

**CONSUMER COUNSEL
FINANCIAL-COMPLIANCE AUDIT FOR THE
TWO FISCAL YEARS ENDED JUNE 30, 2013**

LEGISLATIVE AUDIT DIVISION

Tori Hunthausen, Legislative Auditor
Deborah F. Butler, Legal Counsel



Deputy Legislative Auditors:
Cindy Jorgenson
Angus Maciver

December 2013

The Legislative Audit Committee
of the Montana State Legislature:

Enclosed is the report on the financial-compliance audit of the Montana Consumer Counsel for the two fiscal years ended June 30, 2013.

The audit was conducted by Rudd & Company under a contract between the firm and our office. The comments contained in this report represent the views of the firm and not necessarily the Legislative Auditor.

The Counsel's written response to the report is included in the back of the audit report.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Tori Hunthausen".

Tori Hunthausen, CPA
Legislative Auditor

13C-10

**CONSUMER COUNSEL
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**ELECTED AND APPOINTED OFFICIALS
LEGISLATIVE CONSUMER COMMITTEE**

2012-2013

SENATORS

Terry Murphy (Appointed 05/13)

Mitch Tropila (Appointed 05/13)

REPRESENTATIVES

Mike Cuffe (Appointed 05/13)

Pat Noonan (Appointed 05/13)

Consumer Counsel

Robert A. Nelson



INDEPENDENT AUDITORS' REPORT

The Legislative Audit Committee
of the Montana State Legislature:

Report on the Financial Schedules

We have audited the accompanying financial schedules of the Consumer Counsel, which comprise fund equity for each fund as of June 30, 2013 and 2012, and the related schedules of total revenues & transfers-in and schedules of total expenditures & transfers out for the years then ended, and the related notes to the financial schedules.

Management's Responsibility for the Financial Schedules

Management is responsible for the preparation and fair presentation of these financial schedules in accordance with accounting policy of the State of Montana. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial schedules that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion 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 from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial schedules. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial schedules, whether due to fraud or error.

In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial schedules. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles

As described in Note 1 of the financial schedules, the financial schedules are prepared by the Consumer Counsel in accordance with state accounting policy, which is a basis of accounting other than accounting principles generally accepted in the United States of America, to meet the requirements of the State of Montana. The effects on the financial schedules of the variances between the regulatory basis of accounting described in Note 1 and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

Adverse Opinion on U.S. Generally Accepted Accounting Principles

In our opinion, because of the significance of the matter discussed in the "Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles" paragraph, the financial schedules referred to above do not present fairly, in accordance with accounting principles generally accepted in the United States of America, the financial position of each fund of the Consumer Counsel as of June 30, 2013 and 2012, or changes in financial position or cash flows thereof for the year then ended.

Opinion on Regulatory Basis of Accounting

In our opinion, the financial schedules referred to above present fairly, in all material respects, the fund equity of each fund of the Consumer Counsel as of June 30, 2013 and 2012, and their respective total revenues & transfers-in and expenditures & transfers-out for the years then ended in accordance with the accounting policy of the State of Montana as described in Note 1.

Report on Other Legal and Regulatory Requirements

In Accordance with *Governmental Auditing Standards*, we have also issued our report dated December 2, 2013 on our consideration of the Consumer Counsel's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Rudd & Company, PLLC

Helena, Montana
December 2, 2013

CONSUMER COUNSEL
SCHEDULE OF CHANGES IN FUND EQUITY
FOR THE FISCAL YEAR ENDED JUNE 30, 2013

FOR ALL FUNDS

	<u>State Special Revenue Fund</u>
FUND EQUITY: July 1, 2012	<u>\$ 1,152,672</u>
ADDITIONS	
Direct Entries to Fund Equity	1,211,677
Total Additions	<u>1,211,677</u>
REDUCTIONS	
Budgeted Expenditures & Transfers-Out	1,345,223
Nonbudgeted Expenditures & Transfers-Out	(443)
Total Reductions	<u>1,344,781</u>
FUND EQUITY: June 30, 2013	<u>\$ 1,019,568</u>

See Notes to the Financial Schedules

CONSUMER COUNSEL
SCHEDULE OF CHANGES IN FUND EQUITY
FOR THE FISCAL YEAR ENDED JUNE 30, 2012

FOR ALL FUNDS

	<u>State Special Revenue Fund</u>
FUND EQUITY: July 1, 2011	<u>\$ 741,606</u>
ADDITIONS	
Direct Entries to Fund Equity	1,505,889
Total Additions	<u>1,505,889</u>
REDUCTIONS	
Budgeted Expenditures & Transfers-Out	1,094,213
Nonbudgeted Expenditures & Transfers-Out	(154)
Prior Year Expenditures & Transfers-Out Adjustments	764
Total Reductions	<u>1,094,822</u>
FUND EQUITY: June 30, 2012	<u>\$ 1,152,672</u>

