

1 **** BILL NO. ****
2 INTRODUCED BY ****
3 BY REQUEST OF THE ****
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE LEGISLATIVE AUDIT DIVISION TO AUDIT THE
6 MONTANA STATE BAR ASSOCIATION; REQUIRING THE JUDICIAL BRANCH TO COVER THE COST OF
7 THE AUDIT; AND AMENDING SECTIONS 5-13-101, 5-13-102, 5-13-304, 5-13-306, 5-13-308, 5-13-309, 5-13-
8 313, 5-13-314, 5-13-321, 5-13-401, AND 5-13-411, MCA."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 NEW SECTION. **Section 1. Audit of state bar of Montana.** (1) There must be a one-time
13 performance audit of the state bar of Montana. The performance audit must be conducted by or at the direction
14 of the legislative auditor and may include but is not limited to:

15 (a) an audit creating a thorough understanding of each funding source and how the state bar of
16 Montana is funded and where, how much money has been received from each funding source, and how each
17 dollar from each source is spent over the past 10 years.

18 (b) an analysis of budgets, costs, and functions of the state bar of Montana over time.

19 (2) The legislative auditor shall scope and plan the audit based on risk, including a consideration of the
20 state bar of Montana's financial, operational, and technological risks associated with meeting its intended
21 purpose, goals, objectives, and legal mandates. The legislative auditor shall consider all of the responsibilities
22 and goals and objectives of the state bar of Montana and the office of disciplinary council as part of its scoping
23 and selection process.

24 (3) The objectives of this audit must be formulated, defined, and conducted in accordance with industry
25 standards established for auditing as described in 5-13-308.

26 (4) The cost of the audit in whole must be paid for by the judicial branch.

27 (5) The audit must be completed by and presented to the legislative audit committee no later than
28 December 15, 2026. Following review by the legislative audit committee, the audit and any audit followup must

1 be delivered to members of the law and justice interim committee and the section D interim budget
2 subcommittee who shall serve in the 70th legislature and be posted on the website of the legislative audit
3 division.

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5 **Section 2.** Section 5-13-101, MCA, is amended to read:

6 **"5-13-101. Title and purpose of chapter.** (1) This chapter may be cited as "The Legislative Audit
7 Act".

8 (2) Because the legislature is responsible for authorizing the expenditure of public money,
9 designating the sources from which money may be collected, and shaping the administration to perform the
10 work of state government and is held finally accountable for fiscal policy, the legislature should also be
11 responsible for the audit of books, accounts, activities, and records so that it may be assured that its directives
12 have been carried out. It is the intent of this chapter that each agency of state government and the state bar of
13 Montana be audited for the purpose of furnishing the legislature with factual information vital to the discharge of
14 its legislative duties."

15

16 **Section 3.** Section 5-13-102, MCA, is amended to read:

17 **"5-13-102. Definitions.** In this chapter:

18 (1) "committee" means the legislative audit committee;

19 (2) "state agency" means all offices, departments, boards, commissions, institutions, universities,
20 colleges, and any other person or any other administrative unit of state government that spends or encumbers
21 public moneys by virtue of an appropriation from the legislature or that handles money on behalf of the state or
22 that holds any trust or agency moneys from any source.

23 (3) "state bar of Montana" means the private, independent association of individuals who practice law in
24 the state."

25

26 **Section 4.** Section 5-13-304, MCA, is amended to read:

27 **"5-13-304. Powers and duties.** The legislative auditor shall:

28 (1) (a) perform an annual audit of the statewide annual financial report prepared by the department

1 of administration in accordance with generally accepted accounting principles;

2 (b) continue to conduct a biennial single audit until June 30, 2025. For the fiscal year beginning
3 July 1, 2025, and for each fiscal year thereafter, the legislative auditor shall perform an annual audit of federal
4 financial assistance provided to the state that meets the requirements established by the federal government.

