

**Agency Proposed Budget**

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

Agency Proposed Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	374.68	(19.00)	6.45	362.13	(19.00)	6.45	362.13	362.13
Personal Services	20,667,511	891,028	263,617	21,822,156	207,735	263,328	21,138,574	42,960,730
Operating Expenses	12,040,075	1,640,577	2,517,055	16,197,707	1,990,625	1,072,393	15,103,093	31,300,800
Equipment	303,670	17,310	0	320,980	25,965	0	329,635	650,615
Grants	535,058	(535,058)	0	0	(535,058)	0	0	0
<b>Total Costs</b>	<b>\$33,546,314</b>	<b>\$2,013,857</b>	<b>\$2,780,672</b>	<b>\$38,340,843</b>	<b>\$1,689,267</b>	<b>\$1,335,721</b>	<b>\$36,571,302</b>	<b>\$74,912,145</b>
General Fund	31,031,278	2,098,083	2,780,672	35,910,033	2,417,111	1,335,721	34,784,110	70,694,143
State/Other Special	2,378,886	(640,586)	0	1,738,300	(1,284,004)	0	1,094,882	2,833,182
Federal Special	136,150	556,360	0	692,510	556,160	0	692,310	1,384,820
<b>Total Funds</b>	<b>\$33,546,314</b>	<b>\$2,013,857</b>	<b>\$2,780,672</b>	<b>\$38,340,843</b>	<b>\$1,689,267</b>	<b>\$1,335,721</b>	<b>\$36,571,302</b>	<b>\$74,912,145</b>

**Agency Description**

Article III, Section I, and Article VII of the Montana Constitution authorize the Judicial Branch. The Judiciary consists of six programs: 1) the Supreme Court operations; 2) Boards and Commissions; 3) the Law Library; 4) the District Court Operations program; 5) the Water Court Supervision program; and 6) the Clerk of the Supreme Court. The Judiciary describes its mission as providing an independent, accessible, responsive, impartial and timely forum to resolve disputes; to preserve the rule of law; and to protect the rights and liberties guaranteed by the Constitutions of the United States and Montana.

**Agency Highlights**

<b>Judiciary Major Budget Highlights</b>
<ul style="list-style-type: none"> <li>• General fund increases by \$8.6 million or 13.8 percent over the FY 2004 base, mostly due to: <ul style="list-style-type: none"> <li>• The purchase of software licenses for District Courts and Courts of Limited Jurisdiction for \$1.3 million</li> <li>• Funding for public defender costs of \$3.0 million</li> <li>• “Unfit to proceed” costs of \$2.0 million</li> <li>• Statewide present law adjustments</li> </ul> </li> <li>• State special funds decrease by \$1.9 million from FY 2004 base mostly due to: <ul style="list-style-type: none"> <li>• The removal of 12.5 FTE and the funding for the court automation program causes a decrease of \$2.7 million</li> <li>• Increase of \$0.7 million for county paid sick leave and vacation</li> </ul> </li> </ul>

<b>Major LFD Issues</b>	
<ul style="list-style-type: none"> <li>• Vacancy savings of approximately \$680,000 in each fiscal year</li> <li>• The Judiciary removes the court automation program, funded with state special funds, and the requests to reinstate it with general fund.</li> <li>• Infrastructure of the Judiciary to provide services</li> <li>• Statewide Public Defender System</li> <li>• Judiciary Information Technology</li> </ul>	

**LFD COMMENT**

**Vacancy Savings**

The executive has proposed a 4 percent vacancy savings rate for agencies with more than 20 FTE but does not recommend vacancy savings for the Judiciary, as a matter of policy. The Judiciary did not adopt a vacancy savings plan for any of its programs. If the branch did adopt a plan that was similar to the executive’s plan, they would have a vacancy saving requirement of approximately \$680,915 for each fiscal year. This amount is based on 4 percent of \$17.0 million, as the following figure illustrates:

**Figure 1**  
Judicial Branch  
Estimated Vacancy Savings by Program for FY 2006 and FY 2007  
The percentage applied to the amount in the Adjusted Personal Services Column was 4 Percent

Program	Base Budget FY 2004	Present Law Adjustments	Remove Elected Official	Adjusted Personal Services	Vacancy Savings For each FY
Supreme Court Operations	\$3,088,183	\$216,847	\$707,770	\$2,597,260	\$103,890
Boards and Commissions	79,543	39,501	-	119,044	4,762
Law Library	333,852	26,123	-	359,975	14,399
District Court Operation	16,262,315	792,697	3,951,906	13,103,106	524,124
Water Court Supervision	568,454	94,239	94,093	568,600	22,744
Clerk of Court	335,164	10,599	70,866	274,897	10,996
Subtotal	<u>\$20,667,511</u>	<u>\$1,180,006</u>	<u>\$4,824,635</u>	<u>\$17,022,882</u>	<u>\$680,915</u>

**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**  
2007 Biennium Executive Budget

Agency Program	General Fund	State Spec.	Fed Spec.	Grand Total	Total %
01 Supreme Court Operations	\$ 8,588,874	\$ 300,000	\$ 384,820	\$ 9,273,694	12%
02 Boards And Commissions	482,318	50,000	-	532,318	1%
03 Law Library	1,632,201	-	-	1,632,201	2%
04 District Court Operations	59,227,806	949,672	1,000,000	61,177,478	82%
05 Water Courts Supervision	-	1,533,510	-	1,533,510	2%
06 Clerk Of Court	762,944	-	-	762,944	0
Grand Total	<u>\$70,694,143</u>	<u>\$2,833,182</u>	<u>\$1,384,820</u>	<u>\$ 74,912,145</u>	<u>100%</u>

The general fund supports Supreme Court operations, the activities of the boards and commissions, the State Law Library, the District Court operations, and the Clerk of the Supreme Court.

State special funds include:

- A \$10.00 surcharge on certain case filings in courts of original jurisdiction, used to support information technology in Montana courts during the 2005 biennium. This surcharge ends on June 30, 2005.
- A \$9.00 filing fee for divorce cases, expected to provided \$150,000 per year, is used to pay for the defense of indigent victims of domestic violence.
- Funds from the counties that are used to pay for employee leave liabilities that came from the assumption of the District Court operations.
- Funds collected by youth courts for the cost of treatment, counseling, and other support for community programs for youth and juvenile offenders involved in youth courts.
- Fees imposed by the Courts of Limited Jurisdiction that are used for training judges. There is also funding from attorney investigation repayments.
- Funds from the Resource Indemnity and Ground Water Assessment (RIGWA) Tax and interest from the Resource Indemnity Trust (RIT) to fund the Water Court's operations.

Federal funds support 2.0 FTE to manage federal grants to support the court assessment program. Other federal funds support the court-appointed special advocate program.

### Biennium Budget Comparison

The following table compares the executive budget request in the 2007 biennium with the 2005 biennium by type of expenditure and source of funding. The 2005 biennium consists of actual FY 2004 expenditures and FY 2005 appropriations.

Biennium Budget Comparison								
Budget Item	Present Law Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	Present Law Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Biennium Fiscal 04-05	Total Exec. Budget Fiscal 06-07
FTE	355.68	6.45	362.13	355.68	6.45	362.13	374.68	362.13
Personal Services	21,558,539	263,617	21,822,156	20,875,246	263,328	21,138,574	42,550,307	42,960,730
Operating Expenses	13,680,652	2,517,055	16,197,707	14,030,700	1,072,393	15,103,093	20,629,478	31,300,800
Equipment	320,980	0	320,980	329,635	0	329,635	632,981	650,615
Grants	0	0	0	0	0	0	1,015,907	0
Total Costs	\$35,560,171	\$2,780,672	\$38,340,843	\$35,235,581	\$1,335,721	\$36,571,302	\$64,828,673	\$74,912,145
General Fund	33,129,361	2,780,672	35,910,033	33,448,389	1,335,721	34,784,110	58,541,313	70,694,143
State/Other Special	1,738,300	0	1,738,300	1,094,882	0	1,094,882	5,942,049	2,833,182
Federal Special	692,510	0	692,510	692,310	0	692,310	345,311	1,384,820
Total Funds	\$35,560,171	\$2,780,672	\$38,340,843	\$35,235,581	\$1,335,721	\$36,571,302	\$64,828,673	\$74,912,145

### Supplemental Appropriations

The Judiciary is requesting a supplemental appropriation in the amount of \$6.8 million, which is comprised of: 1) \$5.8 million for the district court assumption program; and 2) \$1.0 million for "unfit to proceed" costs. The reasons for each request are as follows:

#### *The District Court Assumption Program*

The Judiciary expects to be short \$5.8 million during the 2005 biennium for expenditures within the district court assumption program. Because the conditions causing this supplemental are anticipated to continue into the 2007 biennium, the costs are carried forward in the executive budget. Therefore, this discussion serves as a discussion of the 2007 biennium executive budget for the District Court Operations Program as well.

#### Background

This program was established as a result of SB 176, passed by the Fifty-seventh Legislature. This legislation mandated that the state fund Montana's district courts with appropriations from the general fund beginning July 1, 2002. This bill made all district courts in the state part of the Judicial Branch of state government. At that date, the Judiciary assumed

responsibility for oversight and administration of 22 judicial districts with approximately 245 FTE. Montana's counties previously funded these costs and were partially reimbursed by the state through a reimbursement program. District court assumption did not include the costs of the clerks of court and their related employee expenses.

### 2005 Biennium Expenditures

The FY 2004 budget for the district court assumption program was \$18.4 million. This budget was segregated into fixed and variable cost components. Fixed costs include the salaries of the 245 FTE and related operating costs. Variable costs include: 1) public defender costs for indigent defense; 2) costs for court appointed special advocates and Guardian ad Litem (CASA/GAL); and 3) other costs such as court reporter expenditures, jury fees, travel, and witness costs.

During FY 2004 the fixed cost budget was \$11.8 million and the variable cost budget was \$6.6 million. The variable cost area is where the supplemental request falls, because actual expenditures for FY 2004 were \$10.2 million, which is \$3.6 million greater than the \$6.6 million budget. However, this variance was offset in part by a 2003 biennium reversion of \$1.0 million that was authorized to be carried forward, and savings of \$0.4 million in the fixed cost area. The expenditures for variable costs for FY 2005 are expected to be similar. However, there will be no reversion amount available for offset.

	FY 2004	FY 2005	2005 Biennium
Variable Costs	\$3,600,000	\$3,600,000	\$7,200,000
Reversion	(1,000,000)	0	(1,000,000)
Fixed Cost Savings	(400,000)	0	(400,000)
Total Supplemental	<u>\$2,200,000</u>	<u>\$3,600,000</u>	<u>\$5,800,000</u>

### Components of Variable Costs

Public defender costs are the most significant part of the variable costs, representing about \$8.5 million or 83 percent of the total \$10.2 million expended during FY 2004. These costs are comprised of certain payments to county managed public defender offices, payments made to private attorneys for public defender services, medical evaluations for individuals accused of a crime, transcript fees, private investigator services, and juror and witness fees. CASA/GAL costs represent about 10 percent of the total costs, while other costs comprise the remaining 7 percent.

