

Agency Budget Comparison

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

Agency Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	690.27	690.27	694.27	694.27	690.27	694.27	4.00	0.58%
Personal Services	37,299,436	41,652,605	42,037,081	42,182,546	78,952,041	84,219,627	5,267,586	6.67%
Operating Expenses	20,506,827	20,570,837	23,152,174	22,334,231	41,077,664	45,486,405	4,408,741	10.73%
Equipment & Intangible Assets	2,090,990	2,310,630	2,383,490	2,416,490	4,401,620	4,799,980	398,360	9.05%
Grants	0	0	0	0	0	0	0	n/a
Benefits & Claims	860,152	864,021	1,935,631	1,935,631	1,724,173	3,871,262	2,147,089	124.53%
Transfers	0	0	0	0	0	0	0	n/a
Debt Service	830,342	7,936,794	1,877,215	1,761,767	8,767,136	3,638,982	(5,128,154)	(58.49%)
Total Costs	\$61,587,747	\$73,334,887	\$71,385,591	\$70,630,665	\$134,922,634	\$142,016,256	\$7,093,622	5.26%
General Fund	23,761,709	25,275,706	27,244,521	26,518,773	49,037,415	53,763,294	4,725,879	9.64%
State Special	35,011,954	44,540,438	40,589,183	40,554,608	79,552,392	81,143,791	1,591,399	2.00%
Federal Special	1,335,049	1,736,714	1,749,057	1,752,734	3,071,763	3,501,791	430,028	14.00%
Other	1,479,035	1,782,029	1,802,830	1,804,550	3,261,064	3,607,380	346,316	10.62%
Total Funds	\$61,587,747	\$73,334,887	\$71,385,591	\$70,630,665	\$134,922,634	\$142,016,256	\$7,093,622	5.26%

Agency Description

Mission Statement: The mission of the Department of Justice is to pursue activities and programs that seek to ensure and promote the public interest, safety, and well-being through leadership, advocacy, education, regulation, and enforcement.

The Department of Justice, under the direction of the Attorney General, is responsible for statewide legal services and counsel, law enforcement, and public safety, as authorized in 2-15-501, MCA. The duties of the department include:

- o Providing legal representation for the state and its political subdivisions in criminal appeals
- o Providing legal services and counsel for the state, county and municipal agencies, and their officials
- o Enforcing Montana traffic laws and registering all motor vehicles
- o Enforcing state fire safety codes and regulations
- o Assisting local law enforcement agencies in bringing offenders to justice
- o Managing a statewide system of death investigations and providing scientific analyses of specimens submitted by law enforcement officials, coroners and state agencies
- o Maintaining and disseminating criminal justice information to authorized state, local, and other entities
- o Providing uniform regulation of all gambling activities in the state of Montana

Agency Highlights

Department of Justice Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for the agency increases 5.3 percent (\$7.1 million) when the 2009 and 2011 biennia are compared ◆ General fund support increases 9.6 percent (\$4.7 million) between the two biennia <ul style="list-style-type: none"> ◆ Increases in funding for statewide present law adjustments, license plate reissue (\$0.3 million), and the methamphetamine watch media campaign (\$0.5 million) are partially offset by a decrease in funding for rent of the state crime lab ◆ Federal funds increase 14.0 percent (\$0.4 million) primarily due to an increase in funding from the federal crime victims compensation grant and for Medicaid fraud investigation

<ul style="list-style-type: none"> ◆ Proprietary funds increase 10.6 percent (\$0.3 million) primarily due to funding requested for e-government applications and liquor licensing functions ◆ The 2011 biennium budget request includes a funding shift between the restricted and non restricted highway state special revenue accounts to modify practice to comply with statutory requirements
Major LFD Issues
<ul style="list-style-type: none"> ◆ No agency wide goals or measurable objectives were provided ◆ October 2009 is the deadline for application for the second extension for compliance with the REAL ID Act ◆ MERLIN will be completed in 2010 ◆ The agency claims exemption from Montana Information Technology Act ◆ There is a request for continuation of an appropriation to fund major litigation related to the Yellowstone River Compact

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 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals

No agency-wide goals were reviewed during the interim.

2011 Biennium Major Goals

LFD ISSUE	<p>No Agency-wide Measurable Objectives were Provided</p> <p>Agency wide goals and measurable objectives were not provided with the department's budget submission. The legislature may wish to discuss with the department the development of agency-wide goals and measurable objectives for the 2011 biennium.</p>
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Please refer to the program narratives for information and discussion of program goals and objectives.

REAL ID

The REAL ID Act of 2006 (Public Law 109-13) was signed into law in May 2005. This law contains several provisions, but this narrative will deal only with the provisions of the portion referred to as the REAL ID Act of 2005. This act provides for regulations for state issued driver's licenses and identification cards. Specifically, the act requires that in order for state driver's licenses or identification cards to be used for an official federal purpose, the cards must meet minimum standards, including standards related to verification of documents establishing identity, birth date, social security number, name, address, the person's lawful status in the United States, security of department of motor vehicle facilities and databases, information that must appear on the driver's license or identification card, document and record retention, and several others. The act defines "official purposes" as including but not limited to:

- o Accessing federal facilities
- o Boarding federally regulated commercial aircraft
- o Entering nuclear power plants

- o Any other purposes that the Secretary of Homeland Security shall determine

The many stakeholders in the use and issuance of state driver's licenses identified a number of concerns with the act, including potential violation of individual privacy rights, increased identity theft, and imposition upon the states of an unfunded federal mandate. While the Department of Homeland Security (DHS) intends to make some grant funding available, much of the cost burden of implementing these regulations would fall upon states and potentially applicants for driver's licenses and identification cards. As indicated in the 2009 Biennium Legislative Budget Analysis, Volume 6, Montana's estimated costs of implementation of these regulations were one-time costs of \$8.6 to \$11.5 million and ongoing costs of \$5.9 to \$8.0 million based upon the proposed rules. Because the final rules contain a number of changes from the proposed rules, this cost estimate is no longer applicable. However, the agency has not yet undertaken development of a revised cost estimate. Based upon differences between the proposed rules and final rules, the Department of Homeland Security (DHS) has lowered its estimate of implementation costs from \$14.6 billion to \$3.9 billion. Congress has appropriated about \$90 million to assist states with implementation of the act.

2007 Legislative Action

During the 2007 session the legislature adopted and the Governor approved legislation directing the Department of Justice not to take action to implement requirements of the REAL ID Act of 2005. Specifically, 61-5-128 MCA states:

“(1) The legislature finds that the enactment into law by the U.S. Congress of the REAL ID Act of 2005, as part of Public Law 109-13, is inimical to the security and well-being of the people of Montana, will cause unneeded expense and inconvenience to those people, and was adopted by the U.S. Congress in violation of the principles of federalism contained in the 10th amendment to the U.S. constitution.

(2) The state of Montana will not participate in the implementation of the REAL ID Act of 2005. The department, including the motor vehicle division of the department, is directed not to implement the provisions of the REAL ID Act of 2005 and to report to the governor any attempt by agencies or agents of the U.S. department of homeland security to secure the implementation of the REAL ID Act of 2005 through the operations of that division and department.”

Thus, as Montana statutes currently exist, the Department of Justice is prohibited from implementing the provisions of the REAL ID Act of 2005.

Extension Application and Implications of Non Compliance

The most significant potential impact of non-compliance with the final rules is that effective May 11, 2008, residents of non-compliant states would not be able to use their state issued driver's license or identification card to board federally regulated aircraft (or to enter a federal building) and would need to provide federally acceptable identification such as a passport or be subject to secondary screening. One of the provisions of the final rules was an opportunity for states to request an extension for compliance with the rules. This extension was required to be submitted by March 31, 2008. If a state did not file a request for an initial extension, the state would be deemed non-compliant with the act. The initial extension expires December 31, 2009. States may file a request for an additional extension by October 11, 2009. The application for an additional extension (filed in 2009) must include a “material compliance checklist” indicating the state's level of compliance with the act.

Extension Granted But Not Requested

Because Montana law prohibits the agency from taking action to implement the provisions of the act, the Attorney General, rather than requesting an extension, submitted correspondence (dated May 21, 2008) urging that DHS not take steps to penalize Montana residents by preventing the use of Montana drivers' licenses for federal identification purposes and outlining drivers license security features that Montana had or will adopt. As part of the contract entered into for production of driver license and identification cards (August 2007), the department has been implementing security provisions consistent with the American Association of Motor Vehicle Administrators' (AAMVA) security framework recommendations and industry best practices.

In response DHS staff granted an extension but did not waive compliance with the act. DHS also indicated that by law an extension could only be granted in order to meet the requirements of the act, meaning that Montana must be on track to meet the requirements of the REAL ID Act. Montana has until December 31, 2009 to achieve compliance with phase one of the act.

Compliance with Phase Two

One feature of the final rules related to the Real ID Act was phased implementation and compliance with the act. States that meet certain benchmarks will be eligible for a second extension, providing them until May 10, 2011, to comply with the provisions of the act. These benchmarks are outlined in the final rule. According to department staff, of the 18 elements required for material compliance, Montana will not meet 6. In this event, Montana will not be eligible for the second extension. The request for a second extension and material compliance checklist must be filed by October 11, 2009 and the state must be materially compliant by January 1, 2010 to receive the additional extension (providing until May 10, 2011 for compliance).

Potential Legislative Action

The federal deadlines related to application for a second extension for compliance with the REAL ID Act fall between legislative sessions. Given current indications that Montana will not be in compliance and eligible for the second extension, and that the legislature will not be in session when the deadline for compliance occurs, the legislature must look forward and determine what actions or position it wishes to take during this session related to the future of the REAL ID Act. The legislature may wish to discuss with the department:

- o Whether statutory provisions prohibiting the department from complying with the act should be modified to provide the attorney general increased flexibility in determining actions to be taken with regard to the REAL ID act compliance. For example, if the REAL ID Act was modified to implement the recommendations of the AAMVA, what action might the legislature wish the department to take with regard to the act?
- o Development of updated cost estimates related to compliance with the six elements department staff indicates will not be in place as required for eligibility for the second extension
- o Development of updated costs estimates for full compliance with the act

MERLIN – Motor Vehicle Division Automation

The Project

The Motor Vehicle Division has been in the process of re-engineering business processes and development of a new automated information technology system. This effort has been known by several names, including HB 577, HB 261 and TEAM 261. The project and new system have been named MERLIN, Montana Enhanced Registration and Licensing Information Network. This project involves the use of software developed and customized by ARCHON technology and implemented in conjunction with BearingPoint as the primary contractors. The project involves implementation of a system that fully integrates motor vehicle functions including driver licensing, vehicle titling and registration, and revenue collection and reporting.

Funding

MERLIN has been funded through \$28.5 million of debt authorized over three legislative sessions. To date \$21.6 million has been expended for the system. The 2009 biennium budget includes a request for an increase of about \$2.0 million of state special revenue for debt repayment. State special revenue is generated from three fees that are schedule to expire at a future date including:

- o \$4 of the \$8 lien filing fee (61-3-103(8)(b), MCA) – expires June 30, 2016
- o \$10 fee for issuance of a new title without the security interest or lien shown (following satisfaction or release of the security interest or lien) (61-3-103(9)(a), MCA) - expires June 30, 2018
- o \$5 from titling fees (61-3-203(1)(b), MCA) – expires June 30, 2018

Ongoing maintenance costs are estimated to be \$2.4 million for FY 2010 and increase by 10 percent per year. Maintenance costs will be funded with general fund (60 percent) and state special revenue (40 percent) from savings in

mainframe costs. The executive budget does not include any decision packages related to the funding of maintenance costs because the department plans to fund these costs through decreases in costs included in the base budget.

Completion Nearing

Issues surrounding the development of this system have previously been brought to the attention of the legislature. In fact, the 2007 Biennium Legislative Budget Analysis indicated that all information technology applications were expected to be completed by July 1, 2007. The project timeline dated October 16, 2008 indicates that the project was initiated in December 2005 and is scheduled for final acceptance in December, 2010, a full five years after initiation, three years after it was originally estimated to be complete, and nine years since the initial legislation authorizing the incurrence of debt for this purpose (2001). The department indicates that the system is expected to have a useful life of 20 or more years.

State Information Technology Plan

The department has submitted an information technology plan to the Department of Administration as required by statute (Montana Information Technology Act (MITA)). The Department of Administration has not approved the department's plan because the department asserts that the criminal justice network is now part of department systems and is exempt from MITA. Additionally, the department indicates that the Federal Bureau of Investigation policies that control and management of all network devices including firewalls are the direct responsibility of the department as the law enforcement agency are in conflict with MITA. As of this writing, the Department of Justice had not provided legislative staff with the statutory basis for the department position that it is exempt from MITA.

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 for brevity by the LFD.

- o **Agency Market** - Agency policy currently states, "Employees new to state government will typically be hired at 80 percent of the market rate for their classification". Policy also allows the latitude (with the provision of justification) to hire above this based on the following criteria: 1) the employee's job-related qualifications and competencies; 2) existing salary relationships within the job class and work unit; 3) agency's ability to pay; and 4) the competitive labor market. Strategic, market-based and situational pay components may be used when retention is a problem and recruitment of qualified candidates has been difficult, and managers have been unable to attract candidates into positions at the entry rate.

On average, the agency hires employees new and returning to state government at or near entry, with few exceptions. However, it is a common practice to hire existing state employees, transferring from other agencies, or within the department, anywhere from 90 percent to above market to match or be competitive with their current salary.

The department expects that by October 1, 2008, after implementing the HB 13 pay adjustments, the overall agency market ratio, relative to the 2008 market survey, will be 91 percent. The agency's target market ratio for the 2011 biennium, under the 2008 market survey, is 95 percent.

In the past, funding for pay increases over and above the statewide pay authorization were achieved primarily from vacancy savings and special pay proposals approved by the legislature.

- o **Obstacles** - Lack of adequate funding is the primary obstacle faced by the department when implementing a pay plan. This issue is compounded when other state agencies are able to offer higher salaries for similar positions. This intra-state market pressure forces the department to respond likewise, or risk losing critical and highly skilled employees to other state agencies.

The concept of imposing an annual 4 percent reduction in personal services funding for authorized positions is too

often incompatible with program goals and objectives. The department needs vacancy savings to pay for market adjustments for recruitment and retention efforts.

The state's market surveys do not change as rapidly as the actual markets - for the 2011 biennium, the market survey was conducted in the spring of 2008 and will be in effect through June of 2011. Changing market conditions often require that the department pay above the market survey in order to hire and retain its employees, putting increased pressure on budgets and ultimately, on the state's pay plans.

The following employee groups are exceptions to the department's overall target market percentage goal or market progression plan:

- Elected officials' salaries are set by statute and may not have an associated market - this group is not included in the department's overall market ratio calculations
- Highway patrol officers are partially funded by a separate pay and retention plan pursuant to 44-1-504 MCA, and their negotiated employment contracts stipulate salary progressions and longevity increments that may vary from the broadband pay plan used by other department programs
- Forensic scientists must be competed for on a national level at higher salaries than in other department programs – the 2007 Legislature authorized additional funding for these positions and exempted the Forensic Science Division from the required 4 percent vacancy savings assessment
- Highway patrol dispatchers as a group have experienced higher than usual turnover and recruitment competition from local government agencies, which have had higher salaries, resulting in the department increasing this groups' entry salaries and accelerating the rate of increase toward market
- Most Motor Vehicle Division employees are covered by negotiated union contracts which take precedence over departmental pay practices and policies
- Market pressures from within state government for information technology, accounting, human resource and attorney positions have made these professions difficult to recruit at or near entry and retain – the department typically must offer salaries closer to market to attract applicants and compete with other state agencies for the more highly qualified professionals
- Legal secretaries have been difficult to recruit and retain due to competition with the higher paid private sector, therefore these positions tend to be hired at closer to the market rate
- The department is experiencing problems recruiting and retaining qualified criminal investigators and intends to request additional funding for these positions from the 2009 Legislature
- The agency implemented the 0.6 percent discretionary funding by:
 - Augmenting legislative funding for forensic scientist salary increases
 - Increasing salaries for union positions in the Motor Vehicle Division whose pay was less than market
 - Increasing salaries for union criminal investigators in the Division of Criminal Investigation whose pay was less than the market
 - Increasing the salaries of Gambling Control employees whose pay was less than market as well as providing two competency increases
 - Providing dispatcher raises according to union contract and data gathered from special surveys of more representative markets (City of Helena), and developing a schedule of incremental pay increases for moving dispatchers toward market annually

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 2011 Biennium Budget						
Agency Program	General Fund	State Spec.	Fed Spec.	Proprietary	Grand Total	Total %
01 Legal Services Division	\$ 10,735,671	\$ 791,685	\$ 1,131,044	\$ -	\$ 12,658,400	8.91%
02 Office Of Consumer Protection	-	3,280,754	-	-	3,280,754	2.31%
07 Gambling Control Division	-	5,959,530	-	2,179,343	8,138,873	5.73%
12 Motor Vehicle Division	15,822,412	13,786,395	-	1,256,400	30,865,207	21.73%
13 Highway Patrol Division	557,652	47,957,029	-	-	48,514,681	34.16%
18 Div. Of Criminal Investigation	11,381,272	7,142,424	2,366,211	-	20,889,907	14.71%
28 Central Services Division	1,005,266	1,375,556	-	144,825	2,525,647	1.78%
29 Information Technology Service	7,093,888	245,030	4,536	26,812	7,370,266	5.19%
32 Forensic Science Division	7,167,133	605,388	-	-	7,772,521	5.47%
Grand Total	<u>\$ 53,763,294</u>	<u>\$ 81,143,791</u>	<u>\$ 3,501,791</u>	<u>\$ 3,607,380</u>	<u>\$ 142,016,256</u>	<u>100.00%</u>

Funding for this department is comprised of: general fund (37.9 percent), state special revenue (57.1 percent), federal funds (2.5 percent) and proprietary fund (2.5 percent). General fund supports the state crime lab (Forensic Science Division), criminal investigative services, information technology functions, motor vehicle titling and registration, and driver licensing functions.

State special revenue from the highways state special revenue supports the highway patrol, motor vehicle titling and registration, and driver licensing functions. State special revenue from consumer protection litigation supports the Office of Consumer Protection, from gambling licensure and fees support the Gambling Control Division, and earmarked alcohol taxes support crime lab functions related to training and maintenance of law enforcement breath testing equipment.

Federal funding sources include Medicaid, the Stop Violence Against Women Act, and Crime Victims Compensation Act. Medicaid funds are the largest single source of federal funds and support Medicaid fraud investigation activities. Proprietary funds support liquor licensing, legal services provided to other state agencies, and some electronic commerce (e-government) functions.

Statutory Appropriations

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

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

Statutory Appropriations Department of Justice					
Purpose	MCA #	Fund Source	Fiscal 2008	Fiscal 2010	Fiscal 2011
<i><u>Direct Bearing on Agency Operations</u></i>					
Certificate of Public Advantage	50-4-623	General Fund	\$12,711	\$12,711	\$12,711
Certificate of Public Advantage	50-4-623	State Spec Revenue	57,813	57,813	57,813
Highway Patrol Recruitment Retention	44-01-504	State Spec Revenue	4,094,401	4,468,221	4,481,164
Enforcement of Drug Laws	44-12-206	State Spec Revenue	66,494	10,581	10,710
Enforcement of Drug Laws	44-12-206	Federal Spec Revenue	16,700	16,700	16,700
<i><u>Administrative Agency</u></i>					
Video Gambling Machine Permits	23-5-612	State Spec Revenue	1,970,693	1,970,693	1,970,693
Highway Patrol Retirement	16-6-404	General Fund	1,395,703	1,628,522	1,767,286
State Contribution County Attorneys	7-4-2502	General Fund	2,421,431	2,669,528	2,803,005

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 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	23,761,709	23,761,709	47,523,418	88.39%	61,587,747	61,587,747	123,175,494	86.73%
Statewide PL Adjustments	1,927,380	1,965,831	3,893,211	7.24%	4,994,225	5,122,024	10,116,249	7.12%
Other PL Adjustments	1,045,824	782,903	1,828,727	3.40%	3,274,828	2,895,267	6,170,095	4.34%
New Proposals	509,608	8,330	517,938	0.96%	1,528,791	1,025,627	2,554,418	1.80%
Total Budget	\$27,244,521	\$26,518,773	\$53,763,294		\$71,385,591	\$70,630,665	\$142,016,256	

Supplemental Appropriations

The executive intends to request a \$272,400 general fund supplemental for the highway patrol due to fuel costs that were higher than anticipated. Figure 1 summarizes highway patrol gas costs from FY 2000 through 2009 (estimated) and illustrates that the cost of gasoline increased \$378,324 or almost 50 percent between FY 2007 and 2008. Additionally, the inflation factors used in the executive budget anticipate gasoline costs increases of 19.76 percent between FY 2008 and 2010 and 22.68 percent between FY 2008 and 2011. This increase adds \$483,059 to the 2011 biennium budget for the Montana Highway Patrol when compared to the FY 2008 base.

