

Legislative Audit Division
Performance Audit Prioritization Process
Fiscal Year 2025

LEGISLATIVE AUDIT DIVISION

Angus Maciver, Legislative Auditor
Kenneth E. Varns, Legal Counsel



Deputy Legislative Auditors:
Cindy Jorgenson
William Soller
Miki Cestnik

MEMORANDUM

TO: Members of the Legislative Audit Committee
FROM: William Soller, Deputy Legislative Auditor for Performance Audits *WRS*
DATE: June 2024
RE: Potential Performance Audit Areas for Fiscal Year 2025

Please find enclosed a list of potential performance audit topics for fiscal year 2025. This list has been compiled to provide an opportunity for the Legislative Audit Committee to highlight areas of interest for future performance audit work. These topics have been identified through requests or input from the Legislative Audit Division and other legislative branch staff, agency staff, previous audit work, and areas of legislative or general interest. Several of the potential audit topics were submitted by individual legislators, came from questions raised as part of a recent legislative information request, or were generated through citizen concern. These include:

- Disclosure Requirements for Pension Fund Investments
- Effectiveness of Montana State Fund Safety Programs
- Executive Residence Renovation Cost Increases and Delays
- Analyzing the Natural Resources Damage Program
- Oil Well Production and Royalty Management
- Montana Education Calculations and Model
- Supporting Hearing and Visually Impaired Students

In addition, there were potential audit topics submitted by the executive branch. These include:

- Consistency and Analysis of Traffic Safety Data
- Effectiveness of Shared-Use Path Funding Distribution
- Oversight of Railroad Safety

We are requesting you assign a priority ranking (low, medium, or high) for the potential topics on the attached list. Where you have no interest in a particular issue, you may leave the prioritization section blank. To assist in scheduling performance audit work for the next year, we would like to receive your priority rankings at the June 17 committee meeting, if possible. If you are unable to attend the meeting or unable to turn in your prioritization rankings at that time, you may also return them to the office by mail, fax, or email. Please return your scoring to me by **July 21, 2024**. I will be available during the committee meeting for any questions or comments regarding the potential performance audit list.

Past Performance Audit Prioritization Categories

Current Performance Audit Prioritization Categories

General Government,
Taxation & Revenue,
Economy & Jobs,
Agency Management & Public Policy

ACFR/Budget Section A
General Government

Public Health & Human Services

ACFR/Budget Section B
Public Health & Human Services

Fisheries & Wildlife,
Natural Resources & Environment,
Transportation

ACFR/Budget Section C
Natural Resources & Transportation

Justice & Corrections

ACFR/Budget Section D
Public Safety

Education

ACFR/Budget Section E
Education & K12

Not Applicable

ACFR/Budget Section F
Long Range Planning

Fiscal Year 2025 Potential Performance Audits

Priority Ranking

Budget Committee

Audit Title

Low

Medium

High

General Government

Disclosure Requirements for Pension Fund Investments*

Effectiveness of Montana State Fund Safety Programs*

Executive Residence Renovation Cost Increases and Delays*

Public Health & Human Services

Addressing Challenges at the Montana State Hospital

An Assessment of DPHHS' Long-Term Care Ombudsman

Caring for Montana's Aging Population

Medicaid Unwinding

Natural Resources & Conservation

Analyzing the Natural Resources Damage Program*

Consistency and Analysis of Traffic Safety Data*

Effectiveness of Shared-Use Path Funding Distribution*

Oil Well Production and Royalty Management*

Public Safety

Oversight of Railroad Safety*

The Impact of Changes to 9-1-1 Fee Appropriations

Judicial Caseloads in Montana's District Courts

Education & Public Safety

One-Two-Free: Impacts of Dual Enrollment

Montana Education Funding Calculations and Model*

Supporting Hearing and Visually Impaired Students*

Long Range Planning

Managing the Long-Range Building Program Capacity

		Low	Medium	High
General Government	Disclosure Requirements for Pension Fund Investments*			
	Effectiveness of Montana State Fund Safety Programs*			
	Executive Residence Renovation Cost Increases and Delays*			
Public Health & Human Services	Addressing Challenges at the Montana State Hospital			
	An Assessment of DPHHS' Long-Term Care Ombudsman			
	Caring for Montana's Aging Population			
	Medicaid Unwinding			
Natural Resources & Conservation	Analyzing the Natural Resources Damage Program*			
	Consistency and Analysis of Traffic Safety Data*			
	Effectiveness of Shared-Use Path Funding Distribution*			
	Oil Well Production and Royalty Management*			
Public Safety	Oversight of Railroad Safety*			
	The Impact of Changes to 9-1-1 Fee Appropriations			
	Judicial Caseloads in Montana's District Courts			
Education & Public Safety	One-Two-Free: Impacts of Dual Enrollment			
	Montana Education Funding Calculations and Model*			
	Supporting Hearing and Visually Impaired Students*			
Long Range Planning	Managing the Long-Range Building Program Capacity			

***Denotes a formal request from a state agency, legislator, a recent legislative request discussing a potential performance audit in that area, or a member of the public.**

General Government

Disclosure Requirements for Pension Fund Investments*

The Montana Board of Investments (BOI) manages around \$15 billion on behalf of the state's pension funds. This amount is invested in domestic stocks (28%), private equity (17%), international stocks (15%), real estate (12%), and other asset classes. The investing and business activities of asset classes are subject to varying degrees of independent audit and required disclosure, based on domicile (foreign or domestic), type of business (public or private), and other factors. Legislators have expressed concern regarding if BOI has established processes to sufficiently assess investor risks associated with asset classes, particularly classes that are subject to less stringent audit and reporting requirements than public equity and bond markets. In recent years, the Board of Investments has taken steps to disclose less information about its holdings as a matter of course in its regular reports to the legislature and to the public, making it less clear what is known about the underlying holdings in the board's private equity and real estate portfolios. Board meeting minutes offer little detail about these asset strategies or holdings as well.

Potential audit examination areas to address risk could include:

- Examining audit and disclosure standards across asset classes, including applicable best practices;
- Evaluating how BOI assesses investment risks across various asset classes;
- Reviewing disclosure practices of other state pension funds to determine the amount of alternative asset information provided to legislators and the public; and
- Determining whether appropriate levels of audit and disclosure are required by the board in various investment pools before committing the state's pension funds to certain types of investments.

Auditee: The Montana Board of Investments.

Activity Last Audited: The Board of Investments was subject of a 2014 performance audit, which examined aspects of its governance.

Recent Financial Activity: The Montana Board of Investments manages and invests more than \$27 billion for various state and local government participants across Montana.

Effectiveness of Montana State Fund Safety Programs*

According to federal data sources, Montana continues to lead the nation in the incidence of workplace injuries, despite a decline over the past decade or so. Montana State Fund (MSF) is the largest workers' compensation insurance company in the state, providing insurance to approximately 25,000 businesses, organizations, and their workers. State Fund also provides a variety of learning opportunities, preventative safety programs, and other opportunities for policy holders to provide safer workspaces and habits for their employees. These programs include a variety of efforts to encourage and incentivize employers to improve workplace safety. Examples of the kinds of efforts put in place by MSF include the Small Business Group Program that allows policyholders to earn a return of premium based on the overall safety performance of the group. Other safety programs address building safety culture through education through the Growing a Safer Montana (GSM) program, which includes awards and scholarships for middle and high school classrooms. Another MSF program, Worksafe Champions, provides education and support to policyholders at their worksites, and to all employers through centralized classes connected to MSF's quarterly safety workshops held around the state. An additional aspect of the safety program is assisting employers in establishing return-to-work programs, which are geared towards getting injured employees back on the job quickly to hold down workers compensation costs.

Potential audit examination areas to address risk could include:

- Examining how Montana State Fund determines what types of preventative safety programming to offer, and how it measures the effectiveness of those programs;
- Determining whether students who have received grants or scholarships through various MSF programs have subsequently found employment in Montana and applied these learned safety skills; and
- Reviewing whether policy holders who take advantage of MSF safety programs can illustrate lower injury rates, and if so, whether the lower injury rates lead to lower premiums for those businesses.

