

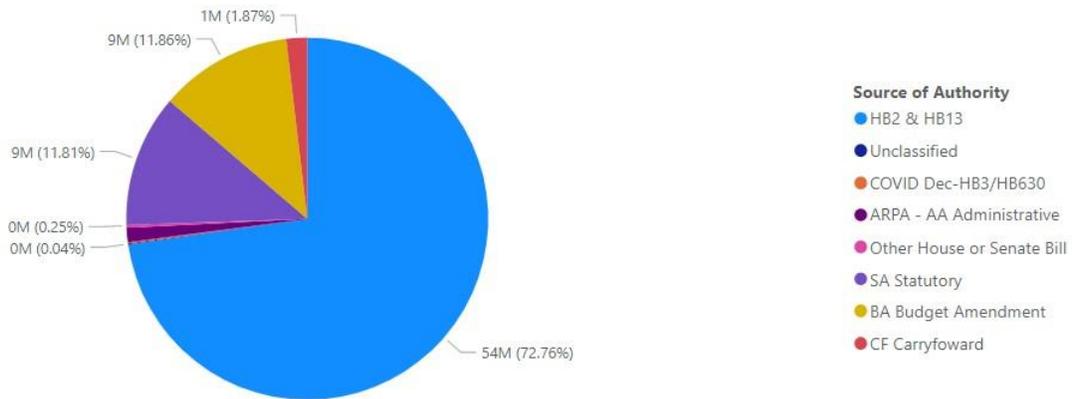
# JUDICIAL BRANCH

(Spending report July 1, 2021 through June 30, 2022 - FYE 2022)

## TOTAL APPROPRIATION AUTHORITY

The total appropriation authority for the agency is shown in the pie chart below. HB 2 and HB 13 provide 72.8% of the total authority for this agency. All types of appropriation authority for this agency are described below, including total budget and the percent expended by source of authority.

Total Modified Budget by Source of Authority



Source of Authority	FYE22 Modified Budget	FYE22 Expended Budget	Percent Expended
HB2 & HB13	54,069,271	50,152,554	92.8%
BA Budget Amendment	8,815,098	1,892,134	21.5%
CF Carryforward	1,386,348	547,470	39.5%
Other House or Senate Bill	185,212	29,025	15.7%
SA Statutory	8,779,790	3,551,652	40.5%
Unclassified	32,673		
CARES II	100,469	49,106	48.9%
ARPA	944,721	49,531	5.2%
<b>Total</b>	<b>74,313,582</b>	<b>56,271,473</b>	<b>75.7%</b>

### Report Period

- Jul
- Aug
- Sep
- Oct
- Nov
- Dec
- Jan
- Feb
- Mar
- Apr
- May
- Jun

## Budget Amendments

The Judicial Branch (the Branch) budget amendments (BA) increased federal authority in the agency budget by \$8.8 million in FY 2022, and the Branch expended \$1.9 million, or 21.5%, of the authority through fiscal year-end (FYE) 2022. The Branch added \$1.5 million of BA authority since the June report.

BA funding supports the following activities in the Branch budget:

- Substance abuse and mental health services within drug courts
- Adult, veteran’s, and family treatment courts
- Facilitate state court data collection and analysis and promote data sharing

At FYE 2022, the Branch had a balance of \$6.9 million in BA authority. From that balance, they continued \$6.0 million of the authority to FY 2023. From the continued authority, \$1.3 million or 18.8% will expire before the end of calendar year 2022.

## **Carryforward**

The Branch expended \$547,470, or 39.5% of the total \$1.4 million of carryforward (CF) authority in FY 2022. The authority is derived from 30.0% of the qualifying unexpended balance of FY 2020 and FY 2021 appropriations. The total authority is funded 83.5% with general fund. The Branch has expended \$547,470, or 91.6%, of the FY 2020 authority in FY 2022 and none of the FY 2021 CF authority.

The Branch had a CF unexpended/unobligated balance of \$838,878 at the FYE 2022. The balance consisted of \$49,885 of the FY 2020 CF and all of the FY 2021 CF (\$788,993). The FY 2020 CF authority balance consisted of state special and federal special revenue authority and will be reverted to the appropriated sources. The branch expended all of the general fund CF authority from FY 2020. The full amount of FY 2021 CF has been continued to the FY 2023 budget.

