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	39.00	0.00	0.00	39.00	0.00	0.00	39.00	39.00
Personal Services	2,192,162	87,689	0	2,279,851	86,517	0	2,278,679	4,558,530
Operating Expenses	491,108	167,017	0	658,125	7,375	0	498,483	1,156,608
Total Costs	**$2,683,270**	**$254,706**	**$0**	**$2,937,976**	**$93,892**	**$0**	**$2,777,162**	**$5,715,138**
State/Other Special	2,669,538	254,706	0	2,924,244	93,892	0	2,763,430	5,687,674
Federal Special	13,732	0	0	13,732	0	0	13,732	27,464
Total Funds	**$2,683,270**	**$254,706**	**$0**	**$2,937,976**	**$93,892**	**$0**	**$2,777,162**	**$5,715,138**

Agency Description

The Department of Public Service Regulation (PSR) regulates the operations of public utility and transportation industries that operate in the state. Five commissioners, elected from districts throughout Montana, form the Montana Public Service Commission (PSC) that oversees the PSR. Each commissioner serves a four-year term.

LFD COMMENT *The NorthWestern Bankruptcy*

In September 2003, NorthWestern Corporation filed for bankruptcy protection. NorthWestern Corporation is the South Dakota-based parent company of NorthWestern Energy, which provides electricity to more than 300,000 Montana customers and natural gas to about 157,000 Montana customers. NorthWestern Corporation filed for bankruptcy under chapter 11 of the US bankruptcy code that allows for reorganization of the company’s finances and operations under the protection of the court.

The State of Montana, the Montana Public Service Commission (PSC) and the Montana Consumer Counsel (MCC) participated as active parties in interest in the bankruptcy proceedings in order to protect the state’s and Montana ratepayers' interests. The PSC's main goal in the bankruptcy process was to have a financially stable, Montana-focused and utility-focused company emerge from bankruptcy. The PSC and the MCC negotiated a settlement agreement with NorthWestern that contained the following terms: (1) implement a "ring fencing" structure that would protect Montana ratepayers from the risks of any future unregulated non-utility ventures by structurally and financially separating the regulated utility operations from NorthWestern's unregulated, non-utility operations; (2) allow for the opportunity for a PSC rate review in 2006; and (3) gain a commitment from NorthWestern to work with the PSC and the MCC to implement the recommendations of an independent audit of NorthWestern’s Montana based distribution and transmission operations.

NorthWestern emerged from bankruptcy in November 2004. As part of the bankruptcy settlement agreement, the company agreed to pay the state’s costs for participating in the bankruptcy, which totaled $2.9 million. This amount consists of $1.4 million in reimbursements to state agencies and $1.5 million in payments made directly by NorthWestern to firms hired by state agencies. The components of the $2.9 million are: $0.5 million for outside experts and legal counsel hired by the PSC and out-of-pocket expenses of PSC Commissioners and staff, $0.3 million for experts and legal counsel hired by the MCC, and $2.1 million for outside legal counsel, for the staff of the Montana Attorney General’s Office, and for financial experts hired jointly by the PSC, the MCC and the Attorney General. The Governor’s office extended the PSC $0.4 million in funding received from the Federal Jobs and Growth Relief Reconciliation Act of 2003. This $0.4 million was repaid by the PCS to the Governor’s office.

Agency Highlights

Public Service Regulation Major Budget Highlights

• The overall budget would increase 6.5 percent or $349,000 for the 2007 biennium compared to the FY 2004 base budget, due primarily to:
  • Statewide adjustments attribute to 53 percent of the increase
  • $100,000 contingency to fund consultants in case of increased workload
  • Computer replacement

Major LFD Issues
• Restrict travel and training for new commissioners • Restrict and/or reduce request for funds to hire consultants

Funding

The following table summarizes proposed funding for the agency, by source, for the base year and for the 2007 biennium as recommended by the Governor.

