
From: Thomas, Nate <NThomas@mt.gov>
Sent: Thursday, January 18, 2024 10:00 AM
To: Maciver, Angus <Angus.Maciver@legmt.gov>
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Subject: RE: Audit Committee Requests 1/18/24

Hello Director Maciver,

Included below is additional information that was requested during the October Legislative Audit Committee hearing.

- As it relates to the question on FTE allocated for specialty plates, the department cannot calculate the amount of FTE specific to specialty license plates because there are so many moving parts to the delivery of program at varying levels.
- As related to questions on Agency Legal Services (ALS) which provides legal services to state agencies at a significantly reduced rate compared to the private sector. The rate ALS is allowed to bill is set by the legislature. The rate of \$121/hour was set in the 2021 session. In 2021 ALS had some seasoned attorneys retire or depart DOJ. This resulted in large payouts of leave time as well as a loss of experienced attorneys. The loss of experienced attorneys meant vacancies and a reduced number of hours billed.

Replacing attorneys in state government is a challenge. One of the major challenges is the rate of pay, we simply cannot compete with the private sector. This means that our applicant pool is often new graduates looking for the breadth of experience they can get from ALS or attorneys who want to work for state government. We enjoy getting new graduates, but this also means that they are not as efficient as seasoned attorneys with billing. Additionally, whenever a new attorney comes on, it typically takes a couple of months for their workflow to reach a high billing capacity.

We are approaching this issue of getting ALS back to supporting itself in several ways. First, we implemented an incentive program to encourage hitting a billable hour goal. This incentive is not for bringing in new business, as ALS has the first right to most cases handled by state agencies looking for outside counsel. Almost all eligible ALSB staff hit this billable hour goal in 2023.

Second, the Department has started the discussion with OBPP for the 2025 session regarding a change to the hourly rate while still at a significantly reduced rate compared to the private sector. In addition, we are discussing the possibility of an adjustable-rate level based on attorney

experience similar to the private sector, which would allow us to charge more for more experienced attorneys. ALSB's current rate of \$121 per hour for attorneys and \$71 per hour for paralegals is less than half of what attorneys in Montana typically bill and significantly lower than what similar bureaus in other states charge. The current rate is unsustainable going forward.

Third, we are reducing costs and collecting payments. For example, we are planning a move to a significantly cheaper office space. In previous years some state agencies were lax in paying their bills with ALS. We have significantly improved that situation and appreciate the support of OBPP and Agency Directors.

I hope this is helpful. Please let us know if you need any additional information.

Best Regards,

Nate Thomas

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