

The Legislative Fiscal Division Presents an Agency Profile of:

The State Auditor's Office

Updated August 2014

Agency Description

Definition of Terms

The State Auditor is the Commissioner of Insurance and the Commissioner of Securities. The Auditor is charged with licensing, registering, and regulating insurance companies and producers, securities issuers, salespeople, broker-dealers, investment advisers, and investment adviser representatives within the state. The Auditor also serves as a member of the Board of Land Commissioners and the Crop Hail Insurance Board. The Auditor is an elected position within state government.

The mission of the State Auditor's Office is to assure compliance with the Montana insurance and securities laws, promote captive insurance formations, administer the Insure Montana program, and assist consumers with complaints involving the securities and insurance industries.

The primary statutory references defining duties and responsibilities of the department are summarized below. The Office of the State Auditor is authorized under Article VI of the Montana Constitution, and is designated the Commissioner of Securities in 2-15-1901, MCA and the Commissioner of Insurance in 2-15-1903, MCA. In those capacities, the State Auditor's duties are generally defined in Title 30, Part 10 and Title 33 of the MCA.

The state special revenue generated by fees and taxes that support the State Auditor's Office are identified and defined in 33-2-705–708, MCA. In accordance with 30-1-115, MCA, unspent collections from security licenses and permits are deposited into the general fund.

The Insure Montana program, which funds premium assistance and tax credits for small employers who provide health insurance to their employees, is authorized in 33-22-2006, MCA. The Insure Montana program was funded from a one-time appropriation by the 2013 Legislature, but is requested to continue by the State Auditor.

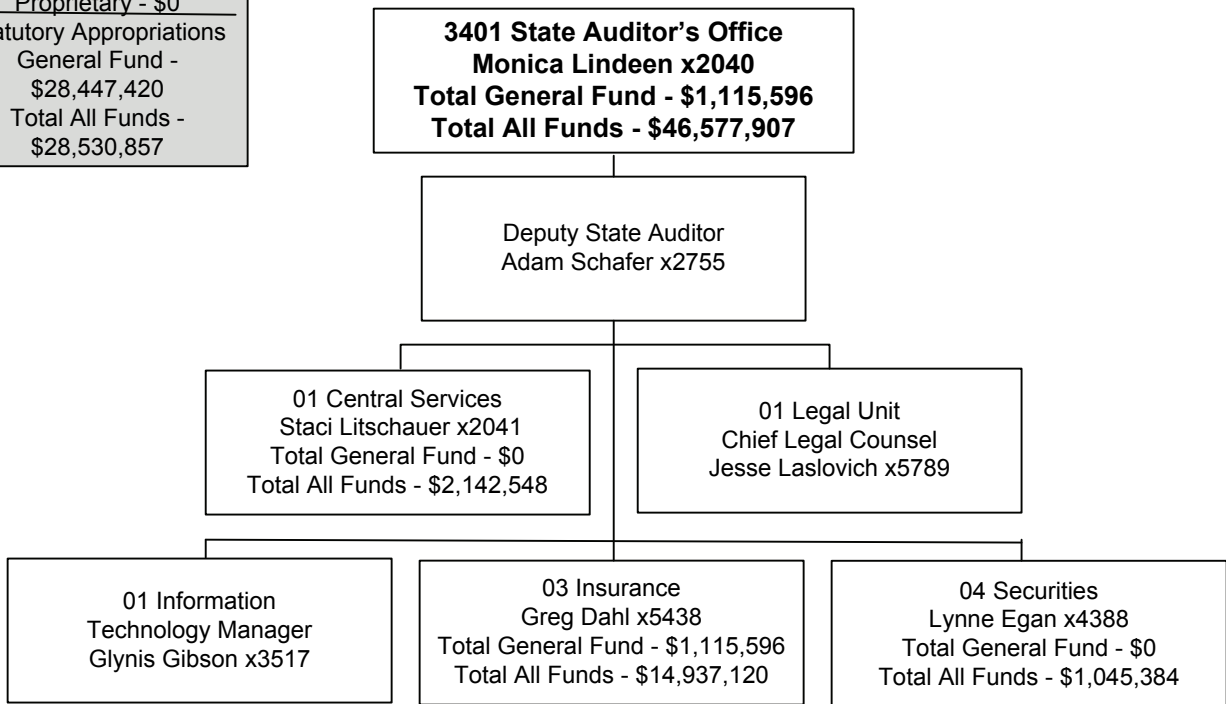
The office manages the forest reserve shared revenue account under 17-2-211, MCA, and the Fire and Police Retirement Program under 33-2-705, and 50-3-109, MCA, the tobacco settlement funds under 17-6-606, MCA.

