

**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 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	392.13	0.00	5.45	397.58	0.00	5.45	397.58	397.58
Personal Services	22,067,067	3,101,190	238,420	25,406,677	3,163,326	239,116	25,469,509	50,876,186
Operating Expenses	16,357,847	(8,363,693)	364,176	8,358,330	(8,318,521)	356,139	8,395,465	16,753,795
Equipment	336,004	39,028	0	375,032	61,049	0	397,053	772,085
Grants	0	0	300,000	300,000	0	0	0	300,000
Benefits & Claims	0	0	0	0	0	0	0	0
Debt Service	29,269	0	0	29,269	0	0	29,269	58,538
<b>Total Costs</b>	<b>\$38,790,187</b>	<b>(\$5,223,475)</b>	<b>\$902,596</b>	<b>\$34,469,308</b>	<b>(\$5,094,146)</b>	<b>\$595,255</b>	<b>\$34,291,296</b>	<b>\$68,760,604</b>
General Fund	37,410,432	(5,631,754)	823,892	32,602,570	(5,506,166)	516,582	32,420,848	65,023,418
State/Other Special	1,209,268	409,187	122,903	1,741,358	412,398	122,903	1,744,569	3,485,927
Federal Special	170,487	(908)	(44,199)	125,380	(378)	(44,230)	125,879	251,259
<b>Total Funds</b>	<b>\$38,790,187</b>	<b>(\$5,223,475)</b>	<b>\$902,596</b>	<b>\$34,469,308</b>	<b>(\$5,094,146)</b>	<b>\$595,255</b>	<b>\$34,291,296</b>	<b>\$68,760,604</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) Supreme Court Operations; 2) Boards and Commissions; 3) Law Library; 4) District Court Operations; 5) Water Court Supervision; and 6) the Clerk of the Supreme Court.

**Agency Highlights**

<b>Judicial Branch Major Budget Highlights</b>
<ul style="list-style-type: none"> <li>◆ Funding for the 2009 biennium is \$8.8 million or about 11 percent lower than double the FY 2006 base budget                             <ul style="list-style-type: none"> <li>• The \$19 million decrease in funding due to the movement of responsibility for the costs of public defender services from the District Court Operations program within the Judiciary to a new executive branch agency is offset by increases for statewide present law adjustments of about \$7.7 million, \$0.5 million for present law IT, and about \$1.5 million in new proposals</li> </ul> </li> <li>◆ About \$4 million general fund to support information technology projects is included in other legislation</li> <li>◆ Elected Official requests of the legislature include about \$1.6 million for the biennium to address pay equity issues, some of which have resulted in litigation</li> <li>◆ The Judiciary requests \$2.5 million supplemental funding due to cost over runs in district court operations variable costs and may need action on this request expedited in order to have sufficient funding to process payments in a timely manner</li> </ul>
<b>Major LFD Issues</b>
<ul style="list-style-type: none"> <li>◆ The Judiciary may need passage and approval of a supplemental appropriation expedited so that FY 2007 bills may be paid</li> </ul>

## Agency Discussion

### *Goals and Objectives:*

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the legislature may wish to review the following:

- Goals, objectives and year-to-date outcomes from the 2007 biennium
- Goals and objectives and their correlation to the 2009 biennium budget request

Any issues related to goals and objectives raised by LFD staff are located in the program section

### *2007 Initiatives Summary*

The following paragraphs summarize information related to new initiatives funded by the legislature for the 2007 biennium.

### Information Technology Needs

The legislature provide \$1,095,000 general fund in a one-time only appropriation for information technology needs of the branch including the purchase of software licenses and continued implementation of the FullCourt Case Management System (FullCourt). FullCourt has been implemented in courts of limited jurisdiction accounting for 98 percent of the caseload, installation in 2 more courts of limited jurisdiction is scheduled, 13 courts of limited jurisdiction have declined installation, and the software will not be installed in 7 courts of limited jurisdiction with very low caseloads. FullCourt has also been implemented in the Fourth Judicial District (Missoula/Mineral) and the branch projects implementation in up to seven judicial districts by the end of FY 2007.

### New Judgeship

The legislature provided \$428,092 general fund to support a new judgeship in the Eighteenth Judicial District (Gallatin County), including funding for 2.00 FTE in FY 2006 with an increase to 4.00 FTE in FY 2007. The new judge assumed office and three staff were hired in January, 2006. The branch estimates that the district will have about 878 cases per judge in calendar year 2006, a reduction in the per judge caseload from 1,499 in 2005 and 1,362 in 2004. Total case filings for the year are estimated at 2,636 in 2006 and were 2,999 in 2005 and 2,725 in 2004.

### Water Rights Adjudication

The legislature provided \$833,380 state special revenue from a new fee to accelerate adjudication of water rights claims, including 6.50 FTE in FY 2006 with an increase to 7.00 FTE in FY 2007. Hiring of staff was delayed due to the need for additional office space and remodeling to accommodate the expansion of staff. The followings staff members where hired on the dates specified: deputy clerk 10/31/05; 1 water master and 1 law clerk 1/4/06; 1 law clerk 4/3/06; 1 water master 6/30/06; and 1 law clerk 8/21/06. As of November, 2006 the water court is fully staffed with one exception, a part-time clerical position. Training of staff continues with training of some staff to the level necessary for them to work without close supervision expected to take a year or more.

### Removal of Public Defender Costs

The FY 2006 base budget for the branch is reduced by \$9.5 million to reflect the implementation of a new statewide public defender system and the movement of responsibility for these costs from the judicial branch to a new executive branch agency, the Office of the Public Defender. SB 146 of the 2005 session, known as the Montana Public Defender Act, provided for the creation of a new statewide system for the provision of public defender services and assigned responsibility for this system to a new executive branch agency effective July 1, 2006 (FY 2007). Prior to the implementation of the new statewide public defender system responsibility for funding of public defenders services was the responsibility of either the state via the District Court Operations Program in the Judiciary or county and city governments, depending upon the nature of the expenditure and whether it involved a case heard in district court or a court of limited jurisdiction. Under the new statewide public defender system responsibility for funding and provision of public defender services for both district courts and courts of limited jurisdiction became the responsibility of the state.

Additional information related to the new statewide public defender system may be found under the Office of the Public Defender in this volume of the Legislative Budget Analysis for the 2009 Biennium.

**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					
2009 Biennium Executive Budget					
Agency Program	General Fund	State Spec.	Fed Spec.	Grand Total	Total %
01 Supreme Court Operations	\$ 15,972,589	\$ 220,084	\$ 251,259	\$ 16,443,932	23.91%
02 Boards And Commissions	579,103	50,012	-	629,115	0.91%
03 Law Library	1,717,049	-	-	1,717,049	2.50%
04 District Court Operations	45,917,050	506,894	-	46,423,944	67.52%
05 Water Courts Supervision	-	2,708,937	-	2,708,937	3.94%
06 Clerk Of Court	837,627	-	-	837,627	1.22%
Grand Total	<u>\$ 65,023,418</u>	<u>3,485,927</u>	<u>\$ 251,259</u>	<u>\$ 68,760,604</u>	100.00%

The judicial branch is funded primarily with general fund (95 percent), while state special revenue provides about 5 percent and federal funds provide less than 1 percent. The largest sources of state special revenue are renewable resource and water adjudication fees that support the Water Court. Other sources of state special revenue include a portion of the dissolution of marriage fee that supports civil legal services for indigent victims of domestic violence, and county payments for accumulated sick and annual leave for individuals who became state employees at the time of district court assumption.

*2009 Biennium Budget*

2009 biennium funding for the judicial branch decreases about \$0.4 million when compared to the 2007 biennium. The removal of \$9.5 million for public defender costs that are not the responsibility of another state agency are offset by a \$7.7 million increase in statewide present law adjustments, primarily for personal services and computer network connection fees. State special revenue increases about \$600,000 due to increased funding from water adjudication fees and accrued leave payments related to individuals who became state employees when state assumption of district court costs was implemented. Federal funds from pass-thru-grants decrease about \$600,000 between the two biennia. About \$88,000 of this reduction is because the state will no longer receive the federal court appointed special advocate (CASA) grant since the CASA program has become a non-profit organization.

