

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING
STATE OF MONTANA

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M E M O R A N D U M

TO: Amy Carlson, Legislative Fiscal Analyst
Legislative Fiscal Division

FROM: Ryan Evans, Assistant Budget Director
Office of Budget and Program Planning

DATE: September 15, 2022

SUBJECT: Fee accounts with balances exceeding the biennium appropriations

In accordance with 17-2-304, MCA, the report from the Office of Budget and Program Planning to the Legislative Finance Committee – via the Legislative Fiscal Analyst - on fee accounts with balances exceeding the biennium appropriations is attached.

The attached sheet lists for all state special revenue “charge for services” funds which exceed the limits of section 17-2-302(1) and are not exempt under 17-2-302(4): the agency and account, the fiscal year end 2022 balance, the amount the balance exceeds the limitation, and any certified exception to the limitation as allowed under 17-2-302(2).

Please let me know if you have questions or wish additional information.

CC: Affected Agency Centralized Services Administrators
Lt. Governor Juras

**17-2-302, MCA, Compliance Report
FY 2022**

Compliance with 17-2-302, MCA						
<u>Agency</u>	<u>Fund</u>	<u>Fund Name</u>	<u>Approp Authority</u>	<u>7/1/22 Balance</u>	<u>Excess Cash Balance</u>	<u>Certified Exception/Explanation</u>
41100	02016	Criminal Justice Info Network	1,114,603.16	1,854,249.64	739,646.48	The excess balance in the Criminal Justice Information Network Fund (Fund 02016) of \$739,646 is necessary to cover costs of the administration of the criminal justice network statewide. The fund balance is needed be used to pay expenses associated with the replacement of the CJIN switch and workstations clients.
41100	02120	Live Game Tax	32,048.90	95,687.87	63,638.97	The excess balance in the Live Game Tax account (Fund 02120) of \$63,639 per 23-5-612, MCA, is used to collect gambling taxes and penalties and distribute them to counties and cities based on collection. The statutory distribution of funds was delayed at FYE was processed 8/8/2022.
41100	02768	Domestic Violence Intervention	337,248.08	378,983.68	41,735.60	The excess balance in the Domestic Violence Intervention Fund (02768) is due to varying marriage licenses service in the FY 2022 grant award year and this amount is necessary for continued grant programs being provided to communities around the State for the DVI program. FY 2023 grants have been awarded and disbursements should be requested by October 10, 2022, which is the first reporting period for awardees that began July 1, 2022.
41100	02945	DOJ Blood draw MCA 61-8-402	505,667.88	907,362.71	401,694.83	The excess balance in the DOJ Blood Draw (Fund 02945) of \$401,695 is due to the timing of lease payments on equipment replacements. This funding is restricted and is being reviewed for future programmatic needs within the Forensic Science Division.
52010	02059	OHV Education	22,052.48	51,699.32	29,646.84	<p>Date on which the balance exceeded the limitation: The FYE 2021 fund balance was \$53,038. FY 2022 revenue was \$0 and expenditures were \$1,339. The FYE 2022 fund balance is \$51,699.</p> <p>Amount on which the balance was exceeded: Excess fund balance is \$29,646.84</p> <p>Amount usually needed for one year: Revenue was from the nonresident OHV pass (\$6.00) and was removed by HB 355 in the 2019 Session. The fund balance will be utilized by the end of FY 2024.</p> <p>Reason for excess: The program did not have a dedicated person to oversee the use of these funds and ensure that they were spent. Staffing has been resolved and a plan has been developed to provide these funds to organizations for OHV safety purposes.</p>
52010	02328	Parks OHV Fuel Safety/Educ	52,718.54	122,167.54	69,449.00	<p>Date on which the balance exceeded the limitation: The FYE 2021 fund balance was \$108,042. FY 2022 revenue was \$25,554 and expenditures were \$3,990. The FYE 2022 fund balance is \$125,879.</p> <p>Amount on which the balance was exceeded: Excess fund balance is \$69,449.00</p> <p>Amount usually needed for one year: Revenue is from a percentage of the state gasoline distributor's license tax.</p> <p>Reason for excess: The program did not have a dedicated person to oversee the use of these funds and ensure that they were spent. Staffing has been resolved and a plan has been developed to provide these funds to organizations for OHV safety purposes.</p>

