

**Legislative Audit Division**  
**Performance Audit Prioritization Process**  
**Fiscal Year 2024**



# LEGISLATIVE AUDIT DIVISION

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## MEMORANDUM

**TO:** Legislative Audit Committee Members  
**FROM:** William Soller, Deputy Legislative Auditor, Performance and Information Systems Audits WPS  
**DATE:** June 2023  
**RE:** Potential Performance Audit Areas for Fiscal Year 2024

Please find enclosed a list of potential performance audit topics for fiscal year 2024. This list has been compiled to provide an opportunity for the Legislative Audit Committee to highlight areas of interest for future performance audit work. These topics have been identified through requests or input from Legislative Audit Division and other legislative branch staff, agency staff, previous audit work, and areas of legislative or general interest.

Several of the potential audit topics were submitted by individual legislators or came from questions raised as part of recent legislative information request work. These include:

- Supporting and Hearing and Visually Impaired Students
- School Districts Operating Outside of their Boundaries
- Disclosure Requirements for Pension Fund Investments
- Natural Resources Damage Program
- Effectiveness and Funding of Fire Suppression
- Montana Open Cut Mining
- State Healthcare costs and COVID-19

In addition, there were potential audit topics submitted by the executive branch. These include:

- Privatizing the Child Support Services Division
- Effectiveness of Shared-Use Path Funding Distribution
- Collections and Use of Traffic Safety Data
- Oversight of Railroad Safety

We are requesting you assign a priority ranking (low, medium, or high) for the potential topics on the attached list. Where you have no interest in a particular issue, you may leave the prioritization section blank. To assist in scheduling performance audit work for the next year, we would like to receive your priority rankings at the June 7-8 committee meeting, if possible. If you are unable to attend the meeting or unable to turn in your prioritization rankings at that time, you may also return them to the office by mail, fax, or email. Please return your scoring to me by July 14, 2023. I will be available during the committee meeting for any questions or comments regarding the potential performance audit list.

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# Fiscal Year 2024 Potential Performance Audits

## Priority Ranking

### Issue / Subject Area

### Audit Title

Low

Medium

High

### Agency Management & Public Policy

Protecting and Returning Human Skeletal Remains

Meaningful Public Access to Lobbying Spending Reports

Consistency of State Employee Market Analysis

### Economy & Jobs

Workforce Services Division Restructuring

Financing Small Businesses in Montana

Effectiveness of State Fund Safety Programs

### Education

Supporting Hearing and Visually Impaired Students\*

One-Two-Free: Impact of Dual Enrollment

School Districts Operating Outside of their Boundaries\*

Student Success at the Montana Digital Academy

### Fisheries & Wildlife

Wildlife Population Counts Effect on Licensing

Unlocking Public Lands

### General Government

Disclosure Requirements for Pension Fund Investments\*

Fingerprint Collection and Background Checks

### Justice & Corrections

Judicial Caseloads in Montana's District Courts

Administration of AMBER Alerts

### Natural Resources & Environment

Natural Resources Damage Program \*

Effectiveness and Funding of Fire Suppression\*

Montana Open Cut Mining\*

### Public Health & Human Services

Effective Care for Montana's Aging Population

Privatizing the Child Support Services Division\*

Medicaid Durable Medical Equipment

Effectiveness of the Suicide Prevention Program

State Healthcare Costs and COVID-19\*

### Taxation & Revenue

Application of Montana Individual Income Tax Credits

### Transportation

Effectiveness of Shared-Use Path Funding Distribution\*

Collection and Use of Traffic Safety Data\*

Oversight of Railroad Safety\*



**\*Denotes a formal request from a state agency, legislator, or came from a recent legislative request discussing a potential performance audit in that area.**

### Agency Management & Public Policy

#### **Protecting and Returning Human Skeletal Remains**

In response to national concerns regarding the disposition of Native American remains, the federal Native American Graves Protection and Repatriation Act (NAGPRA) was passed in 1990. Subsequently, in 1993, the Montana legislature created the Burial Preservation Board, in part to establish a policy related to the disturbance and destruction of human remains located in burial sites. The principal purposes of the board are to protect from disturbance or destruction human skeletal remains, burial sites, and burial materials found on state and private lands in Montana; and to resolve claims for repatriation of human skeletal remains and funerary objects. As part of its establishment, the board set up a process for tribes to request the return of Native American remains from museums and other institutions. However, at least five of Montana's universities and museums still possess human remains and other items affiliated with the state's Native American tribes. At present, approximately 80 human remains are still in the possession of Montana Institutions. Facing similar situations, other states vary in their responses. University institutions often report needing additional funding to complete the work. Some institutions have partnered with federal agencies and others to secure additional funding. This has the potential to be scoped as a focused evaluation.

#### **Potential audit examination areas could include:**

- Review repatriation claims on human remains and identify barriers causing them to remain unresolved.
- Determine the effectiveness of processes designed to resolve repatriation claims.
- Identify processes that would allow institutions with human remains, the Board, and the tribes to work together more efficiently and effectively when addressing the return of human remains.

**Auditee:** Burial Preservation Board, administratively attached to the Department of Administration.

**Activity Last Audited:** This topic has not been the subject of a recent performance audit.

**Recent Financial Activity:** The Board had \$2,374 in expenditures in FY22. This does not include personal services for state employees supporting the program, such as the State Archaeologist with the Historical Society, as well as an attorney and administration support from the Department of Administration.

**Meaningful Public Access to Lobbying Spending Reports**

The Montana State News Bureau reports nearly \$7 million was spent on lobbying during the 2021 legislative session. This figure is not readily available from the Commissioner of Political Practices (COPP), the entity tasked with tracking lobbyist spending and making the information available to the public. The systems used by COPP to register lobbyists and track their spending is unable to produce the total amount spent on lobbying during the session. It also cannot produce other aggregate data such as the number of lobbyists working during a session or the amount of money spent, and by which groups, on a particular issue or bill. Section 5-7-201, MCA requires COPP to track this kind of information and make it available to the public. It is not, however, required to provide aggregate information. All the necessary information to produce aggregate data is in the records kept by COPP, but it is not easily searchable. The only way the public can view aggregate information is by creating their own summary document while assessing hundreds of separate reports and transferring the information in which they are interested from each individual document, to their summary document—a process potentially taking multiple hours. Best practices indicate lobbying information provided to the public should be collected and released in a way that lowers barriers to the public's use of the information. In addition, best practices state that data should not be in a format that locks up the information and requires reformatting for analysis. This has the potential to be scoped as a focused evaluation.

**Potential audit examination areas could include:**

- Reviewing lobbying registration and spending reports to determine the length of time needed to access this information.
- Comparing Montana's processes to provide public access to lobbying information to best practices related to the public's access to this type of information.
- Reviewing steps taken in COPP's process related to public access to lobbying information to determine any areas where efficiency or effectiveness could be improved.

**Auditee:** The Commissioner of Political Practices.

**Activity Last Audited:** This topic has not been the subject of a recent performance audit.

**Recent Financial Activity:** COPPP was appropriated more than \$870,000 annually for fiscal years 2024 and 2025.



**Consistency of State Employee Market Analysis**

The state's personnel costs are driven by salary surveys and other broadband pay plan processes that are outside of legislative control. The broadband market analysis by the Department of Administration gathers pay data from salary surveys of public and private sector positions. Each biennium, State Human Resources (State HR) uses three salary-survey sources to calculate salary midpoints for the defined occupations in state government. The midpoints then determine the appropriate pay band (1-9) for the relevant occupation. The pay band determines how State HR calculates the minimum and maximums for the occupational wage ranges. This provides agencies with the range available for setting employee pay. To determine the pay band for individual positions they are placed into an occupation. Trained classifiers determine appropriate occupations based on the alignment of position duties with occupational standards. State HR is responsible for classification unless it delegates classification authority to an agency. State HR conducts an annual audit of classifications. The audit typically consists of a review of 2-5% of classification changes from the previous year. They may do more if consistent issues arise in the audit. In FY 2022 there were 1,788 classification changes. Overall, the process for classifying positions and generating pay bands for occupations is a complex process carried out by a mix of State HR and agency HR, creating the possibility for inconsistency.