Auditee: The Montana State Fund.

Activity Last Audited: This topic has not been the subject of a recent performance audit.

Recent Financial Activity: Various grant and scholarship programs have distributed close to \$400,000 since 2017. MSF invests about \$3 million annually in training, consulting services, and resources for the safety programs.

Executive Residence Renovation Cost Increases and Delays*

In the 2019 and 2021 Legislative Sessions, the legislature appropriated over \$2.3 million in House Bill (HB) 5 funding to renovate the governor's executive residence. The Department of Administration's (DOA) Architecture & Engineering Division (A&E) is responsible for drafting and overseeing contracts for the design and construction of capital projects for the state. A&E solicited construction bids for the executive residence renovations in September 2021 and rebid in October 2022 after a project redesign to attempt to reduce costs. A&E received one bid with the total project costs exceeding \$3.9 million. DOA indicated inflationary pressure on building material, supply chain shortages/delays, and labor shortages led to the \$1.6 million budget shortfall and put the project on hold indefinitely. However, during this same period multiple construction projects on the capitol grounds were issued for bid, and construction has begun. Executive residence renovation delays have generated legislative concern regarding DOA's process to ensure timely completion of capital projects funded by the legislature. This topic has the potential be scoped as a focused evaluation.

Potential audit examination areas to address risk could include:

- Examining DOA's processes for designing, bidding, and awarding construction contracts of capital projects;
- Determining why construction on the executive residence has not begun, when other projects have moved forward in the same time period; and
- Reviewing the costs to the state related to the delay of the executive residence renovation.

Auditee: The Department of Administration, Architecture & Engineering Division.

Activity Last Audited: This topic has not been the subject of a recent performance audit.

Recent Financial: In FY 2023, the Architecture & Engineering Division had operating expenditures of over \$5.4 million. The Architecture & Engineering Division is currently overseeing over \$147 million in funding for capitol complex projects that are under current construction.

Public Health & Human Services

Addressing Challenges at the Montana State Hospital

The Montana State Hospital (MSH) is a state-run 270-bed inpatient psychiatric facility in Warm Springs providing treatment to civilly and forensically committed patients. In April 2022, the Centers for Medicare & Medicaid Services (CMS) terminated MSH's participation in the Medicare program due to the facility's failure to meet basic health and safety requirements. As a result, Medicare no longer pays for services provided at MSH, and the institution lost its federal oversight and enforcement of compliance with national health and safety standards. Although this termination is a serious incident involving MSH's operations, it is just one part of a series of ongoing concerns. MSH's staffing shortages and low employee moral are a perennial issue. In June 2023, the employee vacancy rate was 37 percent and as of April 2024 concerns about MSH leadership and ongoing staff turnover persist. Other concerns pertain to patient care including the lack of active treatment, discharge planning, and continuity of care. Patient safety has also been compromised as reports about patient injuries, falls, instances of abuse and neglect, and preventable patient deaths highlight. A long waiting list for jail inmates requiring pre-trial stabilization and treatment adds yet another layer of complexity to MSH's existing challenges as does the facility's budget. While MSH's budgeted expenses for FY2023 were \$51 million, the department ended up expending \$92.1 million. The Department of Public Health and Human Services (DPHHS) engaged in a \$7 million contract with a national consulting firm in the spring of 2022 to assist the department in stabilizing MSH. The consultants have since provided regular public reports and made recommendations to the department after a comprehensive assessment of the MSH and DPHHS' Healthcare Facilities Division which directly oversees MSH. The degree to which the department is pursuing the consultant's recommendations is uncertain.

Potential audit examination areas to address risk could include:

- Assessing the effectiveness of MSH's efforts to ensure the health and safety of its patients since the loss of CMS certification and oversight;
- Comparing MSH's discharge planning policies, procedures, and practices to industry standards and national best practices;
- Determining the impact of MSH's loss of CMS certification to the facility's revenues and expenditures; and
- Ascertaining the implementation status of recommendations made to MSH by consulting firm Alvarez & Marsal in December 2022.

Auditee: The Healthcare Facilities Division, the Department of Public Health and Human Services.

Activity Last Audited: This topic has not been the subject of a recent performance audit.

Recent Financial Activity: The Healthcare Facilities Division expended \$92.1 million on the Montana State Hospital in FY2023.

An Assessment of DPHHS' Long-Term Care Ombudsman

Ombudsmen operate under the Aging Services Bureau within the Department of Health and Human Services (DPHHS), and act to help inform and advocate for residents in long-term care facilities like nursing homes. According to the Montana State Plan on Aging published in September 2023, “During FFY 2022 Ombudsmen made a total of 3,942 visits to long-term care facilities, responded to 1,367 complaints from residents, provided 1,931 consultations to persons requesting assistance, and conducted 2,367 consultations with facility staff.” Though the Ombudsman program draws upon state and federal funding, local Ombudsmen in Montana are not state employees and are instead hired and managed by regional “Area Agencies on Aging,” which operate as private not-for-profit entities. There are concerns that relying on these area agencies may hinder the transparency and accountability of the Ombudsman program and that differing standards between area agencies may cause the program to work inconsistently throughout the state. There is also a question of the quality and quantity of Ombudsmen in the state. According to DPHHS, certification as an Ombudsman in Montana only requires attending and passing a 45-hour training course, and the aforementioned State Plan on Aging indicated that 15 FTEs among the certified local and regional Ombudsmen are responsible for visiting each of 316 long-term care facilities once a month. It is unclear whether the current level of training and personnel is sufficient given the Ombudsman’s role as the first-line advocate for the vulnerable assisted-living population.

Potential audit examination areas to address risk could include:

- Assessing the efficiency and effectiveness of the operations of Area Agencies on Aging to meet long-term demand;
- Evaluating the level of training for current Ombudsmen;
- Investigating the ability of the Long-Term Care Ombudsmen Program to perform timely responses to received complaints;
- Comparing Montana’s Long-Term Care Ombudsman Program to best practices in other states; and
- Examining the funding structure of Montana’s Long-Term Care Ombudsman Program.

Auditee: Long-Term Care Ombudsman Program, DPHHS.

Activity Last Audited: While there was an examination of local Area Agencies on Aging Programs in 2001, there hasn’t been a specific performance audit of the long-term care ombudsman program.

Recent Financial Activity: There was \$307,648 in state funding projected for FY 2024 in the Montana state plan on aging plus equivalent federal funding, resulting in more than \$615,000 in total projected funding for the program.

Caring for Montana's Aging Population

According to the Montana State Plan on Aging, individuals over 60 account for 27 percent of Montana's total population, a 15 percent increase from 2010. This shift to an older demographic in Montana increases the importance of effective and efficient programs designed to serve older Montanans. The Senior and Long-Term Care (SLTC) division at the Department of Public Health and Human Services (DPHHS) implements programs for this population ranging from investigations of suspected elder abuse, neglect, or exploitation to help in paying for in-home care and nursing facility services. Often the programs require Medicaid-eligible participants. These include the Community First Choice (CFC) and Personal Assistance Services (PAS) programs that provide long term supportive care in a home setting; the Big Sky Waiver Program that allows people, who would otherwise be institutionalized, to live in their own home and community; and the Hospice Program that provides care and support for people who are terminally ill and not pursuing curative treatment. Concerns about some programs not meeting the needs of older Montanans have developed such as significant wait lists to take part in a program despite being qualified to participate. This kind of concern increases the need for the SLTC division to focus on effectiveness and efficiency in program delivery as the need for their services will continue to increase in the next decade and beyond. Other state audits of similar programs have identified deficiencies in department oversight of service plan development. Service plans detail the combination of programs that will be used to meet the needs of a participant. Other state audits also found concerns related the oversight of the services delivered as part of those plans. Accurate and timely program eligibility determinations and a lack of training and support for individuals self-directing CFC services were also identified as issues by other state audits.

