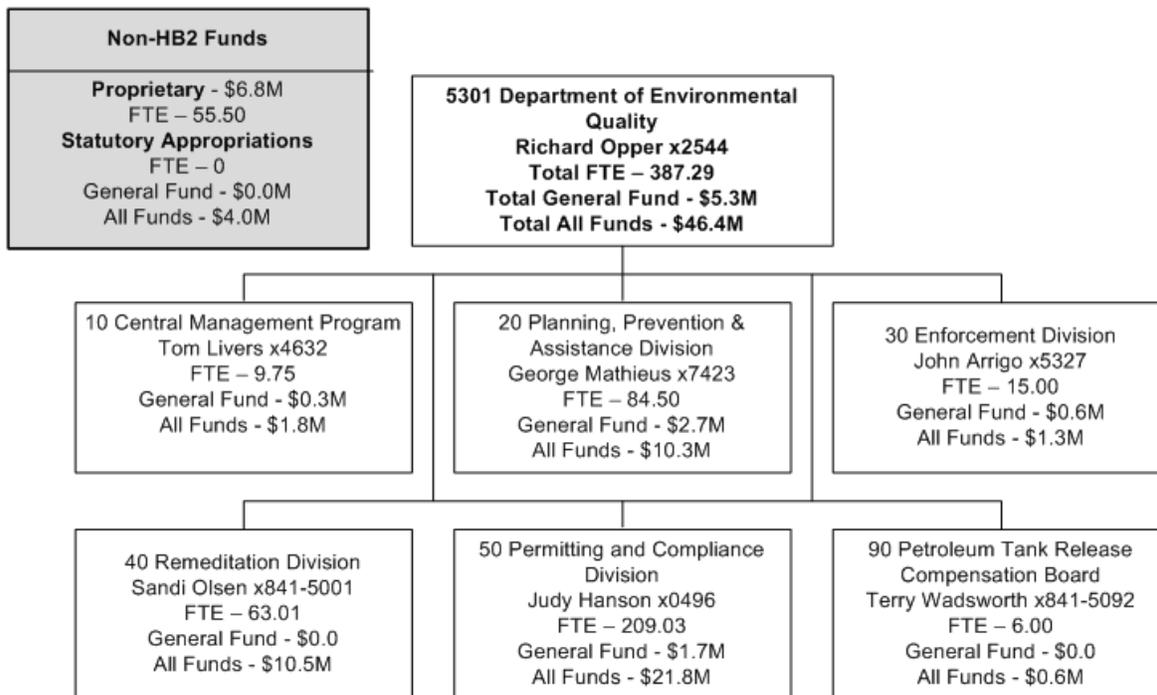


Agency Budget Comparison

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	387.29	387.29	385.44	385.44	387.29	385.44	(1.85)	(0.48%)
Personal Services	24,209,977	26,271,153	26,925,740	26,937,192	50,481,130	53,862,932	3,381,802	6.70%
Operating Expenses	20,595,563	30,561,107	28,907,252	28,877,279	51,156,670	57,784,531	6,627,861	12.96%
Equipment & Intangible Assets	80,932	187,077	594,520	594,520	268,009	1,189,040	921,031	343.66%
Capital Outlay	0	141,304	0	0	141,304	0	(141,304)	(100.00%)
Grants	1,473,211	2,040,916	1,791,808	1,806,461	3,514,127	3,598,269	84,142	2.39%
Transfers	7,500	0	7,500	7,500	7,500	15,000	7,500	100.00%
Total Costs	\$46,367,183	\$59,201,557	\$58,226,820	\$58,222,952	\$105,568,740	\$116,449,772	\$10,881,032	10.31%
General Fund	5,341,202	5,443,674	5,466,101	5,469,117	10,784,876	10,935,218	150,342	1.39%
State Special	22,692,262	30,740,283	31,133,319	31,136,611	53,432,545	62,269,930	8,837,385	16.54%
Federal Special	18,333,719	23,017,600	21,627,400	21,617,224	41,351,319	43,244,624	1,893,305	4.58%
Total Funds	\$46,367,183	\$59,201,557	\$58,226,820	\$58,222,952	\$105,568,740	\$116,449,772	\$10,881,032	10.31%

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.



Agency Description

Mission Statement: To protect, promote, and improve a clean and healthful environment to benefit present and future generations.

The department is responsible for regulating air quality, water quality, underground storage tanks, automobile wrecking facilities, hazardous waste facilities, solid waste management systems, and mining operations; and for the siting and needs analyses of large-scale energy facilities. In addition, the department is the lead agency for reclamation and cleanup

activities related to the federal and state superfund programs and leaking underground storage tanks; and regulation and permitting of mining conducted on private, state, and federal lands. This work is completed through five divisions - Central Management, Planning Prevention and Assistance, Enforcement, Remediation, and Permitting and Compliance. The Petroleum Tank Compensation Board is also attached for administrative purposes.

The department works in partnership with the federal Environmental Protection Agency (EPA). Congress gave the EPA the initial responsibility for development and implementation of environmental protection, but many federal statutes contain preference for delegation of the program to the states when the state can demonstrate capacity to carry it out. This arrangement establishes state-federal environmental goals and priorities with the funding and flexibility to achieve desired results. These joint activities become the basis of future agreements and long-term strategic planning. Given this unique relationship, the federal government dictates many of the department's activities.

Agency Highlights

Department of Environmental Quality	
Major Budget Highlights	
<ul style="list-style-type: none"> ◆ The Governor proposes to increase this program's budget by 10.3% from the 2011 biennium <ul style="list-style-type: none"> ● General fund increases by 1.4% due to operating adjustments and statewide present law adjustments, partially offset by personal services reductions ● State special revenue increases by 16.5% due to operating adjustments and increased authority for remediation activities. ◆ Major initiatives in the executive budget are: <ul style="list-style-type: none"> ● Restoration of the FY 2010 base that was low due to decreased revenues and vacant positions ● Funds for orphan share and superfund cleanup activities ● General fund personal services reductions 	
Legislative Action Issues	
<ul style="list-style-type: none"> ◆ Major/agency-wide issues <ul style="list-style-type: none"> ● Present law adjustments to reestablish the base budget at FY 2010 levels total \$9.4 million over the biennium ● A number of state special revenue funds are being used for purposes not covered in statute ◆ Potential Legislation Items <ul style="list-style-type: none"> ● Increase public water supply connection fees to offset general fund and inappropriately utilized state special revenue funds in the public water supply program. ● Address the excess balance in the junk vehicle fund ● Address the discrepancy in the allocation of metalliferous mines taxes ◆ Proprietary Rate Decisions <ul style="list-style-type: none"> ● The legislature must approve rates for department indirect charges ◆ Interim Committee Recommendations <ul style="list-style-type: none"> ● The Legislative Finance Committee recommends that the budget starting point 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 provides an update of the goals monitored by the LFC during the 2011 biennium.

- o Reduce backlog of inspections, improve compliance in the Public Water Supply Program
- o During FY 2010, the program reduced back log from 17% of all systems to 14%
 - Compliance issues, or number of violations per month, stayed relatively the same, as the decrease was 8.3 violations to 8.2 violations per month.
- o Increase energy efficiencies and reduce energy costs in state owned buildings
- o The agency collected, collated, and analyzed baseline data. Projects increased drastically with the infusion of American Reinvestment and Recovery Act funds, causing the program to adjust to a larger workload.

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** – The agency completed 61 recruitments during FY 2010 with pools ranging from no applicants to 40. Of these 61 recruitments, 13 required multiple postings to attract a large enough pool of qualified applicants. A total of 447 applicants responded to these recruitments but only 264 (59%) met minimum qualifications. The largest turnover remains in environmental science positions, with 89% of the recruitments for this type of position. There were 8 rejected job offers, the majority involving pay.
- o **Pay Philosophy** – The department will continue to use market information as a reference point contingent on available funding, but will not guarantee a percentage of market as markets change. The current reference point is the 2006 market and all department employees are paid at least 85% of this market for their position. DEQ historically moved employees to a percent of market based on their experience level compared to that required for their current position. Funding constraints have prevented such moves for the past few years and these constraints are expected to continue into the 2013 biennium. The department's management team is working to incorporate succession planning into its pay structure, including use of career ladders that allow employees to progress within the agency as they obtain experience and are able to take on progressively complex or sensitive work. This also will be contingent on available funding.
- o **Obstacles** – The department has a mature work force, as 92 employees are eligible for full retirement and another 131 are eligible for partial retirement. Succession planning is occurring in parts of the agency, and those efforts will be expanded statewide. The agency has also stepped up its presence at college job fairs to encourage individuals to train for environmental science positions.

Agency Overview

The executive proposal increases the department's budget by \$11.5 million when compared to the previous biennium. The majority of the increase, \$9.4 million, is to restore budget authority to the FY 2010 base due to decreased revenues and vacant positions. The largest item in the base adjustment is \$5.43 million to reinstate authority for contract services to complete environmental and information technology projects. The other large portion of the adjustment, \$2.1 million,

is for agency indirect costs. This expenditure provides funding for the Central Management Division to provide services such as human resources, financial management, and overall direction to other units of the agency. Indirect costs are not collected when program appropriations are not expended. Therefore, along with the other base adjustments, an adjustment to indirect costs is required.

Personal services increase due to statewide present law adjustments to restore funding for vacant or partially filled positions from the base year. This amount is offset by the Governor's 4% personal services reduction. Going into the 2011 biennium, the department was authorized 387.29 FTE. The executive budget funds 385.16 FTE, a reduction of 2.13 FTE.

Impact of Economic Downturn on the Budget

During the 2011 biennium, the department faced challenges resulting from the economic downturn in Montana, which are reflected in the requested adjustments discussed above. Fee revenues for subdivision review, air quality permits, and water discharge permits were all lower than anticipated. The greatest impact was in the Subdivision Review Program where the department transitioned from managing a record number of subdivision requests to a few requests that were smaller in size. The transition resulted in a significant decrease in fee revenue and the need for the department to utilize some general fund in the program. The drastic decline in fees required the department to realign resources and staff, including a reduction in force, transfers to programs with vacancies and funding, reduced hours of employment, and a voluntary retirement. Similarly adjustments to staffing and other expenditures were made in the Air Resources Management Bureau to avoid increasing fees by 30% to cover statutorily required workloads. Air permit fees are based on tonnage emissions and set at the level necessary to raise the amount appropriated by the legislature. As tonnage was down, the program opted to operate under the FY 2009 fee schedule.

Water discharge permits are required to control point source discharges of wastewater such that water quality in the receiving body of water is protected. Discharge permits are purchased by confined animal feeding operations, sand and gravel pits, construction companies, and waste water treatment systems. During FY 2010 the number and revenues from permits were down, and the department chose to leave positions open to address the shortfall.

The Governor chose to deal with this economic impact by requesting that the legislature restore 21% of the unused authority for subdivision fees. This indicates that the executive is not anticipating a return to previous levels. Executive proposals also include the restoration of 78 % of the unused base authority for air quality revenues and nearly all the water discharge authority.

Common Purpose Decision Packages

The following groups of decision packages address common purposes that cross program lines within the agency. The legislature may wish to examine and/or take action on the decisions packages as a group.

- o Base operating adjustments – The executive includes in the budget request nine decision packages that seek the same outcome; restoration of base budget authority to FY 2010 levels. This includes, DP 1001, 2002, 3001, 4001, 5011, 5012, 5013, 5014 and 9001.
- o 4% personal services reductions. – There are four decision packages targeted at permanently reducing positions funded with general fund. All of these positions are number DP 55400 within the respective programs.

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following table lists the components of the 5% reduction plans for this agency. If the component is included in the executive budget the specific decision package is listed.

Total 5% Reduction Plan Identified by Agencies, By Division Included and Not Included in Executive Budget 2013 Biennium					
Program/DP Number/Description	FTE	General Fund	% Of Total	State Special Revenue	% Of Total
Central Management Division					
<i>Included in Executive Budget</i>					
55400 4% Personal Services Reduction	0.75	<u>\$84,174</u>	13.0%	<u>\$0</u>	0.0%
Subtotal Included in Executive Budget		\$84,174	13.0%	\$0	0.0%
<i>Not Included in Executive Budget</i>					
Additional PS & Operating Adjustments		\$61,292	9.5%	\$36,412	2.5%
Attorney Pool Operating Expenses		\$0	0.0%	31,618	2.2%
MEPA Contract Reductions		<u>0</u>	0.0%	<u>52,000</u>	3.6%
Subtotal Not Included in Executive Budget		<u>\$61,292</u>	9.5%	<u>\$120,030</u>	8.2%
Total Central Management Division		\$145,466	22.5%	\$120,030	8.2%
Planning, Prevention and Assistance Division					
<i>Included in Executive Budget</i>					
55400 4% Personal Services Reduction	0.62	<u>\$114,715</u>	17.7%	<u>\$0</u>	0.0%
Subtotal Included in Executive Budget		\$114,715	17.7%	\$0	0.0%
<i>Not Included in Executive Budget</i>					
Additional Personal Services Reduction		\$111,966	17.3%	\$0	0.0%
Energy Program Reduction		<u>46,020</u>	7.1%	<u>33,522</u>	2.3%
Subtotal Not Included in Executive Budget		<u>\$157,986</u>	24.4%	<u>\$33,522</u>	2.3%
Total Planning, Prevention and Assistance Division		\$272,701	42.2%	\$33,522	2.3%
Enforcement Division					
<i>Included in Executive Budget</i>					
55400 4% Personal Services Reduction	0.27	<u>\$35,375</u>	5.5%	<u>\$0</u>	0.0%
Subtotal Included in Executive Budget		\$35,375	5.5%	\$0	0.0%
<i>Not Included in Executive Budget</i>					
Operating Adjustment		\$19,938	3.1%	\$43,606	3.0%
Subtotal Not Included in Executive Budget		<u>\$19,938</u>	3.1%	<u>\$43,606</u>	3.0%
Total Enforcement Division		\$55,313	8.6%	\$43,606	3.0%
Remediation Division					
<i>Not Included in Executive Budget</i>					
Operating Adjustments- Groundwater/Petro		\$0	0.0%	\$2,168	0.1%
Subtotal Not Included in Executive Budget		<u>\$0</u>	0.0%	<u>\$2,168</u>	0.1%
Total Remediation Division		\$0	\$0	\$2,168	\$0
Permitting and Compliance Division					
<i>Included in Executive Budget</i>					
55400 4% Personal Services Reduction	0.49	<u>\$59,221</u>	9.2%	\$0	0.0%
Subtotal Included in Executive Budget		\$59,221	9.2%	\$0	0.0%
<i>Not Included in Executive Budget</i>					
Contract Services		\$0	0.0%	\$557,356	38.1%
Travel and Training Reductinos		0	0.0%	160,254	10.9%
Additional Personal Services Reduction		113,944	17.6%	202,908	13.9%
Operations Reducation		<u>0</u>	0.0%	<u>344,290</u>	23.5%
Subtotal Not Included in Executive Budget		<u>\$113,944</u>	17.6%	<u>\$1,264,808</u>	86.4%
Total Securities Division		\$173,165	26.8%	\$1,264,808	86.4%
Total Reduction Plan					
Included in Executive Budget		\$293,485	45.4%	\$0	0.0%
Not Included in Executive Budget		<u>353,160</u>	54.6%	<u>1,464,134</u>	100.0%
Total Agency Reduction Plan		<u>\$646,645</u>		<u>\$1,464,134</u>	
Over / (Under) 5%		\$112,525		0	

The biennial general fund target for this agency is \$534,120; however, the agency's plan totals \$646,645 for the biennium, a difference of \$112,525. Of the agency's plan, the executive included a biennial amount of \$293,485 in the 4% general fund personal services reductions. The remaining \$353,160 reduction would eliminate an additional 2.40 FTE as well as operating costs in the energy program, Enforcement Division, and Permitting and Compliance Division.

The total state special revenue reduction for this agency is \$1,464,134 for the biennium. The executive did not include any part of this amount in the proposed budget. According to the agency's 5% plan, the reduction would result in decreased contracted services, legal services, printing, field work, and lab work.

**LFD
ISSUE**
Plan Does Not Include Statutorily Required Detail on Impacts

Statute requires that the 5% reduction plan provide detail regarding the impact of the plan. The department provided generic information, which does not allow the legislature to understand the real impact of the reductions.

If the legislature adopted the total 5% plan, the biennial budget general fund would decrease by 2.4%, The biennial state special revenue impact would be a reduction of 2.7%. The total biennial budget impact would be a reduction of 2.4%.

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	General Fund	State Spec.	Fed Spec.	Grand Total	Total %
10 Central Management Program	\$ 811,742	\$ 2,500,326	\$ 682,895	\$ 3,994,963	3.43%
20 Plan.Prevent. & Assist.Div.	5,413,817	5,466,691	15,302,843	26,183,351	22.48%
30 Enforcement Division	1,115,910	981,293	743,639	2,840,842	2.44%
40 Remediation Division	-	15,821,398	12,761,295	28,582,693	24.55%
50 Permitting & Compliance Div.	3,593,749	36,090,334	13,753,952	53,438,035	45.89%
90 Petro Tank Release Comp. Board	-	1,409,888	-	1,409,888	1.21%
Grand Total	<u>\$ 10,935,218</u>	<u>\$ 62,269,930</u>	<u>\$ 43,244,624</u>	<u>\$ 116,449,772</u>	<u>100.00%</u>

The department's largest source of funding at 54% is state special revenue. This revenue is derived from permitting fees, fines, and bonds proceeds utilized to support specific department functions such as permitting, enforcement, and remediation. The federal revenue is provided from the U.S. Environmental Protection Agency (EPA) performance partnership grant, the Superfund Program, and other federal grant resources. The partnership grant is a block grant to the state to provide funding the EPA had previously made through individual grants. Federal grants have varying match requirements. Wetland grants require 25% match, drinking water capital improvement requires a 20% match, and non point source funding can require as much as a 40% match. General fund is utilized for personal services and related operating expenses such as travel, communications, and equipment.

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 figure is provided so that the legislature can get a more complete picture of agency operations and associated policy.

