



A REPORT
TO THE
MONTANA
LEGISLATURE

FINANCIAL-COMPLIANCE AUDIT

*Office of the
Commissioner of
Political Practices*

*For the Two Fiscal Years Ended
June 30, 2010*

NOVEMBER 2010

LEGISLATIVE AUDIT
DIVISION

10-21

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FINANCIAL-COMPLIANCE AUDITS

Financial-compliance audits are conducted by the Legislative Audit Division to determine if an agency's financial operations are properly conducted, the financial reports are presented fairly, and the agency has complied with applicable laws and regulations. In performing the audit work, the audit staff uses standards set forth by the American Institute of Certified Public Accountants and the United States Government Accountability Office. Financial-compliance audit staff members hold degrees with an emphasis in accounting. Most staff members hold Certified Public Accountant (CPA) certificates.

Government Auditing Standards, the Single Audit Act Amendments of 1996 and OMB Circular A-133 require the auditor to issue certain financial, internal control, and compliance reports. This individual agency audit report is not intended to comply with these reporting requirements and is therefore not intended for distribution to federal grantor agencies. The Legislative Audit Division issues a statewide biennial Single Audit Report which complies with the above reporting requirements. The Single Audit Report for the two fiscal years ended June 30, 2009, was issued March 1, 2010. The Single Audit Report for the two fiscal years ended June 30, 2011, will be issued by March 31, 2012. Copies of the Single Audit Report can be obtained by contacting:

Single Audit Coordinator
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Room 277, State Capitol
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Helena, MT 59620-0802

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LEGISLATIVE AUDIT DIVISION

Tori Hunthausen, Legislative Auditor
Monica Huyg, Legal Counsel



Deputy Legislative Auditors
James Gillett
Angie Grove

November 2010

The Legislative Audit Committee
of the Montana State Legislature:

This is our financial-compliance audit report on the Office of the Commissioner of Political Practices (office) for the two fiscal years ended June 30, 2010. The report includes a recommendation related to recording lobbyist license revenue. The office's response to the audit recommendation begins on page B-1.

We thank the Commissioner of Political Practices and office staff for their assistance and cooperation during the audit.

Respectfully submitted,

/s/ Tori Hunthausen

Tori Hunthausen, CPA
Legislative Auditor

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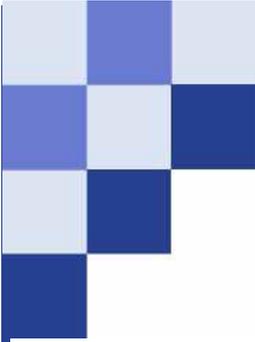
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APPOINTED AND ADMINISTRATIVE OFFICIALS

		<u>Term Expires</u>
Office of the Commissioner of Political Practices	Dennis Unsworth, Commissioner	December 31, 2010
Office Administrative Official	Mary Baker, Program Supervisor	

For additional information concerning the Office of the Commissioner of Political Practices, contact:

Dennis Unsworth, Commissioner of Political Practices
P.O. Box 202401
Helena, MT 59620-2401
(406) 444-2942
e-mail: dunsworth@mt.gov



MONTANA LEGISLATIVE AUDIT DIVISION

FINANCIAL-COMPLIANCE AUDIT

Office of the Commissioner of Political Practices

For the Two Fiscal Years Ended June 30, 2010

NOVEMBER 2010

10-21

REPORT SUMMARY

The Office of the Commissioner of Political Practices (office) issued formal decisions involving 11 campaign finance and practice complaints in fiscal year 2010, and 17 formal decisions in fiscal year 2009. The office issued one proposed ethics complaint decision in fiscal year 2010, in addition to decisions regarding a motion to dismiss the complaint in each fiscal year. In fiscal year 2009, the office also issued a partial summary judgment related to an ethics complaint involving the Governor. The office was successful in defense of this decision through its response to a lawsuit filed by the Governor in District Court.

