

**Program Proposed Budget**

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

Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	492.92	0.00	1.00	493.92	0.00	1.00	493.92	493.92
Personal Services	22,208,155	553,531	40,779	22,802,465	717,688	40,820	22,966,663	45,769,128
Operating Expenses	8,376,219	140,305	1,129,504	9,646,028	236,449	61,064	8,673,732	18,319,760
Equipment	68,120	(53,120)	0	15,000	(53,120)	0	15,000	30,000
Benefits & Claims	96,915,222	2,598,760	14,211,731	113,725,713	2,659,299	18,015,352	117,589,873	231,315,586
Debt Service	0	0	0	0	0	0	0	0
<b>Total Costs</b>	<b>\$127,567,716</b>	<b>\$3,239,476</b>	<b>\$15,382,014</b>	<b>\$146,189,206</b>	<b>\$3,560,316</b>	<b>\$18,117,236</b>	<b>\$149,245,268</b>	<b>\$295,434,474</b>
General Fund	46,584,972	1,520,275	3,738,665	51,843,912	1,817,150	4,651,055	53,053,177	104,897,089
State/Other Special	1,458,428	512,758	2,782,826	4,754,012	513,938	2,185,587	4,157,953	8,911,965
Federal Special	79,524,316	1,206,443	8,860,523	89,591,282	1,229,228	11,280,594	92,034,138	181,625,420
<b>Total Funds</b>	<b>\$127,567,716</b>	<b>\$3,239,476</b>	<b>\$15,382,014</b>	<b>\$146,189,206</b>	<b>\$3,560,316</b>	<b>\$18,117,236</b>	<b>\$149,245,268</b>	<b>\$295,434,474</b>

**Program Description**

Disability Services Division (DSD) assists Montanans with disabilities in living, working, and participating in their communities. The division provides or contracts for institutional care, residential services, home-based services families, case management, and a variety of employment outcome-related services. These services include counseling and guidance, career training, transportation, adaptive equipment, orientation and mobility services to the blind, vocational rehabilitation training, independent living services, medical services, job placement, and supported employment. DSD is responsible for medical adjudication of all claims for Social Security Disability and Supplemental Security Income. The division is responsible for the state institution at the Montana Developmental Center (MDC) in Boulder.

Vocational Rehabilitation (VR) serves individuals with orthopedic, mental, visual, hearing, brain injury, and other disabilities. Developmentally disabled includes individuals with mental retardation, epilepsy, autism, or other neurological conditions that require treatment similar to those required by someone with mental retardation. The developmental disability must have originated before age 18 and have resulted in a substantial handicap for indefinite duration.

Disability Services Division (DSD) serves the telephone needs of Montanans who are deaf, hard of hearing, speech disabled, or mobility disabled through the Montana Telecommunication Access Program (MTAP).

Statutory Title 53, MCA, 29 U.S.C. 721 et. seq., 29 U.S.C. 796, et. seq., 29 U.S.C. 774, 29 U.S.C. 777b, 29 U.S.C. 2201 et. seq., 42 U.S.C. 75, 6602, 72 U.S.C. 1300, 42 CFR 441.302(b), 42 CFR 441.302(g), 45 CFR 74.62, and 34 CRF Part 303

**Program Highlights**

<b>Disability Services Division Major Budget Highlights</b>
<ul style="list-style-type: none"> <li>◆ The 2009 biennium budget is \$37 million greater than the 2007 biennium budget primarily due to a \$35 million increase in benefits and claims included in the Governor’s budget comprising:                             <ul style="list-style-type: none"> <li>• \$18 million to implement the 2009 biennium phase of the rate rebasing project</li> <li>• \$11.4 million to reduce the waiting list</li> <li>• \$5 million to annualize cost plans for individuals moving into the communities</li> </ul> </li> </ul>

<ul style="list-style-type: none"> <li>• \$1 million for a contingency appropriation for the Montana Telecommunication Access Program</li> <li>◆ The \$12 million increase in general fund and \$20 million increase in federal funding corresponds to the Governor's request to increase benefits</li> <li>◆ The \$5 million increase in state special revenue is due to: <ul style="list-style-type: none"> <li>• A \$1 million contingency request in the event that the federal government mandates that states pay for new technologies in the telecommunication programs</li> <li>• \$3.9 million of I-149 funds in support of provider rate rebasing and increases</li> </ul> </li> </ul>
<b>LFD Major Issues</b>
<ul style="list-style-type: none"> <li>◆ Montana Developmental Center Medicaid reimbursements may be over-estimated</li> </ul>

### *2005 Legislative Initiatives*

The following initiatives implemented by the 2005 Legislature have set the stage for this legislature and future legislatures to discuss a statewide infrastructure to provide services to Montana's developmentally disabled population in a community setting and at MDC. The initiatives are intertwined with issues faced by this legislature that will be discussed in greater detail later in the context of the Governor's budget.

The 2005 Legislature provided \$8.7 million to address the waiting list for developmentally disabled services, the downsizing of MDC, and direct care worker wages.

The initiatives were partially driven by litigation at both the state and federal level. At the federal level, the U.S. Supreme Court decision in the case commonly known as *Olmstead* requires states to provide community based services for persons with disabilities who would otherwise be entitled to institutional services under appropriate conditions. At the state level, the settlement in February of 2004 of the case commonly known as *Travis D* also provides for appropriate community services for individuals with disabilities.

### Wait List Reduction

The legislature provided about \$0.6 million general fund and \$1.6 million federal funds for the biennium as a restricted appropriation to move 15 individuals off the developmental disabilities waiting list. At the time of the appropriation, there were about 500 individuals throughout the state receiving no services, and about 800 individuals receiving some services.

Reduction of the waiting list is on-going. As of December 1, 2006 the division has removed 40 individuals from the waiting list as follows:

- 20 adults from the waiting list of about 500 that were receiving no services
- 20 adults from the waiting list of about 800 that had access to some services

Additionally, the division expanded services to 28 individuals, children aging out of intensive Medicaid waiver services and aging out of foster care services into community services. The division estimates that there are approximately 25 individuals that may come into the system in the next few years.

There is further discussion in the new proposal section with DP 10010.

Address the requirements of the Travis D lawsuit

The legislature also provided about \$2.2 million to address the Travis D lawsuit and support the move of 26 individuals from MDC into community services, support community training, provide crisis funds and community construction start-up. As of this writing the division has moved 26 individuals into the community and plans to additionally move all individuals from MDC's Unit 16AB into the community by the summer of 2007 and close the unit. It was reported to the Legislative Finance Committee that the unit would be closed by the end of December, 2006. However, there are four individuals requesting to remain in the Boulder community. The contracted provider has attempted to purchase property to convert to a suitable home environment in Boulder. The sale did not go through, and a more realistic timeline to move these individuals is now the summer of 2007. The community training and crisis funds are in place, and start-up funds were awarded to communities so they can accept MDC individuals and ensure their health and safety.

New Secure Unit

Although the population is decreasing at MDC, the construction of a new, secure replacement unit is scheduled to begin in December of 2006. Funding of \$2.5 million was provided through HB 5, the long range building program bill, by the 2005 Legislature to create a secure, safe, therapeutic environment for people with developmental disabilities who exhibit high-risk behaviors. The facility will house 12 residents in three home-style dwellings. The division is researching Medicaid eligibility for this unit.

Direct Care Worker Wage Increase

The legislature appropriated \$4.3 million of general fund, state special revenue from I-149 funds, and federal special revenue to increase benchmarks for the base wage component of the standardized rate from the 25<sup>th</sup> percentile of direct care worker salaries to the 35<sup>th</sup> percentile. Depending upon the wages before legislative action, increases ranged from a few cents to \$3.00 per hour. According to division staff and providers, the appropriation did not ease the high rate of turnover and number of vacancies that still exist in direct care worker positions throughout the state. The division is working to address this issue through the rate rebasing process as well as the development of a direct care worker training and skill development program. There is further discussion in the section on rate rebasing and wait list reduction.

**Program Narrative**

The Disability Services Division may be summarized into four major functions, as illustrated in Figure 50. The four major functions and the percentage of the proposed budget that each represents are: 1) vocational rehabilitation services, 13 percent; 2) institutional developmental disability services, 16 percent; 3) community developmental disability services, 68 percent; and 4) disability determination services, 3 percent.

The 2009 biennium budget requests nearly \$100 million per year to support community services for developmentally disabled individuals, an increase of \$22 million over the \$78 million appropriated last biennium for community services. The most common developmental disabilities exhibited by individuals receiving state funded services include mental retardation, autism, cerebral palsy, and other types of brain or neurological damage. More than 70 percent of these individuals have a secondary diagnosis such as epilepsy, cerebral palsy, deafness, blindness, mental illness, chemical dependency, and other physical difficulties.