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FY 2022**

Compliance with 17-2-302, MCA						
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52010	02330	Parks Snomo Fuel Tax Sfty/Educ	196,772.18	390,081.86	193,309.68	<p>Date on which the balance exceeded the limitation: The FYE 2021 fund balance was \$330,471. FY 2022 revenue was \$94,914 and expenditures were \$7,677. The FYE 2022 fund balance is \$403,868.</p> <p>Amount on which the balance was exceeded: Excess fund balance is \$193,309.68</p> <p>Amount usually needed for one year: This revenue comes from a portion of the gas tax allocation dedicated to snowmobile safety programs.</p> <p>Reason for excess: Revenues in this fund continue to exceed appropriated authority. However, the FY 2022 expenditures were extremely low. FWP will adjust authority as necessary to correct this fund balance issue.</p>
52010	02331	Motorboat Certification-Parks	42,412.96	88,618.11	46,205.15	<p>Date on which the balance exceeded the limitation: The FYE 2021 fund balance was \$79,900. FY 2022 revenue was \$24,030 and expenditures were \$19,202. The FYE 2022 fund balance is \$87,429.</p> <p>Amount on which the balance was exceeded: Excess fund balance is \$46,205.15</p> <p>Amount usually needed for one year: Revenue comes from a percentage of the motor vehicle revenue and can only be used for pumpout equipment and other boat facilities.</p> <p>Reason for excess: Revenue in this fund continues to exceed appropriated authority. FWP will adjust the appropriation as necessary to correct his fund balance issue.</p>
52010	02413	F & G Motorboat Cert Id	150,819.78	187,497.27	36,677.49	<p>Date on which the balance exceeded the limitation: The FYE 2021 fund balance was \$136,209. FY 2022 revenue was \$96,245 and expenditures were \$61,124. The FYE 2022 fund balance is \$182,036.</p> <p>Amount on which the balance was exceeded: Excess fund balance is \$36,677.49</p> <p>Amount usually needed for one year: Revenue comes from a percentage of the motor vehicle revenue and is used to administer and enforce boating laws.</p> <p>Reason for excess: Revenues in this fund continue to exceed appropriated authority. However, the FY 2022 expenditures were extremely low. FWP will adjust authority as necessary to correct this fund balance issue.</p>

**17-2-302, MCA, Compliance Report
FY 2022**

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52010	02558	FAS - Vehicle Registration	351,492.48	499,991.22	148,498.74	<p>Date on which the balance exceeded the limitation: The FYE 2021 fund balance was \$302,575. FY 2022 revenue was \$362,306 and expenditures were \$179,711. The FYE 2022 fund balance is \$485,334.</p> <p>Amount on which the balance was exceeded: Excess fund balance is \$148,498.74</p> <p>Amount usually needed for one year: Revenue comes from the \$9 light vehicle registration fee and is used for fishing access sites. Revenue in FY 2021 and FY 2022 continues to grow and was 40% higher in each year over the FY 2019 revenue.</p> <p>Reason for excess: Revenue in this fund continues to exceed appropriated authority. FWP will adjust the appropriation as necessary to correct his fund balance issue.</p>
54010	02287	Aeronautical Grant Account	2,885,575.84	4,458,942.76	1,573,366.92	<p>HB661, passed by the 2019 Legislature, increased the aviation fuel tax, which then increased the revenue directed to fund 02287 from \$0.02/gallon to \$0.045/gallon. This change is the reason the fund is currently experiencing a high fund balance. The effective date for HB 661 made it difficult for the timing of grant applications for FY 2020. Then, when many of the airports would have received grants from fund 02287 in FY 2021, CARES Act funding with no federal match requirement became available to several airports, which had to be used before expiration. In addition, commercial airline traffic was negatively impacted by the pandemic, so revenue for the grants was less than expected. Due to these circumstances, grant money in fund 02287 was not awarded as expected. However, MDT has already awarded over \$3 million in grants and expects this excess cash to be depleted in FY 2023.</p>