**Potential audit examination areas could include:**

- Examine the alignment of State HR salary survey and pay band setting processes with best practices.
- Review agency classification procedures.
- Determine the effectiveness State HR classification audits, implementation of corrective actions resulting from the audit, and review of authorized agency classifiers.

**Auditee:** State Human Resources Division, the Department of Administration.

**Activity Last Audited:** This topic has not been the subject of a recent performance audit. A performance audit of discretionary pay changes was completed in 2015.

**Recent Financial Activity:** State Human Resources Division had \$6.2 million in expenditures in FY22.

## Economy & Jobs

### **Workforce Services Division Restructuring**

In recent months, there have been several hotline calls related to the ongoing restructure of DLI's Workforce Services Division. In fiscal year 2022, restructuring began, with a partial hiring freeze, and the department contracting for a business study of the division. During this time, 53 employees left, with some citing poor communication and culture surrounding the restructure. As of August 1, 2022, the division was about 30 percent vacant out of its 243.5 allocated FTE. Management stated that efficiencies were identified during the 2023 biennium that led to restructuring the division, aiming to reduce 40 FTE (\$2.2 million each fiscal year) from their funding for the 2025 biennium. There have been ongoing concerns regarding a lack of communication and potential impacts on culture surrounding the restructure. Additionally, there have been concerns regarding the methods of restructuring, particularly the use of temporary positions. As positions dissolved, some staff moved into new temporary positions with variable pay depending on the position availability. In conjunction, the administrator role was filled with two temporary positions, one of which also retains another position within the division. Overall, there is confusion about the use of temporary positions and current staff roles.

#### **Potential audit examination areas could include:**

- Do the identified metrics and efficiencies that led to restructuring the division align with best practices?
- Did the division follow statute and policies that direct restructuring?
- Did the methods of restructuring create negative impacts on culture in the division?
- Do new staff understand their roles and are the remaining positions able to meet division goals?

**Auditee:** Workforce Services Division, the Department of Labor and Industry.

**Activity Last Audited:** This topic has not been the subject of a recent performance audit. There was a 2003 performance audit of WIA and TANF employment and training programs.

**Recent Financial Activity:** The division had \$31.2M in appropriations for FY23.

**Financing Small Businesses in Montana**

The Microbusiness Finance Program was created to provide loans to businesses with fewer than 10 FTE employees and gross revenues of less than \$1 million a year. Since the inception of the Microbusiness Finance Program in 1991, the Department of Commerce information indicates over 1,300 loans have been made across the state, totaling over \$33.6 million. The department claims these loans have either created or helped retain approximately 3,400 jobs. A previous performance audit in 2000 and a subsequent follow-up identified high loan delinquency rates, potential for significant loan losses, understated loan write-offs, and the program not being self-sustaining as required by state law. Audit work also questioned the accuracy of the number of jobs created and retained by the program due to weaknesses in methods to track this information. The 2023 Legislature has renewed interest in the program, introducing HB898 to revise the Microbusiness Development Act and appropriate \$5 million to the Department of Commerce to use for loans given to certified microbusinesses.

**Potential audit examination areas could include:**

- Evaluating program lending activities and internal controls to address delinquency rates, losses, and loan write-offs.
- Assessing the status of the current loan portfolio.
- Determining if the program is self-sustaining as required by law.
- Identifying the actual economic impact the program has had on small businesses in the state of Montana.

**Auditee:** Business MT, the Department of Commerce.

**Activity Last Audited:** There was a 2000 Performance Audit of the Microbusiness Finance Program (follow up in 2003).

**Recent Financial Activity:** There is currently \$1 million in annual average loans distributed, with a \$5 million potential HB2 appropriation for 2023-2025 biennium.

**Effectiveness of Montana State Fund Safety Programs**

According to federal data sources, Montana continues to lead the nation in the incidence of workplace injuries, despite a decline over the past decade or so. Montana State Fund (MSF) is the largest workers' compensation insurance company in the state, providing insurance to approximately 25,000 businesses, organizations, and their workers. State Fund also provides a variety of learning opportunities, preventative safety programs, and other opportunities for policyholders to provide safer workspaces and habits for their employees. These programs include a variety of efforts to encourage and incentivize employers to improve workplace safety. Examples of the kinds of efforts put in place by MSF include the Small Business Group Program that allows policyholders to earn a return of premium based on the overall safety performance of the group. Other safety programs address building safety culture through education through the Growing a Safer Montana (GSM) program, which includes awards and scholarships for middle and high school classrooms. Another MSF program, Worksafe Champions, provides education and support to policyholders at their worksites, and to all employers through centralized classes connected to MSF's quarterly safety workshops held around the state. An additional aspect of the safety program is assisting employers in establishing return-to-work programs, which are geared towards getting injured employees back on the job quickly to hold down workers compensation costs.

**Potential audit examination areas could include:**

- How Montana State Fund determines what types of preventative safety programming to offer, and how it measures the effectiveness of those programs.
- Whether students who have received grants or scholarships through various MSF programs have subsequently found employment in Montana and applied these learned safety skills.
- Whether policy holders who take advantage of MSF safety programs can illustrate lower injury rates, and if so, whether the lower injury rates lead to lower premiums for those businesses.

**Auditee:** Montana State Fund.

**Activity Last Audited:** This topic has not been the subject of a recent performance audit.

**Recent Financial Activity:** Various grant and scholarship programs have distributed close to \$400,000 since 2017, which doesn't include the administrative and other costs of administering the programs.

## Education

### **Supporting Hearing and Visually Impaired Students\***

The Montana School for the Deaf and Blind (MSDB) is a state-supported multipurpose school governed by the Montana Board of Public Education. Per statute, MSDB serves two functions. First, it provides education for hearing and visually impaired children that is commensurate with the education provided to students without disabilities. Second, the school serves as a statewide resource for supporting children who are hearing or visually impaired. Upon request, MSDB's outreach consultants assist families, teachers, and administrators serving sensory impaired children in Montana. The outreach coordinators travel across the state to serve students where they live and learn. A 2008 LAD performance audit of MSDB found that the 11 outreach consultants employed during the 2007-2008 school year served 362 students. There are now 13.5 coordinators serving approximately 1,150 students. The school's outreach staffing has not increased at a pace to match their rising caseloads. A 2023 MSDB report calculated at least seven more consultants are needed to adequately serve its current caseload. Of note, the school's 2025 biennium budget request to the Legislature includes additional FTE to hire two additional coordinators.

#### **Potential audit examination areas could include:**

- Determining whether MSDB outreach consultants are staffed at an optimal level to effectively meet outreach student needs across all state regions.
- Understanding how students are assigned to coordinator caseloads and the extent to which MSDB assigns workloads effectively and efficiently.
- Analyzing trends related to total students served and ascertain how MSDB forecasts for future needs of the state.
- Studying how other states have developed models to support children who are hearing or visually impaired in an educational setting, including outreach and in-person options.

**Auditee:** The Montana School for the Deaf and Blind.

**Activity Last Audited:** A performance audit of MSDB was completed in 2008. It recommended MSDB work with the Office of Public Instruction to secure additional federal funding, as well as determine workload factors for consultants and collect data on staff activities to better do so.

**Recent Financial Activity:** The Outreach Program had \$1.6 million in expenditures during FY22, 90% of which was for personal services.

