

Agency Budget Comparison

The following table compares 2014 actuals expenditures without one-time appropriations plus 2015 estimated appropriations including one-time appropriations, but excluding certain base appropriations to the 2017 biennial total legislative budget. The comparison is listed by year, type of expenditure, and source of funding. The biennial percent change column has been eliminated to allow for the transition to a comparison of biennial appropriations consistent with SB 140 in the future. The biennial appropriation growth/decline is listed in the agency highlight tables and the expenditure section of Volume 1 of this Fiscal Report.

Agency Budget Comparison							
Budget Item	Base Fiscal 2014	Approp. Fiscal 2015	Legislative Budget 2016	Legislative Budget 2017	Biennium Fiscal 14-15	Biennium Fiscal 16-17	Biennium Change
FTE	217.50	217.50	235.94	235.94	217.50	235.94	18.44
Personal Services	15,487,059	16,209,123	19,525,077	19,519,464	31,696,182	39,044,541	7,348,359
Operating Expenses	11,217,720	9,561,836	13,373,897	13,341,044	20,779,556	26,714,941	5,935,385
Equipment & Intangible Assets	0	18,554	18,554	18,554	18,554	37,108	18,554
Total Costs	\$26,704,779	\$25,789,513	\$32,917,528	\$32,879,062	\$52,494,292	\$65,796,590	\$13,302,298
General Fund	26,442,989	25,515,587	32,643,602	32,605,136	51,958,576	65,248,738	13,290,162
State/Other Special Rev. Funds	261,790	273,926	273,926	273,926	535,716	547,852	12,136
Total Funds	\$26,704,779	\$25,789,513	\$32,917,528	\$32,879,062	\$52,494,292	\$65,796,590	\$13,302,298

Agency Description

The primary mission of the statewide public defender system is to provide effective assistance of counsel to indigent persons accused of crime and other persons in civil cases who are entitled by law to the assistance of counsel at public expense.

The Office of State Public Defender administers the statewide public defender system that delivers public defender services in all courts in Montana for criminal and certain civil cases for an individual who is determined to be indigent per statutory provisions and is accused of an offence that could result in the person's loss of life or liberty if convicted. The statewide public defender system that is supervised by the Public Defender Commission, an eleven member commission appointed by the Governor. The office is administratively attached to the Department of Administration but has authority in law to provide administrative functions as determined by the commission. The Public Defender Commission is responsible for the design, direction, and supervision of the system. The statewide public defender system also includes appellate defender functions.

Agency Highlights

**Office of State Public Defender
Major Budget Highlights**

- In HB 2 total funds, biennial appropriations increased by 20.4%, or \$11.2 million due primarily to approval of funding to:
 - Add 26.40 FTE to address caseloads
 - Provide a market adjustment for support staff
 - Be allocated at the discretion of the Public Defender Commission to address budget pressures during the biennium
 - Increase funds for contract attorneys to address caseloads
 - Add 1.00 FTE to address caseload issues in the Office of Appellate Defender
- The legislature made all funding for the department one-time-only to allow for the 2019 biennium budget to be created from a zero base
- The legislature designated all funding for the office as biennial
- For FY 2015, \$1.7 million in supplemental funding was appropriated to address anticipated budget shortfalls in the 2015 biennium

Summary of Legislative Action

The legislature approved the office's 2017 biennium HB 2 budget with an increase of \$11.2 million, or 20.4%, over the 2015 biennium. The following items were funded and drove the increase:

- Funding to add 26.40 FTE in the Office of Public Defender and 1.00 FTE in the Office of Appellate Defender to address caseload issues
- A market adjustment for support staff across the entire office
- Increased funding for contract attorneys to address caseloads
- A \$250,000 annual contingency fund to be allocated at the discretion of the Public Defender Commission to address budget pressures during the biennium

The legislature also designated all funding for the office, including the base, as one-time-only. As such, the budget for the 2019 biennium would be built from a zero base. The legislature also passed HB 627 to study the operations of the office to develop a long-term organizational plan that will allow the office to provide effective assistance of counsel to those that qualify. Designating the funding for the office as one-time-only and studying the office were intended to go hand-in-hand so the operational plan and the resources needed to provide it could be linked when deliberated by the 2017 Legislature.

Additionally, the legislature provided \$1.7 million general fund for FY 2015 to address projected budget shortfalls in the Office of Public Defender and Conflict Coordinator programs.

Funding

The following table shows agency funding by source of authority. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Office of State Public Defender Funding by Source of Authority 2017 Biennium Budget - Office of State Public Defender						
Funds	HB2	Non-Budgeted Proprietary	Statutory Appropriation	Total All Sources	% Total All Funds	
General Fund	65,248,738	0	0	65,248,738	99.17 %	
State Special Total	547,852	0	0	547,852	0.83 %	
Federal Special Total	0	0	0	0	0.00 %	
Proprietary Total	0	0	0	0	0.00 %	
Other Total	0	0	0	0	0.00 %	
Total All Funds	\$65,796,590	\$0	\$0	\$65,796,590		
Percent - Total All Sources	100.00 %	0.00 %	0.00 %			

The office is funded primarily by the general fund. A small amount of state special revenue from reimbursements for services provided is also available to the office. The legislature designated all funding for the office as one-time-only for the 2017 biennium.

