



A REPORT
TO THE
MONTANA
LEGISLATURE

FINANCIAL-COMPLIANCE AUDIT

Department of Labor and Industry

*For the Two Fiscal Years Ended
June 30, 2021*

MAY 2022

LEGISLATIVE AUDIT
DIVISION

21-15

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FINANCIAL-COMPLIANCE AUDITS

Financial-compliance audits are conducted by the Legislative Audit Division to determine if an agency's financial operations are properly conducted, the financial reports are presented fairly, and the agency has complied with applicable laws and regulations. In performing the audit work, the audit staff uses standards set forth by the American Institute of Certified Public Accountants and the United States Government Accountability Office. Financial-compliance audit staff members hold degrees with an emphasis in accounting and many staff members hold Certified Public Accountant (CPA) certificates.

The Single Audit Act Amendments of 1996 and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards require the auditor to issue certain financial, internal control, and compliance reports in addition to those reports required by *Government Auditing Standards*. This individual agency audit report is not intended to comply with these reporting requirements and is therefore not intended for distribution to federal grantor agencies. The Legislative Audit Division issues a statewide biennial Single Audit Report which complies with the above reporting requirements. The Single Audit Report for the two fiscal years ended June 30, 2019, was issued March 30, 2020. The Single Audit Report for the two fiscal years ended June 30, 2021, will be issued by September 30, 2022.

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May 2022

The Legislative Audit Committee
of the Montana State Legislature:

This report documents the results of our financial-compliance audit of the Department of Labor and Industry for the two fiscal years ended June 30, 2021. We completed work over contributions and premiums, federal revenues, benefits and claims expenditures, transfers activity, and cash balances and other balance sheet accounts affecting fund equity. In addition, we reviewed and tested the department's compliance with federal regulations governing several Unemployment Insurance programs, the Coronavirus Relief Fund, and a Federal Emergency Management Administration (FEMA) grant. As a result of our audit efforts, the report contains six recommendations related to financial misstatements and noncompliance with federal regulations, including related internal control deficiencies. We have also included a disclosure issue for the legislature's consideration.

The department's written response to the audit recommendations is included in the audit report on page C-1. We thank the commissioner and her staff for their cooperation and assistance throughout the audit.

Respectfully submitted,

/s/ Angus Maciver

Angus Maciver
Legislative Auditor

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APPOINTED AND ADMINISTRATIVE OFFICIALS

Department of Labor and Industry

Laurie Esau, Commissioner (effective January 2021)
 Brenda Nordlund, Commissioner (March 2020 through January 2021)
 Tom Lopach, Commissioner (January 2020 through March 2020)
 Galen Hollenbaugh, Commissioner (through December 2019)

Quinlan O'Connor, Chief Legal Counsel (effective January 2021)
 Judy Bovington, Chief Legal Counsel (through December 2020)

Patrick Nelson, Interim Administrator, Workforce Services Division
 (effective March 2022)
 Scott Eychner, Administrator, Workforce Services Division
 (through March 2022)

Eric Strauss, Administrator, Employment Relations Division and Business
 Standards Division (effective February 2022)
 Todd Younkin, Administrator, Business Standards Division
 (through January 2022)

Erin Weisgerber, Administrator, Central Services Division
 (effective November 2021)
 Natalie Smitham, Administrator, Centralized Services Division
 (through October 2021)

Paul Martin, Administrator, Unemployment Insurance Division
 (effective May 2020)
 Brenda Nordlund, Administrator, Unemployment Insurance Division
 (through February 2020)

Kim Warren, Acting Chief Information Officer and Administrator
 Technology Services Division (effective January 2022)
 Amber Dow, Chief Information Officer and Administrator, Technology
 Services Division (December 2020 through December 2021)
 George Parisot, Chief Information Officer and Administrator, Technology
 Services Division (through September 2020)

Rende Mackay, Human Resource Director

Associated Functions David Sandler, Judge, Workers' Compensation Court

 Sarah Sadowski, Executive Director, Office of Community Services
 (effective February 2021)

 Dan Ritter, Executive Director, Office of Community Services
 (through December 2020)

Administratively Unemployment Insurance Appeals Board

Attached Boards and Board of Personnel Appeals

Commissions Human Rights Commission

 Professional and Occupational Licensing Boards

For additional information concerning the Department of Labor and Industry, contact:

Erin Weisgerber, Administrator
Centralized Services Division
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Helena, MT 59624-1728
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MONTANA LEGISLATIVE AUDIT DIVISION

Department of Labor and Industry

FOR THE TWO FISCAL YEARS ENDED JUNE 30, 2021

BACKGROUND

The Department of Labor and Industry (department or DLI) operates as part of a national employment, unemployment insurance, and job training system that assists individuals in preparing for and finding work. DLI provides oversight and regulation of the Montana Workers' Compensation system, enforces state and federal labor standards and safety and occupational health laws, establishes and enforces building industry codes, licenses and regulates professions and occupations, regulates all weighting or measuring devices used in commercial transactions, conducts research, and collects employment statistics that enable strategic planning.

The department fulfills its responsibilities through the Commissioner's Office, six divisions, and two administratively attached units: the Workers' Compensation Court and the Office of Community Services.

Commissioner: Laurie Esau

Several new unemployment insurance benefit programs resulted from the COVID-19 public health emergency. One program allowed individuals not previously eligible under the traditional unemployment insurance benefits program to qualify for benefits. Other programs provided extra compensation in addition to the calculated benefit amounts. As a result, in fiscal years 2020 and 2021 combined, the department paid approximately \$1.5 billion in unemployment insurance benefits. This is an increase of approximately \$1.3 billion from the prior two fiscal years. Our audit work resulted in six recommendations related to the management of these programs.

AUDITOR'S OPINION (page A-1):

FY2021 Financial Schedules – MODIFIED

FY2020 Financial Schedules – UNMODIFIED

Due to the number and size of misstatements identified in the fiscal year 2021 accounting records and financial schedules, which are discussed in further detail in Recommendation #1 on page 9, we issued a qualified opinion on the fiscal year 2021 financial schedules. This means the reader should use caution when relying on the information presented on the financial schedules.

We determined the department's fiscal year 2020 financial schedules and the note disclosures present fairly, in all material respects, the activity of the department and issued an unmodified opinion. This means the reader can rely on the information presented as well as the underlying accounting records for fiscal year 2020.

For the full context of the department's financial activity, see the financial schedules and notes beginning on page A-4.

Unemployment Insurance Program and the COVID-19 Public Health Emergency

The department administers the Unemployment Insurance (UI) program. During the audit period, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was created in response to the COVID-19 public health emergency. The CARES Act created several new UI programs to address the large-scale unemployment that occurred. The challenges of implementing these programs are discussed in more detail in the audit report on page 6.

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For the full report or more information, contact the Legislative Audit Division.

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RECOMMENDATIONS:

In this report, we issued the following recommendations:

To the department: 6

To the legislature: 0

In this report, we determined the implementation status of recommendations in the prior audit:

Fully Implemented: 2

Partially Implemented: 0

Not Implemented: 1

SELECTED RECOMMENDATIONS:

RECOMMENDATION #1 (page 11):

Internal Control Deficiency/Misstatements

We recommend the Department of Labor and Industry enhance its internal controls over the recording of financial transactions related to its Unemployment Insurance Program to ensure all necessary transactions are recorded on the state's accounting system before fiscal year-end as required by state law.

Department response: **Concur**

RECOMMENDATION #2 (page 13):

Internal Control Deficiency/State Noncompliance

We recommend the Department of Labor and Industry obtain a SOC report, or implement and formally document baseline security controls for all new UI program-related IT systems, as required by state policy.

Department response: **Concur**

RECOMMENDATION #3 (page 14):

Internal Control Deficiency/Federal Noncompliance

We recommend the Department of Labor and Industry enhance internal controls to ensure correct wage information is used to calculate unemployment insurance benefits and also calculate the benefit correctly per federal regulations.

Department response: **Concur**

RECOMMENDATION #4 (page 16):

Internal Control Deficiency/Federal Noncompliance

We recommend the Department of Labor and Industry develop and implement internal controls to ensure necessary information system modifications are made to properly administer new federal programs and recover unemployment benefit overpayments, including any associated penalties, as required by federal and state law.

Department response: **Concur**

REPORT ON INTERNAL CONTROL AND COMPLIANCE (page B-1):

In this report, we identified the following:

Material Weaknesses in Internal Control: 1

Significant Deficiencies in Internal Control: 0

Material Non-Compliance: 1

Other Matters: 0

For the full context of this information, including the distinction between the types of items reported, see the report beginning on page B-1.

Chapter I – Introduction and Background

Introduction

We performed a financial-compliance audit of the Department of Labor and Industry (department or DLI) for the two fiscal years ended June 30, 2021. The objectives of the audit were to:

1. Obtain an understanding of the department's internal controls to the extent necessary to support our audit of the financial schedules and, if appropriate, make recommendations for improvements in internal and management controls of the department.
2. Determine whether the financial schedules fairly present the results of operations and changes in fund equity, in accordance with state accounting policy.
3. Determine whether the department complied with selected state laws and federal regulations.
4. Determine the implementation status of prior audit recommendations.

We addressed these objectives by focusing primarily on contributions and premiums revenues, federal revenues, benefits and claims expenditures, and transfers activity. Additionally, we completed work over cash and fund equity balances. We also determined the department's compliance with selected state laws and federal regulations governing the Unemployment Insurance program, Coronavirus Relief Funds, and a Federal Emergency Management Assistance (FEMA) grant.

Internal Service Funds

As required by §17-8-101(6), MCA, we analyzed each of the department's four internal service funds to determine the reasonableness of fees and charges for services and fund equity balances for fiscal years 2020 and 2021. The department's internal service funds are used to account for centrally provided services and those costs are then recovered from the appropriate division, either by charging an approved fee for services or by using a federally-approved indirect cost rate.

To determine whether revenues were reasonable and based on costs, we completed an analysis over revenues collected and expenses incurred in each of the internal service funds. We also reviewed the working capital in each of the funds, as well as fund equity trends, to analyze the reasonableness of the fund equity balances. Working capital is defined in state policy as the amount of cash that would remain if all current assets were converted, and all current liabilities were paid, at their book value. We used a 60-day working capital reserve as a measure of the reasonableness of fund equity based on state policy. Table 1 (see page 2) summarizes the results of our analysis.

Table 1
Internal Service Funds Fees and Fund Equity
 Fiscal Years 2020 and 2021

Fund Name and Description	Fees and Charges Reasonable		Fund Equity Reasonable	
	FY20	FY21	FY20	FY21
Commissioner's Office/Centralized Services Division: Accumulates costs incurred by the Commissioner's Office and Centralized Services Division, which benefit all divisions, and allocates those costs between all divisions.	No	Yes	No	Yes
Administrative Services: Accumulates legal costs incurred for activity at the department and allocates those costs between the programs at the department.	Yes	Yes	Yes	Yes
Technical Services: Accounts for costs incurred for providing IT and related support services and allocates those costs to the divisions.	Yes	Yes	Yes	Yes
Technical Services Direct: Accumulates costs for IT expenditures that are related to a specific division such as software purchases and contract payments.	Yes	Yes	Yes	Yes

Source: Compiled by the Legislative Audit Division.