There are likely a number of reasons causing the budget variances in this program. However, the Legislative Fiscal Division was not able to analyze information to precisely identify why the variances exist or where they are being created, because budgets in the Judiciary are not set up to allow for this type of analysis. However, analysis does show the following:

1. Approximately 25.0 percent, or \$0.9 million, of the \$3.6 million variance in the variable budget is because the budget for FY 2004 was \$0.9 million less than it was for FY 2003. The total budget for the district court assumption program of \$18.4 million was the same in FY 2003 and FY 2004. However, the fixed budget was increased by \$0.9 million or 8.3 percent between FY 2003 and FY 2004, which left less of a budget to allocate to the variable budget. The variable budget began FY 2004 with \$0.9 million less than it had in FY 2003. The fixed budget is manifested into the 2007 biennium, with adjustments for statewide present law.
2. Fees paid to court appointed attorneys to provide public defender services were set at a maximum rate of \$60.00 per hour. It appears that a significant number of attorneys' fees migrated to this maximum rate. The Judiciary had reportedly paid 182 different attorneys for public defender services during FY 2004.
3. Total caseload and the caseload for criminal cases, the most costly, increased year after year. Total caseload increased from 32,918 in FY 2002 to 35,053 in FY 2003 and to 36,805 in FY 2004. Criminal caseload increased from 7,049 in FY 2002 to 7,456 in FY 2003 and 7,907 in FY 2004. Based on an average cost per case of \$214,

developed using FY 2003 information, this increase explains about \$0.4 million or 11.1 percent of the variance in the variable budget. Information on caseload statistics indicated that total caseload and criminal caseload appear to be growing at approximately 6 percent per year.

**LFD  
ISSUE**

Budget reporting by the Judiciary does not allow for an easy identification of the reasons for variances, as variable costs are not budgeted at the Judicial District level. The individuals that manage these districts have limited knowledge of the level of spending that is taking place within their jurisdiction. They can create expenditures; however, they do not have a budget to guide the level of expenditure. Budget reporting is also not at a level to easily identify variances for expenditures related to public defense, CASA/GAL, or other costs.

The legislature may wish to request that the Judiciary allocate the budget to a level that would allow for the management of cost and easy identification of variances.

*“Unfit to Proceed” Costs*

The Judiciary requests \$1.0 million in a supplemental request to pay for forensic psychiatric evaluations. These evaluations are necessary when a defendant is committed to the Montana State Hospital at Warm Springs under a district court order to determine the fitness of that individual to proceed in a criminal case against that individual. During FY 2004 the Department of Public Health and Human Services (DPHHS) discovered that they had not been billing the Judiciary for these evaluations. DPHHS has decided to begin billing the Judiciary beginning in FY 2005 and thereafter. The \$1.0 million cost estimate is an approximation of the actual amount that DPHHS would have billed the Judiciary for this service during FY 2004. There is no net impact to the general fund, as all assessments collected by DPPHS from the Judiciary will be deposited to the general fund. As stated, all supplemental costs are carried forward by the executive in the 2007 biennium.

**New Proposals**

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

Program	-----Fiscal 2006-----					-----Fiscal 2007-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 1 - Min. Standards - Judicial Support Staff										
04	4.95	198,276	0	0	198,276	4.95	179,958	0	0	179,958
DP 2 - Appellate Mediator										
01	1.50	112,396	0	0	112,396	1.50	105,763	0	0	105,763
DP 4 - Workload Assessment Study - OTO										
01	0.00	75,000	0	0	75,000	0.00	0	0	0	0
DP 5 - Purchase Software Licenses - OTO										
01	0.00	1,345,000	0	0	1,345,000	0.00	0	0	0	0
DP 10 - Judicial Education - Rest. Biennial										
04	0.00	50,000	0	0	50,000	0.00	50,000	0	0	50,000
DP 4515 - Unfit to Proceed Costs										
04	0.00	1,000,000	0	0	1,000,000	0.00	1,000,000	0	0	1,000,000
<b>Total</b>	<b>6.45</b>	<b>\$2,780,672</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,780,672</b>	<b>6.45</b>	<b>\$1,335,721</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,335,721</b>

**Elected Official: New Proposals**

Section 17-7-123, MCA, states that the Judicial Branch budget proposals must be included in the budget submitted by the Governor, but expenditures above the current base budget need not be part of the balanced financial plan. These new proposals are in addition to those listed in the table above and are items not included in the executive budget.

Pro Se Law Clerk – The Judiciary is requesting \$101,972 general fund and 1.0 FTE for the biennium for a pro se law clerk. The request is for \$52,646 in FY 2006 and \$49,326 in FY 2007. A “pro se” petitioner is a person that chooses to represent himself in a legal matter. Currently the Supreme Court justices review these cases. The hiring of this FTE would reduce the workload of the Supreme Court’s justices.

Information Technology - The Judiciary is requesting \$4,807,258 in general fund and 17.0 FTE for the biennium to provide information technology services to the Supreme Court, all district courts, and all courts of limited jurisdiction in the state. This request is \$2,234,259 for FY 2006 and \$2,572,999 for FY 2007. This funding request is comprised of:

1. Personal service costs - \$860,000 per year for 17.0 FTE to support court information technology. The FTE are as follows:
  - Application Developers (3.0 FTE)
  - Network Support Specialists (6.0 FTE)
  - Business Analysts/Trainers (6.0 FTE)
  - User Support/Help Desk (1.0 FTE)
  - Database Administrator (1.0 FTE)
2. Desktop network service rate - \$585,446 per year to cover the Department of Administration’s desktop network services rate for 672 end-user devices. The fee provides network connectivity and office productivity software for the entire Judicial Branch.
3. Maintenance - \$443,000 per year to maintain computers and computer peripherals on a 4-year replacement schedule.
4. Case management system maintenance - \$160,920 in FY 2006 and \$499,660 in FY 2007 for maintenance.

Pay Equalization - The Judiciary requests \$451,300 in general fund over the biennium to address certain pay equity problems that arose when the branch combined county and state employees as a result of the district court assumption. In FY 2002, when the state assumed district court employees they were placed on the newly developed Judicial Branch pay plan. This request is for \$155,000 in FY 2006 and \$296,300 in FY 2007. Figure 3 provides a breakout of these costs.

Figure 3 Judiciary District Court Operations - Program 4 Pay Equalization Plan			
Positions to be equalized	Number of FTE	FY 2006 Requested	FY 2007 Requested
Judicial Administrative Assistants (Note 1)	25.0	\$45,000	\$45,000
First Year Law Clerks (Note 2)	15.0	55,000	55,000
Senior Law Clerks (Note 3)	15.0	55,000	55,000
Juvenile Probation Officers (Note 4)	30.0	0	85,800
Chief Probation Officers (Note 5)	7.0	0	45,500
Other Unidentified (Note 6)	10.0	0	10,000
Totals		<u>\$155,000</u>	<u>\$296,300</u>

Notes:

1. Reclassify positions from grade 12 to grade 13.
2. Current annual pay level ranges from \$30,000 to \$36,670. This moves pay level to \$35,000.
3. Clerks employed with the Supreme Court and the District Courts.
4. Juvenile Probation Officers with at least three years of experience.
5. Chief Juvenile Probation Officers (grades 19 and 21) with 10 years of experience.
6. Unidentified positions.

**Minimum Standards - Judicial Support Staff** – The Judiciary requests \$223,822 in general fund for the biennium to hire 4.0 FTE to be distributed amongst various judicial districts. This request is for \$111,974 in FY 2006 and \$111,848 in FY 2007.

**Judicial Education** - The Judiciary is requesting \$230,000 during the biennium for judicial education. This request is for \$115,000 in FY 2006 and \$115,000 in FY 2007. This proposal provides funding for:

- 1) Training and travel for one out of state conference per year for each of the Justices, the District Court Judges, the Water Court Judge and the Workers Compensation Judge
- 2) Training and travel for two new judges to attend the General Jurisdiction Conference at the National Judicial College in Reno, Nevada
- 3) National Speakers at the Montana Judges Association and the Courts of Limited Jurisdiction Conferences.

**Fixed Cost Reduction** – The Judiciary requests \$279,019 for FY 2006 and \$279,019 for FY 2007 for fixed cost items removed from their base.

### Agency Issues

The following are four overarching issues that are discussed under the banner of the agency rather than individual programs.

#### *Infrastructure and Workload of the Judiciary*

This section provides an overview of the current structure and workload of the Judiciary. The Judiciary has undergone tremendous change in the last three years due to the assumption of the district courts. In addition, costs have risen substantially, and have the potential to continue to grow at a high rate. These factors raise issues as to whether or not the current infrastructure of the court system is of an optimal design to address the current and projected workload.

There are two basic ways the legislature can influence costs of the Judiciary:

1. Its infrastructure and the means of the provision of services; and
2. Caseload.

This issue addresses both means of change, and offers an option for the legislature to ensure optimal design of the Judiciary.

System Overview

The Judiciary has a Supreme Court, 56 District Courts organized into 22 judicial districts, a water court, a workers compensation court, various treatment courts, various youth courts, and 152 Courts of Limited Jurisdiction. Courts of Limited Jurisdiction are further comprised of 66 justice courts, 81 city courts, and 5 municipal courts.

Although the Supreme Court oversees the activities of all courts, only the Supreme Court, the District Courts, and the drug and water courts are predominantly funded with general fund or state special funds. The state's counties and cities fund the courts of limited jurisdiction.

Infrastructure

Infrastructure costs are primarily fixed costs that are incurred in the delivery of the Judiciary's services to its customers. These costs are comprised of the cost of personal services and certain operating costs. Personal services costs are comprised of the pay and benefits for judges, law clerks, probation officers, administrative assistants, and court reporters. Operating costs are those that support the individuals working in the court system and include communication costs, rent and utilities, and office supplies. Although these costs are fixed in the near term, increases in caseload can create an increase in workload that, in turn, can push the system to expand. Also, the demand for labor can push up the cost of personal services.

The current infrastructure of the court system is highly labor intensive. Please refer to Figure 4 that illustrates the level of personal services and FTE by program. Fixed costs are best controlled when the organization can create economies of scale by sharing its resources to serve all of the Judiciary's functions. Sharing resources can provide an optimal cost structure as opposed to creating many self-supporting operations. One question that the legislature may ask the Judiciary is how can this Branch of government combine its workforce to create economies of scale?

Figure 4  
Judicial Branch  
Personal Service Cost and FTE by Program for FY 2004

Program Description	Personal Service Costs	Percentage of Total	Number of FTE	Percentage of Total
Supreme Court Operations	\$3,088,183	14.9%	52.0	13.9%
Boards and Commissions	79,543	0.4%	3.0	0.8%
Law Library	333,852	1.6%	7.5	2.0%
District Court Operation	16,262,315	78.7%	295.7	78.9%
Water Court Supervision	568,454	2.8%	11.0	2.9%
Clerk of Court	335,164	1.6%	5.5	1.5%
Total	\$20,667,511	100.0%	374.7	100.0%

Figure 5 provides the type of positions that comprise the personal service costs and FTE within the Judiciary during FY 2004. This figure shows that costs for District Court judges comprised 24.93 percent of the total cost, with costs for probation officers comprising 20.46 percent. Probation officers comprise the greatest percentage of FTE at 24.50 percent. You can see by this figure that this system has many law clerks, court reporters and administrative support staff. Can the Judiciary pool this resource into a cost effective support system? Can the Judiciary develop a pool of resources to accomplish certain functions like it does with information technology staff to create economic efficiencies?