Budget Summary by Category

The following summarizes the total budget utilizing the FY 2015 legislative base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Leg. Budget Fiscal 2016	Leg. Budget Fiscal 2017	Leg. Biennium Fiscal 16-17	Percent of Budget	Leg. Budget Fiscal 2016	Leg. Budget Fiscal 2017	Leg. Biennium Fiscal 16-17	Percent of Budget
2015 Budget	27,115,587	27,115,587	54,231,174	83.11 %	27,389,513	27,389,513	54,779,026	83.26 %
PL Adjustments	5,278,015	5,239,549	10,517,564	16.12 %	5,278,015	5,239,549	10,517,564	15.98 %
New Proposals	250,000	250,000	500,000	0.77 %	250,000	250,000	500,000	0.76 %
Total Budget	\$32,643,602	\$32,605,136	\$65,248,738		\$32,917,528	\$32,879,062	\$65,796,590	

Other Legislation

HB 143 - HB 143 suspends a defendant's obligation to make payments for costs of assigned counsel during the period when the defendant is incarcerated. The fiscal note for HB 143 assumes a reduction in annual revenue to the state special revenue funds of the office. The fiscal note states that the collection of funds owed by an incarcerated defendant is very labor intensive and yields on average about \$0.16 per month per defendant. The fiscal note stated no expenditure savings, but the efficiencies gained from not having to account for these payments should translate to reduced workload of accounting staff in the office.

HB 627 - HB 627 created an interim task force to study the operations of the Office of State Public Defender to develop a long-term organizational plan that will allow the OPD to provide effective assistance of counsel to those that qualify. The office is tasked in the bill with providing information as requested to support the task force. Although no fiscal impacts were specified in the fiscal note the HB 627, the office will have workload impacts in monitoring and supporting the efforts of the task force.

SB 244 - SB 244 created a study for sentencing practices and policies. A representative from the Office of State Public Defender is listed as a member of the study commission. Other than workload impacts supporting the study, there are no budgetary impacts for the 2017 biennium. However, the policy recommendations and any subsequent law changes that come out of the study commission's recommendations could have budget impacts in future biennia.

Executive Budget Comparison

The following table compares the legislative budget for the 2017 biennium to the budget requested by the Governor, by type of expenditure and source of funding.

Executive Budget Comparison	Base Budget	Executive Budget	Legislative Budget	Leg — Exec. Difference	Executive Budget	Legislative Budget	Leg — Exec. Difference	Biennium Difference
Budget Item	Fiscal 2014	Fiscal 2016	Fiscal 2016	Fiscal 2016	Fiscal 2017	Fiscal 2017	Fiscal 2017	Fiscal 16-17
FTE	217.50	256.00	235.94	(20.06)	256.00	235.94	(20.06)	(20.06)
Personal Services	15,487,059	21,001,395	19,525,077	(1,476,318)	21,152,582	19,519,464	(1,633,118)	(3,109,436)
Operating Expenses	11,217,720	13,009,921	13,373,897	363,976	13,096,914	13,341,044	244,130	608,106
Equipment & Intangible Assets	0	10,000	18,554	8,554	0	18,554	18,554	27,108
Total Costs	\$26,704,779	\$34,021,316	\$32,917,528	(\$1,103,788)	\$34,249,496	\$32,879,062	(\$1,370,434)	(\$2,474,222)
General Fund	26,442,989	33,759,526	32,643,602	(1,115,924)	33,987,706	32,605,136	(1,382,570)	(2,498,494)
State/other Special Rev. Funds	261,790	261,790	273,926	12,136	261,790	273,926	12,136	24,272
Total Funds	\$26,704,779	\$34,021,316	\$32,917,528	(\$1,103,788)	\$34,249,496	\$32,879,062	(\$1,370,434)	(\$2,474,222)

In both total funds and general fund the legislative budget is \$2.5 million lower than the executive budget. The main differences are that the legislature did not approve funding to:

- Annualize the full amount of executive implementation of the FY 2015 portion of the 2013 Legislative pay plan
- Annualize pay increases provided at the agency's discretion during the 2015 biennium
- Add 6.06 FTE in the Office of Public Defender that were funded by funding allocated to the Governor's Office in SB 410 of 2013 Legislature and were funded as modified positions to address caseload impacts
- Add 10.00 FTE in the Office of Public Defender to address caseload impacts
- Add 4.00 FTE in the Office of Public Defender as eligibility technicians and resource advocates
- Provide a 2% increase in the contract attorney rate in FY 2016 and an additional 2% increase in FY 2017
- Fund an attorney pay ladder

The legislature also designated all funding for the office, including the base, as one-time-only.

Language and Statutory Authority

The legislature included the following language in HB 2:

All appropriations for the Office of State Public Defender are biennial.