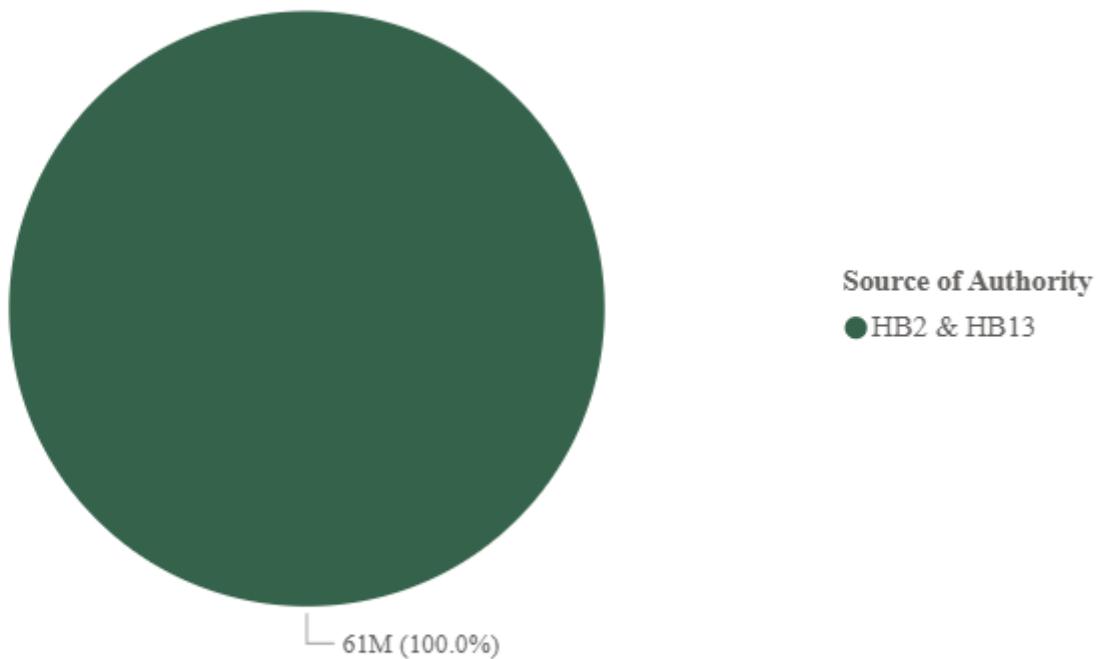


# OFFICE OF STATE PUBLIC DEFENDER

## 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 all authority totaling nearly \$61.0 million for the OPD in FY 2026.

### Total Modified Budget by Source of Authority



Source of Authority	Modified Budget	Expended Budget	% Expended	
HB2 & HB13	60,895,555	22,052,581	36.2%	<div style="width: 36.2%; background-color: #0070C0; height: 10px; display: inline-block;"></div>
<b>Total</b>	<b>60,895,555</b>	<b>22,052,581</b>	<b>36.2%</b>	

## 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, 2025, through November 30, 2025. 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
<input checked="" type="checkbox"/> <b>Public Defender</b>	<b>60,895,555</b>	<b>60,895,555</b>	<b>0</b>
<input checked="" type="checkbox"/> 01 PUBLIC DEFENDER DIVISION	27,924,243	27,924,243	
<input checked="" type="checkbox"/> 02 APPELLATE DEFENDER DIVISION	2,435,604	2,435,604	
<input checked="" type="checkbox"/> 03 CONFLICT DEFENDER DIVISION	3,984,764	4,512,828	528,064
<input checked="" type="checkbox"/> 04 CENTRAL SERVICES DIVISION	26,550,944	26,022,880	-528,064
<b>Total</b>	<b>60,895,555</b>	<b>60,895,555</b>	<b>0</b>
Expenditure Type	HB 2 Budget	Modified Budget	Net Modifications
<input checked="" type="checkbox"/> 61000 Personal Services	39,057,948	39,057,948	0
<input checked="" type="checkbox"/> 62000 Operating Expenses	21,576,954	21,576,954	
<input checked="" type="checkbox"/> 63000 Equipment & Intangible Assets	178,200	178,200	
<input checked="" type="checkbox"/> 69000 Debt Service	82,453	82,453	
<b>Total</b>	<b>60,895,555</b>	<b>60,895,555</b>	<b>0</b>
Fund Type	HB 2 Budget	Modified Budget	Net Modifications
<input checked="" type="checkbox"/> 01 General	60,895,555	60,895,555	0
<b>Total</b>	<b>60,895,555</b>	<b>60,895,555</b>	<b>0</b>

The Office of State Public Defender has currently performed one modification to its HB 2 budget for FY 2026. This modification transfers \$528,000 and associated 4.00 new attorney PB from the Central Services Division to the Conflict Defender Division. When budgeting for the 2027 biennium, the OPD requested all new attorney PB to be centralized in one division. The OPD then allocated these new positions where needs have arisen.

