

# MONTANA ADMINISTRATIVE REGISTER

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# MONTANA ADMINISTRATIVE REGISTER

## ISSUE NO. 10

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The Rule Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 444-9000.

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BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM	)	NOTICE OF PROPOSED
2.13.301, 2.13.304, 2.13.305, 2.13.310,	)	AMENDMENT
and 2.13.313, pertaining to public safety	)	
answering point (PSAP) certification and	)	NO PUBLIC HEARING
funding	)	CONTEMPLATED

TO: All Concerned Persons

1. On June 25, 2019, the Department of Administration proposes to amend the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on June 10, 2019, to advise us of the nature of the accommodation that you need. Please contact Rhonda Sullivan, Department of Administration, Public Safety Communications Bureau, 1400 8th Ave., P.O. Box 200113, Helena, Montana 59620; telephone (406) 444-2420; fax (406) 444-2701; Montana Relay Service 711; or e-mail [rsullivan@mt.gov](mailto:rsullivan@mt.gov).

3. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

2.13.301 DEFINITIONS (1) "Certified PSAP" means a local or tribal government entity that hosts a public safety answering point certified by the department as provided in ARM 2.13.304.

(2) through (5) remain the same.

AUTH: 10-4-108, MCA

IMP: 10-4-305, MCA

STATEMENT OF REASONABLE NECESSITY: Passage of 2019 House Bill 150 necessitates the amendment of these rules. The bill provides for tribal governments to host certified public safety answering points (PSAPs) and directly receive quarterly funding distributions. The amendments to ARM 2.13.301, 2.13.304, 2.13.305, 2.13.310, and 2.13.313 add necessary reference to tribal governments allowing the department to certify tribal government-hosted PSAPs and distribute funding to eligible tribal governments.

2.13.304 PSAP CERTIFICATION (1) A local or tribal government entity that hosts a PSAP qualifies as a certified PSAP when it:

(a) through (c) remain the same.

(2) A local or tribal government entity must host a certified PSAP to receive payments under 10-4-305, MCA.

AUTH: 10-4-108, MCA

IMP: 10-4-103, 10-4-107, 10-4-305, MCA

2.13.305 APPLICATION FOR CERTIFICATION (1) remains the same.

(2) The application must be complete and must include the following:

(a) a declaration signed by an official authorized to act on behalf of the local or tribal government entity submitting the application that the applicant meets the requirements of ARM 2.13.304(1) and will operate in accordance with the PSAP certification requirements; and

(b) through (3)(b) remain the same.

~~(4) If a tribal government is participating in a 9-1-1 system and PSAP with a local government entity that hosts a PSAP, and the tribal government will receive a distribution of funds for 9-1-1 purposes from the local government entity receiving payments made under 10-4-305, MCA:~~

~~(a) the local government entity that hosts a PSAP must have an agreement with the tribal government defining the terms of the parties' participation in the 9-1-1 system and PSAP; and~~

~~(b) the declaration required in (2)(a) must be signed by an official who is authorized to act on behalf of the tribal government.~~

(5) remains the same, but is renumbered (4).

~~(6)(5) To Following initial certification, to continue to receive payments under 10-4-305, MCA, in state fiscal year 2019, a local government entity shall apply for certification on or before May 1, 2018. To receive payments in subsequent fiscal years, a local or tribal government entity that hosts a PSAP shall apply for certification recertification on or before April 1, 2023, and every five years following. In the interim, a certified PSAP shall advise the department of any changes that may affect PSAP certification requirements.~~

AUTH: 10-4-108, MCA

IMP: 10-4-107, 10-4-305, MCA

STATEMENT OF REASONABLE NECESSITY: In addition to the reasons stated above, because tribal governments may now receive direct funding, (4) through (4)(b) are no longer necessary and must be removed from rule.

It is necessary to amend (6) to allow tribal PSAPs and new local PSAPs to obtain initial certification following the first wave of certification during implementation of 2017 HB 61. The amendments clarify that all certified PSAPs will apply for recertification at the same time, on or before April 1, 2023, regardless of when they initially received certification.

2.13.310 DECERTIFICATION AND FUNDING REDUCTION (1) through (7) remain the same.

(8) When the department makes a final determination that a certified PSAP is not in compliance with PSAP certification requirements, the department may:

- (a) reduce or suspend payment to the local or tribal government entity or entities involved in the PSAP;
- (b) and (c) remain the same.

AUTH: 10-4-108, MCA

IMP: 10-4-107, 10-4-108, 10-4-109, 10-4-305, MCA

2.13.313 ALLOCATION OF FUNDS (1) remains the same.

(2) Each certified PSAP must receive an allocation of the total quarterly balance of the 9-1-1 systems account equal in proportion to the quarterly share received by the local or tribal government entity that hosted the PSAP during state fiscal year 2017.

(3) The department maintains a list of the quarterly share received by local or tribal government entities that hosted PSAPs during the state's 2017 fiscal year. The list can be found on the department's website at [sitsd.mt.gov/PublicSafetyCommunications](http://sitsd.mt.gov/PublicSafetyCommunications).

AUTH: 10-4-108, MCA

IMP: 10-4-107, 10-4-201, 10-4-305, MCA

4. Concerned persons may submit their data, views, or arguments concerning the proposed action to Rhonda Sullivan, Department of Administration, Public Safety Communications Bureau, 1400 8th Ave., P.O. Box 200113, Helena, Montana 59620; telephone (406) 444-2420; fax (406) 444-2701; or e-mail [rsullivan@mt.gov](mailto:rsullivan@mt.gov), and must be received no later than 5:00 p.m., June 21, 2019.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in 4 above no later than 5:00 p.m., June 21, 2019.

6. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be greater than 25 based on the number of local and tribal governments in Montana.

7. An electronic copy of this proposal notice is available through the department's website at <http://doa.mt.gov/administrativerules>. The department strives to make its online version of the notice conform to the official published version, but advises all concerned persons that if a discrepancy exists between the official version and the department's online version, only the official text will be considered. In addition, although the department works to keep its website

accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

8. The Public Safety Communications Bureau maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this bureau. Persons who wish to have their name added to the mailing list shall make a written request which includes the name and mailing address or e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding Public Safety Communications Bureau rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. The department has determined that under 2-4-111, MCA, the proposed amendments will not significantly and directly affect small businesses.

By: /s/ John Lewis  
John Lewis, Director  
Department of Administration

By: /s/ Michael P. Manion  
Michael P. Manion, Rule Reviewer  
Department of Administration

Certified to the Secretary of State May 14, 2019.



BEFORE THE DEPARTMENT OF COMMERCE  
OF THE STATE OF MONTANA

In the matter of the adoption of New     )  
Rule I pertaining to the administration   )  
of the Delivering Local Assistance       )  
(DLA) Program                                )

NOTICE OF PUBLIC HEARING ON  
PROPOSED ADOPTION

TO: All Concerned Persons

1. On June 13, 2019, at 1:30 p.m., the Department of Commerce will hold a public hearing in Room 228 of the Park Avenue Building at 301 South Park Avenue, in Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Commerce no later than 5:00 p.m., June 11, 2019, to advise us of the nature of the accommodation that you need. Please contact Bonnie Martello, Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0523; telephone (406) 841-2596; TDD 841-2702; fax (406) 841-2771; or e-mail [docadministrativerules@mt.gov](mailto:docadministrativerules@mt.gov).

3. The rule as proposed to be adopted provides as follows:

NEW RULE I INCORPORATION BY REFERENCE OF RULES FOR THE  
ADMINISTRATION OF THE DELIVERING LOCAL ASSISTANCE (DLA) PROGRAM

(1) The Department of Commerce adopts and incorporates by reference the Program Application and Guidelines for Delivering Local Assistance (DLA) Program.

(2) The rules incorporated by reference in (1) relate to the scope and procedures for the award, administration, and close-out of project grants to cities, towns, counties, consolidated governments, tribal governments, county or multicounty water, wastewater or solid waste districts, school districts, or an authority as defined in 75-6-304, MCA.

(3) Copies of the regulations adopted by reference in (1) may be obtained from the Department of Commerce, Community Development Division, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523, or on the web site at <https://comdev.mt.gov/>.

AUTH: HB 652 of the 2019 Legislative session

IMP: HB 652 of the 2019 Legislative session

REASON: The proposed rule is necessary to implement and administer the Delivering Local Assistance (DLA) program as required by HB 652 of the 2019 Legislative session.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Department of Commerce, Legal Department, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0501; telephone (406) 841-2596; TDD 841-2702; fax (406) 841-2771; or e-mail [docadministraiverules@mt.gov](mailto:docadministraiverules@mt.gov), and must be received no later than 5:00 p.m., June 21, 2019.

5. Bonnie Martello, Paralegal, Department of Commerce, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact listed in 4 above or may be made by completing a request form at any rules hearing held by the department.

7. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor, Representative Mike Hopkins, was contacted on May 13, 2019, by e-mail at [mike.hopkins@mtleg.gov](mailto:mike.hopkins@mtleg.gov) and [mikeformontana@gmail.com](mailto:mikeformontana@gmail.com).

8. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Garrett R. Norcott  
Garrett R. Norcott  
Rule Reviewer

/s/ Tara Rice  
Tara Rice  
Director  
Department of Commerce

Certified to the Secretary of State May 14, 2019.

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rule I and the amendment of ARM	)	PROPOSED ADOPTION AND
10.55.701 pertaining to hazard and	)	AMENDMENT
emergency plans	)	

TO: All Concerned Persons

1. On June 26, 2019, at 10:00 a.m., the Board of Public Education will hold a public hearing in the Superintendent's Conference room at 1227 11th Avenue, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. The board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Education no later than 5:00 p.m. on June 19, 2019, to advise us of the nature of the accommodation that you need. Please contact Pete Donovan, Executive Director, 46 N. Last Chance Gulch, Suite 2B, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0300; fax (406) 444-0847; or e-mail pdonovan@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I HAZARD AND EMERGENCY PLANS (1) A local board of trustees shall adopt a policy addressing a school safety plan or emergency operations plan. The plan required by this rule shall be periodically reviewed and updated as determined necessary by the trustees based on changing circumstances pertaining to school safety.

(2) The plan shall include:

(a) identification and assessment of the risks posed by potential local hazards within the boundaries of its school district;

(b) designing and incorporating regularly conducted disaster drills to address the hazards identified pursuant to (1);

(c) prevention, mitigation, response, and recovery before, during, and after an event; and

(d) training.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, MCA

4. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

10.55.701 BOARD OF TRUSTEES (1) through (2)(p) remain the same.

(q) a policy addressing hazard and emergency plans as outlined in [NEW RULE I];

(q) and (r) remain the same but are renumbered (r) and (s).  
(3) through (5) remain the same.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, MCA

5. REASON: The Board of Public Education proposes to adopt and amend rules pertaining to hazard and emergency plans requiring Montana school district trustees adopt a school safety plan or emergency operations plan. School district trustees are required to certify to the Office of Public Instruction (OPI) that a school safety plan or emergency operations plan has been adopted. Adopting and amending ARM 10.55.701 is the result of legislative action amending 20-1-401, MCA, Disaster Drills. Based on legislative action, the process for amending the standards of accreditation ensures every Montana school district board of trustees will meet the legislative intent by adopting, periodically reviewing, and updating the plan.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Pete Donovan, Executive Director, Board of Public Education, 46 N. Last Chance Gulch, Suite 2B, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0300; fax (406) 444-0847; or e-mail pdonovan@mt.gov, and must be received no later than 5:00 p.m., June 26, 2019.

7. Pete Donovan, Executive Director, has been designated to preside over and conduct this hearing.

8. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 2 above or may be made by completing a request form at any rules hearing held by the board.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption and amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Pete Donovan

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Pete Donovan  
Rule Reviewer

/s/ Darlene Schottle

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Darlene Schottle  
Chair  
Board of Public Education

Certified to the Secretary of State May 14, 2019.

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rules I through IV and the	)	PROPOSED ADOPTION AND
amendment of ARM 10.56.101	)	AMENDMENT
pertaining to student assessment	)	

TO: All Concerned Persons

1. On June 26, 2019, at 10:15 a.m., the Board of Public Education will hold a public hearing in the Superintendent's Conference room at 1227 11th Avenue, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. The board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Education no later than 5:00 p.m. on June 19, 2019, to advise us of the nature of the accommodation that you need. Please contact Pete Donovan, Executive Director, 46 N. Last Chance Gulch, Suite 2B, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0300; fax (406) 444-0847; or e-mail pdonovan@mt.gov.

3. The rules as proposed to be adopted provide as follows:

NEW RULE I PARTICIPATION (1) By the authority of 20-2-121(11), MCA, and ARM 10.55.603, the Board of Public of Education (board) adopts rules for statewide assessment in all public and accredited nonpublic schools.

(2) Statewide assessments approved by the Board shall be administered in all public and accredited nonpublic schools.

(3) School districts shall annually administer statewide assessments to all students in accordance with state and federal laws and regulations that meet or exceed the following specifications:

(a) English language arts and mathematics assessments shall be aligned to Montana content standards in English language arts and mathematics and administered in grades 3-8 and 11;

(b) Science assessments shall be aligned to Montana content standards for science and administered in grades 5, 8, and 11; and

(c) Assessments shall be administered in the spring of each year.

(4) State-level assessments aligned to Montana-English language proficiency standards shall be administered to all students identified as English Learners (EL) in grades (K-12). These assessments shall be administered mid-school year.

(5) The Board of Public Education may approve alternative grade levels and timelines for the administration of statewide assessments due to the availability of assessments and other academic factors.

(6) School districts shall use guidance provided by the Office of Public

Instruction to inform parents/guardians about statewide assessments, including:

- (a) the purpose;
- (b) the source of the requirement;
- (c) when the information about student performance is provided to teachers and parents;
- (d) how teachers, principals, and district officials use the information about student performance; and
- (e) how parents can use that information to help their child.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-121, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-7-402, MCA

NEW RULE II TEST SECURITY (1) The Office of Public Instruction has the responsibility to audit test administration activities to monitor adherence to test security and best practices without undue disruption to schools.

(2) All statewide assessments must be administered to students only by school district employees who have been trained and are familiar with standardized testing procedures.

(3) Suspected violations of test security must immediately be reported to the Office of Public Instruction.

(4) Failure to comply with the test administration and security requirements may result in the Office of Public Instruction making a recommendation for consequences to the Board of Public Education for further action within the limits of its authority.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-121, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-7-402, MCA

NEW RULE III ACCESSIBILITY AND ACCOMMODATIONS (1) Schools shall administer statewide assessments with or without accommodations based on individual student needs consistent with all state and federal laws and regulations.

(2) The Individualized Education Program (IEP) team for a student shall determine if the student meets the eligibility criteria for the statewide alternate assessment based on the alternate achievement standards.

(3) Schools shall use the guidance from the Superintendent of Public Instruction to identify English Learners (EL) and annually monitor individual progress in acquiring academic English consistent with all state and federal laws and regulations.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-121, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-7-402, MCA

NEW RULE IV REPORTING (1) The Superintendent of Public Instruction shall provide a report of the annual state assessment results to the Legislature and the Board of Public Education.

(2) The Superintendent of Public Instruction shall make available student assessment data in compliance with confidentiality requirements of federal and state

law (20-7-104, MCA). To facilitate transparency, the statewide assessment results released to the public shall be accompanied by a clear statement of the purpose, subject areas assessed, description of proficiency levels, and the percentage of students who participated in the assessments.

(3) Statewide assessment results are a part of each student's permanent record as described in compliance with 20-1-213 and 20-7-104, MCA.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-121, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-7-402, MCA

4. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

10.56.101 STUDENT STATEWIDE ASSESSMENT (1) By the authority of 20-2-121(12), MCA, and ARM 10.55.603, the Board of Public Education adopts rules for state-level assessment in the public schools and those private schools seeking accreditation.

~~(2) The board recognizes that the primary purpose of assessment is to serve learning. A balanced assessment system including formative, interim, and summative assessments aligned to state content standards will provide an integrated approach to meeting both classroom learning needs and school and state-level information needs. A balanced assessment system is structured to continuously improve teaching and learning and to inform education policy.~~

~~(3) In order to obtain state-level achievement information, all accredited schools shall annually administer a single system of state-level assessments approved by the board. The following state-level assessments shall be administered according to standardized procedures. Districts and schools shall ensure that all test administrators are trained in and follow those procedures.~~

~~—(a) State-level assessments shall be administered to all students as specified below:~~

~~(i) The English language arts and mathematics assessments shall be aligned to Montana content standards in English language arts and mathematics and administered in grades 3-8 and 11;~~

~~(ii) The science assessments shall be aligned to Montana content standards for science and administered in grades 4, 8, and 10; and~~

~~(iii) The assessments shall be administered in the spring of the year.~~

~~(b) State-level assessments aligned to Montana English language proficiency standards shall be administered to all students identified as Limited English-Proficient (LEP) in grades K-12. These assessments shall be administered mid-school year.~~

~~(c) The obligation for funding the assessments identified in (a) and (b) is an obligation of the state. This section may not be construed to require a school district to provide these assessments if the state does not have a current contract with test vendors for provision of these assessments to Montana school districts.~~

~~(4) State-level assessment results are a part of each student's permanent record as described in ARM 10.55.909.~~

~~(5) The Superintendent of Public Instruction shall provide a report of the~~



~~results to the Legislature and annually to the board.~~

~~(6) The Superintendent of Public Instruction is authorized to make available the reported student assessment data in compliance with confidentiality requirements of federal and state law. State level assessment results released to the public shall be accompanied by a clear statement of the purposes of the assessments, subject areas assessed, level of measurement of the content standards, and the percent of students who participated in the assessments. The Superintendent of Public Instruction will ensure transparency and public availability of public school performance data and reporting as outlined in 20-7-104, MCA.~~

~~(7) All students shall participate in the state level assessments.~~

~~(a) For a student with disabilities, the student's individualized education program (IEP) team has the authority to specify accommodations to be provided, as defined in (8), for participation by the student in the state level assessment.~~

~~(i) When an IEP team determines that an accommodation for a student's disability would still not allow for adequate measurement of the student's progress toward the content standards, the IEP team may waive using the approved state level assessments by providing alternate assessments that are appropriate to determine the student's progress toward the content standards.~~

~~(b) For a student who has been identified through the district's process as LEP, accommodations may be provided, as defined in (8), for participation by the student in the state level assessment.~~

~~(i) When the result of the district's process indicates that an accommodation for an LEP student who has had fewer than three years of instruction in English would still not allow for adequate measurement of the student's progress toward the content standards, the team of educators may waive using the approved state level assessments by providing alternate assessments that are appropriate to determine the student's progress toward the content standards.~~

~~(8) Accommodations allow a student to demonstrate competence in subject matter so that state level assessment results accurately reflect the student's achievement level rather than limited English language development or impaired sensory or manual skills, except where those skills are the factors which the assessment purports to measure.~~

~~(a) Accommodations for state level assessment purposes are defined as modifications of the test administration procedures similar to those used to assess the student in the instructional setting.~~

~~(b) Accommodations vary for the state required tests under (3)(a) through (c) and are dependent on the knowledge and skills being measured. Test specific accommodations are detailed in test administration manuals.~~

~~(c) The Superintendent of Public Instruction shall provide guidance to schools concerning appropriate accommodations.~~

~~(9) The Superintendent of Public Instruction shall recommend in writing to the board any modifications to the single system of state level assessment as set forth in (3)(a)(i) through (iii). The board may consider recommended modifications as an information item on an agenda at a board meeting. At that meeting, the board may vote to list the recommendations as an action item on the agenda of a subsequent board meeting. Unless approved by the board, no recommended modifications are effective and no accredited schools may implement the recommended modifications.~~

(2) The Board of Public Education (board) recognizes that the primary purpose of assessment is to serve learning. A balanced assessment system including formative, interim, and summative assessments aligned to state content standards, will provide an integrated approach to meeting both classroom learning needs and school and state level information needs. A balanced assessment system is structured to continuously improve teaching and learning and to inform education policy.

(3) The obligation for funding the assessments is the responsibility of the state. This chapter may not be construed to require a school district to provide these assessments if the state does not have a current contract with test vendors for provision of these assessments to Montana school districts.

(4) The Superintendent of Public Instruction shall recommend in writing to the board any modifications to the single system of state level assessment as set forth in (2). The board may consider recommended modifications as an information item on an agenda at a board meeting. At that meeting, the board may vote to list the recommendations as an action item on the agenda of a subsequent board meeting. Unless approved by the board, no recommended modifications are effective and no accredited schools may implement the recommended modifications.

(5) When developing a recommendation to the board for adopting statewide assessments the Superintendent of Public Instruction will include implications including alignment to content standards.

(6) The Superintendent of Public Instruction shall:

(a) ensure Montana educators participate in the process;

(b) ensure that all statewide test items are field tested before being used to determine proficiency; and

(c) request approval from the board to allow for census field testing before determining proficiencies.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-121, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-7-402, MCA

5. REASON: Using the negotiated rulemaking process involving independent stakeholder groups, Superintendent of Public Instruction, Elsie Arntzen has developed recommendations for the revision of Chapter 56 Assessment to reflect several major developments in statewide assessments including the 2015 reauthorization of the Elementary and Secondary Education Act (ESEA), the 2016 adoption of new science standards, the 2017 U.S. Department of Education peer review for three single statewide summative assessments, and the 2018 U.S. Department of Education's approval of Montana's State ESEA Plan.

The Board of Public Education has determined it is reasonable and necessary to adopt and amend rules relating to student assessment pursuant to ARM 10.56.101 to stay consistent with the 2015 reauthorization of the ESEA and with meeting the required peer review under the U.S. Department of Education. The amendments were determined to be representative of federal changes since 2015 including the reauthorization of ESEA, state adoption and implementation of science standards (ARM 10.53.801 through 10.53.810), and issues with the technical

aspects of the Montana assessment system including peer review and test security under Title I.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Pete Donovan, Executive Director, Board of Public Education, 46 N. Last Chance Gulch, Suite 2B, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0300; fax (406) 444-0847; or e-mail pdonovan@mt.gov, and must be received no later than 5:00 p.m., June 26, 2019.

7. Pete Donovan, Executive Director, has been designated to preside over and conduct this hearing.

8. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 2 above or may be made by completing a request form at any rules hearing held by the board.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption and amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Pete Donovan

Pete Donovan  
Rule Reviewer

/s/ Darlene Schottle

Darlene Schottle  
Chair  
Board of Public Education

Certified to the Secretary of State May 14, 2019.

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 10.57.410, 10.57.411, and ) PROPOSED AMENDMENT  
10.57.424 pertaining to educator )  
licensure )

TO: All Concerned Persons

1. On June 26, 2019, at 10:30 a.m., the Board of Public Education will hold a public hearing in the Superintendent's Conference room at 1227 11th Avenue, Helena, Montana, to consider the proposed amendment of the above- stated rules.

