

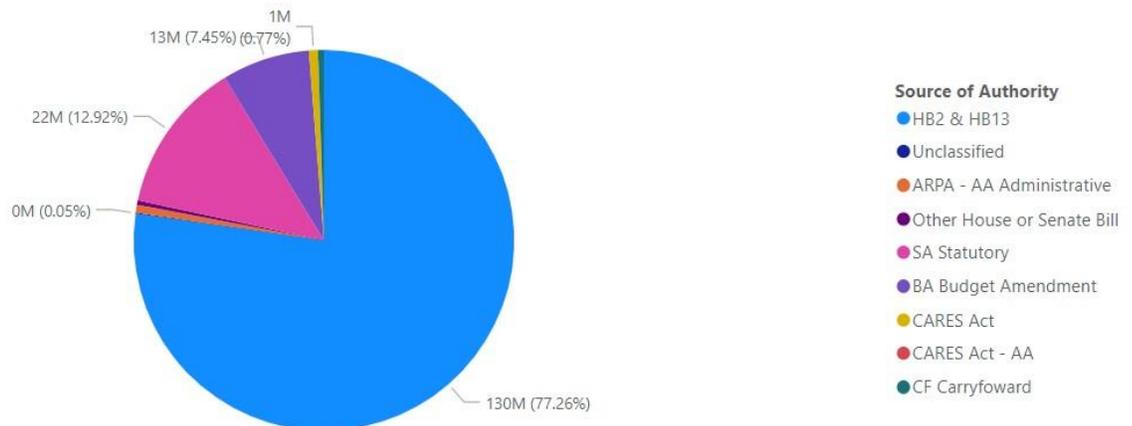
DEPARTMENT OF JUSTICE (UPDATED 9/13/2022)

(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 77.3% 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	129,753,174	123,188,632	94.9%
BA Budget Amendment	12,517,124	3,010,063	24.0%
CF Carryforward	825,415	632,672	76.6%
Other House or Senate Bill	595,002	541,733	91.0%
SA Statutory	21,691,809	18,977,914	87.5%
Unclassified	80,568		
CARES	1,303,453	1,003,141	77.0%
ARPA	1,169,008	71,354	6.1%
Total	167,935,552	147,425,509	87.8%

Report Period

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

Budget Amendments

At fiscal year-end (FYE), the Department of Justice (DOJ) expended \$3.0 million, or 24.0%, of the \$12.5 million in budget amendment (BA) authority. DOJ added \$889,124 of federal BA authority since the June report. The BA authority is funded 5.9% with state special revenues and 94.1% with federal special revenues, and expenditures were 13.8% and 86.2% respectively. BA funding supports the following activities in the DOJ budget:

- Providing responses to crimes against women, children, and the elderly
- Providing grants to victims of crime
- Addressing criminal activities related to the manufacture and distribution of methamphetamine, opioids, and prescription drugs
- Addressing internet crimes against children

- Increasing DNA analysis capacity enhancement and backlog reduction
- Work on/improvements to the criminal records and identification services (CRIS) system (state-special BA)

At FYE 2022, the DOJ had a balance of \$9.5 million in BA authority. From that balance, they continued \$7.8 million of the authority to FY 2023.

Carryforward

DOJ expended \$632,672, or 76.6%, of the total \$825,415 of carryforward (CF) authority in FY 2022. The carryforward authority is derived from 30.0% of the qualifying unexpended balances of FY 2020 and FY 2021 appropriations. The authority is funded with 87.2% state special revenue, 0.9% general fund, 11.8% federal special revenue, and 0.1% enterprise fund.

DOJ had a CF balance of \$192,743 at FYE 2022. The balance consisted of \$80,599 of the FY 2020 federal special revenue authority at FYE 2020. The authority was reverted to the associated federal special account. DOJ did not make use of the FY 2021 CF (\$112,138), and that amount was continued into the FY 2023 budget.