Figure 50  
Disability Services Division  
Summary of Major Program Functions with Funding

Function	Fiscal 2006 Base Budget				Fiscal 2008 Request				Fiscal 2009 Request				Percent of Division Total
	General Fund	State Special	Federal	Total Funds	General Fund	State Special	Federal	Total Funds	General Fund	State Special	Federal	Total Funds	
<b>Vocational Rehabilitation</b>													
Voc. Rehab. Administration	\$815,556	\$0	\$3,017,998	\$3,833,554	\$904,631	\$0	\$3,138,120	\$4,042,751	\$906,219	\$0	\$3,156,543	\$4,062,762	2.7%
Voc. Rehab. Benefits	1,644,659	0	6,040,584	7,685,243	1,870,109	0	6,200,545	8,070,654	1,881,572	0	6,242,897	8,124,469	5.5%
Visual Services Medical Benefits	84,002	0	0	84,002	84,002	0	0	84,002	84,002	0	0	84,002	0.1%
Independent Living - Admin.	14,340	0	129,223	143,563	16,059	0	144,538	160,597	16,175	0	145,578	161,753	0.1%
Independent Living - Benefits	13,793	0	53,158	66,951	8,369	0	60,256	68,625	8,369	0	60,256	68,625	0.0%
Sec. 110 Blind Low Vision Administration	207,809	0	550,446	758,255	259,602	0	636,710	896,312	260,566	0	640,089	900,655	0.6%
Sec. 110 Blind Low Vision Benefits	188,612	0	703,726	892,338	213,929	0	708,006	921,935	214,344	0	709,543	923,887	0.6%
In Service Training - Administration	7,115	0	68,130	75,245	7,135	0	68,329	75,464	7,138	0	68,358	75,496	0.1%
Supported Employment	0	0	291,453	291,453	0	0	291,453	291,453	0	0	291,453	291,453	0.2%
Independent Living Part B Benefits	361,548	0	200,045	561,593	375,588	0	200,045	575,633	375,588	0	200,045	575,633	0.4%
Independent Living Part B Administration	7,372	0	66,418	73,790	57,846	0	70,693	128,539	57,853	0	70,748	128,601	0.1%
MONTECH Grants	0	0	502,755	502,755	0	0	502,755	502,755	0	0	502,755	502,755	0.3%
Extended Employment Benefits	1,043,775	0	0	1,043,775	1,069,869	0	0	1,069,869	1,069,869	0	0	1,069,869	0.7%
Montana Telecommunications Access Prog.	0	931,196	0	931,196	0	2,017,953	0	2,017,953	0	954,133	0	954,133	1.0%
Social Security Benefits	0	0	183,144	183,144	0	0	183,144	183,144	0	0	183,144	183,144	0.1%
Subtotal Vocational Rehabilitation	\$4,388,581	\$931,196	\$11,807,080	\$17,126,857	\$4,867,139	\$2,017,953	\$12,204,594	\$19,089,686	\$4,881,695	\$954,133	\$12,271,409	\$18,107,237	12.6%
Percent of Total	25.6%	5.4%	68.9%	100.0%	25.5%	10.6%	63.9%	100.0%	27.0%	5.3%	67.8%	100.0%	
<b>Institutions</b>													
Montana Development Center	\$12,743,486	\$47,433	\$0	\$12,790,919	\$13,276,275	\$47,433	\$0	\$13,323,708	\$13,381,715	\$47,433	\$0	\$13,429,148	9.1%
Institutional Medicaid Benefits	0	0	8,343,836	8,343,836	0	0	8,343,836	8,343,836	0	0	8,343,836	8,343,836	5.6%
Montana Development Center Unit 104	1,301,531	0	0	1,301,531	1,422,503	0	0	1,422,503	1,437,672	0	0	1,437,672	1.0%
MDC Unit 16 AB	1,100,354	0	0	1,100,354	0	0	0	0	0	0	0	0	0.0%
Subtotal Institutions	\$15,145,371	\$47,433	\$8,343,836	\$23,536,640	\$14,698,778	\$47,433	\$8,343,836	\$23,090,047	\$14,819,387	\$47,433	\$8,343,836	\$23,210,656	15.7%
Percent of Total	64.3%	0.2%	35.5%	100.0%	63.7%	0.2%	36.1%	100.0%	63.8%	0.2%	35.9%	100.0%	
<b>Developmental Disabilities - Community</b>													
Administration	\$1,339,979	\$4,800	\$1,689,827	\$3,034,606	\$1,522,233	\$4,800	\$1,915,619	\$3,442,652	\$1,528,359	\$4,800	\$1,923,208	\$3,456,367	2.3%
Targeted Case Management Administration	606,797	0	930,947	1,537,744	647,751	0	994,359	1,642,110	651,247	0	999,297	1,650,544	1.1%
Targeted Case Management - Adults	460,669	0	1,115,943	1,576,612	1,058,787	0	2,315,298	3,374,085	1,082,258	0	2,342,608	3,424,866	2.3%
DD Medicaid Benefits	18,355,282	0	44,482,013	62,837,295	21,004,110	2,683,826	51,467,919	75,155,855	21,816,064	3,151,587	53,712,348	78,679,999	52.1%
TCM 50/50, PASAAR 2; Rate Project	158,221	0	369,771	527,992	182,699	0	383,216	565,915	182,916	0	383,432	566,348	0.4%
DD General Fund, Title XX	2,607,349	474,999	3,920,766	7,003,114	4,084,076	0	4,860,808	8,944,884	4,245,935	0	4,860,808	9,106,743	6.1%
DD Part C and General Fund Moe	\$3,522,723	0	\$2,252,750	\$5,775,473	\$3,778,339	0	\$2,252,750	\$6,031,089	\$3,845,316	\$0	\$2,252,750	\$6,098,066	4.1%
Subtotal Developmental Disabilities-Comm.	\$27,051,020	\$479,799	\$54,762,017	\$82,292,836	\$32,277,995	\$2,688,626	\$64,189,969	\$99,156,590	\$33,352,095	\$3,156,387	\$66,474,451	\$102,982,933	68.4%
Percent of Total	32.9%	0.6%	66.5%	100.0%	32.6%	2.7%	64.7%	100.0%	32.4%	3.1%	64.5%	100.0%	
<b>Other</b>													
Disability Determination Services	\$0	\$0	\$4,611,383	\$4,611,383	\$0	\$0	\$4,852,883	\$4,852,883	\$0	\$0	\$4,944,442	\$4,944,442	3.3%
Subtotal Other	\$0	\$0	\$4,611,383	\$4,611,383	\$0	\$0	\$4,852,883	\$4,852,883	\$0	\$0	\$4,944,442	\$4,944,442	3.3%
Percent of Total	0.0%	0.0%	100.0%	100.0%	0.0%	0.0%	100.0%	100.0%	0.0%	0.0%	100.0%	100.0%	
Total Disability Services Division	\$46,584,972	\$1,458,428	\$79,524,316	\$127,567,716	\$51,843,912	\$4,754,012	\$89,591,282	\$146,189,206	\$53,053,177	\$4,157,953	\$92,034,138	\$149,245,268	100.0%
Percent of Total	36.5%	1.1%	62.3%	100.0%	35.5%	3.3%	61.3%	100.0%	35.5%	2.8%	61.7%	100.0%	

**Biennial Comparison**

The increase of nearly \$35 million in benefits and claims is due primarily to the Governor's request for funding to address provider rates, annualize cost plan expenditures for clients that have moved from MDC into the community, move more individuals off of the waiting list for community services, and increase tuition for vocational rehabilitation clients. About 50 percent of the increase in personal services is due to the implementation of the pay plan approved by the 2005 Legislature, about 20 percent is due to class upgrades and salary adjustments to market, and the balance of the increase is for benefits, longevity, and health insurance.

