

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	723.30	1.00	25.50	749.80	1.00	25.50	749.80	749.80
Personal Services	34,727,873	7,280,985	1,298,478	43,307,336	7,562,081	1,300,186	43,590,140	86,897,476
Operating Expenses	16,547,696	3,456,502	3,330,225	23,334,423	3,266,528	250,195	20,064,419	43,398,842
Equipment	1,865,973	504,181	1,700	2,371,854	503,721	(58,300)	2,311,394	4,683,248
Capital Outlay	0	0	0	0	0	0	0	0
Benefits & Claims	847,236	0	150,000	997,236	0	150,000	997,236	1,994,472
Debt Service	592,730	3,300,000	0	3,892,730	4,275,000	0	4,867,730	8,760,460
Total Costs	\$54,581,508	\$14,541,668	\$4,780,403	\$73,903,579	\$15,607,330	\$1,642,081	\$71,830,919	\$145,734,498
General Fund	21,194,347	3,543,302	4,151,816	28,889,465	3,708,902	1,077,686	25,980,935	54,870,400
State/Other Special	30,563,970	10,335,546	652,285	41,551,801	11,225,077	619,341	42,408,388	83,960,189
Federal Special	1,901,636	17,593	(171,546)	1,747,683	23,073	(173,048)	1,751,661	3,499,344
Proprietary	921,555	645,227	147,848	1,714,630	650,278	118,102	1,689,935	3,404,565
Expendable Trust	0	0	0	0	0	0	0	0
Total Funds	\$54,581,508	\$14,541,668	\$4,780,403	\$73,903,579	\$15,607,330	\$1,642,081	\$71,830,919	\$145,734,498

Agency Description

The Department of Justice, under the direction of the Attorney General, is responsible for statewide legal services and counsel, law enforcement, and public safety, as authorized in 2-15-501, MCA. The duties of the department include:

- Providing legal representation for the state and its political subdivisions in criminal appeals
- Providing legal services and counsel for the state, county and municipal agencies, and their officials
- Enforcing Montana traffic laws and registering all motor vehicles
- Enforcing state fire safety codes and regulations
- Assisting local law enforcement agencies in bringing offenders to justice
- Managing a statewide system of death investigations and providing scientific analyses of specimens submitted by law enforcement officials, coroners and state agencies
- Maintaining and disseminating criminal justice information to authorized state, local, and other entities
- Providing uniform regulation of all gambling activities in the state of Montana

Agency Highlights

Department of Justice	
Major Budget Highlights	
◆	2009 biennium funding is \$36.6 million (33.5 percent) greater than the FY 2006 base budget doubled
◆	General fund support for the department increases \$12.5 million (29.4 percent) when the 2009 biennium budget request is compared to the FY 2006 base budget doubled. Increased general fund is requested for: <ul style="list-style-type: none"> ● Major litigation regarding water in the Yellowstone basin, \$3.0 million ● Base adjustments for functions related to drivers licensing, \$1.6 million ● Funding for 13.50 FTE in various areas of the department, \$1.6 million ● Base adjustments for functions related to vehicle titling and registration, \$0.6 million ● Funding increases for the state share of county attorney salaries, \$0.6 million

<ul style="list-style-type: none"> • Funding for major litigation, \$0.5 million • A funding switch for executive protection, \$0.4 million ◆ State special revenue for the department increases \$22.8 million (37.4 percent) during the same time period. Increased state special revenue is requested for: <ul style="list-style-type: none"> • Motor vehicle systems and related debt, \$7.6 million • Base adjustments for the Montana Highway Patrol (MHP), \$1.8 million • Base adjustments for drivers licensing related functions, \$1.1 million • Funding for information technology (other than motor vehicle related), \$1.1 million • Funding for 11.00 FTE in various areas of the department, \$1.0 million • Funding for MHP pay raises, \$0.8 million ◆ Proprietary funds increase primarily due to new liquor investigators and developmental of additional e-government applications for motor vehicle functions
Major LFD Issues
<ul style="list-style-type: none"> ◆ Funding for some items is also included in legislation requested by the Law and Justice Interim Committee ◆ Vacancy savings was applied to the Montana Highway Patrol, which is statutorily exempt from vacancy savings ◆ Funding for highway patrol pay increases that are supported by a statutory appropriation are also included in the general appropriations act ◆ Federal legislation known as the Real ID Act requires state compliance with the act by May, 2008 ◆ Vacancy rates within several programs appear to be high

Agency Discussion

Goals and Objectives:

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

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

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

2007 Biennium Initiatives

MERLIN Information Technology Project

MERLIN (TEAM 261) is the Motor Vehicle Division automation project to develop and procure new information technology systems for vehicle titling, vehicle registration, driver records and control, and driver licensing. The project is ongoing and funded with \$27.1 million state special revenue from a portion of the lien filing and titling fees. The department is proceeding on a staged approach. The transaction money manager (cash drawer functionality) has been implemented, work on registration and titling continues and work is beginning on driver's licensing services.

Statutory Appropriation for Highway Patrol Salary Increases

HB 35 of the 2005 session provided a statutory appropriation for increased wages for Montana Highway Patrol officers and additional positions and related operating costs to address recruitment and retention issues. Legislative provisions were implemented as passed with pay increases provided in July, 2006 to 205 positions and 8 new positions added to the

forces. The department indicates that response to recruitment has significantly increased, but it is too early to determine the impact, if any, on retention.

Additional Staff at the Forensic Lab

The legislature provided funding for 4.00 FTE at the state crime lab including:

- o \$122,933 general fund to shift the funding for 1.00 FTE Forensic Scientist, Chemist from a federal grant so that the department could retrain trained staff. The department indicates turnaround time for this section has decreased from 10-12 months to 5-6 weeks and that its goal for turnaround time is 4 weeks
- o \$122,933 general fund to shift funding from a federal grant for 1.00 FTE DNA/Serologist. The department filled this position with an individual on a training assignment in April, 2006. Training of this individual continues and should be fully completed in about six months. The department anticipated that all staff will be fully trained by March/April of 2007. However, this section continues to have substantial backlog.
- o \$61,430 general fund for FY 2007 to increase staffing by 1.00 FTE Forensic Scientist, Toxicologist. The department hired staff in April, 2005 but also had a staff resignation occur at about this time. The vacant position was filled in May, 2006. The department indicated that staff will be fully trained in about two months and that backlog in this area is about six weeks, The department’s goal is four weeks
- o \$317,144 general fund for an additional 1.00 FTE Forensic Pathologist to address caseload increases. An additional pathologist began work in September 2005. In FY 2006 the lab billed counties \$134,700 for pathologist services.

Legislation Proposed to Change Prosecution Services

LC 0071, requested by the Law and Justice Interim Committee based upon the committee’s interim study of prosecution services, includes funding for several items that are also included in the 2009 biennium budget request. LC 0071 provides for changes to the statutory provisions for the state share of county attorney salaries. Currently, the state reimburses counties for 50 percent of the county attorney’s salary subject to the amount of legislative appropriation for that purpose. Historically, counties have found this problematic because of timing differences in the legislative appropriation process and pay increases granted to county attorneys. It is not uncommon for a county attorney salary to be adjusted between legislative sessions, which results in the county not being reimbursed for 50 percent of the increase. LC 0071 establishes the state contribution for a county attorney’s salary at 50 percent of 85 percent of a district court judges salary, prorated if the county attorney is less than full time, and provides a statutory appropriation to reimburse counties. (District court judges salaries are set biennially according to a salary survey of Montana and four surrounding states) LC 0071 also provides that the state contribute 50 percent of the employer contribution for group health benefits under 2-18-703(2) MCA.

As illustrated in Figure 1, LC 0071 as drafted includes appropriations for several items that are also included in the general appropriations act.

Should the decision packages included in the 2009 biennium budget request be approved, the legislature may wish to include language in HB 2 that coordinates funding for the items included in both HB 2 and LC 0071. Potential language is included in discussion of the pertinent decision package.

Decision Package	Item	Budget Request	
		FY 2008	FY 2009
DP 104	Prosecution Svcs 2.00 FTE	\$167,066	\$161,247
DP 105	Child Protection Unit 2.00 FTE	167,066	161,247
Total	Agency Legal Services	334,132	322,494
DP 3202	Toxicologist 1.00 FTE	73,758	70,862
DP 3203	Latent Print Examiner 1.00 FTE	73,758	70,862
Not Included	Salary Adjustments	150,000	150,000
Total	Forensic Sciences Division	297,516	291,724
	Total	\$631,648	\$614,218

MERLIN – Motor Vehicle Division Automation

The Project

The Motor Vehicle Division has been in the process of re-engineering business processes and development of the new automated information technology system. This effort has been known by several names, including HB 577, HB 261 and TEAM 261. During the interim, the project and new system has been named MERLIN, Montana Enhanced Registration

and Licensing Information Network. This project involves the use of software developed and customized by ARCHON technology and implemented in conjunction with BearingPoint as the primary contractors. The project involves the following system segments:

- Archon Transaction Money Manager (ATM2) – cash drawer functionality – implemented, with user acceptance testing completed August 3, 2006
- Archon Registration and Titling Solution (ARTS) and Archon Client Accreditation Manager (ACAM) – motor vehicle registration, titling, inventory, licensing and authentication functionality – scheduled for deployment between May and July, 2007 with user acceptance testing completed by late August, 2007
- Archon Driver Solution (ADS) – driver licensing and management functionality – scheduled for deployment between November, 2007 and February, 2008 with user acceptance testing completed by mid April, 2008

The project status report dated November 8, 2006 indicates that the project is proceeding in accordance with the estimated timeline, with a slippage of less than two weeks in one area.

Funding

MERLIN has been funded to date through \$22.5 million of debt authorized in HB 577 (2001 session, \$4.5 million) and HB 261 (2003 session, \$18.0 million). However, this level of funding is not expected to be sufficient to fund the entire project. The department has been proceeding utilizing a staged approach with additional funding necessary before stage two may be undertaken (LC 0392).

The 2009 biennium budget includes two requests totaling \$7,575,000 of state special revenue for debt repayment and system costs. State special revenue is generated from a \$4 increase in lien filing fees and a \$5 increase in titling fees.

LFD ISSUE

System Development Progress and Functionality

Issues surrounding the development of this system have previously been brought to the attention of the legislature. In fact, the 2007 Biennium Legislative Budget Analysis indicated that all information technology applications were expected to be completed by July 1, 2007. Given the project timeline cited previously, it appears that the timeline proposed to the 2005 Legislature has been extended.

At the October 2006 Legislative Finance Committee meeting, the Chief Information Officer (CIO) for the state indicated that this project is rated with a yellow (cautionary) rating due to lack of funding for the full system. The CIO report also states that the agreed-to fixed fee mandatory work is now fully funded and sets the project up for successful implementation of the base system.

Given the historical delays and funding issues related to this system the legislature may wish to have an update from the department on completion of a functional system meeting the state's requirements.

Highway Patrol Salary Increases Supported by a Statutory Appropriation Included in HB 2

The 2005 Legislature provided for a state special revenue account funded from a \$5 increase in vehicle registration fees to fund biennial pay increases and additional staff for the highway patrol. Funds in the account are statutorily appropriated to the department for this purpose. However, about \$2.3 million of funding for pay increases granted in July, 2007 were included in the base budget and funded from the highways state special revenue rather than the statutory appropriation. Additionally, a request for about \$800,000 to fund a 3 percent salary increase in FY 2008, while funded from the statutory appropriation, is included in the general appropriations act. There are several issues surrounding the inclusion of this funding in the general appropriation act, including that this:

- Appropriates the funds twice
- Creates logistical difficulties
- Statutory appropriation does not fit within guidelines adopted by the legislature in statute regarding the use of statutory appropriations

These issues are discussed in detail in the Highway Patrol Program section of this analysis.

Vacancy Savings Applied to Highway Patrol

Legislation adopted during the 2005 session provided a statutory exemption from vacancy savings for uniformed personnel with the highway patrol. However, the executive has applied vacancy savings to the highway patrol in the same manner it is applied to other agencies.

REAL ID

The Real ID Act of 2005 is federal legislation that requires states to adhere to specific standards in verification of identification documents required prior to the issuance of a drivers license. The act also provides for information sharing and incorporation of standardized security features in driver's licenses. According to the a report on the impact of the Real ID act prepared by the National Governors Association, National Conference of State Legislatures and American Association of Motor Vehicle Administrators, implementation of the Real ID act would require that the identification of all drivers license or identification card holders be re-credentialed within five years of the May 2008 compliance deadline. This would involve an in-person visit by each individual, review and verification of identification documents, and re-documentation of information for the new license. The nationwide cost of this effort is estimated to be \$8.48 billion with the nationwide cost of full implementation of the act estimated to be more than \$11 billion. Montana's estimated cost for implementation of the Real ID act is a one time cost ranging from \$8.6 to \$11.5 million and ongoing costs ranging from \$5.9 to \$8.0 million. Given that the deadline for compliance with the requirements of the Real ID act (May, 2008) occurs during the 2009 biennium and that the cost of compliance is estimated to be several million dollars, the legislature may wish to:

- Have the department provide additional information about the provisions of the Real ID act, including reasons for compliance and penalties for non compliance with the act
- Have the department provide additional information about the risk to the state if compliance with the act is not achieved by the May, 2008 deadline
- Consider legislative action indicating the legislature's policy position on compliance or noncompliance with the Real ID act

Vacancy Rates

Through the various program narratives the reader will note vacancy rates that appear to be high resulting in statewide present law adjustments that are larger than would typically be expected. Of the 10 programs included in the department 6 experienced vacancy rates in FY 2006 that were greater than 9 percent. Ongoing recruitment and retention issues in some program such as the forensic lab have previously been brought to the legislature's attention. However, analysis of the 2009 biennium budget indicates that recruitment and retention of staff may be a generic agency issue rather than isolated to specific programs, which raises the following questions:

- Has the department preformed an analysis of the agency vacancy rate?
- Were the vacancy rates experienced in FY 2006 typical of the agency?
- Is the agency concerned that its recruitment and retention issues may be broad based as opposed to isolated to a specific program or specialized skills?
- What has the department done to address issues with recruitment and retention?

