

LEGISLATIVE AUDIT COMMITTEE

MINUTES SUMMARY

March 1-2, 2010

Please note: These are summary minutes. The minutes are also accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Audit Division homepage at http://www.leg.mt.gov/audit/meeting_info.asp.

*To view the minutes, locate the meeting date and click on **Minutes**. To hear the audio recording, click on the date link at **Listen**. Note: You must have Real Player installed to listen to the audio recording.*

<u>Members Present/Absent</u>	3/1	3/2
Sen. Greg Barkus	A	A
Sen. John Brenden	P	P
Rep. Dee Brown	P	P
Sen. Taylor Brown	P	P
Sen. Mike Cooney	P	P
Rep. Betsy Hands	P	P
Sen. Cliff Larsen	P	P
Rep. Scott Mendenhall	P	P
Rep. Carolyn Pease-Lopez	P	P
Rep. Wayne Stahl	P	P
Sen. Mitch Tropila	P	P
Rep. Bill Wilson	A	P

P= present, A=absent

Staff Present

Tori Hunthausen, Legislative Auditor
Jim Gillett, Deputy Legislative Auditor
Angie Grove, Deputy Legislative Auditor
Monica Huyg, Legal Counsel
Becky Buckmaster, Administrative Support Manager

March 1, 2010

The Legislative Audit Committee met, March 1 and 2, 2010, in Room 172 of the State Capitol. Chairman, Senator Mitch Tropila called the meeting to order at 1:00 p.m., noting the presence of a quorum.

Minutes Approval – November 9, 2009 Minutes were approved. Motion by Rep. Mendenhall; **motion carried**. The minutes were signed by Rep. Bill Wilson, Committee Secretary.

The Committee requested a follow-up by the Director of DPHHS at the next meeting of the Legislative Audit Committee on CHIP program improvement of 12.6 % ineligibility (pg 3, Nov. 2009 minutes).

AUDIT REPORTS

STATE OF MONTANA, FINANCIAL AUDIT (08-01B)

00:02:40 **Report presented by:** Cindy Jorgenson, Financial-Compliance Audit Manager

Present from the agency: Mark Bruno, Lead Budget Analyst, Governor’s Office of Budget & Program Planning
Janet Kelly, Director, Department of Administration
Paul Christofferson, Administrator, State Accounting Division
Julie Feldman, Bureau Chief, Accounting Principles/Financial Reporting Section

00:25:24 **Agency response presented by:** Janet Kelly, Director, Dept. of Administration

00:22:10 **Concerns/Discussion topics:** Federal excess personal property (pg B-149) & Cooperative Forestry Assistance award of firefighting equipment; Current litigations with state of MT (pg B102), Mr. Christofferson explained the litigations could have a liability in the future, but have not met the threshold of recording as a liability; budget trending before 2011 legislature meets; distribution of remediation money by Dept. of Justice for mining activities in Butte and Anaconda; DOJ was the entity which initiated the litigation against Atlantic-Richfield, all funds settlement moneys came directly to the state by DOJ and DEQ and reside on the states primary accounting system in separate funds; disposition of funds set aside for potential lawsuit litigation

Handouts: None

Committee requests: The auditor was requested to find out the amount of litigation funds and the disposition of funds after time limit.

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Rep. Hands; **motion carried.**

MONTANA SINGLE AUDIT REPORT, FEDERAL SINGLE AUDIT (08-02)

00:38:08 **Report presented by:** Jenny Erdahl, Financial-Compliance Audit Manager

Present from the agency: Mark Bruno, Lead Budget Analyst, Governor’s Office of Budget & Program Planning

00:48:39 **Agency response presented by:** Mark Bruno, State Single Audit Coordinator

00:46:40 **Concerns/Discussion topics:** Repeat findings for fiscal year 2008 and 2009; \$93 million ARRA moneys—the percentage spent/will be spent by and in 2011—Mr. Bruno will run a SABHRS report for the fall audit committee meeting showing the ARRA appropriations

Handouts: None

Committee requests: The auditor was requested to provide a follow-up on how many of fiscal year 2008 and 2009 single audit findings were repeat findings (provided to Committee 3/4/10, att. #3)

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Rep. Dee Brown; **motion carried.**

