

LEGISLATIVE AUDIT COMMITTEE

MINUTES SUMMARY

November 18, 2009

Please note: These are summary minutes. The minutes are also accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Audit Division homepage at http://www.leg.mt.gov/audit/meeting_info.asp.

*To view the minutes, locate the meeting date and click on **Minutes**. To hear the audio recording, click on the date link at **Listen**. Note: You must have Real Player installed to listen to the audio recording.*

Members Present

Sen. John Brenden
Rep. Dee Brown
Sen. Taylor Brown
Sen. Mike Cooney
Rep. Betsy Hands
Sen. Cliff Larsen
Rep. Scott Mendenhall
Rep. Carolyn Pease-Lopez
Rep. Wayne Stahl
Sen. Mitch Tropila

Members Absent

Sen. Greg Barkus
Rep. Bill Wilson

Staff Present

Tori Hunthausen, Legislative Auditor
Jim Gillett, Deputy Legislative Auditor
Angie Grove, Deputy Legislative Auditor
Monica Huyg, Legal Counsel
Becky Buckmaster, Administrative Support Manager

The Legislative Audit Committee met, November 18, 2009, in Room 172 of the State Capitol. Chair Tropila made announcement of the retirement celebration for Clayton Schenck, Legislative Fiscal Division director and reminded members to refrain from electronic device use during the proceedings. Following voice roll-call, Chair Senator Mitch Tropila called the meeting to order at 9:00 a.m., noting the presence of a quorum.

Minutes Approval – September 29, 2009 Minutes were approved. Motion by Sen. Cooney: **motion carried**. The minutes were signed by Rep. Dee Brown.

AUDIT REPORTS

00:03:00 OFFICE OF THE COMMISSIONER OF HIGHER EDUCATION, FINANCIAL-COMPLIANCE AUDIT (09-20)

Report presented by: Chris Darragh, Financial-Compliance Auditor

Present from the agency: Dr. Sheila Stearns, Commissioner of Higher Education
Mick Robinson, Deputy Commissioner for Administrative and Fiscal Affairs
Robin Graham, Chief Financial Officer, Montana Guaranteed Student Loan Program
Frieda Houser, Director of Accounting and Budget
Bruce Marks, Director, Montana Guaranteed Student Loan Program

Agency response presented by: Sheila Stearns, Commissioner of Higher Education

00:06:50 Concerns/Discussion topics: distribution of American Recovery and Reinvestment Act (ARRA) moneys, how it will be dispersed to community and tribal colleges

Handouts: None

Committee requests: None

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Rep. Dee Brown; **motion carried.**

MT GUARANTEED STUDENT LOAN PROGRAM, FINANCIAL AUDIT (09-06)

OFFICE OF THE COMMISSIONER OF HIGHER EDUCATION

00:12:00 Report presented by: Chris Darragh, Financial-Compliance Auditor

Present from the agency: Bruce Marks, Director
Robin Graham, Chief Financial Officer, Montana Guaranteed Student Loan Program

Agency response presented by: Bruce Marks

00:13:28 Concerns/Discussion topics: future plans if pending federal legislation is passed to do away with new loans after July 1, 2010; 2.2% default percentage rate in Montana

Handouts: None

Committee requests: None

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Rep. Hands; **motion carried.**

OTHER BUSINESS: HOTLINE STATISTICS

00:16:40 **Presented by:** Monica Huyg, Legal Counsel

Fiscal Year 2009: 34 penal violation, with majority coming from agencies with potential violations of law that involve state property or state programs; 42 hotline calls, generally from citizens informing of fraud, waste, or abuse occurring in state government. Fiscal Year 2010: 13 penal violation notices, and 14 hotline calls; majority of penal violations received involve left of equipment occurring at the universities (sporting equipment, signs, banners, etc.); hotline calls involve everything from misuse of state vehicles to misuse of Medicaid and welfare programs, and the majority are referred to the agencies for further inquiry. All hotline and penal violation calls are considered by Legislative Audit Division's auditors and further investigated if necessary during audits at the agencies during the two-year period.

Discussion: if follow-up on calls is expected and if so, how handled; awareness of branch Hotline through webpage and audit reports; need and use of other government hotlines; percentages of legitimate or just frustrated, need additional work, etc.

