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**State of Vermont  
Office of the Secretary of State**

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**Sarah Copeland Hanzas, Secretary of State  
S. Lauren Hibbert, Deputy Secretary**

January 26, 2023

Hon. Emilie Kornheiser, Chair  
House Committee on Ways and Means  
Vermont State House  
115 State Street, Room 45  
Montpelier, VT 05633-5301

RE: Vermont Secretary of State  
Funds, Fees

Dear Madame Chair and Committee Members,

Enclosed for your information and review is our written testimony regarding the abovementioned matter.

Our goal with today's testimony is to provide the committee with an introduction and overview of how our office funds itself, the Special Funds we utilize, and the fee structure for various divisions. We look forward to coming back before the committee in the very near future with a more detailed proposal regarding fees and any increases we recommend.

Please do not hesitate to contact us with additional questions in the wake of our testimony today and we look forward to our continued work together.

Sincerely,

S. Lauren Hibbert



Vermont Secretary of State's Office; Office of Professional Regulation

# Secretary of State Special Funds

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The Secretary of State's Office operates almost entirely through Special Fund revenue. For FY'23 our total budget is \$17.7 million.

- Our main sources of funding are:
  - Secretary of State Services Fund (21928); and,
  - Professional Regulatory Fee Fund (21150).
- We also receive grant funds through the EAC (U.S. Election Assistance Commission) under the Help America Vote Act (HAVA) Federal HAVA program which funds a portion of our election work.

# Secretary of State Services Fund (21928)

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The Secretary of State Services Fund was created by 3 V.S.A. § 118.

This fund receives revenue from all of the business filings of the Corporations Division and the revenues received from reference research activities and authentication fees collected by VSARA. These revenues have averaged \$7.9M over the past five years. These revenues fund the general operation, staff costs, and all operating expenditures, of the following divisions within the Secretary of State's Office:

- Elections Division (not eligible for grant funding),
- Administration,
- VSARA,
- Business Services (Corporations), and
- Information Technology. In comparison, expenditures during that same five-year time period averaged approximately \$5.3M.

Historically Finance and Management has swept 1.5 to 2 million per year.

This fund is currently stable. However, we requested that the Administration not sweep the traditional amount into the General Fund. We are at the beginning stages of two planned large IT projects that will require additional funds, closing the gap between revenues and expenditures. In addition to that, there will be ongoing maintenance and support charges associated with these systems. We are also cognizant that staff costs are projected to increase year after year and without additional revenue being generated, this fund will soon not be able to sustain itself on an annual basis.

# Secretary of State Services Fund (21928)

## Fee Adjustments

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- We are currently reviewing the fee structure for Corporations' filings.
- We are reviewing when the fees were last updated, and the fees in surrounding states.
- We plan to make recommendations to this committee when we next testify on our funds.
- Our fee amounts are being compared against other New England states and/or states with similar filing volumes.
- Any recommendations for fee increases would be limited to items where we fall below the median in the New England states.

# Professional Regulatory Fee Fund (21150)

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The Professional Regulatory Fee Fund is created under 3 V.S.A. § 124.

The revenues in this fund are received through licensing fees (applications and renewals) for the 81,000 licensees under the Office of Professional Regulation's umbrella. The revenues received into this fund are solely for the purpose of supporting the activities of OPR, including staff costs and all operating expenditures. Revenues deposited into this fund have averaged \$6.1M over the past five years. In comparison, expenditures from this fund for that same five-year period have averaged \$7.3M over the same time period.

In 2017, this fund had a surplus in it. Work began on the Next Generation Licensing Platform (NGLP). The Office did not ask for an IT allocation because it was assumed that the surplus in this fund would be adequate to cover the costs of building this system. We have learned that this most definitely was not the case. Work, and expenditures, related to this project continue still today. We are getting closer to the finish line but there is still work to do.

Removing the work of the contractor on the NGLP system, expenditures from the Regulatory Fee Fund are essentially flat with revenues. Again, however, staff costs do not go down and the costs associated with maintenance and support of the system will be ongoing as well. The fees currently set for the professions that OPR licenses will not be adequate to support their operations over the long term.

# OPR's Budget Allocation to Professions

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## OPR regulates professions in two different models:

1. **The Board Model:** In this model, the licensing funds are siloed and can only be used to support the profession
2. **The Advisor Model:** In this model, the licensing funds are pooled between professions and are used to support those professions.