Potential audit examination areas to address risk could include:

- Assessing the effectiveness and efficiency of the department's implementation of and access to programs for older Montanans;
- Reviewing the department's plan regarding the future delivery of programs for older Montanans to determine if improvements are under consideration given the anticipated continued and significant increases in program participants;
- Comparing SLTC program funding distribution among counties to county demographic information; and
- Evaluating the SLTC division's oversight and monitoring processes of service plan development and implementation to determine if oversight is sufficient to ensure state resources are used in accordance to contracts as well as statute, rule, and policy.

Auditee: The Department of Health and Human Services, Senior and Long-Term Care Division.

Activity Last Audited: This topic has not been the subject of a recent performance audit.

Recent Financial Activity: Senior Long-Term Care Division expended \$309,480,000 in FY 2023.

Medicaid Unwinding

Based on media reporting, it has been estimated that about 59,000 Montanans would lose coverage during the redetermination of people's eligibility for Medicaid. Adopted in March 2020, states had been under a provision to keep people continuously enrolled in Medicaid through the end of the COVID-19 public health emergency (PHE) in exchange for enhanced federal funding. Yet the number of individuals estimated to have lost Medicaid coverage for Montana more than doubled as the Human and Community Services Division (HCSD) at the Montana Department of Public Health and Human Services (DPHHS) conducted its Medicaid redetermination process from April 2023 through January 2024. It has been reported in the media that Montana has one of the highest disenrollment rates in the country, with 77% of the people losing Medicaid coverage because of procedural or administrative reasons. The Centers for Medicare & Medicaid Services (CMS), who initially approved the department's plan for its Medicaid redetermination process, raised concerns about the department's handling of the call volume resulting in one of the highest call-center wait times and abandonment rates in the nation. Compared to other states, Montana also has one of the lowest automatic renewal rates. These circumstances raise several procedural questions, but also more broad policy-based questions regarding where disenrolled individuals receive medical coverage. These concerns have caused legislators to question the department's process as numerous Montanans living in developmental disability group homes lost Medicaid coverage during the redetermination process. Legislators also took issue with the lack of data available from the department indicating how the redetermination process impacted different populations and communities across Montana.

Potential audit examination areas to address risk could include:

- Examining the effectiveness of the Medicaid (re)determination process and the overall consistency of the department's Medicaid eligibility determinations;
- Comparing Montana's Medicaid (re)determination process to best practices in other states;
- Assessing the extent to which the redetermination process affected Montana's different populations and communities; and
- Evaluating the policy implications of Medicaid disenrollment, including assessing if individuals without Medicaid obtained alternative coverage.

Auditee: The Human and Community Services Division, the Department of Public Health and Human Services.

Activity Last Audited: While there was a performance audit of the Medicaid program's integrity in 2018, there has never been a performance audit of the Medicaid eligibility determination process.

Recent Financial Activity: In FY2023, the Human and Community Services Division had \$12.45 million in Medicaid expenditures. DPHHS overall had about \$2.01 billion in Medicaid Expenditures in FY2023, \$1.9 billion of which in benefits and claims.

Natural Resources & Conservation

Analyzing the Natural Resources Damage Program*

The Natural Resource Damage Program (NRDP) identifies its mission as, “To recover damages for natural resources injured by the release of hazardous substances and to restore, rehabilitate, replace or acquire the equivalent of the injured natural resources.” Administratively attached to the Department of Justice, NRDP was created in 1990 to prepare the state’s lawsuit against the Atlantic Richfield Company (ARCO) for injuries to the natural resources in the Upper Clark Fork River Basin. The state settled its lawsuit with ARCO and has completed settlements for more than 10 other areas across the state. Work addressing natural resource injuries cannot begin until a restoration plan is in place for a project. NRDP uses settlement money to both prepare and implement restoration plans. Much of this implementation work is based on contracts with different natural resource restoration firms, non-profit groups, and local government entities such as conservation districts, cities and counties. The federal government is often a partner too. Program staff indicate there is no easy way to measure and compare progress of different projects. They do not track the data needed for that kind of monitoring. They have determined it would be difficult to do so in a meaningful way because each project is unique relating to a specific geographical area and based on individual restoration plans.

Potential audit examination areas to address risk include:

- Measuring program effectiveness in successfully addressing injured natural resources including the benefits of any land acquisitions;
- Comparing restoration plan preparation expenditures to implementation expenditures;
- Assessing funding decision criteria and processes;
- Identifying patterns of personal services and operating expenditures for all projects; and
- Determining the effectiveness of current measures of project progress.

Auditee: The Natural Resources Damage Program, Department of Justice

Activity Last Audited: This program has not been subject of a recent performance audit.

Recent Financial Activity: There is approximately \$160 million in currently held settlement funding.

Consistency and Analysis of Traffic Safety Data*

The Montana Traffic Safety Program aims to promote public safety, health, and welfare and to reduce traffic deaths, injuries, and property losses resulting from traffic accidents. The Montana Department of Transportation (MDT) uses a data-driven approach to identify safety problems, establish traffic safety performance measures, and develop strategies to increase traffic safety through its Highway Safety Plan. MDT gathers data from the Department of Justice (DOJ), the Department of Public Health and Human Services (DPHHS), as well as local and federal entities. MDT states that four different systems are used to collect this data and there is no specific form to ensure consistency in the data. In tandem, statute involves both DOJ and MDT in traffic safety data: DOJ tabulates accident reports for analysis and MDT administers the Traffic Safety Program, which establishes an accident record system. MDT has expressed concerns over inconsistent data and overlapping responsibilities for analyzing traffic safety data.

Potential audit examination areas to address risk could include:

- Examining the various systems used to collect accident data for consistency;
- Assessing DOJ's and MDT's roles and responsibilities in collecting, analyzing, and sharing accident reports; and
- Reviewing how safety and accident data are used to inform the statewide transportation plan and traffic engineering projects.

Auditee: The Department of Transportation and the Department of Justice.

Activity Last Audited: LAD conducted a performance audit of the federally funded Highway Safety Improvement Program. However, an audit examining roles in the collection of analysis of traffic safety data to inform decision-making has not been conducted.

Recent Financial Activity:

DOJ's Montana Highway Patrol Division expended \$3.7 million in FY2023 for Statewide Public Safety Communications; MDT's Traffic Safety Bureau expended about \$4.5 Million in FY2023.

Effectiveness of Shared-Use Path Funding Distribution*

The Montana Department of Transportation (MDT) was last required to provide an inventory of shared-use paths on state-maintained federal-aid highway right-of-way in 2015. A shared-used path generally refers to a non-motorized recreational trail for pedestrians, runners, and bicyclists. A 5\$ opt-in fee that is part of the vehicle registration process goes to a state special revenue fund for shared-use path maintenance and construction. In FY 2023 the Department of Justice collected \$27,000 in fees that were sent to MDT for distribution. MDT is charged with distributing those funds to the five MDT districts proportionately with the amount of fee revenue generated in that district. Statute dissuades using the funds for the creation of new shared-use paths, requiring all maintenance needs to be satisfied before funds are used for new construction. The funding can also be distributed to counties and municipalities in each district. This distribution can be for maintenance according to maintenance agreements MDT has entered into with localities. Statute requires 10% of the funds allocated to a district to be used for maintenance of shared-use paths that are not part of the federal-aid highway system. However, based on the fees collected for this account in FY 2023 that distribution would only be \$2,700 between five districts. MDT staff indicated they are unaware of these funds being used for paths off the federal-aid highway system. This topic has the potential be scoped as a focused evaluation.

Potential audit examination areas to address risk could include:

- Determining if funds generated by the \$5 optional fee meet maintenance needs for shared-use paths;
- Examining if MDT is distributing funds for appropriate uses according to statute;
- Ensuring MDT has an updated plan for ongoing maintenance on federal-aid highway shared use paths; and
- Reviewing the administrative burden of the complex distribution method established in statute from a limited funding source.

Auditee: The Montana Department of Transportation.

Activity Last Audited: This topic has not been the subject of a recent performance audit.

Recent Financial Activity: There was \$27,000 in FY 2023 of shared-use path funding.