PUBLIC HEALTH AND HUMAN SERVICES, FINANCIAL-COMPLIANCE AUDIT (09-14)

00:28:00 **Report presented by:** Geri Hoffman, Financial-Compliance Auditor

Present from the agency: Anna Whiting Sorrell, Director
 Mary Dalton, Medicaid and Health Services Branch Manager
 Hank Hudson, Economic Security Services Branch Manager
 Laurie Lamson, Operations Services Branch Manager
 Carol Bondy, Audit Bureau Chief
 Ron Baldwin, Administrator Technology Services Div.
 Shirley K. Brown, Administrator Child and Family Svs. Div.
 Terry Krantz, Administrator Health Resources Div.
 Marie Matthews, Administrator Business and Financial Svs. Division
 Bob Runkel, Administrator Disability Services Div.
 Jane Smilie, Administrator Public Health and Safety Div.
 Linda Snedigar, Administrator Human and Community Svs. Div.

Agency response presented by: Anna Whiting Sorrell, Marie Matthews, Laurie Lamson, Carol Bondy, Jane Smilie

00:41:16 **Concerns/Discussion topics:** Recovery options for benefits paid to ineligible CHIP recipients; \$149,250 paid to nine terminated employees to avoid potential litigation reasons for potential litigation and the audit recommendation that payment not come out of federal funds; number of employees in fraud audit department; lack of income verification of CHIP applicants and the 12.6 percent found ineligible to participate and reasons for nonrecovery of funds; WIC program monitoring and identifying high-risk vendors, lack of reviewing for compliance regarding federal funds, issues in monitoring and documenting visits, voiding checks after a certain number of days; assurance from the Director that DPHHS is not in danger of losing federal funds coming in for programs like Healthy Montana Kids

Handouts: DPHHS Expenditure & Financial Compliance Audit History (Exhibit# 1)

Committee requests: information on amount of funds paid to ineligible recipients that have not reimbursed to the program (Marie Matthews); amount of state money and fraud

investigators involved in the Medicaid fraud investigation of a Flathead doctor, along with number of other physicians under investigation for same (Carol Bondy)

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Larsen; **motion carried.**

PHHS CORRECTIVE ACTION PLAN: REIMBURSEMENT OFFICE

01:08:00 Marie Matthews, Administrator Business and Financial Services Division

Committee Requests: a detailed timeline at next Audit Committee meeting showing personnel responsibility

MT DEPT. OF TRANSPORTATION, FINANCIAL-COMPLIANCE AUDIT (09-17)

01:12:12 **Report presented by:** Brenda Kedish, Financial-Compliance Auditor

Present from the agency: Jim Lynch, Director
Jody Brandt, Chief Accountant
Mike Bousliman, Chief Administrative Officer

Agency response presented by: Director Lynch

01:16:50 **Concerns/Discussion topics:** prior audit recommendation of purchasing aircraft and repayment on a 14-year repayment schedule authorized by the 2009 Legislative Session, the aircraft decision package in next session will be in the Aeronautics Division budget; department denying employees requests to use excess leave and paying compensation when leave cannot be used; paying the compensation does not effect retirement funds; fraudulent fuel card purchases, recovering funds and accounts receivables on the charges; performance audit currently in progress regarding state purchasing cards; how next purchase of aircraft will be handled

Handouts: Corrective Action Plan to the report (Exhibit #2)

Committee requests: Recovery of fraudulent card purchase funds and an accounts receivables report on the charges (Director Lynch)

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Cooney; **motion carried.**

DEPT. OF COMMERCE, FINANCIAL-COMPLIANCE AUDIT (09-16)

02:00:00 **Report presented by:** Alexa O'Dell, Financial-Compliance Auditor

Present from the agency: Andy Poole, Deputy Director
Bruce Brensdal, Division Administrator, Housing Div.
Maureen Martin, Bureau Chief, Section 8
Barb Charlton, Division Administrator, Management Svcs.
Dave Cole, Division Administrator, Community Development
BJ Adams, Accountant, Management Services

Agency response presented by: Andy Poole

02:05:25 **Concerns/Discussion topics:** hand-out on 2009 Balances & Activities, an explanation of cash flow resulting in revenues of \$92,877,989 and expenditures of \$128,287,169 (balance sheet covers the three financial statement audits performed separate from the Dept. of Commerce audits: Board of Housing, Facilities Finance Authority, Board of Investments); amount of funds involved in the distressed wood products revolving loan fund program and its distribution, information sheet was later submitted from EQC office (Attachment #1); elimination of economic development directors; how Coal Area Highway State Special Funds are spent and what will happen with the funding

Handouts: Dept. of Commerce – 2009 Balances & Activities (Exhibit #2)

Committee requests: explanation happenings with the Regional Development Program and elimination of economic development directors – an early press release will be sent to the Legislative Auditor to pass on to Committee members, received later in the day (Attachment #2)

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Rep. Stahl; **motion carried.**

OTHER BUSINESS: BEEF COUNCIL AUDIT REQUEST

02:21:59 **Presented by:** Monica Huyg, Legal Counsel

Referring to her letter to Chairman Tropila (Attachment #3) Dept. of Livestock request to audit the MT Beef Council, the council is not part of state government, therefore, is outside of the audit authority.