Statutory Appropriations Department of Environmental Quality						
Purpose	MCA #	Fund Source	Fiscal 2010	Fiscal 2012	Fiscal 2013	
<i>No Direct Bearing on Agency Operations</i>						
Petroleum Tank Compensation Board Claims	75-11-313	SSR	\$3,998,659	\$3,150,000	\$3,150,000	

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.

The Petroleum Tank Compensation Board is provided a statutory appropriation of the three quarters of a cent fee on distributed fuel to pay for site cleanup. This activity is further discussed in the board's program narrative.

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	5,341,202	5,341,202	10,682,404	97.69%	46,367,183	46,367,183	92,734,366	79.63%
Statewide PL Adjustments	130,843	135,286	266,129	2.43%	2,802,683	2,815,880	5,618,563	4.82%
Other PL Adjustments	140,791	139,379	280,170	2.56%	9,078,874	9,061,824	18,140,698	15.58%
New Proposals	(146,735)	(146,750)	(293,485)	(2.68%)	(21,920)	(21,935)	(43,855)	(0.04%)
Total Budget	\$5,466,101	\$5,469,117	\$10,935,218		\$58,226,820	\$58,222,952	\$116,449,772	

Language and Statutory Authority

The department is authorized to decrease federal special revenue in the water pollution control and/or drinking water revolving loan programs and to increase state special revenue by a like amount within the administration account when the amount of federal capitalization funds have been expended or when federal funds and bond proceeds will be used for other program purposes.

Agency Issues

Magnitude of Base Adjustments

The executive budget request is predominantly present law adjustments to restore base appropriations to the FY 2010 level. The table below illustrates the agency wide impact of the eight decision packages to restore base appropriations. As described in the agency overview, the adjustments are predominantly for contracted services and agency indirect costs.

Department of Environmental Quality				
Total Agency Present Law Adjustment				
	FY 2012	FY 2013	Biennium	% of Total
Personal Services	\$46,830	\$46,830	\$93,660	0.99%
Consult & Prof. Services	1,025,904	1,020,092	2,045,996	21.69%
IT Consult & Prof. Services	706,784	727,715	1,434,499	15.21%
Contracts with Non Profits	611,228	611,228	1,222,456	12.96%
Other Contract Services	373,473	373,473	746,946	7.92%
Supplies	227,321	202,321	429,642	4.56%
Travel	189,385	189,385	378,770	4.02%
Other Operating Expenses	99,806	105,633	205,439	2.18%
DEQ Indirect Charges	1,086,958	1,059,309	2,146,267	22.76%
Equipment	37,940	37,940	75,880	0.80%
To Counties	318,597	333,250	651,847	6.91%
Total Expense	<u>\$4,724,226</u>	<u>\$4,707,176</u>	<u>\$9,431,402</u>	<u>100.0%</u>
<u>Funding</u>				
General Fund	(90,791)	(89,379)	(180,170)	1.91%
State Special Revenue	(2,942,997)	(2,939,186)	(5,882,183)	62.37%
Federal Special Revenue	<u>(1,690,438)</u>	<u>(1,678,611)</u>	<u>(3,369,049)</u>	<u>35.72%</u>
	<u>(\$4,724,226)</u>	<u>(\$4,707,176)</u>	<u>(\$9,431,402)</u>	<u>100.0%</u>

Base adjustments provide an insight to what did not occur in the base year. This could be fewer permits or technical guidance manuals due to lower staffing levels related to decreased fees, or it could be backlogs have disappeared and the workload has not yet materialized. The issue is whether the reasons for the adjustments are appropriate, and what the future needs of the program are. Each program contains a discussion regarding requested base adjustments, including identification of issues specific to the program, or the funding sources. Options are also included for legislative consideration.

Resource Indemnity Trust

Article IX of the Montana Constitution provides for the protection and improvement of the Montana environment and requests that the legislature provide adequate remedies for environmental protection from degradation. It specifically requires “all lands disturbed by the taking of natural resources shall be reclaimed” and requires the existence of a resource indemnity trust (RIT) fund for that purpose, to be funded by taxes on the extraction of natural resources. The Constitution further states, “The principal of the resource indemnity trust shall forever remain inviolate in an amount of one hundred million dollars (\$100,000,000) guaranteed by the state against loss or diversion.” The state Constitution requires a trust, but does not require the trust to be funded. The legislature utilized certain natural resource extraction tax proceeds as a revenue source for the trust. In February of 2002, the Governor certified that the balance of the trust had exceeded the \$100 million threshold. Tax proceeds previously directed to the RIT have been re-directed by the legislature ever since.

Accounts Receiving RIT Related Revenue

The biennial executive budget contains \$26.2 million in RIT related funding to support a number of natural resource activities from a number of accounts. The department is the largest recipient of these funds. The following discusses the accounts and the current uses. From those accounts, appropriations are made by the legislature to support natural resource agencies and activities. The major accounts of importance are as follows:

- o Oil & gas production mitigation account – funds utilized by the Montana Board of Oil and Gas for properly plugging a well and either reclaiming or restoring, or both, a drill site or other drilling or producing area damaged by oil and gas operations
- o Future Fisheries – funds provided to the Department of Fish, Wildlife and Parks to reclaim habitat and spawning areas of the bull and cutthroat trout
- o Hazardous Waste/CERCLA - funds provided to the Remediation Division of the department for the

- implementation of the Montana Hazardous Waste Act and state expenses for overseeing the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)
- o Environmental contingency account (ECA)- an account controlled by the Governor for the purpose of responding to emergent or imminent threats to the environment
 - o Environmental quality protection fund (EQPF)- utilized by the Remediation Division to identify, investigate, negotiate, and prosecute individuals/entities to achieve remedial action or recover costs and damages. This fund is also referred to as the state Superfund
 - o Water storage account – fund provided to the Water Resources Division of the Department of Natural Resources and Conservation for rehabilitation and major maintenance on state owned water projects
 - o Ground water assessment account - funds groundwater monitoring and characterization studies completed by the Montana Bureau of Mines and Geology at the University of Montana in Butte
 - o Orphan share account - used by the department to fund the percent of remediation activities at a contaminated site that is attributable to a bankrupt or otherwise insolvent entity
 - o Natural resource projects - provides grants and loans to enhance Montana’s renewable resources through projects that measurably conserve, develop, manage or preserve resources or to repair, reclaim, and mitigate environmental damage to public resources. These funds are managed by the Conservation and Development Division of the Department of Natural Resources and Conservation
 - o Natural resources operations – funds operating costs of Montana’s natural resource agencies, including this department and the Department of Natural Resources and Conservation

RIT Distributions and Tax Proceeds

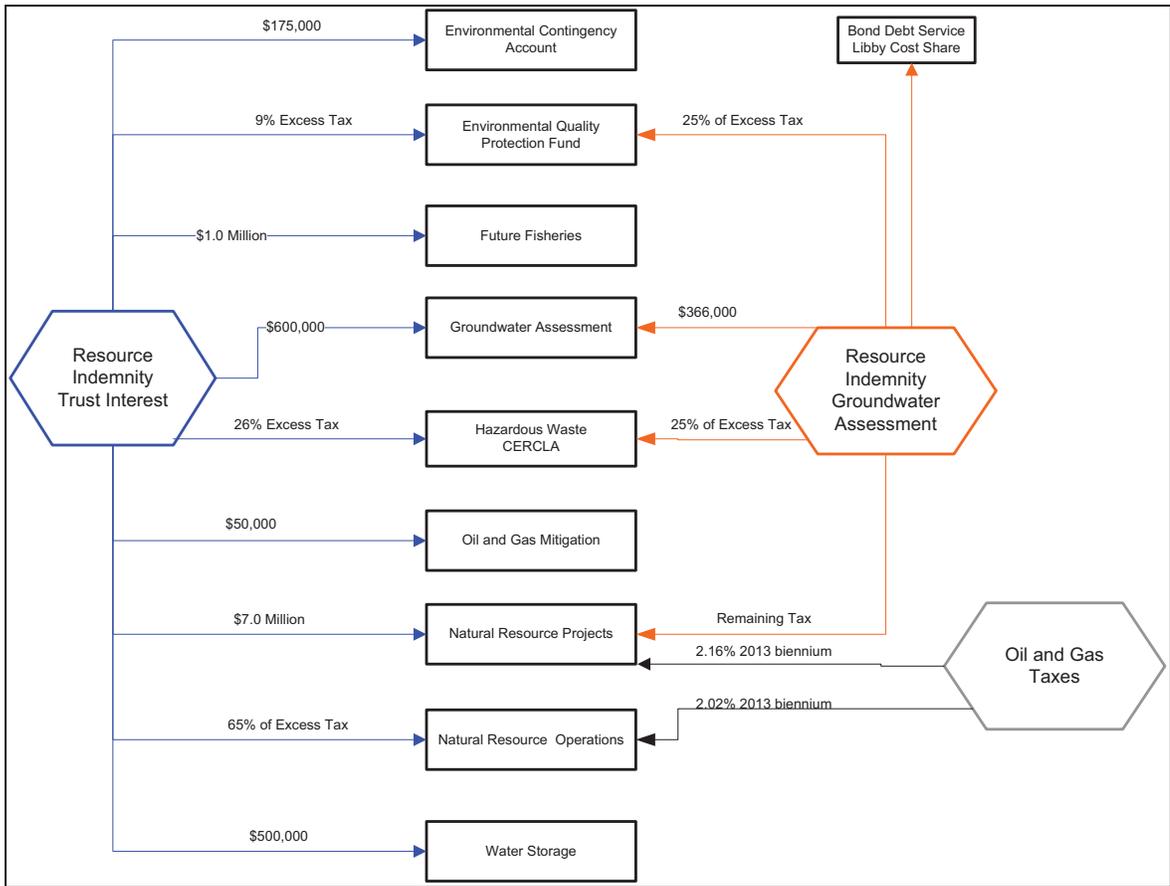
Since the \$100 million RIT trust threshold was met and natural resource taxes were no longer required to be deposited to the trust, the legislature has statutorily allocated these three taxes: 1) resource indemnity and ground water assessment, 2) metalliferous mine, and 3) applicable portions of the oil & gas tax.

- o Resource indemnity and ground water assessment (RIGWA) taxes are paid by person(s) who engage in or carry on the business of mining, extracting, or producing a mineral from any quartz vein or lode, placer claim, dump or tailings, or other place or source. These taxes are distributed to a number of natural resource accounts. The first \$460,630 is deposited into the Superfund debt service account and the second \$366,000 is deposited into the ground water assessment account. The remaining funds are distributed 50% into the reclamation and development grant program account and any remaining funds to the orphan share account.
- o The metalliferous mine tax is paid by persons engaged in the mining of gold, silver, copper, lead, and other metals or precious or semiprecious stones. 7% of this tax is deposited to the natural resources operations fund.
- o A portion of oil and gas production taxes are used for natural resource activities. This portion is distributed 2.95% to the orphan share account and 2.02 % to the natural resources operations and 2.16% to the natural resources project funds.

RIT Distributions –Interest Allocations

Allocations of RIT interest earnings are not restricted by the Constitution. The legislature has chosen to directly and indirectly allocate interest for a number of purposes.

- o Direct allocations: 15-38-202 MCA directs where the interest from the RIT is allocated. Direct allocations are made to a number of sources. Allocations to the oil and gas production mitigation account (\$50,000), the environmental contingency account (\$175,000), and the water storage account (\$500,000) are made at the beginning of the biennium. Allocations to the natural resources projects fund (\$3.5 million), ground water assessment account (\$0.3 million), and future fisheries fund (\$0.5 million) are made on an annual basis.
- o Indirect allocations: After direct interest allocations are made, 15-38-202, MCA directs the remaining interest on a formula basis. The formula provides for 65 % to the natural resources operations fund, 26 % to the hazardous waste/CERCLA fund, and the remaining 9% to the environmental quality protection fund. The flow of taxes and interest into the related accounts is illustrated in the following figure.



Expenditures

The figure on the following page shows the executive’s requested use of the RIT interest and related funds. The figure provides the balance at the end of FY 2010, projected revenues and appropriations for FY 2011, and the biennial effect of revenues and the executive request for the 2013 biennium. The impact of the 5% reduction plans and the pay plan are included as a reference.

Related Funds	Resource Indemnity Funding											Ophan Share	Operations
	02010	02022	02070	02107	02162	02216	02289	02472	02576	02576	02576		
Oil & Gas	Future Fish	HazWas	ECA	EQPF	Wa Sto	GRW							
Beginning FY2011 Fund Balance	\$328,242	\$1,574,165	\$517,314	\$856,456	\$3,578,886	\$1,615,026	\$90,123	\$10,516,467	\$2,798,954				
RIT Interest	\$500,000	\$115,180	0	2,500	\$39,870	\$0	\$300,000	\$	\$287,950				
STIP					351,211			10,400					
RIGWA						366,000							
Metal Mines Tax								3,132,925					
Oil and Gas Tax													
Other Income	0				4,850,000								
FY 2011 Total Revenues & Fund Balance	\$328,242	\$2,074,165	\$632,494	\$858,956	\$8,819,967	\$1,620,026	\$756,123	\$13,659,792	\$5,402,215				
FY 2011 Appropriations	(147,953)	-	(551,349)	0	(7,288,249)	(1,277,099)	(666,000)	(3,272,350)	(4,911,291)				
FY 2011 Budget Amendment	0							(1,200,000)					
Transfers	0												
Reserved for Capital Appropriations													
Grant Commitments		(2,074,165)											
Projected Fund Balance Ending FY 2011	\$180,289	\$0	\$81,145	\$858,956	\$1,531,718	\$342,927	\$90,123	\$9,187,442	\$490,924				
Revenues for 2013 Biennium													
RIT Interest - Direct	-	1,000,000	104,260	0	36,090	500,000	600,000		260,650				
RIGWA			818,172		818,172		732,000		-				
Anticipated reversions									683,552				
Short Term Investment Pool - Interest			1,000	2,500	100,000	10,000							
Admin Fees						40,000							
Metal Mines Tax									1,865,000				
Oil and Gas Tax									6,164,289				
Agency Generated Revenues	31,400				4,265,000								
Transfers - From Water Adjudication Account									(2,400,000)				
Transfers - Other													
Projected Fund Balance Beginning FY 2010	\$211,689	\$1,000,000	\$1,004,577	\$861,456	\$6,750,980	\$892,927	\$1,422,123	\$12,951,731	\$7,813,639				
Appropriations for 2013 Biennium													
UM-Bureau of Mines							(1,332,000)		(351,772)				
DNRC - Centralized Services									(49,912)				
DNRC - Conservation and Resource Devel.									(1,321,199)				
DNRC-Water Resources Division						0			(437,631)				
DNRC - Board of Oil & Gas	(200,000)								-				
DNRC - Forestry/Trust Lands									(189,440)				
DEQ-Central Management									(134,619)				
DEQ-Planning, Prevention & Assistance					(182,983)				-				
DEQ-Enforcement					(277,567)				(9,615)				
DEQ-Remediation					(834,298)				-				
DEQ-Permitting & Compliance									(1,527,847)				
Future Fisheries		(1,000,000)							(4,010,579)				
Judiciary-Water Court													
Governor's Office - Emergency Authority*							(861,456)		(2,151,638)				
Total Appropriations	(\$200,000)	(\$1,000,000)	(\$1,294,848)	(\$861,456)	(\$8,638,190)	\$0	(\$1,332,000)	(\$1,527,847)	(\$8,656,405)				
Adjustments for Agency 5% plans	0	0	0	0	0	0	0	0	506,032				
Ending Fund Balance	\$11,689	\$0	(\$290,271)	\$0	(\$1,887,210)	\$892,927	\$90,123	\$11,423,884	(\$336,734)				

The largest requests for the department are \$8.6 million from the environmental quality protection fund (EQPF) for the state Superfund Program, and \$4.9 million from the natural resources operations and hazardous waste funds for the support of the Permitting and Compliance Division. In total, the executive is requesting \$15.6 million in RIT related authority for the department.

The executive request results in negative ending fund balances in FY 2013 for three accounts. The natural resources operations fund is projected to be a negative \$336,764 the hazardous waste fund \$290,271, and the environmental quality protection fund \$1.8 million. These balances include the 5% reduction plans submitted by this department as well as the Department of Natural Resources and Conservation. The condition of these funds represents some key issues of RIT funding.

LFD
ISSUE

Funds would be Over Expended

The executive is requesting expenditures from the natural resources operations fund, hazardous waste fund and the environmental quality protection fund at a level greater than available revenues. The risk the legislature takes in over appropriating a fund is that when program adjustments must be made, they are done by the executive branch without input from the legislature. With each fund there are options to address the ending fund balance issues, some of which are related to revenue issues.

Natural Resources Operations Fund

The natural resources operations fund was created by the 2007 Legislature in HB 116 and specifically designated for agency operational costs. These costs had previous been appropriated from other RIT funds that had been established for other purposes. However, the fund may not be healthy enough to provide long-term funding for the natural resource agencies. This is demonstrated by two issues within this fund: 1) declining revenues; and, 2) structural balance resulting in a negative ending fund balance.

The table below illustrates the declining revenues and increasing expenditures from the natural resource operations fund. The revenues flowing to the fund were the highest in FY 2008, and dropped sharply in FY 2009 when oil and gas revenues were impacted by the recession. The legislature adjusted for decreased revenues during the 2009 legislative session by funding the Natural Resources Information System from the general fund and by switching operations funds with coal severance shared revenues for the conservation district programs.

Natural Resources Operations Fund - History						
	Actual			Appropriated		Requested
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Revenues						
RIT	\$504,305	\$469,347	\$122,179	\$287,950	\$0	\$295,750
Metal Mines	1,323,152	735,973	803,318	796,000	913,000	952,000
Oil & Gas	<u>2,391,536</u>	<u>1,614,894</u>	<u>1,534,541</u>	<u>1,519,311</u>	<u>2,128,424</u>	<u>2,092,547</u>
Total Revenues	<u>\$4,218,993</u>	<u>\$2,820,214</u>	<u>\$2,460,038</u>	<u>\$2,603,261</u>	<u>\$3,041,424</u>	<u>\$3,340,297</u>
Expenditures						
	\$4,751,134	\$5,711,286	\$4,118,189	\$4,311,291	\$4,325,149	\$4,331,256

The executive is requesting appropriation authority of \$8.6 million on \$7.8 million of estimated revenues, a difference of \$800,000. If the legislature adopts the agency 5% plan, the amount falls to \$336,764. If no further action were taken, any reductions to remain within available reductions would take place during the interim. The risk to adopting this policy is that if the legislature did not indicate what specific programs or activities should be reduced, it would be left to the agency to implement, potentially resulting in less desirable options taken.

