

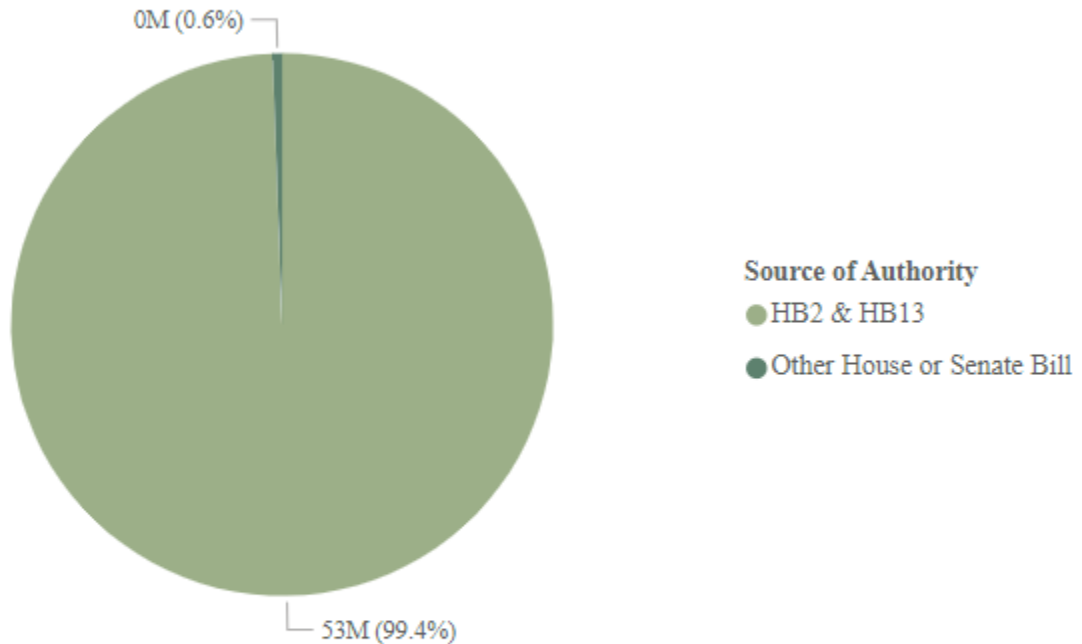
OFFICE OF STATE PUBLIC DEFENDER

(Spending Report End of Fiscal Year 2024)

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 99.4% of the total authority for this agency with remaining authority coming from appropriations contained in other bills. The two 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
Other House or Senate Bill	300,000	300,000	100.0%
HB2 & HB13	52,973,705	51,438,976	97.1%
Total	53,273,705	51,738,976	97.1%

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. By the fiscal year-end (FYE) 2024, the OPD had expended all of this biennial 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 June 1, 2024, through June 30, 2024. 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	Modified Budget	Net Modifications
Public Defender	52,673,705	52,973,705	300,000
01 PUBLIC DEFENDER DIVISION	32,621,348	32,771,348	150,000
02 APPELLATE DEFENDER DIVISION	3,155,889	3,155,889	
03 CONFLICT DEFENDER DIVISION	11,113,838	11,263,838	150,000
04 CENTRAL SERVICES DIVISION	5,782,630	5,782,630	
Total	52,673,705	52,973,705	300,000

Expenditure Type	HB 2 Budget	Modified Budget	Net Modifications
61000 Personal Services	33,720,311	33,720,311	
62000 Operating Expenses	16,724,901	17,024,901	300,000
63000 Equipment & Intangible Assets	50,000	50,000	
69000 Debt Service	2,178,493	2,178,493	
Total	52,673,705	52,973,705	300,000