Other Bills

In FY 2022, DOJ had \$595,002 of authority from four non-HB 2 house or senate bills. The total authority is funded with 16.0% general fund and 84.0% state special revenue. At FYE 2022, expenditures related to this authority were \$541,773. The detail of the other bills authority and related expenditures include:

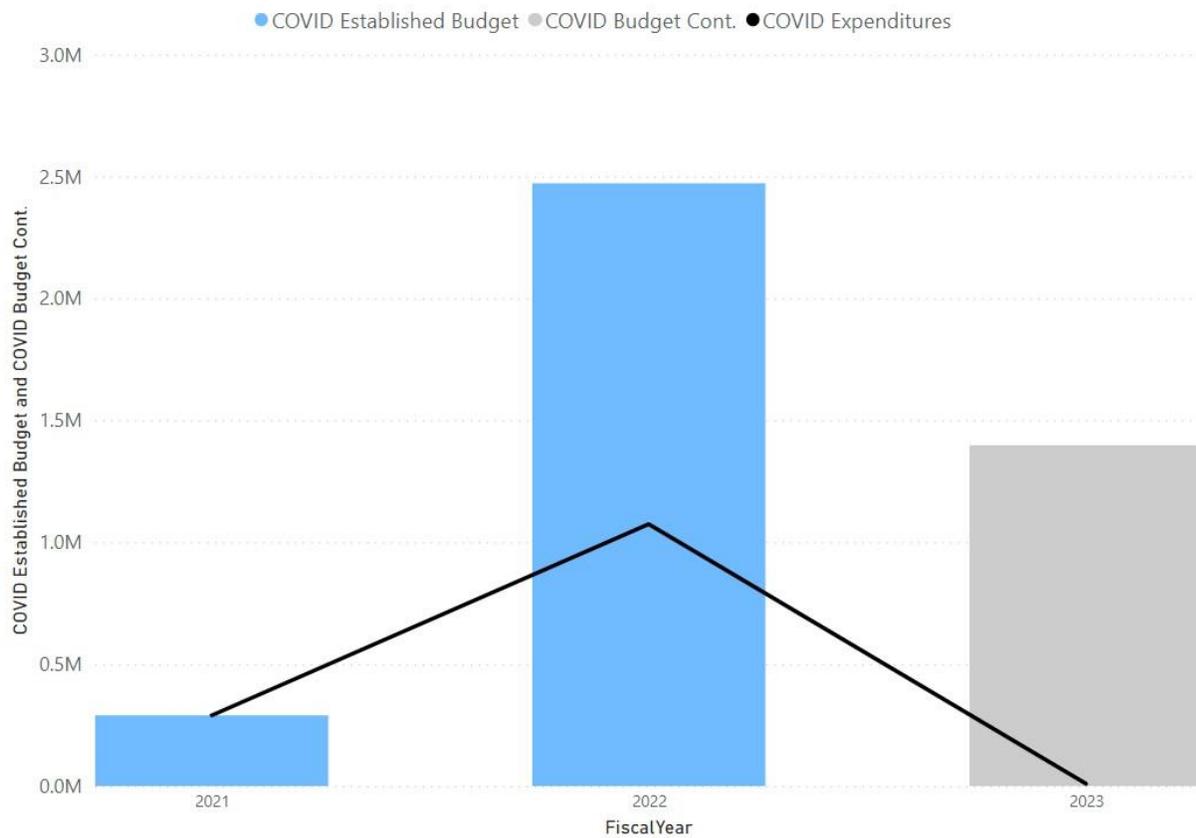
- \$450,000 –authority from HB 701, generally revise marijuana laws (fully expended)
- \$50,000 –authority from HB 98, extending the termination date of the missing indigenous persons task force (\$12,500 of expenditures)
- \$75,000 –authority from HB 696, generally revise crisis intervention training laws, to provide specialized training to help law enforcement officers to recognize and respond to individuals with mental illness or behavioral health problems (fully expended)
- \$20,000 –authority from HB 35, establishes a missing persons review commission (\$4,241 of expenditures)

At FYE 2022, DOJ had an unexpended/unobligated authority balance from other bills of \$53,269. The agency continued \$53,259 of the HB 98 and HB 35 authority balance into the FY 2023 budget.

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.