To address the negative ending fund balance, the legislature could consider reducing the executive request in proportion to each agency's share and indicating how the reductions should be implemented. The table below illustrates the reductions that would be necessary in each agency to eliminate the \$336,764 negative ending fund balance

**LFD
ISSUE CONT.**

The legislature also has the option of reallocating revenues or transferring funds from healthier accounts via legislation, including:

- o A temporary or permanent reallocation of RIT interest. The legislature could reduce the allocation to future fisheries to cover the short fall this biennium, or reduce it permanently to increase revenues to the fund. Reductions to the future fisheries allocation would reduce on-the-ground grants, but not agency operations.
- o Transfer funds from the orphan share fund. Per the main RIT table, the fund has a projected ending fund balance of \$11.4 million. The risk to this transfer is that the liability for the orphan share is unknown and could prevent reimbursement for cleanup costs at some point in the future.

Natural Resources Operations Fund - Proportionate Reductions			
Agency	Biennial Appropriation by Agency	% of total fund	Reduction Share
Montana Bureau of Mines and Geology	\$351,772	4%	\$13,684
Department of Natural Resources and Conservation	1,998,182	23%	77,729
Department of Environmental Quality	4,154,813	48%	161,622
Water Court	<u>\$2,151,638</u>	25%	<u>\$83,699</u>
	<u>\$8,656,405</u>		<u>\$336,734</u>

Hazardous Waste and EQPF

The hazardous waste fund and the environmental quality protection fund are also not structurally balanced. However, due to the uniqueness of each of these funds, there are significantly different alternatives.

Hazardous Waste Fund

The hazardous waste fund experienced revenue adjustments similar to those in the natural resources operations fund. The figure below illustrates declining revenues and increased expenditures. Revenues were highest in FY 2009, prior to the impact of the recession on RIGWA taxes. The major factor in the reduction in revenues is the dramatic reduction in RIT trust revenues. Interest income falls to zero in FY 2012 because there is not enough revenue to cover all statutory allocations of interest. The expenditures from this fund have not been adjusted for declining revenues; instead, the agency makes any adjustments in expenditures to operate within available cash.

Hazardous Waste Fund - History						
	Actual		Appropriated		Requested	
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Revenues						
RIT	\$201,722	\$187,739	48,872	\$115,180	\$0	\$118,300
RIGWA	283,985	354,004	230,952	351,211	390,461	427,711
License Fees	<u>0</u>	<u>12,100</u>	<u>8,700</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Revenues	<u>485,707</u>	<u>553,843</u>	<u>288,524</u>	<u>466,391</u>	<u>390,461</u>	<u>546,011</u>
Expenditures						
	\$448,500	\$480,668	\$531,641	\$546,560	\$646,272	\$648,579

This fund is designed to cover the cost of implementing the hazardous waste act. However, the executive is requesting \$252,000 over the biennium to fund the Public Water Supply program, which is not covered by the hazardous waste act. (This issue is addressed in detail in the Permitting and Compliance Division). The program is also funded with fees and general fund. The fees have not been raised in statute since its inception in 1991,

and were in fact lowered in 1995 to \$2.00 per service connection fee. An increase in this fee would be allocated to the program and the hazardous waste appropriation would not be necessary. If this occurred the ending fund balance would improve to a negative \$38,000.

Options:

- o Decrease expenditures by increasing the public water supply connection fee
- o Transfer funds from a healthier fund, such as the orphan share as described previously

Environmental Quality Protection Fund

The over appropriation of this fund by \$1.8 million is also the result of declining RIT interest, RIGWA tax revenues, and recovery from responsible parties. The statute for this fund provides the agency with direction to seek a budget amendment when legislatively appropriated authority is not sufficient to meet state superfund requirements. The legislature could appropriate authority at the same level as estimated revenues and direct the department to seek a budget amendment, as provided for in law, to establish authority for excess revenues. Any excess revenues would likely come from the collection of cost recovery in an amount higher than anticipated

Air Quality Permit Fees and Appropriations

The federal Clean Air Act provides for the amount of pollutants that can be emitted from various sources and the consequences for entities that are unable to meet the emission requirements. To manage the amount of pollution emissions, the act provides that a permitting program be controlled by the states, because at the time of the passage of the act in 1990, 35 states already had permitting programs. The act also directs the state to utilize fees from permits to fund the program. If a state is unable to meet the requirements of the act, the Environmental Protection Agency (EPA) can take over the management of the program.

The legislature does not directly establish fees for the program but the level of appropriation is the driving force in setting the fees. The higher the level of appropriation, the greater the possibility of fee increases. Department staff calculates the air quality permit fees based on anticipated workload, per tonnage emission rates, and the amount of fee revenue appropriated by the legislature. Those fees are adopted through the rule making process and require final approval by the Board of Environmental Review (BER) prior to implementation.

The executive is requesting base adjustments to restore authority close to FY 2010 appropriation levels. During FY 2010 the department did not increase permit fees and kept positions open to work within revenue constraints. Reduced air emissions due to controls placed on refineries and the closure of regulated facilities would have caused an increase in the fee rate of approximately 30% on the remaining regulated entities. In the base year, \$3.8 million of air quality permit fees were expended. The Governor proposes spending \$4.9 million in FY 2012. This represents a potential increase in expenditures of 22%.

The proposed increase to the base operating budget supported by air quality fees is detailed below. The issue for the legislature is to determine what adjustments are necessary to encourage the program to operate within state and federal guidelines keeping in consideration the potential impact on fees.

Department of Environmental Quality Air Permit Fees Request		
	FY 2012	FY 2013
Base	\$3,863,852	\$3,863,852
SWPLA	279,940	278,781
DP 1001	7,434	7,434
DP 2002	19,964	19,857
DP 3001	5,679	5,594
DP 5011	<u>734,046</u>	<u>730,405</u>
Total Adjustments	1,047,063	1,042,071
Budget	<u>\$4,910,915</u>	<u>\$4,905,923</u>

Options:

- o Hold fees constant by not approving the adjustment requests
- o Seek another revenue source to fund the state wide present law adjustment funded by air fees to reduce potential increases
- o Adopt the executive proposal

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	9.75	9.75	9.28	9.28	9.75	9.28	(0.47)	(4.82%)
Personal Services	783,187	791,242	859,078	857,810	1,574,429	1,716,888	142,459	9.05%
Operating Expenses	1,057,038	1,161,659	1,139,076	1,138,999	2,218,697	2,278,075	59,378	2.68%
Total Costs	\$1,840,225	\$1,952,901	\$1,998,154	\$1,996,809	\$3,793,126	\$3,994,963	\$201,837	5.32%
General Fund	327,767	339,090	405,954	405,788	666,857	811,742	144,885	21.73%
State Special	1,200,299	1,294,921	1,250,529	1,249,797	2,495,220	2,500,326	5,106	0.20%
Federal Special	312,159	318,890	341,671	341,224	631,049	682,895	51,846	8.22%
Total Funds	\$1,840,225	\$1,952,901	\$1,998,154	\$1,996,809	\$3,793,126	\$3,994,963	\$201,837	5.32%

Program Description

The Central Management Program consists of the Director's Office, a Financial Services office, and an Information Technology Office. It is the organizational component of DEQ responsible and accountable for the administration, management, planning, and evaluation of agency performance in carrying out department mission and statutory responsibilities. The Director's Office includes the director's staff, the deputy director, an administrative officer, a public information officer, a centralized legal services unit, and a centralized personnel office. The Financial Services Office provides budgeting, accounting, payroll, procurement, and contract management support to other divisions. The Information Technology Office provides information technology services support to other divisions.

Program Highlights

Central Management Division Major Budget Highlights
<ul style="list-style-type: none"> ◆ The Governor proposed to increase this program's budget by 5.3% from the previous biennium ◆ General fund increases by 21.7% due to increases for statewide present law adjustments and operational increases, partially offset by personal services reductions ◆ The major initiatives in the executive budget is the personal services reduction

5% Reduction Plan

State law 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. This program's plan includes general fund and state special revenue funds. The total general fund reduction for this program is \$72,644 per year, or \$145,466 for the biennium. Of the total plan, the executive included \$41,998 in FY 2012 and \$42,176 in FY 2013 of this amount in the proposed budget in DP 55400 – 4% general fund personal services reduction. The remaining \$30,646 in FY 2012 and \$30,468 in FY 2013 is not a part of the executive request. According to the agency's 5% plan, the remaining reduction would eliminate 0.18 FTE that works with Environmental Impact Statements and the employee's related operating expense.

The total state special revenue reduction for this program is \$60,015 per year, or \$120,030 for the biennium. The executive did not include any part of this amount in the proposed budget. According to the agency's 5% plan, the reduction includes contract services in the Montana Environmental Protection Act program, and travel and training expenses for agency attorneys. The department expended \$802,807 for these items in the base year, and the plan would reduce this budget by 7%.

If the total 5% plan is adopted by the legislature, the impact would be a 4.6% reduction of state special revenue for the biennium. General fund growth would fall from 21.7% to 12.5%, for an additional 9.2% reduction from the executive request.

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							
Program Funding		Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000	Total General Fund	\$ 327,767	17.8%	\$ 405,954	20.3%	\$ 405,788	20.3%
	01100 General Fund	327,767	17.8%	405,954	20.3%	405,788	20.3%
02000	Total State Special Funds	1,200,299	65.2%	1,250,529	62.6%	1,249,797	62.6%
	02075 Ust Leak Prevention Program	49,339	2.7%	56,799	2.8%	56,719	2.8%
	02097 Environmental Rehab & Response	(2)	0.0%	-	-	-	-
	02157 Solid Waste Management Fee	41,193	2.2%	47,417	2.4%	47,350	2.4%
	02201 Air Quality-Operating Fees	62,026	3.4%	97,590	4.9%	97,452	4.9%
	02202 Asbestos Control	16,835	0.9%	21,227	1.1%	21,197	1.1%
	02204 Public Drinking Water	7,906	0.4%	20,952	1.0%	20,922	1.0%
	02278 Mpdcs Permit Program	43,319	2.4%	42,822	2.1%	42,762	2.1%
	02370 Prj Energy Savings	-	-	3,308	0.2%	3,303	0.2%
	02418 Subdivision Plat Review	17,440	0.9%	-	-	-	-
	02542 Mt Environ Policy Act Fee	871,796	47.4%	862,181	43.1%	861,998	43.2%
	02555 Alternative Energy Rev Loan	-	-	2,205	0.1%	2,202	0.1%
	02576 Natural Resources Operations Ssr Ft	53,458	2.9%	67,357	3.4%	67,262	3.4%
	02845 Junk Vehicle Disposal	35,062	1.9%	26,281	1.3%	26,244	1.3%
	02954 Septage Fees	1,927	0.1%	2,390	0.1%	2,386	0.1%
03000	Total Federal Special Funds	312,159	17.0%	341,671	17.1%	341,224	17.1%
	03067 Dsl Federal Reclamation Grant	-	-	25,822	1.3%	25,785	1.3%
	03221 Osm Coal Outcrop Fires	56,838	3.1%	-	-	-	-
	03228 L.U.S.T./Trust	-	-	65,519	3.3%	65,427	3.3%
	03232 Fy08 Exchange Network Grant	-	-	24,183	1.2%	24,183	1.2%
	03262 Epa Ppg	-	-	187,461	9.4%	187,197	9.4%
	03433 Epa Ppg Fy10-11	162,687	8.8%	-	-	-	-
	03436 Nps 04 Staffing & Support	-	-	-	-	20,004	1.0%
	03437 Sep Base 2004	9,844	0.5%	2,205	0.1%	2,202	0.1%
	03586 Dw Srf Fy 12	-	-	16,449	0.8%	-	-
	03595 Dw Srf Fy 13	-	-	-	-	16,426	0.8%
	03691 Nps Staffing/Support	12,173	0.7%	20,032	1.0%	-	-
	03815 Dw Srf 09 Grant	20,342	1.1%	-	-	-	-
	03816 Doi Osm A&E Grant	20,526	1.1%	-	-	-	-
	03952 2006 Implementation Grant	29,749	1.6%	-	-	-	-
Grand	Total	<u>\$ 1,840,225</u>	<u>100.0%</u>	<u>\$ 1,998,154</u>	<u>100.0%</u>	<u>\$ 1,996,809</u>	<u>100.0%</u>
		-	-	-	-	-	-

The majority of the functions in the division are funded with non-budgeted proprietary funds that are not appropriated through HB 2. The proprietary funding is based upon a negotiated indirect rate with the EPA. The indirect rate is assessed against funding for all personal services, temporary services, and work study projects as well as contracted services within each division, and transferred to fund operating costs. This funding currently supports 55.00 FTE who provide management tasks, budgeting, accounting, payroll, procurement, contract management, and information technology services to other divisions.

The appropriated funds provide support for the agency's legal services, the Board of Environmental Review, and Montana Environmental Protection Act (MEPA) activities. The appropriated funds consist of general fund, a number of state special revenue fees, and small federal grants. The majority of the funding comes from MEPA review fees.

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	327,767	327,767	655,534	80.76%	1,840,225	1,840,225	3,680,450	92.13%
Statewide PL Adjustments	103,953	103,965	207,918	25.61%	120,487	119,399	239,886	6.00%
Other PL Adjustments	16,232	16,232	32,464	4.00%	79,440	79,361	158,801	3.98%
New Proposals	(41,998)	(42,176)	(84,174)	(10.37%)	(41,998)	(42,176)	(84,174)	(2.11%)
Total Budget	\$405,954	\$405,788	\$811,742		\$1,998,154	\$1,996,809	\$3,994,963	

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					155,434					154,299
Vacancy Savings					(37,545)					(37,500)
Inflation/Deflation					(69)					(67)
Fixed Costs					2,667					2,667
Total Statewide Present Law Adjustments		\$103,953	\$11,207	\$5,327	\$120,487		\$103,965	\$10,554	\$4,880	\$119,399
DP 1001 - Program 10 Non-Proprietary Operations Adjustment	0.00	16,232	39,023	24,185	79,440	0.00	16,232	38,944	24,185	79,361
Total Other Present Law Adjustments	0.00	\$16,232	\$39,023	\$24,185	\$79,440	0.00	\$16,232	\$38,944	\$24,185	\$79,361
Grand Total All Present Law Adjustments	0.00	\$120,185	\$50,230	\$29,512	\$199,927	0.00	\$120,197	\$49,498	\$29,065	\$198,760

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.

- **Pay Plan Exceptions** – This program does not have any pay plan exceptions.
- **Program Specific Obstacles** – This program does not report any obstacles.
- **Vacancy** – Administrative and accounting positions experience high turnover. These positions are entry level and many of the employees have been promoted to higher level financial positions within the department.
- **Legislatively Applied Vacancy Savings** – Vacancy savings was met by holding a position open.
- **Pay/Position Changes** – There were no pay adjustments for HB 2 positions. One career ladder adjustment was provided in the proprietary funded program.
- **Retirements** – There are 18 employees eligible for retirement. The retirement liability for the program is estimated at \$256,112.

DP 1001 - Program 10 Non-Proprietary Operations Adjustment - The executive is requesting a base adjustment for the attorney pool. This adjustment includes \$40,000 of indirect costs that were not rolled into the base due to a one-time-only designation made by the 2009 Legislature. The remaining amount restores indirect costs not spent in the base year due to vacancy savings targets and an employee taking voluntary leave without pay.

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.

Program	Fiscal 2012					Fiscal 2013					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 55400 - 4% Personal Services Reduction (Pgm 10)	10	(0.47)	(41,998)	0	0	(41,998)	(0.47)	(42,176)	0	0	(42,176)
Total	(0.47)	(\$41,998)	\$0	\$0	(\$41,998)	(0.47)	(\$42,176)	\$0	\$0	(\$42,176)	

DP 55400 - 4% Personal Services Reduction - The executive recommends a 4% reduction of personal services funded with general fund. The reduction includes the permanent reduction of FTE associated with positions vacant when budgets were developed. This eliminates a three quarter time attorney.

Proprietary Rates

Proprietary Proposed Budget

The 2013 Biennium report on internal services and enterprise funds for fund 06509 shows the financial information for the fund from FY 2010 through FY 2013. The report is provided as submitted by the executive but the LFD has edited and reconfigured the figure for clarity.

Department of Environmental Quality 2011 Biennium Report on Internal Services Funds				
	Actual 2010	Budgeted 2011	Projected 2012	Projected 2013
Beginning Working Capital Balance	\$364,828	\$187,526	\$501,882	\$653,390
Operating Expenses	6,961,414	6,608,095	6,770,943	6,633,183
Operating Revenues				
Revenue from Fees	4,361,892	4,264,547	4,264,547	4,264,547
Federal Cost Recovery	2,414,598	2,645,654	2,645,654	2,645,654
Other Revenues	9,057	12,250	12,250	12,250
Total Operating Revenues	6,785,547	6,922,451	6,922,451	6,922,451
Adjustments	(1,435)	0	0	0
Operating Gain (Loss)	(177,302)	314,356	151,508	289,268
Ending Working Capital Balance	\$187,526	\$501,882	\$653,390	\$942,658
Agency Indirect Rates				
Charge in Percentage	Actual 2010	Actual 2011	Proposed 2012	Proposed 2013
Personal Services	24.00	24.00	24.00	24.00
Operating Expenditures	4.00	4.00	4.00	4.00

Program Description

The department has one proprietary fund, which is an internal service fund used to account for the department's indirect cost activity. The department utilizes two rates: one applied to personal services and a second applied to operating expenses to achieve a more equitable basis for funding proprietary services. The department negotiates the indirect cost rates with the U.S. Environmental Protection Agency (EPA).