Oil Well Production and Royalty Management*

The Oil and Gas Conservation Division within the Department of Natural Resources and Conservation (DNRC) administers Montana oil and gas conservation laws and regulates the exploration and production of oil and gas. The division has about 20 FTE, including field inspectors, administrative staff, and other technical roles. According to division data, in 2023, Montana had around 13,000 wells reporting production from across the state and extracted 22.6 million barrels of oil and 115.4 billion cubic feet of natural gas. All producers self-report their oil production and inspectors to the board, with the division inspecting these wells across the state. Owners of mineral rights with oil and gas can negotiate with private developers to earn around 17% royalties on oil and gas removed from the property. There are citizen-reported concerns that self-reported oil production is not being tracked or reported correctly, generating questions about the accuracy of royalty calculations. While the division investigates complaints and performs inspections around the state, there are also concerns that there are not enough inspectors to cover the state and ensure production companies are complying with regulations.

Potential audit examination areas to address risk could include:

- Examining the division's monitoring and inspection of self-reported oil production;
- Reviewing how division allocates resources to regulate oil and gas production across the state; and
- Determine if oil royalties are being calculated and distributed in accordance with rule and statute.

Auditee: The Department of Natural Resources and Conservation, Oil and Gas Conservation Division; and the Department of Revenue.

Activity Last Audited: A performance audit of the Oil and Gas Conservation Division was conducted in 2013, with findings related to oil well inspections, enforcement, and data management. An examination of oil well production and royalty management has not been conducted.

Recent Financial Activity: The Oil and Gas Conservation Division's FY2024 budget was about \$2.3 million. According to average pricing from the US Energy Information Administration, Montana produced over \$2 billion in oil and gas value in 2023.

Public Safety

Oversight of Railroad Safety*

In 2023, Montana had 11 derailments and 2 other major train accidents, leading to over \$6.1 million in damage. In addition to causing damage to infrastructure and transportation delays, railroad accidents, especially those involving transport of hazardous materials, pose serious risks to the environment and human health. Approximately 229,000 Montana residents live within a crude oil train evacuation zone. The Regulatory Safety Division of the Montana Public Service Commission (PSC) implements Montana's Rail Safety Program to prevent rail transportation accidents and injuries. The program employs two individuals that inspect railroad equipment and conduct audits to identify defects and ensure compliance with state and federal rail safety regulations. These inspectors are in addition to nine Federal Railroad Administration inspectors, who have authority to oversee rail safety in Montana as well as other states in their region. A 2015 performance audit examining Montana's rail safety found a need to increase the state's railroad safety inspection capability to adequately address motive power and equipment issues. The PSC has made requests to the legislature for more rail safety inspectors, but no additional FTE have been allocated. Audits of other states' rail safety programs have similarly found inadequate resources to effectively address a number of rail safety issues. This topic has the potential to be scoped as a focus evaluation.

Potential audit examination areas to address risk could include:

- Examining current rail safety risks in Montana;
- Reviewing if equipment and locations with greater rail safety risks to population and the environment are identified and prioritized for inspections; and
- Determining if resources are sufficient to address Montana rail safety risks.

Auditee: The Public Service Commission.

Activity Last Audited: A performance audit examining railroad safety, including the Public Service Commission's administration of the state rail safety program was conducted by LAD in 2015.

Recent Financial Activity: There is approximately \$170,000 in expenditures for two PSC rail safety inspectors.

The Impact of Changes to 9-1-1 Fee Appropriations

To reduce public health and safety risks, it is critical every individual in Montana can quickly access and receive emergency response services at any time. Montana's 9-1-1 Program is administered by the Department of Justice (DOJ). Along with the advisement of the 9-1-1 Advisory Council, the DOJ is responsible for coordinating with stakeholders to develop the statewide Next Generation 9-1-1 System and distribute fees assessed on wireless subscribers. These fees generate around \$13 million annually and are statutorily appropriated to the DOJ for multiple purposes. Purposes include quarterly distributions to local/tribal governments to support their public safety answering points (PSAPs, essentially 9-1-1 call centers) and grants to private telecommunications providers or local/tribal governments. Funding is also used for program administration and public safety radio communications, as appropriate. Legislation passed in 2021 and 2023 altered user fees allocations. For example, \$450,000 is now transferred annually to the Montana State Library for GIS mapping development for the Next Generation 9-1-1 system. The grants fund now receives 7% rather than 25%, with proceeds allocated solely to wireless provider cost recovery fees for enhanced 9-1-1 services. Grant amounts previously averaged around \$3 million a year and were split across many different awardees, primarily local or tribal governments. This topic has the potential be scoped as a focused evaluation.

Potential audit examination areas to address risk could include:

- Investigating the impact of transitioning grant allocations to solely wireless provider cost recovery;
- Understanding how Next Generation 9-1-1 system stakeholders are coordinating and utilizing their funding; and
- Identifying effects of the FY 2021 transition of program administration from the Department of Administration (DOA) to the DOJ.

Auditee: The Department of Justice and the 9-1-1 Advisory Council; potentially also the Montana State Library.

Activity Last Audited: The 9-1-1 Program was last subject to a performance audit in 2007 when it was administered by the Department of Administration.

Recent Financial Activity: Expenditures for the 9-1-1 distribution fund, 9-1-1 grant fund, and program administration totaled \$14 million in FY 2023.

Judicial Caseloads in Montana's District Courts

District Court judges have original jurisdiction in all felony adult criminal cases and most civil matters. These courts are also the state's youth courts and are responsible for managing juvenile probation functions. There are 46 district court judges in 22 judicial districts serving all 56 Montana counties. In each of the two recent calendar years, Montana's district courts saw about 42,500 to 43,500 cases filed. District courts timely processed cases, on average, about 80% of the time in the last two calendar years. Child abuse and neglect cases and criminal cases saw the lowest rate of on-time case processing at 52% and 60%, respectively. Audits in other states and large municipalities have found problems with courts' timeliness and case management processes. A contracted assessment of Montana's judicial officers' workloads in 2022 noted the need for additional judges and improvements to the case weights and judicial needs model. While more judges were added and the system used to track case filing was upgraded, questions remain about efficiency in Montana's district courts. Delays in court cases can cause an array of problems, ranging from increased financial burden to delays in adjudication and appropriate placement. Senate Bill 224 of the 2023 Legislative Session highlighted legislators' concern for the backlog in civil cases. The bill added multiple provisions to the court administrator's reporting requirements. Additionally, legislators showed significant interest in an external examination of the Judicial Branch's District Court Operations program. Senate Bill 299 requested a performance audit of the district courts, but ultimately failed to advance.

Potential audit examination areas include:

- Assessing whether case-weight assignments and workload standards used by the Judicial Branch align with best practices and support timely case processing;
- Examining the efficiency and effectiveness of the case management and the electronic filing systems;
- Determining whether a recent increase in district court judges has improved case processing timeframes, and
- Evaluating the program's effectiveness in reaching its case processing goals and objectives within its appropriated budget.

Auditee: The Judicial Branch.

Activity Last Audited: While a performance audit of the Judicial Standards Commission is underway, district court caseloads have not been the subject of a recent performance audit.

Recent Financial Activity: The District Court Operations program had about \$37,902,000 in expenditures for FY 2022.

Education & K12

One-Two-Free: Impacts of Dual Enrollment

The Dual Enrollment program through the Montana University System (MUS) is an avenue through which Montana high school juniors and seniors can earn college credit. Students earn credits in two ways: via Dual Credit courses taught by the student's high school teacher or by enrolling in standard college courses offered at an MUS institution, either online or in-person. A total of 7,621 students participated in dual enrollment in the 2022-2023 school year. A Dual Enrollment program called "One-Two-Free" allows students to enroll in their first two dual enrollment courses (or up to six credits) tuition free. Additional credits cost 50% of the two-year institution resident tuition. Further, students may apply for hardship scholarships for additional credits. According to the Office of the Commissioner of Higher Education (OCHE), 32% of eligible enrolled high school students received college credit during the 2021-2022 school year. An average of 60% of dual enrollment students enroll in an MUS institution within 2 years. Given that One-Two-Free has existed since Fall 2018, it is likely time to examine program outcomes, including the college enrollment and graduation rates of participants, and determine the program's cost effectiveness and identify any longitudinal contributions to the state's economy.

