

LEGISLATIVE AUDIT COMMITTEE

MINUTES SUMMARY

November 15 and 16, 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>	Nov 15-16	
Sen. Greg Barkus	A	excused
Sen. John Brenden	P	
Sen. Taylor Brown	P	
Sen. Mike Cooney	P	
Sen. Cliff Larsen	P	
Sen. Mitch Tropila	P	
Rep. Dee Brown	P	
Rep. Betsy Hands	P	
Rep. Scott Mendenhall	P	
Rep. Carolyn Pease-Lopez	P	
Rep. Wayne Stahl	P	
Rep Bill Wilson	A	

P=present, A=absent

Staff Present

Tori Hunthausen, Legislative Auditor
Jim Gillett, Deputy Legislative Auditor
Angie Grove, Deputy Legislative Auditor
Monica Huyg, Legal Counsel
Ann Hernandez, Word Processor Supervisor

The Legislative Audit Committee met on November 15 and 16, 2010, in Room 172 of the State Capitol. Chairman, Senator Mitch Tropila called the meeting to order at 1 p.m., noting the presence of a quorum.

Minutes Approval –Deferred to next committee meeting.

00:00:02 **Fuel Card Update, Director Jim Lynch, Montana Department of Transportation**

Discussion & Actions taken: There can be variances in gas pumps or tank size, so there is not necessarily theft going on with the variances in the gas purchases.

AUDIT REPORTS

DEPARTMENT OF ADMINISTRATION (10-13)

00:16:15 **Report presented by:** Brenda Kedish, Financial-Compliance, Senior Auditor

00:23:50 Present from the agency: Janet R. Kelly, Director
Pat McNamee, Bureau Chief, Office of Finance and Budget
Paul Christofferson, Administrator, State Accounting Division

Agency response presented by: Janet R. Kelly, Director

Handouts: none

Concerns/Discussion topics: Discussion on whether the agency can spend money from the treasury without an appropriation. Questioned why the agency is not changing the method for general liability insurance when one agency is underpaying and the others are overpaying. The agency explained they spread the risk to even out the peaks and valleys that occur. For-profit cafeterias in state government buildings are not charged rent in exchange for keeping prices low because it allows citizen legislators to have a close place to eat at a reasonable price. Discussed the workers' compensation database project timeframe, the agency said it would be completed by the end of the fiscal year.

Committee requests: Committee requested information on whether payment had been made from USAC to ITSD (page 11)

Public Comment: none

Actions taken: None

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

OFFICE OF THE SECRETARY OF STATE (10-19)

00:45:26 **Report presented by:** Delsi Plummer, Financial-Compliance Senior Auditor

Present from the agency: Linda McCulloch, Secretary of State
Harper Lawson, Chief of Staff
Catherine Dalton, Fiscal Manager

Agency response presented by: Linda McCulloch, Secretary of State

Concerns/Discussion topics: Questioned why the Office of the Secretary of State allows the enterprise fund to keep growing to the \$2-3 million range rather than giving a rebate back to the customer at some point. The agency explained they were reserving the money for "expected and unexpected expenses." The contract for the project discussed on p. 3 of the report is for \$5.5 million with any additional costs to be paid by the Secretary of State's Office, and will be done in as many phases as needed to be able to pay for it.

Handouts: none

Committee requests: Rep. Brown asked that Ms. McCulloch let her know what the number of FTEs was when she came into office. Chairman Tropila asked Ms. McCulloch to give a wish list regarding the expenditure of fund balance.

Public Comment: none

Actions taken: none

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

INSPECTION AND ENFORCEMENT ACTIVITIES FOR RETAIL FOOD ESTABLISHMENTS (10P-06)

01:30:22 **Report presented by:** Kori Minckler, Performance Auditor

Present from the agency: **Department of Public Health and Human Services**
Anna Whiting Sorrell, Director
Jane Smilie, Administrator, Public Health & Safety Division
Jim Murphy, Bureau Chief, Communicable Disease Control Bureau
Melissa Tuemmler, Section Supervisor, Food and Consumer Safety Section

Agency response presented by: Anna Whiting Sorrel, Director
Jane Smilie

Handouts: none

Concerns/Discussion topics: According to state law annual inspections of food establishments are required but are not always occurring. Smaller counties that do not have a county sanitarian will often contract their inspections out to a neighboring county. The agency is working to improve inspection rates and will think about incentives to encourage businesses to request inspections.

Committee requests: none

Public Comment: Linda Stahl discussed an issue that was raised in the 1980s. It was difficult to mandate the county to perform the inspections because there was not enough funding.

