



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

October 6, 2020

9:00 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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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)

STAFF PRESENT:

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

AGENDA (ATTACHMENT 1)

VISITORS' LIST (n/a)

CALL TO ORDER/ROLL CALL

09:01:30 The Legislative Audit Committee met in room 317 of the State Capitol Building and via zoom. Chair Brown called the meeting to order at 9:01 a.m. noting the presence of a quorum. The secretary took roll and Sen. Jacobson was excused.

APPROVE MINUTES

Motion

09:02:50 Sen. Esp moved the committee approve the two sets of minutes from June 15-16, and June 26, 2020.

Vote:

09:02:50 Carried unanimously by voice vote.

INTRODUCTION OF NEW STAFF

09:03:16 Cindy Jorgenson, CPA, Deputy Legislative Auditor, introduced Courtney Johnson, Steven Althoff, and Adam Hefenieder as new financial-compliance auditors with the division.

SECURITY AND MAINTENANCE OF MONTANA ELECTION SYSTEMS (19DP-06)

09:09:33 Presented by Amanda Sayler, Information Systems Auditor ([EXHIBIT 1](#))

Present from agency:

Corey Stapleton, Secretary of State

Christi Jacobsen, Chief of Staff

Dana Corson, Director of Elections

Committee Questions of LAD Staff

09:28:22 Rep. Hayman noted her presence in the meeting, and asked Ms. Sayler about HAVA money that was spent on voting equipment.

09:30:43 Sen. Brown asked Ms. Sayler what the highest concerns in the audit were.

09:32:16 Sen. Brown asked Legislative Auditor Maciver to provide SAVA members with copies of this report.

09:33:26 Sen. Brown asked Ms. Sayler about the Office of the Secretary or State's (SOS) ability to create laws and touched on assessments.

09:34:51 Sen. Brown asked Ms. Sayler about SOS's security oversight position.

Agency Response

09:36:01 Presented by Secretary Stapleton.

Committee Questions of the Agency

09:44:42 Sen. Brown asked Secretary Stapleton about money that counties had access to and what the timeline was.

09:46:26 Rep. Hayman asked Secretary Stapleton about the need for voting machines. She asked how many voting machines could be purchased with the HAVA money. Question was deferred to Mr. Corson.

09:48:23 **Committee Request:** Sen. Brown requested on behalf of Rep. Hayman that the committee receive an email with the following information: How many voting

machines did SOS allow clerks and recorders to purchase using HAVA money. (received an email from Mr. Corson 11/16/20 – will distribute to LAC members at the Dec. 9, 2020 meeting)

- 09:48:50 Rep. Kerr-Carpenter asked Secretary Stapleton how their team was improving their communications with counties.
- 09:52:49 Rep. Kerr-Carpenter referenced page 27 of the report and asked Secretary Stapleton about how his staff was going to change procedures to make sure reports were received in a timely manner. Question was deferred to Mr. Corson.
- 09:54:54 Sen. Brown asked potential law that could be enacted by the Legislature.
- 09:59:03 Sen. Brown commented on non-elected officials.
- 10:01:49 Sen. Flowers asked about the department's response to recommendation #2.
- 10:05:43 Sen. Flowers advised that SOS revise their response to the recommendation.
- 10:08:03 Sen. Brown asked Legislative Auditor Maciver how to go about fixing SOS's response in the report to recommendation #2.
- 10:09:09 Sen. Esp commented he thought the meeting was a part of the report and it was understood without a paper trail.

Public Comment

None

Motion

- 10:10:20 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:

10:10:27

Carried unanimously by voice vote.

DEPARTMENT OF FISH, WILDLIFE & PARKS (19-18)

- 10:10:51 Presented by Delsi Osmanson, Financial-Compliance Senior Auditor
Present from the agency:
Martha Williams, Director Dustin Temple, Chief of Administration Jennifer Thompson, Financial Operations Supervisor

Committee Questions of LAD Staff

- 10:21:44 Sen. Brown asked Ms. Osmanson about hours charged to grants.

Agency Response

- 10:22:31 Presented by Director Williams.