Context

The office is responsible for enforcing campaign and lobbying disclosure laws, and code of ethics enforcement for state officials and employees. It performs these duties through campaign and political committee expenditure tracking, investigations of campaign finance and disclosure cases, registration of lobbyists and principle expenditure tracking, and through formal ethics complaint proceedings.

Recommendation Concurrence	
Concur	1
Partially Concur	0
Do Not Concur	0
Source: Agency audit response included in final report.	

Results

Our current audit resulted in one recommendation related to state statute and accounting policy. Although this is a continued recommendation from the prior audit report, the office did implement three other prior audit recommendations. The office attempted to correct all errors and implement all prior recommendations, but failed to process the necessary accounting transactions appropriately. This was due in part to receipt of inaccurate guidance given by the State Accounting Division. Review the Findings and Recommendations section contained in the report for a more in depth understanding.

For a complete copy of the report or for further information, contact the Legislative Audit Division at 406-444-3122; e-mail to lad@mt.gov; or check the website at <http://leg.mt.gov/audit>. Report Fraud, Waste, and Abuse to the Legislative Auditor's FRAUD HOTLINE Call toll-free 1-800-222-4446 or e-mail lad@mt.gov.

Chapter I – Introduction

Introduction

We performed a financial-compliance audit of the Office of the Commissioner of Political Practices for the two fiscal years ended June 30, 2010. The objectives of the audit were to:

1. Obtain an understanding of the office's control systems to the extent necessary to support our audit of the office's financial schedules and, if appropriate, make recommendations for improvements in management and internal controls of the office.
2. Determine whether the office complied with selected laws and regulations.
3. Determine whether the financial schedules present fairly the results of operations of the office for each of the fiscal years ended June 30, 2010, and June 30, 2009.
4. Determine the implementation status of prior audit recommendations.

This report contains one recommendation to the office. In accordance with §5-13-307, MCA, we analyzed and disclosed, if significant, the costs of implementing the recommendation made in this report. Other areas of concern, deemed not to have a significant effect on the successful operations of the office, are not specifically included in the report but have been discussed with management.

Background

The office was created by the 1975 Legislature. The governor appoints the commissioner to a six-year term, subject to confirmation by the senate. A four member selection committee submits a list of two to five names of individuals to the governor for consideration. The selection committee is comprised of: the speaker of the house, the president of the senate, and the minority floor leaders of both houses of the legislature. The commissioner can only serve one term and is precluded from being a candidate for public office for a period of five years after leaving the position. If for any reason a vacancy occurs in the position of commissioner, a successor shall be appointed within 30 days to serve out the unexpired term. The current commissioner was appointed to serve out an unexpired term starting September 2006 and ending December 31, 2010.

The primary duties of the commissioner include:

1. Facilitating disclosure of financial contributions to and expenditures of candidates and political committees.
2. Facilitating registration of lobbyists and monitoring lobbyists' expenditures by principles.

3. Monitoring of candidates, political committees, lobbyists, and principles for compliance with Montana laws.
4. Monitoring and enforcing Montana's Code of Ethics for public officers, public employees, and legislators.
5. Investigating legitimate complaints of alleged violations of campaign finance and practice laws, lobbying laws, and ethics laws.

The office is authorized six full-time employees, but had five full-time employees for the two fiscal years ended June 30, 2010.

Prior Audit Recommendations

The prior audit for the two fiscal years ended June 30, 2008, contained four recommendations to the office. The office implemented three recommendations and did not implement one. The recommendation the office did not implement is related to lobbyist license revenue and is discussed on page 3.

Chapter II – Findings and Recommendations

Recording of Lobbyist License Revenue

The office did not record lobbyist license revenue in compliance with state law and accounting policy.

Section 5-7-103(1), MCA, requires lobbyists in the state of Montana to purchase a \$150 lobbying license. In accordance with §5-7-103(4), MCA, fifty dollars must be deposited into the general fund and one hundred dollars of each license fee must be deposited into the state special revenue fund. Under §5-7-103(1), MCA, the license is valid for up to two years and expires on December 31 of every even-numbered year, which establishes the licenses as multi-year in nature. State accounting policy asserts that for multi-year licenses, the revenue should be considered to have been earned equally over the time period of the license.