Figure 51  
2007 Biennium Compared to 2009 Biennium  
Disability Services Division

Budget Item/Fund	2007 Biennium	2009 Biennium	Percent of Total	Change	Percent Incr/Decr
FTE	492.92	493.92		1	0.2%
Personal Services	\$43,879,382	\$45,769,128	15.5%	\$1,889,746	4.3%
Operating	17,383,154	18,319,760	6.2%	936,606	5.4%
Equipment	138,753	30,000	0.0%	(108,753)	-78.4%
Benefits&Claims	196,580,429	231,315,586	78.3%	34,735,157	17.7%
Debt Service	10,688	0	0.0%	(10,688)	-100.0%
Total Costs	<u>\$257,992,406</u>	<u>\$295,434,474</u>	<u>100.0%</u>	<u>\$37,442,068</u>	<u>-151.0%</u>
General Fund	\$92,562,703	\$104,897,089	35.5%	\$12,334,386	13.3%
State Special	3,851,650	8,911,965	3.0%	5,060,315	131.4%
Federal Funds	<u>161,578,053</u>	<u>181,625,420</u>	<u>61.5%</u>	<u>20,047,367</u>	<u>12.4%</u>
Total Funds	<u>\$257,992,406</u>	<u>\$295,434,474</u>	<u>100.0%</u>	<u>\$37,442,068</u>	<u>14.5%</u>

The increases in benefits are illustrated in Figure 52. Medicaid benefits provided to developmentally disabled individuals living in the community comprise 67 percent of the benefits provided by the division and the largest share of the Governor's proposals - 83 percent in FY 2008 and 90 percent in FY 2009. The increases in Medicaid benefits are primarily driven by the Governor's request of \$18 million to address the rate rebasing for providers, \$11 million to reduce the waiting list, and \$5 million to annualize cost plans for clients moving into the community.

The General Fund / Title XX line is nearly 8 percent of the benefits and claims total, representing various non-Medicaid benefits. The increase is related to the FMAP change, rate rebasing, and annualization of client cost plans.

Medicaid reimbursement for services provided to developmentally disabled individuals residing at MDC comprise 7 percent of the benefits provided by the division, but are not predicted to increase because clients are moving from MDC into the community.

Figure 52  
Disability Services Division  
Summary of Benefits Costs with Funding

Description	Fiscal 2006 - Base Budget				Fiscal 2008 Request				Fiscal 2009 Request				Percent Total
	General Fund	State Spec. Rev	Federal Funds	Total Funds	General Fund	State Spec. Rev	Federal Funds	Total Funds	General Fund	State Spec. Rev	Federal Funds	Total Funds	
Benefits and Claims													
Voc. Rehab. Benefits	\$1,643,054	\$0	\$6,034,951	\$7,678,005	\$1,870,109	\$0	\$6,200,807	\$8,070,916	\$1,881,572	\$0	\$6,243,159	\$8,124,731	6.9%
Visual Services Medical Benefits	84,002	0	0	84,002	84,002	0	0	84,002	84,002	0	0	84,002	0.1%
Independent Living - Benefits	13,793	0	53,158	66,951	8,369	0	60,256	68,625	8,369	0	60,256	68,625	0.1%
Sec. 110 Blind Low Vision Benefits	188,586	0	703,726	892,312	213,903	0	708,006	921,909	214,318	0	709,543	923,861	0.8%
Supported Employment	0	0	291,453	291,453	0	0	291,453	291,453	0	0	291,453	291,453	0.2%
Independent Living Part B Benefits	361,548	0	200,045	561,593	375,588	0	200,045	575,633	375,588	0	200,045	575,633	0.5%
MONTECH Grants	0	0	502,755	502,755	0	0	502,755	502,755	0	0	502,755	502,755	0.4%
Extended Employment Benefits	1,043,775	0	0	1,043,775	1,069,869	0	0	1,069,869	1,069,869	0	0	1,069,869	0.9%
Social Security Benefits	0	0	183,144	183,144	0	0	183,144	183,144	0	0	183,144	183,144	0.2%
MDC Medicaid	0	0	8,343,836	8,343,836	0	0	8,343,836	8,343,836	0	0	8,343,836	8,343,836	7.1%
Medicaid Benefits	18,355,282	0	44,482,013	62,837,295	21,004,110	2,683,826	51,467,919	75,155,855	21,816,064	3,151,587	53,712,348	78,679,999	66.9%
Part C and General Fund Benefits	3,474,306	0	2,221,788	5,696,094	3,727,413	0	2,222,386	5,949,799	3,793,968	0	2,222,668	6,016,636	5.1%
General Fund, Title XX, Other Benefits	2,607,349	474,999	3,920,766	7,003,114	4,084,076	0	4,860,808	8,944,884	4,245,935	0	4,860,808	9,106,743	7.7%
DD Targeted Case Management Adult	460,669	0	1,115,943	1,576,612	1,058,787	0	2,315,298	3,374,085	1,082,258	0	2,342,608	3,424,866	2.9%
PASAAR Benefits	0	0	111,659	111,659	0	0	138,364	138,364	0	0	138,364	138,364	0.1%
Disability Determination Services	0	0	42,622	42,622	0	0	50,584	50,584	0	0	55,356	55,356	0.0%
<b>Total Benefits and Grants</b>	<b>\$ 28,232,364</b>	<b>\$474,999</b>	<b>\$68,207,859</b>	<b>\$96,915,222</b>	<b>\$33,496,226</b>	<b>\$2,683,826</b>	<b>\$77,545,661</b>	<b>\$113,725,713</b>	<b>\$34,571,943</b>	<b>\$3,151,587</b>	<b>\$79,866,343</b>	<b>\$117,589,873</b>	<b>100.0%</b>

Changes in Service Provision

The growth shown in the benefits chart reflects the fact that the developmental disability (DD) service system has undergone significant system change and evolution. The following discussion addresses the provision of services to Montana’s developmentally disabled population in community settings, the method of allocating resources among providers and clients, and the changing complexion of MDC. The three major issues discussed are: 1) rebasing and other factors impacting providers; 2) the changing institutional population; and 3) reduction of the waiting list.

The Governor proposes a total of \$29 million to go into the system for social benefits to clients.

- o \$18 million to address provider rates
- o \$11.4 million total funds to reduce the waiting list

*Rate Rebasing*

Under federal mandate, the division undertook a project to rebase provider rates. The division was required to change its system from a provider contract to a formula-based system with an established price structure for services selected by the consumer rather than governed by the provider’s contract with the state. Additionally, the division was federally required to implement consumer choice among providers and the portability of services from location to location. Changes undertaken were designed to ultimately stabilize and improve service to clients and providers through:

- o Resource allocation changes - Available funding is allocated among clients via a cost allocation tool (commonly called the MONA) that ties services to a cost thereby allowing clients to select services based upon need and interest while understanding what services would cost. The cost allocation plans allow clients to relocate without service interruption because service rates are uniform throughout the state.
- o Statewide published provider rates and method of billing - The fees that providers are reimbursed are based upon a published fee schedule and uniform statewide, which allows providers to bill for the services provided to each individual rather than billing each month for 1/12 of a contracted amount

Throughout the pilot phases, the division has gathered detailed data from providers on all aspects of their costs and the application of those costs to conducting business under the standardized rate and billing structure. This data and the pilot testing of the new standardized rate system shows that not all providers have been historically paid the same for providing similar services to similar clients. While the division is working on a process to correct this, there are still problems in terms of reductions to the providers that historically have been compensated more than the average.

*Adult Provider Rates*

Figure 53 summarizes the benchmarks for rates for selected services within the DD system and incorporates the executive budget. The proposed rates for the DD system are comprised of four factors:

- o Direct care wage rate
- o Employee benefits
- o Program related costs
- o General and administrative costs

The benchmarks shown in Figure 53 do not mean providers are required to pay costs at that rate. It simply means the reimbursement rate is adequate to pay costs at the specified level. Providers maintain freedom to establish employee wages, benefits, and other costs at the level the provider wishes.

In arriving at the direct care wage rate that would be assumed as part of the reimbursement rate calculation, a number of data sources of wage and salary information for comparable job duties were evaluated to arrive at a benchmark, which was ultimately set at the 35th percentile for comparable jobs. A benchmark set at the 35th percentile means that if three individuals applied for the position, one of the three individuals would accept the position at the wage rate offered. Employee benefits include both mandated (social security, Medicare tax, workers compensation, and unemployment) and non-mandated (health insurance,

Component	Individual Supported Employment	Group Home (Regular / Geo 1 - 6 sites)	Day Activity Programs (No Geo)	Supported Living (More than 4 individuals)	
Direct Care Wage	\$16.00	\$8.56	\$8.56	\$8.56	
Employee Benefits	40.13%	40.13%	40.13%	40.13%	
Program Related	27.70%	25.00%	27.70%	25.00%	
General & Admin	7.00%	7.00%	7.00%	12.00%	
Base Hourly Rate	33.34	17.19	17.84	18.17	
<b>Selected Proposed Capitated Rates</b>					
Service	Hourly Rate	Mean Hrs. /Day	Days / Month	Hours/ Month	Per Member per Month
Supported Employment Tier #1	\$33.34	1.00	21.00	21.00	\$700.14
Supported Living Base - 30 hrs./ mo.	18.17	1.00	30.45	30.50	553.28

retirement, paid time off, etc), and were benchmarked at 40.13 percent of wages. Program related costs were benchmarked at varying rates depending upon the service and geographic remoteness. A geographical factor increases reimbursement rates for some services provided in areas ranking highest in several factors related to costs of housing, labor, etc.