COVID Established Budget, COVID Continuing Budget, and COVID Expenditures by Fiscal Year



In FY 2022, DOJ had appropriations and allocations of COVID-19 funding amounting to \$2.5 million and has expended \$1.1 million of the authority. COVID authority and expenditures at FYE 2022 are as follows:

- \$1.3 million of authority in the Board of Crime Control for preventing the spread of the Coronavirus (\$1.0 million expended)
- \$815,000 of authority in the Division of Criminal Investigation to address the increase in violent crime in the Yellowstone County area (\$17,794 expended)
- \$354,008 of authority in the Legal and Central Services Division primarily used for an elder justice prosecutor to focus on the exploitation of vulnerable adults (\$53,560 expended)

At 2022 FYE, DOJ had a balance of \$1.4 million in COVID authority. This authority has been continued to the FY 2023 budget.

Statutory Appropriations

DOJ expended statutory appropriation (SA) authority of \$19.0 million, or 87.5%, of the total \$21.7 million of authority in FY 2022. DOJ has a total of 15 statutory appropriations, and the primary budget and spending in FY 2022 includes:

- \$13.0 million for two statutory appropriations, distributions, and grants from 9-1-1 fees and \$10.8 million of expenditures
- \$3.8 million for the state’s share of the costs of county attorneys, as required in 7-4-2502, MCA. This appropriation was increased in April and has been fully expended

In FY 2022, DOJ had a SA balance of \$2.7 million. DOJ expended the full amount of statutory authority provided in ten of the accounts. The largest balance, \$2.2 million, is in the 9-1-1 distributions account. All remaining authority will be reverted to the account of the appropriation.

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 DOJ HB 2 and proprietary program personal services budget were reduced by \$80,568 and an offsetting “unclassified” appropriation was established.

Non-Budgeted Proprietary Funding

Not shown in the total authority figure on Page 1, the department has \$1.7 million of non-budgeted proprietary funding in FY 2022 for a single proprietary program, Agency Legal Services (ALS). The program expended \$1.6 million or 92.3% of the authority. Expenditures provide legal services for state agencies and DOJ. From the total expenditures, 87.4% of the costs are in personal services to provide legal, hearing examiner, and investigative services to state agency clients on a contract basis. ALS attorneys and investigators bill clients for their services, case-related, and incidental costs. ALS has 17.00 FTE that are funded from the revenues generated from legal services.

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
Department of Justice	129,729,264	129,753,174	23,910
BOARD OF CRIME CONTROL	15,587,206	15,611,116	23,910
CENTRAL SERVICES DIVISION	2,886,367	2,886,367	0
DIV OF CRIMINAL INVESTIGATION	16,743,192	17,143,192	400,000
FORENSIC SERVICES DIVISION	7,231,724	7,231,724	0
GAMBLING CONTROL DIVISION	4,467,318	4,067,318	-400,000
INFORMATION TECHNOLOGY SYSTEM	5,592,931	5,592,931	0
LEGAL SERVICES DIVISION	8,499,130	8,499,130	0
MONTANA HIGHWAY PATROL	46,444,538	46,444,538	0
MOTOR VEHICLE DIVISION	22,276,858	22,276,858	0
Total	129,729,264	129,753,174	23,910

Acct & Lvl 1 DESC	June Modified Budget	FYE22 Modified Budget	Net Modifications
61000 Personal Services	71,125,745	69,153,344	-1,972,401
62000 Operating Expenses	38,886,706	38,072,412	-814,294
63000 Equipment & Intangible Assets	4,588,234	4,163,901	-424,333
65000 Local Assistance	25,000	25,000	0
66000 Grants	10,057,272	9,951,272	-106,000
67000 Benefits & Claims	774,048	774,048	0
68000 Transfers-out	3,271,648	3,377,221	105,573
69000 Debt Service	1,000,611	4,235,976	3,235,365

