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	611.03	79.00	9.00	699.03	93.50	9.00	713.53	713.53
Personal Services	24,601,237	6,974,339	463,140	32,038,716	7,665,467	463,640	32,730,344	64,769,060
Operating Expenses	10,881,515	8,108,420	2,582,324	21,572,259	7,165,560	3,590,901	21,637,976	43,210,235
Equipment	181,863	0	0	181,863	0	0	181,863	363,726
Local Assistance	0	0	0	0	0	0	0	0
Transfers	0	0	0	0	0	0	0	0
Debt Service	972	0	0	972	0	0	972	1,944
Total Costs	**$35,665,587**	**$15,082,759**	**$3,045,464**	**$53,793,810**	**$14,831,027**	**$4,054,541**	**$54,551,155**	**$108,344,965**
General Fund	32,716,886	14,587,757	2,897,904	50,202,547	14,493,487	3,923,500	51,133,873	101,336,420
State/Other Special	616,073	410,392	0	1,026,465	250,751	0	866,824	1,893,289
Federal Special	302,685	102,132	0	404,817	101,332	0	404,017	808,834
Proprietary	2,029,943	(17,522)	147,560	2,159,981	(14,543)	131,041	2,146,441	4,306,422
Total Funds	**$35,665,587**	**$15,082,759**	**$3,045,464**	**$53,793,810**	**$14,831,027**	**$4,054,541**	**$54,551,155**	**$108,344,965**

Agency Description

The Department of Revenue collects revenue from and enforces regulations for over 30 state taxes and fees. The department also regulates the sale and distribution of alcoholic beverages in the state. The department is composed of six divisions with overall agency direction and management coordinated from the Director's Office.

Agency Highlights

Department of Revenue
Major Budget Highlights

- ♦ Total funds increase by $37.0 million and general fund increases by $35.9 million for the biennium over the base, or 51.9 percent and 54.9 percent respective annual increases due primarily to the following executive proposals:
  - Add 2.00 FTE and fund ongoing costs to maintain and operate computer systems ($7.9 million)
  - Fund statewide present law adjustments ($7.3 million)
  - Add 6.00 FTE and operating costs to provide free electronic tax filing ($6.8 million)
  - Add 33.00 FTE tax compliance and collections staff and hire consultant experts ($4.5 million)
  - Add 32.00 FTE to address caseload impacts on property valuation staff of state growth ($2.6 million)
  - Add 8.00 FTE to provide agency functions under current law ($2.5 million)
  - Add 7.00 FTE to provide legal support for compliance activities ($1.9 million)
  - Add 8.00 FTE to provide geographic information system support for agricultural and forest land reappraisals ($0.8 million)
  - Add 6.00 FTE to provide ongoing tax gap analyses ($0.8 million)

- A total of 102.5 FTE are added to the current 611.03 FTE for:
  - Purposes mentioned above
  - Add 3.00 FTE for workload issues of contingent legislation associated with regulation of wineries and breweries
- Department reorganization reverses a reorganization started six years prior

Major LFD Issues

- Performance criteria for several initiatives lack measurability, specificity, and time criteria, and are not applicable to the purpose for the funding increases
- Without a current tax gap analysis, resource additions are questionable and reallocation of existing staff was not considered
- One-time costs could be designated
- Several present law adjustments should be considered as new proposals

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.

Agency Growth

The Department of Revenue budget would grow by $34.5 million from the 2007 biennium to the 2009 biennium for a 46.7 percent total fund increase. Nearly $33.6 million of the total fund increase is attributed to a 49.7 percent growth of general fund. In addition to the funding increases, the agency staff would grow by 102.50 FTE or 16.8 percent over the 2007 biennium staffing levels. Common themes for the executive proposals driving the increases are:

- Increase taxpayer compliance through increased compliance and legal staff and increased funding for contracted legal services and experts
- Increase resources to complete property tax reassessment and continue to value property
- Improve the efficiency of tax administration through free electronic tax filing and improved taxpayer filing documentations
- Increase staff resources to address workload issues due to state growth
- Increase funding to support operations of department tax administration computer system

Statute makes a distinction between the costs to maintain services at the level appropriated by the last legislature (present law adjustments) and new proposals. This distinction is important in determining how much of the growth in government is to maintain services and how much is for new initiatives. Of the executive proposals, only two were presented as new proposals to denote either a new function or an expansion to a current function. Many of the executive initiatives presented as present law adjustments fall within the statutory guidelines for presentation as new proposals and would not be considered costs to maintain current law operations of the department, but are expansions of existing functions or new functions.

When the legislature evaluates the executive proposals, it may want to pay particular attention to the impacts the initiatives will have on base funding and sustainability for future biennia and on how the initiatives support the mission of the agency. The legislature may want to evaluate if it concurs with the priorities of the executive (listed on page 25 of the Governor's budget highlights), including that the primary factors for the budget increase are to strengthen and expand tax compliance efforts and crackdown on illegal tax shelters.

The legislature may also wish to discuss with the department and specify, either as a condition of any appropriations or as a companion bill, goals and performance criteria for determining the success of any of the proposals.

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.	Proprietary	Grand Total	Total %
01 Directors Office	$ 11,798,657	$ 166,773	$ 800	$ 283,046	$ 12,249,276	11.31%
02 Information Technology & Processing	30,133,830	615,817	264,000	191,242	31,204,889	28.80%
03 Liquor Control Division	-	-	-	3,743,868	3,743,868	3.46%
05 Citizen Services & Resource Mgmt	3,723,534	215,370	-	88,266	4,027,170	3.72%
07 Business And Income Taxes Division	18,764,074	795,329	544,034	-	20,103,437	18.56%
08 Property Assessment Division	36,916,325	100,000	-	-	37,016,325	34.17%
Grand Total	$ 101,336,420	1,893,289	$ 808,834	4,306,422	$ 108,344,965	100.00%

The department is primarily funded with general fund. Proprietary funds support the operation of the Liquor Control Division and other divisions that support liquor control functions or the staff of the Liquor Control Division. State special revenue funds statewide services of other state agencies through the new hire and one stop revenues and collection of water adjudication fees. State special revenue is also from the property valuation improvement fund and is used for increasing the efficiency of the property appraisal, assessment, and taxation process through improvements in technology and administration. Federal special revenue supports mineral royalty audit and new hire administration functions.

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	690.03	9.00	699.03	704.53	9.00	713.53	611.03	713.53
Personal Services	31,575,576	463,140	32,038,716	32,266,704	463,640	32,730,344	51,415,720	64,769,060
Operating Expenses	18,989,935	2,582,324	21,572,259	18,047,075	3,590,901	21,637,976	22,143,466	43,210,235
Equipment	181,863	0	181,863	181,863	0	181,863	275,849	363,726
Local Assistance	0	0	0	0	0	0	0	0
Transfers	0	0	0	0	0	0	0	0
Debt Service	972	0	972	972	0	972	3,424	1,944
Total Costs	**$50,748,346**	**$3,045,464**	**$53,793,810**	**$50,496,614**	**$4,054,541**	**$54,551,155**	**$73,838,459**	**$108,344,965**
General Fund	47,304,643	2,897,904	50,202,547	47,210,373	3,923,500	51,133,873	67,701,657	101,336,420
State/Other Special	1,026,465	0	1,026,465	866,824	0	866,824	1,258,900	1,893,289
Federal Special	404,817	0	404,817	404,017	0	404,017	615,777	808,834
Proprietary	2,012,421	147,560	2,159,981	2,015,400	131,041	2,146,441	4,262,125	4,306,422
Total Funds	**$50,748,346**	**$3,045,464**	**$53,793,810**	**$50,496,614**	**$4,054,541**	**$54,551,155**	**$73,838,459**	**$108,344,965**

Reorganizations

In FY 2006 the Department of Revenue reorganized its structure. The customer Service Center was eliminated and the functions were distributed among the remaining divisions in the department, except that the Property Assessment Division was not involved in the reorganization. The Liquor Control Division was established to include both liquor distribution and liquor licensing. This reorganization was completed to improve the effectiveness and efficiency of each of the individual divisions. The functions of each division are described in detail under the applicable program.

META

During the 1999 biennium, the department launched a comprehensive change program called META to become a process-centered organization, integrating business processes and information systems, and putting a greater focus on customer service. The department changed from one organized around tax types to one organized around common business processes.

The organization structure was to be integrated with the new computer system being developed and known as Process Oriented Integrated Tax System (POINTS). The development of POINTS proved to be a failure and the project was abandoned and the current Integrated Revenue Information System (IRIS) was purchased and implemented.

However, based on a claim by the department that META would provide efficiencies within the department, the 1999 Legislature eliminated 12.00 FTE in FY 2000 and 29.00 FTE in FY 2001. The 2001 Legislature eliminated 1.00 FTE in FY 2002 and 10.00 FTE in FY 2003 in recognition of efficiencies gained by the META reorganization during the 2001 biennium. The 2001 Legislature also moved most of the Customer Services Center to HB 2 funding instead of proprietary funding derived from fees charged to other agencies. The funding change for the Customer Service Center returned 123.70 FTE to HB 2 funding.

Since META, the department has slowly and systematically returned to an organizational structure that nearly resembles its structure prior to META. The latest department reorganization discussed above looks very similar to the structure listed from before META, except for division name differences and inclusion of income and corporation tax administration in the Business and Income Tax Division.

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

	Fiscal 2008					Fiscal 2009				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 202 - Free Electronic Filing										
02	6.00	2,897,904	0	0	2,897,904	6.00	3,923,500	0	0	3,923,500
DP 301 - Liquor System Reforms										
03	3.00	0	0	0	147,560*	3.00	0	0	0	131,041*
Total	**9.00**	**$2,897,904**	**$0**	**$0**	**$3,045,464***	**9.00**	**$3,923,500**	**$0**	**$0**	**$4,054,541***

Agency Issues

Audit –Tax Gap Analysis

In June 2006, the Legislative Audit Division released a performance audit titled Improving Taxpayer Compliance in Montana Through Audit Efforts (06P-10). The audit discussed the concept of tax gap, which is the difference between taxes being paid and taxes that should be paid, or taxpayer compliance. The audit stated that the key benefit of a tax gap analysis is that it identifies areas of taxpayer noncompliance and can be used among other purposes to identify new or growing areas of noncompliance and make informed decisions about resource allocations to address noncompliance. The audit pointed out that Montana derives its tax gap from the federal tax gap analysis. With the department relying upon the federal tax gap analysis, information is not specific to the unique tax issues of Montana and is a recognized weakness for allocating resources to the most efficient and effective use.

The department has requested funding to begin performing ongoing tax gap analyses of Montana specific tax gaps and non-compliance. At the same time, the department is requesting 39.00 FTE for tax compliance activities, including 6.00 FTE to perform the tax gap analysis. Based on statements in the audit about the efficiency and effectiveness of allocation compliance resources without a state-specific tax gap analysis, there is a question of whether the department isn't putting the cart before the horse and adding resources without first determining the real areas of non-compliance in the state.

Decision packages DP 7012, Tax Gap Analysis, and DP 7019, Compliance – Audit and Collections, in the Business and Income Tax Division request additional compliance staff. Issues associated with this discussion follow each decision package for further consideration by the legislature.

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	39.98	15.00	0.00	54.98	15.00	0.00	54.98	54.98
Personal Services	2,135,090	1,178,106	0	3,313,196	1,184,976	0	3,320,066	6,633,262
Operating Expenses	1,341,768	1,846,633	0	3,188,401	1,085,845	0	2,427,613	5,616,014
Total Costs	**$3,476,858**	**$3,024,739**	**$0**	**$6,501,597**	**$2,270,821**	**$0**	**$5,747,679**	**$12,249,276**
General Fund	3,447,790	2,824,285	0	6,272,075	2,078,792	0	5,526,582	11,798,657
State/Other Special	0	85,287	0	85,287	81,486	0	81,486	166,773
Federal Special	800	0	0	800	(800)	0	0	800
Proprietary	28,268	115,167	0	143,435	111,343	0	139,611	283,046
Total Funds	**$3,476,858**	**$3,024,739**	**$0**	**$6,501,597**	**$2,270,821**	**$0**	**$5,747,679**	**$12,249,276**

Program Description

The Director's Office supports the agency's director and provides the following functions:

- General management of the agency, including assisting the director with administrative functions and communications to the public, agencies, and elected officials
- Legal service support for the Office of Dispute Resolution and the overall legal efforts of the department, includes legal representation before various courts, legislative development and review, filing bankruptcy claims, and developing policy and administrative rules
- Tax policy, research, and analysis of state revenue legislation and legislative proposals affecting the department, and analysis of department economic data
- Human resources, payroll, benefits, education, and training of the department

Program Highlights

Department of Revenue
Director's Office
Major Budget Highlights

- Total funds increase by $5.3 million and general fund increases by $4.9 million for the biennium over the base, or 76.2 percent and 71.1 percent respective annual increases primarily to:
  - Add 8.00 FTE to provide agency functions under current law ($2.5 million)
  - Add 7.00 FTE to provide legal support for compliance activities ($1.9 million)
  - Fund statewide present law adjustments ($0.9 million)
- 15.00 FTE are added
- The office received new duties under a department reorganization

Major LFD Issues

- Performance criteria lack measurability and specificity, and are not applicable to the purpose for the funding increases
- Some present law adjustments should be considered as new proposals
- A language appropriation for legal costs is not appropriate

Funding

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

Program Funding Table
Directors Office

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	$ 3,447,790	99.2%	$ 6,272,075	96.5%	$ 5,526,582	96.2%
	01100 General Fund	3,447,790	99.2%	6,272,075	96.5%	5,526,582	96.2%
02000	Total State Special Funds	-	-	85,287	1.3%	81,486	1.4%
	02088 One-Stop And New Hire Admin.	-	-	85,287	1.3%	81,486	1.4%
03000	Total Federal Special Funds	800	0.0%	800	0.0%	-	-
	03928 Royalty Audit - Nrct	800	0.0%	800	0.0%	-	-
06000	Total Proprietary Funds	28,268	0.8%	143,435	2.2%	139,611	2.4%
	06005 Liquor Division	28,268	0.8%	143,435	2.2%	139,611	2.4%
Grand	Total	$ 3,476,858	100.0%	$ 6,501,597	100.0%	$ 5,747,679	100.0%

Funding for the program comes primarily from the general fund. State special revenue funds the office support for one-stop and new hire administration activities. Federal special revenue funds office support of mineral royalty audits. The proprietary funding is from a direct appropriation of Liquor Control Division proprietary fund and is for the Liquor Control Division share of Director's Office support costs. The allocation is based on FTE counts. Liquor Control Division proprietary funds are an indirect use of general fund since net liquor revenues are deposited in the general fund after operating costs are deducted.