DEPT. OF LABOR AND INDUSTRY, FINANCIAL-COMPLIANCE (09-15)

02:27:00 **Report presented by:** Laura Toeckes, Financial-Compliance Auditor

Sen. Cooney recused himself from the proceedings due to his position with the Dept. of Labor and Industry.

Present from the agency: Dore Schwinden, Deputy Commissioner
Nancy Jones, Program Support Bureau Chief
Kim Moog, Fiscal Support Bureau Chief
Tammy LaVigne, Administrator, Centralized Services Div.
Roy Mulvaney, Administrator, Unemployment Insurance Div.

Agency response presented by: Dore Schwinden, Roy Mulvaney, Tammy LaVigne

02:37:28 **Concerns/Discussion topics:** reasons for the department not following Dept. of Administration guidelines on loaned employees, need for loaned employees and responsibility of benefits paid for loaned employments; Committee take loaned employees topic of discussion to 2011 legislature; solvency of Unemployment Trust Fund level; rates employers will see on Schedule 1 & Schedule 5 percentages; 2009 tax revenue streams; Emergency Unemployment Compensation Extension, tier 3 & 4 for those that have exhausted their tier 2 benefits; time period a person can receive benefits; legislative guidance addressing loaned employees; Montana unemployment rate at this time (6.7%), and when terminated from benefits do they then go off the calculation of the insured unemployment rate; accounting errors due to an incorrect account coding; if agencies were allowed to consult the Legislative Auditor of where an item should be recorded

Handouts: None
Committee requests: None
Public Comment: None
Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Brown; **motion carried.**

LUNCH BREAK 03:03:57 - 04:00:49

DEPT. OF AGRICULTURE, FINANCIAL-COMPLIANCE AUDIT (09-21)

04:02:35 **Report presented by:** Lena Tamcke, Financial-Compliance Auditor

Present from the agency: Ron de Yong, Director
Libbi Lovshin, Administrator, Central Services Division
Mary Hunt, Fiscal Officer, Central Services Division

Agency response presented by: Ron de Yong

Handouts: None
Concerns/Discussion topics: None
Committee requests: None
Public Comment: None
Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Cooney; **motion carried.**

PERFORMANCE AUDIT FOLLOW-UP :

STATE GRAIN LABORATORY OPERATIONS & FUTURE VIABILITY (09SP-29)

04:05:55 **Report presented by:** Diedra Murray, Performance Auditor

Discussion & Actions taken: None

AUTOMATED LICENSING SYSTEM: REVIEW OF SELECT PROCESSING CONTROLS, INFORMATION SYSTEMS AUDIT (09DP 09)

DEPT. OF FISH, WILDLIFE AND PARKS

04:09:34 **Report presented by:** Sean Edgar, Information Systems Auditor

Present from the agency: Joe Maurier, Director
Barney Benkelman, Technology Services Bureau Chief

Agency response presented by: Joe Maurier, Barney Benkelman

04:16:22 **Concerns/Discussion topics:** responsibility of recovering applications and data following a disaster; Information Technology Services Division (ITSD) and Fish, Wildlife and Park's individual roles in a recovery

Handouts: None

Committee requests: None

Public Comment: None

Actions taken: None

The Legislative Auditor reported that following his presentation of the Payment Card Industry (PCI) report to the Committee at their last meeting, Sean Edgar was asked to present the PCI report at a national conference.

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Rep. Hands; **motion carried.**

DEPT. OF FISH, WILDLIFE AND PARKS, FINANCIAL-COMPLIANCE AUDIT 09-18)

04:23:25 **Report presented by:** Jen Erdahl, Financial-Compliance Auditor

Present from the agency: Joe Maurier, Director
Sue Daly, Administrator, Finance Division

Agency response presented by: Joe Maurier, Sue Daly

04:32:33 **Concerns/Discussion topics:** of the 680 FTE, are the 375 FTE seasonal hires included in the total 680 FTE; reorganization and number of employees brought into system because of the reorganization; process of valuing land in land swaps, or trades require current market appraisals

Handouts: None

Committee requests: None

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Brenden; **motion carried.**

OTHER BUSINESS:

04:41:43 **Next meeting date:** tentatively scheduled for March 2010, an e-mail poll will be conducted to consider dates

