

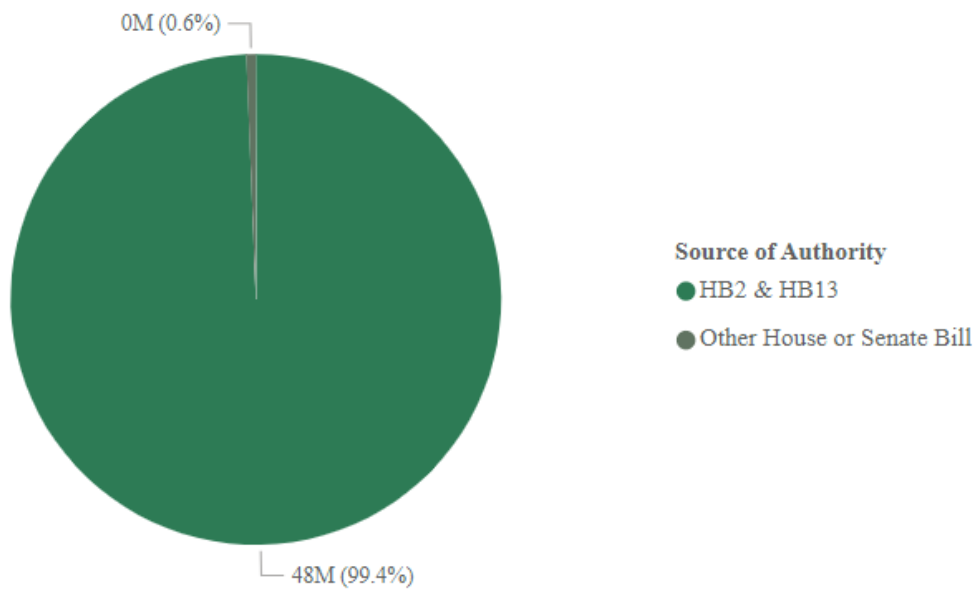
OFFICE OF STATE PUBLIC DEFENDER

(Spending report July 1 through November 30, 2023)

TOTAL APPROPRIATION AUTHORITY

The total appropriation authority for the Office of State Public Defender (OPD) is shown in the pie chart below. HB 2 and HB 13 provide nearly all (99.4%) of the total authority for this agency with remaining authority coming from appropriations contained in other bills. 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	Modified Budget	Expended Budget	% Expended
HB2 & HB13	47,673,705	14,870,514	31.2%
Other House or Senate Bill	300,000	0	0.0%
Total	47,973,705	14,870,514	31.0%

Other Bills

The OPD has \$300,000 in authority provided through HB 16 of the 2023 Legislature. This bill increases the statutory timeframe for holding Emergency Protective Services hearings from three days to five days. Appropriations provided to the OPD cover costs of providing legal representation to parents and guardians during the hearings and prehearing conferences. Through November 2023, the OPD has not expended any of this appropriation.

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 from July 1, 2023 through November 30, 2023. 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.

Agency Name	HB 2 Budget	Modified Budget	Net Modifications
<input type="checkbox"/> Public Defender	47,673,705	47,673,705	
<input type="checkbox"/> 01 PUBLIC DEFENDER DIVISION	30,095,031	30,095,031	
<input type="checkbox"/> 02 APPELLATE DEFENDER DIVISION	2,713,771	2,713,771	
<input type="checkbox"/> 03 CONFLICT DEFENDER DIVISION	10,064,185	10,064,185	
<input type="checkbox"/> 04 CENTRAL SERVICES DIVISION	4,800,718	4,800,718	
Total	47,673,705	47,673,705	

Expenditure Type	HB 2 Budget	Modified Budget	Net Modifications
<input type="checkbox"/> 61000 Personal Services	33,720,311	33,720,311	
<input type="checkbox"/> 62000 Operating Expenses	13,903,394	13,903,394	
<input type="checkbox"/> 63000 Equipment & Intangible Assets	50,000	50,000	
Total	47,673,705	47,673,705	

