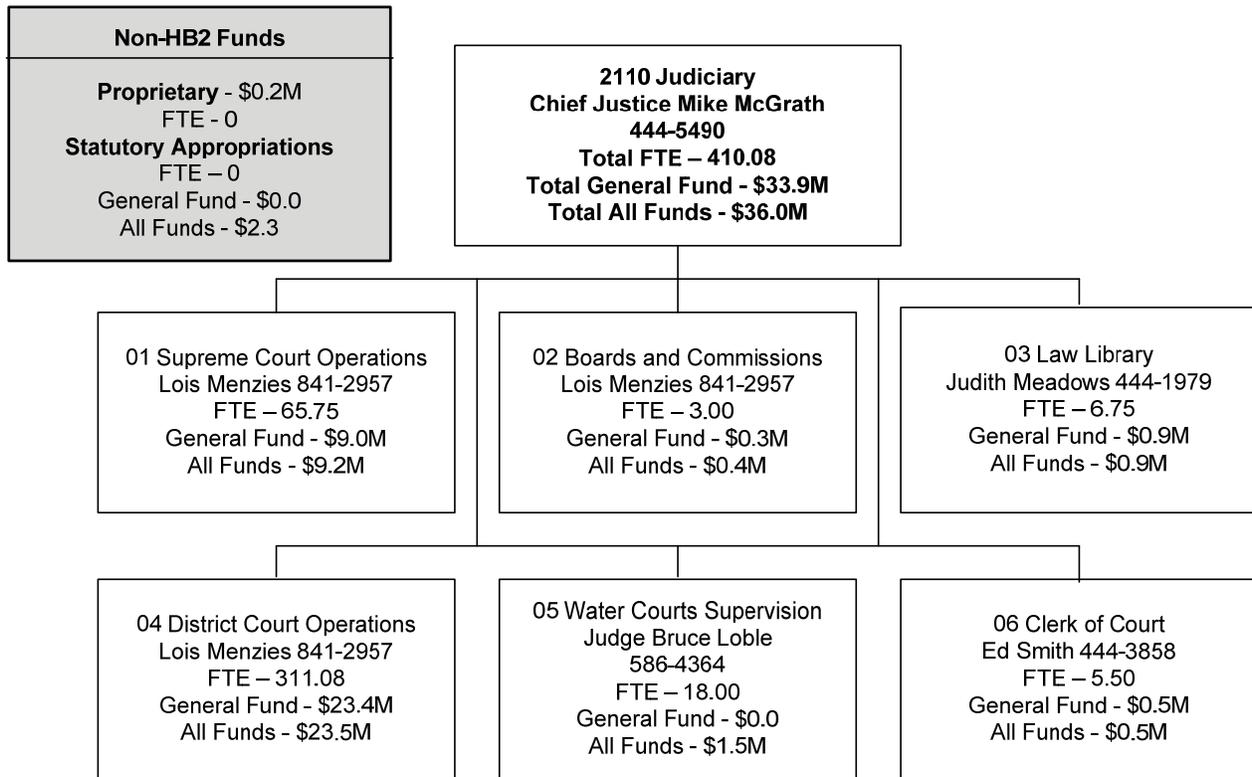


Agency Budget Comparison

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	410.08	410.08	419.58	422.24	410.08	422.24	12.16	2.97%
Personal Services	27,508,677	28,995,376	30,834,085	31,106,595	56,504,053	61,940,680	5,436,627	9.62%
Operating Expenses	8,319,831	8,744,097	8,346,360	8,335,637	17,063,928	16,681,997	(381,931)	(2.24%)
Equipment & Intangible Assets	142,165	128,663	142,165	142,165	270,828	284,330	13,502	4.99%
Grants	0	0	0	0	0	0	0	n/a
Benefits & Claims	0	0	0	0	0	0	0	n/a
Transfers	0	0	0	0	0	0	0	n/a
Debt Service	11,651	30,354	11,651	11,651	42,005	23,302	(18,703)	(44.53%)
Total Costs	\$35,982,324	\$37,898,490	\$39,334,261	\$39,596,048	\$73,880,814	\$78,930,309	\$5,049,495	6.83%
General Fund	33,937,675	35,467,158	36,952,194	37,020,776	69,404,833	73,972,970	4,568,137	6.58%
State Special	1,922,472	2,305,683	2,259,135	2,452,283	4,228,155	4,711,418	483,263	11.43%
Federal Special	122,177	125,649	122,932	122,989	247,826	245,921	(1,905)	(0.77%)
Total Funds	\$35,982,324	\$37,898,490	\$39,334,261	\$39,596,048	\$73,880,814	\$78,930,309	\$5,049,495	6.83%

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: The Judicial Branch's mission is to provide an independent, accessible, responsive, impartial and timely forum to resolve disputes; to preserve the rule of law; and to protect the rights and liberties guaranteed by the Constitutions of the United States and Montana.

Article III, Section I, and Article VII of the Montana Constitution authorizes the Judicial Branch. There are six programs within the branch: 1) Supreme Court Operations; 2) Boards and Commissions; 3) Law Library; 4) District Court Operations; 5) Water Court Supervision; and 6) Clerk of the Supreme Court.

Agency Highlights

Judicial Branch Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for the Judicial Branch increases 6.8% (\$5.0 million) when the 2011 and 2013 biennia are compared <ul style="list-style-type: none"> • General fund support for the branch increases 6.6% (\$4.6 million) when the two biennia are compared ◆ The biennial difference is primarily due to the following: <ul style="list-style-type: none"> • No vacancy savings (2% in previous biennium) is applied to the 2013 biennium budget • Additional judges added by the 2009 Legislature (three) are funded for the entire biennium rather than six months • Funding for the court help program (formerly self-help) is included in the 2013 biennium • A portion of the increase in statewide present law adjustments is to replace the use of one-time-only carry forward funds in the base budget year
Legislative Action Issues
<ul style="list-style-type: none"> ◆ Vacancy savings has not been applied to the Judicial Branch ◆ Two items included in the branch’s voluntary reductions in April 2010 (consistent with reductions ordered by the Governor per 17-7-140, MCA) require statutory changes ◆ Interim Committee Recommendations <ul style="list-style-type: none"> • The Legislative Finance Committee recommends that the starting point for budget deliberations be the adjusted base less the agency 5% reduction plan

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 Legislative Fiscal Division recommends that the legislature 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.

Goal 1 – Impact of applied vacancy savings, turnover, and staffing

- o Successes:
 - The branch was able to achieve 2% vacancy savings as budgeted
- o Challenges
 - Difficulty meeting the applied vacancy savings rate in the District Court Operations Program led to increased vacancy savings in the Supreme Court Operations Program including the Office of Court Administrator
 - Vacancies in information technology positions impacted the branch’s ability to support technology and continue projects

LFD COMMENT

Prior to the 2011 biennium vacancy savings had not been applied to the Judicial Branch. However, the 2009 Legislature did apply a 2% vacancy savings rate, reducing funding for branch personal service costs for the 2011 biennium. This was lower than the 7% rate applied to most executive branch agencies with the exception of some institutional functions that had a vacancy savings rate of 4% applied. The budget request submitted for the 2013 biennium does not apply a vacancy savings rate to the Judicial Branch.

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.

The Supreme Court, as directed by 3-1-130, MCA, adopted a pay and personnel plan in July 2002 following the state assumption of district court costs. The court is not part of the Executive Branch broadband pay plan or the Executive Branch’s workforce planning activities.

- o **Labor Market Experience** - The Judicial Branch has seen an increase in the size of applicant pools for vacant positions during the last 12-18 months. This has been consistent for most positions and in most locations. It is difficult to determine a trend because turnover has decreased and thus, the need to recruit has decreased. The Judicial Branch has problems filling management level positions such as chief juvenile probation officers but the limited number of vacancies does not establish a trend.
- o **Pay Philosophy** - The Judicial Branch does not have a formal pay philosophy that would allow the use of pay to address workforce planning issues. The Judicial Branch does not have the financial ability to make adjustments to certain key positions or to increase entry-level salaries without creating significant budget issues.
- o **Obstacles** - The Judicial Branch has experienced decreased turnover probably as a result of the overall condition of the economy. The branch strives to remain a desirable employer both in terms of benefits and salary and workplace environment. This will become more difficult in an era of stagnant salaries and the threat of program reductions. The Judicial Branch has one full-time specialist dedicated to human resources and payroll. The branch does not have management resources or support staff to engage in workforce planning activities. This will become a larger problem as more employees approach retirement.

The Judicial Branch has a unified approach to pay and human resources making the information in this section applicable to all programs except the Clerk of the Supreme Court (Program 06).

- o **Pay Plan Exceptions** – n/a
- o **Program Specific Obstacles** - The Judicial Branch is very thinly staffed and can offer little in the way of career growth to staff. Positions with the Supreme Court and District Courts such as judicial assistants, court reporters and law clerks do not provide options for promotion. The same is true in Youth Court where generally the only path to promotion occurs infrequently. Employees seeking promotion or career growth will likely need to leave the Judicial Branch. This will likely become a larger problem if salary freezes continue.