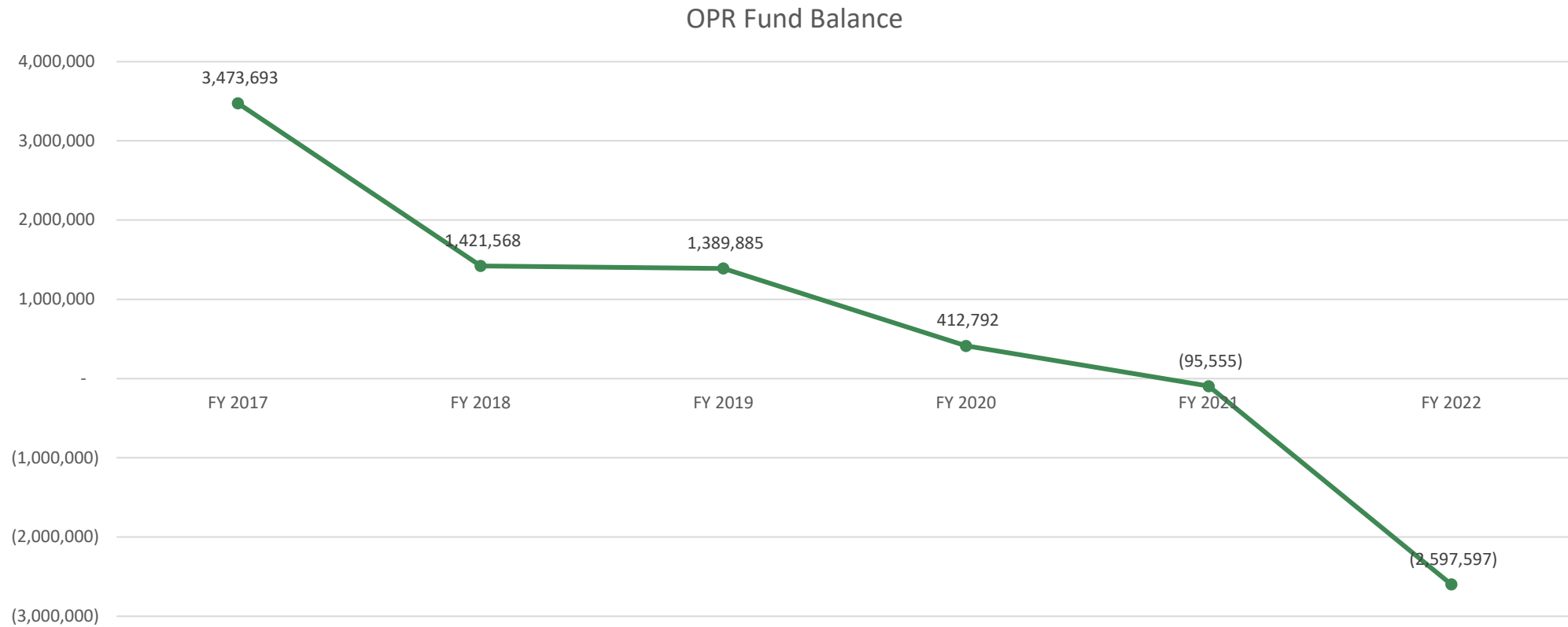
## OPR has two types of expenses:

- **Direct Expenses:** include per diems & Enforcement costs. These expenses are directly billed to professions.
- **Indirect Expenses:** include staff, administrative law officers, rent, dues office supplies, dues, and IT systems. These expenses are allocated to the profession based on the number of licensees the profession has.

<sup>1</sup>[3 V.S.A. § 124\(a\)](#) A licensing fee reflects the cost of regulating that one profession; cost of regulating a profession should be borne by the profession; one profession should not subsidize the cost of regulating another profession.