As shown in the table above, fees were not commensurate with costs and fund equity was not reasonable in the Commissioner's Office/Centralized Services Division internal service fund for fiscal year 2020. Revenues exceeded expenditures by \$110,766 which resulted in an ending fund equity balance, adjusted for non-cash activities such as Other Post-Employment Benefits, of \$1,091,014 and a 96-day working capital, which exceeds the 60-day limit allowed by state policy. Department personnel stated due to employee turnover, the department had fewer personal services expenses than anticipated. In addition, the COVID-19 public health emergency resulted in fewer than anticipated operating expenses such as travel costs. In fiscal year 2021, to reduce its working capital balance, the department granted an indirect cost rate holiday for the last several pay periods of the fiscal year. This resulted in the department's compliance with state law.

Because the department is actively managing its internal service funds in an effort to comply with state law, we make no recommendation to the department at this time.

Background

The department operates as part of a national employment, unemployment insurance, and job training system that assists individuals in preparing for and finding work. The department assists employers in finding workers and pays workers unemployment benefits if they are temporarily unemployed through no fault of their own.

The department enforces workers' compensation laws, federal and state labor and wage laws, and federal and state health and safety laws. The department also administers building codes enforcement, weights and measures, and professional and occupational licensing. In addition, the department conducts research, collects statistics, and provides rulings in labor management disputes.

The department operates under the Commissioner's Office, six divisions, and two administratively attached units. A brief description of each is below followed by Table 3 on page 5 which specifies the full time equivalent (FTE) for each division.

Commissioner's Office is responsible for the overall administration of the department, including the direction and program focus. The office provides administrative and support services to the department. The office also provides legal and personnel-related dispute resolution services for the department and administratively attached boards and commissions.

Centralized Services Division provides central services including payroll, accounting, purchasing, budgeting, and general services.

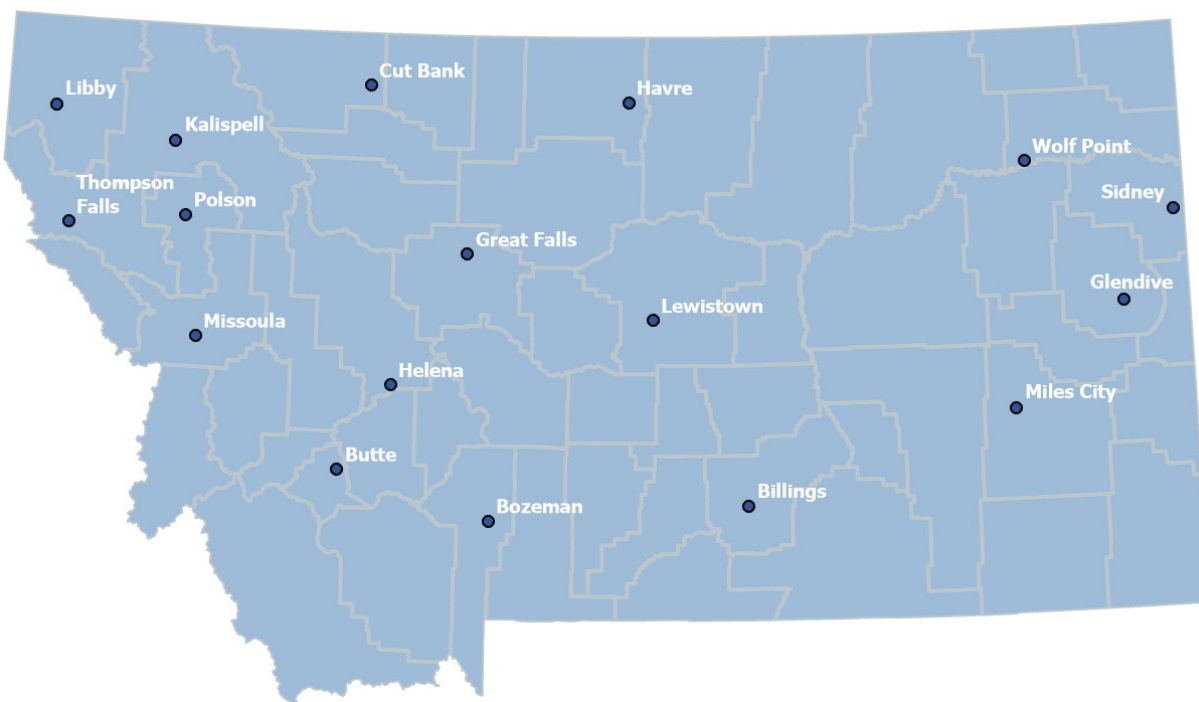
Employment Relations Division administers and enforces federal and state wage and hour laws, labor relations, workers' compensation, workplace safety, contractor registration, and human rights statutes. In addition, both the Board of Personnel Appeals and Human Rights Commission, which are administratively attached to the department, are part of this division.

Unemployment Insurance Division administers the state's unemployment insurance laws and related federal programs. The division operates through the Contributions, Program Support, and Claims Processing bureaus. The economic condition of the state drives activity in this division. During the audit period, the department was able to stay on the lowest rate schedule thereby keeping employer premiums at a reduced amount due to a \$200 million transfer of coronavirus relief funds to the unemployment insurance trust fund from the Governor's Office.

The Unemployment Insurance Appeals Board, which is administratively attached to the department, is part of this division. The board acts in a quasi-judicial capacity for the hearing of disputes concerning the administration of Montana's unemployment insurance laws.

Workforce Services Division provides access to training and employment services for laid-off workers, people transitioning from welfare to work, as well as for youth, veterans, seasonal/migrant farm workers, and general job seekers. It also performs oversight, regulatory, registration, and support functions for state and federal workforce programs including the State Displaced Homemaker program, Workforce Innovation and Opportunity Act, Apprenticeship and Training, and Jobs for Montana Graduates. In addition, the division provides labor market information used at the national and state level by businesses, policy makers, and educators. The department had 17 job service offices in 2021 as shown in Figure 1 (see page 4).

Figure 1
Job Service Locations



Source: Department of Labor and Industry website.

Business Standards Division oversees professional and occupational licensing, weights and measures, and building codes administration. The Prescription Drug Registry and 38 licensing boards, as shown in Table 2, operate under the Professional Licensing Bureau.

Table 2
Professional and Occupational Licensing Boards

Alternative Health Care	Fire Protection License Program	Plumbers
Architects and Landscape Architects	Funeral Service	Private Security & Investigations
Athletic Trainers	Genetic Counselor Program	Professional Engineers & Land Surveyors
Barbers and Cosmetologists	Hearing Aid Dispensers	Psychologists
Behavioral Health	Massage Therapy	Public Accountants
Boiler Operator Program	Medical Examiners	Radiologic Technologists
Chiropractors	Nursing	Real Estate Appraisers
Clinical Laboratory Science Practitioners	Nursing Home Administrators	Realty Regulation
Construction Blasters Program	Occupational Therapy Practice	Respiratory Care Practitioners
Crane/Hoisting Operator Program	Optometry	Sanitarians
Dentistry	Outfitters	Speech-Language Pathologists and Audiologists
Electrical	Pharmacy	Veterinary Medicine
Elevator Contractors, Mechanics, and Inspectors Licensing Program	Physical Therapy Examiners	

Source: Department of Labor and Industry website.

Technology Services Division provides technical services, network services, help desk, project management, security, infrastructure, and application services including computer programming and database management.

Workers' Compensation Court provides a legal forum for Montana's employees and the insurance industry to resolve disputes arising out of work-related injuries and occupational disease.

Office of Community Services administers federal programs including AmeriCorps and Campus Corps and coordinates community service and volunteer efforts statewide.

The full-time equivalent employees (FTE) were allocated as shown in Table 3. The current FTE level is 6.5 FTE more than on June 30, 2019, due to an increase related to the department's HELP-Link program, a free workforce program for Montanans covered by Medicaid under the Montana HELP Plan. This does not include the 51 temporary employees and 94 contract employees hired during the COVID-19 public health emergency.

Table 3
Full-Time Equivalent Employees
at June 30, 2021

Location	HB2 Funded FTE	Proprietary Funded FTE	Total FTE
Centralized Services Division/ Commissioner's Office	10.50	57.75	68.25
Employment Relations Division	118.98		118.98
Unemployment Insurance Division	148.61		148.61
Workforce Services Division	244.50		244.50
Business Standards Division	134.89		134.89
Technology Services Division		51.00	51.00
Workers' Compensation Court	7.00		7.00
Office of Community Services	4.00		4.00
Totals	668.48	108.75	777.23

Source: Department of Labor and Industry.

Prior Audit Recommendations

The prior audit report for the two fiscal years ended June 30, 2019, contained three recommendations. Prior audit Recommendation #1 related to an internal control deficiency over the reconciliation of the cash balance in the Unemployment Insurance Trust Fund to the federal trust balance report. While the department did adjust its procedures, the procedures were not adequate to prevent misstatements in the cash balance on the state's accounting records. We determined this recommendation was not implemented and is included as part of Recommendation #1 in the current report, starting on page 9.

Prior audit Recommendation #2 related to the department not awarding grants to notification centers contracting with underground facility owners, as required by state law. In our follow-up work, we found the department made an administrative rule change which altered the timing of the grant applications and awards. As a result, the department awarded two grants during the audit period for a total of \$121,183. We consider this recommendation implemented.

Prior audit Recommendation #3 discussed a \$4 million misstatement in expenditures related to Compensation Plan Number 1 within the Workers' Compensation Act. In our review, we determined the department implemented additional procedures to ensure the accuracy of this activity and did not identify any other misstatements related to the activity. We consider this recommendation implemented.

Unemployment Insurance Program and the COVID-19 Public Health Emergency

The department administers the Unemployment Insurance (UI) program which is a federal and state funded insurance program. The department collects unemployment insurance premiums from employers in the state and provides state and federal UI benefits to eligible individuals. The structure of the UI program is based on federal statute; however, it is implemented through state law. State UI taxes are paid by employers and remitted to the federal UI trust fund, where each state has a separate account for covering normal UI benefits. Unemployment insurance premiums are set annually by the state based on the trust fund reserve amount as outlined in §39-51-1217, MCA.

When the COVID-19 public health emergency started, the federal government passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) which provided the state with additional federal funding to help relieve the economic burden caused by the pandemic. The state experienced an extraordinary increase in the number of unemployed citizens resulting in thousands of people filing for unemployment benefits. See Table 4 for a comparison of claims processed in the past four years.

To help prevent a rate increase for employers due to significantly increased instances of unemployment, the Governor's Office transferred \$200 million of CARES Act funding to the department to supplement the UI trust fund.

Table 4
4-Year Comparison of Number of UI Claims Filed

State Fiscal Year	Number of UI Claims Filed
2018	55,304
2019	54,015
2020	199,285
2021	174,937

Source: Department of Labor and Industry.

The CARES Act also created several new UI programs to address the large-scale unemployment that occurred. These programs were subsequently extended through the Continued Assistance for Unemployed Workers Act of 2020 and were funded 100% by the federal government. The department also received funding from the Federal Emergency Management Administration (FEMA) for the Lost Wages Assistance Payments grant program. In addition to the \$200 million transfer discussed previously, DLI also received CARES Act funding from the Governor's Office to help administer

the Interim Pandemic Assistance program. The programs, their funding sources, duration, and total amount received are summarized in Table 5.