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the executive. 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 Legal Services Division	\$ 13,785,838	\$ 984,915	\$ 1,120,813	\$ -	\$ 15,891,566	10.90%
02 Office Of Consumer Protection	-	1,112,470	-	-	1,112,470	0.76%
07 Gambling Control Division	-	5,298,147	-	2,127,373	7,425,520	5.10%
12 Motor Vehicle Division	14,053,145	17,574,274	-	1,122,252	32,749,671	22.47%
13 Highway Patrol Division	351,729	49,670,242	-	-	50,021,971	34.32%
18 Div. Of Criminal Investigation	7,768,637	3,627,969	2,371,747	-	13,768,353	9.45%
19 County Attorney Payroll	4,448,142	-	-	-	4,448,142	3.05%
28 Central Services Division	794,312	1,268,438	-	128,298	2,191,048	1.50%
29 Information Technology Service	6,636,219	3,817,326	6,784	26,642	10,486,971	7.20%
32 Forensic Science Division	7,032,378	606,408	-	-	7,638,786	5.24%
Grand Total	\$ 54,870,400	\$ 83,960,189	\$ 3,499,344	\$ 3,404,565	\$ 145,734,498	100.00%

The department receives most of its funding (59.0 percent) from state special revenue sources such as the highway state special revenue account (41.5 percent), the motor vehicle information technology account (5.2 percent), and the gambling license fee account which supports primarily highway patrol, motor vehicle, gambling, and information technology division functions. General fund provides 36 percent of the department's funding and supports primarily legal services, motor vehicle, criminal investigation, information technology and forensic science division functions. The remainder of the department's funding comes from federal funds (2.4 percent) such as Medicaid, homeland security, and crime victim's grants that support specific purposes as outlined in the grant regulations. Proprietary funds (2.4 percent) primarily from the Department of Revenue, Liquor Division support licensing and inspection 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	724.30	25.50	749.80	724.30	25.50	749.80	723.30	749.80
Personal Services	42,008,858	1,298,478	43,307,336	42,289,954	1,300,186	43,590,140	73,030,755	86,897,476
Operating Expenses	20,004,198	3,330,225	23,334,423	19,814,224	250,195	20,064,419	33,855,565	43,398,842
Equipment	2,370,154	1,700	2,371,854	2,369,694	(58,300)	2,311,394	3,749,279	4,683,248
Capital Outlay	0	0	0	0	0	0	0	0
Benefits & Claims	847,236	150,000	997,236	847,236	150,000	997,236	1,725,222	1,994,472
Debt Service	3,892,730	0	3,892,730	4,867,730	0	4,867,730	1,978,189	8,760,460
Total Costs	\$69,123,176	\$4,780,403	\$73,903,579	\$70,188,838	\$1,642,081	\$71,830,919	\$114,339,010	\$145,734,498
General Fund	24,737,649	4,151,816	28,889,465	24,903,249	1,077,686	25,980,935	43,849,583	54,870,400
State/Other Special	40,899,516	652,285	41,551,801	41,789,047	619,341	42,408,388	63,882,271	83,960,189
Federal Special	1,919,229	(171,546)	1,747,683	1,924,709	(173,048)	1,751,661	4,175,291	3,499,344
Proprietary	1,566,782	147,848	1,714,630	1,571,833	118,102	1,689,935	2,431,865	3,404,565
Expendable Trust	0	0	0	0	0	0	0	0
Total Funds	\$69,123,176	\$4,780,403	\$73,903,579	\$70,188,838	\$1,642,081	\$71,830,919	\$114,339,010	\$145,734,498

Supplemental

The executive budget request includes a supplemental appropriation of \$575,000 general fund and \$200,000 state special revenue that will be requested by the department. The general fund portion of the supplemental is related to:

- o Major litigation costs - \$200,000
- o Payment of American Civil Liberties Union (ACLU) legal fees as result of settlement of the public defender lawsuit - \$375,000

The state special revenue request is related to funding to pay debt service on the motor vehicle titling and registration system project.

Additional information regarding the supplemental appropriation request was not available at the time of this writing.

New Proposals

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

New Proposals Program	Fiscal 2008					Fiscal 2009				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 101 - Victims Services Restitution 01	0.00	0	150,000	0	150,000	0.00	0	150,000	0	150,000
DP 102 - End-of-Life Registry 01	0.50	24,337	0	0	24,337	0.50	24,350	0	0	24,350
DP 103 - Tobacco Settlement Enforcement 01	2.00	130,675	0	0	130,675	2.00	125,324	0	0	125,324
DP 104 - Prosecution Services Bureau 01	2.00	167,066	0	0	167,066	2.00	161,247	0	0	161,247
DP 105 - Child Protective Unit 01	2.00	124,052	0	43,014	167,066	2.00	119,721	0	41,526	161,247
DP 107 - Water Court Claims 01	2.00	103,473	0	0	103,473	2.00	100,884	0	0	100,884
DP 110 - Major Litigation - Wyoming (OTO) 01	0.00	3,000,000	0	0	3,000,000	0.00	0	0	0	0
DP 702 - Continue OTO Approp - Gambling Database 07	0.00	0	85,250	0	85,250	0.00	0	85,250	0	85,250
DP 703 - GCD - New Investigators - Gambling 07	2.00	0	147,848	0	147,848	2.00	0	118,102	0	118,102
DP 704 - Tobacco Investigation Unit - Make MOU Permanent 07	2.00	0	122,432	0	122,432	2.00	0	122,700	0	122,700
DP 707 - GCD - New Investigators - Liquor 07	2.00	0	0	0	147,848*	2.00	0	0	0	118,102*
DP 1208 - Driver License Security Requirements 12	2.00	112,283	0	0	112,283	2.00	112,371	0	0	112,371
DP 1303 - Communications Operators 13	5.00	0	152,659	0	152,659	5.00	0	152,791	0	152,791
DP 1305 - MCSAP Reduction from base 13	0.00	0	(29,537)	(214,560)	(244,097)	0.00	0	(29,537)	(214,574)	(244,111)
DP 1306 - Executive protection funding switch 13	0.00	175,039	(175,039)	0	0	0.00	176,690	(176,690)	0	0
DP 1806 - One Management/Leadership Trainer 18	1.00	0	71,447	0	71,447	1.00	0	69,497	0	69,497
DP 1807 - State Special Authority for Grants 18	0.00	0	86,327	0	86,327	0.00	0	86,295	0	86,295
DP 2906 - Criminal Justice Information Services Technician 29	1.00	0	40,898	0	40,898	1.00	0	40,933	0	40,933
DP 3202 - Toxicologist Position 32	1.00	73,758	0	0	73,758	1.00	70,862	0	0	70,862
DP 3203 - Latent Print Examiner Position 32	1.00	73,758	0	0	73,758	1.00	70,862	0	0	70,862
DP 3205 - Crime Lab Equipment (RST/OTO) 32	0.00	115,375	0	0	115,375	0.00	115,375	0	0	115,375
DP 3206 - Forensic Science Lab - Records Mgmt. OTO 32	0.00	52,000	0	0	52,000	0.00	0	0	0	0
Total	25.50	\$4,151,816	\$652,285	(\$171,546)	\$4,780,403*	25.50	\$1,077,686	\$619,341	(\$173,048)	\$1,642,081*

Agency Issues*Elected Official Proposals*

As an elected office the Attorney General is authorized in statute to bring to the legislature new proposals even though the proposal was not included in the executive budget. The following elected official proposals were available at the time of this writing. Additional elected official proposal are likely to be brought to the legislature.

Pay Increases for Law Enforcement Personnel - The Attorney General requests \$422,772 for the biennium (\$361,637 general fund, \$20,680 state special revenue, and \$40,455 federal funds) to implement a progression to market pay raise for all division law enforcement personnel. In April 2006, the Department of Administration published a new salary survey that establishes a new market salary for criminal investigators. Union negotiations produced an agreement that established a pay matrix that progresses investigators to market salary over a five year period.

DCI Headquarters Rent – The Attorney General requests \$576,000 for the biennium (\$450,000 general fund, \$43,200 state special revenue, and \$82,800 federal funds) to fund moving and rental costs for the division. The division relocated during the 2007 biennium.

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	50.50	0.00	8.50	59.00	0.00	8.50	59.00	59.00
Personal Services	2,956,473	376,956	520,213	3,853,642	391,977	520,680	3,869,130	7,722,772
Operating Expenses	1,213,664	304,816	3,072,404	4,590,884	317,402	52,372	1,583,438	6,174,322
Equipment	0	0	0	0	0	0	0	0
Benefits & Claims	847,236	0	150,000	997,236	0	150,000	997,236	1,994,472
Total Costs	\$5,017,373	\$681,772	\$3,742,617	\$9,441,762	\$709,379	\$723,052	\$6,449,804	\$15,891,566
General Fund	4,351,077	487,798	3,549,603	8,388,478	514,757	531,526	5,397,360	13,785,838
State/Other Special	305,254	37,062	150,000	492,316	37,345	150,000	492,599	984,915
Federal Special	361,042	156,912	43,014	560,968	157,277	41,526	559,845	1,120,813
Total Funds	\$5,017,373	\$681,772	\$3,742,617	\$9,441,762	\$709,379	\$723,052	\$6,449,804	\$15,891,566

Program Description

The Legal Services Division provides the Attorney General with legal research and analysis; legal counsel for state government officials, bureaus, and boards; legal assistance to local governments and Indian tribes; legal assistance, training, and support for county prosecutors; and assistance to victims of crime, including compensation payments.

County prosecutor services provides special prosecution assistance to counties in some circumstances, certain special task force and investigation sections, and coordinates training and continuing legal education for county attorneys, city attorneys, and law enforcement personnel. The Appellate Legal Services Bureau is responsible for representing the state in all criminal appeals and responds to all habeas corpus and post conviction proceedings where federal and state courts order the state to defend the legality of convictions. The Civil Services Bureau defends the state in constitutional challenges and coordinates appeals of civil cases that involve the state. This bureau also provides legal assistance to state and local governments on matters involving Indian jurisdiction, federal reserved water rights, election law, antitrust, conflicts of interest and open meetings. The Office of Victim Services and Restorative Justice is a consolidated effort to elevate the status and respond to the needs of victims of crime in Montana. The office also provides the cross-training and coordination with local law enforcement to more fully address the broad needs of victims.

Program Highlights

Legal Services Division Major Budget Highlights
<ul style="list-style-type: none"> ◆ 2009 biennium funding is \$5.9 million (58.4 percent) greater than the FY 2006 base budget doubled ◆ General fund increases primarily due to requests for: <ul style="list-style-type: none"> • \$3.0 million for major litigation related to the Yellowstone Basin water management issues • \$1.1 million for 8.5 FTE and related costs for additional staff, primarily attorneys and paralegals • \$0.5 million for other major litigation

Major LFD Issues	
<ul style="list-style-type: none"> ◆ The legislature may wish to provide funding for major litigation as a restricted, biennial, one-time-only appropriation ◆ Funding for 4.00 FTE and related costs for prosecution services and the child protection unit are also included in LC 0071 requested by the Law and Justice Interim Committee 	

Funding

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

Program Funding Table							
Legal Services Division							
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	\$ 4,351,077	86.7%	\$ 8,388,478	88.8%	\$ 5,397,360	83.7%
	01100 General Fund	4,351,077	86.7%	8,388,478	88.8%	5,397,360	83.7%
02000	Total State Special Funds	305,254	6.1%	492,316	5.2%	492,599	7.6%
	02013 Continuing Legal Education	-	-	6,500	0.1%	6,500	0.1%
	02074 Gambling License Fee Account	76,634	1.5%	84,968	0.9%	85,044	1.3%
	02337 Antitrust Activity	620	0.0%	-	-	-	-
	02422 Highways Special Revenue	75,300	1.5%	84,602	0.9%	84,670	1.3%
	02937 Justice State Special Misc	152,700	3.0%	316,246	3.3%	316,385	4.9%
03000	Total Federal Special Funds	361,042	7.2%	560,968	5.9%	559,845	8.7%
	03169 Federal Crime Victims Benefits	270,021	5.4%	270,021	2.9%	270,021	4.2%
	03187 Bcc Grants To Dept. Of Justice	-	-	76,150	0.8%	76,220	1.2%
	03801 Dept Of Justice-Misc Grants	91,021	1.8%	214,797	2.3%	213,604	3.3%
Grand Total		\$ 5,017,373	100.0%	\$ 9,441,762	100.0%	\$ 6,449,804	100.0%

The division receives about 84 percent of its funding from the general fund. State special revenue from sources such as gambling license fees and highway state special revenue provide about 8 percent of the support for the division as do federal grants such as the crime victim compensation grant.

Present Law Adjustments

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

	-----Fiscal 2008-----				-----Fiscal 2009-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					511,223					526,864
Vacancy Savings					(134,267)					(134,887)
Inflation/Deflation					15,576					16,988
Fixed Costs					32,740					43,914
Total Statewide Present Law Adjustments					\$425,272					\$452,879
DP 108 - Continuing Legal Education - Base Adjustment	0.00	0	6,500	0	6,500	0.00	0	6,500	0	6,500
DP 110 - Major Litigation - OTO	0.00	250,000	0	0	250,000	0.00	250,000	0	0	250,000
Total Other Present Law Adjustments	0.00	\$250,000	\$6,500	\$0	\$256,500	0.00	\$250,000	\$6,500	\$0	\$256,500
Grand Total All Present Law Adjustments					\$681,772					\$709,379

LFD COMMENT

Almost 40 percent (\$230,000) of the statewide present law adjustments for personal services relates to costs for positions that were vacant all or part of the year.

DP 108 - Continuing Legal Education - Base Adjustment. This decision package requests \$13,000 state special revenue for the biennium for the Continuing Legal Education Program, which did not have any expenditure in the FY 2006 base budget. Revenue to cover the costs of this program will be generated by fees charged to attend training.

DP 110 - Major Litigation - OTO - This decision package requests \$500,000 general fund for the biennium as a one-time-only appropriation for the costs of major litigation.

LFD ISSUE

Increase above base budget

The description for this decision package did not indicate why the department anticipated the need for this funding in addition to the \$631,000 of expenditures included in the base budget and the \$3 million requested for potential litigation related to water in the Yellowstone Basin. Staff will seek additional information regarding litigation anticipated in the 2009 biennium and anticipated costs of that litigation.

Given the unpredictable nature and timing of major litigation costs the legislature may wish to provide funding for these costs as a restricted, biennial, one-time-only appropriation. Restricting the appropriation would limit the use of the fund to only the cost of major litigation. A biennial appropriation would provide the agency flexibility should costs not be incurred as anticipated. A one-time-only appropriation is not included in the base budget for the next biennium but must be specifically requested in a decision package.

New Proposals

Program	FTE	Fiscal 2008				Fiscal 2009				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 101 - Victims Services Restitution										
01	0.00	0	150,000	0	150,000	0.00	0	150,000	0	150,000
DP 102 - End-of-Life Registry										
01	0.50	24,337	0	0	24,337	0.50	24,350	0	0	24,350
DP 103 - Tobacco Settlement Enforcement										
01	2.00	130,675	0	0	130,675	2.00	125,324	0	0	125,324
DP 104 - Prosecution Services Bureau										
01	2.00	167,066	0	0	167,066	2.00	161,247	0	0	161,247
DP 105 - Child Protective Unit										
01	2.00	124,052	0	43,014	167,066	2.00	119,721	0	41,526	161,247
DP 107 - Water Court Claims										
01	2.00	103,473	0	0	103,473	2.00	100,884	0	0	100,884
DP 110 - Major Litigation - Wyoming (OTO)										
01	0.00	3,000,000	0	0	3,000,000	0.00	0	0	0	0
Total	8.50	\$3,549,603	\$150,000	\$43,014	\$3,742,617 *	8.50	\$531,526	\$150,000	\$41,526	\$723,052 *

DP 101 - Victims Services Restitution - This decision package requests \$300,000 state special revenue for the biennium to compensate victims of personal injury crimes for medical expenses, mental health counseling expenses, and funeral expenses. Restitution collections may be used to match federal funds on a 60 percent state/40 percent federal funds ratio.

**LFD
ISSUE**

Legislation Needed

Legislation (LC0380) is needed to redirect the revenue to a state special revenue fund. LC 0380 also provides a statutory appropriation of the funds in this new state special revenue account. The legislature may wish to make inclusion of this funding in the general appropriations act contingent upon passage and approval of LC 0380 in a form that does not include a statutory appropriation.

DP 102 - End-of-Life Registry - This decision package requests \$48,687 general fund for the biennium to support 0.50 FTE and related operating costs to manage the End-of-Life Registry created by legislation passed during the 2005 session.

DP 103 - Tobacco Settlement Enforcement - This decision package requests \$255,999 general fund to support 2.00 FTE and related operating expenses to replace expenditures for a contracted Agency Legal Services attorney and paralegal to perform functions related to the Tobacco Settlement agreement, including diligent enforcement of certain regulatory statutes that govern the activities of tobacco manufacturers that do not contribute to the settlement fund. These activities must be undertaken so that the state continues to receive Tobacco Settlement Agreement 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/or clarity.