Committee Questions of the Agency

- 10:23:59 Rep. Burnett asked Ms. Williams about electronic monitoring on vehicles. Question was deferred to Mr. Temple.
- 10:26:20 Rep. Burnett asked Mr. Temple about user input/automation.
- 10:27:41 Sen. Brown asked Mr. Temple about requests for flights.
- 10:29:23 Sen. McNally asked Director Williams for clarification on the division's corrective action plan. The question was deferred to Ms. Thompson.
- 10:33:10 Rep. Bartel asked Mr. Temple about the department's response to recommendation #1, The question was deferred to Ms. Thompson. Ms.

- Thompson said she would get back to Rep. Bartel with that information. (emailed Rep. Bartel with this information on 11/20/20)
- 10:34:25 Rep. Bartel asked Ms. Thompson if the federal government would ask for reimbursement, example on page 8.
- 10:36:08 Sen. Esp had suggestions on vehicle monitoring to add to Rep. Burnett's earlier comments.
- 10:37:55 Director Williams thanked the committee for their suggestions.

Public Comment

None

Motion

- 10:39:06 Rep. Hayman 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:

- 10:39 Carried unanimously by voice vote.

Break

- 10:39:54 Reconvened at 10:47 a.m.

PUBLIC DEFENDER WOFKFORCE MANAGEMENT (19P-04)

- 10:47:07 Presented by Alyssa Sorenson, Performance Senior Auditor ([EXHIBIT 2](#))
Present from agency:
 Rhonda Lindquist, Director
 Brett Schandelson, Operations Manager
 Travis Tilleman, Administrator, Human Resources
 Dan Miller, Administrator, Conflict Defender Division
 Peter Ohman, Administrator, Public Defender Division

Committee Questions of LAD Staff

- 11:06:44 Rep. Burnett asked Ms. Sorenson if staff attorneys were paid overtime plus a few other questions on pay and savings.
- 11:10:03 Rep. Burnett asked Ms. Sorenson about excessive number of cases in the state of Montana.
- 11:10:48 Rep. Hayman asked Ms. Sorenson if there were any discussion of remote options for traveling attorneys. Ms. Sorenson noted that would be a question for the agency.
- 11:12:19 Sen. Brown asked Ms. Sorenson about a trained paralegal's ability to assist attorneys.
- 11:13:00 Sen. Brown asked Ms. Sorenson about pay comparisons.
- 11:14:00 Sen. Brown asked Ms. Sorenson about lawyer billing rates.
- 11:14:48 Sen. Brown asked Legislative Auditor Maciver to speak about the new look of summary pages in LAD reports.

Agency Response

- 11:16:53 Presented by Director Lindquist.

Committee Questions of the Agency

- 11:28:44 Sen. Brown asked Director Lindquist about public defense work and qualifications. The question was deferred to Mr. Ohman.
- 11:30:38 Sen. Brown asked Mr. Ohman about attorney billing rates and ethics.
- 11:31:35 Rep. Burnett asked Director Lindquist why the costs were higher than average as far as other states. The question was deferred to Mr. Ohman.

Public Comment

- 11:37:15 Helge Naber, Attorney at law, gave his public comment via zoom.

Motion

- 11:45:50 Rep. Hayman moved that 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:

- 11:45:50 Carried unanimously by voice vote.

- 11:46:21 Rep. Hayman asked Sen. Brown what the procedure was to handle Secretary Stapleton's ballot processing comments that she believed to be illegal.
- 11:47:58 Legislative Auditor Maciver spoke on options of how to handle the issue brought forward by Rep. Hayman.
- 11:49:22 Deb Butler, Legal counsel for LAD, agreed with Legislative Auditor Maciver and suggested a question be formulated for Secretary Stapleton to answer.
- 11:50:05 Sen. Esp asked Ms. Butler if the issue would need to be an agenda item for December.
- 11:51:15 Rep. Hayman wanted to ask Secretary Stapleton to come back this afternoon.
- 11:51:39 Sen. Esp stated he thought Secretary Stapleton should be supplied with a question to answer specifically. He also thought bringing him back in December would work.
- 11:51:46 Sen. McNally thought the incorrect statements should be brought forward for the record.
- 11:52:35 Sen. Ellsworth agreed with Sen. Brown to recognize which comments were misstatements.
- 11:53:08 Sen. McNally was uncomfortable with Secretary Stapleton's comments.
- 11:53:50 Legislative Auditor Maciver suggested that the committee let Ms. Butler do some research over lunch and come back to the issue.
- 11:54:43 Rep. Bartel noted that the report was already filed and approved.