- o **Vacancy** - The Judicial Branch has seen a decrease in turnover recently. However, in previous years the branch has experienced high turnover among law clerks. In some cases this is desirable as the employees join the branch for a year service contract. However, in other areas it limits the ability of the courts to process cases as efficiently as possible. Law clerks tend to leave because private sector salaries are much higher than the Judicial Branch can offer. The Judicial Branch has been unable to offer monetary incentives but focuses on items such as flexible work schedules and reasonable work hours to provide an incentive over the private sector. Any vacancy decreases the ability of the Judicial Branch to complete projects and places additional pressure on remaining staff.
- o **Legislatively Applied Vacancy Savings** - As stated previously, the Judicial Branch has experienced a decrease in vacant positions adding more pressure to keep those positions that do become vacant open for longer periods of time. This creates a significant strain on remaining staff when they assume caseloads or workloads to account for the vacant positions.
- o **Pay/Position Changes** - The Judicial Branch did not make any group base pay adjustments during FY 2010 and FY 2011.
- o **Retirements** - About 60 of the Judicial Branch's employees are currently eligible for full-retirement. It is impossible to predict how many employees would opt to retire in the 2013 biennium. The estimated leave liability for these employees is \$610,000.

**LFD
COMMENT**

The base budget for the branch includes 410.08 FTE. The number of employees eligible for retirement is equal to almost 15% of the authorized FTE level.

Agency Overview

The Judicial Branch, an independent branch of government, provides an independent forum to resolve disputes, preserve the rule of law, and protect the rights and liberties guaranteed by the Constitutions of the United States and Montana. Additionally, Juvenile Probation is part of the District Court Operations Program within the Judicial Branch. The branch provides these services through:

- o The Supreme Court, based in Helena, with seven justices
- o District Courts (56 courts) split into 22 judicial districts with 46 district court judges (as of January 2011), and staff including law clerks, assistants, court reporters, support staff, and juvenile probation officers
- o A Water Court with a chief judge and various water masters and administrative staff specializing in adjudication of water rights
- o Ten boards, commissions, and councils that oversee various aspects of legal practice in the state
- o A state law library in Helena
- o A Clerk of Court for the Supreme Court

The Supreme Court Justices and District Court judges are elected through a nonpartisan ballot. The Clerk of the Supreme Court is also an elected official. The court system within Montana also includes a number of courts of limited jurisdiction that hear cases involving misdemeanor offenses, civil cases for amounts up to \$7,000, small claims up to \$3,000, landlord/tenant disputes, local ordinances, juvenile issues, etc. City or county governments provide most of the funding for courts of limited jurisdiction. However, the branch provides some items, such as some information technology assistance and equipment, training, and costs of annual meetings.

The 2009 Legislature authorized the addition of a district court judge in each of three districts (JD 1 - Lewis and Clark and Broadwater Counties, JD 11- Flathead County, and JD 13 – Yellowstone County). This increases the total number of district court judges from 43 to 46. The new judges were elected in November 2010 and will take office in January 2011.

The general fund budget request for the 2013 biennium is about \$4.6 million greater than the 2011 biennium budget used for comparison purposes. This difference is created by items that are included in the 2013 biennium budget but not the 2011 biennium budget such as: exclusion of vacancy savings (2%), funding additional judges added by the 2009 Legislature for the entire biennium rather than six months, funding for the court help program, and increases in statewide present law adjustments due to the use of one-time-only carry forward funds in the base budget year.

The branch proposes the addition of 9.50 FTE in FY 2012 and an additional 2.66 FTE in FY 2013 (for 12.16 FTE total). The additional positions include:

- o 5.00 FTE due to the annualization of costs related to the addition of three district court judges and staff effective January 1, 2011 (general fund)
- o 3.00 FTE for the court help program (general fund)
- o 1.50 and 4.16 FTE for FY 2012 and 2013, respectively for the Water Court funded by the water adjudication state special revenue account

17-7-140, MCA Reductions

During the 2011 biennium the Governor ordered executive branch agencies to reduce spending in accordance with the provisions of 17-7-140, MCA. While the Judicial Branch is not subject to this statutory requirement the branch did propose and implement voluntary spending reductions consistent with the level of reduction (the equivalent of about 5% of the FY 2011 budget) ordered by the Governor (see table below).

Spending Reductions Consistent with 17-7-140, MCA			
Item	FY 2010	FY 2011	Legislation Needed
Reduce General Operating Expenses	\$2,113	\$82,410	no
Reduce IT Equipment Purchases	0	150,000	no
Revert Portion of IT Long Range Planning Funds	0	340,000	yes
Eliminate Annual JDIP Evaluation for FY 2011	0	25,000	yes
Revert Judicial Standards Comm. Restrictd Approp	0	20,000	no
Dept. Corrections - Parental Contributions*	0	600,000	no
Dept. Corrections - Juvenile Placement Reduction*	0	267,000	no
Total	<u>\$2,113</u>	<u>\$1,484,410</u>	

*Impact Judicial Branch funding for youth.

The table illustrates three points related to these reductions:

- o The majority of the proposed reductions will occur in FY 2011 and therefore are not ongoing budget reductions
- o Two of the reductions require legislative action
- o Two items proposed by the Department of Corrections impact funding for juvenile placements and thus the availability of funding for use by juvenile probation, which is part of District Courts

LFD COMMENT	Please refer to the Department of Corrections portion of this analysis that appears later in this section for further information on the juvenile placement budget. Additionally, the Juvenile Delinquency Intervention Program (JDIP), which uses the funds impacted by the Department of Corrections reduction, is discussed later in this narrative in the section titled Statutory Appropriations.
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2% Across the Board Reduction

For the 2011 biennium budget the legislature applied a 2% across the board reduction to all agencies. Agencies were free to allocate this reduction among programs and categories of operating expenditures. However, the legislature did specify that this reduction was to be ongoing in nature. Those items that were reductions in categories other than personal services became ongoing based upon the budget development process used by the state. However, reductions that impacted personal service costs did not become ongoing and a decision package to implement them as ongoing reductions is needed.

LFD COMMENT	The Judicial Branch implemented \$14,910 of the 2% across the board reduction as a reduction in personal services. Decision packages are included in the Boards and Commissions, and Clerk of Court programs to continue the reduction.
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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.

Total 5% Reduction Plan Identified by Agencies, By Division Included and Not Included in Branch Budget 2013 Biennium					
Program/DP Number/Description	FTE	General Fund	% Of Total	State Special Revenue	% Of Total
Supreme Court Operations					
<i>Not Included in Branch Budget</i>					
Civil Legal Assistance				\$7,567	11.3%
Reduce Operating Expenses		\$23,310	1.4%		
2% Vacancy Savings		80,443	4.7%		
Reduce CAP by 35%		14,254	0.8%		
Reduce Drug Courts by 35%		247,949	14.6%		
Reduce FTE	1.50	<u>91,478</u>	5.4%		
Subtotal Not Included in Branch Budget		<u>\$457,434</u>	27.0%	<u>\$7,567</u>	11.3%
Total Supreme Court Operations		\$457,434	27.0%	\$7,567	11.3%
Boards and Commission					
<i>Not Included in Branch Budget</i>					
Operational Categories				\$4,005	6.0%
Reduce Operating Expenses		\$21,828	1.3%		
2% Vacancy Savings		3,932	0.2%		
Reduce FTE	0.60	<u>12,069</u>	0.7%	0	0.0%
Subtotal Not Included in Branch Budget		<u>\$37,829</u>	2.2%	<u>\$4,005</u>	6.0%
Total Boards and Commissions		\$37,829	2.2%	\$4,005	6.0%
Law Library					
<i>Not Included in Branch Budget</i>					
Operational Categories		<u>\$45,182</u>	2.7%		
Subtotal Not Included in Branch Budget		<u>\$45,182</u>	2.7%	<u>\$0</u>	0.0%
Total Law Library		\$45,182	2.7%	\$0	0.0%
District Court Operations					
<i>Not Included in Branch Budget</i>					
Probation Fees				\$6,478	9.6%
Reduce Operating Expenses		\$47,583	2.8%		
Reduce Payments to Contract Court Reporters		31,417	1.9%		
Eliminate Funding for Tumbleweed Contract		59,280	3.5%		
Fixed Contract for GALs		115,160	6.8%		
2% Vacancy Savings		318,676	18.8%		
Reduce Family Evaluator Services by 35%		124,154	7.3%		
Reduce FTE (Youth Court)	4.00	172,100	10.1%		
Reduce FTE	6.00	<u>265,028</u>	15.6%		
Subtotal Not Included in Branch Budget		<u>\$1,133,398</u>	66.8%	<u>\$6,478</u>	9.6%
Total District Court Operations		\$1,133,398	66.8%	\$6,478	9.6%
Water Court					
<i>Not Included in Branch Budget</i>					
Operational Categories		<u>\$0</u>	0.0%	\$49,193	73.2%
Subtotal Not Included in Branch Budget		<u>\$0</u>	0.0%	<u>\$49,193</u>	73.2%
Total Water Court		\$0	0.0%	\$49,193	73.2%
Clerk of Court					
<i>Not Included in Branch Budget</i>					
Operational Categories		<u>\$22,420</u>	1.3%		
Subtotal Not Included in Branch Budget		<u>\$22,420</u>	1.3%	<u>\$0</u>	0.0%
Total Clerk of Court		\$22,420	1.3%	\$0	0.0%
Total Reduction Plan					
Included in Branch Budget		\$0	0.0%	\$0	0.0%
Not Included in Branch Budget		<u>1,696,263</u>	100.0%	<u>67,243</u>	100.0%
Total Agency Reduction Plan		<u>\$1,696,263</u>	<u>100.0%</u>	<u>\$67,243</u>	<u>100.0%</u>

The Judicial Branch 5% reduction plan includes reductions totaling \$1.7 million general fund and less than \$0.1 million state special revenue. The largest reductions included in the plan are:

- o Personal services, \$540,675 and 12.10 FTE, including 10.00 FTE in the district courts
- o Operating and contract reductions, \$490,334
- o 2% vacancy savings, \$403,051
- o Drug court funding \$247,949 (or 35% of the current funding level).