2. The board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Education no later than 5:00 p.m. on June 19, 2019, to advise us of the nature of the accommodation that you need. Please contact Pete Donovan, Executive Director, 46 N. Last Chance Gulch, Suite 2B, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0300; fax (406) 444-0847; or e-mail pdonovan@mt.gov.

3. The rules as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

10.57.410 CLASS 2 STANDARD TEACHER'S LICENSE (1) through (4) remain the same.

(a) proof of a minimum passing score on the PRAXIS Subject Assessment applicable to the requested endorsement as established by the Office of Public Instruction and approved by the Board of Public Education; or hold current certification from the National Board for Professional Teaching Standards in an area approved for endorsement in Montana, and apply for endorsement in the same area; and

(b) through (6) remain the same.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-121, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-102, 20-4-103, 20-4-106, 20-4-108, MCA

10.57.411 CLASS 1 PROFESSIONAL TEACHER'S LICENSE (1) remains the same.

(2) To obtain a Class 1 professional teacher's license an applicant must submit verification of all of the following:

(a) eligibility for the Class 2 standard teacher's license as set forth in ARM 10.57.410, including proof of a minimum passing score on the PRAXIS Subject Assessment applicable to the requested endorsement ~~and "An Introduction to Indian Education for All in Montana" online course~~ if the educator preparation program competed

by the applicant is not in Montana; or hold current certification from the National Board for Professional Teaching Standards in an area approved for endorsement in Montana, and apply for endorsement in this same area;

(b) completion of "An Introduction to Indian Education for All in Montana";

(b) and (c) remain the same but are renumbered (c) and (d).

(3) and (4) remain the same.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec 9, 20-4-106, 20-4-108, MCA

10.57.424 CLASS 5 PROVISIONAL LICENSE (1) There are two types of Class 5 licenses:

(a) a Class 5 provisional license that is valid for three years; and

(b) a Class 5A provisional license that is valid for one year.

(1) and (2) remain the same but are renumbered (2) and (3).

~~(3)~~ (4) An applicant for a Class 5 provisional license who has graduated from an educator preparation program outside of Montana must provide proof of:

(a) a minimum passing score on the Praxis Subject Assessment applicable to the requested endorsement and a current Montana address or job offer from an accredited or state-funded P-12 school in Montana; or hold current certification from the National Board for Professional Teaching Standards in an area approved for endorsement in Montana, and apply for endorsement in the same area; and

(b) have a current Montana address or job offer from an accredited or state-funded P-12 school in Montana.

(5) An applicant for a Class 5 provisional license must provide verified completion of the online course "An Introduction to Indian Education for All in Montana."

(4) remains the same but is renumbered (6).

(7) A Class 5A provisional license will be issued to those individuals seeking their initial Montana educator license who meet all licensure requirements except for successful completion of the Montana required Praxis test. This license is valid for one year and is non-renewable.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

4. REASON: The Board of Public Education proposes to amend these rules for the following reasons:

New Class 5A: Montana licenses approximately 1500 new (first Montana license) educators each year. As a quality assurance measure, the Content Knowledge Praxis test is required for the requested endorsements. Successful completion of the specific Praxis test is required prior to licensure. While the value of this requirement speaks for itself, completion of the test(s) prior to licensing has proven to be problematic for many. This is due to the multiple demands and obligations on both personal and professional levels that are associated with relocating. Additionally, school districts have found themselves struggling with new hires that were

anticipated to have completed their licensure process by the start of the school year. This occurs, on occasion, because the new employee has not yet completed their Praxis test(s).

Praxis Exemption: Providing for a waiver of the Praxis test recognizes that the National Board for Professional Teaching Standards (NBPTS) is a highly respected K-12 certification program. Acceptance into NBPTS requires: a) a bachelor's degree from an accredited institution, b) completion of three years of successful teaching in one or more early childhood, elementary, middle or secondary school, c) holding a valid state teaching license for each of the three years of verified teaching, d) if registering as a World Languages candidate, providing required certified ratings from the American Council on the Teaching of Foreign Languages.

The rigors of obtaining this certification require that teachers demonstrate standards-based evidence of the powerful impact they have on student learning. They must show an integral understanding of: their students; content knowledge; use of data and assessments; and teaching practice. Additionally, they must participate in learning communities and provide evidence of ongoing reflection and continuous learning.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Pete Donovan, Executive Director, Board of Public Education, 46 N. Last Chance Gulch, Suite 2B, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0300; fax (406) 444-0847; or e-mail [pdonovan@mt.gov](mailto:pdonovan@mt.gov), and must be received no later than 5:00 p.m., June 26, 2019.

6. Pete Donovan, Executive Director, has been designated to preside over and conduct this hearing.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 2 above or may be made by completing a request form at any rules hearing held by the board.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Pete Donovan

Pete Donovan  
Rule Reviewer

/s/ Darlene Schottle

Darlene Schottle  
Chair  
Board of Public Education

Certified to the Secretary of State May 14, 2019.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PROPOSED  
ARM 12.5.709 pertaining to the Pilot ) AMENDMENT  
Program for Aquatic Invasive Species )  
in the Flathead Basin ) NO PUBLIC HEARING  
 ) CONTEMPLATED

TO: All Concerned Persons

1. On July 5, 2019, the Department of Fish, Wildlife and Parks (department) proposes to amend the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than June 7, 2019, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail [kgangstad@mt.gov](mailto:kgangstad@mt.gov).

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

12.5.709 PILOT PROGRAM FOR FLATHEAD BASIN (1) through (3) remain the same.

(4) This rule expires March 31, 2020 ~~June 30, 2019~~, pursuant to ~~80-7-1027~~, MCA.

AUTH: 80-7-1007, 80-7-1010, ~~80-7-1027~~, MCA

IMP: 80-7-1008, 80-7-1010, 80-7-1011, ~~80-7-1027~~, MCA

REASON: Section 80-7-1027, MCA, created a temporary pilot program for addressing aquatic invasive species (AIS) issues in the Flathead Basin. The department originally adopted this rule in addition to the statute to add an additional layer of protection in the Flathead Basin to help prevent the transport and introduction of AIS. Both the rule and the statute expire on June 30, 2019. The department is proposing to extend the rule to March 31, 2020, to allow the additional protections to remain in place through the 2019 boating season, and to give the department time to work with citizens and the Confederated Salish and Kootenai Tribes (CSKT) on a longer-term plan for the management of AIS in the Flathead Basin before the 2020 boating season.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Tom Woolf, Department of Fish,



Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail Thomas.Woolf@mt.gov, and must be received no later than June 21, 2019.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Tom Woolf at the above address no later than 5:00 p.m., June 21, 2019.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be more than 25 persons based on the number of water-based recreationists that utilize the Flathead Basin

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Aimee Hawkaluk  
Aimee Hawkaluk  
Rule Reviewer

/s/ Mike Volesky  
Mike Volesky  
Acting Director  
Department of Fish, Wildlife and Parks

Certified to the Secretary of State May 14, 2019.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 24.21.202, 24.21.302, and ) PROPOSED AMENDMENT  
24.21.421 pertaining to registered )  
apprenticeship )

TO: All Concerned Persons

1. On June 14, 2019, at 9:00 a.m., the Department of Labor and Industry (department) will hold a public hearing in the Lewis Room (basement conference room) of the Walt Sullivan Building, 1315 E. Lockey Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 4:00 p.m. on June 7, 2019, to advise us of the nature of the accommodation that you need. Please contact Jay Reardon, Department of Labor and Industry, P.O. Box 1728, Helena, Montana 59624-1728; telephone (406) 444-3556; fax (406) 444-3037; TDD/Montana Relay Service \*711; or e-mail [james.reardon@mt.gov](mailto:james.reardon@mt.gov).

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

24.21.202 STATE APPRENTICESHIP AND TRAINING PROGRAM

(1) through (4)(b) remain the same.

(c) The office contact e-mail address is: ~~mmaki@mt.gov~~  
apprenticeship@mt.gov.

(d) The state apprenticeship and training program operates various web sites, including:

- (i) ~~http://wsd.dli.mt.gov/apprenticeship~~ http://apprenticeship.mt.gov/; and
- (ii) ~~http://exploreapprenticeship.mt.gov~~ https://montanaworks.gov/.

AUTH: 39-6-101, MCA

IMP: 39-6-101, MCA

24.21.302 FEDERAL REGULATIONS INCORPORATED BY REFERENCE

(1) through (1)(b) remain the same.

(c) 29 CFR section 29.5, standards of apprenticeship, as in effect on ~~July 1,~~  
~~2010~~ January 18, 2017;

(d) remains the same.

(e) 29 CFR section 29.7, apprenticeship agreement, as in effect on ~~July 1,~~  
~~2010~~ January 18, 2017;

(f) 29 CFR section 29.8, deregistration of a registered program, as in effect on ~~July 1, 2010~~ January 18, 2017;

(g) and (h) remain the same.

(i) 29 CFR part 30, equal employment opportunity in apprenticeship and training, as in effect on ~~July 1, 2010~~ January 18, 2017.

(2) through (3)(b) remain the same.

(i) ~~<http://wsd.dli.mt.gov/apprenticeship/>~~ <http://apprenticeship.mt.gov/> (Montana Department of Labor and Industry web site); or

(ii) ~~<http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>~~  
~~[https://www.ecfr.gov/cgi-bin/text-idx?SID=aa3a46a8d66797945403b9672a8ba62a&mc=true&tpl=/ecfrbrowse/Title29/29cfr29\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?SID=aa3a46a8d66797945403b9672a8ba62a&mc=true&tpl=/ecfrbrowse/Title29/29cfr29_main_02.tpl)~~ (National Archives and Records Administration web site).

AUTH: 2-4-201, 39-6-101, MCA

IMP: 2-4-201, 39-6-101, MCA

24.21.421 EQUAL EMPLOYMENT OPPORTUNITY (1) Title 29, C.F.R. Part 30 is a federal regulation which was implemented by the Apprenticeship Bureau to retain federal recognition as the apprenticeship regulatory agency. The Apprenticeship Bureau has drawn up a state plan entitled "Equal Employment in Apprenticeship," ~~dated October 8, 1971~~. Copies of the proposed state plan, effective June 2019, are available and can be accessed electronically at <http://apprenticeship.mt.gov/state-eeo-plan>. The department consented to omission of the text of the plan which is cumbersome and inexpedient. Printed copies are available at no cost and may be obtained at the Apprenticeship Bureau office.

AUTH: 39-6-101, MCA

IMP: 39-6-101, MCA

REASON: There is reasonable necessity to amend the above rules to update CFR citations and update the relevant department web site addresses. There is reasonable necessity to amend ARM 24.21.421 to reference a draft EEO plan that will be submitted for approval by the U.S. Department of Labor, Office of Apprenticeship. The U.S. Department of Labor requires that the department's apprenticeship rule be updated before final approval by the U.S. Department of Labor, as provided by federal law. There is reasonable necessity to amend these rules to update them with current 29 CFR, Part 30 which is available at [https://www.ecfr.gov/cgi-bin/text-idx?SID=aa3a46a8d66797945403b9672a8ba62a&mc=true&tpl=/ecfrbrowse/Title29/29cfr29\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?SID=aa3a46a8d66797945403b9672a8ba62a&mc=true&tpl=/ecfrbrowse/Title29/29cfr29_main_02.tpl).

4. A copy of the draft EEO plan is available electronically at <http://apprenticeship.mt.gov/state-eeo-plan>. A printed copy of the draft plan is available from Jay Reardon at the address, e-mail, or telephone numbers listed in paragraph 2 of this notice.

5. An electronic copy of the portions of 29 CFR Part 30, which are proposed to be incorporated by reference, is available at the web address listed in ARM 24.21.202. A printed copy of 29 CFR Part 30 is available from Jay Reardon at the address, e-mail, or telephone numbers listed in paragraph 2 of this notice.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Jay Reardon, Department of Labor and Industry, P.O. Box 1728, Helena, Montana 59624-1728; fax (406) 444-3037; or e-mail james.reardon@mt.gov, and must be received no later than 5:00 p.m., June 21, 2019.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices, and specifies the particular subject matter or matters regarding which the person wishes to receive notices. Such written request may be mailed or delivered to the Department of Labor and Industry, attention: Mark Cadwallader, 1315 E. Lockey Avenue, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, or e-mailed to mcadwallader@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

8. An electronic copy of this notice of public hearing is available through the Secretary of State's web site at <https://sosmt.gov/arm/>. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that a person's difficulties in sending an e-mail do not excuse late submission of comments.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. Pursuant to 2-4-111, MCA, the department has determined that the rule changes proposed in this notice do not have a significant and direct impact upon small businesses.

11. The department's Office of Administrative Hearings has been designated to preside over and conduct this hearing.

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

/s/ GALEN HOLLENBAUGH  
Galen Hollenbaugh, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 14, 2019.

BEFORE THE BOARD OF HEARING AID DISPENSERS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.150.401 fees, 24.150.402	)	PROPOSED AMENDMENT AND
record retention, 24.150.404 fee	)	REPEAL
abatement, 24.150.503 traineeship	)	
requirements and standards,	)	
24.150.601 minimum testing,	)	
24.150.602 transactional document	)	
requirements - form and content,	)	
24.150.2201 continuing education	)	
requirements, 24.150.2301	)	
unprofessional conduct,	)	
and the repeal of 24.150.2204	)	
standards for approval	)	

TO: All Concerned Persons

1. On June 14, 2019, at 10:30 a.m., a public hearing will be held in the Small Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Hearing Aid Dispensers no later than 5:00 p.m., on June 7, 2019, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Hearing Aid Dispensers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsddhad@mt.gov (board's e-mail).

3. The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.150.401 FEES (1) through (1)(g) remain the same.

~~(h) Copies of law and rules~~ \_\_\_\_\_ 5  
(2) through (4) remain the same.

AUTH: 37-1-131, 37-1-134, 37-16-202, MCA

IMP: 37-1-131, 37-1-134, 37-1-141, 37-16-402, 37-16-405, 37-16-406,  
MCA

REASON: The board is amending this rule to strike an obsolete fee. The board anticipates that eliminating this fee will result in no impact to the board's annual

revenue because board laws and rules have been available at no cost online for several years.

24.150.402 RECORD RETENTION (1) through (3) remain the same.

~~(4) Upon the board's request, and in a form or manner as may reasonably be required by the board, a licensee shall timely provide the board a copy of an electronic audiometer calibration made within the 12 months preceding the date of the board's request.~~

AUTH: 37-1-131, 37-16-202, MCA

IMP: 37-1-131, 37-16-301, 37-16-303, 37-16-304, 37-16-411, MCA

REASON: The board is striking (4) to align with changes proposed to ARM 24.150.601 in this notice. See the REASON for ARM 24.150.601. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.150.404 FEE ABATEMENT (1) ~~The Board of Hearing Aid Dispensers board~~ adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry ~~found~~ at ARM 24.101.301.

AUTH: 37-1-131, MCA

IMP: 17-2-302, 17-2-303, 37-1-134, MCA

REASON: The board is amending this rule for drafting and language consistency.

24.150.503 TRAINEESHIP REQUIREMENTS AND STANDARDS (1) ~~For the purposes of 37-16-405, MCA, a "qualified licensed hearing aid dispenser," who will serve as the supervisor of~~ To supervise a trainee, a hearing aid dispenser shall meet the following criteria:

(a) be currently licensed and have been actively engaged in the business of selling, dispensing, and the fitting of hearing aids in ~~the state of~~ Montana for at least one year; and

(b) through (6) remain the same.

AUTH: 37-1-131, 37-16-202, MCA

IMP: ~~37-1-404~~, 37-1-131, 37-16-301, 37-16-405, MCA

REASON: The board is amending this rule for consistency in drafting and ease of use for the reader. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.150.601 MINIMUM TESTING (1) remains the same.

(2) At the time of fitting or during ~~the course of~~ the trial period, the dispenser will verify and validate the hearing aid fitting and document the results. ~~Verification refers~~ according to generally accepted standards of practice to objectively analyze

aided performance, ~~while validation establishes~~ and establish the patient's perceived improvement.

(3) remains the same.

(4) The board may randomly audit up to 50 percent of renewed licensees for calibration compliance.

AUTH: 37-16-202, MCA

IMP: 37-16-202, ~~37-16-411~~, MCA

REASON: Section 37-16-202, MCA, requires the periodic inspection and calibration of licensees' audiometric testing equipment. Historically, the board audited all licensees annually for compliance and found no violations. Because licensees are complying with this requirement, the board determined it is reasonably necessary to no longer conduct mandatory audits, but instead require that licensees affirm the inspection and calibration of their equipment as a part of annual renewal. Following amendment, the board will be able to utilize the standard processes of the department's audit unit to determine licensees' compliance. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.150.602 TRANSACTIONAL DOCUMENT REQUIREMENTS - FORM AND CONTENT (1) through (6) remain the same.

(7) The dispensing fee may be deducted from the purchase price only after the hearing aid or related device is delivered to the patient and within the 30-day right to cancel period.

AUTH: 37-16-202, MCA

IMP: 37-16-202, 37-16-303, 37-16-304, MCA

REASON: The board is adding (7) following a request for clarification from the board's screening panel. While this has been the board's intent regarding licensee receipt of the dispensing fee, the board is amending the rule to clearly address this question.

24.150.2201 CONTINUING EDUCATION REQUIREMENTS (1) through (3) remain the same.

(4) The board/staff will not preapprove CE programs or sponsors. It is the responsibility of the licensee to select quality programs that:

(a) contribute to the licensee's knowledge and professional competence;

(b) contain significant intellectual or practical content; and

(c) deal primarily with substantive issues relating to the use of hearing aids for aiding or compensating the hearing impaired and current developments in the practice of fitting, testing, or dispensing hearing aids.

(4) (5) CE courses on fitting and dispensing hearing aids sponsored by the Montana Hearing Aid Society, the International Hearing Society, the American Speech Language Hearing Association, the American Conference of Audioprosthology, the Montana Speech and Hearing Association, the Academy of

Dispensing Audiologists, and the American Academy of Audiology are preapproved. ~~College courses and CE courses offered in related disciplines will be reviewed and approved by the board on a case-by-case basis.~~

(6) A CE program means a class, institute, lecture, conference, workshop, audio, video, internet or correspondence course, or peer-reviewed publication of a journal article(s) or textbook(s) that meets the requirements of (4). Programs that promote a company, individual, or product are excluded.

(5) through (11) remain the same but are renumbered (7) through (13).

AUTH: 37-1-131, 37-1-319, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, MCA

REASON: The board is amending this rule to help facilitate the department's standardized renewal, administrative suspension, and audit procedures. As a part of the standardization, the board is placing the responsibility on licensees to select quality continuing education (CE) programs that contribute to their knowledge and competence. Following amendment, the board will no longer approve sponsors or courses as the licensees must choose CE that meets the education objectives described in this rule.

The board is relocating (6) from ARM 24.150.2204 which is proposed for repeal in this notice.

24.150.2301 UNPROFESSIONAL CONDUCT (1) ~~For the purpose of implementing the provisions of Title 37, chapters 1 and 16, MCA, and in In addition to the unprofessional conduct provisions set forth in statute of 37-1-316, MCA,~~ the board defines unprofessional conduct as follows:

(a) through (g) remain the same.

~~(h) filing a complaint with, or providing information to, the board which the licensee knows, or ought to know, is false or misleading (does not apply to any filing of a complaint or providing information to the board when done in good faith);~~

(i) remains the same but is renumbered (h).

~~(j) using any dangerous drug or controlled substance illegally while providing professional services;~~

~~(k) acting in such a manner as to present a danger to public health or safety, or to any patient including, but not limited to, incompetence, negligence, or malpractice;~~

~~(l) (i) performing services outside of the licensee's area of training, expertise, competence, or scope of practice or licensure, including but not limited to:~~

~~(i) the purposeful removal of cerumen from a patient's ear is unprofessional conduct;~~

~~(m) failing to obtain an appropriate consultation or make an appropriate referral when the problem of the patient is beyond the licensee's training, experience, or competence;~~

~~(n) promoting for personal gain any drug, device, treatment, procedure, product, or service which is unnecessary, ineffective, or unsafe;~~

~~(o) (j) failing to render adequate supervision, management, training, or control of auxiliary staff or supervisees other persons, including licensees practicing~~



~~under the licensee's supervision or control, according to generally accepted standards of practice;~~

(p) remains the same but is renumbered (k).

~~(q) (l) delegating a professional responsibility to a person when the licensee knows, or has reason to know, that the person is not qualified by training, experience, license, or certification to perform the delegated task;~~

(r) through (x) remain the same but are renumbered (m) through (s).

AUTH: 37-1-131, 37-1-319, 37-16-202, MCA

IMP: 37-1-131, ~~37-1-141~~, 37-1-316, 37-1-319, 37-16-411, MCA

REASON: Following an in-depth review, board legal counsel recommended several amendments to this rule to ensure no unnecessary duplication with 37-1-316, MCA, the unprofessional conduct statute. The board determined it is reasonably necessary to update this rule to remove duplication with statute, simplify and streamline the rule for ease of use and readability, and more clearly set forth the actions considered by the board as unprofessional conduct. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

4. The rule proposed to be repealed is as follows:

24.150.2204 STANDARDS FOR APPROVAL

AUTH: 37-1-319, 37-16-202, MCA

IMP: 37-1-131, 37-1-306, MCA

REASON: The board is repealing this rule to align with changes proposed to the continuing education process elsewhere in this notice. Following the changes, the board will no longer preapprove CE courses or providers. The board has relocated any remaining relevant provisions to ARM 24.150.2201.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Hearing Aid Dispensers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsddhad@mt.gov](mailto:dlibsddhad@mt.gov), and must be received no later than 5:00 p.m., June 21, 2019.

6. An electronic copy of this notice of public hearing is available at [www.hearingaid.mt.gov](http://www.hearingaid.mt.gov) (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Hearing Aid Dispensers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to [dlibsddhad@mt.gov](mailto:dlibsddhad@mt.gov); or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.150.401, 24.150.402, 24.150.404, 24.150.503, 24.150.601, 24.150.602, 24.150.2201, and 24.150.2301 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.150.2204 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Hearing Aid Dispensers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; facsimile (406) 841-2305; or to [dlibsddhad@mt.gov](mailto:dlibsddhad@mt.gov).

10. Linda Grief, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF HEARING AID DISPENSERS  
MICHAEL SPINTI  
PRESIDING OFFICER

/s/ DARCEE L. MOE  
Darcee L. Moe  
Rule Reviewer

/s/ GALEN HOLLENBAUGH  
Galen Hollenbaugh, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 14, 2019.