Table 5
Summary of New UI Programs and Funding

UI program	Effective Date	Purpose	Federal Funding Source	2020 Total Revenue	2021 Total Revenue
Federal Pandemic Unemployment Compensation (FPUC)	3/29/2020-7/25/2020	Provided extra \$600 per week	CARES Act (Direct to the department)	\$446,625,767	\$82,785,020
Pandemic Emergency Unemployment Compensation (PEUC)	3/29/2020-12/26/2020	Provided an additional 13 weeks of benefits to regular UI claims		\$5,223,834	\$3,057,126
Pandemic Unemployment Assistance (PUA)	2/2/2020-12/26/2020	Provided benefits to those not usually eligible for regular benefits		\$27,957,146	\$36,269,353
Lost Wage Assistance (LWA)	7/26/2020-9/05/2020	Provided extra \$300 per week	Federal Emergency Management Administration (FEMA)		\$46,572,236
		Provided extra \$100 per week	CARES Act funding transferred from the Governor's Office		\$30,865,431
Interim Pandemic Assistance (IPA)	11/22/2020-12/19/2020	Provided extra \$200 per week			
Federal Pandemic Unemployment Compensation (FPUC)	12/27/2020-3/13/2021 (subsequently extended to 9/4/2021 - Montana chose to end benefits June 26, 2021)	Provided extra \$300 per week	Continued Assistance for Unemployed Workers Act of 2020 (Direct to the department)		\$220,493,048
Pandemic Emergency Unemployment Compensation (PEUC)	12/27/2020-3/13/2021 (subsequently extended to 9/4/2021 - Montana chose to end benefits June 26, 2021)	Provided an additional 11 weeks of benefits to regular UI claims			\$77,919,568
Pandemic Unemployment Assistance (PUA)	12/27/2020-3/13/2021 (subsequently extended to 9/4/2021 - Montana chose to end benefits June 26, 2021)	Provided benefits to those not usually eligible for regular benefits			\$96,859,391
Total				\$479,806,747	\$594,821,174

Source: Compiled by the Legislative Audit Division.

Pandemic Unemployment Assistance Program

One of the new UI programs, the Pandemic Unemployment Assistance (PUA) program, proved especially challenging to administer. This program allowed people who did not qualify for regular UI, such as the self-employed, to receive benefits if their employment was affected by the COVID-19 public health emergency. The department's current benefits system, MISTICS, lacked the programming necessary to comply with the requirements of the PUA program, resulting in the department contracting with a 3rd party vendor to utilize their software to administer the PUA program. This relationship is discussed in more detail in Recommendation #2 beginning on page 11 of the report.

Federal guidelines over the administration of this program changed frequently during the program period. However, one of the main purposes of the programs was to get money to claimants affected by the pandemic as soon as possible. As such, the initial guidance provided by the federal government for the PUA program was to accept self-attested information from claimants in determining benefit

amounts. Several months into the program, the federal government issued stricter guidelines, but not before millions of dollars were provided to claimants based on minimal information. As a result, at fiscal year-end 2021, the department estimated it had issued over \$80 million in overpayments. The department is actively working these claims, but federal guidelines allow the department to waive overpayments for various reasons, which could result in much of the overpayment amount not being recovered. However, federal guidelines prohibit the department from waiving overpayments due to fraud.

Implementing the new UI programs, including learning and operating a new benefit information system, combined with frequently changing federal guidelines and an unprecedented influx of claims, contributed directly to the various findings discussed in this audit report.

Chapter II – Findings and Recommendations

Financial Misstatements

In fiscal year 2021, the department's controls did not prevent, or detect and correct in a timely manner, several multimillion-dollar misstatements in its accounting records related to the Unemployment Insurance (UI) program.

State accounting policy assigns department management the responsibility of establishing and maintaining internal controls. A control structure is a process designed to provide management with reasonable assurance it will achieve its objectives related to financial accountability and compliance with laws and regulations. In addition, state law requires all transactions necessary to comply with generally accepted accounting principles, or GAAP, to be input into the state's accounting system before accounts are closed at fiscal year-end. However, after fiscal year-end 2021, the department identified and brought to our attention ten misstatements discovered in the UI program accounting records. The misstatements were substantial, resulting in a qualified opinion on the 2021 financial schedules and required correction in the state's 2021 Annual Comprehensive Financial Report. Additionally, because not all transactions were entered before fiscal year-end, the department did not comply with state law.

We reviewed the identified misstatements to evaluate the accuracy of the department's calculation of the errors and to determine the effect on the fiscal year 2021 financial schedules. Table 6 (see page 10) summarizes the total line-item effect of the misstatements on each of the fiscal year 2021 financial schedules. The misstatements also impacted the related totals on the specified financial schedules.

Table 6
Effects of Fiscal Year 2021 Misstatements on Financial Schedules

Schedule of Changes in Fund Equity		
Fund/Program	Line Item	Over/(Under)stated
Federal Special Revenue Fund	Budgeted Revenues & Transfers-In	(\$2,878,831)
	Fund Equity June 30	(\$2,878,831)
Enterprise Fund	Budgeted Revenues & Transfers-In	(\$29,457,759)
	Prior Year Revenues & Transfers-In Adjustments	\$4,298,161
	Budgeted Expenditures & Transfers-Out	(\$830,254)
	Nonbudgeted Expenditures & Transfers-Out	\$10,630,860
	Fund Equity June 30	(\$34,960,204)
Schedule of Total Revenues & Transfers-In		
Federal Special Revenue Fund	Fines and Forfeits	(\$2,878,831)
	Actual Budgeted Revenues & Transfers-In	(\$2,878,831)
Enterprise Fund	Federal	(\$25,159,598)
	Prior Year Revenues & Transfers-In	\$4,298,161
	Actual Budgeted Revenues & Transfers-In	(\$29,457,759)
Schedule of Total Expenditures & Transfers-Out		
Unemployment Insurance Division	Other Expenses	\$10,630,860
	Benefits and Claims: To Individuals	(\$830,254)
	Total Expenditures & Transfers-Out	\$9,800,606
	Nonbudgeted Expenditures	\$10,630,860
	Actual Budgeted Expenditures & Transfers-Out	(\$830,254)
	Unspent Budget Authority by Fund: Enterprise Fund	\$830,254

Source: Compiled by the Legislative Audit Division from department records.

The misstatements outlined above resulted from transactions not being recorded on the accounting records, transactions entered incorrectly, and inaccurate accounting estimates. Several asset and liability accounts were also affected by the errors. Department personnel stated the errors were not detected and corrected before fiscal year-end for several reasons including: the increased workload due to the COVID-19 public health emergency, the department's aging unemployment insurance benefits system, and the utilization of a separate system for the PUA program. In addition, the large volume of pandemic-related activity made it difficult to run a journal line detail for all claims payments; instead, each day was run separately and compiled in manual spreadsheets which increased the chance of error. These challenges, combined with a shorter fiscal year-end period, resulted in less time to properly review complex entries.

While we recognize the challenges the department faced during the audit period, the prior audit also reported an internal control deficiency over financial reporting in the UI fund due to errors not being

identified until after the accounts closed at fiscal year-end. As such, prior audit Recommendation #1 has not been implemented and we determined a material weakness exists in the department's internal controls related to financial reporting in the UI fund, as reflected in our Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Schedules Performed in Accordance with *Government Auditing Standards* on page B-1.

RECOMMENDATION #1

We recommend the Department of Labor and Industry enhance its internal controls over the recording of financial transactions related to its Unemployment Insurance Program to ensure all necessary transactions are recorded on the state's accounting system before fiscal year-end as required by state law.

Unemployment Insurance Program Federal Compliance

The structure of the UI program is a federal-state partnership based on federal statute but implemented through state laws. During the audit period, as a result of the COVID-19 public health emergency, several new subprograms existed under the UI program umbrella, such as the Federal Pandemic Unemployment Compensation (FPUC) program and the PUA program. These programs are accounted for under the federal UI program, even if the funding sources differ. Federal regulations require entities receiving federal awards to establish and maintain effective internal control over those awards to provide reasonable assurance they are administered in accordance with the applicable requirements. Even though the FPUC and PUA programs ended, we are required to test the department's compliance with applicable requirements as part of our federal Single Audit. The following five recommendations discuss areas where the department should improve its internal control over the UI program to ensure compliance with federal regulations.

Pandemic Unemployment Assistance Information System

The department did not have assurance the PUA information system operated as intended during the audit period.

Information systems play a key role in the administration of the various UI programs. The department utilizes one system to collect employer contributions and another to process claims and provide benefits to eligible claimants. However, the department's regular unemployment benefit system, MISTICS, was not equipped to process new requirements, such as acceptance of self-employment information, imposed by the PUA benefit program. As a result, the department contracted with a vendor to utilize software explicitly designed to administer the PUA program. This third-party PUA information system (PUA system) was licensed to the department in a Software as a Service (SaaS) arrangement, a subscription-based model allowing the department to use the software without the ownership responsibilities of programming and maintenance of the software and its servers.

During the audit period, the department relied on the PUA system to determine PUA claimant eligibility and to calculate benefit payments. However, we determined the department relied on the PUA system without having adequate controls in place to do so. This resulted in a significant deficiency in internal controls and noncompliance with state policies.

The State Information Technology Services Division (SITSD) issues guidance for agencies, including baseline security controls for all agency managed information systems. Although the software vendor carries more of the responsibilities for security controls in a SaaS arrangement, the department must still ensure state-owned information present in the software remains secure and that the software operates in the manner purported by the vendor. One common way of achieving this goal is for the department to obtain a Service Organization Controls (SOC) report from the vendor. A SOC report is produced by an independent auditor and provides assurance the vendor has effective controls in place over the security and privacy of a specific service or software. When the department does not obtain a SOC report, it should clearly identify and document in its required system security plan (SSP) which controls each party is responsible for and verify the vendor has implemented the controls under its responsibility.

The department did not obtain a SOC report specifically for the PUA system and while the department does have a SSP for the PUA system, it does not document all the information required by state policy. The vendor did provide the department with a SOC report, but it was for a different service offered by the vendor and provided no assurance over the PUA system. However, department management at the time considered the SOC report adequate even though it did not address the core responsibilities of the department or the vendor related to the PUA system.

In addition to not having sufficient documentation of security controls in general, we also identified two important system controls not adequately addressed by the department: user access and change management controls. State policy requires user access controls to be in place over access to information systems utilized by state agencies. The process for requesting, terminating, and reviewing user access to the system should be clearly documented. However, while the department does have procedures for requesting and terminating access for department employees, those procedures are not officially documented. The department also does not perform any periodic reviews of current user access and does not manage the access of employees outside of the department.

The second system control not addressed by the department pertains to change management. State policy requires changes made to the application go through a formal change management system. Although the department could not make changes to the application, they were responsible for knowing what changes the vendor made and why. Even though the department held weekly meetings with the vendor to discuss software changes and had access to an environment to test new features before implementation, the department still relied on the vendor to provide a complete log of changes made. Without testing the system, the department had no assurance that changes were made as described or that other, unexpected changes were not made.

The department put great effort into making the PUA program operational in a very short time frame with many competing priorities of high importance. The department's focus on operational success resulted in some general system controls being overlooked or not officially documented. However, these internal control issues have a cumulative effect on software processing integrity, and we were unable

to determine if all eligibility and benefit determinations were complete, valid, accurate, timely, and authorized.

