



LEGISLATIVE AUDIT COMMITTEE

68th Montana Legislature

SENATE MEMBERS

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

HOUSE MEMBERS

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

COMMITTEE STAFF

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

MINUTES LOG

October 05, 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)
Sen. Tom Jacobson (D)
Rep. Emma Kerr-Carpenter (D)
Sen. Tom McGillvray (R)
Rep. Terry Moore (R)
Rep. Jerry Schillinger (R)

MEMBERS EXCUSED:

Rep. Kim Abbott (D)
Sen. Mary McNally (D)
Rep. Matt Regier (R)

STAFF PRESENT:

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

VISITORS' LIST n/a

CALL TO ORDER

08:59:03 Chair Hayman called the meeting to order at 8:59 a.m.

FLY THE BIG SKY: DIVISION OF AERONAUTICS AND YELLOWSTONE AIRPORT OPERATIONS (21P-05)

08:59:22 Presented by Chelsea Rayfield, Senior Management & Program Analyst
(EXHIBIT 12) power point
Present from the agency:
Malcolm Long, Director
Bill Lepper, Chair, Board of Aeronautics
Tim Conway, Administrator, Aeronautics Division.

Committee Questions of Staff

09:19:55 Rep. Moore asked Ms. Rayfield for details regarding non-compliant airports.
09:22:07 Sen. Flowers asked Ms. Rayfield about the West Yellowstone airport.
09:23:29 Sen. Flowers asked Ms. Rayfield to speak to the operating revenues.
09:26:54 Rep. Hayman asked Ms. Rayfield if the airport operating at a loss in Montana, was the only one.
09:29:10 Sen. McGillvray asked Ms. Rayfield about funds lost by the state.

Agency Response

09:30:28 Presented by Director Long.

Committee Questions of Agency

09:35:00 **Committee Request:** Sen. Flowers asked Director Long for details on reasons for rev/exp changes for WYS from FY20-21. As well as emergency air service subsidy details. The question was deferred to Mr. Conway. (received)
09:40:49 Rep. Hayman asked Mr. Conway for the definition of "at risk flight."
09:41:16 Sen. Esp appreciated the department.
09:41:40 Sen. Ellsworth asked Director Long for details regarding the CARES act funding.
09:43:33 Sen. Ellsworth mentioned missed funding of two million dollars and asked Director Long if that was true.
09:47:52 Sen. McGillvray asked Mr. Conway what determined the state getting involved in public airports.
09:52:09 **Committee Request:** Rep. Moore asked Director Long for a business plan for the new WYS terminal project, and information on the state's commercial service airport trends regarding operating budgets red vs black. (received)
09:58:12 **Committee Request:** Rep. Hayman asked Director Long to provide a written response in calendar/timeline form outlining how and when the department and board will be implementing the recommendations. (received)

Public Comment

Motion

9:58:52 Rep. Schillinger 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:

09:59:01 Carried unanimously by voice vote.

MONTANA STATE LIBRARY COMMISSION (21-23)

10:00:42 Presented by Leslie Lahti, Senior Financial-Compliance Auditor **(EXHIBIT 13)**
Present from agency:

Jennie Stapp, State Librarian
Malissa Briggs, Central Services Manager

Committee Questions of Staff

10:07:04 Rep. Moore asked Ms. Lahti about incentive payments.

10:08:51 Sen. Esp asked Ms. Lahti if there was a policy regarding paid bonuses. The question was deferred to the agency.

Agency Response

10:09:52 Presented by Ms. Stapp.

Committee Questions of Agency

10:14:07 Sen. Esp asked Ms. Stapp for clarification on who recommends bonuses, and if the leadership team recommended bonuses for themselves.

10:15:12 Rep. Schillinger asked Ms. Stapp about the 911 services.

10:16:59 Rep. Schillinger asked Ms. Stapp if things were operating as planned.

10:17:36 Sen. Esp asked Ms. Stapp if there were any policies and procedures in place to guide the leadership team on bonuses.

10:18:35 Sen. Esp asked Ms. Stapp if the State Library commission ever reversed a bonus recommendation.

Public Comment

Motion

10:20:12 Rep. Schillinger 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:

10:20:12 Carried unanimously by voice vote.

FISCAL YEAR 2022 PERFORMANCE AUDIT PRIORITIZATION RESULTS

10:20:50 Presented by William Soller, Deputy Legislative Auditor (**EXHIBIT 14**)

10:25:31 Sen. McGillvray asked about the Medical Assistance Program.