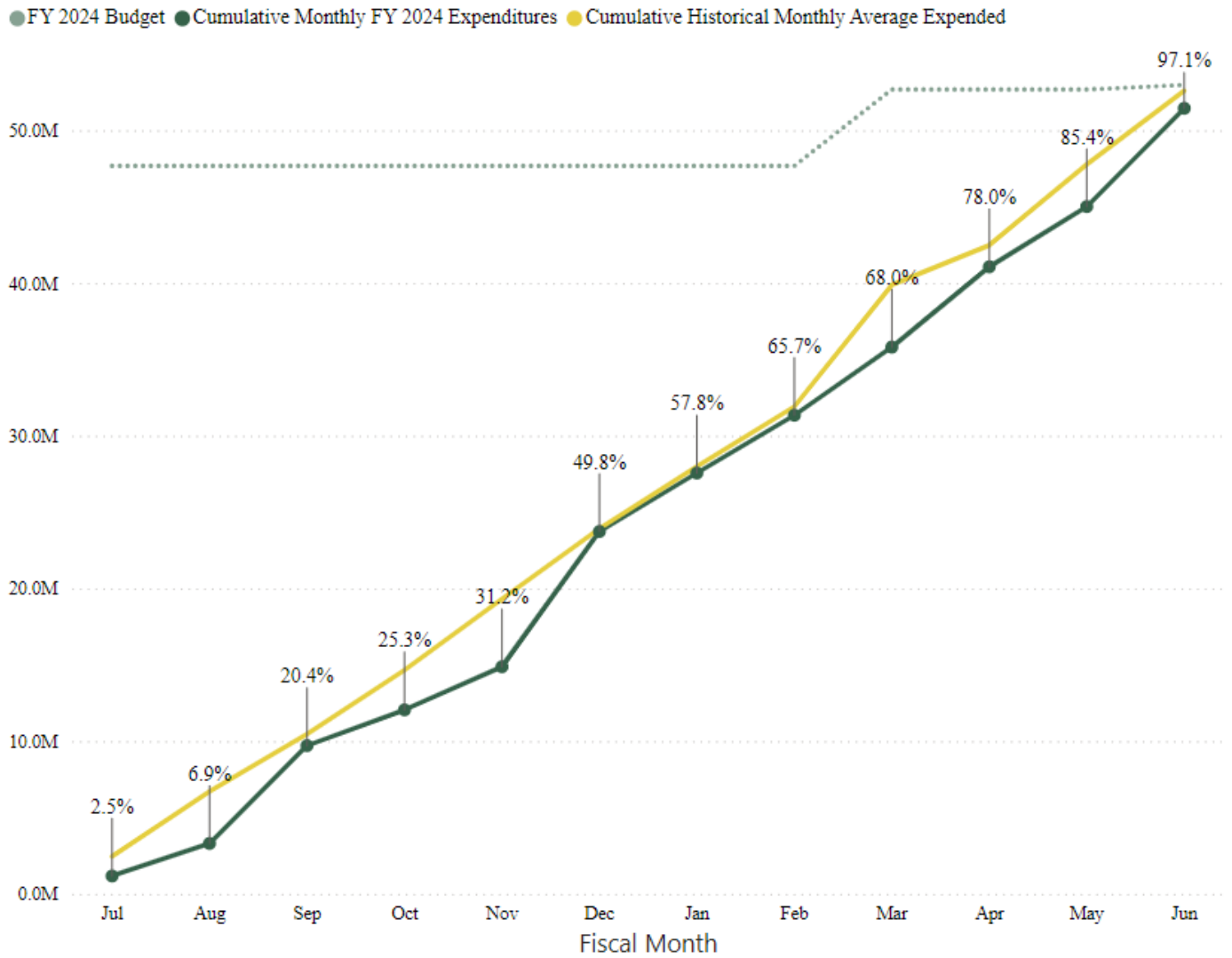
Fund Type	HB 2 Budget	Modified Budget	Net Modifications
01 General	52,673,705	52,973,705	300,000
Total	52,673,705	52,973,705	300,000

At the close of the fiscal year, the agency transferred \$300,000 in biennial operating authority in order to pay contracted defenders. This is a movement of FY 2025 authority to FY 2024 in response to additional needs in order to keep up with the private market for contracted attorneys and the agency's caseload.

HB 2 APPROPRIATION AUTHORITY

The following chart shows the appropriated budget for the agency compared to expenditures through June 30, 2024.

Monthly Expenditures Compared to Historical Average



Program Name	Modified Budget	Expended Budget	% Expended
☐ 01 PUBLIC DEFENDER DIVISION	32,771,348	32,129,948	98.0%
☐ 02 APPELLATE DEFENDER DIVISION	3,155,889	2,846,308	90.2%
☐ 03 CONFLICT DEFENDER DIVISION	11,263,838	10,794,538	95.8%
☐ 04 CENTRAL SERVICES DIVISION	5,782,630	5,668,182	98.0%
Total	52,973,705	51,438,976	97.1%

Expenditure Type	Modified Budget	Expended Budget	% Expended
☐ Equipment & Intangible Assets	50,000	50,000	100.0%
☐ Operating Expenses	17,024,901	16,925,300	99.4%
☐ Debt Service	2,178,493	2,097,156	96.3%
☐ Personal Services	33,720,311	32,366,520	96.0%
Total	52,973,705	51,438,976	97.1%

Fund Type	Modified Budget	Expended Budget	% Expended
☐ 01 General	52,973,705	51,438,976	97.1%
Total	52,973,705	51,438,976	97.1%

Through the end of FY 2024, the OPD expended \$51.4 million or 97.1%, of its modified HB 2 budget.

HB 2 appropriations for the OPD in FY 2024 are comprised primarily of personal services (\$33.7 million or 63.7% of total authority) and operating expenses (\$17.0 million or 32.1% of total authority). Personal service expenditures through the end of the fiscal year were \$32.4 million or 96.0% of personal service appropriations which is roughly on track with the end of the fiscal year. There are two new personal service line-item appropriations contained in the 2023 version of HB 2 that have been expended entirely. These line items are the following:

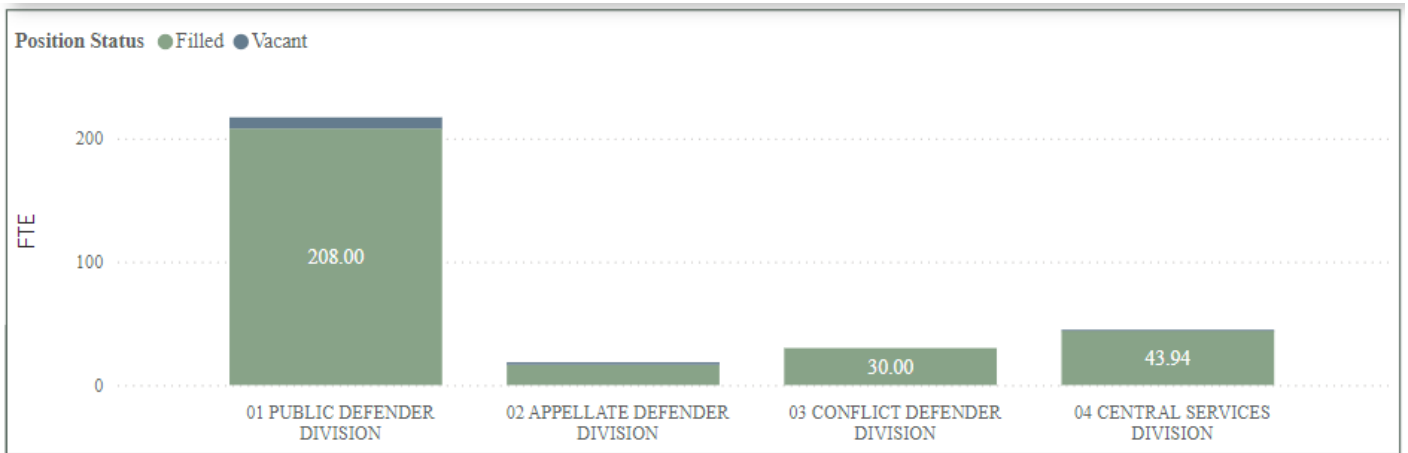
- \$750,000 general fund provided to the Public Defender Division to continue legal coverage in Yellowstone County to address the backlog in cases

- \$605,000 general fund for 5.00 new FTE lawyer positions within the Public Defender Division. This funding was 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

Recalling last quarter’s \$5 million transfer of 2025 authority to the 2024 budget (now also including the \$300,000 of additional authority mentioned above), the agency would have overspent its FY 2024 budget by 7.7% without the transfer. This transfer comes from next year’s appropriation, so the agency is expected to ask the legislature for an approximately \$12 million supplemental appropriation to restore the authority that has been taken from FY 2025’s budget and to fund the FY 2025 shortfall which is expected to be at least as large as the FY 2024 shortfall was. The legislature could reasonably expect a request for an increase in HB 2 authority in the 2025 Session to address this ongoing funding gap.

Personal Services

The OPD has a personal services budget of \$33.7 million in FY 2024, and this budget was 96.0% expended at FYE 2024. The following chart shows the filled and vacant FTE within the agency as of June 30, 2024.



The OPD is currently budgeted for 310.44 FTE in HB 2. Of this total, the OPD had 12.00 vacant FTE as of June 30, 2024. The agency had 9 modified positions filled, so on net the agency had 3 vacancies. This reflects an agency vacancy rate of 3.9% and is the same number of vacant FTE as the June meeting. Of the 12.00 FTE currently vacant within the department, 6.00 FTE correspond to lawyer or lawyer supervisor positions, 2.00 FTE fewer than in the previous quarterly report. Other areas currently experiencing vacancies are within an Administrative Assistant position (3.00 FTE, 2.00 FTE more than the previous report) and a Criminal Defense Investigator (1.00 FTE). The median days vacant for these positions is 27 days. The agency’s 3.9% vacancy rate is low when compared to other state agencies.

A total of 40 positions have turned over since the beginning of FY 2024. Of these positions, 34 have left employment with the state, four have retired, and two individuals transferred to a different state agency.

The chart below shows the hourly utilization percentage for the OPD between July 1 and May 1 for each fiscal year. Overall, the agency has utilized 99.3% of the hours budgeted for FY 2024. This utilization rate is slightly higher than the historical five-year average of 95.6% for the same time period and is confirmed by the low vacancy rate experienced by the department this fiscal year.



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 June 30, 2024, all vacant positions had become vacant since the beginning of FY 2024 with one Criminal Defense Investigator 2 position reflecting the longest period of just over 3 months.

Vacant Positions Report

	FTE	Median Months Vacant	Market Midpoint (Hourly)
61080 PUBLIC DEFENDER	12.00	0.87	54.98
01 PUBLIC DEFENDER DIVISION	9.00	0.52	54.83
Administrative Assistant 2	3.00	0.52	18.15
Criminal Defense Investigator2	1.00	3.21	36.55
Lawyer Supervisor	1.00	0.07	54.83
Lawyer2	4.00	1.64	55.14
02 APPELLATE DEFENDER DIVISION	2.00	1.33	36.65
04 CENTRAL SERVICES DIVISION	1.00	2.85	55.14
Lawyer 2	1.00	2.85	55.14
Total	12.00	0.87	54.98