Because we had no assurance over the system's ability to correctly determine claimant eligibility and the resulting benefit amounts, we completed a significant amount of additional testing over PUA claims, focusing on the recalculation of claimant benefits. While we did not identify any system-related errors, risk of unidentified system issues still exists. The department should take measures to mitigate the risk and comply with state policies and federal regulations.

RECOMMENDATION #2

We recommend the Department of Labor and Industry enhance internal controls by obtaining an application-level Service Organization Controls (SOC) report, or implement and formally document baseline security controls for all new Unemployment Insurance program-related information technology systems, as required by state policy and federal regulations.

Pandemic Unemployment Assistance Benefit Errors

The department's controls did not detect and correct errors in benefit amounts for unemployment insurance claimants receiving pandemic unemployment assistance.

The COVID-19 public health emergency resulted in unemployed individuals who did not qualify for regular UI benefits, prompting the creation of the PUA program. Those qualified for the PUA program included claimants who were self-employed, gig workers, and those who did not have enough wages to qualify for regular UI. Federal regulations required the department to calculate PUA benefits for claimants similarly to benefits for regular UI. Benefits are calculated using claimant earnings during a one-year base period. The claimant is entitled to the greater of 1% of the year's earnings or 1.9% of the highest two quarters of earnings, subject to a minimum and maximum benefit amount.

Since the PUA program was designed for claimants who are ineligible for regular UI, the department could not always rely on existing wage information to calculate the benefit amount. The department had to review employer-reported wages, tax documents, profit and loss statements, or bank statements to calculate the base period wages for the benefits calculation. While the calculation of employee wages is usually straightforward and attributable to a specific quarter, the calculation of self-employment income was considered net of expenses and could not be attributed to a specific quarter. This added complexity to PUA benefit calculations not present in regular UI.

In a statistical sample of 60 PUA claims, we found four claimants who received incorrect benefit amounts due to department staff entering incorrect base period wages as described below:

- ♦ For one claimant, department staff entered the claimant's yearly wages divided equally between all four quarters instead of recording the wages that were actually earned each quarter. This resulted in the claimant receiving \$1,088 less than entitled.

- ♦ For one claimant, the department again entered the claimant's yearly wages divided equally between all four quarters, instead of recording the wages actually earned each quarter. While we determined the underpayment could be as much as \$3,042, when we brought this error to the department's attention, it was determined further investigation was necessary due to potential fraud.
- ♦ One claimant had two Schedule Cs filed with their taxes, one showing a profit and one showing a loss. To determine the claimant's base period wages, the department should have netted the two schedules together. However, the department only entered the information reflecting the profit resulting in an overpayment of \$448.
- ♦ For one claimant, the department accepted a 1099-MISC tax form as proof of income. However, 1099-MISC tax forms report gross income, but regulations require net income to be used in benefit calculations. This resulted in an overpayment of \$3,618.

Department management agreed these were department-caused errors and resolved each of the discrepancies when we brought them to their attention. Claimants entitled to additional benefits have been paid what they were owed, and the department waived the overpayments of the claimants, as allowed by federal regulations, who received more than they were entitled to. However, the results of our testing indicate these were not isolated instances and we expect similar errors exist for other claimants we did not review. As a result, we consider the department-caused overpayments of \$4,066 to be questioned costs and we project more than \$25,000 in questioned costs exist in the population.

While the PUA program ended, the department has the opportunity to use the experience and knowledge gained during the COVID-19 public health emergency to review controls related to continuing UI programs in order to identify potential weaknesses and enhance controls as necessary.

RECOMMENDATION #3

We recommend the Department of Labor and Industry:

- A. *Enhance internal controls to ensure wage information is correctly used to calculate unemployment insurance benefits, and*
- B. *Calculate Unemployment Insurance benefits correctly in accordance with federal regulations.*

Overpayment Recovery

The department did not implement adequate controls to ensure compliance with federal regulations and state laws governing pandemic-related unemployment insurance overpayment recovery.

Benefit overpayments occur when a UI claimant receives more benefits than entitled and are a normal and expected part of the UI program, including the PUA program. Reasons for overpayments can vary but during the audit period were mainly the result of:

- ♦ Claimants providing incorrect information during the application process resulting in claimants being initially placed into the wrong UI program,
- ♦ Federal guidelines limiting the department's ability to verify PUA claimant information for portions of the period, and
- ♦ Errors in the information entered by department staff during benefit determinations.

Per federal regulations, one method the department must utilize to recover UI overpayments is through an offset of future UI benefit payments. We completed a sample of 60 department-identified overpayments and found ten claimants who continued to receive benefits after their overpayment was established. For six claimants, the department took measures to recover the assessed overpayment by reducing the benefit amount the claimants were still receiving. However, the department did not offset the continuing benefits for four claimants to reduce their established overpayment, resulting in noncompliance with federal regulations.

Based on our review, the four claimants without benefit offsets had been placed in the wrong UI program at the beginning of their claims which resulted in the overpayments, as described below.

- ♦ Three claimants were incorrectly established in the PUA program when they were eligible for regular UI. When the department discovered this, they created an overpayment in the PUA program for the PUA benefits received to date and established the claims in the regular UI program. The claimants then received a payment for the amount they would have received under the regular UI program had they been established correctly, in addition to the amounts already received in the PUA program, essentially doubling the claimants' benefits. The PUA overpayments were not paid back by the claimants using the regular UI benefits received after the overpayments were established and they were not offset against the regular UI benefits the claimants continued to receive.
- ♦ One claimant was incorrectly established in the regular UI program when the claimant qualified for the PUA program. An overpayment was established in the regular UI program and a claim established in the PUA program. The claimant received a PUA program payment for the time they were on regular UI and should have been on PUA, resulting in excess benefits being paid. In this instance, the claimant did repay a significant portion of the regular UI overpayment though not through a departmental offset.

Department personnel stated because the department was utilizing two different benefit systems, one for regular UI and one for PUA, it was not possible to offset some PUA claims. Programming did occur in the fall of 2020 to allow the offset of an overpayment if a claimant went from the PUA program to the regular UI program. However, overpayment offsets were not always established by the department.

In addition to the federal overpayment recovery requirement, if any overpayments occur due to fraud committed by the claimant, state law requires the department assess a 50% penalty, which includes a 15% penalty required by federal regulations. In our review, we discovered the department did not assess the required penalty on PUA overpayments related to fraud due to the limitations of the PUA system.

Department personnel stated they were working with their PUA system vendor prior to the end of the PUA program to improve system capabilities to be able to identify, and assess penalties on, overpayments due to fraud. This was not accomplished prior to fiscal year-end 2021, resulting in the department's inability to assess the required penalties for fraud-related PUA overpayments during

the audit period. However, the department has represented the needed enhancements to the system have been made subsequent to the audit period and the department is diligently reviewing claims for fraudulent activity and will be assessing the required penalties.

RECOMMENDATION #4

We recommend the Department of Labor and Industry:

- A. *Develop and implement internal controls to ensure necessary information system modifications are made to properly administer new federal programs, and*
 - B. *Recover unemployment benefit overpayments, including any associated penalties, as required by federal and state law.*
-

Benefits Accuracy Measurement (BAM)

The department did not follow its documented internal control regarding BAM audits resulting in noncompliance with federal regulations.

The department is required to operate a quality control program for unemployment insurance claims following instructions issued by the US Department of Labor. The department established the Benefits Accuracy Measurement (BAM) unit as a result. Following the department's policy and procedures manual, BAM staff complete reviews over samples of paid and denied claims to ensure the department's initial determinations were accurate.

We tested a sample of 41 BAM reviews out of the approximately 1,400 completed by the department's BAM unit in fiscal years 2020 and 2021. The sample included both paid and denied claims. Per the department's BAM policies, the BAM supervisor must review all cases where improper payments to claimants are identified by BAM staff. In our review, we found BAM staff determined improper payments were made to claimants for seven of the 19 paid claims in our sample. However, six of the seven improper payments were not reviewed by the BAM supervisor as required by policy, resulting in noncompliance with federal regulations.

Department staff stated the required reviews did not occur due to significant staff turnover and restructuring within the BAM unit in addition to the significant demands placed on the department resulting from the COVID-19 public health emergency, as discussed on page 6. While we understand the department's focus during the audit period, the BAM audits are an important tool for the department to help ensure the UI program's integrity. If policies and procedures over this process are not followed, the department is at increased risk of additional errors occurring within the UI program.

RECOMMENDATION #5

We recommend the Department of Labor and Industry:

- A. *Follow its documented internal control policies and procedures governing benefit accuracy measurement reviews completed by the department, and*
- B. *Complete the required supervisory reviews of benefit accuracy measurement audits that identify improperly paid unemployment insurance benefits, as required by federal regulations.*

Lost Wages Assistance Program Reporting

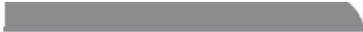
The department did not ensure information reported to the federal government was complete and accurate in relation to its Lost Wages Assistance grant.

To help provide additional unemployment benefits during the COVID-19 public health emergency, the department applied for, and received, a federal Other Needs Assistance – Supplemental Payments for Lost Wages (Lost Wages Assistance) grant award. In addition to a UI claimant’s calculated benefit, this grant provided eligible claimants an extra \$400 per week and was in effect for six weeks as shown in Table 5 on page 7 of the report.

During the grant award period, the department was required to submit quarterly financial reports and weekly programmatic reports to the federal government. To ensure the accuracy of the quarterly financial reports, the information was reviewed by a person other than the preparer of the report before the report’s submission. However, in our review, two of the four financial reports submitted to the federal government for this grant did not have evidence of a review being completed prior to submission. Department personnel stated all quarterly financial reports were reviewed and approved, but verbal approval was instead given for the two we identified as not having documented evidence of a review.


In addition, while obtaining an understanding of the department’s procedures for completing the weekly programmatic reports, we were unable to identify a departmental control over the accuracy of the information submitted to the federal government. When we inquired specifically about the department’s control over this process, department personnel stated the risk of error was deemed low for these reports as they did not require complex calculations or a compilation of data from multiple sources. As a result, the department did not have someone review the reported information prior to submitting it to the federal government.

While we did not identify errors in the information reported to the federal government, without documentation, or implementation, of internal controls, the department is at increased risk of reporting incorrect information to the federal government and is not in compliance with federal regulations.



RECOMMENDATION #6

We recommend the Department of Labor and Industry develop, implement, and document internal controls over reporting requirements for new federal funding sources to ensure compliance with federal regulations.



Disclosure Issue

Unemployment Insurance Fraud

The COVID-19 public health emergency significantly impacted the Unemployment Insurance (UI) programs on a national level. The federal government responded by flooding states with emergency funding and programmatic expectations most states were not equipped to handle. As a result, states struggled to implement new programs with new requirements and to put necessary controls in place to uphold the integrity of the UI programs and minimize fraud.

Prior to the beginning of our audit, the federal government reviewed Montana's management of the new UI programs related to the COVID-19 public health emergency. The federal review identified the department was not allowing benefits to be provided to claimants based solely on self-attestation and instructed the department to accept the self-attestation of claimants to determine benefit amounts. As this noncompliance was already identified by the federal government, and resolved by the department, we did not include a recommendation in the current audit report.