STATE PRINTING OF PUBLIC DOCUMENTS, PUBLISHING POLICY COMMITTEE, PERFORMANCE AUDIT (09P-14)

00:55:27 **Report presented by:** Kori Minckler, Performance Auditor

Present from the agency: Janet R. Kelly, Director, Dept. of Administration
Marvin Eicholtz, Administrator, General Services Div.
Leona Olsen, Bureau Chief, Print & Mail Services Bureau

01:01:56 **Agency response presented by:** Janet R. Kelly, Director

01:00:32 **Concerns/Discussion topics:** Publishing Policy Committee required in statute so legislation is needed to rescind the law and redirect responsibility for oversight; print shops and contract printers need clarification on who is responsible for cost disclosure oversight; statute states which documents are exempt and which required, the audit examined 50 different publications from five agencies which were not exempt, educational materials published by a unit of the Montana University System or Office of Public Instruction are exempt; December 31, 2011 target date for implementing the audit recommendations depending on effective date following legislative session; Publishing Committee confident proposed legislation will have support of the legislature as it is seeking clarification and is easier for agencies to comply with cost disclosure and offers a better understanding of who is responsible for printing and printing control

Handouts: None

Committee requests: None

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Cooney; **motion carried.**

01:15:18 **OTHER BUSINESS:** Monica Huyg, Legal Counsel, stated that the Legislative Auditor evaluation and reappointment process has begun and she has met with Chairman Tropila and Vice Chair Brown regarding the process. Auditor evaluation forms have been distributed to each member, which need to be filled out and returned to either Monica or Kelly DaSilva, Legislative Branch, Human Resource Manager before the Committee members leave for the week.

STATE VEHICLE FLEET MANAGEMENT UPDATE

01:17:03 Jim Lynch, Director, Dept. of Transportation

Agile Assets system has been installed statewide; MDT and FWP currently using the system which allows monitoring vehicles from one primary source; all executive branch agencies have joined the software program and have their vehicles into the system; program is set up so other agencies outside executive branch can also do so; cost is approximately \$1200 per license, with 16 licenses purchased at this time

Handouts: State of MT vehicles owned by agencies, not in motor pool (1); motor pool fleet, includes nonexecutive branch (2); MDT Fleet (3); system inventory fields (4)
(exhibits #1, 2, 3, 4)

01:25:50 **Committee Discussion:** state owned cars vs. reimburse employees for personal car use; system will show exact utilization; state fleet affected by recent Toyota recalls (of the state's 106 Toyota hybrids, 86 affected by recall and fixed); system easy to use, new hires should not be necessary to use the software; system could help controls for misuse of state credit cards for fuel purchases

MSU-BOZEMAN, BANNER: ADMINISTRATIVE SERVICES SYSTEM, INFORMATION SYSTEMS AUDIT (09DP-07)

01:47:22 **Report presented by:** Dale Stout, Information Systems Senior Auditor

Present from the agency: Craig Roloff, Vice President, Administration & Finance
Laura Humberger, Assistant Vice President, Administration & Finance
Daniel Adams, Director, Internal Audit
Mary Ellen Baukol, Associate Dean, Administration & Finance

01:55:02 **Agency response presented by:** Craig Roloff

01:51:33 **Concerns/Discussion topics:** Banner audit finding of excessive access and segregated duties not recurring from previous audit; timeframe and training for control of Banner access and use; monitoring of verification flags will be strengthened; history of audits of security systems and fluidity of system situations over 27 years of security audits

Handouts: None

Committee requests: None

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Rep. Brown; **motion carried.**

MONTANA STATE UNIVERSITY, FINANCIAL AUDIT (09-11A)

02:02:54 **Report presented by:** Vickie Rauser, Financial-Compliance Audit Manager. Ms. Rauser noted corrections to audit Appointed and Administrative Officials, page iii in the report, at Montana State University-Northern: Frank Trocki, Chancellor; Joseph Callahan, Provost and Vice Chancellor for Academic Affairs.