*Supplemental*

The judicial branch intends to request a supplemental appropriation of \$2.5 million for the 2007 biennium to replace general fund transferred from FY 2007 to FY 2006 and expended in FY 2006. This supplemental is related to variable costs in district court operations, which include costs of public defender services, criminal and civil juries, transcripts, contracted court reporters, guardian ad litem, court appointed special advocates, evaluations, witnesses and private investigators. A portion (\$636,300) of the cost overrun in district court variable costs was offset by savings in other portions of the District Court Operations Program and the judicial branch. The cost over run in the judicial branch was related to FY 2006, the year prior to the transfer of responsibility for public defender costs to a new agency, the Office of Public Defender. The Public Defender Office, an executive branch agency, anticipates a supplemental appropriation request of about \$3.3 million for the 2007 biennium, primarily related to FY 2007 costs. More information on the Office of Public Defender cost and supplemental appropriation request may be found in this volume of the Legislative Budget Analysis, Office of Public Defender narrative.

**LFD  
ISSUE**

**Expedited Supplemental Appropriation**

The figure illustrates the appropriation for District Court Operations that remains after transfer of \$2.5 million from FY 2007 to FY 2006 and the lower level of appropriation that the Judiciary received for FY 2007 because funding for public defender services was moved to a new agency. The Judiciary received an appropriation of \$3.4 million for district court variable costs for FY 2007 and \$2.5 million of this amount was moved to FY 2006 to augment the appropriation for that year, leaving a balance of about \$0.9 million for FY 2007. As of this writing the branch has expended \$456,162 of the FY 2007 appropriation leaving \$420,965 remaining for expenditures incurred in the remaining six and one half months of the year. If billing for the next several months exceeds this amount and the branch is not able to move appropriations from other programs within the branch, it may need to request that consideration and action on a supplemental appropriation be expedited by the legislature.

District Court Operations		
Variable Costs and Potential Need for Expedited Supplemental Appropriation		
Item	Appropriation	
	FY 2006	FY 2007
Appropriation - For District Court Ops - Variable Cost	\$11,236,634	\$3,377,127
Transfer to Increase FY 2006 Appropriation:		
From FY 2007 Appropriation	2,500,000	(2,500,000)
From Other Areas within District Court Operations	573,900	0
From Other Areas within the branch	<u>62,400</u>	<u>0</u>
Adjusted Appropriation Level	\$14,372,934	\$877,127
FY 2007 Expenditures As of November 28, 2006		<u>456,162</u>
Remaining Appropriation		<u>\$420,965</u>

**Biennium Budget Comparison**

The following table compares the executive budget request in the 2009 biennium with the 2007 biennium by type of expenditure and source of funding. The 2007 biennium consists of actual FY 2006 expenditures and FY 2007 appropriations.

Biennium Budget Comparison								
Budget Item	Present Law Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	Present Law Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Biennium Fiscal 06-07	Total Exec. Budget Fiscal 08-09
FTE	392.13	5.45	397.58	392.13	5.45	397.58	392.13	397.58
Personal Services	25,168,257	238,420	25,406,677	25,230,393	239,116	25,469,509	46,413,495	50,876,186
Operating Expenses	7,994,154	364,176	8,358,330	8,039,326	356,139	8,395,465	22,088,104	16,753,795
Equipment	375,032	0	375,032	397,053	0	397,053	641,396	772,085
Grants	0	300,000	300,000	0	0	0	0	300,000
Benefits & Claims	0	0	0	0	0	0	0	0
Debt Service	29,269	0	29,269	29,269	0	29,269	59,062	58,538
<b>Total Costs</b>	<b>\$33,566,712</b>	<b>\$902,596</b>	<b>\$34,469,308</b>	<b>\$33,696,041</b>	<b>\$595,255</b>	<b>\$34,291,296</b>	<b>\$69,202,057</b>	<b>\$68,760,604</b>
General Fund	31,778,678	823,892	32,602,570	31,904,266	516,582	32,420,848	65,525,334	65,023,418
State/Other Special	1,618,455	122,903	1,741,358	1,621,666	122,903	1,744,569	2,808,644	3,485,927
Federal Special	169,579	(44,199)	125,380	170,109	(44,230)	125,879	868,079	251,259
<b>Total Funds</b>	<b>\$33,566,712</b>	<b>\$902,596</b>	<b>\$34,469,308</b>	<b>\$33,696,041</b>	<b>\$595,255</b>	<b>\$34,291,296</b>	<b>\$69,202,057</b>	<b>\$68,760,604</b>

**New Proposals**

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

New Proposals Program	Fiscal 2008					Fiscal 2009				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 1001 - Appellate Mediator 01	1.50	119,334	0	0	119,334	1.50	113,949	0	0	113,949
DP 1004 - Pro Se Law Clerk 01	1.00	56,534	0	0	56,534	1.00	53,979	0	0	53,979
DP 1006 - CASA Federal Grant 01	(1.00)	0	0	(44,199)	(44,199)	(1.00)	0	0	(44,230)	(44,230)
DP 1007 - CASA Funding Stabilization 01	0.00	185,600	0	0	185,600	0.00	185,600	0	0	185,600
DP 4005 - District Court Safety and Security Proposal - OTO 04	0.00	300,000	0	0	300,000	0.00	0	0	0	0
DP 4010 - Judicial Support and Youth Probation Staff 04	3.95	162,424	0	0	162,424	3.95	163,054	0	0	163,054
DP 4011 - Replace State Special for funding from counties 04	0.00	0	122,903	0	122,903	0.00	0	122,903	0	122,903
<b>Total</b>	<b>5.45</b>	<b>\$823,892</b>	<b>\$122,903</b>	<b>(\$44,199)</b>	<b>\$902,596</b>	<b>5.45</b>	<b>\$516,582</b>	<b>\$122,903</b>	<b>(\$44,230)</b>	<b>\$595,255</b>

**Agency Issues**

*Vacancy Savings*

Historically vacancy savings has not been applied to the Judicial Branch. A review of personal services data for FY 2006 indicates that the branch does experience vacancies. The figure at the right illustrates that vacancy percentages ranged from a high of 36 percent within the Water Court Program to a low of zero percent in the Clerk of Court program. The high vacancy rate in the Water Court Program relates to recruitment and implementation difficulties that were experienced with the expansion of the Water Court to expedite adjudication of water right claims. District Court Operations, the largest program with the branch, had a vacancy rate of four percent for all positions, including elected officials.

Program	FY 2006	Vacancy
	FTE	Percent
Supreme Court Operations	62.75	9.9%
Boards and Commissions	3.00	4.9%
Law Library	6.75	2.4%
District Court Operations	296.13	4.0%
Water Court	18.00	36.3%
Clerk of Court	5.50	0.0%
Agency Total	392.13	6.4%

**LFD COMMENT**

The legislature may wish to consider imposing vacancy savings on all or some programs within the Judiciary and how doing so would impact legislative goals for the branch. For example, given that the legislature has taken action to add staff to accelerate the adjudication of water right claims, imposition of vacancy savings, which may have the impact of reducing available staffing (assuming it is possible to recruit and retain a full complement of staff for the biennium) in the Water Court, may be contradictory to this legislative goal.

In the event the legislature chose to apply vacancy savings to the judicial branch it may also wish to consider providing a personal services contingency fund appropriation for the branch separate from the contingency fund for the executive branch that is provided to the Governor’s office. Doing so would reflect statutory provisions that designate the Chief Justice of the Supreme Court as the approving authority for the branch.

*2009 Biennium Information Technology Request*

The judicial branch information technology request for the 2009 biennium is included in separate legislation. However, information about the judicial branch information technology needs is provided in this budget analysis to assist the legislature by providing a resource for reference purposes. For the 2009 biennium the Judiciary requests \$3.9 million general fund to continue the branch’s information technology modernization.

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

**Justification:** This proposal seeks funding to continue the judicial branch's efforts to modernize Montana courts in a manner that meets the unique needs of the judicial branch while at the same time conforms to state of Montana information technology standards. The branch is working to blend the disparate information systems inherited through assumption of district courts into a cohesive information technology program.

**Goals:** Case Management Improvements - To complete the procurement and installation of a common case management system, including a document imaging and jury management subsystem, in Montana's district courts and courts of limited jurisdiction

E-Filing - To provide a single web portal and integrated system for the electronic filing of civil and criminal cases in Montana courts

Courtroom Technology Improvements -To maintain current technology and to upgrade Montana's busiest district court courtrooms with quality court recording systems, sound systems, and interactive video and digital evidence display systems.