Program Funding Table
Public Service Regulation Prog

Program Funding	Base FY 2004	% of Base FY 2004	Budget FY 2006	% of Budget FY 2006	Budget FY 2007	% of Budget FY 2007
02281 Public Service Commission	$ 2,669,538	99.5%	$ 2,924,244	99.5%	$ 2,763,430	99.5%
03011 Natural Gas Safety Pgm	13,732	0.5%	13,732	0.5%	13,732	0.5%
Grand Total	$ 2,683,270	100.0%	$ 2,937,976	100.0%	$ 2,777,162	100.0%

The Public Service Regulation Program is funded primarily by state special revenue that consists of a constitutionally earmarked fee levied on all regulated entities under its jurisdiction. This fee is levied quarterly. The amount raised by the fee must equal the amount appropriated to the commission by the legislature for a particular year. Fees are deposited directly into a state special revenue account. Sections 69-1-401 through 403, MCA discuss how the fee is calculated, applied, and collected. Fees are based upon a percentage of the gross revenues from all entities regulated by the PSC for a calendar quarter of operation. Minor amounts of funding are from federal funds that come from the U.S. Department of Transportation. This funding source supports the Natural Gas Pipeline Safety 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	39.00	0.00	39.00	39.00	0.00	39.00	39.00	39.00
Personal Services	2,279,851	0	2,279,851	2,278,679	0	2,278,679	4,425,582	4,558,530
Operating Expenses	658,125	0	658,125	498,483	0	498,483	1,517,892	1,156,608
Total Costs	$2,937,976	$0	$2,937,976	$2,777,162	$0	$2,777,162	$5,943,474	$5,715,138
State/Other Special	2,924,244	0	2,924,244	2,763,430	0	2,763,430	5,915,762	5,687,674
Federal Special	13,732	0	13,732	13,732	0	13,732	27,712	27,464
Total Funds	$2,937,976	$0	$2,937,976	$2,777,162	$0	$2,777,162	$5,943,474	$5,715,138

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					162,708					161,548
Vacancy Savings					(75,019)					(75,031)
Inflation/Deflation					(5,031)					(4,958)
Fixed Costs					21,469					548
Total Statewide Present Law Adjustments					$104,127					$82,107
DP 1 - Computer Replacement	0.00	0	48,274	0	48,274	0.00	0	4,095	0	4,095
DP 2 - Travel/Training	0.00	0	7,500	0	7,500	0.00	0	7,500	0	7,500
DP 3 - Consultant Funds	0.00	0	84,500	0	84,500	0.00	0	(15,500)	0	(15,500)
DP 4 - Building Rent	0.00	0	10,305	0	10,305	0.00	0	15,690	0	15,690
Total Other Present Law Adjustments	**0.00**	**$0**	**$150,579**	**$0**	**$150,579**	**0.00**	**$0**	**$11,785**	**$0**	**$11,785**
Grand Total All Present Law Adjustments					**$254,706**					**$93,892**

1) The increase in personal service costs of $162,708 in FY 2006 and $161,548 in FY 2007 is mostly due to: a) about $236,000 for the biennium in pay and benefits for positions that were vacant during part of the base year but accounted for at the time budget was calculated, b) pay and benefit increases for the five commissioners in the amount of about $45,000 for the biennium that is derived by a regional compensation survey conducted by the Department of Administration; and c) about $43,000 for the biennium to pay for 2005 biennium pay plan.
2) Vacancy savings is a decrease of $75,019 in FY 2006 and $75,031 in FY 2007 based upon approximately four percent of the personal services budget.
3) Fixed cost increases of $22,000 are primarily for legislative audit fees and data network cost.

DP 1 - Computer Replacement - The executive is requesting state special revenue to fund the replacement of 26 desktop and six laptop computers and one server in FY 2006 and seven desktop computers and one laptop computer in FY 2007. These computer replacements are based on a four-year replacement cycle.

