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**LEGISLATIVE AUDIT COMMITTEE**  
**67th Montana Legislature**

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**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**

June 16, 2020  
8:30 AM

Room 317, State Capitol Building & Via Zoom

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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Please contact the Legislative Audit Division at 406-444-3122 for more information.

**ROLL CALL**

**Members Present:**

Sen. Dee Brown, Chair (R)  
Rep. Denise Hayman, Vice Chair (D)  
Rep. Kim Abbott (D)  
Rep. Tom Burnett (R)  
Sen. Jason Ellsworth (R)

Sen. John Esp (R)  
Sen. Pat Flowers (D)  
Sen. Tom Jacobson (D)  
Rep. Emma Kerr-Carpenter (D)  
Sen. Mary McNally (D)  
Rep. Matt Regier (R)

**Members Excused:**

Rep. Dan Bartel (R)

**Members Absent:**

**Staff Present:**

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

**CALL TO ORDER**

08:33:12 Chair Brown called day two of the meeting to order noting the presence of a quorum

**DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES (19-14)**

08:33:41 Presented by Alexa O'Dell, CPA, Financial-Compliance Audit Manager (**EXHIBIT 4**)  
Present from agency:  
Sheila Hogan, Director  
Erica Johnston, Operation Services Branch Manager  
Marie Matthews, Medicaid and Health Services Branch Manager

Office of Budget and Program Planning  
Tom Livers, Director

**Committee Questions of LAD Staff**

09:26:50 Sen. Brown asked Ms. O'Dell about the department's failure to respond to recommendations.

09:27:29 Sen. Brown asked Ms. O'Dell how much money was paid to the employees who were no longer with the department.

09:28:02 Sen. Brown asked Ms. O'Dell to explain the process for sample sizes that auditors used.

09:29:18 Sen. Brown commented on uniqueness of Montana.

09:30:08 Sen. Brown asked Ms. O'Dell to clarify dollar amounts on page 19.

09:31:25 Rep. Burnett referred to page 22 and asked for clarification on federal dollars.

09:32:52 Rep. Burnett asked Ms. O'Dell about state losses regarding the state match.

09:35:07 Sen. Ellsworth looked for clarification from Ms. O'Dell about agency investigation time limit.

09:36:16 Sen. Ellsworth asked Ms. O'Dell about the \$10,000 department policy limit. Ms. O'Dell stated if further clarification was needed the department should answer that.

09:36:46 Rep. Regier asked Ms. O'Dell about instances on page 16 and asked for details on what staff overrode.

09:38:17 Rep. Regier followed up to his first question and asked more details on criteria.

09:39:09 Rep. Abbott asked Ms. O'Dell if compliance with federal law was being tested.

09:40:06 Rep. Abbott asked Ms. O'Dell if more than just state tax data was looked at during the audit.

09:40:54 Rep. Abbott asked Ms. O'Dell how state income data interreacted with federal eligibility requirements.

09:41:55 Rep. Abbott commented on continuous eligibility and expressed concern for the entirety of the audit and asked Ms. O'Dell about the state plan.

09:45:36 Rep. Hayman referenced page 22 and asked Ms. O'Dell to explain further.

09:47:49 Rep. Hayman asked Ms. O'Dell if she were aware of an audit done by CMS.

09:49:30 Rep. Hayman commented on her conversation with Tammy Brown at CMS and what it would take for a federal agency to go after a state agency to require paying back federal funds. Rep. Hayman asked Ms. O'Dell to confirm what Ms. Brown stated.

09:51:34 Sen. Flowers asked Ms. O'Dell about page 20 and sample results.

09:54:08 Sen. Flowers asked Ms. O'Dell about statistical reliability.

09:57:30 Sen. Flowers looked for clarification from Ms. O'Dell on statistical reliability to project error occurrence rates.

09:59:12 Sen. Flowers gave his opinion on unreliable data being misreported.

09:59:48 Sen. Brown asked Ms. O'Dell about the error rates determined by the agency.

10:01:01 Sen. Jacobson asked Ms. O'Dell if eligibility requirements were solely determined by the state plan.

10:02:07 Sen. Jacobson asked Ms. O'Dell about the use of state income tax information.

10:04:40 Sen. Jacobson asked Ms. O'Dell if the LAD sat down with the department to better understand their systems.

