



## LEGISLATIVE AUDIT COMMITTEE

### 67th Montana Legislature

#### SENATE MEMBERS

Dee Brown  
Jason Ellsworth  
John Esp  
Pat Flowers  
Tom Jacobson  
Mary McNally

#### HOUSE MEMBERS

Kim Abbott  
Dan Bartel  
Tom Burnett  
Denise Hayman  
Emma Kerr-Carpenter  
Matt Regier

#### COMMITTEE STAFF

Deb Butler - Attorney  
Angus Maciver - Legislative Auditor  
Candace Radovich - Secretary

# MINUTES LOG

December 09, 2020

Room 172, State Capitol Building & remotely

Please note: This document is a Minutes Log and provides annotation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video recording of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of the meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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#### **MEMBERS PRESENT:**

Sen. Dee Brown, Chair (R)  
Rep. Denise Hayman, Vice Chair (D)  
Rep. Kim Abbott (D)  
Rep. Dan Bartel (R)  
Rep. Tom Burnett (R)  
Sen. Jason Ellsworth (R)  
Sen. John Esp (R)  
Sen. Pat Flowers (D)  
Rep. Emma Kerr-Carpenter (D)  
Sen. Mary McNally (D)  
Rep. Matt Regier (R)

#### **MEMBERS EXCUSED:**

Sen. Tom Jacobson (D)

#### **MEMBERS ABSENT:**

#### **STAFF PRESENT:**

Deb Butler, Attorney  
Angus Maciver, Legislative Auditor  
Candace Radovich, Secretary

## **AGENDA (ATTACHMENT 1)**

### **VISITORS' LIST** n/a

### **CALL TO ORDER/ROLL CALL**

09:04:34 The Legislative Audit Committee met in room 172 of the State Capitol Building and remotely. Chair Brown called the meeting to order at 9:04 a.m. noting the presence of a quorum. The committee secretary took roll and Sen. Jacobson, and Rep. Abbott were marked excused.

### **APPROVE MINUTES**

#### **Motion**

09:04:27 Sen. Esp moved the committee approve the minutes from October 6, 2020, meeting.

#### **Vote:**

09:04:30 Carried unanimously by voice vote.

### **FINANCIAL-COMPLIANCE CARES ACT APPROACH GASB84-FIDUCIARY ACTIVITIES**

09:04:49 Presented by Karen E. Simpson, CPA, Financial-Compliance Audit Manager

09:07:42 Rep. Abbott joined the meeting.

09:08:48 Sen. Ellsworth asked Ms. Simpson for a broad overview.

09:10:04 Sen. Esp asked Ms. Simpson if she was able to meet with the agency personnel to work through audit, and in what form.

09:10:52 Sen. Esp asked Legislative Auditor Maciver what the process was for agency follow-up when a director had changed.

09:12:10 Sen. Ellsworth asked Sen. Brown about the ability to subpoena people who oversaw those programs during the time of the audit. The question was deferred to Legislative Auditor Maciver.

09:14:01 Sen. Brown asked Ms. Simpson about the billion dollars referenced in the report.

09:16:32 **Committee Request:** Sen. Brown asked Ms. Simpson who would be responsible for in appropriate expenditures paid from the Coronavirus Relief Fund. (Ms. Jorgenson answered this question during her FC update toward the end of the meeting)

09:18:00 Rep. Burnett asked Ms. Simpson how LAD was able to afford the extra work that was not in their original budget. The question was deferred to Legislative Auditor Maciver.

09:19:45 **Committee Request:** Rep. Burnett asked Legislative Auditor Maciver for a rough estimate on the cost of the audit. Legislative Auditor Maciver did not have an estimate at this time but would get back to the committee.

09:20:49 Rep. Hayman asked Ms. Simpson if LAD staff were capable of a deep audit.

