

**ACCOUNTABILITY, COMPLIANCE,
AND TRANSPARENCY
MONTANA STATE GOVERNMENT**

AUGUST 2024

A report to the Montana Legislature
for fiscal year 2024



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§5-13-202(2), MCA

FRAUD HOTLINE

(STATEWIDE)

1-800-222-4446

(IN HELENA)

444-4446

LADHotline@legmt.gov

www.montanafraud.gov

**ACCOUNTABILITY, COMPLIANCE, AND
TRANSPARENCY HOTLINE**

The Legislative Audit Act requires the Legislative Auditor to establish and maintain a toll-free number (hotline) for reporting fraud, waste, and abuse in state government. The Act further requires the Legislative Auditor to periodically report to the Legislative Audit Committee the use of the toll-free number; results of reviews, verifications, and referrals; and corrective actions taken by appropriate agencies. State agencies are also required to notify the Legislative Auditor upon discovery of any theft, actual or suspected, involving state money or property under that agency's control.

This report provides the legislature with a summary of all hotline and referral activity for fiscal year 2024 in one report. It includes work completed on submissions during Financial-Compliance, Information System, or Performance audits or independent of a scheduled audit.

Respectfully submitted,

/s/ Angus Maciver

Angus Maciver, Legislative Auditor

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MONTANA LEGISLATIVE AUDIT DIVISION

ACCOUNTABILITY, COMPLIANCE, AND TRANSPARENCY

A report to the Montana Legislature

BACKGROUND

State law requires the Legislative Auditor to establish and maintain a mechanism for citizens to report fraud, waste, and abuse in state government; review and maintain a record of all submissions; analyze and verify the information received; or refer the information for appropriate action to the agency that is or appears to be the subject of the call.

The Legislative Audit Division (LAD) established a hotline in 1993 and citizens or state employees are able to submit a report through a toll-free number.

Currently, there are several ways to report alleged fraud, waste, or abuse in state government, including via a toll-free phone number, e-mail, USPS, online reporting form, or text message.

REPORTING AND RESOLVING ALLEGATIONS OF FRAUD, WASTE, AND ABUSE

Submissions to the Hotline have steadily increased in recent years, reaching a record high of 130 reports in fiscal year 2024. Although we experienced a 60 percent increase in reported allegations over the last fiscal year, most of this increase was in submissions where another agency had jurisdiction to investigate. These submissions were referred to the relevant agencies for resolution. We continue to investigate roughly 40-50 hotline reports annually, working with multiple state agencies to resolve allegations and monitor trends in activity.

What is the Accountability, Compliance, and Transparency (ACT) Hotline?

Section 5-13-311, MCA, requires the Legislative Auditor to establish and maintain a mechanism for citizens to report fraud, waste, or abuse in state government. In 1993, the Legislative Audit Division (LAD) established a toll-free hotline for citizens or state employees to submit a report. LAD records and manages the submissions to the hotline in a database. There are several ways to report alleged fraud, waste, or abuse in state government, including a toll-free phone number, email, USPS, online reporting form, and text. These reporting mechanisms are illustrated below.



Email
ladhotline@legmt.gov



Toll-Free Number
1.800.222.4446



Online Reporting
montanafraud.gov



Text2Tell
704.430.3930



LAD Fraud Hotline
Legislative Audit Division
PO Box 201705
Helena, MT 59620

All reporting forms allow the reporter to remain anonymous and keep their information confidential. Additionally, §5-13-314, MCA, protects employees of the state or authorized contractors from penalties, sanctions, retaliation, or restrictions in connection with their employment due to their disclosure of information if they have not violated state law.

Section 5-13-309, MCA, requires agency directors to report the discovery of any theft, actual or suspected to LAD. These are termed penal violations and are also recorded and managed in the LAD database.

The ACT Team consists of four LAD staff who maintain the report management system and LAD's response to submissions. Over 500 hours were logged in fiscal year 2024 by division staff in managing, investigating, referring, or otherwise responding to hotline submissions.

When a hotline submission is received, ACT Team members categorize the allegation based on the reporter's description. In categorizing and investigating the reports, staff use the following definitions:

- **Fraud:** any intentional or deliberate act to deprive another of property or money by guile, deception, or other unfair means.
- **Waste:** an unintentional, thoughtless, or careless expenditure, consumption, mismanagement, use or squandering of government resources to the detriment or potential detriment of the state.
- **Abuse:** an intentional, wrongful, or improper use or destruction of government resources or seriously improper practice that does not involve prosecutable fraud.