Present from the agency: Craig Roloff, Vice President, Administration & Finance
Laura Humberger, Assistant Vice President, Administration & Finance
Daniel Adams, Director, Internal Audit
Mary Ellen Baukol, Associate Dean, Administration & Finance

02:05:25 **Agency response presented by:** Laura Humberger

02:06:05 **Concerns/Discussion topics:** U.S. Census projections of decreased number of high-school graduates in Montana and MSU plans to address the projected decline of that age group—although MSU seeing an increase in enrollment the university is keeping that in mind, looking at out of state enrollment to replace long-term, what might be going down in-state

Handouts: None

Committee requests: None

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Rep. Mendenhall; **motion carried.**

UM-MISSOULA, BANNER: ADMINISTRATIVE SERVICES SYSTEM, INFORMATION SYSTEMS AUDIT (09DP-08)

02:09:00 **Report presented by:** Dale Stout, Information Systems Senior Auditor

Present from the agency: Bob Durringer, Vice President, Administration & Finance
Mark Pullium, Director, Business Services
Dan Jenko, Assistant Director, Business Services
Kathy Burgmeier, Director, Internal Audit

02:14:38 **Agency response presented by:** Bob Durringer

02:12:32 **Concerns/Discussion topics:** audit testing for risk of hackers to student information; UM plans in place to address U.S. Census projected declining enrollment

Handouts: None

Committee requests: None

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Cooney; **motion carried.**

THE UNIVERSITY OF MONTANA, FINANCIAL AUDIT (09-10A)

02:17:22 **Report presented by:** Pearl Allen, Financial-Compliance Audit Manager

Present from the agency: Robert Durringer, Vice President, Administration & Finance
Mark Pullium, Director, Business Services
Dan Jenko, Assistant Director, Business Services
Kathy Burgmeier, Director, Internal Audit
Sheila Stearns, Commissioner of Higher Education

02:21:55 **Agency response presented by:** Bob Durringer

02:22:05 **Concerns/Discussion topics:** College of Technology history, long-range building program, enrollment; Board of Regents plan to reduce 10 percent increase in a two-year period for instruction expenses (audit report, page A-9); containment of salaries and compensation plans for university presidents; Commissioner Stearns explained the market analysis has shown salaries on a modest-market scale; Regents authorized OCHE to develop a compensation plan proposal if it would have no impact on the general fund; projects under construction (page A-11) with exception of COT and Gilkey Education Addition—all projects complete; 2005 forward-starting interest rate SWAP agreement (swap fixed-rate debt for variable-rate debt) in May 2010

Handouts: UM Financial Report (exhibit #5)

Committee requests: None

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Larsen; **motion carried.**

MONTANA UNIVERSITY SYSTEM-WORKERS' COMPENSATION PROGRAM, CONTRACT AUDIT (09C-04)

02:37:37 **Report presented by:** Angie Lang, Contract Audit Liaison

Present from the Office of the Commissioner of Higher Education:
Mick Robinson, Deputy Commissioner, Administrative & Fiscal Affairs

02:38:10 **Agency response presented by:** Mick Robinson

Concerns/Discussion topics: since fiscal year 2004 when the university went to an outside firm plan, analysis since of comparative rates, injury rate in Montana; explanation of active claims in one year; comparison of claims, injury rate, and length of claims; total claims cost savings

Handouts: Summary of MUS Work Comp Claims 2000-2009 (exhibit #6)

Committee requests: None

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Rep. Pease Lopez; **motion carried.**

MONTANA STATE FUND, FINANCIAL AUDIT (08-05B)

02:51:40 **Report presented by:** Alexa O'Dell, Financial-Compliance Senior Auditor

Present from the agency: Lanny Hubbard, President
Mark Barry, Vice President, Corporate Support
Rene Silverthorne, Controller
Patti Grosfield, Internal Auditor

02:56:13 **Agency response presented by:** Patti Grosfield

02:54:05 **Concerns/Discussion topics:** Old Fund liability; number of employees at MSF (high 270-range, with 299 FTE positions) \$231,000 annual payment to Helena Parking Commission for employee parking; continuing increase in negative net value of Old Fund net value (audit report, page A-18); injured worker under Old Fund reaching age 65 continues to draw temporary total disability medical benefits for life; Payments to Employees, comparison 2008-2009 (page A-19), which is salaries to claim adjusters that work on Old Fund claims (2008 \$16,659 & 2009 \$111,427); results from emphasis on safety, (i.e., trend in injury, rates, duration of claims) and continued increase in medical-cost trends; tort reform and possible impact in potential cost-shifting

