

State Auditor's Office

Agency Overview

April 2012

For the Economic Affairs Committee

Elected Official: Monica Lindeen, State Auditor, also the Commissioner of Securities and Insurance

Constitutionally Designated Office: Under Article VI, Section 1, the state auditor is listed with the other executive branch, constitutionally named officers. Under Article VI, Section 4, subsection (5), the duties of the state auditor are as "provided by law". Statutorily listed under 2-15-601, MCA. A deputy state auditor is provided for in 2-15-602, MCA. The state auditor serves as the ex officio securities commissioner, pursuant to 2-15-1901, MCA, and as the ex officio commissioner of insurance, pursuant to 2-15-1903, MCA. The state auditor also serves on the land board.

Description and Responsibilities:

- Has authority under Title 30, Chapter 10, parts 1 through 3 and part 10 to regulate certain securities activities in Montana, including registration or filing of securities, registration, examination, investigation, and discipline of broker-dealers, investment advisers described in 30-10-201, or other securities salespersons.
- Has authority under Title 33 to regulate certain insurance products, insurers, and insurance producers in Montana as well as certain aspects of health service corporations and health maintenance organizations.
- Oversees the Insure Montana program of tax subsidies and tax credits for small businesses.
- Collects premium taxes on insurance policies.
- Oversees transfers of insurance premium taxes to the various pension and disability trust funds. Another transfer from the general fund is required for fire department relief associations.
- Oversees a repository of information, including for public bonds issued for major economic development projects under 17-5-1506, transition bonds issued under Title 69, chapter 8, industrial development bonds issued under Title 90, chapter 5, part 1, or bonds issued by the Montana Facility Finance Authority.
- Oversees the Montana Living Trust Act and the Securities Restitution Assistance Fund.

Administratively Attached Entities:

- The Montana Comprehensive Health Association and Plan (MCHA), while not described as an administratively attached agency because it is a nonprofit legal entity, has aspects of administrative attachment. The insurance commissioner: must appoint 2 members at large to MCHA; may replace a board member if the commissioner determines the member is not actively participating or if the appointing entity does not appoint a representative within a reasonable period; calculates premium to help determine which insurers are authorized to appoint board members; and is responsible for approving MCHA's premium rate schedules and income categories for participant eligibility.

Legislative Audits:

- Financial compliance audits are done in even-numbered years. The last financial compliance audit was in October 2010.
- A performance audit of Insure Montana was done in December 2010. The audit recommended enhanced verification of income and business size to determine eligibility and a determination of whether a recipient was delinquent in paying state income taxes. Other recommendations included changes in statutes so that spouses of the employer did not unfairly receive benefits.

Agency Bills Passed During 2011 Session:

- HB 29, introduced by Rep. Jonathan McNiven, expands criteria for extraordinary event exceptions to uses of credit information.
- HB 81, introduced by Rep. Don Roberts, creates a securities restitution fund.
- HB 125, introduced by Rep. Harry Klock, generally revises insurance and securities laws.
- SB 78, introduced by Sen. Rick Ripley, adopts model language for the Montana Guaranty Association.

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State Auditor's Office - Biennium Budget for FY 2012 and FY 2013*					
Divisions/Programs	FTEs	General Fund	State Special	Other	Total
Central Management	16.8		\$2,441,539		\$2,441,539
Insurance Division	58.0		\$32,545,780		\$32,545,780
Securities Division	12.0		\$2,028,700		\$2,028,700

*As noted in the State Budget Summary, p. A-55, the State Auditor's Office is funded entirely from state special revenue, including tobacco tax revenue (contributing to the Insure Montana program), insurance and security fees, and a portion of captive account premium taxes.

Agency Bills That Failed During 2011 Session:

- HB 105, introduced by Rep. Robyn Driscoll, to provide the insurance commissioner with authority to review and approve health insurance premium rates.
- HB 124, introduced by Rep. Chuck Hunter, to create a state-level health insurance exchange.
- HB 128, introduced by Rep. Pat Noonan, to revise health insurance laws.
- HB 129, introduced by Rep. Gary MacLaren, to create a state-level external review process for health insurance.

Significant Non-Agency Bills During 2011 Session:

Many of the significant non-agency bills submitted during the 2011 session that would have affected the insurance commissioner's office were bills that did not pass or that were vetoed. Other than those introduced at the request of the State Auditor's Office, the significant bills included: HB 275 to provide an offset of personal consumption expenses in survival actions, HB 283 to allow gender to be considered in certain insurance coverage (removing Montana's unisex insurance rating except for health insurance), HB 312 to provide for an interstate compact related to health care freedom, HB 445 to allow health care choice through out-of-state health insurance policies, HB 555 to provide for nonduplication of health insurance benefits, SB 161 to nullify federal health care laws, and SB 228 to prohibit creation of a health insurance exchange.

The significant non-agency bills that did pass in the 2011 Session included:

- HB 324, introduced by Rep. Gary MacLaren, revises the Montana Comprehensive Health Association (MCHA) by decreasing from two to one the number of applications that must be rejected before a person applies to MCHA and by increasing to two the number of public members on the board.
- HB 419, introduced by Rep. Bill Beck, generally revises captive insurance laws.
- HB 573, introduced by Rep. Chuck Hunter, provides for data and analysis generation in the insurance commissioner's office, using an advisory council. The bill terminates in December 2012.
- SB 125, introduced by Sen. Art Wittich, prohibits state government from administering federal health insurance purchase requirements.
- SB 331, introduced by Sen. Larry Jent, authorizes the insurance commissioner to enter into reciprocal or cooperative agreements for distribution of surplus lines insurance premium taxes/fees related to multistate risks.

Economic Affairs Interim Committee Areas of Interest:

- Implementation of SB 331 required the insurance commissioner to work with stakeholders to determine which of several reciprocal or cooperative agreements were best to join. Oversight of the office is important to make sure legislators know how the bill is being implemented.
- With HJR 33 assigned to the Economic Affairs Committee, requiring a study of a state health insurance exchange, the insurance commissioner's work on all aspects of the Affordable Care Act and particularly of health insurance exchanges is important to the committee's work.
- Oversight of the securities restitution fund is another area for the committee to determine if the law is being enacted as expected.

Hot Topics of 2011 Session:

- The Affordable Care Act and potential implementation, including provisions for a health insurance exchange.