- ◆ In fiscal years 2009-10 and 2008-09, the office did not comply with the above state statute and recorded lobbyist license revenues inaccurately within the general fund and state special revenue fund. They recognized too much revenue in the general fund and not enough revenue in the state special revenue fund in each fiscal year. Office personnel cited a lack of accounting expertise, on the part of the individual performing the function, as the cause of the incorrect lobbyist license revenue recognition. The errors result in overstatements of License and Permit revenues in the general fund of \$22,525 and \$4,046 for fiscal years 2009-10 and 2008-09, respectively, and understatements of License and Permit revenues in the state special revenue fund of \$31,963 and \$12,025 for fiscal years 2009-10 and 2008-09, respectively. The 2008-09 revenue misstatements caused ending fund balances for fiscal year 2008-09 and beginning fund balances for fiscal year 2009-10 to be misstated within each fund type by an equal amount.

In accordance with state accounting policy, when a revenue correction transaction is necessary, revenue should be abated.

- ◆ In fiscal year 2009-10, the office did not comply with state accounting policy, and recorded a transfer-out in the general fund instead of a revenue abatement, and a transfer-in for the state special revenue fund instead of recognizing lobbyist license revenue. Management said the error happened while the office attempted to take corrective action to properly recognize revenues in the appropriate fund and fiscal period. This error results in overstatements of general fund transfers-out and state special revenue fund transfers-in of \$32,750, for fiscal year 2009-10. It is also a contributing factor to the revenue recognition errors outlined above.

In fiscal year 2009-10, the office obtained assistance from the State accounting Division (SAD) on how to record lobbyist license revenue. Upon meeting with SAD staff, we

noted that they did not realize §5-7-103(4), MCA, specifically required the office to deposit the fees in the two funds. SAD gave guidance based on an understanding that statutory language required the distribution or transfer of fees. As a result, of the misunderstanding, the office recorded transfers rather than the revenue abatements required by state accounting policy to correct deposit errors.

RECOMMENDATION #1

We recommend the office:

- A. *Record revenue in accordance with statutory requirements.*
 - B. *Ensure requests for accounting guidance contain specific statutory language governing the transactions.*
-

Independent Auditor's Report and Office Financial Schedules

LEGISLATIVE AUDIT DIVISION

Tori Hunthausen, Legislative Auditor
Monica Huyg, Legal Counsel



Deputy Legislative Auditors
James Gillett
Angie Grove

INDEPENDENT AUDITOR'S REPORT

The Legislative Audit Committee
of the Montana State Legislature:

We have audited the accompanying Schedules of Changes in Fund Balances, Schedules of Total Revenues & Transfers-In, and Schedules of Total Expenditures & Transfers-Out of the Office of the Commissioner of Political Practices for each of the fiscal years ended June 30, 2010, and 2009. The information contained in these financial schedules is the responsibility of the office's management. Our responsibility is to express opinions on these financial schedules based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial schedules are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial schedules. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial schedule presentation. We believe that our audit provides a reasonable basis for our opinions.

As described in note 1, these financial schedules are prepared on the basis of Montana state accounting policy, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The schedules are not intended to be a complete presentation and disclosure of the office's assets and liabilities.

The office did not record lobbyist license revenue correctly in fiscal years 2009-10 and 2008-09. As a result, Total Additions and Total Reductions are overstated by \$22,525 and \$32,475, respectively, in the general fund on the Schedule of Changes in Fund Balances in fiscal year 2009-10. On the Schedule of Total Revenues & Transfers-In for fiscal year 2009-10, the Licenses and Permits account is overstated in the general fund by \$22,525 and is understated in the state special revenue fund by \$31,963, and Transfers-In for the state special revenue fund is overstated by \$32,475. Transfers-Out is overstated by \$32,475 in the general fund on the Schedule of Total Expenditures & Transfers-Out for fiscal year 2009-10. In fiscal year 2008-09, the Licenses and Permits account is overstated in the general fund by \$4,046 and understated in the state special revenue fund by \$12,025 on the Schedule of Total Revenues & Transfers-In.