- 10:07:23 Sen. McNally commented on internal controls and the need for more work on the compliance side and asked Ms. O'Dell about what CMS had approved. Sen. McNally asked several questions on the same subject - discussion back and forth. Sen. McNally found the audit to be misleading and spoke on her opinions.
- 10:16:53 Rep. Kerr-Carpenter asked Ms. O'Dell about the audit period and access of state income returns by the department. She also asked what other information sources were used during the audit.
- 10:20:01 Sen. Esp asked for clarification on low and high-end estimates.
- 10:20:36 Sen. Jacobson asked Ms. O'Dell how state tax data was used when it wasn't a reliable source of information.
- 10:23:19 Sen. Brown looked for clarification on the department noting life changes in case notes.
- 10:24:11 Ms. Jorgenson took the podium to explain the use of state tax data.
- 10:26:27 Sen. Flowers asked Ms. Jorgenson about annual income tax data that was used.
- 10:28:03 Rep. Abbott looked for an explanation on the use of state income data and continuous eligibility requirements. Rep. Abbott asked Ms. Jorgenson several questions - back and forth conversation.
- 10:36:57 Sen. Ellsworth asked Ms. O'Dell about fraud committed via Medicaid. Several questions back and forth.
- 10:39:40 Sen. Esp looked for clarification from Ms. Jorgenson on some of the committee members argument.
- 10:43:31 Rep. Burnett asked Ms. O'Dell about returned mail.

#### **Agency Response**

- 10:45:36 Presented by Director Hogan.
- 10:56:50 Presentation by Ms. Johnston. **(EXHIBIT 5)**

#### **Committee Questions of Agency**

- 11:54:24 Sen. Brown looked for clarification from Ms. Johnston on her comment about what obligations the LAC and LAD had.

#### **Agency Response**

- 11:55:07 Presented by Director Livers.
- 12:08:09 Sen. Brown asked Director Livers how involved he was in agency audits in general.
- 12:08:44 Sen. Brown asked Director Livers how many meetings he was a part of. She also asked if he was aware of the delays noted last fall that drew out the audit. She also asked if he participated in the last meeting with the LAD and the DPHHS.

#### **Committee Questions of Agency**

- 12:10:48 Sen. Esp asked Ms. Johnston about federal program monitoring.

12:13:45 Sen. Ellsworth asked Ms. Johnston about parenting plans and their department plans.

12:14:54 Rep. Regier asked Director Livers about his accusation against LAD having a predetermined outcome to collaborate against DPHHS.

12:17:13 Rep. Regier noted that Director Livers comment was a huge jump and accusation against the staff and the director of LAD.

12:17:34 Rep. Burnett asked Ms. Johnston for an estimate on dollars spent on ineligibility problems from the department's view.

12:18:31 Rep. Jacobson asked Ms. Johnston for her opinion on the first scope of the audit.

12:20:49 Rep. Jacobson asked Ms. Johnston if DPHHS worked with LAD to help them understand how to extrapolate the information they needed.

12:25:48 Rep. Jacobson commented that the mark was missed on the scope of the audit.

12:26:17 Sen. Brown commented about the auditors using tax data and time frame of the audit.

12:29:09 Rep. Regier asked Ms. Johnston for clarification on client f referenced in the audit.

**Public Comment**

12:31:17 Public Comment by Rep. Mary Caferro.

12:38:06 Ms. Johnston addressed an earlier question by Sen. Ellsworth.

12:38:59 Legislative Auditor Maciver took the podium to comment on the perspective of LAD's profession.

**BREAK**

12:43:11 Reconvened at 13:01:55

13:02:00 Chair Brown spoke on moving agenda items around.

**DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES (19-14)**

13:02:56 Remainder of DPHHS recommendations  
Presented by Jessica Curtis, CPA, Financial-Compliance Senior Auditor

**Committee Questions of LAD Staff**

13:24:47 Sen. Brown asked Ms. Curtis about EBT and several other questions about findings.

**Agency Response**

13:27:02 Presented by Ms. Johnston.

13:34:08 Sen. Brown interrupted Ms. Johnston and asked her to take note of the time.

**Committee Questions of Agency**

13:40:22 Sen. Brown commented on the remaining findings of the report having been more routine for the department.

**Public Comment**

None

**Motion**

13:42:16 Sen. Esp moved the committee acknowledge receipt of the report, that it was reviewed by the committee, filed, and that copies of the audit report be distributed in accordance with law.