BEFORE THE BOARD OF REALTY REGULATION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.210.401 fee schedule,	)	PROPOSED AMENDMENT AND
24.210.416 applications for	)	REPEAL
examination and license in general–	)	
broker and salesperson, 24.210.661	)	
new licensee mandatory continuing	)	
education–salespersons, 24.210.667	)	
continuing real estate education,	)	
24.210.801 fee schedule, 24.210.835	)	
continuing property management	)	
education, and the repeal of	)	
24.210.616 waiver of experience	)	
requirement for broker licensing	)	
prohibited, and 24.210.666,	)	
24.210.674, 24.210.677, 24.210.834,	)	
24.210.840, and 24.210.843	)	
pertaining to board approval of	)	
courses, providers, and instructors	)	

TO: All Concerned Persons

1. On June 18, 2019, at 9:00 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Realty Regulation no later than 5:00 p.m., on June 11, 2019, to advise us of the nature of the accommodation that you need. Please contact Rhonda Morgan, Board of Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2320; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2323; or [dlibsdrre@mt.gov](mailto:dlibsdrre@mt.gov) (board's e-mail).

3. The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.210.401 FEE SCHEDULE (1) ~~Except as otherwise provided by statute or rule, the~~ The following fees are required by the board for each of the licensing services listed in this rule. All fees are subject to change by the board, within the limitations provided in 37-51-311, MCA.

(2) Fees <u>All fees</u> are deemed earned by the board upon receipt nonrefundable.	
(3) Examination fees are payable to the national testing service under contract with the board.	
(4) remains the same.	
(5) <del>Renewal of a</del> <u>Active renewal for broker license</u>	175
(6) <u>Inactive renewal for broker license</u>	87.50
<del>(6)(7)</del> <u>Original sales salesperson license</u>	150
<del>(7)(8)</del> <u>Renewal of a sales Active renewal for salesperson license</u>	150
(9) <u>Inactive renewal for salesperson license</u>	75
(8) remains the same but is renumbered (10).	
(a) <del>submitted via paper change form</del> <u>by mail</u>	40
(b) remains the same.	
<del>(9)(11)</del> <u>Transfer of salesperson supervision to a single temporary supervising broker</u>	45
<del>(10)(12)</del> <u>Late filing of fee for transfer of salesperson supervision to temporary supervising broker notification</u>	90
(11) and (12) remain the same but are renumbered (13) and (14).	
<del>(13)(15)</del> <u>Activating a salesperson license on inactive status</u>	80 75
(16) <u>Activating a broker license on inactive status</u>	87.50
<del>(14)(17)</del> <u>Original recovery fund account assessment</u>	35
<del>(15) Continuing education course application for approval or renewal</del>	130
<del>(16) Education course instructor application for approval or renewal</del>	87.50
(17) and (18) remain the same but are renumbered (18) and (19).	
<del>(19) Predetermination or waiver application fee</del>	87.50
<del>(20) Each additional course hour option from one course outline</del>	35
<del>(21)(20)</del> <u>Individual CE request application for CE course credit (per course)</u>	45
<del>(22)(21)</del> <u>Late filing of fee for individual CE request application for CE course credit (per course)</u>	100
<del>(23) Instructor/course development course</del>	\$175 per course
<del>(24) Additional standardized fees are specified in ARM 24.101.403.</del>	

AUTH: 37-1-131, 37-1-134, 37-51-203, 37-51-207, MCA

IMP: 37-1-131, 37-1-134, 37-1-141, 37-51-202, 37-51-204, 37-51-207, 37-51-301, 37-51-302, 37-51-303, ~~37-51-305~~, 37-51-308, 37-51-309, 37-51-311, 37-51-502, MCA

REASON: The Legislative Audit Division conducted a performance audit of the Board of Realty Regulation, Licensing Real Estate Professionals, in January 2016. The audit revealed that the board's inactive license fees conflict with the department

rule ARM 24.101.403. The board is amending this rule to align these fees with the department rule and address the audit findings.

The board is amending and repealing rules in this notice to eliminate board preapproval of CE courses, providers, and instructors. The board determined it is reasonably necessary to amend this rule and ARM 24.210.801 and align with those changes by eliminating the fees associated with board CE approval. The board is further amending this rule for improved grammar, language consistency, and improved clarity for the reader. The board is striking (24) as an unnecessary repetition of ARM 24.101.403, the department rule on administrative fees. The board estimates the fee changes will affect approximately 519 persons and decrease annual revenue by \$40,325.

Implementation citations are being amended to delete reference to a repealed statute.

24.210.416 APPLICATIONS FOR EXAMINATION AND LICENSE IN GENERAL—BROKER AND SALESPERSON (1) The board may establish procedures for review of applications for licensing ~~or equivalency~~.

(2) remains the same.

AUTH: 37-1-131, 37-51-203, MCA

IMP: 37-1-131, 37-51-202, 37-51-302, 37-51-303, MCA

REASON: As the board repealed the equivalency application rule, ARM 24.210.615, in July 2017, it is reasonably necessary to amend this rule and remove an erroneous reference to equivalency applications. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.210.661 NEW LICENSEE MANDATORY CONTINUING EDUCATION—SALESPERSONS (1) All new ~~sales~~ salesperson licensees are required to complete the ~~board-mandated~~ new licensee mandatory continuing education requirement, commonly known as the 12-hour rookie course, within 120 days following their original license issue date. If no rookie course is offered within the 120-day period, the new licensee must complete the class when the class is next offered ~~after the 120-day period unless, at the board's discretion, it~~ unless the new salesperson licensee's deadline for completing the rookie course is extended for good cause at the board's discretion. Only live in-person presentations of the rookie course will be approved by the board. ~~No online or webinar rookie courses are appropriate.~~

(2) For the first licensing year only, the rookie course will substitute for a salesperson's ~~regular~~ continuing education requirement. The regular 12-hour continuing education requirement begins ~~with the~~ in a new salesperson licensee's second year of licensing.

~~(3) All licensees are required to submit the renewal form and renewal fee by the date set by ARM 24.101.413 and each renewal date thereafter.~~

(3) A course provider which is approved to administer the approved 12-hour rookie course for new salesperson licensees may seek reimbursement for up to

\$2,000 of demonstrated losses incurred in providing and administering the rookie course. Compensation will be limited to reasonable expenses. Application for reimbursement must be made on board-approved forms which detail the nature and amount of losses.

AUTH: 37-1-131, 37-1-319, 37-51-203, MCA

IMP: 37-1-131, 37-1-141, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA

REASON: The board is striking (3) as an unnecessary repetition of ARM 24.101.413, the department rule on renewal dates and requirements. Because the board is repealing ARM 24.210.666 in this notice, it is reasonably necessary to move relevant provisions on rookie course providers to this rule. The board is further amending this rule for grammatical consistency, to reduce duplicate provisions, and improve clarity.

24.210.667 CONTINUING REAL ESTATE EDUCATION (1) Each active licensee is required to complete a minimum of 12 hours of continuing real estate education every licensing year. ~~The licensing year is from between~~ November 1 through and October 31.

~~(2) Courses completed after the renewal deadline will result in a late renewal and penalty regardless of when the licensee submits the renewal application.~~

(2) The required hours shall be in real estate continuing education courses that are:

(a) approved by the Association of Real Estate License Law Officials' (ARELLO) Distance Education Certification, or a state real estate licensing regulatory agency or real estate commission; or

(b) endorsed by a national, state, or local Association of Realtors, or a national, state, or local real estate, landlords, or property management association.

~~(3) The licensee must attend 90 percent of the first hour and 100 percent of each additional hour of the approved course time in order to receive credit for attendance. Reasonable accommodations will be made for people with medical conditions.~~

~~(4) The required hours shall be in real estate related courses~~ topics approved by the board.

~~(5) By August 1 of each year, the board will identify topics in which the required hours of education must be obtained for the following reporting year. The board, in its discretion, may adjust the topics at any time.~~

(5) Courses must be taught by an instructor who:

(a) has a bachelor's degree in a field associated with real estate;

(b) is approved as an instructor by any state real estate licensing regulatory agency or real estate commission; or

(c) has five years of active licensed experience as a broker.

~~(6) No carry over hours will be recognized or allowed.~~ No credit will be granted for carry over hours from a prior licensing year.

~~(7) No licensee shall repeat a course for credit in the same reporting year, without the course receiving prior board approval.~~

~~(8) The course provider must supply each licensee with a course completion certificate and student evaluation form approved by the board and must verify attendance of each licensee.~~

~~(9) Course and instructor evaluation forms approved by the board must be provided and may be collected by a board representative and forwarded to the board office.~~

~~(10) A board representative may, at no charge, audit all board-approved courses for rule compliance.~~

~~(11) All continuing education course providers must report licensee attendance at approved continuing education offerings to the board within 20 days of the course offering.~~

~~(12) The course provider must report all education attendance in a format approved and provided by the board.~~

~~(13) Failure to accurately and timely provide attendance information to the board could result in withdrawal of the course provider approval.~~

~~(14) All continuing education courses must be taken and completed within the reporting period.~~

~~(15) remains the same but is renumbered (7).~~

~~(16)(8) Licensees completing who have completed continuing education in another jurisdiction or completing education that the licensee believes meets the topic requirements of the board, but which was not previously submitted to the board for approval, may submit an individual course application for approval consideration course credit to be granted at the board's discretion.~~

~~(17) The completed individual course credit application and accompanying fee must be filed with the board office within 30 days after course completion of the course. Failure to timely file the application will result in a late filing fee to avoid a late fee.~~

AUTH: 37-1-131, 37-1-319, 37-51-203, MCA

IMP: 37-1-131, 37-1-141, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA

REASON: The board determined it is reasonably necessary to amend and repeal certain rules in this notice to discontinue board preapproval of courses, providers, and instructors. The board concluded this change will increase the number of continuing education (CE) courses available to real estate licensees in Montana. Additionally, requiring three separate applications for each entity for each course is costly and unreasonably prohibitive for CE providers to offer courses in Montana. The board anticipates that authorizing CE credit for licensees who receive their education from real estate experts and professionals already approved by another real estate regulatory agency or real estate professional organizations will increase the number of courses and the diversity of available CE subject matter. Further, establishing instructor qualifications will reasonably ensure continued quality instruction.

The board is further amending this rule for grammatical consistency, to eliminate duplicate provisions, and improve clarity for the reader. The board is amending (3) as it is presumed as a matter of law that all courses are conducted in

compliance with state and federal laws requiring accommodation of qualifying conditions, whether medical or otherwise, for designated course participants.

24.210.801 FEE SCHEDULE (1) ~~Except as otherwise provided by statute or rule, the~~ The following fees are required by the board for each of the licensing services provided to property management licensees and listed below. All fees are subject to change by the board, within the limitations provided in 37-51-311, MCA.

(2) ~~No part of the~~ All fees paid in accordance with the provisions of this chapter is refundable. Fees are deemed earned by the board upon receipt are nonrefundable.

(3) Examination fees are payable to the national testing service under contract with the board.

(4) <del>For each original</del> <u>Original</u> property management license	\$105
(5) <del>For each annual</del> <u>Active</u> renewal <u>for property management</u> license	130
(6) Inactive renewal for property management license	65
<del>(6) For each change of place of business or affiliation</del>	<del>80</del>
(7) remains the same.	
(8) <del>For placing</del> <u>Placing</u> an active license <u>on</u> inactive <u>status</u>	20
(9) <del>For activating</del> <u>Activating</u> an inactive license	<del>80</del> 65
(10) <del>For each original</del> <u>Original</u> recovery account assessment	35
<del>(11) Continuing education course application</del>	<del>130</del>
<del>(12) Education course instructor application for approval or renewal</del>	<del>87.50</del>
(13) remains the same but is renumbered (11).	
<del>(14)(12) Individual CE request application for CE course credit</del> (per course)	45
<del>(15)(13) Late filing of fee for individual CE request application for</del> <u>CE course credit</u> (per course)	100
<del>(16) Instructor/course development course</del>	<del>\$175 per course</del>
<del>(17) Additional standardized fees are specified in ARM 24.101.403.</del>	

AUTH: 37-1-134, 37-51-203, MCA

IMP: 37-1-134, 37-1-141, 37-51-207, MCA

REASON: The Legislative Audit Division conducted a performance audit of the Board of Realty Regulation, Licensing Real Estate Professionals, in January 2016. The audit revealed that the board's inactive license fees conflict with the department rule ARM 24.101.403. The board is amending this rule to align these fees with the department rule and address the audit findings.

The board is amending and repealing rules in this notice to eliminate board preapproval of CE courses, providers, and instructors. The board determined it is reasonably necessary to amend this rule and ARM 24.210.401 and align with those changes by eliminating the fees associated with board CE approval. The board is further amending this rule for improved grammar, language consistency, and improved clarity for the reader. The board is striking (17) as an unnecessary repetition of ARM 24.101.403, the department rule on administrative fees.



The board estimates the fee changes will affect approximately 20 persons and decrease annual revenue by \$1,300.

24.210.835 CONTINUING PROPERTY MANAGEMENT EDUCATION

(1) Each active licensee is required to complete a minimum of 12 hours of ~~board-approved~~ continuing property management education every licensing year. ~~The licensing year is from between~~ November 1 through ~~and~~ October 31.

~~(2) Courses completed after the renewal deadline will result in a late renewal and penalty, regardless of when the licensee submits the renewal application.~~

(2) The required hours shall be in property management continuing education courses that are:

(a) approved by the Association of Real Estate License Law Officials' (ARELLO) Distance Education Certification, or a state real estate licensing regulatory agency or real estate commission; or

(b) endorsed by a national, state, or local Association of Realtors, or any national, state, or local real estate, landlords, or property management association.

(3) The licensee must attend 90 percent of the first hour and 100 percent of each additional hour of the approved course time ~~in order to receive credit for attendance. Reasonable accommodations will be made for people with medical conditions.~~

(4) The required hours shall be in courses property management related topics approved by the board.

~~(5) By August 1 of each year, the board will identify topics in which the required hours of education must be obtained. The board, in its discretion, may adjust the topics at any time.~~

(5) Courses must be taught by an instructor who:

(a) has a bachelor's degree in a field associated with property management;

(b) is approved as an instructor by any state real estate licensing regulatory agency or real estate commission; or

(c) has five years of active licensed experience as a broker or property manager.

~~(6) No licensee may repeat a course for credit. No duplicate credit will be granted for repeating a course in the same reporting period, without the course receiving prior board approval.~~

~~(7) The course provider must supply each licensee with a course completion certificate and student evaluation form approved by the board and must verify attendance of each licensee.~~

~~(8) The course provider must provide board-approved course and instructor evaluation forms to course attendees. A board representative may collect the forms and forward them to the board office.~~

~~(9) A board representative may, at no charge, audit all board-approved courses for rule compliance.~~

~~(10) All continuing education course providers must report licensee attendance at approved continuing education offerings to the board within 20 days of the course offering.~~

~~(11) The course provider must report all education attendance in a format approved and provided by the board.~~

~~(12) Failure to accurately and timely provide attendance information to the board could result in withdrawal of the course provider approval.~~

~~(13) All continuing education courses must be taken and completed within the reporting period. No carry over hours will be accepted from one reporting period to another, except as provided in ARM 24.210.829.~~

~~(14) Failure to comply with the continuing education requirements established by the board is unprofessional conduct and will result in disciplinary action by the board.~~

~~(15)(7) Licensees completing who have completed continuing education in another jurisdiction or completing education that the licensee believes meets the topic requirements of the board, but which has not previously been submitted to the board for approval, may submit an individual course application for approval consideration course credit to be granted at the board's discretion.~~

~~(16) The completed individual course application and accompanying fee must be filed with the board office within 30 days of completion of the course. Failure to timely file the application will result in a late filing fee.~~

AUTH: 37-1-131, 37-1-319, 37-51-203, MCA

IMP: 37-1-131, 37-1-141, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA

REASON: See the REASON for ARM 24.210.667.

4. The rules proposed to be repealed are as follows:

24.210.616 WAIVER OF EXPERIENCE REQUIREMENT FOR BROKER LICENSING PROHIBITED

AUTH: 37-1-131, 37-51-203, MCA

IMP: 37-51-202, 37-51-302, 37-51-306, MCA

REASON: Northwestern Energy petitioned the board requesting amendment to ARM 24.210.611(9)(d) to allow licensed salespersons employed by Northwestern to count the real estate transactions in which they are involved on behalf of Northwestern toward the experience needed to apply for a broker license, which is prohibited by the current rule. The board determined it is reasonably necessary to repeal this rule in response to Northwestern's request and to address other similarly situated stakeholders. Following this repeal, the board may exercise discretion to waive part or all of the experience requirements for individual broker applicants, depending on the details presented by the applicants.

24.210.666 COURSE PROVIDER

AUTH: 37-1-131, 37-1-319, 37-51-203, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-51-204, 37-51-302, MCA

REASON: See the REASON for ARM 24.210.667.

24.210.674 CONTINUING REAL ESTATE EDUCATION–COURSE  
APPROVAL

AUTH: 37-1-131, 37-1-319, 37-51-203, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA

REASON: See the REASON for ARM 24.210.667.

24.210.677 CONTINUING REAL ESTATE EDUCATION–INSTRUCTOR  
APPROVAL

AUTH: 37-1-131, 37-1-319, 37-51-203, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA

REASON: See the REASON for ARM 24.210.667.

24.210.834 COURSE PROVIDER

AUTH: 37-1-131, 37-1-319, 37-51-203, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-51-204, 37-51-302, 37-51-603,  
MCA

REASON: See the REASON for ARM 24.210.667.

24.210.840 CONTINUING PROPERTY MANAGEMENT EDUCATION–  
COURSE APPROVAL

AUTH: 37-1-131, 37-1-319, 37-51-203, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA

REASON: See the REASON for ARM 24.210.667.

24.210.843 CONTINUING PROPERTY MANAGEMENT EDUCATION–  
INSTRUCTOR APPROVAL

AUTH: 37-1-131, 37-1-319, 37-51-203, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-51-202, MCA

REASON: See the REASON for ARM 24.210.667.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2323, or e-mail to [dlibsdrre@mt.gov](mailto:dlibsdrre@mt.gov), and must be received no later than 5:00 p.m., June 21, 2019.

6. An electronic copy of this notice of public hearing is available at [realestate.mt.gov](http://realestate.mt.gov) (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2323; e-mailed to [dlibsdrre@mt.gov](mailto:dlibsdrre@mt.gov); or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.210.401, 24.210.416, 24.210.661, 24.210.667, 24.210.801, and 24.210.835 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.210.616, 24.210.666, 24.210.674, 24.210.677, 24.210.834, 24.210.840, and 24.210.843 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2320; facsimile (406) 841-2323; or to [dlibsdrre@mt.gov](mailto:dlibsdrre@mt.gov).

10. Rhonda Morgan, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF REALTY REGULATION  
RIC SMITH, BROKER  
PRESIDING OFFICER

/s/ DARCEE L. MOE  
Darcee L. Moe  
Rule Reviewer

/s/ GALEN HOLLENBAUGH  
Galen Hollenbaugh, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 14, 2019.

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rules I through VI, the amendment of	)	PROPOSED ADOPTION,
ARM 37.110.101, and the repeal of	)	AMENDMENT, AND
ARM 37.110.301, 37.110.302,	)	REPEAL
37.110.303, 37.110.310, 37.110.311,	)	
37.110.312, 37.110.318, 37.110.319,	)	
37.110.320, 37.110.321, 37.110.323,	)	
37.110.330, 37.110.331, 37.110.332,	)	
37.110.333, 37.110.340, 37.110.341,	)	
37.110.342, 37.110.347, 37.110.348,	)	
37.110.350, 37.110.351, 37.110.352,	)	
37.110.353, 37.110.354, 37.110.355,	)	
37.110.360, 37.110.361, 37.110.362,	)	
37.110.363, 37.110.364, 37.110.370,	)	
37.110.371, 37.110.801, 37.110.802,	)	
37.110.805, and 37.110.810	)	
pertaining to wholesale foods and	)	
food standards	)	

TO: All Concerned Persons

1. On June 13, 2019, at 1:00 p.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed adoption, amendment, and repeal of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on June 4, 2019, to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

3. The rules as proposed to be adopted provide as follows:

NEW RULE I INTRODUCTION (1) This subchapter regulates wholesale food establishments, as stated in Title 50, chapter 57, MCA. These rules reflect the most recent scientific information, align the regulations with other states, and correspond to the extent feasible with the retail food rules.

AUTH: 50-57-103, MCA  
IMP: 50-57-103, MCA

NEW RULE II INCORPORATION BY REFERENCE (1) The Department of Public Health and Human Services (department) adopts and incorporates by reference the Food and Consumer Safety (FCS) Circular 2-2019 for wholesale food establishments. This publication may be reviewed online at: <https://dphhs.mt.gov/publichealth/FCSS/WholesaleFoodEstablishments>, or by contacting DPHHS-FCSS, 1400 Broadway Street, Helena, MT 59620. The circular is modeled after the 2015 Montana retail food rule, 2013 U.S. Food and Drug Administration "Food Code," and Montana food standards contained in ARM Title 37, chapter 110, subchapter 1.

AUTH: 50-57-103, MCA  
IMP: 50-57-103, MCA

NEW RULE III LICENSES (1) Any person applying to operate a wholesale food establishment must complete and submit a written application for a license on a form provided by the department. License application forms are available through the local health authority in the county where the activity is being proposed.

(2) A license applicant or legal licensee must submit to the regulatory authority properly prepared plans and specifications for review and approval before:

- (a) construction of a new food establishment;
- (b) conversion of an existing structure for use as a food establishment;
- (c) significant remodeling of an existing food establishment, as determined by the regulatory authority;
- (d) significant change in licensing subtype from low-risk food processing to high-risk food processing, as determined by the regulatory authority; or
- (e) a proposed change in legal ownership of an existing food establishment, as determined by the regulatory authority.

(3) Establishment plans and specifications must include, as required by the regulatory authority, the following information to demonstrate conformance with this subchapter:

- (a) intended ingredients, recipes, or products;
- (b) anticipated volume of food to be stored, processed, and sold or served;
- (c) proposed layout, mechanical schematics, construction materials, and finish schedules;
- (d) proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;
- (e) evidence that standard procedures ensuring compliance with the requirements of this rule are developed or are being developed; and
- (f) other information that may be required by the regulatory authority for the proper review of the proposed construction, conversion, or modification, and procedures for operating a food establishment.

(4) Proposed mobile food establishments, engaged in food processing, especially high-risk processing, must adequately demonstrate to both the

department and the local regulatory authority that the business plan can control at least the following factors, prior to issuance of a license for each and every anticipated food-processing site:

- (a) access to sufficient quantity and quality of potable water;
- (b) provision for numbers and location of handwashing stations;
- (c) provision for numbers and location of food worker toilets;
- (d) access to sufficient quantity and quality of wastewater disposal systems;
- (e) control over possible airborne contaminants;
- (f) control over possible ground-based contaminants;
- (g) control over possible vermin access;
- (h) control over proper plumbing for water and wastewater;
- (i) control over operations to prevent water and wastewater freezing; and
- (j) other relevant control items deemed appropriate by the department or local regulatory authority.