The bulk of the reductions would occur in the District Court Operations Program (\$1.1 million) and the Supreme Court Operations Program (\$0.5 million), which are the largest programs within the branch. The potential impacts of items included in the 5% reduction plan (including additional information about specific operating and contract reductions) are discussed in more detail in the narrative for the program affected by the reduction.

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 %
01 Supreme Court Operations	\$ 18,875,241	\$ 396,472	\$ 245,921	\$ 19,517,634	24.73%
02 Boards And Commissions	609,960	160,111	-	770,071	0.98%
03 Law Library	1,788,871	-	-	1,788,871	2.27%
04 District Court Operations	51,734,171	467,299	-	52,201,470	66.14%
05 Water Courts Supervision	-	3,687,536	-	3,687,536	4.67%
06 Clerk Of Court	964,727	-	-	964,727	1.22%
Grand Total	<u>\$ 73,972,970</u>	<u>\$ 4,711,418</u>	<u>\$ 245,921</u>	<u>\$ 78,930,309</u>	<u>100.00%</u>

The branch receives the majority of its funding (about 94%) from the general fund. The largest sources of state special revenue are the Natural Resources Operation fund and Water Adjudication fund, which support the Water Court. Other sources of state special revenue include fines and fees, assessments for training events, and the accrued county sick/vacation leave fund. Federal funds received by the branch support the court assessment program.

Statutory Appropriation

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

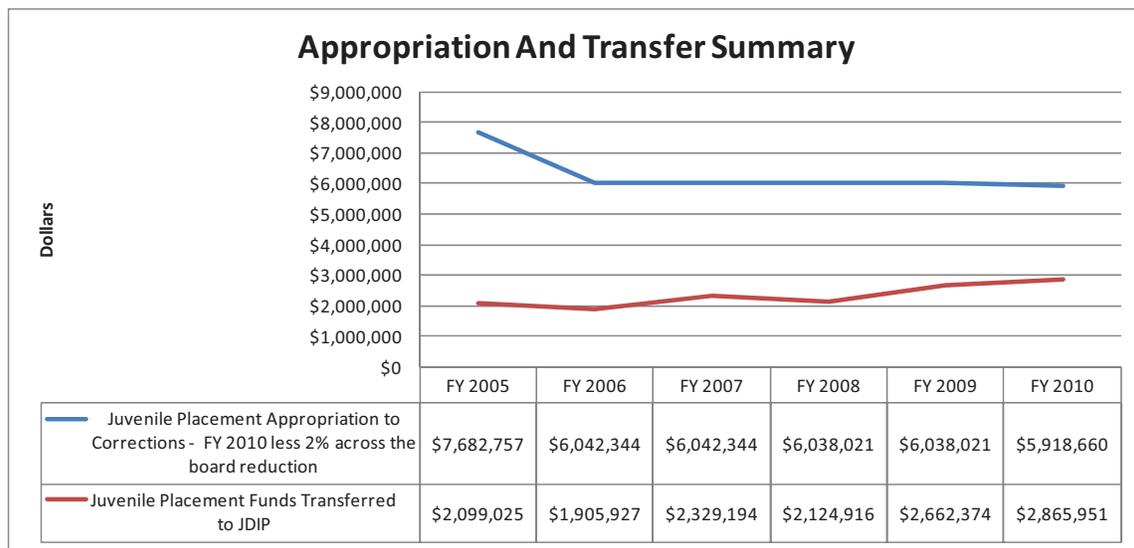
Statutory Appropriations Judicial Branch					
Purpose	MCA #	Fund Source	Fiscal 2008	Fiscal 2010	Fiscal 2011
<i>Direct Bearing on Agency Operations</i>					
Youth Court Intervention and Prevention Account	41-5-2011	SSR	\$2,012,568	\$2,073,441	\$2,302,764

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 Youth Court Intervention and Prevention account, commonly referenced as the Juvenile Delinquency Intervention Program (JDIP) is a state special revenue fund that is statutorily appropriated to the Judicial Branch. The account may be used by judicial districts to fund juvenile placements, prevention, and intervention programs including treatment services

and programs to divert youth from youth court involvement and youth correctional facilities. Funds in the account come from the unexpended portion of general fund appropriated to the Department of Corrections for juvenile placements. The branch has two years to expend the money transferred into the fund and at the end of the two year period any unexpended funds transfer to the general fund. For example, FY 2009 money that is transferred into the fund must be expended by the end of FY 2011. The branch typically expends the balance within the specified two year period and transfers to the general fund have been minimal. At the time of this writing the fund had a balance of about \$4.9 million remaining from FY 2009 and 2010 transfers into the account.

Juvenile placement funds are appropriated to the Department of Corrections and are allocated: 1) 11% to the Department of Corrections for juvenile parole placements; 2) at least \$1 million to a cost containment pool; 3) \$25,000 for a program evaluation; and 4) to the judicial districts. Funds remaining in the cost containment pool and allocations to judicial districts at the end of the fiscal year are transferred to the JDIP account for use by the district courts in the following two years.



The figure above illustrates the total appropriation for juvenile placement funds made to the Department of Corrections and the amount of unexpended funds that transferred to the JDIP account by year for FY 2005 through FY 2010. Funding for juvenile placements has remained flat since FY 2006 with a slight reduction in FY 2010 due to allocation of a 2% across the board reduction approved as part of the 2011 biennium budget. While relatively constant from FY 2005 through FY 2008, the amount of unexpended funds transferred to the JDIP account rose in FY 2009 and FY 2010 with the FY 2010 transfer being the largest transfer to date and equal to about 48% of the juvenile placement appropriation.

During the 2011 biennium funding for juvenile placements had been reduced by two actions, the application of a 2% across the board reduction in funding (\$120,000) and reductions ordered by the Governor in accordance with 17-7-140, MCA to reduce FY 2011 funding (\$300,000). Additionally, the Judicial Branch voluntary spending reductions propose savings of \$25,000 by changing the statutory requirement that this amount be expended on a program evaluation. This \$25,000 reduction is proposed by the branch as a one-time reduction. Given the level of unexpended juvenile placement funds transferred to the JDIP account in the past, the impact of these reductions is likely a reduction in the amount of funds transferred. The reduction in the amount of funds transferred to the JDIP account reduces the funding available for expenditure in the two years following the transfer (in this case FY 2012 and 2013).

**LFD
ISSUE**Appropriation Level and Potential Transfer to the General Fund

There are three issues that the legislature may wish to consider regarding this account:

- o The amount appropriated for juvenile placements and whether or not it should be reduced
- o Provision of an appropriation for juvenile placements directly to the Judicial Branch rather than the Department of Corrections
- o Transfer of the fund balance in the account to the general fund

Given that the expenditure of the appropriation for juvenile placements has been decreasing and the amount of funds transferred to the JDIP account increasing, the legislature may wish to consider what level of funds to appropriate for juvenile placements. A reduction in the juvenile placement appropriation would have a trickle down impact on the JDIP account and availability of funds for intervention and prevention programs.

In conjunction with discussion of the level of appropriation the legislature may wish to consider whether or not an appropriation should be made directly to the Judicial Branch rather than the Department of Corrections. There are two options the legislature could consider:

- o Modify the current statutes to reflect the direct appropriation of juvenile placement funds to the Judicial Branch
- o Reduce the level of appropriation for juvenile placement funds to the Department of Corrections and appropriate funding for juvenile intervention and prevention programs directly to the Judicial Branch

If the legislature appropriated funding for juvenile intervention and prevention programs directly to the Judicial Branch the funding would only be available for that biennium unless statute is changed.

The legislature may also wish to consider transferring all or a portion of the unexpended balance in the JDIP account to the general fund. While the branch will most likely expend this balance within the two year time frame provided in statute the legislature may wish to transfer a portion or all of the funds remaining in this account to the general fund. Potential negative impacts of such a transfer may include:

- o Reduction in funding available during the 2013 biennium for judicial district placements and youth intervention and prevention programs
- o Decreased funding for youth intervention and prevention services that may decrease diversions and increase the number of youth offenders referred to the court resulting in increased need for juvenile placement funds
- o Increased placement of youth in Montana's youth correctional facilities

Potential positive impacts of such a transfer may include:

- o No increase in juvenile placement needs, referrals to youth court, or placements at youth correction facilities
- o Increased operating efficiencies may be identified and implemented
- o New low cost or no cost alternatives to juvenile placement may be identified and implemented

Options:

The legislature may wish to consider the following options that are not mutually exclusive:

- o Reduce the amount appropriated to the Department of Corrections for juvenile placement funds for the 2013 biennium
- o Provide an appropriation directly to the Judicial Branch
 - For juvenile placements
 - For only juvenile prevention and intervention programs
- o Transfer funds from the JDIP account to the general fund
 - An amount equal to the anticipated FY 2011 ending balance
 - A portion of the anticipated FY 2011 ending balance
- o Take no action

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	33,937,675	33,937,675	67,875,350	91.76%	35,982,324	35,982,324	71,964,648	91.17%
Statewide PL Adjustments	2,218,273	2,300,412	4,518,685	6.11%	2,312,118	2,394,427	4,706,545	5.96%
Other PL Adjustments	515,229	502,081	1,017,310	1.38%	758,802	938,689	1,697,491	2.15%
New Proposals	281,017	280,608	561,625	0.76%	281,017	280,608	561,625	0.71%
Total Budget	\$36,952,194	\$37,020,776	\$73,972,970		\$39,334,261	\$39,596,048	\$78,930,309	

Elected Official Proposal

Statute provides that judicial branch budget proposals must be included in the budget submitted by the governor, but expenditures above the current base budget need not be part of the executive request. The branch has indicated it will present the following request that was not included in the executive budget to the legislature for consideration.