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57060	02216	Water Storage St Sp Rev Acct	2,469,872.20	2,557,858.18	87,985.98	<p>This fund, established in Section 85-1-631, MCA, provides funding exclusively for construction, operation, rehabilitation, expansion, maintenance, and modification of state-owned water storage projects. The Fiscal Year (FY) 2022 Water Storage Account (WSA) appropriation (x 2) is \$2,469,870.20 and the cash balance as of July 1, 2022, was \$2,557,858.18, resulting in an excess cash balance of \$87,985.98. The FY 2023 appropriation is to fund repairs to state owned dams. In FY 2022, state water projects contracted \$21,165 for Environmental Permitting for the East fork Dam, and \$128,779 for the Painted Rocks Dam Utilities and Environmental consultation. Current planned work for FY 2023 includes an economic analysis study of select state water project dams and the Willow Creek Dam Rehabilitation Geotechnical investigation. Future projects that will be using 02216 include East Fork Dam Rehabilitation, Painted Rocks Dam Rehabilitation Final Design and Construction, and Willow Creek Dam Rehabilitation Final Design.</p> <p>Per statute, money that was not encumbered or expended from the WSA during the previous biennium must remain in the account. Amounts needed per biennium vary based on the projects identified needing the most critical rehabilitation for planned engineering efforts. However, as the state infrastructure is aging beyond its design life, fiscal needs can also be driven by unknown events at state-owned water projects. Should any WSA funds be left over at the end of the biennium, those dollars will be carried forward for future modernization and rehabilitation efforts.</p> <p>Please note that the efforts derived from the Painted Rocks and East Fork Feasibility Studies will result in rehabilitation efforts costing in the range of \$50,000,000 to \$70,000,000. Building the fund balance in the Water Storage account is imperative to the necessary improvements and repairs to our high hazard structures.</p>
66020	02078	Occupational Therapists	130,693.44	229,276.19	98,582.75	<p>The Board of Occupational Therapy exceeded the allowable amount of cash in June 2021, following the end of their annual renewal cycle. The Board had an ending cash balance in FY 2022 of \$229,276, which exceeded the allowable amount by \$98,583. The Board's expenses based on a five-year average are \$56,794. The Board noticed and adopted a repeal of some fees in June 2021 but will need to initiate a fee decrease for the FY 2023 renewal cycle. It is unknown if a fee decrease can be in place in time for the renewal cycle which will open April 15, 2023, so an abatement should be planned for as a second option for this fiscal year. The EO for the Board has been informed to begin work on this.</p>

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66020	02079	Fire Protection & Permitting	125,757.14	207,370.33	81,613.19	At the end of FY 2022, the Fire Protection License Program had an ending a cash balance of \$207,370, (\$14,843 less than FY 2021 ending cash of \$222,213). The ending fund balance exceeded the allowed amount by \$81,613. The program exceeded their allowed cash balance in July of 2020, after the close of annual license renewals. The program requires \$58,378 to cover expenses annually, based on a five-year history. In attempting to lower the cash balance, the Department abated renewal fees for the program 100% in FY 2021, and again in FY 2022. In addition, a fee decrease and repeal was noticed and adopted in FY 2022, reducing several fees and repealing two. The program saw an increase to expenses in FY 2022 of approximately \$10,000 over FY 2021 and if that trend continues, the increase should also help lower cash. The fee reduction was not in place in time to affect the renewal cycle for FY 2022. If the fee reduction does not reduce cash sufficiently, an additional fee decrease and another abatement will be necessary.
66020	02109	Board Of Outfitters	773,989.10	885,758.47	111,769.37	The Board of Outfitters exceeded their allowance for authority of \$773,989 by \$111,769 in FY 2022. The Board has annual expenses of \$417,763 based on a five-year average. The Board's cash had been in an excess status since the prior fiscal year and the Board initiated a plan to address its cash situation in the fall of 2021, but a fee decrease would not be in place in time for the renewal cycle which opened November 1, 2021. The Board abated fees by 100% instead and noticed and adopted a fee decrease by January of 2022. It will likely take more than one renewal cycle to see the effect of the fee decrease. Meanwhile the Board had a decrease in revenue in FY 2022 of over half from the prior fiscal year and has seen expenses slowly regulate post COVID. The Board will continue to monitor its cash balances.
66020	02448	Building Codes State Spec Rev	11,135,126.76	11,500,762.19	365,635.43	The Building Codes Bureau ended FY 2022 with a cash balance of \$11,500,762 which was \$365,635 more than the allowable limit. Cash was exceeded in May 2022. The Building Codes Program requires an estimated \$4,709,129 annually, to operate based on a five-year average. The program noticed rule changes to adopt current national building codes in June 2022. The notice included some modifications to fees for plan review and building permit fees were reduced by changing how fees are calculated. These changes should have the desired effect of lowering building permit fees by 40-50%. The Bureau's cash has been affected by a decrease in travel costs for inspectors over a two-year period due to COVID and in creased revenue due to an escalation in permit and inspection fees because of growth in construction projects across the state.
66020	02679	Massage Therapists	317,758.70	435,378.32	117,619.62	The Board of Massage Therapy exceeded its allowable cash balance of \$317,759, by \$117,620 in August of FY 2021 following the completion of their renewal cycle. The Board ended FY 2022 with a cash balance of \$435,378. The Board requires \$145,424 to cover expenses based on a five-year average. The Board just completed the FY 2023 renewal cycle. The Board will need to complete a fee decrease prior to the beginning of their FY 2024 renewal cycle which will open July 1, 2023.