(5) A proposed food manufacturing establishment bottling drinking water in Montana must submit the following to the department and/or local health authority for review and approval:

(a) written test results of the most recent inorganic, volatile organic, organic chemical, and radiological analyses of the water serving the establishment;

(b) written test results for pesticides and synthetic organic chemicals, if the department or local health authority determines such tests are necessary, or if random testing has shown there is or may be contaminants present at levels which may adversely affect public health;

(c) a written description of the water source, water treatment systems, all substances added to the water, and any other documentation required by the department or local health authority to verify that labels and terminology used on product labels conform with applicable law; and

(d) for products labeled "mineral water" or for a label containing the term "mineral water" copies of laboratory testing results of mineral content and total dissolved solids (TDS) of the product, obtained during the last 12 months preceding the license year from an agency approved by the department or another public health agency, to test drinking water.

(6) License applicants and license holders must ensure uniform application of food safety standards and compliant product labels.

(a) Prior to approval of an application for a license, or change in certain license subtypes, the local regulatory authority will require the license applicant to submit to the department, and/or the local regulatory authority, food processing plans and food package labeling examples on a form provided by the department for assessment of compliance with this subchapter, and food standards in applicable subsections of ARM 37.110.101. The assessment will be conducted by either the local regulatory authority or the department, or both.

(b) Pursuant to the requirement in (6), this section addresses who is qualified to conduct food safety evaluations and scientific food studies:

(i) Food processes or packaging methods and scientific challenge studies that need a written safety evaluation must be conducted by a process authority currently listed with the Association of Food and Drug Officials at the time of the compliance assessment stated in (6)(a).

(ii) When a challenge study is proposed, in addition to the requirement in (b)(i), the study must be designed and evaluated by an expert food microbiologist, and the laboratory in which the study is conducted must be able to demonstrate prior experience in conducting valid scientific challenge studies.

(c) At the conclusion of the pre-licensing assessment done by the department, the department will submit in a timely manner to the local regulatory authority, and license applicant, a written report regarding findings of the pre-licensing assessment, which may be used by the local regulatory authority as a basis for approval or denial of an application for a license. The written report will also suggest to the local regulatory authority to which license subtype the business should be assigned.

(7) All wholesale food establishments must comply with all appropriate building construction standards in 50-60-101, MCA, and all applicable administrative rules as adopted by the Department of Labor and Industry in ARM Title 24, chapter 301 before issuance of a department wholesale food license.

(8) The regulatory authority must conduct one or more pre-licensing inspections to verify that the food establishment is constructed and equipped in accordance with the approved plans and approved modifications of those plans, and is in compliance with law and this subchapter. No license will be issued or permission granted to operate a proposed establishment if any violations of this rule are observed by the regulatory authority during the final onsite pre-licensing inspection. The department will issue a license to the applicant if the final pre-licensing inspection by the regulatory authority reveals that the proposed wholesale food establishment complies with requirements in this subchapter.

(9) No person may operate a wholesale food establishment who does not have a valid license issued by the department. Only a person who complies with the requirements of this subchapter will be entitled to receive or retain such a license. A valid license must be posted in a conspicuous place for viewing at every wholesale food establishment. Food establishments, under this subchapter that also sell or serve to consumers must procure a separate retail food establishment license, unless specifically exempted from licensure under law in Title 50, chapter 50, MCA.

(10) A license issued by the department must be validated by the local health officer of the local board of health with jurisdiction where the establishment is located in accordance with 50-57-208, MCA. Upon refusal to validate a license, the applicant may appeal the decision in accordance with 50-57-209, MCA.

(11) The department may deny or cancel a license, in accordance with 50-57-210, MCA. Prior to license cancellation, the applicant or licensee may submit a correction plan, in accordance with 50-57-211, MCA. A written notice to the applicant or licensee and hearing are required in cases involving license denials or cancellations, in accordance with 50-57-212, MCA.

(12) Whenever a cancellation of a license has become final, the holder of the cancelled license may make written application for a new license.

(13) Obtaining the license referred to in (9) does not relieve the applicant from satisfying applicable requirements from other federal, state, or local agencies. These may include:

- (a) building rule permits and inspections;
- (b) fire and life safety inspections;



(c) private or public water supply system or sewage treatment systems permits or inspections; and

(d) occupational health and safety requirements.

(14) The local regulatory authority will assign a food establishment to a license type and subtype by assessing food processing procedures, food service, and utilizing the definitions in this subchapter.

(15) At the time of initial licensing and updated as needed, but no less than each licensing year, the regulatory authority will correctly assign a food establishment to one of four categories by evaluating the food processing and service procedures of the food establishment based on the criteria specified in Table 1.

Table 1: Food Establishment Categories

Category A: a food establishment whose point value is less than two must be included in this category.

Category B: a food establishment whose point value is at least two, but not greater than four, must be included in this category.

Category C: a food establishment whose point value equals or exceeds five must be included in this category.

Category D: a food establishment that has been ordered closed by the regulatory authority, or caused a documented foodborne illness outbreak within the previous licensing year must be included in this category.

Food Establishment Point Assignments	
Assignment Factors	Points
Food is not processed at the facility	0
Establishment has annual gross sales in excess of \$1 million	1
Establishment distributes food to other states or nations	1
Establishment provides delivery of ready-to-eat food to consumers	1
Potentially hazardous food (condition control food) are held at the facility for any period of time	1
Establishment provides wild mushrooms or wild plants	1
Establishment distributes food directly to schools, hospitals, elderly care facilities, or to other facilities that serve highly susceptible populations to foodborne illness	4
Food is processed before being distributed, involving activities such as baking, blanching, boiling, chopping, cooking, cutting, dicing, heating, reheating, or slicing, back-sweetening, and the finished food product is considered ready-to-eat	5
Food processed at the facility is classified as an acidified food, fish, or fishery product, low-acid canned food, or juice product	5
Establishment is engaged in sprouting seeds or making ice for human consumption	5
Establishment infuses vegetables or herbs in oil	5
Establishment packages potentially hazardous foods in reduced oxygen packaging or modified atmospheric packaging	5

(16) Botanical substances are those substances not classified in law as food, dietary supplements, drugs, or cosmetics but its use is commonly or usually known by reasonable persons to be an edible product available in commerce.

(a) Botanical substances as determined by the department that are in commerce, such as kratom (*Mitragyna speciosa*), will not be classified as foods, dietary supplements, drugs, or cosmetics if the following conditions apply to product labeling, promotional materials, and advertising:

- (i) the information makes no reference to the product being edible; and
- (ii) the information makes no health or health-related claims that would render the products unapproved drugs, dietary supplements, or food.

(b) This rule does not waive detainment and condemnation powers given in 50-31-509 and 50-31-510, MCA, for public health and safety purposes regarding adulteration and misbranding.

AUTH: 50-57-103, MCA

IMP: 50-57-103, 50-57-201, 50-57-203, 50-57-208, 50-57-209, 50-57-210, 50-57-211, 50-57-212, 50-57-213, MCA

NEW RULE IV INSPECTIONS (1) The local health officer, registered sanitarian, or sanitarian-in-training employed by or contracted with the local board of health must perform an inspection of each wholesale food establishment within the jurisdiction of the local board of health at least once every 12 months. Additional inspections of the food service establishment must be performed as often as necessary for the enforcement of this subchapter.

AUTH: 50-57-103, MCA

IMP: 50-57-103, 50-57-301, MCA

NEW RULE V MINIMUM PERFORMANCE REQUIREMENTS FOR LOCAL HEALTH AUTHORITIES (1) To qualify for reimbursement under 50-57-305, MCA, a local board of health will perform inspections as specified in this subchapter or enter into a written, signed cooperative agreement with the department that establishes the duties and responsibilities of the local board of health and the department consistent with this subchapter.

(2) All local boards of health must meet the following criteria:

(a) At least one sanitarian working with or for the local board of health must receive training from the department in standardized food inspections. The department is responsible for making training and standardization available on a periodic basis.

(b) Reporting of inspection dates must be documented in a manner and frequency approved by the department.

(c) All documentation of enforcement of this subchapter including inspection reports, consumer complaints, illness investigations, plans of correction, issuances of variances, and enforcement actions must be retained for five years and be submitted or otherwise made available to the department upon request.

(3) A failure by the local board of health to meet any or all of its responsibilities under this rule may result in the withholding of funds from the local board reimbursement fund in an amount to be determined by the department.

AUTH: 50-57-103, MCA

IMP: 50-57-103, 50-57-104, 50-57-301, 50-57-305, MCA

NEW RULE VI CERTIFICATE OF FREE SALE (1) Requirements for issuance of a Certificate of Free Sale (CFS) by the department or local regulatory authority are:

- (a) all certificate applicants must possess a valid wholesale food license;
- (b) a CFS will be issued only for license subtypes listed on the issued license;
- (c) a CFS will only be issued for compliance with general good food manufacturing practices regulated in this subchapter, and not for the specific food manufacturing regulations stated in ARM 37.110.101;
- (d) products for certification must not be under or pending any known embargo, detainment, or litigation by the regulatory authority, U.S. Food and Drug Administration (USFDA), or other enforcement action by health or safety authorities recognized by the department, including local, state, or federal judicial orders;
- (e) prior to issuing a CFS, the certificate applicant will provide to the department or local regulatory authority a signed statement that certifies to the best of their knowledge the products are not pending any known embargo, detainment, or litigation by a local regulatory authority, the department, or USFDA, or local, state, or federal judicial orders;
- (f) certificate applicants that request a CFS must have been inspected by the regulatory authority within the inspection frequency stated in [NEW RULE IV];
- (g) certificate applicants must be in substantial compliance, and not have any uncorrected critical or priority violations of applicable food safety laws and rules;
- (h) a CFS will be issued in a format approved by the department that specifies:
  - (i) plant location where the products were processed;
  - (ii) date the plant was inspected, and found in substantial compliance, without any uncorrected critical or priority violations of applicable food safety laws and rules;
  - (iii) only known facts about the products, and conditions found during the inspection;
  - (iv) the inspection was not conducted to assess compliance with federal good manufacturing practices, only for compliance with Montana wholesale food rules;
  - (v) the issued document is clearly titled "Certificate of Free Sale"; and
  - (vi) the certificate does not imply or express any testimonials regarding product warranty;
- (i) the applicant must provide the department or local regulatory authority with information for a CFS on a form provided and approved by the department;
- (j) certificate applicant must currently be registered with USFDA, if products are shipped out of state, or outside the United States;

(k) the CFS will be issued in the order the requests are received, and provided in accordance with department or local regulatory authority resources in the timeliest manner possible; and

(l) the department or local regulatory authority will deliver CFSs by the U.S. Postal Service.

(2) The department or local regulatory authority will not charge a fee for the CFS, unless allowed by law.

(3) The decision by the department or local regulatory authority to deny a CFS may be appealed by the applicant by filing a written notice of appeal to the department or local regulatory authority within 30 days of the date on the written denial. Upon the filing of the notice of appeal, the applicant is entitled to a hearing before the department or local regulatory authority held pursuant to the contested case procedure detailed in the Montana Administrative Procedure Act. If the department or local regulatory authority finds the applicant is entitled to a CFS, the presiding officer of the department will issue written directions about how and when the certificate will be issued.

AUTH: 50-57-103, MCA

IMP: 50-57-103, MCA

4. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.110.101 FOOD STANDARDS (1) The department adopts by reference the following federal regulations establishing food definitions and standards promulgated by the United States Food and Drug Administration ~~which~~ that are found in the corresponding parts of Title 21 of the Code of Federal Regulations (CFR) as of April 1, ~~2004~~ 2017 and 2018; These standards apply to all food as the term is defined in 50-31-103(15), MCA.

(a)	Color additives	21 CFR 70
(b)	Color additive petitions	21 CFR 71
(c)	Listing of color additives exempt from certification	21 CFR 73
(d)	Listing of color additives subject to certification	21 CFR 74
(e)	Color additive certification	21 CFR 80
(f)	General specifications and general restrictions for provisional color additives for use in foods, drugs and cosmetics	21 CFR 81
(g)	Listing of certified provisionally listed colors and specifications	21 CFR 82
(h)	Dissemination of information on unapproved/new uses for marketed drugs, biologics and devices	21 CFR 99
(i)	General (food for human consumption)	21 CFR 100, Subpart G
(j)	Food labeling	21 CFR 101
(k)	Common or usual name for non-standardized foods	21 CFR 102

(l)	Nutritional quality guidelines for foods	21 CFR 104
(m)	Foods for special dietary use	21 CFR 105
(n)	Infant formula quality control procedures	21 CFR 106
(o)	Infant formula	21 CFR 107
(p)	Emergency permit control	21 CFR 108
(q)	Unavoidable contaminants in food for human consumption and food-packaging material	21 CFR 109
(r)	Current good manufacturing practice in manufacturing, packing or holding human food	21 CFR 110
(s)	Current good manufacturing practice for dietary supplements	21 CFR 111
(t)	Thermally processed low-acid foods packages in hermetically sealed containers	21 CFR 113
(u)	Acidified foods	21 CFR 114
(v)	Shell eggs	21 CFR 115
<u>(w)</u>	<u>Current good manufacturing practice, hazard analysis, and risk-based preventive controls for human food</u>	<u>21 CFR 117</u>
<del>(w)</del> <u>(x)</u>	Hazard analysis and critical control point (HACCP) systems	21 CFR 120
<del>(x)</del> <u>(y)</u>	Fish and fishery products	21 CFR 123
<del>(y)</del> <u>(z)</u>	Processing and bottling of bottled drinking water	21 CFR 129
<del>(z)</del> <u>(aa)</u>	Food standards: general	21 CFR 130
<del>(aa)</del> <u>(ab)</u>	Milk and cream	21 CFR 131
<del>(ab)</del> <u>(ac)</u>	Cheeses and related cheese products	21 CFR 133
<del>(ac)</del> <u>(ad)</u>	Frozen desserts	21 CFR 135
<del>(ad)</del> <u>(ae)</u>	Bakery products	21 CFR 136
<del>(ae)</del> <u>(af)</u>	Cereal fours and related products	21 CFR 137
<del>(af)</del> <u>(ag)</u>	Macaroni and noodle products	21 CFR 139
<del>(ag)</del> <u>(ah)</u>	Canned fruits	21 CFR 145
<del>(ah)</del> <u>(ai)</u>	Canned fruit juices	21 CFR 146
<del>(ai)</del> <u>(aj)</u>	Fruit butters, jellies, preserves, and related products	21 CFR 150
<del>(aj)</del> <u>(ak)</u>	Fruit pies	21 CFR 152
<del>(ak)</del> <u>(al)</u>	Canned vegetables	21 CFR 155

<del>(al)</del> <u>(am)</u>	Vegetable juices	21 CFR 156
<del>(am)</del> <u>(an)</u>	Frozen vegetables	21 CFR 158
<del>(an)</del> <u>(ao)</u>	Eggs and egg products	21 CFR 160
<del>(ao)</del> <u>(ap)</u>	Fish and shellfish	21 CFR 161
<del>(ap)</del> <u>(aq)</u>	Cacao products	21 CFR 163
<del>(aq)</del> <u>(ar)</u>	Tree nut and peanut products	21 CFR 164
<del>(ar)</del> <u>(as)</u>	Beverages	21 CFR 165
<del>(as)</del> <u>(at)</u>	Margarine	21 CFR 166
<del>(at)</del> <u>(au)</u>	Sweeteners and table syrups	21 CFR 168
<del>(au)</del> <u>(av)</u>	Food dressing and flavorings	21 CFR 169
<del>(av)</del> <u>(aw)</u>	Food additives	21 CFR 170
<del>(aw)</del> <u>(ax)</u>	Food additive petitions	21 CFR 171
<del>(ax)</del> <u>(ay)</u>	Food additives permitted for direct addition to food for consumption	21 CFR 172
<del>(ay)</del> <u>(az)</u>	Secondary direct food additives permitted in food for human consumption	21 CFR 173
<del>(az)</del> <u>(ba)</u>	Indirect food additives: general	21 CFR 174
<del>(ba)</del> <u>(bb)</u>	Indirect food additives: adhesives and components of coatings	21 CFR 175
<del>(bb)</del> <u>(bc)</u>	Indirect food additives: paper and paperboard components	21 CFR 176
<del>(bc)</del> <u>(bd)</u>	Indirect food additives: polymers	21 CFR 177
<del>(bd)</del> <u>(be)</u>	Indirect food additives: adjuvants, production aids and sanitizers	21 CFR 178
<del>(be)</del> <u>(bf)</u>	Irradiation in the production, processing, and handling of food	21 CFR 179
<del>(bf)</del> <u>(bg)</u>	Food additives permitted in food on an interim basis or in contact with food pending additional study	21 CFR 180
<del>(bg)</del> <u>(bh)</u>	Prior-sanctioned food ingredients	21 CFR 181
<del>(bh)</del>	Substances generally recognized as safe	21 CFR 182

(bi)		
<del>(bi)</del> (bj)	Direct food substances generally recognized as safe	21 CFR 184
<del>(bj)</del> (bk)	Indirect food substances affirmed as generally recognized as safe	21 CFR 186
<del>(bk)</del> (bl)	Substances prohibited from use in human food	21 CFR 189
<del>(bl)</del> (bm)	Dietary supplements	21 CFR 190

(2) Copies of the federal regulations which were adopted and incorporated by reference under (1) may be obtained, ~~upon payment of copying costs,~~ from the Department of Public Health and Human Services, Food and Consumer Safety Section, 1400 Broadway, P.O. Box 202951, Helena, Montana 59620-2951, phone: (406) 444-2408.

AUTH: 50-31-104, 50-31-108, 51-31-201, MCA  
IMP: 50-31-101, 50-31-104, 50-31-203, MCA

5. The department proposes to repeal the following rules:

37.110.301 DEFINITIONS is found on page 37-27281 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.302 PRECONSTRUCTION REVIEW is found on page 37-27283 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.303 PRELIMINARY INSPECTION is found on page 37-27283 of the Administrative Rules of Montana.

AUTH: 50-50-103, 50-50-301, 50-50-302, MCA  
IMP: 50-50-103, 50-50-301, 50-50-302, MCA

37.110.310 FOOD SUPPLIES is found on page 37-27287 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.311 MILK AND MILK PRODUCTS is found on page 37-27287 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.312 FROZEN DESSERTS is found on page 37-27287 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.318 SHELLFISH is found on page 37-27291 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.319 MEAT AND MEAT PRODUCTS is found on page 37-27291 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.320 POULTRY AND POULTRY PRODUCTS is found on page 37-27291 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.321 BAKERY PRODUCTS is found on page 37-27291 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.323 EGGS AND EGG PRODUCTS found on page 37-27293 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.330 FOOD PROTECTION is found on page 37-27297 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA



37.110.331 TEMPERATURE REQUIREMENTS is found on page 37-27297 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.332 FOOD PREPARATION is found on page 37-27298 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.333 FOOD STORAGE found on page 37-27299 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.340 DISPLAY AND SERVICE is found on page 37-27315 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.341 TRANSPORTATION is found on page 37-27315 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.342 TOXIC MATERIALS is found on page 37-27316 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.347 EMPLOYEE REQUIREMENTS is found on page 37-27323 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.348 EQUIPMENT AND UTENSILS: COMPOSITION, PLACEMENT, CLEANING, SANITIZING AND STORAGE is found on page 37-27324 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.350 WATER SUPPLY is found on page 37-27331 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.351 SEWAGE DISPOSAL is found on page 37-27332 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.352 PLUMBING is found on page 37-27332 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.353 TOILET AND LAVATORY FACILITIES is found on page 37-27333 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.354 WASTE DISPOSAL is found on page 37-27334 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.355 VERMIN CONTROL is found on page 37-27335 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.360 FLOORS, WALLS AND CEILINGS is found on page 37-27345 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.361 LIGHTING AND VENTILATION is found on page 37-27347 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.362 DRESSING ROOMS AND LOCKERS is found on page 37-27348 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.363 CLEANING OF PREMISES is found on page 37-27348 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.364 LIVE ANIMALS AND BIRDS: PROHIBITED ON PREMISES is found on page 37-27349 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA  
IMP: 50-50-103, MCA

37.110.370 INSPECTIONS is found on page 37-27351 of the Administrative Rules of Montana.

AUTH: 50-50-103, 50-50-305, MCA  
IMP: 50-50-301, 50-50-302, 50-50-305, MCA

37.110.371 MINIMUM PERFORMANCE REQUIREMENTS FOR LOCAL HEALTH AUTHORITIES is found on page 37-27352 of the Administrative Rules of Montana.

AUTH: 50-50-305, MCA  
IMP: 50-50-305, MCA

37.110.801 DRINKING WATER is found on page 37-27471 of the Administrative Rules of Montana.

AUTH: 50-31-104, 50-31-201, 50-50-103, MCA  
IMP: 50-31-104, 50-31-201, 50-50-103, MCA

37.110.802 ICE is found on page 37-27473 of the Administrative Rules of Montana.

AUTH: 50-31-104, 50-31-201, 50-50-103, MCA  
IMP: 50-31-104, 50-31-201, 50-50-103, MCA

37.110.805 COMMON CARRIERS is found on page 37-27479 of the Administrative Rules of Montana.

AUTH: 50-50-103, MCA

IMP: 50-50-103, MCA

37.110.810 MINIMUM PERFORMANCE REQUIREMENTS FOR LOCAL HEALTH AUTHORITIES is found on page 37-27487 of the Administrative Rules of Montana.

AUTH: 50-50-305, MCA

IMP: 50-50-305, MCA

## 6. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to adopt New Rules I through VI, proposing amendments to ARM 37.110.101, and is proposing to repeal ARM 37.110.301, 37.110.302, 37.110.303, 37.110.310, 37.110.311, 37.110.312, 37.110.318, 37.110.319, 37.110.320, 37.110.321, 37.110.323, 37.110.330, 37.110.331, 37.110.332, 37.110.333, 37.110.340, 37.110.341, 37.110.342, 37.110.347, 37.110.348, 37.110.350, 37.110.351, 37.110.352, 37.110.353, 37.110.354, 37.110.355, 37.11.360, 37.110.361, 37.110.362, 37.110.363, 37.110.364, 37.110.370, 37.110.371, 37.110.801, 37.110.802, 37.110.805, and 37.110.810. These repealed rules will be addressed in the new wholesale food rule and its companion circular.

The department is proposing amendments to the existing Food Manufacturing Establishments subchapter to update the rules to reflect the most recent scientific information, better align the rules with other states, improve uniform application of food safety principles throughout Montana, and comply with 50-57-103(2), MCA. This section of Montana law requires wholesale food rules to correspond as closely as possible with the retail food establishment rules. The substantive changes are described below.

The department is also proposing amendments to the existing food standards subchapter to update the rules to reflect change in federal codes that represent the most recent food standards. The last time these standards were updated was in 2001.

### New Rule I

The department is proposing New Rule I because it is necessary to describe the purpose of these rules and when they apply.

### New Rule II

The department is proposing New Rule II, which adopts and incorporates by reference the Food and Consumer Safety (FCS) Circular 2-2019 for wholesale food establishments. The circular is modeled after the 2015 Montana retail food rule, 2013 U.S. Food and Drug Administration "Food Code," and Montana food standards contained in ARM Title 37, chapter 110, subchapter 1. The proposed circular closely follows the existing retail food establishment rules while also being tailored to the needs of wholesale food establishments.