Family Evaluator - This proposal requests \$98,841 in general fund money for a full-time family evaluator position to assist District Court judges in the 4th (Missoula and Mineral Counties) and 21st (Ravalli County) Judicial Districts in resolving contested custody matters. A family evaluator would conduct parenting evaluations and make recommendations to the courts regarding parenting decisions in cases involving indigent parties.

LFD COMMENT	The branch indicates that these districts previously appointed and paid an attorney guardian ad litem to assist with these cases. Funding for guardian ad litem was discontinued by the branch beginning in the 2011 biennium as a budget reduction measure. The branch proposes hiring a family evaluator as a more cost effective way to provide assistance to judges in these cases.
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Program Budget Comparison

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

Program Budget Comparison								
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE	65.75	65.75	68.75	68.75	65.75	68.75	3.00	4.56%
Personal Services	4,630,756	4,970,608	5,296,258	5,293,497	9,601,364	10,589,755	988,391	10.29%
Operating Expenses	4,602,133	4,630,604	4,465,318	4,462,561	9,232,737	8,927,879	(304,858)	(3.30%)
Equipment & Intangible Assets	0	5,199	0	0	5,199	0	(5,199)	(100.00%)
Grants	0	0	0	0	0	0	0	n/a
Transfers	0	0	0	0	0	0	0	n/a
Total Costs	\$9,232,889	\$9,606,411	\$9,761,576	\$9,756,058	\$18,839,300	\$19,517,634	\$678,334	3.60%
General Fund	8,959,376	9,257,526	9,440,408	9,434,833	18,216,902	18,875,241	658,339	3.61%
State Special	151,336	223,236	198,236	198,236	374,572	396,472	21,900	5.85%
Federal Special	122,177	125,649	122,932	122,989	247,826	245,921	(1,905)	(0.77%)
Total Funds	\$9,232,889	\$9,606,411	\$9,761,576	\$9,756,058	\$18,839,300	\$19,517,634	\$678,334	3.60%

Program Description

The Supreme Court has appellate jurisdiction for the State of Montana. The court has original jurisdiction to issue, hear, and determine writs of habeas corpus and other writs provided by law. It also has general supervisory control over all other courts in the state. The Supreme Court is charged with establishing rules governing appellate procedure, the practice and procedure for all other courts, and admission to the bar and conduct of its members. Within the Supreme Court Operations program, the Office of Court Administrator provides centralized services to the Judicial Branch including information technology, budget and finance, payroll and human resource management, policy and technical support for the Youth Courts, judicial education, and services provided through the federal Court Assessment Program related to child abuse and neglect cases.

Program Highlights

Supreme Court Operations Major Budget Highlights
<ul style="list-style-type: none"> ◆ Total funding and general fund support for this program increase 3.6% between the two biennia ◆ The two primary causes of the general fund increase are: <ul style="list-style-type: none"> ● A new proposal requesting one-time-only funding for the Court-Help Law Program that has been funded by one-time-only appropriations for the past two biennia ● Statewide present law adjustments

Program Narrative

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 Legislative Fiscal Division recommends that the legislature 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.

Goal 1 – Montana Supreme Court, Case Processing Measures

- o Successes
 - Only one pending case is greater than 365 days old
 - Time to disposition for direct appeals has decreased
- o Challenges
 - Retirement of an employee has led to delays preparing case processing measures for the third quarter of calendar year 2010

LFD COMMENT

The 2013 biennium goals and objectives submitted by the branch are unchanged from the previous biennium and are broad based statements that the branch indicates do not change and are based upon the Montana Constitution. Thus, it is questionable whether or not the goals and objectives provide valuable information to the general reader. However, the branch has implemented meaningful performance measures (case processing measures) that provide valuable management information and data about how the court is operating. Goals and objectives that stated the desired outcomes of the performance measures (case processing) adopted by the court would be more beneficial. For example, a goal such as maintain the age of pending cases at 365 or fewer days relates to the case processing measure “age of pending cases” and provides an easily understandable goal that can be compared to actual results.

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 5% reduction plan includes reductions of \$457,434 general fund for this program. The largest proposed reduction decreases funding for grants to drug courts by \$247,949 or 35% of the current appropriation level. The next largest reduction decreases FTE (information technology and financial analyst) and applies vacancy savings of 2% (\$171,921) to the program.

The following information is provided so that the legislature can consider the potential impacts of 5% plan reductions when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

Supreme Court Operations: Reduce Drug Court Funding by 35%

Reason For Reduction: This proposal is part of the Judicial Branch’s 5% reduction plan, which is required under 17-7-111(3)(f), MCA. It is among the branch’s lowest priorities because of the negative impact this reduction would have on drug court operations if implemented.

Affect on Program or Project Outcomes: Montana drug courts provide court and treatment services to non-violent offenders with an alcohol and/or drug abuse dependency to give them the tools and incentives necessary to conquer their substance abuse problems. The 2011 biennium general fund appropriation supports statewide administrative and technical services, local drug court coordination services, and client treatment and support services for twelve drug courts. Reducing financial support for the drug courts by over one-third would force significant changes in the operation of these courts.

Potential operational changes among drug courts would include: closure of one or more courts, elimination of court positions or reductions in work hours, reduction of treatment and other services for clients, and reduction or elimination of statewide support services including technical assistance, data collection, analysis and reporting to the legislature, and training.

Adjusted Performance Criteria: Performance measurements have been developed for each type of drug court – adult, juvenile, family, and co-occurring. These measures may need to be adjusted to reflect diminished resources depending on how any budget reductions would be applied.

FTE Impacts: This proposal may result in elimination or reduction in the number of FTE supporting drug courts at the local and statewide level depending on how any budget reductions would be applied.

Funding Impacts: These proposals would generate \$247,949 in general fund savings per year.

Risks: Drug court programs have resulted in lower recidivism rates for offenders, allowed offenders to stay in their communities to support their families and pay taxes, reduced the number of babies born drug addicted, and reduced the need for foster care. A 35% funding cut would significantly reduce the number of offenders who could be served by these courts, thereby diminishing the societal benefits derived from the programs.

Supreme Court Operations: 2% Vacancy Savings and FTE Reduction

Reason For Reduction: These proposals are part of the Judicial Branch’s 5% reduction plan, which is required under 17-7-111(3)(f), MCA. Because over 75% of branch expenditures are attributable to personal services, the branch would not be able to reach its target reduction amount without proposing vacancy savings and FTE reductions. These proposals are among the branch’s lowest priorities because of the negative impact they would have on branch operations if implemented.

Affect On Program Or Project Outcomes: It is unlikely that the program would be able to achieve the proposed vacancy savings through attrition alone because the branch’s turnover rate has decreased as the economic climate has worsened. Because this program provides centralized services to the Judicial Branch, keeping positions open for lengthy periods would result in less timely support for the courts of limited jurisdiction, district courts, and Supreme Court, especially in the area of court technology.

The proposed FTE reduction would result in eliminating an information technology (IT) business analyst and trainer position (1.00 FTE) and one-half of a financial analyst position (0.50 FTE) within the Office of Court Administrator. Elimination of the IT business analyst and trainer position would result in:

- o Slower response times in meeting the needs of IT users in the courts of limited jurisdiction and district courts, including training and support related to fines and fee collection through the FullCourt case management system
- o A slower deployment schedule for new releases of the case management system

Elimination of the financial analyst may result in slower processing of financial transactions and required financial reporting.

Adjusted Performance Criteria: Response time for centralized service staff providing services in the areas of IT, finance, and court services would be slower, and project deadlines would be extended to reflect the reduced human resources available.

FTE Impacts: Keeping positions open for extended periods of time to generate vacancy savings and eliminating positions would require reassignment of workload to remaining staff. Absorbing the same amount of work with fewer people would likely create a significant burden on employees over time.

Funding Impacts: These proposals would generate \$171,921 in general fund savings per year.

Risks: The Judicial Branch is dependent on its employees to efficiently process cases filed in the courts. Implementation of these proposals would reduce the resources available for the branch to get its work done in a timely manner.

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	% of Base	Budget	% of Budget	Budget	% of Budget
	FY 2010	FY 2010	FY 2012	FY 2012	FY 2013	FY 2013
01000 Total General Fund	\$ 8,959,376	97.0%	\$ 9,440,408	96.7%	\$ 9,434,833	96.7%
01100 General Fund	8,959,376	97.0%	9,440,408	96.7%	9,434,833	96.7%
02000 Total State Special Funds	151,336	1.6%	198,236	2.0%	198,236	2.0%
02536 Legal Assistance	148,236	1.6%	148,236	1.5%	148,236	1.5%
02961 State Grants To Drug Courts	3,100	0.0%	50,000	0.5%	50,000	0.5%
03000 Total Federal Special Funds	122,177	1.3%	122,932	1.3%	122,989	1.3%
03240 Court Assessment Program	122,177	1.3%	122,932	1.3%	122,989	1.3%
Grand Total	\$ 9,232,889	100.0%	\$ 9,761,576	100.0%	\$ 9,756,058	100.0%

Almost 97% of the program’s funding comes from the general fund. State special revenues from a portion of the dissolution of marriage fees is utilized to provide civil legal services for indigent victims of domestic violence (3-2-714,MCA) and when combined with fees collected by drug courts provide about 2% of the program’s funding. Federal funds support the court assessment program and equate to about 1% of the funding for this program.

