

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 4

The Montana Administrative Register (MAR), a twice-monthly publication, has three sections. The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 section indicates that the proposed rule action is adopted and lists any changes made since the proposed stage. The interpretation section contains the attorney general's opinions and state declaratory rulings. Special notices and tables are found at the back 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 Administrative Rules Bureau at (406) 444-2055.

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BEFORE THE PUBLIC EMPLOYEES' RETIREMENT BOARD  
OF THE STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF PROPOSED
of ARM 2.43.201, 2.43.202,	)	AMENDMENT
2.43.203, 2.43.204, and 2.43.205	)	
pertaining to procedural rules,	)	
the appeal of administrative	)	
decisions, and contested case	)	NO PUBLIC HEARING
procedures for the Public	)	CONTEMPLATED
Employees' Retirement Board	)	

TO: All Concerned Persons

1. On May 9, 2003, the Public Employees' Retirement Board proposes to amend ARM 2.43.201, 2.43.202, 2.43.203, 2.43.204, and 2.43.205 pertaining to procedural rules, the appeal of administrative decisions, and contested case procedures for the Public Employees' Retirement Board.

2. The Public Employees' Retirement Board will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Public Employees' Retirement Board no later than 5:00 p.m. on March 7, 2003, to advise us of the nature of the accommodation that you need. Please contact Lucie Willson, Public Employees' Retirement Board, 100 North Park Avenue, Suite 220, P.O. Box 200131, Helena, MT 59620-0131; telephone 406-444-7939; TDD 406-444-1421; FAX 406-444-5428; e-mail lwillson@state.mt.us.

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

2.43.201 MODEL PROCEDURAL RULE RULES (1) To the extent applicable to the operations of the public employees' retirement board, the board ~~has herein adopted and incorporated the attorney general's model procedural rules, one through 28, by reference to such rules as stated in hereby~~ adopts and incorporates by reference ARM 1.3.101 through ARM 1.3.233, which set forth the attorney general's model procedural rules.

AUTH: 2-4-201, 2-4-307, 19-2-403, MCA  
IMP: 2-4-201, 19-2-403, MCA

REASON: This rule was last amended in 1994. Some of the model attorney general rules have been amended since then, so must be readopted by reference in order for the amendments to apply. ARM 1.2.210 and 1.2.211 dictate the language to be used when adopting the attorney general's model procedural rules.

2.43.202 APPLICABILITY OF RULES (1) ~~All of the following rules may not be subject to the provisions of the Montana Administrative Procedure Act. To the extent that procedural rules adopted herein are applicable to an action taken by MPERA or the board, they will be applied. To the extent that they are not applicable, procedural rules adopted herein may be followed at the option of the board. In both cases, these rules shall have full force and effect upon the activities over which the board has responsibility and/or authority.~~

AUTH: 2-4-201, 19-2-403, ~~19-3-304, 19-5-201, 19-6-201, 19-8-201~~ MCA

IMP: 2-4-201, 19-2-403, ~~19-3-304, 19-5-201, 19-6-201, 19-8-201~~ MCA

REASON: The Board would like the leeway to rely on its rules for guidance in situations where adherence to the rules would be helpful, but is not mandatory.

2.43.203 REVIEW OF ADMINISTRATIVE DECISION (1) ~~These matters subject to board administrative determination, including contested cases, An "administrative decision" means a decision issued by the MPERA that determines an individual's or an entity's legal rights, duties, or privileges pursuant to the provisions of Title 19, MCA.~~

(2) Administrative decisions that are appealed to the board will be initially decided by the board initially on the basis of material properly submitted by MPERA and the requesting appealing party, and such other information as the board deems appropriate. The board may, on its own motion, postpone its initial decision until the next regularly scheduled board meeting.

(3) The board will notify the requesting appealing party of its preliminary initial decision in writing. If the decision is adverse to the appealing party, the board will include a general statement of adverse considerations the reasons for its decision, which need not be exhaustive. The requesting appealing party will be given two options, either of which must be exercised within 30 days of the date of the written notification:

(a) The any appealing party may submit a request in writing for reconsideration by the board; or

(b) an appealing party, other than a governmental entity, may submit a request in writing for a contested case proceeding.

(4) Such A reconsideration by the board will be based on facts and matters submitted by the appealing party and MPERA to the board, the testimony of the appealing party before the board, and the presentation of the appealing party and MPERA, or their legal counsel, before to the board.