04:44:10 **Property Tax Reappraisal** – (Attachment #4) guidance from Committee for a performance audit on the property tax reappraisal system – the Legislative Auditor explained that an audit is an independent evaluation of the system (methodology used, consistency) not policy; the process used by staff at Dept. of Revenue to get the appraisal values; timeframe to expect the audit (June meeting)

04:54:20 **Amending Committee Rule Language** – clarification of language for audit committee rule regarding election of committee chair, language; the Legislative Auditor recommended that they not build political influence into the rules and discussed amending the rules to say Chair shall alternate between chambers; prior to next meeting Monica Huyg will e-mail some considerations; removing the rule that requires a committee secretary; Ms. Huyg will draft language of rule revisions separately and send the potential language to members

DEPT. OF LIVESTOCK, FINANCIAL-COMPLIANCE AUDIT (09-22)

05:05:05 **Report presented by:** Jay Phillips, Financial-Compliance Auditor

Present from the agency: Christian Mackay, Chief Executive Officer
George Harris, Administrator, Centralized Services Division

Agency response presented by: George Harris, Christian Mackay

05:08:50 **Concerns/Discussion topics:** disciplinary action toward director of an agency for \$19 million accounting error found in fiscal year end 2009 (error has been corrected); past audit recommendations and internal controls issues; untimely daily deposits prior audit recommendations recurring; plans to request an accounting position next session; excess leave balances brought into compliance

Handouts: None

Committee requests: None

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Brown; **motion carried.**

MT ARTS COUNCIL, FINANCIAL-COMPLIANCE AUDIT (09-24)

05:30:10 **Report presented by:** Natalie Gibson, Financial-Compliance Auditor

Present from the agency: Arlyn Fishbaugh, Executive Director
Carleen Layne, Accountant
Cassandra Scheuer, Accounting Technician

Agency response presented by: Arlyn Fishbaugh, Carleen Layne

05:32:10 **Concerns/Discussion topics:** grant language and semi-annual reporting

Handouts: None
Committee requests: None
Public Comment: None
Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Cooney; **motion carried.**

STATE BUILDING ENERGY CONSERVATION PROGRAM, PERFORMANCE AUDIT (09P-06), DEPT. OF ENVIRONMENTAL QUALITY

05:57:40 **Report presented by:** Will Soller, Performance Auditor

Present from the agency: Richard Opper, Director
Tom Livers, Deputy Directory
Louise Moore, Bureau Chief, Energy & Pollution Prevention
Georgia Brensdal, Section Supervisor, Public Buildings Section

Agency response presented by: Director Opper, Tom Livers

06:06:30 **Concerns/Discussion topics:** estimated energy cost savings are based on current values of energy consumption and cost; history of Long Range Building Program (LRBP) moving from Dept. of Natural Resources and Conservation to Dept. of Environmental Quality (DEQ); DEQ proposing legislation clarifying disposition of estimated energy cost savings when bonds retire; ensuring compliance with statute requiring excess savings be transferred to the LRBP

Handouts: None

Committee requests: summary sheet of American Recovery and Reinvestment Act (ARRA) funds distribution at June 2010 meeting; report projects and excess energy savings transfers to LRBP at March 2010 meeting of the Committee

Public Comment: None

Actions taken: None

Motion: Report received, reviewed, filed, and copies distributed in accordance with law. Motion by Sen. Cooney; **motion carried.**

OTHER BUSINESS:

06:36:00 **Board of Horse Racing request** – Sherry Meador, Legal Counsel, Board of Horse Racing – updated Committee members from her memo of November 6, 2009 (Attachment #5); the Board met November 13 and approved the changes to the interagency agreement resulting from the Audit Committee’s discussion of September 29, 2009; when the AG’s opinion is received it will be forwarded to the Legislative Auditor

06:38:54 **State Vehicle Fleet Management** (Exhibit #4) – Janet Kelly, Director, Dept. of Administration – performance audit update, and responded to Rep. Stahl September 29, 2009 request for the number of vehicles in the database registered to the State of Montana from all state agencies, and the difficulty that was found with the current database with finding that

number; the director also explained the implementation of the Fleet Management Information System which will enable better reporting

Concerns/Discussion topics: if the department is looking at a system for disposal of licensed vehicles not in use; the Committee requested an update in March

IRIS Corrective Action Plan (Attachment #6), no discussion, information only.

The Committee discussed the possibility of providing copies of audit reports to boards and commissions when they have been audited.

There being no further business, the meeting was adjourned at 4:03 p.m.

Signed: /s/ Rep. Bill Wilson, Committee Secretary