Program Reorganization

As part of the agency reorganization, the department’s human resources, payroll, training, and tax policy research functions were transferred into the Director’s Office. A net of 12.03 FTE were transferred into the office during the reorganization.

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					489,880					496,239
Vacancy Savings					(104,997)					(105,254)
Inflation/Deflation					6,999					10,933
Fixed Costs					160,704					(17,563)
Total Statewide Present Law Adjustments					**$552,586**					**$384,355**
DP 701 - Compliance - Legal	7.00	872,028	85,287	0	957,315	7.00	849,107	81,486	0	930,593
DP 1011 - Fulfill Statutory Responsibilities	8.00	1,450,474	0	0	1,514,838 *	8.00	895,333	0	0	955,873 *
Total Other Present Law Adjustments	**15.00**	**$2,322,502**	**$85,287**	**$0**	**$2,472,153 ***	**15.00**	**$1,744,440**	**$81,486**	**$0**	**$1,886,466 ***
Grand Total All Present Law Adjustments					**$3,024,739 ***					**$2,270,821 ***

LFD COMMENT

Personal Services Statewide Present Law Adjustment

The annual statewide present law adjustment for personal services is a 22.9 percent increase over the personal services base. About $137,000 of the $490,000 annual adjustment is attributable to annualizing the pay plan approved in HB 447 of the 2005 Legislature, leaving roughly $353,000 attributed to the combination of restoring funding for base year vacancies and salary or pay grade adjustments not funded in the pay plan.

Since the snapshot for developing the 2007 biennium budget, the program gave salary increases above those funded in the pay plans of the 2003 and 2005 Legislatures, which total $76,000 if annualized for a full year. The program experienced a vacancy rate in authorized FTE hours of 8.2 percent during the base year. This level of vacancy equates to roughly 3.27 FTE. Had no vacancies existed, base expenditures would have been roughly $135,500 higher.

<u>DP 701 - Compliance - Legal –</u> An increase of $1.9 million combined general fund and state special revenue for the biennium is requested to add 7.00 FTE and operating costs to provide in-house legal resources in support of tax compliance activities. Funding would also provide $472,500 per year in contracted legal services or 2,000 hours per year to supplement staff legal work. The executive recommends designating $23,550 of the FY 2008 general funds as one time only.

LFD ISSUE

Additional One-Time Costs

In addition to the one-time general fund expenses identified by the executive for FY 2008, $3,925 of state special revenue would also fund one time costs for added FTE. The legislature may want to designate these funds as one time only.

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: The purpose of this proposal is to ensure that justice is served by taxpayers paying their “fair share” as determined by the Montana Constitution and the legislature so that additional or higher taxes are not required to be paid by those already paying the proper amounts under the law. Legal resources are needed to support the department’s compliance efforts from litigation through to completion by collection. It is of little value finding individuals or companies who are not paying, through audit or otherwise, if the taxes are not actually paid into the state’s general fund.

As the department continues to enhance its compliance efforts through audit and information gathering, the number of contested cases will increase and the amount of tax receivables will grow. A significant back-log of aged accounts receivables and identified non-filers currently exists. The need for judicial intervention to obtain information, payment, and to track assets is increasing and will continue to grow. As the department extends its compliance efforts into tax shelters, pass-through entities, and oil and gas investment vehicles, attorneys with specialized experience in complex entity and transactional structuring are required. Work done since passage of the increased tobacco taxes has demonstrated that illegal tobacco sales and avoidance of tobacco taxes are real problems that require continued focus and legal support. 4.00 FTE attorneys, 1.00 FTE paralegal, and 2.00 FTE administrative staff would be added to support increased case loads of department legal efforts for tax compliance.

Goal: This proposal is a package of legal resources needed to enable the department to timely and effectively defend and enforce Montana’s tax laws. The department intends to use the resources to: (1) reduce the number and amount of unpaid taxes and the age of tax accounts receivable; (2) reduce the number of non-filers; (3) locate and prosecute individuals and companies selling tobacco products illegally and obtain substantially all unpaid tobacco excise taxes; (4) obtain payment of Montana taxes from substantially all participants in known tax-shelters; (5) obtain payment of Montana taxes from a significant number of nonresident taxpayers who owe Montana taxes attributable to the sale or rental of Montana real estate or oil or gas royalties; (6) assist in the examination of pass-through entities and relatedparty transactions and reporting of Montana tax liabilities; and (7) obtain payment of the proper amount of Montana taxes attributable to the businesses and investments of pass-through entities.

Performance Criteria: The non-monetary goals will be measured against: (1) accounts receivable - reducing the time for obtaining payment or determining that an account that has been referred to legal services is uncollectible to 9 months; (2) non-filers – initiating orders to show cause against at least 25 percent of known non-filers; (3) tobacco taxes – initiating suit against substantially all identified illegal sellers; collecting substantially all known unpaid tobacco excise taxes; (4) tax-shelters – obtaining participants lists from known and subsequently identified illegal tax-shelter promoters; and (5) pass-through entities - the successful prosecution of tax-appeals that involve transactions or entities that have no substantial economic effect other than avoidance of state taxes.

The initiative is expected to increase general fund revenue by $479,000 in FY 2008 and $931,000 in FY 2009

Milestones: The department will begin filling the positions in July 2007

Obstacles: Hiring of staff with the expertise needed to analyze and explain sophisticated tax-shelter and pass-through entity structures and transactions. If attorneys with existing expertise cannot be obtained, the Multi-state Tax Commission staff, training resources, and joint-state programs can be used for education and training.

Risk: Without the necessary legal staff, the state jeopardizes the just and timely enforcement of Montana tax laws.

LFD ISSUE

Performance Criteria and Milestones Do Not Allow Incremental Assessment

The performance criteria relate directly to the goals, but fail to indicate when the goals or criteria are expected to be achieved. The only milestone provided is for when the staff would be hired, but provides no time-based criteria for progressive monitoring of the initiative. The milestone only applies to the beginning of the process funded in the initiative, but no intermediate milestones are provided. For the 2009 biennium, the financial performance criteria indicate that the state would spend $1.9 million to improve revenue by $1.4 million, or $0.5 million more costs than revenue gains. Since the short-term expectation is for the initiative to spend more than is expected in revenue improvement, more specific, measurable, and time-based goals and criteria with frequent milestones would provide more timely indications to determine if the initiative is heading in a promising direction compared to expectations and would allow more timely feedback to shift resources if the effort is not resulting in expected outcomes.

Revenue Assumption

When asked about how the estimated revenues identified as financial performance criteria were determined, the department responded that revenues received from the effort were assumed as a ratio of revenues to expenditures of 0.5 to 1.0 in FY 2008 and 1.0 to 1.0 in FY 2009. The legislature may want to direct the department to provide supporting documentation that shows a strong correlation between expenditures and revenues. The legislature may also want to ask the department to explain how the concept of diminishing returns would impact the correlation between revenues and expenditures.

Goals and Measures

The legislature may want to direct the department to provide specific, measurable, and time-based measures and milestones for interim monitoring of the initiative and for determining if the effort is providing incremental improvements in the targeted compliance areas.

LFD ISSUE (CONT.)

Pilot Period

Given in the short-term expectation that this initiative would provide less revenue improvements than the initial costs, the legislature may also want to treat this initiative as a pilot to prove its effectiveness and designate the funding as one time only and direct the department to report on the initiative activities during the 2009 biennium and the specific compliance improvements gained from the effort. If the executive recommends continuing the effort after the 2009 biennium, results reported for specific compliance improvement gains with measurable outcomes would aid the legislature in making funding decisions for the 2011 biennium.

DP 1011 - Fulfill Statutory Responsibilities - An increase of $3.9 million combined general fund and liquor proprietary funds for the biennium is requested to add 8.00 FTE and operating costs to provide staff to address workload issues for existing statutory functions of the department. The staff added would reduce centralized administrative service staff to agency employee ratios for existing functions in the following areas: staff recruitment, training, management, and citizen hearings. Of the funding, $430,000 would be used to: 1) evaluate and address ergonomic deficiencies within the department; 2) remodel existing office space in the Mitchell Building; 3) conduct air quality reviews at the liquor warehouse facility and the Mitchell Building; and 4) obtain specialized training of department staff to improve operations, ensure timely hearings of citizen appeals of department decisions, address environmental concerns in department facilities, and provide for disaster recovery. The executive recommends that $679,700 in FY 2008 and $125,000 in FY 2009 of general fund be designated as one time only to account for portions of the request that are no ongoing.

LFD ISSUE

New Functions Added as a Present Law Decision

The following portions of this request are for items that more appropriately satisfy the statutory requirement to be included as a new proposal:

- Hearings officer
- Internal analyst in the Office of Tax and Operations Research
- Disaster coordinator
- Remodeling

Hearings Officer

Although the Office of Dispute Resolution is a present law function and part of the justification is to increase the capacity in response to a growing caseload, the performance criteria provided by the department state that the intent is to reduce the time to a final decision to half of the statutory required time. If the request was just to address the increased caseload to meet the statutory deadline, the portion of the request would satisfy the criteria to be a present law decision. However, since the intent is to go beyond the statutory deadline, the request more appropriately should be decided as a new proposal and should stand alone on its merits.

Internal Analyst in the Office of Tax and Operations Research

Adding an internal analyst position should be considered as a new proposal because it changes the program services and does not address any of the following criteria for the request to meet the statutory definition of a present law adjustment to: 1) address changes resulting from legally mandated workload, caseload, or enrollment increases or decreases; 2) address changes in funding requirements resulting from constitutional or statutory schedules or formulas; 3) address inflationary or deflationary adjustments; or 4) elimination of nonrecurring appropriations. A position that provided similar functions for the department was eliminated by the 2005 Legislature.

LFD ISSUE (CONT.)

Disaster Coordinator

Adding a position to perform the functions described in the department's justification also fails to satisfy the above described statutory criteria for a present law adjustment. New functions provided by the position should be reviewed on their own merits as to how they would allow the department to deliver its statutory services and not be assumed to be specifically required by the constitution or law, as implied by inclusion in a present law adjustment.

Remodeling

Costs included in the request to remodel the Mitchell Building also do not satisfy the criteria for a present law adjustment. The ability of the department to provide its statutory functions may be improved by a building remodel, but have not been shown to be obstructed without a remodel. A portion of the costs is to rearrange work spaces to accommodate the reorganization the department made during the interim outside legislative review.

Legislative Action

The legislature may want to direct staff to separate the above items into separate new proposal decision packages and have the executive justify each individually prior to taking executive action. Separate decision packages would allow each function to stand alone on its merits and allow more flexibility to the legislature in evaluating the funding policies for the office.

LFD ISSUE

Incorrect One Time Only Amount

During questioning of agency staff during LFD analysis of the budget request, it was identified that the FY 2008 one time funding recommendation was understated by $1,075. Instead of designating one time funding as recommended by the executive for FY 2008, the legislature may want to designate $680,775 as one time only.

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: The following justifications are provided for specific portions of the initiative:

- Human Resources (HR) – Add 5.00 FTE HR and training staff to address workload issues. Currently the Human Resource Unit has 2.25 FTE for approximately 650 employees (1 per 289 FTE) compared to a nationally accepted staffing ratio of 1 per 100 FTE, not including payroll/benefits and training staff. The Education and Training Unit currently has 3.00 FTE of which 1.00 FTE is a training supervisor, whose duties have evolved to include an active role in assisting HR staff with employee relations and conflict resolution. That change, coupled with increased training needs, has overloaded this unit. The HR workload increases in proportion to increased FTE. If additional FTE are approved, the workload will increase in areas such as writing job profiles, classification, recruitment/selection, pay, providing advice and guidance when addressing employee issues and concerns, disciplinary issues, and labor issues
- Hearings officer- Add 1.00 FTE hearings examiner for the Office of Dispute Resolution (ODR). The department has a single hearings officer who is already operating beyond capacity. The number of new cases opened during 2005 increased more than 34 percent over cases opened in 2004, and the first four months of 2006 showed an even steeper increase. As compliance initiatives of the department continue to expand, hearings examiner workload will increase proportionately
- Office of Tax and Operations Research - Add 1.00 FTE in the Office of Tax and Operations Research to provide internal analytical support for improved decision making to continuously improve the operations of the various divisions within the agency. This FTE would, among other things, provide recommendations to management based on practices proven effective in other states, and analyses of the relationships between resource inputs and operational results and outcomes, to provide for the most efficient allocation of resources within the agency. Typical tasks would include developing, monitoring, refining and using information produced by internal performance tracking systems to provide a comprehensive analysis of the effectiveness of all compliance-related

activities, including audit and collections functions, to ensure that resources are allocated in a manner that maximizes audit revenues and effectively targets collections activities in order to minimize the state's tax gap

- Disaster Coordinator – Add 1.00 FTE as a disaster coordinator to: 1) evaluate the impacts from natural disasters; 2) evaluate environmental and safety hazards in department facilities; and 3) identify breaches in Internal Revenue Service security standards for the handling of confidential taxpayer information. The position would also develop plans to minimize the associated risks to prevent the compromise of state revenue administration and collections
- Other - This proposal also includes funding to: 1) evaluate and address ergonomic deficiencies within the department; 2) remodel existing office space in the Mitchell Building; 3) conduct air quality reviews at the liquor warehouse facility and the Mitchell Building; and 4) obtain specialized training of department staff

Goals: The following goals are provided for the specified area of the request:

- Human Resources - The goal is for the HR unit to be able to meet the needs of management and employees and provide proactive services for all department employees which will strengthen and continuously improve the efficiency and effectiveness of the department
- Hearings officer- To conduct all hearings and issue all decisions in a timely manner
- Office of Tax and Operations Research - Develop and update annually a comprehensive analysis of the effectiveness of compliance-related activities including audit and collection functions
- Disaster Coordinator - To employ a disaster coordinator within the department to assess risks and develop a disaster plan and to recommend changes to department operations and county appraisal offices consistent with the plan, including upgrading security where necessary

Performance Criteria: The following criteria are provided for the specified area of the request:

- Human Resources:
    - Review HR functions to ensure FTE are being utilized effectively and efficiently
    - Verify that training and independent assessments are being done to ensure the leadership effectiveness of front line and mid-level supervisors
    - Verify that a performance appraisal system is implemented which supports the broadband pay plan
    - Verify that improvements are being made to ensure workers and management are working together to improve productivity
    - Verify that labor management initiatives are being implemented and relations with unions are positive and effective
    - Verify that productivity, efficiency, and better customer service are increased
- Hearings Officer - Adhere to statutory criteria as to time frames in conducting hearings and issuing decisions. Although the Montana Administrative Procedure Act states that a final agency decision must be rendered 120 days following the close of the record, ODR will make every effort to abide by a 60-day period as a department performance standard
- Office of Tax and Operations Research - Completion of an annual report on compliance, audit and collection activities that includes recommendations for changes in policies, procedures or statutes
- Disaster Coordinator:
    - Develop a plan of effective remedial measures to existing facilities or for housing all revenue administration and liquor administration functions within Helena in a facility that is earthquake resistant and is equipped with fire protection safeguards, including sprinkler systems
    - Identify and evaluate, in cooperation with county governments, primary hazards to county offices
    - Develop and annually update a disaster plan for the department statewide and make necessary changes dictated by that plan

Milestones: The following milestones are provided for the specified area of the request:

- Human Resources
    - July 2007 - recruit for new positions
    - January 2008 - review functions/processes for continued efficiency
- Hearings officer:

- Recruit new position by July 2007
- Bring backlog of decisions and hearings to the performance standard by July 2008
- Maintain the performance standard throughout FY 2009

- Office of Tax and Operations Research:
  - Recruit new position by July 2007
  - Complete an interim report by April 2008 to coincide with the EPP process
  - Complete the first comprehensive analysis by June 2009 and annually thereafter
- Disaster Coordinator:
  - July 2007 - hire disaster coordinator
  - April 2008 - complete initial disaster plan with recommendations for changes to coincide with the EPP process
  - July 2008 - complete initial changes where feasible to department operations and facilities identified as most critical during risk assessment
  - July 2008 - continue evaluation of department facilities statewide in order to recommend changes consistent with the disaster plan
  - July 2009 - complete first full revision of disaster plan that includes threats to county offices

Obstacles: Obstacles could be in recruiting and retaining qualified staff.

Risk: The following risks are faced if funding is not approved:

- Human Resources - The HR unit has insufficient staff to meet the current work requirements and to support effective management of departmental staff. This may result in work delays, extended timelines, interruption of service, and turnover. Services to citizens and employees are negatively impacted. Proposed improvements in operations may be delayed or not be implemented. Employee dissatisfaction can increase and productivity can decrease due to inadequate supervisory skills and insufficient human resources support
- Hearings officer - Failure of the department to conduct timely hearings increases citizen frustration with delays in government decisions and can disrupt economic decisions by individuals and businesses awaiting answers to their appeals
- Office of Tax and Operations Research - Failure to analyze operations will reduce the ability of the department to continuously improve its efficiency, effectiveness, and responsiveness to citizens
- Disaster Coordinator:
  - In the wake of a natural disaster, essential government functions, including those devoted to disaster recovery, will require continued funding. Taxpayers whose property and livelihoods are destroyed will expect appropriate adjustments and responses to their circumstances. State and local government cannot function without a continuing revenue system
  - Similarly, state and local governments cannot afford to have the revenue system disrupted by local events, such as fires, that can disrupt revenue administrative facilities. While less immediately disruptive, environmental hazards that endanger employee and public health and safety can diminish the proper functioning of the revenue system
  - Finally, Montana cannot afford to have the IRS-state exchange of information process suspended due to breaches in securing taxpayer information. Without the information exchange relationship, the state cannot effectively administer its income tax system. A suspension of such relationship would cause serious financial implications to the state due to lost revenues

LFD ISSUE

Performance Criteria are Not Specific, Measurable, or Time-based

Most of the performance criteria for this initiative are general and do not provide measurable and time-based targets to determine success of the initiative. For example, the human resources performance criteria, which states productivity, efficiency, and better customer service are increased, does not specify what levels of productivity, efficiency, and better customer service are expected for the initiative to be successful with the funding. Also, the milestones provided are for vague activities that have no specific and measurable criteria for evaluating if the milestone has been accomplished.

The legislature may want to direct the department to provide specific, measurable, and time-based measures for interim monitoring of the initiative and for determining if the effort is providing incremental improvements in the targeted compliance areas.

Language

The executive requests the following language for the Director's Office:

"There is appropriated up to $1 million general fund to the Department of Revenue to fund major litigation expenses related to protests of centrally assessed property taxes and corporation license and income."

LFD ISSUE

Language Does Not Specify Time Frame for the Appropriation

An appropriation must specify the time frame to which the appropriation applies. The language recommended by the executive does not specify the time frame. If the legislature concurs in the funding it may want to approve the following language in place of the language recommended by the executive:

"There is appropriated from the general fund to the department [Department of Revenue] up to $1 million for the 2009 biennium to fund major litigation expenses related to protests of centrally assessed property taxes and corporation license and income taxes."

LFD ISSUE

More Appropriate as a Line Item Appropriation in HB 2

The language appropriation for major litigation expenses is an attempt to establish budget authority for the contingency if unknown litigation expenses were to occur for major litigation associated with protested centrally assessed property taxes and corporation license and income taxes. The appropriation would be more appropriate as a line item appropriation in HB 2 that is restricted for use only in the event of the occurrence of these types of litigation expenses.

The legislature may want to direct staff to develop a new proposal decision package for consideration in executive action that would replace this language appropriation request. In approving the decision package, the legislature may want to direct that the appropriation be restricted only for use in funding costs of major litigation of protested cases on centrally assessed property taxes and corporation license and income taxes.

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	99.45	2.00	6.00	107.45	2.00	6.00	107.45	107.45
Personal Services	3,967,446	622,120	346,616	4,936,182	611,056	347,004	4,925,506	9,861,688
Operating Expenses	3,577,687	3,953,641	2,551,288	10,082,616	4,030,998	3,576,496	11,185,181	21,267,797
Equipment	37,702	0	0	37,702	0	0	37,702	75,404
Total Costs	**$7,582,835**	**$4,575,761**	**$2,897,904**	**$15,056,500**	**$4,642,054**	**$3,923,500**	**$16,148,389**	**$31,204,889**
General Fund	7,020,534	4,525,919	2,897,904	14,444,357	4,745,439	3,923,500	15,689,473	30,133,830
State/Other Special	209,122	175,400	0	384,522	22,173	0	231,295	615,817
Federal Special	92,400	39,600	0	132,000	39,600	0	132,000	264,000
Proprietary	260,779	(165,158)	0	95,621	(165,158)	0	95,621	191,242
Total Funds	**$7,582,835**	**$4,575,761**	**$2,897,904**	**$15,056,500**	**$4,642,054**	**$3,923,500**	**$16,148,389**	**$31,204,889**

Program Description

The Information Technology and Processing Division provides application development and support services; network services including data, desktop, information security and help desk support; and tax return and payment processing including account examination and maintenance, cashiering, mailroom, and records management services that enable the department to meet its business objectives.

Program Highlights

Department of Revenue
Information Technology and Processing Division
Major Budget Highlights

- ♦ Total funds increase by $16.0 million and general fund increases by $16.1 million for the biennium over the base, or 105.8 percent and 114.6 percent respective annual increases primarily to:
  - Add 2.00 FTE and fund ongoing costs to maintain and operate computer systems ($7.9 million)
  - Add 6.00 FTE and operating costs to provide free electronic tax filing ($6.8 million)
  - Fund statewide present law adjustments ($0.8 million)
  - Increase personal services and add contracted services to address peak tax processing issues ($0.6 million)
- ♦ 8.00 FTE are added
- ♦ The division was renamed and assumed new duties under a department reorganization

Major LFD Issues

- ♦ Performance criteria lack measurability and specificity and are not applicable to the purpose for the funding increases
- ♦ Funding is impacted by decisions on water adjudication fee changes

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

Program Funding Table
Information Technology and Processing

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	$ 7,020,534	92.6%	$ 14,444,357	95.9%	$ 15,689,473	97.2%
	01100 General Fund	7,020,534	92.6%	14,444,357	95.9%	15,689,473	97.2%
02000	Total State Special Funds	209,122	2.8%	384,522	2.6%	231,295	1.4%
	02088 One-Stop And New Hire Admin.	180,000	2.4%	355,400	2.4%	200,400	1.2%
	02110 Accommodation Tax Admin	29,122	0.4%	29,122	0.2%	30,895	0.2%
03000	Total Federal Special Funds	92,400	1.2%	132,000	0.9%	132,000	0.8%
	03680 New Hire Admin (Federal Share)	92,400	1.2%	132,000	0.9%	132,000	0.8%
06000	Total Proprietary Funds	260,779	3.4%	95,621	0.6%	95,621	0.6%
	06005 Liquor Division	260,779	3.4%	95,621	0.6%	95,621	0.6%
Grand	Total	$ 7,582,835	100.0%	$ 15,056,500	100.0%	$ 16,148,389	100.0%

The Information Technology and Processing Division is primarily funded with general fund. State special revenue funds the division's support for one-stop and new hire administration activities. Federal special revenue funds the division's support of federal new hire administration activities. The proprietary funding is from a direct appropriation of Liquor Control Division proprietary fund and is for the Liquor Control Division share of division support costs. The allocation is based on FTE counts. Liquor Control Division proprietary funds are an indirect use of general fund since net liquor revenues are deposited in the general fund after operating costs are deducted.

Program Reorganization
As part of the agency reorganization, the division was renamed to signify the additional duties of processing department transactions. The division assumed the document and information processing functions from the former Customer Service Center in the reorganization. A net of 70.45 FTE were transferred into the division during the reorganization.

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 FTE	Fiscal 2008 General Fund	Fiscal 2008 State Special	Fiscal 2008 Federal Special	Fiscal 2008 Total Funds	Fiscal 2009 FTE	Fiscal 2009 General Fund	Fiscal 2009 State Special	Fiscal 2009 Federal Special	Fiscal 2009 Total Funds
Personal Services					505,563					518,164
Vacancy Savings					(178,918)					(179,424)
Inflation/Deflation					37,494					37,559
Fixed Costs					31,757					39,103
Total Statewide Present Law Adjustments					**$395,896**					**$415,402**
DP 201 - On-going System Costs	2.00	3,702,344	175,400	39,600	3,917,344	2.00	3,874,692	20,400	39,600	3,934,692
DP 7015 - Processing Returns & Refunds	0.00	262,521	0	0	262,521	0.00	291,960	0	0	291,960
Total Other Present Law Adjustments	**2.00**	**$3,964,865**	**$175,400**	**$39,600**	**$4,179,865**	**2.00**	**$4,166,652**	**$20,400**	**$39,600**	**$4,226,652**
Grand Total All Present Law Adjustments					**$4,575,761**					**$4,642,054**

LFD COMMENT

Personal Services Statewide Present Law Adjustment

The annual statewide present law adjustment for personal services is a 12.7 percent increase over the personal services base. About $255,900 of the $505,600 annual adjustment is attributable to annualizing the pay plan approved in HB 447 of the 2005 Legislature, leaving roughly $249,700 attributed to the combination of restoring funding for base year vacancies and salary or pay grade adjustments not funded in the pay plan.

Since the snapshot for developing the 2007 biennium budget, the program gave salary increases above those funded in the pay plans of the 2003 and 2005 Legislatures, which total $20,400 if annualized for a full year. In aggregate, the program utilized all authorized FTE hours during the base year. However, 2.00 FTE were vacant the entire year and 3 FTE were vacant for more than half of FY 2006. The vacancies throughout the division were masked by two aggregate positions, for data processing and mail clerks, that were authorized for 8.75 FTE but utilized for 18.90 FTE. If the over-utilized aggregate positions are excluded, the remaining portion of the division had an effective vacancy rate of 10.5 percent or about 9.52 FTE. This discussion illustrates the flexibility the department used to address peak tax processing workloads by using funding from vacant positions to fund additional temporary staff during the peak periods.

<u>DP 201 - On-going System Costs –</u> An increase of nearly $7.9 million combined general fund, state special revenue, and federal special revenue for the biennium is requested to fund the addition of 2.00 FTE and ongoing costs maintenance and mid-tier costs of existing tax administration and management systems. Funding includes $20,000 to upgrade the system used for new hire administration to a new Oracle database version. $155,000 of the FY 2008 funding is for costs associated with collecting the water adjudication fees imposed in HB 22 of the 2005 Legislature and is being requested because the department failed to request authority from the 2005 Legislature so no funding is in the base. The two largest system costs are $4.4 million for fees paid to the Department of Administration for mid-tier processing and $3.1 million for the maintenance contract with the Integrated Revenue Information System (IRIS) vendor.

LFD COMMENT

Mid-tier fees are costs to operate IRIS on the state mid-tier computer system operated by the Information Technology Services Division of the Department of Administration under a fee for service program discussed in that division's Proprietary Rate section.

LFD ISSUE

HB 22 Fee Impacts

The executive proposes, in HB 16, to eliminate the water adjudication fee and replace the lost revenue with general fund. If the fee is eliminated, $155,000 of the FY 2008 state special revenue could be eliminated as the costs to bill water rights holders for the fee would not be needed. Other legislation proposes eliminating the fee and providing a refund of previous fee payments. If legislation other than the executive proposal is successful, the state special revenue would need to be replaced with general fund and additional costs may result, depending upon the specific criteria in the legislation.

The legislature may want to restrict $155,000 of the state special revenue or approve the following contingency language for the appropriation:

"If the water adjudication fee provided in 85-2-276 is repealed, the appropriation of $155,000 of state special revenue for fiscal year 2008 in [Item] is void."

If the above contingency language is approved and the legislation is passed and approved to refund past fees paid or direct other actions that would cause the department to take action, the executive may need to seek separate funding for the costs.

LFD ISSUE

One Time Costs for New FTE

Included in the FY 2008 funding is $7,850 of one time costs to outfit 2.00 FTE and $20,000 new hire system upgrade costs that are not ongoing. The legislature may want to designate $11,250 of the FY 2008 and $3,400 of the FY 2009 state special revenue and $6,600 in each fiscal year of federal special revenue as one time only.

DP 7015 - Processing Returns & Refunds - An increase of nearly $554,500 general fund for the biennium is requested to provide pay adjustments and hire and house contracted temporary staff for peak tax processing seasons, between January and May, to provide timely processing of tax returns and payments. Pay adjustments are intended to address recruitment issues for the short-term workers hired for the peak tax processing seasons.

