

**ACCOUNTABILITY, COMPLIANCE
AND TRANSPARENCY**
MONTANA STATE GOVERNMENT
SEPTEMBER 2022

A report to the Montana Legislature



ACCOUNTABILITY, COMPLIANCE AND TRANSPARENCY HOTLINE

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WHICHEVER OCCURS FIRST.

§5-13-202(2), MCA

FRAUD HOTLINE

1-800-222-4446

IN HELENA

444-4446


LADHotline@mt.gov

www.montanafraud.gov

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. We report the results of our Financial Compliance, Information System, and Performance audits throughout the year and these reports may include the results of hotline calls and referral work.

This report provides the legislature a summary of all hotline and referral activity for fiscal year 2022 in one report. It includes work completed on submissions either during Financial Compliance, Information System, or Performance audits or independent of a scheduled audit. This report includes information on specific submissions and any referrals made due to suspected criminal activity.

Respectfully submitted,


 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, or 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

The Legislative Audit Division’s Accountability, Compliance, and Transparency Hotline is a mechanism to report suspected fraud, waste, or abuse of state government resources. Of 98 reports to the hotline, 34 submissions resulted in investigations of potential fraud, waste, or abuse and agencies reported 15 discoveries of theft or suspected theft in fiscal year (FY) 2022.

What is the 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. Currently, there are several ways to report alleged fraud, waste, or abuse in state government, including a toll-free phone number, e-mail, USPS, online reporting form, and text message. These reporting mechanisms are illustrated below.



Email
ladhotline@mt.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

Importance of the ACT Hotline

The LAD ACT hotline plays an important role in identifying fraud, waste, and abuse in Montana state government. A 2022 report from the Association of Certified Fraud Examiners found tips detected 42 percent of fraud schemes, and more than half (55 percent) of those came from employees of the organization where the suspected fraud occurred. Organizations with reporting hotlines were more likely to detect fraud through tips (47 percent) than organizations without hotlines (37 percent).

The ACT Team consists of four LAD staff who maintain the report management system and LAD's response to submissions. Over 529 hours were logged in fiscal year 2022 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 how the reporter describes the subject matter of the allegation. 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.

These definitions were adopted by the ACT Team from *Government Auditing Standards* and *Black's Law Dictionary*.

What We Found

Statistics:

Hotline reports are allegations of potential fraud, waste, or abuse of state resources. In fiscal year 2022, there were a total of 98 hotline reports. This is a 75 percent increase from 56 reports in fiscal year 2021.

In fiscal year 2022, 17 agencies were the subject of hotline submissions. Twenty agencies were the subject of hotline submissions in fiscal year 2021, and 25 in fiscal year 2020.

Penal violations (PV) are reports from agencies detailing the discovery of any theft, actual or suspected. In fiscal year 2022, four state agencies reported 15 penal violations, eight fewer than were reported in fiscal year 2021 (23) by the same number of state agencies.

Substantiated Cases:

- ♦ An employee's use of a state vehicle at the Department of Justice found to be abuse.
Employee found to be using a state vehicle for personal use.
- ♦ Use of state park facilities at the Department of Fish, Wildlife & Parks (FWP) found to be waste and abuse.
Park staff adjusting and waiving park fees was found to be waste.
Unsupervised access to the Lewis & Clark Caverns State Park by FWP employees who did not work at the caverns was found to be abuse.

Penal Violations and Criminal Referrals

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. If such a referral is made, the legislative auditor must, if requested, furnish the attorney general with all information available relative to the violation.

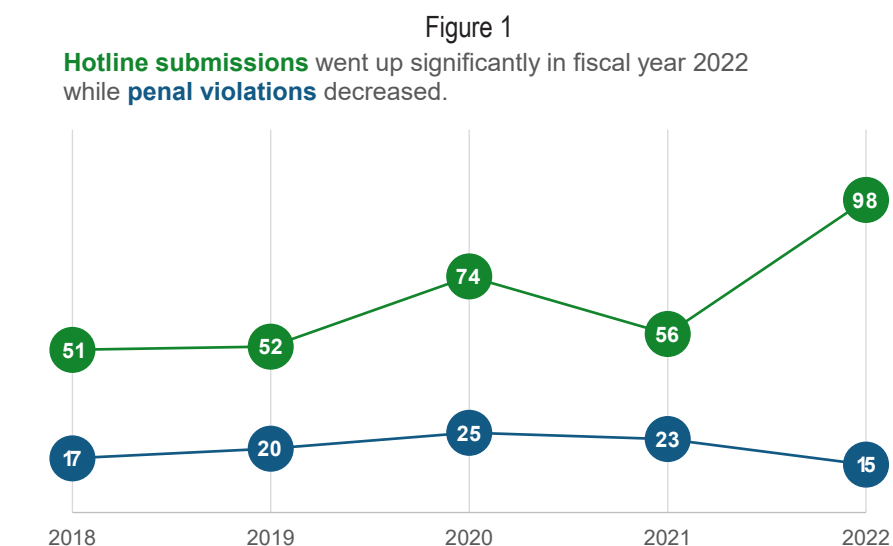
Hotline Reports Increased and Penal Violations Decreased in FY 2022

In fiscal year 2022 there were a total of 98 hotline reports. This is a 75 percent increase from the 56 reports in fiscal year 2021.