Justification: Montana receives in excess of \$27 million a year from the 1997 tobacco settlement. Continued receipt of that money is contingent on diligent enforcement of certain regulatory statutes that govern activities of tobacco manufacturers that do not contribute to the settlement fund. If Montana cannot demonstrate diligent enforcement of these statutes, the settlement provides that Montana may lose its entire annual settlement payment.

Goal: The department provides diligent enforcement actions by contracting with Agency Legal Services Bureau counsel. The department is attempting to replace the existing Agency Legal Services contract with less expensive FTE.

Performance Measures: Under this proposal, diligent enforcement of the Master Settlement Agreement will be achieved with less annual expense to the state.

Milestones: When FTE are hired and handling enforcement requirements.

FTE: The 2 FTE will be an attorney and paralegal position. With the implementation of pay plan 20 across the department, recruitment issues regarding pay for legal staff have been mitigated. The department would re-assign current Agency Legal Services personnel to the new funding source.

Funding: The 2 new FTE would be funded with general fund money from the tobacco settlement. The department currently spends approximately \$175,000 for an attorney and paralegal from Agency Legal Services Bureau. This funding shift would save approximately 40,000 in general fund expenditures.

Obstacles: No anticipated challenges.

Risk: Enforcement actions will continue at a higher cost to the state

**LFD
ISSUE**

Achievement Measurement

The goal of this proposal might better be stated to successfully complete due diligence on the tobacco settlement case so that the state continues to receive payments, at less cost than is currently being incurred. The information above does not indicate how to measure whether or not due diligence has been achieved, including whether it is measured simply by whether or not the state continues to receive tobacco settlement funds.

DP 104 - Prosecution Services Bureau - This decision package requests \$328,313 general fund for the biennium to support 2.00 FTE and related operating costs to increase the staffing of the Prosecution Services Bureau due to workload issues.

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 2005 Legislature adopted a joint resolution (SJR 40) requesting that an interim committee study the delivery of prosecution services in Montana. In response to the committee's findings, 2.0 FTE general prosecutors are requested for the Prosecution Services Bureau to handle the increasing case load.

Goals: SJR 40 indicates that "the delivery of competent, qualified, and professional prosecution services is vital to a productive and responsive criminal justice system and it is in the best interests of the people of the State of Montana to encourage and develop career county attorneys who can provide consistent levels of prosecution services and county civil legal services throughout the state." To that end, the interim committee has recommended that 2.0 FTE be added to the Prosecution Services Bureau to relieve heavy caseload and also to help ensure that assistance to county attorneys is available in a fair and consistent manner statewide.

Performance Measures: Case load statistics are not always the most accurate way to determine effective outcomes. However, case load statistics for each attorney within the Prosecution Services Bureau will provide the legislature data to analyze the timeliness of service and increase or decrease in cases filed. Progress can be determined by reviewing length of time that cases take to be filed and if the allotted FTE have reduced the overall case load per prosecutor.

Milestones: When FTE are hired and handling full case loads.

FTE: The two new FTE will have similar position duties to the current attorney positions. It will take the department approximately 6 weeks from the effective date of the proposed legislation to recruit and hire two additional prosecutors. With the implementation of pay plan 20 for attorney positions in the department, recruitment issues regarding pay have been mitigated.

Funding: The two new FTE are general funded. The interim committee determined that the positions needed to be general funded to ensure predictable long-term stability to the program.

Obstacles: The Prosecution Services Bureau must cover all jurisdictions across the state and travel is an essential component of the work. Efforts have been made to use technology to reduce travel time and costs of court appearances but maintaining such a heavy court docket presents extensive scheduling dilemmas. Also, the creation of the public defender office has increased work load on county attorney offices to ensure that cases are filed in a timely manner to ensure access to the justice system is not restricted.

Risk: Maintaining the status quo for the delivery of prosecution services in the state continues to erode the states ability to keep and maintain quality staff to prosecute criminal cases.

**LFD
ISSUE**

Milestones Lacking

The information provided by the department regarding this proposal could be strengthened by the addition of milestones or timelines indicating when hiring would likely occur and when new staff would be capable of handling a full caseload, assuming the proposal is approved.

Funding for these 2.00 FTE is also included in LC 0071 requested by the Law and Justice Interim Committee. If this decision package is approved, the legislature may wish to include language in HB 2 that coordinates the inclusion of this funding in HB 2 with legislative action on the appropriation included in LC0071. For example:

“General fund of \$167,066 in FY 2008 and \$161,247 in FY 2009, and 2.00 FTE for prosecution services is contingent upon passage and approval of LC 0071 in a form that does not include an appropriation for this purpose.”

DP 105 - Child Protective Unit - This decision package requests \$328,313 total funds including \$243,773 general fund and \$84,540 federal funds to support 2.00 FTE and related operating costs for additional staff in the Child Protective Unit of the 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: The 2005 Legislature adopted a joint resolution (SJR 40) requesting that an interim committee study the delivery of prosecution services in Montana. In response to the committees’ findings, 2.00 FTE are requested for the Child Protection Services Unit to handle the increasing case load of child abuse and dependent neglect cases.

Goals: SJR 40 indicates that “the delivery of competent, qualified, and professional prosecution services is vital to a productive and responsive criminal justice system and it is in the best interests of the people of the state of Montana to encourage and develop career county attorneys who can provide consistent levels of prosecution services and county civil legal services throughout the state.” To that end, the interim committee has recommended that two FTE be added to the Child Protection Services Unit to relieve heavy caseload and also to help ensure that assistance to county attorneys is available in a fair and consistent manner statewide.

Performance Measures: Case load statistics are not always the most accurate way to determine effective outcomes. However, case load statistics for each attorney within the Child Protection Services Unit will provide the legislature data to analyze the timeliness of service and increase or decrease in cases filed. Progress can be determined by reviewing length of time that cases take to be filed and if the allotted FTE have reduced the overall case load per prosecutor.

Milestones: When FTE are hired and handling full case loads.

FTE: The two new FTE will have similar position duties to the current attorney positions. It will take the department approximately 6 weeks from the effective date of the proposed legislation to recruit and hire two additional prosecutors. With the implementation of pay plan 20 for attorney positions in the department recruitment issues regarding pay have been mitigated.

Funding: The two new FTE are general funded. The interim committee determined that the positions needed to be general funded to ensure predictable long-term stability to the program.

Obstacles: The Child Protection Services Unit must cover all jurisdictions across the state and travel is an essential component of the work. Efforts have been made to use technology to reduce travel time and costs of court appearances but maintaining such a heavy court docket presents extensive scheduling dilemmas. The extensive travel also impacts the department’s ability to recruit, as many potential applicants do not wish to maintain the heavy travel schedule.

Additional FTE would be geographically placed to assist in reducing the amount of time on the road.

Risk: This unit is part of the Prosecution Services Bureau and consists of four attorneys. The unit's initial focus has been on resolving the legal status of children who have been in foster care for more than 15 out of the most recent 22 months. Under federal law, Montana must file petitions to terminate parental rights in such cases. The current case load has overwhelmed the four attorneys and the interim committee specifically designated 2.00 FTE to this unit to address the apparent short fall.

**LFD
ISSUE**

Rationale for Additional Staffing

The information provided by the department regarding this proposal does not provide any rationale regarding why the LJIC determined there was a need for additional attorneys in this unit. Additional, the information could be strengthened by the inclusion of dates employees will be trained and handling a full caseload in the event this proposal is approved.

Funding for these FTE is also included in LC 0071 requested by the Law and Justice Interim Committee. Funding in LC 0071 is entirely general fund while funding proposed for HB 2 is a combination of general fund and federal funds. If this decision package is approved, the legislature may wish to include language in HB 2 that coordinates inclusion of funding in HB 2 with the appropriation included in LC 0071. For example:

“General fund monies of \$124,052 in FY 2008 and \$119,721 in FY 2009, federal funds of \$43,014 in FY 2008 and \$41,526 in FY 2009 and 2.00 FTE for the child protection unit is contingent upon passage and approval of LC 0071 in a form that does not include an appropriation for this purpose.”

DP 107 - Water Court Claims - This decision package requests \$204,357 general fund for the biennium to support 2.00 FTE and related operating costs to continue funding for the Water Court claims and to increase the staff by from two 0.50 FTE to two 1.00 FTE positions (an attorney and a paralegal). 2007 biennium funding for this function was a one-time-only appropriation from the Resource Indemnity Trust. The department has the authority to intervene in water claims adjudications.

**LFD
COMMENT**

Resource Indemnity Trust funds were available for the 2007 biennium due to excess funds in the corpus of the trust. These funds are not available for the 2009 biennium.

DP 110 - Major Litigation - Wyoming (OTO) - This decision package requests \$3.0 million general fund as a one-time-only, biennial appropriation for activities and potential litigation related to the Yellowstone River Compact. Per the department, Wyoming has failed to respond to Montana's claims for water deliveries arising under the Yellowstone River Compact among Montana, Wyoming, and North Dakota, resulting in inadequate water supplies in Montana in certain parts of the tributaries of the Yellowstone River that flow into Montana from Wyoming.

**LFD
ISSUE**

Resolution of Litigation

The legislature may wish to discuss with the department the likelihood of resolution within the biennium, and the likelihood and amount of future costs.

Please see DP 110 major litigation

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	8.75	0.00	0.00	8.75	0.00	0.00	8.75	8.75
Personal Services	351,409	109,389	0	460,798	111,340	0	462,749	923,547
Operating Expenses	82,035	11,830	0	93,865	13,023	0	95,058	188,923
Total Costs	\$433,444	\$121,219	\$0	\$554,663	\$124,363	\$0	\$557,807	\$1,112,470
General Fund	208	(208)	0	0	(208)	0	0	0
State/Other Special	433,236	121,427	0	554,663	124,571	0	557,807	1,112,470
Total Funds	\$433,444	\$121,219	\$0	\$554,663	\$124,363	\$0	\$557,807	\$1,112,470

Program Description

The Office of Consumer Protection enforces Montana's consumer protection laws and regulations related to: deceptive and misleading advertising, including "bait and switch" and false claims; unfair acts by a business, including changing a contract after a sale, abusive arbitration and debt collection misconduct; door-to-door sales; telemarketing, including running Montana's do-not-call list; car and truck sales and repair, including the New Vehicle Warranty Act (or Lemon Law) violations; antitrust issues, including price fixing, monopoly abuse and restraint of trade.

Program Highlights

Office Of Consumer Protection Major Budget Highlights	
◆	Statewide present law adjustments are the only increases included in the budget for this division

Funding

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

Program Funding Table Office Of Consumer Prote						
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	\$ 208	0.0%	\$ -	-	\$ -	-
01100 General Fund	208	0.0%	-	-	-	-
02000 Total State Special Funds	433,236	100.0%	554,663	100.0%	557,807	100.0%
02140 Consumer Education Settlement	433,236	100.0%	554,663	100.0%	557,807	100.0%
Grand Total	<u>\$ 433,444</u>	<u>100.0%</u>	<u>\$ 554,663</u>	<u>100.0%</u>	<u>\$ 557,807</u>	<u>100.0%</u>

The division is funded entirely by state special revenue from the consumer education settlement.

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					128,590					130,622
Vacancy Savings					(19,201)					(19,282)
Inflation/Deflation					467					517
Fixed Costs					11,363					12,506
Total Statewide Present Law Adjustments					\$121,219					\$124,363
Grand Total All Present Law Adjustments					\$121,219					\$124,363

LFD COMMENT	More than half of the statewide present law adjustment for personal services is related to positions that were vacant all or a portion of the base year.
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Proprietary Rates**Program Description**

Agency Legal Services Bureau (ALSB) provides legal, hearing examiner, and investigative services to state agency clients on a contract basis. ALSB attorneys and investigators bill clients for their services and case-related and incidental costs.

ALSB has 17.00 FTE funded from the revenues generated.

Statutory authority: The Attorney General is the legal officer for the state per Article VI, Section 4(4), Montana Constitution. Section 2-4-611(2), MCA provides that state agencies may request from the Attorney General's Office a hearing examiner in a contested case.

Alternate Sources: State agencies have the option to use in-house or private counsel and investigators to do the work provided by ALSB. Private law firms, however, typically charge considerably more per hour than ALSB, and ALSB attorneys and investigators have specific knowledge and experience that agencies find beneficial. Agencies must receive approval from the Legal Services Review Committee prior to contracting for outside legal services.

Customers Served: ALSB serves state agencies, boards, and commissions that have entered contracts with ALSB. According to Executive Order 5-93, agencies must receive approval from the Legal Services Review Committee prior to contracting for outside legal services.

Proprietary Revenues and Expenses

Change in Service or Fees - The Agency Legal Services is proposing an increase in the rate per hour for attorneys from \$74 to \$84 and investigator services from \$46 to \$50 beginning in FY 2008.

Working Capital Discussion - The objective of program management is to recover costs to fund necessary and ongoing operations. The program will increase cash on hand from a projected cash balance without the above increase of \$47,063 at the end of the 2009 biennium to a \$213,431 positive balance. A 60-day working capital would be approximately \$217,000.

Fund Equity and Reserved Fund Balance - The program would like to maintain a working fund balance of sixty days. However this has never been done due to the need to keep rates down.

Cash Flow Discussion - With the proposed rate increase, the department anticipates that cash flow should be sufficient to maintain the proposed rates through the 2011 biennium without an increase.

Proprietary Rate Explanation

Rate Explanation – Rates are based upon cost of operations to include attorney and investigators. The rates take into consideration holidays, non billable hours, sick and vacation leave. Rates must be sufficient to cover all personnel costs and operating expenses.

**LFD
COMMENT**

The proprietary table as prepared by the executive does not include the rates as authorized by the 2005 Legislature. The legislature authorized rates of \$71.80 in FY 2006 and \$74.00 for FY 2007 for attorney services and \$44.00 in FY 2006 and \$46.00 in FY 2007 for investigator services.

The executive request removes funding of \$268,410 for the biennium for 3.00 FTE that have been vacant for over one year.

**LFD
ISSUE**

Solvency of Fund

As illustrated in the table net assets for this self-sufficient function have been and are projected to be negative from FY 2004 through FY 2008. However, between FY 2004 and 2005 the results from operations changed from a loss to a profit. This is likely related to the increase in rates and decrease in staffing of this unit. The department proposes increasing rates in the 2009 biennium but indicates that it believes these increased rates will result in sufficient case flow so that rates may be maintained in the 2011 biennium without further increase. While the change in results from operations from a loss to a profit is an encouraging sign that this fund may be closer to a structural balance, the situation appears to be tentative and it is unclear whether increased rates will result in decreased workload and thus, a revenue decrease rather than an increase. The legislature may wish to request that the department conduct an analysis to determine the market tolerance to rate increases and the rate at which workload would be sufficient to generate the revenues necessary to maintain a positive cash flow and asset balance.