LFD ISSUE

The PSC is requesting to replace 40 computers with only 39 FTE. This request may include funding in the first year for a number of computers that do not represent a four-year replacement schedule. Therefore, the legislature may wish to make any funding for computers in excess of the number required for a four-year replacement cycle` one-time-only to avoid inflating the base in future years.

DP 2 - Travel/Training - The executive is requesting an increase in the department's travel and training budget of $7,500 in each year of the biennium. This increase would be used to fund two items. First, it would fund travel and training for three individuals expected to come on board as new commissioners on January 1, 2005. Commissioners without a regulatory background usually attend training, which is not available in Montana. This travel and training is in addition to their normal travel and training. Secondly, it would fund travel by the commission to fulfill its responsibility to monitor and participate in the Regional Transmission Organization (RTO). The RTO is a regional organization that is studying ways to effectively combine transmission facilities that are currently managed by many entities in various states into one entity that is managed by the region.

LFD ISSUE

The executive is requesting an increase in travel and training of $7,500 in each fiscal year. The current base is approximately $3,000, which represents ongoing travel and training. The $7,500 is the incremental amount needed to train new commissioners, and travel to provide support to the regional transmission organization. The legislature may wish to restrict this amount to be used only for the purpose identified, and designate it as one-time-only.

DP 3 - Consultant Funds - The executive requests that a contingency fund be established with state special revenue funds that would be used to hire consultants only if the need arises. The amount of the fund is $100,000 for the biennium. These funds would be used to contract with consultants during times when workload requirements are in excess of staff levels or when a special project arises that requires expertise that is not available in-house. The amount of $84,500 that appears in FY 2006 is the $100,000 request net of $15,500 that was already in the base. The department is also removing $15,500 from the base in FY 2007, hence the negative amount.

LFD COMMENT

As stated earlier, the Governor authorized the PSC to expend a portion of the federal grant made through the Jobs and Growth Relief Reconciliation Act of 2003 to address issues related to the bankruptcy of NorthWestern Corporation. The statutes, that control how the assessment on utility companies that fund the PSC operating budget, restrict this assessment to the legislative appropriation. Therefore, there is no mechanism for providing additional funding during the interim for any other instances in which unforeseen issues arise, and federal grants of the kind used in the 2005 biennium are not expected to recur.

Therefore, the executive is requesting that the assessment on utilities be increased before the potential fact to allow the PSC to address any contingencies. Because it is a new contingency amount, it is strictly prospective and not based upon any past history that would guide the legislature in determining an appropriate amount. In addition, the appropriation would leave to the PSC the option of whether and to what extent it should become involved in various issues. Therefore, the issue for the legislature is whether the possibility of additional unforeseen issues that require either expertise or additional resources the PSC does not currently have warrants the additional charge on utility companies.

LFD ISSUE

The legislature may wish to restrict any appropriation for consulting services so as to fund only this service and to keep any excess from reverting for general use. Also the legislature may wish to reduce the amount of the appropriation to a lesser amount.

DP 4 - Building Rent - The executive requests state special revenue funds to cover increases in office rent of $10,305 in FY 2006 and $15,690 in FY 2007. These increases are based upon a provision in a long-term contract negotiated by the Department of Administration that inflates the rent cost by 3 percent each year. The rental agreement began in 1991 and terminates in 2011.

Elected Official: New Proposals

The Public Service Regulation Department (PSR) requests that its vacancy saving requirement either be eliminated or reduced. Vacancy savings was applied at a rate of 4 percent per year on all FTE except the elected commissioners. To eliminate the entire amount, would add $75,019 in FY 2006 and $75,031 in FY 2007. If the amount of vacancy savings were reduced, the PSR proposes that the first 20 positions in the agency be exempted, and vacancy savings be applied to the remaining 14 positions. This action would restore 58.8 percent to its budget. A reduction of 58.8 percent would restore $44,111 in FY 2006 and $44,118 in FY 2007.