New Proposals

New Proposals	Fiscal 2008					Fiscal 2009				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 202 - Free Electronic Filing										
02	6.00	2,897,904	0	0	2,897,904	6.00	3,923,500	0	0	3,923,500
Total	**6.00**	**$2,897,904**	**$0**	**$0**	**$2,897,904 ***	**6.00**	**$3,923,500**	**$0**	**$0**	**$3,923,500 ***

DP 202 - Free Electronic Filing - This proposal requests a general fund total of $2,897,904 in FY 2008 and An increase of nearly $6.8 million general fund for the biennium is requested for personal services and operating costs to add 6.00 FTE and to provide additional e-services, including free electronic filing and Telefile services to the citizens of Montana. The executive recommends that $2,261,644 in FY 2008 and $3,058,331 in FY 2009 should be designated as one-time only.

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: Approximately 50 percent of Montana taxpayers file annual individual income tax returns electronically and this proposal will provide more accessible electronic filing and Telefile options to taxpayers who need it. These services will result in more accurate returns and payment processing, faster refunds for taxpayers, and more current revenue estimates for the state and, in future biennia, improved efficiency and effectiveness of department operations. Funding would be used to hire 6.00 FTE for electronic services administration (1.00 FTE to develop and support the software and 5.00 FTE to administer the electronic services operation). The funding would provide the following components provided primarily through contracted services:

- Filing annual MW3-W2/1099: Funding to develop and implement a Web based e-file option for annual MW3 Reconciliation filing for employers along with development of additional e-file methods associated with W2 and/or 1099 forms associated to MW3 filings
- C-Corp, S-Corp, and Partnership: Funding to develop and implement additional e-file options in conjunction with the Internal Revenue Service (IRS) and the Federation of Tax Administrators modernized e-file initiatives
- E-payment options: Funding to develop and implement additional e-payment options for all tax types administered by the department, including Web-based applications and/or telephone applications
- E-services marketing: Funding (supplies, staff, travel, and time) to market e-services offered by the department
- Taxpayer Access Point (TAP): Funding for development, design, and implementation of a full service Web based file and pay for all tax types and all forms available on GenTax
- Telefile: Additional funding to resurrect and enhance the Telefile service for taxpayers, allowing them to enter their individual income tax return via the telephone using a toll-free access line easily and at no cost

Goal: Provide Montana citizens and businesses with free electronic filing and payment options for major taxes, greatly improving services to citizens, increasing the efficiency of internal processing options in subsequent biennia, enhancing information for legislative and gubernatorial decision-making and improving the ability for the department to ensure that all citizens and businesses pay their fair share of taxes.

Performance Criteria: The following performance criteria are provided:

- Process annual withholding MW3 reconciliation returns and W2/1099 forms within 30 days of the February 28 due date
- Process all e-payments within 48 hours of receipt
- Process S-Corp, C-Corp and Partnership returns within 30 days of receipt
- Improve data integrity by decreasing manual data processing of all tax returns and payments
- Use marketing funds on ABC clinic trips to communicate the e-services plan statewide
- Following each trip, complete a report that includes survey results from clinic participants that plan to participate in the department's e-services plan

Milestones: The following milestones are provided:

- Implement electronic filing of 2007 tax year annual withholding MW3 reconciliation returns beginning January 2008
- Implement additional electronic filing options for submission of annual W2/1099 tax reporting effective January 2008
- Implement electronic filing of 2007 tax year S-Corp returns beginning January 2008
- Implement electronic filing of 2008 tax year Partnership and C-Corp returns beginning January 2009
- Identification of current e-payment services available and additional options to be made available to the public by November 2007; begin development and implementation January 2008
- Develop a definitive e-services marketing strategy by November 2007 to prepare for the 2008 processing/filing season; provide in-house e-services training sessions at three higher education schools January – February 2008
- Define TAP project plan by December 2007 to identify the various tax types to be implemented in an orderly, organized, and sensible fashion in conjunction with filing due dates and other specific tax application functions
- Develop implementation plan for Telefile program by end of July 2007
- Identify and coordinate with program implementation partners in August 2007
- Implement Telefile program for taxpayer use in January 2008 for individual income tax filing of simple tax forms

Obstacles: The following obstacles would obstruct successful implementation of the proposal:

- Many of the e-services to be provided by the department are dependant upon coordination with other partners: IRS for modernized e-file project; Tax Information Group for Electronic Commerce Requirements Standardization for approval of Extensible Markup Language schema for specific tax forms; Department of Administration, Information Technology Services Division, for implementation of additional web services in conjunction with modernized e-file and TAP web on-line services, and for implementation of the Interactive Voice Response application for Telefile with the state telephone services provider
- Tax prep software vendor development and implementation of state tax forms for public use to e-file
- Other department priorities impacting business staff and/or developer/technical staff delaying actual implementation
- Technical impacts such as software and/or hardware requirements.

Risks: The following risks are faced if funding is not approved:

- Continued paper processing for the majority of tax types for both returns and payments; inefficient and costly to the state
- Federal IRS will only support submission of joint fed/state e-filing utilizing the modernized e-file approach

LFD ISSUE

Performance Criteria and Milestones are Not Measurable and Time-based

The goal for this initiative is misdirected. Providing free electronic tax filing is a means to the ultimate goal by making it easier for taxpayers to file, with one goal the stated improvements in government efficiency and the unstated goal to improve taxpayer filing to improve taxpayer compliance. The performance criteria are general and do not provide measurable and time-based targets to determine success of the initiative. Several of the performance criteria are not performance criteria, but process activities.

The legislature may want to direct the department to reevaluate the goal for the initiative and provide specific, measurable, and time-based measures and milestones for interim monitoring of the initiative and for determining if the effort is providing incremental improvements in the targeted compliance areas.

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	25.00	0.00	3.00	28.00	0.00	3.00	28.00	28.00
Personal Services	1,058,366	104,277	116,524	1,279,167	108,568	116,636	1,283,570	2,562,737
Operating Expenses	429,833	82,033	31,036	542,902	84,545	14,405	528,783	1,071,685
Equipment	54,723	0	0	54,723	0	0	54,723	109,446
Transfers	0	0	0	0	0	0	0	0
Total Costs	**$1,542,922**	**$186,310**	**$147,560**	**$1,876,792**	**$193,113**	**$131,041**	**$1,867,076**	**$3,743,868**
Proprietary	1,542,922	186,310	147,560	1,876,792	193,113	131,041	1,867,076	3,743,868
Total Funds	**$1,542,922**	**$186,310**	**$147,560**	**$1,876,792**	**$193,113**	**$131,041**	**$1,867,076**	**$3,743,868**

Program Description

The Liquor Control Division administers the alcoholic beverage code. The division oversees warehousing, inventory, and shipping of distilled spirits and fortified wines and the state agency liquor stores. The division also oversees licensing of on-premise and off-premise businesses, manufacturers, wholesalers, warehouses, importers, and liquor representatives.

Program Highlights

Department of Revenue
Liquor Control Division
Major Budget Highlights

- ♦ Proprietary funds increase by $0.7 million for the biennium over the base, or 21.3 annually primarily to:
  - Fund statewide present law adjustments ($379,400)
  - Add 3.00 FTE for workload issues of contingent legislation associated with regulation of wineries and breweries ($278,600)
- ♦ The program was added during a department reorganization

Major LFD Issues

- ♦ Performance criteria lack measurability and specificity and are not applicable to the purpose for the funding increases

Funding

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

Program Funding Table
Liquor Control Division

Program Funding		Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009
06000	Total Proprietary Funds	$ 1,542,922	100.0%	$ 1,876,792	100.0%	$ 1,867,076	100.0%
	06005 Liquor Division	1,542,922	100.0%	1,876,792	100.0%	1,867,076	100.0%
Grand	Total	$ 1,542,922	100.0%	$ 1,876,792	100.0%	$ 1,867,076	100.0%

The division is funded with a direct appropriation of Liquor Control Division proprietary funds. Net revenues from liquor sales are transferred to the general fund after operating costs are deducted from gross revenues.

Program Reorganization

As part of the agency reorganization, the Liquor Control Division was formed as an independent division. A net of 25.00 FTE were transferred into the division during the reorganization for liquor distribution from the former Resource Management Division and for liquor licensing from the former Customer Service Center.

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 FTE	Fiscal 2008 General Fund	Fiscal 2008 State Special	Fiscal 2008 Federal Special	Fiscal 2008 Total Funds	Fiscal 2009 FTE	Fiscal 2009 General Fund	Fiscal 2009 State Special	Fiscal 2009 Federal Special	Fiscal 2009 Total Funds
Personal Services					152,720					157,193
Vacancy Savings					(48,443)					(48,625)
Inflation/Deflation					17,575					18,491
Fixed Costs					64,458					66,054
Total Statewide Present Law Adjustments					**$186,310**					**$193,113**
Grand Total All Present Law Adjustments					**$186,310**					**$193,113**

LFD COMMENT

Personal Services Statewide Present Law Adjustment

The annual statewide present law adjustment for personal services is a 14.4 percent increase over the personal services base. About $70,900 of the $152,700 annual adjustment is attributable to annualizing the pay plan approved in HB 447 of the 2005 Legislature, leaving roughly $81,900 attributed to the combination of restoring funding for base year vacancies and salary or pay grade adjustments not funded in the pay plan.

Since the snapshot for developing the 2007 biennium budget, the program gave salary increases above those funded in the pay plans of the 2003 and 2005 Legislatures, which total $20,200 if annualized for a full year. The program experienced a vacancy rate in authorized FTE hours of 9.3 percent during the base year. This level of vacancy equates to roughly 2.30 FTE. Had no vacancies existed, base expenditures would have been roughly $106,000 higher.

New Proposals

New Proposals Program	Fiscal 2008 FTE	Fiscal 2008 General Fund	Fiscal 2008 State Special	Fiscal 2008 Federal Special	Fiscal 2008 Total Funds	Fiscal 2009 FTE	Fiscal 2009 General Fund	Fiscal 2009 State Special	Fiscal 2009 Federal Special	Fiscal 2009 Total Funds
DP 301 - Liquor System Reforms										
03	3.00	0	0	0	147,560 *	3.00	0	0	0	131,041 *
Total	**3.00**	**$0**	**$0**	**$0**	**$147,560 ***	**3.00**	**$0**	**$0**	**$0**	**$131,041 ***

<u>DP 301 - Liquor System Reforms – </u>An increase of $278,600 liquor control proprietary funds for the biennium is requested for personal services and operating costs to add 3.00 FTE to address workload impacts and compliance activities of legislation proposed before the 2007 Legislature (LC 515 that revises out-of-state winery access to Montana retailers and LC 516 that revises residency requirements). The executive recommends approving funding for 2.00 FTE contingent upon passage and approval of LC 515.

LFD COMMENT

Legislation and Impacts on DP 301

DP 301 is associated with two separate legislative initiatives (LC 515 and LC 516). Funding for 1.00 FTE for a licensing technician to review and approve applications for residency requirements that came out of a district court decision is not contingent upon LC 516, because the district court decision makes the function mandatory with or without legislative changes.

Funding for 2.00 FTE for compliance specialists to monitor in-state and out-of-state wineries and breweries and instate retailers is contingent upon passage and approval of LC 515.

LFD ISSUE

One Time Funding

The request includes one time funding for the initial outfitting of 3.00 FTE and costs for consultant information technology work to modify systems to address the changes. These one time costs are not ongoing costs for the functions. If the legislature didn't want the one time costs to be included in the base for the 2011 biennium budget, in may want to designate $11,775 of the FY 2008 funding as one time only.

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: The following justification is provided for two specific aspects of the proposal:

- Direct Shipments: This proposal is needed to address the U.S. Supreme Court decision in Granholm v Healdrecent regarding the constitutionality of direct shipment laws in Montana. In 2005, the U.S. Supreme Court determined that laws in Michigan and New York restricting direct shipment of wine to consumers by out-of-state wineries violated the Commerce Clause. Montana statutes could be challenged based on this decision
- Out-of-State Residency Restrictions: This proposal is needed to address a Montana district court decision concerning the constitutionality of state residency requirements for liquor licensees and establishes standards to qualify publicly traded companies as licensees. In 2005, the First Judicial District of Montana determined that Montana laws requiring liquor licensees to be residents of Montana violated the rights of Holiday Inn under the Commerce Clause. Based on this decision, Montana statutes require revision

Goals: The following goals are provided:

- Direct Shipments: The key goal of the proposal is to comply with interstate commerce clause and provide equal access to the market for both in and out of state wineries and breweries
- Out-of-State Residency Restrictions: The goal of the proposal is to bring Montana statutes in compliance with the Commerce Clause

Performance Criteria: The following performance criteria are provided:

- Direct Shipments: The Liquor Control Division will monitor the compliance of in and out of state wineries and breweries
- Out-of-State Residency Restrictions: none provided

Milestones: The following milestones are provided:

- Direct Shipments: The department will hire the 2.00 FTE immediately following passage of the law and budget
- Out-of-State Residency Restrictions: The department will hire the 1.00 FTE immediately following passage of the law and budget
- Both: Administrative rules will be developed by September 2007

Obstacles: The following obstacles would obstruct successful implementation of the proposal:

- Direct Shipments: The challenge to implementing this proposal will be to require all retail licensees to file reports for the department to cross reference

- Out-of-State Residency Restrictions: None identified at this point in time

Risk: The risks to the state if this proposal is not adopted are:

- Direct Shipments: A potential lawsuit could challenge the constitutionality of Montana statutes. In addition, the current law and the recent court decision restrict the department to take action on licensees and businesses not complying with current law. This equates to lost control on alcoholic beverages and lost revenues in taxes
- Out-of-State Residency Restrictions: Montana statutes are in conflict with the commerce clause and the Montana district court decision

LFD ISSUE

Performance Criteria and Milestones Do Not Confirm if the Goals are Achieved

The performance criteria are general and do not provide measurable and time-based targets to determine success of the initiative. A performance criteria to monitor compliance does not provide any measurable criteria to determine if the direct shipment goal is being met. There are no criteria provided for the out-of-state residency restrictions goal. Also, the milestones provided are for initial activities to hire staff and develop administrative rules, but do not relate to key milestones that would be used to evaluate incremental accomplishment toward reaching the stated goals. The measures should be specific, measurable, and time-based and the milestones should be key times then a measurable criteria is expected to be accomplished.