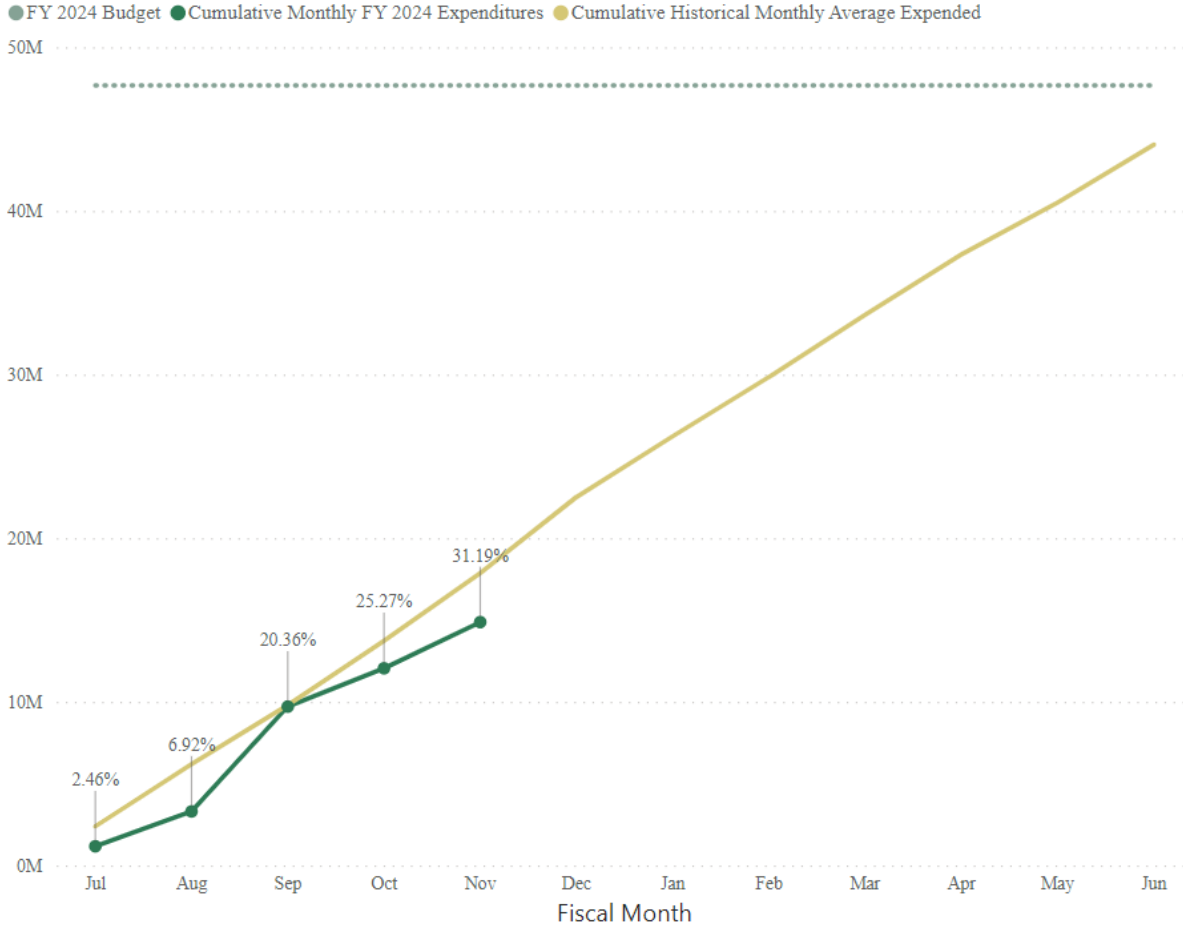
Fund Type	HB 2 Budget	Modified Budget	Net Modifications
<input type="checkbox"/> 01 General	47,673,705	47,673,705	
Total	47,673,705	47,673,705	

Through the end of November, the OPD has not made any budget modifications that have affected the magnitude of the HB 2 budget or changed appropriations by account level or fund level.

HB 2 APPROPRIATION AUTHORITY

The following chart shows the appropriated budget for the agency compared to expenditures through November 30, 2023.

Monthly Expenditures Compared to Historical Average



Fund Type	Modified Budget	Expended Budget	% Expended
⊕ 01 General	47,673,705	14,870,514	31.2%
Total	47,673,705	14,870,514	31.2%

Expenditure Type	Modified Budget	Expended Budget	% Expended
⊕ Personal Services	33,720,311	7,513,110	22.3%
⊕ Operating Expenses	13,903,394	7,357,404	52.9%
⊕ Equipment & Intangible Assets	50,000	0	0.0%
Total	47,673,705	14,870,514	31.2%

Program Name	Modified Budget	Expended Budget	% Expended
⊕ 01 PUBLIC DEFENDER DIVISION	30,095,031	8,008,646	26.6%
⊕ 02 APPELLATE DEFENDER DIVISION	2,713,771	1,057,743	39.0%
⊕ 03 CONFLICT DEFENDER DIVISION	10,064,185	3,883,396	38.6%
⊕ 04 CENTRAL SERVICES DIVISION	4,800,718	1,920,730	40.0%
Total	47,673,705	14,870,514	31.2%

Through November, the OPD expended nearly \$14.9 million, or 31.2%, of its modified HB 2 budget. The figure above shows the FY 2024 appropriated budget for the OPD (dotted line) compared to expenditures through November 30, 2023 (solid blue line). Additionally, the chart includes the Olympic average of expenditures from the previous five fiscal years (orange line). For the OPD, HB 2 appropriations in FY 2024 comprise entirely of general fund. Expenditures totaling 31.0% are below the historical Olympic average of 37.5% for the same period (July 1 – November 30).