10:26:12 Rep. Hayman asked Mr. Soller about new construction. She asked that she be kept apprised of this topic.

10:27:03 Legislative Auditor Maciver clarified the division would not be flying any drones.

10:27:31 Sen. Esp commented on drones used at Department of Revenue.

Public Comment

Break

10:28:29 Reconvened at 10:35:00

THE MONTANA ENHANCED REGISTRATION AND LICENSING INFORMATION NETWORK (MERLIN) (21DP-01)

10:35:22 Presented by Miki Cestnik, CISA, Information Systems Audit Manager (**EXHIBIT 15**)
power point
Present from agency:
Will Selph, Chief of Staff
Stephanie Cote, Administrator, Central Services Division
Laurie Bakri, Administrator, Motor Vehicle Division
Eric Tarr, Information Security Analyst
Shawn Davis, ITSD IT Manager
Melissa Maclaren, Business Manager, JITSD

Committee Questions of Staff

10:51:51 Sen. Esp asked Ms. Cestnik about bill changes in relation to their IT program.

Agency Response

10:52:57 Presented by Mr. Selph

Committee Questions of Agency

10:54:15 Sen. Esp asked Mr. Selph what the impetus was behind the bill that changed the IT program

10:56:22 Sen. Esp asked Mr. Selph if the future was set up well for their division to achieve compliance.

10:58:15 Sen. Esp appreciated Mr. Selph's answer but cautioned the department on their choice of a new system.

11:00:54 Rep. Schillinger asked Mr. Selph about the timeframe of the new system roll-out.

11:03:05 **Committee Request:** Rep. Hayman asked for a calendar of the roll-out schedule for their new system including response to audit recommendations with expected completion dates. Rep. Hayman also raised concern about fake drivers' licenses.

11:08:26 Rep. Moore commented on SB272 and asked Mr. Selph about any conversations between DOA and DOJ.

11:12:45 Rep. Moore asked Mr. Selph details on the engagement group, if there would be minutes/summary of those meetings.

11:14:43 Rep. Hayman asked for the cost of replacement system for Merlin, and how that was to be paid for.

Public Comment

Motion

11:16:05 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:

11:16:05 Carried unanimously by voice vote.

PERFORMANCE AND INFORMATION SYSTEMS AUDIT STATUS UPDATE

11:17:56 Presented by William Soller, Deputy Legislative Auditor ([EXHIBIT 16](#))

Committee Questions of Staff

11:21:40 Mr. Soller also touched on the recent peer review of the performance audit function.

11:25:44 Rep. Hayman asked Mr. Soller about pass statistics.

11:26:18 Legislative Auditor Maciver spoke on peer review processes.

FINANCIAL AUDIT STATUS UPDATE

11:31:43 Presented by Cindy Jorgenson, CPA, Deputy Legislative Auditor ([EXHIBIT 17](#)) ([EXHIBIT 18](#))

Committee Questions of Staff

11:34:40 Rep. Hayman asked Ms. Jorgenson about staff turnover.

11:36:16 Rep. Moore asked Ms. Jorgenson about the audit cycle.

Lunch

ACCOUNTABILITY, COMPLIANCE AND TRANSPARENCY (22ACTHOTLINE)

12:56:59 Presented by Deborah F. Butler, Legal Counsel ([EXHIBIT 19](#))

Committee Questions of Staff

13:06:11 Sen. McGillvray asked Ms. Butler to elaborate on penal violations.

13:08:02 Legislative Auditor Maciver spoke on the report contents.

13:11:41 Sen. Flowers commented on DNRC having a low rate of theft.

Public Comment

DEPARTMENT OF AGRICULTURE (21-21)

13:13:26 Presented by Mary V. Yurewitch, Senior Financial-Compliance Auditor
(EXHIBIT 20) power point
Present from agency:
Christy Clark, Director
Cody Pearce, Chief Financial Officer
Cort Jensen, Chief Attorney

Committee Questions of Staff

13:25:29 Rep. Hayman asked Ms. Yurewitch for an explanation on recovered funds.

13:26:49 Sen. Esp asked Ms. Yurewitch for a total of recovered funds.

Agency Response

13:27:24 Presented by Director Clark

13:28:39 Rep. Hayman asked Director Clark what efforts the agency was putting fourth to educate staff on cyber-attacks and to prevent this in the future.