Fiscal Year	Expended	\$ Incr.	% Incr.
2009*	\$1,405,493	\$268,036	23.6%
2,008	1,137,457	378,324	49.8%
2,007	759,133	12,841	1.7%
2,006	746,292	124,523	20.0%
2,005	621,769	102,560	19.8%
2,004	519,209	70,141	15.6%
2,003	449,067	3,753	0.8%
2,002	445,315	(111,592)	-20.0%
2,001	556,906	46,436	9.1%
2,000	510,471		

FY 2009 is estimated/annualized based upon expenditures as of December 6, 2008

Language and Statutory Authority

“The Department of Justice has the authority to spend the balance of the appropriation that was established by the 2007 Legislature for activities and potential litigation related to the Yellowstone River Compact.”

LFD COMMENT	The 2007 Legislature provided \$3.0 million general fund as a biennial, one-time-only appropriation for activities and potential litigation related to the Yellowstone River Compact. As of this writing the department has expended about \$112,000 of this appropriation.
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LFD ISSUE	<p>Use of Language Rather Than Decision Package</p> <p>The wording of this language is problematic because: 1) the appropriation provided by the 2007 Legislature was a one-time-only appropriation and as such does not exist past June 30, 2009; and, 2) because it fails to specify a maximum dollar amount, which is necessary in order to have a valid language appropriation. Because the effect of language such as that proposed above, would be the same as approval of a decision package providing about \$2.9 million general fund for this purpose, this funding should have been requested in a decision package for review by the legislature. The legislature may wish to adopt a decision package rather than utilizing language in the appropriations act, if it wishes to continue funding this effort.</p> <p>Prior to taking action on this item, the legislature may wish to discuss with the agency, what has been accomplished to date and what 2011 biennium issues would be supported by this funding if approved.</p>
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Elected Official Proposals

Department staff indicated that the Attorney General was likely to bring forward proposals not included in the executive budget for legislative consideration. However, determination of what items would be forwarded to the legislature for consideration was pending at the time of this writing.

Program Budget Comparison

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FTE	56.50	56.50	56.50	56.50	56.50	56.50	0.00	0.00%
Personal Services	3,592,019	4,054,856	4,133,043	4,145,600	7,646,875	8,278,643	631,768	8.26%
Operating Expenses	1,196,673	1,322,068	1,243,473	1,245,022	2,518,741	2,488,495	(30,246)	(1.20%)
Grants	0	0	0	0	0	0	0	n/a
Benefits & Claims	860,152	864,021	945,631	945,631	1,724,173	1,891,262	167,089	9.69%
Total Costs	\$5,648,844	\$6,240,945	\$6,322,147	\$6,336,253	\$11,889,789	\$12,658,400	\$768,611	6.46%
General Fund	4,873,596	5,304,769	5,362,005	5,373,666	10,178,365	10,735,671	557,306	5.48%
State Special	356,508	367,891	394,840	396,845	724,399	791,685	67,286	9.29%
Federal Special	418,740	568,285	565,302	565,742	987,025	1,131,044	144,019	14.59%
Total Funds	\$5,648,844	\$6,240,945	\$6,322,147	\$6,336,253	\$11,889,789	\$12,658,400	\$768,611	6.46%

Program Description

The Legal Services Division provides:

- o Legal research and analysis for the Attorney General
- o Legal counsel for state government officials, bureaus, and boards
- o Legal assistance to local governments and Indian tribes
- o Legal assistance, training, and support for county prosecutors
- o Assistance to victims of crime, including compensation payments

County Prosecutor Services provides special prosecution assistance to counties in the prosecution and disposition of major felonies and in cases in which county or city attorneys have conflicts of interest. County Prosecutor Services also provides prosecutor services to the Eastern Coal Counties Drug Task Force and the Western Montana Special Investigation Section and coordinates training and continuing legal education for county attorneys, city attorneys, and law enforcement personnel.

The Appellate Services Bureau is responsible for representing the state in all criminal appeals and responds to all habeas corpus and post conviction proceedings where federal and state courts order the state to defend the legality of convictions.

The Civil Services Bureau defends the state in constitutional challenges and coordinates appeals of civil cases that involve the state. This bureau also provides legal assistance to state and local governments on matters involving Indian jurisdiction, federal reserved water rights, election law, antitrust, conflicts of interest, and open meetings.

The Office of Victim Services (OVS) works to elevate the status of victims and their rights and responds to the needs of crime victims in Montana. It serves as a central reference point for victims of crime, administers the Crime Victim Compensation Program and the Forensic Rape Examination Payment Program, and offers information and referral services. OVS staffs the Domestic Violence Fatality Review Commission and provides training and information for those who work with victims, including law enforcement, victim advocates, probation and parole workers, and local community organizations.

Program Highlights

<p>Legal Services Division Major Budget Highlights</p>
<ul style="list-style-type: none"> ◆ Funding increases 6.5 percent (\$768,000) between the 2009 and 2011 biennia, while general fund increases 5.5 percent (\$557,000) during the same time period ◆ Increases are primarily due to statewide present law adjustments
<p>Major LFD Issues</p>
<ul style="list-style-type: none"> ◆ Measurable objectives for the division’s goals were not provided

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 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals

No goals related to this program were reviewed during the interim.

2011 Biennium Major Goals

The following provides an overview of major goals for the 2011 interim.

Goal 1 – Appellate Services Bureau – To represent the State of Montana in cases before local, state, and federal courts, including all criminal appeals and post-conviction cases in state and federal courts.

Goal 2 – Civil Services Bureau - To represent the State of Montana in cases involving constitutional challenges to state laws and other major litigation against the state.

Goal 3 – Prosecution Services Bureau - To provide trial assistance to county attorneys in complex cases and in cases in which the county attorney has a conflict of interest, such as public official misconduct.

Goal 4 – Victim Services - To verify and process claims from innocent victims of crime as quickly as possible.

LFD ISSUE	<p>Lack of Measurable Objectives</p> <p>The division did not provide measurable objectives for the program goals. Measurable objectives generally provide more specific detail about steps that will be taken to achieve the goal, when they will be taken, and how and when progress toward achievement of the goal will be measured. Without this information it is difficult for the legislature to know if funds are being utilized efficiently and effectively to achieve a desired result. The legislature may wish to:</p> <ul style="list-style-type: none"> o Request that the division provide measurable objectives for the division goals o Discuss how and when the division measures progress toward achievement of these goals
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Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding		Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000	Total General Fund	\$ 4,873,596	86.3%	\$ 5,362,005	84.8%	\$ 5,373,666	84.8%
	01100 General Fund	4,873,596	86.3%	5,362,005	84.8%	5,373,666	84.8%
02000	Total State Special Funds	356,508	6.3%	394,840	6.2%	396,845	6.3%
	02074 Gambling License Fee Account	87,022	1.5%	92,478	1.5%	92,530	1.5%
	02140 Consumer Education Settlement	-	-	20,483	0.3%	20,491	0.3%
	02349 Highway Non-Restricted Account	-	-	89,858	1.4%	90,756	1.4%
	02422 Highways Special Revenue	86,897	1.5%	-	-	-	-
	02937 Justice State Special Misc	182,589	3.2%	192,021	3.0%	193,068	3.0%
03000	Total Federal Special Funds	418,740	7.4%	565,302	8.9%	565,742	8.9%
	03169 Federal Crime Victims Benefits	268,280	4.7%	365,273	5.8%	365,277	5.8%
	03801 Dept Of Justice-Misc Grants	150,460	2.7%	200,029	3.2%	200,465	3.2%
Grand	Total	\$ 5,648,844	100.0%	\$ 6,322,147	100.0%	\$ 6,336,253	100.0%

Each of the various functions within the division has a unique funding source. Attorneys are supported primarily by general fund with state special revenue from gambling licensing, highway special revenue, tobacco settlement funds, and other funds supporting specific activities. Additionally, work for the Reserved Water Rights Compact Commission is funded by the Department of Natural Resources and Conservations, prosecution of hunting violations is funded by the Department of Fish, Wildlife and Parks, and prosecution of worker's compensation violations is funded by the State Fund. The cost of major litigation is supported entirely by the general fund. Funding for assistance to crime victims comes from the general fund (67 percent), federal grants (31.5 percent), and consumer protection settlement proceeds (1.5 percent).

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 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	4,873,596	4,873,596	9,747,192	90.79%	5,648,844	5,648,844	11,297,688	89.25%
Statewide PL Adjustments	479,529	491,440	970,969	9.04%	579,944	594,300	1,174,244	9.28%
Other PL Adjustments	7,000	7,000	14,000	0.13%	91,479	91,479	182,958	1.45%
New Proposals	1,880	1,630	3,510	0.03%	1,880	1,630	3,510	0.03%
Total Budget	\$5,362,005	\$5,373,666	\$10,735,671		\$6,322,147	\$6,336,253	\$12,658,400	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "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 2010-----					-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					708,068					721,148
Vacancy Savings					(167,044)					(167,567)
Inflation/Deflation					10,837					12,496
Fixed Costs					28,083					28,223
Total Statewide Present Law Adjustments					\$579,944					\$594,300
DP 103 - Vehicle Lease for Child Protection Unit	0.00	4,500	0	1,500	6,000	0.00	4,500	0	1,500	6,000
DP 105 - Forensic Rape Examination Payment Program (FREPP)	0.00	2,500	0	0	2,500	0.00	2,500	0	0	2,500
DP 107 - Addition Federal Grant Money for Victims of Crime	0.00	0	0	82,979	82,979	0.00	0	0	82,979	82,979
Total Other Present Law Adjustments	0.00	\$7,000	\$0	\$84,479	\$91,479	0.00	\$7,000	\$0	\$84,479	\$91,479
Grand Total All Present Law Adjustments					\$671,423					\$685,779

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 for brevity by the LFD.

- o **Market Rate** - The Legal Services Division has difficulty following the Department of Justice's policy for target market ratio and progression to market because funding sources are inadequate or uncertain. The program reports that it is competing with pay rates that can be offered by other state agencies that have federal monies and other sources of funding. As of June 30, 2008, the approximate market ratio within the program, relative to the 2006 market survey, was 97 percent. The program expects that by October 1, 2008, relative to the 2008 market survey, it will be at a market ratio of 91 percent

The program makes exceptions from agency policy on entry market ratios for attorneys and legal secretaries. These positions are generally brought in above entry because higher levels of experience are required. Also, the competitive labor market makes it difficult to hire at entry. Legal Services Division (LSD) does not have a written policy to move employees to market. While attempts are made to move toward the market, it is generally a reaction to market pressures from other state agencies whose attorney and legal investigators salaries exceed those at LSD.

- o **Vacancy** – Attorneys tend to turnover at a fairly high rate. The reasons vary with individuals but salaries are a factor in a majority of the cases. In others, it is merely an interest in pursuing or learning different aspects of the law. The program is always looking for funding needed for additional pay, which would make it competitive with salaries offered by other agencies. Vacancies delay the completion of some work projects and increase workloads for other employees
- o **Legislatively applied vacancy savings** - To address the 4 percent applied vacancy savings rate, vacated positions were held open for extended periods. Funding, when available, was shifted from personal services in other department programs and carry forward funds were used. When the program had additional budget authority from vacancies above the 4 percent applied rate, some staff pay adjustments would be made, and other excess funds would be carried forward to cover personal service costs in the second year of the biennium
- o **Pay Changes** - Pay increases outside of HB 13 (pay plan) were given to: 8 legal secretaries as strategic pay retention adjustments, 1 paralegal assistant as a competency pay adjustment, and 32 attorneys as market adjustments. Some of the professional exempt staff have also been given market based pay adjustments since the July 2006 snap shot. These pay changes were funded by holding some vacant positions open and a portion of the 0.6 percent discretionary money was used. The program did not transfer funding from other budgeted expenditure categories to fund position and pay changes.

- o **Retirements** - Twenty-one program staff will be eligible for full retirement in the 2011 biennium. It is anticipated that three people will retire at a cost of \$15,000 each, for an anticipated total retirement payout of \$45,000. If all 21 individuals were to retire the total payout cost is estimated at \$300,000. Twelve people have been eligible for retirement in the 2009 biennium. One retired in FY 2008, and it is anticipated that one or two may retire in FY 2009. The program does anticipate that retirements between now and the end of the 2011 biennium will impact program operations. Planning is in progress, but it's too early to specify what steps will be taken. Key positions will be double-filled with a successor to transfer knowledge

LFD COMMENT	The estimated vacancy rate for this division was 7.6 percent.
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DP 103 - Vehicle Lease for Child Protection Unit - The Legal Services Division requests \$12,000 for the biennium (\$9,000 general fund and \$3,000 federal funds) for the Child Protection Unit to lease a vehicle for the attorney that works the eastern half of Montana. Funding for the lease is split between general fund (75 percent) and federal funds (25 percent).

DP 105 - Forensic Rape Examination Payment Program (FREPP) - The Legal Services Division requests \$5,000 general fund for the biennium for the Forensic Rape Examination Payment Program (FREPP), which helps rape victims pay for the necessary forensic medical exam. Under 46-15-411 MCA, the program provides direct payment to healthcare providers for forensic rape examinations of victims who have an exam within 72 hours of the assault, but choose not to immediately report the crime to law enforcement. FREPP pays the cost of a sexual assault examination up to a maximum of \$600.

LFD COMMENT	The 2007 Legislature provided a biennial appropriation of \$35,000 for this program. FY 2008 expenditures from this appropriation included in the base budget totaled \$12,213. Provision of an additional \$5,000 for the biennium (\$2,500 per year) would increase funding for this program to \$14,713 per year in the 2011 biennium.
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DP 107 - Addition Federal Grant Money for Victims of Crime - The Legal Services Division, Victim Services Bureau requests \$165,958 federal funds for the biennium for the Violent Offenders Compensation program. The amount of the federal grant has increased.

New Proposals

Program	-----Fiscal 2010-----					-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 110 - State Special Revenue Funding Switch										
01	0.00	0	0	0	0	0.00	0	0	0	0
DP 6101 - Fixed Cost Workers Comp Mgmt Program Allocation										
01	0.00	1,880	0	0	1,880	0.00	1,630	0	0	1,630
Total	0.00	\$1,880	\$0	\$0	\$1,880 *	0.00	\$1,630	\$0	\$0	\$1,630 *

DP 110 - State Special Revenue Funding Switch - This decision package requests a funding switch from the restricted to the non-restricted highway state special revenue fund. In past practice the Department of Transportation has transferred funds from the non-restricted account to the restricted account prior to expenditure of the funds. However, this practice conflicts with the statutory requirement contained in 15-70-125, MCA that any unexpended balance in the non-restricted account must remain in the account. A transfer between accounts is not considered an expenditure and thus, is not

consistent with statutory requirements. The funding shift in this decision package aligns practice with statutory requirements.

DP 6101 - Fixed Cost Workers Comp Mgmt Program Allocation - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Program Budget Comparison

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

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	8.25	8.25	8.25	8.25	8.25	8.25	0.00	0.00%
Personal Services	423,538	505,245	445,074	445,645	928,783	890,719	(38,064)	(4.10%)
Operating Expenses	190,159	198,644	205,067	204,968	388,803	410,035	21,232	5.46%
Benefits & Claims	0	0	990,000	990,000	0	1,980,000	1,980,000	n/a
Total Costs	\$613,697	\$703,889	\$1,640,141	\$1,640,613	\$1,317,586	\$3,280,754	\$1,963,168	149.00%
State Special	613,697	703,889	1,640,141	1,640,613	1,317,586	3,280,754	1,963,168	149.00%
Total Funds	\$613,697	\$703,889	\$1,640,141	\$1,640,613	\$1,317,586	\$3,280,754	\$1,963,168	149.00%

Program Description

The Office of Consumer Protection (OCP) responds to consumer complaints and enforces Montana's consumer protection laws and regulations relating to unfair and deceptive business practices including: "Bait and switch", false claims, changing a contract after a sale, abusive arbitration, debt collection misconduct, door-to-door sales, telemarketing including administering Montana's do-not-call list, car and truck sales and repair including the New Vehicle Warranty Act (or Lemon Law) violations, and antitrust issues including price fixing, monopoly abuse, and restraint of trade.

OCP assists victims of identity theft and administers the state's Security Freeze Program. It provides extensive public education about consumer and telemarketing fraud and identity theft to Montana consumer groups, senior citizen organizations, law enforcement agencies, and businesses.

Program Highlights

Office of Consumer Protection	
Major Budget Highlights	
◆	Funding for the program increases 149 percent, (\$2.0 million) between the 2009 and 2011 biennia due to a request for \$2.0 million for distribution of settlement proceeds to consumers
◆	The program is funded entirely by state special revenue
Major LFD Issues	
◆	Measurable objectives for the division's goals were not provided
◆	Legislation is proposed regarding transfer of the balance in the account to the general fund (LC 0930)

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 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals

No goals related to this program were reviewed during the interim.

2011 Biennium Major Goals

The following provides an overview of major goals for the 2011 interim.

Goal 1 - To enforce consumer protection laws and regulations relating to unfair and deceptive business practices.

Goal 2 - To assist Montana consumers in making sound decisions in business transactions and in response to mail, phone and e-mail solicitations by providing relevant information through brochures, press releases, public service announcements and the Department of Justice website.

LFD ISSUE	<p>Lack of Measurable Objectives</p> <p>The division did not provide measurable objectives for the program goals. Measurable objectives generally provide more specific detail about steps that will be taken to achieve the goal, when they will be taken, and how and when progress toward achievement of the goal will be measured. Measurable objectives could make the goals more meaningful by providing the reader a better idea about the actions that were taken to enforce consumer protection laws and might be measured in terms of financial impacts to consumers through the avoidance of losses. Because this program's costs are funded by the settlement dollars received, performance measures could also include the number of settlement agreements completed and amount of funds received. The legislature may wish to:</p> <ul style="list-style-type: none"> o Request that the division provide measurable objectives for the division goals o Discuss how and when the division measures progress toward achievement of these goals
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Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table						
Office Of Consumer Protection						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000 Total State Special Funds	\$ 613,697	100.0%	\$ 1,640,141	100.0%	\$ 1,640,613	100.0%
02140 Consumer Education Settlement	613,697	100.0%	640,141	39.0%	640,613	39.0%
02937 Justice State Special Misc	-	-	1,000,000	61.0%	1,000,000	61.0%
Grand Total	<u>\$ 613,697</u>	<u>100.0%</u>	<u>\$ 1,640,141</u>	<u>100.0%</u>	<u>\$ 1,640,613</u>	<u>100.0%</u>

The program is funded entirely with state special revenue from settlement of consumer protection legal actions.

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 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	613,697	613,697	1,227,394	37.41%
Statewide PL Adjustments	0	0	0	0.00%	26,166	26,675	52,841	1.61%
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	0	0	0	0.00%	1,000,278	1,000,241	2,000,519	60.98%
Total Budget	\$0	\$0	\$0		\$1,640,141	\$1,640,613	\$3,280,754	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "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 2010-----				-----Fiscal 2011-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					40,080					40,676
Vacancy Savings					(18,544)					(18,569)
Inflation/Deflation					374					467
Fixed Costs					4,256					4,101
Total Statewide Present Law Adjustments					\$26,166					\$26,675
Grand Total All Present Law Adjustments					\$26,166					\$26,675

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 for brevity by the LFD.