The ACT Team adopted these definitions from the *Generally Accepted Government Auditing Standards* and *Black's Law Dictionary*.

The Importance of the ACT Hotline

The LAD ACT hotline plays an important role in identifying fraud, waste, and abuse in Montana state government. A 2024 report from the Association of Certified Fraud Examiners found that more than half (52 percent) of tips about fraud schemes come from an organization's employees. The report also found that web-based reporting mechanisms are now the most common means of reporting allegations of fraud, with 40 percent of reports being submitted online.

Since 2018, we have been tracking the volume and nature of hotline submissions to identify patterns and understand the role of the hotline. These patterns and perceptions are discussed in this report.

What We Found

Hotline Reports Increased and Penal Violations Remain Steady Over Time

Hotline reports are allegations of potential fraud, waste, or abuse of state resources. In fiscal year 2024, there were a total of 130 hotline reports. This was a significant increase over the 81 reports we received in 2023 and continues an overall upward trend in Hotline activity over the past few years.

We had jurisdiction over 45 hotline reports, which is similar to last year. We received 85 reports over which we had no jurisdiction, a significant increase over previous years. These are referred to the appropriate state agency. In fiscal year 2024, 22 agencies were the subject of hotline submissions. This is the same number of agencies that were the subject of Hotline submissions in fiscal year 2023, and the overall trend has been consistent over time.

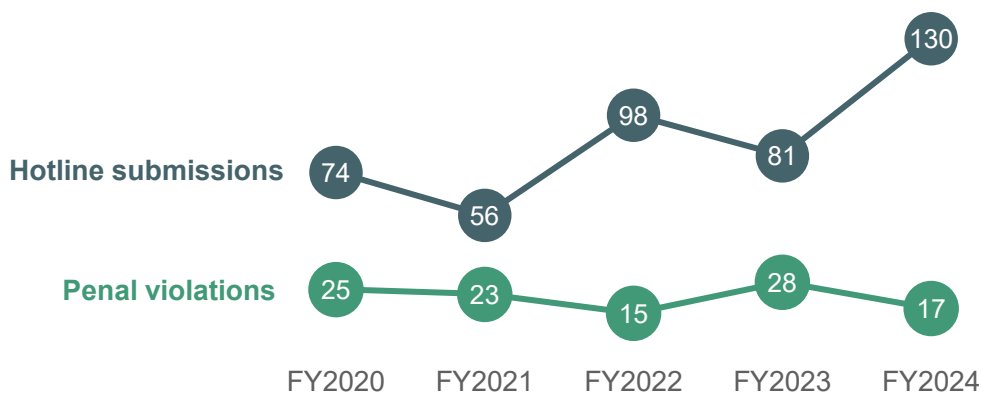
State law requires agencies to report the discovery of any theft, actual or suspected, to LAD. A penal violation (PV) may also be discovered during an audit or reported through the hotline. The ACT Team reviews and classifies these types of submissions and determines if there is a need to obtain additional information for use in an ongoing or subsequent audit, assigns staff to analyze the submission, or refers the issue to the Attorney General and the Governor, as required by state law. In fiscal year 2024, seven state agencies reported 17 PV's, 11 less than were reported in fiscal year 2023 (28) by six state agencies. While this is a slight decrease, over time, PV's remain steady.

PV's reported in fiscal year 2024 included theft of various pieces of state property and equipment, theft of cash and employee payroll checks, and a fraudulent application for a state grant program. Although theft of minor equipment is generally not pursued, state agencies refer most PV's to law enforcement for further action.

The following figure illustrates LAD's total hotline reports and PVs for six fiscal years.

Figure 1

Penal violations stayed steady, but **hotline submissions** significantly increased in FY2024.



Source: Compiled by the Legislative Audit Division.

Increase in Reports where Other Agencies have Jurisdiction to Investigate

In fiscal year 2024, we saw a notable increase in the number of Hotline reports where LAD has no jurisdiction to investigate. This includes allegations of activity that are unrelated to fraud, waste, or abuse in state government (for example, reports of criminal activity unrelated to state resources or allegations of wrongdoing in local governments). Still, the majority of these reports relate to allegations of fraud, waste, or abuse in state government programs where there is existing legal authority and resources allocated for investigations.

The most common example of a “no jurisdiction” report is an allegation of fraud involving public assistance programs administered by the Department of Public Health and Human Services (SNAP TANF, Medicaid, etc.); this agency has existing legal authority and programmatic resources to investigate these allegations, so LAD refers the report, rather than investigating it.