(a) Unless otherwise ordered by the board pursuant to (4)(b), facts Facts and matters may be submitted by the requesting party any time after the adverse board's initial

decision is made issued until 21 days prior to the second third regularly scheduled board meeting following the original administrative issuance of the initial decision.

(b) The board may, prior to issuing its decision on reconsideration and on its own motion, require the appealing party, MPERA, or both to submit additional facts and matters relevant to the issue before the board. The board may also, on its own motion, postpone its decision on reconsideration. However, in no case may the board prolong issuance of its decision on reconsideration for more than six months following issuance of its initial decision.

(c) The board will notify the party in writing of the its determination decision on reconsideration, which. That decision will become final and is will not be subject to administrative a contested case proceeding or judicial review unless an individual a party other than a governmental entity exercises the right to files a written request an administrative hearing for a contested case proceeding within 30 days of the date of the written notice of determination decision on reconsideration. A governmental agency does not have a right to an administrative hearing. As to any governmental entity, the

(5) The board's original decision initial decision or decision on reconsideration, if appropriately requested, is final with respect to a party which is a governmental entity, and may not be appealed by that entity.

~~(b) An individual party may exercise the right to request an administrative hearing (contested case) within 30 days of the date of the notice of the initial determination or determination on reconsideration. Notice will be given orally to the party at the time the board reaches its determination. If neither the requesting party nor their counsel is present, written notice of the board's determination will be mailed.~~

(6) The board's initial decision and its decision on reconsideration will be mailed to the appealing party. The time period for requesting further review of either decision will commence on the day the notice is mailed by MPERA staff, as indicated at the bottom of the decision. Rule 6(e), M.R.Civ.P., does not apply and no additional time will be added because the decision is mailed.

~~(2) (7) If a party fails to exercise an available option within the time allowed by the board, the board's decision becomes final and is not subject to administrative contested case proceedings or judicial review. Thereafter, a party may only appear before the board on the same matter based on new and different facts which that are not cumulative or repetitive, and for good cause shown.~~

~~(3) (8) Unless otherwise provided, Time time periods provided herein may be enlarged only in writing by the board or its authorized representative and only on requests made prior to the expiration of the time period.~~

AUTH: 19-2-403, MCA  
IMP: 19-2-403, MCA

REASON: The Board has determined that a party requesting a reconsideration should be given additional time to produce relevant facts and matter. Additionally, the Board recognizes that it may, in limited circumstances, benefit from the submission of additional evidence regarding facts and matters presented during the hearing on reconsideration. Finally, the Board takes this opportunity to clarify MPERA's role in the appeals, and to use consistent terms throughout the rules.

2.43.204 CONTESTED CASE PROCEDURES (1) Contested cases will be presided over and heard by a quorum of the board or a hearing examiner who may be any individual appointed by the board, including any board member.

(a) A party may seek to disqualify a hearing examiner only on the basis of a pre-hearing motion and affidavit containing an affirmative showing of prejudicial personal bias or lack of independence. The hearing examiner will rule on the motion or voluntarily recuse (disqualify) himself or herself. ~~Such~~ The ruling will not be reviewed by the board except ~~as~~ when the personal bias or lack of independence is demonstrated by reference to the hearing examiner's ~~final~~ proposed ruling findings of fact, conclusions of law, and order.

~~(a)~~ (b) The hearing examiner has general authority to regulate the course of contested cases and may exercise the power and authority provided or implied by law, including 2-4-611, MCA.

~~(b)~~ (c) The hearing examiner may establish pre-hearing and hearing calendar dates and procedures, rule on procedural matters, make proposed orders, findings and conclusions, and otherwise regulate the conduct and adjudication of contested cases as provided by law. The hearing, unless the parties stipulate otherwise, shall be conducted in the following order:

(i) the statement and evidence of the petitioner party opposing agency action the board's initial decision or decision on reconsideration;

(ii) the statement and evidence of the agency MPERA; and

(iii) rebuttal testimony.

(d) The contested case hearing must be conducted in Helena. The parties and their witnesses must appear in person unless, for good cause shown, the hearing examiner determines otherwise.

~~(e)~~ (e) The hearing examiner shall enter proposed findings of fact, conclusions of law, and order, with any necessary explanation, for review and final determination by the board.

~~(d)~~ (f) The jurisdiction and authority of a hearing examiner terminates upon the entry of a proposed order unless the board delegates further authority.