The customers of this program are all divisions and employees of the department. Use of these services is mandated by agency policies and procedures. There are no alternative sources for the Central Management Program as a whole. The department contracts for legal services whenever it is cost effective to do so, to obtain specific expertise for a case, or when legal jurisdiction of the case requires an attorney licensed in that state. The department contracts for information technology database development and for hosting of the department's enterprise database.

Program Narrative

Revenues

The department anticipates negotiating an indirect cost rate with the U.S. Environmental Protection Agency (EPA) of approximately 24.0% percent on personal services and 4% on operating expenses in FY 2012 and 2013. Revenues generated by the current indirect cost rate fund 55.50 FTE. Funding is collected from all non-proprietary sources expended within the department. The FY 2010 base collections were: \$860,612 in general fund, \$3,048,111 in state special revenue, and \$2,697,514 in federal special revenue.

Expenses

The major cost drivers within this program are personal services costs and fixed costs. Additional costs for overtime are incurred when workload changes, such as upgrades to the state accounting system (SABHRS), a special legislative session, and increased monitoring and oversight of budgets due to revenue shortfalls. Fixed costs continue to be a significant cost increase to the proprietary fund. The cost of providing support services is directly related to the number of staff served and the number of contracts and payments processed.

Proprietary Rates

The executive is requesting that the rates for this proprietary fund remain at the same level as FY 2010. This rate is the upper limit that the department can negotiate with the US EPA.

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	84.50	84.50	83.88	83.88	84.50	83.88	(0.62)	(0.73%)
Personal Services	5,475,919	6,082,540	6,139,169	6,141,787	11,558,459	12,280,956	722,497	6.25%
Operating Expenses	4,867,811	7,080,124	6,927,321	6,919,074	11,947,935	13,846,395	1,898,460	15.89%
Equipment & Intangible Assets	0	49,970	28,000	28,000	49,970	56,000	6,030	12.07%
Grants	0	0	0	0	0	0	0	n/a
Transfers	0	0	0	0	0	0	0	n/a
Total Costs	\$10,343,730	\$13,212,634	\$13,094,490	\$13,088,861	\$23,556,364	\$26,183,351	\$2,626,987	11.15%
General Fund	2,728,401	2,767,152	2,707,469	2,706,348	5,495,553	5,413,817	(81,736)	(1.49%)
State Special	1,631,717	2,418,714	2,733,204	2,733,487	4,050,431	5,466,691	1,416,260	34.97%
Federal Special	5,983,612	8,026,768	7,653,817	7,649,026	14,010,380	15,302,843	1,292,463	9.23%
Total Funds	\$10,343,730	\$13,212,634	\$13,094,490	\$13,088,861	\$23,556,364	\$26,183,351	\$2,626,987	11.15%

Program Description

The Planning, Prevention, and Assistance Division includes three bureaus: Technical and Financial Assistance; Water Quality Planning; and Air, Energy and Pollution Prevention. The division:

1. Finances construction and improvement of community drinking water and wastewater systems, and provides engineering review and technical assistance to Montana community water infrastructure planners;
2. Assists small businesses in reducing emissions and complying with environmental regulations;
3. Monitors air and water quality conditions, assesses potential pollution problems, and aids industry to achieve cost effective compliance;
4. Assists communities to plan for energy, watershed, air, and solid and hazardous waste management;
5. Aids in development of water total maximum daily loads (TMDL);
6. Proposes rules and policy and develops environmental protection criteria;
7. Provides analysis to assess the cost effectiveness of environmental programs;
8. Finances energy saving retrofits of public buildings and renewable energy systems for homeowners and small businesses; and,
9. Provides technical assistance and education to builders, homeowners and businesses on energy efficiency and renewable energy, indoor air quality, radon, recycling, and solid waste reduction.

Program Highlights

Planning, Prevention and Assistance Division Major Budget Highlights	
<ul style="list-style-type: none"> ◆ The Governor proposes to increase this program's budget by 11.2% from the previous biennium ◆ General fund decreases by 1.5% due to statewide present law adjustments, partially offset by personal services reductions ◆ State special revenue increases by 35% due to statewide present law adjustments and the replacement of federal stimulus funds with state funds ◆ Major initiatives in this budget include: <ul style="list-style-type: none"> ● Personal services reductions totaling \$114,715 general fund and 0.62 FTE ● Replacement of federal stimulus funds with alternative energy revolving loan funds 	

Major LFD Issues
<ul style="list-style-type: none"> ◆ The operational cost adjustment for this program does not provide enough detail

5% Reduction Plan

State law requires that agencies submit a plan to reduce general fund and certain state special revenue by 5%. The following summarizes the plan submitted for this program. This program's plan includes general fund and state special revenue funds. The total general fund reduction for this program is \$272,701 for the biennium. Of the total plan, the executive included a biennial amount of \$114,715 in DP 55400 – 4% general fund personal services reduction. The remaining \$157,986 is not a part of the executive request. According to the agency's 5% plan, the remaining reduction would eliminate an additional 0.38 FTE and reduce participation in energy planning and distribution of energy efficiency information to the public.

The total state special revenue reduction for this program is \$33,522 for the biennium. The executive did not include any part of this amount in the proposed budget. According to the agency's 5% plan, the reduction would result in reduced audits completed by the energy program on public buildings to determine potential energy improvements.

If the legislature adopts the entire 5% plan, the total executive request would increase by 10.3 % rather than 11.1% or a further 0.8%. The general fund would decrease by 4% and state special would increase by 34% over the biennium.

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							
Plan.Prevent. & Assist.Div.							
Program Funding		Base	% of Base	Budget	% of Budget	Budget	% of Budget
		FY 2010	FY 2010	FY 2012	FY 2012	FY 2013	FY 2013
01000	Total General Fund	\$ 2,728,401	26.4%	\$ 2,707,469	20.7%	\$ 2,706,348	20.7%
	01100 General Fund	2,728,401	26.4%	2,707,469	20.7%	2,706,348	20.7%
02000	Total State Special Funds	1,631,717	15.8%	2,733,204	20.9%	2,733,487	20.9%
	02070 Hazardous Waste-Cercla	90,755	0.9%	91,829	0.7%	91,157	0.7%
	02157 Solid Waste Management Fee	122,087	1.2%	133,386	1.0%	132,183	1.0%
	02174 Go Fy06 Spb Bond Proceeds	8,201	0.1%	8,201	0.1%	8,201	0.1%
	02201 Air Quality-Operating Fees	63,889	0.6%	120,608	0.9%	121,384	0.9%
	02206 Agriculture Monitoring	4,222	0.0%	4,214	0.0%	4,224	0.0%
	02223 Wastewater Srf Special Admin	435,197	4.2%	777,841	5.9%	776,619	5.9%
	02278 Mpdes Permit Program	95,343	0.9%	95,151	0.7%	95,379	0.7%
	02291 Alternative Energy Loan Arra	-	-	124,815	1.0%	124,815	1.0%
	02316 Go94B/Ban 93D Admin	305	0.0%	11,782	0.1%	11,741	0.1%
	02370 Prj Energy Savings	499,459	4.8%	744,589	5.7%	746,478	5.7%
	02491 Drinking Water Spec Admin Cost	161,329	1.6%	217,184	1.7%	217,386	1.7%
	02555 Alternative Energy Rev Loan	101,248	1.0%	118,672	0.9%	118,988	0.9%
	02973 Univ System Benefits Program	49,682	0.5%	284,932	2.2%	284,932	2.2%
03000	Total Federal Special Funds	5,983,612	57.8%	7,653,817	58.5%	7,649,026	58.4%
	03003 Tribal Air Quality Fund	2,866	0.0%	2,866	0.0%	2,866	0.0%
	03007 Doe Special Projects	1,385	0.0%	37,218	0.3%	37,540	0.3%
	03070 106 Monitoring Initiative	31,340	0.3%	131,340	1.0%	131,340	1.0%
	03079 Children'S Environmental Health	69,258	0.7%	69,258	0.5%	69,258	0.5%
	03106 Nps 05 Projects	172,857	1.7%	172,857	1.3%	172,857	1.3%
	03199 Stripper Wells	-	-	100,809	0.8%	100,809	0.8%
	03210 Children Environmental Health	2,879	0.0%	2,879	0.0%	2,879	0.0%
	03211 Exxon-Sepc	-	-	4,765	0.0%	4,765	0.0%
	03212 Stripper-Sepc	-	-	14,990	0.1%	14,990	0.1%
	03213 Stripper-Sbp	-	-	4,819	0.0%	4,819	0.0%
	03216 Exxon-Icp	-	-	1,012	0.0%	1,012	0.0%
	03218 Diamond Shanrock-Admin.	-	-	21,475	0.2%	21,475	0.2%
	03227 Fy06 Wetlands Grant	161,347	1.6%	161,347	1.2%	162,061	1.2%
	03229 Fy07 Wetlands Grant	1,221	0.0%	6,477	0.0%	6,246	0.0%
	03245 Wastewater Treatment Grant	-	-	11,253	0.1%	11,213	0.1%
	03262 Epa Ppg	-	-	2,182,289	16.7%	2,175,470	16.6%
	03289 Wastewater Operator Training	14,926	0.1%	-	-	-	-
	03307 Fy08 Wetlands Grant #15	108,320	1.0%	107,603	0.8%	108,625	0.8%
	03311 Doe - Codes And Standards	717	0.0%	717	0.0%	717	0.0%
	03318 Mt School Lab Clean Up	1,188	0.0%	1,188	0.0%	1,188	0.0%
	03433 Epa Ppg Fy 10-11	2,081,896	20.1%	-	-	-	-
	03436 Nps 04 Staffing & Support	4,038	0.0%	4,038	0.0%	39,389	0.3%
	03437 Sep Base 2004	219,200	2.1%	356,603	2.7%	355,315	2.7%
	03449 Npdes Epa Grant	37,977	0.4%	412,478	3.2%	410,659	3.1%
	03450 Fy09 Nps Project Grant	140,506	1.4%	140,506	1.1%	140,506	1.1%
	03459 Doe Competitive Special Proj	5,548	0.1%	114,258	0.9%	114,250	0.9%
	03465 Doe Washington State Univ	22,255	0.2%	97,951	0.7%	97,960	0.7%
	03586 Dw Srf Fy 12	-	-	81,714	0.6%	-	-
	03595 Dw Srf Fy13	-	-	-	-	79,202	0.6%
	03608 Nutrient Criteria Pilot Project	12,385	0.1%	12,385	0.1%	12,385	0.1%
	03667 Tmdl Supplemental	33,598	0.3%	33,598	0.3%	33,598	0.3%
	03676 Bureau Of Land Management	18,006	0.2%	20,561	0.2%	20,561	0.2%
	03691 Nps Staffing/Support	1,138,393	11.0%	1,172,035	9.0%	1,139,002	8.7%
	03695 Srf St Tribal Rel Agrmt Grant	113,693	1.1%	139,707	1.1%	140,303	1.1%
	03716 Doe - Omnibu	914,339	8.8%	914,339	7.0%	918,072	7.0%
	03723 Tmdl Surveys	21,972	0.2%	237,007	1.8%	235,968	1.8%
	03813 Dw Srf 08 Grant	20,291	0.2%	-	-	-	-
	03814 Epa Water Quality 205J	100,000	1.0%	100,000	0.8%	100,000	0.8%
	03815 Dw Srf 09 Grant	531,211	5.1%	781,475	6.0%	781,726	6.0%
Grand	Total	<u>\$ 10,343,730</u>	<u>100.0%</u>	<u>\$ 13,094,490</u>	<u>100.0%</u>	<u>\$ 13,088,861</u>	<u>100.0%</u>

The division is funded with general fund and a variety of state special and federal revenue sources. The division's primary state special revenue funds are the fees collected for air quality permits and the interest from the investments made in community drinking water projects. The largest portion of federal funds is provided through the Environmental Protection Agency (EPA) programs, including the performance partnership grant and funds for non-point source water projects under the federal Clean Water Act. General fund is utilized for the TMDL program and for matching of federal grants.

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	2,728,401	2,728,401	5,456,802	100.79%	10,343,730	10,343,730	20,687,460	79.01%
Statewide PL Adjustments	36,495	35,235	71,730	1.32%	736,621	739,339	1,475,960	5.64%
Other PL Adjustments	0	0	0	0.00%	1,946,751	1,938,265	3,885,016	14.84%
New Proposals	(57,427)	(57,288)	(114,715)	(2.12%)	67,388	67,527	134,915	0.52%
Total Budget	\$2,707,469	\$2,706,348	\$5,413,817		\$13,094,490	\$13,088,861	\$26,183,351	

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					978,867					981,450
Vacancy Savings					(258,190)					(258,294)
Inflation/Deflation					(12,690)					(12,451)
Fixed Costs					28,634					28,634
Total Statewide Present Law Adjustments		\$36,495	\$312,047	\$388,079	\$736,621		\$35,235	\$314,547	\$389,557	\$739,339
DP 2002 - Planning, Prevention & Asst. Div Operating Adjust	0.00	0	500,625	1,282,126	1,782,751	0.00	0	498,408	1,275,857	1,774,265
DP 2004 - Universal System Benefits Addtl Authority	0.00	0	164,000	0	164,000	0.00	0	164,000	0	164,000
Total Other Present Law Adjustments	0.00	\$0	\$664,625	\$1,282,126	\$1,946,751	0.00	\$0	\$662,408	\$1,275,857	\$1,938,265
Grand Total All Present Law Adjustments	0.00	\$36,495	\$976,672	\$1,670,205	\$2,683,372	0.00	\$35,235	\$976,955	\$1,665,414	\$2,677,604

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** - This program does not have any pay plan exceptions.
- o **Program Specific Obstacles** - This program does not report any obstacles.
- o **Vacancy** - Environmental science positions experience a high turnover. This program experienced a decreased pace of progress until new employees or newly promoted employees could come up to speed.
- o **Legislatively Applied Vacancy Savings** - Positions were held open to meet the 7% rate. In addition, some positions that were vacated during the year were held open longer than usual.
- o **Pay/Position Changes** - The program reclassified 3 positions, granted 4 increases for training assignment progression, 1 adjustment for a supervisory promotion, and 1 situational pay adjustment. Vacancy savings covered the cost of these adjustments.
- o **Retirements** - There are 18 employees eligible for full retirement at an estimated payout of \$204,939.

DP 2002 - Planning, Prevention & Asst. Div Operating Adjust - The executive requests restoration of the FY 2010 base for the following reasons:

- o Replacement of \$1.4 million of federal ARRA (HB 645) funds, which reduced the normal HB 2 expenditures in the base year
- o Administrative appropriations of \$1.1 million for contracts with other state agencies where the work was not completed within the current year
- o \$1.0 million related to positions left vacant due to meeting vacancy savings targets. These costs include unspent travel, lab analysis work, supplies, and indirect costs

**LFD
ISSUE**Not Enough Detail

The executive is requesting a \$3.5 million operational cost adjustment for the biennium. The adjustment is tied to the administrative and financial activities of the division. The base adjustment is not broken down by bureaus; which does not allow the legislature to see where the adjustments are occurring. At the LFD request, the division did provide detailed information to indentify the adjustment by bureau, which is summarized in the table below