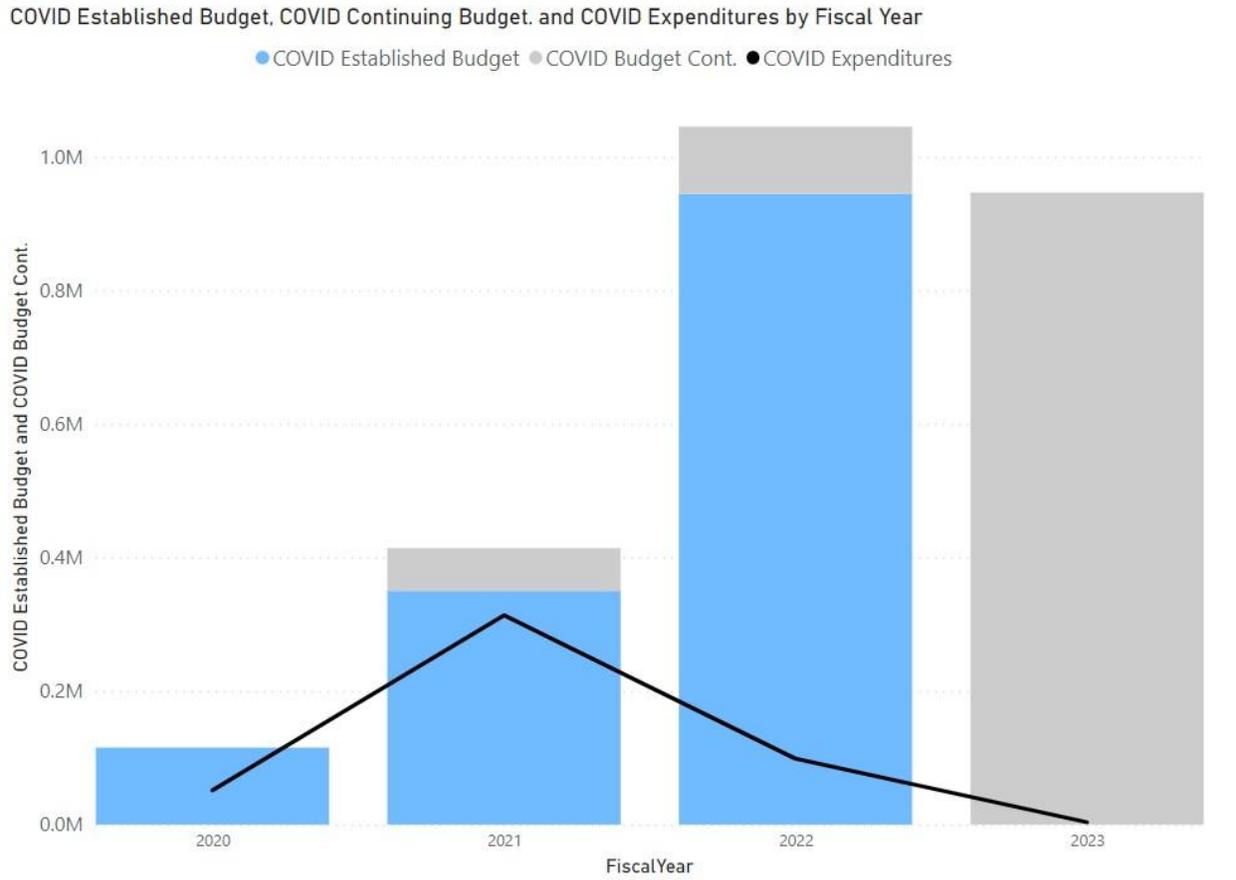
## **Other Bills**

In FY 2022 the Judicial Branch has \$185,212 of capital project appropriation authority through the Long-Range Information Technology (IT) Program for the courtroom improvements project. The authority was provided in the 2007 Session (\$1,018 remaining) and was increased in the 2015 Session (\$184,193 remaining). The Branch expended \$29,025 of the authority in FY 2022, primarily on IT improvements in courtrooms.

The Branch had a balance of \$156,187 that is authorized in law to be re-appropriated until completion of the project. Since the project is not completed, the balance will be available for use in FY 2023.