- o **Market Rate** - The Office of Consumer Protection has inadequate personal services funding to keep pace with agency target market ratios and progression to market. As of June 30, 2008, the program's market ratio, relative to the 2006 market survey, was 99 percent. The program expects that by October 1, 2008, it will be at a market ratio of 87 percent, relative to the 2008 market survey. This program does not make exceptions to agency policy on entry market ratio for any specific occupations. Any exceptions would be considered on a case-by-case basis
- o **Vacancy** - This program does not have any specific occupations with high turnover rates or frequent vacancies
- o **Legislatively applied vacancy savings** - Vacant positions are held open for extended periods to address the 4 percent applied vacancy savings rate. Excess vacancy savings were used for a market adjustment to a legal position
- o **Pay Changes** - One market adjustment was given to a lawyer to improve internal equity among the lawyers in the department. Savings from vacant positions were used for the market adjustment
- o **Retirements** - One employee will be eligible for full retirement in the 2011 biennium. The anticipated compensated absence liability for that retirement is \$3,500. It is anticipated that no employees will retire from this program in the 2009 biennium. Succession planning is in progress, but it is too early to specify what steps will be taken to thwart negative impacts to program operations

New Proposals

Program	-----Fiscal 2010-----					-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 201 - Distribute Settlement Funds to Injured Parties										
02	0.00	0	1,000,000	0	1,000,000	0.00	0	1,000,000	0	1,000,000
DP 6101 - Fixed Cost Workers Comp Mgmt Program Allocation										
02	0.00	0	278	0	278	0.00	0	241	0	241
Total	0.00	\$0	\$1,000,278	\$0	\$1,000,278 *	0.00	\$0	\$1,000,241	\$0	\$1,000,241 *

DP 201 - Distribute Settlement Funds to Injured Parties - The Office of Consumer Protection (OCP) requests \$2.0 million state special revenue for the distribution of settlement proceeds to Montana consumers in the form of rebates, training, education, or other public service programs. The number and dollar amounts involved in these settlements can vary widely from year to year. The Department of Justice plans to create an advisory board that will make recommendations for how settlement proceeds are distributed.

LFD COMMENT

The financial compliance audit for the two years ending June 30, 2008 conducted by the Legislative Audit Division included a disclosure issue related to the distribution of settlement funds. Sections 30-14,143 and 30-14-226, MCA contain provisions related to the state special revenue account stating that “any excess civil fines, costs, or fees must be transferred to the general fund”. The audit indicates that in the three years the department has operated this program no funds have been transferred to the general fund. Because the statute does not specify the timing of such a transfer or define what is considered excess, the audit did not include recommendations but did include this item as a disclosure issue.

Legislation (LC 0930) has been requested to clarify the provisions of the statutes referenced above. LC 0930 provides that:

- The balance in the account may not exceed the amount of the current and projected budget for the succeeding biennium
- The department shall adopt procedures designed to distribute settlement proceeds received on behalf of consumers to the consumers on whose behalf the settlement is made on a pro rate basis. Settlement proceeds not distributed to consumers within one year after the proceeds are received are subject to the limitation on the balance in the account

If the provisions of LC 0930 were applied today, the balance in the account would be limited to about \$2.7 million (2009 biennium appropriation of \$1.4 million plus 2011 biennium request for \$1.3 million for administrative costs).

The legislature might also wish to consider funding the program from the general fund and directly depositing the revenue from settlement proceeds to the general fund.

DP 6101 - Fixed Cost Workers Comp Mgmt Program Allocation - The Workers’ Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year.

6500 Agency Legal Services					
Item	Actual Base	FY 2010		FY 2011	
		Adjustments	Total	Adjustments	Total
FTE					
61000 Personal Services	\$1,032,466	\$201,748	\$1,234,214	\$206,209	\$1,238,675
62000 Operating Expenses	190,123	9,243	199,366	11,237	201,360
63000 Equipment	0	0	0	0	0
69000 Debt Service	0	0	0	0	0
Total Costs	<u>\$1,222,589</u>	<u>\$210,991</u>	<u>\$1,433,580</u>	<u>\$217,446</u>	<u>\$1,440,035</u>

Proprietary Program Description

Agency Legal Services Bureau (ALSB) provides legal, hearing examiner, and investigative services to state agency clients on a contract basis. ALSB attorneys and investigators bill clients for their services and case-related and incidental costs. ALSB has 17.00 FTE funded from the revenues generated.

Customers Served: ALSB serves state agencies, boards, and commissions that have entered into contracts with ALSB.

Funding

As of this writing, information regarding the sources of payments to this fund had been requested but not yet received.

Proprietary Program Narrative

Revenues for ALSB come from fees charged to state agencies that contract with the unit for legal and investigative services.

ALSB expenses are primarily personal service costs for attorneys, investigators, and paralegal assistants. Changes in personal service costs are the largest driver of cost increases.

The bureau has pay issues similar to the Department of Justice's Legal Services Division with regard to maintaining target market ratios and progression to market pay. As of June 30, 2008, the approximate market ratio, relative to the 2006 market survey, was 93 percent. The program expects that by October 1, 2008 it will be at a market ratio of 88 percent relative to the 2008 market survey.

The objective of program management is to recover costs to fund necessary and ongoing operations.

The following table shows historical and anticipated future sources and uses of funds for the operation of ALSB.

2011 Biennium Report on Internal Service and Enterprise Funds				
6500 - Agency Legal Services				
	Actual	Budgeted	Budgeted	Budgeted
	FY08	FY09	FY10	FY11
Beginning Working Capital Balance	(\$98,082)	(\$91,654)	(\$5,636)	\$25,343
Operating Expenses:				
Personal Services	1,071,663	1,045,900	1,234,214	1,238,675
Other Operating Expenses	191,662	217,880	199,366	201,360
Pass Through Expense	<u>54,647</u>	<u>134,940</u>	<u>20,874</u>	<u>20,075</u>
Total Operating Expenses	<u>\$1,317,972</u>	<u>\$1,398,720</u>	<u>\$1,454,454</u>	<u>\$1,460,110</u>
Operating Revenues:				
Fee revenue	\$1,235,696	\$1,336,044	\$1,334,309	\$1,332,503
Pass Through Revenue	54,647	75,000	75,000	75,000
Agency Fee Revenue	<u>34,057</u>	<u>73,694</u>	<u>76,124</u>	<u>78,639</u>
Total Operating Revenue	<u>\$1,324,400</u>	<u>\$1,484,738</u>	<u>\$1,485,433</u>	<u>\$1,486,142</u>
Operating Gain (Loss)	\$6,428	\$86,018	\$30,979	\$26,032
Ending Working Capital Balance	<u>(\$91,654)</u>	<u>(\$5,636)</u>	<u>\$25,343</u>	<u>\$51,375</u>
60 days of expenses (Total Operating Expenses divided by 6)	\$219,662	\$233,120	\$242,409	\$243,352

LFD COMMENT Agency Legal Services continues to show minimal excess revenues above expenditures as illustrated by the table above. This is consistent with the program’s stated objective to recover costs. For the 2011 biennium anticipated revenues exceed proposed expenditures by \$25,000 to \$30,000 each year, which is equivalent to about 2 percent of the proposed operating expenditures. The proposed increase in attorney rates from \$84 to \$90 per hour equates to a 7 percent increase in rates and the investigator increase from \$50 to \$53 per hour a 6 percent increase. The department does not expect the change in rates to impact the number of billable hours.

Present Law Adjustments

The present law adjustments table shows the primary change to the adjusted base budget proposed by the executive. Statewide present law adjustments are stand 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.

6500 Agency Legal Services Present Law Adjustments				
	FY 2010	FY 2010	FY 2011	FY 2011
	FTE	Costs	FTE	Costs
PL 000 Statewide Adjustments	0.00	\$207,175	0.00	\$212,015
PL 0601 ALS Rent Adjustment	<u>0.00</u>	<u>3,275</u>	<u>0.00</u>	<u>4,962</u>
Total Present Law	0.00	<u>\$210,450</u>	0.00	<u>\$216,977</u>

PL 0601 ALS Rent Adjustment – Agency Legal Services leases a non-Department of Administration building that is subject to a 2 percent per year increase in rental rates. The base year expenditures for rent were \$81,072.

New Proposals

The following table summarizes new proposal increases included in the budget for the 2011 biennium.

6500 Agency Legal Services - New Proposals				
	FY 2010	FY 2010	FY 2011	FY 2011
	FTE	Costs	FTE	Costs
NP 6101 Fixed Cost Workers Comp	0.00	541	0.00	469
Total New Proposals	0.00	\$541	0.00	\$469

DP 6101 - Fixed Cost Workers Comp Management Program Allocat - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Proprietary Rates

For the 2011 biennium the following rates would generate revenue commensurate with the costs as presented in the executive budget proposal.

The Agency Legal Services proposes to increase their hourly rates for attorneys from \$84 to \$90, and investigator rates from \$50 to \$53 for the 2011 biennium.

Program Budget Comparison

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

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	49.50	49.50	50.50	50.50	49.50	50.50	1.00	2.02%
Personal Services	2,626,118	2,931,859	3,014,574	3,020,268	5,557,977	6,034,842	476,865	8.58%
Operating Expenses	778,201	790,424	916,440	915,829	1,568,625	1,832,269	263,644	16.81%
Equipment & Intangible Assets	132,158	72,445	132,158	132,158	204,603	264,316	59,713	29.18%
Debt Service	3,723	4,880	3,723	3,723	8,603	7,446	(1,157)	(13.45%)
Total Costs	\$3,540,200	\$3,799,608	\$4,066,895	\$4,071,978	\$7,339,808	\$8,138,873	\$799,065	10.89%
State Special	2,582,066	2,685,021	2,977,904	2,981,626	5,267,087	5,959,530	692,443	13.15%
Other	958,134	1,114,587	1,088,991	1,090,352	2,072,721	2,179,343	106,622	5.14%
Total Funds	\$3,540,200	\$3,799,608	\$4,066,895	\$4,071,978	\$7,339,808	\$8,138,873	\$799,065	10.89%

Program Description

The Gambling Control Division was established by the 1989 Legislature to regulate the gambling industry in Montana. The division has criminal justice authority and conducts routine field inspections and investigations related to gambling activities. In addition to collecting and distributing licensing fees for gambling machines and activities, the division collects the gambling tax assessed on the net proceeds of gambling activities. It conducts investigations related to alcoholic beverage licensing and tobacco enforcement. An appointed Gaming Advisory Council of nine members advises the Attorney General to ensure uniform statewide regulation of gambling activities. The gambling control program is mandated by state law.

Program Highlights

Gambling Control Division Major Budget Highlights	
<ul style="list-style-type: none"> ◆ Funding for the division increases 10.9 percent (\$799,000) when the 2009 and 2011 biennia are compared, primarily due to statewide present law adjustments, a request for 1.00 FTE, and continuation of a one-time-only appropriation for the gambling database system ◆ The division provided measurable outcomes and a timeframe for accomplishment of the goal related to the request for an additional 1.00 FTE machine tester 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ The division did not provide measurable objectives for division goals 	

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 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals

No goals related to this program were reviewed during the interim.

2011 Biennium Major Goals

The following provides an overview of major goals for the 2011 interim.

Goal 1 - To ensure gambling is being conducted in a legal manner by authorized individuals.

Goal 2: To investigate applicants and to issue gambling licenses and permits to qualified applicants in an efficient and effective manner.

LFD ISSUE	<p>Lack of Measurable Objectives</p> <p>The division did not provide measurable objectives for the program goals. Measurable objectives generally provide more specific detail about steps that will be taken to achieve the goal, when they will be taken, and how and when progress toward achievement of the goal will be measured. Objectives could provide information such as how often site visits and inspections are accomplished, how the division insures that gambling is conducted by authorized individuals and when and how the division determines progress toward this goal. Objectives could also define “efficient” and “effective” so that the legislature knows the timeframe for investigating and issuing licenses and permits and could make decisions about the level of funding for the division based upon the resources needed to achieve the goal within a specific time frame. The legislature may wish to:</p> <ul style="list-style-type: none"> o Request that the division provide measurable objectives for the division goals o Discuss how and when the division measures progress toward achievement of these goals
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Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Gambling Control Division						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000 Total State Special Funds	\$ 2,582,066	72.9%	\$ 2,977,904	73.2%	\$ 2,981,626	73.2%
02074 Gambling License Fee Account	2,473,709	69.9%	2,861,913	70.4%	2,865,478	70.4%
02790 6901-Statewide Tobacco Sttlmnt	108,357	3.1%	115,991	2.9%	116,148	2.9%
06000 Total Proprietary Funds	958,134	27.1%	1,088,991	26.8%	1,090,352	26.8%
06005 Liquor Division	<u>958,134</u>	<u>27.1%</u>	<u>1,088,991</u>	<u>26.8%</u>	<u>1,090,352</u>	<u>26.8%</u>
Grand Total	<u>\$ 3,540,200</u>	<u>100.0%</u>	<u>\$ 4,066,895</u>	<u>100.0%</u>	<u>\$ 4,071,978</u>	<u>100.0%</u>

The division receives 73.0 percent of its funding from state special revenue including gambling license fees (70.4 percent) and tobacco settlement proceeds (2.6 percent). The remaining 27.0 percent of the division’s funding comes from the Department of Revenue proprietary fund for liquor licensing.

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 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	3,540,200	3,540,200	7,080,400	86.99%
Statewide PL Adjustments	0	0	0	0.00%	343,164	349,527	692,691	8.51%
Other PL Adjustments	0	0	0	0.00%	176,933	175,866	352,799	4.33%
New Proposals	0	0	0	0.00%	6,598	6,385	12,983	0.16%
Total Budget	\$0	\$0	\$0		\$4,066,895	\$4,071,978	\$8,138,873	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "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 2010-----				-----Fiscal 2011-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					445,282					451,071
Vacancy Savings					(122,859)					(123,087)
Inflation/Deflation					8,801					10,034
Fixed Costs					11,940					11,509
Total Statewide Present Law Adjustments					\$343,164 *					\$349,527 *
DP 701 - GCD Base Operating Expense Adjustments	0.00	0	36,500	0	55,500 *	0.00	0	37,500	0	56,900 *
DP 702 - Cont. OTO Approp - Gambling Database - (Bien/OTO)	0.00	0	50,000	0	50,000	0.00	0	50,000	0	50,000
DP 703 - New Machine Tester FTE	1.00	0	50,717	0	71,433 *	1.00	0	48,966	0	68,966 *
Total Other Present Law Adjustments	1.00	\$0	\$137,217	\$0	\$176,933 *	1.00	\$0	\$136,466	\$0	\$175,866 *
Grand Total All Present Law Adjustments					\$520,097 *					\$525,393 *

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 for brevity by the LFD.

- o **Market Rate** - Personal services authority is inadequate, due to vacancy savings requirements, to make pay adjustments using the components of pay plan 20. As of June 30, 2008, the program's market ratio, relative to the 2006 market survey was 96 percent. The program expects that by October 1, 2008, it will be at a market ratio of 88 percent relative to the 2008 market survey. No specific occupations are an exception to agency policy, but an employee's job related qualifications and competencies, existing salary relationships within the job class and work unit, agency ability to pay, and the competitive labor market have been factors in recent hiring where the base pay has been set above 80 percent of market. This program does not make an exception to agency policy on progression to market for any specific occupation. Each situation is addressed on a case-by-case basis
- o **Vacancy** - Investigator positions experience a higher turnover rate and there are more positions in this occupation than other occupations in the program. There have been difficulties in filling positions in a timely manner due to vacancy savings requirements and the time length of the recruitment process. The program has had trouble attracting and retaining these employees due to the labor market and higher paying jobs competing for the same labor pool (Transportation Security Administration, airport security, university security, etc.). Pay adjustments have been used to address frequent vacancies in investigator positions. The program has applied a

portion of the 0.6 percent discretionary money to increase salaries and bring them closer to market. The program also had to bring back retirees to cover for vacant positions due to applicant pools being insufficient and lacking necessary skills and abilities. The program has experienced a long-term vacancy in the administrative officer position. This position has been split into two half-time positions, functions have been realigned, and the program has reclassified positions in order to attract a different labor pool. Vacancies have caused increased overtime and comp time, delay in performing functions, and an increased workload for other employees

- o **Legislatively applied vacancy savings** -The program has held positions open as long as practicable in attempts to balance vacancy savings requirements with staffing demands and work load. In FY 2009, the program will use carry forward funds and shift funding as necessary. When the program has additional vacancy savings it typically must carry-forward this authority to cover salaries in the next year
- o **Pay Changes** - This program did not have any position upgrades, and has not had any market-based pay increases since July 2006, other than the 0.6 percent discretionary increases
- o **Retirements** - There are eight employees from this program eligible for full retirement in the 2011 biennium at an estimated cost of \$130,546 in compensated absence liabilities. Three employees retired or will retire in the 2009 biennium. The program anticipates retirements of employees in a few management positions. No formal plans are in place. However, as part of succession planning, lead-worker positions have been created and cross-training is taking place.

DP 701 - GCD Base Operating Expense Adjustments - This decision package requests \$112,400 (state special revenue and proprietary funds) including:

- o \$22,500 per year to annualize the operating costs for four positions that were vacant for nine months
- o \$15,000 for out of country travel in the event that it is necessary to conduct license investigations
- o \$18,000 in FY 2010 and \$19,400 in FY 2011 for increases in office rental costs

**LFD
COMMENT**

The proposed rent increase equates to about an 8 percent increase when compared to base year expenditures.

DP 702 - Cont. OTO Approp - Gambling Database - (Bien/OTO) - This decision package requests \$100,000 state special revenue as a one-time-only, biennial appropriation, to enhance the web entry system that is being used by a larger proportion of gambling operators than was anticipated. The division will initiate a planning process with customers to improve functionality and convenience. The improvements may require changes to the data base (GenTax) or web interface (MII).

DP 703 - New Machine Tester FTE - This decision package requests 1.00 FTE and \$140,399 (state special revenue and proprietary funds) for the biennium for an additional machine tester to complete testing of new video gambling machines, new machine programs, and automated accounting and reporting systems submitted to the division for approval and subsequent sale to Montana gambling operators.

The following information is provided so that the legislature can consider various performance measurement principles when examining this proposal. It is submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: The division's test lab has experienced a two-fold increase in their work load over the last four years.

Project Outcomes: To return the time to market cycle back to acceptable levels - 60 to 90 days for a new machine submission and within 30 days for machine hardware and/or software modifications.

Performance Criteria: Progress will be measured by calculating the average time it takes to approve new machines, machine hardware, and software modifications, and tier one accounting systems submitted for testing and approval. The division's data base allows for tracking time and progress.

Milestones: By the end of FY 2010. It will probably take that much time for new staff to be trained on all types of submissions/aspects of the job.

FTE: 1.00 FTE

Funding: Funding for the position comes from the gambling state special revenue paid by those in the gambling industry specifically to test and permit video gambling machines.

Obstacles: Hiring and training staff.

Risk: Risks to industry and the state are that approvals or time to market will take too long and/or, because of related pressures, staff may try to push approvals too fast and a machine or modification may make it to the market with a glitch.

LFD COMMENT	The division has provided measurable outcomes and a time frame for completion of the primary goal of this proposal. Provision of this information makes it easy for the legislature to determine what outcome or result is anticipated as the result of the expenditure of these funds.
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New Proposals

Program	-----Fiscal 2010-----					-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 704 - Recycling Video Gambling Machines										
07	0.00	0	5,000	0	5,000	0.00	0	5,000	0	5,000
DP 6101 - Fixed Cost Workers Comp Management Program Alloc.										
07	0.00	0	1,167	0	1,598 *	0.00	0	1,011	0	1,385 *
Total	0.00	\$0	\$6,167	\$0	\$6,598 *	0.00	\$0	\$6,011	\$0	\$6,385 *

DP 704 - Recycling Video Gambling Machines - This decision package requests \$10,000 state special revenue for the biennium for the costs of recycling video gambling machines (the cathode ray tubes found in video gambling machines is considered a hazardous waste) that are confiscated or abandoned by their previous owner. In cases where the owner of the old video gambling machines can be identified, the Gambling Control Division would use these funds to negotiate a cost sharing agreement for the recycling of the machines.