13:32:07 Rep. Schillinger asked Director Clark what the grant payment was for, as product of the theft.

13:37:22 Sen. McGillvray asked Mr. Jensen for details on payments that went through.

13:38:13 **Committee Request:** Rep. Hayman requested a corrective action plan with dates for the committee. (received)

Public Comment

Motion

13:40:57 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:

13:40:57 Carried unanimously by voice vote.

**ENSURING MONTANA'S CHILD CARE IS AFFORDABLE, ACCESIBLE, AND SAFE:
DISTRIBUTION OF THE CHILD CARE AN DEVELOPMENT FUND (20P-06)**

13:41:30 Presented by Sarah A. Carlson, Senior Management & Program Analyst
(EXHIBIT 21) power point
Present from agency:
Charlie Brereton, Director
Erica Johnston, Economic Security Services Executive Director
Tracy Moseman, Administrator, Early Childhood and Family Support Division

Committee Questions of Staff

14:07:26 Rep. Hayman asked Ms. Carlson if she heard correct, that the department would not act on information that led them to believe of a dangerous situation involving childcare, until a formal compliant went through the divisions reporting process.

14:08:33 Rep. Schillinger asked Ms. Carlson if family members would be eligible to receive subsidies.

14:10:22 Sen. Esp spoke on differences with location of childcare facilities as far as poverty levels.

14:12:17 Sen. McGillvray asked Ms. Carlson for details on subsidies.

14:15:07 Sen. McGillvray asked Ms. Carlson what other type of factors were taken into consideration.

14:19:34 Sen. Flowers asked Ms. Carlson what could be done as far as federal regulations.

Agency Response

14:20:57 Presented by Director Brereton and Ms. Johnston.

Committee Questions of Agency

14:31:14 Director Brereton noted combining forces with DOJ, and that staff are being trained on how to respond appropriately and accordingly.
14:33:16 Sen. Flowers asked Ms. Johnston about eligibility issues.
14:36:41 Sen. Esp spoke on increased awareness and what success was to him.
14:39:21 Rep. Hayman asked Director Brereton if he thought there was a need for care that is not currently available.
14:44:28 Rep. Moore asked Ms. Johnston for details on how many family members participate in the fund.

Public Comment

14:47:57 Heather O'Loughlin

Motion

14:49:08 Rep. Moore 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:

14:49:08 Carried unanimously by voice vote.

Break

14:50:10 Reconvened at 14:45:45

MONTANA STATE LOTTERY (21-30)

14:57:53 Presented by Chris G. Darragh, Financial-Compliance Audit Supervisor
(EXHIBIT 22) power point
Present from agency:
Scott Sales, Director
Armond Sergeant, Director of Financial Services

Committee Questions of Staff

Agency Response

15:01:20 Presented by Director Sales

Committee Questions of Agency

Public Comment

Motion Rep. Schillinger 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.
15:07:21

Vote:

15:07:21 Carried unanimously by voice vote.

POTENTIAL LEGISLATION

15:08:35 Presented by Deborah F. Butler, Legal Counsel (EXHIBIT 23)

Committee Questions of Staff

Office of the Commissioner of Higher Education (20-06)

15:12:34 Rep. Hayman asked Ms. Butler if the expectation was for LAC to come up with a bill.
15:13:24 Legislative Auditor Maciver clarified OCHE's discontinued participation.
15:14:08 Sen. Flowers asked Ms. Butler if there were other examples of foundations affiliated with nonprofits that extended their health benefits to the foundation.