Potential audit examination areas to address risk could include:

- Examining the effects the Enrollment Program has on MUS matriculation and graduation rates;
- Determining the number of students in the program who successfully earned credits and the extent to which credits earned by high school students who matriculate into MUS institutions can be applied to their degree or general education requirements; and
- Assessing the financial impact of the One-Two-Free program on both students and the state.

Auditee: The Office of the Commissioner of Higher Education, the Montana University System.

Activity Last Audited: While the Dual Enrollment program has never been audited, OCHE was subject to a June 2019 performance audit of the MUS Coordination of Student Enrollment and Administrative Services.

Recent Financial Activity: The MUS campuses had \$1,072,457 of funding in their Board of Regents Scholarship Account for the One-Two-Free program in the 2023-2024 academic year. Further, OCHE received a one time only appropriation of \$1.4 million for Fiscal Year 2025 to support the program.

Montana Education Funding Calculations and Model*

The Office of Public Instruction (OPI) calculates a distribution plan for education funding for Montana school districts from a variety of sources, including state education equalization and federal sources. For education equalization, the state collects a flat 9.5% of all taxable property value to distribute across school districts. OPI then creates a distribution plan based on processes defined in law for education equalization funding that supplements school districts with low income from property taxes in their area. OPI also accounts and distributes educational funding from federal sources such as school nutrition, Title 1 disbursements, among others. There are current concerns that department processes for calculating and distributing education equalization funding does not align with the current model detailed in law. Recent news articles highlight misunderstandings with OPI's estimate of 2024-2025 school budgets. The media reported that 219 of Montana's 396 school districts did not understand the new funding processes for their preliminary budgets and payment totals differed (more or less) nearly \$1 million from expected. The equalization of school funding in Montana has a long history, with a Montana Supreme Court case in 1989 establishing that the funding model at the time was unconstitutional, where resource-limited school districts spent less per pupil than those with more resources. As the result, the Montana legislature considered and passed several bills throughout the 1990s that established the basis of the funding model used today. In the past few decades, the funding model has remained largely the same, with the Legislature periodically revising various funding streams to achieve statewide equalization. Most recently, in 2023, the Montana Supreme Court ruled against Montana County governments in a dispute over the state's authority to collect flat mill rates for school equalization. School officials describe the current model as broken. Legislators and county governments have expressed continued frustration over rising property taxes in the state and the impacts on Montana taxpayers, including asking if there are other school funding tools used by other states to achieve equitability.

Potential audit examination areas to address risk could include:

- Examining OPI processes to calculate and distribute education equalization funding;
- Determining if OPI is adequately notifying school districts of education funding mechanisms; and
- Evaluating funding models for education equalization in other states, including impacts on property taxes.

Auditee: Office of Public Instruction's State Level Activities Program and Local Education Activities Program.

Activity Last Audited: In 2016, a performance audit of the School Data Collection Systems and Processes was issued. However, an examination of school funding distribution and modeling has not been conducted.

Recent Financial Activity: For FY2024, the adopted budget for education spending was about \$1.26 billion dollars. In FY2023, the state collected about \$350 million in property taxes for education equalization. The State Level Activities Program has a budget of about \$31 million for FY2024.

Supporting Hearing and Visually Impaired Students*

The Montana School for the Deaf and Blind (MSDB) is a state-supported multipurpose school governed by the Montana Board of Public Education. Per statute, MSDB serves two functions. First, it provides education for hearing and visually impaired children that is commensurate with the education provided to students without disabilities. Second, the school serves as a statewide resource for supporting children who are hearing or visually impaired. Upon request or upon receiving a referral, MSDB's outreach consultants assist families, teachers, and administrators serving sensory impaired children in Montana. The outreach coordinators travel across the state to serve students where they live and learn. Per MSDB, between 2008 and 2023, its total outreach caseload increased by 218%, from 362 students to 1,150. During that same timeframe, the number of coordinators increased by only 33%. Even with the addition of 3 more outreach consultants, average caseloads still rose from 34.5 students per consultant in 2008 to 85 students in 2023. The 2023 Legislative session appropriated an additional 3.08 FTE to MSDB to hire 4 additional outreach consultants, 2 more staff than originally requested in the executive budget. However, even with the 4 new incoming positions, the new total of 17.5 outreach coordinators still may not be sufficient to adequately meet caseload programming needs. Using a workload tool adapted from a neighboring state, MSDB calculated in 2023 that the school would need a total of 20.63 consultants, as well as an additional outreach director and a staff person to provide administrative support to adequately serve all the students on the outreach caseload and ensure proper program operations. This topic has the potential to be scoped as a focused evaluation.

Potential audit examination areas to address risk could include:

- Determining whether MSDB outreach consultants are staffed at an optimal level to effectively meet outreach student needs across all state regions;
- Examine the extent to which the mandatory and optional referrals MSDB receives from other state agencies and community providers contribute to caseload increases and impact long term outcomes for children and student referrals;
- Understanding how students are assigned to coordinator caseloads and the extent to which MSDB assigns workloads effectively and efficiently; and
- Analyzing trends related to caseloads and total students served and ascertain how MSDB forecasts for future needs of the state.

Auditee: The Montana School for the Deaf and Blind.

Activity Last Audited: A performance audit of MSDB was completed in 2008. It recommended MSDB work with the Office of Public Instruction to secure additional federal funding, as well as determine workload factors for consultants and collect data on staff activities to better do so

Recent Related Financial Activity: MSDB's Outreach Program had \$1.7 million in expenditures during FY22, with 91% of it spent on personal services.

Long-Range Planning

Managing the Long-Range Building Program Capacity

Created in 1965 to provide funding for construction and major maintenance of state buildings, the Long-Range Building Program (LRBP) has experienced unprecedented growth in recent years. The 2025 biennium budget for the program is 212 percent greater than appropriations of the 2023 biennium, with total funds increasing from approximately \$414 million to nearly \$1.3 billion. Historically, the program has been funded with a combination of cash accounts and bonding. In recent years, due to the influx of pandemic-related federal funding and changes in infrastructure funding policies enacted by the legislature, the program has undergone significant changes, including required facility condition assessments and the creation of several funding accounts tied to replacement valuations and excess revenue. The LRBP places projects into two categories: major repair and capital development. Generally, major repair consists of projects with a total cost of less than \$2.5 million, while capital development projects costs have a total cost exceeding \$2.5 million. Notable recent projects include a \$156 million appropriation to replace housing units at Montana State Prison and \$55 million for the construction of several regional behavioral health care facilities. As a result of this increased funding and activity, there are questions regarding the capacity of the program to complete scheduled baseline facility deficiency assessments and also its ability to manage both major repairs and capital development projects. There are also questions regarding how the program prioritizes funding based on facility need.

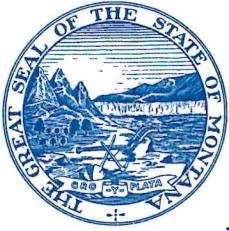
Potential audit examination areas to address risk could include:

- Examining the facility condition assessment process, including the LRBP's ability to anticipate deferred maintenance and measure building deficiencies as a way to prioritize program activities;
- Evaluating the workload and capacity of the LRBP to assess project timelines for project development and completion; and
- Comparing current funding mechanisms to peer states and best practices for predictive modeling of resource allocation relative to infrastructure need.

Auditee: The Department of Administration.

Activity Last Audited: The Long-Range Building Program review and approval process was the subject of a performance audit in 1984.

Recent Financial Activity: The 2023 Legislature allocated nearly \$1.3 billion to the program for 2025 biennium.



MONTANA STATE SENATE

Senator Brad Molnar
Senate District 28

DURING THE SESSION
State Capitol Building
PO Box 200500
Helena MT 59620-0500
Phone: (406) 444-4800
leg.mt.gov

HOME ADDRESS
PO Box 517
Laurel MT 59044
Phone: 406-794-5982
Brad.Molnar@yahoo.com

RECEIVED

MAY 24 2023

LEGISLATIVE AUDIT DIV.