In our opinion, except for the errors described in the preceding paragraph, the financial schedules referred to above present fairly, in all material respects, the results of operations and changes in fund balances of the Office of the Commissioner of Political Practices for each of the fiscal years ended June 30, 2010, and 2009, in conformity with the basis of accounting described in note 1.

Respectfully submitted,

/s/ James Gillett

James Gillett, CPA
Deputy Legislative Auditor

September 10, 2010

COMMISSIONER OF POLITICAL PRACTICES
SCHEDULE OF CHANGES IN FUND BALANCES
FOR THE FISCAL YEAR ENDED JUNE 30, 2010

	<u>General Fund</u>	<u>State Special Revenue Fund</u>
FUND BALANCE: July 1, 2009	\$ <u>(85,164)</u>	\$ <u>(16,225)</u>
ADDITIONS		
Budgeted Revenues & Transfers-In	38,423	23,475
Nonbudgeted Revenues & Transfers-In	13	
Prior Year Revenues & Transfers-In Adjustments	(50)	(863)
Direct Entries to Fund Balance	<u>525,839</u>	<u>(7,275)</u>
Total Additions	<u>564,225</u>	<u>15,337</u>
REDUCTIONS		
Budgeted Expenditures & Transfers-Out	487,480	
Nonbudgeted Expenditures & Transfers-Out	21,731	
Prior Year Expenditures & Transfers-Out Adjustments	(2,282)	
Total Reductions	<u>506,929</u>	<u>0</u>
FUND BALANCE: June 30, 2010	\$ <u><u>(27,868)</u></u>	\$ <u><u>(888)</u></u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-9.

COMMISSIONER OF POLITICAL PRACTICES
SCHEDULE OF CHANGES IN FUND BALANCES
FOR THE FISCAL YEAR ENDED JUNE 30, 2009

	<u>General Fund</u>	<u>State Special Revenue Fund</u>
FUND BALANCE: July 1, 2008	\$ <u>(41,426)</u>	\$ <u>0</u>
ADDITIONS		
Budgeted Revenues & Transfers-In	18,911	12,425
Direct Entries to Fund Balance	<u>776,349</u>	<u>(28,650)</u>
Total Additions	<u>795,260</u>	<u>(16,225)</u>
REDUCTIONS		
Budgeted Expenditures & Transfers-Out	839,032	
Nonbudgeted Expenditures & Transfers-Out	<u>(34)</u>	
Total Reductions	<u>838,998</u>	<u>0</u>
FUND BALANCE: June 30, 2009	\$ <u><u>(85,164)</u></u>	\$ <u><u>(16,225)</u></u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-9.

COMMISSIONER OF POLITICAL PRACTICES
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 2010

	<u>General Fund</u>	<u>State Special Revenue Fund</u>	<u>Total</u>
TOTAL REVENUES & TRANSFERS-IN BY CLASS			
Licenses and Permits	\$ 33,575	\$ (9,863)	\$ 23,713
Taxes	13		13
Charges for Services	198		198
Fines and Forfeits	4,600		4,600
Transfers-in		<u>32,475</u>	<u>32,475</u>
Total Revenues & Transfers-In	<u>38,386</u>	<u>22,612</u>	<u>60,998</u>
Less: Nonbudgeted Revenues & Transfers-In	13		13
Prior Year Revenues & Transfers-In Adjustments	(50)	(863)	(913)
Actual Budgeted Revenues & Transfers-In	<u>38,423</u>	<u>23,475</u>	<u>61,898</u>
Estimated Revenues & Transfers-In	10,615	25,750	36,365
Budgeted Revenues & Transfers-In Over (Under) Estimated	<u>\$ 27,808</u>	<u>\$ (2,275)</u>	<u>\$ 25,533</u>
BUDGETED REVENUES & TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS			
Licenses and Permits	\$ 31,423	\$ (2,275)	\$ 29,148
Charges for Services	(6,715)		(6,715)
Fines and Forfeits	3,100		3,100
Budgeted Revenues & Transfers-In Over (Under) Estimated	<u>\$ 27,808</u>	<u>\$ (2,275)</u>	<u>\$ 25,533</u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-9.