*Child Provider Rates*

Following the same process as the adult provider rate project, the initial child provider rates have been established for children who are enrolled in home and community-based waiver services. The rates are based upon data gathered in studies of all providers as well as through a resource allocation tool that was completed by the families showing the amount of services they would choose. The chart below shows the initial amounts that will be tested by families in Regions I and II. As was done in the Adult Provider Rate Pilot, should the initial Children’s Rate Pilot indicate a need, these rates will be adjusted.

Service	Rate
Family Support Specialist	\$483.22 per month
Family Education and Training	\$36.67 per hour
Residential Habilitation (non-facility direct care)	\$18.17 per hour
Residential Habilitation (individual training materials)	\$1,000 per year
Respite Care (direct care)	\$12.96 per hour
Respite Care (individual care items)	\$1,000 per year
Day Habilitation	\$17.84 per hour
Therapies	State Medicaid Plan

Ultimately, providers in the adult and children programs will invoice based upon the service and volume of service units provided to a specific client, and will be reimbursed according to a uniform, published fee schedule. There is further discussion in the new proposal section.

Other Factors Impacting Providers

In the discussion of rate rebasing requests, the legislature may wish to discuss direct care worker salaries and vacancies in the context of the potential impact to the clients as well as the health and safety of present staff, and the financial health of the provider.

There is a diminishing labor market for direct care workers throughout the state. This situation could impact present and future service delivery and the ability of providers to serve the clients they have as well as accept new clients from the waiting lists.

The lack of direct care workers is also a budget issue for providers because in the new rate system they can only invoice for direct care services provided when the direct care staff are present to provide the service. High vacancies can possibly mean less revenue if a substitute worker is not available. An acute situation could potentially lead to cuts in costs at the provider level, which could impact service to clients.

Providers and the division acknowledge that the shortage of workers is not only wage based, but also related to the type of work involved, and the perception that there is no career ladder with these jobs.

The Governor addresses this issue by requesting funds for direct care employees’ on-line certification tuition through the College of Direct Supports to address workers’ immediate needs and career advancement.

Institutional Population

The population currently being committed to MDC is defined as a population that is a danger to themselves and others. Individuals arrive at MDC by a civil commitment, a criminal commitment, or by a court referral for short term evaluation of their fitness to proceed in criminal cases. Civil commitments are for no longer than one year. In criminal cases, if an individual is capable to stand trial and found guilty, but placement to the correction system is determined inappropriate, the individual can be committed to MDC as a criminal to serve a criminal sentence. The state must take an individual for an emergency civil commitment or for a criminal sentence.

It is a goal of the division and MDC to move individuals into the community; however the MDC population is difficult to serve due to behavioral issues, criminal commitments, and the severity of medical issues.

As the legislature considers proposals related to MDC, it may wish to discuss the division’s plan for the future of MDC.

- What are the short and long term needs and plans for the facility and the related costs?
- What is the present and future role of MDC when one of its clients moves into a community?

There is further discussion and the Governor’s proposals in present law and new proposal sections that follow.

<b>LFD ISSUE</b>	<p><b>Institutional Reimbursement</b></p> <p>The wait list reductions discussed with the 2005 legislative initiatives reduces MDC’s federal revenue from institutional reimbursement as the Medicaid eligible population transition into the community. The average daily population at MDC in FY 2006 was 78, but with the closure of Unit 16 AB, the maximum population for 2009 biennium is 68 per year, not all of which could be Medicaid eligible. The main reasons are: 1) a criminally committed individual has usually not been diagnosed under SSI and arrives at MDC Medicaid ineligible; 2) the secured units are not presently Medicaid eligible so reimbursements are lowered if clients are transferred to a secured unit for a period of time; and 3) there are some residents that can’t meet the level of active medical treatment required by Medicaid. Figure 55 summarized the MDC client costs as recorded in MBARS.</p>	<p style="text-align: center;"><b>Figure 55</b> <b>Montana Developmental Center Expenditures</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">Actual FY 2004</th> <th style="text-align: center;">Actual FY 2006</th> <th style="text-align: center;">Requested FY 2008</th> <th style="text-align: center;">Requested FY 2009</th> </tr> </thead> <tbody> <tr> <td>FTE</td> <td style="text-align: right;">327.26</td> <td style="text-align: right;">268.80</td> <td style="text-align: right;">268.80</td> <td style="text-align: right;">268.80</td> </tr> <tr> <td>Personal Services</td> <td style="text-align: right;">\$13,782,326</td> <td style="text-align: right;">\$12,332,832</td> <td style="text-align: right;">\$11,842,717</td> <td style="text-align: right;">\$11,963,777</td> </tr> <tr> <td>All other</td> <td style="text-align: right;"><u>2,516,110</u></td> <td style="text-align: right;"><u>2,859,972</u></td> <td style="text-align: right;"><u>2,903,494</u></td> <td style="text-align: right;"><u>2,903,043</u></td> </tr> <tr> <td><b>Total</b></td> <td style="text-align: right;"><b><u>\$16,298,436</u></b></td> <td style="text-align: right;"><b><u>\$15,192,804</u></b></td> <td style="text-align: right;"><b><u>\$14,746,211</u></b></td> <td style="text-align: right;"><b><u>\$14,866,820</u></b></td> </tr> <tr> <td>General Fund</td> <td style="text-align: right;">\$16,249,031</td> <td style="text-align: right;">\$15,145,371</td> <td style="text-align: right;">\$14,698,778</td> <td style="text-align: right;">\$14,819,387</td> </tr> <tr> <td>State Special Rev.</td> <td style="text-align: right;">49,405</td> <td style="text-align: right;">47,433</td> <td style="text-align: right;">47,433</td> <td style="text-align: right;">47,433</td> </tr> <tr> <td>Federal Special</td> <td style="text-align: right;"><u>0</u></td> <td style="text-align: right;"><u>0</u></td> <td style="text-align: right;"><u>0</u></td> <td style="text-align: right;"><u>0</u></td> </tr> <tr> <td></td> <td style="text-align: right;"><b><u>\$16,298,436</u></b></td> <td style="text-align: right;"><b><u>\$15,192,804</u></b></td> <td style="text-align: right;"><b><u>\$14,746,211</u></b></td> <td style="text-align: right;"><b><u>\$14,866,820</u></b></td> </tr> <tr> <td>Population</td> <td style="text-align: right;">84</td> <td style="text-align: right;">78</td> <td style="text-align: right;">68</td> <td style="text-align: right;">68</td> </tr> <tr> <td>Cost Per Person</td> <td style="text-align: right;">\$194,029</td> <td style="text-align: right;">\$194,780</td> <td style="text-align: right;">\$216,856</td> <td style="text-align: right;">\$218,630</td> </tr> <tr> <td>Cost Per Day</td> <td style="text-align: right;">\$532</td> <td style="text-align: right;">\$534</td> <td style="text-align: right;">\$594</td> <td style="text-align: right;">\$599</td> </tr> <tr> <td>Federal Reimbursements</td> <td style="text-align: right;">\$13,694,871</td> <td style="text-align: right;">\$8,343,836</td> <td style="text-align: right;">\$8,343,836</td> <td style="text-align: right;">\$8,343,836</td> </tr> </tbody> </table>		Actual FY 2004	Actual FY 2006	Requested FY 2008	Requested FY 2009	FTE	327.26	268.80	268.80	268.80	Personal Services	\$13,782,326	\$12,332,832	\$11,842,717	\$11,963,777	All other	<u>2,516,110</u>	<u>2,859,972</u>	<u>2,903,494</u>	<u>2,903,043</u>	<b>Total</b>	<b><u>\$16,298,436</u></b>	<b><u>\$15,192,804</u></b>	<b><u>\$14,746,211</u></b>	<b><u>\$14,866,820</u></b>	General Fund	\$16,249,031	\$15,145,371	\$14,698,778	\$14,819,387	State Special Rev.	49,405	47,433	47,433	47,433	Federal Special	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>		<b><u>\$16,298,436</u></b>	<b><u>\$15,192,804</u></b>	<b><u>\$14,746,211</u></b>	<b><u>\$14,866,820</u></b>	Population	84	78	68	68	Cost Per Person	\$194,029	\$194,780	\$216,856	\$218,630	Cost Per Day	\$532	\$534	\$594	\$599	Federal Reimbursements	\$13,694,871	\$8,343,836	\$8,343,836	\$8,343,836
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The division used the same federal reimbursement amount for FY 2006 through FY 2008 even though the population will decrease. LFD estimates show a decline to \$8.0 million in FY 2008 and \$8.1 million in FY 2009, which could have an impact of slightly more than \$0.5 million on the general fund.