May 11, 2023

Angus Maciver, Legislative Auditor

Mr. Maciver,

I write to request that the Legislative Audit Committee give serious consideration to the following topic as a potential performance audit in the upcoming fiscal year.

Board of Investments: Audit and Disclosure Requirements for Pension Fund Investments Background

Background: The Board of Investments manages and invests more than \$25 billion for various state and local government participants across Montana, over half of which is comprised of pension funds invested on behalf of public sector retirees. Of the \$13.4 billion managed and invested on behalf of the state's various pension funds, 28% is invested in domestic stocks, with additional substantial holdings in private investments (both domestic and international), type of business (public and private), and other factors. A performance audit could examine these audit and disclosure standards across asset classes and determine whether appropriate levels of audit and disclosure are required by the board in various investment pools before committing the state's pension funds to certain types of investments.

Thanks in advance to the Committee for its consideration of this important audit topic, and I encourage members of the Committee to contact me with questions.

Senator Brad Molnar SD 28

A handwritten signature in blue ink that reads "Brad Molnar".

Representative Nelly Nicol
House District 53 - Billings

DURING THE SESSION
State Capitol Building
PO Box 200400
Helena, MT 59620-0400
Phone: (406) 444-4800
Web: leg.mt.gov

HOME ADDRESS
PO Box 20692
Billings, MT 59104
Phone: (406) 670-1745
Nelly.Nicol@legmt.gov

May 31, 2023

Angus Maciver
Legislative Audit Division
1301 East Helena Avenue
Helena, MT 59601

RECEIVED
June 7, 2023
LEGISLATIVE AUDIT DIV.

Dear Mr. Maciver,

I am writing to request a performance audit of workplace safety programs at the Montana State Fund.

Montana has traditionally had a very high rate of workplace injuries compared to most other states. As the state's largest workers compensation insurer, it is important that the Montana State Fund takes these issues seriously and plays an effective role in reducing the incidence of workplace injury in the state.

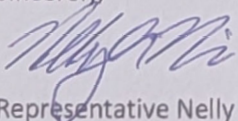
The Montana State Fund has put in place a variety of safety programs, especially over the past decade. These include things like reducing premiums for certain policyholders based on their safety record. They also spend a lot on providing safety consultation for businesses, marketing and promotion relating to safety, and scholarships and other awards for promoting safety in schools.

Auditing these programs to identify how much all this is costing and whether it has any effect on workplace injuries for State Fund policyholders will help the legislature better understand these issues.

Please forward my request to the Audit Committee for inclusion in the next fiscal year audit prioritization process.

The following page has a list of legislators who have an interest in spending time on auditing the Montana State Fund safety program.

Sincerely,



Representative Nelly Nicol, House District 53



Representative Nelly Nicol
House District 53 - Billings

DURING THE SESSION

State Capitol Building
PO Box 200400
Helena, MT 59620-0400
Phone: (406) 444-4800
Web: leg.mt.gov

HOME ADDRESS

PO Box 20692
Billings, MT 59104
Phone: (406) 670-1745
Nelly.Nicol@legmt.gov

Senator Kenneth Bogner
Senator Barry Usher
Senator Mark Noland
Senator Terry Vermeire
Senator Forrest Mandeville
Representative Brandon Ler
Representative Lyn Hellegard
Representative Josh Kassmier
Representative Ron Marshall
Representative Jerry Schillinger
Representative Nelly Nicol



MONTANA STATE SENATE

Senator Mary Ann Dunwell
Senate District 42

DURING THE SESSION

State Capitol Building
PO Box 200500
Helena, MT 59620-0500
Phone: (406) 444-4800
Web: leg.mt.gov

COMMITTEES

Taxation
Local Government - Vice Chair
Highways and Transportation

HOME ADDRESS

2811 Alexis Avenue
Helena, MT 59601
Phone: (406) 461-5358
MaryAnn.Dunwell@legmt.gov

January 2, 2024

Angus Maciver, Legislative Auditor
State Capitol
Helena, MT 59620

Dear Angus:

Thank you for speaking to me a couple of months ago about my concerns related to the Governor's Executive Residence on Carson Street in Helena, which has sat unoccupied for a couple of years now, despite legislative appropriations for its renovation in 2019 and 2021. You mentioned to me that the Legislative Audit Division (LAD) would look into my concerns.

At this juncture, I've decided to put my questions to you in writing and make this request for a formal audit of the Governor's Residence Renovation, to pursue answers to my questions, along with answers to any other questions that in your professional judgment arise.

I've carefully reviewed documents the Department of Administration (DOA) provided me in response to my inquiries, but unfortunately, DOA's responses raise far more questions in my mind than they answer. A recent article in Helena's *Independent Record* raises additional questions for me about the Executive Residence, as discussed below.

BACKGROUND

The 2019 Legislature appropriated \$1.9 million in HB 5 for purposes of renovating the Executive Residence. In 2021, the Legislature appropriated an additional \$440,500 for the same renovation, bringing the total appropriation for the project to \$2,340,500. With the residence footprint at 12,259 gsf (gross square feet), this amounted to construction costs increasing from \$155/sq. ft. in 2019 to \$191/sq. ft. in 2021.

The DOA issued construction bids for the project in September of 2021. DOA stated that "in anticipation of the original September 2021 bid being within the appropriation, A&E [Architecture and Engineering Division of DOA] respectfully requested at that time that the Governor relocate." See 10/13/23 DOA memo, attached as Exh. 1. The bids came in higher than the total amount appropriated, so the DOA redesigned the project in an attempt to bring the costs down. The Architects retained by DOA signed an Executive Residence Remodel on

September 15, 2022. On October 5, 2022, the Architects published an addendum to the bidding documents saying, “The Executive Residence Remodel estimated construction cost is \$3,100,000, the sum of the alternates is estimated at \$400,000.” See page 1 of MMW Architects Addenda #1, attached as Exh. 2. Clearly, the Architects estimated construction costs would exceed the amount appropriated, \$2,340,500. DOA let the project for bid anyway, in October 2022. DOA reported that the total of the lowest bid plus all costs was \$3.65 million, which represented a shortfall of \$1.3 million. See Exh. 1. The lowest bid amounted to a \$298/sq. ft. residential renovation. The project was approved by the City of Helena on November 7, 2022.

DOA told me the “project is presently on hold” due to inflationary costs, materials delays and shortages, and workforce shortages, and “no timeline has been determined” to complete the renovation. Exh. 1. At best, DOA says it plans to “revisit the project direction, when and if market conditions become more favorable.” Despite the fact the renovation is “on hold,” Governor Gianforte has not moved back into the Carson Street Executive Residence.

My curiosity about the Executive Residence was piqued when I read an [11/27/23 article in Helena’s Independent Record](#), which described four renovations now underway on state buildings in the capital city, for a total cost of \$23 million. The four renovation projects did not even include the remodel of Montana’s Historical Society on the Capitol Complex, which is scheduled for completion and re-opening in early 2025. Three of the four renovations reported on in the story involve projects with comparable legislative appropriations to those appropriated for renovation of the Governor’s Executive Residence. Of those three projects reported in the article, all are scheduled for completion in 2024, while renovation of the Executive Residence is “on hold”:

- 1) renovations to the Mazurek Building on Sanders Street for the AG’s office (**\$3,864,300 (scheduled for completion 10/24)**);
- 2) renovations to the House chambers and anteroom (**\$1.8 m. (scheduled for completion 6/24)**);
- 3) renovations to the Old Board of Health Building (**\$3.5 m. (scheduled for completion 9/24)**);
- 4) renovations for the Governor’s residence (**\$2,340,500 (project on indefinite hold)**).

QUESTIONS RAISED: The facts above raise for me the following questions.

- 1) Closure of the Executive Residence on Carson Street.

- a. Did the Governor ever reside in the Executive Residence on Carson Street? If no, where has he resided? If yes, what dates did he reside there, who asked him to relocate, when was the request made, and to where did he relocate?
- b. Did the State pay for him to relocate? What was the cost to the State?
- c. Has the State continued to make payments to the Governor related to his relocation? Per diem? Housing costs? Utilities? Staffing? Meals? Etc. I am particularly interested in any costs in excess of those that would have been incurred had he been living in the Executive Residence.