09:25:07 Sen. Ellsworth was concerned about the potential of not being able to dig deep enough regarding legitimacy/validity. Back and forth discussion between Sen. Brown, Sen. Ellsworth, and Legislative Auditor Maciver on this subject.

- 09:31:19 Sen. Flowers stated that the state of Montana was given 1.2 billion dollars in late May with no direction, he asked Ms. Simpson about retroactive action. He also commented about the people of Montana that benefited from this program and wanted the audit to commence.
- 09:34:02 Ms. Simpson finished the rest of her presentation.
- 09:38:49 Sen. Brown asked Ms. Simpson about the GASB change on this project. The question was deferred to Ms. Jorgenson.

#### **DEPARTMENT OF CORRECTIONS (20-15)**

- 09:40:22 Presented by Nolan Preeshl, Financial-Compliance Senior Auditor.  
Present from agency:  
Reg Michael, Director  
Cynthia Wolken, Deputy Director  
Kim Timm, Financial Manager  
John Daugherty, Division Administrator  
Jodi Stone, Budget Unit Manager (Acting Bureau Chief)

#### **COMMITTEE QUESTIONS OF STAFF**

- 09:45:53 Sen. Brown asked Mr. Preeshl about the trust language.

#### **AGENCY RESPONSE**

- 09:47:11 Presented by Director Michael.

#### **COMMITTEE QUESTIONS OF AGENCY**

- 09:49:04 Sen. Brown asked Director Michael about a new director taking his place - would he be able to find all personnel records to transfer leadership.
- 09:52:49 Sen. Brown asked zoom agency members to make themselves known.
- 09:53:35 Sen. Brown asked if the agency was going to pursue a bill to change the word "trust".

#### **Public Comment**

- 09:55:59 Laurie Little Dog gave her public comment via zoom.
- 10:02:06 Josh Butterfly gave his public comment via zoom.

#### **Motion**

- 10:08:57 Rep. Bartel moved the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and that copies of the audit report be distributed in accordance with law.

#### **Vote:**

- 10:08:57 Carried unanimously by voice vote.

#### **OFFICE OF STATE PUBLIC DEFENDER (20-28)**

- 10:09:57 Presented by Mary V. Yurewitch, Financial-Compliance Auditor.  
Present from agency:  
Rhonda Lindquist, Director

#### **COMMITTEE QUESTIONS OF STAFF**

- 10:16:44 Sen. Brown asked Ms. Yurewitch to clarify on the "human error" subject.

#### **AGENCY RESPONSE**

Presented by Director Lindquist.

#### **COMMITTEE QUESTIONS OF AGENCY**

10:18:48 Sen. Brown asked Director Lindquist about FTE and personnel files.

**Public Comment**

None

**Motion**

10:20:47 Sen. Esp moved the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and that copies of the audit report be distributed in accordance with law.

**Vote:**

10:20:47 Carried unanimously by voice vote.

**DEPARTMENT OF REVENUE (20-14)**

10:21:33 Presented by Chris G. Darragh, Financial-Compliance Senior Auditor  
Present from agency:  
Gene Walborn, Director Tracy Morano, Bureau Chief

**COMMITTEE QUESTIONS OF STAFF**

10:23:44 Sen. Brown asked Mr. Darragh about the tax side of the CARES Act.

**AGENCY RESPONSE**

10:24:35 Presented by Director Walborn.

**COMMITTEE QUESTIONS OF AGENCY**

10:28:00 Sen. Brown asked Director. Walborn for what percentage of the 1.25 billion would come back to us in the form of taxes. Director Walborn stated he could get back to the committee with a ballpark taxable percentage.

10:29:40 Rep. Bartel asked Director Walborn to explain being exempt from the income tax.

**Public Comment**

None

**Motion**

10:31:02 Sen. Esp moved the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and that copies of the audit report be distributed in accordance with law.

**Vote:**

10:31:02 Carried unanimously by voice vote.