FISCAL YEAR 2021 PERFORMANCE AUDIT PRIORITIZATION

- 11:55:36 Legislative Auditor Maciver introduced William Soller as the new Deputy Legislative Auditor for Performance and Information Systems Audits officially as of 10/10/20.
- 11:56:42 Presented by William Soller, Performance Audit Manager ([EXHIBIT 3](#))
- 11:59:54 Rep. Burnett asked Mr. Soller about shifts in audit priorities. Rep. Burnett asked if physical space engagement could have some attention if possible.
- 12:01:06 Rep. Kerr-Carpenter asked for Mr. Soller to expand on the "committee action" piece.

Public Comment

None

- 12:02:48 Alvin Not Afraid, Crow Tribal Chairman, gave public comment regarding the CARES Act as applicable to the Crow Tribe. ([EXHIBIT 4](#))
- 12:09:26 Sen. Brown asked Legislative Auditor Maciver how to go about adding an audit to an already prioritized list.
- 12:12:13 Sen. Brown appointed herself, Rep. Hayman, Sen. Flowers, and Rep. Regier without objections for the management advisory function.

Lunch

12:13:18 Reconvened at 12:53 p.m.

COMMUNITY BENEFIT AND CHARITY CARE OBLIGATIONS AT MONTANA NONPROFIT HOSPITALS (18P-07)

12:53:17 Presented by Sarah A. Carlson, Performance Senior Auditor ([EXHIBIT 5](#))
Present from agency:
Sheila Hogan, Director
Erica Johnston, Manager, Operations Services Branch

Committee Questions of LAD Staff

- 13:20:12 Rep. Hayman asked Ms. Carlson for clarification on figure 2 in the report.
- 13:22:42 Legislative Auditor Maciver tried to re word Rep. Hayman's question for Ms. Carlson.
- 13:23:49 Rep. Abbott asked Ms. Carlson several questions regarding why charity care was chosen as a topic and seemed to question LAD staff qualifications for what was looked at.
- 13:30:45 **Committee Request:** Rep. Burnett referenced Appendix A and pointed out an error, it appeared a column was missing as Ms. Carlson stated the total was correct. LAD will get corrected report copies to the committee. (corrected report copies were mailed out to LAC members 11/10/20)
- 13:34:07 Sen. McNally commented on the excessive drinking and mental health metric, and asked Ms. Carlson why that topic was chosen.
- 13:36:23 Sen. McNally asked Ms. Carlson about using general examples.
- 13:40:37 Sen. Esp referenced page 35 and asked Ms. Carlson about St. Vincent.
- 13:42:35 Sen. Brown referenced page 34 and asked Ms. Carlson about high percentages.

Agency Response

13:45:11 Presented by Director Hogan.

Committee Questions of the Agency

- 13:48:25 Sen. Brown asked Director Hogan about the IRS and what they were really involved in. She also asked about critical access hospitals. The question was deferred to Ms. Johnston.
- 13:51:31 Rep. Regier asked Ms. Johnston about what the IRS did not review.
- 13:52:32 Rep. Regier was disappointed in Director Hogan's comment about charity care being a "sliver". Back and forth conversation over the same topic.

13:55:48 Legislative Auditor Maciver took the podium at Sen. Brown's request to comment.

Public Comment

14:00:09 Duane Preshinger, Montana Hospital Association, gave his public comment via zoom.

Motion

14:05:05 Rep. Regier moved that 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:

14:05:05 Carried unanimously by voice vote.

MONTANA STATE FUND (19-05B)

14:06:34 Presented by John Fine, CPA, Financial-Compliance Audit Manager
Present from agency: Lanny Hubbard, President/CEO
Mark Burzynski, Vice President, Corporate Support
Rene Martello, Controller, Corporate Support
Patti Grosfield, Internal Auditor

Committee Questions of LAD Staff

None

Agency Response

14:13:11 Presented by Ms. Grosfield.

