montana benefits would be \$10.3 million, resulting in total potential expenditures of \$9.8 due to the 95% statutory limit. This amount would represent a potential net increase above HB 2 base expenditures of \$0.5 million annually.

If the legislature does not approve this decision package, the total appropriation budgeted for benefits would be \$9.3 million, resulting in expenditures no greater than \$8.9 million. This amount would represent a decrease from current HB 2 base expenditures of \$0.5 million annually.

DP 305 - Contract Examinations - Biennial - According to 33-1-401, MCA, "The commissioner shall examine the affairs, transactions, accounts, records, and assets of each authorized insurer as often as the commissioner considers advisable. The commissioner shall examine each authorized insurer not less frequently than every 5 years."

Additional state special revenue fund authority is requested to perform additional financial examinations on insurers. In this biennium SAO plans to examine Allegiance, New West, Attorney's Liability Protection Society, two multiple employer welfare arrangements companies, Victory, Great West, and other companies deemed necessary by the Commissioner.

Additional state special revenue fund authority is also requested to perform market conduct exams on the domiciled insurers. In this biennium SAO plans to examine the largest health insurer, Blue Cross Blue Shield, as well as Allegiance Life and Health Insurance Company, and Farmers Union Mutual.

The cost of examinations is paid by the companies being examined.

DP 306 - Financial Regulation - Captive Insurance Companies - Additional state special revenue authority is requested to regulate captive insurers, which are also subject to the requirements of 33-1-401, MCA, noted in the previous request.

In FY 2012, four risk retention group companies and eight pure captive companies would be examined and in FY 2013, three risk retention group companies and eight pure captive companies would be examined.

The cost of travel will be reimbursed by the companies being examined

DP 307 - Financial Regulation of Insurance Companies - Additional state special revenue authority is requested to examine insurance companies conducting business in Montana. The primary focus is on solvency and claims payment ability of the companies.

In FY 2012 and FY 2013, three farm mutual companies and one multiple employer welfare arrangement company would be examined annually. The examinations are performed by employees and the cost of travel is charged to the companies being examined.

DP 308 - Captives Insurance Regulatory and Supervision - Additional state special revenue authority is requested to provide the financial means for the commissioner to administer the requirements of 33-28-120, MCA, which established a captive insurance regulatory and supervision account. The purpose of the captive account is to provide the financial means for the commissioner to administer the captive insurance program and for reimbursement of reasonable expenses incurred in promoting the program. The account is funded through retention of 5% of the premium tax collected from captive insurance companies and all fees. The increase requested is reflective of the estimated growth in the captive insurance program and the related increase in premium tax collection.

DP 309 - Establish Surplus Lines Regulation In-House - This request provides funding for state administration of surplus lines insurance, which is specialty insurance provided for risks that are too big, unusual, or substandard to be covered by insurers licensed in the state of Montana. In July 2009, the SAO discontinued the contract to regulate surplus lines activity. According to 33-2-321 (5)(b), MCA, "If a surplus lines advisory organization is not operating as set forth in this section, the stamping fee may be collected by the commissioner and placed in a state special revenue account for the expenses of regulating surplus lines." This request would provide the funding to continue state management of the program.

New Proposals

The “New Proposals” table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals	-----Fiscal 2012-----					-----Fiscal 2013-----					
	Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 304 - Continuation of Forms Analyst	03	1.00	0	45,789	0	45,789	1.00	0	45,682	0	45,682
Total		1.00	\$0	\$45,789	\$0	\$45,789	1.00	\$0	\$45,682	\$0	\$45,682

DP 304 - Continuation of Forms Analyst - This request includes about \$92,000 of insurance fee state special revenue to make permanent a one-time FTE (forms analyst). This position reviews insurance forms for compliance with 33-1-501, MCA. The Insurance Commissioner has 60 days from the date an insurance company files a draft form to approve or disapprove the proposed form. If the commissioner takes no action within the 60 day timeframe, the form will be deemed approved and used by the company.

Elected Official New Proposal - Insure Montana Authority Increase – This elected official request reinstates \$6.0 million one-time funding for Insure Montana that was appropriated in HB 258 by the 2009 Legislature. Funds are from the tobacco tax health and Medicaid initiatives state special revenue account.

