

# 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](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.

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Signed: \_\_\_\_\_