### COVID-19 Authority

The following chart is provided to allow the legislature to examine the funding that is available to the agency for COVID-19 impacts.



The Branch has a total of \$1.0 million in COVID-19 authority in FY 2022. From the total authority, \$100,469 was continued from the 2021 biennium Coronavirus Aid, Relief, and Economic Security Act (CARES) II funding and \$944,721 was provided in HB 632 (American Rescue Plan Act - ARPA) by the 2021 Legislature. By FYE 2022, the Branch expended a total of \$98,637, or 9.4%, of the authority, leaving a balance of \$946,553. The balance will be continued in the FY 2023 budget. The CARES II funding (balance of \$51,363) is set to expire on September 30, 2022 and the ARPA funding (balance of \$895,190) on 12/31/2024.

From the total COVID expenditures, the Branch expended 42.0% on personal services and 58.0% on operating expenses. The CARES II funding has been used for costs related to a pre-filing project benefitting youth in need of care cases (49.8% of expenditures). The ARPA funds provide a three-year pilot project, Simplify Family Law Resolution, to implement remote mediation services and streamline family law cases (50.2% of expenditures). The funding is expected to help clear the backlog in family law cases in district courts where criminal cases were prioritized during the pandemic.

### Statutory Appropriations

The statutory appropriation (SA) from the youth court intervention and prevention account is established and statutorily appropriated in 41-5-2011, MCA. The account receives:

- Unexpended funds from the judicial districts' annual allocations of juvenile placement funds
- Unexpended funds from the cost containment pool created from juvenile placement funds

By statute, the account may be used to:

- Establish or expand community prevention and intervention programs and services for the youth
- Provide alternative funding methods for out-of-home placements
- Provide matching funds for federal money for intervention and prevention programs that provide services to the youth

After funding is transferred to the SA account in the Branch, it is used by the District Courts in 22 judicial districts for the following two years. Each district receives an allocation equal to the amount of unexpended placement funds from the prior year allocation to each district. The allocation to each district is based on a formula, which includes factors such as the number of youth in a district and the number of offenses.

At FYE 2022, the Branch increased the SA budget by \$4.4 million, resulting in total SA authority of \$8.8 million. The Branch expended \$3.6 million or 40.5% of the total authority. From the remaining SA balance of \$5.2 million, \$4.4 million was continued in FY 2023. As directed in law, any funding remaining after two years is to be transferred to the general fund, and at FYE 2022, the general fund transfer was \$838,243.

### **Unclassified**

Per 39-71-403(1)(b)(iv), MCA, when workers' compensation premiums are lower than the previous year, state agencies shall reduce personal services appropriations by the amount of the premium reduction. To track the changes in appropriation authority, total appropriations are not reduced, instead the Governor's Office of Budget and Program Planning (OBPP) requires state agencies to:

- Reduce HB 2, statutory, and proprietary appropriations
- Create a separate offsetting entry on the financial statements in the same amount using an identifying number for workers' compensation entries (shown in the Total Authority figure above as "Unclassified")

The offsetting entries are identified as "frozen" appropriations, which means the appropriations will not be spent unless authorized by OBPP. The Branch personal services budget was reduced by \$32,673 and has an offsetting unclassified appropriation of a like amount.

### **Non-Budgeted Proprietary Funding**

Not included in the figure above, the Judiciary has \$264,897 in off-budget proprietary authority within the Law Library Program. The authority supports online search functions in the Lexis system. In FY 2022, the program expended \$262,932, or 99.3%, of the authority.

## HB 2 BUDGET MODIFICATIONS

The following chart shows the HB 2 budget as passed by the legislature, including the pay plan, and the HB 2 modified budget through FYE 2022. Net modifications to the budget include operating plan changes from one expenditure account to another, program transfers, reorganizations, and agency transfers of authority. The **positive modifications** and **negative modifications** are shown by program, expenditure account, and fund type.