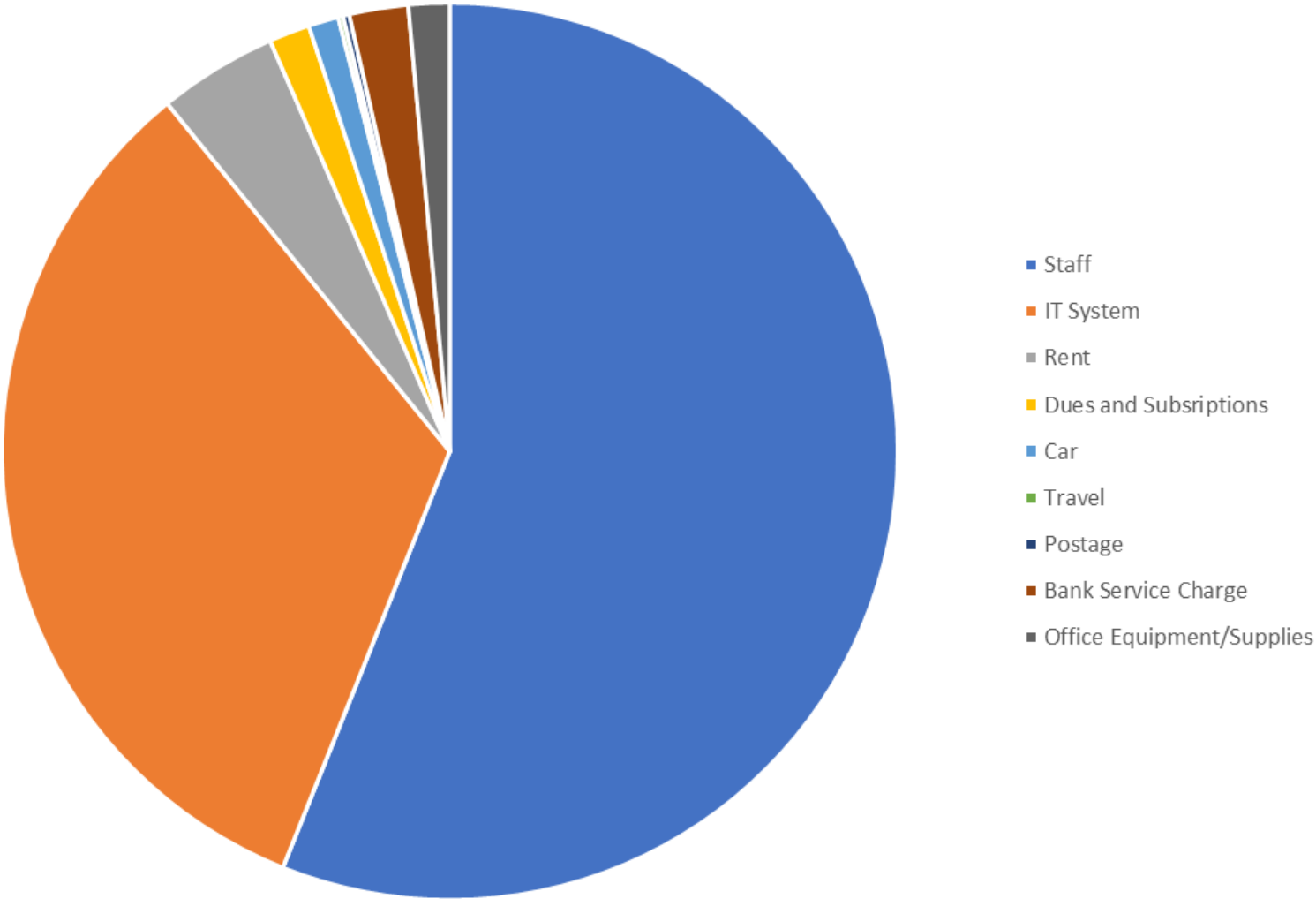
# Snapshot of the OPR Fund Balance

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Expenses: OPR's largest expenses are Staff, IT, and Rent



# Costs are Increasing



## COVID-19 and unfunded mandates

- We did receive a one-time 1.35 M allocation to help offset these costs, but they do not fully cover the loss of licensees and the IT spend.



## Rising Regulatory Demands

- Reducing regulatory barriers and process improvement to meet consumer demands lead to increased IT costs



## Expenses

- Costs are increasing- the largest cost drivers are staff, IT, and rent; inflation is a factor

# Fee updates have been irregular

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- Ideally, fees would be updated on a regular cycle and be tied to:
  - Fund Balance
  - Inflation
- Most fees have not been updated since 2019, pre-COVID
  - Prior significant updates occurred in 1997, 2006 and 2017

\$100	Value of \$100 in 2022
1997	\$184
2006	\$147
2017	\$120
2019	\$115

# Fee Adjustment Discussion

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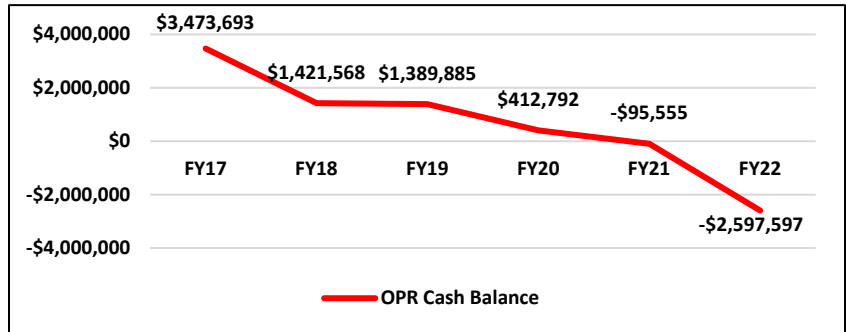
## Guiding Principles

- Adjust renewal and application fees to reasonably correct for inflation and stabilize fund balance (by profession)
- Sensitive approach for health care professions
- Align license types where possible



**Office of Professional Regulation  
Secretary of State**

**Summary:** OPR is a special fund agency where revenue from licensing fees funds its operation. OPR has historically maintained a positive cash flow, however, balances became negative in FY21. Contributing factors include an IT project that is over budget, COVID-19 initiatives and unfunded mandates, inconsistent fee adjustments, and the rising cost of regulatory demands, including nurse discipline. OPR is concerned about the impact of necessary fee adjustments on licensees, specifically healthcare licensees.