**One-Two-Free: Impact of Dual Enrollment**

The Dual Enrollment program through the Montana University System (MUS) is an avenue through which Montana high school juniors and seniors can earn college credit. Students earn credits in two ways: via Dual Credit courses taught by the student's high school teacher or by enrolling in standard college courses offered at an MUS institution, either online or in-person. A total of 8,455 students participated in the Dual Enrollment program during the 2019-2020 academic year. A Dual Enrollment program called "One-Two-Free" allows students to enroll in their first two dual enrollment courses (or up to six credits) tuition free. Additional credits cost 50% of the two-year institution resident tuition. Further, students may apply to hardship scholarship for additional credits. According to the Office of the Commissioner of Higher Education (OCHE), the number of students participating in the Dual Enrollment program increased 145% between the 2014-2015 and 2019-2020 academic years.

**Potential audit examination areas could include:**

- The effects the Enrollment Program has on MUS matriculation and graduation rates.
- The number of students in the Dual Enrollment program who successfully earned credits.
- The extent to which credits earned by high school students who matriculate into MUS institutions can be applied to their degree or general education requirements.
- The financial impact of the One-Two-Free program on both students and the state.

**Auditee:** The Office of the Commissioner of Higher Education, the Montana University System.

**Activity Last Audited:** While the Dual Enrollment program has never been audited, OCHE was subject to a June 2019 performance audit of the MUS Coordination of Student Enrollment and Administrative Services.

**Recent Financial Activity:** Per OCHE, the median cost per credit for Dual Enrollment high school students is \$0. Tuition reimbursement to the campuses to operate the One-Two-Free program costed \$1,483,405 for the current school year.

**School Districts Operating Outside of their Boundaries\***

Since 2017, legislators and stakeholders have questioned Montana school districts' ability to operate attendance centers (ACs) outside of their boundaries. ACs are offsite instructional settings considered an extension of an established school. The Office of Public Instruction (OPI) indicates there are five situations in which this is occurring. In at least some instances, AC operations were assumed by a different school district from the original district in which the AC was located. Upon changing districts, the ACs were now located more than 20 miles from the districts operating them. Due to this distance, the OPI administration at that time determined these districts were eligible for additional basic entitlements under statute. Of note, the ACs were not eligible for these entitlements under their original districts. This change also meant the original district ended up with lower student counts, budget limits, and state funding. There were additional funding complications because some of the ACs were in different counties from their new operating districts. The current OPI administration recently determined that ACs are not statutorily eligible for their own basic entitlements because they are not considered schools. OPI believes that new laws are not needed to rectify the issue, as it is facilitating the funding removal beginning FY 2024. However, the 2023 Legislature introduced HB 214 to clarify that school districts may not singularly operate schools or offsite instructional settings (e.g., attendance centers) beyond their boundaries. This has the potential to be scoped as a focused evaluation.

**Potential audit examination areas could include:**

- Whether OPI has implemented sufficient internal controls to ensure basic entitlements for offsite instructional settings are not inappropriately allocated moving forward.
- Determine whether OPI intends to require repayment of entitlement funds.
- Determine the financial impacts and ramifications that permitting school districts to acquire schools or offsite instructional settings outside of their boundaries had on the state, counties, and other stakeholders.
- Understand how other states have addressed similar situations and identify what laws, rules, or other guidance they have related to such situations.

**Auditees:** The Office of Public Instruction.

**Activity Last Audited:** This topic has not been the subject of a recent performance audit.

**Recent Financial Activity:** When a school district assumes operations of an AC, there are changes in eligibility for and increases in state subsidies and entitlements. The total revenue associated with ACs is currently unknown.

**Student Success at the Montana Digital Academy**

For over 10 years, the Montana Digital Academy (MTDA), based at the University of Montana, has been providing distance learning opportunities to middle and high school students through public school districts in the state. Students enrolled in the academy can take core classes, advanced-placement classes, and elective courses that may not be available in their local schools and districts. Students can also take courses to earn dual credit for college. In 2021, the MTDA implemented a cost-sharing fee for the school districts at \$123 per semester enrollment for original credit and \$61.50 per quarter enrollment for credit recovery. Dual cost credits are offered at no cost-share with the school districts. All courses offered at MTDA are taught by Montana public school teachers. The MTDA experienced an uptick in class registration during and after the COVID-19 pandemic, giving students greater access to coursework no matter where they are. A 2022 study showed 65 percent of students enrolled in the program earned back credits they had previously failed, and 90 percent of students were satisfied with their online courses.

**Potential audit examination areas could include:**

- Review academic standards for MTDA courses.
- Determine how the program influences graduation rates for Montana students.
- Compare MTDA to other options for providing online curriculum.
- Identify how the program enforces standards for teacher qualifications and other regulations.
- Determine whether enrollment numbers and MTDA payments are calculated and accurately reported.

**Auditees:** The Montana Digital Academy, the University of Montana.

**Activity Last Audited:** This topic has not been the subject of a recent performance audit.

**Recent Financial Activity:** \$4,203,600 in projected HB2 appropriations for the 2024-2025 biennium.



## Fisheries & Wildlife

### **Wildlife Population Counts Effect on Licensing**

The Department of Fish, Wildlife & Parks (FWP) conducts population counts for deer, elk, antelope, upland birds, and some non-game wildlife. This helps FWP monitor trends in wildlife populations across the state for better management. Elk surveys typically enumerate all the visible elk in the surveyed area. Elk surveys also gather data on calves per 100 cows and bulls per 100 cows. Most surveys are conducted annually by fixed-wing aircraft, in the winter. Deer surveys involve observing a specific area and generalizing that information to an entire hunting district. There are different protocols for each of the wildlife counts conducted by FWP. The counts can influence season setting, inform sportsman and landowners of population trends, and affect hunting license availability. Statute requires the Wildlife Commission to use population counts to manage elk, deer, and antelope populations at or below hunting district population objectives and develop a statewide elk management plan with consideration of landowner tolerance for impacts from elk on their land. In recent years, the creation of the elk management plan has been a particular point of contention between stakeholders in the hunting, outfitting, and landowner communities.

#### **Potential audit examination areas could include:**

- Examine FWP's process for counting Montana's big game populations.
- Review the consistency of count processes across regions and biologists, accuracy of counts and population projections, and processes for counting populations on both private and public lands.
- Determine if population counts are consistently incorporated into population objectives and season setting decisions made by the Wildlife Commission.

**Auditee:** The Department of Fish, Wildlife & Parks.

**Activity Last Audited:** This topic has not been the subject of a recent performance audit.

**Recent Financial Activity:** The Wildlife Division has \$11.9 million in FY 2022 expenditures.

**Unlocking Public Lands**

Montana has one of the highest rates of public land that is inaccessible to the public. Over two million acres of state and federal owned lands remain landlocked by private landowners. The goal of the Unlocking Public Lands program is to allow members of the public to cross parcels of enrolled private land to gain access to otherwise inaccessible parcels of federal or state public land for the purpose of recreation. The program is administered by the Department of Fish, Wildlife & Parks' (FWP) Parks and Outdoor Recreation Division. Landowners can apply to FWP to receive a tax credit of \$750 per parcel enrolled in the program up to four non-contiguous parcels. The unlocking public land tax credit terminates in 2027. There have been concerns regarding the program's effectiveness at improving access to public lands, including limited use of the tax credit.

**Potential audit examination areas could include:**

- Reviewing FWP's process for review and approval of program applications/annual certification for adherence to rules and statutory requirements.
- Ensuring contractual requirements are met, including ensuring tax-credit recipients allow for the public to cross their parcels to reach public lands for the majority of the year.
- Examining program effectiveness at unlocking lands, including, use of parcels receiving tax credits and alternative approaches to opening corridors to unlock public lands.

**Auditee:** The Department of Fish, Wildlife & Parks.

**Activity Last Audited:** While LAD has conducted audits of other land and recreation access programs managed by FWP, it has not audited the Unlocking Public Lands program.

