

**OFFICE OF THE GOVERNOR**  
**BUDGET AND PROGRAM PLANNING**  
STATE OF MONTANA

GREG GIANFORTE  
GOVERNOR



PO Box 200802  
HELENA, MONTANA 59620-0802

**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, 2021

**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						
Agency Name	Fund	Fund Name	Approp Authority	7/1/20 Balance	Excess Cash Balance	Certified Exception/Explanation
41100	02016	Criminal Justice Info Network	\$1,227,707	\$1,715,827	\$488,121	The excess balance in the Criminal Justice Information Network Fund (Fund 02016) of \$488,121 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	02200	Permits and Transfer Plates	\$0	\$59,041	\$59,041	The excess balance in the Permits and Transfer Plate Fund (Fund 02200) of \$59,041 per 61-4-301, MCA, is to be used to defray the expense of administering the program. Budget authority is not established in FY 2022 to defray expenses. If expenses are identified in FY 2022, authority will be prioritized. The annual revenue collection in this fund of roughly \$7,917 per year which limits its capacity.
41100	02768	Domestic Violence Intervention	\$337,248	\$356,552	\$19,304	The purpose of the fund is to provide grants to communities for misdemeanor probation officers or compliance officers to monitor compliance with sentencing requirements for offender convicted of the offense of partner or family member assault 45-5-206, offense of strangulation of partner or family member 45-5-215, or violation of an order of protection 45-5-626. Per 17-2-302(2) The following information is provided regarding excess cash of fund 02768. <ul style="list-style-type: none"> <li>• Date which balance exceeded the limitation: on or around May 21, 2021</li> <li>• Amount by which the balance is exceeded: \$19,304.32</li> <li>• Amount usually needed for one year: \$127,635 (FY 22 Authority)</li> <li>• The excess amount id because of a fluctuation of service in the FY 20 grant award year.</li> <li>• The excess amount is necessary for continued grant programs being provided to communities around the State for the DVI program. There was a fluctuation of service (grants awarded) during FY20 when MBCC only received one qualifying award and distributed \$61,649 against the authority of \$122,203 for that FY. In FY 21 MBCC Distributed \$117,878 in grants. FY22 grants have been awarded in the amount of \$120,000 of \$127,635. Disbursements should be requested by October 10, 2021 which is the first reporting period for awardees that began July 1, 2021.</li> </ul>
41100	02945	DOJ Blood draw MCA 61-8-402	\$565,668	\$899,039	\$333,371	The excess balance in the DOJ Blood draw (Fund 02945) of \$333,371 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	02330	Parks Snomo Fuel Tax Sfty/Educ	\$196,772	\$316,631	\$119,859	Date on which the balance exceeded the limitation: <ul style="list-style-type: none"> <li>•The FYE20 fund balance was \$308,127. FY21 revenues were \$77,891 and FY21 expenditures were \$55,547. The FYE21 fund balance is \$330,471.</li> </ul> <p>Amount on which the balance was exceeded:</p> <ul style="list-style-type: none"> <li>•Excess fund balance is \$242,263.</li> </ul> <p>Amount usually needed for one year:</p> <ul style="list-style-type: none"> <li>•This revenue comes from a portion of the gas tax allocation dedicated to snowmobile safety programs.</li> </ul> <p>Reason for excess:</p> <ul style="list-style-type: none"> <li>•The safety and education trainings for local areas were impacted by the restrictions on group meetings and size in FY 2020 and 2021. The restrictions have been lifted and we anticipate the trainings to resume and return to normal levels in FY22 and beyond.</li> </ul>
53010	02565	LUST Cost Recovery	\$1,656,352	\$2,387,664	\$731,311	During FY 2021 the Department of Environmental Quality's (DEQ) fund 02565 exceeded the allowable cash balance for six days. Following are related details: <ul style="list-style-type: none"> <li>*The cash balances in fund 02565 Leaking Underground Storage Tank (LUST) Cost Recovery exceeded the limitation on June 28th, 2021.</li> <li>*The limitation was exceeded by \$690,124.25.</li> <li>*Based on a five-year average, annual spending is approximately \$183,000. However, spending in those five years ranged from \$132,000 to \$321,000.</li> <li>*The U.S. Environmental Protection Agency (EPA) urges DEQ to cost recover LUST grant spending, where appropriate, from responsible parties. Many times, the parties do not have the ability to pay and are not eligible for reimbursement from the Petroleum Tank Release Compensation Fund.</li> <li>*Unusual circumstances led to the excess cash during FY 2021. The Legislature had approved HB 5 with a transfer to DEQ for Leaking Petroleum Tank Remediation. In trying to be proactive, DEQ requested a new fund number to record these transactions in but requested the start date of the fund for FY 2022. Unfortunately, the Department of Administration decided to transfer the \$1,875,000 during FY 2021 rather than FY 2022. Since the fund had a start date of FY 2022, the transaction would not process through SABHRS for FY 2021 in the new fund 02385. DEQ selected fund 02565 to deposit the transferred funds into for FY 2021 due to the similar nature of the fund and transactions. After FY 2022 began, we were able to transfer the funds from 02565 to 02385. The fund only exceeded twice the appropriation from June 28, 2021, through July 5, 2021.</li> </ul>