The office's investigation units are recognized under 44-5-401, MCA.

The organizational chart of the agency on the following page includes full-time equivalent (FTE) numbers, general fund appropriations, statutory appropriations, proprietary funds, and total of all funds. Funds in this chart are based on the funding unit.

Unless otherwise noted, all phone extensions are preceded by (406) 444.

Non – HB 2 Funds Proprietary - \$0
Statutory Appropriations General Fund - \$28,447,420 Total All Funds - \$28,530,857



How Services are Provided

The State Auditor's Office consists of three divisions with the following functions:

- Central Management is responsible for the administrative, personnel, budgeting and accounting functions. It also provides support in fulfilling the duties as a member of the state land and hail insurance boards, and serves as a conduit for the distribution of a “pass through” program: the Fire and Police Retirement program.
- The Insurance Division regulates the insurance industry in Montana and oversees the Insure Montana program, which was funded from one-time appropriations in the 2015 biennium. This division has seven programs:
 - The Market Compliance Bureau is responsible for resolving insurance consumer inquiries and complaints involving agents, coverage, and companies.
 - The Legal Unit investigates insurance code and rule violations, including possible criminal violations, and refers cases to county attorneys for prosecution.
 - The Examinations Bureau monitors the financial solvency of insurance companies operating in Montana through financial analysis and financial examination, and collecting premium taxes and company fees paid by insurance companies operating in Montana.
 - The Rates Bureau is responsible for reviewing rate filing to ensure compliance with the applicable insurance code
 - The Forms Bureau is responsible for reviewing form filings to ensure compliance with the applicable insurance code.
 - The Licensing Bureau is responsible for licensing and providing continuing education to insurance agents, agencies, and adjustors.
 - The Insure Montana program provides health insurance for small business with premium assistance or tax credits for health insurance purchases.

- Securities Division is responsible for the administration and enforcement of the Securities Act of Montana and in particular, for the registration of securities issuers, sales people, broker-dealers, investment advisers, and investment adviser representatives. The division is responsible for the investigation of unregistered and fraudulent securities transactions. The division has sole jurisdiction for investment advisor firms with assets under \$25 million.

The State Auditor conducts the business of the three divisions through employment of FTE and contracted services. Personal services account for 69% of its \$8.1 million in base budget expenditures in FY 2014, which do not include the Insure Montana program.

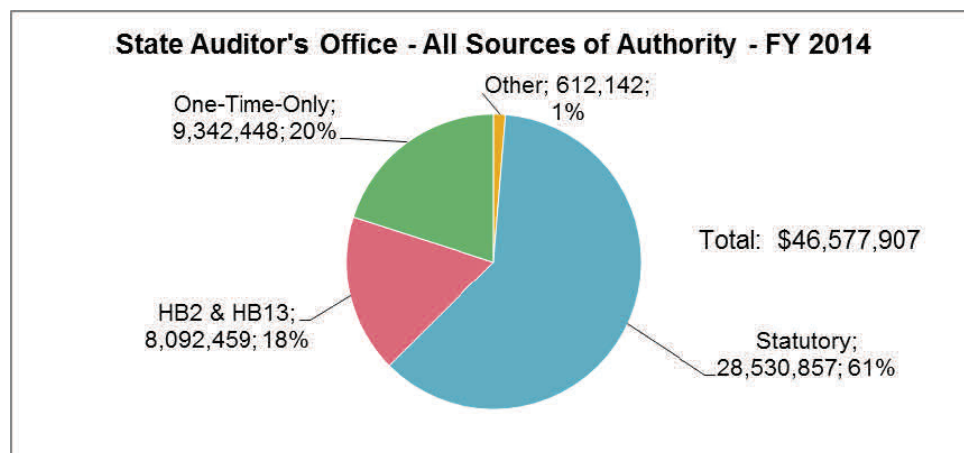
The State Auditor is also responsible for passing through funding for local police and firefighter retirement programs (Municipal Police Officers' Retirement System, Firefighters' Unified Retirement System, the Volunteer Fire Fighters' Compensation Act, local fire department relief associations, municipalities with police department trust funds, and local police pension funds for supplemental benefits). The retirement programs are funded from general insurance (33-2-705, MCA) and fire insurance premium taxes (50-3-109, MCA) - \$28.5 million in FY 2014. Because these funds are statutorily appropriated, the expenditures are not included in the general appropriations act.

