



LEGISLATIVE AUDIT COMMITTEE

68th Montana Legislature

SENATE MEMBERS

Jason Ellsworth
John Esp
Pat Flowers
Tom Jacobson
Tom McGillvray
Mary McNally

HOUSE MEMBERS

Denise Hayman
Kim Abbott
Emma Kerr-Carpenter
Terry Moore
Matt Regier
Jerry Schillinger

COMMITTEE STAFF

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

MINUTES LOG

December 09, 2022
Room 172
Helena, Montana

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:

Rep. Denise Hayman, Chair (D)
Sen. Jason Ellsworth, Vice Chair (R)
Sen. John Esp (R)
Sen. Pat Flowers (D)
Rep. Emma Kerr-Carpenter (D)
Rep. Terry Moore (R)
Rep. Matt Regier (R)
Rep. Jerry Schillinger (R)
Rep. Mary McNally (D)
Rep. Tom McGillvray (R)

MEMBERS EXCUSED:

Rep. Kim Abbott (D)
Sen. Tom Jacobson (D)

STAFF PRESENT:

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

AGENDA (Attachment 1)

VISITORS' LIST n/a

COMMITTEE ACTION

CALL TO ORDER/ROLL CALL

09:00:31 Rep. Hayman called the meeting to order at 9:00 a.m. noting the presence of a quorum. The committee secretary took roll. **(Attachment 2)**

MINUTES APPROVAL

09:02:17 Sen. Ellsworth moved the committee approve the October 4-5, 2022, minutes.

Vote:

09:02:17 Carried unanimously by voice vote.

NEW STAFF INTRODUCTIONS

09:02:38 Chris Rudmann, Information Systems Auditor. Justin Thomas and Jenna Stamper, Associate Financial-Compliance Auditors.

09:08:19 Chair Hayman welcomed new staff to the division.

FINANCIAL AUDIT MODEL

09:08:40 Introduction by Legislative Auditor Maciver

09:12:05 Presented by Jennifer Erdahl, CPA, CFE, Financial-Compliance Audit Manager. **(EXHIBIT 1)**

Committee Questions of Staff

09:16:09 Sen. Ellsworth asked Ms. Erdahl about internal audit structure in other agencies.

09:16:50 Legislative Auditor Maciver explained the Eide Bailly consulting report and questions about internal audit.

09:19:01 Sen. Ellsworth supported the annual single audit but with caution to the committee.

09:20:04 Sen. McGillvray asked Legislative Auditor Maciver about risk based combined with periodic audits.

09:21:09 Sen. Ellsworth agreed with Sen. McGillvray to add periodic audits within risk-based auditing.

09:22:28 Chair Hayman asked for clarification from Ms. Erdahl.

09:23:51 Rep. Moore spoke on opportunity for the committee via high-risk auditing.

09:25:09 Legislative Auditor Maciver spoke on assessing risk and independence of the audit function.

09:28:35 Rep. Schillinger spoke in favor.

09:29:42 Sen. Flowers agreed with Rep. Schillinger and thought it was a better use of audit resources.

09:30:37 Legislative Auditor Maciver referenced the multiyear effort timeline. **(EXHIBIT 2)**

09:36:31 Deborah F. Butler, Legal Counsel, presented potential changes to the Legislative Audit Act. **(EXHIBIT 3)**

Committee Questions of Staff

none

Motion

09:41:20 Sen. Ellsworth moved the committee accept the provisional language.

09:41:24 Sen. Esp clarified the committee would advance the bill.

Vote:

- 09:41:39 Carried unanimously by voice vote.
09:41:47 Chair Hayman noted authority to move forward with a bill draft.
09:42:02 Sen. Esp asked members about interest in carrying the bill.
09:42:14 Legislative Auditor Maciver stated Rep. Moore was going to carry the bill.

DATA QUALITY IN THE MONTANA WATER RIGHTS INFORMATION SYSTEM (21P-01)

- 09:43:55 Presented by Austin Powell, Associate Management & Program Analyst
(EXHIBIT 4) power point
Present from Department of Natural Resources & Conservation:
Amanda Kaster, Director
Anna Pakenham Stevenson, Administrator, Water Resources Division
Kathy Olsen, Regional Operations Manager
Nathaniel Ward, Water Rights Bureau Chief

Committee Questions of Staff

- 10:03:36 Sen. Flowers commended Mr. Powell on his well-written audit and asked if title companies were required to examine water rights.
10:04:47 Sen. McNally asked Mr. Powell for clarification on paper files versus scanned.
10:05:30 Sen. McNally asked Mr. Powell for clarification on how the Historical Society tied into the records.

Agency Response

- 10:06:25 Presented by Director Kaster.
10:09:08 Presented by Mr. Ward.