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE	11.50	11.50	12.50	12.50	11.50	12.50	1.00	8.70%
Personal Services	640,038	675,516	797,544	798,787	1,315,554	1,596,331	280,777	21.34%
Operating Expenses	181,335	306,555	257,883	252,532	487,890	510,415	22,525	4.62%
Equipment & Intangible Assets	1,894	0	1,894	1,894	1,894	3,788	1,894	100.00%
Transfers	0	0	0	0	0	0	0	n/a
Total Costs	\$823,267	\$982,071	\$1,057,321	\$1,053,213	\$1,805,338	\$2,110,534	\$305,196	16.91%
State Special	823,267	982,071	1,057,321	1,053,213	1,805,338	2,110,534	305,196	16.91%
Total Funds	\$823,267	\$982,071	\$1,057,321	\$1,053,213	\$1,805,338	\$2,110,534	\$305,196	16.91%

Program Description

The Securities Division is responsible for the administration and enforcement of the Securities Act of Montana and, in particular, for the registration of securities issuers, salespeople, broker-dealers, investment advisers, investment adviser representatives, and multi-level marketing companies. The division is also responsible for the investigation of unregistered and fraudulent securities transactions. The division has sole jurisdiction for investment advisor firms with assets of under \$100 million. The division investigates securities code and rule violations, including possible criminal violations, takes appropriate administrative action, and refers criminal cases to either federal authorities or county attorneys for prosecution.

Program Highlights

Securities Division Major Budget Highlights
<ul style="list-style-type: none"> ◆ The Securities Division 2013 biennium budget is about \$300,000 higher than the 2011 biennium due to requests to: <ul style="list-style-type: none"> • Make permanent 1.00 attorney FTE funded from a one-time appropriation removed from the 2011 biennium budget • Increase funding for business examinations • Fund increased rent costs

Program Narrative

Goals and Objectives

2013 Biennium Goal

The Legislative Finance Committee recommends the legislature consider the following critical goal and performance measurement(s) as part of its decisions on the executive's budget requests for this program.

Goal: Make investor education available to all Montanans through investor outreach, publications, public service announcements, and formal classroom teaching.

Performance Measures:

- Update securities website for readability and information
- Conduct investor education seminars or workshops annually, geographically dispersed throughout the state
- Have a minimum of at least two staff members appointed to North American Securities Administrators Association committees and/or project groups
- Develop an educational documentary for dissemination throughout Montana and for viewing on PBS and cable access television throughout the state
- Post Investor Education Rapid Response Alerts to the website monthly

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

There are four items for this division included in the 5% reduction plan, which are summarized in a table in the agency overview. None of the items are included in the executive budget request. These items reduce security fees state special revenue. The items are:

1. Personal services – eliminate 0.35 FTE - \$20,580
2. Travel – reduce by \$7,000
3. Communications – reduce by \$734
4. Contracted services – reduce securities examinations by \$12,600

LFD COMMENT

5% General Fund Impact

The SAO will identify the specific FTE reduction and what types of activities would be curtailed if the 5% plan is approved. Until specific functions are identified it is difficult to predict the impact of the 5% reduction.

The reductions identified in this proposal will not necessarily increase transfers to the general fund from the securities fee account. For instance, the contracted services reduction is funded by reimbursements from companies being examined. So, if contacted examinations are reduced, reimbursements to the account will also be reduced.

LFD staff has requested that SAO identify the specific amount of general fund increase related to each of the Security Division 5% reduction proposals. If the general fund transfers are lower than the amount included in the 5% reduction plan, the legislature may wish to ask for other proposals that would result in the full amount being transferred to the general fund.

The SAO requested an increase in contracted services for workload associated with the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010 (DP 403). LFD staff requested information from SAO about how the 5% reduction plan would impact its ability to meet requirements of the federal act.

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding Table						
Securities						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
02000 Total State Special Funds	\$ 823,267	100.0%	\$ 1,057,321	100.0%	\$ 1,053,213	100.0%
02283 Securities Fee Account	<u>823,267</u>	<u>100.0%</u>	<u>1,057,321</u>	<u>100.0%</u>	<u>1,053,213</u>	<u>100.0%</u>
Grand Total	<u>\$ 823,267</u>	<u>100.0%</u>	<u>\$ 1,057,321</u>	<u>100.0%</u>	<u>\$ 1,053,213</u>	<u>100.0%</u>

The program is funded entirely from state special revenue derived from charges to the securities industry for:

- Filing portfolio notices
- Examining issuers, broker-dealers, or investment advisers as part of registration

Other fees related to the securities industry and collected by the SOA, such as registration of securities, are deposited to the general fund. Excess revenue in the state special revenue account is transferred to the general fund at fiscal year end.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	0	0	0	0.00%	823,267	823,267	1,646,534	78.02%
Statewide PL Adjustments	0	0	0	0.00%	69,272	65,407	134,679	6.38%
Other PL Adjustments	0	0	0	0.00%	72,740	72,740	145,480	6.89%
New Proposals	0	0	0	0.00%	92,042	91,799	183,841	8.71%
Total Budget	\$0	\$0	\$0		\$1,057,321	\$1,053,213	\$2,110,534	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

