

DEPARTMENT OF JUSTICE

Section D

JOINT SUBCOMMITTEE OF HOUSE APPROPRIATIONS AND SENATE FINANCE AND CLAIMS COMMITTEES

-----Agencies-----

Judicial Branch
Dept. of Justice
Public Service Commission

Office of Public Defender
Dept. of Corrections

-----Committee Members-----

House

Representative Fiona Nave (Chair)
Representative Thedis Crowe
Representative Donavon Hawk
Representative Anthony Nicastrò

Senate

Senator Shelley Vance (Vice Chair)
Senator Tom McGillvray
Senator Shane Morigeau

-----Fiscal Division Staff-----

Walker Hopkins
Barb Wagner

Agency Base Budget Comparison

The following table compares the base budget with the requested expenditures for the upcoming biennium by type of expenditure and source of funding.

Agency Base Budget Comparison						
Budget Item	Base Budget FY 2025	Requested FY 2026	Budget FY 2027	Biennium Change Amount	from Base Percent	
PB	14.00	14.00	14.00	0.00	0.0%	
General Fund		(24,695)	(24,695)	(49,390)	0.0%	
Proprietary Funds	1,901,844	1,802,633	1,807,653	(193,402)	(5.1%)	
Total Funds	1,901,844	1,777,938	1,782,958	(242,792)	(6.4%)	
Personal Services	1,705,487	1,606,276	1,611,296	(193,402)	(5.7%)	
Operating Expenses	194,277	169,582	169,582	(49,390)	(12.7%)	
Debt Service	2,080	2,080	2,080	0.00	0.0%	
Total Expenditures	1,901,844	1,777,938	1,782,958	(242,792)	(6.4%)	
Total Ongoing	1,901,844	1,777,938	1,782,958	(242,792)	(6.4%)	
Total One-Time-Only					0.0%	

Agency Highlights

The 2027 biennium budget request for the Agency Legal Services (ALS) within the Department of Justice is \$243,000 or 5.7% lower than FY 2025 base appropriations. This biennial decrease is attributed to statewide present law decreases to personal services and fixed costs.

Executive Request

The following table shows the total executive request with the base budget and the statewide present law adjustments, present law adjustments, and new proposals by source of funding.

Department of Justice 2027 Biennium Base Budget and Requested Adjustments										
	FY 2026					FY 2027				
	General Fund	State Special	Federal Special	Total Funds	% of Budget Request	General Fund	State Special	Federal Special	Total Funds	% of Budget Request
Base Budget	0	0	0	1,901,844	107.0%	0	0	0	1,901,844	106.7%
Statewide PL										
Personal Services	0	0	0	(99,211)	(5.6%)	0	0	0	(94,191)	(5.3%)
Fixed Costs	0	0	0	(24,695)	(1.4%)	0	0	0	(24,695)	(1.4%)
Inflation Deflation	0	0	0	0	0.0%	0	0	0	0	0.0%
Total Statewide PL	0	0	0	(123,906)	(7.0%)	0	0	0	(118,886)	(6.7%)
Present Law (PL)	0	0	0	0	0.0%	0	0	0	0	0.0%
New Proposals	0	0	0	0	0.0%	0	0	0	0	0.0%
Total HB 2 Adjustments	0	0	0	(123,906)	(7.0%)	0	0	0	(118,886)	(6.7%)
Total Requested Budget	0	0	0	1,777,938		0	0	0	1,782,958	

Funding

The following table shows proposed agency funding for all sources of authority.