**Vote:**

13:42:16 n/a

13:45:15 Discussion on the motion: not all members were present in the room and question whether proxy voting was allowed. It was determined there would be a re-vote by roll call later in the meeting when all members were present.

**EFFECTIVENESS OF CONTRACTED COMMUNITY CORRECTIONS PROGRAMS IN REDUCING RECIDIVISM (18P-05)**

13:45:52 Presented by Amber Robbins, Performance Senior Auditor(**EXHIBIT 6**)  
Present from the Department of Corrections:  
Reginald Michael, Director  
Cynthia Wolken, Deputy Director  
John Daugherty, Administrator, Administrative Services Division  
Colleen Ambrose, Legal Services Bureau Chief  
Megan Coy, Programs & Facilities Bureau Chief  
Erika Wimmer, Quality Assurance Compliance Specialist  
Kurt Aughney, Quality Assurance Director  
Steffani Turner, Clinical Services Division Program Manager  
Jamie Newsome, University of Cincinnati

13:47:14 Mr. McClure addressed the committee on providing public comment on zoom.

**Committee Questions of LAD Staff**

14:10:41 Sen. Brown asked Ms. Robbins about paper reports.

**TECHNICAL DIFFICULTIES**

14:12:10 Time fillers due to technical difficulty (inaudible)

14:16:43 Legislative Auditor Maciver directed the committee members to the new draft idea of the summary sheets in the two corrections reports.

14:21:32 Legislative Auditor Maciver went over some committee requests from previous meetings. Department of Labor and Industry (**EXHIBIT 7**)  
Montana State Lottery (**EXHIBIT 8**)

14:23:22 Sen. Brown asked some questions regarding the Montana Lottery's response to their committee request.

**PERFORMANCE AND INFORMATION SYSTEMS AUDIT STATUS UPDATE**

14:25:06 Presented by Joe Murray, Deputy Legislative Auditor (**EXHIBIT 9**)

14:29:48 Rep. Kerr-Carpenter asked Mr. Murray to indulge on the Board of Milk Control audit.

## **BREAK**

14:35:07 Break due to technical difficulty reconvened at 14:44:29.

## **EFFECTIVENESS OF CONTRACTED COMMUNITY CORRECTIONS PROGRAMS IN REDUCING RECIDIVISM (18P-05)**

### **Agency Response**

14:44:37 Presented by Director Michael and Ms. Coy.

14:59:29 Sen. Brown commented about seeking legislation.

### **Committee Questions of Agency**

14:59:52 Sen. McNally asked Ms. Coy why the department was not pursuing legislation.

15:01:17 Rep. Abbott asked Ms. Coy to talk more about the definition of recidivism. The question was deferred to Ms. Newsome.

15:03:58 Rep. Burnett referenced page 19 and asked Ms. Coy about bond maturity rates.

15:04:42 Chair Brown asked Ms. Robbins to address committee member questions.

15:06:55 Legislative Auditor Maciver addressed committee members on the recidivism discussion.

15:08:28 Sen. Brown asked Ms. Coy about "empty beds".

15:11:39 Rep. Kerr-Carpenter asked Ms. Coy about protected health information.

15:13:10 Rep. Kerr-Carpenter asked Ms. Robbins for clarification on page 46, table 4, regarding which recidivism definition was referenced. She gave an opinion on the importance of using one definition.

15:14:13 Rep. Jacobson asked Dr. Newsome to expand on the department's perspective versus the LAD.

15:16:32 Rep. Jacobson noted his observation of a pattern, that of different standards that were applied into contracts. He also commented on the LAD not taking into consideration additional data. He found the audit difficult to accept and that it was unhelpful.

15:18:04 Chair Brown asked Legislative Auditor Maciver to speak to Rep. Jacobson's comment.

### **Public Comment**

15:20:59 May Simmons via zoom gave her public comment.

15:26:23 Rep. Krotkov via zoom gave her public comment. Sen. Brown asked Rep. Krotkov to send her comments to LAD due to the fact her audio could not be heard. **(EXHIBIT 10)**

15:27:58 Laurie Little Dog via zoom gave her public comment.

15:31:16 Dave Armstrong via zoom gave his public comment.

15:35:00 Janee Weber via zoom gave her public comment.

15:38:48 Sen. Brown agreed with Ms. Weber.  
15:39:17 Amy Tenney via zoom gave her public comment.  
15:40:52 Alan Scanlon via zoom gave his public comment.