Committee Questions of Agency

- 10:32:08 Sen. Flowers asked Mr. Ward for clarification on title transfer.
10:33:02 Sen. Flowers asked Mr. Ward for details on accurate updates for transfer of ownership and gave a suggestion for an accurate way to ensure DNRC gets consistent information.
10:35:04 Ms. Olsen spoke on title insurance.
10:36:15 Chair Hayman noted the need for technology updates and asked Mr. Ward if the department had a submitted a budget request to the Governor's office. The question was deferred to Ms. Pakenham Stevenson.
10:37:53 Chair Hayman asked Ms. Pakenham Stevenson about development projects/outreach/coordination. **Committee Request:** Chair Hayman asked for this in writing.
10:43:18 Sen. McNally asked Ms. Pakenham Stevenson about issues for further study.
10:44:17 Sen. McNally asked Ms. Pakenham Stevenson about basin adjudication and final decrees.
10:46:32 **Committee Request:** Rep. Moore suggested a six-month update for reasonable assurance these concurrences are being implemented and/or the challenges were understood.

Public Comment

none

Motion

- 10:49:22 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:

- 10:49:22 Carried unanimously by voice vote.

DEPARTMENT OF LIVESTOCK 21-22

11:04:18 Presented by Jennifer Erdahl, CPA, CFE, Financial-Compliance Audit Manager
(EXHIBIT 5) power point
Present from agency:
Brian Simonson, Deputy Executive Officer & Central Services Division
Evan Waters, Financial Operations Bureau Chief

Committee Questions of Staff

none

Agency Response

11:07:16 Presented by Mr. Simonson

Committee Questions of Agency

11:12:38 Sen. McGillvray asked Mr. Simonson if there was a penalty for unrecorded brands.

11:13:59 Rep. Hayman asked Mr. Simonson if bees were considered Livestock.

Public Comment

none

Motion

11:14:59 Sen. McGillvray 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:

11:14:52 Carried unanimously by voice vote.

FOLLOW-UP PROFESSIONAL DEVELOPMENT CENTER (22SP-10)

11:15:38 Presented by Austin Powell, Associate Management & Program Analyst.
Present from Department of Administration:
Misty Ann Giles, Director
Anjenette Schafer, Administrator, State Human Resources Division

Committee Questions of Staff

none

11:20:26 Rep. Hayman asked Director Giles about online courses.

11:23:12 Sen. Flowers commented on the positive result of the audit and asked Director Giles to elaborate more on the reconfigured training center.

FOLLOW-UP MONTANA DEVELOPMENT CENTER CLOSURE AND CLIENT TRANSITION (22SP-15)

11:27:09 Presented by Jenn Bergner, Associate Management & Program Analyst.
Present from Department of Public Health and Human Services:
Rebecca de Camara, Administrator, Behavioral Health and Developmental Disabilities
Lindsey Carter, Bureau Chief, Developmental Disabilities Program
Christopher Baglio, Alvarez and Marsal
Mike Randall, Medicaid Director

Committee Questions of Staff

11:32:03 Chair Hayman asked Ms. Bergner about IBC beds. The question was deferred to Ms. de Camara.

Agency Response

11:35:41 Presented by Ms. de Camara.

11:37:40 Sen. McNally asked Ms. de Camara for details on community placement.

- 11:39:29 Legislative Auditor Maciver noted agency presence for follow-up audits as a new procedure.
- 11:40:51 Sen. McNally appreciated the new procedure.
- 11:41:13 Sen. Flowers liked the new format with agency staff available.

OTHER

- 11:41:49 Chair Hayman recognized Sen. Mary McNally for her 12 years with the committee, noting her chair and vice-chair expertise.
- 11:43:17 Sen. Esp recognized Sen. McNally and noted she'd be missed.
- 11:43:52 Sen. McNally spoke on her experiences and gave thanks.
- 11:45:10 Legislative Auditor Maciver anointed Sen. Mary McNally with a custom gavel to recognize her term as Chair, as well as a certificate to recognize her years of service.
- 11:47:54 Legislative Auditor Maciver appreciated Sen. McNally for her support of audit over the years.
- 11:49:10 Sen. McNally provided the committee with one last story.

Lunch

11:50:32

LAD STRATEGIC PLANNING

- 13:00:01 Legislative Auditor Maciver gave a brief overview. **(EXHIBIT 6)**
- 13:04:05 Presented by Miki Cestnik, Information Systems Audit Manager.
- 13:06:34 Presented by Amber Robbins, Management & Program Analyst Supervisor.
- 13:08:54 Presented by John Harrington, Management & Program Analyst Manger.
- 13:13:00 Presented by Eric Seidle, Content Editor **(EXHIBIT 7)** power point

Committee Questions of Staff

- 13:27:52 Sen. Esp thought the focused evaluation report was easily read.
- 13:29:43 Chair Hayman noted that she would appreciate the appointed/administrative officials being included in the focus reports.
- 13:32:30 Sen. McGillvray appreciated the updated format but noted colors that were hard to read (red, yellow), that dash lines and other identifiers were helpful.
- 13:33:29 Sen. Flowers asked Mr. Seidle about the report process.
- 13:37:23 Legislative Auditor Maciver reflected on the initial effort to solicit report input via multiple stakeholders.
- 13:39:52 Mr. Seidle looked for input from the committee.
- 13:40:54 Legislative Auditor Maciver **(Exhibit 8)**
- 13:50:51 Sen. McGillvray asked Legislative Auditor Maciver how legislators could specifically help agencies implement recommendations.
- 13:53:41 Sen. Esp gave an example.
- 13:54:36 Sen. Flowers congratulated LAD on their benchmark for turnover as compared to other state agencies. Good metrics and good work.