Sources of Spending Authority

The chart shows the sources of authority for the State Auditor's Office. The chart includes:

- HB 2 – state special revenue to fund programs administered by the office
- Statutory - primarily distributions of insurance premium taxes to local police and firefighter retirement programs
- Budget amendment – federal grant funds provided to all states in 2010 for implementation planning for the Patient Protection and Affordable Care Act
- Other and off base – funds from private organizations to provide education about securities fraud and to account for funds that are held in trust for insurance policy holders

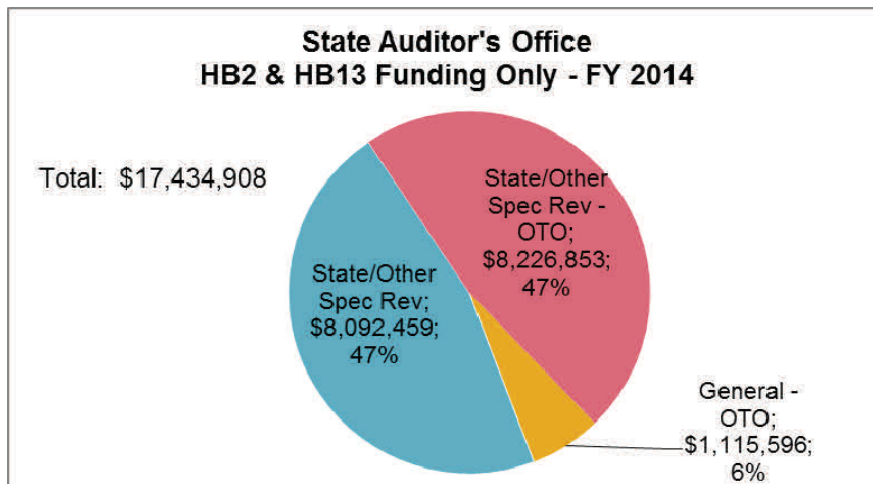
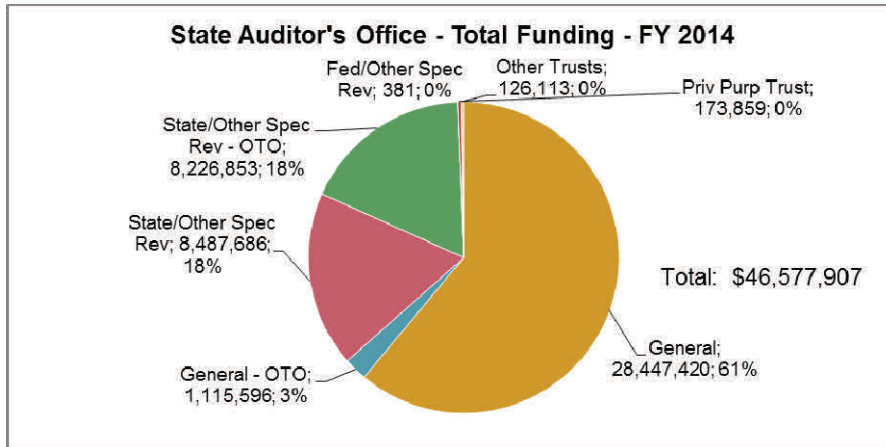
The accounting term, off base, refers to one-time-only spending and non-budgeted items like inventory adjustments. Other legislative appropriations (sometimes called cat and dog bills) are included in the above categories as appropriate. For a more detailed description of accounting terminology, please refer to the definition of terms.



Funding

The following charts show HB 2 funding authority by fund type and all sources of total funding authority. The Total Funding figure includes several sources of authority not budgeted in HB 2 including:

- Statutory appropriations administered by the State Auditor
- Expendable trust funds from private organization funding to provide education securities fraud and to account for funds that are held in trust for insurance policy holders



Insurance

Insurance premium taxes are levied on the net premiums or gross underwriting profit for each insurance company operating in Montana.