*Pending Litigation*

There is pending litigation that was filed in September, 2002 by the Montana Association for Independent Disability Services, Inc. (MAIDS) and several individuals with developmental disabilities. Defendants in the MAIDS lawsuit include the Department of Public Health and Human Services and key department and state personnel. MAIDS is a non-profit organization comprised of entities providing community-based services to individuals with developmental disabilities. This suit alleges that the disparity in wages and benefits paid to employees of community based providers, versus the wages and benefits paid to employees of state institutions, has resulted in irreparable and unnecessary harm to the plaintiffs. The plaintiffs allege that several statutory and constitutional provisions have been violated and seek: 1) to have the wage and benefit disparity between employees of state run institutions and community providers eliminated; and 2) to have uniform Medicaid reimbursement rates established. The court is schedule to hear this lawsuit in April of 2007.

A finding in favor of the plaintiffs and requiring the state to reimburse contractors at a level that provides direct care wage rates that are comparable to state employees would likely have a financial impact on the DD system that would be measured in terms of millions of dollars. The potential for similarly situated employee groups of contractors to file similar legal actions exist. The probability and magnitude of such action is currently unknown. Furthermore, how such a finding might impact the definition of employee, employer relationships, and other aspects of labor relations and compensation has not been studied.

**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 Disability Services Divi							
Program Funding	Base	% of Base	Budget	% of Budget	Budget	% of Budget	
	FY 2006	FY 2006	FY 2008	FY 2008	FY 2009	FY 2009	
01000 Total General Fund	\$46,584,972	36.5%	\$51,843,912	35.5%	\$53,053,177	35.5%	
01100 General Fund	46,584,972	36.5%	51,843,912	35.5%	53,053,177	35.5%	
02000 Total State Special Funds	1,458,428	1.1%	4,754,012	3.3%	4,157,953	2.8%	
02035 Mdc Vocational	47,433	0.0%	47,433	0.0%	47,433	0.0%	
02159 Handicapped Telecommunications	931,196	0.7%	2,017,953	1.4%	954,133	0.6%	
02475 Ddp Training Fund	4,800	0.0%	4,800	0.0%	4,800	0.0%	
02761 Medicaid Pilot Program Dd	-	-	16,000	0.0%	16,000	0.0%	
02772 Tobacco Hlth & Mediced Initiative	474,999	0.4%	2,667,826	1.8%	3,135,587	2.1%	
03000 Total Federal Special Funds	79,524,316	62.3%	89,591,282	61.3%	92,034,138	61.7%	
03024 Soc Sec - Trust Funds	183,144	0.1%	183,144	0.1%	183,144	0.1%	
03554 84.169 - Independent Living 90	266,463	0.2%	270,738	0.2%	270,793	0.2%	
03555 84.177 - Indep Living Old Blin	182,381	0.1%	204,794	0.1%	205,834	0.1%	
03556 84.181 - Part H - Early Interv	1,651,181	1.3%	1,651,181	1.1%	1,651,181	1.1%	
03557 84.187 - Vic Sup Employment	291,302	0.2%	291,453	0.2%	291,453	0.2%	
03558 84.224 - Mon Tech 100%	502,755	0.4%	502,755	0.3%	502,755	0.3%	
03559 84.265 - In Service Training 9	64,188	0.1%	68,329	0.0%	68,358	0.0%	
03579 93.667 - Ssbj - Benefits	4,462,376	3.5%	4,462,376	3.1%	4,462,376	3.0%	
03580 6901-93.778 - Med Adm 50%	369,998	0.3%	383,187	0.3%	383,403	0.3%	
03583 93.778 - Med Ben Fmap	54,001,494	42.3%	63,127,053	43.2%	65,398,792	43.8%	
03588 93.802 - Disabil Deter Adm 100	4,611,383	3.6%	4,852,883	3.3%	4,944,442	3.3%	
03599 03 Indirect Activity Prog 10	2,591,058	2.0%	2,880,262	2.0%	2,892,789	1.9%	
03604 84.126 - Rehab-Sec110 A 78.7%	10,316,847	8.1%	10,683,381	7.3%	10,749,072	7.2%	
03702 6901-Rural Transportatn Access	29,746	0.0%	29,746	0.0%	29,746	0.0%	
Grand Total	<u>\$127,567,716</u>	<u>100.0%</u>	<u>\$146,189,206</u>	<u>100.0%</u>	<u>\$149,245,268</u>	<u>100.0%</u>	

DSD is funded with a combination of general fund (35 percent), state special revenue (3 percent), and federal funds (62 percent). Most general fund support is used to draw down federal matching funds. The matching ratio for federal programs administered by the division varies. However, the most common ratios are:

- Medicaid services are funded at the federal medical assistance participation rate (FMAP), which is generally about 32 percent state funds and 68 percent federal funds
- Medicaid administrative costs are funded on a 50/50 ratio of state and federal funds
- Vocational Rehabilitation services are funded on a 21/79 ratio of state and federal funds
- Disability determination services are funded entirely with federal funds
- The Montana Developmental Center (MDC) is funded entirely with general fund. Medicaid reimbursements for services provided at MDC are first used to repay bond debt and the remaining balance is deposited in the general fund

**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				1,013,428					1,184,453
Vacancy Savings				(928,857)					(935,725)
Inflation/Deflation				95,656					104,163
Fixed Costs				(152,703)					(167,622)
<b>Total Statewide Present Law Adjustments</b>				\$27,524					\$185,269
DP 10001 - Adjust I-149 Funding	0.00	(475,001)	475,001	0	0.00	(475,001)	475,001	0	0
DP 10002 - FMAP Adjustment	0.00	1,398,752	0	(1,398,752)	0.00	1,540,649	0	(1,540,649)	0
DP 10003 - Annualization of Community Services Cost Plans	0.00	695,174	0	1,671,368	0.00	701,609	0	1,664,933	2,366,542
DP 10004 - MDC Base Adjustments	0.00	439,448	0	0	0.00	449,601	0	0	449,601
DP 10005 - DSD Rent for non-state facilities	0.00	5,587	2,510	16,088	0.00	10,366	3,195	27,079	40,640
DP 10007 - Disability Determination Services Base Adjustments	0.00	0	0	157,521	0.00	0	0	238,241	238,241
DP 10008 - VR Tuition Increases	0.00	44,359	0	163,897	0.00	56,237	0	207,786	264,023
DP 10020 - Health Services Accounts	0.00	0	16,000	0	0.00	0	16,000	0	16,000
<b>Total Other Present Law Adjustments</b>				<b>\$3,211,952</b>	<b>0.00</b>	<b>\$2,283,461</b>	<b>\$494,196</b>	<b>\$597,390</b>	<b>\$3,375,047</b>
Grand Total All Present Law Adjustments				\$3,239,476					\$3,560,316

**LFD COMMENT**

About 50 percent of the \$1 million increase each year of the biennium is for the pay plan approved by the 2005 Legislature and 20 percent of the increase covers class upgrades and adjustment of salaries to market. The balance of the request covers full funding of vacant positions, benefits, longevity, and health insurance.

The division holds vacant positions open for 30 days per department policy. There are some positions that are labeled as 'continuous recruiting' positions and are open for long periods of time due to specific qualifications that make recruiting difficult, such as those needed to serve the visually or hearing impaired clients.

The reduction in fixed costs is primarily due to moving the data network service costs to program to the Technology Services Division, and the inflation figure relates to increases in fuel and utilities.

DP 10001 - Adjust I-149 Funding - The Governor proposes to move \$475,000 of general fund to state special revenue for I-149 funds each year of the biennium. The 2005 Legislature appropriated \$950,000 per year in the 2007 biennium to support increasing the direct care worker salary benchmark in the DD provider published rate schedule from the 25<sup>th</sup> to 35<sup>th</sup> percentile of comparable salaries. The FY 2006 appropriation comprised \$450,000 of both general fund and state special revenue from revenue generated from the passage of I-149 tobacco taxes. To allow the I-149 fund to build fund balance, the 2005 Legislature appropriated general fund for the first half of FY 2006, and state special revenue for the second half. The \$450,000 general fund is in the base and needs to be removed because the I-149 funds will be used for both years of the 2009 biennium.