COMMISSIONER OF POLITICAL PRACTICES
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 2009

	<u>General Fund</u>	<u>State Special Revenue Fund</u>	<u>Total</u>
TOTAL REVENUES & TRANSFERS-IN BY CLASS			
Licenses and Permits	\$ 16,271	\$ 12,425	\$ 28,696
Charges for Services	240		240
Fines and Forfeits	<u>2,400</u>		<u>2,400</u>
Total Revenues & Transfers-In	18,911	12,425	31,336
Less: Nonbudgeted Revenues & Transfers-In			0
Prior Year Revenues & Transfers-In Adjustments			<u>0</u>
Actual Budgeted Revenues & Transfers-In	18,911	12,425	31,336
Estimated Revenues & Transfers-In	<u>60,913</u>	<u>60,000</u>	<u>120,913</u>
Budgeted Revenues & Transfers-In Over (Under) Estimated	<u>\$ (42,002)</u>	<u>\$ (47,575)</u>	<u>\$ (89,577)</u>
BUDGETED REVENUES & TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS			
Licenses and Permits	\$ (22,729)	\$ (47,575)	\$ (70,304)
Charges for Services	(3,673)		(3,673)
Fines and Forfeits	<u>(15,600)</u>		<u>(15,600)</u>
Budgeted Revenues & Transfers-In Over (Under) Estimated	<u>\$ (42,002)</u>	<u>\$ (47,575)</u>	<u>\$ (89,577)</u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-9.

COMMISSIONER OF POLITICAL PRACTICES
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 2010

PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT	<u>ADMINISTRATION</u>
Personal Services	
Salaries	\$ 189,842
Employee Benefits	69,830
Total	<u>259,672</u>
Operating Expenses	
Other Services	176,335
Supplies & Materials	8,423
Communications	10,945
Travel	2,633
Rent	14,710
Repair & Maintenance	66
Other Expenses	1,670
Total	<u>214,782</u>
Transfers-out	
Fund transfers	32,475
Total	<u>32,475</u>
Total Expenditures & Transfers-Out	<u>\$ 506,929</u>
 EXPENDITURES & TRANSFERS-OUT BY FUND	
General Fund	\$ <u>506,929</u>
Total Expenditures & Transfers-Out	506,929
Less: Nonbudgeted Expenditures & Transfers-Out	21,731
Prior Year Expenditures & Transfers-Out Adjustments	<u>(2,282)</u>
Actual Budgeted Expenditures & Transfers-Out	487,480
Budget Authority	<u>565,685</u>
Unspent Budget Authority	<u>\$ 78,205</u>
 UNSPENT BUDGET AUTHORITY BY FUND	
General Fund	\$ <u>78,205</u>
Unspent Budget Authority	<u>\$ 78,205</u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-9.

COMMISSIONER OF POLITICAL PRACTICES
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 2009

PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT	<u>ADMINISTRATION</u>
Personal Services	
Salaries	\$ 190,618
Employee Benefits	67,528
Total	<u>258,146</u>
Operating Expenses	
Other Services	312,639
Supplies & Materials	14,859
Communications	7,575
Travel	4,197
Rent	13,878
Other Expenses	2,704
Total	<u>355,852</u>
Benefits & Claims	
To Individuals	<u>225,000</u>
Total	<u>225,000</u>
Total Expenditures & Transfers-Out	<u>\$ 838,998</u>
 EXPENDITURES & TRANSFERS-OUT BY FUND	
General Fund	\$ <u>838,998</u>
Total Expenditures & Transfers-Out	838,998
Less: Nonbudgeted Expenditures & Transfers-Out	(34)
Prior Year Expenditures & Transfers-Out Adjustments	
Actual Budgeted Expenditures & Transfers-Out	<u>839,032</u>
Budget Authority	<u>921,774</u>
Unspent Budget Authority	<u>\$ 82,742</u>
 UNSPENT BUDGET AUTHORITY BY FUND	
General Fund	\$ <u>82,742</u>
Unspent Budget Authority	<u>\$ 82,742</u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-9.