**Recent Financial Activity:** The Parks and Outdoor Recreation Division had FY22 expenditures of \$22.8 million.

## General Government

### **Disclosure Requirements for Pension Fund Investments\***

The Montana Board of Investments manages and invests more than \$25 billion for various state and local government participants across Montana, over half of which is comprised of pension funds invested on behalf of public sector retirees. Of the \$13.4 billion managed and invested on behalf of the state's various pension funds, 28% is invested in domestic stocks, with additional substantial holdings in private investments (both domestic and international) (17.2%), international stocks (16.1%), and real estate (12.6%), among other asset classes. As part of these investment activities, BOI should assess investor risks associated with these various investment classes. The investing and business activities of asset classes are subject to varying degrees of independent audit and required disclosure, based on domicile (foreign or domestic), type of business (public or private), and other factors. Legislation that addressed this topic in the context of the country's geopolitical relationships with foreign states in which the Board invests pension funds was introduced in the 2023 session but did not advance.

#### **Potential audit examination areas could include:**

- Examining audit and disclosure standards across asset classes, including applicable best practices.
- Evaluating how BOI assesses investment risks across various asset classes.
- Determining whether appropriate levels of audit and disclosure are required by the board in various investment pools before committing the state's pension funds to certain types of investments.

**Auditee:** The Montana Board of Investments.

**Activity Last Audited:** The Board of Investments was subject of a 2014 performance audit, which examined aspects of its governance.

**Recent Fiscal Activity:** The Montana Board of Investments manages and invests more than \$25 billion for various state and local government participants across Montana.

**Fingerprint Collection and Background Checks**

Educators, child-care providers, boards that require licensure, criminal justice agencies and many other local and state businesses require background checks as part of the hiring process. A background check is an opportunity for agencies to verify the information provided by job candidates in their applications. It can also reveal information that was either mistakenly or intentionally omitted, and can provide specific information about prior employment. The Department of Justice conducts these background checks, also known as records' checks or criminal history checks, for local, state, and federal law enforcement agencies and the public. A background check includes criminal history information, including driving-related information, only as it relates to felony arrests. The DOJ charges between \$10 to \$30 for a background check, with fees determined by the type and extent of the requested check. The state of Montana does not have a central repository of fingerprints and background check information that can be shared with other agencies within the state. This means that state agencies may be requesting and paying for background checks on individuals who recently completed one, which may be a waste of state resources. A potential performance audit could examine the collection and storage of fingerprints, the revenue collected from fingerprint and background services, under what provisions state agencies request and pay for services, and under what agreements agencies (both state and local) provide fingerprint services. This has the potential to be scoped as a focused evaluation.

**Potential audit examination areas could include:**

- How does the agency store the collection of fingerprints? What are the required conditions for new fingerprint records?
- What is the retention schedule for records and background checks?
- How does the agency determine fee schedules, including how are fees collected and utilized?
- What are the provisions for state agencies to request and pay for services?
- What jurisdictions provide fingerprint services and under what agreements? Is there consistency in policies and procedures?

**Auditee:** The Department of Justice.

**Activity Last Audited:** This topic has not been the subject of a recent performance audit.

**Recent Financial Activity:** Currently unknown.

## Justice & Corrections

### **Judicial Caseloads in Montana's District Courts**

District Court judges have original jurisdiction in all felony adult criminal cases and most civil matters. These courts are also the state's youth courts and are responsible for managing juvenile probation functions. There are 51 district court judges in 22 judicial districts serving all 56 Montana counties. In each of the two recent calendar years, Montana's district courts saw about 43,000 to 43,500 cases filed. District courts timely processed cases, on average, about 70% of the time in the last two calendar years. Child abuse and neglect cases and criminal cases saw the lowest rate of on-time case processing at 52% and 59%, respectively. Audits in other states and large municipalities have found problems with courts' timeliness and case management processes. A contracted assessment of Montana's judicial officers' workloads in 2022 noted the need for additional judges and improvements to the case weights and judicial needs model. While more judges were added and the system used to track case filing was upgraded, questions remain about efficiency in Montana's district courts. Delays in court cases can cause an array of problems, ranging from increased financial burden to delays in adjudication and appropriate placement. Senate Bill 224 of the 2023 Legislative Session highlighted legislators' concern for the backlog in civil cases. The bill added multiple provisions to the court administrator's reporting requirements. Additionally, legislators showed significant interest in an external examination of the Judicial Branch's District Court Operations program. SB299 requested a performance audit of the district courts, but ultimately failed to advance.

#### **Potential audit examination areas include:**

- Assess whether case-weight assignments and workload standards used by the Judicial Branch align with best practices and support timely case processing.
- Examine the efficiency and effectiveness of the case management and the electronic filing systems.
- Determine whether a recent increase in district court judges has improved case processing timeframes.
- Evaluate the program's effectiveness in reaching its case processing goals and objectives within its appropriated budget.

**Auditee:** The Judicial Branch.

**Activity Last Audited:** While a performance audit of the Judicial Standards Commission is underway, district court caseloads have not been the subject of a recent performance audit.

**Recent Financial Activity:** The District Court Operations program had about \$35,067,900 in expenditures for FY 2022.

### **Administration of AMBER Alerts**

The America's Missing: Broadcast Emergency Response program (i.e., AMBER Alerts) is an emergency messaging system intended to instantly galvanize the community to assist in the search for and safe recovery of an abducted child. All 50 states operate an AMBER Alert program. The Crime Information Bureau within the Montana Department of Justice (DOJ) maintains the Criminal Justice Information Network (CJIN) that supports public safety and administers the AMBER Alert Program. Current challenges in Montana's program include a small staff with high turnover and delays in getting information. Rapid, comprehensive community response is vital to safe recovery in missing children cases. Studies show the most critical time for abducted children is the first three hours that they are missing. It is also important that alerts are only sent when they are appropriate and meet certain criteria to avoid desensitizing the public. Since 2003, 54 alerts for 76 children have been sent out in Montana. All 76 children were subsequently located, though 4 were deceased. The DOJ tested the AMBER Alert system in Montana in January 2023. The department estimated that one-third of phones in the state did not get the alert. This presents risk that future alerts may not reach someone who may be able to help locate an abducted child in imminent danger. This has the potential to be scoped as a focused evaluation.

#### **Potential audit examination areas could include:**

- Determine whether the department administers the AMBER Alert program in accordance with best practices.
- Assess the timeliness of the AMBER Alert program.
- Examine the effectiveness of distribution mechanisms for AMBER Alerts and compare with other similar states.
- Assess the criteria used to determine when an AMBER Alert is appropriate in missing children cases.
- Examine trends in missing children cases in Montana and compare with use of AMBER Alerts.

**Auditee:** The Department of Justice.

**Activity Last Audited:** This topic has not been the subject of a recent performance audit.

**Recent Fiscal Activity:** FY 2022 expenditures on the Criminal Justice Information Network were approximately \$550,000.

## Natural Resources & Environment

### **Natural Resources Damage Program\***

The Natural Resource Damage Program (NRDP) identifies its mission as, “To recover damages for natural resources injured by the release of hazardous substances and to restore, rehabilitate, replace or acquire the equivalent of the injured natural resources.” Administratively attached to the Department of Justice, NRDP was created in 1990 to prepare the state’s lawsuit against the Atlantic Richfield Company (ARCO) for injuries to the natural resources in the Upper Clark Fork River Basin. The state settled its lawsuit with ARCO and has completed settlements for more than 10 other areas across the state. Work addressing natural resource injuries cannot begin until a restoration plan is in place for a project. NRDP uses settlement money to both prepare and implement restoration plans. Much of this implementation work is based on contracts with different natural resource restoration firms, non-profit groups, and local government entities such as conservation districts, cities and counties. The federal government is often a partner too. Program staff indicate there is no easy way to measure and compare progress of different projects. They do not track the data needed for that kind of monitoring. They have determined it would be difficult to do so in a meaningful way because each project is unique relating to a specific geographical area and based on individual restoration plans.