DP 6101 - Fixed Cost Workers Comp Management Program Alloc. - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Program Budget Comparison

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

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	155.00	155.00	155.00	155.00	155.00	155.00	0.00	0.00%
Personal Services	5,629,097	6,298,677	6,362,181	6,376,729	11,927,774	12,738,910	811,136	6.80%
Operating Expenses	6,224,419	6,273,290	7,345,855	7,049,022	12,497,709	14,394,877	1,897,168	15.18%
Equipment & Intangible Assets	32,649	65,019	140,149	140,149	97,668	280,298	182,630	186.99%
Transfers	0	0	0	0	0	0	0	n/a
Debt Service	736,412	7,810,769	1,783,285	1,667,837	8,547,181	3,451,122	(5,096,059)	(59.62%)
Total Costs	\$12,622,577	\$20,447,755	\$15,631,470	\$15,233,737	\$33,070,332	\$30,865,207	(\$2,205,125)	(6.67%)
General Fund	6,771,937	7,314,847	8,060,205	7,762,207	14,086,784	15,822,412	1,735,628	12.32%
State Special	5,409,492	12,546,782	6,943,143	6,843,252	17,956,274	13,786,395	(4,169,879)	(23.22%)
Other	441,148	586,126	628,122	628,278	1,027,274	1,256,400	229,126	22.30%
Total Funds	\$12,622,577	\$20,447,755	\$15,631,470	\$15,233,737	\$33,070,332	\$30,865,207	(\$2,205,125)	(6.67%)

Program Description

The Motor Vehicle Division (MVD), under provision of Title 61 and Title 23, MCA, and certain federal statutes is responsible for:

- o Examination and licensure of all drivers
- o Verification of identification
- o Creation and maintenance of permanent driver and motor vehicle records
- o Titling and registration of all vehicles including boats, snowmobiles and ATVs
- o Inspection and verification of vehicle identification numbers
- o Licensure and compliance control of motor vehicle dealers and manufacturers
- o Providing motor voter registration

Program Highlights

Motor Vehicle Division Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for the division decreases 6.7 percent (\$2.2 million) when the 2009 and 2011 biennia are compared ◆ General fund increases 12.3 percent or \$1.7 million due to statewide present law adjustments, costs related to reissuance of license plates, and operating cost adjustments ◆ State special revenue related to repayment of debt for the MERLIN system decreases ◆ The goal for improving customer service in driver licensing that was monitored during the interim provides the legislature with information on which to base policy decisions
Major LFD Issues
<ul style="list-style-type: none"> ◆ Division wide goals and measurable objectives were not provided ◆ Program impacts from retirements are expected but not yet planned for ◆ Decision packages include multiple items with varying policy decision implications ◆ 2011 biennium costs for license plate reissuance are estimated to exceed the estimated general fund revenue increase for the biennium

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 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals

The following provides an update on the major goals monitored during the current interim.

Goal 1 – Improve accuracy, efficiency, and timeliness of the driver record system.

- o Successes
 - Based upon data for July 2007 through September 2008, 58 percent of the dispositions received electronically from Montana courts are successful in the initial match to motor vehicle records. Work queues for non-matching records raise accuracy to more than 98 percent
 - In 2005 the Records and Driver Control Bureau processed about 82,000 in-state transactions with 9.00 FTE. In FY 2008 the bureau processed 140,000 transactions including 111,244 in-state tickets with 6.00 FTE
 - The paper-based conviction process took about 45 days for a disposition sent by a Montana court to be manually entered into a motor vehicle record. FullCourt allows the same process to occur electronically in only 16 days
- o Challenges
 - An initial match rate of 80 percent was anticipated, while the actual initial match rate of 58 percent is below expectations and is not improving

Goal 2 – Improve customer service by providing driver licensing services in a more timely and efficient manner and enabling the Field Operations Bureau to ensure the proper resources are available to assist customers by scheduling all visits to an exam station.

- o Successes
 - Two of the three driver licensing exam stations requiring scheduled appointments have been able to meet the goal of serving customers within two weeks from the time the customer made the appointment. The third station was able to meet the goal after 1.00 FTE was added to the station
 - In customer surveys completed during the pilot project in 2006, 95 percent of the surveys showed that the customers found the process easier and more positive than just walking into the exam station
- o Challenges
 - Manual scheduling processes are inadequate for use on a statewide basis. Funding for purchase of an appointment scheduling software was approved by the 2007 Legislature and is scheduled to be deployed between July and November 2008
 - The department anticipates additional staffing will be required in some of the busiest exam stations to maintain the goal of serving customers within two weeks from the time the customer made the appointment

LFD COMMENT	The information provided through the monitoring of progress toward the goal and measurable objective above provide the legislature with information to make a decision about what policy the legislature wishes to fund. If the legislature is in agreement with the goal of serving customers within two weeks of the time they schedule an appointment, then additional resources may be needed. If the legislature does not wish to provide funding for the additional resources, it may direct the department to modify the goal of providing services within two weeks of appointment scheduling.
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2011 Biennium Major Goals

The following provides an overview of major goals for the 2011 interim.

Goal 1 - Records and Driver Control Bureau:

- o The bureau's mission is to assure that only qualified drivers may legally operate a motor vehicle on Montana roads. The bureau seeks to accomplish this by:
 - administering revocations, suspensions, cancellations, and reinstatements of driver's licenses and privileges or suspensions of vehicle registrations for violation of state laws

Goal 2 - Field Operations Bureau

- o The bureau's mission is to test driver's license applicants, issue and renew driver's licenses and identification cards, inspect vehicle identification numbers, and provide investigative services for special driver's licensing problems. The bureau seeks to accomplish this by:
 - conducting driver's licensing tests and issuing new and renewal driver's licenses and identification cards

Goal 3 - Title and Registration Bureau:

- o The bureau's mission is to issue vehicle titles and registrations to protect Montana vehicle owners and lien holders, investigate odometer fraud and vehicle theft, license and regulate motor vehicle dealers and manufacturers, and maintain vehicle-related records. The bureau seeks to accomplish this through:
 - issuing titles for new and used vehicles, to both individual owners and licensed motor vehicle dealers

**LFD
ISSUE**

Lack of Division Wide Goals and Measurable Objectives

While the division has used the word mission, the word goal can easily be substituted in the statement above. Thus, the division has provided goals and objectives for each bureau within the division. However, a mission or goal statement and measurable objectives for the division as a whole were not provided. The objectives above do not include:

- o A measure or benchmark to indicate what constitutes success or the sought after level of accomplishment related to the objective
- o A time frame for completion or if an ongoing objective the time frame for monitoring the status of progress.

Addition of statements regarding quality of work and quantity of work would add meaning and allow for improved correlation between program funding and program accomplishments.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding	Base	% of Base	Budget	% of Budget	Budget	% of Budget
	FY 2008	FY 2008	FY 2010	FY 2010	FY 2011	FY 2011
01000 Total General Fund	\$ 6,771,937	53.6%	\$ 8,060,205	51.6%	\$ 7,762,207	51.0%
01100 General Fund	6,771,937	53.6%	8,060,205	51.6%	7,762,207	51.0%
02000 Total State Special Funds	5,409,492	42.9%	6,943,143	44.4%	6,843,252	44.9%
02225 Mvd Inform Tech System Hb577	121,709	1.0%	241,709	1.5%	239,709	1.6%
02349 Highway Non-Restricted Account	-	-	5,159,858	33.0%	5,175,415	34.0%
02422 Highways Special Revenue	4,673,080	37.0%	-	-	-	-
02798 Mvd It System - Hb261	614,703	4.9%	1,541,576	9.9%	1,428,128	9.4%
06000 Total Proprietary Funds	441,148	3.5%	628,122	4.0%	628,278	4.1%
06080 Mvd/State Information Portal	-	-	25,242	0.2%	25,254	0.2%
06083 Mvd Electronic Commerce	441,148	3.5%	602,880	3.9%	603,024	4.0%
Grand Total	\$ 12,622,577	100.0%	\$ 15,631,470	100.0%	\$ 15,233,737	100.0%

The division receives 51 percent of its funding from the general fund and 43 percent from state special revenues. Highway funds are the primary source of state special revenue and in conjunction with the general fund support drivers licensing and vehicle registration functions (40 percent highway funds and 60 percent general fund). The division's other source of state special revenue is fee revenue that supports the development of a new computer system, the Montana Enhanced Registration and Licensing Information Network system (MERLIN). Proprietary funds related to e-commerce and provision of government services online for which a fee is charged, provide the remaining 4 percent of the division'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 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	6,771,937	6,771,937	13,543,874	85.60%	12,622,577	12,622,577	25,245,154	81.79%
Statewide PL Adjustments	542,668	552,446	1,095,114	6.92%	749,668	766,178	1,515,846	4.91%
Other PL Adjustments	742,567	435,193	1,177,760	7.44%	2,254,170	1,840,599	4,094,769	13.27%
New Proposals	3,033	2,631	5,664	0.04%	5,055	4,383	9,438	0.03%
Total Budget	\$8,060,205	\$7,762,207	\$15,822,412		\$15,631,470	\$15,233,737	\$30,865,207	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "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 2010-----					-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Present Law Adjustments										
Personal Services					992,965					1,008,124
Vacancy Savings					(264,881)					(265,492)
Inflation/Deflation					43,504					47,095
Fixed Costs					(21,920)					(23,549)
Total Statewide Present Law Adjustments					\$749,668 *					\$766,178 *
DP 1201 - Base Adjustments MVD Field Operations Bureau	0.00	113,969	75,979	0	189,948	0.00	126,010	84,007	0	210,017
DP 1202 - Base Adjustments MVD Title and Registration Bureau	0.00	18,229	12,153	0	30,382	0.00	20,064	13,376	0	33,440
DP 1204 - Adjust Base for HB 577, HB 261, & HB 90 Debt Pmts	0.00	0	1,046,873	0	1,046,873	0.00	0	931,425	0	931,425
DP 1205 - New Driver's License Production Costs	0.00	167,412	111,608	0	279,020	0.00	167,412	111,608	0	279,020
DP 1207 - Point of Sale Title and Registration Forms	0.00	121,707	81,138	0	202,845	0.00	121,707	81,138	0	202,845
DP 1208 - License Plate Reissue - OTO	0.00	321,250	0	0	321,250	0.00	0	0	0	0
DP 1212 - MV Proprietary Account spending Authority	0.00	0	0	0	25,000 *	0.00	0	0	0	25,000 *
DP 1213 - HB 671 Proprietary Account Spending Authority	0.00	0	0	0	158,852 *	0.00	0	0	0	158,852 *
Total Other Present Law Adjustments	0.00	\$742,567	\$1,327,751	\$0	\$2,254,170 *	0.00	\$435,193	\$1,221,554	\$0	\$1,840,599 *
Grand Total All Present Law Adjustments					\$3,003,838 *					\$2,606,777 *

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 for brevity by the LFD.

- o **Market Rate** - Occupational pay ranges will not attract qualified applicants for program vacancies in areas of the state which are more economically prosperous. As of June 30, 2008, the program's market ratio, relative to the 2006 market survey, was 96 percent. The program expects that by October 1, 2008, it will be at a market ratio of 91 percent relative to the 2008 market survey. The program has made an exception to the agency's policy on entry market ratios for a number of occupational groups. To attract and retain qualified applicants an agreement was reached to hire at 85 percent of market for minimum qualifications and 90 percent of market when an applicant significantly exceeds the minimum qualifications. This was implemented with the pay period including June 1, 2008 and is being monitored to determine impact. This program does not make any occupational exceptions to agency policy on progression to market. Each situation is addressed on a case-by-case basis
- o **Vacancy** -Administrative clerks, license permit clerks, and license permit technicians are entry level staff positions that experience high turnover rates. It is difficult to recruit people for these positions due to outside market-driven competition for other entry level jobs in the community. The program has reviewed and reclassified a number of job profiles, and job tasks have been realigned in an attempt to attract a different labor pool. Additionally, the division applied its entire 0.6 percent discretionary monies to increase salaries for members of two bargaining units. Vacancies increased workloads for other employees, increased the work backlog, and many non-critical tasks were not completed or were delayed
- o **Legislatively applied vacancy savings** - If need be, vacant positions are held open to address the 4 percent applied vacancy savings rate. MVD reverted \$323,125 in personal services funding at the end of FY 2008, generating \$96,937 in carryforward authority that will be used to cover FY 2009 market adjustments
- o **Pay Changes** - Position upgrades were given due to a change in job duties and responsibilities for a budget analyst, a customer service supervisor, and a supply clerk position. Adjustments to improve pay equity and

attract qualified applicants were given to 16 license permit technician positions. Pay changes given outside of HB 13 are funded by holding vacant positions open

- o **Retirements** - MVD anticipates that 25 employees will retire in the 2011 biennium at a cost of \$134,875 in compensated absence liabilities. MVD anticipates that 11 employees will have retired during the 2009 biennium. MVD does expect retirements through-out the remainder of this biennium and the next to impact program operations. Succession planning is in progress, but it is too early to specify what steps will be taken in an attempt to minimize the impacts

**LFD
ISSUE**

Impact Anticipated, Plan Lacking

The division indicates that it anticipates retirements will impact operations this biennium and next. However, information on the specific impacts anticipated and the severity of these impacts has not been provided. Furthermore, the division indicates it is too early to specify what steps will be taking to minimize these impacts. Given that only a few months remain in this biennium, it is likely that the division is running short on time to make plans and take action to minimize impacts. The legislature might wish to request that the division provide estimates of the impacts, their severity, and ideas for mitigation of these impacts.

DP 1201 - Base Adjustments MVD Field Operations Bureau - The Motor Vehicle Division (MVD) Field Operations Bureau requests \$399,965 for the biennium (\$239,979 general fund and \$159,986 state special revenue) for postage, rent, and vehicle replacements.

**LFD
ISSUE**

Multiple Items Requested

This decision package requests multiple items, with varying policy decision implications. The inclusion of multiple items in one decision package removes the number of points for legislative decision making, particularly when the policy implications of the decisions vary. For example, included in this decision package is a request to adopt and implement a new policy of replacing five vehicles each year in order to meet the Governor's energy savings initiative. Also, included in this decision package are several sizable increases in office lease costs, a portion of which are related to a need for increased space to accommodate additional equipment necessary for automated testing. The legislature may wish to:

- o Direct the department to segregate the items included in this decision package, provide information on the underlying policy rationale for each change separately, and in future budget submissions discontinue the practice of requesting large funding increases that have policy implications that are not clearly expressed for legislative consideration as "base adjustments"
- o Take action on the three items included in this decision package separately
- o Direct staff to separate each item that is approved by the legislature into a decision package, and the agency to prepare a budget in the 2013 biennium that allows for appropriate action

**LFD
ISSUE**

Rent Increase Inconsistent with 3 percent

The department indicated that on average, office space rental was anticipated to increase about 3 percent per year. Table 2 illustrates the department request compared to legislative staff calculations of the funding needed to sustain a 3 percent per year increase in rental costs. Legislative staff estimates that the departments request is overstated by about \$128,877 for the biennium (\$58,370 in FY 2010 and \$70,507 in FY 2011). A review of the requested increase by location showed that rent for several locations (Bozeman, Kalispell, Livingston, Stevensville) increased significantly more than 3 percent (including some significant increases between FY 2008 and 2009). The increases for these four offices include acquisition of new space that occurred during the 2009 biennium, in part due to space needed to accommodate new equipment for automated testing.

Figure 2
Motor Vehicle Divison - Field Operations
DP 1201 Base Adjustments - Rent

Item	FY 2008	Rate of Incr* Per MVD	Total Cost	
	Base Budget		FY 2010	FY 2011
Non Depart Of Admin Rent	\$249,224	3.0%	\$264,402	\$272,334
Increase Over Base			15,178	23,110
Requested Funding			<u>73,548</u>	<u>93,617</u>
Under(Over) Statement of Request			<u>(\$58,370)</u>	<u>(\$70,507)</u>
Funding				
<u>LFD Calculation:</u>				
General Fund		60.0%	9,107	13,866
Highway Non Restricted		40.0%	<u>6,071</u>	<u>9,244</u>
Total			<u>\$15,178</u>	<u>\$23,110</u>
<u>Department Request</u>				
General Fund		60.0%	44,129	56,170
Highway Non Restricted		40.0%	<u>29,419</u>	<u>37,447</u>
Total			<u>\$73,548</u>	<u>\$93,617</u>

*Annual Rate of Increase

**LFD
ISSUE**

Vehicle Replacement

This decision package also request funding to replace a number of vehicles used by the division in the course of providing driver licensing services. The department indicated that replacements were needed due to the age, mileage, and low fuel efficiency of current vehicles and so that the department could make strides toward the Governor’s 20x10 energy initiative. The department requests \$215,000 for the biennium (\$107,500 per year) for replacement vehicles at an estimated cost of \$21,500 per vehicle. Combined with the base budget this level of funding would be adequate to replace about six vehicles per year. The division indicates that it owns 39 vehicles and that the usage of these vehicles is typically 5,000 -10,000 miles per year. Based upon information provided by the department 29 of the 39 vehicles have more than 90,000 miles. Funding at the level requested in this decision package would place the department on a six and one half year replacement cycle with usage during that six years ranging from 33,000 to 66,000 miles per vehicle. The legislature may wish to:

- o Request that the department provide analysis of continued utilization of currently owned vehicles verses the cost of purchasing and placing into service more fuel efficient vehicles
- o Determine what vehicle replacement schedule (in terms of years or miles) it wishes to adopt in funding this request
- o Provide funding for vehicle replacement as a one-time-only appropriation so that it is not included in the base budget for the next biennium

**LFD
COMMENT**

The requested increase for postage is overstated by \$8,900.

DP 1202 - Base Adjustments MVD Title and Registration Bureau - The Motor Vehicle Division (MVD) requests \$63,822 (\$38,293 general fund and \$25,529 state special revenue) for the biennium for overtime, and increases in legal fees, postage, and rent. The department biennial request includes:

- o \$10,000 for overtime costs
- o \$15,000 for projected cost increases in legal fees and court costs related to phased-in implementation and enforcement of motor vehicle dealership laws in HB 409 of the 2007 session. The department anticipates that five cases per year will result in legal action at an estimated cost of \$1,500 each.
- o \$27,200 to annualize the costs of the May 2008 postage rates increase
- o \$11,622 for rent increases effective in December 2010 per the current lease agreement

**LFD
COMMENT**

The funding requested for overtime is equal to about one-third of the amount expended in FY 2008. Overtime costs are zero based for budgeting purposes meaning they are not included in the base budget and must be requested in a decision package.

DP 1204 - Adjust Base for HB 577, HB 261, & HB 90 Debt Pmts - The department requests a biennial appropriation of about \$2.0 million state special revenue to fund debt payments related to study of business processes, and design and development of a new system for motor vehicle related functions. This request is to fund debt payments for:

- o The Motor Vehicle System, Phase One, Titling System project (MVS1) - HB 577 from the 2001 session
- o The Motor Vehicle System, Phase Two, Vehicle Registration and Driver Licensing/Driver Control System project (MVS2) - HB 261 of the 2003 session and HB 90 of the 2007 session

This funding is in addition to the \$0.7 million included in the base budget.

DP 1205 - New Driver's License Production Costs - The Motor Vehicle Division (MVD) requests \$558,040 (\$334,824 general fund and \$223,216 state special revenue) for increases in production costs related to the new driver's license cards that were released in July 2008.

The following information is provided so that the legislature can consider various performance measurement principles when examining this proposal. It is submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: This proposal would provide funding for a contract for the Integrated Driver License Issuance System which provides a fully inter-operative driver license issuance system, including integrated components for appointment scheduling, automated driver license knowledge testing, digital driver license/identification card production, image-based facial recognition services, and a functional method of authenticating the supporting documents that are presented by customers. Costs for this contract are not included in the budget base year since the first cards produced under this contract were issued in July 2008. This contract locks in the contract costs for seven years from the date of implementation and replaced a contract that had locked in the old cost for eight years.

Project Outcome: Provide the state with the ability to ensure that customers receive service in a timely scheduled manner, ensure that only knowledgeable individuals are licensed, and issue secure driver licenses and identification cards for Montana citizens that protect their identity.

Performance Criteria: Montana citizens will receive a secure driver's license or ID card in a timely manner.

- o Customers will be scheduled within two weeks of a request for driver licensing services
- o Automated driver license knowledge testing will be available statewide for all customers
- o Secure digital driver license/identification cards will be issued to citizens

- o Identity fraud for driver license/identification cards will be reduced through facial recognition and document authentication
- o Montana citizens will be able to use their driver license/identification card as identity to board an airplane or access a federal facility per agreement with the Governor's office and the Department of Homeland Security.

Milestones: Driver licenses and identification cards are issued to Montana citizens who have demonstrated their knowledge and ability to drive and provided proof of identity that has been authenticated.