Handouts: None

Committee requests: Payments to Employees, explanation for difference between years: FY2008 \$16,659, and FY2009 \$111,427 (pg A-19) (att. #4)

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Brown; **motion carried.**

ACHIEVEMENT IN MONTANA (AIM): SECURITY OF STUDENT INFORMATION, OFFICE OF PUBLIC INSTRUCTION, INFORMATION SYSTEMS AUDIT (09P-10)

03:13:03 **Report presented by:** Kent Rice, Information Systems Audit Manager

Present from the agency: Madalyn Quinlan, Chief of Staff
Sarah Loewen, AIM Unit Manager

03:23:40 **Agency response presented by:** Madalyn Quinlan

03:22:20 **Concerns/Discussion topics:** various systems in use by school districts, not all use the State Edition of AIM, the audit covered AIM which is the version of the system controlled by OPI; all the data from the databases in all school districts in Montana gets into the AIM system; updated information report from the database on student drop-out related to performance audit, and tracking of number of students switching from one district to another within a 30-mile radius; how school districts account for student attendance; information in database is reported to federal government in an aggregated form (no individual student record, or student names); system has streamlined process for student assessment for No Child Left Behind; system allows tracking of student transfers within Montana with exit-code (whether graduated, died, transferred); home school students are not in AIM system, parents of home school students must register the student with their county superintendent

Handouts: None

Committee requests: None

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Rep. Pease Lopez; **motion carried.**

4:45 p.m.-Recess until Tuesday, March 2, 2010

March 2, 2010

Reconvene – 9:00 a.m.

MONTANA WATER POLLUTION CONTROL & DRINKING WATER STATE REVOLVING FUND, DEPT. OF ENVIRONMENTAL QUALITY, DEPT. OF NATURAL RESOURCES & CONSERVATION, FINANCIAL AUDIT (10-29A)

Report presented by: Lena Tamcke, Financial-Compliance Senior Auditor

Present from the agency: Department of Environmental Quality
Dean Rude, Chief Financial Officer
David Hamer, Accounting Manager
Todd Teegarden, Chief Technical & Financial Assistance Bureau

Department of Natural Resources & Conservation
Mary Sexton, Director
Anna Miller, Bureau Chief, Conservation & Resource
Development Div.
Mo Leo, Fiscal Officer

00:03:05 **Agency response presented by:** Mary Sexton, DNRC; Dean Rude, DEQ

00:04:28 **Concerns/Discussion topics:** Kalispell's outstanding balance almost double from others due to \$14 million loan for waste water treatment facility about five years ago; all ARRA funds obligated by February 17; Ms. Miller explained the Drinking Water program (DNRC hand-out exhibit B) did \$37.3 million in work (32 projects rather than approximate 25 in each program as bids came in much more favorably), leveraging funds from Renewable Resource Grant Program, Treasure State Endowment Program, federal CDBG money, local community funds, and Army Corp funds, with \$17.5 million ARRA money, and \$6.4 million in work on drinking water systems; community of Essex system and small communities cost per person for new systems; dry prairie regional water system received \$40 million in ARRA funds through Bureau of Reclamation which does not have to be repaid, north-central regional water systems received \$20 million which does not have to be repaid-funds to be used specifically for building their water treatment and water intake facilities; only three projects in eastern Montana-as they did not have many shovel-ready projects by deadline

Handouts: ARRA Drinking Water & Wastewater Projects (exhibit #7)

Committee requests: None

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Rep. Hands; **motion carried.**

PERFORMANCE AUDIT FOLLOW-UP :**PROGRAM & POLICY ISSUES IMPACTING STATE SUPERFUND OPERATIONS (original report 08P-05)**

00:21:05 **Presented by:** Will Soller, Performance Senior Auditor

Discussion & Actions taken: 2011 legislation proposed to implement recommendation #7

MONTANA BOARD OF HOUSING, FINANCIAL AUDIT (08-07B)

00:25:22 **Report presented by:** John Fine, Financial-Compliance Audit Manager

Present from the agency: Bruce Brensdal, Administrator
Charles Nemec, Accounting Manager