The legislature may want to direct the department to provide specific, measurable, and time-based measures and milestones for interim monitoring of the initiative and for determining if the effort is providing incremental improvements in the targeted compliance areas.

Language

The executive recommends the following language for the division:

"Liquor control division proprietary funds necessary to maintain adequate inventories, pay freight charges, and transfer profit and taxes to appropriate accounts are appropriated from the liquor enterprise fund (06005) to the department in amounts not to exceed $103,000,000 in fiscal year 2008 and $112,000,000 in fiscal year 2009.

In the event that the department is unable to meet statutory service levels because of the increase in demand for liquor products, the department may hire additional temporary employees or pay overtime, whichever is determined to be the most cost-effective, to maintain required service levels to stores. In fiscal year 2008 and in fiscal year 2009, the department is appropriated not more than $40,000 each year for additional costs from the liquor enterprise fund (06005) to meet the service level requirements.

In the liquor division, upon a termination that requires a payout of accrued leave balances, liquor control division proprietary funds are appropriated from the liquor enterprise fund (06005) to the department in the amount equal to the payout of the accrued leave balances, not to exceed $40,000 for each of fiscal years 2008 and 2009."

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	25.00	1.00	0.00	26.00	1.00	0.00	26.00	26.00
Personal Services	1,085,582	108,562	0	1,194,144	112,293	0	1,197,875	2,392,019
Operating Expenses	599,531	137,737	0	737,268	136,920	0	736,451	1,473,719
Equipment	80,716	0	0	80,716	0	0	80,716	161,432
Total Costs	**$1,765,829**	**$246,299**	**$0**	**$2,012,128**	**$249,213**	**$0**	**$2,015,042**	**$4,027,170**
General Fund	1,464,617	396,593	0	1,861,210	397,707	0	1,862,324	3,723,534
State/Other Special	103,238	3,547	0	106,785	5,347	0	108,585	215,370
Proprietary	197,974	(153,841)	0	44,133	(153,841)	0	44,133	88,266
Total Funds	**$1,765,829**	**$246,299**	**$0**	**$2,012,128**	**$249,213**	**$0**	**$2,015,042**	**$4,027,170**

Program Description

The Citizens Services and Resource Management Division provides agency accounting, purchasing, and statewide facilities safety and security functions. The division also provides customer service and provides support services to the other divisions of the department including operations of the call center, forms design, small business licensing coordination, and abandoned property distribution.

Program Highlights

Department of Revenue
Citizen Services and Resource Management Division
Major Budget Highlights

- ♦ Total funds increase by $495,500 and general fund increases by $794,300 for the biennium over the base, or 14.0 percent and 27.1 percent respective annual increases primarily to:
  - Add 1.00 FTE to continuously improve tax forms and other publications ($347,300)
  - Fund statewide present law adjustments ($148,300)
- ♦ The division was renamed and duties were transferred out under a department reorganization

Funding

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

Program Funding Table
Citizen Services & Resource Mgmt.

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	$ 1,464,617	82.9%	$ 1,861,210	92.5%	$ 1,862,324	92.4%
	01100 General Fund	1,464,617	82.9%	1,861,210	92.5%	1,862,324	92.4%
02000	Total State Special Funds	103,238	5.8%	106,785	5.3%	108,585	5.4%
	02025 Unclaimed Property	58,238	3.3%	59,985	3.0%	61,785	3.1%
	02088 One-Stop And New Hire Admin.	45,000	2.5%	46,800	2.3%	46,800	2.3%
06000	Total Proprietary Funds	197,974	11.2%	44,133	2.2%	44,133	2.2%
	06005 Liquor Division	197,974	11.2%	44,133	2.2%	44,133	2.2%
Grand	Total	$ 1,765,829	100.0%	$ 2,012,128	100.0%	$ 2,015,042	100.0%

The Citizens Services and Resource Management Division is funded primarily by the general fund, with a small amount of state special revenue and proprietary funds. The proprietary funding is from a direct appropriation of Liquor Control Division proprietary fund and is for the Liquor Division share of Resource Management Program support costs. The allocation is based on FTE counts. Liquor Control Division proprietary funds are an indirect use of general fund since net liquor revenues are deposited in the general fund after operating costs are deducted. The state special revenue funding comes from unclaimed property proceeds and from one-stop and new hire funds for services in support of new hire administration.

Program Reorganization

As part of the agency reorganization, the division was renamed to signify the additional duties of providing customer services to the public. In the reorganization, the liquor control and distribution, human resources, and staff training functions were transferred out of the division and the division assumed the citizen services functions from the former Customer Service Center. A net of 11.50 FTE were transferred out of the division during the reorganization.

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					110,506					114,346
Vacancy Savings					(47,845)					(47,997)
Inflation/Deflation					(1,084)					(1,048)
Fixed Costs					9,179					12,203
Total Statewide Present Law Adjustments					**$70,756**					**$77,504**
DP 7013 - Citizen Services	1.00	175,543	0	0	175,543	1.00	171,709	0	0	171,709
Total Other Present Law Adjustments	**1.00**	**$175,543**	**$0**	**$0**	**$175,543**	**1.00**	**$171,709**	**$0**	**$0**	**$171,709**
Grand Total All Present Law Adjustments					**$246,299**					**$249,213**

LFD COMMENT

Personal Services Statewide Present Law Adjustment

The annual statewide present law adjustment for personal services is a 10.2 percent increase over the personal services base. About $72,100 of the $110,500 annual adjustment is attributable to annualizing the pay plan approved in HB 447 of the 2005 Legislature, leaving roughly $38,400 attributed to the combination of restoring funding for base year vacancies and salary or pay grade adjustments not funded in the pay plan.

Since the snapshot for developing the 2007 biennium budget, the program gave salary increases above those funded in the pay plans of the 2003 and 2005 Legislatures, which total $39,600 if annualized for a full year. The program experienced a vacancy rate in authorized FTE hours of 7.6 percent during the base year. This level of vacancy equates to roughly 1.90 FTE. Had no vacancies existed, base expenditures would have been roughly $96,100 higher.

<u>DP 7013 - Citizen Services –</u> An increase of $347,300 general fund for the biennium is requested for personal services and operating costs to add 1.00 FTE to continuously improve tax forms and instructions, respond to taxpayer suggestions for improvements, and provide toll-free telephone access to the department. The request includes nearly $150,800 to provide toll free telephone service to the department call center and $92,000 to produce publications and documents. The executive recommends designating $3,925 of the FY 2008 funding as one time only and designating an appropriation for this request as biennial.

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 is to continuously improve tax forms and instructions, respond to taxpayer suggestions for improvement, and provide toll-free telephone access to the Department of Revenue. Specifically, a number of taxpayers who submitted comment cards for the 2005 income tax year requested the department include duplicate forms in future booklets. The department also believes there is a need to provide a condensed individual income tax booklet and related forms for taxpayers with a Montana tax filing obligation similar to 1040A filing for federal purposes.

Goals: The services provided through this proposal are intended to improve taxpayer compliance by making it easier for citizens to understand tax forms and instructions and to communicate with the department with their questions and requests. This will reduce inefficiencies experienced by taxpayers by making it easier to comply and understand the laws and will reduce inefficiencies created internally when taxpayers have questions or do not fully understand a particular issue. These goals fit directly within the department's mission to "provide effective and responsive service to citizens, businesses and nonresidents who participate in Montana's economy" and to "expand cooperation of citizens in making the tax system they own work well".

Performance Criteria: Develop a plan to extract selected edit criteria from the Integrated Revenue Information System and measure the exceptions to determine sections of law that warrant changes to forms and instructions or communications to taxpayers to improve understanding. Continue to seek feedback and initiate suggested changes from tax practitioners by providing draft forms and instructions for review. Continue to attend and speak to issues with tax practitioners annually at meetings including city chapter meetings of the Montana CPA Society and Gear-Up Training, a state and federal liaison meeting geared toward tax practitioners, and make changes to improve compliance and make filing easier. Explore the use of engaging focus groups to provide feedback on forms and instructions; interacting with the department; and on select compliance issues. Analyze the feedback from comment cards provided from taxpayers rating tax forms and instructions, service received through the department's call center and suggestions for improvement to ease the burden of meeting their filing obligations. Develop plans to prioritize suggested changes and strategize on ways to improve the service provided to citizens and to improve overall taxpayer compliance. Count the number of calls received via the toll-free telephone number and measure the use against the cost of the toll-free line. Capture the volume of calls received on specific issues and develop plans to educate taxpayers on the questions being asked.

Milestones: Key milestones for this proposal include:

- Hire an Instruction Drafter/Coordinator – July 2007;
- Implement changes and updates to tax forms, instructions and information available on the internet – October/November 2007
- Install and publish the department's toll-free telephone access – October/November 2007
- Receive and analyze citizen feedback on forms, instructions and access to the department – January – April 2008
- Implement changes and updates to tax forms, instructions and information available on the internet – October/November 2008
- Receive and analyze citizen feedback on forms, instructions and access to the department – January – April 2009

Obstacles: Challenges include being able to improve tax forms and instructions to meet the needs of the majority of the taxpayers, prioritizing and quantifying customer feedback to meet the most requested needs and balancing such requests against existing statutes and administrative rules, and adequately funding the costs of the toll-free access line without prior history to gauge the extent the service will be used.

Risk: If this proposal is not adopted the state compromises the service provided to citizens by being less responsive to their needs. Taxpayer compliance is also minimized because taxpayers who do not understand a particular issue are less likely to comply. This risk could come from not understanding a tax form, instructions, or a particular law, as well as not having a free form of access to the department to ask questions and to understand one's filing obligations. The department seeks to narrow the gap of non-compliance and by doing so, revenues due to the state are maximized and less of the tax burden of those who fail to comply is borne by compliant taxpayers.

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	123.75	29.00	0.00	152.75	39.00	0.00	162.75	162.75
Personal Services	5,171,666	2,397,019	0	7,568,685	2,880,865	0	8,052,531	15,621,216
Operating Expenses	1,205,755	1,061,450	0	2,267,205	1,009,261	0	2,215,016	4,482,221
Equipment	0	0	0	0	0	0	0	0
Local Assistance	0	0	0	0	0	0	0	0
Total Costs	**$6,377,421**	**$3,458,469**	**$0**	**$9,835,890**	**$3,890,126**	**$0**	**$10,267,547**	**$20,103,437**
General Fund	5,904,476	3,259,526	0	9,164,002	3,695,596	0	9,600,072	18,764,074
State/Other Special	263,460	136,411	0	399,871	131,998	0	395,458	795,329
Federal Special	209,485	62,532	0	272,017	62,532	0	272,017	544,034
Total Funds	**$6,377,421**	**$3,458,469**	**$0**	**$9,835,890**	**$3,890,126**	**$0**	**$10,267,547**	**$20,103,437**

Program Description

The Business and Income Taxes Division administers the collection of Montana corporation license, natural resource, withholding, personal income, miscellaneous taxes, and industrial and centrally assessed property valuation.

Program Highlights

Department of Revenue
Business and Income Taxes Division
Major Budget Highlights

- ♦ Total funds increase by $7.3 million and general fund increases by $7.0 million for the biennium over the base, or 57.6 percent and 58.9 percent respective annual increases primarily to:
  - Add 33.00 FTE tax compliance and collections staff and hire consultant experts ($4.5 million)
  - Fund statewide present law adjustments ($7.3 million)
  - Add 6.00 FTE to provide ongoing tax gap analyses ($0.8 million)
- ♦ 39.00 FTE are added

Major LFD Issues

- ♦ Performance criteria lack measurability and specificity and are not applicable to the purpose for the funding increases
- ♦ Without a current tax gap analysis, resource additions are questionable and reallocation of existing staff were not considered
- ♦ Some present law adjustments should be considered as new proposals

Program Narrative

New Initiatives of the 2005 Legislature

The 2005 Legislature approved ongoing funding of nearly $253,600 general fund to collect delinquent income taxes owed to the state. The target revenue for the 2007 biennium was $2.4 million and the department reports the follow progress has been made on the project:

- o All staff have been hired
- o $3.6 million in delinquent income tax debt has been collected in FY 2006 and the first four months of FY 2007

The 2005 Legislature also approved ongoing funding of nearly $1.1 million general fund to fund additional staff and operating costs for additional income and corporate tax compliance. The target revenue for the 2007 biennium was $3.4 million and the department reports the following progress has been made on the project:

- All staff have been hired
- $4.2 million has been collected in FY 2006 and the first four months of FY 2007

Funding

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

Program Funding Table
Business And Income Taxe

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	$ 5,904,476	92.6%	$ 9,164,002	93.2%	$ 9,600,072	93.5%
	01100 General Fund	5,904,476	92.6%	9,164,002	93.2%	9,600,072	93.5%
02000	Total State Special Funds	263,460	4.1%	399,871	4.1%	395,458	3.9%
	02025 Unclaimed Property	112,980	1.8%	116,370	1.2%	119,860	1.2%
	02088 One-Stop And New Hire Admin.	-	-	163,516	1.7%	152,013	1.5%
	02110 Accommodation Tax Admin	116,490	1.8%	119,985	1.2%	123,585	1.2%
	02432 Oil & Gas Era	33,990	0.5%	-	-	-	-
03000	Total Federal Special Funds	209,485	3.3%	272,017	2.8%	272,017	2.6%
	03928 Royalty Audit - Nrct	209,485	3.3%	272,017	2.8%	272,017	2.6%
Grand	Total	$ 6,377,421	100.0%	$ 9,835,890	100.0%	$ 10,267,547	100.0%

The Business and Income Taxes Division is primarily funded with general fund and with some state special revenue and federal special revenue. State special revenue comes from the accommodations tax and funds expenses for administering the tax. Federal special revenue comes from reimbursements for performing mineral royalty audits.

Program Reorganization

As part of the agency reorganization, the division assumed the accounts receivable collections functions from the former Customer Service Center. A net of 14.27 FTE were transferred into the division during the reorganization.