**Motion**

15:45:13 Sen. Esp moved the committee acknowledge receipt of the report, that it was reviewed by the committee, filed, and that copies of the audit report be distributed in accordance with law.

**Vote:**

15:45:18 Carried unanimously by voice vote.

**A COMPARITIVE EVALUATION OF STATE-OPERATED AND CONTRACTED MEN'S PRISONS (18P-08)**

15:46:10 Presented by James Sutcliffe, Performance Senior Auditor (**EXHIBIT 11**)  
Present from the Department of Corrections:  
Reginald Michael, Director  
Cynthia Wolken, Deputy Director  
Patrick Smith, Deputy Warden  
Carolynn Bright, Communications Director  
Colleen Ambrose, Legal Services Bureau Chief  
John Daughtery, Operations Manager

**Committee Questions of LAD Staff**

16:10:49 Rep. Hayman asked Mr. Sutcliffe if prisoners were ever transferred out of state, and asked about average age of offenders.

**Agency Response**

16:12:48 Presented by Director Michael and Mr. Smith.

**Committee Questions of Agency**

None

**Public Comment**

16:16:31 Rep. Jasmine Krotkov gave her public comment via zoom.  
16:21:31 Sen. Brown spoke on different programs within the prisons and spoke on future legislation.  
16:22:20 Sen. Diane Sands gave her public comment via zoom.  
16:25:40 Sen. Brown asked Mr. Sutcliffe to address questions Sen. Sands asked regarding race and survey.  
16:27:07 May Simmons gave her public comment via zoom.  
16:29:10 Laurie Little Dog gave her public comment via zoom.

**Motion**

16:33:19 Sen. Esp moved the committee acknowledge receipt of the report, that it was reviewed by the committee, filed, and that copies of the audit report be distributed in accordance with law

**Vote:**



16:33:30 Carried unanimously by voice vote.

16:33:36 Chair Brown called a roll call vote on the *Department of Public Health and Human Services* (19-14) report as not all legislators were present in the room previously in the day.

**Motion**

16:34:03 Sen. Ellsworth moved the committee acknowledge receipt of the report, that it was reviewed by the committee, filed, and that copies of the audit report be distributed in accordance with law.

**Vote:**

16:34:15 Roll call vote 6-6 (**EXHIBIT 12**)

16:35:55 Chair Brown asked Ms. Butler, Legal Counsel, to address committee members on the 6-6 vote. Ms. Butler made committee members aware that their votes were in agreeance that reports were reviewed and filed, not that they agreed with the audit or findings.

16:36:39 Legislative Auditor Maciver spoke on changing reporting format, and drew the committee members attention to story maps.

16:38:20 Sen. Esp asked Ms. Butler if the agency response was incorporated in the report for DPHHS.

16:39:39 Sen. Esp took the podium and made a statement about respect.

**MONTANA SINGLE AUDIT (18-02)**

16:43:49 Presented by Alexa O'Dell, CPA, Financial-Compliance Audit Manager (**EXHIBIT 13**)  
Present from agency:  
Governor's Office of Budget and Program Planning  
Tom Livers, Director  
Sonia Powell, CPA, Single Audit Coordinator

**Committee Questions of LAD Staff**

17:00:51 Sen. Brown referred to page C-9 and asked Ms. O'Dell about state and federal dollars.

**Agency Response**

17:03:32 Presented by Director Livers.

**Committee Questions of Agency**

17:05:34 Sen. Brown asked Director Livers about completed work outside of session.

**Public Comment**

None

**Motion**

17:06:24 Sen. Ellsworth moved the committee acknowledge receipt of the report, that it was reviewed by the committee, filed, and that copies of the audit report be distributed in accordance with law

**Vote:**

17:06:29 Carried unanimously by voice vote.

**STATE EMPLOYEE SETTLEMENTS: TRENDS, TRANSPARENCY, AND ADMINISTRATION (18P-04)**

17:07:31 Presented by Jeremy Verhasselt, Performance Auditor (**EXHIBIT 14**)  
Present from the agency:  
The Office of the Governor  
Raph Graybill, Chief Legal Counsel  
Rylee Sommers Flanagan

**Committee Questions of LAD Staff**

17:26:49 Sen. Brown asked Mr. Verhasselt about an older FWP settlement.  
17:27:44 Sen. Flowers looked for clarification from Mr. Verhasselt regarding a different division within FWP or a separate division all together.  
17:28:25 Rep. Abbott asked Mr. Verhasselt about the choice to focus on the highest cost settlements.  
17:29:03 Sen. Esp asked Mr. Verhasselt for clarification on litigation.