**Performance Measures:** The judicial branch's Commission on Technology is responsible for setting the strategic goals and objectives for information technology in the branch and for measuring progress toward these goals and objectives. The Commission on Technology is aided by a Computer Automation Advisory Committee and several other committees and councils representing the Clerks of the District Courts, the Courts of Limited Jurisdiction, and the Judicial Video Network Advisory Council. In addition, the Office of the Court Administrator is statutorily required to annually report the status of the court technology program to the Law and Justice Interim Committee and to the House Appropriations Subcommittee (3-1-702, MCA). Finally, each bounded area of work will be managed as a project using standard project management practices.

**Milestones:**

- To complete the procurement and deployment of a common case, document and jury management system in Montana's District Courts and Courts of Limited Jurisdiction - In-Progress - Target Completion Date May 2008
- Provide a single web portal for the electronic filing of civil and criminal cases in Montana courts - E-Filing System Development Timeline 7-1-2007 to 7-1-2008
- To maintain current technology and to upgrade Montana's busiest District Court courtrooms with quality court recording systems, sound systems; and interactive video and digital evidence display systems - Courtroom Technology Improvements Timeline 7-1-2007 to 8-31-2008

**FTE: Court Case Management System Improvements:**

- FullCourt CMS & Jury Program Deployment – current Office of the Court Administrator training staff, however, there is a significant investment in staff time by those courts and offices involved at the time the product is deployed in their court/office
- Document Imaging – current Office of the Court Administrator application development & training staff Department of Administration FileNet application development staff or (see challenges) a commercial product will be deployed by the Office of the Court Administrator training staff
- Electronic Filing - contracted services (system development), task force (system deployment and training)
- Courtroom Technology Improvements:
  - Court Recording Equipment – Office of the Court Administrator system support staff
  - Interactive Video – managed services agreement with Department of Administration
  - Courtroom Technology Improvements – contracted services and Office of the Court Administrator system support staff

Funding: General fund

Obstacles: Most of the technology improvements proposed involve purchasing and deploying already proven technologies or maintaining existing technologies with two exceptions:

- First, the document imaging component of the case management system poses a significant challenge. The Office of the Court Administrator and the Department of Administration have been working on a plan to utilize the state's enterprise document management system called "FileNet" as the document management system for Montana's courts. In order for district courts to participate in the state's FileNet an interface must be developed between the FullCourt case management system and FileNet, and legacy documents must be moved from the existing document management systems into FileNet. In addition, some concerns have been raised about the ability of the current state data network to support a centralized judicial branch document management solution. The Department of Administration's targeted network improvements in 2008-2009 alleviate these concerns
- The FullCourt vendor also has a document imaging solution. This document imaging solution integrates with the FullCourt case management system and is being successfully used in the 4th Judicial District pilot and by the Kalispell Municipal Court, who purchased the product independently. The FullCourt imaging solution is the alternative documenting imaging solution for Montana district courts and courts of limited jurisdiction if the FileNet solution proves to be untenable
- The second challenge is the development and deployment of an e-filing system. There are a number of companies that offer e-filing solutions at no cost to the participating courts. These e-filing solutions are limited to certain case types and the e-filing vendor recovers its cost by charging an e-filing fee and in some cases by marketing the public documents that traverse the e-filing solution. These e-filing solutions are integrated with the court's case management system only if such an interface is developed and paid for between the e-filing provider and the case management provider. It is recognized that a successful e-filing solution in Montana must support all civil and criminal case types and must be uniform for all courts. The solution must also be based on technical and industry standards. These requirements necessitate that a multi-faceted task force with representatives from the civil and criminal justice communities in Montana define the functional requirements for an e-filing solution and assume some responsibility for the successful deployment and training of the system

Risk: Specific risks in each of the targeted areas "case management" and "courtroom technology" can be summarized as follows:

- Case Management & E-Filing
  - Risk 1: Adverse impact on the accuracy, timeliness and completeness of court records and on the quality of records of state agencies statutorily required to collect and disseminate court information
  - Risk 2: Adverse impact on the general fund and to local and state programs funded through court fines, fees, and surcharges
  - Risk 3: Adverse impact on the quality of decisions policy makers and researchers make when using court statistical information for deliberations and analysis
- Courtroom Technology
  - Risk 4: Adverse impact to the court record in those districts that are using antiquated equipment.
  - Risk 5: If the judicial video network is not funded the network will be shut down and those entities that currently benefit from the technology will be required to find alternative methods for communication. The estimated percentage of cost avoidance by primary user groups in calendar year 2005 was: cities and counties (50 percent), judicial branch and state agencies (27 percent), attorneys and clients (23 percent). In addition, state institutions and counties will have no choice but to transport potentially dangerous persons to court hearings, placing the public along the transport route at risk
  - Risk 6: Adversely impacts the quality and efficiency of judicial proceedings in the courtroom

**LFD  
COMMENT**

As part of the information requested, the branch provided time lines for various portions of the proposal for funding. However, inclusion of those timelines in this document was not practical.

The figure illustrates the various components of this proposal and the funding requested for each.

Summary of Information Technology Requests		
Project	Funding	Comments
Enterprise Licensing Full Court Case Management and Jury Management Module	\$1,100,000	For completion of procurement and installation of a common case managements system including document imaging and jury management subsystem in district courts and courts of limited jurisdiction
Document Imaging	900,000	
Court Calendaring	95,000	
E-filing	540,000	For a single web portal and integrates system for the electronic filing of civil and criminal cases in Montana courts
Court Room Technology: (below)		To maintain current technology and update the busiest district courts with quality recording systems, sound systems, interactive video, and digital evidence display systems
Court Room Assessment	45,000	
Court Reporting, E-transcription	100,000	
Interactive Video Conferencing	312,000	
Evidence Display Systems	243,000	
Court Room Wiring/Sound Systems	600,000	
Total	<u>\$3,935,000</u>	

The information provided above does not specify the performance measures to be utilized to monitor progress or the outcome of the projects included in this proposal. The legislature may wish to request that the branch provide additional information regarding the performance measures that will be used for evaluation of the progress and outcomes of these projects.

Funding for ongoing maintenance and licensing of two court case management application is requested in DP 1007 in the Supreme Court Operations Program.

**Timing**

A review of the branch information technology plan prepared in March 2003 and a draft of the September 2006 update reveal that some information technology items have not been achieved in the time-frame estimated in the information technology plan. For example,

- The 2003 plan included a goal of completed deployment by June 30, 2005 of FullCourt to courts of limited jurisdiction. However deployment of FullCourt to courts of limited jurisdiction continued during the 2007 biennium
- The 2003 plan indicates the branch will establish a central repository of court information that ensures reliable access to system information and reliable data during FY 2006. A central repository of information from courts of limited jurisdiction has begun but at this time the repository does not include district court data
- The 2006 plan update indicates that the FullCourt district court pilot is to be evaluated and expanded as appropriate during FY 2007. However, the 2007 biennium fiscal report indicates that an appropriation of \$1.1 million was provided to the Judiciary to be used to complete the purchase and installation of FullCourt in the remaining courts of limited jurisdiction and all district courts during the 2007 biennium. While the branch has essentially completed the installation in courts of limited jurisdiction, installation in all district courts will not be completed by the end of the biennium

<b>LFD COMMENT (CONT.)</b>	<p>While the branch experienced some delays in prior years because revenues were not collected at the anticipated level, the appropriation provided for FullCourt installation for the 2007 biennium was a general fund appropriation and thus available for expenditure. As of the date of this writing the branch had \$791,697 of this \$1,095,000 that remained unexpended. The appropriation was provided by the legislature as a restricted, biennial, one-time-only appropriation so it may not be used for other purposes and any unexpended funds will revert to the general fund. The legislature may wish to discuss with the branch:</p> <ul style="list-style-type: none"> <li>• Why the appropriation provided as part of the 2007 biennium budget has not been fully expended and FullCourt not implemented in all district courts</li> <li>• What barriers the branch faces in achieving timelines included in the information technology plan</li> <li>• What actions the legislature may consider that would expedite the implementation of new technologies within the branch</li> </ul>
----------------------------	---

*Elected Official Proposals*

17-7-122 MCA specifies that

Judicial branch budget proposals must be included in the budget submitted by the governor, but expenditures above the current base budget need not be part of the balanced financial plan pursuant to 17-7-123, MCA

The following judicial branch proposals are above the current base budget and not included in the executive budget request.