#### **Potential audit examination areas could include:**

- Measure program effectiveness in successfully addressing injured natural resources.
- Compare restoration plan preparation expenditures to implementation expenditures
- Assess funding decision criteria and processes.
- Identify patterns of personal services and operating expenditures for all projects.
- Determine effectiveness of current measures of project progress.

**Auditee:** Natural Resources Damage Program, the Department of Justice.

**Activity Last Audited:** This program has not been subject of a recent performance audit.

**Recent Financial Activity:** Approximately \$160 million is currently held settlement funding.

**Effectiveness and Funding of Fire Suppression\***

Nationally, there has been an increase in wildland fire intensity in the past few decades. According to the National Interagency Fire Center, nearly 7.5 million acres burned in 2022 across the U.S., which is above the 10-year average. Forest fires have become increasingly dangerous and prevalent throughout Montana. The Montana Department of Natural Resources and Conservation (DNRC) directly protects over 5 million acres of state and private lands through the Fire Suppression Program. Additionally, DNRC oversees state-county cooperative fire protection, where each county provides wildland fire protection through a system of volunteers, county personnel, and rural fire districts. The growing need for more complex fire responses persistently stresses DNRC's fire suppression capabilities. Consequently, there are concerns that a lack of preparation or a disorganized response could lead to significant property damage due to wildland fires, public safety issues, and risk the safety of fire personnel. Fire suppression is costly to the state. Fire suppression in 2017, the most expensive fire year in Montana's history, resulted in a state liability of \$74.4 million. With such high costs, it is important that resources are allocated effectively for fire suppression and that funding is used properly.

**Potential audit examination areas could include:**

- Assessing the allocation of fire suppression spending statewide, including a review of fire suppression costs and sources of revenue.
- Reviewing the coordination of fire suppression activities across the response system between local, state and federal resources.
- Examining the allocation of fire suppression equipment during the fire season.
- Evaluating Montana's overall fire suppression policy, including reviewing best practices regarding balancing costs with property damage.

**Auditee:** The Department of Natural Resources and Conservation.

**Activity Last Audited:** A performance audit of wildland fire administration was issued in 2004.

**Recent Financial Activity:** The department's total costs for wildfire suppression efforts in 2022 came in at \$52 million, with nearly 125,000 acres burned statewide.



**Montana Open Cut Mining\***

Today, there are over 1,800 open-cut mining operations across Montana. The Montana Department of Environmental Quality's Opencut Mining Program is responsible for issuing permits and ensuring operators comply with laws and permit requirements. These requirements include reclamation, or returning the land to a productive, pre-mining use by a specified date. Operations of this program have changed significantly since its last performance audit in 2008. There is concern the program no longer enforces sufficient reclamation requirements and water quality considerations to guarantee compliance with law. In tandem, there are concerns that DEQ management in the Mining Bureau chooses not to hold certain mining companies to their requirements. A 2021 analysis of the program's Annual Production Report found about 340 opencut sites with no permits online, over 750 sites with expired reclamation dates, and 10 sites with bonds listed as forfeited. There is also concern that the public will not be able to comment on site-specific water issues regarding an opencut permit in certain circumstances, due to changes from the 2021 legislative session.

**Potential audit examination areas could include:**

- Is DEQ able to identify open-cut mining sites that are not permitted?
- Is DEQ's enforcement process sufficient for investigating bonds and reclaiming non-compliant sites?
- Are there instances where the public cannot comment on opencut locations or proposals?

**Auditee:** Opencut Mining Program, the Department of Environmental Quality.

**Activity Last Audited:** A 2008 Performance Audit examined the Open Cut Mining Permitting Process.

**Recent Financial Activity:** \$1.3 Million in Expenditures (FY22); \$630K in Revenue (FY22).

## Public Health & Human Services

### **Effective Care for Montana's Aging Population**

Montana lost about 850 licensed nursing facility beds due to the closure of 11 facilities over the last biennium. While the Department of Health and Human Services (DPHHS) has little ability to influence corporations' decisions to close, the services provided by DPHHS' Senior and Long-Term Care (SLTC) division are key to assisting Montanans in handling the consequences of facility closures. The division's services range from in-home care to nursing facility services in addition to investigations of suspected abuse, neglect, or exploitation. Those programs include the Community First Choice (CFC), Personal Assistance Services (PAS), and Home Health programs, as well as Big Sky waiver and hospice services. Caseloads in all these programs are growing as demand for older Montanans to remain in their homes and familiar communities has increased. As of June 2022, the Community Services Bureau served about 5,400 individuals between the CFC and Big Sky Waiver alone. A waitlist of about 400 people existed for Big Sky Waiver services as of December 2022. People spend an average of about 100 days on the waitlist. Given that by 2030, Montana is expecting the population of people over sixty to increase by 8.4% (or 91,000 persons), the trend of increasing caseloads and people waiting for services is likely to continue. Other states' audits of similar programs have identified deficiencies in the timely and effective determination of program eligibility, agencies' oversight over service plan development and service delivery, and a lack of training and support for individuals self-directing CFC services.

#### **Potential audit examination areas could include:**

- Examining the processes to ensure access and timely and accurate determination of Medicaid program eligibility.
- Assessing the effectiveness of the department's efforts to identify older Montanans' needs and ensure that (facility and/or in-home) services are provided to meet those needs, including the impacts of other non-Medicaid participants.
- Evaluating the department's oversight and monitoring processes of service provider activities.
- Determining the extent to which the SLTC division is anticipating and planning for the likely increase in demand for services across all programs over the next decade.

**Auditee:** The Department of Public Health and Human Services.

**Activity Last Audited:** This topic has not been the subject of a recent performance audit.

**Recent Financial Activity:** The Senior Long-Term Care Division had \$303,271,925 in expenditures for FY22.

**Privatizing the Child Support Services Division\***

The Child Support Services Division (CSSD) pursues and obtains financial and medical support for children by establishing, enforcing, and collecting financial obligations from non-custodial parents. Located in the Department of Public Health and Human Services, the division has almost 130 FTE and three bureaus: Field Services, Fiscal Services, and Systems, Policy & Training Services. In addition to its Helena offices, there are four regional offices in Great Falls, Billings, Butte, and Missoula. The division collected over \$69 million in child support in FY 2022. CSSD has nearly 30,300 current cases providing services to over 45,400 children. All states operate a child support enforcement program. However, some privatize some or most of their services, such as locating noncustodial parents, establishing paternity, collecting and dispersing child support payments, and operating a call center. Contracting for child support services has increased significantly since the 1990s. Proponents for contracting services believe private contractors provide more cost-effective, high-quality services. However, the results of privatization of child support services in some states have been mixed, according to the U.S. Government Accountability Office.

**Potential audit examination areas could include:**

- How effective and efficient is CSSD at establishing and collecting child support payments?
- Would it be cost-effective to privatize some CSSD functions?
- What experiences have similar states had with privatizing their child support programs?

**Auditee:** The Department of Public Health and Human Services.

**Activity Last Audited:** This topic has not been the subject of a recent performance audit.

**Recent Financial Activity:** CSSD's total annual budget is \$11.8 million, \$3.4 million of which comes from the General Fund.