The circular is divided into eight chapters. Chapter one defines the terms that are used throughout the circular. Chapter two provides standards for management and personnel of wholesale food establishments. Chapter three provides standards for the use, transport, storage, identification, labeling, and preparation of different types of foods. Chapter four provides standards for equipment, utensils, and linen used in the course of operating a wholesale food establishment. Chapter five provides water, plumbing, and waste disposal standards. Chapter six provides physical plant operation standards. Chapter seven provides standards for storage and use of poisonous and toxic materials. Chapter eight provides compliance and enforcement standards, including provisions for variances.

The following is a summary of important changes in the circular compared to the previous rules and the retail food establishment rules.

1-201.10: The definition of "mobile" is further clarified in this section to more easily distinguish between normal transport of food, and a facility engaged in a licensable activity, such as a processing and/or warehousing unit.

2-102.12: Food establishment operators should be aware that a Certified Food Protection Manager is required for certain establishments that meet specific criteria described in section 2-102.12.

3-201.16: Provisions have been written for the safe introduction of wild plants and wild mushrooms into commerce.

3-202.11: This section clarifies safe transport of food where the previous rule was vague or silent regarding this topic.

3-301.11: Food establishment operators should be aware that bare-hand contact is not allowed with ready-to-eat foods (RTE), unless written approval has been given to the legal licensee by the local health authority.

3-302.110: This section was created to address the issue of major food allergens contaminating other food products.

3-404.11: This section was created to clarify the relationship between federal and state food standards, as they apply to specialized, high-risk food processes, such as acidified foods, low-acid canned foods, juice processing, and fish processing.

3-601.13: This section was created to clarify a portion of retail food law that allows wholesale food operators to provide offsite samples to the public, as part of their licensing activities.

4-205.10: This section of the circular clarifies and updates the previous rule of ARM 37.110.348(5) addressing replacement utensils and equipment. The circular provides a firm standard by which operators and regulatory agencies may assess food equipment for its performance suitability in commercial settings versus equipment described for non-commercial use, or custom-made equipment. Variances and waivers are allowed under Circular 8-103.10 for special circumstances, provided they do not conflict and are consistent with precedent set and documented by the department to ensure uniform application of the rules.

5-101.11.02: The department's 2016 nonpublic water circular is referenced in this section to ensure that such water systems are held to the same standard as public systems, serving similar functions.

5-101.13: This section incorporates ARM 37.110.801 regarding drinking water into the circular.

5-101.14: This section incorporates ARM 37.110.802 regarding the use of snow and ice as food, into the circular.

8-102.10: Provisions have been made in this section for ensuring needed food safety requirements are met that are not directly or indirectly addressed in other sections of this subchapter, especially as it applies to high-risk mobile food processing units.

8-103.10: Provisions have been made in this section for granting variances not directly or indirectly addressed in other sections of this circular, provided certain circumstances are met for precedent and notification.

8-402.11: Training of state and local health officials is critical in communicating correct and relevant information to the public, food workers, license applicants, and legal licensees about food safety. Public health agencies have an obligation to provide this training to both state and local health officials to ensure competency and program success in preventing outbreaks and illnesses.

### New Rule III

The department is proposing New Rule III, which identifies the process for obtaining a wholesale food establishment license and the requirements that must be met for issuance of the license. The rule is necessary to inform applicants of the information that must be provided to seek a wholesale food establishment license and the process under which applications for a license are evaluated.

### New Rule IV

The department is proposing New Rule IV to address the inspection requirements formerly contained in ARM 37.110.370. The new rule is necessary to conform with the department's proposed adoption of Food and Consumer Safety (FCS) Circular 2-2019 for wholesale food establishments.

#### New Rule V

The department is proposing New Rule V to address the minimum performance requirements for local health authorities formerly contained in ARM 37.110.371. The new rule is necessary to conform with the department's proposed adoption of Food and Consumer Safety (FCS) Circular 2-2019 for wholesale food establishments.

#### New Rule VI

The department is proposing New Rule VI because there were previously no rules for issuing or denying Certificates of Free Sale. Certificates of Free Sale are used by industry to export goods to foreign nations to assure clients the firm is compliant with United States' food safety laws and rules. The rule specifies the criteria that must be met for the department or local regulatory authority to issue Certificates of Free Sale.

#### ARM 37.110.101

The department is proposing amendments to ARM 37.110.101 to update 2001 state food standards to the most current federal standards. These revisions are necessary to ensure the rule references the most current federal standards.

ARM 37.110.301, 37.110.302, 37.110.303, 37.110.310, 37.110.311, 37.110.312, 37.110.318, 37.110.319, 37.110.320, 37.110.321, 37.110.323, 37.110.330, 37.110.331, 37.110.332, 37.110.333, 37.110.340, 37.110.341, 37.110.342, 37.110.347, 37.110.348, 37.110.350, 37.110.351, 37.110.352, 37.110.353, 37.110.354, 37.110.355, 37.110.360, 37.110.361, 37.110.362, 37.110.363, 37.110.364, 37.110.370, 37.110.371, 37.110.801, 37.110.802, 37.110.805, and 37.110.810

The department is proposing to repeal these rules because they will be addressed in the wholesale food rule and its companion circular.

#### Fiscal Impact

These proposed new rules affect approximately 629 licensed wholesale food establishments. There is no anticipated fiscal impact due to this rulemaking.

7. The department intends these proposed adoptions, amendments, and repeals to be effective January 1, 2020.

8. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov), and must be received no later than 5:00 p.m., June 21, 2019.

9. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

10. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 8 above or may be made by completing a request form at any rules hearing held by the department.

11. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

12. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption, amendment, and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Robert Lishman  
Robert Lishman  
Rule Reviewer

/s/ Sheila Hogan  
Sheila Hogan, Director  
Public Health and Human Services

Certified to the Secretary of State May 14, 2019.



BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment of        ) NOTICE OF PUBLIC HEARING ON  
ARM 37.27.902, 37.85.104,                ) PROPOSED AMENDMENT  
37.85.105, 37.85.106, and 37.88.101    )  
pertaining to Medicaid rates, services,   )  
and benefit changes                        )

TO: All Concerned Persons

1. On June 13, 2019, at 10:30 a.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on June 4, 2019, to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.27.902 MEDICAID SUBSTANCE USE DISORDER SERVICES:  
AUTHORIZATION REQUIREMENTS (1) remains the same.

(2) In addition to the requirements contained in rule, the department has developed and published the Addictive and Mental Disorders Division Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health (~~Manual~~), dated ~~January 1, 2019~~ July 1, 2019, which it adopts and incorporates by reference. The purpose of the ~~Manual~~ manual is to implement requirements for utilization management and services. A copy of the ~~Manual~~ manual may be obtained from the department by a request in writing to the Department of Public Health and Human Services, Addictive and Mental Disorders Division, 100 N. Park, Ste. 300, P.O. Box 202905, Helena, MT 59620-2905 or at <http://dphhs.mt.gov/amdd.aspx>.

(3) In addition to the requirements contained in rule, the department has developed and published the Addictive and Mental Disorders Division Non-Medicaid Services Provider Manual for Substance Use Disorder, dated July 1, 2019, which it adopts and incorporates by reference. The purpose of the manual is to implement requirements for utilization management and services. A copy of the manual may

be obtained from the department by a request in writing to the Department of Public Health and Human Services, Addictive and Mental Disorders Division, 100 N. Park, Ste. 300, P.O. Box 202905, Helena MT 59620-2905 or at <http://dphhs.mt.gov/amdd.aspx>.

AUTH: 53-6-113, 53-24-204, 53-24-208, 53-24-209, MCA

IMP: 53-6-101, 53-24-204, 53-24-208, 53-24-209, MCA

37.85.104 EFFECTIVE DATES OF PROVIDER FEE SCHEDULES FOR MONTANA NON-MEDICAID SERVICES (1) The department adopts and incorporates by reference the fee schedule for the following programs within the Addictive and Mental Disorders Division and Developmental Services Division on the dates stated:

(a) Mental health services plan provider reimbursement, as provided in ARM 37.89.125, is effective ~~January 1, 2019~~ July 1, 2019.

(b) 72-hour presumptive eligibility for adult-crisis stabilization services reimbursement for services, as provided in ARM 37.89.523, is effective ~~January 1, 2019~~ July 1, 2019.

(c) Youth respite care services, as provided in ARM 37.87.2203, is effective ~~July 1, 2018, as revised and labeled "version 2 July 1, 2019."~~

(d) Substance use disorder services provider reimbursement, as provided in ARM 37.27.905, is effective ~~January 1, 2019~~ July 1, 2019.

(2) Copies of the department's current fee schedules are posted at <http://medicaidprovider.mt.gov> and may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1401 East Lockett, P.O. Box 202951, Helena, MT 59620-2951. A description of the method for setting the reimbursement rate and the administrative rules applicable to the covered services are published in the chapter or subchapter of this title regarding that service.

AUTH: 53-2-201, 53-6-101, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID PROVIDER FEE SCHEDULES (1) remains the same.

(2) The department adopts and incorporates by reference, the resource-based relative value scale (RBRVS) reimbursement methodology for specific providers as described in ARM 37.85.212 on the date stated.

(a) Resource-based relative value scale (RBRVS) means the version of the Medicare resource-based relative value scale contained in the Medicare Physician Fee Schedule adopted by the Centers for Medicare and Medicaid Services (CMS) of the U.S. Department of Health and Human Services and published at ~~82 83 Federal Register 219 226, page 52976 59452 (November 15, 2017)~~ (November 23, 2018) effective ~~January 1, 2018~~ January 1, 2019 which is adopted and incorporated by reference. Procedure codes created after January 1, 2019 will be reimbursed using the relative value units from the Medicare Physician Fee Schedule in place at the time the procedure code is created.

(b) Fee schedules are effective ~~January 1, 2019~~ July 1, 2019. The conversion factor for physician services is ~~\$37.84~~ \$36.46. The conversion factor for allied services is ~~\$23.67~~ \$23.97. The conversion factor for mental health services is ~~\$23.92~~ \$23.36. The conversion factor for anesthesia services is ~~\$29.76~~ \$30.03.

(c) through (g) remain the same.

(h) Optometric services receive a ~~117%~~ 117.26% provider rate of reimbursement adjustment to the reimbursement for allied services as provided in ARM 37.85.105(2) effective ~~July 1, 2018~~ July 1, 2019.

(i) remains the same

(j) Reimbursement for vaccines described at ARM 37.86.105 is effective ~~January 1, 2019~~ July 1, 2019.

(3) The department adopts and incorporates by reference, the fee schedule for the following programs within the Health Resources Division, on the date stated.

(a) remains the same.

(b) The outpatient hospital services fee schedules including:

(i) the Outpatient Prospective Payment System (OPPS) fee schedule as published by the Centers for Medicare and Medicaid Services (CMS) in Federal Register Volume 82 ~~83~~, Issue 217 ~~225~~, page 52356 ~~58818~~ (~~November 13, 2017~~) (November 21, 2018), effective ~~January 1, 2018~~ January 1, 2019, and reviewed annually by CMS as required in 42 CFR 419.5 (2016) as updated by the department;

(ii) through (iv) remain the same.

(c) The hearing aid services fee schedule, as provided in ARM 37.86.805, is effective ~~January 1, 2019~~ July 1, 2019.

(d) The Relative Values for Dentists, as provided in ARM 37.86.1004, reference published in ~~2018~~ 2019 resulting in a dental conversion factor of ~~\$33.78~~ \$34.09 and fee schedule is effective ~~July 1, 2018~~ July 1, 2019.

(e) remains the same.

(f) The outpatient drugs reimbursement, dispensing fees range as provided in ARM 37.86.1105(3)(b) is effective ~~July 1, 2018~~ July 1, 2019, ~~as revised and labeled "version 2"~~.

(i) for pharmacies with prescription volume between 0 and 39,999, the minimum is ~~\$2.75~~ \$2.32 and the maximum is ~~\$15.00~~ \$15.14;

(ii) for pharmacies with prescription volume between 40,000 and 69,999, the minimum is ~~\$2.75~~ \$2.32 and the maximum is ~~\$13.00~~ \$13.12; or

(iii) for pharmacies with prescription volume greater than 70,000, the minimum is ~~\$2.75~~ \$2.32 and the maximum is ~~\$14.00~~ \$11.10.

(g) remains the same.

(h) The outpatient drugs reimbursement, vaccine administration fee as provided in ARM 37.86.1105(6), will be \$21.32 for the first vaccine and ~~\$13.83~~ \$14.08 for each additional administered vaccine, effective ~~July 1, 2018~~ July 1, 2019, ~~as revised and labeled "version 2"~~.

(i) remains the same.

(j) The home infusion therapy services fee schedule, as provided in ARM 37.86.1506, is effective ~~July 1, 2018~~ July 1, 2019.

(k) Montana Medicaid adopts and incorporates by reference the Region D Supplier Manual, effective ~~January 1, 2019~~ July 1, 2019, which outlines the Medicare coverage criteria for Medicare covered durable medical equipment, local

coverage determinations (LCDs), and national coverage determinations (NCDs) as provided in ARM 37.86.1802, effective ~~January 1, 2019~~ July 1, 2019. The prosthetic devices, durable medical equipment, and medical supplies fee schedule, as provided in ARM 37.86.1807, is effective ~~January 1, 2019~~ July 1, 2019.

~~(l) Fee schedules for nutrition, children's special health services, and orientation and mobility specialists, The nutrition services fee schedule, as provided in ARM 37.86.2207(2), are is effective July 1, 2018~~ July 1, 2019, as revised and labeled "version 2."

~~(m) The children's special health services fee schedule, as provided in ARM 37.86.2207(2), is effective July 1, 2019.~~

~~(n) The orientation and mobility specialist services fee schedule, as provided in ARM 37.86.2207(2), is effective July 1, 2019.~~

~~(m) (o) The transportation and per diem fee schedule, as provided in ARM 37.86.2405, is effective July 1, 2016~~ July 1, 2019.

~~(n) (p) The specialized nonemergency medical transportation fee schedule, as provided in ARM 37.86.2505, is effective July 1, 2016~~ July 1, 2019.

~~(o) (q) The ambulance services fee schedule, as provided in ARM 37.86.2605, is effective July 1, 2018~~ July 1, 2019, as revised and labeled "version 2."

~~(p) (r) The audiology fee schedule, as provided in ARM 37.86.705, is effective July 1, 2018~~ July 1, 2019, as revised and labeled "version 2."

~~(q) (s) The therapy fee schedules for occupational therapists, physical therapists, and speech therapists, as provided in ARM 37.86.610, are effective July 1, 2018~~ July 1, 2019, as revised and labeled "version 2."

~~(r) (t) The optometric services fee schedule, as provided in ARM 37.86.2005, is effective January 1, 2019~~ July 1, 2019.

~~(s) (u) The chiropractic fee schedule, as provided in ARM 37.85.212(2), is effective July 1, 2018~~ July 1, 2019, as revised and labeled "version 2."

~~(t) (v) The lab and imaging services fee schedule, as provided in ARM 37.85.212(2) and 37.86.3007, is effective January 1, 2019~~ July 1, 2019.

~~(u) The Federally Qualified Health Center (FQHC) and Rural Health Clinic (RHC) fee schedule for add-on services, as provided in ARM 37.86.4412, is effective January 1, 2018.~~

~~(v) (w) The Targeted Case Management for Children and Youth with Special Health Care Needs fee schedule, as provided in ARM 37.86.3910, is effective July 1, 2018~~ July 1, 2019.

~~(w) (x) The Targeted Case Management for High Risk Pregnant Women fee schedule, as provided in ARM 37.86.3415, is effective July 1, 2018~~ July 1, 2019.

~~(x) (y) The mobile imaging services fee schedule, as provided in ARM 37.85.212, is effective January 1, 2019~~ July 1, 2019.

~~(y) (z) The licensed direct-entry midwife fee schedule, as provided in ARM 37.85.212, is effective January 1, 2019~~ July 1, 2019.

~~(z) (aa) The private duty nursing services fee schedule, as provided in ARM 37.86.2207(2), is effective July 1, 2018~~ July 1, 2019.

(4) The department adopts and incorporates by reference, the fee schedule for the following programs within the Senior and Long Term Care Division on the date stated:

(a) ~~Home~~ The home and community-based services for elderly and physically disabled persons fee schedule, as provided in ARM 37.40.1421, is effective ~~July 15, 2018~~ July 1, 2019.

(b) ~~Home~~ The home health services fee schedule, as provided in ARM 37.40.705, is effective ~~July 1, 2018~~ July 1, 2019.

(c) ~~Personal~~ The personal assistance services fee schedule, as provided in ARM 37.40.1135, is effective ~~July 1, 2018~~ July 1, 2019.

(d) ~~Self-directed~~ The self-directed personal assistance services fee schedule, as provided in ARM 37.40.1135, is effective ~~July 1, 2018~~ July 1, 2019.

(e) ~~Community~~ The community first choice services fee schedule, as provided in ARM 37.40.1026, is effective ~~July 1, 2018~~ July 1, 2019.

(5) The department adopts and incorporates by reference, the fee schedule for the following programs within the Addictive and Mental Disorders Division on the date stated:

(a) ~~Mental~~ The mental health center services for adults reimbursement ~~fee schedule~~, as provided in ARM 37.88.907, is effective ~~January 1, 2019~~ July 1, 2019.

(b) ~~Home~~ The home and community-based services for adults with severe disabling mental illness, ~~reimbursement fee schedule~~, as provided in ARM 37.90.408, is effective ~~January 1, 2019~~ July 1, 2019.

(c) ~~Substance~~ The substance use disorder services ~~reimbursement fee schedule~~, as provided in ARM 37.27.905, is effective ~~January 1, 2019~~ July 1, 2019.

(6) ~~The department adopts and incorporates by reference, the fee schedule for the following program within the Developmental Services Division, on the date stated: Mental health services for youth, as provided in ARM 37.87.901 in the Medicaid Youth Mental Health Services Fee Schedule, is effective July 1, 2018, as revised and labeled "version 2."~~ For the Developmental Services Division, the department adopts and incorporates by reference the Medicaid youth mental health services fee schedule, as provided in ARM 37.87.901, effective July 1, 2019.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-125, 53-6-402, MCA

37.85.106 MEDICAID BEHAVIORAL HEALTH TARGETED CASE MANAGEMENT FEE SCHEDULE (1) remains the same.

(2) The Department of Public Health and Human Services (department) adopts and incorporates by reference the Medicaid Behavioral Health Targeted Case Management Fee Schedule effective ~~July 1, 2018~~ July 1, 2019, for the following programs within the Developmental Services Division (DSD) and the Addictive and Mental Disorders Division (AMDD):

(a) through (3) remain the same.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-113, MCA

37.88.101 MEDICAID MENTAL HEALTH SERVICES FOR ADULTS, AUTHORIZATION REQUIREMENTS (1) remains the same.

(2) In addition to the requirements contained in rule, the department has developed and published the Addictive and Mental Disorders Division Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health (Manual), dated ~~January 1, 2019~~ July 1, 2019, which it adopts and incorporates by reference. The purpose of the Manual is to implement requirements for utilization management and services. A copy of the Manual may be obtained from the department by a request in writing to the Department of Public Health and Human Services, Addictive and Mental Disorders Division, 100 N. Park, Ste. 300, P.O. Box 202905, Helena, MT 59620-2905 or at <http://dphhs.mt.gov/amdd.aspx>.

(3) through (5) remain the same.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

#### 4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) administers the Montana Medicaid and non-Medicaid program to provide health care to Montana's qualified low income, elderly, and disabled residents. Medicaid is a public assistance program paid for with state and federal funds appropriated to pay health care providers for the covered medical services they deliver to Medicaid members.

Pursuant to 53-6-113, MCA, the Montana Legislature has directed the department to use the administrative rulemaking process to establish rates of reimbursement for covered medical services provided to Medicaid members by Medicaid providers. The department proposes these rule amendments to establish Medicaid rates of reimbursement which are necessary for the purposes of the Medicaid program. In establishing the proposed rates of reimbursement, the department considered as primary factors the availability of funds appropriated by the Montana Legislature during the 2019 regular legislative session, the actual cost of services, and the availability of services.

The purpose of the proposed rule amendments is to:

(1) incorporate legislatively appropriated provider rate increases with an effective date of July 1, 2019;

(2) incorporate the July 1, 2019 RBRVS changes;

(3) incorporate the physician conversion factor as provided in 53-6-125, MCA;

(4) update federal register references for the RBRVS and Outpatient Prospective Payment System payment methodologies;

(5) revise fee schedules;

(6) update the Addictive and Mental Disorders Division Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health;

(7) adopt and incorporate the Addictive and Mental Disorders Division Non-Medicaid Services Provider Manual for Substance Use Disorder;

(8) add a bundled rate for Intensive Outpatient Services for substance use disorder; and

- (9) incorporate coverage and reimbursement for peer support services.

#### Proposed Provider Rate Increases

The department is proposing provider rate increases effective July 1, 2019, for most Medicaid and non-Medicaid provider rates in accordance with the funding appropriated by the Montana Legislature during the 2019 regular session.

#### Resource-Based Relative Value Scale (RBRVS) Methodology Summary

Many Montana Medicaid providers' rates are established through the resource-based relative value scale (RBRVS) model. RBRVS is used nationwide by most health plans, including Medicare and Medicaid to establish Montana Medicaid provider rates. The relative value unit component of RBRVS is revised annually by the Centers for Medicare and Medicaid Services (CMS) and the American Medical Association (AMA). The department annually proposes to amend ARM 37.85.105 to adopt the recently revised relative value units (RVUs). An RVU is a numerical value assigned to each medical procedure. RVUs are based on physician work, practice expense, and malpractice insurance expenses, and RVUs express the relative effort and expense expended to provide one procedure compared with another. In the annual revision of RVUs, CMS and the AMA add RVUs for new procedures and increase or decrease RVUs of particular procedures, depending on the factors listed above.

"Conversion factor" (CF) means a dollar amount by which RVUs are multiplied to establish the RBRVS fee for a service. The department annually calculates conversion factors for allied services, mental health services, and anesthesia services taking into consideration the changes to RVUs and appropriations.

For allied health services, mental health services, and anesthesia services, the conversion factors were calculated to provide for an overall increase of 0.91%.

#### Physician Conversion Factor

Section 53-6-125, MCA, directs the department to increase the physician's conversion factor by the consumer price index (CPI) for medical care for the previous year.

In addition, during the 2019 legislative session, HB 669 amended 53-6-125, MCA, to reduce general fund expenditures for physicians by \$200,000 to fund the Health Information Exchange. After applying the federal match, the total expenditure reduction calculated to \$570,288.

The changes to the physician conversion factor were completed in two steps, first applying the annual CPI increase and then applying the reduction associated with HB 669. These changes were applied multiplicatively resulting in a proposed physician conversion factor of \$38.46.