Judicial Education

The judicial branch requests a biennial increase of \$70,000 for judicial education for Supreme Court Justices, District Court judges, judges in the Courts of Limited Jurisdiction, law clerks, and youth court probation officers.

<b>LFD COMMENT</b>	<p>In the 2007 biennium, \$100,000 general fund was provided as a restricted biennial appropriation to support:</p> <ul style="list-style-type: none"> <li>• One out of state conference per year for each justice, district court judge, water court judge, and workers comp court judge</li> <li>• Two judges attendance at the general jurisdiction conference at the National Judicial College in Reno, NV</li> <li>• National speakers at Montana judges/court conferences</li> </ul> <p>Judiciary branch staff members indicate that during FY 2006 the following educational events occurred:</p> <ul style="list-style-type: none"> <li>• 21 judges and justices attended out of state conferences</li> <li>• One new judge attended the general jurisdiction conference at the National Judicial College in Reno, NV and there will be four new judges in FY 2007 who will attend this conference</li> <li>• 10 speakers were reimbursed for training provided at Montana conferences. Conferences held each year include 2 per year for district court judges, 2 per year for judges in courts of limited jurisdiction, and 1 per year for law clerks</li> </ul> <p>This increase in funding (from \$100,000 to \$170,000 for the biennium) would be used to continue implementation of the branch educational plan including increases in out of state training and the number of judges attending training at the National Judicial College.</p>
--------------------	--

*Pay Equity*

The judicial branch requests \$1,560,000 general fund for the biennium (\$780,000 per year) to address pay equity issues within the branch and external to the branch. An estimated \$380,000 per year is requested to address inequities in pay that exist within the judicial branch and \$400,000 per year is requested to deal with inequity issues between the branch and other employers, including between branches of state government.

The Judiciary indicates it continues to have significant internal and external pay equity problems resulting from state assumption of district court costs and inability to offer wages competitive with some state agencies. Internal pay disparity between former county employees has resulted in pending litigation involving the branch. Additionally, the branch indicates it is experiencing difficulty in recruitment and retention, and currently has an employee turnover rate of 18.6 percent and employee morale problems.

**LFD  
ISSUE****Pay Equity**

One example provided by the branch to illustrate pay equity issues is that probation officers employed by the Department of Corrections currently start at \$14.685 per hour and increase each year to a high of \$18.775 after five years. The Department of Corrections operates under a plan to progress certain employee groups to market level salaries in five years. In addition to salary progression to market, these employees also receive any legislatively approved pay plan increases. Probation officers employed by the judicial branch start at \$13.83 per hour and receive only those cost of living increases funded by the legislature. If an individual earning \$13.83 per hour received a 5 percent per year pay increase after five years their hourly rate of pay would be \$17.65.

This group of employees may also be used to demonstrate internal pay equity issues between judicial branch employees. A review of salary information by position by legislative staff revealed that one chief probation officer with 18 years of service has a base salary of \$41,151 while another chief probation officer with only 11 years of service had a base salary of \$48,143 or \$6,992 per year more despite having been employed seven years less.

The example above demonstrates the judicial branch concern regarding pay equity issues among state government employees. A portion of the funding requested for pay equity issues would be used to adjust the pay plan for probation officers to be more competitive with other agencies and to adjust pay within the branch to avoid disparity such as those provided in this example. The branch has developed a draft plan estimating the amount of funding necessary to adjust salaries in various job categories to address wage disparity concerns and the legislature may wish to review that plan prior to taking action on this request.

**Program Proposed Budget**

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

Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	62.75	0.00	1.50	64.25	0.00	1.50	64.25	64.25
Personal Services	3,742,078	531,561	95,610	4,369,249	543,277	95,820	4,381,175	8,750,424
Operating Expenses	2,749,687	841,306	221,659	3,812,652	898,257	213,478	3,861,422	7,674,074
Equipment	9,717	0	0	9,717	0	0	9,717	19,434
<b>Total Costs</b>	<b>\$6,501,482</b>	<b>\$1,372,867</b>	<b>\$317,269</b>	<b>\$8,191,618</b>	<b>\$1,441,534</b>	<b>\$309,298</b>	<b>\$8,252,314</b>	<b>\$16,443,932</b>
General Fund	6,220,953	1,373,775	361,468	7,956,196	1,441,912	353,528	8,016,393	15,972,589
State/Other Special	110,042	0	0	110,042	0	0	110,042	220,084
Federal Special	170,487	(908)	(44,199)	125,380	(378)	(44,230)	125,879	251,259
<b>Total Funds</b>	<b>\$6,501,482</b>	<b>\$1,372,867</b>	<b>\$317,269</b>	<b>\$8,191,618</b>	<b>\$1,441,534</b>	<b>\$309,298</b>	<b>\$8,252,314</b>	<b>\$16,443,932</b>

**Program Description**

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

**Program Highlights**

<b>Judiciary Branch</b> <b>Supreme Court Operations Program</b> <b>Major Budget Highlights</b>
<ul style="list-style-type: none"> <li>◆ Funding for the Supreme Court Operations programs increases 26.5 percent when the 2009 biennium is compared to the FY 2006 base budget doubled. The bulk of this increase is in statewide present law adjustments for personal services and fixed costs, particularly data network charges from the Department of Administration</li> <li>◆ About \$4 million general fund for information technology projects is included in other legislation</li> </ul>

**Funding**

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the Governor.

Supreme Court operations are funded primarily with general fund. State special revenue from a portion of the dissolution of marriage fees are utilized to provide civil legal services for indigent victims of domestic violence (3-2-714, MCA). The program is also projected to receive about \$125,000 per year in federal grant funds during the 2009 biennium.

Program Funding	Base	% of Base	Budget	% of Budget	Budget	% of Budget
	FY 2006	FY 2006	FY 2008	FY 2008	FY 2009	FY 2009
01000 Total General Fund	\$ 6,220,953	95.7%	\$ 7,956,196	97.1%	\$ 8,016,393	97.1%
01100 General Fund	6,220,953	95.7%	7,956,196	97.1%	8,016,393	97.1%
02000 Total State Special Funds	110,042	1.7%	110,042	1.3%	110,042	1.3%
02536 Legal Assistance	110,042	1.7%	110,042	1.3%	110,042	1.3%
03000 Total Federal Special Funds	170,487	2.6%	125,380	1.5%	125,879	1.5%
03230 Fed Grant-Pass-Thru-Jud	170,487	2.6%	125,380	1.5%	125,879	1.5%
Grand Total	<u>\$ 6,501,482</u>	<u>100.0%</u>	<u>\$ 8,191,618</u>	<u>100.0%</u>	<u>\$ 8,252,314</u>	<u>100.0%</u>

**Present Law Adjustments**

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

	-----Fiscal 2008-----				-----Fiscal 2009-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					531,561					543,277
Inflation/Deflation					8,917					10,331
Fixed Costs					568,744					621,859
<b>Total Statewide Present Law Adjustments</b>					<b>\$1,109,222</b>					<b>\$1,175,467</b>
DP 1005 - Rent Federal Building	0.00	2,771	0	151	2,922	0.00	5,100	0	244	5,344
DP 1007 - IT Software Maintenance	0.00	260,723	0	0	260,723	0.00	260,723	0	0	260,723
<b>Total Other Present Law Adjustments</b>	<b>0.00</b>	<b>\$263,494</b>	<b>\$0</b>	<b>\$151</b>	<b>\$263,645</b>	<b>0.00</b>	<b>\$265,823</b>	<b>\$0</b>	<b>\$244</b>	<b>\$266,067</b>
<b>Grand Total All Present Law Adjustments</b>					<b>\$1,372,867</b>					<b>\$1,441,534</b>

**LFD COMMENT** The statewide present law adjustment for personal services includes funding of an estimated \$140,000 per year related to funding positions that were vacant all or part of the base budget year.

**LFD COMMENT** Statewide present law adjustment for fixed costs rise primarily due to an increase in the costs of network connection fees payable to the Department of Administration. The 2009 biennium budget includes funding for all network connections utilized by the branch, including city and county employees. This change adds \$939,979 to the 2009 biennium budget.