**Figure 5**  
**Judicial Branch**  
**Personal Service Costs and FTE by Position Type For FY 2004**

Position Type	Personal Service Costs	Percent of Total	Number of FTE	Percent of Total
District Court Judge	\$5,152,116	24.93%	42.00	11.21%
Probation Officers	4,228,254	20.46%	91.80	24.50%
District Court Admin. Assistant	2,556,312	12.37%	75.58	20.17%
Court Reporter	1,772,845	8.58%	38.30	10.22%
District Court Law Clerks	1,465,291	7.09%	31.75	8.47%
Chief Justice and Justices	938,355	4.54%	7.00	1.87%
Supreme Court Law Clerk	805,106	3.90%	16.00	4.27%
Information Technology at the OCA	739,486	3.58%	15.00	4.00%
Supreme Court Other	397,932	1.93%	6.00	1.60%
Court Services at the OCA	388,608	1.88%	7.50	2.00%
Budget/Finance at the Office of the Court Administrator (OAC)	342,739	1.66%	8.00	2.14%
Clerk of Court's Office (1 Clerk and 4.5 employees)	335,295	1.62%	5.50	1.47%
Law Library (1 librarian and 6.5 employees)	333,473	1.61%	7.50	2.00%
Water Master	320,842	1.55%	6.00	1.60%
Family Court employees	205,103	0.99%	4.50	1.20%
Standing Master	171,449	0.83%	2.00	0.53%
Court Administrator	150,547	0.73%	2.25	0.60%
Water Court Judge	124,019	0.60%	1.00	0.27%
Water Court Other	123,934	0.60%	4.00	1.07%
Boards & Commissions Admin. Assistants	88,916	0.43%	3.00	0.80%
Unidentified	26,887	0.13%	-	0.00%
<b>Total</b>	<b>\$20,667,511</b>	<b>100.00%</b>	<b>374.68</b>	<b>100.00%</b>

#### Caseload - Supreme Court and District Court

The Supreme Court hears both appeals from district court cases and cases of original jurisdiction. The court also has a supervisory function for all other Montana courts and oversees the state's entire legal system. Figure 6 below illustrates the new case filings and dispositions by year.

**Figure 6**  
**Judicial Branch**  
**Supreme Court Caseload Statistics**  
Source: Annual Reports - Montana Judiciary

Description	2001	2002	2003
Beginning Balance	577	538	543
New Civil Filings	429	472	684
New Criminal Filings	480	326	176
<b>Total New Filing</b>	<b>909</b>	<b>798</b>	<b>860</b>
Dispositions	948	793	878
Carry Over Cases	538	543	525

District court cases are classified as being either criminal or civil. Criminal cases are often the most costly cases because they statistically involve individuals that are determined to be indigent and are therefore provided a public defender, whose services are paid for by the court. Figure 7 illustrates the new case filings and dispositions by year.

New case filings have grown by 4,013 cases or 12.0 percent between calendar 2002 and calendar 2003. Dispositions have grown by 2,833 cases or 9.7 percent between calendar 2002 and calendar 2003. Carryover caseload has grown by 69.7 percent between calendar 2002 and calendar 2003. Criminal case filings have grown by 986 cases or 14.0 percent between calendar 2002 and calendar 2003.

Caseload and case type are the main cost drivers in the variable cost area. Caseload creates workload. For example, the areas of the state that have the greatest caseload may also have the greatest workloads. Examples of the types of cases that the Montana courts handle are criminal, civil, adoption, juvenile, abuse and neglect, domestic relations, guardianship, probate, and mentally disabled.

These case types are grouped into the general categories of civil and criminal. Examples of variable costs created by the case types include those to provide public defender services, evaluations for individuals charged of a crime, private investigator costs, and witness fees and expenses. These costs are usually only incurred on a case-by-case basis.

The cost of a case can vary for two primary reasons. First, costs increase as the length of time to try the case increases and secondly, costs increase as the complexity of the case increases. How can the Judiciary distribute caseload to make the most efficient use of its infrastructure? How can the legislature reduce the caseload of the Judiciary? (Caseload results from violations of the laws of the state that are enacted by the legislature.)

**Figure 7**  
Judicial Branch  
District Court Caseload Statistics  
Source: Annual Reports - Montana Judiciary

Description	2001	2002	2003
Beginning Balance	N/A	3,515	7,703
New Civil Filings	26,331	26,397	29,424
New Criminal Filings	7,215	7,046	8,032
Total New Filing	33,546	33,443	37,456
Dispositions	30,031	29,255	32,088
Carry Over Cases	3,515	7,703	13,071

LFD  
ISSUE

Options for the Legislature

The legislature may wish to examine the current infrastructure and caseload of the Judiciary to determine if it is the most cost effective structure to provide justice to citizens of the state at the most efficient cost. Currently, judicial districts (and in some cases individual courts) operate as stand-alone entities. The issue, therefore, is whether the Judiciary can change its structure to operate more as a system to share resources and workload, thereby achieving economies of scale and other efficiencies.

The Governor is requesting funds for a work assessment study. The legislature may wish to participate in this study during the interim.

Option A – Recommend that the Judiciary form an oversight or advisory group for this study that includes legislators.  
Option B – Request that the Judiciary provide a report on the results of any study or changes made to the appropriate interim legislative committee.

Delivery of Services and Use of Video Conferencing

The Supreme Court delivers service mostly in Helena, although at times it does conduct cases outside of Helena. The district courts deliver service in courtrooms mostly located in county facilities. The 56 county-based district courts are segregated into 22 judicial districts. Some judicial districts have only one county; however, most have more than one county. Certain judges must travel among various counties to hold trial or conduct business.

The court does use video conferencing where available and allowable to conduct certain proceedings (please refer to Figure 8). Video conferencing helps to reduce the amount of travel required by the participant of a court proceeding. However, this technology is not available in all venues and in certain cases the participants do not agree to participate by video, but prefer to participate in person. This technology also has an initial setup cost, ongoing maintenance costs, and costs to access the lines and ports.

**Figure 8**  
**Judicial Branch**  
**Video Sites Available to the Judiciary and Cost of Certain Lines and Ports**

Location of Service	Circuit/Line Cost/Month	VisioNet Cost/Month
Attorney General Offices - Helena	N/A	N/A
Big Horn County Courthouse	\$1,075	\$140
Beaverhead County Courthouse	633	140
Cascade County Courthouse	358	140
Cascade Juvenile Detention Center	358	140
Custer County Courthouse	524	140
Dawson County Courthouse	493	140
Deer Lodge County Courthouse	633	140
Fergus County Courthouse	1,035	140
Flathead County Courthouse	260	140
Forensic Science Division - Department of Justice	NA	NA
Gallatin County Courthouse	493	140
Glacier County Courthouse	570	140
Hill County Courthouse	437	140
Lewis & Clark County Courthouse	265	140
Meagher County Courthouse	451	140
Missoula County Courthouse	265	140
Musselshell County Courthouse	750	140
Phillips County Courthouse	483	140
Powell County Courthouse	633	140
Richland County Courthouse	1,098	140
Roosevelt County Courthouse	904	140
Rosebud County Courthouse	291	140
Youth Detention - Galen	N/A	N/A
Silverbow Courthouse	650	140
Stillwater Courthouse	814	140
Office of the Supreme Court Administrator - Helena on Sanders Street	73	140
Office of the Supreme Court Administrator - Helena on Park Street	73	140
Toole County Courthouse	594	140
Valley County Courthouse	272	140
Warm Springs State Hospital	N/A	N/A
Yellowstone County Courthouse	218	140
Billings Detention Facility	0	140
University of Montana Law School	N/A	N/A

**LFD  
ISSUE**

Options for the Legislature

The legislature may wish to request that the Judiciary study the costs and benefits of the video system and provide a report to the appropriate interim legislative committee as to the effectiveness of this system and how it might be expanded.

*Information Technology – Case Management Systems*

The purpose of this section is to inform the reader as to the case management systems and related technology currently employed by the various parts of the Judiciary. It also provides some insight as to the Judiciary's plans for future technology implementations and the cost of those implementations. Finally, it offers the legislature options as to how the Judiciary should deploy information technology to support the Judiciary's efforts in the most cost efficient way.

Montana's courts and judicial offices use varying levels of information technology to meet their case management needs. The Supreme Court, the Water Court, and Montana's youth courts do not have automated case management systems. The district courts use a case management system that was developed and deployed by in-house technical staff from the Office of the Supreme Court Administrator (OCA) during the early 1990's. Approximately one-half of the courts of limited jurisdiction use a case management system called FullCourt, which began being installed in 2001. The remaining courts of limited jurisdiction use an older case management system provided by local government or by the OCA. The OCA is responsible for the installation and ongoing administration of the case management systems that are used by the courts of limited jurisdiction.

Figure 9 below shows the systems currently used by the various courts and the age of the technology. As you can see the Judiciary's use of information technology is somewhat disjointed due to the fact that the courts do not use similar systems, if a system is available at all.

Case Management System	Type of System	Primary User of System	Age of System	Number of Users
Judicial Case Management System	Custom Application	District Court	12	56
Court of Limited Jurisdiction System	Custom Application	Court of Limited Jurisdiction	10	34
FullCourt	Purchased	Court of Limited Jurisdiction	3	90
Other	Purchased/Custom Application	Court of Limited Jurisdiction	Varies	3

According to the Judiciary, a case management system is the core computer application used by courts to manage cases and workload. Case management systems typically include programs to track case events and actions; to account for fines, forfeitures, and fees received and disbursed; and to select and manage juries and panels. These systems often include a document management subsystem and calendaring program that help the court operate in an efficient manner.

The court Information Technology Department (ITD) is in the process of updating systems in the district courts and the courts of limited jurisdiction. The district courts are receiving a system enhancement to the judicial case management system. This upgrade provides a Windows style graphical user interface. ITD's goal is to deploy FullCourt in all courts of limited jurisdiction that handle more than 700 cases per year by July 2005. No District Courts have the FullCourt application. The Governor is recommending general fund of \$1.3 million to purchase licenses to assist in this process.

In March of 2003 the Judiciary adopted a strategic plan to guide the management of their information technology. This plan describes the minimum level of technology that every judicial officer and employee in the branch should have at his or her disposal. This includes: 1) computer equipment that is no more than 4 years old; 2) access to basic office productivity software (word processing, e-mail, virus scanning software, etc.); 3) network connectivity so the court may communicate information electronically with other judicial offices and other governmental entities; 4) a case management system that meets the needs of the court; and 5) confidence that information is protected from unauthorized use and data loss.

Current Funding of IT

During the 2005 biennium, the court's information technology program was funded as per 3-1-317, MCA with a \$10 user surcharge. This surcharge was levied on defendants in criminal cases and on the initiating party in civil and probate cases. This surcharge terminates on June 30, 2005. The information technology program was appropriated \$1.8 million per year. However, the collection of the fees during FY 2004 was approximately \$1.4 million, creating a funding shortage of \$0.4 million. The Judiciary halted certain efforts and cut expenditures in the information technology program to address the funding shortfall.

2007 Biennium

Funding for IT in the Judiciary is divided into two parts in the 2007 biennium:

1. The Governor is requesting \$1.3 million general fund for licenses to install case management systems in courts of limited jurisdiction and district courts. The Governor has not requested that the surcharge be continued, nor proposed replacing the funding.
2. The Judiciary has not requested that the surcharge be renewed in the 2007 biennium, but has requested that the court information technology program be funded with \$4.8 million of general fund. (Please refer to the information technology budget request in the Elected Official Budget Request section of this budget analysis.) This request compares to \$3.6 million anticipated in the 2005 biennium, and the less than \$3.0 million that is anticipated to be actually collected.

**LFD  
ISSUE**Issues with the Judiciary's deployment of technology and funding of its plan

There are at least two major problems with the Judiciary's current information technology plan. First, courts do not use similar systems and second, the systems that are used are not administered from a central database. Systems that do not have a central database cannot be updated from the central source, nor can information be accessed from a central source. ITD must visit all 56 District Court sites and 182 courts of limited jurisdiction sites to make upgrades to their systems. Also, requests for information on the courts case activities must be accessed from each individual site. These systems are not able to communicate with each other or with other court levels. In other words, each court has its own system that operates independently from any other court's system. The ITD manages at least 238 independent systems.