Department of Justice, 06-Agency Legal Services Funding by Source of Authority						
Funds	HB2 Ongoing	HB2 OTO	Non-Budgeted Proprietary	Statutory Appropriation	Total All Sources	% Total All Funds
General Fund	0	0	0	0	0	0.0%
State Special Total	\$0	\$0	\$0	\$0	\$0	0.0%
Federal Special Total	\$0	\$0	\$0	\$0	\$0	0.0%
06500 Agency Legal Services	0	0	3,560,896	0	3,560,896	100.0%
Proprietary Total	\$0	\$0	\$3,560,896	\$0	\$3,560,896	100.0%
Total All Funds	\$0	\$0	\$3,560,896	\$0	\$3,560,896	

Non-Budgeted Proprietary Funds

The ALS is funded with non-budgeted proprietary funds from fees charged to state agencies for attorney and paralegal work. For information on the rates charged to state agencies, refer to the Program Description section below.

Program Actuals and Budget Comparison

The following table compares FY 2024 actual expenditures, FY 2024 and FY 2025 appropriations, and the expenditures requested for FY 2026 and FY 2027 by type of expenditure and source of funding.

Program Actuals and Budget Comparison					
Budget Item	Actuals Fiscal 2024	Approp. Fiscal 2024	Approp. Fiscal 2025	Request Fiscal 2026	Request Fiscal 2027
PB	0.00	14.00	14.00	14.00	14.00
Personal Services	1,211,770	1,634,358	1,705,487	1,606,276	1,611,296
Operating Expenses	197,009	193,791	194,277	169,582	169,582
Debt Service	0	2,080	2,080	2,080	2,080
Total Expenditures	\$1,408,779	\$1,830,229	\$1,901,844	\$1,777,938	\$1,782,958
Proprietary Funds	1,408,779	1,830,229	1,901,844	1,777,938	1,782,958
Total Funds	\$1,408,779	\$1,830,229	\$1,901,844	\$1,777,938	\$1,782,958
Total Ongoing	\$1,408,779	\$1,830,229	\$1,901,844	\$1,777,938	\$1,782,958
Total OTO	\$0	\$0	\$0	\$0	\$0

Program Description

The Department of Justice (DOJ), under the direction of the Attorney General, is responsible for statewide legal services and counsel, law enforcement and public safety. The DOJ has one proprietary funded program in the ALS.

The ALS provides 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. Employee positions are funded from the revenues generated. The customers served are state agencies, boards, and commissions that have entered into contracts with ALS.

The Attorney General is the legal officer for the state per Article VI, Section 4(4), of the Montana Constitution. 2-4-611(2), MCA provides that state agencies may request from the Attorney General's Office a hearing examiner in a contested case.

State agencies have the option to use in-house or private counsel and investigators instead of ALS. Executive Order 5-93 provides that agencies must receive approval from the Legal Services Review Committee (made up of a representative of the Attorney General, Budget Director, and the Governor's Chief Legal Counsel) prior to contracting for outside legal services.

FY 2024 Appropriation Compared to FY 2024 Actual Expenditures

The Agency Legal Services expended approximately 77.0% of its proprietary budget for FY 2024. Unexpended balances occur within personal service accounts.

FY 2024 Appropriations Compared to FY 2025 Appropriations

When compared to FY 2024 budgets, amounts in FY 2025 increase by approximately \$70,000 or 3.9%. Some additional personal service funding was provided in FY 2025 through statewide present law adjustments made to personal services.

Agency Legal Services Bureau - 06500

ALS provides legal services to state agencies. This program proposes a proprietary rate for adoption by the legislature.

Revenue and Expenses

The following table shows the actual and projected expenditures and related revenues associated with this fund.