**Medicaid Durable Medical Equipment**

Montana Medicaid covers certain medically necessary durable medical equipment (DME), which is equipment or supplies ordered by a healthcare provider to treat a health problem or physical condition. Examples of DME include blood glucose monitors, crutches, wheelchairs, and sleep apnea devices. Federal regulations require DME covered under Medicaid to be reasonable and necessary in amount, duration, and scope. One primary internal control related to this is the required prior authorization by the Montana Department of Public Health and Human Services for some DME. Additionally, federal regulations require the need for DME to be reviewed by the prescriber at least annually. When Medicaid reimburses for DME when it is no longer being used or needed, it results in improper payments in the Montana Medicaid program. A significant portion of the Montana Medicaid program is state-funded. Performance audits related to DME in other states have found a variety of deficiencies in their state agency's efforts to prevent, identify, and recover improper payments for DME covered by Medicaid. One state found it lacked policies and procedures for periodically evaluating DME services and rates as well as duplicate payments. Another state found its health agency did not have adequate pre- and post-payment reviews for DME claims. Additionally, our office recently received concerns about Montana Medicaid beneficiaries damaging or failing to return DME, allegedly resulting in the department writing these off as losses. With demand increasing and supply chain disruptions, some types of equipment may be difficult or expensive to replace.

**Potential audit examination areas could include:**

- Examining the department's processes for determining compliance with rules surrounding DME covered by Montana Medicaid.
- Assessing the effectiveness of the department's efforts to prevent, detect, and recover improper payments for DME.
- Determining whether the department's efforts to recover DME or funds for DME that is damaged or unreturned are sufficient.

**Auditee:** The Department of Public Health and Human Services.

**Activity Last Audited:** This topic has not been the subject of a recent performance audit.

**Recent Financial Activity:** DME claims under traditional Medicaid totaled about \$21,000,000 in FY22.

**Effectiveness of the Suicide Prevention Program**

The National Center for Health Statistics lists Montana's suicide rate as 3<sup>rd</sup> highest in the nation in 2020 at 26.1 deaths per 100,000 people. In 2007, the Montana Legislature established a suicide prevention coordinator position attached to the Director's Office of the Department of Health and Human Services. Since then, this position and a Suicide Prevention Program have been reassigned to the Behavioral Health & Developmental Disabilities Division within the department. The purpose of the program is to coordinate and integrate suicide prevention activities to reduce the rate of suicide in Montana. Some activities conducted within this program include providing evidence-based suicide prevention programs to secondary schools, supporting a suicide prevention crisis line, implementing firearm safety programs, conducting statewide media campaigns, and providing suicide prevention trainings. Montana's suicide rate was the same in 2016, indicating Montana has not seen a significant decrease in its suicide rate over time. This calls into question the effectiveness of the Suicide Prevention Program and whether the state's investment in suicide prevention activities within this program is achieving full value and benefit.

**Potential audit examination areas could include:**

- Determine whether there are opportunities to better ensure Montana receives full value and benefit from its investment of limited resources in suicide prevention efforts.
- Examine investments in similar suicide preventions efforts in other states and how other states measure performance of these programs.
- Determine if the department's Suicide Prevention Program is effectively carrying out its suicide prevention strategy, including how these efforts coordinate with other nonstate run behavioral health programs.
- Examine the program's processes for identifying priority areas for targeting the state's suicide prevention efforts.
- Compare Montana's investment in suicide prevention programs with investments in similar programs in other states.

**Auditee:** The Department of Public Health and Human Services.

**Activity Last Audited:** This topic has not been the subject of a recent performance audit.

**Recent Financial Activity:** FY22 expenditures for the Suicide Prevention Program were approximately \$1.4 million.

**State Healthcare Costs and COVID-19\***

In the wake of the COVID-19 pandemic, states are beginning to understand how the pandemic impacted healthcare utilization and costs. A significant portion of state expenditures in Montana is related to healthcare. State healthcare costs are primarily associated with Medicaid enrollee claims and the state employee health plan. Some states have conducted studies to determine the extent to which COVID vaccination or infection contributed to changes in healthcare utilization and costs. For example, one study in Oregon and Washington found unvaccinated persons infected with COVID-19 were approximately twice as likely to receive emergency care or to be hospitalized than those who were vaccinated. The Medicaid report from the Montana Department of Public Health and Human Services to the 2023 Legislature showed that per member per month spending increased from \$654 in FY 2019 to \$716 in FY 2020. However, many factors could have contributed to this increase. Answering questions about healthcare costs to the state associated with COVID-19 and factors such as vaccination or infection would be challenging. Such challenges include matching data across multiple systems, the varying populations covered in each data source, nuances in diagnosis codes, changes in the federal and state requirements, and pre-existing differences. Despite these challenges, an analysis could estimate the effect of COVID-related factors on healthcare costs to the state, including individuals forgoing health care during the pandemic.

**Potential examination areas could include:**

- Analyzing trends in healthcare costs to the state to help understand the extent to which COVID-19 impacted these costs.
- Determining the extent to which factors such as COVID vaccination status or COVID infection were associated with fluctuations in state healthcare costs.

**Auditee:** The Department of Public Health and Human Services; the Department of Administration.

**Activity Last Audited:** This topic has not been the subject of a recent performance audit.

**Recent Financial Activity:** Total reimbursement for services provided in FY21 covered by Medicaid was over \$1.2 billion. Total expenditures for benefits under the state's health plan was almost \$210 million for FY22.

## Taxation & Revenue

### **Application of Montana Individual Income Tax Credits**

A tax credit is money a taxpayer can use to offset tax liability. Broadly, tax credits are a way for the state to encourage certain activities or investments, or to avoid taxing sources of income that are already accounted for in Montana or elsewhere. More than two dozen tax credits are available in Montana to individual taxpayers. Tax credits are available for a variety of activities and income sources, including capital gains income, adoption, alternative fuel use, elderly care, historic property preservation, and other activities. Some credits are widely claimed, such as capital gains income tax credit (\$125.4 million claimed by 115,000 filers in 2021) and other states' income tax credit (\$77.5 million claimed by 17,000 filers in 2021). Other credits aren't claimed at all—for the most recent year available, no individual filers claimed credits for biodiesel blending/storage tank, empowerment zones, or mineral exploration. Tax credits continue to be a source of interest for Montana legislators. Bills in the 2023 Montana Legislative session introduced with varying degrees of success included the scholarship and innovative education tax credits; adoption tax credit; tax credits for trades education and training; health care preceptor credit; volunteer firefighter/EMT tax credit; elderly homeowner or renter tax credit; Social Security tax credit; and several others.

#### **Potential audit examination areas could include:**

- How do the number and of types of tax credits available to Montana income tax filers compare to other states?
- How does the Department of Revenue assess the impact of individual income tax credits?
- Are all Montanans who are eligible for tax credits taking advantage of them? Does the Department of Revenue take any steps to publicize tax credits available to individual filers?
- How does the Department of Revenue confirm that individuals claiming tax credits are in fact eligible for the credits?

**Auditee:** Montana Department of Revenue

**Activity Last Audited:** This topic has not been the subject of a recent performance audit.

**Recent Financial Activity:** The Department of Revenue's most recent annual report shows approximately 134,000 Montana individual income tax filers claimed a total of \$241.3 million in tax credits in 2021.

## Transportation

### **Effectiveness of Shared-Use Path Funding Distribution\***

The Montana Department of Transportation (MDT) was last required to provide an inventory of shared-use paths on state-maintained federal-aid highway right-of-way in 2015. A \$5 opt-in fee that is part of the vehicle registration process goes to a state special revenue fund for shared-use path maintenance and construction. In FY 2022 the Department of Justice collected \$25,000 in fees that were sent to MDT for distribution. MDT is charged with distributing those funds to the five MDT districts proportionate to the amount of fee revenue generated in that district. Statute dissuades using the funds for the creation of new shared-use paths requiring all maintenance needs to be satisfied before funds are used for new construction. The funding can also be distributed to counties and municipalities in each district. This distribution can be for maintenance according to maintenance agreements MDT has entered into with localities. Statute requires 10% of the funds allocated to a district to be used for maintenance of shared-use paths that are not part of the federal-aid highway system. However, based on the fees collected for this account in FY 2022 that distribution would only be \$2,500 between five districts. MDT staff indicated they are unaware of these funds being used for paths off the federal-aid highway system. In 2023, the Montana Legislature considered HJ15, a study on shared-use paths, the bill failed to advance. *This has the potential to be scoped as a focused evaluation.*

#### **Potential audit examination areas could include:**

- Determine if funds generated by the \$5 optional fee meet maintenance needs for shared-use paths.
- Determine if MDT is distributing funds for appropriate uses according to statute.
- Ensure MDT has an updated plan for ongoing maintenance on federal-aid highway shared use paths.
- Review the administrative burden the complex distribution method established in statute from a limited funding source.