FTE: No new FTE are required for this contractual commitment.

Funding: An annual increase in general fund of \$167,412 and state special revenue of \$111,608 is requested based upon the historical 60 percent, 40 percent funding split between general fund and state special revenue for the division.

Obstacles: This contract is nearing full implementation with services being rolled out statewide.

Risk: Without funding for this contract, the state will not be able to issue driver licenses and identification cards; Montana citizens may not be able to travel easily by air nor access federal facilities; and identity fraud may increase. Additionally, the state may be sued for the balance of the fully executed contract.

LFD COMMENT	The division has provided only one measure, scheduling of customers within two weeks of a request, for this request. The legislature may wish to have the division provide additional measures such as those that measure a reduction in identity fraud. Additionally the milestones provided do not indicate when or how frequently progress will be measured.
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LFD ISSUE	<p>REAL ID Act</p> <p>This decision package indicates one of the performance criteria is ability to use the driver license/identification card to board an airplane or access a federal facility per agreement between the Governor's Office and the Department of Homeland Security, which is related to compliance with the REAL ID Act. Please refer to the agency summary for additional information regarding the REAL ID Act.</p>
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DP 1207 – Point of Sale Title and Registration Forms (in R01 version) - The MVD Title and Registration Bureau requests \$405,690 for the biennium (\$243,414 general fund and \$162,276 state special revenue) for supplies and printing costs necessary to operate point-of-sale (POS).

The following information is provided so that the legislature can consider various performance measurement principles when examining this proposal. It is submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: This proposal will provide funding to annualize the costs for the LV9000 laser validation forms which are printed at the time of the motor vehicle registration and contain information specific to the vehicle. When printed at the point-of-sale (POS) the decal present on the form is printed with information utilized by law enforcement. Printing the decal at the POS requires a printer that utilizes a unique toner cartridge that meets security requirements and clearly indicates any attempts at alteration. These registration receipt forms and decals along with the unique toner cartridges are compatible with the POS functionality and printers integrated within the MERLIN system.

Printing at the POS reduces inventory control requirements for the counties and eliminates the annual destruction required for unused decals returned by the counties. An increase is requested to annualize the cost for the POS registration receipt forms and expiration decals that will be printed at the counties after the go live date for the vehicle registration and titling module implementation in Montana Enhanced Registration and Licensing Information Network

(MERLIN) scheduled for the fall of 2008. Additionally, an increase of \$165,060 is requested to annualize the cost of the unique toner cartridges used for the POS printers.

Project Outcome: Counties will be able to print the POS motor vehicle registration receipts and decals.

Performance Criteria: POS registration forms and unique printer cartridges will be available to the counties for the printing of the customer's motor vehicle registration receipts.

Milestones: The customers will receive their motor vehicle registration forms and license plate decals.

FTE: No new FTE are required for this contractual commitment.

Funding: An annual increase of \$202,845 is requested for the 2011 biennium (\$121,707 in general fund and \$81,138 in state special revenue).

Obstacles: This is the only contract in effect for registration forms and license plate decals.

Risks: Without funding for this contractual commitment, the counties will not be able to complete and issue motor vehicle registration forms and license plate decals on behalf of the state. Montana citizens would not have proof their motor vehicles have been registered nor documentation for any appropriate tax deductions. Law enforcement would not have visual representation of updated information available on vehicle ownership and registration.

LFD ISSUE	Lack of Performance Measures
	The division has not provided any measurable performance criteria related to the implementation of this change. Measurement of changes in loss due to theft, destruction, and alteration might be one way to measure the implementation of this change and to determine to what level the costs of implementation are offset by decreases in theft, destruction, and alterations. The legislature may wish to request that the division develop performance measures of this type and recommend that achievement of these performance measures be monitored during the interim.

DP 1208 - License Plate Reissue - OTO - The department requests \$321,250 general fund for the biennium as a one-time-only appropriation to support costs related to the manufacture and issuance of new general issue license plates beginning January 1, 2010 as required by 61-3-332(3)(a), MCA. General fund revenues will increase approximately \$1,462,549 in FY 2010 and \$1,609,330 FY 2011 (\$2,981,928 for the biennium) due to new plate fees.

LFD
COMMENT

Figure 3 summarizes the items included in this decision package. The decision package assumes 800,000 decals (sets of plates) will be needed for the reissue.

Figure 3
Motor Vehicle Division
DP 1208 - License Plate Reissue - OTO

Item	FY 2010 Request	Description
Consulting/Prof Services	\$15,800	Design & personalized plate renewal order cards (120,000 @ \$0.09)
Temp Services	18,700	Processing assistance
printing/pub/graphics	18,000	Special license plate envelopes (400,000) calculates to \$0.045 each
Office Supp/Minor Equipment	200,000	For 800,000 decals @\$0.25 each
Gasoline	8,000	For delivery truck - 10,000 miles @ 5 mpg @ \$4 per gallon
Postage	44,400	To mail 120,000 personalized plates = \$0.37 each
UPS	10,000	Shipping
In state lodging	3,250	
In state meals/overnight	<u>3,100</u>	
Total	<u>\$321,250</u>	

LFD
ISSUE

2011 Biennium Net General Fund Decrease

Figure 4 summarizes the anticipated general fund costs and revenues for the Departments of Corrections and Justice. 2011 biennium costs related to the reissue are estimated at \$3.2 million, while the increased general fund revenue related to the reissue is estimated at just under \$3.0 million. As a result, the net impact to the general fund is a reduction of about \$225,000 for the biennium. Given that a portion of the estimated costs is related to production of 200,000 sets of plates for inventory (maintained by counties) and the estimated costs per set of plates for reissue is \$3.54 per set and the fee charged is \$5.00 per set, over time this net impact will become a general fund increase of about \$800 million (\$1.00 per set of plates). Given the net decrease in the general fund for the 2011 biennium the legislature may wish to consider:

- o The rationale or need for plates to be reissued every four years:
 - The reasons for reissuing plates every four years includes the length of time the reflective coating last, anticipated revenue increase from motorist that otherwise would not relicense vehicles but do so because the change in plate makes it obvious that they have not, and effective lobbying efforts from the provider of reflective sheeting materials
 - The counter argument for this rationale includes that permanent issue plates are subject to the same reflective sheeting wear as other plates and the revenue increases from motorist that otherwise would not relicense is not documented and arguable given the revenue estimate related to reissuance
- o Whether or not the reissue of license plates should be delayed until a future date, which would require a statutory change
- o Whether or not the \$5 fee charged for a new set of plates is adequate given the estimated costs of the plates
- o Restricting any funding provided for license plate reissue so that unexpended funds revert to the general fund

Figure 4
License Plate Reissue
Summary General Fund Costs and Revenues
For the 2011 Biennium

Item	FY 2010	FY 2011	Biennial
Funding Requested:			
Dept. Justice	\$321,250	\$0	\$321,250
Dept. Corrections	<u>2,858,599</u>	<u>27,709</u>	<u>2,886,308</u>
Total Funding Requested	<u>\$3,179,849</u>	<u>\$27,709</u>	<u>\$3,207,558</u>
Cost per Set of Plates			<u>\$4.01</u>
Estimated Revenue:			
	<u>\$1,372,598</u>	<u>\$1,609,330</u>	<u>\$2,981,928</u>
Revenue Less Funding Requested			<u>(\$225,630)</u>

DP 1212 - MV Proprietary Account spending Authority - This decision package requests \$50,000 proprietary funds for the biennium to support development and maintenance of applications for electronic distribution of information from the motor vehicle and driver licensing database applications.

DP 1213 - HB 671 Proprietary Account Spending Authority - This decision package requests \$317,704 proprietary funds to support operating costs for an enhanced motor vehicle web portal (e-government) that allows third party users to access the system. Combined with the base budget, proprietary funding authorized for this purpose would total \$600,000 per year.

New Proposals

New Proposals Program	-----Fiscal 2010-----					-----Fiscal 2011-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 1210 - State Special Revenue Funding Switch	12	0.00	0	0	0	0.00	0	0	0	0	
DP 6101 - Fixed Cost WC Management Program Allocation	12	0.00	3,033	2,022	0	5,055	0.00	2,631	1,752	0	4,383
Total	0.00	\$3,033	\$2,022	\$0	\$5,055 *	0.00	\$2,631	\$1,752	\$0	\$4,383 *	

DP 1210 - State Special Revenue Funding Switch - This decision package requests a funding switch from the restricted to the non-restricted highway state special revenue fund. In past practice the Department of Transportation has transferred funds from the non-restricted account to the restricted account prior to expenditure of the funds. However, this practice conflicts with the statutory requirement contained in 15-70-125, MCA that any unexpended balance in the non restricted account must remain in the account. A transfer between accounts is not considered an expenditure and thus, is not consistent with statutory requirements. The funding shift in this decision package aligns practice with statutory requirements.

DP 6101 - Fixed Cost WC Management Program Allocation - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Program Budget Comparison

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

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	232.27	232.27	232.27	232.27	232.27	232.27	0.00	0.00%
Personal Services	14,456,401	16,115,319	16,072,276	16,134,575	30,571,720	32,206,851	1,635,131	5.35%
Operating Expenses	6,010,899	5,496,751	6,633,223	6,675,759	11,507,650	13,308,982	1,801,332	15.65%
Equipment & Intangible Assets	1,499,424	1,757,448	1,499,424	1,499,424	3,256,872	2,998,848	(258,024)	(7.92%)
Total Costs	\$21,966,724	\$23,369,518	\$24,204,923	\$24,309,758	\$45,336,242	\$48,514,681	\$3,178,439	7.01%
General Fund	210,039	176,690	278,213	279,439	386,729	557,652	170,923	44.20%
State Special	21,756,685	23,192,828	23,926,710	24,030,319	44,949,513	47,957,029	3,007,516	6.69%
Federal Special	0	0	0	0	0	0	0	n/a
Total Funds	\$21,966,724	\$23,369,518	\$24,204,923	\$24,309,758	\$45,336,242	\$48,514,681	\$3,178,439	7.01%

Program Description

The Highway Patrol Division (HPD) is responsible for patrolling the highways of Montana, enforcing traffic laws, and investigating traffic crashes. The patrol gives assistance and information to motorists and first aid to those injured in traffic crashes, transports blood and medical supplies in emergency situations, and assists other law enforcement agencies when requested. The patrol provides 24-hour-a-day, seven-day-a-week communication and radio dispatch for the Highway Patrol and other state agencies.

Program Highlights

Montana Highway Patrol Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for the division increases 7.0 percent (\$3.2 million) when the 2009 and 2011 biennia are compared ◆ The increase is primarily in state special revenue (highway) due to statewide present law adjustments
Major LFD Issues
<ul style="list-style-type: none"> ◆ A goal related to MHP was monitored by the Legislative Finance Committee during the interim and was recommended for update to the joint appropriations subcommittee ◆ Goals submitted with the division budget differ from those posted on the department website ◆ Measurable objectives for division goals were not provided ◆ LC 0066 proposes removal of the statutory appropriation of the highway patrol recruitment and retention fund ◆ Revenue growth in the highway patrol recruitment and retention fund is not expected to keep pace with expenditure growth

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 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals

The following provides an update on the major goals monitored during the current interim.

Goal 1 – To improve Montana Highway Patrol availability through development of the concept that a patrol vehicle is the trooper’s office.

- o Successes
 - Secured a federal grant to pay for a significant portion of the computers
 - Purchased hardened laptops and completed phase one and two of program development and installation
- o Challenges
 - As of the September 2008 update to the Legislative Finance Committee the project was about three weeks behind schedule
 - Limited data is currently available to evaluate the impact of this initiative

LFD ISSUE	Update Recommended The Legislative Finance Committee workgroup monitoring this goal during the interim recommended that the department provide an update on this item to the joint appropriations subcommittee during hearings on the division budget.
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LFD COMMENT	The agency indicated at its September 2008 update to the Legislative Finance Committee work group that it would like to provide the joint appropriations subcommittee with a site visit so that the committee could observe some of the impacts of this initiative on MHP operations.
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2011 Biennium Major Goals

The following provides an overview of major goals for the 2011 interim.

Mission: To safeguard the lives and property of the people using the highway traffic system of Montana through education, service and enforcement.

Goal 1 – Improve technologies to increase trooper efficiency. A 1979 Northwestern University study showed that Montana needs a minimum of 395 uniformed troopers to make Montana’s roads as safe as possible. Resources are not available for manpower of that magnitude so improved efficiency of the current and future field forces is necessary. This will be made possible through improved communication and IT technology.

LFD ISSUE Submitted Goals Don't Match Agency Website

The goal statements provided with the division budget submission (example above) do not match the division goals listed on the agency website. Per 17-7-123(2), MCA budget related goals and objectives are required to be available on the Internet. For the purposes of this analysis, it is assumed that the goals and objectives provided via printed copy from the Governor's Office of Budget and Program Planning are the program's goals and objectives related to the 2011 biennium budget request.

LFD ISSUE Trooper Availability

The 2011 biennium goal above, while stated differently, appears to be essentially the same as the goal that was monitored during the past interim, that being the goal of improving trooper availability through the increased use of technology, in this case the concept that the patrol car is the troopers office. Proposed methods of tracking the progress of this effort include tracking the number of hours troopers are available to patrol and the number and severity of crashes. The Legislative Finance Committee workgroup recommended that the department report to the joint appropriations subcommittee on this goal. As part of that report, the legislature may wish to request that the department provide specific milestones, performance measurements, and timeframes for measurement of progress during the 2011 biennium. The legislature may also wish to recommend that progress toward this goal be monitored during the interim.

Request for Supplemental Appropriation Related to Fuel Prices

Please refer to the agency summary for information on the supplemental appropriation request.

Removal of Statutory Appropriation Provision

In order to increase highway patrol salaries and the number of vehicles, legislation passed during the 2005 session (HB 35) provided for a state special revenue fund, funded by a \$5 registration fee that is statutorily appropriated for this purpose. Due to a number of issues raised in legislative discussions during the 2007 session, legislative staff was directed to work with the agency and the Governor's Office of Budget and Program Planning during the interim to develop a recommendation for resolution of the issues related to this statutory appropriation. As a result, LC 0066 requested by the Legislative Finance Committee eliminates this statutory appropriation. If LC 0066 is passed and approved, the funds in the state special revenue account for the highway patrol would no longer be statutorily appropriated but would be appropriated through the general appropriations act. It is important to note that LC 0066 does not include provisions that would change how the funds may be used. Revenues (from the \$5 registration fee) would continue to flow into a state special revenue account and may only be expended for the purposes stated in statute.

Revenues Growth Inadequate to Sustain Expenditure Growth

Given the nature of the purpose of the account (to fund additional highway patrol FTE and salaries), expenditures will continue to grow over time. Therefore, the static (and even declining) nature of the revenues means that the fund is unsustainable as a source of funding for future highway patrol FTE and salary increases. Past and estimated future revenues from the \$5 registration fee to support highway patrol officer recruitment and retention are illustrated in figure 5

As illustrated in figure 6 the revenues from this source hover around \$5 million per year, with slight declines forecast for the 2011 biennium. The slight decline forecast for the 2011 biennium is consistent with the revenue estimates adopted by the Revenue and Transportation Committee at its November 2008 meeting. Figure 5 also illustrates that for FY 2011 the requested level of expenditures equates to 90.7 percent of the estimated revenues and that expenditures increase as a percentage of revenue from 81.2 percent in FY

Figure 5
 Montana Highway Patrol
 Recruitment and Retention
 Statutory Appropriation - Fund 02014

Year	Revenue	Expense	Expense
			Perc of Rev
2011	\$4,939,110	\$4,481,164	90.7%
2010	5,057,185	4,468,221	88.4%
2009	5,125,471	4,420,080	86.2%
2008	5,043,430	4,094,401	81.2%
2007	5,447,644	3,726,491	68.4%
2006	2,791,376	0	0.0%

2008 to 90.7 percent in FY 2011. If expenditures as a percentage of revenue continue to grow at the same rate, by FY 2015 expenditures will consume 99.9 percent of the revenue.

Options for legislative action related to this issue include:

- o Implement an increase in the fee that is directed to this account. However, if the number of vehicle registrations does not change eventually costs would once again “catch up” with the revenues
- o Create or divert another revenue source into this fund
- o Cap expenditure from this fund at a specific level that is at or below revenues received and shift costs in excess of this amount to another funding source. Currently, the portion of highway patrol salaries not supported by this source is supported by highway state special revenue funds. More information on this fund may be found under the Department of Transportation in volume 5 of this narrative
- o Redirect the fee revenue and expenditures from this fund to the general fund
- o Take no action at this time and review the structural balance of this fund at a future date

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding	Base	% of Base	Budget	% of Budget	Budget	% of Budget
	FY 2008	FY 2008	FY 2010	FY 2010	FY 2011	FY 2011
01000 Total General Fund	\$ 210,039	1.0%	\$ 278,213	1.1%	\$ 279,439	1.1%
01100 General Fund	210,039	1.0%	278,213	1.1%	279,439	1.1%
02000 Total State Special Funds	21,756,685	99.0%	23,926,710	98.9%	24,030,319	98.9%
02349 Highway Non-Restricted Account	-	-	4,166,903	17.2%	4,233,784	17.4%
02422 Highways Special Revenue	21,756,685	99.0%	19,759,807	81.6%	19,796,535	81.4%
Grand Total	\$ 21,966,724	100.0%	\$ 24,204,923	100.0%	\$ 24,309,758	100.0%

The Montana Highway Patrol is supported primarily (98.9 percent) by highway state special revenue. General fund provides 1.1 percent of the division’s funding and supports executive protection.

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 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	210,039	210,039	420,078	75.33%	21,966,724	21,966,724	43,933,448	90.56%
Statewide PL Adjustments	(11,826)	(10,600)	(22,426)	(4.02%)	1,899,495	2,005,487	3,904,982	8.05%
Other PL Adjustments	80,000	80,000	160,000	28.69%	330,000	330,000	660,000	1.36%
New Proposals	0	0	0	0.00%	8,704	7,547	16,251	0.03%
Total Budget	\$278,213	\$279,439	\$557,652		\$24,204,923	\$24,309,758	\$48,514,681	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "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 2010-----					-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					1,535,875					1,598,174
Inflation/Deflation					228,856					263,554
Fixed Costs					134,764					143,759
Total Statewide Present Law Adjustments					\$1,899,495					\$2,005,487
DP 1304 - Executive Protection Overtime	0.00	80,000	0	0	80,000	0.00	80,000	0	0	80,000
DP 1308 - Increase in base budget for rent.	0.00	0	250,000	0	250,000	0.00	0	250,000	0	250,000
Total Other Present Law Adjustments	0.00	\$80,000	\$250,000	\$0	\$330,000	0.00	\$80,000	\$250,000	\$0	\$330,000
Grand Total All Present Law Adjustments					\$2,229,495					\$2,335,487

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 for brevity by the LFD.