### Fee Schedules

The department is proposing the adoption of fee schedules effective July 1, 2019. The fee schedules incorporate changes due to the proposed amendments within this rulemaking.

In addition, the department proposes to eliminate the reference to the FQHC and RHC fee schedule. The rates and codes referenced in this fee schedule are on the outpatient fee schedule which is the fee schedule FQHC and RHC providers utilize for covered services. Any guidance about billing and reimbursement will be issued within the FQHC and RHC provider manuals and/or FQHC provider notices.

The department has posted proposed fee schedules at <http://medicaidprovider.mt.gov/proposedfs>.

### Federal Register Updates

Effective July 1, 2019, the department is proposing to adopt the January 1, 2019, federal register references for the RBRVS and Outpatient Prospective Payment System reimbursement methodologies. These updates are necessary to incorporate the most up to date changes made by CMS.

### Provider Manual Updates

ARM 37.27.902 and 37.88.101 refer to provider manuals. These manuals are proposed to be updated.

The Addictive and Mental Disorders Division, Non-Medicaid Services Provider Manual for Substance Use Disorder (SUD), effective July 1, 2019, is proposed to be incorporated into the Administrative Rules of Montana. The Addictive and Mental Disorders Division (AMDD) Non-Medicaid Services Provider Manual provides information and service requirements pertaining to non-Medicaid substance use disorder (SUD) treatment services. This manual replaces the Chemical Dependency Provider Manual.

The Addictive and Mental Disorders Division, Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health, effective July 1, 2019 is proposed to be amended to include: 1) peer support services, a new benefit for Medicaid members; 2) new bundled rate reimbursement options for providers delivering substance use disorder intensive outpatient services; 3) allowing additional provider types to conduct substance use disorder assessments and referral to appropriate acute services; and 4) general housekeeping items to provide additional clarity to providers.

Proposed manuals can be found at <https://dphhs.mt.gov/amdd>.



Bundled Rate for Substance Use Disorder (SUD) Intensive Outpatient (IOP) Services

SUD IOP has historically been delivered and billed as fee-for-service. The department is proposing a comprehensive service bundle with two tiered per-diem rates for adults, one tier for adolescent IOP services, and an enhancement add-on for mental health integration.

This reimbursement model will promote individualized treatment planning consistent with ASAM 2.1 criteria while increasing statewide access of intensive outpatient services.

Peer Support

The department is proposing to add a new adult member benefit of peer support for substance use disorder and mental health. Peer support services are proposed to be provided in Mental Health Centers, Substance Use Clinics, Federal Qualified Health Centers (FQHC), and Rural Health Clinics (RHC) at a fee schedule rate.

Fiscal Impact - Provider Rate Changes

The following table displays the number of providers affected by the amended fee schedules, effective dates, conversion factors, and rates for services, as well as the fiscal impact to State general funds for SFY 2020 based on the proposed amendments.

Provider Type	SFY 2020 Budget Impact (State Funds)	SFY 2020 Budget Impact (Federal Funds)	SFY 2020 Budget Impact (Total Funds)	Active Provider Count
Ambulance	21,522	80,396	101,918	186
Audiologist	560	1,427	1,987	68
Targeted Case Management - Mental Health	21,070	51,804	72,874	21
Targeted Case Management - High Risk Pregnancy	339	765	1,104	18
Chemical Dependency Clinic	15,141	92,849	107,990	41
Chiropractor	87	161	248	101
Community First Choice	129,722	249,171	378,893	66

Dental	168,207	440,371	608,578	617
Denturist	5,804	20,827	26,631	17
EPSDT	2,146	5,010	7,156	130
Hearing Aid Dispenser	770	1,975	2,745	35
Home & Comm Based Services	160,255	297,040	457,295	516
Home Health Agency	1,891	6,165	8,056	26

Home Infusion Therapy	5,403	14,905	20,308	16
Independent Diagnostic Testing Facility	2,509	10,577	13,086	20
Laboratory	31,060	156,161	187,221	174
Licensed Professional Counselor	50,406	164,482	214,888	849
Mental Health Center	79,600	186,638	266,238	28
Mid-Level Practitioner	193,193	689,534	882,727	4,557
Mobile Imaging Service	170	407	577	1
Nutritionist/Dietitian	262	653	915	96
Occupational Therapist	9,994	20,798	30,792	228
Optician	295	952	1,247	28
Optometrist	15,850	49,130	64,980	221
Orientation and Mobility	614	1,148	1,762	3
Personal Care Agency	2,150	4,666	6,816	66
Personal Care Agency Adult MH	101	241	342	66

Pharmacy Dispensing Fee	55,740	248,641	304,381	435
Physical Therapist	14,911	62,318	77,229	797
Physician	616,246	2,246,049	2,862,295	11,505
Podiatrist	9,081	36,876	45,957	66
Private Duty Nursing Agency	12,794	23,688	36,482	4
PRTF	58,813	131,444	190,257	26
Psychiatrist	26,597	80,537	107,134	225
Psychologist	3,264	11,675	14,939	276
Social Worker	29,072	97,656	126,728	657
Speech Pathologist	10,397	20,330	30,727	220
Personal and Commercial Transportation	620	1,459	2,079	13
Therapeutic Family Care	12,921	29,498	42,419	14
Therapeutic Group Home	61,739	126,180	187,919	20
Transportation Non-Emergency	55	103	158	7

#### Fiscal Impact - Peer Support Services

The following table displays the number of providers affected by implementing a reimbursement avenue for peer support services, as well as the fiscal impact to State general Funds for SFY 2020 based on the proposed amendments.

Provider Type	SFY 2020 Budget Impact (State Funds)	SFY 2020 Budget Impact (Federal Funds)	SFY 2020 Budget Impact (Total Funds)	Active Provider Count
Mental Health Centers	\$1,005,296	\$3,476,310	\$4,481,606	28

Federally Qualified Health Centers	\$260,207	\$899,797	\$1,160,004	59
Rural Health Clinics	\$107,584	\$372,024	\$479,608	66
Substance Use Clinics	\$680,121	\$2,368,398	\$3,048,519	41

#### Fiscal Impact - Intensive Outpatient Services

The following table displays the number of providers affected by the changes to intensive outpatient services reimbursement, as well as the fiscal impact to State general funds for SFY 2020 based on the proposed amendments.

Provider Type	SFY 2020 Budget Impact (State Funds)	SFY 2020 Budget Impact (Federal Funds)	SFY 2020 Budget Impact (Total Funds)	Active Provider Count
Substance Use Clinics	\$440,848.76	\$3,263,887.23	\$3,704,736	41

The proposed rulemaking is estimated to affect 271,283 Medicaid members. In addition, it will impact the provider populations outlined in the tables above.

The department intends to apply the proposed rule amendments retroactively to July 1, 2019.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov), and must be received no later than 5:00 p.m., June 21, 2019.

6. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were notified by electronic mail on May 14, 2019.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules may significantly and directly impact small businesses that are state-approved substance use disorder providers and mental health centers.

10. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

/s/ Brenda K. Elias  
Brenda K. Elias  
Rule Reviewer

/s/ Sheila Hogan  
Sheila Hogan, Director  
Public Health and Human Services

Certified to the Secretary of State May 14, 2019.

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment of        ) NOTICE OF PUBLIC HEARING ON  
ARM 37.40.307 pertaining to nursing        ) PROPOSED AMENDMENT  
facility reimbursement                        )

TO: All Concerned Persons

1. On June 13, 2019, at 11:30 a.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on June 4, 2019, to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.40.307 NURSING FACILITY REIMBURSEMENT (1) remains the same.

(2) Effective July 1, 2001, and in subsequent rate years, nursing facilities will be reimbursed using a price-based reimbursement methodology. The rate for each facility will be determined using the operating component defined in (2)(a) and the direct resident care component defined in (2)(b):

(a) and (b) remain the same.

(c) The statewide price for nursing facility services will be determined each year through a public process. Factors that could be considered in the establishment of this price include the cost of providing nursing facility services, Medicaid recipients access to nursing facility services, and the quality of nursing facility care. The statewide price (average daily rate) for State Fiscal Year (SFY) 2020 is \$204.30.

(d) The total payment rate available for the period ~~July 1, 2018~~ July 1, 2019, through ~~June 30, 2019~~ June 30, 2020, will be the rate as computed in (2) ~~increased by 3.08%~~, plus any additional amount computed in ARM 37.40.311 and 37.40.361. Copies of the department's current nursing facility Medicaid reimbursement rates per facility are posted at <https://dphhs.mt.gov/sltc/csb/provider#28702384-nursing-facilities-and-swing-bed-services> and may be obtained from the Department of

Public Health and Human Services, Senior & Long-Term Care Division, P.O. Box 4210, Helena, MT 59604-4210.

(3) Providers who, as of July 1 of the rate year, have not filed with the department a cost report covering a period of at least six months participation in the Medicaid program in a newly constructed facility will have a rate set at the statewide median price as computed on ~~July 1, 2018~~ July 1, 2019. Following a change in provider as defined in ARM 37.40.325, the per diem rate for the new provider will be set at the previous provider's rate, as if no change in provider had occurred.

(4) through (12) remain the same.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-6-101, 53-6-111, 53-6-113, MCA

#### 4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing amendments to ARM 37.40.307 pertaining to revising nursing facility reimbursement rates for the upcoming SFY 2020.

##### ARM 37.40.307

The proposed amendment to ARM 37.40.307(2) updates the SFY 2019 reference (July 1, 2018 through June 30, 2019), to SFY 2020 (July 1, 2019 through June 30, 2020). The proposed amendment also updates the average statewide price to \$204.30. The proposed changes are necessary for the department to provide notice of the change to Medicaid nursing facility provider rates.

In SFY 2019, the average statewide price was \$202.46. The proposed change to the average statewide price for SFY 2020 equates to a 0.91% average increase over SFY 2019. The rate calculation includes consideration of sufficient funding and access to services.

Copies of the department's proposed nursing facility Medicaid reimbursement rates per facility are posted at: <https://dphhs.mt.gov/sltc/csb/provider#28702384-nursing-facilities-and-swing-bed-services>.

The proposed amendment to ARM 37.40.307(3) updates the SFY 2019 reference to SFY 2020. This change is necessary for the department to provide notice of the current period Medicaid nursing facility statewide average price.

##### Fiscal Impact

Nursing facility reimbursement will include an average increase of 0.91% over the SFY 2019 statewide average price. The total cost for the SFY 2020 nursing facility reimbursement increase is estimated at approximately \$1.85 million of combined state funds, federal funds, and patient contributions.

Anticipated days for SFY 2020 are 1,006,337 using estimates from SFY 2019 Medicaid paid days.

Seventy nursing facility providers participated in the Medicaid nursing facility payment program and approximately 4,100 recipients received services in nursing facilities under Medicaid.

Medicaid nursing facility rates will be applied retroactively to July 1, 2019.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov), and must be received no later than 5:00 p.m., June 21, 2019.

6. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

9. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.



/s/ Robert Lishman  
Robert Lishman  
Rule Reviewer

/s/ Sheila Hogan  
Sheila Hogan, Director  
Public Health and Human Services

Certified to the Secretary of State May 14, 2019.

BEFORE THE BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT
ARM 24.183.303 definitions,	)	
24.183.404 fee schedule, 24.183.407	)	
teaching of advanced engineering	)	
subjects in Montana, 24.183.408	)	
certificate of authorization, 24.183.502	)	
applications, 24.183.505 exhibits of	)	
land surveying projects, 24.183.701	)	
comity for professional engineers,	)	
24.183.801 comity for professional land	)	
surveyors, 24.183.802 classification of	)	
land surveying experience,	)	
24.183.2105 continuing professional	)	
competency - continuing education,	)	
24.183.2207 unprofessional conduct	)	

TO: All Concerned Persons

1. On January 11, 2019, the Board of Professional Engineers and Professional Land Surveyors (board) published MAR Notice No. 24-183-43 regarding the public hearing on the proposed amendment of the above-stated rules, at page 13 of the 2019 Montana Administrative Register, Issue No. 1.

2. On February 13, 2019, a public hearing was held on the proposed amendment of the above-stated rules in Helena. No comments were received by the February 15, 2019 deadline.

3. The board has amended ARM 24.183.303, 24.183.404, 24.183.407, 24.183.408, 24.183.502, 24.183.505, 24.183.701, 24.183.801, 24.183.802, 24.183.2105, and 24.183.2207 exactly as proposed.

BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS  
RON DRAKE, PROFESSIONAL ENGINEER  
PRESIDING OFFICER

/s/ DARCEE L. MOE  
Darcee L. Moe  
Rule Reviewer

/s/ GALEN HOLLENBAUGH  
Galen Hollenbaugh, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 14, 2019.

BEFORE THE BOARD OF REAL ESTATE APPRAISERS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of )  
ARM 24.207.517 trainee requirements ) CORRECTED NOTICE OF  
 ) AMENDMENT, ADOPTION, AND  
 ) REPEAL

TO: All Concerned Persons

1. On November 2, 2018, the Board of Real Estate Appraisers (board) published MAR Notice No. 24-207-42, which included the proposed amendment of the above-stated rule, at page 2166 of the 2018 Montana Administrative Register, Issue Number 21. On January 11, 2019, the board published the notice of amendment, adoption, and repeal at page 53 of the 2019 Montana Administrative Register, Issue Number 1.

2. A rule number was incorrectly referenced in ARM 24.207.517(3) as the result of a typographical error. The rule, as amended in corrected form, reads as follows, deleted matter interlined, new matter underlined:

24.207.517 TRAINEE REQUIREMENTS (1) and (2) remain as adopted.

(3) Applying the same criteria for reciprocal applicants in ARM ~~24.201.502~~ 24.207.502, the board will accept hours earned in another jurisdiction as a licensed trainee in an AQB-compliant training program.

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-202, 37-54-303, MCA

3. The corrected version of this rule will be available on the Secretary of State's web site upon publication of this notice, and in print with the June 30, 2019 replacement pages.

BOARD OF REAL ESTATE APPRAISERS  
THOMAS STEVENS, CERTIFIED  
GENERAL APPRAISER  
PRESIDING OFFICER

/s/ DARCEE L. MOE

Darcee L. Moe  
Rule Reviewer

/s/ GALEN HOLLENBAUGH

Galen Hollenbaugh, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 14, 2019.

## **NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE**

### **Interim Committees and the Environmental Quality Council**

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

#### **Economic Affairs Interim Committee:**

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

#### **Education and Local Government Interim Committee:**

- State Board of Education;
- Board of Public Education;
- Board of Regents of Higher Education; and
- Office of Public Instruction.

#### **Children, Families, Health, and Human Services Interim Committee:**

- Department of Public Health and Human Services.

#### **Law and Justice Interim Committee:**

- Department of Corrections; and
- Department of Justice.

#### **Energy and Telecommunications Interim Committee:**

- Department of Public Service Regulation.

**Revenue and Transportation Interim Committee:**

- Department of Revenue; and
- Department of Transportation.

**State Administration and Veterans' Affairs Interim Committee:**

- Department of Administration;
- Department of Military Affairs; and
- Office of the Secretary of State.

**Environmental Quality Council:**

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

**Water Policy Interim Committee (where the primary concern is the quality or quantity of water):**

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

## HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

### Definitions:

**Administrative Rules of Montana (ARM)** is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

**Montana Administrative Register (MAR or Register)** is an online publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding Register.

### Use of the Administrative Rules of Montana (ARM):

Known  
Subject

1. Consult ARM Topical Index.  
Update the rule by checking recent rulemaking and the table of contents in the last Montana Administrative Register issued.

Statute

2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.

## RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through December 31, 2018. This table includes notices in which those rules adopted during the period November 16, 2018, through May 10, 2019, occurred and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 31, 2018, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, notice numbers in ascending order, the subject matter of the notice, and the page number(s) at which the notice is published in the 2018 or 2019 Montana Administrative Registers.

To aid the user, this table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

### ADMINISTRATION, Department of, Title 2

2-13-580      Statewide Emergency Telephone System, p. 1991, 2399  
2-59-572      Definitions for Credit Unions, p. 2357, 290

#### (Public Employees' Retirement Board)

2-43-578      Adopting by Reference the Amended State of Montana Public Employees Pooled Trust in the Defined Contribution Retirement Plan - Adopting by Reference the Amended Stable Value Fund Investment Policy Statement in the Defined Contribution Retirement Plan and the 457(b) Deferred Compensation Plan - Adopting by Reference the Amended State of Montana Public Employees Pooled Trust in the 457(b) Deferred Compensation Plan, p. 1, 288  
2-43-582      Investment Policy Statements for the Defined Contribution Retirement Plan and the 457(b) Deferred Compensation Plan, p. 251, 424  
2-43-583      Investment Policy Statements for the Defined Contribution Retirement Plan and the 457(b) Deferred Compensation Plan, p. 410

#### (State Lottery Commission)

2-63-579      General Provisions - Retailer Commission - Duplicate Licenses - Prizes - Acceptable Forms of Payment, p. 6, 291

### AGRICULTURE, Department of, Title 4

- 4-18-252 Potato Commodity Assessment Collection, p. 2359, 292
- 4-19-253 Industrial Hemp, p. 121
- 4-19-254 Industrial Hemp, p. 75
- 4-19-255 Hemp, p. 254, 532
- 4-19-256 Financial Responsibility, p. 264, 537
- 4-19-257 State Noxious Weed List, p. 413

STATE AUDITOR, Office of, Title 6

(Commissioner of Securities and Insurance)

- 6-245 Long-Term Care Insurance, p. 2120, 126
- 6-249 Replacement of Life Insurance or Annuities, p. 11, 293

COMMERCE, Department of, Title 8

- 8-22-161 Board of Horse Racing, p. 1847, 2400
- 8-94-163 Administration of the 2018 and 2019 Program Year Federal Community Development Block Grant (CDBG) Program - Public Facilities Projects - Affordable Housing Projects, p. 2277, 39
- 8-94-165 Administration of the 2020 Biennium Treasure State Endowment Program—Planning Grants, p. 415
- 8-99-159 Implementation of the Big Sky Economic Development Trust Program, p. 1850, 2401
- 8-99-160 Implementation of the Primary Sector Workforce Training Program, p. 1852, 2403
- 8-111-162 Definitions - Housing Credit Allocation Procedure, p. 1994, 2404
- 8-119-164 Tourism Advisory Council, p. 417

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## EXECUTIVE BRANCH APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of executive branch appointees and upcoming vacancies on those boards and councils.

In this issue, appointments effective in April 2019 appear. Potential vacancies from June 1, 2019 through August 31, 2019, are also listed.

### IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of May 1, 2019.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

**EXECUTIVE BRANCH APPOINTEES FOR APRIL 2019**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Aeronautics</b>			
Mr. Daniel Hargrove Billings	Governor	Reappointed	4/12/2019 1/1/2023
Qualifications (if required): Actively engaged in aviation education in this state			
Mr. Thomas John Schoenleben Jr. Stevensville	Governor	Lark	4/12/2019 1/1/2023
Qualifications (if required): Representing the general public			
<b>Board of Architects and Landscape Architects</b>			
Ms. Shelly Marie Engler Bozeman	Governor	Reappointed	4/12/2019 4/1/2022
Qualifications (if required): Licensed landscape architect			
Ms. Marie O'Neill Conrad Bozeman	Governor	Reappointed	4/12/2019 4/1/2022
Qualifications (if required): Licensed architect who is on the staff of MSU			
Mr. Steven Thomas Small Billings	Governor	Reappointed	4/12/2019 4/1/2022
Qualifications (if required): Representative of the public			



**EXECUTIVE BRANCH APPOINTEES FOR APRIL 2019**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Architects and Landscape Architects Cont.</b>			
Mr. Nathan Gary Steiner	Governor	Reappointed	4/12/2019
Billings			4/1/2022
Qualifications (if required): Licensed landscape architect			
<b>Board of Barbers and Cosmetologists</b>			
Mrs. Lauren Hansen	Governor	Thompson	4/12/2019
Missoula			10/1/2020
Qualifications (if required): Licensed Electrologist, Esthetician, or Manicurist			
<b>Board of Crime Control</b>			
Hon. Brenda C. Desmond	Governor	Reappointed	4/12/2019
Missoula			1/1/2023
Qualifications (if required): Judiciary Representative			
Mr. Richard Kirn	Governor	Reappointed	4/12/2019
Poplar			1/1/2023
Qualifications (if required): Tribal Government Representative			
Ms. Beth McLaughlin	Governor	Reappointed	4/12/2019
Helena			1/1/2023
Qualifications (if required): Judiciary Representative			

**EXECUTIVE BRANCH APPOINTEES FOR APRIL 2019**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Crime Control Cont.</b>			
Director Reginald D. Michael Helena	Governor	Reappointed	4/12/2019 1/1/2023
Qualifications (if required): Law Enforcement Representative			
Mrs. Laurie Nelson Barron Whitefish	Governor	Reappointed	4/12/2019 1/1/2023
Qualifications (if required): Educator Representative			
Mr. Peter B. Ohman Bozeman	Governor	Reappointed	4/12/2019 1/1/2023
Qualifications (if required): Criminal Justice Agency			
Representative Angela Russell Lodge Grass	Governor	Reappointed	4/12/2019 1/1/2023
Qualifications (if required): Public Representative			
Mr. Derek J. VanLuchene Helena	Governor	Reappointed	4/12/2019 1/1/2023
Qualifications (if required): Public Representative			

**EXECUTIVE BRANCH APPOINTEES FOR APRIL 2019**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Dentistry</b>			
Ms. Diane Klemann	Governor	Reappointed	4/5/2019
Billings			4/1/2024
Qualifications (if required):	Dental Hygienist		
Dr. Paul Sims	Governor	Chamberlain	4/5/2019
Butte			4/1/2024
Qualifications (if required):	Dentist		
<b>Board of Horse Racing</b>			
Mr. Gary William Koeplin	Governor	Reappointed	4/12/2019
Florence			1/1/2022
Qualifications (if required):	District 5		
Senator Dale Mahlum	Governor	Reappointed	4/12/2019
Missoula			1/1/2022
Qualifications (if required):	Horse racing industry		
Mr. Shawn Real Bird	Governor	Reappointed	4/12/2019
Crow Agency			1/1/2022
Qualifications (if required):	District 2		

**EXECUTIVE BRANCH APPOINTEES FOR APRIL 2019**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Livestock Loss</b>			
Ms. Karli Johnson Choteau	Governor	Trexler	4/12/2019 1/1/2023
Qualifications (if required): Member actively involved in the livestock industry			
Ms. Patricia Quisno Harlem	Governor	Allestad	4/12/2019 1/1/2023
Qualifications (if required): Member actively involved in the livestock industry			
<b>Board of Medical Examiners</b>			
Dr. Molly E. Biehl Sheridan	Governor	Hayward	4/12/2019 9/1/2022
Qualifications (if required): Osteopath Doctor			
<b>Board of Veterans Affairs</b>			
Mrs. Casinda R. Jourdan Molt	Governor	Reappointed	4/12/2019 8/1/2022
Qualifications (if required): District Region 4 Veteran			
Mr. Ronald D. Milam Missoula	Governor	Reappointed	4/12/2019 8/1/2022
Qualifications (if required): Region 1 Veteran			