2009 Biennium Report on Internal Service and Enterprise Funds								
Fund	Fund Name	Agency #	Program Name					
6500	Agency Legal Services	4110	Agency Legal Services					
			Actual FY04	Actual FY05	Actual FY06	Budgeted FY07	Budgeted FY08	Budgeted FY09
Operating Revenues:								
Fee revenue					1,095,784	1,151,616	1,234,800	1,234,800
Pass Through Revenue					68,616	100,000	100,000	100,000
Agency Fee Revenue			-	1,111,165	18,162	-	-	-
			-	-	-	-	-	-
Net Fee Revenue			1,145,768	1,111,165	1,182,562	1,251,616	1,334,800	1,334,800
Investment Earnings			-	-	-	-	-	-
Securities Lending Income			-	-	-	-	-	-
Premiums			-	-	-	-	-	-
Other Operating Revenues			219	-	33	-	-	-
Total Operating Revenue			1,145,987	1,111,165	1,182,595	1,251,616	1,334,800	1,334,800
Operating Expenses:								
Personal Services			906,761	884,793	931,284	974,347	1,009,371	1,038,243
Other Operating Expenses			243,447	209,946	152,266	162,000	164,206	164,206
Pass Through Expense			-	-	68,616	100,000	100,000	100,000
Total Operating Expenses			1,150,208	1,094,739	1,152,166	1,236,347	1,273,577	1,302,449
Operating Income (Loss)			(4,221)	16,426	30,429	15,269	61,223	32,351
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			(4,221)	16,426	30,429	15,269	61,223	32,351
Contributed Capital			-	-	-	-	-	-
Operating Transfers In (Note 13)			-	-	-	-	-	-
Operating Transfers Out (Note 13)			-	-	-	-	-	-
Change in net assets			(4,221)	16,426	30,429	15,269	61,223	32,351
Total Net Assets- July 1 - As Restated			(82,074)	(86,295)	(69,869)	(39,440)	(24,171)	37,052
Prior Period Adjustments			-	-	-	-	-	-
Cumulative effect of account change			-	-	-	-	-	-
Total Net Assets - July 1 - As Restated			(82,074)	(86,295)	(69,869)	(39,440)	(24,171)	37,052
Net Assets- June 30			(86,295)	(69,869)	(39,440)	(24,171)	37,052	69,403
60 days of expenses (Total Operating Expenses divided by 6)			191,701	182,457	192,028	206,058	212,263	217,075
Requested Rates for Internal Service Funds								
Fee/Rate Information for Legislative Action								
			Actual FYE 04	Actual FY 05	Actual FY 06	Actual FY 07	Budgeted FY08	Budgeted FY09
Fee Group A								
Attorney rate per hour			\$ 71.80	\$ 71.80	\$ 71.80	\$ 71.80	\$ 84.00	\$ 84.00
Investigators rate per hour			\$ 39.80	\$ 39.80	\$ 39.80	\$ 39.80	\$ 50.00	\$ 50.00

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	43.50	0.00	6.00	49.50	0.00	6.00	49.50	49.50
Personal Services	2,206,760	200,133	295,128	2,702,021	213,321	295,904	2,715,985	5,418,006
Operating Expenses	645,442	98,498	148,250	892,190	106,982	148,250	900,674	1,792,864
Equipment	72,445	0	60,000	132,445	0	0	72,445	204,890
Debt Service	4,880	0	0	4,880	0	0	4,880	9,760
Total Costs	\$2,929,527	\$298,631	\$503,378	\$3,731,536	\$320,303	\$444,154	\$3,693,984	\$7,425,520
State/Other Special	2,089,414	211,162	355,530	2,656,106	226,575	326,052	2,642,041	5,298,147
Proprietary	840,113	87,469	147,848	1,075,430	93,728	118,102	1,051,943	2,127,373
Total Funds	\$2,929,527	\$298,631	\$503,378	\$3,731,536	\$320,303	\$444,154	\$3,693,984	\$7,425,520

Program Description

The Gambling Control Division was established by the 1989 Legislature to regulate the gambling industry in Montana. The division has criminal justice authority and conducts routine field inspections and investigations related to gambling activities. In addition to collecting and distributing licensing fees for gambling machines and activities, the division collects the gambling tax assessed on the net proceeds of gambling activities. It conducts investigations related to alcoholic beverage licensing and tobacco enforcement. An appointed Gaming Advisory Council of nine members advises the Attorney General to ensure uniform statewide regulation of gambling activities.

Program Highlights

Gambling Control Division Major Budget Highlights	
◆	Funding for the division increases \$1.6 million or 26.7 percent when the 2009 biennium budget request is compared to double the FY 2006 base budget, primarily due to the addition of 6.00 FTE for investigation functions related to gambling licensing (2.00 FTE), tobacco enforcement (2.00 FTE), and liquor licensing activities (2.00 FTE)

Funding

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

Program Funding Table Gambling Control Division						
Program Funding	Base	% of Base	Budget	% of Budget	Budget	% of Budget
	FY 2006	FY 2006	FY 2008	FY 2008	FY 2009	FY 2009
02000 Total State Special Funds	\$ 2,089,414	71.3%	\$ 2,656,106	71.2%	\$ 2,642,041	71.5%
02074 Gambling License Fee Account	2,089,414	71.3%	2,533,674	67.9%	2,519,341	68.2%
02937 Justice State Special Misc	-	-	122,432	3.3%	122,700	3.3%
06000 Total Proprietary Funds	840,113	28.7%	1,075,430	28.8%	1,051,943	28.5%
06005 Liquor Division	840,113	28.7%	1,075,430	28.8%	1,051,943	28.5%
Grand Total	\$ 2,929,527	100.0%	\$ 3,731,536	100.0%	\$ 3,693,984	100.0%

The division is funded primarily with state special revenue (71.5 percent) from gambling license fees. Proprietary funds from liquor licensing and taxes compose the balance of the division's funding.

Present Law Adjustments

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

	Fiscal 2008					Fiscal 2009				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					295,731					309,469
Vacancy Savings					(100,098)					(100,648)
Inflation/Deflation					2,627					2,687
Fixed Costs					9,382					12,753
Total Statewide Present Law Adjustments					\$207,642					\$224,261
DP 701 - GCD - Base Adjustment	0.00	0	43,657	0	61,489 *	0.00	0	47,245	0	66,542 *
DP 706 - Video Gambling Machine System-Testing	0.00	0	29,500	0	29,500	0.00	0	29,500	0	29,500
Total Other Present Law Adjustments	0.00	\$0	\$73,157	\$0	\$90,989 *	0.00	\$0	\$76,745	\$0	\$96,042 *
Grand Total All Present Law Adjustments					\$298,631 *					\$320,303 *

DP 701 - GCD - Base Adjustment - DP 701 - GCD - Base adjustment – This decision package requests \$128,031 total funds, \$90,902 state special revenue and \$37,129 proprietary fund, to annualize operating expenses for positions that were vacant during the base year and for increased travel and rent.

LFD COMMENT	The division anticipates there will be license applications from foreign manufacturers, which will require travel to other countries. There were no trips out of country for this purpose in the base year. The applicants reimburse the division for out-of-country costs. Additionally the division indicates that a recent court decision that allows non-residents to own on-premises consumption liquor licenses may have an impact on out of state travel.
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DP 706 - Video Gambling Machine System-Testing - This decision package requests \$59,000 state special revenue for the biennium to cover the costs of testing and approving the division’s new database. The division anticipates that since a new database and electronic reporting system is being rolled out, new video gambling machine electronic accounting systems will be submitted for testing and approval by the division’s machine test. Because the additional workload will be relatively short-lived, the executive is proposing that the increased work be completed utilizing overtime and contractual services.

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 702 - Continue OTO Approp - Gambling Database										
07	0.00	0	85,250	0	85,250	0.00	0	85,250	0	85,250
DP 703 - GCD - New Investigators - Gambling										
07	2.00	0	147,848	0	147,848	2.00	0	118,102	0	118,102
DP 704 - Tobacco Investigation Unit - Make MOU Permanent										
07	2.00	0	122,432	0	122,432	2.00	0	122,700	0	122,700
DP 707 - GCD - New Investigators - Liquor										
07	2.00	0	0	0	147,848 *	2.00	0	0	0	118,102 *
Total	6.00	\$0	\$355,530	\$0	\$503,378 *	6.00	\$0	\$326,052	\$0	\$444,154 *

DP 702 - Continue OTO Approp - Gambling Database - This decision package requests \$170,500 state special revenue for the biennium as a one-time-only, biennial appropriation, to complete activities related to the design, development, and implement a new database for the division to receive machine data and tax payments electronically, through the state website. The legislature provided \$1.5 million of funding for the 2007 biennium for the new system that is currently being implemented, of which the division spent about \$1.2 million.

DP 703 - GCD - New Investigators - Gambling - This decision package requests \$265,950 in gambling state special revenue for the 2009 biennium to support an additional 2.00 FTE investigators and associated operating and equipment costs to help manage the growth and regulation of live poker tables and tournaments.

DP 704 - Tobacco Investigation Unit - Make MOU Permanent - This decision package requests \$245,132 state special revenue for the biennium to support an additional 2.00 FTE investigators and related operating expenses. These positions are currently funded through a memorandum of understanding with the Department of Public Health and Human Service by tobacco settlement funds and would address an increase in workload related to tobacco tax evasion and smuggling.

DP 707 - GCD - New Investigators - Liquor - This decision package requests \$265,950 proprietary funds for the biennium to support an additional 2.00 FTE liquor investigators and related operating costs to provide manpower to conduct investigations of out-of-state residents and publicly traded companies.

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	153.00	0.00	2.00	155.00	0.00	2.00	155.00	155.00
Personal Services	4,996,142	723,058	100,754	5,819,954	739,047	100,842	5,836,031	11,655,985
Operating Expenses	3,963,633	2,249,408	11,529	6,224,570	2,273,128	11,529	6,248,290	12,472,860
Equipment	43,439	21,500	0	64,939	21,500	0	64,939	129,878
Capital Outlay	0	0	0	0	0	0	0	0
Debt Service	457,974	3,300,000	0	3,757,974	4,275,000	0	4,732,974	8,490,948
Total Costs	\$9,461,188	\$6,293,966	\$112,283	\$15,867,437	\$7,308,675	\$112,371	\$16,882,234	\$32,749,671
General Fund	5,255,195	1,647,137	112,283	7,014,615	1,670,964	112,371	7,038,530	14,053,145
State/Other Special	4,194,867	4,096,829	0	8,291,696	5,087,711	0	9,282,578	17,574,274
Proprietary	11,126	550,000	0	561,126	550,000	0	561,126	1,122,252
Total Funds	\$9,461,188	\$6,293,966	\$112,283	\$15,867,437	\$7,308,675	\$112,371	\$16,882,234	\$32,749,671

Program Description

The Motor Vehicle Division (MVD), under provisions of Title 61 and Title 23, MCA, and certain federal statutes is responsible for examination and licensure of all drivers, verification of identification, creation and maintenance of permanent driver and motor vehicle records, titling and registration of all vehicles including boats, snowmobiles and ATVs, inspection and verification of vehicle identification numbers, licensure and compliance control of motor vehicle dealers and manufacturers, and providing motor voter registration.

Program Highlights

Motor Vehicle Division Major Budget Highlights
<ul style="list-style-type: none"> ◆ 2009 biennium funding for the division increases \$13.8 million or 73.1 percent when compared to double the FY 2006 base budget <ul style="list-style-type: none"> • General fund increases \$3.5 million or 33.7 percent when the same comparison is made due primarily to base budget adjustments for operating costs • State special revenue increases \$9.2 million, or more that doubles when compared to double the FY 2006 base budget, largely due to funding for debt payments and development costs related to automated systems and base budget adjustments for operating costs • Proprietary funding increases \$1.1 million primarily due to funding and fees related to e-government applications
Major LFD Issues
<ul style="list-style-type: none"> ◆ Please refer to the agency summary for additional information on the Motor Vehicle Division information technology project

Funding

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

Program Funding Table Motor Vehicle Division							
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	\$ 5,255,195	55.5%	\$ 7,014,615	44.2%	\$ 7,038,530	41.7%	
01100 General Fund	5,255,195	55.5%	7,014,615	44.2%	7,038,530	41.7%	
02000 Total State Special Funds	4,194,867	44.3%	8,291,696	52.3%	9,282,578	55.0%	
02225 Mvd Inform Tech System Hb577	136,191	1.4%	936,191	5.9%	911,191	5.4%	
02422 Highways Special Revenue	3,804,727	40.2%	4,601,556	29.0%	4,617,438	27.4%	
02798 Mvd It System - Hb261	253,949	2.7%	2,753,949	17.4%	3,753,949	22.2%	
06000 Total Proprietary Funds	11,126	0.1%	561,126	3.5%	561,126	3.3%	
06080 Mvd/State Information Portal	11,126	0.1%	36,126	0.2%	36,126	0.2%	
06083 Mvd Electronic Commerce	-	-	525,000	3.3%	525,000	3.1%	
Grand Total	\$ 9,461,188	100.0%	\$ 15,867,437	100.0%	\$ 16,882,234	100.0%	

The division receives the majority of its funding, about 55 percent in FY 2009 from state special revenue sources including the highways special revenue and MVD information technology (HB 261) funds. General fund, expended in conjunction with highway state special revenue, supports motor vehicle licensing and registration funds. Proprietary funds, primarily from government e-commerce related activities comprise the balance (about 3 percent) of the funding for the division.

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					950,939					967,599
Vacancy Savings					(237,881)					(238,552)
Inflation/Deflation					52,905					55,154
Fixed Costs					(165,732)					(149,354)
Total Statewide Present Law Adjustments					\$600,231					\$634,847
DP 1201 - Base Adjustments MVD Titling and Registration	0.00	288,907	192,605	0	481,512	0.00	288,907	192,605	0	481,512
DP 1202 - Base Adjustments MVD Driver Licensing Functions	0.00	817,334	544,889	0	1,362,223	0.00	820,390	546,926	0	1,367,316
DP 1206 - Base Adjustments for HB577 Debt Payments	0.00	0	800,000	0	800,000	0.00	0	775,000	0	775,000
DP 1207 - Base Adjustments for HB261 Debt Payments	0.00	0	2,500,000	0	2,500,000	0.00	0	3,500,000	0	3,500,000
DP 1212 - MV Proprietary Account Spending Authority	0.00	0	0	0	25,000 *	0.00	0	0	0	25,000 *
DP 1213 - HB 671 Proprietary Account Spending Authority	0.00	0	0	0	525,000 *	0.00	0	0	0	525,000 *
Total Other Present Law Adjustments	0.00	\$1,106,241	\$4,037,494	\$0	\$5,693,735 *	0.00	\$1,109,297	\$5,014,531	\$0	\$6,673,828 *
Grand Total All Present Law Adjustments					\$6,293,966 *					\$7,308,675 *

**LFD
COMMENT**

About 60 percent of the funding in the present law adjustment for personal services is related to vacancies that existed in the base budget year. The vacancy rate for this division was about 10 percent in FY 2006

DP 1201 - Base Adjustments MVD Titling and Registration - This decision package requests \$963,024 total funds, \$577,814 general fund and \$385,210 state special revenue, for base budget adjustments in the areas of overtime, legal fees, court costs, printing, postage, and rent. The majority of the funding requested in this decision package supports three items: data network charges (\$294,000), printing of decals (\$160,420), and specialized printer cartridges (\$130,000).

**LFD
COMMENT**

Data network connection fees increase because the Department of Administration will be charging a \$35 per month fee for each active directory. The department estimates they have 350 active directories for a biennial cost of \$294,000. These costs were not included in the fixed cost schedules. The contract for license plate decals expired in 2006 and a request for proposals will be issued in FY 2007 that involves technology for printing of the decals and registration forms at the point of sale. The department estimates that the contract cost of registration forms and license plate decals will increase \$0.0752 for each decal and \$0.0514 for each receipt and that 1.3 million expiration decals are issued each year. The new point of sale printers require a print cartridge with a unique type of ink that cannot be altered and meets a high-level of security related technical requirements. The department estimates that 260 cartridges at a cost of \$500 per cartridge will be necessary to print an estimated 1.3 million decals/receipts.