**Agency Response**

17:29:43 Presented by Mr. Graybill (**EXHIBIT 15**)

**Committee Questions of Agency**

17:43:54 Sen. Brown asked Mr. Graybill about FOIA requests.  
17:45:01 Sen. Flowers asked Mr. Graybill about current or past cost of resolving termination disputes.  
17:46:24 Sen. Esp asked Mr. Graybill if they tracked how many dollars were lost settling with an employee.

**Public Comment**

None

**Motion**

17:47:35 Sen. Ellsworth moved the committee acknowledge receipt of the report, that it was reviewed by the committee, filed, and that copies of the audit report be distributed in accordance with law.

**Vote:**

17:47:40 Carried unanimously by voice vote.

**DEPARTMENT OF AGRICULTURE (19-21)**

17:48:29 Presented by Mary V. Yurewitch, Financial-Compliance Auditor  
Present from agency: Ben Thomas, Director  
Ingrid Mallo, Financial Manager  
Cindy Trimp, Administrator, Central Services Division

**Committee Questions of LAD Staff**

None

**Agency Response**

17:52:54 Presented by Director Thomas.

**Committee Questions of Agency**

None

**Public Comment**

None

**Motion**

17:54:53 Sen. Esp moved the committee acknowledge receipt of the report, that it was reviewed by the committee, filed, and that copies of the audit report be distributed in accordance with law.

**Vote:**

17:54:53 Carried unanimously by voice vote.

**GASB 84 - FIDUCIARY ACTIVITIES AND FINANCIAL SCHEDULE FORMAT**

17:55:28 Presented by Cindy Jorgenson, Deputy Legislative Auditor & Karen Simpson, Financial-Compliance Audit Manager (**EXHIBIT 16**)

18:00:36 Sen. Brown commented on clean up and relevancy.

18:01:24 Ms. Jorgenson explained both the motions that were needed.

**Motion**

18:01:48 Sen. Jacobson authorized LAD to exclude property held in trust activity from the Schedule of Changes in Fund Equity beginning in fiscal year 2020

**Vote:**

18:01:50 Carried unanimously by voice vote.

**Motion**

18:02:16 Sen Esp. authorized LAD to exclude revenue estimate activity from the Schedule of Total Revenues and Transfers-In effective for the FY2020 audit cycle.

**Vote:**

18:02:25 Carried unanimously by voice vote.

**MONTANA STATE LIBRARY COMMISSION (19-23)**

18:03:09 Presented by Jenny Erdahl, CPA, Financial-Compliance Audit Manager  
Present from agency:  
Jennie Stapp, State Librarian  
Malissa Williams, Central Services Manager

**Committee Questions of LAD Staff**

None

**Agency Response**

18:06:57 Presented by Ms. Stapp

**Committee Questions of Agency**

None

**Public Comment**

None

**Motion**

18:08:11 Rep. Burnett moved the committee acknowledge receipt of the report, that it was reviewed by the committee, filed, and that copies of the audit report be distributed in accordance with law.

**Vote:**

18:08:16 Carried unanimously by voice vote.

**PRIORITIZATION OF PERFORMANCE AUDITS FOR FISCAL YEAR 2021**

18:10:04 Legislative Auditor Maciver suggested members be contacted later by staff to prioritize performance audits.

**FINANCIAL STATUS UPDATE**

18:10:43 Presented by Cindy Jorgenson, Deputy Legislative Auditor (**EXHIBIT 17**)

**COMMUNITY COLLEGE AUDIT REQUIREMENT AND COST**

18:11:35 Presented by Cindy Jorgenson, Deputy Legislative Auditor

18:14:59 Sen. Brown asked why the community college audit function couldn't be transferred to OCHE. Some discussion between Sen. Brown and Ms. Jorgenson.

18:20:18 Rep. Burnett asked Ms. Jorgenson about community college costs.

18:21:41 Sen. Esp commented on addition of FTE to do the contract work.

18:23:24 Rep. Abbott acknowledged it was Mr. Murray's last meeting and thanked him for his work over the years.

**ADJOURNMENT**

18:26:35 With there being no further business, the meeting was adjourned.

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