5 (c) conduct, or have conducted, compliance audits or audits of the financial affairs and
6 transactions of all state agencies and the state bar of Montana at an interval determined by the legislative
7 auditor, taking into consideration the agency's operations, risk, the complexity of its fiscal structure, and the
8 nature and extent of previous audit findings;

9 (2) conduct an audit to meet the standards and accomplish the objectives required in 5-13-308
10 whenever the legislative auditor determines it necessary and shall advise the members of the legislative audit
11 committee;

12 (3) make a complete written report of each audit. A copy of each report must be furnished to the
13 department of administration, the state agency that was audited, each member of the committee, and the
14 legislative services division.

15 (4) report immediately in writing to the attorney general and the governor any apparent violation of
16 penal statutes disclosed by the audit of a state agency and furnish the attorney general with all information
17 available relative to the violation;

18 (5) report immediately in writing to the governor any instances of misfeasance, malfeasance, or
19 nonfeasance by a state officer or employee disclosed by the audit of a state agency;

20 (6) report immediately to the commissioner of political practices any instances of apparent
21 violations of the state code of ethics provided for in Title 2, chapter 2, part 1;

22 (7) report immediately to the surety upon the bond of an official or employee when an audit
23 discloses a shortage in the accounts of the official or employee. Failure to notify the surety does not release the
24 surety from any obligation under the bond.

25 (8) have the authority to audit records of organizations and individuals receiving grants from or on
26 behalf of the state to determine that the grants are administered in accordance with the grant terms and
27 conditions. Whenever a state agency enters into an agreement to grant resources under its control to others,
28 the agency shall obtain the written consent of the grantee to the audit provided for in this subsection.

1 (9) have the authority to audit records of the state bar of Montana to determine whether the supreme
2 court exercises appropriate supervision over the state bar's role in maintaining and improving the administration
3 of justice. "
4

5 **Section 5.** Section 5-13-306, MCA, is amended to read:

6 **"5-13-306. Legislative auditor to assist legislature during sessions.** During sessions of the
7 legislature, the legislative auditor and the audit staff, when requested, shall assist the legislature, its
8 committees, and its members by gathering and analyzing information relating to the fiscal affairs of state
9 government and the state bar of Montana."
10

11 **Section 6.** Section 5-13-308, MCA, is amended to read:

12 **"5-13-308. Audit standards and objectives.** The objectives of financial compliance, performance,
13 and information system audits of state agencies or their programs and the state bar of Montana conducted by
14 the legislative auditor are formulated, defined, and conducted in accordance with industry standards
15 established for auditing to determine whether:

16 (1) the agency or the bar is carrying out only those activities or programs authorized by the
17 legislature and is conducting them efficiently, effectively, and in accordance with legislative intent;

18 (2) expenditures are made only in furtherance of authorized activities and in accordance with the
19 requirements of applicable laws and regulations;

20 (3) the agency or the bar collects and accounts properly for all revenues and receipts arising from
21 its activities;

22 (4) the assets, including information technology, of the agency or the bar or in ~~its~~ the custody of
23 the agency or the bar are adequately safeguarded and controlled and utilized in an efficient manner;

24 (5) reports and financial statements by the agency to the governor, the legislature, and central
25 control agencies disclose fully the nature and scope of the activities conducted and provide a proper basis for
26 evaluating the agency's operations."
27

28 **Section 7.** Section 5-13-309, MCA, is amended to read:

1 **"5-13-309. Information from state agencies and the state bar of Montana.** (1) All state agencies
2 and the state bar of Montana shall aid and assist the legislative auditor in the auditing of books, accounts,
3 activities, and records.

4 (2) The legislative auditor may examine at any time the books, accounts, activities, and records,
5 confidential or otherwise, of a state agency or the state bar. This section may not be construed as authorizing
6 the publication of information prohibited by law.