We received 85 reports in fiscal year 2024, which we had no jurisdiction to investigate, roughly double the previous year’s number. To better understand the increase in these reports, we further categorized the allegations by type. The following table shows the number and percentage of allegation types and includes some examples of specific activity associated with the broad categories:

Table 1

| Allegation Type | Activity Examples | Agency Referral | Number | Percent |
|------------------------|---|------------------|--------|---------|
| Public Assistance | Fraudulent claims for SNAP/TANF benefits or Section 8 housing | DPHHS / Commerce | 32 | 38% |
| Consumer Protection | Faulty products or deficient services, website scams | DOJ | 22 | 26% |
| Tax Compliance | Unreported income for tax purposes | DOR | 11 | 13% |
| Local Government | Misconduct by county employees | DOA | 8 | 9% |
| Criminal Activity | Selling illegal drugs, theft of property | DOJ | 6 | 7% |
| Employment & Workforce | Fraudulent unemployment insurance or workers' comp claims | DOLI / MSF | 5 | 6% |
| Hunting & Wildlife | Unlicensed hunting, poaching | FWP | 1 | 1% |

Source: Compiled by the Legislative Audit Division.

Reviewing allegations by type shows that some of the most common no-jurisdiction reports relate to public assistance programs in various agencies. There has been an increase in consumer fraud-related calls, most of which we refer to the Department of Justice. Otherwise, the increase in no jurisdiction reports could be related to either the success of our efforts to promote the LAD Hotline and make it accessible and easy to use or a relative decrease in the accessibility or usefulness of similar functions in other agencies.

As an example, we get very few reports relating to fish and wildlife issues, possibly because the FWP TIPMONT hotline is well-publicized and the agency has well-developed investigatory processes; this may not be the case for all agency reporting functions, which may result in more reports being received via the LAD Hotline. In the next biennium, we will review these issues and assess our interactions with other agencies addressing fraud, waste, or abuse in state government. As we observe trends, we will also focus on the audit division's increased role in hotline case referrals.

Agency Hiring Practice Reports Declined in FY2024

We received only 1 Hotline report in fiscal year 2024 related to agency hiring practices. This is a marked decline from fiscal year 2023, when hiring practices were the most common allegation type. General human resource-related reports continued to be a common allegation type, with 10 of the 45 total reports relating to human resource issues of various types.

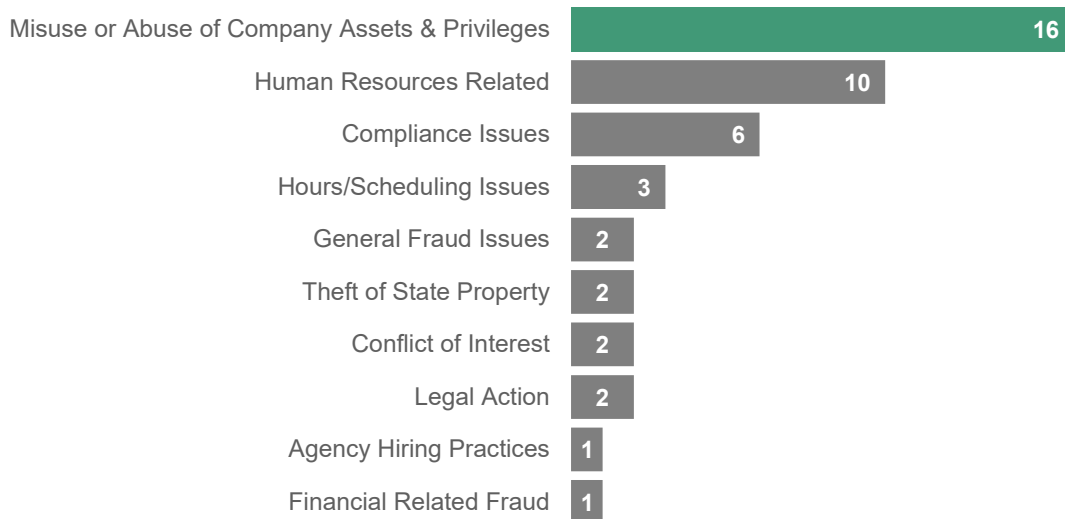
The most common hotline submission category is misuse or abuse of company assets and privileges. In fiscal year 2024, examples included:

- Misuse of state vehicles
- Misuse of IT resources
- Inaccurate time reporting by state employees

The following figure depicts the categorical information of 45 hotline reports received in FY 2024. The figure does not include the submissions where we had no jurisdiction.

Figure 3

In FY2024, the allegation type with the most hotline submissions was **misuse or abuse of company assets and privileges**.



