

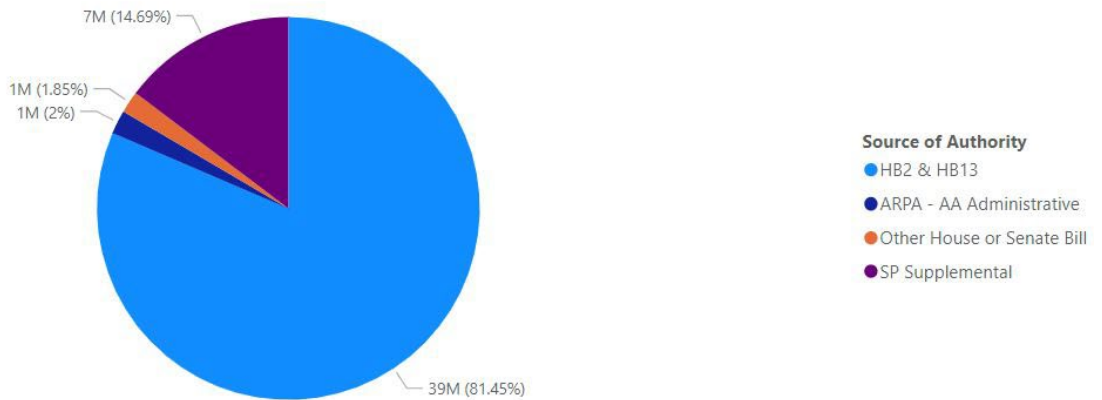
OFFICE OF STATE PUBLIC DEFENDER

(Spending report July 1, 2022 through June 30, 2023 – FY 2023)

TOTAL APPROPRIATION AUTHORITY

The total appropriation authority for the Office of State Public Defender is shown in the pie chart below. HB 2 and HB 13 provide 81.5% of the total authority for this agency in FY 2023. 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	FYE23 Modified Budget	FYE23 Expended Budget	Percent Expended
HB2 & HB13	38,802,515	38,489,609	99.2%
Other House or Senate Bill	883,291	778,025	88.1%
SP Supplemental	7,000,000	7,000,000	100.0%
ARPA	954,465	954,465	100.0%
Total	47,640,272	47,222,100	99.1%