DP 1202 - Base Adjustments MVD Driver Licensing Functions - This decision package requests \$2.7 million total funds, \$1.6 million general fund and \$1.1 million state special revenue, for base budget adjustments related to on-going driver licensing and driver control responsibilities. Almost \$2.5 million of the funding requested in this decision package is for the production of digital driver licenses and identification cards. The current contract for these services expires in FY 2007. A request for proposal will be issued and the department anticipates costs for these services will increase from \$3.15 to \$10.00 for each driver license and identification card produced.

**LFD
COMMENT**

The department indicates that legislation will be sought to increase the fees collected for driver licenses and identification cards to offset this contract increase.

DP 1206 - Base Adjustments for HB577 Debt Payments - This decision package requests \$1,575,000 state special revenue as a biennial appropriation for debt service and system acquisition costs for the Motor Vehicle System, Phase One, Titling System project (HB 577 from the 2001 session). The \$4.5 million Board of Investments loan (initiated in FY 2002) to finance the motor vehicle titling information technology system under the INTERCAP loan program was placed on a 10-year repayment schedule funded by a \$4 increase in lien filing fees.

**LFD
COMMENT**

Please refer to the agency summary for a discussion of this project.

DP 1207 - Base Adjustments for HB261 Debt Payments - This decision package requests \$6.0 million state special revenue as a biennial appropriation for debt payments (HB 261 of the 2003 session) to fund the Motor Vehicle System, Phase Two, Vehicle Registration and Driver Licensing/Driver Control System. The Board of Investments \$18 million loan for the motor vehicle registration and driver licensing/driver control information technology system under the INTERCAP loan program was initiated in FY 2004 with a 10-year repayment schedule funded by a \$5 increase in titling fees.

**LFD
COMMENT**

Please refer to the agency summary for a discussion of this project.

DP 1212 - MV Proprietary Account Spending Authority - This decision package requests \$50,000 state special revenue for the biennium as a biennial appropriation for costs of development, maintenance, and distribution of information in the state's motor vehicle and driver licensing database applications electronically. The division is developing e-government applications that allow individuals to access certain information on-line for a fee. For example, an individual or prospective employer may obtain a copy of a driving record through an online application for a fee. The vendor collects the fees, retains a portion of the fee and remits a portion to the department for deposit into a proprietary account.

DP 1213 - HB 671 Proprietary Account Spending Authority - This decision package requests \$1,050,000 state special revenue for the biennium to support operating costs for an enhanced motor vehicle web portal that allows third party users to access the system. This funding would be used to develop an e-government application through which temporary vehicle registration permits would be purchased. Fees charged for this service would be deposited to a proprietary account.

New Proposals

New Proposals											
Program	FTE	Fiscal 2008				Fiscal 2009					
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 1208 - Driver License Security Requirements	12	2.00	112,283	0	0	112,283	2.00	112,371	0	0	112,371
Total	2.00	\$112,283	\$0	\$0	\$112,283 *	2.00	\$112,371	\$0	\$0	\$112,371 *	

DP 1208 - Driver License Security Requirements - This decision package requests \$224,654 general fund for the biennium to continue 2.00 FTE and related operating costs for driver license security requirements required by the Patriot Act and funded with a one-time-only appropriation in the 2007 biennium.

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	264.05	0.00	5.00	269.05	0.00	5.00	269.05	269.05
Personal Services	13,465,542	4,187,694	152,659	17,805,895	4,282,802	152,791	17,901,135	35,707,030
Operating Expenses	5,253,566	220,690	(70,422)	5,403,834	312,621	(70,436)	5,495,751	10,899,585
Equipment	1,573,902	257,681	(173,675)	1,657,908	357,221	(173,675)	1,757,448	3,415,356
Total Costs	\$20,293,010	\$4,666,065	(\$91,438)	\$24,867,637	\$4,952,644	(\$91,320)	\$25,154,334	\$50,021,971
General Fund	0	0	175,039	175,039	0	176,690	176,690	351,729
State/Other Special	19,945,808	4,798,707	(51,917)	24,692,598	5,085,272	(53,436)	24,977,644	49,670,242
Federal Special	347,202	(132,642)	(214,560)	0	(132,628)	(214,574)	0	0
Total Funds	\$20,293,010	\$4,666,065	(\$91,438)	\$24,867,637	\$4,952,644	(\$91,320)	\$25,154,334	\$50,021,971

Program Description

The Highway Patrol Division (HPD) is responsible for patrolling the highways of Montana, enforcing traffic laws, and investigating traffic crashes. The patrol gives assistance and information to motorists and first aid to those injured in traffic crashes, transports blood and medical supplies in emergency situations, and assists other law enforcement agencies when requested. The patrol provides 24-hour-a-day, seven-day-a-week communication and radio dispatch for the highway patrol and other state agencies.

Program Highlights

Highway Patrol Division Major Budget Highlights	
◆	2009 biennium funding for the division increases \$9.4 million or 23.2 percent when compared to double the FY 2006 base budget <ul style="list-style-type: none"> • State special revenue increases \$9.8 million or 24.5 percent, primarily due to increases in personal service costs • General fund increases from zero in the base budget to \$351,729 in the 2009 biennium budget request due to the movement of funding for the executive protection function from the governor's office to the department • Federal fund decrease from \$347,202 in FY 2006 to zero in the 2009 biennium budget request due to the movement of the motor carrier safety assistance section to the Department of Transportation
◆	The statewide present law adjustment for personal services increases costs by \$7.8 million, or about 29 percent above the FY 2006 base budget expenditure level primarily due to a pay increase that should be funded from a statutory appropriation

Major LFD Issues

- ◆ Personal services costs include:
 - About \$2.3 million per year of costs for a pay increase given in FY 2007 that is funded by highways state special revenue and should be funded by a statutory appropriation per the provisions of HB 35 of the 2005 session
 - \$839,370 state special revenue from a statutory appropriation for a highway patrol wage increase of 3 percent in to be given FY 2008
 - Statute provides highway patrol salaries be adjusted biennially based upon a salary survey. However the department plans to provide an additional pay increase in FY 2008
 - Vacancy savings of \$1,179,213 for the biennium was applied to uniformed personnel in the MHP although the provision of 17-7-160, MCA exempts authorized Montana Highway Patrol positions from vacancy savings

Program Narrative

During the 2005 session, legislation was passed (HB 35) which provided for a state special revenue account that is statutorily appropriated to the department and funded by a \$5 increase in vehicle registration fees. This state special revenue account may be used to fund:

- An increase in the base salary for MHP officer positions existing as of June 30, 2006
- The base salary and associated operating costs for new highway patrol officer positions created after June 30, 2006
- Biennial salary increases after June 30, 2006 for highway patrol officers

This legislation provided that before January 1 of each odd numbered year a salary survey be conducted of the labor market, which for this purpose is defined as county sheriff departments for Butte-Silver Bow, Cascade, Yellowstone, Missoula, Lewis and Clark, Gallatin, Flathead and Dawson counties or consolidated governments. This legislation also provided that a salary survey be completed for implementation of salary adjustments in the first full pay period of FY 2007.

The 2009 biennium budget request also includes funding of \$839,370 for the biennium for a 3 percent pay increase to be effective in FY 2008 and funded from the statutory appropriations. This funding should not be included in the general appropriations act since it is in effect already appropriated to the department by specific statutory provisions.

LFD ISSUE

Statutory Appropriation

The use of a statutory appropriation for salaries and operating costs, and inclusion of the statutory appropriation in the general appropriations act, creates three difficulties:

- This process for funding highway patrol salaries does not meet statutory guidelines specifying the criteria for a statutory appropriation
- There are logistical difficulties presented by allocating a portion of an individuals' salary between funds appropriated through both the general appropriations act and a statutory appropriation
- Because the executive's intent was to include the statutory appropriation in the general appropriations act, the funds are appropriated twice, once in the general appropriations act and once through the statutory appropriation

**LFD
ISSUE
CONT.***Criteria for Statutory Appropriation*

Section 17-1-508, MCA includes several provisions regarding statutory appropriations and specifies that “a statutory appropriation from a continuing and reliable source of revenue may not be used to fund administrative costs”. This section also states “a statutory appropriation may be considered appropriate if:

1. The fund or use requires an appropriation;
2. The money is not from a continuing, reliable, and estimable source;
3. Use of the appropriation or the expenditure occurrence is not predictable and reliable;
4. The authority does not exist elsewhere;
5. An alternative appropriation method is not available, practical, or effective;
6. Other than for emergency purposes it does not appropriate money from the state general fund;
7. The money is dedicated for a specific use;
8. The legislature wishes the activity to be funded on a continue basis; and
9. When feasible, an expenditure cap and sunset date are included.”

The statutory appropriation for highway patrol salaries does not comply with the provisions for a statutory appropriation in that:

- It is used to fund administrative costs
- It does not meet the guidelines in items:
 - 3 – salary costs are predictable and reliable
 - 4 – in this case the authority also exist in the general appropriations act
 - 5 – an alternative appropriation method is available, as evidenced by the inclusion of the statutory appropriation in the general appropriations act
 - 9 – an expenditure cap and sunset were not included

Logistics of Allocating Personal Services

Logistical difficulties are created when a statutory appropriation funds a portion of a position’s salary given the process for development of the personal services budget. The personal services budget for the next biennium is calculated based upon what is called a “snapshot” of personal services data. That is, data regarding positions and current pay rates is loaded into the budget system based upon a point in time snapshot, or picture of the data. This data, particularly the hourly rate, is then utilized to calculate the position cost for the next biennium. An hourly rate for a position is not split among funding sources, such as HB 2 and non HB 2. For example, if a position is currently paid at the rate of \$10.00 per hour that is what is utilized by the budgeting system to develop the personal services costs for the next biennium. The system does not know that \$8.00 of that rate is paid through funding in HB 2 and \$2.00 is paid through a statutory appropriation rather than HB 2. This results in the need for manual intervention, estimates, and adjustments in a process that is automated, which likely increases the potential for errors and omissions. Additionally, tracking information such as this over time often becomes more problematic as time passes. This also makes it difficult to determine if each funding source is allocated the proper amount of expenditures since estimates must be made of what is and is not payable by the statutory appropriation.

Funds Appropriated Twice

It was the executive intent to include funding from the statutory appropriation in the general appropriations act. However, the portion of the highway patrol salaries that should be funded from the statutory appropriation was inadvertently funded from highway state special revenue instead. Additionally, funding for this purpose has been included in a statutory appropriation. The effect of these actions is to appropriate the state special revenue twice.

**LFD
ISSUE
(CONT)**

Potential Legislative Action

Given the situation with the statutory appropriation for highway patrol salaries the legislature may wish to consider the following actions, which are not mutually exclusive:

- Remove funding for the portion of highway patrol salaries that should be funded with the statutory appropriation from HB 2 (\$2, 282,582 per year, included in highway state special revenue funds)
- Since the state special revenue account may only be used for the purposes specified in statute (see above) and thus, there is not a danger the funds would be diverted for other purposes, remove the provision for a statutory appropriation from the fund created in 44-1-504, MCA and appropriate the state special revenue through the general appropriations act
- Direct the revenue generated by this fee to the general fund and establish a portion of highway patrol salaries to be funded in the general appropriations act by the general fund

Funding

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

Program Funding Table Highway Patrol Division						
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	\$ -	-	\$ 175,039	0.7%	\$ 176,690	0.7%
01100 General Fund	-	-	175,039	0.7%	176,690	0.7%
02000 Total State Special Funds	19,945,808	98.3%	24,692,598	99.3%	24,977,644	99.3%
02014 Highway Patrol Retire Clearing	-	-	419,685	1.7%	419,685	1.7%
02422 Highways Special Revenue	19,812,999	97.6%	24,257,648	97.5%	24,542,694	97.6%
02937 Justice State Special Misc	132,809	0.7%	15,265	0.1%	15,265	0.1%
03000 Total Federal Special Funds	347,202	1.7%	-	-	-	-
03166 Mesap-Truck Inspection Program	347,202	1.7%	-	-	-	-
Grand Total	\$20,293,010	100.0%	\$ 24,867,637	100.0%	\$ 25,154,334	100.0%

The division receives almost all of its funding from the highways state special revenue account, with a small amount of general fund support for executive protection included in the 2009 biennium budget request. Additional information on the highways state special revenue account may be found in the Legislative Budget Analysis, Volume 3 under the Department of Transportation.

Figure 2 illustrates the anticipated revenues and expenditures for the state special revenue account supporting highway patrol pay increases and increase in the number of positions. For the purposes of this figure, revenue is estimated based upon average collections for the 11 months since the new fee was effective on January 1, 2006 and expenditures are based upon the executive request. As illustrated in the figure, revenues are currently estimated to be about \$5 million per year and expenditures about \$3.8 million per year, leaving about \$1.3 million of revenue in excess of expenditures each year. However, in order to maintain the structural balance of this account, revenues will need to grow at a rate equal to or exceeding expenditures, which will be driven largely by provision of pay increases and addition of new positions.

Figure 2 Highway Patrol Recruitment and Retention				
Item	FY 2006	FY 2007	FY 2008	FY 2009
Beginning Balance	\$781,063	\$3,572,439	\$6,241,535	\$7,504,548
Revenue:				
Registration Fees	2,791,376	4,951,678	5,070,518	5,192,211
Expenses:				
FY 2007 Salary Increase*		2,282,582	2,282,582	2,282,582
FY 2008 Salary Increase*			419,685	419,685
New Positions/Operating Costs	0	0	1,105,238	1,105,238
Total Expense	\$0	\$2,282,582	\$3,807,505	\$3,807,505
Revenues Less Expenses	\$2,791,376	\$2,669,096	\$1,263,013	\$1,384,706
Ending Balance	\$3,572,439	\$6,241,535	\$7,504,548	\$8,889,253

*Also included in general appropriations act.

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				3,830,301					3,929,355	
Vacancy Savings				(691,852)					(695,798)	
Inflation/Deflation				4,129					4,997	
Fixed Costs				237,346					314,848	
Total Statewide Present Law Adjustments				\$3,379,924					\$3,553,402	
DP 1301 - MHP base adjustments	0.00	0	866,456	0	866,456	0.00	0	979,557	0	979,557
DP 1304 - Uniform Pay Raise 2009	0.00	0	419,685	0	419,685	0.00	0	419,685	0	419,685
Total Other Present Law Adjustments				\$0	\$1,286,141	\$0	\$1,286,141	\$0	\$1,399,242	
Grand Total All Present Law Adjustments				\$4,666,065					\$4,952,644	

LFD COMMENT The statewide present law adjustment for personal services equates to an increase of 28.4 percent above base budget expenditures and includes about \$2.3 million per year for pay increases that should be funded from a statutory appropriation.

DP 1301 - MHP base adjustments – This decision package requests \$1.8 million state special revenue for the biennium for adjustments to FY 2006 base expenditures including:

- o increases in overtime and mandatory employee benefit costs - \$1.3 million
- o vehicles - \$614,902
- o rent - \$263,845
- o maintenance agreements - \$268,000
- o prisoner per diem - \$145,946
- o gasoline - \$94,200

LFD COMMENT The MHP spent \$724,538 for 371,557 gallons of gas in FY 2006, and is requesting \$78,600 per year to purchase an additional 31,296 gallons to support positions that were vacant during the base budget year. This calculates to a price per gallon of \$1.95 for FY 2006 and of \$2.51 for the projected increase in usage.

The MHP estimates that prison per diem costs, which are costs paid to house prisoners in county detention facilities, will increase 3 percent per year. The MHP pays the same costs per day as negotiated by the Department of Corrections.

Rental increases include \$62,235 and \$71,570 in FY 2008 and 2009, respectively, for office space, aircraft hanger space, and radio shop space based upon increase included in existing leases. Rental increases also include \$52,354 and \$57,202 in FY 2008 and 2009, respectively, for existing and additional radio tower sites. These rental costs are expected to increase 7 percent per year.