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 FTE	General Fund	State Special	Federal Special	Total Funds	Fiscal 2009 FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					1,019,928					1,038,789
Vacancy Savings					(247,663)					(248,416)
Inflation/Deflation					16,506					19,380
Fixed Costs					133,467					148,937
Total Statewide Present Law Adjustments					**$922,238**					**$958,690**
DP 7012 - Tax Gap Analysis	6.00	398,492	0	0	398,492	6.00	375,557	0	0	375,557
DP 7019 - Compliance - Audit & Collections	23.00	1,859,544	163,516	0	2,023,060	33.00	2,289,187	152,013	0	2,441,200
DP 7020 - Federal Royalty Audit Program	0.00	0	0	62,532	62,532	0.00	0	0	62,532	62,532
DP 7022 - Child Support Debt Collection Costs	0.00	52,147	0	0	52,147	0.00	52,147	0	0	52,147
Total Other Present Law Adjustments	**29.00**	**$2,310,183**	**$163,516**	**$62,532**	**$2,536,231**	**39.00**	**$2,716,891**	**$152,013**	**$62,532**	**$2,931,436**
Grand Total All Present Law Adjustments					**$3,458,469**					**$3,890,126**

LFD COMMENT

Personal Services Statewide Present Law Adjustment

The annual statewide present law adjustment for personal services is a 19.7 percent increase over the personal services base. About $0.3 million of the $1.0 million annual adjustment is attributable to annualizing the pay plan approved in HB 447 of the 2005 Legislature, leaving roughly $0.7 million attributed to the combination of restoring funding for base year vacancies and salary or pay grade adjustments not funded in the pay plan.

Since the snapshot for developing the 2007 biennium budget, the program gave salary increases above those funded in the pay plans of the 2003 and 2005 Legislatures, which total $208,000 if annualized for a full year. The program experienced a vacancy rate in authorized FTE hours of 10.1 percent during the base year. This level of vacancy equates to roughly 12.50 FTE. Had no vacancies existed, base expenditures would have been roughly $536,000 higher.

DP 7012 - Tax Gap Analysis – An increase of about $774,000 general fund for the biennium is requested for personal services and operating costs to add 6.00 FTE to conduct the targeted auditing necessary for a comprehensive, state-specific tax gap study program. The purpose of the program would be to provide the information needed to estimate the tax gap associated with current and emerging issues related to a wide variety of taxes, while at the same time generating additional revenue from the audits conducted in the process. The executive recommends the legislature designation $23,550 in FY 2008 as one time only.

LFD COMMENT

Legislative Audit Finding

Findings and recommendations in a legislative performance audit of the Business and Income Tax Division identified the lack of a tax gap analysis that specifically targets Montana specific tax compliance as an area where the department could improve. The audit pointed out that the department relies on federal tax gap information to allocate compliance resources and target audit functions. The audit recommended the department regularly perform tax gap analyses to determine Montana specific levels of compliance in various tax areas and use the results of the analysis as a tool for allocating resources and targeting compliance activities. Further discussion of the legislative audit can be found in the LFD discussion contained in Agency Discussion section for this agency.

LFD ISSUE

Can Existing Staff Perform the Analysis?

The tax gap analysis funded in the request adds 6.00 FTE to provide compliance audits on tax returns in current law. When asked why the department decided not to redirect existing audit staff toward the efforts that would culminate in a tax gap analysis, the department responded that the tax gap study was a new program so new staff were needed. The department stated that using existing compliance staff to perform the gap analysis would divert existing staff from existing programs and that existing levels of audit staff are substantially below what would be required to provide base audit coverage for major taxes and major groups of taxpayers.

How Does the Department Know What Level of Compliance Staff is Needed?

The legislative audit noted weaknesses in department compliance staff allocations to tax types and stated the department could better target audit efforts. Without knowing Montana's unique tax gaps by tax type, the department could be expending compliance dollars in areas with lower yields than could be attained it the actual areas with the highest tax gap were known and targeted. This means that the department cannot be certain that the current level of compliance staff is the right amount or assigned in the right areas.

How is a Tax Gap Analysis a New Function?

The tax gap analysis would audit the same tax returns audited by existing compliance staff, albeit more detailed and targeted audits. Participating in the tax gap analysis group would not divert the compliance staff from the work on existing compliance activities to a new compliance area. Since the audit function is not new, but targeted to provide data that would be used to quantify the level of non-compliance in each of the existing tax areas, the program is not new, only a new approach to an existing function of the department, with data collected that can be used to improve the department compliance efficiency.

If, as the executive states, the tax gap analysis is a new function of the department that requires new resources to accomplish, the executive should have included the request as a new proposal for legislative consideration.

Existing Staff Already Know the Taxes

Hiring new staff to participate in the tax gap analysis would bring new staff either to participate in the analysis or replace existing compliance staff shifted to participation in the analysis. The new staff would not be as familiar with Montana's tax codes as existing staff, so their productivity would be lower than existing staff. The lower productivity that would result from hiring new staff could overcome the reduced productivity that may result because of the increased detail involved in audits of the gap analysis.

Legislative Consideration

The legislature may want to ask the department to provide supporting documentation that shows how existing compliance activity and audit revenue would be impacted by using existing staff instead of adding staff to perform the tax gap analysis. The legislature may want to direct the department to include assumptions of reduced productivity from hiring new staff in the determination and documentation provided. Based on the information provided, the legislature may want to direct the department to use existing staff or a portion of existing staff to provide the tax gap analysis.

The legislature may also want to direct staff to change the adjustment from a present law decision package to a new proposal, to properly reflect the addition of this new function.

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 will fund a Montana specific tax gap study. Tax gap studies are used to determine areas of non-reporting and under reporting of income and tax dollars associated with non-compliance. Current tax gap analyses conducted by the department use information obtained from the IRS which does not adequately address compliance issues associated with Montana's unique tax system. To effectively target these areas, the department must fully understand areas of risk and emerging tax issues before they are a problem. By conducting a tax gap study, the department will be able to effectively and efficiently address non-compliance with Montana's tax system.

Goals: The goal of the proposal is to conduct a state specific tax gap study for the purpose of identifying areas of non-compliance and to quantify the tax dollars associated with non-compliance. The tax gap analysis will provide additional information that will allow the department to improve on its compliance initiatives and allocation of resources.

Performance Criteria: The unit will conduct an examination appropriate to measuring tax gaps of a sample of state income tax returns to determine under reporting of income and over reporting of deductions. At the end of the study, the unit will publish its findings. The department anticipates developing the first draft of a tax gap study December 31, 2007. The department will continually review and edit the tax gap study on a six-month basis. Results of the studies will be used to focus the department's resources on those areas most likely to increase compliance with Montana tax codes and to increase revenues. The tax gap study will be replicated in future biennia to ensure continuous, current data to help guide compliance programs.

The estimated revenue goals associated with this proposal are $797,000 in FY 2008 and $1,502,000 in FY 2009.

Milestones: The following key milestones are provided:

- Hire staff by the end of July 2007
- Complete a draft tax gap study by December 2007
- Perform ongoing six-month reviews to ensure the study is current

Obstacles: Hiring staff that will have the expertise to conduct the research for the tax gap study.

Risk: Without tax gap analysis, the department may not use its audit and collections resources most effectively. The department may fail to identify emerging trends in tax non-compliance and react too slowly.

LFD ISSUE

Performance Criteria and Milestones Do Not Establish Measurable Criteria for the Goal

The performance criteria do not provide measurable and time-based targets to determine success of the initiative. The main reason for performing the tax gap analysis is to determine specific areas and levels of non-compliance in Montana so that resources can be evaluated and allocated to effectively and efficiently address the highest areas of tax compliance risk to the state. Also, the milestones provided are for vague activities that have no specific and measurable criteria for evaluating if the milestone has been met and the real reason for performing the analysis has been achieved.

Revenue Assumption

When asked about how the estimated revenues identified as financial performance criteria were determined, the department responded that revenues received from the effort were assumed as a ratio of revenues to expenditures of 1.0 to 1.0 in FY 2008 and 2.0 to 1.0 in FY 2009. These ratios don't seem to match the information provided as they are 2.0 to 1.0 and 4.0 to 1.0, respectively for fiscal years 2008 and 2009. The legislature may want to direct the department to provide supporting documentation that shows the strong correlation between expenditures and revenues. The legislature may also want to ask the department to explain how the concept of diminishing returns would impact the correlation between revenues and expenditures. Upon questioning to determine how the revenues were determined, the department stated that the revenue estimates have been revised since being submitted in the executive budget to $398,000 in FY 2008 and $751,000 in FY 2009.

LFD ISSUE (CONT.)

Measures and Milestones

The legislature may want to direct the department to provide specific, measurable, and time-based measures and milestones for interim monitoring of the initiative and for determining if the effort is providing incremental improvements in the targeted compliance areas.

DP 7019 - Compliance - Audit & Collections - An increase of nearly $4.5 million combination general fund and state special revenue for the biennium is requested to enhance tax compliance activities in Montana. This funding would fund personal services and operating costs to add 23.00 FTE in FY 2008 and 33.00 FTE in FY 2009 to address several key compliance issues in areas such as pass-through entity audits, oil and gas tax audits, issues related to Montana source income, and issues associated with nonresident taxpayers. Funding would include $1.0 million contracted services to hire specific experts for the targeted compliance areas. The executive recommends the legislature designate $78,500 in FY 2008 and $39,250 in FY 2009 as one time only.

LFD ISSUE

Not a Present Law Adjustment

The proposal to add staff and funding to expand tax compliance activities is an expansion of a current service and falls under the statutory definition for presentation as a new proposal in the executive budget. The legislature may want to direct staff to change this decision package to a new proposal to reflect the true categorization of the request for legislative consideration.

LFD ISSUE

Determine Montana Non-compliance Areas Before Allocating Resources

As stated earlier, findings and recommendations in a legislative performance audit of the Business and Income Tax Division identified the lack of a tax gap analysis that specifically targets Montana specific tax compliance as an area where the department could improve. The audit pointed out that the department relies on federal tax gap information to allocate compliance resources and target audit functions. The audit recommended the department regularly perform tax gap analyses to determine Montana specific levels of compliance in various tax areas and use the results of the analysis as a tool for allocating resources and targeting compliance activities. Further discussion of the legislative audit can be found in the LFD discussion contained in Agency Discussion section for this agency.

A question for legislative consideration is: Without knowing Montana's true tax gap and the levels of non-compliance specific to the state, is adding resources to areas shown by a federal tax gap analysis an efficient and effective use of state resources? The legislature may want to consider waiting to add compliance staff until the department completes the tax gap analysis funded in DP 7012 and base a funding decision for additional compliance staff on areas and resource needs identified by the tax gap analysis and a review of department existing compliance resources as it applies to the results of the analysis.

Another option for legislative consideration is to use a companion bill to allow the Governor to use an appropriation in the second year of the biennium contingent upon completion of the tax gap analysis of DP 7012 and report the findings (and subsequent proposed allocations of the staff) to the Legislative Finance Committee (LFC). The LFC would then recommend to the Governor whether to release the second year appropriation.

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: It is vital that the department continually improve its ability to enforce all of Montana tax laws. This proposal focuses on areas that currently have effective programs but require additional resources to ensure the programs remain successful. This proposal will also establish several programs that will extend department compliance initiatives into areas that have not been addressed in the past but require urgent attention. The areas requiring urgent attention include pass-through entity audits, oil and gas tax audits, issues related to Montana source income, and issues associated with nonresident taxpayers. The programs designed to address these areas are:

- Tobacco Audit Program – Make permanent the currently modified 2.00 FTE tobacco auditors
- Individual and Business Field Auditors – Add 3.00 FTE auditors to address the increase in the number of individual and business income taxpayers in the state
- Pass-Through Audit Program – Develop a pass-through entity audit program and add 8.00 FTE pass-through auditor and 1.00 FTE pass-through supervisor in FY 2009
- Oil and Gas Auditors – Add 4.00 FTE auditors to address the increased oil and gas production activity
- Specialized Auditors – Add 3.00 FTE auditors to work the most complex tax issues facing the state that are partially the result of the decline in IRS audits which had addressed these issues
- Centrally Assessed Auditors – Fund the development of a centrally assessed audit program and add 2.00 FTE centrally assessed auditors
- Collections Program – Adds1.00 FTE for collections supervisor and 1.00 FTE legal collector
- Forensic Auditors – Add funding for the department to contract with forensic auditors to investigate complex accounting schemes and the hiding of assets and income
- Multistate Tax Commission (MTC) Funding – Add funding for two programs being developed by the MTC to address abusive tax shelters and nonresident debt collection
- Industrial Appraisers – Add 2.00 FTE to appraise the largest and most complex industrial properties in the state
- Taxpayer Assistance Program – Add 3.00 FTE to provide taxpayer assistance across Montana during individual income tax filing season
- Administrative Support – Add 2.00 FTE in FY 2008 and an additional 1.00 FTE in FY 2009 for administrative support and investigative research for current and new programs

Goals: The proposal is a package of programs required to address areas of inadequate staffing, enhanced customer service, and emerging tax issues. The goal for this proposal is to enhance existing programs to ensure that taxpayers are in compliance, develop new programs to address some of the most significant compliance issues facing the state, and to provide timely and effective taxpayer assistance. For each program included in the proposal the goals will generally include reducing the number of non-filers, ensuring the correct reporting of income and information, continuing to improve taxpayer awareness, improving department communication with taxpayers, establishing the correct amount tax due, and pursuing delinquent tax debt.

Performance Criteria: The department will use the following estimated revenue performance criteria for each unit as one performance criteria:

- Tobacco: $164,000 in FY 2008 and $152,000 in FY 2009
- Field Auditors: $171,000 in FY 2009
- Pass-Through: $1,373,000 in FY 2008 and $2,570,000 in FY 2009
- All other programs: $2,346,000 in FY 2008 $4,876,000 in FY
- Total $3,883,000 in FY 2008 and $7,769,000 in FY 2009 ($11,652,000 for the biennium)

In addition to the estimated revenue performance criteria for each unit, the department will:

- Develop a process to measure the effect of the programs on taxpayers voluntary filing of tax returns,
- Assess the reduction in delinquent accounts,
- Track audit findings to determine long term compliance by individual taxpayers and specific tax types, and
- Measure the impact of the programs based on periodic reviews of tax returns for accuracy.

Milestones: The following milestones are provided:

- Positions will begin to be filled in July 2007
- Development of new programs and training of staff will occur at the same time
- Monthly and/or quarterly revenue reports will be developed to track progress

Obstacles: Hiring of staff that will have the expertise to conduct the identified work.

Risk: The department’s compliance initiatives could be compromised without this proposal.