00:28:03 **Agency response presented by:** Bruce Brensdal

00:27:20 **Concerns/Discussion topics:** Standard & Poor's lifted a negative credit watch and confirmed BOH AA+ and stable; Section 8 housing repeated audit findings and BOH looking at an internal audit function; information received from DOR for federal housing grant

Handouts: None

Committee requests: None

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Brown; **motion carried.**

STATEWIDE DISASTER RECOVERY PLANNING FOR INFORMATION TECHNOLOGY SYSTEMS, DEPT. OF ADMINISTRATION, INFORMATION SYSTEMS AUDIT (10DP-01)

00:35:35 **Report presented by:** Nate Tobin, Information Systems Senior Auditor

Present from the agency: Dick Clark, Chief Information Officer
Dawn Pizzini, Executive Officer, Security & Continuity Services

00:47:18 **Agency response presented by:** Dick Clark

00:46:20 **Concerns/Discussion topics:** 400 IT systems operating throughout the state; target date of 7/1/2011 expected to have policy in place requiring activities to be done, Business Continuity plans need to be in place first, majority of agencies have started continuity plans

Handouts: None

Committee requests: None

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law.
Motion by Sen. Cooney; **motion carried.**

OTHER BUSINESS:

00:52:42 **Potential Legislation** – Monica Huyg (Legislative Audit Committee work or issues raised throughout the last two years, since last legislative session)

Background Checks for employees of LAD: background checks not currently required; the division feels it should be part of due diligence process when hiring; for Dept. of Justice to conduct background checks on a nationwide basis, statutory requirement needs to be adopted. Sen. Cooney suggested the legislation possibly of expanding to all agencies; the Chair directed Ms. Huyg to proceed with language for the legislation

Loaning Employees: previous audits have disclosed the practice of loaning employees from agency to agency; DOA provides guidance for loaning employees, but there is no rule or law that must be followed; the Chair directed Ms. Huyg to craft the language for the legislation

TEACHERS' RETIREMENT SYSTEM, FINANCIAL AUDIT (08-09B)

01:00:06 **Report presented by:** Amber Dushin, Financial-Compliance Auditor

Present from the agency: David Senn, Executive Director
Tammy Rau, Deputy Executive Director

01:02:50 **Agency response presented by:** David Senn

01:09:59 **Concerns/Discussion topics:** 25-year eligibility retirement not norm in other states; adverse impact of retirement incentives; is system working with SAVA Committee in setting a different standard other than 25-year plan for the future; effects of retired teachers returning to workforce; investments in system have improved since July 2009; SAVA Committee Chair, Sen. Joe Tropila, was asked to report what SAVA members are investigating for future legislation to get the system actuarially sound; he reported, SAVA will be hiring an actuary who will work with TRS and PERS actuaries before next session

Handouts: None

Committee requests: Information TRS provided SAVA Committee regarding Hybrid DB Money Purchase Plan (provided to Committee 3/4/10, att. #5)

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law.
Motion by Sen. Cooney; **motion carried.**

PUBLIC EMPLOYEES' RETIREMENT BOARD, FINANCIAL AUDIT (08-08B)

01:26:31 **Report presented by:** Geri Hoffman, Financial-Compliance Audit Manager

Present from the agency: Roxanne Minnehan, Executive Director
Barbara Quinn, Fiscal Services Bureau Chief

01:34: **Agency response presented by:** Roxanne Minnehan

01:31:19 **Concerns/Discussion topics:** \$22 million Total Investment Expenses (audit report page A-72) paid to Board of Investments to manage the portfolio; PERS Defined Benefit Retirement Plan received \$25 million from the general fund in 2007 to make it actuarially sound; volunteer firefighters use of personal vehicles needs appropriate documentation to receive reimbursement for actual expenses and receiving reimbursement does not impact their volunteer retirement benefit; former firefighters litigations (audit report, page A-34) and possible long-term financial impact and disposition of law suits will not have any effect on retirement system—the Board interpreted statute that retired member would receive increase in retirement benefits, court ruled that all members would receive an increase (meaning that all those already retired)—the Board meets March 11 and will discuss litigation strategy going forward and keep the Committee apprised