**Auditee:** The Department of Transportation.

**Activity Last Audited:** This topic has not been the subject of a recent performance audit.

**Recent Financial Activity:** \$25,000 in FY 2022 shared-use path funding.



**Collection and Use of Traffic Safety Data\***

The goal of the Montana Traffic Safety Program is to promote public safety, health, and welfare and to reduce traffic deaths, injuries, and property losses resulting from traffic accidents. As part of the Montana Traffic Safety Program, the Montana Department of Transportation (MDT) oversees the Comprehensive Highway Safety Plan. The collection, maintenance, and analysis of traffic safety data is important to the effective implementation of the highway safety plan, including establishing objectives and informing engineering projects. Statute requires that accidents are reported to the Department of Justice (DOJ) and authorizes the DOJ to tabulate and analyze all accident reports. The Montana Department of Transportation also analyzes accident reports to inform decision making. MDT states that four different systems are used to collect this data and there is no specific form to ensure consistency.

**Potential audit examination areas could include:**

- Examine the various systems used to collect accident data for consistency and accuracy
- Examine DOJ's and MDT's roles and responsibilities in collecting, analyzing, and sharing accident reports
- Examine how safety and accident data are used to inform the statewide transportation plan and traffic engineering projects

**Auditees:** The Department of Transportation; the Department of Justice.

**Program Last Audited:** LAD conducted a performance audit of the federally funded Highway Safety Improvement Program in 2014. However, an audit examining roles in the collection of analysis of traffic safety data to inform decision-making has not been conducted.

**Recent Financial Activity:** \$12 million of annual Traffic and Safety Bureau and Highway Traffic Safety section expenditures.

**Oversight of Railroad Safety\***

In 2022, there were over 1,100 train derailments in the United States. Montana had 11 derailments and 7 other train accidents, leading to over \$2.6 million in track and equipment damage in 2022. In addition to causing damage to infrastructure and transportation delays, railroad accidents, especially those involving transport of hazardous materials, pose serious risks to the environment and human health. Montana is one of 29 states that works in partnership with the Federal Railroad Administration (FRA) by participating in the State Rail Safety Participation Program. The Regulatory Safety Division of the Montana Public Service Commission implements Montana's Rail Safety Program. The program employs two individuals that inspect railroad equipment and conduct audits to identify defects and ensure compliance with state and federal rail safety regulations. These inspectors are in addition to nine FRA inspectors, who have authority to oversee rail safety in Montana. The goal of the Montana's rail safety program is to help prevent rail transportation accidents and injuries. A 2015 performance audit examining rail safety found an ongoing need to increase the program's railroad safety inspection capability to adequately address motive power and equipment issues. Audits of other state's rail safety programs have also found inadequate resources to effectively address a number rail safety issues.

**Potential audit examination areas could include:**

- Examine current rail safety issues in Montana
- Examine if risk areas are appropriately identified
- Examine if resources are sufficient to address rail safety risks

**Auditee:** The Public Service Commission.

**Program Last Audited:** A performance audit examining railroad safety, including the Public Service Commission's administration of the state rail safety program was conducted by LAD in 2014.

**Recent Financial Activity:** Approximately \$85,000 in expenditures per PSC rail safety inspector.

**From:** [Keogh, Connie](#)  
**To:** [Soller, Will](#); [Harrington, John](#)  
**Cc:** [Furthmyre, Paul](#)  
**Subject:** Legislative audit for Montana School of Deaf and Blind  
**Date:** Monday, April 3, 2023 9:07:14 AM

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Dear Members of the Legislative Audit Committee,

I would like to formally request that the Montana School of the Deaf and Blind (MSDB) be given strong consideration for a Performance Audit for Fiscal Year 2023.

I have discussed the possibility of an audit with Paul Furthmyre, Superintendent of the MSDB. He believes that a performance audit will give us all an opportunity for conversations about improving MSDB outreach services in the future. We have reviewed the proposal for an audit that was previously presented to your committee and agree with the potential audit examination areas that have been identified.

Thank you for your consideration.

**Rep. Connie Keogh**  
House District 91  
*Rattlesnake Valley, Downtown, and  
University area of Missoula*

406-298-0985  
Connie.Keogh@legmt.gov

P.O. Box 7542  
Missoula, MT 59807

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SENATOR RUSS TEMPEL

SEN. DIST. 14

RECEIVED  
April 27, 2023  
LEGISLATIVE AUDIT DIV.

William Soller,

I received your audit summary per my request. I have been trying to get a problem salved long before becoming a Senator in 2017. I apricate the chance to get on the list after so long and figuring out the system. It has been both frustrating and disappointing seeing a problem and not have the situation fixed. Over all that time more issues have come to light, and with your help we will get it fixed. Your summary is a great, and I am anxious to work with you on this. Thank you for your consideration.

Sen. Russ Tempel





# MONTANA STATE SENATE

Senator Brad Molnar  
Senate District 28

DURING THE SESSION  
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RECEIVED

MAY 24 2023

LEGISLATIVE AUDIT DIV.

May 11, 2023

Angus Maciver, Legislative Auditor

Mr. Maciver,

I write to request that the Legislative Audit Committee give serious consideration to the following topic as a potential performance audit in the upcoming fiscal year.

**Board of Investments: Audit and Disclosure Requirements for Pension Fund Investments Background**

Background: The Board of Investments manages and invests more than \$25 billion for various state and local government participants across Montana, over half of which is comprised of pension funds invested on behalf of public sector retirees. Of the \$13.4 billion managed and invested on behalf of the state's various pension funds, 28% is invested in domestic stocks, with additional substantial holdings in private investments (both domestic and international), type of business (public and private), and other factors. A performance audit could examine these audit and disclosure standards across asset classes and determine whether appropriate levels of audit and disclosure are required by the board in various investment pools before committing the state's pension funds to certain types of investments.

Thanks in advance to the Committee for its consideration of this important audit topic, and I encourage members of the Committee to contact me with questions.

Senator Brad Molnar SD 28

A handwritten signature in blue ink, appearing to read "Brad Molnar", is written over the typed name.





Angus Maciver  
Legislative Auditor

RECEIVED  
MAR 22 2021  
LEGISLATIVE AUDIT DIV.

Thank you for the letter you sent out on March 17<sup>th</sup> 2021 regarding performance audit requests. I feel that we need to take an in depth look at the cost of fire suppression here in Montana. As I have been in and around this industry for over 20 years, I have witnessed a huge amount of wasteful spending. With the budget being very tight and with new leadership now in place, I believe the time is right to make some much-needed changes in our approach to wildland fire. The last comprehensive study was last done 16 years ago. The cost of fire suppression just continues to rise and will continue to go up. Wildland fire has become an industry, with many using it as a funding source rather than an emergency response to a naturally occurring event. With the millions of dollars put out there for the taking, the more people become dependent on this revenue stream. I believe that if we can get an in-depth accurate look at costs, we can start making needed changes that will save money, natural resources, and stakeholder's property.

Sincerely,

Representative Steve Gist

[Steve.gist@mtleg.gog](mailto:Steve.gist@mtleg.gog)

406-231-4050



April 3, 2023

Angus Maciver  
Director, Legislative Auditor  
Room 160 State Capitol Building  
PO Box 201705  
Helena, MT 59620-1705

RECEIVED  
APR 04 2023  
LEGISLATIVE AUDIT DIV.