### Legislative Budget Compared to Modified Budget - HB 2 Only

Agency Name	June Modified Budget	FYE22 Modified Budget	Net Modifications
<b>Judiciary</b>	<b>54,069,271</b>	<b>54,069,271</b>	<b>0</b>
CLERK OF COURT	570,021	570,021	
DISTRICT COURT OPERATIONS	29,955,877	29,915,576	-40,300
LAW LIBRARY	875,766	875,766	0
SUPREME COURT OPERATIONS	20,285,653	20,325,954	40,300
WATER COURT	2,381,954	2,381,954	0
<b>Total</b>	<b>54,069,271</b>	<b>54,069,271</b>	<b>0</b>

Acct & Lvl 1 DESC	June Modified Budget	FYE22 Modified Budget	Net Modifications
61000 Personal Services	37,977,025	37,964,864	-12,161
62000 Operating Expenses	9,190,154	9,163,492	-26,662
63000 Equipment & Intangible Assets	183,116	140,116	-43,000
66000 Grants	690,000	690,000	
67000 Benefits & Claims	6,013,625	1,331,475	-4,682,150
68000 Transfers-out		4,389,895	4,389,895
69000 Debt Service	15,351	389,429	374,078

Fund Type	June Modified Budget	FYE22 Modified Budget	Net Modifications
01 General	50,937,485	50,937,485	0
02 State/Other Spec Rev	3,029,857	3,029,857	0
03 Fed/Other Spec Rev	101,929	101,929	0

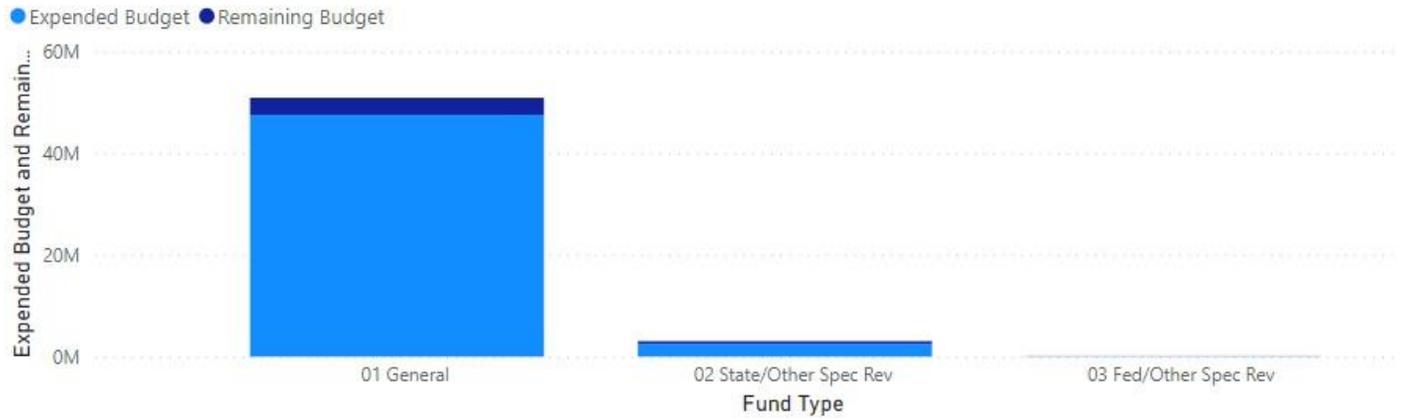
The figure above highlights modifications to the HB 2 budget that occurred in June 2022. The June modified budget, as seen in the figure above, was presented at the June Interim Budget Committee (IBC) meeting. During FYE activities, it is not unusual for agencies to process numerous modifications to align expenditures with appropriations and to balance costs in funds. Through FYE, primary modifications to the HB 2 budget include:

- \$40,300 – The movement of 0.50 FTE and associated budget from District Court Operations Division to the Supreme Court Operations Division
- \$4.4 million – The movement of authority from benefits and claims to transfers-out to accommodate the transfer of youth court intervention and prevention funds (JDIP) to the Branch statutory appropriation
- \$374,078 – The movement of authority from operating expenses to debt service due to the new accounting treatment of long-term leases

## HB 2 APPROPRIATION AUTHORITY

The following chart shows the appropriated budget for the agency compared to expenditures through FYE 2022.