Budget Summary by Category

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

Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	8,959,376	8,959,376	17,918,752	94.93%	9,232,889	9,232,889	18,465,778	94.61%
Statewide PL Adjustments	180,243	172,588	352,831	1.87%	180,998	173,400	354,398	1.82%
Other PL Adjustments	4,862	7,351	12,213	0.06%	51,762	54,251	106,013	0.54%
New Proposals	295,927	295,518	591,445	3.13%	295,927	295,518	591,445	3.03%
Total Budget	\$9,440,408	\$9,434,833	\$18,875,241		\$9,761,576	\$9,756,058	\$19,517,634	

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
Present Law Adjustments										
Personal Services					497,274					494,922
Inflation/Deflation					(6,516)					(6,026)
Fixed Costs					(309,760)					(315,496)
Total Statewide Present Law Adjustments		\$180,243	\$0	\$755	\$180,998		\$172,588	\$0	\$812	\$173,400
DP 1002 - Rent North Park Building	0.00	4,862	0	0	4,862	0.00	7,351	0	0	7,351
DP 1003 - Drug Court Fees	0.00	0	46,900	0	46,900	0.00	0	46,900	0	46,900
Total Other Present Law Adjustments	0.00	\$4,862	\$46,900	\$0	\$51,762	0.00	\$7,351	\$46,900	\$0	\$54,251
Grand Total All Present Law Adjustments	0.00	\$185,105	\$46,900	\$755	\$232,760	0.00	\$179,939	\$46,900	\$812	\$227,651

Program Personal Services Narrative

Please refer to the agency narrative for a discussion of the Judicial Branch pay plan and personal services costs.

The statewide present law adjustment for personal services increases funding for the program by about \$1 million for the biennium due to fully funding vacant positions, increases in employee health insurance costs, and pay increases for Supreme Court Justices as provided by statute.

DP 1002 - Rent North Park Building - This decision package requests funding to cover the increase in lease payments for space rented at the Old Federal Building in Helena. The increase is required per the lease agreement.

DP 1003 - Drug Court Fees - This decision package requests funding to expend fees collected from drug court participants. The drug courts have indicated to Judicial Branch staff that fee collections will significantly increase in the 2013 biennium and the fees that are collected will be used for drug court operating costs.

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 1001 - Court Help Program - OTO										
01	3.00	295,927	0	0	295,927	3.00	295,518	0	0	295,518
Total	3.00	\$295,927	\$0	\$0	\$295,927	3.00	\$295,518	\$0	\$0	\$295,518

DP 1001 - Court Help Program - OTO - This decision package requests \$592,546 to continue the Court Help Program, which provides assistance to litigants representing themselves in civil cases. The program consists of full-time staffed court help law centers in Kalispell and Billings, a program coordinator, and a legal resources developer charged with increasing the number of attorneys willing to provide free legal services. Part-time law centers also are funded in Missoula and Bozeman. The law centers provide information and resources to assist people in navigating the civil court system. The program does not provide legal advice or legal representation. The branch indicates that since the creation of the program (2007) more than 10,000 citizens have sought assistance from the program. This program was funded by one-time-only appropriations for both the 2009 and 2011 biennia. 2011 biennium funding for the program was included in HB 645 which implemented the federal American Recovery and Reinvestment Act (ARRA).

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	3.00	3.00	3.00	3.00	3.00	3.00	0.00	0.00%
Personal Services	173,145	183,917	195,495	195,893	357,062	391,388	34,326	9.61%
Operating Expenses	188,096	175,569	195,959	182,724	363,665	378,683	15,018	4.13%
Total Costs	\$361,241	\$359,486	\$391,454	\$378,617	\$720,727	\$770,071	\$49,344	6.85%
General Fund	281,138	288,237	311,515	298,445	569,375	609,960	40,585	7.13%
State Special	80,103	71,249	79,939	80,172	151,352	160,111	8,759	5.79%
Total Funds	\$361,241	\$359,486	\$391,454	\$378,617	\$720,727	\$770,071	\$49,344	6.85%

Program Description

The Boards and Commissions Program provides staff and other support to constitutionally and statutorily required commissions attached to the Montana Supreme Court, specifically the Judicial Standards Commission, the Sentence Review Board, and the Commission on Courts of Limited Jurisdiction. The program also supports activities of the Commission on Practice. Other specialized commissions and task forces, not required by the Constitution and statute but created by the Supreme Court to address specific issues, receive minimal financial assistance with travel expenses and supplies.

Program Highlights

Boards and Commissions Major Budget Highlights
<ul style="list-style-type: none"> ◆ Total funding for this program increases 6.9% between the two biennia <ul style="list-style-type: none"> • General fund support for the program increases 7.1% between the two biennia, primarily due to statewide present law adjustments and funding for the Judicial Standards Commission

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 5% reduction plan for this program includes general fund reductions of \$37,829 through decreasing operating expenses, application of 2% vacancy savings, and reduction of 0.60 FTE. Operating savings would be achieved by reducing training for judges and justices. The potential impacts of staffing reductions are delays in completion of work such as investigation of complaints against attorneys and judges.

The plan for this program also includes a reduction in expenditure of state special revenues (\$4,005) by reducing operating expenses for training for Courts of Limited Jurisdiction.

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	% of Base	Budget	% of Budget	Budget	% of Budget
	FY 2010	FY 2010	FY 2012	FY 2012	FY 2013	FY 2013
01000 Total General Fund	\$ 281,138	77.8%	\$ 311,515	79.6%	\$ 298,445	78.8%
01100 General Fund	281,138	77.8%	311,515	79.6%	298,445	78.8%
02000 Total State Special Funds	80,103	22.2%	79,939	20.4%	80,172	21.2%
02399 Boards And Commissions - Mji	80,103	22.2%	79,939	20.4%	80,172	21.2%
Grand Total	\$ 361,241	100.0%	\$ 391,454	100.0%	\$ 378,617	100.0%

This program receives 79% of its funds from the general fund. State special revenue from fees charged for training events provides 21% of the program’s funding.

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	281,138	281,138	562,276	92.18%	361,241	361,241	722,482	93.82%
Statewide PL Adjustments	22,563	22,779	45,342	7.43%	22,399	22,848	45,247	5.88%
Other PL Adjustments	13,286	0	13,286	2.18%	13,286	0	13,286	1.73%
New Proposals	(5,472)	(5,472)	(10,944)	(1.79%)	(5,472)	(5,472)	(10,944)	(1.42%)
Total Budget	\$311,515	\$298,445	\$609,960		\$391,454	\$378,617	\$770,071	

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					22,350					22,748
Inflation/Deflation					15					31
Fixed Costs					34					69
Total Statewide Present Law Adjustments		\$22,563	(\$164)	\$0	\$22,399		\$22,779	\$69	\$0	\$22,848
DP 2001 - Judicial Standards Rest/Bien	0.00	13,286	0	0	13,286	0.00	0	0	0	0
Total Other Present Law Adjustments	0.00	\$13,286	\$0	\$0	\$13,286	0.00	\$0	\$0	\$0	\$0
Grand Total All Present Law Adjustments	0.00	\$35,849	(\$164)	\$0	\$35,685	0.00	\$22,779	\$69	\$0	\$22,848

Program Personal Services Narrative

Please refer to the agency narrative for a discussion of the Judicial Branch pay plan and personal services costs.

DP 2001 - Judicial Standards Rest/Bien - This decision package requests funding to support the constitutionally mandated Judicial Standards Commission. For the past three biennia the legislature has provided a \$25,000 restricted, biennial appropriation to support costs associated with the investigations of complaints against judges. In FY 2010, the base budget year, expenditures of \$5,857 were incurred. This decision package would increase funding available for this purpose to \$25,000 for the 2013 biennium.

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 2002 - Continuation of 2% reduction - 2009 Session										
02	0.00	(5,472)	0	0	(5,472)	0.00	(5,472)	0	0	(5,472)
Total	0.00	(\$5,472)	\$0	\$0	(\$5,472)	0.00	(\$5,472)	\$0	\$0	(\$5,472)

DP 2002 - Continuation of 2% reduction - 2009 Session - This decision package continues the 2% reduction from the 2009 session that was taken out of personal services. This reduction is in accordance with 17-7-102(10)(b), MCA.

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	6.75	6.75	6.75	6.75	6.75	6.75	0.00	0.00%
Personal Services	395,695	392,725	405,365	405,287	788,420	810,652	22,232	2.82%
Operating Expenses	372,701	412,609	372,726	372,733	785,310	745,459	(39,851)	(5.07%)
Equipment & Intangible Assets	108,479	69,326	108,479	108,479	177,805	216,958	39,153	22.02%
Debt Service	7,901	22,854	7,901	7,901	30,755	15,802	(14,953)	(48.62%)
Total Costs	\$884,776	\$897,514	\$894,471	\$894,400	\$1,782,290	\$1,788,871	\$6,581	0.37%
General Fund	884,776	897,514	894,471	894,400	1,782,290	1,788,871	6,581	0.37%
State Special	0	0	0	0	0	0	0	n/a
Total Funds	\$884,776	\$897,514	\$894,471	\$894,400	\$1,782,290	\$1,788,871	\$6,581	0.37%

Program Description

The State Law Library of Montana (22-1-501, MCA) provides access to legal information consistent with the present and anticipated needs, responsibilities, and concerns of Montana's courts, legislature, state officers and employees, members of the bar of the Supreme Court of Montana, and members of the general public. The library selects, acquires, and maintains resources consistent with this mission. The acquisition of more electronic licenses (which frequently replace the hard copies) allows the library to get information to the customer more quickly and to conserve available shelf space for books and other printed material.

Library staff also provides training in legal research methods and access to the Montana court system. The library's web site (www.lawlibrary.mt.gov) has been designed to help Montana's citizens find the statutes, court cases and rules, legal forms, and explanation of the laws they need. 75% of the people the Law Library assists are non lawyers. The library also operates a Self-Help Center in partnership with Carroll College students.