14:17:09 Sen. Brown asked Mr. Hubbard to speak briefly.

Committee Questions of the Agency

14:17:40 Sen. Brown looked for clarification from Mr. Hubbard on page S-1 of the audit report.

Public Comment

None

Motion

14:19:45 Sen. Esp moved that 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:

14:19:45 Carried Unanimously by voice vote.

14:20:18 Point of personal privilege by Rep. Hayman regarding voting commentary from Secretary Stapleton during the *Security and Maintenance of Montana Election Systems* (19DP-06) report.

ACCOUNTABILITY, COMPLIANCE AND TRANSPARENCY - REPORTING AND RESOLVING ALLEGATIONS OF FRAUD, WASTE, AND ABUSE IN MONTANA STATE GOVERNMENT (20ACTHOTLINE)

14:22:59 Presented by Deborah F. Butler, Legal Counsel

Committee Questions of LAD Staff

- 14:32:45 Sen. Brown noted a higher level of hotline traffic due to the website improvements.
- 14:33:44 Sen. Flowers asked Ms. Butler if it were possible to present table 4 as a percentage of employees.
- 14:35:29 Sen. Flowers asked Ms. Butler several question about hiring practices and evidence to support those allegations.
- 14:42:34 Legislative Auditor Maciver took the podium to weigh in at the request of Sen. Brown.
- 14:45:12 Rep. Kerr-Carpenter had several questions for Ms. Butler regarding the report's entirety.

Public Comment

None

DEPARTMENT OF LIVESTOCK (19-22)

- 14:53:36 Presented by Shandell VanDonsel, CPA, Financial-Compliance Senior Auditor
Present from agency:
Mike Honeycutt, Executive Officer
Brian Simonson, Deputy Executive Officer
Brett DeBruycker, Chair, Board of Livestock
Nina Baucus, Board of Livestock

Agency Response

- 15:03:14 Presented by Mr. Honeycutt.

Committee Questions of the Agency

None

Committee Questions of LAD Staff

- 15:11:27 Sen. Brown asked Mr. Honeycutt if staff in the field had cell phones.

Public Comment

None

Motion

- 15:12:55 Sen. Esp moved that 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:

- 15:12:55 Carried unanimously by voice vote.

2019 STATE OF MONTANA EMPLOYEE GROUP BENEFITS CLAIM AUDIT (19C-09)

- 15:13:36 Presented by Vivian Hayashi, Account Executive, Claim Technologies Incorporated ([EXHIBIT 6](#)) & Stacy Ausprung, Pillar RX.
Present from the Department of Administration:
John Lewis, Director

Am Jenks, Acting Administrator, Health Care and Benefits Division
Amber Thorvilson, Financial Manager

15:33:10 Rep. Burnett asked Ms. Hayashi about other health insurances.

Agency Response

15:35:08 Presented by John Lewis, Director, Department of Administration.

Committee Questions of the Agency

15:37:40 Rep. Burnett looked for clarification on the chart on page 24. Ms. Thorvilson took the podium.

Public Comment

None

Motion

15:39:40 Rep. Burnett moved that 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:

15:39:40 Carried unanimously by voice vote.

MONTANA ARTS COUNCIL (19-24)

15:40:25 Presented by Shenae Stensaas, Financial-Compliance Senior Auditor

Present from agency:

Tatiana Gant, Executive Director
Kristin Burgoyne, Deputy Director
Jenifer Alger, Chief Financial Officer

Committee Questions of LAD Staff

None

Agency Response

15:44:04 Presented by Tatiana Gant, Executive Director.

Committee Questions of the Agency

15:45:45 Sen. Brown asked Director Gant if the agency planned to seek legislation.

15:46:31 Rep. Burnett asked Director Gant what their FTE was and if all positions were filled.

Public Comment

None

Motion

15:47:23 Rep. Bartel moved that 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:

15:47:23 Carried unanimously by voice vote.

**ADMINISTRATION OF STATE AGENCY PROCUREMENT AND CONTRACT MANAGEMENT
(20SP-06)**

- 15:48:09 Presented by Julia Connelley, Performance Auditor.
15:52:48 Sen. Brown asked Ms. Connelley for clarification on compliance reviews.