**PRIORITIZATION OF INFORMATION SYSTEMS ADULTS FOR CALENDAR YEAR 2021**

10:32:12 Presented by William Soller, Deputy Legislative Auditor & Miki Cestnik, CISA, Information Systems Audit Manager. **(EXHIBIT 1)**

10:39:34 Rep. Regier asked Ms. Cestnik why the FWP audit was on hold. The question was deferred to Hunter McClure, Information Systems Auditor.

10:41:56 Rep. Regier asked Mr. McClure if the RFP mentioned was for Explore Montana.

10:42:43 Sen. Brown asked Mr. McClure for specifics on the RFP.

10:43:12 Sen. McNally asked Ms. Cestnik about standalone projects. The question was deferred to Legislative Auditor Maciver.

10:47:08 Sen. McNally asked about future topics that were not on the list.

10:49:52 Rep. Burnett asked Legislative Auditor Maciver about audit work directed by the committee.

10:52:40 Rep. Hayman asked for details on staff availability for the upcoming audits.

**DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (20-17)**

11:00:03 Presented by Shandell VanDonsel, CPA, Financial-Compliance Senior Auditor  
Present from agency:  
John E. Tubbs, Director  
Tricia Greiberis, Chief Financial Officer  
Rex Renk, Chief of Staff

**COMMITTEE QUESTIONS OF STAFF**

11:08:21 Rep. Regier asked Ms. VanDonsel about the fire fund.

**AGENCY RESPONSE**

11:09:49 Presented by Director Tubbs.

**COMMITTEE QUESTIONS OF AGENCY**

11:13:06 Sen. Brown commented on the gift card issues and asked how the department lost a drone. The question was deferred to Ms. Greiberis.

11:14:55 **Committee Request:** Rep. Bartel asked Director Tubbs about outstanding accounts receivable for fire costs. (received an email from Rex Renk on 12/21/2020)

11:18:01 Rep Bartel asked Director Walborn for details on recommendation #2.

11:21:00 **Committee Request:** Sen. Esp asked Director Tubbs for an estimate dollar wise to fill the FTE he claimed he needed to comply with recommendation #1. Sen. Esp suggested we send a memo to the Section D subcommittee and suggest they step in for change.

11:27:51 Rep. Bartel asked Director Walborn about unspent budget authority.

11:29:52 Sen. Flowers wanted to acknowledge Director Tubbs service with that state.

**Public Comment**

None

**Motion**

11:31:34 Sen. Esp moved the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and that copies of the audit report be distributed in accordance with law.

**Vote:**

11:31:34 Carried unanimously by voice vote.

**DEPARTMENT OF ADMINISTRATION (20-13)**

11:32:19 Presented by Katie Majerus, CPA, Financial-Compliance Senior Auditor.  
Present from agency:  
John Lewis, Director  
April Grady, Financial Manager  
Cheryl Grey, Administrator  
Josh Lafromboise, Bureau Chief  
Mike Manion, Deputy Director/Legal Counsel  
Mark Bruno, Finance Manager  
Amber Long Thorvilson, Bureau Chief  
Steve Baimonte, Division Administrator

**COMMITTEE QUESTIONS OF STAFF**

- 11:40:45 Sen. Brown asked Ms. Majerus about vendor contracts.
- 11:43:12 Rep. Hayman asked Ms. Majerus about the local government issues identified in the audit. Ms. Majerus stated that would be a question for the agency.

#### **AGENCY RESPONSE**

- 11:47:13 Presented by Director Lewis.

#### **COMMITTEE QUESTIONS OF AGENCY**

- 11:47:32 Sen. Brown asked Director Lewis if their personnel files were in place for transfer of leadership.
- 11:48:54 Sen. Brown asked Director Lewis to answer Rep. Hayman's question from earlier regarding local governments that hadn't paid fees. The question was deferred to Ms. Grey.
- 11:52:13 Rep. Bartel asked Director Lewis about internal service funds and several other questions.