Program Highlights

Law Library Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for this program increases by less than one-half a percent between the 2011 and 2013 biennia due to statewide present law 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.

The 5% reduction plan for this program proposes reductions in operating expenses for purchase of books and other library materials totaling \$45,182. Potential impacts of this reduction are that various publications and materials will not be available for loan to other agencies and branches of state government, public libraries, courts, and the general public. This reduction is equivalent to 18.5% of the Law Library's base budget for books and reference materials.

Funding

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

The law library is funded entirely with general fund.

Program Funding Table						
Law Library						
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	\$ 884,776	100.0%	\$ 894,471	100.0%	\$ 894,400	100.0%
01100 General Fund	<u>884,776</u>	<u>100.0%</u>	<u>894,471</u>	<u>100.0%</u>	<u>894,400</u>	<u>100.0%</u>
Grand Total	<u>\$ 884,776</u>	<u>100.0%</u>	<u>\$ 894,471</u>	<u>100.0%</u>	<u>\$ 894,400</u>	<u>100.0%</u>

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	884,776	884,776	1,769,552	98.92%	884,776	884,776	1,769,552	98.92%
Statewide PL Adjustments	9,695	9,624	19,319	1.08%	9,695	9,624	19,319	1.08%
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$894,471	\$894,400	\$1,788,871		\$894,471	\$894,400	\$1,788,871	

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					9,670					9,592
Inflation/Deflation					25					32
Total Statewide Present Law Adjustments		\$9,695	\$0	\$0	\$9,695		\$9,624	\$0	\$0	\$9,624
Grand Total All Present Law Adjustments	0.00	\$9,695	\$0	\$0	\$9,695	0.00	\$9,624	\$0	\$0	\$9,624

Program Personal Services Narrative

Please refer to the agency narrative for a discussion of the Judicial Branch pay plan and personal services costs.

Proprietary Rates*Proprietary Program Description*

The Law Library requests that a contractor perform online searches and recovers the costs charged by the contractor for those searches from the requesting party.

Expenses

The only expenses charged to this fund are the costs of online searches/research.

Revenues

Revenues are charged based upon the cost of the search/research performed and are based upon the cost charged by the contractor.

Funding Sources

Funding for this service comes from payments made by the various state, county, and city agencies that use the service.

Proprietary Rates

No change is proposed.

This program is funded with an enterprise type proprietary fund. As such, the legislature does not appropriate funds or approve rates for the program. Instead, the legislature reviews the report for the enterprise fund and identifies any concerns with the financial position of the fund.

2013 Biennium Report on Internal Service and Enterprise Funds						
Fund	Fund Name	Agency #	Program Name			
06019	Searches/Research	21100	Law Library			
			Actual FY10	Budgeted FY11	Budgeted FY12	Budgeted FY13
Operating Revenues:						
Fee revenue						
	Law Library Online Searches Revenue		192,582	195,000	195,000	195,000
	Net Fee Revenue		192,582	195,000	195,000	195,000
	Total Operating Revenue		192,582	195,000	195,000	195,000
Operating Expenses:						
Personal Services						
			-	-	-	-
Other Operating Expenses						
			189,722	189,792	189,771	189,823
	Total Operating Expenses		189,722	189,792	189,771	189,823
Operating Income (Loss)			2,860	5,208	5,229	5,177
Nonoperating Revenues (Expenses):						
Gain (Loss) Sale of Fixed Assets						
			-	-	-	-
Federal Indirect Cost Recoveries						
			-	-	-	-
Other Nonoperating Revenues (Expenses)						
			-	-	-	-
	Net Nonoperating Revenues (Expenses)		-	-	-	-
Income (Loss) Before Operating Transfers			2,860	5,208	5,229	5,177
Contributed Capital						
			-	-	-	-
Operating Transfers In (Note 13)						
			-	-	-	-
Operating Transfers Out (Note 13)						
			-	-	-	-
	Change in net assets		2,860	5,208	5,229	5,177
Total Net Assets- July 1 - As Restated			3,460	6,320	11,528	16,757
Prior Period Adjustments						
			-	-	-	-
Cumulative effect of account change						
			-	-	-	-
Total Net Assets - July 1 - As Restated			-	-	-	-
Net Assets- June 30			6,320	11,528	16,757	21,934
60 days of expenses						
	(Total Operating Expenses divided by 6)		31,620	31,632	31,629	31,637
Requested Rates for Enterprise Funds						
Fee/Rate Information						
			Actual FYE 10	Budgeted FY 11	Budgeted FY 12	Budgeted FY 13
	Law Library Online Searches		189,722	189,792	189,771	189,823
The Law Library staff performs on-line searches/research for public and private entities.						
The law library is billed by the on-line provider for the air time and the Law Library, in turn,						

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	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	311.08	311.08	316.08	316.08	311.08	316.08	5.00	1.61%
Personal Services	20,614,284	21,695,401	23,001,911	23,089,300	42,309,685	46,091,211	3,781,526	8.94%
Operating Expenses	2,880,010	3,217,803	3,025,463	3,026,498	6,097,813	6,051,961	(45,852)	(0.75%)
Equipment & Intangible Assets	25,399	40,577	25,399	25,399	65,976	50,798	(15,178)	(23.01%)
Grants	0	0	0	0	0	0	0	n/a
Benefits & Claims	0	0	0	0	0	0	0	n/a
Debt Service	3,750	7,500	3,750	3,750	11,250	7,500	(3,750)	(33.33%)
Total Costs	\$23,523,443	\$24,961,281	\$26,056,523	\$26,144,947	\$48,484,724	\$52,201,470	\$3,716,746	7.67%
General Fund	23,363,992	24,554,598	25,822,967	25,911,204	47,918,590	51,734,171	3,815,581	7.96%
State Special	159,451	406,683	233,556	233,743	566,134	467,299	(98,835)	(17.46%)
Federal Special	0	0	0	0	0	0	0	n/a
Total Funds	\$23,523,443	\$24,961,281	\$26,056,523	\$26,144,947	\$48,484,724	\$52,201,470	\$3,716,746	7.67%

Program Description

The District Courts have original jurisdiction in all felony criminal cases, most civil matters and other cases in law, and in equity. These courts may issue all writs appropriate to their jurisdiction and hear appeals from Courts of Limited Jurisdiction pursuant to statutory parameters. The district courts are also the state's Youth Courts, responsible for managing juvenile probation functions. There are 46 District Court judges in 22 judicial districts serving all 56 counties. The 2001 Legislature mandated state funding of District Court expenses, including salaries and operating expenses for judges and their employees. District Court costs are the largest segment of the Judicial Branch budget.

Program Highlights

District Court Operations Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for this program increases 7.7% (\$3.7 million) between the 2011 and 2013 biennia due to: <ul style="list-style-type: none"> • The exclusion of vacancy savings (2%) • Funding new judges added by the 2009 Legislature and not in place until January 2011 for the entire biennium rather than six months • Increases in statewide present law adjustments due to the use of one-time-only carry forward funds in the base budget year

Program Narrative

Program Overview

The largest change between biennia in this program's budget is the addition of three district court judges and related staff. The 2009 Legislature authorized the addition of a district court judge in each of three districts (JD 1 - Lewis and Clark and Broadwater Counties, JD 11- Flathead County, and JD 13 - Yellowstone County). The new judges were elected in November 2010 and will take office in January 2011. The 2011 biennium budget included funding for the equivalent of 5.00 FTE (10 positions for six months in FY 2011 only) and related operating costs. The 10 positions were authorized for the 2011 biennium as the equivalent of 0.50 FTE each and are included in the adjusted base budget for both FY 2012 and 2013 at this level. The decision package included in the executive budget increases these positions to

full time (or 1.00 FTE each) and requests funding to annualize operating costs associated with the three new judicial districts.

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.

Goal 1 – District Court, Design and Implementation of Court Management Measures

- o Successes
 - Design complete and adopted by the District Court Council
 - Pilot project underway
- o Challenges
 - Development of measures
 - Deployment statewide including coordination among entities

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 proposed 5% reduction plan for this division includes general fund reductions totaling \$1.1 million. The largest reductions proposed include a decrease of 10.00 FTE (\$437,128) and application of 2% vacancy savings (\$318,676). None of the proposed reductions are included in the executive budget.

The following information is provided so that the legislature can consider the potential impacts of 5% plan reductions when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

District Court Operations: 2% Vacancy Savings and FTE Reduction

Reason For Reduction: These proposals are part of the Judicial Branch's 5% reduction plan, which is required under 17-7-111(3)(f), MCA. Because over 75% of branch expenditures are attributable to personal services, the branch would not be able to reach its target reduction amount without proposing vacancy savings and FTE reductions. These proposals are among the branch's lowest priorities because of the negative impact they would have on district court operations if implemented.

Affect On Program Or Project Outcomes: It is unlikely that the program would be able to achieve the proposed vacancy savings through attrition alone because the branch's turnover rate has decreased as the economic climate has worsened. Therefore, vacant positions would need to remain open for extended periods of time to generate the necessary vacancy savings.

A district court judge is highly reliant on three key support positions: a judicial assistant, a court reporter, and a law clerk. Keeping any of these positions open for lengthy periods of time would impede the day-to-day operations of the court. Because a district court is a court of record, a judge could not conduct legal proceedings without a court reporter to record the proceedings. A vacant law clerk position would force a judge to conduct his or her own legal research, which would reduce the amount of time that a judge could spend in the courtroom hearing cases. Similarly, when a

judge is required to handle administrative tasks (e.g., preparing letters, scheduling meetings) because a judicial assistant is unavailable, the judge’s time on the bench would be reduced. Youth Court staffing also is lean, and because of the direct service nature of the juvenile probation personnel, it would be difficult to maintain vacancies for a significant amount of time.