DP 1005 - Rent Federal Building - This decision package requests funding for the annual increase in office lease payments for the old federal building. A two percent per year increase occurs in November per the lease agreement.

DP 1007 - IT Software Maintenance - This decision package requests \$521,446 general fund for the biennium for maintenance and licensing of: 1) the Full Court Case Management System in the Courts of Limited Jurisdiction and District Courts (as the software is implemented); and 2) maintenance of the C-Track Appellate Case Management system for the Supreme Court.

**LFD COMMENT** Additional information on information technology within the judicial branch is included in the agency summary.

**New Proposals**

Program	FTE	-----Fiscal 2008-----				-----Fiscal 2009-----				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 1001 - Appellate Mediator 01	1.50	119,334	0	0	119,334	1.50	113,949	0	0	113,949
DP 1004 - Pro Se Law Clerk 01	1.00	56,534	0	0	56,534	1.00	53,979	0	0	53,979
DP 1006 - CASA Federal Grant 01	(1.00)	0	0	(44,199)	(44,199)	(1.00)	0	0	(44,230)	(44,230)
DP 1007 - CASA Funding Stabilization 01	0.00	185,600	0	0	185,600	0.00	185,600	0	0	185,600
<b>Total</b>	<b>1.50</b>	<b>\$361,468</b>	<b>\$0</b>	<b>(\$44,199)</b>	<b>\$317,269</b>	<b>1.50</b>	<b>\$353,528</b>	<b>\$0</b>	<b>(\$44,230)</b>	<b>\$309,298</b>

DP 1001 - Appellate Mediator - This proposal requests \$233,283 of general fund for the biennium for an appellate mediator position, 0.50 FTE administrative support position, and related operating funds. The branch states that the appellate mediator position would benefit the court in increasing the mediation success rate, thereby allowing the justices more time to devote to remaining cases and issuing decisions more expeditiously.

<b>LFD COMMENT</b>	The exact specifications for an appellate mediator program have not been determined at this time. The court would like to hire staff who would research programs in other states and best practices as part of developing a new program. It is thought that the new program would replace parts or all of the existing appellate mediator process, depending upon final program design. The court would like to fund this new program from the general fund at this time with consideration given to transition to a program self supported by fees charged to the parties involved at a future date. The intention of the court would be to utilize this program to assist with processing cases in a more timely and efficient manner.
--------------------	--

DP 1004 - Pro Se Law Clerk - This proposal requests \$110,513 general fund for the biennium to support a pro se (self represented litigant) law clerk for the Supreme Court. This position would be responsible for a preliminary review and tracking of petitions filed by pro se litigants to determine if legal procedural issues existed. Currently, each justice is responsible for completing this review him or herself.

DP 1006 - CASA Federal Grant - This proposal reduces federal funds by \$88,429 and 1.0 FTE for the biennium for the court appointed special advocate (CASA) grant. In January 2006, Montana’s CASA program became a non-profit organization. The Judicial Branch will no longer receive federal funds for this program.

DP 1007 - CASA Funding Stabilization - This decision package requests \$371,200 general fund for the biennium for court appointed special advocates (CASA). Judges appoint trained CASA volunteers to serve as advocates for children in abuse and neglect cases. The 16 CASA programs in Montana operate on grant money and local fundraising in addition to a state payment of \$400 per case. The branch proposes changing the method for providing state support for these programs with a goal of providing the programs greater financial stability in an effort to ensure that these resources are available to serve abused and neglected children. The branch would use this funding to support 75 percent of the costs (estimated at \$15.00 per hour) for a full-time director for six large programs and a half-time director for ten small programs.

**Program Proposed Budget**

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

Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	3.00	0.00	0.00	3.00	0.00	0.00	3.00	3.00
Personal Services	150,665	17,355	0	168,020	17,497	0	168,162	336,182
Operating Expenses	134,803	24,031	0	158,834	(704)	0	134,099	292,933
<b>Total Costs</b>	<b>\$285,468</b>	<b>\$41,386</b>	<b>\$0</b>	<b>\$326,854</b>	<b>\$16,793</b>	<b>\$0</b>	<b>\$302,261</b>	<b>\$629,115</b>
General Fund	260,462	41,386	0	301,848	16,793	0	277,255	579,103
State/Other Special	25,006	0	0	25,006	0	0	25,006	50,012
<b>Total Funds</b>	<b>\$285,468</b>	<b>\$41,386</b>	<b>\$0</b>	<b>\$326,854</b>	<b>\$16,793</b>	<b>\$0</b>	<b>\$302,261</b>	<b>\$629,115</b>

**Program Description**

The Supreme Court is responsible for a variety of matters involving rule making and oversight of the administration of justice in Montana. These obligations are met, in part, through various boards and commissions that are statutorily or legislatively mandated. These boards and commissions include the Sentence Review Division, Commission on Practice, Commission on Courts of Limited Jurisdiction, and Judicial Standards Commission.

**Program Highlights**

Judiciary Branch Boards and Commissions Major Budget Highlights
<ul style="list-style-type: none"> <li>◆ Funding for this program increases 10 percent when the 2009 biennium budget request is compared to double the FY 2006 base budget</li> <li>◆ Statewide present law adjustments and a request to continue funding for judicial standard reviews account for the requested budgetary increase</li> </ul>

**Funding**

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the Governor.

The boards and commissions are funded primarily by the general fund. However, a small amount of funding (\$25,000) comes from tuition and admission fees for conferences that are deposited into a state special revenue account.

Program Funding Table Boards And Commissions						
Program Funding	Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009
01000 Total General Fund	\$ 260,462	91.2%	\$ 301,848	92.3%	\$ 277,255	91.7%
01100 General Fund	260,462	91.2%	301,848	92.3%	277,255	91.7%
02000 Total State Special Funds	25,006	8.8%	25,006	7.7%	25,006	8.3%
02399 Boards And Commissions - Mji	25,006	8.8%	25,006	7.7%	25,006	8.3%
<b>Grand Total</b>	<b>\$ 285,468</b>	<b>100.0%</b>	<b>\$ 326,854</b>	<b>100.0%</b>	<b>\$ 302,261</b>	<b>100.0%</b>

**Present Law Adjustments**

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

Present Law Adjustments	Fiscal 2008					Fiscal 2009				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					17,355					17,497
Inflation/Deflation					1,684					1,950
Fixed Costs					(618)					(618)
<b>Total Statewide Present Law Adjustments</b>					<b>\$18,421</b>					<b>\$18,829</b>
DP 2002 - Judicial Standards Restricted/Bienn. Appropriation	0.00	22,965	0	0	22,965	0.00	(2,036)	0	0	(2,036)
<b>Total Other Present Law Adjustments</b>	<b>0.00</b>	<b>\$22,965</b>	<b>\$0</b>	<b>\$0</b>	<b>\$22,965</b>	<b>0.00</b>	<b>(\$2,036)</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$2,036)</b>
<b>Grand Total All Present Law Adjustments</b>					<b>\$41,386</b>					<b>\$16,793</b>

<b>LFD COMMENT</b>	The statewide present law adjustments for personal services equates to about 12 percent of the FY 2006 base budget. More than 50 percent of this increase is attributable to fully funding a position that was vacant for a portion of the year. This adjustment also includes other items such as annualization of the 2007 biennium pay plan provisions and increases in employee health insurance contributions.
--------------------	---

DP 2002 - Judicial Standards Restricted/Bienn. Appropriation - This decision package requests \$20,929 of general fund for the biennium to restore the base funding used to pay for investigations of complaints against judges by the Judicial Standards Commission. The judicial branch received a \$25,000 restricted, biennial, general fund appropriation for the 2007 biennium but expended only \$1,996. Because standard inflation factors were applied \$2035 and \$2036 are included in the FY 2008 and 2009 budget, respectively, \$20,929 is requested to restore the appropriation to \$25,000 for the 2009 biennium. This funding is requested as a restricted, biennial appropriation so that unexpended funds would revert to the general fund.