As of December 2004, there are two tax rates, the proceeds of which are deposited into the general fund and disbursed by the State Auditor in support of Municipal Police Officers' Retirement System; Firefighters' Unified Retirement System; the Volunteer Fighters' Compensation Act; local fire department relief associations; municipalities with police department trust funds; and local police pension funds for supplemental benefits. Funding for this program was \$21.2 million for FY 2008. The tax rates are:

- 2.75% tax on total direct premium income
- 2.5% tax on the fire portion of net premiums for selected risks, called the fire insurance premium tax

Funding, cont.

The Fire and Police Retirements program funds are from general insurance (33-2-705, MCA) and fire insurance premium taxes (50-3-109, MCA).

Insurance license fees are deposited into the state special revenue fund for use by the State Auditor. For a complete list of the fees, please see the Insurance Tax and License Fees section of the Legislative Revenue Analysis.

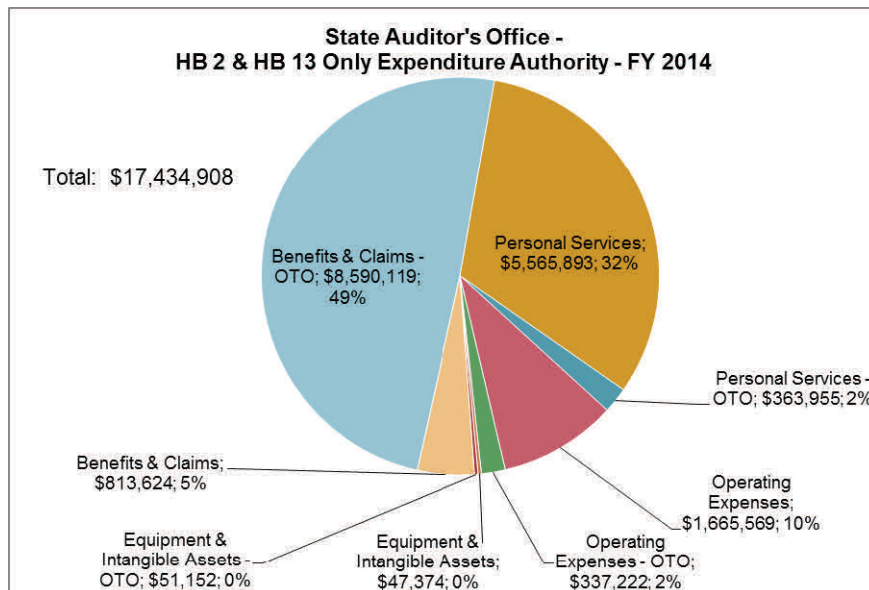
Securities

Investment license fees are assessed to investment advisors and companies for registration of securities and agents, registration of securities by notification, notice of federal filing of a federally secured security, and name changes. All fees except portfolio notice filing fees and examination charges are deposited to the general fund.

Portfolio notice filing fees and examination charges are deposited in a state special revenue account from which the State Auditor pays for expenses associated with the regulation of portfolio activities. The excess in this account is transferred to the general fund throughout the year as a non-budgeted transfer.

Expenditures

The next chart explains how the HB 2 authority is spent. Of the \$17.4 million of HB 2 authority expended in FY 2014, \$9.4 million, or 53%, was spent on benefits and claims, which consists of premium assistance and tax credits for small employers who provide health insurance to their employees and premium assistance for persons who accessed the state high risk pool. The one-time funding represents expenditures for the Insure Montana program. This chart matches the agency chart found in the 2017 Budget Analysis.