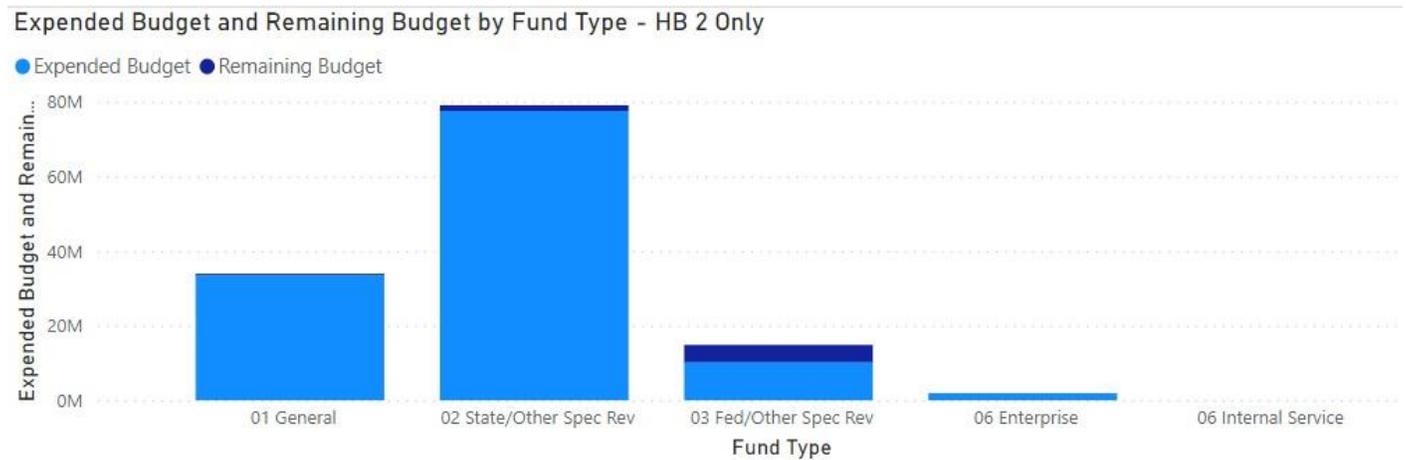
Fund Type	June Modified Budget	FYE22 Modified Budget	Net Modifications
01 General	33,887,606	33,911,516	23,910
02 State/Other Spec Rev	79,056,434	79,056,434	0
03 Fed/Other Spec Rev	14,844,282	14,844,282	0
06 Enterprise	1,933,964	1,933,964	0
06 Internal Service	6,978	6,978	0

The figures above highlight 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:

- \$23,910 of general fund authority transferred to the Board of Crime Control from the Department of Corrections to correct an accounting omission occurring from the move of the to DOJ
- \$3.2 million moved from personal services, operating expenses, and equipment & intangible assets to debt service to conform to accounting rule changes that require expenses for long-term leases to be accounted for as debt service
- \$400,000 moved from the personal services in the Gambling Control Division to operating expenses in the Criminal Investigation Division to increase the budget of the Montana Law Enforcement Academy

HB 2 APPROPRIATION AUTHORITY

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



acclv1_descr	Modified Budget	Expended Budget	Percent Expended
Personal Services	69,153,344	70,919,634	102.6%
Operating Expenses	38,072,412	34,200,973	89.8%
Equipment & Intangible Assets	4,163,901	3,866,663	92.9%
Local Assistance	25,000	24,110	96.4%
Grants	9,951,272	8,617,695	86.6%
Benefits & Claims	774,048	198,785	25.7%
Transfers-out	3,377,221	1,166,803	34.5%
Debt Service	4,235,976	4,193,969	99.0%

Program Name	Modified Budget	Expended Budget	Percent Expended
BOARD OF CRIME CONTROL	15,611,116	11,276,408	72.2%
CENTRAL SERVICES DIVISION	2,886,367	2,735,691	94.8%
DIV OF CRIMINAL INVESTIGATION	17,143,192	16,669,183	97.2%
FORENSIC SERVICES DIVISION	7,231,724	7,204,847	99.6%
GAMBLING CONTROL DIVISION	4,067,318	3,738,033	91.9%
INFORMATION TECHNOLOGY SYSTEM	5,592,931	5,585,326	99.9%
LEGAL SERVICES DIVISION	8,499,130	8,093,461	95.2%
MONTANA HIGHWAY PATROL	46,444,538	46,255,538	99.6%
MOTOR VEHICLE DIVISION	22,276,858	21,630,145	97.1%
Total	129,753,174	123,188,632	94.9%

Through FYE 2022, DOJ expended \$123.2 million, or 94.9%, of the modified HB 2. The figure at the top of this page explains the HB 2 funding. Primary funding in the DOJ HB 2 budget is 26.1% general fund, 60.9% state special revenue, and 11.4% federal special revenue. Spending followed a similar pattern.