Handouts: None

Committee requests: The Committee requested Roxanne Minnehan send a letter of clarification to volunteer firefighters regarding reimbursement for expenses not impacting their retirement benefit; The Committee requested to be kept apprised of Board litigation strategy regarding former firefighters litigation

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Larsen; **motion carried.**

BOARD OF INVESTMENTS, FINANCIAL AUDIT (08-04B)

01:44:30 **Report presented by:** Brenda Kedish, Financial-Compliance Senior Auditor

Present from the agency: Carroll South, Executive Director
Geri Burton, Deputy Director
Gayle Moon, Accounting Fiscal Manager

01:46:00 **Agency response presented by:** Geri Burton, Carroll South

01:49:45 **Concerns/Discussion topics:** board management fees and process, and members of the board; members receive \$50/day when meeting; summary of performance of the board investments and performance since June 2009—Mr. South will provide report of Pension Investments Past, Present, and Future to office for Committee members; fiscal year 2009 investment performance at BOI compared to market averages; update on Axon and Orion investment vehicles; MSF building will be fully occupied the end of May and is slightly under budget, cost of building approx. \$26 million and 119,000 sq. ft.

Handouts: None

Committee requests: summary of performance of board investments and performance since June 2009, (*Pension Investments Past, Present, and Future*) received after lunch (exhibit #8)

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Rep. Hands; **motion carried.**

02:13:36 **OTHER BUSINESS:** Monica Huyg - Discussion—Proposed Legislative Audit Committee rule revision

- 1) Elimination of Secretary position
- 2) Tie Votes

Committee members should send input and ideas to Ms. Huyg so she can compile and revise language to present at next meeting. The Legislative Auditor discouraged bringing party line into the rules due to Audit Committee nature of being a nonpartisan independent role on Committee should be nonpartisan. The Chair shared the history of officers of the Committee. Rep. Stahl asked that language he submitted include both bodies have an opportunity to serve as presiding position and both elected parties switch in an established progression.

LUNCH BREAK 02:29:42 – 04:01:40

RECORDING OF LIVESTOCK BRAND OWNERSHIP, DEPT. OF LIVESTOCK, PERFORMANCE AUDIT (09P-12)

04:02:06 **Report presented by:** Megan Coy, Performance Auditor

Present from the agency: Christian Mackay, Executive Officer
George Harris, Administrator, Centralized Services Division
John Grainger, Administrator, Brands Enforcement Division

04:16:00 **Agency response presented by:** Christian Mackay

04:28:38 **Concerns/Discussion topics:** options to ensure fees commensurate with cost; options for transitioning the rerecord function from once every ten years to an annual activity prepared by Legislative Fiscal Division; consider cross-cycle brand recording with neighboring states; alternative plan if computer system source does not come to fruition, date of implementation in August; all recommendations should be implemented during July/August timeframe; controls in place for cash transactions; RFP and online services will enable the department being proactive in changing 89 year old system and bringing into the computer age

Handouts: Legislative Fiscal Division summary of options for transitioning the rerecord function from once every ten years to an annual activity, requested by Sen. Brenden (exhibit #9)

Committee requests: The Committee requested Mr. Mackay send the transitioning summary prepared by the Legislative Fiscal Division to Board of Livestock for consideration and inclusion in survey

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Brenden; **motion carried.**

CONTRACT MANAGEMENT, DEPT. OF CORRECTIONS, PERFORMANCE AUDIT (09P-08)

04:41:57 **Report presented by:** Ross Johnson, Performance Auditor

Present from the agency: Mike Ferriter, Director
Rhonda Schaffer, Administrator, Administrative & Financial
Svs. Div.
Gary Willems, Chief, Contracts Management Bureau
Diana Koch, General Counsel to the Director

04:59:19 **Agency response presented by:** Mike Ferriter; Ms. Koch is now sole attorney responsible for reviewing contracts from legal perspective; Contract Management is now a permanent agenda item at quarterly management meetings, along with budget and population management; copies of quarterly reviews will be provided to the Committee