How the 2015 Legislature Can Effect Change

In order to change expenditure levels and/or activity, the legislature might address:

- Laws governing how the insurance and security industries do business in Montana and how the office conducts licensing, regulation, examinations, and responds to the consumer
- Laws governing the number of insurance and security companies and individuals doing business in Montana
- Laws governing amount and collection of fees and taxes relating to insurance and securities
- Policies on how the agency handles pass-through accounts
- The code of ethics for insurance and security industries doing business in Montana

Other factors that influence costs, but that the legislature is less likely to control are:

- The number of registered complaints and related court dockets
- Federal legislation impacting the insurance and securities industry
- Telephone or web-based inquiries from consumers
- Initiatives or legislation responding to citizen action
- The health of the national economy

The legislature has the ability to change expenditure levels and/or State Auditor’s Office activity through the following basic elements that drive costs:

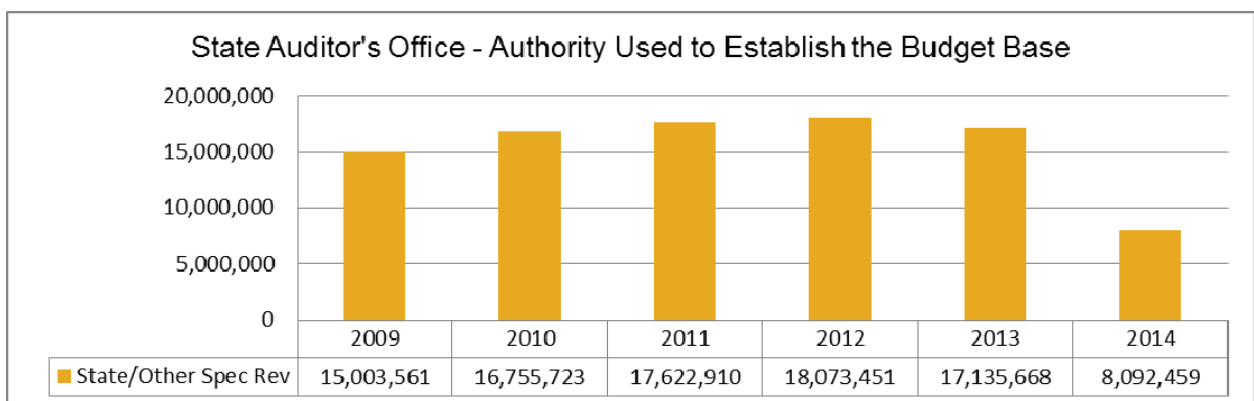
- Insurance or securities regulatory policy changes – these policy changes impact staff workload and costs associated with oversight and regulation of the insurance and securities industries in Montana.

Major Cost Drivers

The major cost drivers for the State Auditor’s Office are:

- The number of insurance companies and the number of securities firms licensed to do business in Montana
- State and federal laws and rules governing the licensing, examination, and monitoring of insurance and security firms
- Major changes in insurance policy that affect individual consumers
- The number of securities fraud investigations and prosecutions

Funding/Expenditure History, Authority Used to Establish the Budget Base



The State Auditor's Office budget decreases significantly from FY 2009 to FY 2014 due to appropriations for the Insure Montana program. From FY 2009 to FY 2013, the Insure Montana program was funded from ongoing HB 2 appropriations. In FY 2014, it was funded from a one-time appropriation, which is not reflected in the table above. The legislature used one-time funds since the Affordable Care Act (ACA) provides opportunities for small businesses to shop for insurance through the federal exchange and because the major funding source for the program - health and Medicaid initiatives state special revenue—was inadequate to cover all ongoing appropriations. Annual expenditures for Insure Montana ranged from a high of \$12.4 million in FY 2012 to \$9.2 million in FY 2014.

Major Legislative Changes in the Last Ten Years

2013 Legislature

- The legislature funded Insure Montana from a one-time appropriation, based eligibility for premium assistance provided by the Insure Montana program on household income rather than an individual employee's salary, and limited premium assistance to households earning no more than 400% of the federal poverty level (about \$94,000 for a family of 4 in 2013)
- The legislature required insurers to file health insurance rates with the State Auditor's Office and to provide documentation supporting the development of the rates. The office is required to review rate filings for each health insurance insurer and consider whether the proposed premium rate is excessive, inadequate, unjustified, or unfairly discriminatory, and provide a notice of deficiencies if any are found to exist

2011 Legislature

- The legislature authorized funding for oversight of the securities industry related to changes implemented as a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

2009 Legislature

- The legislature provided a one-time increase over the 2013 biennium to Insure Montana for additional premium assistance and tax credits for small employers who provide health insurance for their employees

2005 Legislature

- The legislature implemented the Insure Montana program funded by a voter passed initiative that raised tobacco and cigarette taxes

For further information, please contact the agency:

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