- 15:15:11 Sen. McGillvray gave a title suggestion: Foundation employees allowed to participate in MUS health plan against state law.
- Public Employees' Retirement Board (20-08A)**
- 15:16:43 Sen. Esp asked Ms. Butler where in the constitution does it refer to required pension systems be actuarially sound. Rep. Moore spoke on constitution language without a definition.
- Department of Public Health and Human Services (21-14) prior audit recommendation from (19-14)**
- 15:20:40 Rep. Hayman asked Legislative Auditor Maciver what the process was for a committee vs individual bill.
- 15:21:41 Sen. Esp suggested Chair Hayman write the department and ask if they were willing to take care of the issue at this time.
- Professional Development Center (20P-02)**
- 15:25:03 Legislative Auditor Maciver let committee members know that there would be a follow-up to this audit complete in December. Noting that should provide some more information.
- 15:25:40 Rep. Schillinger asked Ms. Butler if the State paid for employees to continue their education.
- 15:27:38 Sen. Flowers asked Ms. Butler about fix cost spending. Legislative Auditor Maciver assisted in answering the question.
- Administration of the Petroleum Tank Release Cleanup Fund (20P-01)**
- 15:31:50 Sen. Esp asked Chair Hayman if this item could be added to the December agenda.
- 15:32:25 Sen. McGillvray spoke on the PTRCB and a potential sunset law.
- 15:35:01 Sen. Esp asked Legislative Auditor Maciver about timing for a committee bill, by the next LAC meeting.
- Community Benefit and Charity Care Obligations at Montana Nonprofit Hospitals (18P-07)**
- 15:37:14 Sen. McGillvray asked Ms. Butler for details on the LC.
- 15:38:57 Sen. Esp asked Rep. Hayman for her opinion on this topic as a committee bill.
- MOTION**
- 15:42:29 Sen. Esp moved the committee come up with a committee bill draft regarding Charity Care before the December meeting, and then discuss it at the hearing for future action. Specific to recommendation #1.
- Vote:**
- 15:42:29 Carried unanimously by voice vote.
- Security and Maintenance of Montana Election Systems (19DP-06)**
- 15:44:52 Legislative Auditor Maciver spoke on the possibility of revising the issue.
- 15:51:26 Sen. Esp asked Ms. Butler for clarification on memo format.
- Department of Public Health and Human Services (17-14)**
- 15:56:58 Sen. Esp asked Ms. Butler how old the recommendation was.
- Summary**
- 16:00:29 Rep. Hayman noted committee interest summary of potential legislation consisting of PTRCB and Charity Care.
- 16:01:08 Legislative Auditor Maciver noted the committee's advisory workgroup still needed to meet on the draft audit access bill, and asked members to review it and it would be on the December agenda for discussion. **(EXHIBIT 24)**

UPDATE ON EIDE BAILLY CONSULTING REPORT

16:07:55 Presented by Jennifer Erdahl, CPA, Financial-Compliance Audit manager
(EXHIBIT 25)

Committee Questions of Staff

16:17:12 Sen. Ellsworth asked Legislative Auditor Maciver when LAD would be at a decision point.
16:18:46 Rep. Moore spoke about risk management and the proposed annual single audit
16:20:08 Sen. McGillvray asked Ms. Erdahl for clarification on activity versus audit time regarding single audit.
16:22:30 Legislative Auditor Maciver spoke about time allocation and added to Ms. Erdahl's response.

16:23:47 Presentation by Cindy Jorgenson, CPA, Deputy Legislative Auditor.
(EXHIBIT 26)

Committee Questions of Staff

16:32:52 Sen. McGillvray thought the proposal to contract out the MSF audit was a good idea. Sen. Esp agreed.
16:33:25 Rep. Schillinger agreed as well.
16:33:35 Rep. Moore agreed and liked the idea of outsourcing.
16:34:17 Sen. Ellsworth asked Legislative Auditor about the RFP.
16:35:26 Rep. Hayman thought it was a good first step and agreed.
16:36:35 Legislative Auditor Maciver noted no motion was needed.

16:36:48 Presented by Legislative Auditor Maciver (EXHIBIT 27)

Committee Questions of Staff

16:46:08 Sen. McGillvray asked Legislative Auditor Maciver if he understood correct that changes were cost neutral.
16:48:24 Sen. Ellsworth asked Legislative Auditor Maciver for clarification on the reclassification of FTE and if conversation was had with Director Jerry Howe, Legislative Services Division.
16:50:11 Sen. Flowers asked Legislative Auditor Maciver to elaborate on the transition.
16:57:06 Rep. Schillinger asked for clarification on risk-based approach as far as the information system testing.
17:00:15 Rep. Hayman suggested we move onto the next agenda item and take time to think and come back for the December meeting.

BIENNIAL BUDGET SUBMISSION

17:01:58 Presented by Legislative Auditor Maciver (EXHIBIT 28)

MOTION

17:03:19 Sen. Flowers approved the submission of the budget as proposed recognizing future evaluation of program changes.

Vote:

17:03:15 Carried unanimously by voice vote.

ADJOURNMENT

17:04:45 With there being no further business, the meeting was adjourned.

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