Actions taken: none

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

STATE AUDITOR’S OFFICE (10-20)

02:05:46 **Report presented by:** Zac Yates, Financial-Compliance Auditor
Jay Phillips, Senior Financial-Compliance Auditor

Present from the agency: Monica Lindeen, State Auditor
Lynne Egan, Deputy State Auditor

Steve Matthews, Bureau Chief, Examinations
Sharon McCabe, Administrator, Central Services

Agency response presented by: Monica Lindeen, State Auditor

Handouts: none

Concerns/Discussion topics: Committee questioned why the agency is requesting a revision in the law (B-1 to B-2) regarding the thresholds on required deposits of assets or securities of an insurer. The agency explained that they are asking for the revision of the law because the insurance companies have to post deposits larger than the maximum threshold to do business in other states.

Committee requests: Follow-up on why 7 of 10 board members of Insure Montana are from Helena, and have continuing communication between LAD and Auditor's office on the possible declaratory judgment in District Court.

Public Comment: none

Actions taken: none

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

DEPARTMENT OF REVENUE (10-14)

02:26:49 **Report presented by:** Cindy Jorgenson, Financial-Compliance Audit Manager

Present from the agency: Dan Bucks, Director
Steve Austin, Administrator, Citizen Services & Resource Management Division
Gene Walborn, Administrator, Business and Income Tax Division
JeanAnn Scheuer, Human Resources

Agency response presented by: Dan Bucks, Director
Steve Austin, Administrator, Citizen Services & Resource Management Division

Handouts: none

Concerns/Discussion topics: The accounting error discussed on p. A-1 occurred in October 2008, and was discovered in early fall 2009. There are no laws specifically requiring revenue estimates be recorded on the accounting records, but it would likely go to policy makers for guidance.

Committee requests: Committee requested a list of the annual advisory council members and their contact information, and to have it included in future audit reports. Follow-up on whether the accounting error happened around the time of the last legislative session.

Public Comment: none

Actions taken: none

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

FOLLOW-UP AUDIT REPORTS

MONTANA STATE FUND CORPORATE GOVERNANCE PRACTICES (11SP-04)

Presented by: Angus Maciver, Performance Audit Manager

Discussion & Actions taken: Montana State Fun has not implemented a recommendation relating to compensation information for the highest paid executives because State Fund believes that because it is a matter of public record that it is unnecessary to publish it in the kind of formatting that the corporate governance standards suggest. Committee can ask the agency for a follow-up on the matter or review legislative options relating to financial reporting. Rep. Brown would like to follow-up at the December meeting.

CONSOLIDATED ENVIRONMENTAL DATA ACCESS AND RETRIEVAL SYSTEM (CEDARS) (11SP-08)

Presented by: Kent Rice, Information Systems Audit Manager

Discussion & Actions taken: Committee asked for the timeframe for DEQ's plans to implement policy. The Department of Administration is currently working on "the living disaster recovery planning system," and the goal is to have all of the agencies using this system. The auditors will have more firm dates of implementation after their follow-up with the agency in February 2011.

03:17:58 Meeting ended for November 15

TUESDAY NOVEMBER 16, 2010

00:00:02 Reconvene

OFFICE OF THE COMMISSIONER OF POLITICAL PRACTICES (10-12)

00:00:12 **Report presented by:** Anthony Cacace, Financial-Compliance Auditor

Present from the agency: Dennis Unsworth, Commissioner
Mary Baker, Program Supervisor

Agency response presented by: Dennis Unsworth, Commissioner

Handouts: none

Concerns/Discussion topics: The office recorded transfers rather than the revenue abatements required by state accounting policy. This is a recurring recommendation; committee questioned whether a statute clarification needed to be done. The Office of the Commissioner explained that they had not fully implemented the recommendation because the statute was unclear, but the auditors said it revolves around an accounting policy issue not a statute issue.

Committee requests: none

Public Comment: none

Actions taken: none

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

DEPARTMENT OF PUBLIC SERVICE REGULATION (10-26)

00:11:18 **Report presented by:** Amber Dushin, Financial-Compliance Auditor

Present from the agency: Wayne Budt, Administrator
Staci Litschauer, Financial Specialist

Agency response presented by: Wayne Budt, Administrator

Handouts: none

Concerns/Discussion topics: A prior audit recommendation concerning documentation of monitoring and testing internal controls is in the process of being developed and should be fully implemented within the next year.