	-----Fiscal 2012-----				-----Fiscal 2013-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					94,859					96,407
Vacancy Savings					(29,395)					(29,457)
Inflation/Deflation					47					72
Fixed Costs					3,761					(1,615)
Total Statewide Present Law Adjustments		\$0	\$69,272	\$0	\$69,272		\$0	\$65,407	\$0	\$65,407
DP 401 - Rent Increase	0.00	0	31,348	0	31,348	0.00	0	31,348	0	31,348
DP 403 - Securities Contract Examination-Biennial	0.00	0	41,392	0	41,392	0.00	0	41,392	0	41,392
Total Other Present Law Adjustments	0.00	\$0	\$72,740	\$0	\$72,740	0.00	\$0	\$72,740	\$0	\$72,740
Grand Total All Present Law Adjustments	0.00	\$0	\$142,012	\$0	\$142,012	0.00	\$0	\$138,147	\$0	\$138,147

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Program Specific Obstacles** - Funding (specifically the restrictions of the pay plan) is the main obstacle for attracting and retaining qualified workers. Since the program is specialized to insurance or securities professions, qualified applicants are limited and training has to be provided in order to have qualified applicants to meet the mission of the agency.
- o **Legislatively Applied Vacancy Savings** - The program was able to absorb FY 2010 vacancy savings as a result of vacant positions during the year and lower personnel expenditures compared to budget as a result of a decrease in longevity with the new administration.
- o **Retirements** - The program doesn't have any employees who will be eligible for full retirement during the 2013 biennium.

DP 401 - Rent Increase - In February 2010 the State Auditor's Office entered into a five year lease for office space. This request adds \$31,348 state special revenue authority each fiscal year to cover the increased cost of the lease. Base expenditures were \$33,007. Ongoing expenditures in the 2013 biennium are less than the FY 2011 appropriation approved by the 2009 Legislature.

LFD COMMENT

Agency Wide Rent Increase

The SAO rent increase is discussed in the agency overview because it affects all programs. The 2013 biennium rent increase is less than the FY 2011 appropriation approved by the 2009 Legislature.

DP 403 - Securities Contract Examination-Biennial - This request includes a biennial appropriation for about \$83,000 in state special revenue to contract for 20 more examinations of broker-dealer firms, broker-dealer firm branch offices, and investment advisor firms over the biennium. Base expenditures were \$23,608. An examination involves, on average, about 30 hours of field work and 90 hours of analysis.

The Securities Division conducts routine and for-cause examinations of the 455 broker-dealer branch offices and 59 investment advisory firms domiciled in Montana to ensure compliance with the Montana Securities Act, resolve minor deficiencies, and determine the need for further investigation. The examination section of the Securities Division employs one individual with the requisite knowledge and skills to conduct examinations and also hires independent contractors to perform routine examinations. Pursuant to 30-10-210(1), MCA, the cost of these examinations is borne by the firms being examined.

As a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank act), the Securities Division will be responsible for examination of investment adviser firms in Montana that have assets under management between \$25 million to \$100 million. Previous to the new federal law, states only regulated investment advisers with assets under management up to \$25 million and the Securities and Exchange Commissioner regulated the balance of the firms.

The SAO will assume regulation of seven more investment advisers that are domiciled in Montana with nearly \$400 million in assets under management. These investment advisor firms have never been examined, so the SAO plans to immediately examine the firms with a six-month follow-up. After the initial and follow-up examinations, the seven additional firms will be incorporated into the three-year rolling examination cycle.

New Proposals

The “New Proposals” table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals											
Program	FTE	Fiscal 2012				Fiscal 2013					
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 402 - Continuation of Legal FTE											
04	1.00	0	92,042	0	92,042	1.00	0	91,799	0	91,799	
Total	1.00	\$0	\$92,042	\$0	\$92,042	1.00	\$0	\$91,799	\$0	\$91,799	

DP 402 - Continuation of Legal FTE - This request makes permanent 1.00 attorney FTE, which was approved as a one-time appropriation in the last legislative session. The FTE is funded from security fees state special revenue. The FTE is currently filled and performs the following functions:

- Prosecutes securities and insurance fraud, criminally and administratively
- Provides legal analysis, as assigned, on issues relating to the Securities Act of Montana
- Assists in drafting administrative rules