**Background**

**COVID-19 initiatives:** OPR implemented several programs to increase access to healthcare while minimizing the financial burden to licensees during COVID-19. OPR also allocated considerable staff resources to coordinating with state partners for the reopening of businesses, specifically close contact services, and vaccination initiatives. OPR did not receive any outside funding for these services and does not charge licensees for the programs.<sup>1</sup>

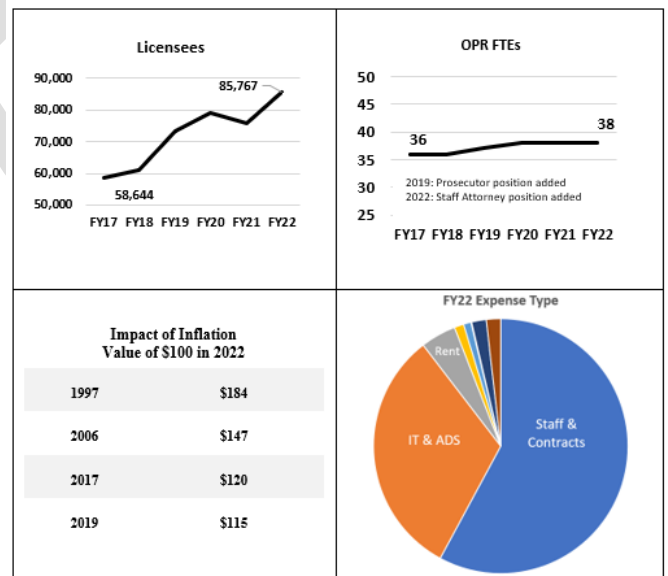
**Unfunded Mandates:** A licensing fee reflects the cost of regulating that one profession (3 V.S.A. § 124(a)).<sup>2</sup> As Vermont works to reduce licensing barriers across the board, several new programs that are not profession-specific cannot be charged back to a single profession and must instead be absorbed by the cash balance. Therefore, innovative systemwide programs like fast-track endorsement and second chance determination are considered unfunded mandates. The Office also conducts Sunrise Reports about professions where we have not received any funds and may never receive funds. The cost of those reports is currently shifted to licensed professions.

**Rising Regulatory and Demands:** Better and necessary operations have come at a cost. Paper-based processes are not efficient, and IT is expensive. New and necessary regulations are more challenging to enforce and nurse discipline has increased in both volume and complexity.<sup>3</sup> OPR has paid for these improvements and increased volume/complexity through its cash balance.

**Fee Adjustment History:** Fees have not kept up with inflation. Some fees were last adjusted in 2019 and prior increases occurred in 2017, 2006, and 1997. OPR’s goal is to move away from intermittent/reactionary adjustments and towards routine proposals tied to inflation and the actual cost of regulation. However, in the meantime, fees have not kept up with inflation.

**Outside Funds:** OPR does not normally receive outside funds, however twice in the last 5 years OPR has received outside funds: a grant from the federal Department of Labor and a one-time allocation from the General Assembly. These new revenue sources represent a shift in how systemwide projects at OPR can be funded.

**Expenses:** As the cost of regulation increases, OPR has identified its largest cost drivers (staff, IT, and rent) and continues to look for ways to decrease expenses while maintaining operations. OPR has eliminated positions through attrition, delayed hiring for new positions, downsized its IT contract, and is working with BGS to address expensive overhead.



<sup>1</sup> E.g. EMGY, temporary and retiree credentials; emergency guidance for close contact health care providers (dental, veterinary, pharmacy, and mental health).  
<sup>2</sup> 3 V.S.A. § 124(a), cost of regulating a profession should be borne by the profession; one profession should not subsidize the cost of regulating another profession.  
<sup>3</sup> E.g. massage therapy requires complex investigations into human trafficking and coordination with partner law enforcement agencies; prosecution of chain pharmacies requires an unprecedented amount of investigation and prosecutorial resources; as the nurse workforce struggles to keep up with rising healthcare demands, unintentional and deliberate incidents of unprofessional conduct have increased.