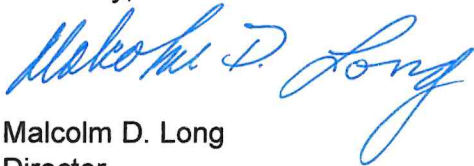
Dear Mr. Maciver,

As per your request dated March 15, 2023, the following is a suggested audit consideration for the next biennium.

To determine the effectiveness of §60-3-303, MCA, *Shared-Use Path To Be Established – Funding*, which requires MDT to document compliance with the section and report on not less than an average expenditure of \$200,000 for shared use paths annually.

Thank you for your consideration.

Sincerely,



Malcolm D. Long  
Director



**From:** [Gibson, Natalie](#)  
**To:** [Soller, William](#)  
**Cc:** [Kailey, Dwane](#)  
**Subject:** Potential topic for a performance audit  
**Date:** Tuesday, April 25, 2023 12:36:16 PM  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)  
[image003.jpg](#)  
[image004.jpg](#)  
[image005.jpg](#)  
[image006.jpg](#)

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Good afternoon.

Here is another potential topic for a performance audit.

The Traffic Safety Program, Title 61, Chapter 1, Part 1 defines department as **Department of Justice** but Title 61, Chapter 2, Part 1 defines department as the **Department of Transportation**. There are a few statutes related to highway safety and gathering data for accident reports which create inefficiencies that lead to work being cumbersome. For instance:

- Section 61-2-102, MCA defines department as the Department of Transportation.
- Section 61-2-103 and 105, MCA, states the Governor is responsible for the highway traffic safety program and lines out the duties for MDT.
- Section 61-7-115, MCA, requires the Department of Justice to tabulate and analyze all accident reports.
- Section 61-7-116, MCA, requires any incorporated city, town, village or other municipality to submit a report to a designated city department along with DOJ.

We are struggling with whether DOJ is the appropriate agency to tabulate and analyze the accident reports. Currently, there are two agencies (DOJ and MDT) required to analyze the reports and there are approximately four different systems being used to collect this data and no specific form to ensure consistency. There may be risks with MDT tabulating the reports and we would appreciate an independent audit of the process along with recommendations for going forward.

Thank you for your consideration.



**Natalie H. Gibson, CPA, CIA**

*Chief Auditor* | Professional Services Division  
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**From:** [Radovich, Candace](#)  
**To:** [Maciver, Angus](#); [Soller, Will](#)  
**Subject:** FW: Performance Audit  
**Date:** Friday, March 17, 2023 11:34:30 AM  
**Attachments:** [image001.png](#)  
[image003.png](#)  
[image009.png](#)  
[image012.png](#)  
[image013.png](#)  
[image002.png](#)  
[image004.png](#)

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**From:** Tschida, Brad <[Brad.Tschida@mt.gov](mailto:Brad.Tschida@mt.gov)>  
**Sent:** Friday, March 17, 2023 11:26 AM  
**To:** Leg Audit Main Desk <[lad@legmt.gov](mailto:lad@legmt.gov)>  
**Cc:** Brown, James <[James.Brown@mt.gov](mailto:James.Brown@mt.gov)>; Fielder, Jennifer <[jfielder@mt.gov](mailto:jfielder@mt.gov)>  
**Subject:** Performance Audit


Mr. Maciver:

President Brown passed along your 3/15/2023 letter to the MT DPSR concerning performance audit ideas for the Legislative Audit Committee during the upcoming biennium. There is a particular audit we believe holds significant merit.

In 2015, I believe, the LAD determined that the Public Service Commission would benefit from 3 additional FTE to address railroad safety in the MP&E arena and we believe the LAD should update that audit to confirm that these FTE are still needed to adequately ensure railroad safety in Montana. The recent highlighting of multiple train derailments in the US has added significant weight to adequate oversight of this transportation mode in our State.

Other than that area, we have been very appreciative of the work conducted by LAD involving our agency and look forward to assisting your team with upcoming audit work.

Respectfully,

**Brad Tschida**  
*Executive Director*  
**Montana Public Service Commission**  
 406.444.6192 | Main line: 406.444.6199  
 [brad.tschida@mt.gov](mailto:brad.tschida@mt.gov)  
 <http://psc.mt.gov/>







**Fiscal Year 2023**

**Performance Audit Priority Ranking**

<b>Audit Title</b>	<b>Score</b>
Addition of New Construction to Property Tax Rolls	4.5
The Board of Housing and Affordable Housing	4
Montana Board of Outfitters	3.83
Judicial Standards Commission*	3.83
Review of Medical Assistance Programs*	3.83
Effectiveness of Groundwater Monitoring for Pesticides	3.67
Design and Cost Issues Related to Design-Build Bidding	3.67
Judicial Courts and the Child Welfare System	3.67
Administration of Emergency Housing Relief Payments	3.33
Supporting Hearing and Visually Impaired Students*	3.33
Meaningful Public Access to Lobbying Spending Activity	3.33
Economic Impact of Regional Tourism Promotion*	3.33
Effectiveness and Funding of Fire Suppression*	3.17
Agency Program Fee-Setting*	2.83
Child Support Services Division*	2.83
Monitoring and Improving Highway Safety	2.83
School Nurses: A Missing Piece of Student Success	2.83
Recreational Marijuana Sales and Tax Revenue	2.67
Developmental Disabilities Program Structure*	2.5
Social Security Disability Eligibility Determinations*	2.33
Agency Use of Paid Administrative Leave	2.33
Montana Indian Language Preservation Program*	2.17

<b>Indian Country Economic Development Program*</b>	2.17
<b>Judicial Sentencing Practices</b>	2.17
<b>State Pandemic Preparedness and Response*</b>	2.17
<b>Remote Learning During the COVID-19 Pandemic</b>	2
<b>Animal Euthanasia During the COVID-19 Pandemic*</b>	2
<b>Streamlining Administrative Hearings*</b>	2
<b>Liquor Warehouse Distribution</b>	2
<b>Betting on Sports in Montana</b>	2



**Fiscal Year 2022**

**Performance Audit Priority Ranking**

<b>Audit Title</b>	<b>Score</b>
Public Service Regulation Management*	5
Trends in Enforcement at Fish, Wildlife & Parks	4.5
Education and Training of Incarcerated Citizens*	4.5
Fire Protection Assessment Fee*	4.5
Effectiveness and Funding of Fire Suppression*	4.5
Supporting Students with Mental Health Issues	4.33
Effects of Workers' Compensation Reform	4.17
Accuracy and Fairness of Bonus Point System*	4
Economic Impact of Tourism Promotion*	4
Safety of the Asbestos Control Program*	3.83
Unemployment Insurance Benefits During a Pandemic	3.83
Judicial Standards Commission*	3.67
Ensuring Quality Care for Vulnerable Adults	3.67
Nurse Licensure Compact Effect on Healthcare	3.5
Agency Internal Audit Functions	3.33
Oversight of the Search and Rescue Program	3.17
Impacts Pandemic-Related Remote Work Expansion	3.17
Agency Use of Paid Administrative Leave	3
Developmental Disabilities Program Structure*	3
Design and Costs Related to Innovative Contracting	3
Role of the Land Board in Managing State Real Property	3
Efficacy of the Office of Civil Rights Programs	2.83

<b>Social Security Disability Eligibility Determinations*</b>	2.67
<b>Monitoring and Improving Highway Safety</b>	2.5
<b>Evaluation of Admissions Requirements</b>	2.5
<b>Tax Return Preparer Fraud</b>	2.33
<b>State Pandemic Preparedness and Response*</b>	2.33
<b>Evaluating the Impact of Student Fees</b>	2.33
<b>Animal Euthanasia During the COVID-19 Pandemic*</b>	2