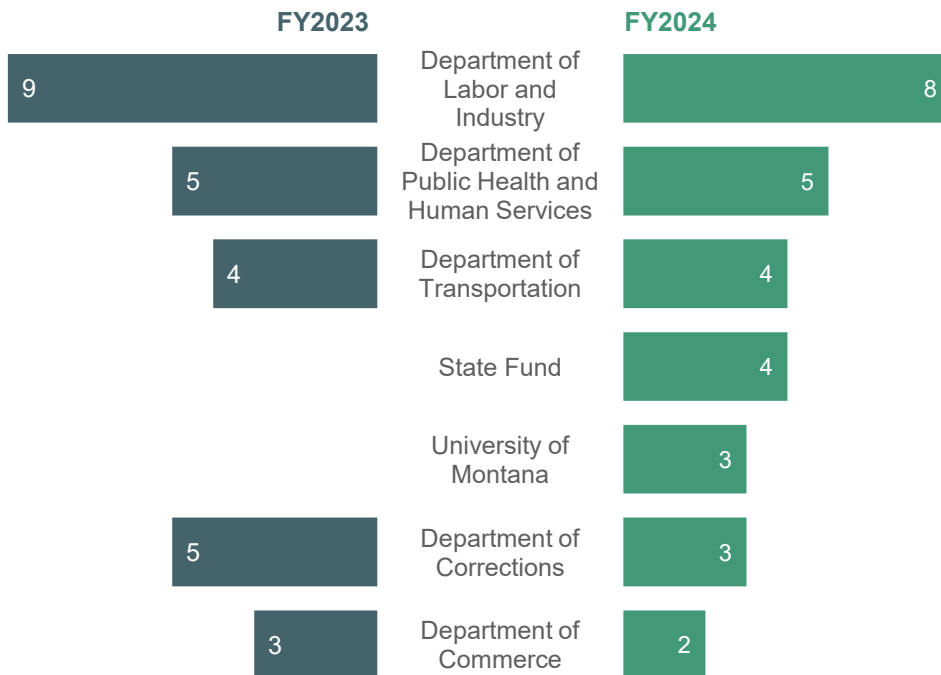
Source: Compiled by the Legislative Audit Division.

Various Agencies Receive Allegations of Fraud, Waste, and Abuse Over Time

In fiscal year 2024, 22 agencies were the subject of the 45 hotline reports where we had jurisdiction. Six agencies had three or more reports attributable to them. The figure below details hotline submissions by agency.

Figure 4

The Department of Labor and Industry had the most hotline submissions among agencies with two or more calls, while the top three agencies stayed the same for FY2023 and FY2024.



Source: Compiled by the Legislative Audit Division.

Resolution of Hotline Submissions

After an investigation by LAD staff, reports are resolved based on the evidence obtained and the ability of staff to corroborate the allegation. Unsubstantiated reports are those submissions where evidence does not prove the allegation's truth. Substantiated reports are those submissions where evidence obtained proves the truth of the allegation.

The one substantiated hotline report in fiscal year 2024 was related to the Department of Public Health and Human Services. Additionally, in fiscal year 2024, LAD investigated two allegations of fraud, waste, or abuse that were received outside the Hotline reporting mechanism. Still, they fell within our jurisdiction as described in the Legislative Audit Act. The first was a reported violation of state travel policy by the former Director of the Department of Commerce identified by the Governor's Office. The second issue related to the use of a state airplane, which was identified during an audit of the Montana Department of Transportation.

Resolution of these reports is discussed in the following sections.

The Department of Public Health and Human Services Employee's use of a State Motor Vehicle for Personal Use Substantiated as Abuse.

An anonymous complainant reported to the Hotline database that a Department of Public Health and Human Services employee used a state motor vehicle to transport a family member. We referred the matter to the agency who investigated and found the allegation true. It appears to have been an isolated incident. The agency handled the matter internally through the normal disciplinary process.

The Montana Department of Transportation Office Use of a State Airplane Found to be Waste and Abuse.

During a financial compliance audit conducted over fiscal years 2023 and 2022, the auditors became aware of charges by department personnel at the Montana Department of Transportation for using an aircraft for in-state flights. In June 2021, the Governor's Office transferred administration and control of a King Air Beechcraft airplane to the Montana Department of Transportation (MDT) Motor Pool.

It became evident that the MDT's aircraft use exceeded that of other state agencies. Of 98 total rentals, 65 were by MDT during the period examined. After investigating the use of the airplane, we determined that the use of the airplane, rather than more economical motor vehicle travel, constituted a waste of state resources and abuse of the state airplane.