When we began our audit, we were aware of reports coming out of other states regarding fraud in the new UI programs. As part of completing an audit over a major federal program such as the UI program, we are responsible for considering the risk of fraud that may result in material noncompliance with program requirements or the misappropriation of federal funds. However, the department is charged with the responsibility of upholding the integrity of the UI program. As such, our audit focused on ensuring the department had appropriate mechanisms in place to prevent or detect fraud in its UI program, and if not, helped identify where control weaknesses existed. Recommendations 1 through 6 in the audit report resulted from these considerations. However, during the audit, we did complete several analyses in addition to our required testing of the UI programs. These analyses provided some insight into fraudulent activity related to the UI program, as discussed below.

One assessment we completed was a comparison of claimants who received regular UI payments to those who received PUA payments. Our results identified 753 individuals as having potentially received duplicate payments for a total of \$9,020,521 in benefits. We reviewed several of the cases and determined many of the claimants were likely put into the wrong UI program initially, consistent with evidence we had already observed as part of our audit work. As discussed in Recommendation #4 in the audit report, due to the limitations of the PUA system, when the department moved claimants initially placed in the wrong program to the correct program, an overpayment was created in the first program and a benefit paid from the correct program, essentially creating a duplicate payment. The department has already identified these types of overpayments and are actively working on recovering funds as allowed by the federal government.

Another analysis we completed was a comparison of UI claimants who received benefits during the audit period to a list of people incarcerated with the Department of Corrections during the same period. We identified 20 individuals as being incarcerated at the time of the benefit payment for a total of \$92,912 in benefits. Our review of several of these claims showed the department had already identified and classified many of them as overpayments, but others appeared undetected by the department and could potentially be fraudulent claims.

In addition to the above analyses, we became aware of a resource available to help identify potential fraudulent payments to claimants. The United States Department of Treasury operates a service called Do Not Pay (DNP). The DNP service operates through a secure online interface that allows agencies to check various data sources to verify a person's eligibility to be paid with federal funds. After obtaining access to the service, we submitted a list of claimants who received UI payments, both regular UI and PUA, in fiscal years 2020 and 2021 to DNP to obtain a crossmatch of the data. The results identified 73 individuals as potentially being deceased at the time of payment for a total of \$337,244 in benefits.

Our review of several of these deceased individuals did show evidence of potential identity theft, but also identified other potential scenarios such as a claimant dying the day after submitting their weekly application, a claimant passing while benefits were still being adjudicated, or a claimant simply mistyping their social security number.

Based on the results of our analyses discussed above, instances of potential fraud appear evident. However, the results of our analyses could also be indicative that the proactive measures the department adopted in the beginning of the pandemic, contrary to federal regulations, may have limited the pervasiveness of fraud in Montana. Because we do not have the means to definitively determine the extent of fraud in the UI programs, we provided the department with the results of our analyses and crossmatch to the DNP to assist their continuing efforts of identifying fraudulent claims and recovering overpayments. We make no recommendations related to fraud identification but will review the department's efforts as part of our follow-up work related to the audit recommendations in the next audit.

Independent Auditor's Report and Department Financial Schedules

Angus Maciver, Legislative Auditor
Deborah F. Butler, Legal Counsel



Deputy Legislative Auditors:
Cindy Jorgenson
William Soller

INDEPENDENT AUDITOR'S REPORT

The Legislative Audit Committee
of the Montana State Legislature:

Introduction

We have audited the accompanying Schedules of Changes in Fund Equity, Schedules of Total Revenues & Transfers-In, and Schedules of Total Expenditures & Transfers-Out of the Department of Labor and Industry for each of the fiscal years ended June 30, 2021, and 2020, and the related notes to the financial schedules.

Management's Responsibility for the Financial Schedules

Management is responsible for the preparation and fair presentation of these financial schedules in accordance with the regulatory format prescribed by the Legislative Audit Committee, based on the transactions posted to the state's accounting system without adjustment; this responsibility includes recording transactions in accordance with state accounting policy; and designing, implementing, and maintaining internal controls relevant to the preparation and fair presentation of the financial schedules that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial schedules based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial schedules are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial schedules. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial schedules, whether due to fraud or error. In making those risk assessments, the auditor considers internal controls relevant to the department's preparation and fair presentation of the financial schedules in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the department's internal control, and accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as the overall presentation of the financial schedules.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Basis for Adverse Opinions on U.S. Generally Accepted Accounting Principles

As described in Note 1, the financial schedules are prepared from the transactions posted to the state's primary accounting system without adjustment, in the regulatory format prescribed by the Legislative Audit Committee. This is a basis of accounting other than accounting principles generally accepted in the United States of America. The financial schedules are not intended to, and do not, report assets, deferred outflows of resources, liabilities, deferred inflows of resources, and cash flows.

The effects on the financial schedules of the variances between the regulatory basis of accounting described in Note 1 and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

Adverse Opinions on U.S. Generally Accepted Accounting Principles

In our opinion, because of the significance of the matter discussed in the "Basis for Adverse Opinions on U.S. Generally Accepted Accounting Principles" paragraph, the financial schedules referred to above do not present fairly, in accordance with accounting principles generally accepted in the United States of America, the financial position of the department as of June 30, 2021, and June 30, 2020, or changes in financial position or cash flows for the years then ended.

Basis for Qualified Opinion on Regulatory Basis of Accounting

Several multimillion-dollar errors in the department's unemployment insurance fund were not corrected prior to fiscal year-end 2021. The misstatements were the result of transactions not being recorded on the accounting records and transactions entered incorrectly. Due to these errors, the ending fund equity balance in the department's enterprise fund was understated by \$34.9 million. The effects of the misstatements are outlined in the table below.

Effects of Fiscal Year 2021 Misstatements on Financial Schedules

Schedule of Changes in Fund Equity		
Fund/Program	Line Item	Over/(Under)stated
Federal Special Revenue Fund	Budgeted Revenues & Transfers-In	(\$2,878,831)
	Fund Equity June 30	(\$2,878,831)
Enterprise Fund	Budgeted Revenues & Transfers-In	(\$29,457,759)
	Prior Year Revenues & Transfers-In Adjustments	\$4,298,161
	Budgeted Expenditures & Transfers-Out	(\$830,254)
	Nonbudgeted Expenditures & Transfers-Out	\$10,630,860
	Fund Equity June 30	(\$34,960,204)
Schedule of Total Revenues & Transfers-In		
Federal Special Revenue Fund	Fines and Forfeits	(\$2,878,831)
	Actual Budgeted Revenues & Transfers-In	(\$2,878,831)
Enterprise Fund	Federal	(\$25,159,598)
	Prior Year Revenues & Transfers-In	\$4,298,161
	Actual Budgeted Revenues & Transfers-In	(\$29,457,759)
Schedule of Total Expenditures & Transfers-Out		
Unemployment Insurance Division	Other Expenses	\$10,630,860
	Benefits and Claims: To Individuals	(\$830,254)
	Total Expenditures & Transfers-Out	\$9,800,606
	Nonbudgeted Expenditures	\$10,630,860
	Actual Budgeted Expenditures & Transfers-Out	(\$830,254)
	Unspent Budget Authority by Fund: Enterprise Fund	\$830,254

Qualified Opinion on Regulatory Basis of Accounting

In our opinion, except for the effects of the matters described in the “Basis for Qualified Opinion” paragraph, the financial schedules referred to above present fairly, in all material respects, the results of operations and changes in fund equity of the Department of Labor and Industry for the fiscal year ended June 30, 2021, in conformity with the basis of accounting described in Note 1.

Unmodified Opinion on Regulatory Basis of Accounting

In our opinion, the financial schedules referred to above present fairly, in all material respects, the results of operations and changes in fund equity of the Department of Labor and Industry for the fiscal year ended June 30, 2020, in conformity with the basis of accounting described in Note 1.

Emphasis of Matters

As discussed in Note 1 – Basis of Presentation, the financial schedule format was adopted by the Legislative Audit Committee. On June 16, 2020, the Committee approved a change in format to remove the presentation of revenue estimates from the Schedule of Total Revenues & Transfers-In. Our opinion is not modified with respect to this matter.

As discussed in Note 6 to the financial schedules, as a result of the COVID-19 public health emergency, the Unemployment Insurance Fund saw a substantial increase in revenues and expenses for fiscal years 2020 and 2021. The reported revenues for fiscal years 2020 and 2021 for this fund include federal contributions, which are reported as federal revenues and transfers-in. The increased activity in the Unemployment Insurance Fund also resulted in a substantial increase in estimated benefit overpayments. Our opinion is not modified with respect to this matter.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated February 17, 2022, on our consideration of the Department of Labor and Industry’s internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, grant agreements, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the department’s internal control over financial reporting and compliance.

Respectfully submitted,

/s/ Cindy Jorgenson

Cindy Jorgenson, CPA
Deputy Legislative Auditor
Helena, MT

February 17, 2022

DEPARTMENT OF LABOR & INDUSTRY
SCHEDULE OF CHANGES IN FUND EQUITY
FOR THE FISCAL YEAR ENDED JUNE 30, 2021

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Enterprise Fund	Internal Service Fund	Custodial Fund	Private Purpose Trust Fund
FUND EQUITY: July 1, 2020	\$ (17,619)	\$ 53,383,005	\$ 859,834	\$ 237,676,646	\$ (7,154,844)	\$ 64,635	\$ 34,161,500
ADDITIONS							
Budgeted Revenues & Transfers-In	33,720	58,111,117	318,639,406	861,659,174	18,070,573		
Nonbudgeted Revenues & Transfers-In		636,876	382	105		552,142	
Prior Year Revenues & Transfers-In Adjustments		(372,843)	264,670	4,607,307	258,853		
Direct Entries to Fund Equity	1,926,839	(97,958)	10,304	(237,123)	248,900		
Total Additions	1,960,559	58,277,192	318,914,762	866,029,463	18,578,326	552,142	0
REDUCTIONS							
Budgeted Expenditures & Transfers-Out	2,010,279	53,399,155	320,693,352	695,685,806	19,551,624		
Nonbudgeted Expenditures & Transfers-Out		1,168,429		24,040,058	123,234	570,136	4,855,500
Prior Year Expenditures & Transfers-Out Adjustments	445	(151,242)	252,918	19,491,177	48,588		
Total Reductions	2,010,724	54,416,342	320,946,270	739,217,041	19,723,446	570,136	4,855,500
FUND EQUITY: June 30, 2021	\$ (67,784)	\$ 57,243,855	\$ (1,171,674)	\$ 364,489,068	\$ (8,299,964)	\$ 46,641	\$ 29,306,000

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-11.