05:09:37 **Concerns/Discussion topics:** history of audits relating to contract management activity; department's Organizational Chart in audit misleading appearance of oversight of Contract Management Bureau; Request for Proposal (RFP) scoring panel conflict of interest; department confident in meeting Corrective Action Plan (CAP) target dates; liability to the state by unwritten contracts, referring to offender transportation contract, unsigned for a 3-yr timeframe-now signed, and the Passages contract for the substance abuse and assessment program-signed by Director, umbrella contract to do business with the nonprofit for 30 years (umbrella contract: prerelease contract with Alternatives Inc. for men and women offenders covers liability issues); ensuring that there are not expansion of services and department's plans to make sure a competitive bidding process in place; unclear statute causing difference in legal opinions between the department and legislative audit, department proposed legislation to clear up gray areas, department has not requested opinion from attorney general; siting process and prerelease centers (decision on offenders for center, and review process); prerelease facility paid on a per head daily rate per head and guaranteed payment of 75 percent capacity, offenders pay \$15/day towards their room and board; allegation of \$.5 million paid to prerelease centers for empty beds with no contract; department recommending reduction of Boyd Andrew center by eight beds of the 40-bed capacity in response to governor budget cuts; department has calculated it and is confident that the reduction of population at the center will not cause it to fold leaving the state be responsible for bonds; ten years of audits and Directors commitment for improvement; memo explaining rationale and criteria for budget cuts, in particular, what percent of the overall five percent cut is contained in the Meth treatment center in Rep. Mendenhall's district; CAP states all contracts will be in writing as of 2/17/10, with exception of Passages program, all are signed at this hearing; Chairman Tropila read the language contained in all distribution letters

transmitting final audit reports to agencies and departments regarding the Committee's stand releasing comments to press prior to the audit committee; the Chair spoke to the department's partial-concurrence with recommendation #1 and the expansion of existing services in audit report (re: page 12-13 bullets)

Handouts: Corrective Action Plan (exhibit #10), Corrections Organizational Chart (exhibit #11)

Committee requests: The Committee requested Director Ferriter check into a reporting of \$.5 million paid to prerelease centers for empty beds with no contract; provide budget cut plan to the Committee; Director update at next Committee meeting

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Cooney; **motion carried.**

Committee Comments: Chairman Tropila clarified a possible miscommunication when he spoke earlier to the Department of Corrections expansion of services; clarifying his intent was to convey he agreed with the audit when reading the bullets on page 13 of the audit, it seems the department is providing a different set of services, not simply an expansion of services.

CONTRACT AUDITS:

06:08:45 **Montana Medical Legal Panel (09C-05)**

Brian Zins, Director

Presented by Brian Wickens, Junkermier Clark Campanella Stevens PC

Agency response: Brian Zins

Committee Comments: claims over past eight years have leveled off with a decreased in number of claims

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Rep. Brown; **motion carried.**

06:13:35 **Legislative Branch, Excluding the Consumer Counsel (09C-09)**

Susan Byorth Fox, Director

Karen Berger, Financial Services Manager

Presented by Brian Wickens, Junkermier Clark Campanella Stevens PC

Agency response: Susan Fox, Karen Berger

Committee Comments: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Brenden; **motion carried.**

06:16:00 **Consumer Counsel (09C-10)**

Bob Nelson, Administrator

Mandi Shulund Hinman, Office Manager

Presented by Brian Wickens, Junkermier Clark Campanella Stevens PC

Agency Response: Bob Nelson

Committee Comments: replacment of deceased Legislative Consumer Committee member, Rep. George Grosbeck—committee appointed beginning of each session; Committee meets quarterly; members appointed April 2009: Sen. Terry Murphy, Chair; Rep. Pat Noonan, Vice Chair; Rep. Tom Barry, Sen. Joe Tropicla

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Rep. Wilson; **motion carried.**

06:18:45 **Montana State Lottery, Financial (09C-01)**

John Tarr, Security Director

Armond Sergeant, Director Finance Services

Presented by Mark Blessinger, Galusha Higgins Galusha PC

Agency Response: John Tarr

Committee Comments: total asset change from last year; cash transferred to state's revenue accounts electronically as received; members of Committee eligible to play lottery; FY2008 and FY2009 general fund transfers, on a quarterly basis, reflected on page 12 of audit