LFD COMMENT CONT. \$134,000 per year is requested to support maintenance contracts on mobile data terminals in 120 patrol vehicles and microwave and radio equipment. The development and implementation of these systems was funded by a federal grant, which has since expired.

Additional funded is requested to support an anticipated 6 percent per year increase in vehicle costs for the replacement of 63 vehicles or one-third of the fleet. The MHP replaces vehicles when they reach 90 – 100,000 miles.

DP 1304 - Uniform Pay Raise 2009 - The 2005 Legislature passed HB35, which established and provided funding for a new recruitment and retention plan for uniformed highway patrol personnel. As authorized by HB35, (2005 session) uniformed personnel will receive a pay increase beginning in FY 2007. This initial pay increase is estimated to be \$2.3 million. During negotiations the department agreed to adjust the pay rates again in FY 2008 based on new market surveys conducted by the Department of Administration during FY 2007. Thereafter, the salaries of uniformed MHP officers will be adjusted based on market surveys every other year (the beginning year of each legislative biennium). The department is estimating an increase of 3 percent beginning in FY 2008.

LFD COMMENT The department provided a pay increase as required by statute at the beginning of FY 2007 (July, 2006). Additionally, as indicated by this decision package, the department plans to provide a pay raise in FY 2008.

LFD ISSUE Statutory Appropriation
Please refer to the program narrative for a discussion of the statutory appropriation supporting highway patrol salary increases.

Because funding for this item is provided by a statutory appropriation, the legislature may wish not to include it in the general appropriations act. Inclusion of this item in the general appropriations act, results in a double appropriation of funds for this purpose.

New Proposals

Program	FTE	-----Fiscal 2008-----				-----Fiscal 2009-----					
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 1303 - Communications Operators	13	5.00	0	152,659	0	152,659	5.00	0	152,791	0	152,791
DP 1305 - MCSAP Reduction from base	13	0.00	0	(29,537)	(214,560)	(244,097)	0.00	0	(29,537)	(214,574)	(244,111)
DP 1306 - Executive protection funding switch	13	0.00	175,039	(175,039)	0	0	0.00	176,690	(176,690)	0	0
Total	5.00	\$175,039	(\$51,917)	(\$214,560)	(\$91,438)*	5.00	\$176,690	(\$53,436)	(\$214,574)	(\$91,320)*	

DP 1303 - Communications Operators - This decision package requests \$305,450 state special revenue for the biennium to support an additional 5.00 FTE communication system operators (dispatchers) for its statewide communication dispatch center in Helena.

**LFD
COMMENT**

According to information submitted by the department the new positions are being requested to address the increase in demand on the center. In the six months between July 1, 2005 and December 20, 2005, communication system operators spent 6,127 hours answering 132,662 telephone calls. Additionally, dispatchers spent 5,864 hours answering 400,429 radio transmissions. During that same period, there were 57,884 calls for service, or an average of 322 per day.

The Helena dispatch center provides services for the patrol and answers phones for the governor's office, the Department of Fish Wildlife and Parks (TIPMONT), the Department of Military Affairs, Disaster and Emergency Services, and some other portions of the department.

DP 1305 - MCSAP Reduction from base - This decision package reduces funding for the division by \$488,208 (\$59,074 state special revenue and \$429,134 federal funds) for the biennium, to reflect the movement of the Motor Carrier Safety Assistance Section (MCSAP) to the Department of Transportation effective October 1, 2005.

DP 1306 - Executive protection funding switch - This decision package requests a general fund increase of \$351,729 for the biennium with an offsetting reduction in state special revenue for executive protection. Previously, the Governor's Office paid the MHP with a general fund appropriation and MHP recorded receipt of that reimbursement in a state special revenue account. With the movement of this function from the Governor's Office, the expenditure is made from the MHP and could be charged to the general fund at the time the expenditure is recorded.

**LFD
ISSUE**

Increase in Funding

Funding of \$93,913 per year was removed from the Governor's Office. This decision package represents an increase of \$81,126 in FY 2008 and \$82,777 in FY 2009, or almost twice as much was removed from the Governor's office budget.

Program Proposed Budget

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

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	79.50	1.00	1.00	81.50	1.00	1.00	81.50	81.50
Personal Services	3,813,261	583,098	56,262	4,452,621	610,893	56,312	4,480,466	8,933,087
Operating Expenses	2,177,978	(12,645)	101,512	2,266,845	(2,913)	99,480	2,274,545	4,541,390
Equipment	106,916	0	0	106,916	0	0	106,916	213,832
Debt Service	40,022	0	0	40,022	0	0	40,022	80,044
Total Costs	\$6,138,177	\$570,453	\$157,774	\$6,866,404	\$607,980	\$155,792	\$6,901,949	\$13,768,353
General Fund	3,482,713	387,659	0	3,870,372	415,552	0	3,898,265	7,768,637
State/Other Special	1,465,988	188,947	157,774	1,812,709	193,480	155,792	1,815,260	3,627,969
Federal Special	1,189,476	(6,153)	0	1,183,323	(1,052)	0	1,188,424	2,371,747
Expendable Trust	0	0	0	0	0	0	0	0
Total Funds	\$6,138,177	\$570,453	\$157,774	\$6,866,404	\$607,980	\$155,792	\$6,901,949	\$13,768,353

Program Description

The Division of Criminal Investigation includes the administration, management, and coordination of criminal investigative services and training performed by the:

- Investigations Bureau including:
 - Fire Prevention and Investigation Section, which safeguards life and property from fire, explosion, and arson through investigative, inspection, and fire code interpretation and enforcement functions
 - Investigative Support Section, which investigates crimes involving the use of computers, maintains the Sexual and Violent Offender Registry, provides advanced training opportunities for law enforcement officials statewide, established a statewide intelligence center, and addresses homeland security issues
 - Major Case Section, which provides criminal investigative assistance to city, county, state, and federal law enforcement agencies
 - Medicaid Fraud Control Section, which investigates any crime that occurs in a health care facility, including theft, drug diversion, sexual assault, and homicide. The section also investigates elder exploitation, elder abuse, and fraud by providers within the Medicaid system
- Narcotics Bureau, which investigates dangerous drug violations and provides investigative assistance to city, county, state, and federal law enforcement agencies as requested. The bureau also investigates organized criminal activity.
- Law Enforcement Academy (MLEA) Bureau, which provides criminal justice officers and other qualified individuals with basic and specialized training in the field of law enforcement.

Program Highlights

Division of Criminal Investigation	
Major Budget Highlights	
◆	2009 biennium funding for the division increases \$1.5 million when compared to double the FY 2006 base budget <ul style="list-style-type: none"> • General fund increases \$803,211 or 11.5 percent due to statewide present law adjustments, state special revenue increases \$695,993 or 23.7 percent. The increase is largely due to statewide present law adjustments for personal services costs due largely to a vacancy rate of about 11 percent
Major LFD Issues	
◆	Montana Law Enforcement Academy state special revenue funds may not be adequate to support the level of expenditure requested in the 2009 biennium budget

Funding

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

Program Funding Table								
Div. Of Criminal Investi								
Program Funding	Base		% of Base		Budget		% of Budget	
	FY 2006	FY 2006	FY 2006	FY 2006	FY 2008	FY 2008	FY 2009	FY 2009
01000 Total General Fund	\$ 3,482,713		56.7%		\$ 3,870,372	56.4%	\$ 3,898,265	56.5%
01100 General Fund	3,482,713		56.7%		3,870,372	56.4%	3,898,265	56.5%
02000 Total State Special Funds	1,465,988		23.9%		1,812,709	26.4%	1,815,260	26.3%
02079 Fire Protection & Permitting	22,601		0.4%		42,699	0.6%	42,748	0.6%
02143 Drug Forfeitures-State	43,705		0.7%		33,871	0.5%	33,871	0.5%
02546 Mtlaw Enforc. Acad. Surcharge	1,201,730		19.6%		1,369,122	19.9%	1,370,942	19.9%
02937 Justice State Special Misc	197,952		3.2%		367,017	5.3%	367,699	5.3%
03000 Total Federal Special Funds	1,189,476		19.4%		1,183,323	17.2%	1,188,424	17.2%
03051 Homeland Security	154,304		2.5%		349,096	5.1%	349,889	5.1%
03187 Bcc Grants To Dept. Of Justice	566,740		9.2%		289,884	4.2%	289,977	4.2%
03800 Medicaid Fraud	468,432		7.6%		544,343	7.9%	548,558	7.9%
Grand Total	<u>\$ 6,138,177</u>		<u>100.0%</u>		<u>\$ 6,866,404</u>	<u>100.0%</u>	<u>\$ 6,901,949</u>	<u>100.0%</u>

The division is funded by a combination of general fund (56.5 percent), state special revenue (26.3 percent) and federal funds (17.2 percent). The largest source of state special revenue for the division is the Montana Law Enforcement Academy Surcharge. Federal funds include Medicaid and Homeland Security funds. Federal funds decrease due to the completion and non renewal of a grant at the end of FY 2006. Funding for this grant is removed from the budget.

**LFD
ISSUE**

Solvency of MLEA Fund

Figure 3 summarizes FY 2006 actual and FY 2007 through 2009 anticipated revenues and expenditures for the MLEA state special revenue account. In FY 2006 expenditures exceeded revenues by \$84,054 and it is anticipated that this pattern will continue during FY 2007 and the 2009 biennium. In the event that revenues are not realized at a level adequate to fund the anticipated level of expenditures, expenditures will need to be reduced or an alternate source of funding found to support of portion of the requested expenditures.

HB 124 from the 2003 session switched funding for the MLEA from the general fund to a state special revenue account funded by a surcharge on certain criminal convictions and fees charged to students. Since that time, revenue estimates have not been realized at the projected level, creating funding difficulties. The department states that if revenues are not sufficient to support the requested level of expenditures it would:

- o Attempt to reduce costs by elimination of part time summer help
- o Reduce projected equipment replacements
- o Implement a one time reduction in deferred maintenance projects
- o Consider increases in tuition and fees for various program and courses

Figure 3
Montana Law Enforcement Academy
Surcharge State Special Revenue Account

Item	Actual FY 2006	Projected FY 2007	Projected FY 2008	Projected FY 2009
Beginning Balance	\$64,892	\$42,645	\$9,474	(\$159,648)
Revenue	1,165,676	1,200,000	1,200,000	1,200,000
Base Expenditures	1,201,730	1,233,171	1,297,675	1,301,445
Present Law Adjust.				
New Proposals			71,447	69,497
Non Appropriated	48,000	0	0	0
Total Expenditures	\$1,249,730	\$1,233,171	\$1,369,122	\$1,370,942
Adjustment	61,807			
Ending Balance	<u>\$42,645</u>	<u>\$9,474</u>	<u>(\$159,648)</u>	<u>(\$330,590)</u>

Present Law Adjustments

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

	-----Fiscal 2008-----				-----Fiscal 2009-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					698,383					727,147
Vacancy Savings					(180,467)					(181,614)
Inflation/Deflation					40,944					43,002
Fixed Costs					93,469					99,331
Total Statewide Present Law Adjustments					\$652,329					\$687,866
DP 1803 - Continuation of OTO - Medicaid Fraud Unit Increase	1.00	25,404	0	76,213	101,617	1.00	25,902	0	77,705	103,607
DP 1810 - Deduct Excess Authority	0.00	0	(14,464)	(169,029)	(183,493)	0.00	0	(14,464)	(169,029)	(183,493)
Total Other Present Law Adjustments	1.00	\$25,404	(\$14,464)	(\$92,816)	(\$81,876)	1.00	\$25,902	(\$14,464)	(\$91,324)	(\$79,886)
Grand Total All Present Law Adjustments					\$570,453					\$607,980

**LFD
COMMENT**

The statewide present law adjustment for personal services includes about \$396,000 to fund positions that were vacant during the base budget year. The division had a vacancy rate of about 11 percent in FY 2006.

DP 1803 - Continuation of OTO - Medicaid Fraud Unit Increase – This decision package requests \$205,224 total funds (\$51,306 general fund and \$153,918 federal funds) to continue funding 1.00 FTE Medicaid fraud agent and related operating costs. The division received a one-time-only appropriation for these costs for the 2007 biennium. The division states that the positions in the Medicaid fraud unit are indirectly self-supported by the recovery of Medicaid funds collected fraudulently and that are deposited into the state's Medicaid program.

DP 1810 - Deduct Excess Authority - This decision package requests a decrease of \$384,570 total funds (\$46,512 state special revenue and \$338,058 federal funds) from the division's budget because this spending authority is not necessary.

LFD COMMENT	Funding is removed from the 2009 biennium budget because federal grant funding for the Tri Agency Drug Task Force ended in FY 2006 and will not continue into the 2009 biennium. The state special revenue from forfeitures that matched the federal grant is also removed.
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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 1806 - One Management/Leadership Trainer										
18	1.00	0	71,447	0	71,447	1.00	0	69,497	0	69,497
DP 1807 - State Special Authority for Grants										
18	0.00	0	86,327	0	86,327	0.00	0	86,295	0	86,295
Total	1.00	\$0	\$157,774	\$0	\$157,774 *	1.00	\$0	\$155,792	\$0	\$155,792 *

DP 1806 - One Management/Leadership Trainer - This decision package requests \$140,944 state special revenue for the biennium to support a 1.00 FTE management and leadership trainer for the Professional Programs Unit of the Montana Law Enforcement Academy. The division indicates that the advisory council representatives have identified such training as a need.

LFD ISSUE	Solvency of MLEA Fund Funding requested in this decision package is from the MLEA surcharge state special revenue fund. Please refer to the discussion of this fund included in the Funding section of the narrative for this program for additional information.
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DP 1807 - State Special Authority for Grants - This decision package requests \$172,622 state special revenue for the biennium to provide the matching funds for the Southwest Montana Drug Task Force and the Eastern Montana Drug Task Force, which are both funded through a grant from the Montana Board of Crime Control. The grants require a 25 percent match that comes either from forfeiture funds or from the local agencies participating in the task forces.

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	21.75	0.00	0.00	21.75	0.00	0.00	21.75	21.75
Personal Services	1,912,587	268,351	0	2,180,938	354,617	0	2,267,204	4,448,142
Total Costs	\$1,912,587	\$268,351	\$0	\$2,180,938	\$354,617	\$0	\$2,267,204	\$4,448,142
General Fund	1,912,587	268,351	0	2,180,938	354,617	0	2,267,204	4,448,142
Total Funds	\$1,912,587	\$268,351	\$0	\$2,180,938	\$354,617	\$0	\$2,267,204	\$4,448,142

Program Description

The County Attorney Payroll Program pays approximately half of the salary and benefits for the attorneys who serve Montana's 56 counties, as required by 7-4-2502, MCA. County compensation boards within each county determine county attorney salaries. By law, the state's contribution is limited to the general fund amount the legislature appropriates for this program.