- o **Market Rate** – Montana Highway Patrol (MHP) has had difficulties implementing the agency's policy for target market ratios and progression to market in the following occupations:
 - Uniformed ranks - Funding from state special revenues from a \$5 vehicle registration fee (HB35 of the 2005 session) is not matching projections of revenues from this source. This will create future difficulties in maintaining salaries with pay raises that have been given
 - Dispatch personnel - The local labor market has been tight with regard to recruiting for this occupation, but with the salary adjustments put in place, MHP has been able to secure excellent applicants and pay is competitive at this time
 - Civilian personnel - The private sector generally pays more for clerical positions and it is difficult to recruit and retain qualified personnel

As of June 30, 2008, MHP's market ratio relative to the 2006 market survey was 96 percent. MHP expects that by October 1, 2008, it will be at a market ratio of 93 percent, relative to the 2008 market survey. The MHP does not make exceptions to agency policy on entry market ratios for any specific occupations. Any exceptions would be considered on a case-by-case basis. Uniformed and dispatch personnel salaries are based upon negotiated labor agreements and statute. Generally, MHP does not make exceptions from the agency policy on progression to market for any specific occupations

- o **Vacancy** - Most of MHP's vacancies had been in dispatch, but that has slowed with the increase in wages. MHP anticipates that the new pay scale will cause other agencies to increase wages to maintain a competitive edge, and ultimately force another pay increase at MHP to retain qualified personnel. Salaries for dispatch personnel have been increased to match local markets, which has reduced the problem of frequent vacancies. When MHP had frequent vacancies in dispatch positions, there was a reduced service response to calls for service in emergency situations. The public was not adequately served and the officers in the field were placed at risk
- o **Legislatively applied vacancy savings** - MHP is exempt from vacancy savings (statutory provision)
- o **Pay Changes** - Uniformed ranks - pay raises were given to all uniformed personnel as negotiated with the union. Dispatch personnel - pay raises were given to all dispatch personnel as negotiated with the union. Civilian personnel - pay raises were given for competency and 80 percent of market adjustments. In each occupation there were some adjustments made to move some employees to market. Uniformed ranks - Pay raises were funded out of state special revenue, which is statutorily appropriated (HB 35 of the 2005 session) Dispatch

personnel - Pay raises have been possible because of the high turnover rate in these positions. Consistently, there have been vacant positions producing vacancy savings sufficient to provide pay adjustments for remaining employees who are due a pay raise through labor negotiations. Civilian personnel - pay raises outside of pay plan (HB13 of the 2007 session) are rare with this occupational group. MHP has not transferred funding from other expenditure categories to fund position and pay changes

- o **Retirements** - MHP will have 60 employees eligible for full retirement in the 2011 biennium. The compensated absence liability for these employees is \$635,629. MHP had six employees retire in FY 2008. It is unknown how many will retire in FY 2009. MHP plans on running an academy each year with at least 10 cadets in order to fill vacancies from retirements of uniformed personnel

LFD COMMENT Please refer to the narrative for this division for additional information on the revenue and statutory appropriation that provides a portion of the funding for patrol officers, equipment, and operating costs.

DP 1304 - Executive Protection Overtime - This decision package requests \$160,000 general fund for the biennium to fund overtime in the Executive Protection Program. Overtime is zero-based for budgeting purposes and is not included in the adjusted base budget.

LFD COMMENT The division expended \$38,640 for overtime in FY 2008 the base budget year. The funding requested in this decision package is twice the amount expended in FY 2008.

DP 1308 - Increase in base budget for rent - This decision package requests \$500,000 state special revenue (highway) for the biennium to support increased rental costs.

LFD COMMENT The department has requested that this decision package be adjusted to request \$40,000 in FY 2010 and \$50,000 in FY 2011 to reflect estimated rental costs of \$570,000 for FY 2010 and \$580,000 for FY 2011. The FY 2008 expenditures for rent were \$530,592.

New Proposals

Program	-----Fiscal 2010-----					-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 1310 - State Special Revenue Funding Switch	13	0.00	0	0	0	0.00	0	0	0	0
DP 6101 - Fixed Cost Workers Comp Mgmt Program Allocation	13	0.00	0	8,704	8,704	0.00	0	7,547	0	7,547
Total	0.00	\$0	\$8,704	\$0	\$8,704 *	0.00	\$0	\$7,547	\$0	\$7,547 *

DP 1310 - State Special Revenue Funding Switch - This decision package requests a funding switch from the restricted to the non-restricted highway state special revenue fund. In past practice the Department of Transportation has transferred funds from the non-restricted account to the restricted account prior to expenditure of the funds. However, this practice conflicts with the statutory requirement contained in 15-70-125, MCA that any unexpended balance in the non restricted account must remain in the account. A transfer between accounts is not considered an expenditure and thus, is not consistent with statutory requirements. The funding shift in this decision package aligns practice with statutory requirements.

DP 6101 - Fixed Cost Workers Comp Mgmt Program Allocation - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Program Budget Comparison

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

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	97.00	97.00	100.00	100.00	97.00	100.00	3.00	3.09%
Personal Services	4,908,495	5,584,243	5,824,397	5,845,696	10,492,738	11,670,093	1,177,355	11.22%
Operating Expenses	3,629,752	4,034,841	4,435,472	3,942,140	7,664,593	8,377,612	713,019	9.30%
Equipment & Intangible Assets	331,101	388,380	421,101	421,101	719,481	842,202	122,721	17.06%
Debt Service	0	31,291	0	0	31,291	0	(31,291)	(100.00%)
Total Costs	\$8,869,348	\$10,038,755	\$10,680,970	\$10,208,937	\$18,908,103	\$20,889,907	\$1,981,804	10.48%
General Fund	4,754,893	4,915,830	5,925,883	5,455,389	9,670,723	11,381,272	1,710,549	17.69%
State Special	3,200,414	3,957,888	3,573,600	3,568,824	7,158,302	7,142,424	(15,878)	(0.22%)
Federal Special	914,041	1,165,037	1,181,487	1,184,724	2,079,078	2,366,211	287,133	13.81%
Total Funds	\$8,869,348	\$10,038,755	\$10,680,970	\$10,208,937	\$18,908,103	\$20,889,907	\$1,981,804	10.48%

Program Description

The Division of Criminal Investigation includes the administration, management, and coordination of criminal investigative services and training performed by the Investigations Bureau, the Narcotics Bureau, the Investigative Support Bureau and the Law Enforcement Academy Bureau.

The Investigations Bureau consists of four sections:

- The Fire Prevention and Investigation Section is responsible for safeguarding life and property from fire, explosion, and arson through investigation, inspection, and fire code interpretation and enforcement functions
- The Special Investigations Unit investigates crimes involving the use of computers, maintains the Sexual and Violent Offender Registry; and provides advanced training opportunities for law enforcement officials statewide
- The Major Case Section provides criminal investigative assistance to city, county, state, and federal law enforcement agencies
- The Medicaid Fraud Control Section is responsible for investigating any crime that occurs in a health care facility, including theft, drug diversion, sexual assault, and homicide. The section also investigates elder exploitation, elder abuse and fraud by providers within the Medicaid system

The Narcotics Bureau investigates dangerous drug violations and provides investigative assistance to city, county, state and federal law enforcement agencies as requested. The bureau also investigates organized criminal activity.

The Investigative Support Bureau is responsible for establishing a statewide intelligence center, criminal records checks section, Criminal Justice Information Network, and addressing homeland security issues.

The Law Enforcement Academy Bureau provides criminal justice officers and other qualified individuals with basic and specialized training in the field of law enforcement.

Program Highlights

Division of Criminal Investigation Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for the division increases 10.5 percent (\$2.0 million) between the 2009 and 2011 biennia ◆ General fund support increases 17.7 percent (\$1.7 million) during the same time frame primarily due to statewide present law adjustments, a request for \$0.5 million for the methamphetamine watch program, and various operating cost adjustments
Major LFD Issues
<ul style="list-style-type: none"> ◆ Objectives did not include information regarding measurement of progress ◆ Solvency of the Montana Law Enforcement Academy state special revenue account is discussed for the third biennia ◆ Some personal services funding was transferred to operations in the base budget year ◆ Decision packages include multiple items with varying policy decision implications

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:

- Goals, objectives and year-to-date outcomes from the 2009 biennium
- Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals

No goals related to this program were reviewed during the interim.

2011 Biennium Major Goals

The following provides an overview of major goals for the 2011 interim.

Goal 1 - Criminal Investigation - To provide professional criminal and fire investigative assistance to Montana's public safety agencies through experience and expertise in violent crimes, narcotics crimes, fire (including arson), economic crimes (including public assistance fraud), government fraud and abuse, organized crime, computer crime, and terrorism

Goal 2 - Law Enforcement Academy - To provide Montana law enforcement officers and other qualified individuals with a means of securing training in the field of law enforcement by:

- Objectives:
 - Conducting an appropriate number of mandated entry-level law enforcement, communications, and corrections/detention certification programs to meet the needs and schedules of local, regional and state agencies
 - Developing and offering self-supporting, revenue-generating professional programs that meet the advanced training and continuing education needs of senior officers and agency administrators
 - Hosting, instructing or supporting specialized courses for agencies whose employees must, under state law or established professional practice, receive academy training

- Identifying and offering a limited number of new and innovative training programs that address anticipated social and professional changes
- Training law enforcement officers and other individuals in principles and techniques that will reduce domestic violence and violence against women
- Training law enforcement officers and other individuals in principles and techniques of substance abuse prevention education and violence reduction, especially programs serving youth
- Providing continuing education for certified reserve officers
- Maintaining professional relationships with agencies and associations setting standards for law enforcement and public safety performance in Montana and supporting these standards through training

**LFD
ISSUE**
No Indication of How or When Progress Will be Measured

The objectives above do not provide the reader any indication of how or when progress toward achievement will be measured. Thus, it is difficult to equate the budget request with what is being achieved by the expenditure of funds and whether or not the achievements are done in a cost efficient and effective manner. For example, providing training to law enforcement officers may not achieve a desirable outcome if the costs of the training is excessive and officers are not able to implement or demonstrate usefulness or proficiency in an area upon completion of the training. The legislature may wish to discuss with the division how and when progress toward achievement of the objectives is measured.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 4,754,893	53.6%	\$ 5,925,883	55.5%	\$ 5,455,389	53.4%
01100 General Fund	4,754,893	53.6%	5,925,883	55.5%	5,455,389	53.4%
02000 Total State Special Funds	3,200,414	36.1%	3,573,600	33.5%	3,568,824	35.0%
02016 Criminal Justice Info Network	815,204	9.2%	790,825	7.4%	791,076	7.7%
02079 Fire Protection & Permitting	43,281	0.5%	51,772	0.5%	51,784	0.5%
02143 Drug Forfeitures-State	26,530	0.3%	26,595	0.2%	26,606	0.3%
02546 Mtlaw Enforc. Acad. Surcharge	1,440,907	16.2%	1,661,284	15.6%	1,654,378	16.2%
02797 Cjis - Background Checks	728,972	8.2%	747,066	7.0%	747,559	7.3%
02937 Justice State Special Misc	145,520	1.6%	296,058	2.8%	297,421	2.9%
03000 Total Federal Special Funds	914,041	10.3%	1,181,487	11.1%	1,184,724	11.6%
03051 Homeland Security	215,156	2.4%	378,755	3.5%	379,015	3.7%
03187 Bcc Grants To Dept. Of Justice	268,254	3.0%	277,979	2.6%	278,025	2.7%
03800 Medicaid Fraud	430,631	4.9%	524,753	4.9%	527,684	5.2%
Grand Total	\$ 8,869,348	100.0%	\$ 10,680,970	100.0%	\$ 10,208,937	100.0%

The division is supported by a combination of general fund, state special revenue, and federal funds. General fund supports criminal investigations, fire prevention and investigation, match for federal funds supporting Medicaid fraud investigations, drug task forces, the computer crime unit, sexual and violent offender registry, amber alert, child sexual abuse response team, and Peace Officer Standards and Training (POST).

The three largest sources of state special revenue supporting the division are: Montana Law Enforcement Academy surcharges that support operation of the academy, criminal justice information network (CJIN) revenue that supports itself, and revenue from criminal justice background checks that are paid in exchange for completion of a background check.

The largest source of federal funds is Medicaid funding that supports investigation of Medicaid fraud. Other federal grants support drug enforcement task forces and homeland security functions.

**LFD
ISSUE**

Solvency of MLEA fund

Figure 6 summarizes FY 2008 actual and FY 2009 through 2011 anticipated revenues and expenditures for the MLEA state special revenue account. In FY 2008 expenditures exceeded revenues by \$146,921 and it is anticipated that this pattern will continue during the 2011 biennium. In the event that revenues are not realized at a level adequate to fund the anticipated level of expenditures, expenditures will need to be reduced or an alternate source of funding found to support a portion of the requested expenditures.

Item	FY 2008	FY 2009	FY 2010	FY 2011
Beginning Balance	\$168,516	\$37,130	\$234,598	\$127,751
Revenue				
Administrative Fees	0	1,100,000	995,000	995,000
Criminal Conviction Surcharge	985,546	210,000	210,000	210,000
MLEA Generated Revenue	341,357	345,000	345,000	345,000
Professional Program Fees	9,461	10,000	10,000	10,000
Crim. Conviction Surcharge	(51,422)			
MLEA Store Income	<u>9,044</u>	<u>10,000</u>	<u>10,000</u>	<u>10,000</u>
Total Revenue	\$1,293,986	\$1,675,000	\$1,570,000	\$1,570,000
Expenditures:				
Justice - MLEA	1,440,907	1,477,532	1,555,502	1,561,374
Justice - Central Services			14,636	14,684
Justice - Audit Fees			920	
Justice - Other			<u>105,789</u>	<u>93,010</u>
	<u>1,440,907</u>	<u>1,477,532</u>	<u>1,676,847</u>	<u>1,669,068</u>
Revenue Less Expenditures	(146,921)	197,468	(106,847)	(99,068)
Adjustment	<u>15,535</u>	<u>0</u>	<u>0</u>	<u>0</u>
Ending Fund Balance	<u>\$37,130</u>	<u>\$234,598</u>	<u>\$127,751</u>	<u>\$28,683</u>
Expenditures as Percent of Revenue	111.4%	88.2%	106.8%	106.3%

The legislature may wish to discuss with the department what actions will be taken in the event revenues are not sufficient to support the anticipated level of expenditures.

HB 124 from the 2003 session switched funding for the MLEA from the general fund to a state special revenue account funded by a surcharge on certain criminal convictions and fees charged to students. Since that time, revenue estimates have not been realized at the projected level, creating funding difficulties. This issue was discussed in the Legislative Budget Analysis for both the 2007 and 2009 biennia. The department stated that if revenues are not sufficient to support the requested level of expenditures it could increase fees and would work to identify other funding possibilities. The division has been (and plans to continue) conducting audits of county collection reports to identify and correct instances where the revenue has not been properly recorded and forwarded to the division.

Given the ongoing difficulty with solvency in this account the legislature may wish to:

- o Increase criminal conviction surcharges
- o Recommend that the department increase fees charged to law enforcement agencies for services provided by the academy
- o Find another source of revenue
- o Provide a minimum level of general fund to assist in maintenance of ongoing operations
- o Redirect fees to the general fund and provide a general fund appropriation for this purpose

LFD ISSUE Removal of Intermittent Expenditures From Base

The state special revenue account for the Criminal Justice Information Network (CJIN) is not solvent based upon the 2011 biennium budget information. Figure 8 summarizes FY 2008 actual and FY 2009 through 2011 anticipated revenues and expenditures for this account. As illustrated in the figure, expenditures exceeded revenues in FY 2008 and are anticipated to do so again in FY 2010 and 2011, resulting in a negative fund balance in both years of the 2011 biennium. However, the FY 2008 expenditure level includes the accrual of \$375,000 of expenditures for activities that occur once every four years. FY 2010 and 2011 expenditure levels were not adjusted to reflect the intermittent nature of this expenditure. If the FY 2010 and 2011 expenditure levels are reduced by this amount, revenues exceed expenditures by about \$148,000 per year and the fund balance increases during the 2011 biennium.

Figure 7
2016 Criminal Justice Information Network (CJIN)

Item	FY 2008	FY 2009	FY 2010	FY 2011
Beginning Balance	\$331,334	\$76,588	\$131,577	(\$94,555)
Revenue				
Accommodation Tax/Agencies	46	50	50	50
CJIN Fees - Cities	109,629	110,000	110,000	110,000
CJIN Fees - Counties	176,994	177,000	177,000	177,000
CJIN Fees - U.S. Government	88,123	90,000	90,000	90,000
CJIN Fees - State Government	190,485	191,000	191,000	191,000
Total	\$565,277	\$568,050	\$568,050	\$568,050
Expenditures				
Program 18 - Div. Criminal Invest.	\$815,204	\$509,654	\$790,775	\$791,033
Program 29 - Information Tech.	3,407	3,407	3,407	3,407
Total Expenditures	\$818,611	\$513,061	\$794,182	\$794,440
Revenues Less Expenditures	(253,334)	54,989	(226,132)	(226,390)
Adjustments	(1,412)	0	0	0
Ending Balance	\$76,588	\$131,577	(\$94,555)	(\$320,945)
Expense as Percent of Revenue	144.8%	90.3%	139.8%	139.9%

The legislature may wish to adopt a motion reducing the 2011 biennium level of proposed expenditures for this fund by \$375,000 per year and direct the department to include such adjustments in future biennia budgets as needed so that appropriations reflect the anticipated level of expenditure.

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 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	4,754,893	4,754,893	9,509,786	83.56%	8,869,348	8,869,348	17,738,696	84.92%
Statewide PL Adjustments	360,185	378,494	738,679	6.49%	793,571	819,883	1,613,454	7.72%
Other PL Adjustments	308,885	320,338	629,223	5.53%	514,874	516,951	1,031,825	4.94%
New Proposals	501,920	1,664	503,584	4.42%	503,177	2,755	505,932	2.42%
Total Budget	\$5,925,883	\$5,455,389	\$11,381,272		\$10,680,970	\$10,208,937	\$20,889,907	

Present Law Adjustments

The “Present Law Adjustments” table shows the primary changes to the adjusted base budget proposed by the Governor. “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 2010-----					-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Present Law Adjustments										
Personal Services					972,183					993,056
Vacancy Savings					(235,228)					(236,064)
Inflation/Deflation					51,376					58,804
Fixed Costs					5,240					4,087
Total Statewide Present Law Adjustments					\$793,571					\$819,883
DP 1802 - SVOR Program - FTE for Program	1.00	56,001	0	0	56,001	1.00	53,323	0	0	53,323
DP 1805 - Vehicle Replacement Program	0.00	60,000	0	0	60,000	0.00	60,000	0	0	60,000
DP 1806 - DCI - Base Adjustments	0.00	118,152	52,924	0	171,076	0.00	134,400	54,184	0	188,584
DP 1807 - MLEA - Base Adjustments	0.00	0	40,000	0	40,000	0.00	0	50,000	0	50,000
DP 1808 - MLEA - Records Management Assistant	1.00	0	65,286	0	65,286	1.00	0	42,573	0	42,573
DP 1809 - Computer Crime Unit Equip Replacement - OTO	0.00	20,000	0	0	20,000	0.00	20,000	0	0	20,000
DP 1811 - Child Sexual Abuse Program - FTE request	1.00	42,429	0	0	42,429	1.00	39,619	0	0	39,619
DP 1812 - Medicaid Fraud Control Unit - Base Adjustment	0.00	12,303	0	36,910	49,213	0.00	12,996	0	38,987	51,983
DP 1813 - SW Drug Task Force Rent Butte Office	0.00	0	0	10,869	10,869	0.00	0	0	10,869	10,869
Total Other Present Law Adjustments	3.00	\$308,885	\$158,210	\$47,779	\$514,874	3.00	\$320,338	\$146,757	\$49,856	\$516,951
Grand Total All Present Law Adjustments					\$1,308,445					\$1,336,834

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 for brevity by the LFD.

- **Market Rate** - The Division of Criminal Investigations (DCI) is having difficulties in moving employees to market under pay plan 20 primarily due to lack of personal services funding from the general fund. The division has little turnover and does not routinely meet the vacancy savings of approximately \$120,000. There are no funds remaining once vacancy savings is satisfied to address pay increases to move staff toward market. As of June 30, 2008, DCI's market ratio, relative to the 2006 market survey, was 95 percent. DCI expects that by October 1, 2008, it will be at a market ratio of 87 percent, relative to the 2008 market survey. DCI has made exceptions to agency policy on entry if the employee has excellent job-related qualifications and competencies. DCI makes progression pay decisions based upon Pay Plan 20 components with justification
- **Vacancy** - The Division of Criminal Investigation does not currently have high turnover rates within any one occupation and does not currently experience long-term or frequent vacancies. Vacancies impact DCI generally by an increased workload and overtime for other employees within the unit
- **Legislatively applied vacancy savings** - DCI generally attempts to hold positions open to cover vacancy savings. However, the division has such a low turnover rate that this is often difficult. The division has in the past obtained contingency funding from the Governor's office. In FY 2008, some additional vacancy savings was attained and the funding was transferred to operations to cover shortfalls for fuel and travel. In a typical year, additional vacancy savings are not attained
- **Pay Changes** – The Division of Criminal Investigation gave increases outside HB 13 in the following instances:
 - Discretionary pay market - union criminal investigators were given a 2 percent increase toward market for all currently under market as of June 2008. This was included in the negotiated union contract
 - Correct inaccurate pay - union grievance - three union criminal investigators were given an increase due to a union grievance

- Market Adjustments - fire marshals were moved to market for their occupation, law enforcement managers were at entry for the occupation, and an increase toward market was given to adjust internal pay equity between managers and staff
- Training assignments completed - increases were given to an administrative clerk and a crime analyst for completion of training assignments
- Competency Pay - competency pay increases were given to a compliance specialist, lawyer, and records management assistant
- These increases were funded by the 0.6 percent included in the 2009 biennium pay plan, specific funding appropriated through a new program, and allocation of an existing bureau chief position to an alternate funding source obtained during a department reorganization. There were no impacts to program delivery or customers as a result of DCI pay increases.
- **Retirements** - The Division of Criminal Investigation has 15 employees eligible for full retirement in the 2011 biennium at an estimated cost of \$193,837 in compensated absence liabilities. DCI will have three retirements during the 2009 biennium. The Division of Criminal Investigation knows of only one possible retirement that will impact current division operations. The head of the computer crime unit is thinking about retirement sometime after July 1, 2009. The computer crime unit would be greatly impacted by his departure. Planning is currently underway to address cross-training and replacement needs for this position

DP 1802 - SVOR Program - FTE for Program - The Division of Criminal Investigation requests \$109,324 general fund for the biennium for 1.00 FTE data control specialist and operating expenses for the sexual and violent offender registry (SVOR) program due to legislation changes and an increasing number of sexual and violent offenders in the state.