2) The “Hold” on the Executive Residence Renovation.

When did the State decide **not** to proceed with the Executive renovation? Who was involved in making that decision? Was the Governor consulted and did he direct that outcome? When the State decided **not** to proceed with the renovation, did any State representative discuss with or ask the Governor to move into the State-owned Executive Residence on Carson Street, which is intended to serve as the Governor’s residence – but now sits vacant? If not, why not? If yes, what discussions took place, when did they occur, and why hasn’t the Governor moved into the Executive Residence?

3) Code compliance and habitability of the Executive Residence.

- a. Does the Governor’s Executive Residence on Carson Street meet building or city codes? If not, in what ways is it noncompliant with codes? Did the State deem it noncompliant during the term of prior Governors and, if so, were they told of the noncompliance? If so, why did they remain in the residence? What records exist of these communications?
- b. What is the cost of the renovation solely to make the Executive Residence code-compliant?
- c. Is the Executive Residence otherwise not habitable? If not, in what ways and when did the State make this determination? Were prior Governors notified of this? What records exist of these communications? What amount of the Architects’ estimate of the renovation costs was for making the residence habitable?

4) Has a partial renovation been considered?

- a. Why hasn’t the State revised the renovation project to cover only those parts that would bring the residence up to building/city codes? To make the residence habitable?
- b. Why didn’t the State direct the Architects to develop a renovation plan estimated to fall within the amount appropriated by the legislature (a renovation at \$191/sq. ft. as opposed to a renovation at \$298/sq. ft, per the most recent lowest bid)?

5) Legislative authorization to transfer HB 5 appropriations.

Section 2 of HB 5 in the 2021 session (which appropriated an additional \$440,500 for renovation of the Executive Residence) authorized DOA to “adjust capital project amounts within the legislative intent of the major repair account-funded projects, subject to available revenues” if approved by OBPP “and transfer the appropriations, authority, or both among the necessary fund types for these projects.” Section 2 of HB 5, passed in 2019 and 2023, also contains this language allowing executive discretion in the appropriations.

- a. Why has the State not used this authority to transfer money to renovate the Governor’s residence?
 - b. For what projects since 2020 has the executive branch used this authority to adjust and transfer HB 5 appropriations? For each project, what amount was appropriated, what amount was adjusted or transferred, and from where did the transfer or adjustment occur? What was the reason, or justification?
 - c. If this authority has been used since 2020, why was it used for those projects but not the Executive Residence renovation?
- 6) In an MMW Architects Addendum to the Executive Residence Remodel, dated 10/4/22, the Architects for the project stated: “The Executive Residence Remodel estimated construction cost is \$3,100,000, the sum of the alternates is estimated at \$400,000.”
- a. Why did the State let out the project for bid if the State’s Architects estimated construction would exceed the amount appropriated by the legislature, \$2,340,500?
 - b. Does this expose the State to liability to those who bid on the project, given the State was advised by its Architects the project would cost in excess of the amount appropriated for it, yet let out the bid anyway, then put the project on hold because the lowest bid exceeded the amount appropriated?
 - c. Diamond’s bid (opened 10/27/22) was \$3,326,100, which is quite similar to the Architects’ estimate. Were other sources of money available for the renovation to make up the difference and did the State pursue those? For example, on its website, **the Treasure State Foundation, funded by Susan Gianforte, lists three Initiatives, one of which is to provide funding for the Governor’s Residence Renovation.** The Foundation has assets in excess of \$1 million. Its website states:

“Our priority is making the residence a house of hospitality and ensuring future first families can have safe and comfortable public and private spaces. In 2019, the legislature and the governor provided \$1.9 million for renovation and an additional \$500,000 in 2021. With rising inflation and high demand in the construction industry that all Montanans are experiencing, the costs for renovation came in higher than was expected. **The Treasure State Foundation will help cover some of these unanticipated**

and added costs by complementing funding the Legislature appropriated in 2021.”

Were the Gianforte Foundation’s private monies, dedicated for this express purpose, pursued to make up the shortfall? If not, why not?

- 7) Regarding the renovations to 1) the Mazurek Building on Sanders St., 2) the House chambers and anteroom, and 3) the Old Board of Health Building, discussed in the 11/27/23 *Independent Record* article:
 - a. When was money appropriated for each of these three renovations and for what amounts?
 - b. Were the winning bids for each renovation within the appropriation authority?
 - c. Did the State need to adjust capital amounts or transfer appropriations, as authorized in HB 5, to undertake these projects and, if so, were any funds transferred from the appropriations for the Executive Residence renovation?

- 8) Why are those three Helena State building renovations underway, while the Governor’s residence renovations been placed on hold? What is the difference? Did Governor Gianforte direct or request the “hold” on the Executive Residence renovation, which DOA instituted, or was he involved in any way in the decision?

- 9) What are the plans for the Executive Residence? DOA states the project is on hold because the market conditions for the renovation aren’t favorable. How will a determination be made that market conditions are favorable? What guidelines will be used? Who makes these decisions? What plans exist for this 12,259 sq. ft. home if the market conditions don’t become more favorable? Where will the next Governor reside, whether in 2025 (if Gianforte is a one-term Governor) or in 2029 (when he would be “termed out,” if re-elected in 2024), and will the State pay for the Governor to reside in a location other than the Executive Residence on Carson Street?

- 10) Rumors abound that the State’s Executive Residence may be converted into something else. Is this the plan, or is this being considered in any way by the State or its officials? Will there continue to be an Executive Residence for the Governor? What is going on?

I appreciate your consideration of my request for a formal Legislative Audit of the decisions that have been made regarding renovation of the Governor’s Executive Residence, which now sits empty, despite legislative appropriations for the renovation in excess of \$2.3 million by the 2019 and 2021 legislatures. Please keep me advised as to what you learn. Thank you.

Sincerely,

Senator Mary Ann Dunwell



MONTANA STATE SENATE

Senator Brad Molnar
Senate District 28

DURING THE SESSION
State Capitol Building
PO Box 200500
Helena MT 59620-0500
Phone: (406) 444-4800
leg.mt.gov

May 22, 2023

HOME ADDRESS
PO Box 517
Laurel MT 59044
Phone: 406-794-5982
Brad.Molnar@yahoo.com

RECEIVED

MAY 24 2023

LEGISLATIVE AUDIT DIV.

Angus Maciver, Legislative Auditor

Mr. Maciver,

I write to request that the Legislative Audit Committee give serious consideration to the following topic as a potential audit in the upcoming fiscal year.

OPI et al: Collection and disbursement of the 95 Mills Permissible to equalize educational opportunity in Montana.

Background: Under court order in 1989 the Montana legislature met in special session to equalize education funding. They adopted using a 55 mills county levy and a 40 mills state levy formula. \$1.9B is now collected from primarily property taxpayers for schools with roughly half of that from residential property taxpayers. The legislature has modified the formula several times but with varying benefit/detriment outcomes thus challenging the equitable distribution (X.5) requirement of the Montana Constitution.

Since 2001 property taxes paid to schools has increased 126%. This far outstrips all inflation and population growth. Property taxes have increased dramatically since 2017 due to higher appraisals. This seems to be greater than the cost increases to schools outside of voted levies.

A performance audit could explore if the fund has masked a tax shift in the last 34 years. Is the 95 Mills being used to backfill the preferential tax handling in Classifications 14 and 15? Further, the performance audit could explore the equalization funding mechanisms used in other states to accomplish equitable outcomes.

Thank you in advance to the Committee for its consideration of this important audit topic. The homeowners of Montana are under great tax pressure. Even small corrections for tax equity can result in great relief.

A handwritten signature in blue ink, appearing to read "Brad Molnar".

Senator Brad Molnar SD 28

From: [Keogh, Connie](#)
To: [Soller, Will](#); [Harrington, John](#)
Cc: [Furthmyre, Paul](#)
Subject: Legislative audit for Montana School of Deaf and Blind
Date: Monday, April 3, 2023 9:07:14 AM

Dear Members of the Legislative Audit Committee,

I would like to formally request that the Montana School of the Deaf and Blind (MSDB) be given strong consideration for a Performance Audit for Fiscal Year 2023.