Expended Budget and Remaining Budget by Fund Type - HB 2 Only



acclv1_descr	Modified Budget	Expended Budget	Percent Expended
Personal Services	37,964,864	35,598,496	93.8%
Operating Expenses	9,163,492	8,575,432	93.6%
Equipment & Intangible Assets	140,116	113,797	81.2%
Grants	690,000	485,353	70.3%
Benefits & Claims	1,331,475	606,084	45.5%
Transfers-out	4,389,895	4,389,895	100.0%
Debt Service	389,429	383,496	98.5%

Program Name	Modified Budget	Expended Budget	Percent Expended
CLERK OF COURT	570,021	527,891	92.6%
DISTRICT COURT OPERATIONS	29,915,576	28,307,044	94.6%
LAW LIBRARY	875,766	787,998	90.0%
SUPREME COURT OPERATIONS	20,325,954	18,285,778	90.0%
WATER COURT	2,381,954	2,243,843	94.2%
<b>Total</b>	<b>54,069,271</b>	<b>50,152,554</b>	<b>92.8%</b>

In FY 2022, the Branch expended \$50.2 million, or 92.8%, of the modified HB 2 budget. The figure at the top of this page explains the HB 2 funding. In FY 2022, the Branch budget was funded with 94.2% general fund and expenditures through FYE 2022 were 94.8% general fund.

Total HB 2 spending is slightly lower than the average of the previous five years (95.6%) and is approximately \$1.0 million, or 2.0%, lower than the same period in FY 2021. The change from the historic average is explained by lower spending in Benefits and Claims (45.5%) when compared to the previous five years (84.5%). In nominal terms, personal service costs are \$2.4 million below the same period in FY 2021 and can be explained by the retirement system “holidays” provided in SB 175 and HB 2 as approved by the 2021 Legislature. For more information on personal services in the Branch, see the Personal Services section of this report.

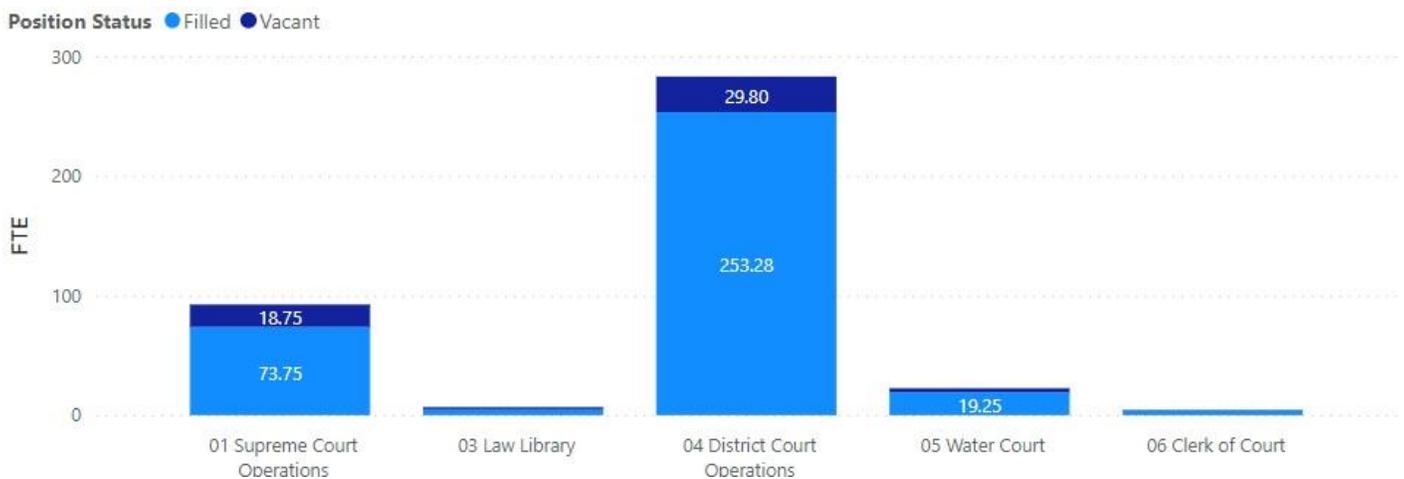
Some specific details of FY 2022 Judicial Branch HB 2 budget include:

- Pretrial Program (OTO) – The FY 2022 budget for this program is \$829,253 of general fund authority in Supreme Court Operations Division
  - This budget item is a continuation of the program that assists the criminal justice system with handling persons arrested and held in jails in five pilot counties (Butte-Silver Bow, Lake, Lewis & Clark, Missoula, and Yellowstone)
  - At FYE 2022, the Branch has expended \$658,739, or 79.4%, of the authority
- In the 2019 version of HB 654, the Branch received an annual base appropriation of \$250,000 to expand the capacity and quality of existing treatment courts and extend treatment courts to areas of the state that are unserved
  - The appropriation is funded through a fee of \$500 assessed on persons or entities engaged in the initial sales of opioids, not including retail pharmacies, and is intended to support the appropriation
  - At FYE 2022, spending from this appropriation was \$110,675, or 44.3% of the appropriation
  - The appropriation addresses the previously unmet needs of the \$1.9 million drug treatment court component of the base (with FY 2022 spending of \$1.6 million)
  - In FY 2023, this appropriation will be increased with a transfer of \$354,901 from the Department of Justice, as provided in HB 693

At FYE 2022, the Branch had a HB 2 unexpended/unobligated balance of \$3.9 million. From that balance, \$54,038 of the general fund authority provided for the Legislative Audit has been continued into the FY 2023 budget. The balance is 86.9% general fund and 12.7% state special revenue. Qualifying unexpended balances will be available for the Branch to establish carryforward and the remainder of the balance will be reverted to the appropriated fund/account. In early projections, the FY 2022 carryforward is expected to be approximately \$829,500 and general fund reversions are expected to be about \$2.5 million (\$2.3 million from the personal services budget).

## Personal Services

The following chart shows the filled and vacant FTE within the agency as of June 30, 2022.



In FY 2022, the Branch had a total of 402.69 FTE, excluding elected officials which includes: seven Supreme Court justices, two Water Court judges, and 50 District Court judges. According to data provided by the State Human Resources Division, the Branch had 53.05 vacant FTE, 13.2% of the indicated FTE, at FYE 2022.

As shown in the figure above, the District Court Operations Division had the highest number of vacancies at 29.80 FTE, over half of the vacant FTE in the Branch. The Supreme Court Operations Division had 18.75 vacant FTE, or 34.7% of the vacancies. Within the two divisions, there were 14.00 vacant law clerk positions and 8.00 vacant deputy juvenile placement positions. Four of the deputy juvenile placement positions have been open for over a year. Also, there currently is an elected official (judge) position open in the 11<sup>th</sup> Judicial District (Flathead County) that is expected to be filled in January 2023.

According to the Branch, struggles continue with hiring qualified candidates in a number of areas including financial services, probation, and administrative support. They anticipate this will continue in FY 2023.

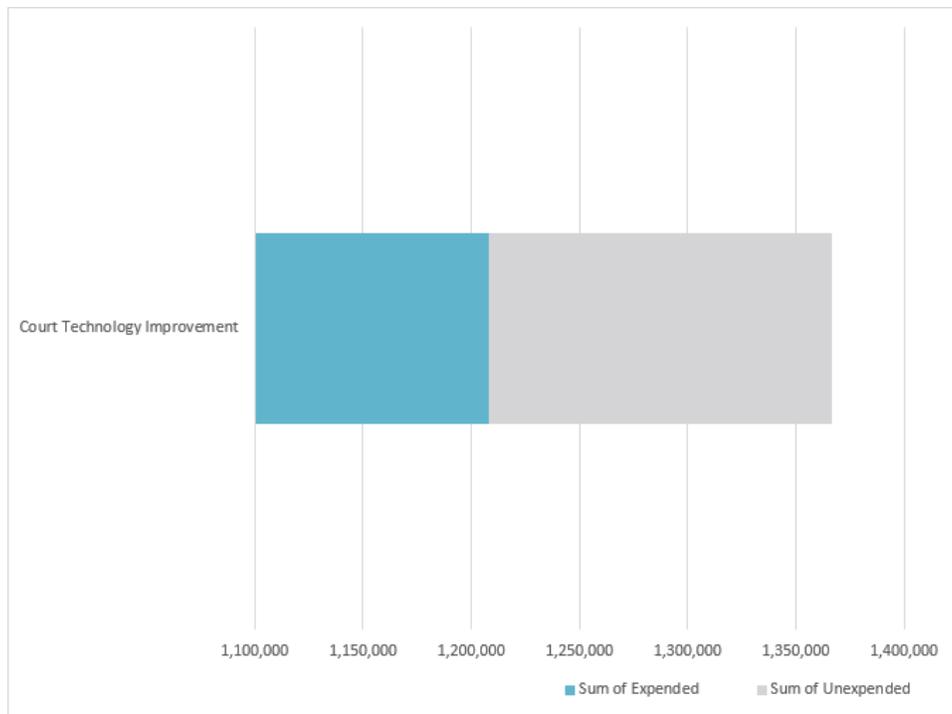
**Next Steps for Personal Services Reporting**