HB 2 appropriations for the OPD in FY 2024 are comprised primarily of personal services (\$33.7 million or 70.7% of total authority) and operating expenses (\$13.9 million or 29.1% of total authority). Personal service expenditures through November 2023 were nearly \$7.5 million or 22.3% of personal service appropriations. This is well below what was expected at this point through the fiscal year, but there has been a subclass error identified in the SABHRS accounting system which has been causing payroll journals to not post correctly. The department is currently in the process of fixing this issue at the time this report was published. Additional reasons for under expended personal services relate to new line-item appropriations contained in the 2023 version of HB 2 that have not yet been expended. These line items are as follows:

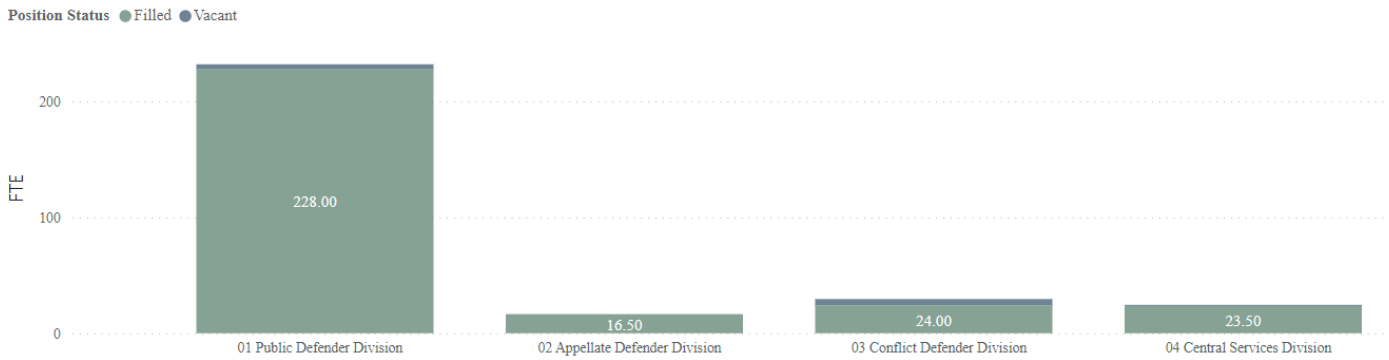
- \$750,000 general fund provided to the Public Defender Division to continue legal coverage in Yellowstone County to address the backlog in cases. No expenditures have been made from the appropriation
- \$605,000 general fund for 5.00 new FTE lawyer positions within the Public Defender Division. This funding is contingent, requiring that all management personnel who are members of the Montana BAR, except the director and division administrators perform a minimum of 25.0% of a typical attorney caseload. No expenditures have been made from this appropriation

Operating expenses through November 2023 totaled nearly \$7.4 million and represent 52.9% of total operating expense authority for FY 2024. The majority of current expenditures, \$4.5 million or 60.8%, relate to paying contracted public defender attorneys. The 2023 Legislature provided \$300,000 general fund authority to supplement paying contracted attorneys. As of November 30, this authority has not been accessed. Additionally, the department received \$175,000 in FY 2024 authority to extend and improve its case management system. Through November, \$166,000 has been expended.

The \$50,000 in remaining authority exists in the equipment and intangible assets account and was provided as one-time-only for the OPD to establish a consistent computer replacement cycle. No authority has been expended.

Personal Services

The OPD has a personal services budget of \$33.7 million in FY 2024, and this budget was 22.3% expended by the end of November. The following chart shows the filled and vacant FTE within the agency as of November 1, 2023.



In FY 2024, OPD is budgeted for 310.44 FTE in HB 2. From the total FTE, the OPD had 11.44 vacant FTE as of November 1, 2023. The table above reflects 302.44 FTE and 10.44 vacant FTE as it does not contain the 8.00 new lawyer positions provided for the 2025 biennium. The OPD has expressed there were errors in how the positions were input into the HR system, and those positions were taken out at the time of this report in order to fix inaccuracies. Of those 8.00 lawyer positions, the OPD has stated that seven have currently been hired resulting in one additional vacancy for a total of 11.44 FTE. Of the vacant positions, 5.50 or 48.1% were classified as lawyers.

The chart below shows the hourly utilization percentage for the OPD between July 1 and November 1 for each fiscal year. Overall, the agency has utilized 96.5% of the hours budgeted for this time-period in FY 2024, as shown in the chart below. This utilization rate is slightly higher than the historical five-year average of 94.8%.



The chart below shows the vacant FTE in each division, the number of months each position has been vacant, and the midpoint hourly pay rate. As of November 1, 2023, all vacant positions had become vacant since the beginning of FY 2024 (the last four months).

Vacant Positions Report

▲	FTE	Median Months Vacant	Market Midpoint (Hourly)
▣ 61080 PUBLIC DEFENDER	10.44	2.20	54.83
▣ 01 Public Defender Division	3.94	2.20	29.08
Administrative Assistant 2	2.00	0.82	18.15
Administrative Supervisor	0.94	3.11	40.00
Lawyer2	1.00	3.97	55.14
▣ 03 Conflict Defender Division	5.50	2.28	55.14
Crime Investigator2	1.00	3.11	36.55
Lawyer Supervisor	1.00	1.67	54.83
Lawyer2	3.50	2.28	55.14
▣ 04 Central Services Division	1.00	2.13	38.15
Project Management Specialist2	1.00	2.13	38.15
Total	10.44	2.20	54.83