See Notes to the Financial Schedules

CONSUMER COUNSEL
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 2013

FOR ALL FUNDS

	State Special Revenue Fund	Total
TOTAL REVENUES & TRANSFERS-IN BY CLASS		
Total Revenues & Transfers-In	\$ -	\$ -
Less: Nonbudgeted Revenues & Transfers-In	-	-
Prior Year Revenues & Transfers-In Adjustments	-	-
Actual Budgeted Revenues & Transfers-In	-	-
Estimated Revenues & Transfers-In	-	-
Budgeted Revenues & Transfers-In Over (Under) Estimated	\$ -	\$ -
 BUDGETED REVENUES & TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS		
Budgeted Revenues & Transfers-In Over (Under) Estimated	\$ -	\$ -

See Notes to the Financial Schedules

CONSUMER COUNSEL
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 2012

FOR ALL FUNDS

	State Special Revenue Fund	Total
TOTAL REVENUES & TRANSFERS-IN BY CLASS		
Total Revenues & Transfers-In	\$ -	\$ -
Less: Nonbudgeted Revenues & Transfers-In	-	-
Prior Year Revenues & Transfers-In Adjustments	-	-
Actual Budgeted Revenues & Transfers-In	-	-
Estimated Revenues & Transfers-In	-	-
Budgeted Revenues & Transfers-In Over (Under) Estimated	\$ -	\$ -
 BUDGETED REVENUES & TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS		
Budgeted Revenues & Transfers-In Over (Under) Estimated	\$ -	\$ -

See Notes to the Financial Schedules

CONSUMER COUNSEL
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 2013

FOR ALL FUNDS

PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT	<u>ADMINISTRATION PROGRAM</u>	<u>Total</u>
Personal Services		
Salaries	\$ 384,471	\$ 384,471
Employee Benefits	100,651	100,651
Total	<u>485,122</u>	<u>485,122</u>
Operating Expenses		
Other Services	739,340	739,340
Supplies & Materials	11,821	11,821
Communications	12,661	12,661
Travel	30,412	30,412
Rent	23,800	23,800
Other Expenses	41,625	41,625
Total	<u>859,659</u>	<u>859,659</u>
Total Expenditures & Transfers-Out	<u>\$ 1,344,781</u>	<u>\$ 1,344,781</u>
 EXPENDITURES & TRANSFERS-OUT BY FUND		
State Special Revenue Fund	\$ 1,344,781	\$ 1,344,781
Total Expenditures & Transfers-Out	1,344,781	1,344,781
Less: Nonbudgeted Expenditures & Transfers-Out	(443)	(443)
Prior Year Expenditures & Transfers-Out Adjustments		
Actual Budgeted Expenditures & Transfers-Out	<u>1,345,223</u>	<u>1,345,223</u>
Budget Authority	<u>1,888,662</u>	<u>1,888,662</u>
Unspent Budget Authority	<u>\$ 543,439</u>	<u>\$ 543,439</u>
 UNSPENT BUDGET AUTHORITY BY FUND		
State Special Revenue Fund	\$ 543,439	\$ 543,439
Unspent Budget Authority	<u>\$ 543,439</u>	<u>\$ 543,439</u>

See Notes to the Financial Schedules

CONSUMER COUNSEL
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 2012

FOR ALL FUNDS

	<u>ADMINISTRATION PROGRAM</u>	<u>Total</u>
PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT		
Personal Services		
Salaries	\$ 348,152	\$ 348,152
Employee Benefits	86,385	86,385
Total	434,537	434,537
Operating Expenses		
Other Services	549,742	549,742
Supplies & Materials	16,261	16,261
Communications	12,383	12,383
Travel	23,466	23,466
Rent	22,313	22,313
Other Expenses	36,121	36,121
Total	660,286	660,286
Total Expenditures & Transfers-Out	\$ 1,094,822	\$ 1,094,822
EXPENDITURES & TRANSFERS-OUT BY FUND		
State Special Revenue Fund	\$ 1,094,822	\$ 1,094,822
Total Expenditures & Transfers-Out	1,094,822	1,094,822
Less: Nonbudgeted Expenditures & Transfers-Out	(154)	(154)
Prior Year Expenditures & Transfers-Out Adjustments	764	764
Actual Budgeted Expenditures & Transfers-Out	1,094,213	1,094,213
Budget Authority	1,854,085	1,854,085
Unspent Budget Authority	\$ 759,872	\$ 759,872
UNSPENT BUDGET AUTHORITY BY FUND		
State Special Revenue Fund	\$ 759,872	\$ 759,872
Unspent Budget Authority	\$ 759,872	\$ 759,872

See Notes to the Financial Schedules

THE CONSUMER COUNSEL
NOTES TO FINANCIAL SCHEDULES
June 30, 2012 and 2013

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Accounting

The Montana Consumer Counsel uses the modified accrual basis of accounting, as defined by state accounting policy, for its Governmental fund category (State Special Revenue). In applying the modified accrual basis, the Montana Consumer Counsel 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 Montana Consumer Counsel 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 Montana Consumer Counsel 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 was adopted by the Legislative Audit Committee. The financial schedules are prepared from the transactions posted to the state's accounting system without adjustment.