**17-2-302, MCA Compliance Report  
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Compliance with 17-2-302, MCA						
Agency Name	Fund	Fund Name	Approp Authority	7/1/20 Balance	Excess Cash Balance	Certified Exception/Explanation
54010	02287	Aeronautical Grant Account	\$1,899,576	\$2,789,447	\$889,872	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 HB661 made it difficult for the timing of grant applications for FY20. Then, when many of the airports would have received grants from fund 02287 in FY21, 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. The hope is that this fund will develop a more normal distribution pattern in the coming years.
57060	02010	Oil & Gas Damage Mitigation	\$389,024	\$540,717	\$151,693	<p>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 first year of the biennium with average monthly receipts of approximately \$31,500. The fund also receives income from the forfeiture of plugging and reclamation bonds. Oil &amp; 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. Multiple wells will be included on contracts when possible to optimize mobilization and services and reduce contract costs. An adequate und balance must be in place to utilize multi-well contracts. The Fiscal Year (FY) 2021 Oil &amp; Gas Damage Mitigation account appropriation (x 2) is \$389,024 and the cash balance as of July 1, 2021, was reported to be \$540,717. However, on May 24, 2021 a contract in the amount of \$532,782 was approved that resulted in an actual balance of \$7,935 as of July 1, 2021. Weather and crop schedules impact the timing of plugging and reclamation activities. Since July 1, 2020, \$185,488 was expended. Of this amount, \$22,879 was expended to plug and abandon the K2 America Corporation's CBSU15-15 well located in Glacier County, \$55,480 was expended for final restoration of three Alturas well sites located in Richland County that 2 were plugged during CY 2019, and \$107,129 was used for emergency well cleanup of Kelly Oil and Gas Stensvad 2X-25 well in Musselshell County, Montana. A contract is in place and work is underway to plug and abandon the following wells:</p> <p>County Operator Well Name Estimated Cost  Richland Alturas Energy Bass Marker 20-33 \$112,598  Richland Mountain Pacific General Pruet-BNRR 29-1 \$97,734  Musselshell Union Town Energy Little Montana 1 \$85,805  Musselshell Kelly Oil and Gas Dybvik KV 1 \$85,320  Valley Wind River Hydrocarbons Cornwell 1-14 \$85,115  Glacier K2 America Corp. CBSU 10-11 \$64,910  Unforeseeable Expenses \$1,300  Total: \$532,782</p> <p>Another contract is in the final stages of execution for the following well:  County Operator Well Name Estimated Cost Richland TOI Operating MT Ag. Sta. 28-41 \$61,000  An adequate account balance or reserve is necessary to respond to unexpected project costs and emergencies.</p>
62010	02132	GTA Seed Capital Account	\$224,584	\$240,967	\$16,383	Agency response forthcoming.
66020	02079	Fire Protection & Permitting	\$166,713	\$222,213	\$55,500	At the end of Fiscal Year 2021, the Fire Protection License Program had a cash balance of \$222,213, which was \$55,500 in excess of the allowed balance. The program exceeded the allowed cash balance the end of June 2020. The program requires a minimum of \$61,000 annually to cover expenses based on a five-year history. In attempting to lower the cash balance, the department abated renewal fees for the program 100% in FY 21, and will do so again, in FY 22. The department has also noticed and adopted a fee reduction of most fees, and a repeal of two fees, which will affect the program's renewal income in FY 23, thus reducing excess cash further. The program had a reduction in personal service costs due to the abatement of renewal fees, and an overall reduction in expenses over the past two years likely due to the pandemic.
66020	02448	Building Codes State Spec Rev	\$8,775,257	\$9,641,007	\$865,751	The Building Codes Bureau ended FY 21 with a cash balance of \$9,641,007 which was \$865,750 in excess of the allowable limit. The Building Codes Program requires an estimated \$4,400,000 annually to operate based on five-year history. The program is in the process of preparing a rule notice to adopt current national building codes and as part of that process will be noticing a fee reduction for some permitting and fees. The goal is to have the fee reduction in place by February 2022. The cash for the bureau has steadily climbed during the pandemic due to a decrease in travel expenses for inspectors while an increase has been seen in the construction industry and other industries which require permitting.