As a further consequence, current case management technology does not allow a judge to access the case management system from outside of that county. Therefore, a judge that manages more than one county's court activities, must either travel to that county or have case information faxed or mailed to their home office.

The Governor and the Judiciary both propose continuing with the deployment of the current information technology plan. The plan will not fit current technology to a reengineered branch, but instead continue to purchase and install the same technology that has serious shortcomings. Therefore, they are proposing to continue and expand funding of a system that:

- May not be optimal for the needs of the Judiciary because it has not gone through a re-engineering process
- Lacks a centralized database and administration

Options for the Legislature

There are two options for the legislature to consider:

- 1) Is the current information technology plan that is being deployed by the court providing value to the citizens of the state?
  - Request that the Judiciary inform the legislature of what funding is needed to maintain current operations, but use any additional funding to fund the optimal information technology applied to a reengineered Judiciary, and report findings to the appropriate interim committee.
  - Ask the Judiciary to provide updates to the appropriate interim subcommittee on its effort to update information technology in the branch.

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ISSUE  
CONT.**

- 2) How should the legislature fund the information technology program?
- Fund the program with general fund
  - Fund the program with state special funds by extending the current funding mechanism as per the surcharge identified in 3-1-317, MCA, and adjust this surcharge to fund the level approved by the legislature.
  - Fund part of the information technology program with general fund and part with the surcharge. For example, fund the base program with general fund and any new installations or system upgrades with the surcharge.

*District Court Assumption and the Statewide Public Defender System*
District Court Assumption

The 57th Legislature approved Senate Bill 176, which mandated state funding of Montana district courts with general fund revenue beginning July 1, 2002 that was previously funded by the counties. On that date, the Judiciary assumed the responsibility for oversight and administration of 22 judicial districts with approximately 245 FTE. The bill made district courts part of the Judicial Branch of state government. The assumption of district courts did not include the clerks of court and public defenders, although costs to pay for indigent defense were assumed by the state. Costs of the district courts statewide assumption are divided into fixed and variable. Variable costs include juror and witness fees and expenses and indigent defense costs. Indigent defense costs comprise over 80 percent of total variable costs.

The Supreme Court's assumption of the district courts has presented some challenges, which include a significant cost overrun resulting in a supplemental funding request for FY 2005. This supplemental is primarily due to expenditures for public defender services provided by appointed, contracted or county-managed public defenders. See the "Supplemental section" in this narrative.

There is also proposed legislation to provide a statewide public defender system.

Statewide Public Defender System

The Law and Justice Interim Committee voted to introduce legislation in the 2005 legislative session to provide a statewide public defender system, which could have a significant fiscal impact on the District Court Operations Program. This legislation, LC 214, is partially in response to a lawsuit filed in district court by the ACLU against the State of Montana and Missoula County. The ACLU alleges that defendants are not provided public defender services in a fair and consistent manner among jurisdictions. The ACLU also argues that the current system creates a conflict of interest when the judge appoints a public defender for a case that is being adjudicated by that judge. The Attorney General and the ACLU signed a stipulation placing the lawsuit on hold until May 2005, pending the actions of the legislature and outcome of the proposed legislation. If this legislation were passed, current projections indicate that approximately \$8.2 million would be moved from the District Court Assumption Program to the Chief Public Defender Office at the beginning of FY 2007. This office would oversee the statewide public defender system that is proposed to reside within the Department of Administration.

The system proposed in LC 214 would provide public defender services in criminal and certain civil cases for any individual who is: 1) determined to be financially unable to retain private counsel; and 2) accused of an offense that could result in the person's loss of life or liberty if the person is convicted. The proposed system would provide public defender services in the Supreme Court or in any district court, justice court, or city or municipal court in the state. A Public Defender Commission, comprised of seven individuals appointed by the Governor, would head the statewide system. The commission would oversee a Chief Public Defender Office responsible for managing regional public defender offices, contracts with private attorneys, and the appellate defender function.

The current estimate of the cost of the public defender system for the 2007 biennium is \$14.1 million. Figure 10 illustrates the level of new costs that mostly relate to the establishment and operation of a Chief Public Defender Office vs. costs that are currently being paid for by either the state or by the collective counties and cities.

Figure 11 illustrates how current public defender services are funded. These costs include payments for public defender services provided by seven county-managed public defender offices through the state, services provided by private attorneys, transcripts, private investigator services, and witness fees and expenses. The amount noted in the table as state costs are those costs that currently reside within the district court assumption program under the operating costs area.

**Figure 10**  
Estimated Costs of the Statewide Public Defender System for the 2007 Biennium

	Amount	Percent
Current Costs*	\$10,604,998	75%
New Costs**	<u>3,495,805</u>	<u>25%</u>
2007 Biennium	<u>\$14,100,803</u>	<u>100%</u>
Fiscal 2006 (transition year)	\$655,503	
Fiscal 2007 (first full year)	13,455,300	
One-Time (start-up) costs	548,731	
Ongoing new costs (annual)	2,947,074	
*Currently paid by either the state, city or county		
**Mostly those of the Chief Public Defender Office		

**Figure 11**  
Public Defender Costs Currently Funded

Entity	Item	Dollars	Dollars	Percent
State				
	Funds certain district court costs		\$8,153,295	77%
Counties				
	Funds certain district court costs	\$674,157		
	Funds justice court costs	1,040,000	1,714,157	16%
Cities				
	Funds city and municipal court costs		<u>737,546</u>	<u>7%</u>
Total Costs Currently Funded			<u>\$10,604,998</u>	<u>100%</u>

FY 2006 would be a year of transition, whereby the commission and the Chief Public Defender would undertake a process to convert the current system of services provided by the state and the collective counties and cities, to one that provides services on a statewide system. Figure 12 illustrates the costs for the system under a biennium without a transition period.

LC 214 proposes that the cost of the statewide system be shared by the state and by each county and city. The percentage that each entity currently contributes to the total cost of the current system forms the cost sharing formula. Therefore, the cost of the statewide system would be allocated as follows: 1) about 77 percent to the state; 2) about 16 percent to the counties; and 3) about 7 percent to the cities. The county cost allocation factors would be based on: 1) population; 2) taxable value; and 3) the number of index crimes committed in the county. The city cost allocation factors would be based on: 1) population; and 2) taxable value. Implementation language in the legislation instructs the commission to recommend how these cost allocation factors could be changed to include an actual caseload factor when accurate caseload data becomes available.

**Figure 12**  
Estimated Costs of the Statewide Public Defender System for a Biennium Without a Transition Period

Dollars in Millions

Item	Amount	Percent
Current Costs*	\$21.2	78%
New Costs**	<u>5.9</u>	<u>22%</u>
	<u>\$27.1</u>	<u>100%</u>
*Currently paid by either the state, city or county		
**Mostly those of the Chief Public Defender		

**Program Proposed Budget**

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

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	52.00	(14.00)	1.50	39.50	(14.00)	1.50	39.50	39.50
Personal Services	3,088,183	(459,221)	83,461	2,712,423	(460,896)	83,370	2,710,657	5,423,080
Operating Expenses	1,123,215	83,928	1,448,935	2,656,078	48,928	22,393	1,194,536	3,850,614
Equipment	0	0	0	0	0	0	0	0
Grants	535,058	(535,058)	0	0	(535,058)	0	0	0
<b>Total Costs</b>	<b>\$4,746,456</b>	<b>(\$910,351)</b>	<b>\$1,532,396</b>	<b>\$5,368,501</b>	<b>(\$947,026)</b>	<b>\$105,763</b>	<b>\$3,905,193</b>	<b>\$9,273,694</b>
General Fund	3,102,822	390,773	1,532,396	5,025,991	354,298	105,763	3,562,883	8,588,874
State/Other Special	1,507,484	(1,357,484)	0	150,000	(1,357,484)	0	150,000	300,000
Federal Special	136,150	56,360	0	192,510	56,160	0	192,310	384,820
<b>Total Funds</b>	<b>\$4,746,456</b>	<b>(\$910,351)</b>	<b>\$1,532,396</b>	<b>\$5,368,501</b>	<b>(\$947,026)</b>	<b>\$105,763</b>	<b>\$3,905,193</b>	<b>\$9,273,694</b>

**Program Description**

This program contains funding to support the operations of the Supreme Court and the operations of the Office of the Court Administrator. The Supreme Court has appellate jurisdiction for the State of Montana and original jurisdiction to issue, hear, and determine writs of habeas corpus and other such writs as may be provided by law. It also has general supervisory control over all other courts in the state including the responsibility for the management of district court costs and operations. The Supreme Court administers the federal court assessment program and the court-appointed special advocate program. The Supreme Court is charged with establishing rules governing appellate procedure, the practice and procedure for all other courts, admission to the bar, and the conduct of its members. The Supreme Court consists of a Chief Justice and six justices. The Office of the Court Administrator provides administrative services for all of the programs under the Judiciary, including: accounting and budgeting, human resources, and information technology.

**Program Highlights**

<b>Judiciary</b> <b>Supreme Court Operations</b> <b>Major Budget Highlights</b>
<ul style="list-style-type: none"> <li>• General fund increases of \$2.4 million are mostly due to:                             <ul style="list-style-type: none"> <li>• The purchase of software licenses for District Courts and Courts of Limited Jurisdiction for \$1.3 million</li> <li>• Present law statewide adjustments for \$0.8 million</li> <li>• 1.50 FTE for mediation services at \$0.2 million</li> </ul> </li> <li>• State special funds decreased by \$2.7 million due to the removal of 12.50 FTE and the funding for the court automation program</li> </ul>
<b>Major LFD Issues</b>
<ul style="list-style-type: none"> <li>• The Judiciary is requesting that the Information Technology Program be funded with general fund rather than continue with the state special fund from the \$10 surcharge on certain case filings – refer to the summary section</li> </ul>

- Matching general fund for the Court Assessment program is not in the request for funding
- Information is needed as to how much in reimbursements will be provided via the Appellate Mediator

**Funding**

The following table shows program funding, by source, for the base year and for the 2007 biennium.

Program Funding	Base FY 2004	% of Base FY 2004	Budget FY 2006	% of Budget FY 2006	Budget FY 2007	% of Budget FY 2007
01100 General Fund	\$ 3,102,822	65.4%	\$ 5,025,991	93.6%	\$ 3,562,883	91.2%
02342 Court Automation Surcharge	1,357,484	28.6%	-	-	-	-
02536 Legal Assistance	150,000	3.2%	150,000	2.8%	150,000	3.8%
03230 Fed Grant-Pass-Thru-Jud	<u>136,150</u>	<u>2.9%</u>	<u>192,510</u>	<u>3.6%</u>	<u>192,310</u>	<u>4.9%</u>
Grand Total	<u>\$ 4,746,456</u>	<u>100.0%</u>	<u>\$ 5,368,501</u>	<u>100.0%</u>	<u>\$ 3,905,193</u>	<u>100.0%</u>

This program is funded primarily with general fund and has a minor amount of state special and federal funds. State special funds are from a \$9.00 filing fee for divorce cases that is expected to generate \$150,000 in each fiscal year. These funds are earmarked to pay for the legal defense costs of indigent victims of domestic violence. During the 2005 biennium there were state special funds from a \$10 user surcharge on certain court case filings that supported the court automation program. This surcharge expires on June 30, 2005. This funding issue is discussed in more detail in the "Agency Issues" section of the summary section. Federal grants support a grant manager, the court assessment program, and the court-appointed special advocate program. These funds require a 25 percent match, which is met with general fund.

