

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING
STATE OF MONTANA

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MEMORANDUM

TO: Amy Carlson, Legislative Fiscal Analyst
Legislative Fiscal Division

FROM: Tom Livers, Budget Director *Tom*
Office of Budget and Program Planning

DATE: September 15, 2020

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 2017 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

17-2-302, MCA Compliance Report
FY 2019

Compliance with 17-2-302, MCA				Certified Exception/Explanation		
Agency Name	Fund	Fund Name	Approp. Authority	7/1/20 Balance	Excess Cash Balance	
41100	02200	Permits and Transfer Plates	\$0	\$53,593	\$53,593	This funding is used to cover costs in administration of the Criminal Justice This excess fund balance is to be used to defray the expense of administering the program. Budget authority may be established in FY 2020 to defray expenses as available, understanding that the fund has only collected an average of \$7,917 per year.
41100	02796	MVD Real ID	\$0	\$3,158,451	\$3,153,451	The excess balance in this fund is a new revenue source as of January 2020. As such appropriation could not be established for FY 2020. Once revenue collections are known, budget authority may be established to defray expenses within the drivers licensing program as available.
41100	02945	DOJ Blood Draw MCA 61-8-402	\$303,499	\$773,902	\$470,403	Excess balance in the DOJ Blood draw fund is due to timing of lease payments and appropriated amounts provided by legislature since this is a fairly new revenue source.
52010	02171	Smith R. Corridor Enhancement	\$757,193	\$994,139	\$236,946	The fund is appropriated in both HB2 operations and HB5 LRBP. Annual funding in HB2 is \$205,000. The excess balance is the result of 1) HB5 funding is obligated to approved projects that are completed over multiple fiscal years and 2) FWP's request for additional spending authority in the 2019 session was not approved by the legislature.
52010	02273	Motorboat Fees	\$298,912	\$40,696	\$151,784	The fund is appropriated in both HB2 for operations and HB5 LRBP. Annual funding in HB2 is about \$68,000. The excess balance results from HB5 funded projects that are completed over multiple fiscal years.
57060	02010	Oil & Gas Damage Mitigation	\$480,667	\$583,880	\$103,213	This fund, established in § 82-11-161, MCA, provides funding to pay the reasonable costs of properly plugging a well and either reclaiming or restoring, or both, a drill site or other drilling or producing area damaged by oil and gas operations. The fund is capped at \$1 million and receives up to \$650,000 each biennium from the interest income of the resource indemnity trust fund. Income is received throughout the biennium with average monthly receipts of approximately \$31,500 up to July 1, 2020. The fund also receives income from the forfeiture of plugging and reclamation bonds. Oil & Gas Damage Mitigation funds are expended to plug orphaned oil, gas, or injection wells and reclaim the locations. Orphaned wells are ranked based upon environmental threat and each expenditure is approved by the Board of Oil and Gas Conservation (Board) prior to contracting. Authorization to plug 12 wells has been granted by the Board. Multiple wells will be included on contracts when possible to optimize mobilization and services and reduce contract costs. An adequate fund balance must be in place to enter into multi-well contracts. The Fiscal Year (FY) 2020 Oil & Gas Damage Mitigation account appropriation (x 2) is \$480,667 and the cash balance as of July 1, 2017, was \$583,880, resulting in an apparent excess cash balance of \$103,213, but below the statutory cap of \$1 million. Weather and crop schedules impact the timing of plugging and reclamation activities. Area closures and limited contractor availability due to the COVID-19 outbreak affected contracting and plugging operations during CY 2020. Activities have resumed, and since July 1, 2020, \$22,879.50 was expended to plug and abandon the K2 America Corporation's CBSU15-15 well located in Glacier County and approximately \$15,000 is estimated to have been used for the final restoration at three well sites located in Richland County that were plugged during CY 2019.

17-2-302, MCA Compliance Report
FY 2019

Compliance with 17-2-302, MCA				Excess Cash Balance	Certified Exception/Explanation	
Agency Name	Fund	Fund Name	Approp. Authority			
57060	02470	State Project Hydro Earnings	\$9,482,070	\$12,459,913	\$2,977,843	<p>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 2020 State Project Hydro Earnings (Hydro) account appropriation (x 2) is \$9,482,070 and the cash balance as of July 1, 2020, was \$12,459,913, resulting in an excess cash balance of \$2,977,843. The FY 2021 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.</p> <p>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. 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 Hydro 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 \$25,000,000 to \$50,000,000. Building the fund balance in the Hydro account is imperative to the necessary improvements and repairs to our high hazard structures.</p>
61010	02317	Capital Fin Adv Council Fees	\$0	\$62,636	\$62,636	<p>This was an administrative fund set up in the early 2000s related to Capital Financing and the major state stakeholders such as the Board of Examiners, the Board of Housing, the Board of Investments and the Montana Finance Authority. No expenditures have occurred since 2010. The balance will be transferred to the General Fund in FY 2021.</p>
65010	02217	Historic Preservation Grants	\$0	\$275,708	\$275,708	<p>We entered into contracts prior to fiscal year end and established accruals for the \$800,000. Once sufficient cash has built up in the account to begin making payments on those we will do so using the accrued authority. Since this is the Historic Preservation grant program established by SB 338, the first \$800,000 is committed to the Moss and Daly mansions. After that the revenue stream will be redirected to another fund.</p>
66020	02079	Fire Protection & Permitting	\$156,878	\$224,996	\$68,118	<p>The Fire Protection and Permitting's cash balance exceeded twice the annual appropriation of \$156,878 in FY 20, with an ending cash balance of \$224,996 which was in excess by \$68,118. The program has had an excess cash issue the past two fiscal years. The program needs an average of \$81,116 per year to operate. The program is currently working on a rule notice to reduce licensing fees which should result in revenue reduction of approximately \$14,000. The program abated licensing renewal fees 100% in FY 20 and will do so again in FY 21; if this is insufficient to reduce the program's cash, a further fee reduction will be considered. The Division/Department hesitates to reduce fees during the Covid pandemic as expenditures have dropped for most boards and programs and will likely go up again once the pandemic has passed.</p>
66020	02818	Electrical Board	\$1,078,237	\$1,319,638	\$241,401	<p>At the end of Fiscal Year 2020, the State Electrical Board had a cash balance of \$1,319,638.00 which is more than twice the annual appropriation of \$1,078,237.00. The amount of excess cash at FY end was \$241,401.00. The board exceeded their cash balance allowance following the FY 20 renewal period. The board will need approximately \$303,196 to operate until the next renewal cycle. The board abated fees by 50% for all license renewals for FY 21, which resulted in a decrease to revenue of \$99,384. Unfortunately, as a result of Covid 19, the board also experienced a decrease in expenses of \$56,183 over average, (less inspections, less travel, no conference costs, etc.), which resulted in cash not being lowered as much as originally anticipated pre-Covid. Inspections and travel costs should pick up once the pandemic is over, and the board can resume normal activities. If cash does not reach a normal level in a timely manner, the board will consider either a 100% abatement of license renewal fees for the FY 22 renewal cycle, or a fee reduction.</p>

