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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: Ben Ternes, Senior Budget Analyst
Governor's Office of Budget and Program Planning

DATE: September 13, 2024

SUBJECT: Fee accounts with balances exceeding the biennium appropriations – FY24

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 2024 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 (Ben Ternes) know if you have questions or need any additional information.

Excess Fund Balance Report - Compliance with 17-2-302, MCA for Fiscal Year End 2024

Agency	Fund	Fund Name	Approp Authority	7/1/24 Balance	Excess Cash Balance	Certified Exception/Explanation
41100	02456	61-6-158 MTIVS & MCE	6,183,540.56	8,970,991.76	2,787,451.20	The excess balance in the MTIVS fund of is due to steadily increasing revenues. DOJ has a proposed request for the 2025 legislative session to increase appropriation due to rising material and service costs that are paid from this funding source.
41100	02796	MVD Real ID	98,892.42	7,277,667.09	7,178,774.67	The excess balance in the MVD Real ID fund of is due to the fee for Real IDs being adjusted via HB693 during the 2021 session. As such, DOJ is monitoring adjusted revenue collections and once revenue streams have stabilized the department plans on requesting appropriations necessary to fund operations.
41100	02945	DOJ Blood draw MCA 61-8-402	964,261.66	1,098,321.56	134,059.90	The excess balance in the DOJ Blood draw fund of 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	389.04	48,791.99	48,402.95	Revenue was from the nonresident OHV pass (\$6.00) and was removed by HB355 in the 2019 Session. The fund balance will be utilized by the end of FY2025. The cash was supposed to be moved to the other OHV funds and utilized there. Will work with accounting to ensure that the transfer takes place in FY2025.
52010	02328	Parks OHV Fuel Safety/Educ	38,571.98	163,855.82	125,283.84	Revenue is from a percentage of the state gasoline distributor's license tax and typically estimated at an annual appropriation value of \$40,000. The program is looking for opportunities to grant this funding to OHV groups for the purpose of education.
52010	02330	Parks Snomo Fuel Tax Sfty/Educ	97,970.56	485,140.14	387,169.58	This revenue comes from a portion of the gas tax allocation dedicated to snowmobile safety programs and typically estimated at an annual appropriation value of \$50,000. Revenues in this fund continue to exceed appropriated authority. FWP will continue to look for opportunities to utilize this funding and will increase authority when opportunities are identified.
52010	02331	Motorboat Certification-Parks	9,470.02	137,113.58	127,643.56	Revenue comes from a percentage of the motor vehicle revenue and can only be used for pumpout equipment and other boat facilities. These funds are used in the HB 5 capital program. Revenue in this fund averages approximately \$27,000 per year. FWP is looking for a list of capital projects that fit the statutory requirements of the funds and will utilize this fund for those projects.
52010	02413	F & G Motorboat Cert Id	166,448.14	233,903.25	67,455.11	Revenue comes from a percentage of the motor vehicle revenue and is used to administer and enforce boating laws and FWP anticipates an increased need in the appropriation in the upcoming fiscal years. Revenues in this fund continue to exceed appropriated authority. FWP will be adjusting this appropriation in FY2025 to expend a portion of the excess cash.
52010	02415	Fishing Access Site Acq.	17,231.18	106,528.44	89,297.26	Revenue comes from a portion of fishing license sales and is used for the acquisition of fishing access sites. Due to the cost of acquisition, it is imperative to grow a cash balance in this fund. FWP will be requesting an appropriation in HB 5 in the 2025 legislative session that will correct this fund balance issue.
52010	02558	FAS - Vehicle Registration	528,973.76	756,995.14	228,021.38	Revenue comes from the \$9 light vehicle registration fee and is used for fishing access sites and typically estimated at an annual appropriation value of \$300,000. Revenue in this fund continues to exceed appropriated authority. FWP will adjust the appropriation as necessary to correct this fund balance issue.
57060	02351	Water Project Lands Lease Acct	179,799.12	914,642.03	734,842.91	This fund, established in Section 85-1-811, MCA, provides funding exclusively to pay the department's costs and expenses in administering the water project lands lease and sales account. The FY 2024 Water Project Lands Lease Account appropriation (x 2) is \$179,799.12 and the cash balance as of July 1, 2024, was \$914,642.03, resulting in an excess cash balance of \$734,842.91. The FY 2025 appropriation is to fund the water project lands lease and sales. In FY 2024, state water projects spent \$25,000 to administer the lands lease program, contract appraisals and surveying. At the end of June 2023, the cash increased by \$477,948 from a cabin site sale. The excess cash is carried forward to offset the loss in revenue due to lease sales.
57060	02470	State Project Hydro Earnings	16,015,471.60	17,149,167.39	1,133,695.79	This fund, established in Section 85-1-220, MCA, provides funding exclusively for the repair and rehabilitation of state-owned water projects and works and to pay the cost of financing those activities. The FY 2024 State Project Hydro Earnings (Hydro) account appropriation (x 2) is \$16,015,472 and the cash balance as of July 1, 2024, was \$17,149,167 resulting in an excess cash balance of \$1,133,696. The FY 2025 appropriation is to fund feasibility studies for the upgrade of the mechanical systems, jetty replacement, and trash rake repairs at the Broadwater (Toston) Dam. The appropriation will also fund the Tongue River gate chamber design project, the Tongue River panels project and amendments to currently contracted feasibility studies. In addition, the appropriation will be used to cover the cost of current, ongoing repairs at the Broadwater (Toston) Dam. No estimate currently exists as to the cost of these repairs. Per statute, money that was not encumbered or expended from the Hydro account during the previous biennium must remain in the account for future appropriation and may not be appropriated from the account except as authorized under Section 85-1-220, MCA. Amounts needed per biennium vary based on the projects identified needing the most critical rehabilitation for planned engineering efforts and available staff. The power purchase agreement, where the revenue is calculated, expired on June 30, 2024, the new agreement has cut the revenue by half, as the state infrastructure is aging beyond its design life, fiscal needs can also be driven by unknown events at state-owned water projects. These excess Hydro funds that are left over at the end of the biennium, will be carried forward for future modernization and rehabilitation efforts.
66020	02078	Occupational Therapists	118,056.94	214,660.19	96,603.25	The Board of Occupational Therapy exceeded the allowable amount of cash in June 2021. The board had an ending cash balance of \$214,660, which exceeded the allowable amount by \$96,603. The board's expenses, based on a five-year average, are \$41,448 and were \$44,766 for FY 24. Revenue, with renewal fees abated 100%, totaled \$25,910 for FY 24. The board is looking to abate fees again in FY 25 and initiate a fee decrease to bring revenue in line with expenses.