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FY 2022**

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66020	02810	Bd Of Radiologic Technologists	252,887.16	352,603.35	99,716.19	The Board of Radiologic Technology has \$99,716 in excess cash. The Board is allowed \$252,887 and the cash allowance was exceeded in December 2021. The Board requires \$86,889 annually to cover expenses based on a five-year average. This Board historically has not had excess cash, but there has been increased activity in Board applications which has increased revenue in the past fiscal year. The Board will begin renewals December 2, 2022. It is unlikely there will be sufficient time to complete a fee decrease by that date. The Department will abate renewal fees by a percent to be determined once a cash analysis is done; likely 50% or 100%. If the abatement does not bring the Board's cash into compliance, a fee decrease will be calculated and noticed to be in place by the renewal cycle in FY 2024.
66020	02818	Electrical Board	844,369.02	1,218,804.33	374,435.31	At the end of FY 2022, the State Electrical Board had a cash balance of \$1,218,804. The Board had been in excess cash status at the end of FY 2021 with cash of \$1,365,590 and over FY 2022 showed a decrease of nearly \$147,000. The Board is allowed \$844,369, based on OBPP figures. The Board has a biennial renewal cycle so revenue received in a renewal cycle must last for the two-year period. The Board requires an average of \$379,480 to cover annual expenses. The Board exceeded the allowable limit in August 2020 following the close of the FY 2020 renewal period. The Board abated renewal fees in FY 2020 by 50% but it was not sufficient. They abated fees again in FY 2022 by 100%. Division fiscal staff are working with the EO for the Board to notice a fee reduction for most application and renewal fees to be in place before the end of FY 2023. The Board's next renewal is FY 2024. The Board has seen a two-fold increase in the number of license applicants, which given the pandemic and job closures, was not anticipated. Much of this new growth is attributable to the construction activity in two or three counties in the state, with many applicants moving to Montana and many applying for licensure to work on projects in Montana and then return to their state of residency. The Board has also had a decrease in expenses due to less travel for inspections, fewer board meetings that require travel, etc.
66020	02820	Architects/Landscape Architect	259,686.44	441,225.50	181,539.06	The Board of Architects and Landscape Architects exceeded their authority of \$259,686 with a cash balance of \$441,225 putting them \$181,539 over the amount allowed. Excess cash was exceeded in July 2021 at the beginning of FY 2022. The Board normally requires \$98,130 annually for expenses based on a five-year average. The Board's expenses decreased by nearly \$20,000 between 2020 and 2021, yet revenue remained steady, resulting in an increase to their cash balance. The Board noticed a fee decrease for renewal fees only in July of 2021 and adopted the fee changes in October of 2021. The Board's renewal cycle for FY 2023 just completed on June 30, 2022. It will likely take a couple of renewal cycles to bring cash into compliance. The Board will continue to monitor its cash.