LFD ISSUE

Weakness of Goals, Performance Criteria, and Milestones

The performance criteria are general and do not provide measurable and time-based targets to determine expectations to determine success of the real reason for the initiative – to reduce non-compliance of state tax laws. As stated by the department, the goals will generally include reducing the number of non-filers, ensure the correct reporting of income and information, continue to improve taxpayer awareness, improve department communication with taxpayers, establish the correct amount tax due, and to pursue delinquent tax debt. However, they do not specifically address the issue of reduction of non-compliance. Performance measures do not provide a quantifiable and measurable means of determining success or measuring the outcome from the proposal as applied to taxpayer non-compliance reductions. Measuring success based only on the level of audit revenue generated against an arbitrary target linked to expenditures does not measure gains made in reducing taxpayer non-compliance.

Revenue Assumption

When asked about how the estimated revenues identified as financial performance criteria were determined, the department responded that revenues received from the effort were assumed as a ratio of revenues to expenditures of 1.0 to 1.0 in FY 2008 and 2.0 to 1.0 in FY 2009. The legislature may want to direct the department to provide supporting documentation that shows the strong correlation between expenditures and revenues. The legislature may also want to ask the department to explain how the concept of diminishing returns would impact the correlation between revenues and expenditures.

Measures and Milestones

The legislature may want to direct the department to provide specific, measurable, and time-based measures and milestones that are related to measuring taxpayer non-compliance and improvements achieved in reducing non-compliance for interim monitoring of the initiative and for determining if the effort is providing incremental improvements in the targeted compliance areas.

DP 7020 - Federal Royalty Audit Program - An increase of about $125,000 federal special revenue for the biennium is requested for personal services associated with the Federal Royalty Audit Program to bring funding to the level of the agreement with the federal government.

LFD ISSUE

Excess Funding Would Result

The decision package would provide additional funding for base positions that are already fully funded by the statewide present law adjustments for personal services, except for the policy decision to reduce funding for vacancy savings that is applied statewide. If this decision package is approved, personal services would be overstated by the amount of the decision package. This decision package intends to fund the positions that provide federal royalty audit work with federal funds at the agreed federal reimbursement level. This could have been accomplished in two ways: 1) funding the adjusted base for personal services for the positions at the proper level; or 2) request a funding switch as a new proposal. In order to properly fund the positions in this decision package, the funding provided in the statewide present law should be reduced as the federal funds are increased.

If the legislature concurs in increasing federal funding for the federal royalty audit positions without overstating funding for the positions, it may want to reduce general fund by $125,000 for the biennium and increase federal special revenue by a like amount.

DP 7022 - Child Support Debt Collection Costs - An increase of $104,300 general fund for the biennium is requested to fund debt collection costs for collecting overpaid child support payments made to custodial parents and delinquent child support payments from non-custodial parents. This request restores funding to the level authorized by the 2005 Legislature for this function collected in the proprietary funded program discussed below.

LFD COMMENT

Low Base Expenditures
The base for collecting child support debt collection costs was $21,583 due an error in interpreting statutory language to expend non-general fund appropriation before expending general fund. A finding in the department legislative audit identified the error in not charging general fund for costs in collecting debt associated with child support. The adjustment restores the base to the level intended by the 2005 Legislature had the error not occurred.

Proprietary Rates

Proprietary Program Description
The Collection Services Program provides the collection services function that collects debt associated with delinquent accounts. The collection services function serves all state agencies and is funded through a service charge for collecting on delinquent accounts.

Proprietary Revenues and Expenses
The program collects the largest amount of revenues on delinquent accounts through offsets of individual income tax refunds and through offsets of refunds made by the Department of Fish, Wildlife & Parks after a permit applicant is unsuccessful in drawing a hunting permit. The timing of these two major collection sources necessitates the center maintaining a 9-month working capital balance to fund expenses throughout the year. These funds are used to pay the expenses of the center, including 3.50 FTE. Personal services costs account for approximately 86.0 percent of program costs. The remaining costs are related to rent, computer access and processing, and a percentage of the statewide fixed costs allocated to this function. For the 2007 biennium, the legislature provided a $147,460 general fund, biennial appropriation to augment these proprietary funds to offset the revenue lost from not collecting a fee for the collection of overpaid child support payments made to custodial parents and collection of delinquent child support payments from non-custodial parents. During the department reorganization, this function was moved from the previous Customer Service Center to the division.

The figure for fund 06554 (fund report) shows the financial information for the fund from FY 2004 through FY 2009.

2009 Biennium Report on Internal Service and Enterprise Funds

Fund	Fund Name	Agency #	Agency Name	Program Name
6554	BIT Collection Services	58010	Department of Revenue	Business & Income tax Division

	Actual FY04	Actual FY05	Actual FY06	Budgeted FY07	Budgeted FY08	Budgeted FY09
Operating Revenues:						
Fee revenue						
Charges for Services	170,907	184,240	107,123	171,000	54,993	58,503
Net Fee Revenue	170,907	184,240	107,123	171,000	54,993	58,503
Total Operating Revenue	170,907	184,240	107,123	171,000	54,993	58,503
Operating Expenses:						
Personal Services	106,866	130,580	113,224	130,935	133,640	134,559
Other Operating Expenses	37,314	26,355	2,123	39,083	24,392	24,695
Total Operating Expenses	144,180	156,935	115,347	170,018	158,032	159,254
Operating Income (Loss)	**26,727**	**27,305**	**(8,224)**	**982**	**(103,039)**	**(100,751)**
Nonoperating Revenues (Expenses):						
Gain (Loss) Sale of Fixed Assets	-	-	-	-	-	-
Federal Indirect Cost Recoveries	-	-	-	-	-	-
Other Nonoperating Revenues (Expenses)	-	-	-	-	-	-
Net Nonoperating Revenues (Expenses)	-	-	-	-	-	-
Income (Loss) Before Operating Transfers	26,727	27,305	(8,224)	982	(103,039)	(100,751)
Contributed Capital	-	-	-	-	-	-
Operating Transfers In (Note 13)	-	-	-	-	-	-
Operating Transfers Out (Note 13)	-	-	-	-	-	-
Change in net assets	26,727	27,305	(8,224)	982	(103,039)	(100,751)
Total Net Assets- July 1 - As Restated	102,596	129,323	156,628	185,066	186,048	83,009
Prior Period Adjustments	-	-	36,662	-	-	-
Cumulative effect of account change	-	-	-	-	-	-
Total Net Assets - July 1 - As Restated	-	-	-	-	-	-
Net Assets- June 30	**129,323**	**156,628**	**185,066**	**186,048**	**83,009**	**(17,742)**
60 days of expenses (Total Operating Expenses divided by 6)	24,030	26,156	19,225	28,336	26,339	26,542

Requested Rates for Internal Service Funds

Fee/Rate Information

	Actual FYE 04	Actual FYE 05	Actual FYE 06	Budgeted FY 07	Budgeted FY 08	Budgeted FY 09
Fee Group A	10%	10%	10%	10%	5%	5%

After a recent analysis of the internal service fund, the department deterined a reduction in budget for the delinquent account collection rate. The requested rate is commensurate with the costs of the debt collection unit, staff considered the current fund balance and estimated revenues and expenses for the next biennium. Based on this analysis and a reduced collection rate, staff expect the existing fund balance to decrease and the collections to be commensurate with costs. This analysis and the requested collection rate, five percent, is based on the continuation of the HB2 biennial, general fund appropriation of $147,460 to cover collection costs related to collection of child support debt. The 2005 Legislature significantly changed the funding for the debt collection program by not allowing commission fees to be charged on child support debt collected. Instead, the legislature appropriated general fund for costs related to child support debt collection.

Proprietary Rate Explanation

The accounts receivable commission is currently 10 percent of the amount of delinquent accounts collected by the program, except for debt codes 43 (collection of overpaid child support payments made to custodial parents) or 44 (collection of delinquent child support payments from non-custodial parents). The executive recommend reducing the commission rate to 5 percent for the 2009 biennium. The executive requests the legislature approve a 5 percent commission rate for the 2009 biennium and continue the exceptions from collecting the fee for debt codes 43 (collection of overpaid child support payments made to custodial parents) or 44 (collection of delinquent child support payments from non-custodial parents).

LFD COMMENT

The rates requested for the program are being reduced to bring fees more in line with costs as identified in the most recent legislative audit of the department, and they are reliant upon the legislature continuing the policy started in the 2005 Legislature by approving general fund for child support debt collection costs. DP 7022, Child Support Debt Collection Costs, is included in the HB 2 portion of this division and restores general fund for this purpose. If the general funding for the costs to collect the child support related debt is not approved, the rates may need to be adjusted.

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	297.85	32.00	0.00	329.85	36.50	0.00	334.35	334.35
Personal Services	11,183,087	2,564,255	0	13,747,342	2,767,709	0	13,950,796	27,698,138
Operating Expenses	3,726,941	1,026,926	0	4,753,867	817,991	0	4,544,932	9,298,799
Equipment	8,722	0	0	8,722	0	0	8,722	17,444
Debt Service	972	0	0	972	0	0	972	1,944
Total Costs	**$14,919,722**	**$3,591,181**	**$0**	**$18,510,903**	**$3,585,700**	**$0**	**$18,505,422**	**$37,016,325**
General Fund	14,879,469	3,581,434	0	18,460,903	3,575,953	0	18,455,422	36,916,325
State/Other Special	40,253	9,747	0	50,000	9,747	0	50,000	100,000
Total Funds	**$14,919,722**	**$3,591,181**	**$0**	**$18,510,903**	**$3,585,700**	**$0**	**$18,505,422**	**$37,016,325**

Program Description

Property Assessment Division is responsible for the valuation and assessment of real and personal property throughout the state for property tax purposes. The division is comprised of a central office located in Helena and six regions. There is a local Department of Revenue office located in each of the county seats within the regional areas.

Program Highlights

Department of Revenue
Property Assessment Division
Major Budget Highlights

- Total funds and general fund increase by $7.2 million for the biennium over the base, or 24.1 percent annually primarily to:
  - Fund statewide present law adjustments ($3.1 million)
  - Add 32.00 FTE to address caseload impacts on property valuation staff due to state growth ($2.6 million)
  - Add 8.00 FTE to provide geographic information system support for agricultural and forest land reappraisals ($0.8 million)
- A total of 40.00 FTE are added

Major LFD Issues

- Performance criteria lack measurability and specificity and are not applicable to the purpose for the funding increases

Program Narrative

New Initiatives of the 2005 Legislature

The 2005 Legislature approved ongoing funding of nearly $570,700 general fund to develop a program for reappraising agricultural and forest land. The department reports the following progress has been made on the project:

- Have hired all staff directly related to the project, but difficulties filling a vacant existing agency position (GIS application developer) is impacting the project
- Began reappraisal of agricultural and forest land
- Contracted with the University of Montana College of Forestry and Conservation to develop a forest productivity model

Funding

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

Program Funding Table
Property Assessment Divi

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	$ 14,879,469	99.7%	$ 18,460,903	99.7%	$ 18,455,422	99.7%
01100 General Fund	14,879,469	99.7%	18,460,903	99.7%	18,455,422	99.7%
02000 Total State Special Funds	40,253	0.3%	50,000	0.3%	50,000	0.3%
02320 Property Value. Improv. Fund	40,253	0.3%	50,000	0.3%	50,000	0.3%
Grand Total	$ 14,919,722	100.0%	$ 18,510,903	100.0%	$ 18,505,422	100.0%

Funding for the Property Assessment Division is from general fund and state special revenue in the percentages shown on the above figure. State special revenue is from the property valuation improvement fund and is used for increasing the efficiency of the property appraisal, assessment, and taxation process through improvements in technology and administration. Revenue deposited to the fund is from a fee received as reimbursement for the cost of developing and maintaining the property valuation and assessment system database. The fee is charged to persons, federal agencies, state agencies, and other entities requesting the database or any part of the database from any department property valuation and assessment system. The fee may not be charged to the Office of Budget and Program Planning, the State Tax Appeal Board, or any legislative agency or committee.

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					1,797,646					1,839,264
Vacancy Savings					(519,238)					(520,891)
Inflation/Deflation					183,757					197,012
Fixed Costs					52,763					68,702
Total Statewide Present Law Adjustments					**$1,514,928**					**$1,584,087**
DP 802 - Reappraisal - GIS Staff-OTO	8.00	595,595	0	0	595,595	4.50	208,499	0	0	208,499
DP 8012 - Maintain Parcel Count Caseload	24.00	1,166,796	0	0	1,166,796	32.00	1,446,160	0	0	1,446,160
DP 8021 - PAD Field Office Rent	0.00	313,862	0	0	313,862	0.00	346,954	0	0	346,954
Total Other Present Law Adjustments	**32.00**	**$2,076,253**	**$0**	**$0**	**$2,076,253**	**36.50**	**$2,001,613**	**$0**	**$0**	**$2,001,613**
Grand Total All Present Law Adjustments					**$3,591,181**					**$3,585,700**

LFD COMMENT

Personal Services Statewide Present Law Adjustment

The annual statewide present law adjustment for personal services is a 16.1 percent increase over the personal services base. About $0.8 million of the $1.8 million annual adjustment is attributable to annualizing the pay plan approved in HB 447 of the 2005 Legislature, leaving roughly $1.0 million attributed to the combination of restoring funding for base year vacancies and salary or pay grade adjustments not funded in the pay plan.

Since the snapshot for developing the 2007 biennium budget, the program gave salary increases above those funded in the pay plans of the 2003 and 2005 Legislatures, which total $335,400 if annualized for a full year. The program experienced a vacancy rate in authorized FTE hours of 8.7 percent during the base year. This level of vacancy equates to roughly 25.80 FTE. Had no vacancies existed, base expenditures would have been roughly $673,500 higher.

DP 802 - Reappraisal - GIS Staff-OTO – An increase of $804,100 general fund for the biennium is requested for personal services and operating costs to add 8.00 FTE in FY 2008 and 4.50 FTE in FY 2009 to value agricultural and forest land by December 31, 2008. The executive recommends that an appropriation for this request should be designated as one time only.

LFD COMMENT

New Initiatives of the 2005 Legislature

This request in related to a new initiative funded by the 2005 Legislature with summary of current activities included in the Program Narrative section for this division.

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: Under current law, the department is required to complete the reclassification of all Montana agricultural and forest land by December 31, 2008. The 2005 Legislature provided budget authority to begin that effort. Additional staff and operational expenses in FY 2008 and FY 2009 were also identified in a fiscal note of the 2005 Legislature. This proposal requests an additional $200,000 to ensure we can complete the Natural Resource and Conservation Service (NRCS) statewide soil survey, an area that has not been reviewed and updated on a statewide basis in over 40 years. The department is required by law to complete a reappraisal of all three classes of property - Class 3 (agricultural land), Class 4 (residential, commercial, improvements, and land), and Class 10 (forest land).