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Compliance with 17-2-302, MCA				Certified Exception/Explanation	
Agency Fund Name	Fund Name	Approp. Authority	7/1/20 Balance	Excess Cash Balance	
66020	02819 Board of Realty Regulations	\$2,130,775	\$3,122,336	\$991,561	<p>The Board of Realty Regulation fund exceeded twice the annual appropriation of \$2,130,775 with an ending cash balance of \$3,122,336. Excess cash totals \$991,561. The board appears to have exceeded cash allowances during their FY 20 renewal cycle. The board averages \$711,000 in expenses annually, and will need \$180,598 approximately, to operate until completion of the next renewal cycle. The board will abate renewal fees by 80% for the FY 21 renewal period starting September 1, 2020. The Executive Officer responds that the Board will discuss other options to reduce the fund balance if the abatement does not reduce cash sufficiently. The board's expenditures for FY 20 did not reach the projected level due to Covid 19, which restricted travel, meetings, conference costs, and some contracted costs such as continuing education programs for licensees. The board anticipates these costs will resume once the pandemic has passed. The board has simultaneously seen an unexpected increase in application revenue due to an influx of Real Estate professionals to Montana from other states seeking new or transferred licensure. The board averages \$1,100,075 per year in revenue from applications and renewals. The average renewal revenue over the past five fiscal years is \$923,427. Abating the renewal fees to 20% will result in an estimated revenue of \$184,685, or a reduction of \$738,742 in FY 21. If this reduction, coupled with the increase in expenditures assumed, does not reduce cash sufficiently before the end of FY 21, the board will plan another abatement of 100% in FY 22 and will simultaneously begin a rule package to reduce fees.</p>
66020	02823 Professional Engineers	\$905,567	\$1,161,542	\$255,975	<p>The Board of Professional Engineers and Professional Land Surveyors cash balance exceeded twice their annual appropriation amount of \$905,567 in FY 20 with an ending cash balance of \$1,161,542 which was in excess by \$255,975. The board exceeded its cash allowance during June of 2020, following the completion of their renewal cycle. The next renewal cycle for the board will begin May 1, 2021, and end on June 30th, 2021. Several anticipated expenditures for the board did not occur in FY20 due to Covid 19. If the board is still in an excess cash state when they approach their next renewal cycle, the department will consider a partial or full abatement of renewal fees to bring them into compliance. The board will require approximately \$359,997 to cover costs until the next renewal cycle begins.</p>
66020	02824 Board Of Medical Examiners	\$3,803,378	\$4,009,949	\$206,571	<p>The Board of Medical Examiners cash balance exceeded twice their annual appropriation amount of \$3,803,378 in FY 20, with an ending cash balance of \$4,009,949, which was in excess by \$206,571. The board exceeded its cash allowance during March 2020, following the mid-year renewal cycle. The board is entering one of two annual renewal periods and will abate renewal fees by 100% for both the fall and spring renewal cycles. This should result in an estimated reduction of revenue between \$1.5 and \$1.6 million for FY 21. In addition, as with other boards, expenditures currently in FY 21, and in FY 20, were curtailed due to Covid 19, and it is assumed cash will be further reduced by the resumption of normal board business once the pandemic period has passed.</p>
69010	02496 Family Preservation Conference	\$14,168	\$68,285	\$54,117	<p>Fund 02496, Family Preservation Conference went over the cash limitation in June, 2017. The balance is exceeded by \$46,436. The cash amount that is needed for one year varies depending on conference needs. In prior years, the Family Preservation Conference had developed excess of funds due to getting funds from the Department of Justice to use as matching funds for the Child Advocacy Center in Great Falls. This was resolved in 2018. The additional revenue coming into the fund are from the Annual Montana Child Abuse and Neglect Conference (CAN) registration fees. As noted in the response last year, plans were made to use excess funds in FY20, however the conference had to be cancelled due to COVID-19. The conference venue and plans are in place to utilize the excess cash balance in FY2021.</p>