**LFD
ISSUE CONT.**

Expenses	Planning Prevention and Assistance Division - PL Operating Adjustment													
	2001		Fiscal			Energy & Pollution Prevention		Technical & Financial Assistance		Water Quality				
	FY2012	FY2013	FY2012	FY2013	Biennium	FY2012	FY2013	Biennium	FY2012	FY2013	Biennium			
62102 Consult & Prof Services	646,522	\$646,537	\$1,293,059	\$0	\$0	\$580,097	\$580,112	\$1,160,209	\$12,000	\$12,000	\$24,000	\$54,425	\$54,425	\$108,850
62106 Lab Testing	91,116	91,116	182,232	0	0	20,900	20,900	41,800	0	0	0	70,216	70,216	140,432
62165 Temporary Services	3,000	3,000	6,000	0	0	0	0	0	0	0	0	3,000	3,000	6,000
62169 Contracts w/Nonprofits	566,558	566,558	1,133,116	0	0	228,884	228,884	457,768	71,836	71,836	143,672	265,838	265,838	531,676
62191 Printing	2,141	2,141	4,282	0	0	1,317	1,317	2,634	824	824	1,648	0	0	0
6225 Books and Reference	752	752	1,504	0	0	752	752	1,504	0	0	0	0	0	0
62236 Central Stores	3,504	3,504	7,008	1,625	3,250	1,134	1,134	2,268	203	203	406	542	542	1,084
62238 Minor Equipment	5,146	5,146	10,292	1,703	3,406	943	943	1,886	0	0	0	2,500	2,500	5,000
62245 Computers	4,208	4,208	8,416	79	158	4,024	4,024	8,048	105	105	210	0	0	0
62315 Advertising	3,907	3,907	7,814	0	0	3,457	3,457	6,914	222	222	444	228	228	456
62304 Postage S Mailing	1,988	1,988	3,976	0	0	1,363	1,363	2,726	0	0	0	625	625	1,250
6240X Instate Travel	32,900	32,900	65,800	3,569	7,138	22,882	22,882	45,764	5,000	5,000	10,000	1,449	1,449	2,898
6241X Out of State Travel	15,600	15,600	31,200	1,000	2,000	6,600	6,600	13,200	4,000	4,000	8,000	4,000	4,000	8,000
62516 Meeting Rooms	5,414	5,414	10,828	0	0	5,414	5,414	10,828	0	0	0	0	0	0
62801 Dues	3,122	3,122	6,244	0	0	3,122	3,122	6,244	0	0	0	0	0	0
62809 Education/Training	3,227	3,227	6,454	477	954	750	750	1,500	2,000	2,000	4,000	0	0	0
62827 DEQ Indirects	365,646	357,145	722,791	2,398	566	2,964	113,554	225,628	155,069	154,114	309,183	94,625	90,391	185,016
63000 Equipment (over \$5000)	28,000	28,000	56,000	0	0	0	0	0	8,000	8,000	16,000	20,000	20,000	40,000
Total	1,782,751	\$1,774,265	\$3,557,016	\$10,851	\$9,019	\$19,870	\$995,193	\$1,988,921	\$259,259	\$258,304	\$517,563	\$517,448	\$513,214	\$1,030,662
Funding														
02070 Hazardous Waste	1,336	\$0	\$1,336	\$91	\$0	\$91	\$0	\$0	\$1,245	\$0	\$1,245	\$0	\$0	\$0
02157 SW Fees	11,548	11,418	22,966	0	0	11,548	11,418	22,966	0	0	0	0	0	0
02201 Air Fees	19,964	19,857	39,821	271	532	19,693	19,596	39,289	0	0	0	0	0	0
02223 Wastewater Recycled Funds	128,072	127,528	255,600	0	0	0	0	0	128,072	127,528	255,600	0	0	0
02316 Wastewater Match	2,256	2,248	4,504	0	0	0	0	0	2,256	2,248	4,504	0	0	0
02370 State Energy Conserv. Repayment	247,004	247,019	494,023	0	0	247,004	247,019	494,023	0	0	0	0	0	0
02491 Drinking Water Recycled Funds	19,195	19,088	38,283	0	0	0	0	0	19,195	19,088	38,283	0	0	0
02973 USBC	71,250	71,250	142,500	0	0	71,250	71,250	142,500	0	0	0	0	0	0
03007 DOE Special Projects	36,168	36,155	72,323	0	0	36,168	36,155	72,323	0	0	0	0	0	0
03449 All NPS Projects grants	374,501	372,683	747,184	0	0	0	0	0	0	0	0	374,501	372,683	747,184
03070 Monitoring Initiative Grant	100,000	100,000	200,000	0	0	0	0	0	0	0	0	100,000	100,000	200,000
03199 Petroleum Violations Escrow	147,870	147,870	295,740	0	0	147,870	147,870	295,740	0	0	0	0	0	0
03229 Wetlands Grants	5,256	5,025	10,281	298	74	372	0	0	4,958	4,951	9,909	0	0	0
03262 Perf. Partnership Grant	60,145	56,603	116,748	620	281	901	37,705	70,784	9,898	13,260	23,158	11,922	9,983	21,905
03436 NPS/TMDL Staffing	33,636	35,351	70,987	0	7,586	34,164	33,827	67,991	0	0	0	0	27,765	27,765
03437 State Energy Program SEP	77,579	1,419	79,998	(528)	(602)	(1,130)	0	0	76,121	0	76,121	0	0	0
03586 Drinking Water Grant - FY13	0	73,812	73,812	0	0	0	0	0	0	0	0	0	0	0
03245 Wastewater Grant	11,253	11,213	22,466	0	0	11,253	11,213	22,466	0	0	0	0	0	0
03459 Codes & Standards	108,710	108,702	217,412	0	0	108,710	108,702	217,412	0	0	0	0	0	0
03465 Washington State CU	75,696	75,705	151,401	0	0	75,696	75,705	151,401	0	0	0	0	0	0
03676 BLM A agreements	2,555	2,554	5,109	0	0	(228)	(229)	(457)	0	0	0	0	0	0
03691 FY04 NPS/TMDL Staffing	36,883	0	36,883	8,641	0	8,641	0	0	0	0	0	0	0	0
03695 STAG Grants	6,261	6,203	12,464	0	0	0	0	0	6,261	6,203	12,464	0	0	0
03716 Dept. Of Energy Funds	0	3,733	3,733	0	0	0	0	0	0	0	0	0	0	0
03725 Clean Dies el	205,613	205,602	411,216	0	0	205,613	205,602	411,216	0	0	0	0	0	0
Total	\$1,782,751	\$1,774,264	\$3,557,015	\$10,851	\$9,019	\$19,870	\$995,193	\$1,988,921	\$259,259	\$258,303	\$517,562	\$517,448	\$513,214	\$1,030,662

DP 2004 - Universal System Benefits Addtl Authority - The executive requests additional authority to spend Universal System Benefits (USB) funds. These funds are used as leverage for electrical efficiency projects, renewable energy projects, and energy education in the Montana-Dakota Utilities service area.

LFD COMMENT	<u>USB Funds</u> The Universal System Benefits funds are derived from a percentage of electrical retail sales revenues as per 69-8-402, MCA. The fund is utilized by both this program and the low income energy assistance program in the Department of Public Health and Human Services. This adjustment would fund additional efficiency projects.
--------------------	--

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	-----Fiscal 2012-----					-----Fiscal 2013-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 2006 - Alternative Energy Revolving Loan Pgm Operating	20	0.00	0	124,815	0	124,815	0.00	0	124,815	0	124,815
DP 55400 - 4% Personal Services Reduction (Pgm 20)	20	(0.62)	(57,427)	0	0	(57,427)	(0.62)	(57,288)	0	0	(57,288)
Total	(0.62)	(\$57,427)	\$124,815	\$0	\$67,388	(0.62)	(\$57,288)	\$124,815	\$0	\$67,527	

DP 2006 - Alternative Energy Revolving Loan Operations - The executive is requesting a base adjustment to the Alternative Energy Revolving Loan program. During the 2011 biennium loans made with federal stimulus funding revolve back to the fund as state funds.

DP 55400 - 4% Personal Services Reduction - The executive recommends a 4% reduction of personal services funded with general fund. The reduction includes the permanent reduction of FTE associated with positions vacant when budgets were developed. This reduction equates to 0.62 FTE, an environmental scientist.

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	15.00	15.00	14.73	14.73	15.00	14.73	(0.27)	(1.80%)
Personal Services	989,329	1,017,504	1,044,679	1,044,982	2,006,833	2,089,661	82,828	4.13%
Operating Expenses	294,362	301,373	376,174	375,007	595,735	751,181	155,446	26.09%
Total Costs	\$1,283,691	\$1,318,877	\$1,420,853	\$1,419,989	\$2,602,568	\$2,840,842	\$238,274	9.16%
General Fund	552,549	560,417	558,166	557,744	1,112,966	1,115,910	2,944	0.26%
State Special	436,067	460,087	490,773	490,520	896,154	981,293	85,139	9.50%
Federal Special	295,075	298,373	371,914	371,725	593,448	743,639	150,191	25.31%
Total Funds	\$1,283,691	\$1,318,877	\$1,420,853	\$1,419,989	\$2,602,568	\$2,840,842	\$238,274	9.16%

Program Description

The Enforcement Division is responsible for formal enforcement of the public health and environmental protection laws and rules administered by the department. Division staff works with department attorneys and regulatory programs to draft administrative orders, calculate penalties, negotiate settlements, and monitor compliance with orders issued by the department. The division also manages a complaint clearinghouse that responds to and tracks citizen complaints and reports of spills or releases of materials.

Program Highlights

Enforcement Division Major Budget Highlights
<ul style="list-style-type: none"> ◆ The Governor proposes to increase this program's budget by 9.16% from the previous biennium ◆ General fund increases slightly due to statewide present law adjustments, partially offset by personal services reductions ◆ Other funds increase due to statewide present law and program operating adjustments

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. This program's plan includes general fund and state special revenue funds. The total general fund reduction for this program is \$55,313 for the biennium. Of the total plan, the executive included a biennial amount of \$35,375 in DP 55400 – 4% general fund personal services reduction. The remaining \$19,938 is not a part of the executive request. According to the agency's 5% plan, the remaining reduction would be targeted at reduced travel, education, and training.

The total state special revenue reduction for this program is \$43,606 for the biennium. The executive did not include any of this amount in the proposed budget. According to the agency's 5% plan, the reduction would result in reduced operating expenditures such as travel, education, training, legal fees, medical services, and general supplies.

If the total 5% plan is adopted by the legislature, an additional 2.6% reduction from the executive budget would occur.

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	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 552,549	43.0%	\$ 558,166	39.3%	\$ 557,744	39.3%
01100 General Fund	552,549	43.0%	558,166	39.3%	557,744	39.3%
02000 Total State Special Funds	436,067	34.0%	490,773	34.5%	490,520	34.5%
02075 Ust Leak Prevention Program	39,342	3.1%	33,518	2.4%	33,501	2.4%
02157 Solid Waste Management Fee	-	-	30,052	2.1%	30,037	2.1%
02201 Air Quality-Operating Fees	131,529	10.2%	100,174	7.1%	100,123	7.1%
02202 Asbestos Control	45,798	3.6%	36,042	2.5%	36,025	2.5%
02204 Public Drinking Water	105,353	8.2%	150,260	10.6%	150,184	10.6%
02278 Mpdcs Permit Program	36,228	2.8%	42,073	3.0%	42,051	3.0%
02418 Subdivision Plat Review	20,656	1.6%	36,063	2.5%	36,045	2.5%
02576 Natural Resources Operations Ssr Ft	4,726	0.4%	4,809	0.3%	4,806	0.3%
02845 Junk Vehicle Disposal	52,435	4.1%	57,782	4.1%	57,748	4.1%
03000 Total Federal Special Funds	295,075	23.0%	371,914	26.2%	371,725	26.2%
03067 Dsl Federal Reclamation Grant	-	-	25,243	1.8%	25,231	1.8%
03221 Osm Coal Outcrop Fires	27,921	2.2%	-	-	-	-
03228 L.U.S.T./Trust	-	-	23,000	1.6%	22,988	1.6%
03262 Epa Ppg	-	-	323,671	22.8%	323,506	22.8%
03433 Epa Ppg Fy10-11	204,614	15.9%	-	-	-	-
03691 Nps Staffing/Support	51,267	4.0%	-	-	-	-
03816 Doi Osm A&E Grant	11,273	0.9%	-	-	-	-
Grand Total	<u>\$ 1,283,691</u>	<u>100.0%</u>	<u>\$ 1,420,853</u>	<u>100.0%</u>	<u>\$ 1,419,989</u>	<u>100.0%</u>

The division is funded with general fund and a variety of state special and federal revenue sources. The division's primary state special revenue funds are the fees collected for air, asbestos control, and discharge permits, as well as subdivision review fees. The largest percentage of federal funds is provided through the Environmental Protection Agency (EPA) programs, predominantly the performance partnership grant.

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	552,549	552,549	1,105,098	99.03%	1,283,691	1,283,691	2,567,382	90.37%
Statewide PL Adjustments	(9,369)	(9,240)	(18,609)	(1.67%)	73,267	73,690	146,957	5.17%
Other PL Adjustments	32,644	32,152	64,796	5.81%	81,553	80,325	161,878	5.70%
New Proposals	(17,658)	(17,717)	(35,375)	(3.17%)	(17,658)	(17,717)	(35,375)	(1.25%)
Total Budget	\$558,166	\$557,744	\$1,115,910		\$1,420,853	\$1,419,989	\$2,840,842	

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					117,272					117,650
Vacancy Savings					(44,264)					(44,280)
Inflation/Deflation					(4,066)					(4,005)
Fixed Costs					4,325					4,325
Total Statewide Present Law Adjustments		(\$9,369)	\$26,882	\$55,754	\$73,267		(\$9,240)	\$27,048	\$55,882	\$73,690
DP 3001 - Enforcement Operations Adjustment	0.00	32,644	27,824	21,085	81,553	0.00	32,152	27,405	20,768	80,325
Total Other Present Law Adjustments	0.00	\$32,644	\$27,824	\$21,085	\$81,553	0.00	\$32,152	\$27,405	\$20,768	\$80,325
Grand Total All Present Law Adjustments	0.00	\$23,275	\$54,706	\$76,839	\$154,820	0.00	\$22,912	\$54,453	\$76,650	\$154,015

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** - This program does not have any pay plan exceptions.
- o **Program Specific Obstacles** - This program does not report any obstacles.
- o **Vacancy** – This program did not report any issues with vacancies.
- o **Legislatively Applied Vacancy Savings** - Positions that were vacated during the year were held open longer than usual.
- o **Pay/Position Changes** – This program did not have any pay or position changes.
- o **Retirements** – There are five employees eligible for full retirement at an estimated payout of \$ 76,529. This is one-third of the division staff.

DP 3001 - Enforcement Operations Adjustment - This executive requests a base adjustment for two reasons. Approximately \$66,750 of actual expenses did not roll forward in the base budget due to a one-time-only restriction made by the 2009 legislature. The remaining amount is for costs related to holding positions open to achieve vacancy savings, including lab analysis, field supplies, training, and in-state travel.

LFD COMMENT

When the legislature designates an appropriation as one-time-only, the related expenditures do not roll to the base budget. To include one-time-only expenditures in the base, an adjustment must be approved.

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 55400 - 4% Personal Services Reduction (Pgm 30)	30	(0.27)	(17,658)	0	0	(17,658)	(0.27)	(17,717)	0	0	(17,717)
Total	(0.27)	(\$17,658)	\$0	\$0	(\$17,658)	(0.27)	(\$17,717)	\$0	\$0	(\$17,717)	

DP 55400 - 4% Personal Services Reduction - The executive recommends a 4% reduction of personal services funded with general fund. The program indicates that 0.27 FTE would voluntarily be held open.

LFD COMMENT	If approved, this decision package will permanently eliminate 0.27 FTE from the program.
------------------------	--

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	63.01	63.01	63.01	63.01	63.01	63.01	0.00	0.00%
Personal Services	3,289,972	4,110,515	4,342,465	4,345,194	7,400,487	8,687,659	1,287,172	17.39%
Operating Expenses	7,205,103	8,671,833	9,464,204	9,464,534	15,876,936	18,928,738	3,051,802	19.22%
Equipment & Intangible Assets	0	15,000	475,648	475,648	15,000	951,296	936,296	6,241.97%
Capital Outlay	0	141,304	0	0	141,304	0	(141,304)	(100.00%)
Transfers	7,500	0	7,500	7,500	7,500	15,000	7,500	100.00%
Total Costs	\$10,502,575	\$12,938,652	\$14,289,817	\$14,292,876	\$23,441,227	\$28,582,693	\$5,141,466	21.93%
State Special	5,124,647	6,059,212	7,910,280	7,911,118	11,183,859	15,821,398	4,637,539	41.47%
Federal Special	5,377,928	6,879,440	6,379,537	6,381,758	12,257,368	12,761,295	503,927	4.11%
Total Funds	\$10,502,575	\$12,938,652	\$14,289,817	\$14,292,876	\$23,441,227	\$28,582,693	\$5,141,466	21.93%

Program Description

The Remediation Division protects human health and the environment by preventing exposure to hazardous substances that have been released to soil, sediment, surface water, or groundwater. The division also ensures compliance with state and federal regulations. The division's responsibilities include: oversight, investigation, and cleanup activities at state and federal Superfund sites, and voluntary cleanup activities; reclamation of abandoned mine lands; implementation of corrective actions at sites with leaking underground storage tanks; and oversight of groundwater remediation at sites where improper placement of wastes has caused groundwater contamination. This division is divided into two bureaus.

10. The Hazardous Waste Site Cleanup Bureau (HWSCB) oversees or conducts the investigation and cleanup of sites contaminated by chemical spills, hazardous substances, and petroleum released by industrial and commercial operations other than mining. The bureau works with the Petroleum Tank Release Compensation Board for eligibility and reimbursement determinations and provides grants to local governments for compliance assistance.
11. The Mine Waste Cleanup Bureau (MWCB) is responsible for administering and overseeing remedial actions at historical mine sites, abandoned mines, ore-transport, and processing facilities. It also oversees the provisions of the federal Comprehensive Environmental Response and Liability Act (CERCLA or federal Superfund Program)

Program Highlights

Remediation Division Major Budget Highlights
<ul style="list-style-type: none"> ◆ The Governor proposes to increase this program's budget by 21.9% from the previous biennium ◆ State special revenue increases by 41.5% due to statewide present law adjustments and one-time requests for clean up funds ◆ The major initiatives in this budget are: <ul style="list-style-type: none"> ● \$2.2 million of bond proceeds for federal superfund match ● \$1.5 million for orphan share payments ● \$1.1 million to upgrade the storage tank database

Major LFD Issues

- ◆ The petroleum tank cleanup fund is over appropriated
- ◆ The operational adjustment for this program does not provide enough detail
- ◆ The request to upgrade the storage tank database lacks detail

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. The agency reduction plan includes \$2,168 for the biennium in this program. None of this plan is included in the executive request. According to the agency's 5% plan, the reduction would decrease consulting and professional services for cleanup of petroleum contaminated sites. The program expended \$2.1 million in consulting and professional services during the base year, so the proposed reduction would make no significant impact on the program's budget.

Because the adjustment is small, if the total 5% plan is adopted by the legislature state special revenue growth would not be impacted.

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 Remediation Division						
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	\$ 5,124,647	48.8%	\$ 7,910,280	55.4%	\$ 7,911,118	55.4%
02058 Petroleum Storage Tank Cleanup	1,237,194	11.8%	1,539,396	10.8%	1,541,933	10.8%
02070 Hazardous Waste-Cercla	20,665	0.2%	138,726	1.0%	138,841	1.0%
02162 Environmental Quality Protecti	3,808,768	36.3%	4,319,997	30.2%	4,318,193	30.2%
02206 Agriculture Monitoring	10,480	0.1%	10,669	0.1%	10,680	0.1%
02314 Dnrc Grants - Remediation	2,604	0.0%	-	-	-	-
02472 Orphan Share Fund	13,669	0.1%	763,908	5.3%	763,939	5.3%
02565 Lust Cost Recovery	8,600	0.1%	11,431	0.1%	11,405	0.1%
02583 Cercla Go Bonds	-	-	1,100,000	7.7%	1,100,000	7.7%
02940 Pegasus - Basin	22,667	0.2%	26,153	0.2%	26,127	0.2%
03000 Total Federal Special Funds	5,377,928	51.2%	6,379,537	44.6%	6,381,758	44.6%
03036 Deq Federal Aml Grant	2,405,200	22.9%	2,821,180	19.7%	2,818,481	19.7%
03221 Osm Coal Outcrop Fires	519,506	4.9%	-	-	-	-
03228 L.U.S.T./Trust	-	-	813,658	5.7%	814,298	5.7%
03256 Epa Superfund Core Fy2010	137,651	1.3%	243,829	1.7%	244,632	1.7%
03257 Superfund Multi-Site	513,628	4.9%	590,539	4.1%	589,936	4.1%
03259 Superfund Multi Site	650,147	6.2%	-	-	-	-
03260 Lust Special Project	-	-	746,953	5.2%	750,778	5.3%
03261 Ronan Lust Special Project	193,954	1.8%	197,867	1.4%	197,425	1.4%
03262 Epa Ppg	-	-	166,313	1.2%	166,405	1.2%
03433 Epa Ppg Fy10-11	156,250	1.5%	-	-	-	-
03438 Brownsfield State Response	618,914	5.9%	639,024	4.5%	639,709	4.5%
03463 Mine Lease/Reclamation	1,273	0.0%	1,467	0.0%	1,471	0.0%
03468 Core Cooperative Grant-Fy05	47,394	0.5%	-	-	-	-
03721 Libby Asbestos/Troy	134,011	1.3%	158,707	1.1%	158,623	1.1%
Grand Total	<u>\$ 10,502,575</u>	<u>100.0%</u>	<u>\$ 14,289,817</u>	<u>100.0%</u>	<u>\$ 14,292,876</u>	<u>100.0%</u>

The Remediation Division is funded with a mix of state special and federal revenue sources. State special revenue comes from the \$.0075 gas tax for petroleum tank cleanup, registration fees for underground storage tanks, and interest proceeds from the Resource Indemnity Trust deposited to the environmental quality protection, orphan share, and hazardous waste funds. Federal special revenue is derived from the federal Environmental Protection Agency (EPA) for Superfund oversight and various other activities, and the federal Office of Surface Mining for the Abandoned Mine Lands (AML) program.