Work estimates indicate 8 GIS technicians are needed in FY 2008 and 4.5 GIS technicians are needed in FY 2009 if the project is to be completed by December 31, 2008. That requirement is based on the department receiving NRCS soil survey and Farm Services Agency (FSA) land use data. The FSA tracks land use information. NRCS data includes soil survey information that is the basis for productivity or yield determinations.

Goals: The goal of this proposal is to complete the reclassification of all Montana agricultural and forest land by December 31, 2008, as required by current law. This proposal also addresses goals and objectives for the 2007 biennium to encourage compliance with Montana’s tax laws through public education, effective and balanced enforcement, performance of uniform valuation of all property, and support for taxpayers who comply with the law. The specific objectives are: 1) complete the statewide property revaluation (reappraisal) by December 31, 2008, in a manner that achieves objective tests of property being assessed at market or (as applicable) productivity value; and 2) complete the reclassification and productivity determination of all agricultural land and forest land by December 31, 2008, using current GIS technology and data, if made available, from FSA and NRCS.

Performance Criteria: The following steps have been taken to help ensure the division meets its performance objectives:

- Weekly meetings with central office staff (management analysts, and administrative support staff) - meeting agendas, meeting minutes, action items

- Monthly meeting with Regional/Area Managers
- Weekly meeting with Department Deputy Director
- Weekly status reports from all Managers and Analysts are required using Sharepoint through Microsoft WebAccess
- Regional quarterly meetings with staff
- Weekly to bi-weekly meetings with each county office
- Work plans for individual employees
- Monthly progress reports that quantify completion of annual and reappraisal work for each of 51 work activities
    - Status of the annual personal property work is provided weekly
    - Progress reporting is currently provided on a monthly basis; however, progress reporting will become available on a real time basis in the future
    - Mitigation strategies are required for areas where work completion is not at a satisfactory level

Milestones: The following milestones are provided:

- Classification of agricultural land by use type - start: 9/16/05; complete: 8/31/07
- Staff map review and data validation - start: 4/1/06; complete: 2/14/07
- Forest land classification - start: 4/1/06; complete: 12/14/07
- NRCS final soil survey information - start: 9/16/05; complete: 10/3/08
- Merge agricultural and forest land data - start: 1/28/08; complete: 6/27/08
- Productivity model based on soil survey - start: 12/15/06; complete: 7/15/08
- Productivity data updated in GIS - start: 7/1/08; complete: 7/15/08
- Produce productivity/use type maps for owners - start: 7/1/08; complete: 7/25/08
- Prepare & implement taxpayer information and education - start: 4/1/08; complete: 10/31/08
- Send productivity/use type maps to owners - start: 7/8/08; complete: 8/1/08
- Update data from owner responses - start: 8/1/08; complete: 12/31/08
- Apply valuation model - start: 12/1/08; complete: 12/31/08
- Mail assessment notices - start: 5/1/09; complete: 5/31/09
- AB-26 reviews/appeals - start: 5/31/09; complete: 7/1/09

Obstacles: Project deadlines and work activities are based on a tight and demanding timeframe. It will be important for the department to find staff that has agricultural backgrounds. That will reduce the learning curve and allow the department to get the maximum impact out of their employment. If all deadlines are met, the department will complete the tasks by the fall of 2008. The ability for the department to meet that completion requirement is also based on the department receiving NRCS soil survey and FSA land use data. As previously indicated in the justification, the department is requesting $200,000 so it can partner with NRCS to ensure the statewide soil survey of all privately held land in Montana is completed in time for use in the agricultural land reclassification project.

Risk: Without the personal services and operational expenses that are identified in this proposal, these activities can not be completed by December 31, 2008. It is highly likely that failure to accomplish the agricultural land/forest land reclassification project will result in legal challenges from residential and commercial property owners. Those taxpayers will be able to justifiably make equal protection arguments that their property has been appraised at market value while agricultural property is not even valued at the correct productivity value. Again, failure to successfully complete this project could compromise the reappraisal of all 3 classes of property - Class 3 (agricultural property), Class 4 (residential and commercial property), and Class 10 (forest land property).

LFD ISSUE

Performance Criteria Does Not Provide Measure

The performance criteria are not measurable criteria for performance, but process activities used to monitor the project. The performance criteria do not provide measurable and time-based targets to determine success of the initiative or interim progress against expectations.

The legislature may want to direct the department to provide specific, measurable, and time-based performance measures for interim monitoring of the initiative and for determining if the effort is providing incremental improvements in the targeted compliance areas.

DP 8012 - Maintain Parcel Count Caseload - An increase of $2.6 million general fund for the biennium is requested to fund personal services and operating costs to add 24.00 FTE in FY 2008 and 32.00 FTE in FY 2009 to address caseload impacts due to increasing numbers of property parcels. The executive recommends the legislature designate appropriations of $94,200 in FY 2008 and $31,400 in FY 2009 as one time only.

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: The Property Assessment Division (PAD) is currently understaffed and at risk of not effectively completing it's statutory requirements due to growth in the number of parcels. In the late 1990s, the department undertook a business process re-engineering initiative, META. META was predicated on the theory that there were efficiencies that could be achieved through automation that would allow significant staff reductions. As a result, many appraisal and assessment staff positions were eliminated. Unfortunately, META was a failed concept and the proposed efficiencies never came to fruition, while the reduction in FTE did. From 1994 to 2005, staffing levels in the division decreased from approximately 359 FTE to 300 FTE. Over the past five years, that included the loss of 33 division supervisory positions in a division that has over 50 percent of the total department work force.

Over the same period, parcel counts increased statewide from 735,000 in 1994 to 903,450 in 2005. Staff must review and process each new parcel associated with that growth. Additional parcels are associated with economic growth, meaning additional residential and commercial new construction, and additional increases in sales of existing homes and commercial buildings with the specific areas of growth and associated FTE impacts justified:

- Single family residences - Growth in the total number of single family residences built each year has gone from 5830 houses built in 2000 to 8229 houses built in 2005, an increase of 2339 houses built each year, or a 41 percent growth rate. Based on a continuation of that trend through 2009, estimated residential new construction will reach 11,002 houses, or an increase of 2773 houses each year. Work hours allocated to appraising each new house is 4 hours based upon an average quality house and corresponds to 6.00 FTE.
- Commercial main structures - Growth in the number of commercial main structures built each year has gone from 827 structures built in 2000 to 1220 structures built in 2005, an increase of 393 commercial main structures built each year or a 48 percent growth rate. Based on a continuation of that trend through 2009, estimated commercial new construction will reach 1714 commercial main structures, or an increase of 494 commercial properties each year. The work associated with appraising each new structure is 4 hours and corresponds to 1.00 FTE.
- Land and properties sales - Growth in the number of sales to be verified each year has gone from 21,491 sales in 2000 to 29,648 sales in 2005, an increase of 8157 sales each year or a 7.6 percent increase each year. Based on a continuation of that trend through 2009, estimated growth in the number of sales to be verified will reach 38,770 sales, or an increase of 9,122 sales each year. The work associated with processing each new sale is 1.5 hours and corresponds to 7.50 FTE.
- Property splits and ownership changes - Property splits have increased from 8822 in 2002 to 13701 in 2005, or a 55 percent workload increase. Based on a continuation of that trend through 2009, estimated growth in the number of property splits will reach 23,963 property splits in 2009, or an increase of 10,262 property splits each

year. The work hours associated with completing each parcel split is two hours per parcel and corresponds to 11.50 FTE.

- Ownership changes - Ownership changes have increased from 73,396 in 2000 to 94,643 in 2005, or a 29 percent increase. Estimated number of ownership changes will reach 108,316 by 2009 or an increase of 13,673 ownership changes each year. The work hours associated with completing each ownership change is 1/2 hour per parcel. And corresponds to 4.00 FTE.

Goals: The goal of this proposal is to complete the reappraisal of all taxable property in Montana for property tax purposes by December 31, 2008, as required by current law. This proposal also addresses goals and objectives for the 2007 biennium to encourage compliance with Montana's tax laws through public education, effective and balanced enforcement, uniform valuation of all property, and support for taxpayers who comply with the law. The specific objectives are: 1) complete the statewide property revaluation (reappraisal) by December 31, 2008, in a manner that achieves objective tests of property being assessed at market or (as applicable) productivity value; 2) certify taxable values for property to taxing jurisdictions by the statutory deadline (the certified values will include newly taxable property); and 3) increase the functionality and use of the geographic information system (GIS) statewide in the department's local offices to improve the accuracy of parcel information, to increase efficiency in division activities and to improve access by our citizens.

Performance Criteria: The following steps have been taken to help ensure the division meets its performance objectives:

- Weekly meetings with central office staff (management analysts, and administrative support staff), meeting agendas, meeting minutes, action items
- Monthly meeting with regional/area managers
- Weekly meeting with the department's deputy director
- Weekly status reports from all managers and analysts are required using Sharepoint through Microsoft WebAccess
- Regional quarterly meetings with staff
- Weekly to bi-weekly meetings with each county office
- Work plans for individual employees
- Monthly progress reports that quantify completion of annual and reappraisal work for each of 51 work activities
    - Status of the annual personal property work is provided weekly
    - Progress reporting is currently provided on a monthly basis, but will become available on a real time basis in the future
    - Mitigation strategies are required for areas where work completion is not at a satisfactory level

Milestones: The following milestones are provided:

- Sales Verification (Residential) - start: 1/1/02; complete: 6/30/08
- Sales Verification (Commercial) - start: 1/1/02; complete: 6/30/08
- Reappraisal Field Reviews (Residential) - start: 1/1/03; complete: 6/30/08
- Reappraisal Field Reviews (Commercial) - start: 1/1/03; complete: 6/30/08
- Income & Expense Collection - start: 5/1/03; complete: 6/30/08
- Cost Collection - start: 10/1/04; complete: 12/29/06
- Neighborhood/Sub-neighborhood—Delineation - start: 6/1/06; complete: 8/31/07
- Cost Models - start: 11/1/06; complete: 9/28/07
- Land Models - start: 11/1/06; complete: 1/31/08
- Cost Table Final Update - start: 1/15/08; complete: 1/15/08
- Depreciation Tables - start: 1/1/08; complete: 2/15/08
- Benchmark Sales - start: 2/18/08; complete: 7/31/08
- Benchmarking Income and Expense - start: 2/18/08; complete: 7/31/08
- Market Models - start: 7/31/08; complete: 11/14/08
- Income Models - start: 7/1/08; complete: 11/14/08
- Agricultural and Forest Land—Reclassification - start: 9/15/05; complete: 9/30/08
- Upload Agricultural Data and Schedules - start: 10/1/08; complete: 10/8/08
- Agricultural and Forest Land Valuation - start: 1/2/08; complete: 10/15/08

- Initial Final Value - start: 10/15/08; complete: 10/15/08
- Final Value Review - start: 10/15/08; complete: 5/29/09
- Assessment Generation - start: 6/2/09; complete: 6/30/09
- Reappraisal Complete - start: 7/1/09; complete: 7/1/09

Obstacles: Inadequate funding for the property assessment division would seriously jeopardize its ability to complete reappraisal – that includes any excessive vacancy savings requirement.

If the new Property Valuation and Assessment System (PVAS) is not successfully implemented by August 2007, the existing Computer Assisted Mass Appraisal System (CAMAS) would have to be used to complete reappraisal. There is real concern that the vendor may not be able, or willing, to support the existing legacy system for the time period required for reappraisal completion.

A significant obstacle is the ability of the department to recruit and retain qualified appraisal and assessment staff. That makes completion of reappraisal and the annual work requirements increasingly problematic.

Risks: Operational risks would typically include staffing reductions and issues that could jeopardize the division's ability to complete its annual and reappraisal tasks. Successful completion of reappraisal will require successful implementation of the new Property Valuation and Assessment System by August 2007. The department is also concerned that the following situations could occur if this proposal is not approved:

- Reappraisal completion and even annual property tax work could be compromised, especially if the significant growth we've been experiencing continues
- Reappraisal quality will most certainly be a concern. This could result in a protracted legal attack on the entire property tax system. It could very well pit the areas of lesser growth where property values are either static or slowly rising against the high growth areas where property values are exponentially rising. Large scale litigation, especially potential class action lawsuits, can disrupt local government finances and decision-making
- Significant numbers of properties or improvements to existing properties would not be assessed in a timely fashion or possibly at all. That translates to unequal treatment of taxpayers, and property tax collections that are not adequate for local governments to pay for needed services. It also results in fewer dollars for state support of education
- In an attempt to address high-growth areas, the division may be required to move positions from small to medium counties to those areas. The result would be permanent office closures in those small to medium counties. The workload would have to be assumed by staff from adjoining counties which has its own appraisal related problems and additional expense. Also, the result would be major taxpayer inconveniences as they are required to travel exceptionally long distances to resolve property tax issues with division field staff
- The constitutional charge to provide a fair and equitable property tax system will not be met

LFD ISSUE

Performance Criteria Not Measurable or Time-Based

The performance criteria are not measurable criteria for performance, but process activities used to monitor the project. The performance criteria do not provide measurable and time-based targets to determine success of the initiative or interim progress against expectations.

The legislature may want to direct the department to provide specific, measurable, and time-based performance measures for interim monitoring of the initiative and for determining if the effort is providing incremental improvements in the targeted compliance areas.

<u>DP 8021 - PAD Field Office Rent -</u> An increase of $660,800 general fund for the biennium to pay office space rent for division staff throughout the state is requested.

LFD COMMENT

This adjustment is related to the LFD issue identified following the statewide present law adjustments for General Services Division of the Department of Administration and in the proprietary rates portion of that division for the Facilities and Maintenance Program. The issue is associated with general fund support of the division that, depending upon legislative action, could impact rental rates for the Facilities and Maintenance Program and would impact the amount of this decision package. A portion of the rent increases of this decision package is in response to rate increases of the Facilities and Management Program for the 2009 biennium.

State law allows counties to charge rent to state agencies for space in county buildings. The amount of rent counties can charge is tied to the rates of the Facilities and Maintenance Program. If the rates are reduced as a result of general fund support of the program, the reason for a portion of this increase would change and the legislature may want to approve a lower amount for PAD field office rent.