**EXECUTIVE BRANCH APPOINTEES FOR APRIL 2019**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Veterans Affairs Cont.</b>			
Mr. Joren Underdahl	Governor	Reappointed	4/12/2019
Columbia Falls			8/1/2022
Qualifications (if required): Representative of the Dept. of Public Health and Human Services			
<b>Commission on Community Service</b>			
Mr. Donovan Hawk	Governor	Braided Hair	4/5/2019
Butte			7/1/2021
Qualifications (if required): Tribal member			
Ms. Rachel Elizabeth Juel	Governor	Bailey	4/5/2019
Bozeman			7/1/2021
Qualifications (if required): 16-25-year-old who is involved in a service			
Ms. Karin Olsen Billings	Governor	Reappointed	4/5/2019
Helena			7/1/2021
Qualifications (if required): Office of Public Instruction Representative			
Mr. Kevin Sylvester	Governor	Schieffer	4/5/2019
Bozeman			7/1/2021
Qualifications (if required): Community Based Organization			

**EXECUTIVE BRANCH APPOINTEES FOR APRIL 2019**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Commission on Human Rights</b>			
Ms. Ann Brodsky	Governor	Sprigg	4/5/2019
Helena			1/1/2023
Qualifications (if required): Public Representative			
<b>Committee on Telecommunications Access Service for Persons With Disabilities</b>			
Ms. Chanda Hermanson-Dudley	Governor	Marks	4/5/2019
Helena			7/1/2019
Qualifications (if required): Representative of the Dept. of Public Health and Human Services			
<b>Montana Alfalfa Seed Committee</b>			
Mr. Justin Lee Wiese	Governor	Burkle	4/5/2019
Malta			12/1/2021
Qualifications (if required): Actively engaged in the growing of alfalfa seed			
<b>Montana Public Safety Officer Standards and Training Council</b>			
Ms. Catherine Kristine Byron-White	Governor	Smith	4/12/2019
Forsyth			1/1/2023
Qualifications (if required): County Attorney			
Mr. Jess Edwards	Governor	Matthews	4/12/2019
Browning			1/1/2023
Qualifications (if required): Montana certified tribal law enforcement representative			

**EXECUTIVE BRANCH APPOINTEES FOR APRIL 2019**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Montana Public Safety Officer Standards and Training Council Cont.</b>			
Mr. Wyatt Arthur Glade Miles City	Governor	Dial	4/12/2019 1/1/2023
Qualifications (if required): Member of Crime Control			
Mr. Kevin Olson Helena	Governor	Reappointed	4/12/2019 1/1/2023
Qualifications (if required): Representative of the Department of Corrections			
Chief Ryan L. Oster Hamilton	Governor	Reappointed	4/12/2019 1/1/2023
Qualifications (if required): Chief of Police			
Ms. Tia Rikel Robbin Kalispell	Governor	Reappointed	4/12/2019 1/1/2023
Qualifications (if required): Montana citizen at large			
Mr. Matthew Bruce Saylor Butte	Governor	Wells	4/12/2019 1/1/2023
Qualifications (if required): Local law enforcement officer			
Mr. Frederick James Sparks Laurel	Governor	Neiter	4/12/2019 1/1/2023
Qualifications (if required): Detention Center Administrator			

**EXECUTIVE BRANCH APPOINTEES FOR APRIL 2019**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Montana Reinsurance Association Board of Directors</b>			
Mr. Mike Batista	Governor	None Stated	4/29/2019
Helena			1/1/2021
Qualifications (if required): Director appointed by the governor			
<b>Public Employee's Retirement Board</b>			
Ms. Margaret Jean Peterson	Governor	Reappointed	4/1/2019
Anaconda			4/1/2024
Qualifications (if required): Experience in investment management, counseling, or financial planning			
Mr. Marty Tuttle	Governor	Reappointed	4/1/2019
Clancy			4/1/2024
Qualifications (if required): Active member of Public Retirement System, Defined Contribution Plan			
<b>State Compensation Insurance Fund Board of Directors</b>			
Mr. James P. Molloy	Governor	Molloy	4/29/2019
Helena			5/1/2021
Qualifications (if required): Private Enterprise			
<b>State Employee Charitable Giving Advisory Council</b>			
Ms. Jasyn Kall-Harrington	Governor	Carlson	4/12/2019
Helena			6/13/2019
Qualifications (if required): Federation Representative			



**EXECUTIVE BRANCH APPOINTEES FOR APRIL 2019**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>State-Tribal Economic Development Advisory Council</b>			
Councilman Lane Spotted Elk	Governor	Fox	4/29/2019
Lame Deer			7/1/2020
Qualifications (if required): Northern Cheyenne Tribe Representative			
<b>Task Force on Integrity in Wage Reporting and Employee Classification</b>			
Lt. Governor Mike Cooney	Governor	None Stated	4/29/2019
Helena			6/30/2020
Qualifications (if required): Chair			
Commissioner Galen Hollenbaugh	Governor	None Stated	4/29/2019
Helena			6/30/2020
Qualifications (if required): Commissioner of the Department of Labor and Industry			
Mr. Doug Jackson	Governor	None Stated	4/29/2019
Missoula			6/30/2020
Qualifications (if required): Representative from the construction community			
Mr. Mario Valdez Martinez	Governor	None Stated	4/29/2019
Great Falls			6/30/2020
Qualifications (if required): Representative from organized labor			

**EXECUTIVE BRANCH APPOINTEES FOR APRIL 2019**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Task Force on Integrity in Wage Reporting and Employee Classification Cont.</b>			
Mr. Jack McBroom	Governor	None Stated	4/29/2019
Unknown			6/30/2020
Qualifications (if required): Representative from organized labor			
Ms. Deborah Poteet	Governor	None Stated	4/29/2019
Missoula			6/30/2020
Qualifications (if required): Representative from the construction contractor community			
Ms. Kimberly Rickard-Smeltzer	Governor	None Stated	4/29/2019
Townsend			6/30/2020
Qualifications (if required): Representative from organized labor			
Director Gene Walborn	Governor	None Stated	4/29/2019
Helena			6/30/2020
Qualifications (if required): Director of the Department of Revenue			
Mr. Bob Warren	Governor	None Stated	4/29/2019
Columbia Falls			6/30/2020
Qualifications (if required): Representative from the construction contractor community			

**EXECUTIVE BRANCH APPOINTEES FOR APRIL 2019**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Youth Justice Council</b>			
Mr. Chase Comes At Night	Governor	Hamilton	4/5/2019
Billings			3/1/2020
Qualifications (if required):	Under the age of 24		

**EXECUTIVE BRANCH VACANCIES – JUNE 1, 2019 THROUGH AUGUST 31, 2019**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Funeral Service</b> Ms. Donna Amaro, Helena Qualifications (if required): Licensed Mortician	Governor	7/1/2019
<b>Board of Hearing Aid Dispensers</b> Ms. Helen Hallenbeck, Missoula Qualifications (if required): Licensed Hearing Aid Dispenser	Governor	7/1/2019
<b>Board of Nursing</b> Ms. Joyce C. Dombrowski, Missoula Qualifications (if required): Registered nurse	Governor	7/1/2019
Ms. Laureli Scribner, Roundup Qualifications (if required): Advanced practice registered nurse	Governor	7/1/2019
Ms. Sarah M. Spangler, Havre Qualifications (if required): Registered Nurse	Governor	7/1/2019
<b>Board of Nursing Home Administrators</b> Mr. Loren Hines, Butte Qualifications (if required): Concerned with the care of chronically ill and infirm aged	Governor	6/1/2019
<b>Board of Pharmacy</b> Ms. Rebecca H. Deschamps, Missoula Qualifications (if required): Licensed Pharmacist	Governor	7/1/2019

**EXECUTIVE BRANCH VACANCIES – JUNE 1, 2019 THROUGH AUGUST 31, 2019**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Pharmacy Cont.</b>		
Ms. Starla Blank, Helena Qualifications (if required): Licensed Pharmacist	Governor	7/1/2019
Dr. Paul Brand, Florence Qualifications (if required): Licensed Pharmacist	Governor	7/1/2019
<b>Board of Physical Therapy Examiners</b>		
Ms. Jennifer Lynn Lorengo, Deer Lodge Qualifications (if required): Physical Therapist	Governor	7/1/2019
<b>Board of Private Security</b>		
Mr. Dirk Bauwens, Billings Qualifications (if required): Electronic security company	Governor	8/10/2019
<b>Board of Professional Engineers and Professional Land Surveyors</b>		
Mr. M. Ruhul Amin, Bozeman Qualifications (if required): Instructor Professional Engineer (Mechanical)	Governor	7/1/2019
Mr. Raymond Gross, Dillon Qualifications (if required): Professional and Practicing Land Surveyor	Governor	7/1/2019

**EXECUTIVE BRANCH VACANCIES – JUNE 1, 2019 THROUGH AUGUST 31, 2019**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Professional Engineers and Professional Land Surveyors Cont.</b>		
Mr. Thomas D. Pankratz, Clancy	Governor	7/1/2019
Qualifications (if required): Professional Engineer (Electric)		
<b>Board of Radiologic Technologists</b>		
Mr. Mike Nielsen, Billings	Governor	7/1/2019
Qualifications (if required): Radiologic Assistant or Radiologic Practitioner Assistance		
<b>Board of Regents of Higher Education</b>		
Mr. Dalton K. Johnson, Clancy	Governor	6/30/2019
Qualifications (if required): Student Regent		
<b>Board of Review</b>		
Commissioner Galen Hollenbaugh, Helena	Governor	7/27/2019
Qualifications (if required): Commissioner of the Department of Labor and Industry		
<b>Board of Sanitarians</b>		
Mrs. Stephanie Jean Ler, Sidney	Governor	7/1/2019
Qualifications (if required): Registered sanitarian		

**EXECUTIVE BRANCH VACANCIES – JUNE 1, 2019 THROUGH AUGUST 31, 2019**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Veterans Affairs</b>		
Mr. David E Boyd Sr, Poplar Qualifications (if required): Tribal member honorably discharged veteran	Governor	8/1/2019
Mr. William Willing, Anaconda Qualifications (if required): Training education or experience related to veterans' issues	Governor	8/1/2019
Mr. Shawn Backbone, Crow Agency Qualifications (if required): Tribal government representative	Governor	8/1/2019
Mr. Richard A Juvik, Helena Qualifications (if required): Honorably discharged veteran who serves as a representative of veterans at large	Governor	8/1/2019
<b>Board of Veterinary Medicine</b>		
Mr. Paul W McCann, Havre Qualifications (if required): Licensed Veterinarian	Governor	8/1/2019
<b>Commission on Community Service</b>		
Mr. Kevin Myhre, Lewistown Qualifications (if required): Business representative	Governor	7/1/2019
Ms. Heather Margolis, Helena Qualifications (if required): National Service Program	Governor	7/1/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Commission on Community Service Cont.</b> Ms. Wendy Nicolai, Helena Qualifications (if required): Public member	Governor	7/1/2019
<b>Committee on Telecommunications Access Services for Persons with Disabilities</b> Ms. Chanda Hermanson-Dudley, Helena Qualifications (if required): Representative of the Dept. of Public Health and Human Services	Governor	7/1/2019
Mr. Ron Bibler, Great Falls Qualifications (if required): Person with disability, deaf, or hard-of-hearing	Governor	7/1/2019
Mr. Jim Marks, Helena Qualifications (if required): Member from the Department of Public Health and Human Services	Governor	7/1/2019
Mr. John Pavao, Helena Qualifications (if required): Member from the Department of Administration	Governor	7/1/2019
Mr. Thomas Henry Thompson, Missoula Qualifications (if required): Person with disability	Governor	7/1/2019
<b>Community Service Commission</b> Ms. Julia Bryant, Helena Qualifications (if required): Public Representative	Governor	7/1/2019



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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Community Service Commission Cont.</b>		
Ms. Amy Unsworth, Helena	Governor	7/1/2019
Qualifications (if required): State Agency Representative		
<b>Criminal Justice Oversight Council</b>		
Ms. Melissa Kelly, Bozeman	Governor	8/2/2019
Qualifications (if required): Represents a prerelease center		
Ms. Majel Russell, Billings	Governor	8/2/2019
Qualifications (if required): Montana Tribal Member with expertise in criminal justice		
Ms. Robin Turner, Helena	Governor	8/2/2019
Qualifications (if required): Representative of crime victims		
Ms. Amy Tenney, Helena	Governor	8/2/2019
Qualifications (if required): Representative of crime victims		
<b>District Court Council</b>		
Mr. Glen Welch,	District Court	6/30/2019
Qualifications (if required): Nominated		
<b>Economic Development Advisory Council</b>		
Mr. Paul Tuss, Havre	Governor	7/1/2019
Qualifications (if required): Bear Paw Development Corporation Region Representative		

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Economic Development Advisory Council Cont.</b>		
Mr. Mike Henning, Fairfield Qualifications (if required): Sweetgrass Development Region Representative	Governor	7/1/2019
Mr. Joseph J. Willauer, Butte Qualifications (if required): Headwaters Resources Conservation & Development Region	Governor	7/1/2019
Director Pam Haxby-Cote, Helena Qualifications (if required): Headwaters Resource Conservation and Development Region Representative	Governor	7/1/2019
<b>Family Education Savings Program Oversight Committee</b>		
Mr. Tony Ennenga, Missoula Qualifications (if required): Member of the general public	Governor	7/1/2019
<b>Flathead Basin Commission</b>		
Ms. Kate Hunt, Kalispell Qualifications (if required): Public Representative	Governor	6/30/2019
Mr. Charles (Jackson) Potter, Columbia Falls Qualifications (if required): Public Representative	Governor	6/30/2019
Ms. Jasmine Courville-Brown, Ronan Qualifications (if required): Public Representative	Governor	6/30/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Future Fisheries Review Panel</b>		
Ms. Dylan Tate Yonce, Missoula Qualifications (if required): Montana High School Student	Governor	6/1/2019
Mr. Terry Chute, Helena Qualifications (if required): Member with expertise in silviculture	Governor	7/1/2019
Mr. Clinton Frederick Peck, Billings Qualifications (if required): Representative of conservation districts	Governor	7/1/2019
Mr. Michael Paul Johns, Bozeman Qualifications (if required): Member who is a licensed angler	Governor	7/1/2019
Mr. William Frank Wichers, Hamilton Qualifications (if required): Member with expertise in fisheries	Governor	7/1/2019
Ms. Karin Fischer Boyd, Bozeman Qualifications (if required): Private sector member who is a fisheries restoration professional	Governor	7/1/2019
Mr. Charles E. Dalby, Helena Qualifications (if required): Public member	Governor	7/1/2019
Mr. Bill Semmens, Helena Qualifications (if required): Ex-officio member MDT with experience in highway impacts mitigation	Governor	7/1/2019
Mr. Joseph Willauer, Butte Qualifications (if required): Member who is a licensed Montana angler	Governor	7/1/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Future Fisheries Review Panel Cont.</b>		
Ms. Meriwether Schroeer-Smith, Helena	Governor	7/11/2019
Qualifications (if required): Montana High School Student		
<b>Future Ready Montana Cabinet</b>		
Lt. Governor Mike Cooney, Helena	Governor	6/30/2019
Qualifications (if required): Lieutenant Governor		
Director Sheila Hogan, Helena	Governor	6/30/2019
Qualifications (if required): Director of the Department of Public Health and Human Services		
Commissioner Clayton Christian, Helena	Governor	6/30/2019
Qualifications (if required): Commissioner of Higher Education		
Governor Steve Bullock, Helena	Governor	6/30/2019
Qualifications (if required): Governor		
Mr. Ken Fichtler, Helena	Governor	6/30/2019
Qualifications (if required): Director of the Governor's Office of Economic Development		
Major General Matthew Quinn, Helena	Governor	6/30/2019
Qualifications (if required): Adjutant General of the Montana National Guard		
Superintendent Elsie Arntzen, Helena	Governor	6/30/2019
Qualifications (if required): Superintendent of Public Instruction		

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Future Ready Montana Cabinet Cont.</b>		
Commissioner Galen Hollenbaugh, Helena Qualifications (if required): Commissioner of the Department of Labor and Industry	Governor	6/30/2019
Director Tara Rice, Helena Qualifications (if required): Director of the Department of Commerce	Governor	6/30/2019
<b>Governor's Advisory Council on Aging</b>		
Ms. Joan Taylor, Helena Qualifications (if required): Public Member	Governor	7/1/2019
Ms. Marianne Roose, Eureka Qualifications (if required): Public Member	Governor	7/1/2019
Ms. Connie Bremner, Browning Qualifications (if required): Public Member	Governor	7/1/2019
Mr. Alex Ward, Helena Qualifications (if required): Public Member	Governor	7/1/2019
<b>Governor's Postsecondary Scholarship Advisory Council</b>		
Ms. Connie Wittak, Flaxville Qualifications (if required): Experience in secondary or postsecondary education	Governor	7/1/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Groundwater Assessment Steering Committee</b>		
Representative Walt Sales, Manhattan	Governor	7/1/2019
Qualifications (if required): Agriculture Water User		
Mr. Mark Thompson, Butte	Governor	7/1/2019
Qualifications (if required): Industrial Water User		
<b>Historical Society Board of Trustees</b>		
Mr. Michael Gerard Shields, Helena	Governor	7/1/2019
Qualifications (if required): Public Representative		
<b>Interstate Commission on Educational Opportunity for Military Children</b>		
Colonel Harold Stearns, Missoula	Governor	7/1/2019
Qualifications (if required): Compact Commissioner		
Ms. Tammy Lacey, Fairfield	Governor	7/1/2019
Qualifications (if required): Superintendent of School District that includes High Concentration of Military Children		
Superintendent Denise Juneau, Helena	Governor	7/1/2019
Qualifications (if required): Superintendent of Public Instruction		
Master Sergeant Benjamin Aylward, Great Falls	Governor	7/1/2019
Qualifications (if required): Representative of a Military Installation		
Major Renea Dorvall, Fort Harrison	Governor	7/1/2019
Qualifications (if required): Representative of the Executive Branch of Government		

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Judicial Standards Commission</b>		
Brianne Dugan, Bozeman Qualifications (if required): Citizen who is not an attorney or judge of any court	Governor	7/1/2019
Ms. Jenny Eck, Helena Qualifications (if required): Citizen	Governor	7/1/2019
<b>Land Information Advisory Council</b>		
Ms. Catherine Maynard, Helena Qualifications (if required): U.S. Department of Agriculture	Governor	6/30/2019
Mr. Mike Bousliman, Helena Qualifications (if required): Designee of a Department Director	Governor	6/30/2019
Mr. Rudy Cicon, Chester Qualifications (if required): Montana Association of Registered Land Surveyors	Governor	6/30/2019
Ms. Janet Cornish, Butte Qualifications (if required): Active in land information systems & represents public utilities	Governor	6/30/2019
Mr. Warren C. Fahner Jr., Polson Qualifications (if required): County or municipal government	Governor	6/30/2019
Director John Tubbs, Helena Qualifications (if required): Department Director	Governor	6/30/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Land Information Advisory Council Cont.</b>		
Ms. Elaina M. Graham, Great Falls Qualifications (if required): U.S. Department of Agriculture	Governor	6/30/2019
Ms. Molly Hirschi, Bozeman Qualifications (if required): Person who is a member of the Montana Association of GIS Professionals	Governor	6/30/2019
Ms. Leslie Zolman, Helena Qualifications (if required): Person who is a member of the Montana Association of GIS Professionals	Governor	6/30/2019
Mr. Joshua F. Alexander, Billings Qualifications (if required): Person employed by the U.S. Department of the Interior	Governor	6/30/2019
Ms. Dawn Anderson, Helena Qualifications (if required): Designee of a Department Director	Governor	6/30/2019
Ms. Ricki Ann Bauer, Garrison Qualifications (if required): County or municipal government	Governor	6/30/2019
Mr. Gordon Conn, Helena Qualifications (if required): Designee of a Department Director	Governor	6/30/2019
Mr. Jerry Grebenc, Helena Qualifications (if required): Active in land information systems & represents public utilities	Governor	6/30/2019
Mr. Matthew Heller, Bozeman Qualifications (if required): Person employed by the U.S. Department of the Interior	Governor	6/30/2019



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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Land Information Advisory Council Cont.</b>		
Mr. Valentijn Hoff, Missoula	Governor	6/30/2019
Qualifications (if required): Montana University System		
Mr. Eric Spangenberg, Helena	Governor	6/30/2019
Qualifications (if required): County or municipal government		
Mr. Shawn Walks Over Ice, Crow Agency	Governor	6/30/2019
Qualifications (if required): Indian Tribal Interests		
Mrs. Lee Macholz, Missoula	Governor	6/30/2019
Qualifications (if required): County or municipal government active in land information systems		
<b>Libby Asbestos Superfund Advisory Team</b>		
Mr. George Frank Jamison, Libby	Governor	7/1/2019
Qualifications (if required): Citizen of Lincoln County nominated by the Lincoln County Commission		
<b>Mental Disabilities Board of Visitors</b>		
Mrs. Melissa Ancell, Poplar	Governor	6/30/2019
Qualifications (if required): Consumer or family member of consumer of developmental disability services		
Ms. Jessica Clark, Missoula	Governor	6/30/2019
Qualifications (if required): Consumer or family member of consumer of mental health services		
Ms. Sicily Nicole Morris, Billings	Governor	6/30/2019
Qualifications (if required): Professional person in the field of mental health treatment		

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Mental Health Ombudsman</b>		
Mr. Dennis Nyland, Helena	Governor	8/1/2019
Qualifications (if required): Mental Health Ombudsman		
<b>Montana Agriculture Development Council</b>		
Commissioner Greg Jergeson, Chinook	Governor	7/1/2019
Qualifications (if required): Public representative who is or was actively engaged in agriculture		
Ms. Amy Kellogg, Kalispell	Governor	7/1/2019
Qualifications (if required): Public representative who is or was actively engaged in agriculture		
<b>Montana Criminal Justice Oversight Council</b>		
Ms. Annette Carter Farley, Helena	Governor	8/2/2019
Qualifications (if required): Member of the Board of Pardons and Parole		
<b>Montana HELP Act Oversight Committee</b>		
Mr. Jesse Laslovich, Helena	Governor	6/30/2019
Qualifications (if required): Representative of the State Auditor's Office		
Mr. S. Kevin Howlett, Arlee	Governor	6/30/2019
Qualifications (if required): Ex-officio non-voting member		
Ms. Tara Veazey, Helena	Governor	6/30/2019
Qualifications (if required): Member of the General Public or a Staff Member of the Governor's Office		