Office of the Commissioner Political Practices

Notes to the Financial Schedules

For the Two Fiscal Years Ended June 30, 2010

1. Summary of Significant Accounting Policies

Basis of Accounting

The office uses the modified accrual basis of accounting, as defined by state accounting policy, for its Governmental fund categories (General and State Special Revenue). In applying the modified accrual basis, the office records:

- ◆ Revenues when it receives cash or when receipts are realizable, measurable, earned, and available to pay current period liabilities.
- ◆ Expenditures for valid obligations when the department incurs the related liability and it is measurable, with the exception of the cost of employees' annual and sick leave. State accounting policy requires the office to record the cost of employees' annual and sick leave when used or paid.

Expenditures and expenses may include: entire budgeted service contracts even though the office receives the services in a subsequent fiscal year; goods ordered with a purchase order before fiscal year-end but not received as of fiscal year-end; and equipment ordered with a purchase order before fiscal year-end.

Basis of Presentation

The financial schedule format is in accordance with the policy of the Legislative Audit Committee. The financial schedules are prepared from the transactions posted to the state's accounting system without adjustment.

The office uses the following funds:

Governmental Fund Category

- ◆ **General Fund** – to account for all financial resources except those required to be accounted for in another fund.
- ◆ **State Special Revenue Fund** – to account for proceeds of specific revenue sources (other than private-purpose trusts or major capital projects) that are legally restricted to expenditures for specific state program purposes.

2. General Fund Balance

The negative fund balance in the general fund does not indicate overspent appropriation authority. The office has authority to pay obligations from the statewide general fund

within its appropriation limits. The office expends cash or other assets from the statewide fund when it pays general fund obligations. The office's outstanding liabilities exceed the assets it has placed in the fund, resulting in negative ending general fund balances for each of the fiscal years ended June 30, 2010.

3. Direct Entries to Fund Balance

Direct entries to fund balances in the general and state special revenue funds include entries generated by SABHRS to reflect the flow of resources within individual funds shared by separate agencies.

OFFICE OF THE
COMMISSIONER OF
POLITICAL PRACTICES

OFFICE RESPONSE

COMMISSIONER OF
POLITICAL PRACTICES

B-1



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October 27, 2010

RECEIVED

OCT 27 2010

LEGISLATIVE AUDIT DIV.

Tori Hunthausen CPA
Legislative Auditor
Room 160 State Capitol
Helena MT 59620-1705

Subject: Requested audit response

Ms. Hunthausen, my staff made substantial extra effort to implement all of the recommendations made during the last (2008) audit. I regret that effort wasn't sufficient to preclude recurring errors of the type we've all been working to correct since 2006.

Once again in the recent audit, your staff was professional and pleasant to work with. We look forward to continuing to work with the audit staff to ensure that our work is aligned with requirements, and that we operate within statutory obligations and state policy.

Recommendation 1

- a. Record revenue in accordance with statutory requirements.*
- b. Ensure requests for accounting guidance contain specific statutory language governing the transactions.*

Concur: CPP staff met again recently with Department of Administration accounting staff and Legislative Audit staff to find consensus on how these revenue transactions must be handled. CPP staff will work with the Department of Administration to document and implement procedures that ensure these transactions are in accordance with state law and accounting policy.

A handwritten signature in black ink, appearing to read "D. Unsworth".

Dennis Unsworth
Commissioner