DEPARTMENT OF LABOR & INDUSTRY
SCHEDULE OF CHANGES IN FUND EQUITY
FOR THE FISCAL YEAR ENDED JUNE 30, 2020

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Enterprise Fund	Internal Service Fund	Custodial Fund	Private Purpose Trust Fund
FUND EQUITY: July 1, 2019	\$ (73,014)	\$ 47,019,552	\$ 404,925	\$ 349,124,325	\$ (7,054,155)	\$ 0	\$ 30,745,500
ADDITIONS							
Budgeted Revenues & Transfers-In	30,322	56,805,014	33,308,332	633,609,432	18,918,489	336,740	
Nonbudgeted Revenues & Transfers-In		670,817	8,822	630			
Prior Year Revenues & Transfers-In Adjustments		91,998	67,415	2,145,199	21,300		
Direct Entries to Fund Equity	2,009,198	705,452		1,009,789	551,044	90,227	
Total Additions	2,039,520	58,273,281	33,384,569	636,765,050	19,490,833	426,967	0
REDUCTIONS							
Budgeted Expenditures & Transfers-Out	1,984,125	50,921,161	32,860,052	746,081,828	19,134,909		
Nonbudgeted Expenditures & Transfers-Out		1,084,386		372,934	438,988	362,332	584,000
Prior Year Expenditures & Transfers-Out Adjustments		(95,719)	69,608	1,757,967	17,625		(4,000,000)
Total Reductions	1,984,125	51,909,828	32,929,660	748,212,729	19,591,522	362,332	(3,416,000)
FUND EQUITY: June 30, 2020	\$ (17,619)	\$ 53,383,005	\$ 859,834	\$ 237,676,646	\$ (7,154,844)	\$ 64,635	\$ 34,161,500

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-11.

DEPARTMENT OF LABOR & INDUSTRY
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 2021

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Enterprise Fund	Internal Service Fund	Custodial Fund	Total
TOTAL REVENUES & TRANSFERS-IN BY CLASS							
Licenses and Permits	\$	20,411,560	\$	145,813		\$	20,557,373
Taxes			382				382
Charges for Services		2,793,953	19,019	37,100	16,535,944		19,386,016
Investment Earnings		24,297		7,550,825			7,575,122
Fines and Forfeits	\$	1,793,168	(2,058,440)	158,773			(72,779)
Sale of Documents, Merchandise and Property		35,221		1,200			36,421
Rentals, Leases and Royalties		63,656					63,656
Contributions and Premiums		29,598,102		123,559,740			153,157,842
Grants, Contracts, and Donations		487,864					487,864
Transfers-in		2,652,309	234,592,444	203,571,363			440,816,116
Capital Asset Sale Proceeds		57,800					57,800
Inception of Lease/Installment Contract		457,220			1,793,482		457,220
Federal Indirect Cost Recoveries						552,142	552,142
Miscellaneous					\$		
Federal			86,351,053	531,241,772			617,592,825
Total Revenues & Transfers-In	33,720	58,375,149	318,904,458	866,266,584	18,329,426	552,142	1,262,461,482
Less: Nonbudgeted Revenues & Transfers-In		636,876	382	105		552,142	1,189,505
Prior Year Revenues & Transfers-In Adjustments		(372,843)	264,670	4,607,307	258,853		4,757,987
Actual Budgeted Revenues & Transfers-In	33,720	58,111,116	318,639,407	861,659,173	18,070,574	0	1,256,513,990

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DEPARTMENT OF LABOR & INDUSTRY
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 2020

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Enterprise Fund	Internal Service Fund	Custodial Fund	Total
TOTAL REVENUES & TRANSFERS-IN BY CLASS							
Licenses and Permits		\$		\$		\$	20,630,730
Taxes		20,298,567	3,210	332,163			3,210
Charges for Services		2,441,876	33,439	22,690	\$ 13,287,491		15,785,496
Investment Earnings		216,614		10,644,678			10,861,292
Fines and Forfeits	\$	1,286,666	774,017	134,190			2,225,195
Monetary Settlements		850,000					850,000
Sale of Documents, Merchandise and Property		266,002		1,010			267,012
Rentals, Leases and Royalties		64,006					64,006
Contributions and Premiums		28,289,843		120,282,766			148,572,609
Grants, Contracts, and Donations		558,733	159,187		2,650		561,383
Transfers-in		2,839,398					2,998,585
Capital Asset Sale Proceeds		11,950					11,950
Inception of Lease/Installment Contract		415,465					415,465
Federal Indirect Cost Recoveries					5,649,648		5,649,648
Miscellaneous		28,709			\$	336,740	365,449
Federal			32,414,716	504,337,764			536,752,480
Total Revenues & Transfers-In	30,322	57,567,829	33,384,569	635,755,261	18,939,789	336,740	746,014,510
Less: Nonbudgeted Revenues & Transfers-In		670,817	8,822	630		336,740	1,017,009
Prior Year Revenues & Transfers-In Adjustments		91,998	67,415	2,145,199	21,300		2,325,912
Actual Budgeted Revenues & Transfers-In	30,322	56,805,014	33,308,332	633,609,432	18,918,489	0	742,671,589

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DEPARTMENT OF LABOR & INDUSTRY
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 2021

	Business Standards Division	Commissioner's Office & CSD	Employment Relations Division	Office of Community Services	Technology Services Division	Unemployment Insurance Division	Workers Compensation Court	Workforce Services Division	Total
PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT									
Personal Services									
Salaries	\$ 7,113,001	\$ 4,677,343	\$ 6,964,320	\$ 270,018	\$ 3,233,762	\$ 10,024,564	\$ 384,135	\$ 12,824,515	\$ 45,491,658
Hourly Wages	2								2
Other Compensation	60,150		5,361			6,378		200	72,089
Employee Benefits	2,824,212	1,248,445	2,602,986	107,765	907,116	4,137,025	138,321	5,428,463	17,394,333
Personal Services-Other	(11,259)	82,347			66,547				137,635
Total	9,986,106	6,008,135	9,572,667	377,783	4,207,425	14,167,967	522,456	18,253,178	63,095,717
Operating Expenses									
Other Services	801,584	580,887	279,409	24,994	5,544,083	6,233,914	7,800	454,000	13,926,671
Supplies & Materials	669,255	95,549	69,307	23,178	946,150	248,759	8,256	118,896	2,179,350
Communications	123,262	68,405	162,477	22,060	937,182	1,098,200	4,338	223,682	2,639,606
Travel	136,638	7,668	51,800	724	5,750	1,958	4,260	7,390	216,188
Rent	419,087	328,868	362,347	24,286	173,097	513,612	39,100	695,501	2,555,898
Utilities	3,467		3,833			23,225	3,105	91,929	125,559
Repair & Maintenance	114,005	24,731	17,820	375	5,508	62,404	3,946	347,075	575,864
Other Expenses	5,295,134	1,690,716	2,729,515	116,812	306,059	30,590,012	72,298	4,184,046	44,984,592
Goods Purchased For Resale								(49)	(49)
Total	7,562,432	2,796,824	3,676,508	212,429	7,917,829	38,772,084	143,103	6,122,470	67,203,679
Equipment & Intangible Assets									
Equipment	334,977								334,977
Intangible Assets			341,140					455,541	796,681
Total	334,977		341,140					455,541	1,131,658
Capital Outlay									
Buildings								(88,993)	(88,993)
Total								(88,993)	(88,993)
Grants									
From State Sources								392,787	392,787
From Federal Sources				3,311,791				4,940,908	8,252,699
Total				3,311,791				5,333,695	8,645,486
Benefits & Claims									
To Individuals			2,185,731			789,866,698			792,052,429
From State Sources			26,950						26,950
From Federal Sources							7,200		7,200
From Other Sources			4,855,500						4,855,500
Insurance Payments			(665,790)						(665,790)
Total			6,402,391			789,866,698	7,200		796,276,289
Transfers-out									
Fund transfers	530,140	45,000	28,472	255,092		203,571,363		148,075	204,578,142
Total	530,140	45,000	28,472	255,092		203,571,363		148,075	204,578,142
Debt Service									
Loans								35,525	35,525
Capital Leases	68,902	5,628	50,109	1,494	2,668	39,084	2,838	217,086	387,809
Total	68,902	5,628	50,109	1,494	2,668	39,084	2,838	252,611	423,334
Post Employment Benefits									
Other Post Employment Benefits	(24,089)	(169,095)			(249,905)				(443,089)
Employer Pension Expense	11,850	500,332			405,054				917,236
Total	(12,239)	331,237			155,149				474,147
Total Expenditures & Transfers-Out	\$ 18,470,318	\$ 9,186,824	\$ 200,712,857	\$ 4,158,589	\$ 12,283,071	\$ 1,046,417,196	\$ 668,397	\$ 30,483,777	\$ 1,141,739,459
EXPENDITURES & TRANSFERS-OUT BY FUND									
General Fund		\$ 272,498	\$ 1,586,393	\$ 151,833					\$ 2,010,724
State Special Revenue Fund	\$ 18,230,001	800,854	11,155,304	74,550		7,918,832	668,397	15,568,404	54,416,342
Federal Special Revenue Fund		673,097	1,203,406	3,932,206		300,224,688		14,912,873	320,946,270
Enterprise Fund	240,317		700,548			738,273,676		2,500	739,217,041
Internal Service Fund		7,440,375			\$ 12,283,071				19,723,446
Custodial Fund			570,136						570,136
Private Purpose Trust Fund			4,855,500						4,855,500
Total Expenditures & Transfers-Out	18,470,318	9,186,824	20,071,287	4,158,589	12,283,071	1,046,417,196	668,397	30,483,777	1,141,739,459
Less: Nonbudgeted Expenditures & Transfers-Out	927,582	132,843	4,797,886	49,435	(9,292)	24,736,601		122,303	30,757,358
Prior Year Expenditures & Transfers-Out Adjustments	48,173	28,287	21,176	19,271	22,160	19,501,705	(20)	1,133	19,641,885
Actual Budgeted Expenditures & Transfers-Out	17,494,563	9,025,694	15,252,225	4,089,883	12,270,203	1,002,178,890	668,417	30,360,341	1,091,340,216
Budget Authority	19,301,396	9,386,058	16,615,667	4,163,990	12,750,435	1,177,203,761	806,142	37,047,170	1,277,274,619
Unspent Budget Authority	\$ 1,806,833	\$ 360,364	\$ 1,363,442	\$ 74,107	\$ 480,232	\$ 175,024,871	\$ 137,725	\$ 6,686,829	\$ 185,934,403
UNSPENT BUDGET AUTHORITY BY FUND									
General Fund		\$ 46	\$ 5	\$ 1					\$ 52
State Special Revenue Fund	\$ 1,628,016	53,067	857,938			2,375,413	137,725	2,921,183	7,973,342
Federal Special Revenue Fund	20,409	45,725	340,207	74,106		17,513,447		3,759,985	21,753,879
Enterprise Fund	158,408		165,292			155,136,011		5,661	155,465,372
Internal Service Fund		261,526			\$ 480,232				741,758
Unspent Budget Authority	\$ 1,806,833	\$ 360,364	\$ 1,363,442	\$ 74,107	\$ 480,232	\$ 175,024,871	\$ 137,725	\$ 6,686,829	\$ 185,934,403

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DEPARTMENT OF LABOR & INDUSTRY
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 2020

PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT	Business Standards Division	Commissioner's Office & CSD	Employment Relations Division	Office of Community Services	Technology Services Division	Unemployment Insurance Division	Workers Compensation Court	Workforce Services Division	Total
Personal Services									
Salaries	\$ 6,672,547	\$ 4,347,430	\$ 6,559,611	\$ 284,921	\$ 3,207,512	\$ 7,409,816	\$ 395,555	\$ 12,353,960	\$ 41,231,352
Other Compensation	92,787		6,353			5,400		301	104,841
Employee Benefits	2,721,236	1,376,875	2,521,119	113,252	758,239	3,102,549	144,361	5,244,606	15,982,237
Personal Services-Other	(2,415)	57,287			110,250				165,122
Total	9,484,155	5,781,592	9,087,083	398,173	4,076,001	10,517,765	539,916	17,598,867	57,483,552
Operating Expenses									
Other Services	971,390	583,265	290,364	61,571	5,448,120	841,927	8,061	236,916	8,441,614
Supplies & Materials	648,222	147,071	221,740	57,536	941,288	212,393	4,438	202,199	2,434,887
Communications	152,505	50,924	167,307	33,783	802,237	751,399	5,089	162,312	2,125,556
Travel	310,872	39,565	201,163	64,086	30,620	29,751	5,267	238,741	920,065
Rent	414,370	323,587	564,143	27,522	166,683	323,833	39,356	717,965	2,577,459
Utilities	3,570		7,090			24,852	3,672	106,841	146,025
Repair & Maintenance	146,223	71,569	15,761	319	12,881	63,230	3,675	312,398	626,056
Other Expenses	5,206,234	1,740,551	2,790,304	124,833	384,382	6,526,259	95,808	3,893,163	20,761,534
Goods Purchased For Resale								49	49
Total	7,853,386	2,956,532	4,257,872	369,650	7,786,211	8,773,644	165,366	5,870,584	38,033,245
Equipment & Intangible Assets									
Equipment	434,293							1,608	435,901
Intangible Assets			457,668			778,329		192,488	1,428,485
Total	434,293		457,668			778,329		194,096	1,864,386
Capital Outlay									
Buildings								78,295	78,295
Total								78,295	78,295
Grants									
From State Sources								370,675	370,675
From Federal Sources				2,994,741				5,152,657	8,147,398
From Other Sources	121,184								121,184
Total	121,184			2,994,741				5,523,332	8,639,257
Benefits & Claims									
To Individuals			1,870,302			745,249,838			747,120,140
From State Sources			32,487						32,487
From Other Sources			(3,416,000)						(3,416,000)
Insurance Payments			114,033						114,033
Total			(1,399,178)			745,249,838			743,850,660
Transfers-out									
Fund transfers	119,666	20,000	42,507	214,092				235,480	631,745
Total	119,666	20,000	42,507	214,092				235,480	631,745
Debt Service									
Capital Leases	52,025	4,648	37,996	1,654	3,110	38,199	2,264	111,848	251,744
Total	52,025	4,648	37,996	1,654	3,110	38,199	2,264	111,848	251,744
Post Employment Benefits									
Other Post Employment Benefits	334	10,064			8,346				18,744
Employer Pension Expense	11,032	387,428			324,108				722,568
Total	11,366	397,492			332,454				741,312
Total Expenditures & Transfers-Out	\$ 18,076,075	\$ 9,160,264	\$ 12,483,948	\$ 3,978,310	\$ 12,197,776	\$ 765,357,775	\$ 707,546	\$ 29,612,502	\$ 851,574,196
EXPENDITURES & TRANSFERS-OUT BY FUND									
General Fund		\$ 264,864	\$ 1,559,077	\$ 160,184					\$ 1,984,125
State Special Revenue Fund	\$ 17,770,482	836,478	11,696,883	76,055		5,814,405	707,546	15,007,979	51,909,828
Federal Special Revenue Fund	7,530	665,971	874,866	3,742,071		13,035,174		14,604,048	32,929,660
Enterprise Fund	297,268		1,406,790			746,508,196		475	748,212,729
Internal Service Fund	795	7,392,951			\$ 12,197,776				19,591,522
Custodial Fund			362,332						362,332
Private Purpose Trust Fund			(3,416,000)						(3,416,000)
Total Expenditures & Transfers-Out	18,076,075	9,160,264	12,483,948	3,978,310	12,197,776	765,357,775	707,546	29,612,502	851,574,196
Less: Nonbudgeted Expenditures & Transfers-Out	516,191	357,799	1,396,293	76,055	80,394	254,870		161,038	2,842,640
Prior Year Expenditures & Transfers-Out Adjustments	43,421	(5,718)	(4,067,747)		4,549	1,762,365	57	12,554	(2,250,519)
Actual Budgeted Expenditures & Transfers-Out	17,516,463	8,808,183	15,155,402	3,902,255	12,112,833	763,340,540	707,489	29,438,910	850,982,075
Budget Authority	19,442,685	9,846,434	17,267,162	4,296,076	12,252,120	812,083,401	814,197	35,899,300	911,901,375
Unspent Budget Authority	\$ 1,926,222	\$ 1,038,251	\$ 2,111,760	\$ 393,821	\$ 139,287	\$ 48,742,861	\$ 106,708	\$ 6,460,390	\$ 60,919,300
UNSPENT BUDGET AUTHORITY BY FUND									
General Fund		\$ 105	\$ 1,637	\$ 1					\$ 1,743
State Special Revenue Fund	\$ 1,803,962	453,830	1,353,421	12,388		1,860,573	106,708	2,637,027	8,227,909
Federal Special Revenue Fund	12,879	67,077	521,083	381,432		7,169,253		3,815,677	11,967,401
Enterprise Fund	109,381		235,619			39,713,035		7,686	40,065,722
Internal Service Fund		517,239			\$ 139,287				656,526
Unspent Budget Authority	\$ 1,926,222	\$ 1,038,251	\$ 2,111,760	\$ 393,821	\$ 139,287	\$ 48,742,861	\$ 106,708	\$ 6,460,390	\$ 60,919,300

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-11.

Department of Labor and Industry

Notes to the Financial Schedules

For the Two Fiscal Years Ended June 30, 2021

1. Summary of Significant Accounting Policies

Basis of Accounting

The Department of Labor & Industry (the department) uses the modified accrual basis of accounting, as defined by state accounting policy, for its Governmental fund category (General, State Special Revenue, and Federal Special Revenue). In applying the modified accrual basis, the department records:

- ♦ Revenues when it receives cash or when receipts are realizable, measurable, earned, and available to pay current period liabilities.
- ♦ Expenditures for valid obligations when the department incurs the related liability and it is measurable, with the exception of the cost of employees' annual and sick leave. State accounting policy requires the department to record the cost of employees' annual and sick leave when used or paid.

The department uses accrual basis accounting for its Proprietary (Enterprise and Internal Service) and Fiduciary (Private-Purpose Trust and Custodial) fund categories. Under the accrual basis, as defined by state accounting policy, the department records revenues in the accounting period when realizable, measurable, and earned, and records expenses in the period incurred when measurable.

Expenditures and expenses may include: entire budgeted service contracts even though the department receives the services in a subsequent fiscal year; goods ordered with a purchase order before fiscal year-end, but not received as of fiscal year-end; and equipment ordered with a purchase order before fiscal year-end.

Basis of Presentation

The financial schedule format was adopted by the Legislative Audit Committee. The financial schedules are prepared from the transactions posted to the state's accounting system without adjustment.

The department uses the following funds:

Governmental Fund Category

- ♦ **General Fund** – to account for all financial resources except those required to be accounted for in another fund.
- ♦ **State Special Revenue Fund** – to account for proceeds of specific revenue sources that are legally restricted to expenditures for specific state program purposes. Department State Special Revenue Funds include the various professional and occupational licensing boards, contracts from Public Health and Human Services, the Employment Security Account, Subsequent Injury Administration, Building Codes, Weights and Measures, Workers' Compensation Regulation, Uninsured Employers, and cashed Plan I and II Securities.

- ♦ **Federal Special Revenue Fund** – to account for activities funded from federal revenue sources. Department Federal Special Revenue Funds include the Workforce Innovation and Opportunity Act, Employment Services, and Unemployment Insurance Administrative Funds.

Proprietary Fund Category

- ♦ **Internal Service Fund** – to account for the financing of goods or services provided by one department or agency to other departments or agencies of state government or to other governmental entities on a cost-reimbursement basis. Department Internal Service Funds include funds to accumulate and distribute costs. These include the Commissioner's Office and Centralized Services Division, the Office of Legal Services, and the Technology Services Division.
- ♦ **Enterprise Fund** – to account for operations (a) financed and operated in a manner similar to private business enterprises, where the Legislature intends that the department finance or recover costs primarily through user charges; (b) where the Legislature has decided that periodic determination of revenues earned, expenses incurred, or net income is appropriate; (c) where the activity is financed solely by a pledge of the net revenues from fees and charges of the activity; or (d) when laws or regulations require that the activities' cost of providing services, including capital costs, be recovered with fees and charges rather than with taxes or similar revenues. Department Enterprise Funds include the Subsequent Injury Fund, the Board of Public Accountants Fund and the Unemployment Insurance (UI) Fund. The June 30, 2021 UI fund equity was \$364,934,410. The fund equity balance included \$372,886,412 in cash held by the United States Treasury, as well as a \$36,704,483 liability for claims payable.

Fiduciary Fund Category

- ♦ **Private-Purpose Trust Fund** – to account for activity of any trust arrangement not properly reported in a pension fund or an investment trust fund where the principal and income benefit individuals, private organizations, or other governments. Department private purpose trust funds are the Workers' Compensation Plan I and Plan II Securities funds.
- ♦ **Custodial Fund** – to account for resources of fiduciary activities held by the state in a custodial capacity which are not required to be reported in pension (and other employee benefit) trust funds, investment trust funds, or private-purpose trust funds. GASB 84 changed the "Agency Fund" to a "Custodial Fund." Prior to FY20 the Agency Fund had a zero balance at fiscal year-end. The department custodial funds include the Wage Collection Fund.

2. General Fund Equity Balance

The department has a negative ending General Fund equity balance for the fiscal years ended June 30, 2020, and June 30, 2021. The negative fund equity balance in the General Fund does not indicate overspent appropriation authority. The department has authority to pay obligations from the statewide General Fund within its appropriation limits. The department expends cash or other assets from the statewide fund when it pays General Fund obligations for the Office of Community Services, the Human Rights Bureau, and the Office of Administrative Hearings. The department's outstanding liabilities exceeded the assets it had placed in the fund, resulting in a negative ending General Fund equity balance for each of the fiscal years ended June 30, 2020, and June 30, 2021.

3. Direct Entries to Fund Equity

Direct entries to fund equity in the General and State Special Revenue funds for both fiscal years include entries generated by SABHRS to reflect the flow of resources within individual funds shared by separate agencies.

Direct entries to fund equity balances in the General, State Special Revenue, Federal Special Revenue, Enterprise and Internal Service funds for both fiscal years include correction of errors from a previous period that occurred at least two fiscal years prior and entries to record or adjust fund equity classifications.

Direct entries to fund equity in the Custodial Fund during FY 2020 includes entries necessary to implement GASB Statement No. 84-Fiduciary Activities. The entries move property held in trust activities from Agency Funds to Custodial Funds.

4. Internal Service Funds

The department has a negative ending Internal Service Fund equity balance due to the pension and OPEB liabilities recognized in these funds which are liabilities the department will not be paying out.

5. Schedule of Total Revenues and Transfers-In

The Schedule of Total Revenues and Transfers-In no longer reports revenue estimate information. This change was approved by the Legislative Audit Committee in 2020.