**Present Law Adjustments**

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

	-----Fiscal 2006-----				-----Fiscal 2007-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					216,847					213,886
Inflation/Deflation					(3,724)					(3,637)
Fixed Costs					179,559					144,480
<b>Total Statewide Present Law Adjustments</b>					<b>\$392,682</b>					<b>\$354,729</b>
DP 4 - Eliminate District Court Automation Program	(14.00)	0	(1,369,312)	0	(1,369,312)	(14.00)	0	(1,368,109)	0	(1,368,109)
DP 5 - Court Assessment/CASA	0.00	0	0	66,279	66,279	0.00	0	0	66,354	66,354
<b>Total Other Present Law Adjustments</b>	<b>(14.00)</b>	<b>\$0</b>	<b>(\$1,369,312)</b>	<b>\$66,279</b>	<b>(\$1,303,033)</b>	<b>(14.00)</b>	<b>\$0</b>	<b>(\$1,368,109)</b>	<b>\$66,354</b>	<b>(\$1,301,755)</b>
<b>Grand Total All Present Law Adjustments</b>					<b>(\$910,351)</b>					<b>(\$947,026)</b>

Statewide present law adjustments consist of the following:

1. The increase in personal service costs of \$216,847 in FY 2006 and \$213,886 in FY 2007 is mostly due to: a) pay and benefits for positions that were vacant during part of the base year but fully funded in the budget; b) increases in the Chief Justice's base salary of \$5,467 in each fiscal year and increases in each of the six Justices' base salaries of \$5,391 in each fiscal year based on a regional survey conducted by the Department of Administration; and c) the 25 cent per hour pay increase and insurance adjustment for each staff member as approved by the 2003 Legislature.
2. Fixed cost increases of \$179,994 in FY 2006 and \$144,915 in FY 2007 are primarily for: a) SABHRS storage costs now allocated to fixed costs; b) increases in insurance and bond costs; and c) increases in data network costs.

**LFD  
COMMENT**

Vacancy savings was not applied to this program. Please refer to the "Agency Issues" section of the overview for additional discussion.

Other present law adjustments consist of:

DP 4 - Eliminate the Court Automation Program – Section 3-1-317, MCA authorizes a \$10.00 surcharge on certain court case filings. This surcharge is earmarked to pay for the court automation program and expires at the end of FY 2005. Therefore, this decision package eliminates the budget for the program.

**LFD  
COMMENT**

Please refer to the "Elected Official: New Proposals" section of the summary for the discussion of the Judiciary's request to reform its information technology program. In this discussion, the Judiciary is requesting that this program be funded with general fund during the 2007 biennium rather than be funded with state special revenue received from a \$10.00 surcharge levied on all criminal and certain civil case filings in district courts.

DP 5 - Court Assessment/CASA - The Judiciary is requesting authority to expend \$132,633 in federal funds that support the Court Assessment Program (CAP) and the Court Appointed Special Advocate Program (CASA). CAP provides for the evaluation of the effectiveness of child abuse and neglect proceedings within the Montana legal system. This program is funded with 75 percent federal funds and 25 percent general fund. The CASA program is a federal program that provides for court appointed special advocates to represent youth in child abuse and neglect proceedings.

**LFD  
COMMENT**

The court assessment program reviews the effectiveness of Montana's courts as they address child abuse and neglect proceedings. They have 2.0 FTE: one director and one administrative support. The actual court assessment or study is primarily accomplished through contracted services.

**LFD  
ISSUE**

The Judiciary is requesting authority for federal funds; however, this program has a 25 percent match requirement with general fund. The Judiciary is not asking for the general fund match of approximately \$33,200 for the biennium. If the Judiciary does not provide the general fund match, they will not receive the federal funding.

The legislature has the following options:

- Option 1: Allocate the general fund necessary to meet the federal match requirement
- Option 2: Do not add the federal authority and delete the program
- Option 3: Require the Judiciary to provide the matching general fund by taking it from somewhere in the approved appropriation.

**New Proposals**

Program	FTE	Fiscal 2006				Fiscal 2007				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2 - Appellate Mediator										
01	1.50	112,396	0	0	112,396	1.50	105,763	0	0	105,763
DP 4 - Workload Assessment Study - OTO										
01	0.00	75,000	0	0	75,000	0.00	0	0	0	0
DP 5 - Purchase Software Licenses - OTO										
01	0.00	1,345,000	0	0	1,345,000	0.00	0	0	0	0
<b>Total</b>	<b>1.50</b>	<b>\$1,532,396</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,532,396</b>	<b>1.50</b>	<b>\$105,763</b>	<b>\$0</b>	<b>\$0</b>	<b>\$105,763</b>

DP 2 - Appellate Mediator - The executive is requesting \$218,159 in general fund for the biennium to hire 1.50 FTE to provide mediation services. These FTE would select which appeals to mediate in order to reduce the number of mediations and improve the overall success rate. Further, parties to those cases selected for mediation would be required, as they presently are, to share the mediator's costs.

**LFD COMMENT** The Judiciary notes that each Justice produces over 50 written opinions per year. The goal of the appellate mediator would be to alleviate each Justice’s workload by settling disputes before the case goes to court. The court adopted a mandatory mediation procedure in 1996 with Rule 54, M.R.App.P. Under the rule there are three categories of cases in which appellate mediation is required: workers' compensation, domestic relations, and money judgments. The Clerk of Court assigns a mediator from a list of attorneys who have volunteered to have their names listed as mediators. If the parties so choose, they can stipulate to a mediator of their own choosing. Since the parties share the mediator’s fee and incidental expenses, the present system operates at no expense to the state. The requested mediator would do on a full-time basis the same tasks that are being accomplished by the part-time mediators and therefore, this service would be provided to customers on a regular basis. To date, the mandatory mediation system has a success rate of 17 percent (1527 cases mediated over seven years resulting in 265 cases settled).

**LFD ISSUE** The Judiciary anticipates that the parties to the mediation will pay for the services of these 1.50 FTE. However, the court did not account for a reimbursement for these services in a fund due to lack of history of the service. The legislature may wish to ask that the Judiciary report to the appropriate interim committee on the collections of reimbursements for this service.

DP 4 - Workload Assessment Study - OTO - The executive recommends that \$75,000 in general fund be provided to the Judiciary in FY 2006 to perform a workload assessment study of district court judges and staff. The request is one-time-only, restricted, and biennial. This study is expected to produce information that will be used to assess workload as it currently exists in the system and possible avenues for improvement.

**LFD COMMENT** For more information, please refer to the “Discussion on Workload and Caseload of Montana’s Judicial System” in the summary section of the budget analysis for the Judicial Branch.

DP 5 - Purchase Software Licenses - OTO - The executive recommends a one-time-only, restricted, and biennial appropriation to purchase initial software application licenses for District Courts and the remaining Courts of Limited Jurisdiction. The court software, called “JSI-FullCourt Case Management System” has already been rolled out successfully in 86 Courts of Limited Jurisdiction and no District Courts.

**LFD  
COMMENT**

For more information, please refer to the discussion on the "Information Technology Program" in the summary section of the budget analysis for the Judicial Branch.

**Language**

"There is appropriated to the Judiciary up to \$1 million in general fund in each year of the biennium to spend prior year surplus Juvenile Placement funds received from the Department of Corrections."

**LFD  
COMMENT**

The Juvenile Delinquency Intervention Program (JDIP) is provided by 41-5-2001 through 41-5-2006, MCA. The program provides services to youth outside of the correctional system, in hopes of keeping these youth out of the formal system. This program is funded with general fund. Each youth court in the state is provided with JDIP funds to administer this program. This part of the program was administered by the Department of Corrections. Any funds that remain after the end of the year are distributed to each youth court to provide programs for early intervention and placement alternatives. This language appropriation allows the Judiciary to distribute surplus funds.

**Program Proposed Budget**

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

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	3.00	0.00	0.00	3.00	0.00	0.00	3.00	3.00
Personal Services	79,543	39,501	0	119,044	39,326	0	118,869	237,913
Operating Expenses	135,657	24,043	0	159,700	(952)	0	134,705	294,405
<b>Total Costs</b>	<b>\$215,200</b>	<b>\$63,544</b>	<b>\$0</b>	<b>\$278,744</b>	<b>\$38,374</b>	<b>\$0</b>	<b>\$253,574</b>	<b>\$532,318</b>
General Fund	215,200	38,544	0	253,744	13,374	0	228,574	482,318
State/Other Special	0	25,000	0	25,000	25,000	0	25,000	50,000
<b>Total Funds</b>	<b>\$215,200</b>	<b>\$63,544</b>	<b>\$0</b>	<b>\$278,744</b>	<b>\$38,374</b>	<b>\$0</b>	<b>\$253,574</b>	<b>\$532,318</b>

**Program Description**

The Boards and Commissions Program oversees functions assigned to the Supreme Court either by legislative or constitutional mandate. The program manages judicial discipline, rules, and other substantive matters aimed at improving and maintaining the administration of justice. Commissions and boards included in the program are the Judicial Standards Commission; Sentence Review Commission; Commission on Practice; Commission on Courts of Limited Jurisdiction; and the Judicial Nominations Commission.

**Program Highlights**

Judiciary Boards and Commissions Major Budget Highlights
<ul style="list-style-type: none"> <li>• Increase of \$25,000 for the Judicial Standards Commission is requested</li> <li>• Remaining increase is for statewide present law adjustments</li> </ul>

**Funding**

The following table shows program funding, by source, for the base year and for the 2007 biennium.

Program Funding Table Boards And Commissions						
Program Funding	Base FY 2004	% of Base FY 2004	Budget FY 2006	% of Budget FY 2006	Budget FY 2007	% of Budget FY 2007
01100 General Fund	\$ 215,200	100.0%	\$ 253,744	91.0%	\$ 228,574	90.1%
02399 Boards And Commissions - Mji	-	-	25,000	9.0%	25,000	9.9%
<b>Grand Total</b>	<b>\$ 215,200</b>	<b>100.0%</b>	<b>\$ 278,744</b>	<b>100.0%</b>	<b>\$ 253,574</b>	<b>100.0%</b>

This program is funded with a combination of general fund and state special funds. State special revenue is from a fee imposed by the Courts of Limited Jurisdiction for training and attorney investigation repayments.

**Present Law Adjustments**

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

Present Law Adjustments	-----Fiscal 2006-----					-----Fiscal 2007-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					39,501					39,326
Inflation/Deflation					(117)					(112)
Fixed Costs					(840)					(840)
<b>Total Statewide Present Law Adjustments</b>					\$38,544					\$38,374
DP 2 - Judicial Standards Investigations - Rest/Biennial	0.00	25,000	0	0	25,000	0.00	0	0	0	0
<b>Total Other Present Law Adjustments</b>	<b>0.00</b>	<b>\$25,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$25,000</b>	<b>0.00</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Grand Total All Present Law Adjustments					\$63,544					\$38,374

**LFD COMMENT**

Vacancy savings was not applied to this program. Please refer to the "Agency Issues" section of the overview for additional discussion

DP 2 - Judicial Standards Restricted/Biennial. Appropriation – The executive recommends \$25,000 in general fund that would be both a restricted and a biennial appropriation for the constitutionally mandated Judicial Standards Commission. This commission investigates complaints and makes recommendations regarding the conduct of judicial officers. The amounts that were expended during FY 2004 were removed from the base because this is a zero based expenditure. If approved, this funding could only be used to pay for the investigations of complaints against judges. If the costs were not incurred, the funds would revert to the general fund.