## HB 2 APPROPRIATION AUTHORITY

The following chart shows the appropriated budget for the agency compared to expenditures through November 30, 2025.

## Monthly Expenditures Compared to Historical Average

● FY 2026 Budget ● Cumulative Monthly FY 2026 Expenditures ● Cumulative Historical Monthly Average Expended

70.0M

60.0M

50.0M

40.0M

30.0M

20.0M

10.0M

0.0M

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

Fiscal Month

2.7%  
9.5%  
19.2%  
28.0%  
36.2%

Program Name	Modified Budget	Expended Budget	% Expended
⊕ 01 PUBLIC DEFENDER DIVISION	27,924,243	10,139,414	36.3%
⊕ 02 APPELLATE DEFENDER DIVISION	2,435,604	946,819	38.9%
⊕ 03 CONFLICT DEFENDER DIVISION	4,512,828	1,643,920	36.4%
⊕ 04 CENTRAL SERVICES DIVISION	26,022,880	9,322,427	35.8%
<b>Total</b>	<b>60,895,555</b>	<b>22,052,581</b>	<b>36.2%</b>

Expenditure Type	Modified Budget	Expended Budget	% Expended
⊕ Personal Services	39,057,948	14,477,471	37.1%
⊕ Operating Expenses	21,576,954	7,503,118	34.8%
⊕ Equipment & Intangible Assets	178,200	71,992	40.4%
⊕ Debt Service	82,453		
<b>Total</b>	<b>60,895,555</b>	<b>22,052,581</b>	<b>36.2%</b>

Fund Type	Modified Budget	Expended Budget	% Expended
⊕ 01 General	60,895,555	22,052,581	36.2%
<b>Total</b>	<b>60,895,555</b>	<b>22,052,581</b>	<b>36.2%</b>

Through November of FY 2026, the OPD expended a little under \$22.1 million, or 36.2% of its modified HB 2 budget. The OPD HB 2 budget and associated spending for the 2027 biennium is entirely comprised of general fund. Current HB 2 expenditures totaling 36.2% is a bit lower than the average of the previous five fiscal years of 40.4% with the main difference occurring in operating expenses, where the OPD had historically been expending roughly 49.0% on average through November versus the 34.8% seen in the chart above.

In FY 2026, HB 2 appropriations were comprised primarily of personal services (nearly \$39.1 million, or 64.1% of total authority) and operating expenses (nearly \$21.6 million, or 35.4% of total authority). Personal services were 37.1% expended through November, and operating expenses were 34.8% expended. Personal services spending is more on track with historical trends and will be discussed in more detail below.

In more recent years, operating costs associated with paying contracted attorney costs have been expended at a higher rate which has led to needs for supplemental authority. The 2025 Legislature provided nearly \$6.5 million in additional authority for FY 2026 for this purpose, which has boosted overall operating expense budgets. Other items in operating expense accounts will be discussed in the line-items section below and relate to computer replacements and enhanced technology capabilities in the department. A limited amount of authority has been expended from these appropriations to date resulting in lower overall operating expense rates. When including new appropriations for contracted attorney costs in the 2027 biennium, this area of the budget has been expended at approximately 32.2% through November.

### **Line-Item Appropriations**

HB 2 contained several line-item appropriations for the OPD in FY 2026. All HB 2 authority for the OPD in the 2027 biennium was biennially appropriated meaning any unspent FY 2026 amounts in the line-items below are also available for spending in FY 2027. The most significant of these are as follows:

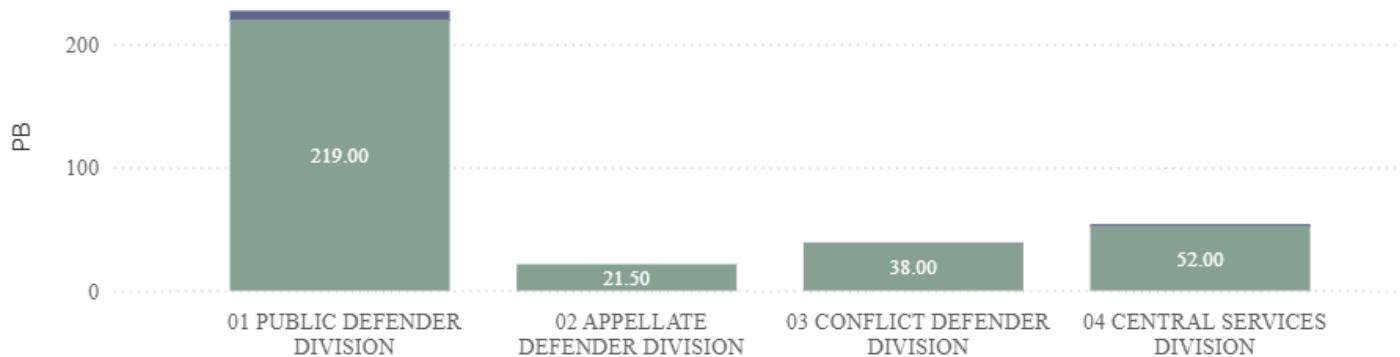
- Nearly \$3.3 million was provided as one-time-only to cover 50.0% of the department's FY 2025 supplemental appropriation for the 2027 biennium. This relates to costs to pay contracted attorneys. No authority has been expended to date from this appropriation
- Nearly \$3.2 million was provided to increase the rate paid to contracted attorneys from \$71.00 - \$90.00 per hour. Approximately \$790,000 has been expended through November
- Approximately \$947,000 was provided as one-time-only for new technology initiatives. These include licensing costs and technology improvements regarding data and artificial intelligence, consistent computer replacement, and hardware/software for client communications plans. Around \$306,000 has been expended so far
- \$508,000 in restricted authority was provided for 4.00 PB attorneys in FY 2026. About \$120,000 has been expended
- \$150,000 was provided as one-time-only for annual public defender training events. Nearly \$143,000 has been expended

### **Personal Services**

The OPD has a personal services budget of nearly \$39.1 million in FY 2026, and this budget was 37.1% expended by November 30, 2025. The following chart shows the filled and vacant PB within the agency as of November 1, 2025. FY 2026 contains a total of 31.06 new HB 2 PB in the agency bringing the department total

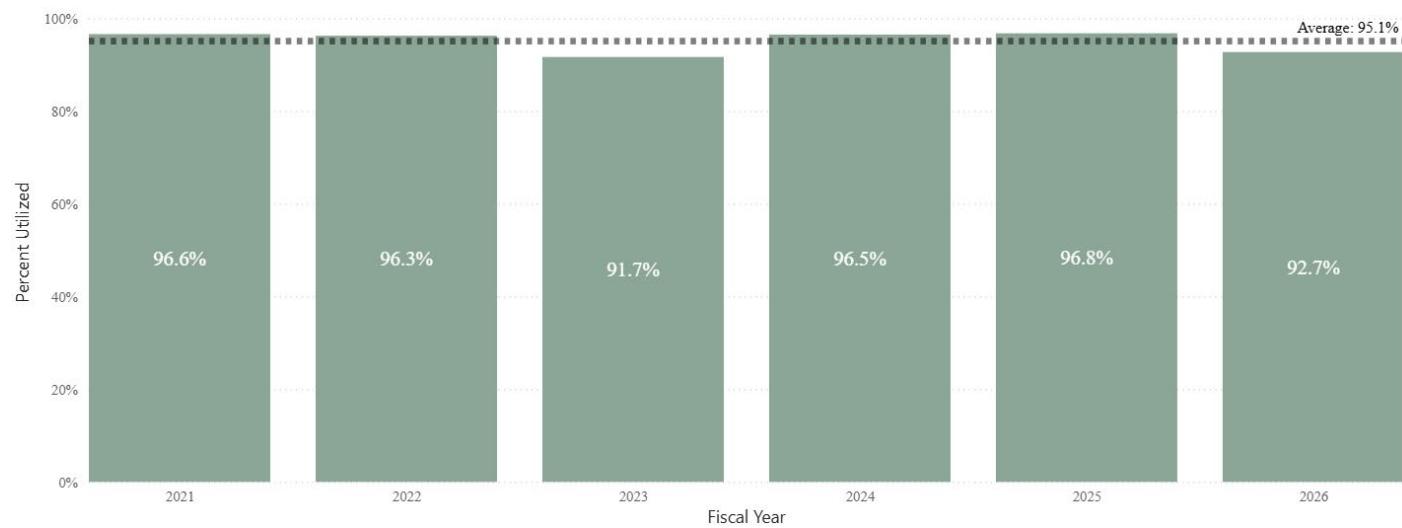
to 341.50 HB 2 PB (including 4.00 modified positions). As of November 1, 11.00 PB were listed as vacant which represents an agency vacancy rate of 3.2%. This represents a decrease of 17.00 vacant PB since the end of fiscal year 2025.

Position Status ● Filled ● Vacant



Of the vacant positions, 8.00 PB correspond to line attorney positions. Additionally, there was one lawyer supervisor, one legal secretary, and one program officer position vacant. Vacancies totaling 11.00 PB is the lowest rate experienced by the OPD in many years. According to SABHRS data, there has been no notable turnover within any OPD positions since the start of FY 2026.

The chart below shows the hourly utilization percentage for the OPD between July 1 and November 1 for each fiscal year. Overall, the agency utilized 92.7% of the hours budgeted for this time period in FY 2026. This utilization rate is a bit lower than the historical five-year average of 95.1% for the same time period.