**LFD
ISSUE**
Petroleum Tank Cleanup Fund Would be Over Expended

The petroleum tank cleanup fund provides funding for cleanup and oversight of underground storage tanks. The fund also supports the Petroleum Tank Compensation Board (petro board). The executive budget over appropriates the fund by \$236,101 in FY 2012. The figure below illustrates the executive's request.

The fund is established in statute (75-11-313, MCA) to fund the activities associated with implementing the underground storage tank laws, including administrative oversight, board expenses, reimbursement to owners, and repayment of any loans or advances made to the fund from the general fund. Revenues are derived from a per gallon fee on gasoline, aviation fuel, special fuels, and heating oil. Revenue may also come from the general fund. The fund has a statutory

Department of Environmental Quality Petroleum Storage Tank Cleanup Fund (02508)				
	FY 2010	FY 2011	FY 2012	FY 2013
Beginning Balance	(\$2,632,917)	(\$1,579,626)	(\$1,097,608)	(\$236,101)
<u>Expenditures</u>				
Remediation Division	1,235,926	1,439,582	1,539,396	1,541,933
Petroleum Tank Compensation Board				
Board Expenses	577,374	739,783	683,761	706,721
Subrogation	3,120	496,880	250,000	250,000
Benefits/Claims	3,658,633	3,246,815	3,150,000	3,150,000
Budget Amendment - Increased Legal	0	200,000	0	0
Total Expenditures	\$5,475,053	\$6,123,060	\$5,623,157	\$5,648,654
<u>Revenues</u>				
	6,528,344	6,605,078	6,484,664	6,811,336
Ending Fund Balance	(\$1,579,626)	(\$1,097,608)	(\$236,101)	\$926,581

exemption from the statutory requirements that loans from the general fund must be repaid within one year. The fund can pledge up to three years of revenues to repay claims in order to meet claim obligations.

As detailed in the sections that follow, the division is requesting a 25% increase over base expenditures. This increase would provide funds for contracted services and administrative overhead. The division accounts for 62.25% of the routine expenditures from the fund.

The petro board is requesting an 18% increase from this fund to cover statewide present law adjustments and operating adjustments. The board is also requesting a \$500,000 biennial language appropriation to fund subrogation activities if necessary. Subrogation involves paying a portion of recovered payments from liable parties to the legal group handling the claims. Subrogation activity varies from year to year. The average amount for the past four completed fiscal years is \$21,420 per year. The board accounts for 37.75% of the routine expenditures from the fund if subrogation is considered. Not included in the executive budget are funds for benefits and claims, as they are statutorily appropriated to the board. However, statute does not place any limitation on how much the board can use to pay claims. Coupled with the ability for the board to borrow against future revenues from the general fund, little legislative control over funding claims payment exists.

LFD ISSUE CONT.	<p>Considering the executive’s request and the statutory appropriations determined by the board, the fund is over appropriated. If the legislature wishes to align revenues and appropriations, the following options could be considered:</p> <ul style="list-style-type: none"> o For the Remediation Division o Reduce base adjustments by \$146,947, representing a proportionate share of the ending fund balance. This reduction is about 1.25% of total expenditures of the division as requested by the Governor. o For the Petroleum Tank Compensation Board <ul style="list-style-type: none"> • Reduce subrogation amounts to historical expenditure levels of \$21,400 per year • Request legislation to control the amount of the statutory appropriation for claims • Request legislation to eliminate the exception to the general fund lending requirements • Reduce base adjustment by \$89,151, representing a proportionate share of the ending fund balance. This reduction is about 9.3% of total expenditures of the division as requested by the Governor.
----------------------------	---

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%	10,502,575	10,502,575	21,005,150	73.49%
Statewide PL Adjustments	0	0	0	0.00%	964,132	967,191	1,931,323	6.76%
Other PL Adjustments	0	0	0	0.00%	2,823,110	2,823,110	5,646,220	19.75%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$0	\$0	\$0		\$14,289,817	\$14,292,876	\$28,582,693	

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					1,132,563					1,135,403
Vacancy Savings					(176,900)					(177,011)
Inflation/Deflation					(7,726)					(7,396)
Fixed Costs					16,195					16,195
Total Statewide Present Law Adjustments		\$0	\$252,341	\$711,791	\$964,132		\$0	\$253,179	\$714,012	\$967,191
DP 4001 - Remediation Division Operations Adjustments	0.00	0	385,936	46,526	432,462	0.00	0	385,936	46,526	432,462
DP 4002 - S&W Claims Payments (OTO/Bien/Rest)	0.00	0	750,000	0	750,000	0.00	0	750,000	0	750,000
DP 4003 - GO Bond Sales NPL sites (OTO/Bien/Rest)	0.00	0	1,100,000	0	1,100,000	0.00	0	1,100,000	0	1,100,000
DP 4004 - Upgrade ACCESS Database (OTO/BIEN/REST)	0.00	0	297,356	243,292	540,648	0.00	0	297,356	243,292	540,648
Total Other Present Law Adjustments	0.00	\$0	\$2,533,292	\$289,818	\$2,823,110	0.00	\$0	\$2,533,292	\$289,818	\$2,823,110
Grand Total All Present Law Adjustments	0.00	\$0	\$2,785,633	\$1,001,609	\$3,787,242	0.00	\$0	\$2,786,471	\$1,003,830	\$3,790,301

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** - This program does not have any pay plan exceptions.
- o **Program Specific Obstacles** - This program does not report any obstacles.
- o **Vacancy** - Environmental science positions experience a high turnover. Most recently people change positions to accept a different position within DEQ. This allows them some job security while also providing new personal challenges. It aids the agency in succession planning to have staff more versatile and knowledgeable of various divisions and sections.
- o **Legislatively Applied Vacancy Savings** - Positions were held open to meet the 7% rate. In addition, some positions that were vacated during the year were held open longer than usual.
- o **Pay/Position Changes** – The program reclassified a position, granted one training assignment progression upgrade, and one strategic pay and one performance pay adjustment. Vacancy savings covered the cost of these adjustments.
- o **Retirements** – There are 13 employees eligible for full retirement at an estimated payout of \$105,884. This is 21% of the division staff.

DP 4001 - Remediation Division Operations Adjustments - The executive is requesting a biennial base operating adjustment totaling \$864,924 in state and federal revenue. The adjustment includes funds for training, contracted services, legal and Information Technology services. These funds are for supporting cleanup activities.

**LFD
ISSUE**

Not Enough Detail

The executive is requesting a \$0.8 million operational adjustment for the biennium. The adjustment is tied to the administrative and financial activities of the division. The adjustment is broken down by bureaus in the budgeting system, but not by decision package. This does not allow the legislature to see where the adjustments are occurring.

The detail was pulled from the budgeting system to provide the breakdown of the decision package and is summarized in the figure below.

**LFD
ISSUE CONT.**

Expenses	Remediation Division - PL Operating Adjustment										Mine Waste Cleanup		Hazardous Waste	
	DP4001		Fiscal/Administration		Fiscal/Administration		Biennium		FY2012		FY2013		Biennium	
	FY2012	FY2013	FY2012	FY2013	FY2012	FY2013	Biennium	Biennium	FY2012	FY2013	FY2012	FY2013	Biennium	Biennium
61133 Termination Pay - Sick Leave	\$7,831	\$7,831	\$15,662	\$6,306	\$12,612	\$0	\$0	\$0	\$0	\$0	\$1,525	\$1,525	\$3,050	\$3,050
61134 Termination Pay - Vacation	14,686	14,686	29,372	11,029	22,058	0	0	0	0	0	3,657	3,657	7,314	7,314
61401 Fica	2,440	2,440	4,880	1,879	3,758	0	0	0	0	0	561	561	1,122	1,122
61402 Retirement - Other	239	239	478	184	368	0	0	0	0	0	55	55	110	110
61403 Group Insurance	6,259	6,259	12,518	4,818	9,636	0	0	0	0	0	1,441	1,441	2,882	2,882
61404 Workers Compensation Insur	312	312	624	240	480	0	0	0	0	0	72	72	144	144
61410 State Unemployment Tax	63	63	126	49	98	0	0	0	0	0	14	14	28	28
62102 Consult & Prof Services	302,600	302,600	605,200	0	0	0	0	0	0	0	302,600	302,600	605,200	605,200
62108 Legal Fees & Court Costs	44,265	44,265	88,530	0	0	0	0	0	0	0	40,962	40,962	81,924	81,924
62136 It Consult & Prof Services	4,000	4,000	8,000	0	0	0	0	0	0	0	2,000	2,000	4,000	4,000
62809 Education/Training Costs	18,000	18,000	36,000	1,000	2,000	7,000	7,000	14,000	14,000	14,000	10,000	10,000	20,000	20,000
62827O Deq Indirects - Operating	12,880	12,880	25,760	40	80	360	360	720	720	720	12,480	12,480	24,960	24,960
62827P Deq Indirects - Personal Serv	18,887	18,887	37,774	5,881	11,762	793	793	1,586	1,586	1,586	12,213	12,213	24,426	24,426
	<u>\$432,462</u>	<u>\$432,462</u>	<u>\$864,924</u>	<u>\$31,426</u>	<u>\$62,852</u>	<u>\$13,456</u>	<u>\$13,456</u>	<u>\$26,912</u>	<u>\$26,912</u>	<u>\$26,912</u>	<u>\$387,580</u>	<u>\$387,580</u>	<u>\$775,160</u>	<u>\$775,160</u>
Funding														
02058 Petroleum Storage Tank Cleanup	(\$49,053)	(\$49,053)	(\$98,106)	(\$7,596)	(\$15,192)	\$0	\$0	\$0	\$0	\$0	\$41,457	\$41,457	\$82,914	\$82,914
02162 Environmental Quality Protecti	(336,883)	(336,883)	(673,766)	(7,597)	(15,194)	0	0	0	0	0	(329,286)	(329,286)	(658,572)	(658,572)
03036 Deq Federal Aml Grant	(9,676)	(9,676)	(19,352)	(7,596)	(15,192)	(2,080)	(2,080)	(4,160)	(4,160)	(4,160)	0	0	0	0
03228 L.U.S.T./Trust	(16,893)	(16,893)	(33,786)	(7,597)	(15,194)	0	0	0	0	0	(9,296)	(9,296)	(18,592)	(18,592)
03256 Epa Superfund Core Fy2010	(8,320)	(8,320)	(16,640)	(1,040)	(2,080)	(7,280)	(7,280)	(14,560)	(14,560)	(14,560)	0	0	0	0
03438 Browns field State Response	(7,541)	(7,541)	(15,082)	0	0	0	0	0	0	0	(7,541)	(7,541)	(15,082)	(15,082)
03721 Libby Asbestos/Troy	(4,096)	(4,096)	(8,192)	0	0	(4,096)	(4,096)	(8,192)	(8,192)	(8,192)	0	0	0	0
	<u>(\$432,462)</u>	<u>(\$432,462)</u>	<u>(\$864,924)</u>	<u>(\$31,426)</u>	<u>(\$62,852)</u>	<u>(\$13,456)</u>	<u>(\$13,456)</u>	<u>(\$26,912)</u>	<u>(\$26,912)</u>	<u>(\$26,912)</u>	<u>(\$304,666)</u>	<u>(\$304,666)</u>	<u>(\$609,332)</u>	<u>(\$609,332)</u>

DP 4002 - S&W Claims Payments (OTO/Bien/Rest) - The executive requests a one-time-only, biennial, restricted appropriation of orphan share funds to cover potential claims from the S&W Sawmill cleanup site in Darby. The remedial investigation at the S&W site is expected to be completed by FY 2013 or sooner.

LFD COMMENT During the 2009 legislative session amendments to the orphan share fund were passed and approved to allow liable parties to seek reimbursement of orphan share claims when the remedial investigation of a contaminated site has been completed. Prior to this change, reimbursement was not available until cleanup was completed.

DP 4003 - GO Bond Sales NPL sites (OTO/Bien/Rest) - The executive requests a one-time-only, biennial, restricted appropriation of \$2.2 million of revenue from Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) general obligation bonds. This appropriation would provide a 10% match to federal funds expended for remedial actions at the Carpenter/Snow and Barker/Hughesville national priority list (NPL) sites.

LFD COMMENT Title 75, Chapter 10, parts 623 and 624, MCA, authorize the sale of general obligation bonds to meet the state's obligations for federal match requirements at national priority list sites regulated under federal CERCLA, better known as federal superfund law. The department anticipates selling \$2.2 million in bonds in August 2012 to meet the initial obligation. Bonds would be repaid using the CERCLA match debt service fund which receives revenue from the resource indemnity and ground water assessment tax.

DP 4004 - Upgrade ACCESS Database (OTO/BIEN/REST) - The executive requests a biennial appropriation of \$1.8 million of state and federal revenue to upgrade the storage tank database. The database currently maintains site and case data for 3,750 permitted underground storage tank sites and 1,500 petroleum release sites.

LFD ISSUE Lack of Plan
The request does not provide the legislature with a plan of how the division intends to complete this task. The agency indicated it would provide a plan to the joint appropriations subcommittee. for this request regarding the process that will be employed to ensure that a complete upgrade is made so that data is not lost and the future database will meet the needs of the program.

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	209.03	209.03	208.54	208.54	209.03	208.54	(0.49)	(0.23%)
Personal Services	13,311,323	13,915,402	14,181,253	14,186,014	27,226,725	28,367,267	1,140,542	4.19%
Operating Expenses	6,958,473	12,960,285	10,655,812	10,634,943	19,918,758	21,290,755	1,371,997	6.89%
Equipment & Intangible Assets	80,932	122,107	90,872	90,872	203,039	181,744	(21,295)	(10.49%)
Grants	1,473,211	2,040,916	1,791,808	1,806,461	3,514,127	3,598,269	84,142	2.39%
Transfers	0	0	0	0	0	0	0	n/a
Total Costs	\$21,823,939	\$29,038,710	\$26,719,745	\$26,718,290	\$50,862,649	\$53,438,035	\$2,575,386	5.06%
General Fund	1,732,485	1,777,015	1,794,512	1,799,237	3,509,500	3,593,749	84,249	2.40%
State Special	13,726,509	19,767,566	18,044,772	18,045,562	33,494,075	36,090,334	2,596,259	7.75%
Federal Special	6,364,945	7,494,129	6,880,461	6,873,491	13,859,074	13,753,952	(105,122)	(0.76%)
Total Funds	\$21,823,939	\$29,038,710	\$26,719,745	\$26,718,290	\$50,862,649	\$53,438,035	\$2,575,386	5.06%

Program Description

The Permitting and Compliance Division administers all DEQ permitting and compliance activities based on 25 state regulatory and 5 related federal authorities. The division:

1. Reviews and assesses environmental permit applications (coordinating with other state, local, and federal agencies) to determine control measures needed to ensure compliance with the law and to prevent land, water, and air conditions detrimental to public health, welfare, safety, and the environment;
2. Prepares supporting environmental documents under the Montana Environmental Policy Act and provides training and technical assistance when needed;
3. Inspects to determine compliance with permit conditions, laws, and rules; and
4. Provides assistance to resolve the facility's compliance issues, and when necessary recommends formal enforcement actions to the Enforcement Division.

Activities are organized into the Air Resources Management Bureau (air); Industrial and Energy Minerals Bureau (coal, uranium, opencut); Environmental Management Bureau (hard rock, facility siting); Public Water and Subdivision Bureau (public water supply and subdivision); Water Protection Bureau (water discharge); and Waste and Underground Tank Management Bureau (solid waste, junk vehicles, septage pumpers, hazardous waste, asbestos, underground storage tanks).

Program Highlights

Permitting and Compliance Division Major Budget Highlights	
◆	The Governor proposes to increase this program's budget by 5.1% from last biennium
◆	General fund increases by 2.4% due to operating adjustments and statewide present law, partially offset by personal services reductions
◆	State special revenue increases by 7.8% due to operating adjustments

Major LFD Issues
<ul style="list-style-type: none"> ◆ Base operating adjustments co-mingle routine and non-routine requests ◆ Public water supply fees, junk vehicle funds, and hard rock funds may not be utilized correctly ◆ High vacancy rate in the Public Water Supply Program could impact public health and safety

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. This program’s plan includes general fund and state special revenue funds. The total general fund reduction is \$173,165 for the biennium. Of the total plan, the executive included a biennial amount of \$59,221 in DP 55400 – 4% general fund personal services reduction. The remaining \$113,944 is not a part of the executive request. According to the agency’s 5% plan, the remaining reduction would eliminate a portion of 2.40 FTE, technical and administrative staff. (The remaining portion would be eliminated with state special revenues reductions.)

The total state special revenue reduction for this program is \$1,264,808 for the biennium. The executive did not include any part of this amount in the proposed budget. According to the agency’s 5% plan, the reduction would result in a decrease in contracted services, legal services, printing and lab work.