**Program Proposed Budget**

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

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	6.75	0.00	0.00	6.75	0.00	0.00	6.75	6.75
Personal Services	324,101	30,761	0	354,862	32,122	0	356,223	711,085
Operating Expenses	150,153	549	0	150,702	774	0	150,927	301,629
Equipment	278,760	39,028	0	317,788	61,049	0	339,809	657,597
Debt Service	23,369	0	0	23,369	0	0	23,369	46,738
<b>Total Costs</b>	<b>\$776,383</b>	<b>\$70,338</b>	<b>\$0</b>	<b>\$846,721</b>	<b>\$93,945</b>	<b>\$0</b>	<b>\$870,328</b>	<b>\$1,717,049</b>
General Fund	776,383	70,338	0	846,721	93,945	0	870,328	1,717,049
<b>Total Funds</b>	<b>\$776,383</b>	<b>\$70,338</b>	<b>\$0</b>	<b>\$846,721</b>	<b>\$93,945</b>	<b>\$0</b>	<b>\$870,328</b>	<b>\$1,717,049</b>

**Program Description**

The State Law Library of Montana provides access to recorded legal knowledge and information consistent with the present and anticipated research needs, responsibilities, and concerns of Montana's courts, the legislature, state officers and employees, members of the bar, and members of the general public. Library staff also promotes understanding of the library's research capabilities by teaching legal bibliography and methods of legal research. Access to materials other than those in the library collection is facilitated by providing interlibrary loan service and having an internet presence. The library is overseen by a Board of Trustees consisting of Montana's Supreme Court Justices (22-1-502, MCA)

**Program Highlights**

Judiciary Branch Law Library Major Budget Highlights	
◆	Funding for the law library increases 10.6 percent when the 2009 biennium is compared to double the FY 2006 base budget
◆	The increase in funding for the law library is entirely due to statewide present law adjustments for personal services and inflationary increases, primarily in the costs of library books

**Funding**

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the Governor.

The law library is funded entirely from the general fund.

Program Funding Table Law Library						
Program Funding	Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009
01000 Total General Fund	\$ 776,383	100.0%	\$ 846,721	100.0%	\$ 870,328	100.0%
01100 General Fund	776,383	100.0%	846,721	100.0%	870,328	100.0%
Grand Total	<u>\$ 776,383</u>	<u>100.0%</u>	<u>\$ 846,721</u>	<u>100.0%</u>	<u>\$ 870,328</u>	<u>100.0%</u>

**Present Law Adjustments**

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

Present Law Adjustments	Fiscal 2008				Fiscal 2009					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					30,761					32,122
Inflation/Deflation					549					774
Inflation/Deflation					39,028					61,049
<b>Total Statewide Present Law Adjustments</b>					<b>\$70,338</b>					<b>\$93,945</b>
<b>Grand Total All Present Law Adjustments</b>					<b>\$70,338</b>					<b>\$93,945</b>

**Proprietary Program Description**

Law Library Searches/Research Enterprise Fund - The law library staff coordinates a contract that allows publicly employed legal professionals to access on-line legal resources at a more favorable rate than is typically charged by the contractor. The library is billed by the contracted service provider and in turn bills and collects reimbursement from subscribing entities.

2009 Biennium Report on Internal Service and Enterprise Funds										
Fund	Fund Name	Agency #	Agency Name	Program Name	Actual FY04	Actual FY05	Actual FY06	Budgeted FY07	Budgeted FY08	Budgeted FY09
06019	Searches/Research	21100	Judicial Branch	Law Library						
<b>Operating Revenues:</b>										
Fee revenue										
Law Library Online Searches Revenue					54,188	49,247	57,835	56,438	53,676	53,676
Net Fee Revenue					54,188	49,247	57,835	56,438	53,676	53,676
Total Operating Revenue					54,188	49,247	57,835	56,438	53,676	53,676
<b>Operating Expenses:</b>										
Personal Services					-	-	-	-	-	-
Other Operating Expenses					56,438	57,414	53,676	56,438	53,676	53,676
Total Operating Expenses					56,438	57,414	53,676	56,438	53,676	53,676
Operating Income (Loss)					(2,250)	(8,167)	4,159	-	-	-
<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					(2,250)	(8,167)	4,159	-	-	-
Contributed Capital					-	-	-	-	-	-
Operating Transfers In (Note 13)					-	-	-	-	-	-
Operating Transfers Out (Note 13)					-	-	-	-	-	-
Change in net assets					(2,250)	(8,167)	4,159	-	-	-
Total Net Assets- July 1 - As Restated					10,437	8,187	20	4,179	4,179	4,179
Prior Period Adjustments					-	-	-	-	-	-
Cumulative effect of account change					-	-	-	-	-	-
Total Net Assets - July 1 - As Restated					10,437	8,187	20	4,179	4,179	4,179
Net Assets- June 30					8,187	20	4,179	4,179	4,179	4,179
60 days of expenses										
(Total Operating Expenses divided by 6)					9,406	9,569	8,946	9,406	8,946	8,946
<b>Requested Rates for Enterprise Funds</b>										
<b>Fee/Rate Information</b>										
					Actual FYE 04	Actual FYE 05	Actual FYE 06	Budgeted FY 07	Budgeted FY 08	Budgeted FY 09
					56,438	57,414	53,676	56,438	53,676	53,676
The Law Library staff performs on-line searches/research for public and private entities. The law library is billed by the on-line provider for the air time and the Law Library, in turn, bills the entity requesting the search/research, collects the money and pays the provider. The net effect is zero.										

**Program Proposed Budget**

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

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	296.13	0.00	3.95	300.08	0.00	3.95	300.08	300.08
Personal Services	16,780,759	2,123,565	142,810	19,047,134	2,169,867	143,296	19,093,922	38,141,056
Operating Expenses	13,076,483	(9,262,266)	142,517	3,956,734	(9,251,914)	142,661	3,967,230	7,923,964
Equipment	23,562	0	0	23,562	0	0	23,562	47,124
Grants	0	0	300,000	300,000	0	0	0	300,000
Benefits & Claims	0	0	0	0	0	0	0	0
Debt Service	5,900	0	0	5,900	0	0	5,900	11,800
<b>Total Costs</b>	<b>\$29,886,704</b>	<b>(\$7,138,701)</b>	<b>\$585,327</b>	<b>\$23,333,330</b>	<b>(\$7,082,047)</b>	<b>\$285,957</b>	<b>\$23,090,614</b>	<b>\$46,423,944</b>
General Fund	29,756,160	(7,138,701)	462,424	23,079,883	(7,082,047)	163,054	22,837,167	45,917,050
State/Other Special	130,544	0	122,903	253,447	0	122,903	253,447	506,894
Federal Special	0	0	0	0	0	0	0	0
<b>Total Funds</b>	<b>\$29,886,704</b>	<b>(\$7,138,701)</b>	<b>\$585,327</b>	<b>\$23,333,330</b>	<b>(\$7,082,047)</b>	<b>\$285,957</b>	<b>\$23,090,614</b>	<b>\$46,423,944</b>

**Program Description**

The district courts are courts of general jurisdiction with authority in all criminal felony cases, civil matters and other cases of law. The district courts are also the state’s youth courts responsible for managing juvenile probation functions. There are 43 district court judges with responsibility divided into 22 judicial districts serving all 56 counties. The 2001 Legislature passed legislation providing for state funding of most district court expenses, including judges and their employees. This change made the district courts part of the judicial branch of state government and made the Supreme Court responsible for management of costs and operations. District court costs are the largest segment of the judicial branch budget.