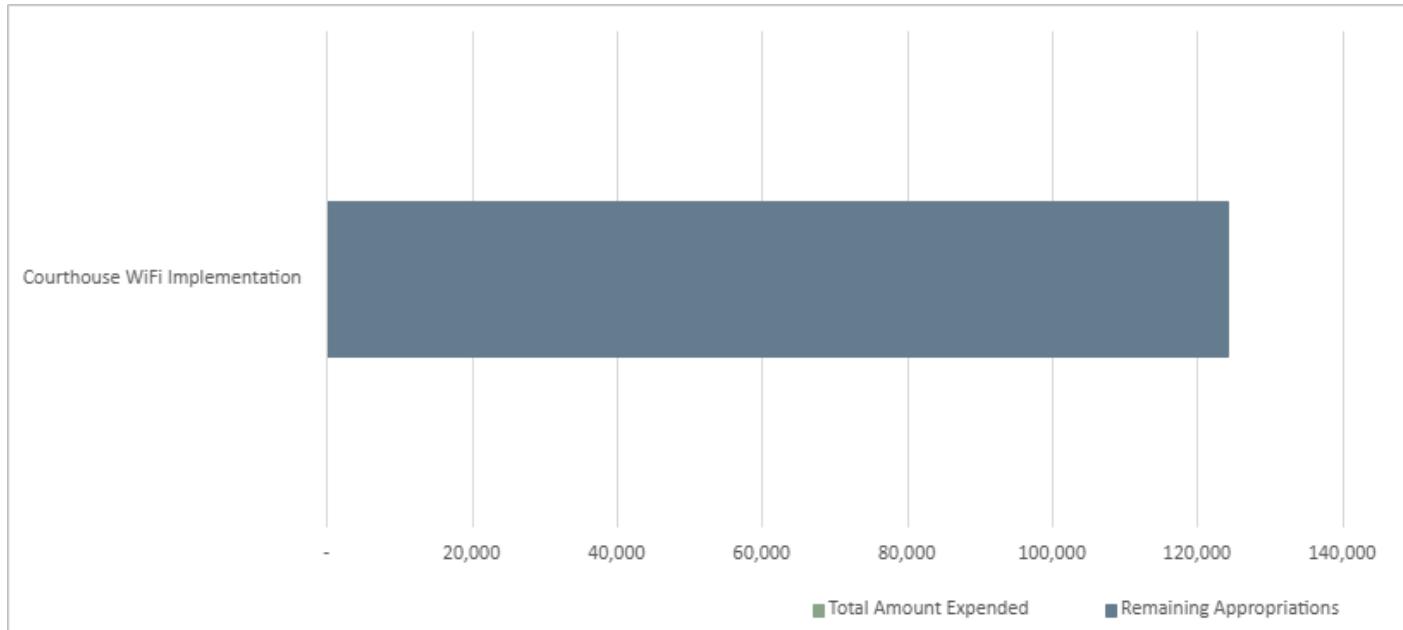


The table below shows the vacant PB in each division, the number of months each position has been vacant, and the midpoint hourly pay rate. The number of PB differs slightly from the number listed above due to the slight timing disparity between different SABHRS data sets used for reports. As of November 1, 2025, the average length of time positions have been vacant was 35 days. According to SABHRS data, all positions have become vacant since the beginning of FY 2026.

Position Classification	PB	Median Months Vacant	Market Midpoint (Hourly)
<b>Office of State Public Defender</b>	<b>14.00</b>	<b>1.31</b>	<b>55.14</b>
<b>01 PUBLIC DEFENDER DIVISION</b>	<b>11.00</b>	<b>1.38</b>	<b>55.14</b>
Lawyer 2	7.00	1.38	55.14
Lawyer Supervisor	1.00	1.38	54.83
Legal Secretary	3.00	(0.16)	25.51
<b>03 CONFLICT DEFENDER DIVISION</b>	<b>1.00</b>	<b>0.03</b>	<b>55.14</b>
Lawyer 2	1.00	0.03	55.14
<b>04 CENTRAL SERVICES DIVISION</b>	<b>2.00</b>	<b>2.64</b>	<b>42.66</b>
Lawyer 2	1.00	1.25	55.14
Program Officer 2	1.00	4.03	30.17

## OTHER ISSUES

### Information Technology Project Expenditures



The OPD has one information technology (IT) project related to providing stable access to wifi in courthouses throughout Montana. In HB 10, a total of \$124,135 was provided for this purpose. There are no expenditures to date for the project.

### Required Reports

The following link will take you to links for any reports that the Office of State Public Defender is required to submit quarterly to the legislature:

<https://committees.legmt.gov/#/nonStandingCommittees/25?tab=Required+Reports>