LFD ISSUE	<p><u>Detailed plan needed</u></p> <p>At the time of this writing, the executive did not have detailed plan prepared for this reduction. The actual impact will not be known until such plan is available.</p>
------------------	--

If the total 5% plan was adopted by the legislature, the biennial general fund impact would change from an increase of 2.4% to a 0.8% increase, and represents a further 1.6% reduction from the Governor’s budget. State special revenue growth would fall from 7.8% to 3.9 %, or an additional 3.6% reduction from the proposed budget.

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						
Permitting & Compliance Div.						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 1,732,485	7.9%	\$ 1,794,512	6.7%	\$ 1,799,237	6.7%
01100 General Fund	1,732,485	7.9%	1,794,512	6.7%	1,799,237	6.7%
02000 Total State Special Funds	13,726,509	62.9%	18,044,772	67.5%	18,045,562	67.5%
02036 Opencut Fees	230,009	1.1%	274,415	1.0%	273,693	1.0%
02054 Ust-Installer Lic & Permit Acc	21,545	0.1%	40,872	0.2%	41,013	0.2%
02070 Hazardous Waste-Cercla	418,023	1.9%	415,717	1.6%	418,581	1.6%
02075 Ust Leak Prevention Program	235,183	1.1%	276,813	1.0%	275,429	1.0%
02096 Reclamation - Bond Forfeitures	-	-	50,000	0.2%	50,000	0.2%
02157 Solid Waste Management Fee	609,067	2.8%	610,577	2.3%	610,442	2.3%
02201 Air Quality-Operating Fees	3,606,408	16.5%	4,592,543	17.2%	4,586,964	17.2%
02202 Asbestos Control	233,844	1.1%	249,136	0.9%	249,411	0.9%
02204 Public Drinking Water	845,457	3.9%	964,911	3.6%	964,264	3.6%
02278 Mpdes Permit Program	1,719,123	7.9%	2,069,325	7.7%	2,063,155	7.7%
02418 Subdivision Plat Review	749,828	3.4%	1,138,660	4.3%	1,133,142	4.2%
02420 Bd Of Cert For W&Ww Op	114,661	0.5%	123,080	0.5%	122,888	0.5%
02421 Hazardous Waste Fees	99,503	0.5%	196,584	0.7%	196,277	0.7%
02428 Major Facility Siting	298,561	1.4%	530,043	2.0%	530,043	2.0%
02521 Pegasus Bankruptcy/Operations	658,838	3.0%	658,838	2.5%	658,838	2.5%
02576 Natural Resources Operations Ssr Fu	1,955,005	9.0%	2,003,211	7.5%	2,007,368	7.5%
02579 Coal & Uranium Mine Account	190,240	0.9%	250,000	0.9%	250,000	0.9%
02845 Junk Vehicle Disposal	1,704,227	7.8%	2,037,989	7.6%	2,052,014	7.7%
02952 Zortman Recl-Last (1,500,000)	1,335	0.0%	1,335	0.0%	1,335	0.0%
02953 Landusky Recl-Last (1,500,000)	236	0.0%	236	0.0%	236	0.0%
02954 Septage Fees	35,416	0.2%	60,487	0.2%	60,469	0.2%
02988 Hard Rock Mining Reclamation	-	-	1,500,000	5.6%	1,500,000	5.6%
03000 Total Federal Special Funds	6,364,945	29.2%	6,880,461	25.8%	6,873,491	25.7%
03067 Dsl Federal Reclamation Grant	-	-	1,272,880	4.8%	1,268,325	4.7%
03107 National Park Service - Yellowstone	16,182	0.1%	16,182	0.1%	16,182	0.1%
03262 Epa Ppg	-	-	2,791,650	10.4%	2,783,688	10.4%
03309 Ust Leak Prevention Grant	343,891	1.6%	392,000	1.5%	392,000	1.5%
03325 Pm 2.5 To 3/31/09	376,282	1.7%	397,412	1.5%	396,148	1.5%
03326 Blm For Zortman & Landusky	521,319	2.4%	521,319	2.0%	521,319	2.0%
03377 Oeca Multi Media Grant Amb	78,330	0.4%	-	-	-	-
03433 Epa Ppg Fy 10-11	2,602,864	11.9%	-	-	-	-
03436 Nps 04 Staffing & Support	-	-	-	-	99,093	0.4%
03438 Brownsfield State Response	69,286	0.3%	69,600	0.3%	69,854	0.3%
03480 Blm Cbm Agreement	333,883	1.5%	382,427	1.4%	382,943	1.4%
03586 Dw Srf Fy 12	-	-	655,245	2.5%	219,206	0.8%
03595 Dw Srf Fy13	-	-	-	-	724,733	2.7%
03672 Counter Terrorism Stag	30,581	0.1%	49,919	0.2%	-	-
03691 Nps Staffing/Support	96,098	0.4%	98,797	0.4%	-	-
03798 Homeland Water System Security	(114)	0.0%	-	-	-	-
03813 Dw Srf 08 Grant	158,006	0.7%	-	-	-	-
03815 Dw Srf 09 Grant	496,241	2.3%	-	-	-	-
03816 Doi Osm A&E Grant	1,142,687	5.2%	-	-	-	-
03818 Dw Srf 10 Grant	-	-	125,925	0.5%	-	-
Grand Total	<u>\$ 21,823,939</u>	<u>100.0%</u>	<u>\$ 26,719,745</u>	<u>100.0%</u>	<u>\$ 26,718,290</u>	<u>100.0%</u>

The division is funded with general fund and a variety of state and federal special revenue sources. The general fund provides 6.7 % of the total funding and supports operating expenses.

State special revenue consists of forfeited hard rock reclamation bonds, and fees collected for various activities such as air permits, junk vehicle fines, public water supply connections, and subdivision reviews. These funds are used to administer related permits and compliance operations in the division. The division also receives Resource Indemnity Trust (RIT) interest via the hazardous waste and natural resources operations funds.

Federal special revenue sources include the Environmental Protection Agency (EPA) and the Bureau of Land Management (BLM). Federal funds are directed toward specific sites or for primacy costs of the permitting programs.

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	1,732,485	1,732,485	3,464,970	96.42%	21,823,939	21,823,939	43,647,878	81.68%
Statewide PL Adjustments	(236)	5,326	5,090	0.14%	924,259	930,035	1,854,294	3.47%
Other PL Adjustments	91,915	90,995	182,910	5.09%	4,001,199	3,993,885	7,995,084	14.96%
New Proposals	(29,652)	(29,569)	(59,221)	(1.65%)	(29,652)	(29,569)	(59,221)	(0.11%)
Total Budget	\$1,794,512	\$1,799,237	\$3,593,749		\$26,719,745	\$26,718,290	\$53,438,035	

Present Law Adjustments

The executive is requesting four present law adjustments for this program's budget. Each of the adjustments seeks to increase spending authority to meet anticipated program needs due to an anticipated increase in workload and fee collections over the FY 2010 level. Three of the adjustments (DP 5012, DP 5013, DP 5014) are based on programmatic issues, such as increased county grants, increased workload, and unspent operation budgets due to vacant positions in the base year. The fourth adjustment (DP 5011) would reinstate authority for air, water, and subdivision fees. As stated in the agency summary section of this narrative, a significant amount of appropriation authority was not utilized in FY 2010 because program activities and fee revenue were much lower than estimated, most likely due to reduced economic activity.

The agency provided detailed information to allow the legislature to examine adjustments by functional area. The decision packages are combined and summarized below to illustrate the total impact of present law operating adjustments. Individual package detail is provided in the decision packages following the present law adjustments.

The present law operating adjustments totals \$4.4 million for the biennium. The adjustments are funded with 84% state special revenue, 14% federal funds, and 2% general fund. While each of these packages adjusts the base budget, there are implications within the packages that are unique. The issues associated with the individual adjustments can be found with the decision packages.

Permitting and Compliance Division			
Division Operating Adjustment			
<u>Expenses</u>	FY2012	FY2013	Biennium
Contract Services	\$824,235	\$839,339	\$1,663,574
General Operating Expenses	382,190	363,017	745,207
Travel Expenses	158,868	158,868	317,736
Indirects - Operating	56,656	56,493	113,149
Personal Serv	460,653	442,918	903,571
Transfer to Counties	<u>318,597</u>	<u>333,250</u>	<u>651,847</u>
	<u>\$2,201,199</u>	<u>\$2,193,885</u>	<u>\$4,395,084</u>
<u>Funding</u>			
General Fund	(\$41,915)	(\$40,995)	(\$82,910)
State Special Revenue	(1,842,768)	(1,841,615)	(3,684,383)
Federal Revenue	(316,516)	(311,275)	(627,791)
	<u>(\$2,201,199)</u>	<u>(\$2,193,885)</u>	<u>(\$4,395,084)</u>

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					1,491,695					1,496,576
Vacancy Savings					(592,113)					(592,316)
Inflation/Deflation					(36,349)					(35,251)
Fixed Costs					61,026					61,026
Total Statewide Present Law Adjustments		(\$236)	\$725,495	\$199,000	\$924,259		\$5,326	\$727,438	\$197,271	\$930,035
DP 5002 - Restore Counties Air Quality Pgm Funding	0.00	50,000	0	0	50,000	0.00	50,000	0	0	50,000
DP 5003 - Hard Rock & Major Facility Siting Prjs (BIEN/RST)	0.00	0	1,750,000	0	1,750,000	0.00	0	1,750,000	0	1,750,000
DP 5011 - PCD Operations Adjustment-Funding Constraints	0.00	(136,348)	1,187,764	76,695	1,128,111	0.00	(136,495)	1,175,952	75,320	1,114,777
DP 5012 - PCD Operations Adjustment-Mining Programs	0.00	140,000	160,938	56,823	357,761	0.00	140,000	159,934	55,704	355,638
DP 5013 - PCD Operations Adjustment-Public Water Supply	0.00	21,637	71,467	163,580	256,684	0.00	21,142	70,251	161,553	252,946
DP 5014 - PCD Ops Adjustment-Meth/Admin/WUTMB	0.00	16,626	422,599	19,418	458,643	0.00	16,348	435,478	18,698	470,524
Total Other Present Law Adjustments	0.00	\$91,915	\$3,592,768	\$316,516	\$4,001,199	0.00	\$90,995	\$3,591,615	\$311,275	\$3,993,885
Grand Total All Present Law Adjustments	0.00	\$91,679	\$4,318,263	\$515,516	\$4,925,458	0.00	\$96,321	\$4,319,053	\$508,546	\$4,923,920

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** – The Permitting & Compliance Division has five employees who perform air monitoring duties. These are short-term workers who maintain air monitoring sites. Their duties include changing air filters and general operation and maintenance of the sites. These people live in the proximity of the remote sites, such as at Sidney and Birney. This approach is far more cost-effective than having full-time employees perform those duties. The rate of pay is dependent on their duties.
- o **Program Specific Obstacles** - This program does not report any obstacles.
- o **Vacancy** - Environmental science positions experience a high turnover. Most recently people change positions to accept a different position within DEQ. This allows them some job security while also providing new personal challenges. It aids the agency in succession planning to have staff more versatile and knowledgeable of various divisions and sections. Administrative and accounting positions also experience a high turnover. These positions are entry level and many of the employees have been promoted to higher level financial positions within the department. Some programs experienced a decreased pace of progress until new employees or newly promoted employees could come up to speed.
- o **Legislatively Applied Vacancy Savings** - Positions were held open to meet the 7% rate. In addition some positions that were vacated during the year were held open longer than usual.
- o **Pay/Position Changes** – The program reclassified four positions, granting three increases for training assignment progression and one career ladder adjustment. Vacancy savings covered the cost of these adjustments.
- o **Retirements** – There are 35 employees eligible for full retirement at an estimated payout of \$376,642. This represents 16% of division staff.

DP 5002 - Restore Counties Air Quality Pgm Funding - The executive requests \$50,000 per year in general fund to fund local air quality programs. This adjustment is requested to restore a one-time-only appropriation from last biennium. These funds support local air quality programs in Missoula, Yellowstone, Cascade, Gallatin, Flathead, and Lewis & Clark counties.

DP 5003 - Hard Rock & Major Facility Siting (BIEN/RST) - This biennial, restricted request is for \$1,750,000 per year in state special revenue for projects administered by the Hard Rock and Major Facility Siting Act Programs (MFSA). Hard Rock mining reclamation of \$3,000,000 would be used for operation and maintenance of the Zortman Landusky mine site and the funding would come from the hard rock mining reclamation fund. MFSA projects totaling \$400,000 would allow the expenditure of these fees for MFSA analysis for projects that arise during the coming biennium. Bond forfeitures and settlements of \$100,000 would be used for reclamation of specific mine sites and would be funded by settlement agreements or by forfeitures of various reclamation surety bonds.

**LFD
ISSUE**

Department Seeks Authority for a New Purpose

The request includes the establishment of a base budget, of the currently unappropriated hard rock mining reclamation fund for a new purpose. It is combined with a routine budget adjustment for the Major Facility Siting Act (MFSA) and bond forfeitures. The two items should be examined separately, as the routine adjustments provide authority for MFSA review should one be needed and the bond forfeiture allows the agency to expend funds from newly forfeited bonds.

The hard rock reclamation fund receives revenue from the bond proceeds, metalliferous (metal) mines tax, and interest generated from the fund balance. The fund can be appropriated to cover state costs of implementing reclamation, operation, or maintenance at mines where the state would most likely not be getting additional funds from the mine operator and the bond is insufficient. This fund has not been appropriated since FY 2003. The executive is now requesting a \$3.0 million restricted biennial appropriation from this fund to cover costs at the Zortman Landusky mine site. If the legislature approves this appropriation, the base budget for the division would be increased by the amount expended in FY 2012 and the restriction is lost. There are options to consider funding the request while maintaining greater legislative control:

- o Split the package into two decision packages to be acted upon independently: 1) MFSA and bond forfeitures; and, 2) hard rock mining reclamation activities
- o Condition the Zortman Landusky reclamation appropriation as biennial, restricted, one-time-only to provide temporary authority and to restrict the use of the funds but not increase the base

**LFD
ISSUE**

Mis-allocation of Metalliferous Mine Taxes

Through analysis of the request to expend the hard rock mining reclamation funds, it was discovered that the distribution of metalliferous mine taxes is not consistent with statute. Per 15-37-117, MCA, the tax is allocated as follows:

- o 57% to the general fund
- o 2.5% to the hard-rock mining impact trust account, which is used to provide funds for local infrastructure costs in communities impacted by large scale mining operations
- o 8.5% to the hard rock mining reclamation debt service, which is used to cover payments on bond issues for reclamation purposes
- o 7% to the natural resources operations fund, which supports a portion of several natural resource agency programs
- o 25% to the local impact fund, which is used to support county planning functions and provides non-levy revenues to schools

**LFD
ISSUE CONT.**

A second statute, 82-4-315, MCA allows the cash in the fund in excess of the amount needed to cover principal and interest to be transferred to the hard rock mining reclamation fund. Statute is silent on when the transfer should occur.

Most allocations are done correctly, except that the allocation for the debt service is made directly to the hard rock mining fund and the amount needed for debt service is transferred from the hard rock mining fund to the debt service fund on an annual basis. Through statute, the legislature determined that the debt service was the primary account to deposit these funds for the purpose of paying debt service. Instead, the agency determined that the process should be handled differently. While it is questionable if any significant changes in revenue allocations occur with this process, it is contrary to the directions in statute.

The legislature established the allocation method to meet the needs of multiple programs. If the legislature is accepting of the method in which allocation is being made, then legislation could be introduced to align current allocations and statute. If not, the legislature could request that the Department of Revenue allocate the tax proceeds as written in statute.

DP 5011 - PCD Operations Adjustment-Funding Constraints - The executive is requesting a base operating adjustment to reinstate authority for air, water, and subdivision fees. A significant portion of authority was not utilized as the fee revenue was much lower than estimated. This adjustment would reinstate funding for operating expenses not incurred so that the program operated within revenues in FY 2010.

**LFD
ISSUE**Environmental Fees and Economic Downturns: Estimating Future Needs

The executive is requesting base adjustments in subdivision review, air resources management, and water protection programs to address changes in fee revenues. The legislature is being asked to adjust authority based on the executive's outlook on the economy. Therefore, the economic outlook in these areas should be considered in evaluating the proposal.

Permitting and Compliance Division - DP 5011			
	FY 2010		
	Unspent Authority	FY 2012 Request	Percent to be Restored
Air Quality Fees	\$936,610	\$734,046	78%
Water Discharge Fees	245,660	230,549	94%
Subdivision Review Fees	1,045,317	223,169	21%

The following table shows the base adjustment request in comparison to the amount of authority unused in FY 2010 due to funding constraints. The unused authority focuses only on program operations and not other activities, such as enforcement.

Subdivision Fees

The executive is requesting that 21% of the unused authority for the subdivision program be restored, funding it entirely with fee revenue. This indicates that the executive anticipates a moderate increase in workload, but not a return to pre-recession levels. This funding would allow for the Subdivision Program to adapt to increased workloads should it occur.

Air Fees

Revenue from air fees has been in decline for the past two years due to reduced emissions and increased controls. As emitters curtailed workloads, less emission occurred. However, air fees have historically been set based on legislative appropriations authority (see the agency overview for a discussion on air fees). While the department could have increased fees to generate income up to the appropriated level, due to the changing environment and given that air fees would have been raised by as much as 30%, the agency opted to leave vacant positions open and work within the current revenue structure. The request for \$734,046 restores 78% of the unused authority. This indicates that the executive anticipates an increase in workload, but not a return to historical levels.

**LFD
ISSUE CONT.****MPDES Fees**

MPDES, or water discharge fees, were lower than expected due to decreases in activities requiring a discharge permit, such as construction. To work within the constraints of lower revenues, the program kept vacant positions open. This adjustment restores nearly all of the unused authority, indicating the executive anticipates that MPDES permitting will return to pre FY 2010 levels.

The executive's request is also based on an economic snapshot at a specific point in time. The economic forecast of the state may change by the time the legislature comes to session. Therefore the legislature may wish to re-examine the economic forecast prior to acting on this decision package.