The LFD has begun the process of a more comprehensive look at personal services. The LFD will compare two executive “snapshots” -- July 2020 and July 2022. The analysis will identify adjustments adopted by the legislature in 2021 and modifications made by the agencies, within the confines of budget law.

In September 2022, the LFD will update the interim budget committees on the comparison from July 2020 to July 2022 base salaries. Ultimately, the analysis will result in a description of all the components that will be part of the executive’s decision package one (DP 1) 2025 biennium budget request. This work will be included in the 2025 Biennium Budget Analysis.

**OTHER ISSUES**

**Information Technology Project Expenditures**



As viewed in the State Information Technology Services Division (SITSD) dashboard report, the Branch began the court technology improvements project in FY 2015 with an appropriation from HB 10, the Long-Range Information Technology bill (2015 Legislature). The project budget was increased by \$532,652, or 63.9%, as a

result of the addition of agency internal resources costs. These costs, over the history of the project (2015-2021), consist of personal services and operating costs dedicated to the project and were charged against and expended from the HB 2 budgets. The project entails adding information technology (IT) improvements to courtrooms and systems across the state. Throughout the history of the project, the Branch has expended approximately \$1.2 million, and the project is still in the execution phase.

In FY 2022, the Branch had \$185,212 of re-appropriated HB 10 capital project fund authority. As mentioned above in the Other Legislation section of this report, the Branch expended \$29,025 of the authority in FY 2022, primarily on IT improvements in courtrooms, including new courtrooms in Yellowstone County.

In the FY 2022 budget, the Judicial Branch also has \$5.5 million of general fund HB 2 authority to provide information technology services in the Branch including technical support and training in the District Courts and Courts of Limited Jurisdiction. At FYE 2022, the Branch had expended \$5,450,523 or 99.5% of the budgeted authority.

## **REQUIRED REPORTS**

### Triggering BCD's

A triggering budget change document is one that makes changes to level 1 account categories (personal services, operating expenses and so on) that exceed \$1.0 million or 25.0% of the account level. To trigger review, BCD amounts are cumulative across the fiscal year. Time-sensitive "triggering" budget change documents (BCD's) are reviewed by staff of the LFD. When a triggering BCD is non-time sensitive, the change requires review and comment by the Legislative Finance Committee. At the FYE closing, triggering BCD's are common and are time-sensitive due to the need to close the accounting records. The Branch requested a triggering BCD as follows:

- A time-sensitive BCD movement of \$4.4 million from benefits and claims to transfers-out in the Supreme Court Operations Division
  - This change was required to move excess JDIP administrative funds to the Branch statutory appropriation at FYE 2022
  - LFD staff had no comments/concerns related to this change
- A time-sensitive BCD movement of \$207,600 from operating expenses to debt service
  - This change is required by accounting rules related to long-term leases
  - LFD staff had no comments/concerns related to this change

HB 693 Reporting – This legislation requires reporting by the Judicial Branch on the following item:

Each quarter of the fiscal year, the Office of the Court Administrator shall report to the Law and Justice Interim Committee and the Legislative Finance Committee on the number of civil cases that have been pending for more than two years by judicial district. The report must identify:

- 1) the judicial district;
- 2) the number of cases in that district that are pending for more than 2 years but less than 3 years;
- 3) the number of cases in that district that are pending for more than 3 years but less than 4 years;
- 4) the number of cases in that district that are pending for more than 4 years but less than 5 years; and
- 5) the number of cases in that district that are pending for more than 5 year.

HB 632 Reporting-Sec. 21 – The Branch is required to report quarterly to the ARPA commission on program implementation, expenditure of funds, and measurable outcomes of the new program simplifying domestic relations trials.

These reports will be posted on the Section D IBC webpage with the September meeting materials as they are provided.