#### **Public Comment**

None

#### **Motion**

- 12:01:43 Rep. Bartel moved the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and that copies of the audit report be distributed in accordance with law.

#### **Vote:**

- 12:01:43 Carried unanimously by voice vote.

#### **GOVERNANCE PRACTICES FOR INFORMATION TECHNOLOGY INVESTMENTS (19SP-13)**

- 12:02:26 Presented by Miki Cestnik, CISA, Information Systems Audit Manager

#### **COMMITTEE QUESTIONS OF STAFF**

None

#### **OVERSIGHT OF STATE AGENCY PROCUREMENT CARD USE (21SP-02)**

- 12:10:23 Presented by Joe Tschida, Performance Auditor

#### **COMMITTEE QUESTIONS OF STAFF**

- 12:13:51 **Committee Request:** Sen. Brown asked Mr. Tschida to get back to the committee with an update regarding specific details of agency implementation of recommendations. (Mr. Tschida emailed committee members 12/11/2020)

#### **BOARD OF MILK CONTROL'S REGULATORY STRUCTURE**

- 12:17:07 Presented by Julia Connelley, Performance Auditor (**EXHIBIT 2**)

#### **COMMITTEE QUESTIONS OF STAFF**

None

#### **POTENTIAL LEGISLATION**

- 12:21:22 Presented by Deborah F. Butler, J.D., CFE, Legal Counsel (**EXHIBIT 3**)

#### **COMMITTEE QUESTIONS OF STAFF**

- 12:39:03 Sen. Brown directed members to contact LAD with questions and direction.
- 12:39:45 Rep. Bartel asked Ms. Butler if there were any LC's on any of the remaining topics.
- 12:41:33 Rep. Hayman stated she would follow-up on the bill she had previously carried to see where it was in the process. Licensing Real Estate Professionals (15P-01)

## **COMMUNITY COLLEGE AUDIT REQUIREMENTS**

12:43:24 Presented by Cindy Jorgenson, CPA, Deputy Legislative Auditor ([EXHIBIT 4](#))

## **COMMITTEE QUESTIONS OF STAFF**

- 12:48:33 Sen. Brown asked Ms. Jorgenson about lower cost incentive.
- 12:50:13 Sen. Brown asked Ms. Jorgenson about staying in house versus contracting, plus several other questions.
- 12:55:18 Sen. Brown asked the community college attendees to introduce themselves.
- 12:57:52 Rep. Hayman asked Dr. Jane Karas, Director of FVCC what options would benefit her outfit the most.
- 13:04:13 Diedra Murray, Internal Auditor, MUS introduced herself and opened herself up for questions.
- 13:04:21 Rep. Kerr-Carpenter asked how the committee would pursue a bill on this.

## **Motion**

13:05:24 Motion to carry the bill.

## **Vote:**

13:07:11 Carried 11 - 1 by voice vote with Rep. Regier, voting no.

## **COMMITTEE EDUCATION SCHEDULE**

13:08:59 Presented by Legislative Auditor Maciver ([EXHIBIT 5](#))

## **LAD PERSONAL SERVICES BUDGET**

- 13:12:27 Presented by Legislative Auditor Maciver ([EXHIBIT 6](#))
- 13:13:11 Rep. Bartel asked Legislative Auditor Maciver about larger agencies not having the same issues.
- 13:16:58 Rep. Bartel had several comments.
- 13:18:32 Sen. Brown wanted to point out to the committee that the amount of money LAD was asking for was the same amount as one single-person's raise at other agencies.
- 13:21:05 Sen. Esp gave his opinion and was in agreeance with the division.
- 13:23:08 Sen. Flowers acknowledged Legislative Auditor Maciver's case and was in agreeance with the division.
- 13:25:33 Rep. Hayman asked Chair Brown if it would be appropriate that LAC write a letter about the situation in Audit.
- 13:27:18 Sen. Ellsworth touched on a legislative answer and was happy to work on legislation to address this issue. He was also interested in pursuing other ways.
- 13:28:26 Rep. Bartel appreciated the memo from Legislative Auditor Maciver.