**Program Highlights**

<b>Judiciary Branch                      District Court Operations                      Major Budget Highlights</b>
<ul style="list-style-type: none"> <li>◆ Funding for district court operations decreases \$13.3 million or about 22 percent when the 2009 biennium budget request is compared to double the FY 2006 base budget                             <ul style="list-style-type: none"> <li>• The base budget is reduced by \$9.5 million general fund per year to reflect the movement of responsibility for public defender costs from the Judiciary to the new Office of Public Defender in the executive branch</li> <li>• Decreases in funding are partially offset by statewide present law adjustments for personal services and requests for funding of fitness to proceed costs, court safety and security measures, and 3.95 FTE</li> </ul> </li> </ul>
<b>Major LFD Issues</b>
<ul style="list-style-type: none"> <li>◆ The legislature may want to provide funding for fitness to proceed costs as a restricted appropriation, since the costs of psychiatric exams and related costs such as transportation are unknown and the state has no historical data to base an estimate upon</li> </ul>

The FY 2006 base budget for the branch is reduced by \$9.5 million to reflect the implementation of a new statewide public defender system and the movement of responsibility for these costs from the judicial branch to a new executive branch agency, the Office of the Public Defender. SB 146 of the 2005 session, known as the Montana Public Defender Act, provided for the creation of a new statewide system for the provision of public defender services and assigned responsibility for this system to a new executive branch agency effective July 1, 2006 (FY 2007). Prior to the implementation of the new statewide public defender system responsibility for funding of public defender services was the responsibility of either the state via the District Court Operations Program or county and city governments depending upon the nature of the expenditure and whether it involved a case heard in district court or a court of limited jurisdiction. Under the new statewide public defender system responsibility for funding and provision of public defender services for courts of limited jurisdiction also became the responsibility of the state. Additional information related to the new statewide public defender system may be found under the Office of the Public Defender in this volume of the Legislative Budget Analysis.

The branch will request a supplemental appropriation for cost overruns in the District Court Operations Program due largely to greater than anticipated costs for public defender services. Further information related to the judicial branch request for a supplemental appropriation may be found in the agency summary section of this analysis.

**Funding**

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the Governor.

District court operations are funded almost entirely with general fund. The program also receives some state special revenue from video conferencing and youth court fines and fees.

Program Funding Table							
District Court Operation							
Program Funding		Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009
01000	Total General Fund	\$ 29,756,160	99.6%	\$ 23,079,883	98.9%	\$ 22,837,167	98.9%
	01100 General Fund	29,756,160	99.6%	23,079,883	98.9%	22,837,167	98.9%
02000	Total State Special Funds	130,544	0.4%	253,447	1.1%	253,447	1.1%
	02141 District Court Crim. Reimb.	130,544	0.4%	130,544	0.6%	130,544	0.6%
	02788 Acc. Cty Sick/Vacation Leave	-	-	122,903	0.5%	122,903	0.5%
Grand	Total	<u>\$ 29,886,704</u>	<u>100.0%</u>	<u>\$ 23,333,330</u>	<u>100.0%</u>	<u>\$ 23,090,614</u>	<u>100.0%</u>

**Present Law Adjustments**

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

Present Law Adjustments	Fiscal 2008					Fiscal 2009				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					2,123,565					2,169,867
Inflation/Deflation					40,531					50,883
Fixed Costs					(1,549)					(1,549)
<b>Total Statewide Present Law Adjustments</b>					<b>\$2,162,547</b>					<b>\$2,219,201</b>
DP 4008 - Psychological Exams and Related Costs	0.00	200,000	0	0	200,000	0.00	200,000	0	0	200,000
DP 4009 - Variable cost base adjustment	0.00	(9,501,248)	0	0	(9,501,248)	0.00	(9,501,248)	0	0	(9,501,248)
<b>Total Other Present Law Adjustments</b>	<b>0.00</b>	<b>(\$9,301,248)</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$9,301,248)</b>	<b>0.00</b>	<b>(\$9,301,248)</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$9,301,248)</b>
<b>Grand Total All Present Law Adjustments</b>					<b>(\$7,138,701)</b>					<b>(\$7,082,047)</b>

LFD COMMENT

The \$2.2 million statewide present law adjustment for personal services equates to 12.6 percent of the FY 2006 base budget for personal services. As illustrated in the figure fully funding positions that were vacant all or part of the year adds an estimated \$638,965, annualization of the 2007 biennium pay plan adds an estimated \$505,845, and increases in employer contributions for health insurance adds about \$368,988. Other adjustments, including Judiciary pay changes and increases in elected official salaries, account for the balance of the increase.

Summary of Personal Services Statewide Present Law Adjustment		
	Amount	Percent
Vacancies	\$638,965	30.1%
Other	609,767	28.7%
Pay Plan (Est.)	505,845	23.8%
Insurance	368,988	17.4%
<b>Total</b>	<b>\$2,123,565</b>	<b>100.0%</b>

DP 4008 - Psychological Exams and Related Costs - This proposal requests \$200,000 general fund per year (\$400,000 for the biennium) for the costs of psychiatric exams and related costs. The Montana Public Defender Act shifted costs from the counties to the state for room and board, transportation, medicine, and other medical costs associated with court-ordered psychiatric examinations. The legislation requiring the judicial branch to pay these costs in certain circumstances was effective July 1, 2006 for FY 2007; and so were not included the base budget.

LFD ISSUE

**Estimation of Costs**  
 Estimation of these costs is difficult given that the change in financial responsibility was effective July 1 and to date the branch has received a bill for only a portion of the costs related to one evaluation. They have not yet received bills for transportation or two additional evaluations that the Department of Public Health and Human Services (DPHHS) indicates have occurred since the beginning of FY 2007. Additionally, the costs of some of the three evaluations that DPHHS indicates have been done so far this fiscal year may be the responsibility of the Office of Public Defender rather than the Judiciary. The Judiciary originally estimated these costs at \$2 million per year. Given the unknown nature of these costs the legislature may wish to provide a restricted appropriation so that unexpended funds will revert to the general fund.

DP 4009 - Variable cost base adjustment - As stated, the Montana Public Defender Act created a new statewide system for the provision of public defender services and assigned responsibility for this function to a new executive branch agency effective July 1, 2006 (FY 2007). Public defender costs for district court cases became a state financial responsibility with district court assumption and funding for these costs resided with the judicial branch, District Court Operations Program. Because these costs are included in the FY 2006 base budget but are no longer a responsibility of the branch, funding for these costs is removed from the 2009 biennium budget.

**LFD COMMENT** The branch undertook a detailed review of the accounting records during the process of determining the amount of funding that should be removed from the base budget. This review included review of each individual bill in an attempt to determine whether it would be a Judiciary costs or costs of the new Office of Public Defender. In cases where it could not be determined or where costs were commingled, an estimate of the percentage applicable to each agency was determined and applied to calculate the amount of costs to assign to each agency. While the process employed by the branch in arriving at the amount of reduction in this decision package appears to have been thorough, portions of the process did employ estimates which may or may not vary from actual future experience.

**New Proposals**

Program	-----Fiscal 2008-----					-----Fiscal 2009-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 4005 - District Court Safety and Security Proposal - OTO 04	0.00	300,000	0	0	300,000	0.00	0	0	0	0
DP 4010 - Judicial Support and Youth Probation Staff 04	3.95	162,424	0	0	162,424	3.95	163,054	0	0	163,054
DP 4011 - Replace State Special for funding from counties 04	0.00	0	122,903	0	122,903	0.00	0	122,903	0	122,903
<b>Total</b>	<b>3.95</b>	<b>\$462,424</b>	<b>\$122,903</b>	<b>\$0</b>	<b>\$585,327</b>	<b>3.95</b>	<b>\$163,054</b>	<b>\$122,903</b>	<b>\$0</b>	<b>\$285,957</b>

DP 4005 - District Court Safety and Security Proposal - OTO - This decision package requests \$300,000 general fund for FY 2008 for security infrastructure improvements in District Courts, based upon surveys and on-site audits completed by the Department of Justice. The funding in this proposal would be used to provide grants to counties and district courts that agree to create joint security committees and adopt standard protocols for court security. Items that would be purchases include closed circuit cameras, convex mirrors, door and duress alarms, hand held metal detectors, and wireless prisoner restraints.

DP 4010 - Judicial Support and Youth Probation Staff - This proposal requests \$325,478 general fund for the biennium to support 3.95 FTE and related costs for district courts. This request includes 0.95 FTE for two judicial districts for support staff to perform administrative tasks and 3.0 FTE to support community-based supervision programs for youth in two judicial districts.

DP 4011 - Replace State Special for funding from counties - This decision package requests \$245,806 state special revenue for the biennium to fund projected retirement payouts for employees who became state employees at the time of district court assumption. Senate Bill 490 from the 2003 legislative session established a state special revenue account for the judicial branch. Counties paid their obligation for the accumulated sick and annual leave balances of employees who transferred to the state during district court assumption and the funds were deposited into this state special revenue account. When a judicial branch employee, who was a county employee at the time of district court assumption, retires the judicial branch pays their sick and annual leave balance payments from this state special revenue fund.