**LFD COMMENT**

The base includes \$1,589 for this function. The executive is requesting \$25,000 in additional authority for this activity for a total of \$28,178.

**Program Proposed Budget**

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

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	7.50	0.00	0.00	7.50	0.00	0.00	7.50	7.50
Personal Services	333,852	26,123	0	359,975	25,764	0	359,616	719,591
Operating Expenses	131,447	(450)	0	130,997	(449)	0	130,998	261,995
Equipment	303,670	17,310	0	320,980	25,965	0	329,635	650,615
<b>Total Costs</b>	<b>\$768,969</b>	<b>\$42,983</b>	<b>\$0</b>	<b>\$811,952</b>	<b>\$51,280</b>	<b>\$0</b>	<b>\$820,249</b>	<b>\$1,632,201</b>
General Fund	768,969	42,983	0	811,952	51,280	0	820,249	1,632,201
<b>Total Funds</b>	<b>\$768,969</b>	<b>\$42,983</b>	<b>\$0</b>	<b>\$811,952</b>	<b>\$51,280</b>	<b>\$0</b>	<b>\$820,249</b>	<b>\$1,632,201</b>

**Program Description**

The State Law Library houses reference materials used by the Supreme Court, lower courts, the legislature, state officers and employees, members of the bar, and the general public. The collection includes legal materials from the federal government and all 50 states, as well as Canada. Some of the books and materials contained in the library include treatises, law reviews, reports, microfilm, and audio/video tapes for continuing legal education. A party may access much of the Library's information on their Internet site. The State Law Library is governed by a Board of Trustees, which consists of the Supreme Court justices.

**Program Highlights**

Judiciary Law Library Major Budget Highlights
<ul style="list-style-type: none"> <li>Funding increases are due to statewide present law adjustments for personal services and inflation on the purchase of books and periodicals</li> </ul>

**Funding**

The following table shows program funding, by source, for the base year and for the 2007 biennium.

Program Funding Table						
Law Library						
Program Funding	Base FY 2004	% of Base FY 2004	Budget FY 2006	% of Budget FY 2006	Budget FY 2007	% of Budget FY 2007
01100 General Fund	\$ 768,969	100.0%	\$ 811,952	100.0%	\$ 820,249	100.0%
Grand Total	\$ 768,969	100.0%	\$ 811,952	100.0%	\$ 820,249	100.0%

General fund supports this program. Minimal costs are recovered through fees charged for copies, faxes, and the rental of audio/video cassettes. These fees, which were approximately \$23,600 during FY 2004, are deposited into the general fund.

**Present Law Adjustments**

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

Present Law Adjustments	-----Fiscal 2006-----					-----Fiscal 2007-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					26,123					25,764
Inflation/Deflation					(40)					(39)
Inflation/Deflation					17,310					25,965
Fixed Costs					(410)					(410)
<b>Total Statewide Present Law Adjustments</b>					\$42,983					\$51,280
Grand Total All Present Law Adjustments					\$42,983					\$51,280

**LFD COMMENT**

Vacancy savings was not applied to this program. Please refer to the "Agency Issues" section of the overview for additional discussion.

**LFD COMMENT**

The base amount for library books is \$288,511, which increases by \$43,300 in the biennium with the allowance for inflation. Although the library allows customers to use CD's and internet based research products, it still orders paper copies of many items.

**Proprietary Rates**

**Proprietary Program Description**

Law Library Enterprise Fund – The Law Library provides LEXIS access to approximately 30 LEXIS users. LEXIS is a legal search engine used to research case law by leading the user to numerous cases on selected subjects. It makes research more efficient and less time consuming. The Law Library purchases a bundle of licenses from LEXIS at a rate that is less expensive than purchasing a single license. The law library is billed by LEXIS monthly and, in turn, bills this service to approximately 30 users. These users include other state agencies, county attorneys, public defenders, and certain city and limited court judges. The rate set by the library for billing users is a simple average of the total cost divided by the number of users.

**Proprietary Revenues and Expenses**

The revenue is the amount collected from the library's customers and the expense is the invoice from LEXIS.

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Fund	Fund Name	Agency #	Agency Name	Program Name
6019	Law Library Searches	2110	Judiciary	Law Library

	Actual FY02	Actual FY03	Actual FY04	Budgeted FY05	Budgeted FY06	Budgeted FY07
<b>Operating Revenues:</b>						
Fee revenue						
Charge for services	-	-	-	63,090	56,438	56,438
Net Fee Revenue	-	-	-	63,090	56,438	56,438
Investment Earnings	-	-	-	-	-	-
Securities Lending Income	-	-	-	-	-	-
Premiums	-	-	-	-	-	-
Other Operating Revenues	47,200	45,090	54,188	-	-	-
Total Operating Revenue	47,200	45,090	54,188	63,090	56,438	56,438
<b>Operating Expenses:</b>						
Personal Services	-	-	-	-	-	-
Other Operating Expenses	43,090	45,391	56,438	63,090	56,438	56,438
Total Operating Expenses	43,090	45,391	56,438	63,090	56,438	56,438
Operating Income (Loss)	4,110	(301)	(2,250)	-	-	-
<b>Nonoperating Revenues (Expenses):</b>						
Gain (Loss) Sale of Fixed Assets	-	-	-	-	-	-
Federal Indirect Cost Recoveries	-	-	-	-	-	-
Other Nonoperating Revenues (Expenses)	-	-	-	-	-	-
Net Nonoperating Revenues (Expenses)	-	-	-	-	-	-
Income (Loss) Before Operating Transfers	4,110	(301)	(2,250)	-	-	-
Contributed Capital	-	-	-	-	-	-
Operating Transfers In (Note 13)	-	-	-	-	-	-
Operating Transfers Out (Note 13)	-	-	-	-	-	-
Change in net assets	4,110	(301)	(2,250)	-	-	-
Total Net Assets- July 1 - As Restated	(6,623)	(2,513)	10,437	8,187	8,187	8,187
Prior Period Adjustments	-	13,251	-	-	-	-
Cumulative effect of account change	-	-	-	-	-	-
Total Net Assets - July 1 - As Restated	(6,623)	10,738	10,437	8,187	8,187	8,187
Net Assets- June 30	<b>(2,513)</b>	<b>10,437</b>	<b>8,187</b>	<b>8,187</b>	<b>8,187</b>	<b>8,187</b>
60 days of expenses (Total Operating Expenses divided by 6)	7,182	7,565	9,406	10,515	9,406	9,406

**Program Proposed Budget**

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

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	295.68	(5.00)	4.95	295.63	(5.00)	4.95	295.63	295.63
Personal Services	16,262,315	1,179,787	180,156	17,622,258	500,607	179,958	16,942,880	34,565,138
Operating Expenses	10,509,709	1,532,876	1,068,120	13,110,705	1,941,926	1,050,000	13,501,635	26,612,340
Equipment	0	0	0	0	0	0	0	0
<b>Total Costs</b>	<b>\$26,772,024</b>	<b>\$2,712,663</b>	<b>\$1,248,276</b>	<b>\$30,732,963</b>	<b>\$2,442,533</b>	<b>\$1,229,958</b>	<b>\$30,444,515</b>	<b>\$61,177,478</b>
General Fund	26,573,578	1,614,999	1,248,276	29,436,853	1,987,417	1,229,958	29,790,953	59,227,806
State/Other Special	198,446	597,664	0	796,110	(44,884)	0	153,562	949,672
Federal Special	0	500,000	0	500,000	500,000	0	500,000	1,000,000
<b>Total Funds</b>	<b>\$26,772,024</b>	<b>\$2,712,663</b>	<b>\$1,248,276</b>	<b>\$30,732,963</b>	<b>\$2,442,533</b>	<b>\$1,229,958</b>	<b>\$30,444,515</b>	<b>\$61,177,478</b>

**Program Description**

The District Court Operations Program is actually two programs: the District Court Operations Program and the District Court Assumption Program. Together these programs fund most of the costs of the state’s district court operations that comprise the 22 judicial districts. These costs include the salaries, travel, and training costs for 42 district judges and the judges’ law clerks, administrative personnel, and other support staff. The district court assumption program also funds public defender services provided in the district courts, including payments to seven county-managed public defender offices, payments to private attorneys for public defender services, payments for certain evaluations of individuals accused of a crime, private investigator services, and witness fees and expenses. This program does not fund the costs related to the clerks of court or other elected officials. District courts are general jurisdiction trial courts that have original jurisdiction in all criminal felony cases, civil matters, and cases of law.

**LFD COMMENT**

Statewide Public Defender System - As discussed in the Agency Issues section of the budget analysis for the Judiciary, the Law and Justice Interim Committee voted to introduce legislation in the 2005 legislative session to provide a statewide public defender system, which could have a significant fiscal impact on the District Court Operations Program. This legislation is referred to as LC 0214. The following outline presents the estimated fiscal impact to the District Court Operations Program of LC 0214, which would reduce the amounts currently reflected in the Proposed Program Budget for FY 2007. Please be aware that the amounts presented below are estimates based on certain assumptions and the actual amount of any adjustment could be materially different.

Personal Service Costs: The Office of the Court Administrator (OCA) identified 1.5 FTE that would be transferred from the Judiciary to the Chief Public Defender Office (CPDO). These FTE provide accounting and administrative services. Fiscal projections that accompanied LC 0214 contemplated that these FTE would remain at the OCA during FY 2006 and be transferred to the CPDO at the beginning of FY 2007. The OCA would transfer approximately \$60,000 to the CPDO.

Operating Costs: The OCA expended \$8.1 million during FY 2004 in support of public defender services provided in the district courts. Fiscal projections that accompanied LC 0214 contemplated that these costs would remain at the OCA during FY 2006 and be transferred to the CPDO at the beginning of FY 2007. These services and related costs during FY 2004 were:

- Appointed attorney costs: \$5.1 million
- County-managed public defender office costs: \$1.8 million
- Contracted attorney costs: \$0.6 million
- Private investigator costs: \$0.2 million
- Witness fees: \$0.2 million
- Other costs: \$0.2 million

**LFD  
COMMENT**

Expenditures for district court assumption were significantly higher than appropriated in the 2005 biennium, resulting in a supplemental request of \$5.8 million. These increased costs are carried forward in the 2007 biennium executive budget. For further discussion, please see the “supplemental” section of the agency narrative.

**Program Highlights**

<b>Judiciary District Court Operations Program Major Budget Highlights</b>
<ul style="list-style-type: none"> <li>• Increase of \$2.0 million or 6.2 percent in personal services for the 2007 biennium over the base budget is primarily due to statewide present law adjustments</li> <li>• Increase of \$5.6 or 26.7 percent in operating costs for the 2007 biennium over the base budget primarily due to:                             <ul style="list-style-type: none"> <li>• “Unfit to proceed” costs are \$2.0 million</li> <li>• Increases in public defender costs are \$3.0 million</li> <li>• FTE changes are the result of a net reduction of 5.0 FTE as a part of the executive statewide FTE reduction and increased support staff in various districts</li> </ul> </li> </ul>
<b>Major LFD Issues</b>
<ul style="list-style-type: none"> <li>• Vacancy savings has not been applied to this program</li> <li>• Potential reduction in the program of \$8.2 million in operating costs if the statewide public defender bill is passed</li> <li>• Make the authority for county paid annual leave and sick leave a restricted appropriation</li> <li>• Consider increasing variable costs to recognize increases in caseload</li> <li>• Restrict travel and training for judges to its intended use</li> </ul>

**Funding**

The following table shows program funding, by source, for the base year and for the 2007 biennium.