## **LAD 2022-2023 BIENNIUM STRATEGIC PLANNING**

13:29:02 Presented by Angus Maciver, Legislative Auditor Maciver ([EXHIBIT 7](#))

## **Break**

13:39:19 Reconvened at 13:39:57

### **PRIOR MEETING FOLLOW-UP**

13:39:57 Presented by Legislative Auditor Maciver regarding the *Security and Maintenance of Montana Election Systems* (19DP-06) report presented at the October 6, 2020, meeting. **(EXHIBIT 8)**

### **FINANCIAL AUDIT STATUS UPDATE**

Presented by Cindy Jorgenson, Deputy Legislative Auditor **(EXHIBIT 9)**

13:40:53 Ms. Jorgenson answered a question for Sen. Brown from earlier in the meeting regarding who would be responsible for in appropriate expenditures paid from the Coronavirus Relief Fund.

13:43:07 Sen. Brown asked Ms. Jorgenson about the deadline for recipient spending.

13:43:50 Rep. Bartel asked Ms. Jorgenson about automatic federal funds.

### **PERFORMANCE AND INFORMATION SYSTEMS AUDIT STATUS UPDATE**

13:48:17 Presented by William Soller, Deputy Legislative Auditor **(EXHIBIT 10)**

13:52:38 **Committee Request:** Rep. Bartel took the podium and suggested there be a written copy of the auditor's presentation in front of members during audit presentations.

13:55:23 Sen. McNally commented that she really enjoyed the new report summary format in the reports. Her only issue was how you couldn't see the green text on the blue page.

### **ELECTION OF OFFICERS**

#### **Motion**

13:57:25 Sen. McNally nominated Rep. Hayman as Chair.

#### **Discussion on the motion**

13:58:04 Rep. Bartel also nominated Rep. Hayman but noted he hoped that previous issues wouldn't affect her leadership in the future.

13:58:41 Sen. Ellsworth read comments in place of Sen. Esp that were not in favor of Rep. Hayman as Chair.

13:59:24 Sen. Ellsworth took the podium and spoke about the committee being nonpartisan and highlighted his disagreement with how Rep. Hayman handled certain issues in June. He also noted he had brought forth a rule to be passed to prevent this issue from happening again.

14:01:56 Rep. Regier was in agreeance with Sen. Esp and Sen. Ellsworth.

14:02:29 Sen. McNally shared her disagreement with Sen. Esp, Sen. Ellsworth, and Rep. Regier and she thought that Rep. Hayman would be a great choice, and she was insulted by what had been said.

14:04:32 Rep. Hayman disagreed with the earlier comments against her. She thought there was an understanding made since previous issues had arose and she asked for her fellow members vote.

#### **Vote:**

14:04:32 Carried 9 - 3 by voice vote with Rep. Regier, Sen. Ellsworth, and Sen. Esp, voting no.

14:09:56 Sen. McNally gave her appreciation to Sen. Brown and Rep. Burnett.

14:11:55 Sen. Ellsworth gave his appreciation to Sen. Brown.



14:14:28 Sen. Brown asked Rep. Burnett to speak on his achievements.  
14:15:35 Rep. Bartel gave his appreciation to Sen. Brown and Rep. Burnett.  
14:16:31 Legislative Auditor Maciver recognized Sen. Brown and Rep. Burnett for the service to LAD and the Legislature.  
14:19:54 Sen. Brown spoke on how thankful she was to LAD staff.

**Public Comment**

**(EXHIBIT 11)** Laurie Little Dog

**ADJOURNMENT**

14:21:43 With there being no further business, the meeting was adjourned at 2:21 p.m.

Secretary: /s/ Rep. Emma Kerr-Carpenter  
Rep. Emma Kerr-Carpenter