

# State Auditor's Office

## Agency Overview

February 2016

### ***For the Economic Affairs Interim Committee***

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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 constitutionally named officers in the executive branch. Under Article VI, Section 4, subsection (5), the duties of the state auditor are as "provided by law". The statutory listing is 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 and the Board of Hail Insurance.

#### 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.
- 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:

- None

#### Legislative Audits:

- Financial compliance audits are done in even-numbered years. The State Auditor's Office [financial compliance audit](#), presented in October 2014, contained three recommendations: improve internal controls related to computer access, review information after entry into a database of applicants seeking tax credits under the Insure Montana program, and require specific documentation to register as a securities offeror.
- A [performance audit](#) of Insure Montana was done in December 2010 with a [followup](#) in May 2012. 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 2015 Session:

- [HB 53](#) -- Allows property or casualty insurers to provide discounts or rebates to members of the military or veterans and certain family members.
- [HB 57](#) -- Strengthens protections regarding financial abuse of senior citizens or those with disabilities.
- [HB 78](#) -- Clarifies vehicle owner's privacy rights for telematics agreements.
- [HB 94](#) -- Expands surplus lines of insurance to allow sales of natural disaster multiperil insurance.
- [HB 95](#) -- Revises public adjuster laws, including that public adjusters must be licensed.
- [HB 103](#) -- Housekeeping bill on a variety of securities and insurance topics.
- [HB 118](#) -- Allows for electronic delivery of insurance policies.

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- [HB 119](#) -- Updates insurance laws to meet accreditation standards of the National Association of Insurance Commissioners (NAIC), specifically in risk management and retention, principle-based valuation, enterprise risk reporting, nonforfeiture valuation options, and credit for ceding insurers or reinsurers.
- [SB 52](#) -- Revises captive insurance laws, including expanding special purpose captives to include series members.
- [SB 83](#) -- Adopts the health insurance appeals and external review laws of NAIC.

#### Agency Bills Not Enacted in 2015:

- [HB 45](#) - Would have removed discrimination by insurers based on genetic traits.
- [SB 84](#) - Would have revised the lookback period to 5 years for claims in residential and automobile insurance policies.
- [SB 99](#) - Would have revised the Insure Montana program, provided a funding source through 9% of premium tax proceeds, and removed the purchasing pool. Vetoed by the governor.
- [SB 103](#) - Would have provided presumptive disease coverage for paid firefighters through workers' compensation.

#### Significant Bill Affecting the State Auditor's Office and Enacted in 2015

- [SB 123](#) - Assigned regulatory authority over Montana State Fund to the State Auditor's Office, with provisions that retained Montana State Fund's certainty for a certificate of authority, requirement to be a guaranteed market for workers' compensation, and exemption from paying the premium tax. Also provided certain solvency characteristics for Montana State Fund.

State Auditor's Office - Biennium Budget for FY 2016 and FY 2017*					
Divisions	FTEs	House Bill 2		Statutory Approps**	Total All Sources
		General Fund	State Special		
Central Management	19.8	\$4,375,117			
Insurance Division	50.4	\$15,155,591			
Securities Division	10.84	\$2,123,606			
Total for Office	81.04	\$4,500,000	\$17,154,314	\$62,794,884	\$84,449,198

\*As noted in the Legislative Fiscal Report, p. A-80, the State Auditor's Office is funded from state special revenue derived from insurance and security fees, including a portion of captive account premium taxes. The State Auditor's Office had a one-time general fund appropriation of \$4.5 million in FY 2016 to carry the Insure Montana program through Dec. 31, 2015.

This budget does not reflect an additional \$371,364 in the 2017 Biennium from state special revenue for the pay plan. That amount would increase budgets by \$86,251 in Central Management, \$232,024 in the Insurance Division, and \$53,089 in the Securities Division.

\*\* Statutory appropriations do not include money appropriated in House Bill 2 but include \$62,768,206 from the general fund and \$26,678 from state special revenue. A budget change document has increased the spending authority for the Securities Division for restitution payments by \$400,000.

#### Economic Affairs Interim Committee Areas of Interest:

- Implementation of SB 123 that brings the Montana State Fund under the regulatory oversight of the

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State Auditor's Office.

- The State Auditor's Office has been involved in the House Joint Resolution 29 study of air ambulances.
- Dissolution of the Insure Montana program and what actions the State Auditor's Office might take regarding advice on small business health policies.