6. Unemployment Insurance Division

The global pandemic saw increased claims which resulted in substantial increases in both revenue and expense for the Unemployment Insurance Division in both FY 2020 and FY 2021. Due to the unprecedented amount of benefit payments made, the department, with the approval of OBPP, increased the budget authority for the Enterprise fund in FY 2020 and FY 2021 to ensure benefit payments could be processed. These increases were estimates based on the claim activity at the time. By the end of FY 2021 the benefit activity was reducing and the budget authority that was originally requested was not utilized in full.

With the unprecedented amount of benefit payments, the department also saw an increase in overpayments in the Enterprise fund. After all adjustments there were \$81.8 million in overpayments at the end of FY 2021 and of that the Department estimates that \$26.7 million is uncollectable.

In FY 2021, the department understated the UI Benefits Cash account in the Unemployment Insurance Enterprise fund by \$27,281,706. Revenue in this fund was understated by \$29,457,759. Expenses were understated by \$830,254.

Also in the Unemployment Insurance Enterprise fund, the allowance for doubtful accounts was overstated by \$10,630,860 and expenses were understated by the same amount.

7. Governor's Office Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

In FY 2021, the department received \$200 million to replenish the UI Trust Fund to prevent businesses who pay into Unemployment Insurance from experiencing a huge spike in their tax rate. The department also received \$4 million to offset amounts due from reimbursable employers, reducing the burden on those employers. Reimbursable employers are tribal entities, governmental entities or non-profit organizations that qualify under 501(c)(3) of the Internal Revenue Code and elect to reimburse the Unemployment Insurance trust fund for benefits paid.

In FY 2021, the department received \$14,732,277 for Interim Pandemic Assistance and \$16,133,154 for Lost Wage Assistance. The Lost Wage Assistance program was a 25/75 match with FEMA, with FEMA paying 75% of the benefits and the state paying 25%.

8. Employment Relations Division

In FY 2021, the department understated their accounts receivable and revenue in the Subsequent Injury Enterprise fund by \$168,885.

9. Workforce Services Division

The department rents space in Libby, MT, from Mineral Plaza, LLC, in which one of the owners is a local Job Service manager. The term of the lease is July 1, 2013 to June 30, 2022. The annual lease amount is currently set at \$21.3 thousand.

The department also rents space in Cut Bank, MT from Glacier Community Health Center, Inc., in which one of the active board members is a local job service manager. The term of the lease is July 1, 2019 to June 30, 2022. The annual lease amount is currently set at \$35 thousand.

Report on Internal Control and Compliance

LEGISLATIVE AUDIT DIVISION

B-1

Angus Maciver, Legislative Auditor
Deborah F. Butler, Legal Counsel



Deputy Legislative Auditors:
Cindy Jorgenson
William Soller

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL SCHEDULES PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

The Legislative Audit Committee
of the Montana State Legislature:

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to the financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the Schedules of Changes in Fund Equity, Schedules of Total Revenues & Transfers-In, and Schedules of Total Expenditures & Transfers-Out of the Department of Labor and Industry for each of the fiscal years ended June 30, 2021, and 2020, and the related notes to the financial schedules, and have issued our report thereon dated February 17, 2022. Our report includes a qualified opinion on the fiscal year 2021 financial schedules and an unmodified opinion on the fiscal year 2020 financial schedules.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial schedules, we considered the department's internal control over financial reporting to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial schedules, but not for the purpose of expressing an opinion on the effectiveness of the department's internal control. Accordingly, we do not express an opinion on the effectiveness of the department's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit the attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were

not identified. We did identify certain deficiencies in internal control, described below, that we consider to be a material weakness.

As described in Recommendation #1, the department's controls over financial reporting were not sufficient to detect and correct misstatements in relation to its Unemployment Insurance activity prior to the books closing at fiscal year-end, resulting in several multimillion-dollar misstatements in the accounting records in fiscal year 2021.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the department's financial schedules are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial schedules. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. The identified instance of noncompliance is described below:

As described in Recommendation #1, the department failed to record all necessary transactions, or identify and correct errors, on the state's accounting system prior to fiscal year-end, as required by state law, resulting in material misstatements in the accounting records for fiscal year 2021.

Department of Labor and Industry Response to Findings

The department's response to the findings identified in our audit are described on page C-1 of this report. The department's response was not subjected to the auditing procedures applied in the audit of the financial schedules and, accordingly, we express no opinion on it.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the department's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the department's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Respectfully submitted,

/s/ Cindy Jorgenson

Cindy Jorgenson, CPA
Deputy Legislative Auditor
Helena, MT

February 17, 2022

DEPARTMENT OF LABOR
AND INDUSTRY

DEPARTMENT RESPONSE



May 16, 2022

Angus Maciver, Legislative Auditor
Legislative Audit Division
Room 160, State Capitol
PO Box 201075
Helena, MT 59620-1705

RECEIVED
May 17, 2022
LEGISLATIVE AUDIT DIV.

RE: Financial-Compliance Audit #21-15: Department of Labor and Industry

Dear Mr. Maciver:

The Department of Labor & Industry has reviewed the Financial-Compliance Audit for the two fiscal years ending June 30, 2021. The Department would like to thank your staff for their review. As a department we are always looking for ways to improve and appreciate their efforts to ensure we are providing quality services. Our responses to the recommendations appear below:

Recommendation #1

We recommend the Department of Labor and Industry enhance its internal controls over the recording of financial transactions related to its Unemployment Insurance Program to ensure all necessary transactions are recorded on the state's accounting system before fiscal year-end as required by state law.

Response:

Concur. In March 2022, the Department restructured division fiscal staff to report to the Centralized Services Division to ensure proper training and accountability for complex accounting processes and entries. The Department is working to implement additional internal controls including regular reconciliations between the Unemployment Insurance Trust Fund, the US Bank Clearing Account and SABHRS to ensure all deposits are accurately recorded on the state's accounting records. The Department anticipates this process will be fully documented and operational within the next 3 months. Finally, the Department is currently undergoing a review of all Unemployment Insurance fiscal processes and procedures. The Department anticipates this will take approximately 3-6 months, at which time any



additional internal controls necessary to provide current and accurate reporting will be instituted and documented so as not to have further issues of this nature.

Recommendation #2

We recommend the Department of Labor and Industry enhance internal controls by obtaining an application-level Service Organization Controls (SOC) report, or implement and formally document baseline security controls for all new Unemployment Insurance program-related information technology systems, as required by state policy and federal regulations.

Response:

Concur. The agency recognizes the SOC for the existing UI Tax system did not adequately satisfy the requirement for inclusion of the new PUA system. Going forward, agency program and IT staff will ensure an SOC is obtained prior to implementing new IT systems. Since the discovery of the access security controls, there have been regular review of system access for internal and external users. Access has been terminated for individuals who no longer work in the PUA program, with only a few remaining individuals working the program and needing access to the system. Additionally, a new process has been implemented when making changes in UI systems. Each change needed in the system is documented in a spreadsheet and a tester signs off on all changes once they can verify the change works appropriately. Weekly meetings are held between program and IT staff to confirm changes that have gone into production and a reconciliation is done to ensure what was tested and signed off went into production. This allows the agency to be fully aware of the date a change was made and how that change affected the claim process.

Recommendation #3

We recommend the Department of Labor and Industry:

- A. Enhance internal controls to ensure wage information is correctly used to calculate unemployment insurance benefits, and
- B. Calculate Unemployment Insurance benefits correctly in accordance with federal regulations.

Response:

Concur.

- A. The Department is currently developing processes and procedures that will outline steps staff can take when required to calculate benefits utilizing



both wage information and self-employment earnings for future potential federal unemployment insurance programs. In addition, the agency is drafting documentation on lessons learned through the pandemic to improve on their response to any future programs that may be developed in response to a large economic crisis. Finally, the agency is documenting training needs to be used in the future when it is necessary for temporary staff to be relied on for temporary federal programs, such as Pandemic Unemployment Insurance (PUA). The Department anticipates this will take approximately 6-9 months to fully document. These will be used for future programs that may be implemented.

- B. While the regular unemployment insurance program benefits are correctly calculated in the current system, the Department recognizes that the PUA benefits were not always calculated correctly due to the manual process of calculating combined employer-reported wages and tax documentation such as profit and loss statements. Any cases where incorrect wage assignments were discovered, the Department reviewed the eligibility of the claim and ensured payment of benefits when due, or relief of overpayments when agency error was identified. Moving forward, the agency will utilize the additional controls mentioned above to ensure correct benefit calculations occur for new programs that may be implemented in the future.

Recommendation #4

We recommend the Department of Labor and Industry:

- A. Develop and implement internal controls to ensure necessary information system modifications are made to properly administer new federal programs, and
- B. Recover unemployment insurance benefit overpayments, including any associated penalties, as required by federal and state law.

Response:

Concur.

- A. The Department is currently exploring a new unemployment insurance system. Part of the requirements of that system would be the ability to add new programs as necessary so as not to have the same issue that occurred during the pandemic where multiple systems were used to administer unemployment insurance benefits. While the Department has actively worked with the United States Department of Labor (USDOL) to



receive guidance and rules around new programs as quickly as possible to ensure federal program requirements are met, federal guidance can have a significant lag which does result in a delay in implementation of new programs.

- B. The Department has taken multiple steps to recover unemployment insurance benefit overpayments, as well as any penalties as required by state and federal law. For the current outstanding overpayments issue, any claimant with a potential double payment due to claims in both the regular unemployment insurance program and the PUA program, is sent a notice of the overpayment amount. The claimant must sign the notice and return to the Department acknowledging the debt, as well as agreeing to pay back the overpayment upon receiving the funds. No funds are released to the claimant until this agreement is provided to the Department.

During the pandemic, the agency enhanced the fraud unit within the Unemployment Insurance Division including added staff and use of new tools. There have also been system enhancements added that allow fraud penalties to be added when fraudulent claims are identified. The agency is actively working each potential fraudulent claim, which include mis-represented earnings cases as well as claims where individuals were hired during their claim but continued to receive benefits.

Recommendation #5

We recommend the Department of Labor and Industry:

- A. Follow its documented internal control policies and procedures governing benefit accuracy measurement reviews completed by the department, and
- B. Complete the required supervisory reviews of benefit accuracy measurement audits that identify improperly paid unemployment insurance benefits, as required by federal regulations.

Response:

Concur.

- A. The United States Department of Labor (USDOL) allowed states, through signed agreements, to halt the BAM Audit review process on paid and denied claims from April-June 2020 at the start of the pandemic. USDOL extended this time period for denied claims through September 2020. The agency has resumed conducting both paid and denied audit functions continuously since.



- B. The agency has hired a new BAM auditor and will begin training May 16, 2022, to remove audit duties from the BAM supervisor so the supervisor can take on the review process for all BAM audits to meet the federal regulations of this program.

Recommendation #6

We recommend the Department of Labor and Industry develop, implement, and document internal controls over reporting requirements for new federal funding sources to ensure compliance with federal regulations.

Response:

Concur. The Department is documenting internal controls to ensure all federal reports for new federal programs are reviewed by someone other than the preparer prior to submission and that review and approval be documented in writing. While the Department has current internal controls for ongoing grants, this addition will ensure compliance with federal regulations.

Sincerely,

A handwritten signature in black ink that reads "Laurie Esau" with a long, sweeping horizontal line extending to the right.

Laurie Esau
Commissioner