**LFD  
COMMENT**

This funding was appropriated specifically to increase direct care worker rates from the 25<sup>th</sup> to the 35<sup>th</sup> percentile. As shown in the 2005 Legislative Initiatives discussion, the division implemented the increase. As noted in the rate rebasing discussion, the division is using the 35<sup>th</sup> percentile into the 2009 biennium. This request does not include an increase. However, it is within national trend. According to the Code Commissioner, this appropriation falls within the language of trended traditional level included in 53-6-1201, MCA for uses of I-149 funds.

While this request may be suitable for I-149 funds, this legislature is not bound by past legislative action. Passage of this proposal would put the I-149 funds in the base. The next legislature may wish to examine other uses of the I-149 funds.

Additionally, as mentioned earlier, the original appropriation did not ease the high rate of turnover and number of vacancies that still exist in direct care worker positions throughout the state.

The legislature may wish to designate this appropriation as restricted to ensure the funds are used for direct care worker salaries, and allow the next legislature to assess whether the 35<sup>th</sup> percentile is an acceptable trend of increase at that time and the progress the division has made in recruiting, hiring, and retaining direct care workers.

The legislature may also wish to have the division develop a report that shows the continuation of the established benchmark for the base wage component of the standardized rate from the 25<sup>th</sup> to the 35<sup>th</sup> that was used to establish the 2009 biennium budget and show that the wages meet the an appropriate increase for the 2011 biennium. The benchmarks are:

- Wage data - \$8.35 represented the 25<sup>th</sup> percentile and \$8.56 represented the 35<sup>th</sup> percentile for in SFY 2002
- Wage and benefit data - \$10.90 represented the 25<sup>th</sup> percentile and \$11.17 represented the 35<sup>th</sup> percentile for SFY 2002

DP 10002 - FMAP Adjustment - The executive requests an increase in general fund of almost \$2.9 million over the biennium, with an offsetting decrease in federal funds, due to the projected change in Federal Medical Assistance Percentage (FMAP) rates for FY 2008 and FY 2009, and maintain current activities. The projected FMAP rate for FY 2008 is 68.62 percent and 68.40 percent for FY 2009, as compared to the base year FMAP of 70.76 percent for FY 2006. Please refer to the agency narrative for a discussion of the federal Medicaid matching rates.

**LFD  
COMMENT**

There is further discussion of the federal Medicaid matching rate in the agency summary.

DP 10003 - Annualization of Community Services Cost Plans - The Governor requests \$4.7 million over the biennium, comprising \$1.4 million general fund and \$3.3 million federal funds to support annualized cost plans for 18 individuals in developmental disability community services, due to the closure of Unit 16 AB at MDC. About half of the funds appropriated for this purpose by the 2005 Legislature were expended in FY 2006 and FY 2007 because 16 AB clients could not be immediately placed in the community. The balance of the appropriation was reverted and is not in the base. This request is to support 18 clients with cost plans estimated at \$100,000 in the 2009 biennium. The funding for this proposal is at the Medicaid program matching rate of approximately 32 percent state general fund to approximately 68 percent federal funds.

*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 clarity.*

**Justification and Goal:** The Developmental Disabilities Program (DDP) expects to move 18 individuals from the Montana Developmental Center (MDC) unit 16 AB into community services by the summer of 2007.

Performance Criteria, Milestones: The individuals will be in community service settings and receive uninterrupted services. Staff will monitor program budgets monthly to insure that the program is operating within funding levels as appropriated.

Obstacles and risks: Shortages of providers who are willing and able to provide these services are an issue. If resources are not available to continue to provide these services, the program may have to reduce or cut services in other areas because the community services must be provided. Reducing or cutting services is not recommended because those in need of, but not receiving community services, are more likely to be committed to MDC.

<b>LFD ISSUE</b>	<p>Waiting List</p> <p>It is the goal of DDP to reduce the waiting list by 25 people each year. This request is based on 18 individuals with an estimated cost plan of \$100,000 and about 8 individuals at cost plans of \$75,000 or less. However, there is no plan illustrating the partnership of the division and the providers or clients and their families, and the division did not provide measurable goals. The legislature may wish to set measurements to the appropriation that would allow the next legislature to understand the effectiveness of the appropriation and assess amounts that need to be in the base to ensure quality services are provided, such as:</p> <ul style="list-style-type: none"> <li>• The number of individuals moved into the community each year of the biennium, which community they entered, and the provider serving them</li> <li>• The actual amount of the cost plans for each individual moved into the community and major services requested in the cost plans</li> <li>• The number of individuals already in the community and the actual costs of their plans</li> <li>• The number of crisis incidents and clients that had to be relocated to MDC or another community, and why</li> <li>• The amount of the providers' billed amounts that went to delivery of services, administrative overhead, and the direct care wages</li> </ul>
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DP 10004 - MDC Base Adjustments - The Governor requests about \$0.9 million general fund over the biennium to

adjust for zero-based personal services funding. This request is to maintain minimum Montana Developmental Center (MDC) staffing requirements at this 24-hour day, 7-days-a-week facility and to maintain Medicaid certification. Projected overtime and differential pay is not funded in the next biennium through the stateside present law adjustments and is requested each biennium. The adjustments are for:

- Overtime costs of \$211,000 each year of the biennium associated with providing a sufficient ratio of direct care staff around the clock and to a lesser degree, for essential support services such as food service and maintenance
- Differential pay of \$2,900 each year is required by union contracts when an employee performs duties outside of and above his/her regular job classification. Non-union employees may also receive higher pay under agreed upon conditions on a temporary basis when assigned
- Costs associated with holidays worked of \$148,000 for those employees scheduled to work
- An adjustment for an increase in the bed-tax payment (\$46,424 in FY 2008 and \$56,577 in FY 2009) and offsetting reduction of general fund base (\$53,120) to reflect that the equipment items were purchased and this funding is no longer required for the stated purpose
- Benefits for the adjustments of \$169,000

	FY 2008	FY 2009
Overtime		
Unit 104	\$31,629	\$31,629
MDC Direct Care	179,229	179,229
Differential		
Unit 104	431	431
MDC Direct Care	2,439	2,439
Holidays Worked		
Unit 104	22,159	22,159
MDC Direct Care	125,568	125,568
Benefits		
Unit 104	12,703	12,703
MDC Direct Care	71,986	71,986
Taxes and Assessments	46,424	56,577
Autos and Trucks	(53,120)	(53,120)
Total	<u>\$439,448</u>	<u>\$449,601</u>

Source: MBARS

**LFD  
ISSUE****MDC Base Adjustments**

DPHHS has a supplemental request in HB 3, of which about \$800,000 is due to cost overruns at MDC. A substantial portion of the MDC cost overrun was due to the complexity of the population at MDC, and other items including a federal mandate to investigate allegations of abuse or neglect requiring that employees be put on administrative leave during an investigation, a general shortage of nursing staff leading to overtime during vacancies and time off, and a need for relief staff to cover unanticipated days absent or vacation (especially if the employee works the night watch shift). This request addresses this issue.

The division developed the budget for the request with the assumption that MDC would close Unit 16 AB by the end of December, 2006 and the positions assigned to that unit would be reassigned to other units, thereby providing staff relief for time off, staff training, active treatment, and more residential activities at the base rate instead of at overtime rate. However, the contracted provider's attempt to purchase and convert property to a suitable home environment in Boulder did not materialize. It is now expected that six individuals in Unit 16 AB may reside at MDC until the summer of 2007, or beyond.

In its consideration of this request, the legislature may wish to ask division staff to provide a revised personal services budget projection that reflects the new projected closure date of unit 16 AB.

It is the goal of the division and MDC staff to downsize MDC and place as many individuals as possible into community service plans. However, the movement of individuals into the community is based upon the ability of the community to accept and care for the individual, and it may not be an instantaneous move. Additionally, individuals can arrive unannounced via the courts, or as children aging out of youth services. Because of the amount of uncertainties, the legislature, should it opt to approve this request, may wish to designate the appropriation as biennial.