**Program Proposed Budget**

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

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	18.00	0.00	0.00	18.00	0.00	0.00	18.00	18.00
Personal Services	714,651	377,406	0	1,092,057	378,291	0	1,092,942	2,184,999
Operating Expenses	205,060	31,781	0	236,841	34,107	0	239,167	476,008
Equipment	23,965	0	0	23,965	0	0	23,965	47,930
<b>Total Costs</b>	<b>\$943,676</b>	<b>\$409,187</b>	<b>\$0</b>	<b>\$1,352,863</b>	<b>\$412,398</b>	<b>\$0</b>	<b>\$1,356,074</b>	<b>\$2,708,937</b>
State/Other Special	943,676	409,187	0	1,352,863	412,398	0	1,356,074	2,708,937
<b>Total Funds</b>	<b>\$943,676</b>	<b>\$409,187</b>	<b>\$0</b>	<b>\$1,352,863</b>	<b>\$412,398</b>	<b>\$0</b>	<b>\$1,356,074</b>	<b>\$2,708,937</b>

**Program Description**

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

**Program Highlights**

<p><b>Judiciary Branch</b>  <b>Water Courts Supervision</b>  <b>Major Budget Highlights</b></p>
<ul style="list-style-type: none"> <li>◆ The 2009 biennium budget is 43.6 percent greater than double the 2006 base budget primarily due to statewide present law adjustments for personal services</li> <li>◆ Personal services costs increase 53 percent when FY 2008 is compared to the FY 2006 base primarily due to fully funding 12 positions that were vacant all or part of the base year</li> </ul>
<p><b>Major LFD Issues</b></p>
<ul style="list-style-type: none"> <li>◆ The legislature may wish to review the status of acceleration of adjudication of water rights claims, which was among the provisions of HB 22 of the 2005 Legislative session</li> </ul>

*Initiatives Approved by the 2005 Legislature*

The 2005 Legislature via HB 22 provided \$833,380 state special revenue for the biennium from a new fee to accelerate the adjudication of water rights within Montana. This funding supported 6.50 new FTE in FY 2006 with an increase to 7.00 FTE in FY 2007. The coordination of rental and remodeling of office space combined with recruitment difficulties and the length of time necessary for training have created delays in full implementation of additional staffing to adjudicate water claims. Training of some staff to the level necessary for them to work without close supervision is expected to take a year or more.

<p><b>LFD COMMENT</b></p>	<p>HB 16 proposes repealing the water adjudication fee and transfer of general fund to the state special revenue fund for water adjudication. Further information on the water adjudication process may be found in the agency discussion for the Department of Natural Resources and Conservation in the <u>Legislative Budget Analysis, Volume 5</u></p> <p>The legislature may wish to request an update on the current status of recruitment and training of employees of the Water Court</p>
---------------------------	---

**Funding**

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the Governor.

The Water Court is supported entirely by state special revenue from the renewable resources grant and loan account and from water adjudication fees (HB 22 from the 2005 session).

Program Funding Table Water Courts Supervision							
Program Funding		Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009
02000	Total State Special Funds	\$ 943,676	100.0%	\$ 1,352,863	100.0%	\$ 1,356,074	100.0%
	02272 Renewable Resources Grnt/Loans	764,398	81.0%	886,709	65.5%	888,736	65.5%
	02431 Water Adjudication	179,278	19.0%	466,154	34.5%	467,338	34.5%
Grand Total		<u>\$ 943,676</u>	<u>100.0%</u>	<u>\$ 1,352,863</u>	<u>100.0%</u>	<u>\$ 1,356,074</u>	<u>100.0%</u>

**Present Law Adjustments**

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

Present Law Adjustments	-----Fiscal 2008-----				-----Fiscal 2009-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					377,406					378,291
Inflation/Deflation					929					1,017
Fixed Costs					(234)					(234)
<b>Total Statewide Present Law Adjustments</b>					<b>\$378,101</b>					<b>\$379,074</b>
DP 5001 - Water Court Rent Increase	0.00	0	31,086	0	31,086	0.00	0	33,324	0	33,324
<b>Total Other Present Law Adjustments</b>	<b>0.00</b>	<b>\$0</b>	<b>\$31,086</b>	<b>\$0</b>	<b>\$31,086</b>	<b>0.00</b>	<b>\$0</b>	<b>\$33,324</b>	<b>\$0</b>	<b>\$33,324</b>
<b>Grand Total All Present Law Adjustments</b>					<b>\$409,187</b>					<b>\$412,398</b>

<b>LFD COMMENT</b>	Personal services increase almost 53 percent above the FY 2006 base primarily because 12 of the 18 positions within the program were vacant all or part of the year. FY 2006 expenditures for personal services were \$267,000 below the budgeted level. The statewide present law adjustment for personal services includes full funding for all positions, annualization of the 2007 biennium pay plan provisions, and other increases such as an increase in the state contribution for health insurance.
--------------------	--

DP 5001 - Water Court Rent Increase - This proposal requests funding for increased rental costs due to expansion of the office space and negotiation of a new lease. HB 22 of the 2005 Legislature provided for a new fee to support acceleration of the adjudication of water claims. As part of this acceleration funding was provided to the Water Court to expand the number of staff by 6.5 FTE in FY 2006 and 7.0 FTE in FYE 2007. To accommodate the new staff, the court office space was increased and the lease renegotiated. The new lease was effective in May 2006. This increase in rent annualizes the increased cost, including a 3 percent inflation factor, into the FY 2008 and 2009 budget.

**Program Proposed Budget**

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

Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	5.50	0.00	0.00	5.50	0.00	0.00	5.50	5.50
Personal Services	354,813	20,542	0	375,355	22,272	0	377,085	752,440
Operating Expenses	41,661	906	0	42,567	959	0	42,620	85,187
Equipment	0	0	0	0	0	0	0	0
<b>Total Costs</b>	<b>\$396,474</b>	<b>\$21,448</b>	<b>\$0</b>	<b>\$417,922</b>	<b>\$23,231</b>	<b>\$0</b>	<b>\$419,705</b>	<b>\$837,627</b>
General Fund	396,474	21,448	0	417,922	23,231	0	419,705	837,627
Federal Special	0	0	0	0	0	0	0	0
<b>Total Funds</b>	<b>\$396,474</b>	<b>\$21,448</b>	<b>\$0</b>	<b>\$417,922</b>	<b>\$23,231</b>	<b>\$0</b>	<b>\$419,705</b>	<b>\$837,627</b>

**Program Description**

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

**Program Highlights**

<b>Judicial Branch Clerk of Court Major Budget Highlights</b>	
<ul style="list-style-type: none"> <li>◆ Statewide present law adjustments for personal services and fixed costs are the only additions to the base budget included in the 2009 biennium budget request</li> <li>◆ Funding for the Clerk of the Supreme Court increases 5.6 percent when the 2009 biennium budget request is compared to double the FY 2006 base budget</li> </ul>	

**Funding**

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the Governor.

The functions of the Clerk of the Supreme Court are funded entirely from the general fund. The office collects fees as provided in 3-4-403 MCA which are deposited into the general fund.

Program Funding Table Clerk Of Court						
Program Funding	Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009
01000 Total General Fund	\$ 396,474	100.0%	\$ 417,922	100.0%	\$ 419,705	100.0%
01100 General Fund	396,474	100.0%	417,922	100.0%	419,705	100.0%
<b>Grand Total</b>	<b>\$ 396,474</b>	<b>100.0%</b>	<b>\$ 417,922</b>	<b>100.0%</b>	<b>\$ 419,705</b>	<b>100.0%</b>

**Present Law Adjustments**

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

Present Law Adjustments	-----Fiscal 2008-----				-----Fiscal 2009-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					20,542					22,272
Inflation/Deflation					906					959
<b>Total Statewide Present Law Adjustments</b>					<b>\$21,448</b>					<b>\$23,231</b>
<b>Grand Total All Present Law Adjustments</b>					<b>\$21,448</b>					<b>\$23,231</b>

<b>LFD COMMENT</b>	The statewide present law adjustment for personal services includes annualization of the impact of the 2007 biennium pay plan, increases in health insurance contributions, and an increase in the Clerk of Court’s salary. As an elected official, the Clerk of Court’s salary is established at the average salary of similar positions within Idaho, North Dakota, South Dakota, Wyoming, and Montana.
--------------------	---