The following information is provided so that the legislature can consider various performance measurement principles when examining this proposal. It is submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: This proposal is needed to keep up with increasing program demands and responsibilities related to the management of the state's sexual and violent offender program. One person can no longer manage this program effectively. Over the past several years there have been numerous legislative changes to the state sexual and violent offender registry program. Each change has increased the operational and quality control responsibilities of the program.

Project Outcomes: The goals of this proposal are to ensure that the information provided to the SVOR registry is timely, accurate, and properly disseminated to local law enforcement agencies and the public. This is accomplished by ensuring that the registry information is accurate and that current photographs are available on all offenders. Regular audits of local agency data will occur to identify noncompliant offenders so that the necessary enforcement and prosecutorial actions may be taken.

Performance Criteria: Progress of this proposal will be determined by the accuracy of the data, timely response to inquiries and a faster turnaround of offender information entered into the database.

Milestones: Results of this proposal will be recognized immediately as an additional staff member will help with an already overburdened program.

FTE: 1.00 FTE

Funding: general fund

Obstacles: The challenges with this proposal (and this program) is the effective coordination of information collection among local, state, and federal agencies.

Risk: The risk to the state if this proposal is not adopted is that timely and reliable information about sexual and violent offenders may not be available to Montana's public safety agencies and the public.

**LFD
ISSUE****Level of Performance Expectations Lacking**

The performance criteria above do not specify what level of performance is expected due to the lack of definition of the terms “accurate” and “timely”. Specific time bound milestones were not provided, providing the reader no idea how long it might take for the department to recruit, hire and train a new employee. Nor are milestones provided to give the reader an indication of what will be achieved or by when the division hopes to achieve improvement. The legislature may wish to request that the department provide: measurable objectives and timeline for completion and measurement of progress toward achievement of the objective.

DP 1805 - Vehicle Replacement Program - DCI requests \$120,000 general fund for replacement of vehicles. The division indicates that many of its vehicles exceed 30,000 miles annually and have an active life of only five years. The division would like to replace three vehicles per year at an estimated cost of \$20,000 per vehicle

**LFD
COMMENT**

The division currently owns 60 vehicles in addition to 7 motor pool and 1 Federal Bureau of Investigation (FBI) owned vehicles. Of the 60 vehicles owned by the division, 10 have over 100,000 miles and 4 of these have over 150,000 miles.

DP 1806 - DCI - Base Adjustments - The Division of Criminal Investigation (DCI) requests \$359,660 for the 2011 biennium (\$252,552 in general fund and \$107,108 in state special revenue) for base budget adjustments.

LFD ISSUE Multiple Items Requested
 As illustrated in figure 8 this decision package requests multiple items, for multiple sections within the division, with varying policy decision implications.

The inclusion of multiple items in one decision package removes the number of points for legislative decision making, particularly when the policy implications of the decisions vary. Included in this decision package are adjustments for narcotics, investigations, fire marshals, and the child sexual abuse response team sections of the division. The legislature may have a different policy for the level of funding it wishes to provide these various sections. Given the multiple items includes in this decision package, the legislature may wish to:

- o Discuss each change separately with the division, and direct that the division not include adjustments for multiple sections in one decision package as “base adjustments” in future budget submissions
- o Take action on the items included in this decision package separately
- o Direct staff to separate funding that is approved by the legislature into a decision package for each function

Figure 8
 Division of Criminal Investigations
 Decision Package 1806
 Summary by Function

Section	Item	FY 2010	FY 2011
Narcotics	Ammunition	\$2,500	\$2,500
	Travel	8,100	8,100
	Fuel	7,500	7,500
	GPS Wireless	2,500	2,500
Subtotal		\$20,600	\$20,600
Funding	General Fund	20,600	20,600
Investigations	Ammunition	2,500	2,500
	Travel	8,100	8,100
	Overtime	20,000	20,700
	Fuel	7,500	7,500
Subtotal		\$38,100	\$38,800
Funding	General Fund	38,100	38,800
MSART*	Training	1,000	1,000
	Travel	5,000	5,000
Subtotal		\$6,000	\$6,000
Funding	General Fund	6,000	6,000
Fire Marshal**	Motor Pool Veh	12,662	12,662
	Personal Svcs	41,506	42,024
	Testing Fees	10,000	10,000
Total		\$64,168	\$64,686
Funding	General Fund	12,662	12,662
	State Spec Rev	51,506	52,024
Various	Rent	42,208	58,498
Funding	General Fund	\$40,790	\$56,338
	State Spec Rev	1,418	2,160
Total All Sections			
Funding	General Fund	118,152	134,400
	State Spec Rev	52,924	54,184
	Total	\$171,076	\$188,584

*Montana Child Sexual Abuse Response Team (MSART)
 **Includes fire marshal and safe cigarette programs

LFD COMMENT The funding requested in this decision package (state special revenue) for personal service costs of fire marshals duplicates funding included in the personal services budget. The division requests that this funding be removed from the decision package.

DP 1807 - MLEA - Base Adjustments - This decision package requests \$90,000 state special revenue for the biennium for the Montana Law Enforcement Academy (MLEA) for increases in ammunition, communications, utilities, and food service costs. The Montana Law Enforcement Academy is funded with criminal conviction surcharge revenue and class fees.

LFD COMMENT This decision package is allocated to the DCI budget level rather than the budget reporting level for the law enforcement. If the legislature approves this decision package it may wish to direct legislative staff to modify the budgeting system to reflect allocation of this item to the correct budget reporting level.

DP 1808 - MLEA - Records Management Assistant - This decision package requests \$107,859 state special revenue for the biennium for 1.00 FTE records assistant, operations, and software costs for the Montana Law Enforcement Academy (MLEA) to track all MLEA class participation. A portion of the FY 2010 funding (\$20,000) is needed on a one-time-only basis to purchase records management software.

DP 1809 - Computer Crime Unit Equip Replacement - OTO - The Division of Criminal Investigation requests \$40,000 in general fund for the 2011 biennium to purchase new equipment and software for the computer crime unit. This unit does forensic examinations of computer crimes, many of which involve child pornography.

DP 1811 - Child Sexual Abuse Program - FTE request - The Division of Criminal Investigations (DCI) requests of \$82,048 general fund for the biennium to support 1.00 FTE administrative assistant for the Montana Child Sexual Abuse Response Team Program (MCSART). This FTE would work closely with the MCSART Coordinator completing administrative duties to support the state wide program.

DP 1812 - Medicaid Fraud Control Unit - Base Adjustment - This decision package requests \$101,196 for the biennium (\$25,299 of general fund and \$75,897 of federal Medicaid fund) to annualize operating costs for the unit. The department indicates that the unit had vacancies that affected the base expenditures in travel, gasoline, training, and communications. This includes \$20,000 per year for vehicle replacements.

LFD COMMENT This decision package is allocated to the DCI budget level rather than the budget reporting level for the law enforcement academy. If the legislature approves this decision package it may wish to direct legislative staff to modify the budgeting system to reflect allocation of this item to the correct budget reporting level.

DP 1813 - SW Drug Task Force Rent Butte Office - The Division of Criminal Investigations requests \$10,869 federal funds each year of the biennium to pay rent for the Southwest Montana Drug Taskforce (SWMDTF) office in Butte.

LFD COMMENT This amount of rent was mistakenly recorded in the fixed cost expenditure account and was removed from the adjusted base budget. The department requests continuation of funding that would have been included in the base budget had it been properly recorded on the accounting records.

New Proposals

Program	FTE	Fiscal 2010				Fiscal 2011					
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 1814 - Continue Meth Watch Program - Rest/Bein/OTO	18	0.00	500,000	0	0	500,000	0.00	0	0	0	0
DP 6101 - Fixed Cost Workers Comp Management Program Alloc	18	0.00	1,920	926	331	3,177	0.00	1,664	804	287	2,755
Total	0.00	\$501,920	\$926	\$331	\$503,177 *	0.00	\$1,664	\$804	\$287	\$2,755 *	

DP 1814 - Continue Meth Watch Program - Rest/Bein/OTO - This decision package requests \$500,000 general fund for the biennium as one-time-only funding for the meth media campaign designed to reduce methamphetamine addiction, especially among young Montanans. This public awareness campaign uses television, newspapers, radio, billboards, and

movie screens to focus on the damage meth use causes individuals, families, and communities.

**LFD
COMMENT**

The 2007 legislature provided \$1 million as a restricted, biennial, one-time-only appropriation for this purpose in the 2009 biennium. None of this appropriation was expended in FY 2008. However, as of this writing \$289,042 of the appropriation had been expended in FY 2009.

**LFD
ISSUE****Measurement of Program Success**

Given the large amount of funding supporting methamphetamine awareness and prevention and that it is perceived as a significant cause of crime including child abuse and neglect, the legislature may wish to:

- o Discuss with the department program achievements since implementation and the relationship of this funding to private funds used for this effort
- o Request that the department develop and provide program goals and measurable objectives for the 2011 biennium
- o Monitor the achievements of this program during the interim

DP 6101 - Fixed Cost Workers Comp Management Program Alloc - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Program Budget Comparison

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

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	18.00	18.00	18.00	18.00	18.00	18.00	0.00	0.00%
Personal Services	937,933	976,314	1,023,052	1,026,375	1,914,247	2,049,427	135,180	7.06%
Operating Expenses	215,565	161,727	274,004	202,216	377,292	476,220	98,928	26.22%
Total Costs	\$1,153,498	\$1,138,041	\$1,297,056	\$1,228,591	\$2,291,539	\$2,525,647	\$234,108	10.22%
General Fund	418,947	408,970	517,133	488,133	827,917	1,005,266	177,349	21.42%
State Special	668,119	661,076	707,610	667,946	1,329,195	1,375,556	46,361	3.49%
Other	66,432	67,995	72,313	72,512	134,427	144,825	10,398	7.74%
Total Funds	\$1,153,498	\$1,138,041	\$1,297,056	\$1,228,591	\$2,291,539	\$2,525,647	\$234,108	10.22%

Program Description

The Central Services Division provides the administrative, personnel, budgetary, accounting, and fiscal support for the Department of Justice. The program also administers the County Attorney Payroll.

Program Highlights

Central Services Division Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for the division increases 10.2 percent (\$234,000) between the 2009 and 2011 biennia ◆ General fund support increases 21.4 percent (\$177,000) between the two biennia due primarily to statewide present law adjustments
Major LFD Issues
<ul style="list-style-type: none"> ◆ Goals submitted with the agency budget do not match goals listed on the department web site ◆ Measurable objectives are lacking

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 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals

No goals related to this program were reviewed during the interim.

2011 Biennium Major Goals

The following provides an overview of major goals for the 2011 interim.

Goal 1 - To provide comprehensive value-based personnel management services to department employees, supervisors and administrators in support of the agency's mission.

Goal 2 –To provide accounting functions to all divisions, bureaus and programs in accordance with generally accepted accounting principles and in compliance with state and federal laws and regulations.

**LFD
ISSUE**
Submitted Goals Differ From Those on Website

Some of the goal statements provided with the division budget submission do not match the division goals listed on the agency website. Per 17-7-123(2), MCA, budget related goals and objectives are required to be available on the internet. For the purpose of this analysis, it is assumed that the goals and objectives provided via printed copy from the Governor's Office of Budget and Program Planning are the program's goals and objectives for the 2011 biennium budget request.

**LFD
ISSUE**
Lack of Measurable Ojbjectives

The goals for this division do not list objectives for achievement of the goal or information regarding when and how progress toward the goal will be measured. While goal 2 could be measured through the findings and recommendations of the audit completed by the Legislative Audit Division, goal 1 does not appear to be measurable because the term "value-based" is not defined nor is it a likely to be a commonly understood term.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 418,947	36.3%	\$ 517,133	39.9%	\$ 488,133	39.7%
01100 General Fund	418,947	36.3%	517,133	39.9%	488,133	39.7%
02000 Total State Special Funds	668,119	57.9%	707,610	54.6%	667,946	54.4%
02003 Misc Grants And Nrd	16,184	1.4%	-	-	-	-
02074 Gambling License Fee Account	68,983	6.0%	58,484	4.5%	55,207	4.5%
02140 Consumer Education Settlement	16,187	1.4%	14,547	1.1%	13,732	1.1%
02349 Highway Non-Restricted Account	-	-	595,036	45.9%	561,682	45.7%
02422 Highways Special Revenue	566,765	49.1%	-	-	-	-
02546 Mtlaw Enforc. Acad. Surcharge	-	-	15,563	1.2%	14,690	1.2%
02797 Cjis - Background Checks	-	-	23,980	1.8%	22,635	1.8%
06000 Total Proprietary Funds	66,432	5.8%	72,313	5.6%	72,512	5.9%
06005 Liquor Division	55,629	4.8%	58,000	4.5%	59,000	4.8%
06500 Agency Legal Services	<u>10,803</u>	<u>0.9%</u>	<u>14,313</u>	<u>1.1%</u>	<u>13,512</u>	<u>1.1%</u>
Grand Total	<u>\$ 1,153,498</u>	<u>100.0%</u>	<u>\$ 1,297,056</u>	<u>100.0%</u>	<u>\$ 1,228,591</u>	<u>100.0%</u>

The Centralized Services Division is funded by allocation of costs among the various funding sources supporting the department. General fund provides 39.7 percent of the division's funding; state special revenue, the largest source being highway state special revenue provides 54.4 percent of the division funding; and proprietary funds including liquor licensing fees and fees for agency legal services provide 5.9 percent of the division's funding.

**LFD
ISSUE**

Funding Allocation

The 2011 biennium budget request is allocated based upon the appropriations for ongoing operations as a percent of total. This calculation is under review and further information will be provided to the appropriations subcommittee.

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 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	418,947	418,947	837,894	83.35%	1,153,498	1,153,498	2,306,996	91.34%
Statewide PL Adjustments	97,953	68,985	166,938	16.61%	143,001	74,611	217,612	8.62%
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	233	201	434	0.04%	557	482	1,039	0.04%
Total Budget	\$517,133	\$488,133	\$1,005,266		\$1,297,056	\$1,228,591	\$2,525,647	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "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 2010-----					-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					127,747					131,208
Vacancy Savings					(42,628)					(42,766)
Inflation/Deflation					118					154
Fixed Costs					57,764					(13,985)
Total Statewide Present Law Adjustments					\$143,001 *					\$74,611 *
Grand Total All Present Law Adjustments					\$143,001					\$74,611

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 for brevity by the LFD.

- o **Market Rate** - The pay plan, while providing the latitude for market adjustments to salaries, or progression to market, does not include the funding necessary to implement the desired pay changes. Target market ratios often differ among state agencies, making it hard to compete for competent staff within government. High demand for some professions in the local market makes it difficult to recruit and retain qualified staff. As of June 30, 2008, CSD's market ratio, relative to, the 2006 market survey, was 100 percent. CSD expects that by October 1, 2008, it will be at a market ratio of 91 percent, relative to the 2008 market survey

With regard to accountants and human resource specialist positions, CSD's competition for qualified staff is almost exclusively with other state agencies. Many of the hires come from state agencies and vacancies typically result from staff receiving new jobs outside of this division, but still remaining within the overall state labor pool. Any hiring philosophy the department has is controlled by the market forces inclusive to state

government. If a target market ratio is maintained that fails to respond to the hiring practices of other state agencies, the program would be unable to hire and retain qualified staff.

When new staff are brought on board with the basic requirements of the position, it has been the philosophy to pay at 80 percent of market. However, the more qualified candidates usually have experience and skills that exceed minimum expectations. In these cases, they may be hired at or above market. The division carefully considers the salary ratios of incumbent staff when offering a salary rate to a new hire in an efforts to ward off poor employee morale or discontent. The division typically follows agency policy for progression to market and will consider pay adjustments to retain staff in reaction to other agencies offering them higher pay. The division aims to be somewhat proactive in giving competency pay adjustments to keep qualified and highly valued staff content with their work, so that they won't be out looking for new opportunities.

- o **Vacancy** - The highest turnover rate typically occurs in the lower paid professions. These positions are often like apprenticeships where the incumbent acquires valuable skills that improve their marketability to other state agencies. The division is very cognizant of the threat of losing developing staff, and efforts are made to provide training assignment opportunities for many higher level jobs. CSD typically doesn't have long-term or frequent vacancies. The division has a small, stable staff size. Because of this, the division may not achieve the vacancy savings necessary to meet assessed percentage. The transfer of funds from other divisions has been necessary to compensate for the unrealized vacancy savings within CSD, and to make market adjustments to keep salaries competitive enough to retain and recruit staff, thereby increasing the vacancy savings of another departmental program. If positions are kept open, workloads are passed on to other employees, deadlines are extended, and morale suffers
- o **Legislatively applied vacancy savings** - Positions were held open and funds were transferred from other divisions when realized vacancy savings were not sufficient to meet the applied rate. Typically CSD does not have enough vacancies to generate excess vacancy savings above the applied rate
- o **Pay Changes** - Pay raises were given for market adjustments, classification upgrades, and competency pay adjustments. Pay changes outside of pay plan were funded by holding vacated positions open for longer than necessary and with use of carry-forward appropriations. No funds were transferred from operations to pay for raises within the CSD program
- o **Retirements** - There are six employees in the CSD program that are eligible for full retirement in the 2011 biennium at a cost of approximately \$65,000 in compensated absence liabilities. The division anticipates two retirements during the 2009 biennium. The retirements anticipated will be filled by the normal recruiting process. The positions will be left open for a period of time to help achieve vacancy savings. The division may need to utilize the personal services contingency fund to pay for the cost of retirement buyouts

New Proposals

Program	-----Fiscal 2010-----					-----Fiscal 2011-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 2810 - State Special Revenue Funding Switch	28	0.00	0	0	0	0.00	0	0	0	0	
DP 6101 - Fixed Cost Workers Comp Management Program Allocat	28	0.00	233	318	0	557 *	0.00	201	275	0	482 *
Total	0.00	\$233	\$318	\$0	\$557 *	0.00	\$201	\$275	\$0	\$482 *	

DP 2810 - State Special Revenue Funding Switch - This decision package requests a funding switch from the restricted to the non-restricted highway state special revenue fund. In past practice the Department of Transportation has transferred funds from the non-restricted account to the restricted account prior to expenditure of the funds. However, this practice conflicts with the statutory requirement contained in 15-70-125, MCA that any unexpended balance in the non restricted account must remain in the account. A transfer between accounts is not considered expenditure and thus, is not consistent with statutory requirements. The funding shift in this decision package aligns practice with statutory requirements.