The proposed FTE reduction would result in eliminating 6.0 FTE in the district courts and 4.0 FTE in the juvenile probation offices. These positions would be eliminated in various judicial districts throughout the state and would reduce administrative, clerical, and courtroom support for the district courts and direct services for juveniles referred to the youth courts. Eliminating positions in the district courts would lengthen the time for disposing of cases because judges would have fewer resources to assist them in processing cases. Eliminating positions in the juvenile probation offices would increase the caseload of remaining staff, which may impact public safety.

Adjusted Performance Criteria: Court management tools are currently being developed for the district courts. These tools identify specific time reference points for the closure of each case type. The time reference points may need to be adjusted to reflect diminished resources.

FTE Impacts: Keeping positions open for extended periods of time to generate vacancy savings and eliminating 10 positions would require reassignment of workload to remaining staff. Absorbing the same amount of work with fewer people would likely create a significant burden on employees over time.

Funding Impacts: These proposals would generate \$755,804 in general fund savings per year.

Risks: Applying calendar year 2009 case filings to the district courts’ judicial workload assessment model indicates that for many judicial districts, the caseload has reached a point at which timely processing of cases, even those with statutory priority for adjudication, is nearly impossible. As a result, those cases with no statutory priority such as: business disputes, divorces cases, debt collection cases, and property conflicts are being scheduled farther and farther out on judges' calendars, stranding many Montanans in legal limbo.

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							
District Court Operations							
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	\$ 23,363,992	99.3%	\$ 25,822,967	99.1%	\$ 25,911,204	99.1%
	01100 General Fund	23,363,992	99.3%	25,822,967	99.1%	25,911,204	99.1%
02000	Total State Special Funds	159,451	0.7%	233,556	0.9%	233,743	0.9%
	02141 District Court Crim. Reimb.	129,559	0.6%	129,690	0.5%	129,826	0.5%
	02788 Acc. Cty Sick/Vacation Leave	29,892	0.1%	103,866	0.4%	103,917	0.4%
	Grand Total	<u>\$ 23,523,443</u>	<u>100.0%</u>	<u>\$ 26,056,523</u>	<u>100.0%</u>	<u>\$ 26,144,947</u>	<u>100.0%</u>

The bulk of the funding for District Court Operations comes from the general fund. State special revenue is generated from court imposed fines and fees and county payments to the accrued sick/vacation leave fund made at the time of state assumption of District Court costs. Federal funds supporting the program are generally time limited grant awards that support special projects such as drug courts.

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	23,363,992	23,363,992	46,727,984	90.32%	23,523,443	23,523,443	47,046,886	90.13%
Statewide PL Adjustments	1,961,894	2,052,482	4,014,376	7.76%	1,962,073	2,052,848	4,014,921	7.69%
Other PL Adjustments	497,081	494,730	991,811	1.92%	571,007	568,656	1,139,663	2.18%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$25,822,967	\$25,911,204	\$51,734,171		\$26,056,523	\$26,144,947	\$52,201,470	

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					1,967,129					2,055,669
Inflation/Deflation					(5,235)					(3,187)
Fixed Costs					179					366
Total Statewide Present Law Adjustments		\$1,961,894	\$179	\$0	\$1,962,073		\$2,052,482	\$366	\$0	\$2,052,848
DP 4001 - New Judges and Staff Base Adjustment	5.00	497,081	0	0	497,081	5.00	494,730	0	0	494,730
DP 4004 - State Special for Accrued Leave Payouts	0.00	0	73,926	0	73,926	0.00	0	73,926	0	73,926
Total Other Present Law Adjustments	5.00	\$497,081	\$73,926	\$0	\$571,007	5.00	\$494,730	\$73,926	\$0	\$568,656
Grand Total All Present Law Adjustments	5.00	\$2,458,975	\$74,105	\$0	\$2,533,080	5.00	\$2,547,212	\$74,292	\$0	\$2,621,504

Program Personal Services Narrative

Please refer to the agency narrative for a discussion of the Judicial Branch pay plan and personal services costs

Statewide present law adjustments add almost \$2.0 million per year in personal service costs due to: health insurance cost increases, fully funding positions that were vacant in the base, elected official salary increases as provided by statute, new judges and staff for one half of a year, and replacement of one-time-only carry forward funds that were used in the base budget year.

DP 4001 - New Judges and Staff Base Adjustment - This decision package requests funding to support three new judges (and support staff) as provided by the 2009 Legislature in SB 158. The three additional judges will be elected in November 2010 and take office in January 2011. A District Court judge was added in the 1st, 11th and 13th judicial districts (one each). The Judicial Branch received an appropriation to support 5.0 FTE (10.0 FTE for six months of the year) and associated costs in FY 2011. Because the FY 2010 base budget does not include a full year’s costs related to the additional judges and staff, annualization of the anticipated costs must be included in a decision package.

DP 4004 - State Special for Accrued Leave Payouts - This decision package requests state special revenue funding to support projected retirement payouts for employees who became state employees at the time of district court assumption. When a Judicial Branch employee who was a county employee at the time of district court assumption retires, the Judicial Branch pays his or her accrued sick and annual leave from this state special revenue fund.

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	18.00	18.00	19.50	22.16	18.00	22.16	4.16	23.11%
Personal Services	1,300,692	1,338,299	1,497,463	1,685,966	2,638,991	3,183,429	544,438	20.63%
Operating Expenses	222,603	252,655	241,654	245,879	475,258	487,533	12,275	2.58%
Equipment & Intangible Assets	8,287	13,561	8,287	8,287	21,848	16,574	(5,274)	(24.14%)
Total Costs	\$1,531,582	\$1,604,515	\$1,747,404	\$1,940,132	\$3,136,097	\$3,687,536	\$551,439	17.58%
State Special	1,531,582	1,604,515	1,747,404	1,940,132	3,136,097	3,687,536	551,439	17.58%
Total Funds	\$1,531,582	\$1,604,515	\$1,747,404	\$1,940,132	\$3,136,097	\$3,687,536	\$551,439	17.58%

Program Description

The Water Courts Supervision Program, located in Bozeman, adjudicates claims of existing water rights in Montana pursuant to Title 3, Chapter 7 and Title 85, Chapter 2, MCA.

Program Highlights

Water Court Supervision Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for the water court increases 17.6% between the 2011 and 2013 biennia due to: <ul style="list-style-type: none"> • Statewide present law adjustments • A request to shift positions from the Department of Natural Resources and Conservation (DNRC) to the Water Court

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 5% reduction plan for this program proposes reducing operating expenditures by \$49,193 state special revenue. According to the court reductions across all categories would be undertaken in an effort to achieve the 5% savings. For example, the program may decrease or eliminate in-person public meetings to reduce advertising and travel costs. This type of reduction may impact water user understanding of water rights adjudication.

Other alternatives identified by the court in the event operating plan reductions could not be achieved include delaying water court decrees, delaying hiring for vacant positions, voluntary leave without pay, and mandatory staff reductions.

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						
Water Courts Supervision						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
02000 Total State Special Funds	\$ 1,531,582	100.0%	\$ 1,747,404	100.0%	\$ 1,940,132	100.0%
02431 Water Adjudication	547,718	35.8%	672,414	38.5%	863,484	44.5%
02576 Natural Resources Operations Ssr Ft	<u>983,864</u>	<u>64.2%</u>	<u>1,074,990</u>	<u>61.5%</u>	<u>1,076,648</u>	<u>55.5%</u>
Grand Total	<u>\$ 1,531,582</u>	<u>100.0%</u>	<u>\$ 1,747,404</u>	<u>100.0%</u>	<u>\$ 1,940,132</u>	<u>100.0%</u>

The Water Court is supported entirely by state special revenue from the renewable resources grant and loan account and the water adjudication account. Legislation passed by the 2007 Legislature (HB 473 of the regular session) transferred \$25.0 million from the general fund to the state special revenue account for adjudication of water rights claims.

Department of Natural Resources and Conservation				
Water Adjudication Fund (02431)				
	Actual FY 2010	Appropriated FY 2011	Executive Request FY 2012	Executive Request FY 2013
Beginning Balance	\$22,839,014	\$17,817,765	\$14,434,861	\$11,442,851
<u>Expenditures</u>				
Judiciary - Water Court	548,294	562,870	672,414	863,484
DNRC -Water Resources	2,363,493	2,857,040	2,295,331	2,227,572
DNRC - Centralized Services	<u>114,994</u>	<u>84,994</u>	<u>146,265</u>	
Total Expenditures	3,026,781	3,504,904	3,114,010	3,091,056
<u>Revenues</u>				
	69,671	122,000	122,000	122,000
Transfer Out	(2,064,139)	0	0	0
Ending Fund Balance	<u>\$17,817,765</u>	<u>\$14,434,861</u>	<u>\$11,442,851</u>	<u>\$8,473,795</u>

Potential Funding Issues For Water Adjudication

Downstream states and Canada are demanding water in increasing amounts. Montana cannot defend its water use from other states' demands or calls on water until it has completed the adjudication of all the water rights in Montana and knows how much of the state's water is currently being claimed and used. Issuing water right decrees for every basin in Montana will help the state establish its historic usage. Decrees protect Montana users and assist in settling disputes among users. Enforcing water rights is only possible with a water right decree in place. To expedite this process, the 2005 Legislature passed HB 22 requiring the department to complete claims examination by June 30, 2015. Subsequently, the Water Court would have an additional five years to finish the process by issuing preliminary or temporary preliminary decrees by June 30, 2020.