Committee requests: none

Public Comment: none

Actions taken: none

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

MONTANA GUARANTEED STUDENT LOAN PROGRAM (09-06B)

00:15:19 **Report presented by:** Chris Darragh, Financial-Compliance Senior Auditor

Present from the agency: Bruce Marks, Director
Robyn Graham, Chief Financial Officer

Agency response presented by: Bruce Marks, Director

Handouts: none

Concerns/Discussion topics: The Montana Guaranteed Student Loan Program guarantees Montana educational loans and pays off the lending institution with federal money in the case of a default, and the primary goal of the agency is to keep borrowers out of default.

Committee requests: none

Public Comment: none

Actions taken:

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

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (10-17)

00:38:23 **Report presented by:** Alexa O’Dell, Financial-Compliance Senior Auditor

Present from the agency: Mary Sexton, Director
Joe Lamson, Deputy Director
Tom Schultz, Division Administrator, Trust Lands Management Division
Tricia Schiltz, Administrator, Centralized Services Division

Agency response presented by: Mary Sexton, Director

Handouts: none

Concerns/Discussion topics: Disclosure related to a \$41 million court settlement won by the DNRC. The board decided to use the money to purchase additional land, but without using the land banking system or legislation they are not authorized to do so. DNRC explained that they cannot put the money into the general fund because it would be a trust diversion and would likely end up in a lawsuit. With regards to firefighter meal allowances (recommendation 5) DNRC does not feel that they are breaking state law by not staying within the limits of the allowances because fires are an emergency situation, so they feel they have the authority to increase the amount needed to feed the firefighters. DNRC sold the First Peoples Buffalo Jump State Park easement to FWP (recommendation 1) for what it paid because it was for a public good, they will continue to receive money from that transaction, and they retained the mineral rights there.

Committee requests: none

Public Comment: none

Actions taken: none

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

01:19:27 **Break**

FOLLOW-UP AUDIT REPORT

01:28:22 STATEWIDE RADIO COMMUNICATIONS INTEROPERABILITY (11SP-02)

Presented by: Will Soller, Performance Senior Auditor

Discussion & Actions taken: Discussed creating legislation to determine who should participate in this system, how it should be governed, and who should run it. Many other states are developing similar statewide communication systems that are created on the backbone of existing systems administered by the Department of Transportation or the

Department of the Highway Patrol in those states. Other states have generally defined the participants, and rules in state statute.

OFFICE OF THE GOVERNOR AND LIEUTENANT GOVERNOR (10-23)

01:36:18 **Report presented by:** Pearl Allen, Financial-Compliance Auditor Manager

Present from the agency: Vivian Hammill, Chief of Staff
David Ewer, Budget Director
Amy Sassano, Deputy Budget Director
Shawn Graham, Information Systems Manager
Rosemary Harmon, Centralized Services Administrative Officer
Carol Smith, Accountant

Agency response presented by: Vivian Hammill, Chief of Staff

Handouts:

Concerns/Discussion topics: The money involved in the accounting error discussed on p. 8, recommendation 4, was reverted back to the General Fund. The Governor's office intends to monitor and test internal controls (recommendation 1) quarterly. The disclosure issue of administrative appropriation transfers discussed on p. 11 does not happen often at the Governor's office, but more often in other executive branch agencies. Currently the state accounting division at the DOA and the LAD are in disagreement about the rules and practices of this issue. The Governor's office will continue the practice according to rules set by the DOA until it is resolved. The Air Transportation Revenue Account discussed on p. 11 was not used for the engine overhauls on the airplanes because there was not enough money in the account for those expenses.

Committee requests: Committee requested the LC number for the bill referred to on p. B-2, recommendation 3

Public Comment:

Actions taken:

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

Committee Picture – Barrel Vault/Center Stairs

OTHER BUSINESS:

02:26:58 Report on Hot Line and Penal Violation presented by Monica Huyg

00:23:19 Proposed LAC Legislation presented by Monica Huyg. Discussion of LC300. The bill eliminates the LAD observation requirement for lottery games. Senator Tropila and Rep Stahl agreed to sponsor the bill. Discussion of LC298 regarding loaned employees. Rep Stahl agreed to sponsor and wants to make the language stronger. Discussion of LC299 which requires a back ground check for new LAD employees. Senator Tropila and Senator Brown agreed to sponsor LC299. Discussion of LC410 which clarifies the definition privatization for the privatization review process. No Sponsor identified.

02:34:20 Legislative Resource Book of Audit Results presented by Tori Hunthausen

02:43:03 Leadership Orientation - Member Auditor Hunthausen participated

Legislative Orientation – LAD participation

The next meeting of the Legislative Audit Committee will be at the call of the chair following the legislative session.

There being no further business, the meeting was adjourned at 02:54:27 p.m.

Signed: _____