The Montana Operations Manual Travel Policy provides:

An employee shall utilize the most efficient and economical mode of transportation for official state business. When possible, consideration should be given to the possibility of coordinating multiple state employees' business travel arrangements so costs may be pooled and provide the state with cost savings. For example, car-pooling with multiple employees in a single vehicle may provide statewide cost-savings above what it will cost for each individual to purchase an airline ticket, even if the time needed to drive is greater than the flight time.

Like motor vehicles, the motor pool develops a rental rate for the airplane designed to recoup the costs involved in operating the aircraft (maintenance, pilot's salary, cost of fuel, etc.). The airplane's rental rate (and thus the expense) is over \$1,300 per hour. Our investigation found that if personal vehicles (least savings) or motor pool vehicles (most savings) had been utilized for the 65 trips, MDT would have saved from \$44,780 (personal vehicles) to \$163,015 (motor pool vehicles). This resulted in our finding of a waste of state resources and abuse of the state airplane. This finding considers the increased cost of meals and lodging when traveling by automobile, but does not factor in the increased travel time. We identified four trips where the airplane was the most economical form of travel, as ground transportation for more than four passengers would have involved using more than one vehicle at a greater cost.

The Former Director of the Department of Commerce Did Not Violate the State's Travel Policy Regarding the Use of a State Vehicle and Claiming Reimbursement for Travel Expenses to and From Helena.

The Governor's Office of Budget and Program Planning (OBPP) identified a potential internal control vulnerability at the senior leadership level of state agencies. This consisted of subordinates approving travel expenses incurred by their supervisors. As a result of a subsequent review, the OBPP concluded that the former Department of Commerce Director had improperly claimed approximately \$30,000 in travel costs between his home and the Commerce Department's main office in Helena.

The former director resigned in December 2023 and repaid the state \$29,700. OBPP referred the matter to the Legislative Auditor and the Attorney General. The Legislative Auditor conducted an independent investigation.

State law provides that a state employee may not claim travel expenses or use a state vehicle to commute from home to their main "worksite." Additionally, the Montana travel policy provides that an employee is not in travel status and, therefore, not eligible for expense reimbursement for their daily commute between home and their "headquarters." The term "worksite" is not defined by statute. The term "headquarters" is not defined by the travel policy, although it does recognize the difference between a temporary worksite and a permanent headquarters.

Unlike certain elected officers, such as the Secretary of State, department heads are not required by the Montana Constitution (Art. VI, Section 1) to reside in the state capital. State law requires each department head to "...maintain a central office in Helena for the department and maintain other facilities throughout the state as may be required for the effective and efficient operation of the department."

The former director, with approval from the Department of Administration and a representative of the OBPP, leased space in Kalispell to serve as his regular work headquarters. He drove his personal vehicle between his home and the Kalispell office. This is considered his daily commute according to the travel policy. The director was in travel status and did not violate state law or the travel policy by claiming reimbursement for expenses in traveling to and from Helena. The allegation that the director had violated state law by using a state vehicle and claiming expense reimbursements for travel to and from Helena was not substantiated. There were some excess meal claims (the pro card used to purchase meals higher than the allowed per diem rate) and purchases of travel insurance, which is not allowed, in the total amount of approximately \$300. These transactions were substantiated as violations of the travel policy.



Accountability, Compliance, and Transparency Hotline

Our goal is to make State of Montana a better place for employees, customers, and contractors. The Accountability, Compliance, and Transparency (ACT) Hotline is a confidential, 24 hours a day, 365 days per year service that you can access from any location. Reports may be made on either an anonymous or named basis. The website is hosted by an independent third party and is not part of the State of Montana. You may report anonymously with confidence on this site if you choose. Those reporting potential fraud, waste, or abuse in Montana state government are encouraged to identify themselves, but anonymous reports are also accepted and investigated.

- Report online at www.montanafraud.gov.
- E-mail LADHotline@legmt.gov with a description of the allegation.
- Call the toll-free Fraud Hotline at 1-800-222-4446 or in Helena at 444-4446. This Hotline is available 24 hours a day, 7 days a week. A person is generally available to answer your call personally Monday-Friday from 7:00 a.m. to 2:00 p.m.
- Text your concern to 704-430-3930. Your text will be routed through an independent third party to protect your anonymity. Your phone number is not recorded or provided to us. You will receive a confirmation text with directions on how to check the status of your report and communicate anonymously with our office.
- Send a written report to the following address:

LAD Fraud Hotline
Legislative Audit Division
PO Box 201705
Helena, MT 59620-1705