I have discussed the possibility of an audit with Paul Furthmyre, Superintendent of the MSDB. He believes that a performance audit will give us all an opportunity for conversations about improving MSDB outreach services in the future. We have reviewed the proposal for an audit that was previously presented to your committee and agree with the potential audit examination areas that have been identified.

Thank you for your consideration.

Rep. Connie Keogh
House District 91
*Rattlesnake Valley, Downtown, and
University area of Missoula*

406-298-0985
Connie.Keogh@legmt.gov

P.O. Box 7542
Missoula, MT 59807

Emails to and from legislators involving legislative business may be subject to public disclosure under the [Right to Know](#) provision of the Montana Constitution and [Title 2, Chapter 6, part 10, MCA](#). This may include the sender, recipient, content, and attachments.

From: [Gibson, Natalie](#)
To: [Soller, William](#)
Cc: [Kailey, Dwane](#)
Subject: Potential topic for a performance audit
Date: Tuesday, April 25, 2023 12:36:16 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[image003.jpg](#)
[image004.jpg](#)
[image005.jpg](#)
[image006.jpg](#)

Good afternoon.

Here is another potential topic for a performance audit.

The Traffic Safety Program, Title 61, Chapter 1, Part 1 defines department as **Department of Justice** but Title 61, Chapter 2, Part 1 defines department as the **Department of Transportation**. There are a few statutes related to highway safety and gathering data for accident reports which create inefficiencies that lead to work being cumbersome. For instance:

- Section 61-2-102, MCA defines department as the Department of Transportation.
- Section 61-2-103 and 105, MCA, states the Governor is responsible for the highway traffic safety program and lines out the duties for MDT.
- Section 61-7-115, MCA, requires the Department of Justice to tabulate and analyze all accident reports.
- Section 61-7-116, MCA, requires any incorporated city, town, village or other municipality to submit a report to a designated city department along with DOJ.

We are struggling with whether DOJ is the appropriate agency to tabulate and analyze the accident reports. Currently, there are two agencies (DOJ and MDT) required to analyze the reports and there are approximately four different systems being used to collect this data and no specific form to ensure consistency. There may be risks with MDT tabulating the reports and we would appreciate an independent audit of the process along with recommendations for going forward.

Thank you for your consideration.



Natalie H. Gibson, CPA, CIA
Chief Auditor | Professional Services Division
Montana Department of Transportation
2701 Prospect Avenue
P.O. Box 201001
Helena, MT 59620
406-594-8465 | ngibson@mt.gov

Follow Us: mdt.mt.gov



April 3, 2023

Angus Maciver
Director, Legislative Auditor
Room 160 State Capitol Building
PO Box 201705
Helena, MT 59620-1705

RECEIVED
APR 04 2023
LEGISLATIVE AUDIT DIV.

Dear Mr. Maciver,

As per your request dated March 15, 2023, the following is a suggested audit consideration for the next biennium.

To determine the effectiveness of §60-3-303, MCA, *Shared-Use Path To Be Established – Funding*, which requires MDT to document compliance with the section and report on not less than an average expenditure of \$200,000 for shared use paths annually.

Thank you for your consideration.

Sincerely,



Malcolm D. Long
Director

From: [Radovich, Candace](#)
To: [Maciver, Angus](#); [Soller, Will](#)
Subject: FW: Performance Audit
Date: Friday, March 17, 2023 11:34:30 AM
Attachments: [image001.png](#)
[image003.png](#)
[image009.png](#)
[image012.png](#)
[image013.png](#)
[image002.png](#)
[image004.png](#)

From: Tschida, Brad <Brad.Tschida@mt.gov>
Sent: Friday, March 17, 2023 11:26 AM
To: Leg Audit Main Desk <lad@legmt.gov>
Cc: Brown, James <James.Brown@mt.gov>; Fielder, Jennifer <jfielder@mt.gov>
Subject: Performance Audit

Mr. Maciver:

President Brown passed along your 3/15/2023 letter to the MT DPSR concerning performance audit ideas for the Legislative Audit Committee during the upcoming biennium. There is a particular audit we believe holds significant merit.

In 2015, I believe, the LAD determined that the Public Service Commission would benefit from 3 additional FTE to address railroad safety in the MP&E arena and we believe the LAD should update that audit to confirm that these FTE are still needed to adequately ensure railroad safety in Montana. The recent highlighting of multiple train derailments in the US has added significant weight to adequate oversight of this transportation mode in our State.

Other than that area, we have been very appreciative of the work conducted by LAD involving our agency and look forward to assisting your team with upcoming audit work.

Respectfully,

Brad Tschida
Executive Director
Montana Public Service Commission
 406.444.6192 | Main line: 406.444.6199
 brad.tschida@mt.gov
 <http://psc.mt.gov/>



Fiscal Year 2024

Performance Audit Priority Ranking

Audit Title	Score
Unlocking Public Lands	4.83
Montana Open Cut Mining*	4.67
Meaningful Public Access to Lobbying Spending Reports	4.33
Student Success at the Montana Digital Academy	4.33
Consistency of State Employee Market Analysis	4.17
Application of Montana Individual Income Tax Credits	4.17
Effective Care for Montana's Aging Population	4.17
Disclosure Requirements for Pension Fund Investments*	4
Natural Resources Damage Program *	4
Effectiveness of the Suicide Prevention Program	3.83
Supporting Hearing and Visually Impaired Students*	3.83
Effectiveness and Funding of Fire Suppression*	3.83
Oversight of Railroad Safety*	3.67
Financing Small Businesses in Montana	3.67
One-Two-Free: Impact of Dual Enrollment	3.5
Medicaid Durable Medical Equipment	3.5
Effectiveness of State Fund Safety Programs*	3.33
Judicial Caseloads in Montana's District Courts	3.33
Effectiveness of Shared-Use Path Funding Distribution*	3.33
School Districts Operating Outside of their Boundaries*	3.17
Administration of AMBER Alerts	3.17
Workforce Services Division Restructuring	3

Collection and Use of Traffic Safety Data*	3
Protecting and Returning Human Skeletal Remains	2.83
Privatizing the Child Support Services Division*	2.83
State Healthcare Costs and COVID-19*	2.5
Fingerprint Collection and Background Checks	2.5
Wildlife Population Counts Effect on Licensing	2.33



Fiscal Year 2023

Performance Audit Priority Ranking

Audit Title	Score
Addition of New Construction to Property Tax Rolls	4.5
The Board of Housing and Affordable Housing	4
Montana Board of Outfitters	3.83
Judicial Standards Commission*	3.83
Review of Medical Assistance Programs*	3.83
Effectiveness of Groundwater Monitoring for Pesticides	3.67
Design and Cost Issues Related to Design-Build Bidding	3.67
Judicial Courts and the Child Welfare System	3.67
Administration of Emergency Housing Relief Payments	3.33
Supporting Hearing and Visually Impaired Students*	3.33
Meaningful Public Access to Lobbying Spending Activity	3.33
Economic Impact of Regional Tourism Promotion*	3.33
Effectiveness and Funding of Fire Suppression*	3.17
Agency Program Fee-Setting*	2.83
Child Support Services Division*	2.83
Monitoring and Improving Highway Safety	2.83
School Nurses: A Missing Piece of Student Success	2.83
Recreational Marijuana Sales and Tax Revenue	2.67
Developmental Disabilities Program Structure*	2.5
Social Security Disability Eligibility Determinations*	2.33
Agency Use of Paid Administrative Leave	2.33
Montana Indian Language Preservation Program*	2.17

Indian Country Economic Development Program*	2.17
Judicial Sentencing Practices	2.17
State Pandemic Preparedness and Response*	2.17
Remote Learning During the COVID-19 Pandemic	2
Animal Euthanasia During the COVID-19 Pandemic*	2
Streamlining Administrative Hearings*	2
Liquor Warehouse Distribution	2
Betting on Sports in Montana	2