The rise in hotline reports results from an increase in the number of submissions over which we had no jurisdiction. Reporters took advantage of the Text2Tell feature, but most were reports where we did not have authority over the subject matter of the allegation, or the allegation was referred to another state agency or another state hotline. For example, public assistance recipient fraud allegations were redirected to the Department of Public Health and Human Services; workers' compensation fraud reports were redirected to Montana State Fund; and scams were redirected to the Office of Consumer Protection.

Penal violations (PV) are submissions from agencies to satisfy their statutory responsibility to report theft or suspected theft to the legislative auditor. In fiscal year 2022, four state agencies reported a total of 15 PV reports; this is down from 23 in fiscal year 2020. Montana State University reported more than half (9) of the total. They reported theft of computers, a bronze bobcat statue, miscellaneous signs, and personal charges on a procard.

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



Source: Compiled by the Legislative Audit Division.

Human Resource-Related Hotline Reports Remain Prevalent Over Time

While there were substantially fewer human resource-related hotline reports in the last two fiscal years, they still make up the largest number of submissions in the previous four fiscal years. A majority of human resource-related reports are challenges to agency hiring practices or decisions.

The second most prevalent hotline submission type is misuse or abuse of company assets and privileges. In fiscal year 2022, these included the following:

- ◆ Allegations of paying exorbitant speaker fees
- ◆ Misuse of office space
- ◆ Questioning information technology purchases
- ◆ Misuse of state facilities
- ◆ Misuse of teleworking arrangements

The following table depicts the categorical information of 34 hotline reports received in FY 2022. The table does not include 34 submissions and 30 text messages where we had no jurisdiction.

Table 1

Hotline Submissions by Allegation Type (Excludes Hotline Submissions Over Which We Had No Jurisdiction)

Prime Allegation	FY2019	FY2020	FY2021	FY2022	Four-year Total (2019-2022)	Four-year Average (2019-2022)
Human Resources Related	11	19	2	3	35	8.8
Misuse or Abuse of Company Assets & Privileges	4	7	10	9	30	7.5
Hours/Scheduling Issues	6	6	3	8	23	5.8
Compliance with Laws and Policy	9	7	2	4	22	5.5
Conflict of Interest	6	2	1	3	12	3.0
General Fraud Issues	2	4	5	0	11	2.8
Agency Hiring Practices	0	3	7	1	11	2.8
Financial Related Fraud	4	3	3	0	10	2.5
Theft of State Property	2	3	1	1	7	1.8
Discrimination	0	0	1	2	3	0.8
Workplace Safety	0	1	1	0	2	0.5
Information Security	0	1	0	1	2	0.5
Environmental	0	0	0	1	1	0.3
Harassment	0	0	0	1	1	0.3
Attendance	1	0	0	0	1	0.3
Performance Management	0	0	1	0	1	0.3
Total	45	56	37	34	172	2.72

Source: Compiled by the Legislative Audit Division.

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

Hotline submissions are assigned to a state agency that is the subject of the report. In fiscal year 2022, 17 agencies were the subject of the 34 hotline reports where we had jurisdiction. Five agencies had three or more submissions attributable to them:

- ♦ Five for the Department of Labor and Industry
- ♦ Four for the Office of Public Instruction
- ♦ Three each for the Department of Public Health and Human Services, the Department of Military Affairs, and the Department of Justice

For the previous five fiscal years the agencies receiving the highest number of hotline submissions has varied. As the following table shows, only the Department of Labor and Industry has been in the top three in all reported fiscal years. With the Department of Public Health and Human Services in the top three in four of the five reported fiscal years.