DP 10005 - DSD Rent for non-state facilities - The executive budget contains a request for funding for rent increases for offices in non-Department of Administration buildings for the Developmental Disabilities and Vocational Rehabilitation programs. This decision package requests \$15,953 of general fund, \$5,705 of state special revenue, and \$43,167 of federal funds over the biennium as related to increases that are built into the lease agreements for field offices. The increases are based on 2-3 percent increases for most sites and new leases for two locations. The division based its estimates on projections for existing leases and an assumption that the new lease in Kalispell would have about 350 more square feet, but the new lease rate is unknown. There is \$546,000 in the base year for rent serving MTAP, DDP offices throughout the state, and Vocational Rehabilitation offices throughout the state.

DP 10007 - Disability Determination Services Base Adjustments - The Governor requests an increase of \$395,762 in federal funds over the biennium to address the workload increase for Disability Determination Services that includes:

- An overtime request of approximately \$22,816 each year to help process the workload in an electronic environment to meet SSA required productivity levels while addressing the number of pending cases. Estimates are for 800 hours of overtime each fiscal year (without associated benefits). This is a request at 100 percent federal funding and is done to ensure the authority is there in case there is a need for overtime.
- An increase in 'other services' for medical consultants to review all cases cleared through the DDS as mandated by federal law. During the FY 2006 base year, DDS cleared 9,464 cases, about 3,000 below the usual average of more than 12,000 because staff and consultants were learning to use a new system. This lower production reduced the base year expenditures below the historical average. Cases are now projected to return toward the historical average with estimates of 11,357 FY 2008 and 12,493 clearances in FY 2009. The increase results in the request for \$120,446 in FY 2008 and \$193,150 in FY 2009.
- A request to increase rent to about \$16,000 over the biennium for the DDS office. Rent for FY 2006 is \$156,000 for 15,370 square feet at \$10.14 per square foot. The requested increase is for the same square footage at approximately \$10.55 per square foot for FY 2008 and \$10.76 per square foot for FY 2009.
- Reimbursement for required travel for disability claimants to consultative examinations that are reimbursed at state per diem rates. Projections are based on the increase in case clearances mentioned above, resulting in a request of \$7,962 in FY 2008 and \$12,734 for FY 2009.

DP 10008 - VR Tuition Increases - The executive requests just over \$100,000 of general fund and \$370,000 of federal funds over the biennium to provide for a 5 percent tuition increase each for FY 2008 through FY 2009 for non-state schools, and no increase for state schools. The funds, which are a portion of the Vocational Rehabilitation benefits, would offset increases in tuition costs and maintain current level services that assist individuals with disabilities to return to work. Tuition historically represents about 43 percent of all benefits and amounts to approximately \$3.7 million in FY 2006.

**LFD  
COMMENT**

In the 2005 session, the legislature approved just under \$1 million for tuition increases because no increases were granted in the previous session, and \$3,717,707 was actually used for tuition in FY 2006. If approved, this appropriation would increase funds for tuition to \$3.92 million in FY 2008 and \$3.98 million in FY 2009. Funding for this appropriation is split 21.30 percent general fund and 78.70 percent federal funds.

While LFD staff did not request goals and measurements for this appropriation, the legislature may wish to visit with the division about the types of data available and reports that can be produced to show the success of the program, such as the number of individuals attending post secondary classes and the schools, and how that translates into the number graduating and/or becoming employed. This would allow this legislature and the 2009 subcommittee to have discussions about how to best assist those receiving education and are unable to find employment.

DP 10020 - Health Services Accounts - The executive budget contains a request to add \$16,000 in state special revenue back into the budget each year of the biennium. The funding was appropriated in the 2005 Session via SB 433 for DSD to implement a Medicaid pilot program to create waiver services savings accounts for individuals with developmental disabilities.

**LFD  
COMMENT**

As of October, 2006, the pilot program had been mentioned to clients, but there were no savings accounts established. The base year funds of \$16,000 were unused and carried forward. This request adds the authority back into the division's budget.

The pilot program was intended to have 50 individuals on Home and Community Service Based Waiver Services save a portion of their unexpended benefits for future use. The goal was to enroll the clients and track the program use and impact through 2011. The pilot period is July 1, 2005 through January 1, 2011.

The pilot is just starting in Region II (Great Falls, Choteau, Havre area). Case workers include the Healthcare Savings Plan in the Personal Support Planning (PSP) meeting with the clients. Initial discussion reveals that there is little money left over after clients have selected service, and little understanding of the culture of savings. Managers hope that clients become more familiar with the savings concept as they revisit their PSPs in FY 2007, identify the services they like best, and talk about funding them for the future.

**New Proposals**

Program	-----Fiscal 2008-----					-----Fiscal 2009-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 10009 - Montana Youth Leadership Forum (MYLF)	10	0.00	50,000	0	0	50,000	0.00	50,000	0	0	50,000
DP 10010 - DD Wait List Reduction	10	0.00	1,664,117	0	2,990,846	4,654,963	0.00	2,347,665	0	4,440,079	6,787,744
DP 10011 - DD Rate Rebasing	10	0.00	1,582,172	1,717,826	4,869,677	8,169,675	0.00	1,814,413	2,185,587	5,840,515	9,840,515
DP 10016 - DD Crisis Funding - Restores OTO	10	0.00	120,000	0	0	120,000	0.00	120,000	0	0	120,000
DP 10018 - MTAP new technologies (BIEN)	10	0.00	0	1,065,000	0	1,065,000	0.00	0	0	0	0
DP 10021 - Developmental Disabilities Program - Fed Authority	10	0.00	0	0	1,000,000	1,000,000	0.00	0	0	1,000,000	1,000,000
DP 10026 - VR Transition Counselor	10	1.00	55,283	0	0	55,283	1.00	51,884	0	0	51,884
DP 10501 - Provider Rate Increases	10	0.00	267,093	0	0	267,093	0.00	267,093	0	0	267,093
<b>Total</b>	<b>1.00</b>	<b>\$3,738,665</b>	<b>\$2,782,826</b>	<b>\$8,860,523</b>	<b>\$15,382,014</b>	<b>1.00</b>	<b>\$4,651,055</b>	<b>\$2,185,587</b>	<b>\$11,280,594</b>	<b>\$18,117,236</b>	

DP 10009 - Montana Youth Leadership Forum (MYLF) - The Governor requests \$100,000 general fund over the biennium to support the Montana Youth Leadership Forum (MYLF) for youth with disabilities, including Indian students on Montana reservations. MYLF started in 2000 with a forum in Billings and is a career and leadership training program for high school sophomores, juniors, and seniors with disabilities. At 5 days intensive training, youth with disabilities cultivate leadership, citizenship, and social skills and work on goals, and do both a personal leadership plan and a resource plan. So far, 108 Montana youth have completed the program. The 2005 Legislature appropriated \$50,000 per year for the summer of 2005 and the summer of 2006 to help fund the program.

DP 10010 - DD Wait List Reduction - This request is for \$11.4 million total funds, comprising \$4.0 million general fund and \$7.4 million federal funds over the biennium to support community services for individuals currently on the developmental disability community services waiting list. At this time, there are approximately 500 individuals currently receiving no services that are on the waiting list for community services. Funding would provide services to move approximately 25 individuals off the waiting list.

*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:**

1. \$6.2 million (\$2.0 million general fund) over the biennium to support adult cost plans for an additional 25 individuals to transition into community services each year in the next biennium. The funding is for system capacity to address the waiting list for unmet needs of Montanans with developmental disabilities serving: 1) adults in Montana communities waiting for services; 2) adults at MCD that are waiting for service openings; and 3) children aging out of intensive Medicaid waiver services and foster care services. Once a child is in waiver services, DDP cannot exit them out of services when they leave school as the state is required to fully fund cost plans to meet health and safety needs of everybody in the waiver. However, funding that is available to them as children only partially funds young adult services.
2. \$0.25 million (\$81,000 general fund) over the biennium for additional contracted case managers to accommodate the anticipated need in communities as individuals come into community services
3. \$0.2 million general fund for the biennium for grants to existing or new providers for start up costs associated with either system expansion or with transitions from institutional to community services
4. \$392,800 general fund to provide opportunities to pilot projects identified by the transition task force team and Transition Solutions, which will enable state agencies and other groups to work together improving outcomes for youth transitioning from school to young adulthood. These projects might include development of a website to share

“best practices” across Montana, or the development of state standards to define disabled populations at the post-secondary school level to allow for better tracking of outcomes.

**Goal, Performance Criteria and Milestones:** Continue to provide high quality services to over 4,000 individuals currently in DDP community services while expanding community services and removing individuals off of the waiting list. Individuals already in DDP community services will continue to receive appropriate care as authorized by the program’s rules. Staff will monitor program budgets monthly to insure that the program is operating within funding levels as appropriated.