The Montana Consumer Counsel uses the following funds:

Governmental Fund Category:

State Special Revenue Fund – to account for proceeds of specific revenue sources that are legally restricted to expenditures for specific state program purposes. Legislative appropriation is required to spend from this fund.

The State provides funding for the Montana Consumer Counsel through revenue-sharing.

**THE CONSUMER COUNSEL
NOTES TO FINANCIAL SCHEDULES
June 30, 2012 and 2013**

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Vacation and Sick Leave

Employees are paid for 100 percent of unused vacation and 25 percent of unused sick leave credits upon termination. Accumulated unpaid liabilities for vacation and sick leave are not reflected in the financial schedules of the Montana Consumer Counsel. Expenditures for termination pay are currently absorbed in the annual operational costs of the Montana Consumer Counsel. At June 30, 2013 and 2012, the Montana Consumer Counsel had liabilities for compensated absences of \$84,057 and \$61,879, respectively.

2. PENSION PLAN

Plan Description

The Public Employees' Retirement System (PERS) is a statewide retirement plan established in 1945 and governed by Title 19, Chapters 2 and 3 of the Montana Code Annotated. The PERS is a mandatory multiple-employer, cost-sharing plan administered by the Public Employees' Retirement Administration (PERA).

PERS provides retirement, disability, and death benefits to plan members and their beneficiaries.

Benefits are based on eligibility, years of service, and highest average compensation. Members' rights become vested after five years of service.

The plan is included in a comprehensive annual financial report that includes financial statements and other required supplemental information. The report is available at the following address:

100 North Park Avenue, Suite 200, PO Box 200131, Helena, MT 59620-0131

**THE CONSUMER COUNSEL
NOTES TO FINANCIAL SCHEDULES
June 30, 2012 and 2013**

2. PENSION PLAN (Continued)

Funding Policy

Contribution rates for the plan are required and determined by State Law. The PERS rates for employees and employers expressed as a percentage of covered payroll, were as follows:

	<u>Employer</u>	<u>Employee</u>	<u>Total</u>
2013 (members hired prior to 7/1/11)	7.17%	6.9%	14.07%
2013 (members hired after 7/1/11)	7.17%	7.9%	15.07%
2012 (members hired prior to 7/1/11)	7.17%	6.9%	14.07%
2012 (members hired after 7/1/11)	7.17%	7.9%	15.07%
2011 (all members)	7.17%	6.9%	14.07%

The amounts contributed to the plan by the Consumer Counsel were as follows:

	<u>Employer Contributions</u>
June 30, 2013	\$ 24,664
June 30, 2012	\$ 21,547
June 30, 2011	\$ 20,357
June 30, 2010	\$ 20,819

3. DIRECT ENTRIES TO FUND EQUITY

Direct entries to fund equity in the State Special Revenue Funds include entries generated by SABHRS to reflect the flow of resources within individual funds shared by separate agencies.

THE CONSUMER COUNSEL
NOTES TO FINANCIAL SCHEDULES
June 30, 2012 and 2013

4. OPERATING LEASE

The Montana Consumer Counsel entered into a lease agreement for office space on May 1, 2010 and terminating on April 30, 2013. This lease is renewed every three years. The current lease agreement began May 1, 2013 and terminates on April 30, 2016. The rent is increased annually on the anniversary date of the lease. Total rent expense was \$23,800.00 and \$22,312.50 for the fiscal years ended 2013 and 2012, respectively. Future minimum lease payments due under this lease are \$27,475, \$28,525 and \$24,500 for the fiscal years ended 2014, 2015, and 2016, respectively.



INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

The Legislative Audit Committee
of the Montana State Legislature:

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial schedules of the Consumer Counsel, for the fiscal years ended June 30, 2013 and 2012, as listed in the table of contents, and have issued our report thereon December 2, 2013.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial schedules, we considered the Consumer Counsel's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial schedules, but not for the purpose of expressing an opinion on the effectiveness of the Consumer Counsel's internal control. Accordingly, we do not express an opinion on the effectiveness of the Consumer Counsel's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial schedules will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or, significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Consumer Counsel's financial schedules are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which

could have a direct and material effect on the determination of financial schedule amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Rudd & Company, PLLC

Helena, Montana
December 2, 2013

Montana Consumer Counsel



Robert A. Nelson
Consumer Counsel

Lawrence P. Nordell, *Economist*
Paul Schulz, *Rate Analyst*
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Helena, Montana 59620-1703

December 2, 2013

Rudd & Company PLLC
1003 11th Avenue, Suite A
Helena, Montana 59601

RE: Consumer Counsel Audit Response

Dear Rudd & Company PLLC

We have reviewed the draft audit report for the Consumer Counsel. We are pleased that the Counsel meets accounting standards and that no recommendations for improvement were necessary.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert A. Nelson", written over a horizontal line.

Robert A. Nelson
Montana Consumer Counsel