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66020	02821	Board Of Funeral Service	271,941.36	448,802.51	176,861.15	The Board of Funeral Services is allowed a cash balance of \$271,941. On July 1, 2022, the cash balance for the Board fund was \$448,803, or in excess by \$176,861. During the 2021 Legislative Session, legislation passed (again), allowing the Board to receive revenue from the sale of copies of death certificates through county offices and DPHHS. The revenue in FY 2022 from these certificate copies totaled \$177,618, which put the Board over the allowable cash. The Board, via the language of the legislation, is not allowed to lower fees because of receiving this revenue. The Board will need to look at abating fees in their FY 2023 renewal cycle to bring cash into compliance. The Board's renewal cycle will open next on May 1, 2023, therefore it is unlikely the Board will see the necessary decrease to cash until FY 2024, as their renewal cycle does not close until July 1, 2023.
66020	02824	Board Of Medical Examiners	2,229,812.00	3,798,341.42	1,568,529.42	The Board of Medical Examiners cash balance of \$3,798,341 exceeded twice their annual authority of \$2,229,812 in FY 2022 by \$1,568,529. The Board requires \$1,403,286 to operate annually, based on a five-year average. Renewal fees were abated 100% in FY 2021 and again by 100% in FY 2022. In addition, the Board noticed and adopted a broad fee decrease in FY 2022 which should show impact to the Board's cash in FY 2023. The Board began its split renewal cycle on August 31, 2022, with the first half of renewals for FY 2023. It is planned that the fee decrease will result in the Board being in cash compliance or nearing compliance by the end of FY 2023. The increase in cash balance for the Board is attributable to an increase in new license activity, a decrease in compliance costs, and a decrease in overall expenses due to less frequent meetings, less travel, and overall, less activity during the pandemic.
66020	02834	Board Of Veterinarians	443,166.70	485,934.92	42,768.22	The Board of Veterinary Medicine exceeded their authority of \$443,167 by \$42,768, with a total cash balance of \$485,935. Cash was exceeded in November 2021, following completion of the main half of their renewal cycle. The Board requires \$124,794 annually for expenses, based on a five-year average. The Board has seen a 10% increase in revenue annually since FY 2020. During the 2021 Legislative Session, a bill passed allowing for licensure of Veterinary Technicians. The Board has noticed rules for Vet Tech licensure, but actual licensure will not take place until January of 2023. The Board will likely see an increase in revenue but there will also be an increase to expenses. Renewals for the FY 2023 cycle opened September 1, 2022, so it is too late to abate fees this fiscal year. The Board will monitor cash, paying attention to what impact the new license type has on cash and expenses, and will plan on abating fees in FY 2024, if cash does not come into compliance.
66020	02854	Bd. Of Real Estate Appraisers	800,979.92	1,087,068.61	286,088.69	The Board of Real Estate Appraisers had a cash balance of \$1,087,069 on July 1, 2022, which exceeded their authority of \$800,980 by \$286,089. The Board exceeded their cash allowance in March of 2020. The Board has expenses annually of \$269,955, based on a five-year average. The Board has seen growth of revenue through increased activity and through federal mandates. The Board abated fees for half their licensees in FY 2021 and half in FY 2022 and are currently considering another abatement for FY 2023 as well as a fee decrease. The amount of the fee decrease has not been determined yet, but staff will work with the Board to bring fees and revenue into compliance with cash allowances. The EO for the Board is aware of the cash issue and will work with division fiscal staff to put an abatement in place and a draft fee decrease to be in effect by FY 2024.

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66020	02855	Bd Of Respiratory Care	150,825.98	224,074.87	73,248.89	The Board of Respiratory Care Practitioners had an ending cash balance of \$224,075 for FY 2022, which exceeded their allowed amount of \$150,826 by \$73,249. The Board exceeded the allowed cash in October 2021. The Board requires \$44,582 to cover expenses annually. The Board has seen a large increase in revenue (applications), amounting to an increase of \$35,498 between FY 2021 and FY 2022. This increase is attributable to increases in new applications for licensure which result in increased license renewals in subsequent years. The Board has seen an increase in expenses in the amount of less than \$5,000 during the same period. Because the Board rarely, if ever, has exceeded cash allowed, an abatement will be looked at for the next renewal cycle which will open March 3, 2023. If the abatement is not sufficient to lower cash, the Board will implement a fee decrease to be in place by FY 2024 renewal cycle.
69010	02496	Family Preservation Conference	14,166.00	70,818.90	56,652.90	Date on which the balance exceeded the limitation. 06/30/2016 Amount by which the balance was exceeded. 10,000 Amount usually needed for one year. \$10,000 Whether the excess is necessary because of an emergency, special or unusual circumstance, or fluctuation in the service, function, or charges for services. Not necessary. Turnover in staff has caused this fund to be overlooked. This will be fixed in SFY 2023. A description of the circumstances demonstrating the above.
69010	02783	6901-Traumatic Brain Injury Dn	16,278.00	74,929.07	58,651.07	Date on which the balance exceeded the limitation: 06/30/2020 Amount by which the balance was exceeded: \$2,000 Amount usually needed for one year: \$17,000 Whether the excess is necessary because of an emergency, special or unusual circumstance, or fluctuation in the service, function, or charges for services. Not necessary. Due to COVID the board has been unable to meet to discuss expenditures. Fund balance will be utilized in SFY 2023 to bring back in compliance. A description of the circumstances demonstrating the above.