Program Funding	Base FY 2004	% of Base FY 2004	Budget FY 2006	% of Budget FY 2006	Budget FY 2007	% of Budget FY 2007
01100 General Fund	\$ 26,573,578	99.3%	\$ 29,436,853	95.8%	\$ 29,790,953	97.9%
02141 District Court Crim. Reimb.	71,439	0.3%	153,562	0.5%	153,562	0.5%
02788 Acc. Cty Sick/Vacation Leave	127,007	0.5%	642,548	2.1%	-	-
03230 Fed Grant-Pass-Thru-Jud	-	-	500,000	1.6%	500,000	1.6%
Grand Total	<u>\$ 26,772,024</u>	<u>100.0%</u>	<u>\$ 30,732,963</u>	<u>100.0%</u>	<u>\$ 30,444,515</u>	<u>100.0%</u>

This program is primarily funded with general fund. It also has a small amount of state special and federal funds. District court fines, fees, and forfeitures are deposited in the general fund. The counties provide state special revenues for accumulated leave liability for those employees who became state employees under district court assumption. Much of the remaining funds are for the Juvenile Delinquency Intervention Program and the Youth Court Community Program. These funds support community programs for youths and juvenile offenders involved in youth courts. Federal funding in the 2007 biennium would be for various grants.

**Present Law Adjustments**

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

Present Law Adjustments	-----Fiscal 2006-----					-----Fiscal 2007-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					792,697					756,065
Inflation/Deflation					(6,621)					(6,510)
Fixed Costs					(6,475)					(6,475)
<b>Total Statewide Present Law Adjustments</b>					\$779,601					\$743,080
DP 6 - Court Recording Equipment	0.00	34,495	0	0	34,495	0.00	0	0	0	0
DP 4302 - Annualize Motor Pool Lease Costs - JPOs	0.00	8,414	0	0	8,414	0.00	8,414	0	0	8,414
DP 4303 - Annualize Motor Pool Lease Costs - DC Judges	0.00	10,543	0	0	10,543	0.00	10,543	0	0	10,543
DP 4510 - Authority for County Paid Annual & Sick Leave	0.00	0	642,548	0	642,548	0.00	0	0	0	0
DP 4511 - Restore Variable Cost Funding that was OTO	0.00	838,958	0	0	838,958	0.00	1,282,392	0	0	1,282,392
DP 4512 - Misc. Federal Grants	0.00	0	0	500,000	500,000	0.00	0	0	500,000	500,000
DP 4516 - Youth Courts-Community Programs/Video Conferencing	0.00	0	153,562	0	153,562	0.00	0	153,562	0	153,562
DP 9904 - Statewide FTE Reduction	(5.00)	(255,458)	0	0	(255,458)	(5.00)	(255,458)	0	0	(255,458)
<b>Total Other Present Law Adjustments</b>	<b>(5.00)</b>	<b>\$636,952</b>	<b>\$796,110</b>	<b>\$500,000</b>	<b>\$1,933,062</b>	<b>(5.00)</b>	<b>\$1,045,891</b>	<b>\$153,562</b>	<b>\$500,000</b>	<b>\$1,699,453</b>
Grand Total All Present Law Adjustments					\$2,712,663					\$2,442,533

The increase in personal service costs of \$792,697 in FY 2006 and \$756,065 in FY 2007 is mostly due to: a) pay benefits for positions that were vacant during part of the base year but fully funded in the budget; b) increases in the each of the 42 judges' base salary by \$5,929 in each fiscal year (totals \$249,018 per fiscal year) as per a regional survey conducted by the Department of Administration; and c) for the 25 cent per hour pay increase for each staff member as approved by the 2003 Legislature

<b>LFD COMMENT</b>	Vacancy savings was not applied to this program. Please refer to the "Agency Issues" section of the overview for additional discussion
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Other present law adjustments consist of:

DP 6 - Court Recorders, Equipment and Software – The executive requests \$34,495 for court recording equipment. Court recording systems would be purchased for three judicial districts at a cost of \$10,000 per system. This proposal also provides \$4,495 to purchase real-time equipment and software.

DP 4302 - Annualize Motor Pool Lease Costs - JPOs - The executive requests \$8,414 in general fund in each fiscal year of the 2007 biennium on top of a FY 2004 base of \$9,864 to annualize the cost of motor pool leases for Juvenile Probation Officers. The leases have not been in effect the entire year and some of the Juvenile Probation Officers did not have a leased vehicle the entire year.

DP 4303 - Annualize Motor Pool Lease Costs - DC Judges - The executive requests \$10,543 in general fund in each fiscal year of the 2007 biennium on top of the FY 2004 base of \$8,939 to annualize the cost of motor pool leases for judges. The leases have not been in effect the entire year because not all judges had a leased vehicle the entire year. Therefore there is only a partial year lease cost in the base year. This proposal provides funding for eight vehicles.

DP 4510 - Authority for County Paid Annual & Sick Leave - The executive requests \$642,548 in a biennial appropriation of state special revenue for annual leave and sick leave payouts for former county employees that leave the judicial branch. These payouts are funded by county payments to the state.

DP 4511 - Restore Variable Cost Funding that was OTO - The executive requests \$838,958 of general fund in FY 2006 and \$1,282,392 of general fund in FY 2007 for variable costs in the district court assumption program. The 2003 Legislature provided up to \$1,800,000 of authority for district court expenses to be funded with 2003 biennium general fund reverted appropriations branch wide. The Judiciary did use approximately \$1.0 million of this authority; however, it was removed from the base during the budgeting process because it was identified as a one-time-only expenditure. The executive is requesting that these funds be added back into the base to recognize the increased expenditures for public defender services in district court cases.

**LFD  
COMMENT**

This DP relates to the supplemental request of \$5.8 million for the 2005 biennium for the District Court Assumption Program discussed in the summary section of this budget analysis. The supplemental request would have been \$6.8 million or \$1 million greater without the use of reversion authority. Therefore, by putting the amounts requested by the executive into the base, the district court assumption program would have funding in the 2007 biennium equivalent to anticipated 2005 biennium expenditures.

**LFD  
ISSUE**

A reason for the supplemental request of \$5.8 million for the District Court Assumption Program for the 2005 biennium that is discussed in the summary section of this budget analysis is to cover increases in caseload faced by the district courts. Although the executive is requesting to add into the base the variable cost funding that was removed because it was identified as one-time-only, the executive is not requesting any funds to cover costs that are related to potential increases in caseload. The legislature may wish to consider the projected rate of increase in caseload when establishing the budget for this program. Please refer to the caseload discussion located in the summary section of this budget analysis.

For example, the total variable costs for FY 2004 were \$10.2 million. The increase in caseload over the past three fiscal years has averaged approximately 6 percent per year. If the \$10.2 million were increased by 6 percent for FY 2006, then this amount would be \$612,000. The increase for FY 2007 would be \$648,000 (\$10.2 million plus \$0.6 million in FY 2006 x 6 percent). The increase for the biennium would be \$1,260,000.

DP 4512 - Misc. Federal Grants - The executive requests authority to expend \$500,000 of federal appropriation authority per year for various federal grants. Currently, some counties continue to administer federal grants for the youth courts. The Legislative Audit Division has indicated that these activities should be recorded on the state accounting system.

DP 4516 - Youth Courts-Community Programs/Video Conferencing - The proposal provides \$153,562 per fiscal year of state special revenue authority for fees collected in Youth Courts and for video conferencing services. Youth Courts collect monies from youths for costs of treatment and counseling. The previous legislature authorized \$150,000 per year but only \$71,438 was spent, so this proposal requests an additional \$78,562 of authority to restore the authority to \$150,000 in each year. The executive also requests \$75,000 per year of authority for video conferencing services. The branch charges attorneys and others to use video conferencing equipment. The fees collected would be used to operate and maintain the equipment.

DP 9904 - Statewide FTE Reduction - The executive is requesting this decision package to implement a FTE reduction equivalent to the reductions taken in the 2003 legislative session. This will remove 5.00 FTE and \$255,458 in general fund per year from the budget permanently.

**New Proposals**

Program	Fiscal 2006					Fiscal 2007				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 1 - Min. Standards - Judicial Support Staff										
04	4.95	198,276	0	0	198,276	4.95	179,958	0	0	179,958
DP 10 - Judicial Education - Rest. Biennial										
04	0.00	50,000	0	0	50,000	0.00	50,000	0	0	50,000
DP 4515 - Unfit to Proceed Costs										
04	0.00	1,000,000	0	0	1,000,000	0.00	1,000,000	0	0	1,000,000
<b>Total</b>	<b>4.95</b>	<b>\$1,248,276</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,248,276</b>	<b>4.95</b>	<b>\$1,229,958</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,229,958</b>

DP 1 - Min. Standards - Judicial Support Staff - The executive requests \$378,234 in general fund for the biennium to hire 4.95 FTE to be distributed amongst the following jurisdictions:

- Law clerk and youth court administrative assistant for Deer Lodge/Powell/Granite
- Law clerk and court administrator for Beaverhead/Madison/Jefferson
- Law clerk for Flathead
- Law clerk and administrative assistant for Garfield/Treasure/Rosebud/Custer/Powder River/Fallon/Carter
- Law clerk for Sanders/Lake
- Youth court administrative assistant for Judith Basin/Fergus/Petroleum

**LFD COMMENT**

Flathead district currently has two law clerks with three judges. The other districts currently do not have the FTE that is being requested for their jurisdictions.

DP 10 - Judicial Education - Rest. Biennial - The executive is requesting \$100,000 during the biennium for judicial education. This proposal provides funding for:

- Training and travel for one out of state conference per year for each of the Justices, the District Court Judges, the Water Court Judge and the Workers Compensation Judge
- Training and travel for two new judges to attend the General Jurisdiction Conference at the National Judicial College in Reno, Nevada
- National Speakers at the Montana Judges Association and the Courts of Limited Jurisdiction Conferences.

**LFD ISSUE**

The legislature may wish to restrict this amount so that it will only fund its intended use and to make this a one-time-only expenditure.

DP 4515 - Unfit to Proceed Costs - The executive requests \$1,000,000 in general fund in each fiscal year of the biennium to pay for forensic psychiatric evaluations. These evaluations are necessary when a defendant is committed to the Montana State Hospital at Warm Springs under a district court order to determine the fitness of that individual to proceed in a criminal case against that individual. Department of Public and Health and Human Services (DPHHS) discovered that for several years they had not been billing for these evaluations and have decided that they will bill the branch beginning in FY 2005 and thereafter. There is no net impact to the general fund, as DPHHS will deposit all assessments to the general fund.

**Program Proposed Budget**

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

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	11.00	0.00	0.00	11.00	0.00	0.00	11.00	11.00
Personal Services	568,454	94,239	0	662,693	93,369	0	661,823	1,324,516
Operating Expenses	104,502	(5)	0	104,497	(5)	0	104,497	208,994
<b>Total Costs</b>	<b>\$672,956</b>	<b>\$94,234</b>	<b>\$0</b>	<b>\$767,190</b>	<b>\$93,364</b>	<b>\$0</b>	<b>\$766,320</b>	<b>\$1,533,510</b>
State/Other Special	672,956	94,234	0	767,190	93,364	0	766,320	1,533,510
<b>Total Funds</b>	<b>\$672,956</b>	<b>\$94,234</b>	<b>\$0</b>	<b>\$767,190</b>	<b>\$93,364</b>	<b>\$0</b>	<b>\$766,320</b>	<b>\$1,533,510</b>

**Program Description**

The Water Courts Supervision Program, located in Bozeman, adjudicates claims of existing water rights in Montana and supervises the distribution of water among the four water divisions of the state, as defined in 3-7-102, MCA.