Through FYE 2022, DOJ expenditures (94.9% of the modified budget) were slightly lower than the five-year annual average of 96.2% of the budget and lower than expenditures in the same period of FY 2021, 99.3%. The low rate of spending in the Board of Crime Control, at 72.2%, is one of the reasons that total spending is lower than the historic average. DOJ historically overspends the personal services budget, where in FY 2022, spending was 102.6% of the authority and compares to the five-year average of 101.4%.

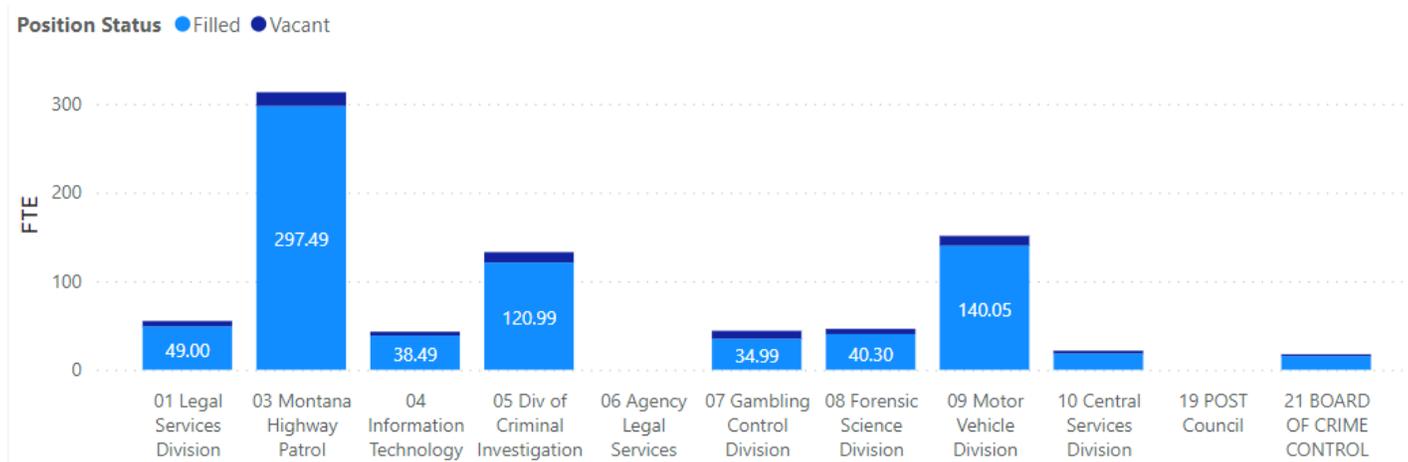
The Montana Highway Patrol (MHP) expended 99.6% of the HB 2 budget and finished FY 2022 with a balance of \$189,000 (balance includes \$33,201 of E-911 and public safety radio authority that can only be used for those purposes) after incurring the increased costs of the new Boulder campus. Annual expenditures in the division compare to a five-year average of 99.2% of the budget. Remaining budget authority in MHP has historically averaged \$214,876.

The 2021 version of HB 2 contained a line item of \$62,500 each fiscal year in the 2023 biennium providing the Forensic Science Division with funding to outsource sexual assault kit testing. The division had expended the full appropriation at FYE 2022.

At FYE 2022, DOJ had a HB 2 unexpended/unobligated balance of \$6.6 million. From the balance, \$3.6 million was related to biennial appropriations. DOJ continued all the biennial authority in the FY 2023 budget. The continued authority is funded with 97.4% federal special revenue. The continued authority also included \$83,976 of general fund authority for the Legislative Audit. Qualifying unexpended balances will be available to establish carryforward, and the remainder of the balance will be reverted to the appropriated fund/account.

Personal Services

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



In FY 2022, the DOJ has 823.65 FTE in the FY 2022 budget. Of the total FTE, DOJ had 68.65 vacant positions on June 30, 2022. Since the report of May 1, 2022, DOJ has reduced vacancies by 2.60 FTE, and this report indicates a vacancy rate of 8.3%.

The Montana Highway Patrol (MHP) continues to experience the highest number, 15.60 positions, of vacancies in DOJ. The vacancies are 5.0% of the 313.09 FTE in the division. Within the MHP vacancies, 7.00 FTE vacancies are positions in the dispatch center where recruitment and retention continue to be a problem. MHP also had 6.00 vacant highway patrol officers.