Program Highlights

County Attorney Payroll Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for county attorney salaries increase \$0.6 million or 16.3 percent ◆ LC 0071 requested by the Law and Justice Interim Committee establishes the state contribution for county attorney salaries at 50 percent of 85 percent of a district court judge's salary, plus 50 percent of the employer contributions for group health benefits, and provides for a statutory appropriation <ul style="list-style-type: none"> • The estimated increase in the state contribution for county attorney salaries if this statutory change is adopted is about \$358,000 per year
Major LFD Issues
<ul style="list-style-type: none"> ◆ The portion of LC 0071 related to county attorney salaries would have the following impacts if passed and approved in its current form <ul style="list-style-type: none"> • Funding for county attorney salaries would no longer be reviewed as a portion of HB 2 • The state share of county attorney salaries would no longer be based upon what a county actually pays • The state share of the county attorney's salary and group health benefits would have a built in inflationary factor, as district court judges salaries and group health benefit costs increase, so too would the state contribution toward county attorney salaries

Funding

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

Program Funding Table						
County Attorney Payroll						
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	\$ 1,912,587	100.0%	\$ 2,180,938	100.0%	\$ 2,267,204	100.0%
01100 General Fund	1,912,587	100.0%	2,180,938	100.0%	2,267,204	100.0%
Grand Total	\$ 1,912,587	100.0%	\$ 2,180,938	100.0%	\$ 2,267,204	100.0%

Funding for the state share of county attorney salaries is provided by 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					26,609					28,567
Total Statewide Present Law Adjustments					\$26,609					\$28,567
DP 1901 - County Attorney Pay Plan - 50% Match	0.00	241,742	0	0	241,742	0.00	326,050	0	0	326,050
Total Other Present Law Adjustments	0.00	\$241,742	\$0	\$0	\$241,742	0.00	\$326,050	\$0	\$0	\$326,050
Grand Total All Present Law Adjustments					\$268,351					\$354,617

DP 1901 - County Attorney Pay Plan - 50% Match - This decision package requests \$567,792 general fund for the biennium for increases in the state share of county attorney salaries. Under the provisions of 17-7-112(2) (a), MCA, the Department of Justice is required to submit information received from counties concerning the state's share of county attorney salaries.

LFD ISSUE	<p>Legislation to Change State Share and Payment Method</p> <p>LC 0071 requested by the Law and Justice Interim Committee (LJIC) proposes changing the statutory provisions related to the state share of county attorney salaries and providing the funding as a statutory appropriation rather than as an item included in the general appropriations act. Under the provisions of LC 0071 the state contribution for county attorney salaries would be:</p> <ul style="list-style-type: none"> o 50 percent, of 85 percent of the district court judge’s salary most recently set under 3-5-211, MCA, (district court judges salaries are set biennially based upon a salary survey of surrounding states at the average paid by the five states, including Montana) plus o An amount equal to 50 percent of the employer contribution for group benefits under 2-18-703(2), MCA o Prorated for county and consolidated governments with a part-time county attorney according to the position’s regular work hours o Statutorily appropriated and paid to the counties quarterly
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**LFD
ISSUE
CONT.**

The Department of Justice estimates the increased costs for county attorney salaries due to this change will be \$358,000 per year. The provision of a statutory appropriation means that the funding would not be included in the general appropriations act (HB 2). Thus, the legislature would not review the funding provided for county attorney salaries each biennium as it currently does. Additionally, if LC 0071 is adopted as proposed the state share of county attorney salaries would no longer be based upon what a county actually pays its county attorney and the state contribution would have built in inflationary factors assuming that District Court judges' salaries and group health benefit costs increase.

The legislature may wish to include language in HB 2 to coordinate funding of county attorney salaries with legislative action on LC 0071. For example:

“Funding for the state share of county attorney salaries is reduced by \$2,180,938 general fund monies in FY 2008 and \$2,267,204 general fund monies in FY 2009 if LC 0071 is passed and approved in a form that includes a statutory appropriation for this purpose. “

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	17.50	0.00	0.00	17.50	0.00	0.00	17.50	17.50
Personal Services	787,551	115,935	0	903,486	117,948	0	905,499	1,808,985
Operating Expenses	150,545	77,923	0	228,468	3,050	0	153,595	382,063
Total Costs	\$938,096	\$193,858	\$0	\$1,131,954	\$120,998	\$0	\$1,059,094	\$2,191,048
General Fund	334,708	78,330	0	413,038	46,566	0	381,274	794,312
State/Other Special	546,393	107,770	0	654,163	67,882	0	614,275	1,268,438
Proprietary	56,995	7,758	0	64,753	6,550	0	63,545	128,298
Total Funds	\$938,096	\$193,858	\$0	\$1,131,954	\$120,998	\$0	\$1,059,094	\$2,191,048

Program Description

The Central Services Division provides the administrative, personnel, budgetary, accounting, and fiscal support for the Department of Justice. The program also administers the County Attorney Payroll.

Program Highlights

Central Services Division Major Budget Highlights	
◆	Funding for the division increases \$314,856 or 16.8 percent when the 2009 biennium budget request is compared to double the FY 2006 base budget
◆	Statewide present law adjustments are the only adjustments to the division budget

Funding

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

Program Funding Table Central Services Divisio							
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	\$ 334,708	35.7%	\$ 413,038	36.5%	\$ 381,274	36.0%	
01100 General Fund	334,708	35.7%	413,038	36.5%	381,274	36.0%	
02000 Total State Special Funds	546,393	58.2%	654,163	57.8%	614,275	58.0%	
02003 Misc Grants And Nrd	29,421	3.1%	15,793	1.4%	15,886	1.5%	
02074 Gambling License Fee Account	55,408	5.9%	67,916	6.0%	63,546	6.0%	
02140 Consumer Education Settlement	-	-	15,793	1.4%	15,886	1.5%	
02422 Highways Special Revenue	461,564	49.2%	554,661	49.0%	518,957	49.0%	
06000 Total Proprietary Funds	56,995	6.1%	64,753	5.7%	63,545	6.0%	
06005 Liquor Division	41,312	4.4%	54,225	4.8%	52,954	5.0%	
06500 Agency Legal Services	15,683	1.7%	10,528	0.9%	10,591	1.0%	
Grand Total	<u>\$ 938,096</u>	<u>100.0%</u>	<u>\$ 1,131,954</u>	<u>100.0%</u>	<u>\$ 1,059,094</u>	<u>100.0%</u>	

The division is funded primarily from state special revenue which provides 58 percent of the division’s funding. Sources of state special revenue include highways special revenue and gambling license fees. General fund provides 36 percent of the funding for the division and proprietary funds provide the remaining 6 percent. Centralized services costs are allocated among the funding sources for the department based upon the existing levels of expenditures by fund, increased proportionately to reflect the proposed expenditures.

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					153,579					155,679
Vacancy Savings					(37,644)					(37,731)
Inflation/Deflation					183					211
Fixed Costs					77,740					2,839
Total Statewide Present Law Adjustments					\$193,858					\$120,998
Grand Total All Present Law Adjustments					\$193,858					\$120,998

LFD COMMENT	More than 60 percent of the statewide adjustment for personal services is related to funding for positions that were vacant during FY 2006 the base budget year. The division experienced a vacancy rate of about 15 percent in the base budget year.
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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	54.00	0.00	1.00	55.00	0.00	1.00	55.00	55.00
Personal Services	2,437,246	406,662	38,898	2,882,806	415,863	38,933	2,892,042	5,774,848
Operating Expenses	1,787,580	469,341	2,000	2,258,921	204,468	2,000	1,994,048	4,252,969
Equipment	54,577	225,000	0	279,577	125,000	0	179,577	459,154
Total Costs	\$4,279,403	\$1,101,003	\$40,898	\$5,421,304	\$745,331	\$40,933	\$5,065,667	\$10,486,971
General Fund	2,982,360	327,885	0	3,310,245	343,614	0	3,325,974	6,636,219
State/Other Special	1,279,806	773,642	40,898	2,094,346	402,241	40,933	1,722,980	3,817,326
Federal Special	3,916	(524)	0	3,392	(524)	0	3,392	6,784
Proprietary	13,321	0	0	13,321	0	0	13,321	26,642
Total Funds	\$4,279,403	\$1,101,003	\$40,898	\$5,421,304	\$745,331	\$40,933	\$5,065,667	\$10,486,971

Program Description

The Information Technology Services Division provides a full range of information technology and criminal justice services for the department, including system development and maintenance of the motor vehicle titling and registration system, driver license and history system, criminal history record information system, and the Montana Uniform Crime Reporting System. The division also provides support for the Department of Justice internal computers and systems, identification services for the criminal justice community through criminal history record checking and fingerprint processing, and system development and support for the Criminal Justice Information Network (CJIN). CJIN links law enforcement/criminal justice agencies with information sources at local, state, and national levels by interfacing with the National Law Enforcement Telecommunications System, the National Crime Information Center (NCIC), and numerous state files.

Program Highlights

Information Technology Services Division Major Budget Highlights	
◆	2009 biennium funding for the division increases \$1.9 million or 22.5 percent when compared to the FY 2006 base budget doubled <ul style="list-style-type: none"> • General fund support increases \$671,499 or 11.3 percent due to statewide present law adjustments and state special revenue \$1.3 million or 49.1 percent due to requests for funding for technology projects
Major LFD Issues	
◆	State special revenue from background checks may not be sufficient to support the requested level of expenditures

Funding

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

Program Funding Table							
Information Technology Service							
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	\$ 2,982,360	69.7%	\$ 3,310,245	61.1%	\$ 3,325,974	65.7%	
01100 General Fund	2,982,360	69.7%	3,310,245	61.1%	3,325,974	65.7%	
02000 Total State Special Funds	1,279,806	29.9%	2,094,346	38.6%	1,722,980	34.0%	
02016 Criminal Justice Info Network	534,811	12.5%	874,417	16.1%	501,640	9.9%	
02074 Gambling License Fee Account	57,417	1.3%	57,417	1.1%	57,417	1.1%	
02422 Highways Special Revenue	57,984	1.4%	57,984	1.1%	57,984	1.1%	
02797 Cjis - Background Checks	626,543	14.6%	1,101,477	20.3%	1,102,888	21.8%	
02937 Justice State Special Misc	3,051	0.1%	3,051	0.1%	3,051	0.1%	
03000 Total Federal Special Funds	3,916	0.1%	3,392	0.1%	3,392	0.1%	
03187 Bcc Grants To Dept. Of Justice	1,648	0.0%	1,124	0.0%	1,124	0.0%	
03800 Medicaid Fraud	2,268	0.1%	2,268	0.0%	2,268	0.0%	
06000 Total Proprietary Funds	13,321	0.3%	13,321	0.2%	13,321	0.3%	
06005 Liquor Division	6,801	0.2%	6,801	0.1%	6,801	0.1%	
06500 Agency Legal Services	6,520	0.2%	6,520	0.1%	6,520	0.1%	
Grand Total	\$ 4,279,403	100.0%	\$ 5,421,304	100.0%	\$ 5,065,667	100.0%	

The division receives almost 66 percent of its support from the general fund. State special revenue, primarily from background checks and the Criminal Justice Information Network, provide 34 percent of the funding for the division. Federal and proprietary funds combined provide less than one percent of the division’s funding.

**LFD
ISSUE**

Solvency of Accounts

The Information Technology Division has two state special revenue accounts, one that receives revenue related to the Criminal Justice Information Network (CJIN) and one that receives revenue from background checks. Figure 4 summarizes FY 2006 actual and FY 2007 through 2009 anticipated revenues and expenditures for both funds. The upper half of the figure provides information about the CJIN account and the lower half about the Criminal Justice Information System (background checks) account. As illustrated in the figure, the anticipated level of expenditures exceeds the estimated revenues, resulting in a declining fund balance for both funds and a negative fund balance in FY 2008 and 2009 for the CJIN account. This is of particular concern since the department has requested funding to “refresh” the CJIN system per federal requirements. Options the department could consider to avoid a negative ending fund balance in the CJIN account and complete the “refresh” include:

- Reducing the base level of expenditures so that there is sufficient funding to complete the “refresh”
- Increasing the fees charged for CJIN

The legislature may wish to discuss with the department:

- What actions would be taken in the event revenues are not sufficient to support the base level of expenditures and fund the CJIN “refresh”
- The potential penalties and impact of not completing the CJIN refresh in the 2009 biennium

Figure 4

Criminal Justice Information Network

Item	Actual FY 2006	Projected FY 2007	Projected FY 2008	Projected FY 2009
Beginning Balance	\$215,431	\$217,858	\$222,858	(\$126,559)
Revenue	537,238	540,000	525,000	525,000
Expenditures:				
Base Expenditures	534,811	535,000	499,417	501,640
Present Law Adjust.	0	0	375,000	0
Total Expenditures	534,811	535,000	874,417	501,640
Ending Balance	<u>\$217,858</u>	<u>\$222,858</u>	<u>(\$126,559)</u>	<u>(\$103,199)</u>

Criminal Justice Information System - Background Checks

Item	Actual FY 2006	Projected FY 2007	Projected FY 2008	Projected FY 2009
Beginning Balance	\$445,026	\$721,258	\$670,169	\$468,692
Revenue	890,615	906,744	900,000	900,000
Expenditures:				
Base Expenditures	626,543	707,833	685,579	686,955
Present Law Adjust.			375,000	375,000
New Proposals			40,898	40,933
Non Appropriated	-	250,000	-	-
Total Expenditures	626,543	957,833	1,101,477	1,102,888
Adjustment	12,160			
Ending Balance	<u>\$721,258</u>	<u>\$670,169</u>	<u>\$468,692</u>	<u>\$265,804</u>

LFD ISSUE CONT. With regard to the Criminal Justice Information System account, the department requests increased funding to support the IJIS broker and an additional 1.00 FTE. While the fund balance does not become negative it does decline over the course of the biennium. If revenues are not sufficient to fund the items requested the department could:

- Reduce expenditures
- Delay development of additional interfaces
- Increase the fee charged for criminal back background checks or begin charging agencies, which are currently not charged (the current fee is \$10 per check, except for law enforcement agencies, which are not charged)

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					525,158					534,741
Vacancy Savings					(118,496)					(118,878)
Inflation/Deflation					205					317
Fixed Costs					(55,864)					(45,849)
Total Statewide Present Law Adjustments					\$351,003					\$370,331
DP 2905 - Additional Spending Authority for IJIS Broker	0.00	0	375,000	0	375,000	0.00	0	375,000	0	375,000
DP 2907 - Increase Spending Authority for CJIN Refresh	0.00	0	375,000	0	375,000	0.00	0	0	0	0
Total Other Present Law Adjustments	0.00	\$0	\$750,000	\$0	\$750,000	0.00	\$0	\$375,000	\$0	\$375,000
Grand Total All Present Law Adjustments					\$1,101,003					\$745,331

LFD COMMENT The statewide present law adjustment for personal services includes an estimated \$136,000 per year for positions that were vacant all or part of the year. The division had a vacancy rate of about 14 percent in FY 2006.

DP 2905 - Additional Spending Authority for IJIS Broker – This decision package requests \$750,000 state special revenue for the biennium as a biennial appropriation for the Integrated Justice Information System (IJIS) broker project. The IJIS broker will allow state, local, and federal agencies to connect with each other to share information such as CJIN, intel systems, records management systems, NCIC, naval criminal investigative service, criminal history records system, electronic dispositions, electronic tickets, driver photos, and BIO Metrics.

LFD ISSUE Solvency of Account - Categorization of Proposal

Please refer to the funding section of the program narrative for a discussion of the CJIS Background Checks state special revenue fund.

Because this decision package provides funding for additional new interfaces it should be included as a new proposal rather than a present law adjustment.

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 State of Montana must do everything within its power to protect the public. Current systems do not have the ability to pass information between each other. This system will allow that to happen, which in turn will automate and speed up current information sharing.

Goal: To allow each justice agency to share information without having to replace existing systems.

Performance Measures: The progress will be measured through each interface that is built. The ability to pass information in seconds verses days and weeks will improve public safety as well as improving the accuracy of the information.

Milestones: The first one has been completed (FullCourt to Motor Vehicle), the next two are scheduled to go live in November of 2006 (Crime Victims and Criminal Photo repository).