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Agency Name	Fund	Fund Name	Approp Authority	7/1/20 Balance	Excess Cash Balance	Certified Exception/Explanation
66020	02809	Board Of Speech Pathologists	\$198,423	\$280,506	\$82,083	The Board of Speech Language Pathology and Audiology cash balance of \$280,506 the end of FY 21 exceeded the cash limit allowed in their fund by \$82,083. The board requires an estimated \$78,500 to operate annually based on a five-year history. Expenses for the board dropped to almost half in FY 21, likely due to decreased activity due to the pandemic. The board enacted a fee increase several years ago to correct a cash shortage, and this year will begin review to reduce fees by FY 23 with a 50% fee reduction of most application and renewals fees. In addition, the board will abate renewal fees 100% in FY 22.
66020	02818	Electrical Board	\$987,214	\$1,365,590	\$378,376	At the end of Fiscal Year 2021, the State Electrical Board had a cash balance of \$1,365,589.66, which was \$378,375 over the allowable limit. The board exceeded the allowable limit in August 2020, following the close of the renewal period. The board abated renewal fees in FY 21 by 50% and will abate renewal fees in the next renewal cycle by 100%. The board has a biennial renewal cycle. Division fiscal staff are working with the EO for the board to notice a fee reduction of 50% for most application and renewal fees to be in place by FY 23. The board requires approximately \$390,000 annually to operate based on a five-year history. 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 states 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	02819	Board of Realty Regulations	\$2,096,952	\$3,075,887	\$978,936	The Board of Realty Regulation had a cash balance of \$3,075,887 the end of Fiscal Year 21, which was \$978,935 over the allowable limit. The excess cash occurred in July 2020, the beginning of the fiscal year. The board requires an estimated \$711,000 to operate based on a five-year history of expenditures. The board did a partial fee abatement for license renewals in FY 21 and will do a 100% renewal fee abatement in FY 22. In addition, the board will notice a fee decrease of approximately 50% for most applications and license renewal fees to be in place by 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. Expenses have decreased due to less travel, less frequent board meetings, lower compliance costs, and a reduction in the continuing education offerings the board used to participate in (these are now conducted by private vendors for the most part).
66020	02823	Professional Engineers	\$1,027,594	\$1,172,634	\$145,039	The Board of Professional Engineers and Land Surveyors exceeded the allowable cash by \$145,039 in July of 2020, at the end of Fiscal Year 20, with a cash balance of \$1,172,633. The board requires approximately \$345,000 per year to operate. The board will abate fees 100% in the FY 22 renewal cycle and work is in progress to notice a fee reduction for most application and renewal fees by 50%, to be in place by FY 23. The board has seen a consistent, slow increase, to revenue in the past five years, while expenses have been steady.
66020	02824	Board Of Medical Examiners	\$3,514,002	\$3,700,310	\$186,307	The Board of Medical Examiners cash balance of \$3,700,309 exceeded twice their annual appropriation in FY 21 by \$186,307. The board requires \$1,575,000 to operate annually. Renewal fees were abated 100% in FY 21 and will be abated 100% again, in FY 22. The board is working on noticing a fee decrease to most fees of 25% which should be in place by FY 23. 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	02949	Earn Grant	\$0	\$45,000	\$45,000	The EARN Grant was awarded through a Limited Solicitation. The contracts were signed on June 30th and the funds were accrued at the end of FY 2021. The contracts were paid on September 1st and the cash balance is now zero.
69010	02496	Family Preservation Conference	\$14,166	\$76,202	\$62,036	Fund 02496, Family Preservation Conference went over the cash limitation in June, 2017. The balance is currently exceeded by \$62,036, largely due to unusual circumstances. The cash amount that is needed for one year varies depending on conference needs. 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. In FY21, the conference was again held virtually in April 2021 due to COVID-19 concerns. The division has been anticipating holding an in-person conference in 2022, however with the Delta variant becoming prevalent, the format (in-person or virtual) of the 2022 conference is undecided at the present time.