DP 6101 - Fixed Cost Workers Comp Management Program Allocat - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Program Budget Comparison

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

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	41.00	41.00	41.00	41.00	41.00	41.00	0.00	0.00%
Personal Services	2,206,495	2,478,633	2,544,622	2,553,531	4,685,128	5,098,153	413,025	8.82%
Operating Expenses	1,039,913	974,072	1,048,028	1,048,423	2,013,985	2,096,451	82,466	4.09%
Equipment & Intangible Assets	87,831	12,644	87,831	87,831	100,475	175,662	75,187	74.83%
Total Costs	\$3,334,239	\$3,465,349	\$3,680,481	\$3,689,785	\$6,799,588	\$7,370,266	\$570,678	8.39%
General Fund	3,196,881	3,326,777	3,542,312	3,551,576	6,523,658	7,093,888	570,230	8.74%
State Special	121,769	121,859	122,497	122,533	243,628	245,030	1,402	0.58%
Federal Special	2,268	3,392	2,268	2,268	5,660	4,536	(1,124)	(19.86%)
Other	13,321	13,321	13,404	13,408	26,642	26,812	170	0.64%
Total Funds	\$3,334,239	\$3,465,349	\$3,680,481	\$3,689,785	\$6,799,588	\$7,370,266	\$570,678	8.39%

Program Description

The Justice Information Technology Services Division provides a full range of information technology and criminal justice services for the department, including:

- System development and maintenance
- Criminal history record information system and the Montana Uniform Crime Reporting System
- Support for the department's internal computers and systems
- Support for the Criminal Justice Information Network (CJIN), which links law enforcement and criminal justice agencies with information sources at local, state, and national levels by interfacing with the National Law Enforcement Telecommunications System, the National Crime Information Center (NCIC), and numerous state of Montana files

Some of the newer systems supported include, but are not limited to, the MHP Integrated Public Safety System (CAD, RMS, Mobile in car, e-citations, crash reporting, etc.), End of Life, Hope Card, Concealed Weapons, and Amber Alert. One of the largest and important projects is support and maintenance of the Integrated Justice Information System (IJIS) broker. This system is key to interoperability between all justice information technology systems within the state, which includes federal, state, and local agencies being interfaced together to share information.

Program Highlights

Information Technology Service Division	
Major Budget Highlights	
◆	Funding for the division increases 8.4 percent (\$570,000) when the 2009 and 2011 biennia are compared, primarily in general fund support due to statewide present law adjustments
◆	The division indicates lack of consistent statewide interpretations related to the broad band pay plan hinders its ability to recruit and retain staff
Major LFD Issues	
◆	Division goals are broad statements lacking measurements
◆	Funding (\$194,000) was moved from personal services to operations and equipment during the base budget year

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:

- Goals, objectives and year-to-date outcomes from the 2009 biennium
- Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals

No goals related to this program were reviewed during the interim.

2011 Biennium Major Goals

The following provides an overview of major goals for the 2011 interim.

Goal 1 – (Mission) Collaborate with our partners and clients in the justice community, work to find timely, innovative technology solutions to support their business processes, and provide quality, cost-effective information technology services and support.

Objective: To engineer, implement and maintain the Integrated Justice Information Sharing (IJIS) Broker. This system allows federal, state and local justice systems throughout the state to communicate with each other in a more effective and efficient manner, taking advantage of state-of-the-art technology.

LFD
ISSUE

Goals Lack Measurable Objectives

For the purpose of this analysis, the mission statement provided by the program is being utilized as the division's goal statement and the items appearing below the mission statement in the document submitted with the executive budget are being considered objectives related to the goal (mission).

The goal and objective statements are broad in nature and do not provide the reader sufficient information to be able to visualize what outcome or work product is envisioned by the division. The objective provides no information regarding how or when progress toward achievement will be measured. It is difficult to correlate the budget request with what will be achieved or produced as a result of the expenditure of funds. The legislature may wish to discuss appropriate measurable objectives with the division.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table						
Information Technology Service						
Program Funding	Base	% of Base	Budget	% of Budget	Budget	% of Budget
	FY 2008	FY 2008	FY 2010	FY 2010	FY 2011	FY 2011
01000 Total General Fund	\$ 3,196,881	95.9%	\$ 3,542,312	96.2%	\$ 3,551,576	96.3%
01100 General Fund	3,196,881	95.9%	3,542,312	96.2%	3,551,576	96.3%
02000 Total State Special Funds	121,769	3.7%	122,497	3.3%	122,533	3.3%
02016 Criminal Justice Info Network	3,407	0.1%	3,407	0.1%	3,407	0.1%
02074 Gambling License Fee Account	57,327	1.7%	57,675	1.6%	57,692	1.6%
02349 Highway Non-Restricted Account	-	-	58,345	1.6%	58,363	1.6%
02422 Highways Special Revenue	57,984	1.7%	-	-	-	-
02937 Justice State Special Misc	3,051	0.1%	3,070	0.1%	3,071	0.1%
03000 Total Federal Special Funds	2,268	0.1%	2,268	0.1%	2,268	0.1%
03800 Medicaid Fraud	2,268	0.1%	2,268	0.1%	2,268	0.1%
06000 Total Proprietary Funds	13,321	0.4%	13,404	0.4%	13,408	0.4%
06005 Liquor Division	6,801	0.2%	6,843	0.2%	6,845	0.2%
06500 Agency Legal Services	6,520	0.2%	6,561	0.2%	6,563	0.2%
Grand Total	\$ 3,334,239	100.0%	\$ 3,680,481	100.0%	\$ 3,689,785	100.0%

The division is funded primarily with general fund (96.3 percent) and state special revenue (3.3 percent) from gambling licensing fees and highway state special revenue. The balance of the division’s funding comes from a small amount of federal grants and proprietary funds, including liquor licensing fees and agency legal service feeds.

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 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	3,196,881	3,196,881	6,393,762	90.13%	3,334,239	3,334,239	6,668,478	90.48%
Statewide PL Adjustments	344,096	353,537	697,633	9.83%	344,907	354,388	699,295	9.49%
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	1,335	1,158	2,493	0.04%	1,335	1,158	2,493	0.03%
Total Budget	\$3,542,312	\$3,551,576	\$7,093,888		\$3,680,481	\$3,689,785	\$7,370,266	

Present Law Adjustments

The “Present Law Adjustments” table shows the primary changes to the adjusted base budget proposed by the Governor. “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 2010-----				-----Fiscal 2011-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					444,154					453,430
Vacancy Savings					(106,027)					(106,394)
Inflation/Deflation					1,369					1,576
Fixed Costs					5,411					5,776
Total Statewide Present Law Adjustments					\$344,907 *					\$354,388 *
Grand Total All Present Law Adjustments					\$344,907					\$354,388

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 for brevity by the LFD.

- **Market Rate** - Funding sources to bring staff salaries closer to market are always uncertain, but through vacancy savings the division has been able to work within a budget that has provided for the progression of qualified employees to market pay levels. The division has had difficulties recruiting and retaining qualified staff though, because of variations in how the pay-setting flexibility, provided by pay plan 20, is interpreted by different managers throughout all state departments
As of June 30, 2008, JITSD's market ratio, relative to the 2006 market survey, was 95 percent. JITSD expects that by October 1, 2008, it will be at a market ratio of 91percent, relative to the 2008 market survey. JITSD will make exceptions to the agency policy on the entry market ratio when hiring for any occupation if it is determined that the individual has job-related qualifications and competencies above the basic skill sets required to perform the job. The division basically does not vary from the department's entry market and pay progression policy. Pay exceptions are analyzed on a case-by-case basis which consider the current impacts of market pressures
- **Vacancy** - JITSD experiences high turnover rates and generally has vacancies in the Support Services Section (SSS). The cause is generally due to the entry level wage on position advertisements being low, coupled with a small information technology labor pool. Attrition and turnover of trained and knowledgeable staff impedes the progress the division hopes to make. The loss of productivity caused by turnover and vacancies has directly affected JITSD customers. They may not receive the quality and timeliness of the IT services they rely on to accomplish their goals of public safety
- **Legislatively applied vacancy savings** -The frequent turnover of staff, which has become normal in the division's operation, generated sufficient vacancy savings. The program transferred excess personal services funding into operations, and acquired some of the necessary equipment and technology solutions for the operations of the division earlier than what was projected in its longer-term strategic planning
- **Pay Changes** – Pay increases were given for competency goal-based increases, market adjustments, strategic retention, and to bring current employees up to 80 percent of their market. Normal turnover generated sufficient vacancy savings for pay raises outside of pay plan (HB13)
- **Retirements** - Approximately 10 employees will be eligible for retirement in the 2011 biennium at an approximate cost of \$85,482. Two employees are expected to retire in the 2009 biennium. JITSD bureau chiefs address the issue of succession planning with employees on a quarterly basis. When JITSD management is made aware of a pending retirement, all attempts are made to double-fill the position for training and sharing of institutional knowledge as soon as possible, giving consideration to the amount of time left and the division's financial situation

LFD ISSUE

Transfer from Personal Services to Operations and Equipment

For FY 2008 the division transferred \$194,000 from personal services to the operating and equipment categories of expenditures. This type of transaction increases the base budget for the division without any legislative input. The budget development process assumes full funding for all authorized FTE and the operating budget is built based upon the actual expenditures made during the base year. Thus, in the next budget cycle funding for personal services is restored and funding for other categories increases. The legislature may wish to reduce the operating expenditures for the division by the amount (\$194,000 per year) that was transferred during the base year.

New Proposals

New Proposals	-----Fiscal 2010-----					-----Fiscal 2011-----					
	Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2910 - State Special Revenue Funding Switch	29	0.00	0	0	0	0	0.00	0	0	0	0
DP 6101 - Fixed Cost Workers Comp Mgmt Program Allocation	29	0.00	1,335	0	0	1,335	0.00	1,158	0	0	1,158
Total	0.00	\$1,335	\$0	\$0	\$1,335 *	0.00	\$1,158	\$0	\$0	\$1,158 *	

DP 2910 - State Special Revenue Funding Switch - This decision package requests a funding switch from the restricted to the non-restricted highway state special revenue fund. In past practice the Department of Transportation has transferred funds from the non-restricted account to the restricted account prior to expenditure of the funds. However, this practice conflicts with the statutory requirement contained in 15-70-125, MCA that any unexpended balance in the non restricted account must remain in the account. A transfer between accounts is not considered an expenditure and thus, is not consistent with statutory requirements. The funding shift in this decision package aligns practice with statutory requirements.

DP 6101 - Fixed Cost Workers Comp Mgmt Program Allocation - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Program Budget Comparison

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

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	32.75	32.75	32.75	32.75	32.75	32.75	0.00	0.00%
Personal Services	2,519,340	2,707,459	2,617,862	2,634,127	5,226,799	5,251,989	25,190	0.48%
Operating Expenses	1,221,246	1,319,020	1,050,612	1,050,852	2,540,266	2,101,464	(438,802)	(17.27%)
Equipment & Intangible Assets	7,827	14,694	102,827	135,827	22,521	238,654	216,133	959.70%
Debt Service	90,207	89,854	90,207	90,207	180,061	180,414	353	0.20%
Total Costs	\$3,838,620	\$4,131,027	\$3,861,508	\$3,911,013	\$7,969,647	\$7,772,521	(\$197,126)	(2.47%)
General Fund	3,535,416	3,827,823	3,558,770	3,608,363	7,363,239	7,167,133	(196,106)	(2.66%)
State Special	303,204	303,204	302,738	302,650	606,408	605,388	(1,020)	(0.17%)
Total Funds	\$3,838,620	\$4,131,027	\$3,861,508	\$3,911,013	\$7,969,647	\$7,772,521	(\$197,126)	(2.47%)

Program Description

The Forensic Science Division includes the State Crime Lab in Missoula and the State Medical Examiner. The division provides a statewide system of death investigation, forensic science training, and scientific criminal investigation. The division conducts analysis on specimens submitted by law enforcement officials, coroners and other state agencies. The division tests firearms, tool marks, hair, fiber, drugs, blood, body fluids, and tissues. The laboratory also analyzes blood and urine samples in connection with driving under the influence (DUI) cases and it provides the certification, maintenance, and training of all law enforcement personnel on breath testing instruments.

Program Highlights

Forensic Science Division Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for the division decreases 2.5 percent (\$197,000) when the 2009 and 2011 biennia are compared ◆ General fund is reduced due to removal of rent on the building ◆ Goals related to crime lab turnaround time were monitored during the interim and the department was successful in decreasing turnaround time in some areas and maintaining turn around time in other areas despite staff turnover ◆ The division reports the lab workforce has been stable since implementation of initiatives funded by the 2007 Legislature
Major LFD Issues
<ul style="list-style-type: none"> ◆ Objectives provided by the division do not include information regarding measurement of progress

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 2009 biennium

- o Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals

The following provides an update on the major goals monitored during the current interim.

Goal 1 – Provide timely and accurate analysis of criminal evidence to enable the prosecution of criminal cases by county and state prosecutors. Reduce casework turnaround time for the chemistry and serology sections to four weeks. Reduce casework turnaround times for the DNA section to eight weeks.

- o Successes (as of the June 2008 report)
 - Turnover in the firearms section did not result in an increase in turnaround time
 - Latent print section turnaround time has decreased from 39.5 weeks to 23.5 weeks and the division continues to work toward its goal of 4 weeks
 - Serology section turnaround time has decreased from 9.3 weeks to 3.1 weeks, exceeding the goal of a 4 week turnaround
 - DNA section turnaround time has decreased from 40.4 weeks to 17.7 weeks and the division continues to work toward its goal of 8 weeks
- o Challenges
 - Staff turnover in the chemistry section resulted in an increase in turnaround time of about one-half week

LFD COMMENT	The 2007 Legislature provided the Forensic Science Division with funding to exempt the division from vacancy savings requirements, provide progression to market pay increases, and additional FTE. The legislature may wish to request that the division provide information demonstrating the impact of these funding decisions upon program operations and turnaround time.
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2011 Biennium Major Goals

The following provides an overview of major goals for the 2011 interim.

Goal 1 - To provide for a timely, efficient and objective analysis of physical evidence in felony and misdemeanor criminal cases

Goal 2 - To provide a genetic database of sexual and violent offenders for identifying perpetrators in violent offenses where authorities currently do not have a suspect

LFD ISSUE	<p>Measurable Objectives Not Provided</p> <p>The information provided as part of the 2011 biennium budget submission did not include measurable objectives for this division. However, given that interim monitoring of a goal similar to goal 1 was done and that the lab has established benchmarks for the turnaround time by section, it is likely that the division can provide information on the objectives or steps that lead to completion of the goals above and when and how progress is measured. The legislature may wish to request that the division review this information with the joint appropriations subcommittee.</p>
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Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table						
Forensic Science Division						
Program Funding	Base	% of Base	Budget	% of Budget	Budget	% of Budget
	FY 2008	FY 2008	FY 2010	FY 2010	FY 2011	FY 2011
01000 Total General Fund	\$ 3,535,416	92.1%	\$ 3,558,770	92.2%	\$ 3,608,363	92.3%
01100 General Fund	3,535,416	92.1%	3,558,770	92.2%	3,608,363	92.3%
02000 Total State Special Funds	303,204	7.9%	302,738	7.8%	302,650	7.7%
02034 Earmarked Alcohol Funds	<u>303,204</u>	<u>7.9%</u>	<u>302,738</u>	<u>7.8%</u>	<u>302,650</u>	<u>7.7%</u>
Grand Total	\$ 3,838,620	100.0%	\$ 3,861,508	100.0%	\$ 3,911,013	100.0%

The division is funded primarily with general fund (92.3 percent). State special revenue from earmarked alcohol funds provide the balance of the division's funding (7.7 percent) and supports certification, equipment maintenance, and training of law enforcement in the use of breath testing equipment.

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 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	3,535,416	3,535,416	7,070,832	98.66%	3,838,620	3,838,620	7,677,240	98.77%
Statewide PL Adjustments	114,775	131,529	246,304	3.44%	114,309	130,975	245,284	3.16%
Other PL Adjustments	(92,628)	(59,628)	(152,256)	(2.12%)	(92,628)	(59,628)	(152,256)	(1.96%)
New Proposals	1,207	1,046	2,253	0.03%	1,207	1,046	2,253	0.03%
Total Budget	\$3,558,770	\$3,608,363	\$7,167,133		\$3,861,508	\$3,911,013	\$7,772,521	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "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 2010-----					-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					207,601					224,538
Vacancy Savings					(109,079)					(109,751)
Inflation/Deflation					9,657					10,692
Fixed Costs					6,130					5,496
Total Statewide Present Law Adjustments					\$114,309					\$130,975
DP 3201 - Base Year Adjustments for Building Maintenance	0.00	95,445	0	0	95,445	0.00	95,445	0	0	95,445
DP 3202 - Remove Rent Expenditures on Building	0.00	(283,073)	0	0	(283,073)	0.00	(283,073)	0	0	(283,073)
DP 3203 - Crime Lab Request for Equipment (Bien) - OTO	0.00	95,000	0	0	95,000	0.00	128,000	0	0	128,000
Total Other Present Law Adjustments	0.00	(\$92,628)	\$0	\$0	(\$92,628)	0.00	(\$59,628)	\$0	\$0	(\$59,628)
Grand Total All Present Law Adjustments					\$21,681					\$71,347

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 for brevity by the LFD.

- o **Market Rate** - The 2007 Legislature appropriated \$150,000 each year of the 2009 biennium to bring forensic scientist salaries in line with those in other forensic labs in the region. As a result of this appropriation, salaries are competitive and turnover has dropped dramatically. As of June 30, 2008, Forensic Science Division's (FSD) market ratio, relative to the 2006 market survey, was 107 percent. FSD expects that by October 1, 2008, it will be at a market ratio of 90 percent, relative to the 2008 market survey. This program hires staff at market or above when hiring fully qualified forensic scientists. The policy of the FSD is to bring all employees to market if they meet all the qualifications of the position
- o **Vacancy** - The FSD was experiencing high turnover and difficulty in recruitment. The 60th Legislature funded a one-time salary adjustment and did not require vacancy savings in the division, and to date, the workforce has been very stable. There was no impact on the program from vacant positions
- o **Legislatively applied vacancy savings** - The division did not have a vacancy savings requirement during the 2009 biennium
- o **Pay Changes** - Twenty-three forensic science positions were given discretionary pay increases on October 1, 2007. A general fund appropriation of \$300,000 was received from the 60th Legislature for this purpose. The program did not transfer funds from any other budgeted expenditure categories into personal services
- o **Retirements** - There are no expected retirements in the 2011 biennium. The administrator serves at the pleasure of the Attorney General and must retire at the completion of his term. This is the only retirement anticipated from the division. There are no anticipated retirements for the division during the 2011 biennium

DP 3201 - Base Year Adjustments for Building Maintenance - This decision package requests \$190,890 general fund for the biennium (\$95,445 per year) to annualize the costs of utilities and maintenance. On December 31, 2007 the Forensic Science Division purchased the building where they reside. Upon purchase the division became responsible for paying utilities and maintenance costs. Because only six months of utility and maintenance costs are included in the base year, this decision package requests increased funding to annualize the costs.

LFD COMMENT

The FY 2008 base budget includes \$107,748 of expenditures for the items included in this decision package.

DP 3202 - Remove Rent Expenditures on Building - This decision package reduces funding for the division by \$566,146 general fund for the biennium (\$283,083 per year) to remove funding for building rental costs. On December 31, 2007 the Forensic Science Division purchased the building which they had been renting and will no longer incur rental costs.

LFD COMMENT

The FY 2008 base budget includes \$275,072 of expenditures for rent of non Department of Administration and non state buildings.

DP 3203 - Crime Lab Request for Equipment (Bien) - OTO - This decision package requests \$223,000 general fund for the biennium in a biennial, one-time-only appropriation for equipment replacement and purchases. The division anticipates purchasing the following equipment:

- o Gas Chromatograph with a Mass Selective Detector (GC/MS) used in the Chemistry and Toxicology Section of the lab to detect the presence of specific drugs. Typically, these instruments are replaced after about five or six years, and the Montana lab has had some of its instruments for more than seven years. FY 2010 cost - \$95,000
- o Thermal Cyclers are used in the amplification of DNA, a method of replicating DNA until there is an adequate sample to test. FY 2011 cost - \$8,000

Robotic Workstation is an instrument that would be used in the DNA/Serology Section of the laboratory to allow scientists to process cases requiring DNA analysis more rapidly with less chance of error or contamination. FY 2011 cost - \$120,000

New Proposals

New Proposals Program	-----Fiscal 2010-----					-----Fiscal 2011-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 6101 - Fixed Cost Workers Comp Mgmt Program Allocation	32	0.00	1,207	0	0	1,207	0.00	1,046	0	0	1,046
Total	0.00	\$1,207	\$0	\$0	\$1,207 *	0.00	\$1,046	\$0	\$0	\$1,046 *	

DP 6101 - Fixed Cost Workers Comp Mgmt Program Allocation - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.