**Funding:** This proposal utilized various funding ratios. The funding for the client benefits and case management activity is at the Medicaid program matching rate of approximately 32 percent state general fund to approximately 68 percent federal funds. The program grants are funded with only state general fund.

**Obstacles and Risks:** Shortages of providers who are willing and able to provide these services are an issue. If this increase in funding is not approved it is likely that expenditures will exceed the budgeted authority. DDP community services are not entitled services, but if community services aren’t provided for those in need the program runs the risk of having individuals being committed to MDC, often at a greater cost than funding for community services.

**LFD COMMENT**

While these amounts tie to the DD goals of: 1) serving 4,150 Montanans with developmental disabilities during each year of the biennium; and 2) reducing the DD waiting list by at least 25 people each year of the biennium, an operating plan that ties the requests to accountability of providers is not included.

The legislature may wish to discuss with the division:

- The meaning of ‘system capacity’ and the operations plan to make it happen at the division and provider level
- How these requests address the quality of service in rural areas versus urban centers
- The projected budget increase and related infrastructure development that could impact the 2009 Legislature
- The plan the division and providers have to address the fact that this money is directed to the same group that is presently suing the state for increases

Additionally, the legislature may wish to consider designating these appropriations as one-time-only to allow the next legislature to assess the amount of the appropriation that should go in the base, and assess the financial impact, if any, of the pending MAIDS lawsuit.

There is further discussion in the program narrative.

**DP 10011 - DD Rate Rebasing** - This request is for \$18 million total funds, \$3.4 million general fund, \$3.9 million in state special revenue funds, and \$10.7 million federal funds over the biennium, to support adjustments of the developmental disability program provider rates.

*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 objective is to compensate DDP providers at a standardized rate allowing them to maintain and elevate the quality of care for our DDP clients statewide. Almost all revenue received by DDP providers is generated by serving DDP clients. While some DDP providers provide Vocational Rehabilitation services and/or may operate recycling operations, there is little alternative to increase revenues except from legislative increases. DDP providers are experiencing cost increases for personnel, utilities, insurance, gasoline, and general operations.

Case management services rates are also being rebased, which has followed a process similar to adult services rate rebasing. In addition to adjusting the employee wage benchmark based on reported case manager wage data, the program will reduce caseloads; case managers have assumed more duties as the program transitions to a standardized

rate system with individualized services and individualized budgets. Other services being addressed by this funding request are children's family education and support services (FESS) and DDP waiver transportation services, which are not currently in a standardized rate system.

**Goals, Performance Criteria, and Milestones:** The goal is to maintain or elevate quality care for DDP clients by upholding a strong provider financial and programmatic infrastructure that will facilitate community services for individuals with developmental disabilities and continue of the vision for community integration.

The program intends to perform a similar rebasing effort every two years in advance of each legislative session. The data received will be sufficient to gauge the level of success achieved by increasing the standardized rates. The program should be able to determine whether the increases have kept pace with inflation and whether staff turnover rates and vacancy periods have declined. The program should be able to determine if providers have made choices to adjust costs and thus bring their costs more in line with other providers, and in line with their revenues. Eventually, the standard deviation of the costs around the average should decline. Revised standardized rates will be effective July 1, 2007 that will reflect the increases coming from this budget request.

**Funding:** Funding is a mix of Medicaid program matching rate of approximately 32 percent state general fund to approximately 68 percent federal funds for Medicaid waiver services and state plan case management services; general fund for the increases to FESS services; general fund for increases to non-Medicaid services; and a small amount of Medicaid Admin at a 50 percent state general fund to a 50 percent federal fund match related to case management eligibility determination. There is also a continuation of I-149 funds.

**Obstacles and Risks:** Providers are experiencing increases in direct care staff turnover and extended periods of having those positions remain vacant for a lack of interest by the labor market. This poses a problem for providers in the new rate system because they can only invoice for direct care services provided when the direct care staff are present to provide the service and could possibly lead to the ruin of the provider organization and again negatively impact the quality of care for DDP clients.

<b>LFD ISSUE</b>	<p><b>I-149 Funds</b></p> <p>This funding continues an appropriation by the 2005 legislature of I-149 funds to increase direct care worker rates from the 25<sup>th</sup> to the 35<sup>th</sup> percentile. This request does not include a new increase. However, according to the Code Commissioner, this appropriation falls within the language of trended traditional level included in 53-6-1201, MCA, and is appropriate for funding with I-149 funds.</p> <p>While this request may be suitable for I-149 funds, the 2011 biennium request may not be. Passage of this proposal would put the I-149 funds in the base. It should be noted that the next legislature may wish to examine other uses of the I-149 funds.</p> <p>If the legislature has concerns about the increase and funding and the impact on this and future legislatures, it could designate this appropriation as one-time-only and allow the next legislature to assess the results of this appropriation in the context of the amount requested next session.</p>
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**DP 10016 - DD Crisis Funding - Restores OTO -** The executive requests \$240,000 of general fund to support services for individuals in crisis in the community setting. The Travis D settlement includes funding for \$200,000 per year to support crisis situations. \$80,000 of this amount is in the division's base budget for each year of the biennium. This decision package requests \$120,000 general fund per year, to annualize the one-time-only funds provided by the 2005 Legislature.

**DP 10018 - MTAP new technologies (BIEN) - Restricted-** The Governor requests a restricted biennial appropriation of \$1 million of state special revenue authority in the event that the federal government mandates that the states pay for new technologies. The division predicts that the federal mandate will come with advance notice of at least 18 months. This proposal requests use of the handicapped telecommunications state special revenue account fund balance. This appropriation would be a contingency, accessed only if the FCC ruled that the states would now be required to pay for

VRS and IP Relay. The projected fund balance at the end of SFY 2009 without this mandate is about \$650,000. The requested amount for this appropriation, if accessed, would leave a projected fund balance at the end of SFY 2009 of \$200,000.

DP 10021 - Developmental Disabilities Program - Fed Authority - The executive requests \$2 million of additional federal Medicaid authority for the biennium to provide appropriation authority for increases in federal grants or to maximize general fund under the Home and Community Based Waiver, which funds services to individuals with developmental disabilities. The federal authority would not require any future commitment of general fund dollars.

DP 10026 - VR Transition Counselor - The Governor requests support for 1.00 FTE for a vocational rehabilitation counselor to be located in a local school district to assist in identifying students and coordinating available services. This request is part of the initiative to improve outcomes for young adults with disabilities. This is a budget request for \$107,167 general fund over the biennium.

**LFD COMMENT** Division staff has had a historical concern to help youth transition more easily into adult life. However, this request is for a program that is not in place and no goals and objectives have been provided. There is no guarantee that the position can be filled at the start of the biennium, and no information has been provided to indicate ‘buy-in’ by community stakeholders. The legislature may wish to consider requesting measurements that might include the number of youth initially counseled, their age, disability, location and goals for transition.

DP 10501 - Provider Rate Increases - This decision package requests increases for provider rates by 2.5 percent for the biennium. Total funds requested are \$534,186, all of which is general fund. The executive provided this request for most Medicaid providers. In the DDP the request is focused in the Vocational Rehabilitation and Low Vision services. The benefits in this increase are not included in the rate rebasing or waiting list reduction requests that were discussed earlier.

**LFD COMMENT** LFD staff and the division discovered errors in the calculation of this request. The total request is \$331,817. The recalculation of the request is shown in Figure 57.

The division did not provide goals or direction on what will be achieved with the funds. The legislature may wish to request that program staff provide an overview to the committee.

There is further discussion of provider rate increases in the agency overview.

**Figure 57**  
Proposed 2.5 percent increase for DDP

	FY 2008 Benefit	FY 2008 2.5 %	FY 2009 2.5 %
Voc. Rehab and Low Vision Benefits			
Extended Employment Benefits	\$1,043,775	\$26,094	\$26,094
Independent Living CHPT 2 Benefits	66,915	1,674	1,674
Independent Living Part B Benefits	561,593	14,040	14,040
SEC 110 Blind / Low Vision Benefits	762,192	19,055	19,055
SEC 110-Voc. Rehab Benefits	4,090,156	102,254	102,254
PASAAR	111,659	2,792	2,791
<b>Total</b>	<b>\$6,636,290</b>	<b>\$165,909</b>	<b>\$165,908</b>
<b>Funding</b>			
General Fund		\$163,993	\$163,999
Federal PASAAR		1,916	1,909
<b>Total Funding</b>		<b>\$165,909</b>	<b>\$165,908</b>

**Language**

The executive proposes language to make the appropriation for MTAP (DP 10018) contingent upon passage of federal regulation requiring that the states pay for new technologies.