**WATER POLLUTANT DISCHARGE PERMITTING AND INSPECTING PROCESSES
(20SP- 13)**

- 15:54:02 Presented by Sarah A. Carlson, Performance Senior Auditor.
15:57:55 Sen. Brown asked Ms. Carlson about electronic submission.

**PERFORMANCE AUDIT SCOPE AND OBJECTIVES - PROFESSIONAL DEVELOPMENT
CENTER**

- 15:59:50 Presented by Amber Robbins, Performance Senior Auditor. ([EXHIBIT 7](#))
16:02:23 Rep. Burnett asked Ms. Robbins who the provider or vendor was.
16:02:54 Sen. Flowers asked Ms. Robbins when she suspected the audit would be released.
16:03:48 Rep. Kerr-Carpenter asked Ms. Robbins about courses that were not taught by PDC employees.

**PERFORMANCE AUDIT SCOPE AND OBJECTIVES - PETROLEUM RELEASE
COMPENSATION PROGRAM**

- 16:06:28 Presented by John Harrington, Performance Senior Auditor.

COMMUNITY COLLEGE CONTRACT DISCUSSION

- 16:08:53 Presented by Cindy Jorgenson, CPA, Deputy Legislative Auditor. ([EXHIBIT 8](#))
16:19:51 Legislative Auditor Maciver weighed in at Sen. Brown's request. Brown. He would like to know what members think about the proposed changes.
16:21:15 Comments from community college staff.
16:25:40 Sen. Brown asked Legislative Auditor Maciver about electronic reports.
16:26:55 Sen. Brown suggested oversight CPA's to do the work.
16:28:11 Rep. Hayman suggested the Legislature give extra money and used the phrase "kicking the can" in relation to what she felt LAD was proposing.
16:30:54 Sen. Esp asked Diedra Murray, MUS Internal Auditor, OCHE, about FTE.
16:31:44 Sen. Esp asked Legislative Auditor Maciver about hiring internally.
16:33:17 Rep. Burnett commented on being locally funded.
16:33:50 Rep. Kerr-Carpenter asked for clarification on the handout.
16:36:57 Sen. Esp suggested talking to counties.
16:37:52 Sen. McNally asked if there was a timeline or plan for this agenda topic.
16:39:04 Sen. Ellsworth asked if any of the committee members had interest in pursuing a bill.

LAD BUDGET UPDATE

- 16:40:01 Presented by Angus Maciver, Legislative Auditor ([EXHIBIT 9](#))
16:55:15 Sen. Brown asked Legislative Auditor Maciver why only government talked in inflation terms.

16:57:01 Sen. Esp asked Legislative Auditor Maciver for clarification on the pay plan.

Motion

17:00:06 Sen. Esp moved the committee approve LAD's budget request for the 2022/2023 biennium.

Vote:

17:00:06 Carried Unanimously by voice vote.

17:00:47 Legislative Auditor Maciver spoke on the summary of hour estimates used for 2023 biennium audit appropriations. ([Exhibit 10](#)) & ([Exhibit 11](#)). He also drew attention to ([Exhibit 12](#)) the Legislative Branch Personal Services costs.

17:03:13 Sen. Flowers requested more time on the agenda for budget related agenda items in the future. He specifically wanted to go over the Legislative Branch Personal Services costs memo.

COMMITTEE EDUCATION SCHEDULE

17:04:24 Presented by Angus Maciver, Legislative Auditor ([EXHIBIT 13](#))

PERFORMANCE AND INFORMATION SYSTEMS AUDIT UPDATE

17:06:05 Presented by William Soller, Performance Audit Manager ([EXHIBIT 14](#))

LAD STRATEGIC PLANNING

17:08:18 Presented by Angus Maciver, Legislative Auditor Maciver ([EXHIBIT 15](#))

FINANCIAL AUDIT STATUS UPDATE

17:09:51 Presented by Cindy Jorgenson, CPA, Deputy Legislative Auditor ([EXHIBIT 16](#))

Public Comment

None

ADJOURNMENT

17:12:57 With there being no further business, Chair Brown adjourned the meeting.

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