Options

- Adjust decision packages based on economic forecasts available during the legislature
- Adopt the executive's economic forecast

DP 5012 - PCD Operations Adjustment-Mining Programs - The executive is requesting a base adjustment for the opencut, coal and uranium, and hardrock programs. The proposal restores base authority to allow the programs to respond to changing environmental factors and to respond to new mining applications as well as anticipated amendments.

DP 5013 - PCD Operations Adjustment-Public Water Supply - The executive requests additional funding to adjust for expenditures not made in the base year due to a high vacancy rate within the program. This program provides for monitoring the safety of the state's drinking water systems, performing inspections, providing technical assistance and education, and working with systems when the water is unsafe for human consumption.

**LFD
ISSUE**High Vacancy Rate & Program Accomplishments - Use of Funds

The program had a vacancy savings rate of 24.9% as 8.00 of the 17.75 FTE were open at one time during the biennium. This decision package re-appropriates base authority for operating expenses due to the vacancies.

This program was monitored through the performance measurement project of the Legislative Finance Committee. The purpose of the inclusion of this program was to review progress toward reducing inspection backlogs. The department reported to the LFC in October 2010 that while turnover in the program existed, the program was able to slightly reduce the number of reviews backlogged. In addition, the program reported that recruitment was occurring to address the vacant positions. Prior to re-allocating resources to this program, the legislature may wish to receive an update on the backlogged reviews. If the department is able to make adequate progress toward reducing backlogs, as well as keep pace with other responsibilities without a full staff, the legislature could reduce resources provided to this program.

In addition, the legislature may wish to request that this program receive legislative oversight in the interim by either the Legislative Finance Committee or the Environmental Quality Council. This would allow the legislature to keep up to date on a program that, if not adequately operating, could impact the public health of Montana citizens.

**LFD
ISSUE**Funding Source for Public Drinking Water Supply Program is Structurally Unbalanced

The public drinking water special revenue fund was created in 1995 to fund department costs in implementing the public drinking water supply program. This fund is no longer structurally balanced as expenditures have exceeded revenues since FY 2008. The Governor is recommending: 1) increased use of general fund; and, 2) continued use of the hazardous waste fund. The use of this fund for this purpose is currently prohibited in statute. The following shows the funding proposed by the Governor from these two funding sources, along with the public water supply (PWS) fund.

Public Drinking Water Special Revenue Fund

Revenue to the public water supply fund is generated through fees on service connections to certain public water supply systems. These fees are statutorily set at \$2.00 per service connection to the public water supply with a minimum of \$100. The same is true for transient water supply systems, except the minimum is \$50. The fees have not been raised since the fee was created in 1991; rather, the fee was decreased from \$2.25 in FY 1994. The historical revenues and expenses from this fund are summarized in the figure below. Note that since FY 2008 the agency has expended more than the annual revenues.

Department of Environmental Quality Public Water Supply Program Funding			
	FY 2010 Appropriations	FY 2010 Expenditures	FY 2012 Request
General Fund	\$697,530	\$691,308	\$712,945
PWS Fees	983,653	845,446	874,788
Hazardous Waste Funds	151,733	144,126	154,568
Total Funds	\$1,832,916	\$1,680,880	\$1,742,301

The historical revenues and expenses from this fund are summarized in the figure below. Note that since FY 2008 the agency has expended more than the annual revenues.

Department of Environmental Quality Public Water Supply Fees (02204) Historical Revenues and Expenditures					
	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
<u>Expenditures</u>					
Personal Services	\$390,031	\$421,468	\$622,515	\$699,598	\$719,897
Operating	322,560	339,610	255,456	220,968	245,934
Other	325	0	0	0	0
Total Expenditures	\$712,916	\$761,078	\$877,971	\$920,566	\$965,831
<u>Revenues</u>					
Licenses & Permits	\$747,072	\$805,688	\$866,462	\$896,899	\$869,422
Taxes	47	54	71	36	29
Grants/Transfers/Misc	6,418	0	37	0	0
	<u>\$753,537</u>	<u>\$805,742</u>	<u>\$866,570</u>	<u>\$896,935</u>	<u>\$869,451</u>
Structural Balance	\$40,621	\$44,664	-\$11,401	-\$23,631	-\$96,380

Increased General Fund Support

The Governor recommends that as fee revenue is stagnant, general fund be used to support a greater share of the program. The Governor's budget would increase general fund support from 38.1% as appropriated by the 2009 legislature to 40.9%.

Replacing fee revenue with general fund would shift the burden of funding this function from service connection fees to the general taxpayers of the state. The issue for the legislature is how much of this program should be funded with users of the systems, and how much should be covered by the general fund to represent the public health interests of the state.

Use of Hazardous Waste Fund

In FY 2010 the program expended \$126,000 from the hazardous waste fund. This fund is available for hazardous waste activities per 75-10-621 (3), MCA. However, the PWS program is not one of those activities. The Governor recommends the continued use of hazardous waste funds in the 2013 biennium. FY 2010 base expenditures would be enhanced by the addition of \$10,422 of these funds for a total of \$154,548.

**LFD
ISSUE CONT.**

Given the proposed additional general fund and that the use of hazardous waste funds does not comport with statute, there are a number of questions when examining the best mix of funding for this program:

1. Are general public health concerns such that it is determined that all citizens, rather than just those using public water supplies, should financially support efforts to ensure the safety of public water supplies? If so, how much of the activities are related to general public health concerns and consequently how much general fund is appropriate?
2. If it is determined that public water users derive the primary benefit from ensuring that public water supplies are safe, how much should fees be raised to support the activities of the program?
3. Should statute be changed to allow the use of hazardous waste funds to help support this program?

Options

The legislature has several options. The first two would require the legislature to determine to what extent ensuring a safe public water supply is a matter of overall public health.

- Raise connection fees by an amount necessary to raise revenues sufficient to cover that portion determined appropriate for public water users to pay
- Change statute to allow the use of hazardous waste funds for this purpose
- Fund general fund at that level sufficient to cover that portion determined appropriate for general taxpayers to pay
- Some combination of all three options

DP 5014 - PCD Ops Adjustment-Meth/Admin/WUTMB - The executive requests funds to restore the base budget for three units: Division Administration, the programs in the Waste & Underground Tanks Management Bureau (WUTMB), and the Meth Cleanup Program. The majority of this request is in the WUTMB for the Junk Vehicle Program to provide increased county grant reimbursements and reimbursements to local tow operators who remove abandoned vehicles from roadsides. Other adjustments include restoration of travel funds for routine inspections and for technical training that is not offered in Helena.

**LFD
ISSUE**Junk Vehicle Fund Balance

The junk vehicle disposal fund, consisting of revenue from the sale of junk vehicles and motor vehicle wrecking facility license fees, is available for administrative costs, costs of enforcing the junk vehicle laws, and for grants to counties to operate a county junk vehicle program. The executive requests additional funds to increase grants to counties. Per the table below, this fund has a growing fund balance.

The primary expenditure of junk vehicle funds is for grants to counties. However, statute restricts how much money can be granted. Per 75-10-534, MCA counties receive in grants \$1.40 per license vehicle less than 8,001 pounds or \$7,500 if the county can justify the payment. To increase the payment to a county the county would need to have an increase in the number of licensed vehicles. There is no other authority to provide additional funds to the county. If the number of licensed vehicles does not rise, the funds are not expended and therefore a fund balance is created. The legislature has on numerous occasions taken a portion of the fund balance of this account and used it for other purposes, most often to transfer to the general fund. As shown in the figure, the fund balance has once again grown and is projected to grow in the 2013 biennium.

LFD ISSUE CONT. A fund balance was not contemplated by the legislature. Per 75-10-533, MCA the legislature provided a process for the department to notify the Office of Budget and Program Planning as part of the budget submission process of any necessary adjustment to ensure that only revenues sufficient to cover the actual cost of the program were collected. This has not occurred recently and therefore over time the fund has grown.

In addition, the junk vehicle fund is not defined in statute. This lack of statutory control does not provide direction for disposition of the fund balance. The legislature has the opportunity to determine where this fund balance should go, by establishing the fund in statute or by instituting a one-time-only transfer.

Option

- o Transfer a portion of the fund balance to the general fund via legislation
- o Introduce legislation to define the fund, the appropriate uses of the fund, and the disposition of excess fund balance or interest
- o Introduce legislation to adjust the per licensed vehicle amount provided to the counties. This option would allow the legislature to increase the grants through counties

Department of Environmental Quality Junk Vehicle Fees (02845)				
	Actual FY 2010*	Appropriated FY 2011	Requested	
			FY 2012	FY 2013
Beginning Balance	\$5,685,302	\$3,807,995	\$3,947,696	\$4,335,644
Expenditures	4,601,338	2,360,299	2,112,052	2,136,006
Revenues	2,724,031	2,500,000	2,500,000	2,500,000
Ending Fund Balance	<u>\$3,807,995</u>	<u>\$3,947,696</u>	<u>\$4,335,644</u>	<u>\$4,699,638</u>

* FY 2010 included a one-time transfer from the fund to Commerce for bio-medical research

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.

Program	Fiscal 2012					Fiscal 2013				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 55400 - 4% Personal Services Reduction (Pgm 50)										
50	(0.49)	(29,652)	0	0	(29,652)	(0.49)	(29,569)	0	0	(29,569)
Total	(0.49)	(\$29,652)	\$0	\$0	(\$29,652)	(0.49)	(\$29,569)	\$0	\$0	(\$29,569)

DP 55400 - 4% Personal Services Reduction (Pgm 50) - The executive recommends a 4% reduction of personal services funded with general fund. The reduction includes the permanent reduction of FTE associated with positions vacant when budgets were developed. Based on this amount, the division would reduce by approximately half (49%) a full-time Environmental Engineer PE position, including benefits. Thus, a full-time position would become a half-time position.

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	6.00	6.00	6.00	6.00	6.00	6.00	0.00	0.00%
Personal Services	360,247	353,950	359,096	361,405	714,197	720,501	6,304	0.88%
Operating Expenses	212,776	385,833	344,665	344,722	598,609	689,387	90,778	15.16%
Total Costs	\$573,023	\$739,783	\$703,761	\$706,127	\$1,312,806	\$1,409,888	\$97,082	7.39%
State Special	573,023	739,783	703,761	706,127	1,312,806	1,409,888	97,082	7.39%
Total Funds	\$573,023	\$739,783	\$703,761	\$706,127	\$1,312,806	\$1,409,888	\$97,082	7.39%

Program Description

The Petroleum Tank Release Compensation Board is responsible for administering the petroleum tank release cleanup fund. This includes reimbursement to petroleum storage tank owners and operators for corrective action costs and compensation paid to third parties for bodily injury and property damage resulting from a release of petroleum from a petroleum storage tank. The board is responsible for responding to and working with private individuals, corporations, other state agencies, the Governor's Office, the legislature, federal agencies, and other interested parties with activities relative to petroleum storage tanks. It has a staff of 6.00 FTE. It is attached to the DEQ for administrative purposes.

Program Highlights

Petroleum Tank Release Compensation Board Major Budget Highlights	
◆	The Governor proposes to increase this program's budget by 7.4% from the previous biennium, due primarily to program operating adjustments
Major LFD Issues	
◆	The petroleum tank cleanup fund is over appropriated
◆	There are alternatives to the language for subrogation costs

Program Narrative

This program does not have a 5% reduction plan. The revenues that fund the program are exempted by statute.

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 Petro Tank Release Comp. Board						
Program Funding	Base	% of Base	Budget	% of Budget	Budget	% of Budget
	FY 2010	FY 2010	FY 2012	FY 2012	FY 2013	FY 2013
02000 Total State Special Funds	\$ 573,023	100.0%	\$ 703,761	100.0%	\$ 706,127	100.0%
02058 Petroleum Storage Tank Cleanup	<u>573,023</u>	<u>100.0%</u>	<u>703,761</u>	<u>100.0%</u>	<u>706,127</u>	<u>100.0%</u>
Grand Total	<u>\$ 573,023</u>	<u>100.0%</u>	<u>\$ 703,761</u>	<u>100.0%</u>	<u>\$ 706,127</u>	<u>100.0%</u>

The program is funded entirely through a portion of the \$0.0075 fee on gasoline, diesel, heating oil, and aviation fuel distributed in Montana.

**LFD
ISSUE**Petroleum Tank Cleanup Fund is Over Appropriated

The petroleum tank cleanup fund provides funding for cleanup and oversight of underground storage tanks. The fund also supports the Petroleum Tank Compensation Board (petro board). The executive budget over appropriates the fund by \$236,101 in FY 2012. The figure below illustrates the executive's request.

Department of Environmental Quality Petroleum Storage Tank Cleanup Fund (02508)				
	FY 2010	FY 2011	FY 2012	FY 2013
Beginning Balance	(\$2,632,917)	(\$1,579,626)	(\$1,097,608)	(\$236,101)
<u>Expenditures</u>				
Remediation Division	1,235,926	1,439,582	1,539,396	1,541,933
Petroleum Tank Compensation Board				
Board Expenses	577,374	739,783	683,761	706,721
Subrogation	3,120	496,880	250,000	250,000
Benefits/Claims	3,658,633	3,246,815	3,150,000	3,150,000
Budget Amendment - Increased Legal	<u>0</u>	<u>200,000</u>	<u>0</u>	<u>0</u>
Total Expenditures	\$5,475,053	\$6,123,060	\$5,623,157	\$5,648,654
<u>Revenues</u>				
	6,528,344	6,605,078	6,484,664	6,811,336
Ending Fund Balance	(\$1,579,626)	(\$1,097,608)	(\$236,101)	\$926,581

The fund is established in statute (75-11-313, MCA) to fund the activities associated with implementing the underground storage tank laws, including administrative oversight, board expenses, reimbursement to owners, and repayment of any loans or advances made to the fund from the general fund. Revenues are derived from a per gallon fee on gasoline, aviation fuel, special fuels, and heating oil. Revenue may also come from the general fund. The fund has a statutory exemption from the statutory requirements that a loan from the general fund must be repaid within one year. The fund can pledge up to

three years of revenues to repay claims in order to meet claim obligations.

As detailed in the sections that follow, the Remediation Division is requesting a 25% increase over base expenditures. This increase would provide funds for contracted services and administrative overhead. The division accounts for 62.25% of routine expenditures from the fund.

The petro board is requesting an 18% increase from this fund to cover statewide present law adjustments and operating adjustments. The board is also requesting a \$500,000 biennial language appropriation to fund subrogation activities if necessary. Subrogation involves paying a portion of recovered payments from liable parties to the legal group handling the claims. Subrogation activity varies from year to year. The average amount for the past four completed fiscal years is \$21,420 per year. The board accounts for 37.75% of routine expenditures from the fund when subrogation is considered.

Not included in the executive budget are funds for benefits and claims, as they are statutorily appropriated to the board. However, statute does not place any limitation on how much the board can use to pay claims. Coupled with the ability for the board to borrow against future revenues from the general fund, little legislative control over funding claims payment exists.

**LFD
ISSUE CONT.**

Considering the executive’s request and the statutory appropriations determined by the board, the fund is over appropriated. If the legislature wishes to align revenues and appropriations, the following options could be considered:

- o For the Remediation Division
 - Reduce base adjustments by \$146,947, representing a proportionate share of the ending fund balance. This reduction is about 1.25% of total expenditures of the division as requested by the Governor
- o For the Petroleum Tank Compensation Board
 - Reduce subrogation amounts to historical expenditure levels of \$21,400 per year
 - Request legislation to control the amount of the statutory appropriation for claims
 - Request legislation to eliminate the exception to the general fund lending requirements
- o Reduce base adjustments by \$89,151, representing a proportionate share of the ending fund balance. This reduction is about 9.3% of total expenditures of the board requested by the Governor

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%	573,023	573,023	1,146,046	81.29%
Statewide PL Adjustments	0	0	0	0.00%	(16,083)	(13,774)	(29,857)	(2.12%)
Other PL Adjustments	0	0	0	0.00%	146,821	146,878	293,699	20.83%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$0	\$0	\$0		\$703,761	\$706,127	\$1,409,888	

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					(1,814)					592
Vacancy Savings					(14,337)					(14,434)
Inflation/Deflation					68					68
Total Statewide Present Law Adjustments		\$0	(\$16,083)	\$0	(\$16,083)		\$0	(\$13,774)	\$0	(\$13,774)
DP 9001 - Petroleum Board Operations Adjustment	0.00	0	146,821	0	146,821	0.00	0	146,878	0	146,878
Total Other Present Law Adjustments	0.00	\$0	\$146,821	\$0	\$146,821	0.00	\$0	\$146,878	\$0	\$146,878
Grand Total All Present Law Adjustments	0.00	\$0	\$130,738	\$0	\$130,738	0.00	\$0	\$133,104	\$0	\$133,104

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.

- **Pay Plan Exceptions** - This program does not have any pay plan exceptions.
- **Program Specific Obstacles** - This program does not report any obstacles.
- **Vacancy** –The program reports no vacancies.
- **Legislatively Applied Vacancy Savings** - The program did not have sufficient turnover so operating costs were reduced to cover vacancy savings.
- **Pay/Position Changes** – The program granted two increases for training assignment progression.
- **Retirements** – There are 3 employees eligible for full retirement at an estimated payout of \$21,591. This represents one-half of the program staff.

DP 9001 - Petroleum Board Operations Adjustment - The executive requests base operating adjustments for potential retirement costs, minor supplies, training, indirect charges, and legal fees.

Language and Statutory Authority

The executive is requesting the following language appropriation.

"The department is appropriated up to \$500,000 of the funds recovered under the petroleum tank compensation board subrogation program in the 2011 biennium for the purpose of paying contract expenses related to the recovery of funds."

**LFD
ISSUE**

Other Alternatives

There are options to provide appropriation authority for subrogation that provide greater control to the legislature.

Since 2001, the Petroleum Tank Release Compensation Board has been pursuing reimbursement from insurance companies who should have covered a portion of past costs. With each settlement, there is a contingency fee due to the outside legal counsel based on contractual obligation. The authority granted under the language appropriation would be used to pay the contingency fee.

However, in October the program submitted a budget change document requesting carry forward authority be used to transfer board legal services in-house. The request for subrogation fees may not be necessary if the program intends on using inside counsel.