FTE: There is a combination of state agencies, and the vendors. In the case of the broker, the main vendor is MAXIMUS. Each interface will bring on the vendor associated with the system that is being brought into the information sharing initiative.

Funding: The current phases have been funded through federal grants. The on going support will be funded through special revenue accounts.

Obstacles: The challenges are budget, making sure all stakeholders understand the direction, and communications.

Risk: The risks are the loss of the grant money and the inability for the state to receive future grants for these types of projects.

**LFD
COMMENT**

The performance measures above do not specify expectations or impacts that are measurable that would define success or failure of an interface. The measure above simply states completion of the interface is progress but does not indicate whether or not the interface must work as expected, result in certain achievements, etc. The milestones above do not provide a timeline for or list of interfaces under consideration for development or when such interfaces may be completed.

The department indicates that agencies wishing to develop interfaces with the broker are responsible for funding that interface.

DP 2907 - Increase Spending Authority for CJIN Refresh - This decision package requests \$375,000 state special revenue for the biennium to conduct a refresh of the Criminal Justice Information Network (CJIN), which is done every four years.

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 Criminal Justice Information Network (CJIN) refresh is much like the state computer replacement cycle. This is an upgrade of the hardware and possibly the software. It allows CJIN the ability to utilize technology to exchange information between local, state, and federal agencies. This is a federal network and falls under their span of control.

Goal: To upgrade and replace the older non-supported equipment.

Performance Measures: The system success will be measured through the successful implementation and testing of the system.

Milestones: This is not scheduled until the summer of 2008. However, the request for proposal, project plan, ITPR, and other things must be completed starting in November of 2007.

FTE: The work will be done by department IT staff.

Funding: The refresh is done on a four-year cycle and is paid for out of state special revenue. The CJIN network collects fees and this is used to upgrade and maintain the network.

Obstacles: The challenges are very low. We have done this several times and have a very good handle on it.

Risk: The risk is that the CJIN system would fall out of compliance with the federal government standards. If this were to happen, the federal government could revoke information sharing to the state until the state came into compliance. That is not to say this would happen but it could happen.

LFD COMMENT	Additional data provided by the department indicates that CJIN is a federal network and determination of compliance is made by the ability to process requests with speed and accuracy as judged by the number of failures, hung transactions, missed hits, false hits, etc.
The legislature may wish to provide this funding as a one-time-only appropriation since the need to undertake the refresh of the system occurs every four years.	

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 2906 - Criminal Justice Information Services Technician	29	1.00	0	40,898	0	40,898	1.00	0	40,933	0	40,933
Total	1.00	\$0	\$40,898	\$0	\$40,898 *	1.00	\$0	\$40,933	\$0	\$40,933 *	

DP 2906 - Criminal Justice Information Services Technician - This decision package requests \$81,831 state special revenue for the biennium for a technician to provide technical and administrative support for the Criminal Justice Information Systems Bureau in the areas of customer service, system access, and criminal history records system information. The position is now a modified position and is requested as a permanent position.

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	30.75	0.00	2.00	32.75	0.00	2.00	32.75	32.75
Personal Services	1,800,902	309,709	134,564	2,245,175	324,273	134,724	2,259,899	4,505,074
Operating Expenses	1,273,253	36,641	64,952	1,374,846	38,767	7,000	1,319,020	2,693,866
Equipment	14,694	0	115,375	130,069	0	115,375	130,069	260,138
Debt Service	89,854	0	0	89,854	0	0	89,854	179,708
Total Costs	\$3,178,703	\$346,350	\$314,891	\$3,839,944	\$363,040	\$257,099	\$3,798,842	\$7,638,786
General Fund	2,875,499	346,350	314,891	3,536,740	363,040	257,099	3,495,638	7,032,378
State/Other Special	303,204	0	0	303,204	0	0	303,204	606,408
Federal Special	0	0	0	0	0	0	0	0
Total Funds	\$3,178,703	\$346,350	\$314,891	\$3,839,944	\$363,040	\$257,099	\$3,798,842	\$7,638,786

Program Description

The Forensic Science Division includes the state crime lab in Missoula and the state medical examiner. The division provides a statewide system of death investigation, forensic science training and scientific criminal investigation. The division conducts analysis on specimens submitted by law enforcement officials, coroners and other state agencies. The division tests firearms, tool marks, hair, fiber, drugs, blood, body fluids, and tissues. The laboratory also analyzes blood and urine samples in connection with driving under the influence (DUI) cases and it provides the certification, maintenance, and training of all law enforcement personnel on breath testing instruments.

Program Highlights

Forensic Science Division Major Budget Highlights
<ul style="list-style-type: none"> ◆ 2009 biennium funding for the division is \$1.3 million or 20.2 percent higher than the FY 2006 base budget doubled <ul style="list-style-type: none"> • The entire \$1.3 million increase is in general fund, which increases 22.3 percent when the same comparison is made, due to statewide present law adjustments for personal services and requested funding for additional staffing and replacement of equipment • The request includes funding for 2.00 additional FTE ◆ The long range building request includes a proposal to purchase the crime lab building
Major LFD Issues
<ul style="list-style-type: none"> ◆ Funding for FTE is also included in LC 0071 requested by the Law and Justice Interim Committee

Purchase of Forensic Lab Building

The long range building proposal includes a request for \$7.75 million to purchase the forensic lab building located in Missoula. The department prepared an analysis of the cost of leasing verses purchasing the building, which was presented to the Legislative Finance Committee at its March, 2006 meeting. The department’s analysis, assuming the purchase of the building over a 30 year period at an interest rate of 5.5 percent (based upon information provided by the Board of Investments), estimated the purchase cost to be \$13.4 million, not including the residual value of the building. If this cost is reduced by an estimated residual value of the building at \$4.4 million the net cost to purchase the building is about \$9.0 million. The department estimates the cost of leasing the building over the same 30 year period (including estimated increases in lease costs and taxes) would be \$14.8 million or \$1.4 million greater than the costs of purchase, not including the estimated residual value of the building. If the residual value is considered the estimated savings from purchase of the building rises to almost \$5.8 million.

LFD COMMENT	Costs for large maintenance or renovations projects are not included in the department’s analysis.
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Funding

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

Program Funding Table Forensic Science Division						
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	\$ 2,875,499	90.5%	\$ 3,536,740	92.1%	\$ 3,495,638	92.0%
01100 General Fund	2,875,499	90.5%	3,536,740	92.1%	3,495,638	92.0%
02000 Total State Special Funds	303,204	9.5%	303,204	7.9%	303,204	8.0%
02034 Earmarked Alcohol Funds	303,204	9.5%	303,204	7.9%	303,204	8.0%
Grand Total	\$ 3,178,703	100.0%	\$ 3,839,944	100.0%	\$ 3,798,842	100.0%

The division receives 92 percent of its funding from the general fund. State special revenue from earmarked alcohol funds provides the remaining 8 percent of the division’s funding.

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					397,651					412,821
Vacancy Savings					(87,942)					(88,548)
Inflation/Deflation					6,527					7,340
Fixed Costs					(3,886)					(2,573)
Total Statewide Present Law Adjustments					\$312,350					\$329,040
DP 3201 - Forensic Science Lab - Base Adjustment	0.00	34,000	0	0	34,000	0.00	34,000	0	0	34,000
Total Other Present Law Adjustments	0.00	\$34,000	\$0	\$0	\$34,000	0.00	\$34,000	\$0	\$0	\$34,000
Grand Total All Present Law Adjustments					\$346,350					\$363,040

DP 3201 - Forensic Science Lab - Base Adjustment - DP 3201 - Forensic Science Lab - Base Adjustment – This decision package requests \$68,000 general fund for the biennium for base adjustments in the DNA analysis section to annualize the costs of re-agent kits and membership in the Western Identification Network (WIN). The DNA section of the laboratory was closed for analysis from May 2005 until January 2006 due to staffing shortages. Because this section was shut down, no chemicals were purchased during that period, resulting in understatement of the base budget. One re-agent kit is used every six weeks and the kits cost \$6,000 each. The Western Identification Network (WIN) network consists of nine western states along with a number of federal agencies that maintain latent fingerprint databases. The cost for membership in this network is \$7,000 per year.

LFD COMMENT	The WIN network membership fee has in the past been paid from grant funds. A grant was written in 1996, which resulted in the department receiving funding for the WIN network. The grant funds were sufficient to prepay the membership fee through FY 2006.
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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 3202 - Toxicologist Position	32	1.00	73,758	0	0	73,758	1.00	70,862	0	0	70,862
DP 3203 - Latent Print Examiner Position	32	1.00	73,758	0	0	73,758	1.00	70,862	0	0	70,862
DP 3205 - Crime Lab Equipment (RST/OTO)	32	0.00	115,375	0	0	115,375	0.00	115,375	0	0	115,375
DP 3206 - Forensic Science Lab - Records Mgmt. OTO	32	0.00	52,000	0	0	52,000	0.00	0	0	0	0
Total	2.00	\$314,891	\$0	\$0	\$314,891 *	2.00	\$257,099	\$0	\$0	\$257,099 *	

DP 3202 - Toxicologist Position - This decision package requests \$144,620 in general fund for the biennium to support an additional 1.00 FTE toxicologist at the crime lab.

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 workload in this area of the crime laboratory has increased to the point it is necessary to request another position just to keep up. The analysis this area of the laboratory performs provides local coroners in the state with crucial information in reference to cause and manner of death investigations. Often, families are awaiting this information for completion of death certificates. We provide law enforcement with alcohol levels from DUI cases, and we also provide urinalysis results to the corrections programs in the state. Corrections programs in Montana require their clients to remain drug free when in a community setting and they monitor their behavior. We get cases when a preliminary screen is positive, we then provide a confirmation by using much more sensitive instrumentation than the preliminary screening instruments provide.

Goal: It is our goal to provide coroners, law enforcement and correction officials with results of the testing they request within four weeks from the time we receive the samples.

Performance Measures: We keep monthly statistics and would be able to monitor our turn-around time. Our experience with the agencies shows that they would like a faster turn-around time but a four week period is acceptable. The increased documentation required for laboratory accreditation has resulted in fewer cases being completed per analyst and this has added to the caseload.

Milestones: This would be an on-going request. As the state continues to grow in population, death investigations

increase, as does the request for other services we provide.

FTE: Forensic scientists are highly trained individuals that are difficult to recruit. We will try to recruit a trained individual but will also train one if we are unsuccessful with this recruitment. Training in most sections of the laboratory is a minimum of one year.

Funding: We are requesting general fund monies for this position.

Obstacles: The primary challenge we have is recruiting and retaining competent forensic scientists. Most likely a training assignment will be implemented for the new employee.

Risk: Timely analysis is important for the law enforcement community. Excessive workload is also detrimental to the lab staff. An error in the field of forensic science has the potential of being career ending and erroneous results can result in wrongful incarceration of an innocent person. Forensic scientists when properly trained are identified as expert witnesses. An error in analysis will follow a forensic scientist and jeopardize their career and the credibility of the lab.

LFD COMMENT	This section has had a doubling of workload (cases) since 1991 but has received only 1.00 FTE additional staff (in the 2007 biennium) to address this caseload increase. This section currently processes 482 cases per month and currently has a turn around time of 6-8 weeks. The department's goal is a turn around time of 4 weeks. Quality assurance/quality control requires 100 percent technical peer review, initialing and numbering of every page of instrumentation results, annual internal audits, and 100 percent review of instrument generated data. Additional staffing is requested due to the workload in this section and the department's desire to achieve a four week turnaround time.
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LFD ISSUE	<p>Appropriation Also Requested in Legislation</p> <p>Funding for this position is also included in LC0071 requested by the Law and Justice Interim Committee. If this decision package is approved, the legislature may want to include language in HB 2 to coordinate funding included in the two bills. For example:</p> <p>“Forensic Lab includes general fund monies of \$73,758 on fiscal year 2008 and \$70,862 in fiscal year 2009 for 1.00 FTE forensic scientist. If LC 0071 is passed an approved in a form that includes an appropriation for this purpose funding in Forensic Lab is reduced by this amount.”</p>
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DP 3203 - Latent Print Examiner Position - This decision package requests \$144,620 in general fund for the biennium to support an additional 1.00FTE Latent Print Examiner position to support the increasing workload and backlog in the latent print section of more than one year.

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 workload in this area of the crime laboratory has resulted in a backlog of cases in excess of one year. The analysis this area of the laboratory performs serve state and local law enforcement officials with positive identification of suspects. There are a number of reasons a lengthy turn-round time is detrimental. The integrity of a print from long storage can be deteriorated resulting in the print being of no value for comparison purposes. Speedy trial issues can also come into consideration over long delays in the work being completed. Large backlogs encourage scientists to hurry, which increases chances of error.

Goal: It is our goal to provide law enforcement officials with results of the testing they request within four weeks from the time we receive the samples.

Performance Measures: We keep monthly statistics and would be able to monitor our turn-around time. Our experience with the agencies shows that they would like a faster turn-around time but a four week period is acceptable.

Milestones: This would be an on-going request as the state continues to grow in population and a continued request for services occurs. The increased documentation required for laboratory accreditation has resulted in fewer cases being completed per analyst and this has added to our backlog.

FTE: Forensic scientists are highly trained individuals that are difficult to recruit. We will try to recruit a trained individual but will also train one if we are unsuccessful with this recruitment. Training in most sections of the laboratory is a minimum of at least one year.

Funding: We are requesting general fund monies for this position.

Obstacles: The primary challenge we have is recruiting and retaining competent forensic scientists. Most likely a training assignment will be implemented for the new employee.

Risk: Timely analysis is important for the law enforcement community. Excessive workload is also detrimental to the lab staff. An error in the field of forensic science has the potential of being career ending and erroneous results can result in wrongful incarceration of an innocent person. Forensic scientists when properly trained are identified as expert witnesses. An error in analysis will follow a forensic scientist and jeopardize their career and the credibility of the lab.

LFD COMMENT	The current backlog in this section is 182 cases, or 10-11 months. One examiner can process about 17-18 cases per month. Quality assurance/quality control requirements include 100 percent technical peer review by another qualified examiner, technical review by a second scientist, and an annual internal audit.
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LFD ISSUE	<p>Appropriation Also Requested in Legislation</p> <p>Funding for this position is also included in LC0071 requested by the Law and Justice Interim Committee. If this decision package is approved, the legislature may want to include language in HB 2 to coordinate funding included in the two bills. For example:</p> <p>“Forensic Lab includes general fund monies of \$73,758 on fiscal year 2008 and \$70,862 in fiscal year 2009 for 1.00 FTE latent print examiner. If LC 0071 is passed an approved in a form that includes an appropriation for this purpose funding in Forensic Lab is reduced by this amount.”</p>
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DP 3205 - Crime Lab Equipment (RST/OTO) - This decision package requests \$230,750 general fund as a biennial appropriation equipment replacement, including replacement of two thermal cyclers T (\$8,000 each), glass refractive index measurement II (GRIM) (\$45,000), comparison microscope (\$62,000), Gas Chromatograph with Mass Selective Detector (GC/MS, used in the chemistry and toxicology section \$95,000) and a stereomicroscope with portable stand (\$12,750).

DP 3206 - Forensic Science Lab - Records Mgmt. OTO - This decision package requests \$52,000 general fund for the biennium as a one time only appropriation to review all state crime lab records. Contract services would be utilized to hire temporary help to go through each record older than five years to determine if the record can be destroyed.

LFD COMMENT	The program currently pays \$120 per month for records storage and estimates that 90 percent of these records would be able to be destroyed after review. If records storage costs decrease 90 percent as well, the program would realize savings of about \$1,300 per year.
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