Table 2
Hotline Submissions by Agency (Excludes Those Over Which We Had No Jurisdiction)

Agency	FY2018	FY2019	FY2020	FY2021	FY2022	Five-year Total (2018-2022)	Five-year Average (2018-2022)
Department of Public Health and Human Services	8	3	12	5	3	31	6.2
Department of Transportation	3	7	13	4	1	28	5.6
Department of Labor and Industry	5	8	4	3	5	25	5.0
Department of Corrections	9	4	1	1	1	16	3.2
Department of Fish, Wildlife & Parks	2	2	3	6	1	14	2.8
Department of Revenue	3	2	2	0	2	9	1.8
UofM Montana Tech	0	0	3	4	1	8	1.6
Office of Public Instruction	1	0	2	0	4	7	1.4
Department of Environmental Quality	3	0	1	1	2	7	1.4
Department of Administration	1	3	2	1	0	7	1.4
Department of Justice	0	1	2	0	3	6	1.2
Montana State University	0	2	1	1	2	6	1.2
Department of Commerce	0	1	0	4	1	6	1.2
State Auditor	1	2	1	1	1	6	1.2
Commissioner of Higher Education	0	3	2	0	1	6	1.2
Legislative Branch	0	0	0	2	2	4	0.8
Department of Military Affairs	0	0	0	0	3	3	0.6
UofM Helena College	0	2	1	0	0	3	0.6
University of Montana	1	2	0	0	0	3	0.6
Department of Natural Resources and Conservation	3	0	0	0	0	3	0.6

Source: Compiled by the Legislative Audit Division.

Resolutions of Hotline Submissions

After investigation by LAD staff, reports are resolved based on the evidence obtained and the ability of staff to corroborate the allegation. Substantiated reports are those submissions where evidence obtained proves the truth of the allegation.

In an unsubstantiated report, the allegation was not supported by evidence. In fiscal year 2022, there were 26 unsubstantiated reports.

An inconclusive investigation means that staff could not come to a firm conclusion, due to lack of sufficient evidence. While not determined to be fraud, waste, or abuse, the actions of the agency were inadvisable, illustrate issues in other agencies, or help explain issues we see in other audits. There were six inconclusive reports in fiscal year 2022. For each of these submissions, we contacted the agency to inform them of the allegations.

Substantiated Hotline Allegations

Reports to the hotline are confidential until the legislative auditor or another appropriate agency acts to verify the fraud, waste, or abuse reported and takes corrective action. The information of the complaint and the remedy, if any, becomes public information, unless law precludes its disclosure. In fiscal year 2022, there were two substantiated submissions.

An Employee's Use of a State Vehicle at the Department of Justice Found to Be Abuse

We received several allegations related to the Department of Justice; one was substantiated. The substantiated allegation was a Department of Justice employee using a state-owned vehicle for personal use. The agency's administration stated the employee was temporarily authorized to use a state vehicle, per state statute. However, the authorization documentation was not generated and thus was not filed appropriately as required by law. In examining fuel card use data, we could not account for approximately 1,700 miles of vehicle use. At the time of investigation, the car in question had been surplus due to high mileage.

We concluded the employee was using a state vehicle for personal use for an extended period, and the lack of documentation was a probable effort to circumvent fuel card policy and state law to engage in personal use of state property. We substantiated the allegation as an abuse of state resources. The department acknowledged the lack of proper documentation and the use of the state vehicle. The department indicated they reprimanded the employee, directed them to reimburse the state for the car's use, and received the reimbursement.

Because this was a penal violation, our communications with the attorney general constituted a referral.

Use of State Park at the Department of Fish, Wildlife & Parks Found to Be Waste and Abuse

We received an allegation of misuse and abuse of the Lewis & Clark Caverns State Park. The submission questioned whether state law, administrative rules, and department policies and procedures were violated during a private wedding held in the caverns.

We found that a wedding occurred during the offseason when the caverns were closed to the public. However, the park is not available as a public wedding venue. The wedding couple were current FWP employees who previously worked in the Lewis & Clark Caverns State Park. There was limited communication within the Parks Division regarding whether this event was permissible because it was to be held inside the caverns. Policies and procedures for such an event were not developed before the wedding. This included a lack of permits with an established fee structure. As a result, parks staff adjusted and waived park fees for the wedding couple and their guests. We determined this to be waste of state resources.

The wedding couple was allowed unsupervised access to the caverns and operated the lighting system without supervision. While members of the wedding party had some knowledge of the lighting system, maintenance staff indicated they are the only employees with sufficient knowledge to operate it properly. Also, maintenance staff were not aware of the event, violating FWP policy. Potential damage to the lighting system included relay switches that had to be reset and use of expensive back-up batteries that were left on for an extended period after the wedding. We determined this to be abuse of the state park.

We suggested the department develop appropriate permits and policies if FWP plans to continue allowing weddings inside the caverns, establishing cost structures, appropriate oversight of these events, and advertising the availability of the caverns for weddings.

FWP staff determined that weddings will not be allowed within the caverns at the state park. The park employee responsible for oversight and supervision has since resigned to pursue other opportunities.



Accountability, Compliance and Transparency Hotline

Our goal is to make State of Montana a better place for employees, customers, and contractors. The Accountability, Compliance & 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@mt.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