7 (3) The head of each state agency and the state bar shall immediately notify both the attorney
8 general and the legislative auditor in writing upon the discovery of any theft, actual or suspected, involving state
9 money or property under that agency's control or for which the agency or the state bar is responsible."
10

11 **Section 8.** Section 5-13-313, MCA, is amended to read:

12 **"5-13-313. Audit selection based on risk.** (1) In selecting and prioritizing the state agencies or
13 programs or the state bar of Montana for audit under 5-13-304, the legislative auditor shall consider the
14 ~~agency's or program's~~ financial, operational, and technological risks associated with meeting ~~its the~~ intended
15 purpose, goals, objectives, and legal mandates of the agency, program, or state bar.

16 (2) To aid in identifying agencies and programs for audit, the committee shall, before July 1 of
17 each odd-numbered year, request that the governor, the board of regents, and the judiciary furnish the
18 committee with a list of any recommendations for agencies and programs within the governor's, board of
19 regents', or judiciary's respective jurisdiction to be considered for audit during the next biennium pursuant to this
20 chapter. The list may be prioritized and must set forth the reasons for recommending each agency or program
21 to be considered based on the risk criteria in subsection (1).

22 (3) The legislative auditor shall review the lists, suggestions from legislators and legislative
23 committees, staff recommendations, and any other relevant information and consult with the committee as
24 necessary."
25

26 **Section 9.** Section 5-13-314, MCA, is amended to read:

27 **"5-13-314. Employment protection.** An employee of the state of Montana, an employee of the state
28 bar of Montana, or an authorized contractor who provides information to the committee, the legislative auditor,

1 or the legislative auditor's authorized designee may not be subject to any penalties, sanctions, retaliation, or
2 restrictions in connection with the employee's or contractor's employment as a result of the disclosure of
3 information unless the employee or contractor disclosing the information has violated state law."
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5 **Section 10.** Section 5-13-321, MCA, is amended to read:

6 **"5-13-321. Joint audits.** (1) The legislative auditor may participate with audit oversight organizations
7 on joint audits of Montana programs or services or the state bar of Montana. For the purpose of the joint audits,
8 the legislative auditor may cooperate with the audit oversight organizations, accept and provide information
9 necessary to the success of the joint audits, and enter into contracts for the performance of the joint audits.
10 Audits authorized by this section may examine all or any part of the financing or performance of a program,
11 whether operated directly by a state agency, ~~or~~ by a contractor with a state agency, or by the state bar. Joint
12 audits are subject to the audit standards, objectives, and reporting procedures required by state law and as
13 required in applicable federal laws, regulations, and policies.

14 (2) ~~(a) Audit Except as provided in subsection (2)(b),~~ costs of the legislative auditor for conducting
15 joint audits authorized by subsection (1) are considered direct costs of the state agency or program subject to
16 the audit. Funds for the payment of the expenses of the legislative auditor must be deposited in the state
17 special revenue fund as provided in 5-13-403. To the maximum extent allowable under federal regulations, the
18 legislative auditor shall charge audit costs of joint audits to federal funds.

19 (b) Costs of the legislative auditor for conducting joint audits on the state bar of Montana are
20 considered costs of the legislative audit division.

21 (3) Audits conducted pursuant to this section must be approved by the committee as part of the
22 operational plan of the legislative auditor."
23

24 **Section 11.** Section 5-13-401, MCA, is amended to read:

25 **"5-13-401. Definitions.** As used in this part, the following definitions apply:

26 (1) "Agency" means each state office, department, division, board, commission, council,
27 committee, institution, university system unit, or other entity or instrumentality of the executive branch, office of
28 the judicial branch, or office of the legislative branch of state government.

1 (2) "Audit services" means financial compliance post audits as required by this chapter.

2 ~~(3)~~ "State bar of Montana" has the same meaning provided in 5-13-102.

3 ~~(3)(4)~~ "University system unit" means the board of regents or its units."
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5 **Section 12.** Section 5-13-411, MCA, is amended to read:

6 **"5-13-411. Legislative auditor to approve contracts for audit services.** No contract for an audit of
7 a state agency or the state bar of Montana may be entered into without the approval of the legislative auditor."
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