2027 Biennium Report on Internal Service and Enterprise Funds				
Fund	Fund Name	Agency #	Name	
06500	Agency Legal Services	41100	Agency Legal Services	
			Actual	Estimated
			FY 24	FY 25
			Proposed	Proposed
			FY 26	FY 27
Operating Revenues				
Fees and Charges				
Charges for Services			1,321,461	1,908,809
Total Operating Revenues			1,321,461	1,908,809
Expenses				
Personal Services			1,169,681	1,705,487
Other Operating Expense			197,928	194,277
Total Operating Expense			1,367,609	1,899,764
Operating Income (Loss)			(46,148)	9,045
Nonoperating Revenues				
Nonoperating Expenses				
Total Nonoperating Revenues (Expenses)			-	-
Income (Loss) Before Contributions			(46,148)	9,045
Capital Contributions				
Transfers In				
Transfers Out				
Loans and Lease Payments			-	(2,080)
Change in Net Position			(46,148)	6,965
Beginning Net Position - July 1			(917,600)	(963,748)
Prior Period Adjustments				(956,783)
Change in Net Position			(46,148)	6,965
Ending Net Position - June 30			(963,748)	(956,783)
Net Position (Fund Balance) Analysis				
Restricted Net Position (Enterprise Funds Only)				
Unrestricted Net Position				

Expenses

The primary costs for ALS are personal services for 14.75 PB and associated operating costs. Factors that influence costs include the state pay plan, the ability to recruit and retain staff, and general inflationary pressures that increase costs for items such as utilities, rent, supplies, and equipment. As proposed, the costs for Agency Legal Services Bureau decrease by \$124,000 in FY 2026 and \$119,000 in FY 2027 when compared to FY 2025 base appropriations. The decreases are included as part of the statewide present law adjustment for the ALS and are primarily for personal services.

Revenues

Revenues are generated by fees charged to other state agencies for services provided.

Proprietary Rates

The executive proposes an increase in the proprietary rates charged for attorney and paralegal positions when compared to the FY 2025 base rates. Additionally, rates for associate attorneys and legal staff have also been proposed. The figure below shows the rates proposed by the executive for the 2027 biennium which are calculated based on projected costs versus the average billable service provided by attorneys/paralegals on an annual basis. These rates are included in Sec. R of HB 2, and for the rates to become effective, the legislature is required to formally adopt them.

Requested Rates for Internal Service or Enterprise Funds					
Fee/Rate Information					
		Actual FY 24	Estimated FY 25	Proposed FY 26	Proposed FY 27
Fee Description:	Senior Attorney	\$121	\$121	\$200	\$200
	Associate Attorney			\$160	\$160
	Paralegal	\$71	\$71	\$100	\$100
	Legal Assistant			\$75	\$75

This program is funded with an internal service fund, which is a type of proprietary fund. As such, the legislature approves the maximum rate the program may charge during the biennium. They are not the rates the program must charge.

The Department of Justice has asked for the flexibility to adjust these rates to reflect additional changes related to HB 13 pay plans.

Present Law Adjustments

The "Present Law" Adjustments table shows the changes from the base appropriation to the proposed budget. "Statewide Present Law" adjustments (DP 1, DP 2, DP 3) are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies.

The decision packages presented are for informational purposes only, offering insights into anticipated changes in expenditure that may affect the rates charged. These decision packages are not approved by the legislature. For internal service funds, the legislature approves the maximum rate that may be charged. For enterprise funds, the legislature reviews the rate and identifies any concerns.

Present Law Adjustments	-----Fiscal 2026-----					-----Fiscal 2027-----				
	PB	General Fund	State Special	Federal Special	Total Funds	PB	General Fund	State Special	Federal Special	Total Funds
DP 1 - Personal Services	0.00	0	0	0	(99,211)	0.00	0	0	0	(94,191)
DP 2 - Fixed Costs	0.00	0	0	0	(24,695)	0.00	0	0	0	(24,695)
Grand Total All Present Law Adjustments	0.00	\$0	\$0	\$0	(\$123,906)	0.00	\$0	\$0	\$0	(\$118,886)

***Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).

DP 1 - Personal Services -

The executive proposes adjustments to the present law personal services budget.

DP 2 - Fixed Costs -

The executive proposes adjustments to provide the funding required in the proposed budget for fixed costs assessed by other agencies within state government for the services they provide. Examples include: warrant writer, motor pool, information technology services, etc. The rates charged for these services are approved in the section of the budget that provides the services.