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66020	02446	Psychologists	167,209.52	278,571.40	111,361.88	The allowable cash balance for the Board of Psychologists was \$167,210 and it was exceeded by \$111,362 in May 2024 with FY 24 ending cash balance of \$278,571. Although the board's five-year average for expenses is \$146,255, their total expenses for FY 24 were \$72,549 and are expected to continue to be lower due to a data driven application of time for personal services costs. The board abated renewal fees for FY 24 and will again in FY 25. They will need to pursue a fee decrease in FY 25-26.
66020	02679	Massage Therapists	309,712.74	418,285.17	108,572.43	At the end of Fiscal Year 2024, the Board of Massage Therapy had a cash balance of \$418,285. The board's cash balance exceeded their allowable amount following the renewal cycle in August of 2021, and at the end of FY 24 the excess balance was \$108,572. The board requires \$128,913 to cover their expenses annually based on a five-year average. The board abated renewal fees 100% for FY 25 which opened July 1, 2024, and will pursue a 25% fee decrease by FY 26.
66020	02813	Nursing Home Admin	133,426.78	180,813.21	47,386.43	The Board of Nursing Home Administrators exceeded the allowable amount of cash in November 2023. The board had an ending cash balance of \$180,813, which exceeded the allowable amount by \$47,386. The board's expenses, based on a five-year average, are \$72,237 and were \$59,049 for FY 24. Revenue for FY 24 totaled \$126,625. The board will abate renewal fees for FY 25 and is looking at a fee decrease that will be in effect by FY 26 to bring revenue down in line with expenses.
66020	02814	Hearing Aid Dispensers	70,594.24	106,216.85	35,622.61	Hearing Aid Dispensers has a cash balance in excess of twice the annual appropriation of \$70,594 since their renewal period began in May 2024. The excess cash balance at FYE was \$35,623. Since the board transitioned to a program in FY 24, expenses have been reduced by almost 50% with a total of \$23,412 in FY 24 and are expected to remain low. The program will plan to abate fees for FY 25 and will also need to look at reducing fees by 30% for FY 26.
66020	02819	Realty Regulations	1,121,971.68	2,484,262.01	1,362,290.33	The Board of Realty Regulation had a cash balance of \$2,484,262 the end of Fiscal Year 24, which was \$1,362,290 over the allowable limit. The excess cash occurred in July 2020. The board requires an estimated \$529,188 to operate based on a five-year history of expenditures. Expenditures for FY 25 were \$616,385. The board completed an abatement for license renewals in FY 24 and will continue to abate in FY 25. In addition, the board completed a fee decrease of approximately 50% for most applications and license renewal fees in FY 23. The excess cash is a result of increased revenue due to a large increase in applications for licensure in Montana, both from new applicants, people moving in from other states, but also from current residents who wish to get involved in real estate sales.
66020	02821	Funeral Service	288,456.22	599,089.71	310,633.49	The excess cash balance for Board of Funeral Services at the end of FY 24 was \$599,090. The board first exceeded their allowable amount in FY 22 with the addition of the death certificate revenue. Based on a five-year average, their annual expenses total \$110,868 with their FY 24 expenses totaling \$137,612. The fund's revenue for the last five years less the death certificate revenue averages to be \$185,409. Death certificate revenue for FY 24 totaled \$153,891. During the 2021 session, legislation passed allowing the board to receive revenue from the sale of copies of death certificates through county offices and DPHHS. The board, via the language of the legislation, is not allowed to lower or abate fees because of receiving this revenue. Due to legislation, revenue will remain high for this fund and the cash balance will only lower if expenses increase.
66020	02823	Professional Engineers	621,162.78	739,607.91	118,445.13	The Board of Professional Engineers' cash balance at the end of FY 24 was \$739,608, exceeding the allowable balance by \$118,445. Based on a five-year average, their annual expenses total \$296,351 and were \$303,384 for FY 24. As the board exceeded their allowed amount several years ago, they have abated biennial renewal fees 100% in FY 22 and again in FY 24. They also implemented a 25-30% fee decrease in FY 23. With continued growth the board may need to further reduce fees if revenue continues to outpace expenses.
66020	02824	Medical Examiners	2,823,101.70	6,604,495.30	3,781,393.60	The Board of Medical Examiner's cash balance of \$6,604,495 exceeded the allowable amount by \$3,781,394. The board requires \$1,243,808 to operate annually based on a five-year average. With an excess cash balance, the board abated renewal fees 100% in FY 21 and again in FY 22. The board also adopted a broad 25-30% fee decrease in FY 22 but revenue in FY 24 grew to \$2,860,826 with expenses of \$1,392,196. The board expected extraordinarily high legal costs for FY 24 due to a lengthy compliance case in which they saw an increase of 25% in legal fees. The board is abating fees for FY 25 and will continue to monitor its cash balance with concern for any final legal costs from the case. A fee decrease is necessary to bring revenues commensurate with expenses.
66020	02830	Dentistry	666,810.60	726,390.96	59,580.36	The excess cash balance for Board of Dentistry at the end of FY 24 was \$59,580. The fund exceeded the allowable limit during their renewal period in January 2023. The board requires \$321,632 to cover their annual expenses based on a five-year average. With a growing cash balance, the board adopted and noticed a 25-30% fee reduction that went into effect following their renewal period in March of 2023. It will likely take a couple of renewal cycles to bring the cash balance within the allowable limit.
66020	02854	Real Estate Appraisers	549,226.26	1,265,493.50	716,267.24	The Board of Real Estate Appraisers had a cash balance of \$1,265,494 which exceeded their allowable amount by \$716,267. The board's cash balance first exceeded the authorized limit in March of 2020. Based on a five-year average, the board requires \$256,839 to cover their annual expenses. Renewal fees were abated 100% in FY 22 and FY 24 and will be abated again in FY 25. The board has adopted a 50% fee decrease which went into effect the second half of FY 24. The new fee structure should greatly reduce revenue and bring it more in line with the board's expenses.