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Montana HELP Act Oversight Committee Cont.</b>		
Ms. Heather O'Loughlin, Helena Qualifications (if required): Ex-officio non-voting member	Governor	6/30/2019
Ms. Jessica Rhoades, Helena Qualifications (if required): Member of the general public or a staff member of the Governor's Office	Governor	6/30/2019
Senator Edward Buttrey, Great Falls Qualifications (if required): Ex-officio non-voting member	Governor	6/30/2019
Dr. David Mark, Hardin Qualifications (if required): Primary Care Physician	Governor	6/30/2019
Ms. Cherie Taylor, Cut Bank Qualifications (if required): Representative of a Critical Access Hospital	Governor	6/30/2019
Ms. Barbara J. Schneeman, Billings Qualifications (if required): Ex-officio non-voting member	Governor	6/30/2019
Mr. John H. Goodnow, Great Falls Qualifications (if required): Representative of a Hospital	Governor	6/30/2019
Mr. Mike Frank, Helena Qualifications (if required): Third-party administrator	Governor	6/30/2019
Ms. Kristen Hansen, Helena Qualifications (if required): Representative of State Auditor's Office	Governor	6/30/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Montana Historical Society Board of Trustees</b>		
Mr. Jim Court, Billings Qualifications (if required): Public Representative	Governor	7/1/2019
Mr. Jim Utterback, Helena Qualifications (if required): Public Representative	Governor	7/1/2019
Mr. A. Christopher Edwards, Billings Qualifications (if required): Public Representative	Governor	7/1/2019
<b>Montana Information Security Advisory Council</b>		
Mr. Ron Baldwin, Helena Qualifications (if required): State Chief Information Officer	Governor	6/30/2019
Ms. Erika Billiet, Kalispell Qualifications (if required): Local Governments	Governor	6/30/2019
Mr. Dale Daugherty, Billings Qualifications (if required): General public	Governor	6/30/2019
Ms. Anne Dormady, Helena Qualifications (if required): Montana Analysis and Technical Information Center Representative (MATIC)	Governor	6/30/2019
Mr. Eric Frazee, Missoula Qualifications (if required): General public	Governor	6/30/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Montana Information Security Advisory Council Cont.</b>		
Mr. Adrian Irish, Missoula Qualifications (if required): University Representative	Governor	6/30/2019
Ms. Margaret Kauska, Helena Qualifications (if required): State Government Agency	Governor	6/30/2019
Mr. Roger Laferriere, Hamilton Qualifications (if required): General public	Governor	6/30/2019
Representative Kelly McCarthy, Billings Qualifications (if required): State Legislature	Governor	6/30/2019
Ms. Lynne Pizzini, Helena Qualifications (if required): State Government Agency	Governor	6/30/2019
Major General Matthew Quinn, Helena Qualifications (if required): State Homeland Security Advisor	Governor	6/30/2019
Mr. Mike Sangray, Helena Qualifications (if required): Public member	Governor	6/30/2019
Mr. Mark Simon, Great Falls Qualifications (if required): General public	Governor	6/30/2019
Ms. Karen Sprenger, Missoula Qualifications (if required): General public	Governor	6/30/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Montana Information Security Advisory Council Cont.</b>		
Ms. Jeanne Vold, Butte Qualifications (if required): General public	Governor	6/30/2019
Senator Jeffrey Welborn, Dillon Qualifications (if required): State Legislator	Governor	6/30/2019
Mr. Earl Campbell, Billings Qualifications (if required): Law Enforcement Representative and is an addition to the Council	Governor	6/30/2019
Mr. Paul Kozlowitz, Missoula Qualifications (if required): K-12 Representative and is an addition to the Council	Governor	6/30/2019
Mr. Justin van Almelo, Bozeman Qualifications (if required): University Representative and is an addition to the Council	Governor	6/30/2019
Mr. Andy Hanks, Helena Qualifications (if required): State Agency	Governor	6/30/2019
Commissioner Tony O'Donnell, Helena Qualifications (if required): State Agency	Governor	6/30/2019
Mr. Timothy Bottenfield, Helena Qualifications (if required): Chief Information Officer	Governor	6/30/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Montana Native Youth Suicide Reduction Coalition</b>		
Mr. Richard Sangrey, Box Elder Qualifications (if required): Chief of Staff	Governor	6/30/2019
Ms. Kati Antonich, Great Falls Qualifications (if required): Nurse/Tobacco Program Manager	Governor	6/30/2019
Mr. Peter Big Hair, Crow Agency Qualifications (if required): Crow Nation Recovery Center Director	Governor	6/30/2019
Mr. Ernie Bighorn, Poplar Qualifications (if required): Leadership, TAP Coordinator	Governor	6/30/2019
Mr. Loren Bird Rattler, Browning Qualifications (if required): Leadership, Blackfeet Resource Management Plan Project Manager	Governor	6/30/2019
Ms. Linda Blackbird Short, Great Falls Qualifications (if required): Substance Abuse Program Case Manager	Governor	6/30/2019
Ms. Brenda Bodnar, St. Ignatius Qualifications (if required): Health and Wellness Division Director	Governor	6/30/2019
Ms. Patty Boggs, Butte Qualifications (if required): Health Coordinator	Governor	6/30/2019
Ms. Bertha Brown, Lame Deer Qualifications (if required): MSPI Dragonfly Co-Facilitator	Governor	6/30/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Montana Native Youth Suicide Reduction Coalition Cont.</b>		
Ms. Shawna Buffalo, St. Ignatius Qualifications (if required): Behavioral Health Therapist	Governor	6/30/2019
Ms. Carla Campbell, Butte Qualifications (if required): Nurse Practitioner	Governor	6/30/2019
Ms. Kathy Chavis, Butte Qualifications (if required): Licensed Addiction Counselor	Governor	6/30/2019
Mr. Dale DeCoteau, Poplar Qualifications (if required): Mental Health Manager/Suicide Prevention Coordinator	Governor	6/30/2019
Ms. Monique Denny, Billings Qualifications (if required): Leadership	Governor	6/30/2019
Ms. Valerie Enemy Hunter, Billings Qualifications (if required): Leadership	Governor	6/30/2019
Ms. Aryn Fisher, Lame Deer Qualifications (if required): Youth	Governor	6/30/2019
Mr. Michael Geboe, Great Falls Qualifications (if required): Licensed Addiction Counselor	Governor	6/30/2019
Ms. Lily Gervais, Missoula Qualifications (if required): Behavioral Health Supervisor	Governor	6/30/2019



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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Montana Native Youth Suicide Reduction Coalition Cont.</b>		
Mr. Bubby Gopher, Box Elder Qualifications (if required): Youth	Governor	6/30/2019
Ms. Mckenzie Gopher, Box Elder Qualifications (if required): Youth	Governor	6/30/2019
Mr. Lazorus Hugs, Pryor Qualifications (if required): Youth	Governor	6/30/2019
Ms. Erin Irvine, St. Ignatius Qualifications (if required): ECS Parent Mentor	Governor	6/30/2019
Mr. Calvin Jilot, Box Elder Qualifications (if required): Business Committee Member	Governor	6/30/2019
Ms. Desarae KillEagle, Dodson Qualifications (if required): Leadership	Governor	6/30/2019
Ms. Jordell King Cole, Hays Qualifications (if required): Youth	Governor	6/30/2019
Mr. Jess T. Kirkaldie, Hays Qualifications (if required): Youth	Governor	6/30/2019
Ms. Mary Ellen LaFromboise, Browning Qualifications (if required): Blackfeet Family Services Director	Governor	6/30/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Montana Native Youth Suicide Reduction Coalition Cont.</b>		
Ms. Jade-Heather Lepotokisi, Browning Qualifications (if required): MSPI Coordinator	Governor	6/30/2019
Mr. Ivan MacDonald, Missoula Qualifications (if required): Behavioral Health Intern	Governor	6/30/2019
Ms. Carrie Manning, Poplar Qualifications (if required): Leadership	Governor	6/30/2019
Ms. AriAnna Matt, St. Ignatius Qualifications (if required): Assistant Youth Leader	Governor	6/30/2019
Ms. Kimberly McKeehan, Great Falls Qualifications (if required): Tribal Council Member	Governor	6/30/2019
Mr. Wyatt Miller, Frazer Qualifications (if required): Youth	Governor	6/30/2019
Ms. Madison Mitchell, Great Falls Qualifications (if required): Youth	Governor	6/30/2019
Ms. Rylee Mitchell, Great Falls Qualifications (if required): Youth	Governor	6/30/2019
Ms. Shania Nagel, Billings Qualifications (if required): Youth	Governor	6/30/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Montana Native Youth Suicide Reduction Coalition Cont.</b>		
Ms. Marilee Peterson, Missoula Qualifications (if required): RN Care Navigator	Governor	6/30/2019
Ms. Rachel Picardo, Helena Qualifications (if required): Receptionist	Governor	6/30/2019
Ms. Marina Powers, Missoula Qualifications (if required): Medical Assistant	Governor	6/30/2019
Ms. Ronnelle Running Fisher, Hays Qualifications (if required): Acting Supervisor Fort Belknap Law Enforcement	Governor	6/30/2019
Ms. Deborah Russell, Garryowen Qualifications (if required): Acting HHS Cabinet Head/Crow Tribal Health Director	Governor	6/30/2019
Ms. Alexis Smith, Helena Qualifications (if required): Behavioral Healthcare Coordinator	Governor	6/30/2019
Mr. Haden Standing Water, Lame Deer Qualifications (if required): Youth	Governor	6/30/2019
Ms. Kim Tatsey-McKay, Browning Qualifications (if required): Good Medicine Program Director	Governor	6/30/2019
Ms. Janelle Timber-Jones, Lame Deer Qualifications (if required): MSPI Dragonfly Coordinator	Governor	6/30/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Montana Native Youth Suicide Reduction Coalition Cont.</b>		
Ms. Maria Vega, Wolf Point Qualifications (if required): Youth	Governor	6/30/2019
Ms. Samantha Vulles, Helena Qualifications (if required): Youth Program Coordinator	Governor	6/30/2019
Ms. Dacee Whiteman, Garryowen Qualifications (if required): Youth	Governor	6/30/2019
<b>Montana Poet Laureate</b>		
Mr. Lowell Jaeger, Bigfork Qualifications (if required): Poet Laureate	Governor	8/1/2019
<b>Montana Pulse Crop Committee</b>		
Mr. Ron Williams, Portland, OR Qualifications (if required): Representative of the pulse industry	Governor	6/30/2019
Dr. Charles Boyer, Bozeman Qualifications (if required): Dean of Agriculture of Montana State University-Bozeman	Governor	6/30/2019
<b>Montana State Workforce Innovation Board</b>		
Director Sheila Hogan, Helena Qualifications (if required): Director of the Department of Public Health and Human Services	Governor	7/27/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Montana State Workforce Innovation Board Cont.</b>		
Mr. Alan Daniel Ekblad, Great Falls Qualifications (if required): Workforce Representative	Governor	7/27/2019
Ms. Vicky Rae Byrd, Clancy Qualifications (if required): Workforce Representative	Governor	7/27/2019
Mr. Paul Hopfauf, Glendive Qualifications (if required): Business Representative	Governor	7/27/2019
Commissioner Galen Hollenbaugh, Helena Qualifications (if required): Commissioner of the Department of Labor and Industry	Governor	7/27/2019
Ms. Karen Baumgart, Billings Qualifications (if required): Community Organization	Governor	7/27/2019
Ms. Jacquie Helt, Helena Qualifications (if required): Workforce Representative	Governor	7/27/2019
Mr. Miles McCarvel, Missoula Qualifications (if required): Workforce Representative	Governor	7/27/2019
Mr. Barry Reddick, Helena Qualifications (if required): Business Representative	Governor	7/27/2019
Ms. Rebecca Morgan, Missoula Qualifications (if required): Business Representative	Governor	7/27/2019

**EXECUTIVE BRANCH VACANCIES – JUNE 1, 2019 THROUGH AUGUST 31, 2019**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Montana Wheat and Barley Committee</b>		
Mr. Chris Kolstad, Ledger	Governor	6/1/2019
Qualifications (if required): District 3 and a Republican		
Mr. Randy Hinebauch, Conrad	Governor	6/1/2019
Qualifications (if required): District 2 and a Republican		
<b>Motorcycle Safety Advisory Committee</b>		
Mrs. Lori Ann Balcer, Shepherd	Governor	7/1/2019
Qualifications (if required): Motorcycle rider representing motorcycle riding groups		
Ms. Kristin Kennedy, Sidney	Governor	7/1/2019
Qualifications (if required): Motorcycle riders representing motorcycle riding groups		
Sergeant Richard Dean Musson Jr., Bozeman	Governor	7/1/2019
Qualifications (if required): Peace officer		
<b>Noxious Weed Management Advisory Council</b>		
Mr. Jack Eddie, Dillon	Governor	7/1/2019
Qualifications (if required): Representative of the Montana Weed Control Association		
Mr. Todd Wagner, Glasgow	Governor	7/1/2019
Qualifications (if required): Agriculture Crop Production		

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Noxious Weed Management Advisory Council Cont.</b>		
Mr. Jim Gordon, Huntley Qualifications (if required): Herbicide Dealer or Applicator	Governor	7/1/2019
Ms. Linda Eklund, Shawmut Qualifications (if required): Livestock Production	Governor	7/1/2019
Mr. Joel Farkell, Brady Qualifications (if required): Consumer Group	Governor	7/1/2019
Ms. Jeannette Nordahl, Lincoln Qualifications (if required): Recreationist/Wildlife Group	Governor	7/1/2019
Mr. Brian Ostwald, Joliet Qualifications (if required): Eastern County Representative	Governor	7/1/2019
Director Ben Thomas, Helena Qualifications (if required): Director of the Department of Agriculture and Presiding Officer	Governor	7/1/2019
Ms. Margie Edsall, Alder Qualifications (if required): At-Large Member from the Agriculture Community	Governor	7/1/2019
Mr. Kenny Keever, Havre Qualifications (if required): Biological Research and Control Interests	Governor	7/1/2019
Ms. Kellieann Morris, Stevensville Qualifications (if required): Western County Representative	Governor	7/1/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Petroleum Tank Release Board</b>		
Mr. Jerry M. Breen, Choteau Qualifications (if required): Representative of Independent Petroleum Marketers and Chain Retailers	Governor	7/1/2019
Mr. Keith Schnider, Great Falls Qualifications (if required): Insurance Industry Representative	Governor	7/1/2019
Mr. Mark Allen Johnson, Bozeman Qualifications (if required): Representative of the Petroleum Release Remediation Consultant Industry	Governor	7/1/2019
<b>Private Land Public Wildlife Committee</b>		
Representative Duane Ankney, Colstrip Qualifications (if required): Landowner and Legislator	Governor	8/1/2019
Mr. Richard Louis Stuker, Chinook Qualifications (if required): Landowner	Governor	8/1/2019
Representative Denley Loge, St. Regis Qualifications (if required): Landowner and Legislator	Governor	8/1/2019
Representative Zach Brown, Bozeman Qualifications (if required): Sportsperson and Legislator	Governor	8/1/2019
Mr. Edward Beall, Helena Qualifications (if required): Sportsperson	Governor	8/1/2019



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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Private Land Public Wildlife Committee Cont.</b>		
Mr. Ralph E. Bukoskey, Rosebud Qualifications (if required): Sports person	Governor	8/1/2019
Ms. Cynthia Cohan, Butte Qualifications (if required): Sports person	Governor	8/1/2019
Mr. M. Lee Cornwell, Glasgow Qualifications (if required): Landowner	Governor	8/1/2019
Mr. Dusty Crary, Choteau Qualifications (if required): Outfitter	Governor	8/1/2019
Mr. Daniel R. Fiehrer, Helena Qualifications (if required): Sports person	Governor	8/1/2019
Mr. William Geer, Lolo Qualifications (if required): Sports person	Governor	8/1/2019
Mr. Joe L. Perry, Brady Qualifications (if required): Sports person	Governor	8/1/2019
Mr. Carl Zabrocki, Billings Qualifications (if required): Sports person	Governor	8/1/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Public Defender Commission</b>		
Mr. Richard Gillespie, Helena	Governor	7/1/2019
Qualifications (if required): Attorney nominated by the State Bar Association who represents criminal defense lawyers		
Ms. Margaret Novak, Chester	Governor	7/1/2019
Qualifications (if required): Member of an organization that advocates on behalf of indigent persons		
Mr. Michael Metzger, Billings	Governor	7/1/2019
Qualifications (if required): Member employed by an organization that provides addictive behavior counseling		
Mr. Brian Gallik, Bozeman	Governor	7/1/2019
Qualifications (if required): Attorney nominated by the Supreme Court		
<b>State Banking Board</b>		
Mr. Bart Langemeier, Red Lodge	Governor	7/1/2019
Qualifications (if required): Active officer of a national bank doing business in Montana		
Ms. Amy Rapp, Great Falls	Governor	7/1/2019
Qualifications (if required): Member of the public		
<b>State Electrical Board</b>		
Mr. Rick Hutchinson, Black Eagle	Governor	7/1/2019
Qualifications (if required): Licensed Electrician		

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>State Employee Charitable Giving Campaign Advisory Council</b>		
Ms. Jasyn Kall-Harrington, Helena Qualifications (if required): Federation Representative	Governor	6/13/2019
 Ms. Sandy Booth, Helena Qualifications (if required): State Employee	Governor	6/13/2019
<b>State Library Commission</b>		
Mr. Bruce Newell, Helena Qualifications (if required): Experience in historic preservation	Governor	6/1/2019
<b>State Tribal Economic Development Commission</b>		
Mr. Carl Kipp, Browning Qualifications (if required): Blackfeet National Alternate Member	Governor	7/1/2019
<b>State Workforce Innovation Board</b>		
Ms. Asta So, Missoula Qualifications (if required): Business Representative	Governor	7/1/2019
Commissioner Michael McGinley, Dillon Qualifications (if required): Local government elected official	Governor	7/27/2019
Commissioner Pam Bucy, Helena Qualifications (if required): Representative of the Department of Labor and Industry	Governor	7/27/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>State Workforce Innovation Board Cont.</b>		
Mr. Kevin Phillip Joseph Poulin, Helena Qualifications (if required): Business Representative	Governor	7/27/2019
Superintendent Elsie Arntzen, Helena Qualifications (if required): Superintendent of Public Instruction or designee	Governor	7/27/2019
Mr. Clayton Christian, Helena Qualifications (if required): Representative of the Office of the Commissioner of Higher Education	Governor	7/27/2019
Ms. Jennifer Kobza, Billings Qualifications (if required): Business representative	Governor	7/27/2019
Mr. Loren Rose, Seeley Lake Qualifications (if required): Business representative	Governor	7/27/2019
Mr. Scott Trent, Missoula Qualifications (if required): Business representative	Governor	7/27/2019
Ms. Jane Weber, Great Falls Qualifications (if required): Local government elected official	Governor	7/27/2019
Mr. Ken Fichtler, Helena Qualifications (if required): Governor or designee	Governor	7/27/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>State Workforce Innovation Board Cont.</b>		
Mrs. Rebecca Jenice Bey, Billings Qualifications (if required): Business Representative	Governor	7/27/2019
Ms. Jillian Jaye Daniels, Great Falls Qualifications (if required): Business Representative	Governor	7/27/2019
<b>State-Tribal Economic Development Commission</b>		
Mr. Rodney Miller, Wolf Point Qualifications (if required): Fort Peck Tribes Alternate	Governor	6/30/2019
Mr. Carl Kipp, Browning Qualifications (if required): Blackfeet Nation Alternate Member	Governor	7/1/2019
Chairman Harry Barnes, Browning Qualifications (if required): Blackfeet Nation Representative	Governor	7/1/2019
<b>Statewide Public Safety Communications System Advisory Council</b>		
Atty. Gen. Tim Fox, Helena Qualifications (if required): Attorney General	Governor	7/1/2019
Commissioner Joe Briggs, Great Falls Qualifications (if required): Representative of county government	Governor	7/1/2019
Ms. Siri Smillie, Helena Qualifications (if required): Representative of the Governor's Office	Governor	7/1/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Statewide Public Safety Communications System Advisory Council Cont.</b>		
Mr. Robert DesRosier, Browning Qualifications (if required): Representative of tribal governments	Governor	7/1/2019
Mr. Clinton Loss, Helena Qualifications (if required): Representative of the emergency medical community	Governor	7/1/2019
Mr. Tim Burton, Helena Qualifications (if required): Rep. of a municipality, designated by the Montana league of cities and towns	Governor	7/1/2019
Sheriff Chuck Curry, Kalispell Qualifications (if required): Representative of the law enforcement community	Governor	7/1/2019
Ms. Marjean Penny, Bozeman Qualifications (if required): Rep. of the assoc. of pub-safety communications officials, designated by the MT chapter	Governor	7/1/2019
Chief Joshua Lee Waldo, Bozeman Qualifications (if required): Representative of the fire protection community	Governor	7/1/2019
<b>Teachers' Retirement Board</b>		
Mr. Daniel Trost, Helena Qualifications (if required): Representative of the Public	Governor	7/1/2019
<b>Tourism Advisory Council</b>		
Ms. Rhonda Fitzgerald, Whitefish Qualifications (if required): Glacier Country Region Representative	Governor	7/1/2019

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Tourism Advisory Council Cont.</b>		
Mr. Bill McGladdery, Butte Qualifications (if required): Southwest Montana Region Representative	Governor	7/1/2019
Ms. Katie Marie Grice, Big Sky Qualifications (if required): Yellowstone Country Region Representative	Governor	7/1/2019
Ms. Patricia McGlynn, Kalispell Qualifications (if required): Glacier Country Region Representative	Governor	7/1/2019
Ms. Rachel Elizabeth Gregg, Missoula Qualifications (if required): Glacier Country Region Representative	Governor	7/1/2019
Ms. Lindsey Roth, Kalispell Qualifications (if required): Glacier Country Region Representative	Governor	7/1/2019
<b>Underground Facility Protection Advisory Council</b>		
Mr. Douglas Hansen, Billings Qualifications (if required): Owns a MT underground facility that is an electric distribution or transmission line	Governor	7/1/2019
Ms. Mandy Nay, Circle Qualifications (if required): Member representing a regional water, wastewater, or both authority	Governor	7/1/2019
Mr. Nicholas Pericich, Bozeman Qualifications (if required): Member representing a municipal sewer or water system or a municipal water supply system	Governor	7/1/2019

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<b>Underground Facility Protection Advisory Council Cont.</b>		
Mr. Dale Schultz, Butte	Governor	7/1/2019
Qualifications (if required): Member rep public utility that owns a MT underground facility that is a juris. pipeline		
Mr. John Bemis, Helena	Governor	7/1/2019
Qualifications (if required): Member representing a telecommunications provider		
<b>Western Interstate Commission on Higher Education</b>		
Mr. Pat Williams, Missoula	Governor	7/1/2019
Qualifications (if required): Engaged in professional occupation		
Ms. Sheila Stearns, Missoula	Governor	7/1/2019
Qualifications (if required): Member who is engaged in a professional occupation		



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**COREY STAPLETON**  
SECRETARY OF STATE

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