The program was initially funded by a water right fee deposited to the water adjudication fund. However, in the 2007 legislative session the fee was eliminated and the fund was provided a \$25.0 million transfer from the general fund. According to 85-2-280, MCA, the fund was to be sufficient to finish the on-the-ground work and fund the Water Court until FY 2020. However, estimates show that at the end of FY 2015, the water adjudication fund will have less than \$2.0 million to fund the remaining work of issuing and enforcing decrees.

After DNRC completes claims examination the Water Court begins its process of hearings and resolution of objections, and issues a temporary preliminary decree. Before the decree can be finalized Indian and federal reserve water rights for the basin must negotiated into a compact and submitted to the Water Court for adjudication. The court process to resolve objections concerning claims and reserve water rights can take several years. While FY 2020 is the deadline for the Water Court to issue the temporary preliminary decrees for all basins in the state, work on these decrees will continue past this deadline.

**LFD
ISSUE**

Water Adjudication Fund Appropriation Limits

The legislature established in statute a limit on expenditures for the Water Adjudication Program from FY 2006 through FY 2015. The intent of this limitation was to allow the fund to be used for adjudication activities and to provide resources for the five years of estimated water court work after the on-the-ground portion has been completed.

Department of Natural Resources & Conservation Water Adjudication Fund Statutory Limit and Disbursements				
Fiscal Year	Limit	Disbursements	Difference	Cummulative
2013	\$3,197,672	\$3,239,095	(\$41,423)	(\$2,562,280)
2012	3,104,536	3,114,010	(9,474)	(2,520,857)
2011	3,014,113	3,504,904	(490,791)	(2,511,383)
2010	2,926,323	5,090,920	(2,164,597)	(2,020,592)
2009	2,841,090	3,193,938	(352,848)	144,005
2008	2,758,340	2,784,071	(25,731)	496,853
2007	2,678,000	2,437,545	240,455	522,584
2006	2,600,000	2,317,871	282,129	282,129

The figure compares the actual, appropriated, and requested amounts with the statutory limit that has been inflated 3 percent per year. As shown, the statutory limit is exceeded in FY 2008 through FY 2013. The cumulative effects are not negative until FY 2009 because expenditure levels in FY 2006 and FY 2007 were less than the statutory amount. The cumulative amount increases dramatically in FY 2010 when approximately \$2.0 million was transferred to the natural resources operations fund to assist with a funding shortage.

It is projected that at the end of FY 2015 the Water Court would have approximately \$1.8 million to complete five years of work. The amount could be different depending on the amount of interest earned and the actual expenditures from the fund. At issue is whether the proposed executive budget will negatively impact the legislature’s ability to fund the Water Court’s completion of issuance and enforcement of decrees after on the ground work is completed by DNRC. To address this issue, the legislature would need to mitigate the amount of funding coming from the water adjudication fund or find another source of revenue for the fund.

Please refer to the narrative for the Water Resource Division in DNRC, which appears in Volume 5 of this analysis, for further discussion of options that the legislature could consider to mitigate the amount of funding coming from the water adjudication account or supply the account with another source of revenue.

Budget Summary by Category

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

Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	0	0	0	0.00%	1,531,582	1,531,582	3,063,164	83.07%
Statewide PL Adjustments	0	0	0	0.00%	93,075	92,768	185,843	5.04%
Other PL Adjustments	0	0	0	0.00%	122,747	315,782	438,529	11.89%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$0	\$0	\$0		\$1,747,404	\$1,940,132	\$3,687,536	

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
Present Law Adjustments										
Personal Services					91,378					90,230
Inflation/Deflation					954					1,015
Fixed Costs					743					1,523
Total Statewide Present Law Adjustments		\$0	\$93,075	\$0	\$93,075		\$0	\$92,768	\$0	\$92,768
DP 5001 - Water Court Rent Increase	0.00	0	5,782	0	5,782	0.00	0	8,802	0	8,802
DP 5002 - Water Court Additional FTE	1.50	0	116,965	0	116,965	4.16	0	306,980	0	306,980
Total Other Present Law Adjustments	1.50	\$0	\$122,747	\$0	\$122,747	4.16	\$0	\$315,782	\$0	\$315,782
Grand Total All Present Law Adjustments	1.50	\$0	\$215,822	\$0	\$215,822	4.16	\$0	\$408,550	\$0	\$408,550

Program Personal Services Narrative

Please refer to the agency narrative for a discussion of the Judicial Branch pay plan and personal services costs.

DP 5001 - Water Court Rent Increase - This decision package requests funding for a 3% per year increase in rent payments as provided in the lease agreement.

DP 5002 - Water Court Additional FTE - This decision package reflects a request to shift resources dedicated to water adjudication from the Department of Natural Resources and Conservation (DNRC) to the Water Court. The Water Court requests 4.50 FTEs and movement of authorized positions from the Department of Natural Resources and Conservation (DNRC) to the Water Court. These positions would be funded by the Water Adjudication state special revenue fund. This decision package includes: a 0.50 FTE deputy clerk in July 2011, 2.00 FTE water masters in January 2012, and 2.00 FTE water masters in August 2012, or the equivalent of 1.50 FTE in FY 2012 and 4.16 FTE in FY 2013.

LFD COMMENT	<p>The executive budget request for the Department of Natural Resources and Conservation (DNRC) includes a similar decision package decreasing FTE assigned to water adjudication functions. The DNRC decision package proposes movement of 3.50 FTE and about \$180,000 while the Water Court request proposes transfer of 4.16 FTE and about \$424,000. The difference between the two requests equates to 0.66 FTE and about \$244,000. Legislative staff will monitor appropriation subcommittee actions on the DNRC and Water Court decision packages and notify the appropriation subcommittees if action to achieve consistency between the two programs is needed.</p> <p>Further information on the DNRC decision package may be found in the Legislative Fiscal Division budget analysis of the Department of Natural Resources and Conservation in Volume 5 of this publication.</p>
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Program Budget Comparison

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

Program Budget Comparison								
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE	5.50	5.50	5.50	5.50	5.50	5.50	0.00	0.00%
Personal Services	394,105	414,426	437,593	436,652	808,531	874,245	65,714	8.13%
Operating Expenses	54,288	54,857	45,240	45,242	109,145	90,482	(18,663)	(17.10%)
Total Costs	\$448,393	\$469,283	\$482,833	\$481,894	\$917,676	\$964,727	\$47,051	5.13%
General Fund	448,393	469,283	482,833	481,894	917,676	964,727	47,051	5.13%
Total Funds	\$448,393	\$469,283	\$482,833	\$481,894	\$917,676	\$964,727	\$47,051	5.13%

Program Description

The Office of Clerk of the Supreme Court Program, pursuant to Title 3, Chapter 2, part 4, conducts the business of the court, and serves as the liaison between the public, attorneys, and the Supreme Court. By statutory authority, the clerk controls the docket and filings, manages the appellate process, and is the custodian of all legal records for the public and the court. Additionally, the clerk administers appellate mediation, maintains the official roll of Montana attorneys, and is responsible for licensing Montana’s attorneys. The Clerk of Court is an elected official.

Program Highlights

Clerk of Court Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for the Clerk of Court’s Office increases 5.1% between the 2011 and 2013 biennia due to statewide present law 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.

The proposed reduction plan for this program consists of decreasing operating expenses by \$22,420. This equates to about 41% of the program’s annual operating budget. The program indicates that all operational categories including copying, office supplies, postage, records storage, telephone charges, travel, office equipment maintenance, and training would be reduced.

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 Clerk Of Court						
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	\$ 448,393	100.0%	\$ 482,833	100.0%	\$ 481,894	100.0%
01100 General Fund	448,393	100.0%	482,833	100.0%	481,894	100.0%
Grand Total	\$ 448,393	100.0%	\$ 482,833	100.0%	\$ 481,894	100.0%

This program is funded entirely by the general fund.

Budget Summary by Category

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

Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	448,393	448,393	896,786	92.96%	448,393	448,393	896,786	92.96%
Statewide PL Adjustments	43,878	42,939	86,817	9.00%	43,878	42,939	86,817	9.00%
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	(9,438)	(9,438)	(18,876)	(1.96%)	(9,438)	(9,438)	(18,876)	(1.96%)
Total Budget	\$482,833	\$481,894	\$964,727		\$482,833	\$481,894	\$964,727	

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					43,488					42,547
Inflation/Deflation					390					392
Total Statewide Present Law Adjustments		\$43,878	\$0	\$0	\$43,878		\$42,939	\$0	\$0	\$42,939
Grand Total All Present Law Adjustments	0.00	\$43,878	\$0	\$0	\$43,878	0.00	\$42,939	\$0	\$0	\$42,939

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.

The Clerk of Court staff is part of the branch personnel plan and policies, except for recruitment, classification, and pay. Vacancy savings was achieved by leaving a position open after an employee retired. No retirements are anticipated in the next biennium. Please refer to the agency narrative for more information about the Judicial Branch pay plan.

Personal services costs for this program increase due to the statutorily provided pay increase for elected officials, employee health insurance premium increases, and the cost of a position that was vacant for a portion of the base budget year.

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 601 - Continuation of 2% reduction - 2009 Session										
06	0.00	(9,438)	0	0	(9,438)	0.00	(9,438)	0	0	(9,438)
Total	0.00	(\$9,438)	\$0	\$0	(\$9,438)	0.00	(\$9,438)	\$0	\$0	(\$9,438)

DP 601 - Continuation of 2% reduction - 2009 Session - This decision package continues the 2% reduction from the 2009 session that was taken out of personal services. This reduction is in accordance with 17-7-102(10)(b), MCA.