POTENTIAL LEGISLATION

- 13:55:43 Brief Introduction by Legislative Auditor Maciver.
- 13:56:19 Mr. Harrington briefed members on legislation involvement pertaining to the Petroleum Tank Release Compensation Board (PTRCB).
- 13:58:49 Presented by Amy Steinmetz, Division Administrator, Department of Environmental Quality (DEQ).

Committee Discussion

- 14:06:30 Chair Hayman asked Legislative Auditor Maciver about a committee bill.
- 14:07:50 Sen. Esp stated he had a bill draft.
- 14:08:45 Sen. Flowers asked Ms. Steinmatz for some clarification regarding clashing roles of DEQ and the PTRCB.
- 14:10:30 Sen. Mary McNally supported Sen. Esp.
- 14:12:15 Rep. Schillinger would co-sponsor.
- 14:12:31 Chair Hayman would co-sponsor.
- 14:13:09 Rep. Schillinger asked Ms. Steinmatz about the competitive bidding process.
- 14:14:34 Legislative Auditor Maciver stated the committee would not bring a bill collectively, but individual legislators could.
- 14:15:59 Sen. McGillvray asked Sen. Esp what his bill would cover.
- 14:19:03 Legislative Auditor Maciver noted the outstanding recommendations: competitive bidding and the future of the fund going forward.
- 14:20:37 Sen. McGillvray asked Ms. Steinmatz several questions.
- 14:24:48 Rep. Schillinger mentioned sunset law.
- 14:26:21 Sen. McNally asked Ms. Steinmatz if the board had always done technical reviews.
- 14:27:57 Ms. Butler and Mr. Soller spoke about bill drafts relating to charity care and nonprofit hospitals.
- 14:33:17 Chair Hayman asked Mr. Soller what the state could do in terms of charity care, or rules/statutes.
- 14:36:35 Rep. Schillinger asked Mr. Soller about non-profit status.
- 14:38:49 Legislative Auditor Maciver gave his opinion on decision making.
- 14:39:35 Sen. McGillvray gave his perspective.
- 14:42:00 Ms. Butler spoke to committee members regarding revisions to the Legislative Audit Act to address access to information. **(EXHIBIT 9)**
- 14:45:34 Sen. McNally asked Ms. Butler for clarification on public information.
- 14:49:05 Legislative Auditor explained legal provisions pertaining to Sen. McNally's question.
- 14:51:14 Rep. Kerr-Carpenter asked Ms. Butler for clarification on privileged health information.
- 14:54:00 Sen. Ellsworth supported the draft bill.
- 14:54:58 Sen. McNally supported the idea behind the bill but wanted to be clear in statute.

Motion

- 14:55:45 Sen. Esp move the committee advance the bill.

Vote:

- 14:55:52 Carried unanimously by voice vote.
- 14:56:41 Sen. McGillvray will carry the bill.

PERFORMANCE SCOPES & OBJECTIVES - BONUS POINTS FOCUSED EVALUATION

- 14:57:26 Presented by Austin Powell, Associate Management & Program Analyst.
(EXHIBIT 10)

FINANCIAL-COMPLIANCE AUDIT STATUS UPDATE

- 15:00:07 Presented by Ms. Jorgenson **(EXHIBIT 11)**

PERFORMANCE AND INFORMATION SYSTEMS AUDIT UPDATE

15:07:11 Presented by Mr. Soller ([EXHIBIT 12](#))

RESULTS OF NCSL PEER REVIEW

15:10:08 Presented by Mr. Soller ([EXHIBIT 13](#))

PREVIOUS COMMITTEE REQUESTS

15:15:34 Corrective action plan from the Department of Agriculture. ([EXHIBIT 14](#))

15:17:31 Department of Fish, Wildlife & Parks funding information. ([EXHIBIT 15](#))

15:17:36 Department of Transportation – Aeronautics Division corrective action plan & terminal improvement project. ([EXHIBIT 16](#)) ([EXHIBIT 17](#))

Public Comment

none

15:19:42 Next meeting will be late February/March, possibly after transmittal break.

15:20:09 We wish Sen. McNally well.

ADJOURNMENT

15:20:23 With there being no further business, the meeting was adjourned

Secretary: Sen. Chris Friedel
Sen. Chris Friedel