



THE STATE
of ALASKA
GOVERNOR MICHAEL J. DUNLEAVY

Office of the Governor

OFFICE OF MANAGEMENT AND BUDGET
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July 12, 2019

The Honorable Natasha von Imhof
Co-Chair, Senate Finance Committee
Alaska State Legislature
State Capitol, Room 516
Juneau, AK 99801-1182

The Honorable Bert Stedman
Co-Chair, Senate Finance Committee
Alaska State Legislature
State Capitol, Room 518
Juneau, AK 99801-1182

The Honorable Neal Foster
Co-Chair, House Finance Committee
Alaska State Legislature
State Capitol, Room 505
Juneau, AK 99801-1182

The Honorable Jennifer Johnston
Vice Chair, House Finance Committee
Alaska State Legislature
State Capitol, Room 501
Juneau, AK 99801-1182

Dear Co-Chairs and Vice Chair of the House and Senate Finance Committees,

As you are aware, the Legislature was unable to achieve a three-fourths vote to reverse the sweep of money in the general fund and sub-funds of the general fund available for appropriation at the end of each fiscal year, into the Constitutional Budget Reserve Fund (CBRF). This requirement is found under Article IX, Section 17(d) of the Alaska Constitution. As a result, the staff of the Office of Management and Budget, the Division of Finance, and the Department of Law went through the arduous process of establishing a framework and guidelines to be applied to every single fund to determine whether the fund is subject to the constitutional sweep. Hundreds of hours of staff time were spent making these determinations. The Governor was not involved in this process; no political influence took place when making these determinations.

The CBRF was established by constitutional amendment in 1990 in Article IX, Section 17 of the Alaska Constitution. There are four subsections to this constitutional amendment:

- (a) Revenue into the CBRF – money received from the termination of administrative and judicial proceedings involving mineral revenues is deposited into the CBRF;
- (b) Expenditures from the CBRF by majority vote – only if “the amount available for appropriation for a fiscal year is less than the amount appropriated for the previous fiscal year” *and* the appropriation is limited to the amount necessary to make total appropriations equal to the amount appropriated in the previous year;
- (c) Expenditures from the CBRF by a three-fourths vote of the members of each house – the Legislature can appropriate from the fund for any public purpose if such a supermajority vote is obtained;
- (d) **Repayment requirement – “If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for**

appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund. The legislature shall implement this subsection by law."

The language of Article IX, Section 17(d) guided the framework for establishing the criteria used to evaluate each fund. The following guidelines were used to evaluate each fund:

- All financial assets outside of the permanent fund and the constitutional budget reserve are considered to be part of the general fund, not simply the accounts and funds managed directly by the Division of Finance and Treasury.
- Funds for which the legislature has retained the power to appropriate from and that are not available to pay expenditures without further legislative appropriation are subject to the sweep unless a constitutionally dedicated fund or not in the general fund;
- Funds that list purposes for which money in the fund can be used but still require a second appropriation to spend from the fund are subject to the sweep unless a constitutionally dedicated fund or not in the general fund;
- Money in funds that is already validly appropriated to a particular purpose are not subject to the sweep;
- Federal funds are not subject to the sweep;
- Other trust funds such as the Public Employees Retirement Fund that can only be used for a specific stated purpose under law such as constitutionally permissible dedicated funds and pension funds are not subject to the sweep;
- Donations - the portion of a fund that comprises money donated to a fund for a particular purpose should not be included in the sweep;
- Public corporation accounts/funds are not subject to the sweep *unless* the money is in an account or fund that cannot be accessed by the corporation without an additional legislative appropriation (e.g. the Power Cost Equalization Endowment fund);
- Receipts subject to refund (e.g. Alaska Marine Highway, University tuition or student housing) are not subject to the sweep.

Attached, please find the finalized list with the determination on what funds will sweep to the CBRF and what monies will remain in the fund in which they currently reside. The effective date of the sweep is June 30, 2019; however, the deposit of swept funds into the CBRF will not take place until late August-early September timeframe to allow for the close out of FY2019 expenditures.

Please do not hesitate to contact the Office of Management and Budget should you or your staff have any questions.

Sincerely,



Donna Arduin
Director

Co-Chairs and Vice Chair of the House and Senate Finance Committees

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Enclosure

1. Funds Subject to Sweep

cc. Honorable Cathy Giessel, President, Alaska State Senate
Honorable Bryce Edgmon, Speaker, House of Representatives
Honorable Kevin Clarkson, Attorney General, Department of Law
Mr. David Teal, Director, Legislative Finance Division
Ms. Suzanne Cunningham, Director, Governor's Legislative Office
Mr. Hans Zigmund, Director, Division of Finance