Next Steps: 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

DOJ is proceeding with a major information technology (IT) project, the replacement of the MERLIN IT system. The project is not included in the State Information Technology Division (SITSD) dashboard at this time. Because DOJ is principally exempt from the Montana Information Technology Act (MITA) per 2-17-516, MCA, it is uncertain if the project will be included in the SITSD dashboard or have the oversight of SITSD.

In FY 2022, DOJ began negotiations on the MERLIN replacement project with Fast Hosting Services (FAST). DOJ provided the following information related to the MERLIN replacement project:

- The contract with FAST did not have any costs to be reported in FY2022 and took effect 7/1/22
- The estimated cost of the project included in a HB10 (Long-Range IT Program Legislation) request is \$83.9 million
- The annual costs upon completion are estimated at \$5.0 million

DOJ has provided a copy of their initial request for project funding in HB 10. This document may be seen on the Section D IBC webpage with the September meeting materials.

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 Legislative Fiscal Division (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. DOJ requested a triggering BCD as follows:

- A time-sensitive BCD movement of \$1.5 million to personal services, operating expenses, and debt service, principally related to the accounting change in debt service
 - LFD staff had no comments/concerns related to this change
- A time-sensitive change of \$2.3 million from personal services and operating expenses to equipment and intangible assets and debt service, principally related to the accounting change in debt service
 - LFD staff had no comments/concerns related to this change
- A time-sensitive change of \$917,847 from personal services and transfers-out to operating expenses and equipment and intangible assets to align first level appropriation budgets with FY 2022 expenditures
 - LFD staff had no comments/concerns related to this change

Non-Time Sensitive Triggering BCD

The Legislative Finance Committee (LFC) received one non-time sensitive BCD request from the DOJ. The BCD is as follows:

OP312 – “Establish budget in 69000 to allow for GASB lease recording.” This BCD moves \$1.7 million of budget authority from operating expenses to debt service in seven programs due to changes in accounting rules.

Non time-sensitive triggering BCD’s require comment by the LFC for approval.

BA Concern

In the Budget Amendment (BA) Report provided to the Legislative Finance Committee, staff has stated a concern on a state special revenue BA (BA 311) for DOJ. The concern is related to the amount and nature of BA. The concern is excerpted as follows:

“This budget amendment, BA 311, for \$8.9 million of state special revenue authority initializes funding of an \$83.9 million project to replace the current Montana Enhanced Registration and Licensing Information Network (MERLIN) information technology system in the Department of Justice (DOJ). The DOJ has not requested or been provided with usual legislative approval or appropriation to undertake the project. With the state special funding approved in the budget amendment process, the DOJ has contracted with Fast Hosting Services to replace MERLIN with a system titled Credentialing and Registration System (CARS).

The CARS project will be started before the legislature has an opportunity to review and approve or appropriate funds for the project. DOJ has provided a preliminary version of a HB 10 (Long-Range Information Technology Project Bill) request for the 2023 session that indicates they will request general fund and state special revenue authority for the project. Additionally, the project is expected to have an annual state special revenue maintenance cost of \$2.6 million that will be requested in the 2023 version of HB 2.”

HB 693 Reporting – This legislation requires reporting by DOJ on the following items (as excerpted):

- (2) No later than September 1, 2022, the department of justice shall report to the law and justice interim committee and the legislative finance committee on the number of human trafficking investigations initiated by the department of justice in fiscal years 2021 and 2022 and the number of prosecutions generated from the investigations. The report must also include information on the sentences imposed for convictions obtained as a result of these prosecutions, including the names of the defendants and the crimes for which convictions were obtained.
- (3) No later than September 1, 2022, the department of justice shall report to the law and justice interim committee and the legislative finance committee on the number of referrals to ICAC-funded programs in fiscal years 2021 and 2022 and the number of investigations initiated in response. The report must also include information on prosecutions initiated in fiscal years 2021 and 2022 as the result of these investigations and the sentences imposed for convictions obtained as a result of these prosecutions.
- (4) No later than September 1, 2022, the department shall report to the legislative finance committee on the number of sexual assault kits evaluated in fiscal year 2022 and the work remaining to eliminate any backlog.
- (5) No later than September 1, 2022, the department of justice shall report to the law and justice interim committee and the legislative finance committee on how many offenders have had their convictions

expunged since the passage of [this act] through a treatment court and what the underlying crime was for.

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