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66020	02859	Genetic Counselors	89,871.74	204,031.52	114,159.78	The Genetic Counselors program was established in October 2022 with fees based off a projected number of licensees and the need to create a sustainable cash balance. At the end of FY 24 Genetic Counselors cash balance exceeded their allowable amount of \$89,872 by \$114,160. Their three-year average expenses total \$21,562 and were \$25,800 in FY 24. The program will abate renewal fees 100% for FY 25 and will complete a 50% fee reduction to reduce revenue so that it is in line with expenses.
67010	02457	Veterans Affairs HB701 SSR	109,038.18	350,000.18	240,962.00	The fund is continuing to receive cash from marijuana revenue (\$200,000/year or 3% whichever is less), but no appropriation was received in the 2023 Session. There is also \$150,000 received from the cigarette tax revenue for the upcoming Columbia Falls cemetery. The agency needed the state commitment for Columbia Falls before moving forward with the application for the federal cemetery grant. MVAD has applied for the grant, but it runs on a federal fiscal year, so the agency won't know until October if application was approved. The appropriation and cash received for this are restricted so the balance will remain in the fund until the cemetery build begins.
69010	02765	Insurance Policies Fees SB278	2,859,492.72	2,913,183.98	53,691.26	The excess cash is needed to meet the intended use of the revenue per 50-19-211 MCA for the statewide genetics program and will be expended by 6/30/2025.