Report Period

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

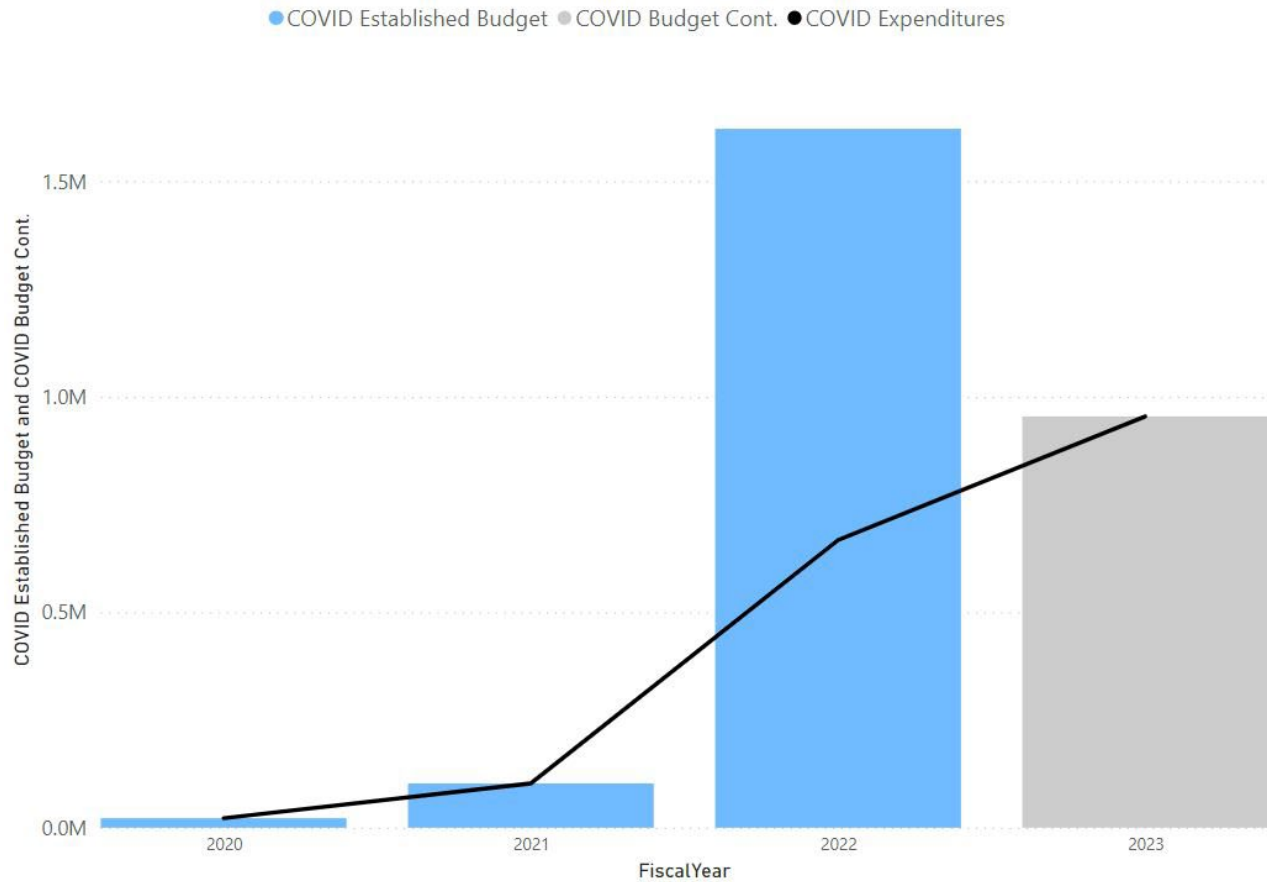
SUPPLEMENTAL

Within HB 3 and HB 424 of the 2023 legislative session, the Office of State Public Defender (OPD) was provided \$7.0 million in supplemental authority for FY 2023. Authority was provided to support higher than anticipated contracted attorney costs due to position vacancies, retirement payouts, and costs related to capital cases. The OPD expended all this supplemental authority 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.

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



In FY 2023, the OPD carried over \$954,465 from the American Rescue Plan Act (ARPA) authority. Through FYE, the OPD expended all of this authority. Personal services accounted for 0.3% of expenditures while the remaining expenditures of \$950,945 related to paying contracted public defender attorneys specifically to address the backlog of cases that had built up in the Yellowstone County area.

OTHER HOUSE OR SENATE BILLS

HB 13 (2023 Legislature) included a one-time, lump-sum payment to state employees. Full-time employees received a payment of \$1,040, which was prorated for employees that work less than full-time. This payment was effective in the first full pay period following HB 13 being enacted. The OPD expended \$278,200 in FY 2023 for these lump-sum payouts.

Additionally, the OPD was provided \$499,825 in personal service contingency funding from the Office of Budget Programming and Planning. Due to better-than-expected employee retention towards the end of FY 2023, the Central Services Division was able to absorb positions and received the majority of this contingent personal service authority. The OPD expended all this contingent authority in FY 2023

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 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.

Legislative Budget Compared to Modified Budget - HB 2 Only

Agency Name	HB 2 Budget	FYE23 Modified Budget	Net Modifications
<input type="checkbox"/> Public Defender	39,451,901	38,802,515	-649,386
APPELLATE DEFENDER DIVISION	2,473,913	2,430,988	-42,925
CENTRAL SERVICES DIVISION	3,554,514	3,373,731	-180,783
CONFLICT DEFENDER DIVISION	9,131,103	8,442,974	-688,129
PUBLIC DEFENDER DIVISION	24,292,371	24,554,823	262,452
Total	39,451,901	38,802,515	-649,386

Acct & Lvl 1 DESC	HB 2 Budget	FYE23 Modified Budget	Net Modifications
<input type="checkbox"/> 61000 Personal Services	28,199,771	27,375,358	-824,413
<input type="checkbox"/> 62000 Operating Expenses	11,252,130	11,427,157	175,027

Fund Type	HB 2 Budget	FYE23 Modified Budget	Net Modifications
<input type="checkbox"/> 01 General	39,451,901	38,802,515	-649,386

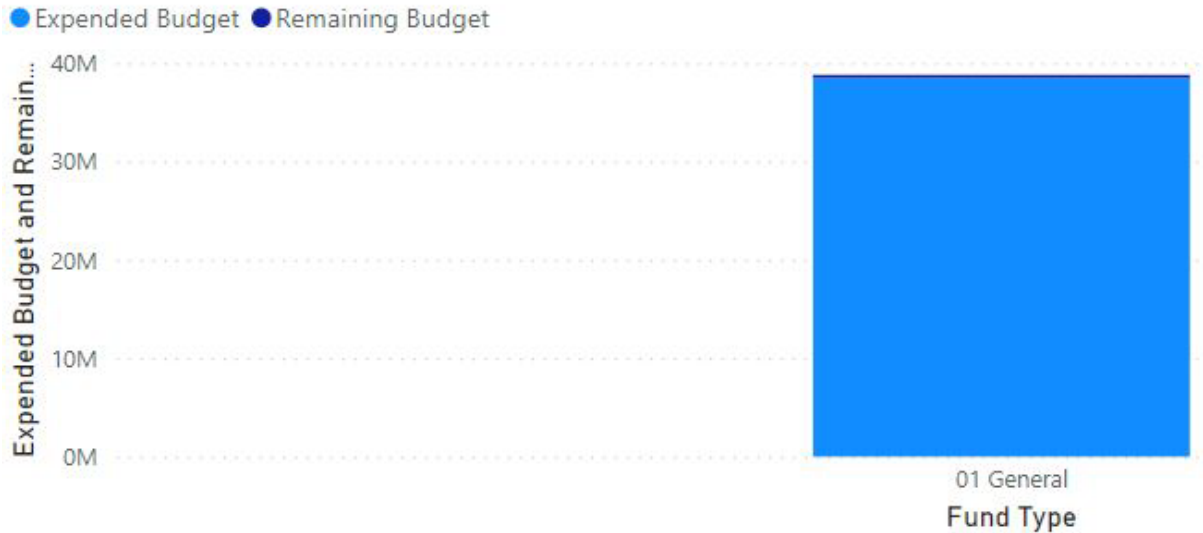
The figure above highlights modifications to the OPD HB 2 budget that occurred in FY 2023. Through FYE 2023, primary modifications to the HB 2 budget include:

- \$958,000 was transferred from the FY 2023 budget to FY 2022 budget, which consisted of 91.8% of personal services and 8.2% of operating expenses authority
- \$308,614 in unspent biennial appropriations continued into FY 2023 for the following reasons:
 - Caseload appropriations - \$98,663
 - ITSD appropriations - \$84,931
 - Audit appropriations - \$64,394
 - Other biennial appropriations - \$58,124
- A transfer of \$238,503 in personal service authority and associated FTE from both the Appellate Defender and Conflict Defender Divisions to the Public Defender and Centralized Services Divisions to align with agency needs as follows:
 - Public Defender Division - 1.00 attorney FTE to accommodate caseloads
 - Central Services Division - 1.50 FTE to accommodate a part-time accountant and a contracts manager to assist with workload
- A transfer which moved authority to clean up org balances and journals at FYE. The most notable movement of authority in this transfer relates to \$499,284 being moved from the Conflict Defender Division to the Public Defender Division to align expenditures with the Division to which they were charged

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	27,375,358	27,751,692	101.4%
Operating Expenses	11,427,157	10,737,917	94.0%

Program Name	Modified Budget	Expended Budget	Percent Expended
APPELLATE DEFENDER DIVISION	2,430,988	2,401,445	98.8%
CENTRAL SERVICES DIVISION	3,373,731	3,298,694	97.8%
CONFLICT DEFENDER DIVISION	8,442,974	8,388,455	99.4%
PUBLIC DEFENDER DIVISION	24,554,823	24,401,016	99.4%
Total	38,802,515	38,489,609	99.2%

Through FYE, OPD expended \$38.5 million, or 99.2%, of the modified HB 2 budget. The figure above explains the HB 2 funding. The OPD HB 2 budget and associated spending is entirely funded with general fund.

At FYE, HB 2 expenditures reflecting 99.2% of the modified budget are in line with the previous five-year annual average, including supplemental appropriations in years where they were required. Expenditures in FY 2023 were lower than FY 2022 expenses by approximately \$0.7 million. In nominal terms, a comparison shows that personal services were \$1.8 million higher and operating expenses were \$2.4 million lower in FY 2023 than FY 2022.

HB 2 (2021 Legislative Session) included the following line-item appropriations that are summarized as follows:

- \$201,499 in FY 2023 for caseload growth contingencies in the Public, Appellate, and Conflict Defender Divisions. Appropriations in all divisions were unexpended due to caseload growth being below the 0.5% restriction
- \$152,501 continued in FY 2023 from the \$300,000 biennial appropriation in the Central Services Division for improvements in the case management system that is restricted to the implementation of a timekeeping system. All authority was expended

At FYE 2023, OPD had an unexpended/unobligated balance of \$312,905 (all general fund) in HB 2 authority. Qualifying balances can be used to establish carryforward authority, and the remaining balance will be transferred back to the general fund.

Personal Services

The following chart shows the filled and vacant FTE within the agency as of June 1, 2023. Personal service expenditures accounted for \$27.8 million or 72.1% of total FY 2023 HB 2 expenditures within the OPD.



In FY 2023, OPD had 301.44 FTE. At June 1, 2023, the OPD had 24.00 vacant positions (8.0% vacancy rate). According to the data provided by the Department of Administration’s Human Resources Division, the majority of these vacancies occurred within the Public Defender Division. Vacant positions included 19.00 lawyer positions, and a few other administrative and contract manager positions. The OPD currently has several new lawyer hires that should allow the agency to become fully staffed upon their completion of the BAR exam.

In FY 2023, the agency experienced turnover in 62 total positions. The vast majority (58) of these positions left state employment or retired during the fiscal year.