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Larsen; **motion carried.**

06:25:09 **Montana State Lottery, Cash Drawings (09C-02)**

John Tarr, Security Director

Armond Sergeant, Director Finance Services

Presented by Mark Blessinger, Galusha Higgins Galusha PC

Agency Response: John Tarr

Committee Comments: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Cooney; **motion carried.**

06:27:29 **Flathead Valley Community College (09C-07)**

Presented by Angie Lang, Contract Audit Liaison

Committee Comments: the Committee commended FVCC & Miles community colleges implementations of recommendations of audits over the years

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Rep. Brown; **motion carried.**

06:30:35 **Miles Community College (09C-08)**

Presented by Angie Lang, Contract Audit Liaison

Committee Comments: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Brown; **motion carried.**

OTHER BUSINESS:

06:32:40 **Potential Legislation** (*continued*), Monica Huyg, Legal Counsel

Privatization Review Act: Legislative Audit Committee is tasked with responsibility of reviewing plans submitted by agencies wishing to privatize a program of state government and statutory clarification needed within the definition of privatization laws to allow for state agency compliance. The broad definition of *privatize* places state agencies and audit committee in a position to have to complete a detailed plan and hearings process for each service that has been performed by government prior to contracting with private sector. Tori Hunthausen gave short history of the privatization Committee process, and a request from Director Ewer, of OBPP and its statutorially submitted request for privatization review of two services: use of commercial vendor to maintain the state's e-mail records in an e-discovery process; migrate video conferencing to a managed service contract. The office has stated that its intent was not to propose privatization, just ideas; so the two items will be on the next audit prioritization list. The Committee agreed to pursue legislation to clarify the definition of privatize in statute. (Ms. Huyg will provide copy of statute to the Committee.)

06:40:41 **Lottery Observation**

Statute requires an employee of Legislative Audit Division witness every drawing of Montana Lottery. Drawings are randomly generated by computers, witnessing drawings has become impractical. Information Systems auditors conduct a statutorially-required audit of lottery security. Legislation is needed to eliminate observation coverage as the security is covered under a separate statute for information technology audits; the Committee concurred.

06:45:60 **Legislative Auditor Reappointment** – existing appointment ends June 30, 2010.

The Chair appointed a Legislative Auditor Evaluation Subcommittee: Sen. Mitch Tropila, Rep. Dee Brown, Sen. Taylor Brown, Rep. Betsy Hands, with meetings/conversations to be conducted via phone. Evaluations need to be completed in the current week and returned to either Ms. Huyg or Kelly DaSilva, Human Resource Manager, Legislative Branch.

06:48:42 **Water Protection Bureau Audit Assessment Update memorandum** – DEQ is making progress addressing both the audit concerns and Environmental Protection Agency cautionary concerns, so audit is postponed (att. #1)

06:49:55 **ARRA fund documents** – work being done by the audit division regarding stimulus funds and explanation of 1512 reporting (att. #2); provide at same agenda item, more information on audit division reporting in conjunction with Budget and Planning ARRA report request next Committee meeting

06:52:41 **Endorsment of Five Percent General Fund Budget Reduction** – The Legislative Auditor presented the five percent reduction (non-HB2 general fund solutions) for legislative audit in response to the governor's office request for participation in the general fund reductions; Rep. Stahl disagreed with across the board cuts, stating agencies that grew drastically should be required to cut more; Ms. Hunthausen gave an overview of the division's staffing trend of 55 FTE over the past 12 years; staffing experience of the 12 retirees since 2005 with an average longevity of 28.7 years; another six employees are eligible to retire with an average longevity in excess of 27 years; personal services and professionalism is taken seriously using a merit-based pay plan to evaluate staff, an auditor on an assignment more than 80 hours has to have a written evaluation of skills and abilities following every assignment and a merit-based pay adjustments is made from that—effective and efficient audits are done because staff stay.

Motion: endorse participation by Legislative Audit Division in the five percent general fund budget reduction for the Legislative Branch. Motion by Sen. Cooney; **motion carried.**
(Two opposed: Rep. Dee Brown, Rep. Wayne Stahl)

Next Meeting: anticipated in June or July, the office will conduct a Committee e-mail poll for member availability

There being no further business, the meeting was adjourned at 4:15 p.m.

Signed: _____