LFD COMMENT

*Water Rights Adjudication*

The legislative Environmental Quality Council (EQC) has developed draft legislation (LC 0395) that develops a process and a funding mechanism that is intended to speed up water rights adjudication in the state. Under the current process and funding structure, the Department of Natural Resources and Conservation (DNRC) estimates that it will take 38 to 40 years to complete water claim examinations. There is also a time-requirement needed by the Montana Water Court to adjudicate the water claims once the DNRC completes an examination of a water basin. LC 0395 would reduce that time frame to 15 years, requiring expedited work from both DNRC and the Water Court.

Please refer to the summary section of the DNRC in the [Legislative Budget Analysis 2007 Biennium, Volume 4](#) for a history of water rights adjudication in Montana and the process that the DNRC expects to follow if LC 0395 is passed.

There are two main expectations of LC 0395:

- 3) DNRC will complete claims examination and reexamination of verified basins by June 30, 2015.
- 4) The Water Court will issue preliminary or temporary preliminary decrees by June 30, 2020 for all basins.

Costs of LC 0395

The EQC estimates the cost of this program at \$51.5 million over the period from July 1, 2005 through June 30, 2020. In order to fund this project, it proposes two sources:

- 1) \$31.2 million or 61 percent from water user fees imposed for a ten-year period to collect sufficient funds for the 15-year project timeframe. In order to collect these funds, LC 0395:
  - Sets a water user fee schedule that is either a flat fee or a graduated fee based upon the characteristics of the user
  - Sets up a debt collection process for water users that do not pay the fee
  - Sets up a water adjudication account to collect and hold the fee until disbursed to the DNRC or the Water Court
  - Sets up reporting requirements by the Water Court and the DNRC to the EQC
  - Makes the funding of this process subject to a statutory appropriation
- 2) \$20.3 million or 39 percent from state special and general fund sources. The state special revenue sources have not been identified, nor has the ratio of any state special revenue funds to general fund.

**LFD COMMENT CONT.**

Note: The Judiciary is recommending that the Water Court be funded at \$767,000 for FY 2006 with state special revenues. If this rate of funding were to remain constant for 15 years, it would equate to \$11.5 million or 57 percent of the \$20.3 million needed to support the remaining funding. The source of this funding is from interest on the resource indemnity trust.

If LC 0395 is passed, the Water Court would be appropriated an annual amount of \$874,105, which is an increase of \$106,915 over the budget requested by the Judiciary for FY 2006. The increase would be used to fund additional resources to speed up the adjudication process.

**Program Highlights**

<b>Judiciary Water Courts Supervision Major Budget Highlights</b>
<ul style="list-style-type: none"> <li>Funding increases are due to personal services increases in statewide present law adjustments</li> </ul>

**Funding**

The following table shows program funding, by source, for the base year and for the 2007 biennium.

Program Funding	Base FY 2004	% of Base FY 2004	Budget FY 2006	% of Budget FY 2006	Budget FY 2007	% of Budget FY 2007
02272 Renewable Resources Grnt/Loans	\$ 672,956	100.0%	\$ 767,190	100.0%	\$ 766,320	100.0%
Grand Total	<u>\$ 672,956</u>	<u>100.0%</u>	<u>\$ 767,190</u>	<u>100.0%</u>	<u>\$ 766,320</u>	<u>100.0%</u>

This program is funded with state special revenue from the renewable resource grant and loan account. These accounts include the resource indemnity and ground water assessment (RIGWA) tax, as well as interest earnings on the resource indemnity trust (RIT).

**LFD ISSUE**

The source of funding for this program is limited by the amount of fees charged to mining activities and interest produced on a trust with a fixed base. There is competition for these funds because they also fund other programs that are seeing increased needs. For additional information on the Resource Indemnity Trust, see the overview section of the Department of Natural Resources and Conservation budget analysis in volume 4 of the LFD budget analysis.

**Present Law Adjustments**

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

Present Law Adjustments	-----Fiscal 2006-----				-----Fiscal 2007-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					94,239					93,369
Inflation/Deflation					(5)					(5)
<b>Total Statewide Present Law Adjustments</b>					\$94,234					\$93,364
Grand Total All Present Law Adjustments					\$94,234					\$93,364

The increase in personal service costs of \$94,239 in FY 2006 and \$93,369 in FY 2007, is mostly due to: a) pay and benefits for positions that were vacant during part of the base year but fully funded in the budget; b) increased pay for the Water Court Judge of \$5,929 in each fiscal year due to a regional survey; and c) the 25 cent per hour pay increase for each staff member as approved by the 2003 Legislature.

**LFD COMMENT**

Vacancy savings was not applied to this program. Please refer to the “Agency Issues” section of the overview for additional discussion.

**Program Proposed Budget**

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

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	5.50	0.00	0.00	5.50	0.00	0.00	5.50	5.50
Personal Services	335,164	10,599	0	345,763	9,565	0	344,729	690,492
Operating Expenses	35,545	185	0	35,730	1,177	0	36,722	72,452
<b>Total Costs</b>	<b>\$370,709</b>	<b>\$10,784</b>	<b>\$0</b>	<b>\$381,493</b>	<b>\$10,742</b>	<b>\$0</b>	<b>\$381,451</b>	<b>\$762,944</b>
General Fund	370,709	10,784	0	381,493	10,742	0	381,451	762,944
Federal Special	0	0	0	0	0	0	0	0
<b>Total Funds</b>	<b>\$370,709</b>	<b>\$10,784</b>	<b>\$0</b>	<b>\$381,493</b>	<b>\$10,742</b>	<b>\$0</b>	<b>\$381,451</b>	<b>\$762,944</b>

**Program Description**

The Clerk of Court Program performs support and operational duties for the Supreme Court, as outlined in Title 3, Chapter 2, part 4, MCA. The program keeps the court records and files, issues writs and certificates, approves bonds, files all papers and transcripts, and performs other duties as required.

**Program Highlights**

Judiciary Clerk of Court Major Budget Highlights
<ul style="list-style-type: none"> <li>Total funding increases about \$10,700 per year primarily due to statewide present law adjustments, along with a small adjustment for additional storage space for court records</li> </ul>

**Funding**

The following table shows program funding, by source, for the base year and for the 2007 biennium.

Program Funding Table Clerk Of Court						
Program Funding	Base FY 2004	% of Base FY 2004	Budget FY 2006	% of Budget FY 2006	Budget FY 2007	% of Budget FY 2007
01100 General Fund	\$ 370,709	100.0%	\$ 381,493	100.0%	\$ 381,451	100.0%
Grand Total	<u>\$ 370,709</u>	<u>100.0%</u>	<u>\$ 381,493</u>	<u>100.0%</u>	<u>\$ 381,451</u>	<u>100.0%</u>

This program is funded with general fund.

**Present Law Adjustments**

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

Present Law Adjustments	-----Fiscal 2006-----					-----Fiscal 2007-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					10,599					9,565
Inflation/Deflation					(19)					(18)
Fixed Costs					(787)					(787)
<b>Total Statewide Present Law Adjustments</b>					\$9,793					\$8,760
DP 6001 - Records Storage	0.00	991	0	0	991	0.00	1,982	0	0	1,982
<b>Total Other Present Law Adjustments</b>	<b>0.00</b>	<b>\$991</b>	<b>\$0</b>	<b>\$0</b>	<b>\$991</b>	<b>0.00</b>	<b>\$1,982</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,982</b>
Grand Total All Present Law Adjustments					\$10,784					\$10,742

The increase in personal service costs of \$10,599 in FY 2006 and \$9,565 in FY 2007 is mostly due to: a) pay and benefits for positions that were vacant during part of the base year but fully funded in the budget; b) a pay raise for the Clerk of Court in the amount of \$1,245 in each fiscal year as per a regional survey; and c) the 25 cent per hour pay increase for each staff member as approved by the 2003 Legislature.

<b>LFD COMMENT</b>	Vacancy savings was not applied to this program. Please refer to the "Agency Issues" section of the overview for additional discussion.
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DP 6001 - Records Storage – The executive requests \$991 for FY 2006 and \$1,982 for FY 2007 for a total of \$2,973 for the 2007 biennium for records storage. Section 3-2-402, MCA requires that the Clerk of the Supreme Court be responsible for the retention of Supreme Court records. The clerk’s vault has capacity to house approximately three calendar years of Supreme Court case files. At the end of June 2004, the clerk’s vault reached its storage capacity and the clerk is preparing to transfer closed cases from the years 2001 and 2002 to Records Management under the Secretary of State. The clerk estimates that 560 additional boxes of information would be transferred to the Records Management facility, which charges a storage fee for each box.

**Agency Proposed Budget**

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

Agency Proposed Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	60.00	(1.43)	1.00	59.57	(1.43)	1.00	59.57	59.57
Personal Services	2,925,593	534,328	94,807	3,554,728	526,474	94,513	3,546,580	7,101,308
Operating Expenses	1,456,701	156,969	5,193	1,618,863	37,687	5,487	1,499,875	3,118,738
Grants	0	9,789,803	0	9,789,803	0	0	0	9,789,803
Transfers	0	0	0	0	0	0	0	0
<b>Total Costs</b>	<b>\$4,382,294</b>	<b>\$10,481,100</b>	<b>\$100,000</b>	<b>\$14,963,394</b>	<b>\$564,161</b>	<b>\$100,000</b>	<b>\$5,046,455</b>	<b>\$20,009,849</b>
General Fund	4,226,670	505,919	100,000	4,832,589	444,236	100,000	4,770,906	9,603,495
State/Other Special	45,247	9,971,549	0	10,016,796	116,336	0	161,583	10,178,379
Federal Special	110,377	3,632	0	114,009	3,589	0	113,966	227,975
<b>Total Funds</b>	<b>\$4,382,294</b>	<b>\$10,481,100</b>	<b>\$100,000</b>	<b>\$14,963,394</b>	<b>\$564,161</b>	<b>\$100,000</b>	<b>\$5,046,455</b>	<b>\$20,009,849</b>

**Agency Description**

The Office of the Governor exists under authority granted in Article VI of the Montana Constitution. The Governor has constitutional and statutory authority to administer the affairs of the State of Montana. The Governor appoints all military and civil officers of the state whose appointments are provided for by statute or the constitution, grants reprieves and pardons, and serves on various boards and commissions. The Governor approves or vetoes legislation, reports to the legislature on the condition of the state, and submits a biennial executive budget. The Governor also represents the state in relations with other governments and the public.

**Agency Highlights**

<b>Governor's Office Major Budget Highlights</b>
<ul style="list-style-type: none"> <li>• \$9.8 million spending authority is requested for workforce training and economic development grants</li> <li>• Three factors cause decreases of about \$1.4 million from the 2005 biennium:                             <ul style="list-style-type: none"> <li>• The elimination of FTE as part of the statewide FTE reduction and to fund the Office of Budget and Program Planning broadband pay plan</li> <li>• Present law adjustments</li> <li>• A discontinued appropriation in federal funding for the Office of Indian Affairs</li> </ul> </li> </ul>
<b>Major LFD Issues</b>
<ul style="list-style-type: none"> <li>• Future funding for the Commissioner of the Board of Public Education position</li> <li>• One-time-only funding for computer replacement / upgrades</li> <li>• \$188,000 federal special revenue in the Mental Disabilities Board of Visitors' budget may not be available</li> </ul>