~~(e)~~ (2) In contested cases, exceptions Exceptions to proposals for decisions which proposed findings of fact, conclusions of law, and orders that are allowed by statute

must be filed with the division MPERA and served upon opposing counsel within 20 days of service of the proposal for decision proposed findings, conclusions and order. Any response must be filed within 10 days of service of the exceptions.

~~(a) Briefs do not have to be filed in support are not required,~~ but if filed, must be filed simultaneously with exceptions or responses.

~~(b) Requests for oral argument must be in writing, and must be filed simultaneously with the exceptions or responses.~~

~~(c) Date of service shall be the date indicated on the appropriate certificate of service or certificate of mailing. and The date of filing shall be the date of actual delivery or the postmarked date of mailing.~~

~~(d) The board may request briefing, additional briefing, or oral argument by the parties.~~

~~(f) The oral argument, if requested in writing, will be heard at the next regular board meeting held more than 15 days after time allowed for exceptions and responses.~~

~~(2) (3) If a quorum of the board hears the contested case, the board may use a hearing examiner for procedural rulings and administrative purposes, and to assist in the drafting of a final order. A final order so adopted will be the final administrative decision of the board, subject only to judicial review.~~

~~(3) (4) The division may assign an An attorney for the presentation of may be assigned to present a case or to appear in any contested case to represent the interests of MPERA or the board.~~

~~(4)(a) (5) A contested case hearing, and any other proceeding before a hearings examiner, will be recorded electronically unless a party demands notifies the hearing examiner no later than 20 days prior to the proceeding that the party wants a stenographic record. If a party demands a stenographic record of any proceeding, it must be made known to the hearing officer not less than 20 days prior to the proceeding. The party requiring a stenographic record must arrange and pay for it the court reporter.~~

~~(a) Any electronic or stenographic record shall be transcribed on the request of any party. The cost of the transcription shall initially be paid by the requesting party. A party who has a transcript prepared shall provide a copy to any other party requesting it in exchange for the proportional cost of an transcribing the original and the necessary copies. A copy must also be provided to the hearing examiner, at no cost.~~

~~(b) The party(ies) filing exceptions to the hearing examiner's proposed findings of fact order must file the original and a total of seven eight copies of the transcript with the division board. The original of the transcript shall be included in the record of the contested case only if exceptions have been filed to the hearing examiner's proposed findings of fact.~~

~~(b) (c) If an electronic recording of any hearing or proceeding is defective or cannot be transcribed, the hearing~~



examiner may reconstruct the record or the parties may reconstruct the record by stipulation. The record so reconstructed will constitute the record for determination and review of findings of fact.

AUTH: 19-2-403, MCA  
IMP: 19-2-403, MCA

REASON: The Board has determined that a party requesting a reconsideration should be given additional time to produce relevant facts and matter. The Board is also taking this opportunity to clarify these rules; to use consistent terms throughout the rules; to require that a proposed decision contain proposed findings of fact, conclusions of law, an order, and a certificate of service or a certificate of mailing; to clarify that hearings must be in person unless good cause is shown otherwise; and to ensure appropriate provision of and access to transcripts of all proceedings before a hearings examiner.

2.43.205 REGULATIONS APPLICABLE TO CONTESTED CASES

(1) To the extent these rules do not provide for or specify procedures, or where necessary to supplement these rules, the provisions of the Montana Administrative Procedure Act and attorney general's model rules apply. The Montana rules of civil procedure, Montana uniform district court rules or Montana rules of evidence may be utilized to the extent that they clarify fair procedures, expedite determinations, and assist in the adjudication of rights, duties or privileges of parties.

~~(2) A contested case hearing must be heard in Helena.~~

AUTH: 19-2-403, MCA  
IMP: 19-2-403, MCA

REASON: Section (2) has been moved to ARM 2.43.204, Contested Case Procedures, as that is the more appropriate location for this information.

4. Concerned persons may submit their data, views, or arguments concerning the proposed amendments in writing to Mike O'Connor, Executive Director, Public Employees' Retirement Board, 100 North Park Avenue, Suite 220, P.O. Box 200131, Helena, MT 59620-0131; FAX 406-444-5428; e-mail moconnor@state.mt.us no later than March 27, 2003.

5. If persons who are directly affected by the proposed amendments wish to express their data, views, and 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 they have to Lucie Willson, P.O. Box 200131, Helena, MT 59620-0131; telephone 406-444-7939; FAX 406-444-5428; e-mail lwillson@state.mt.us. A written request for a hearing must be received no later than March 27, 2003.

6. If the agency receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are 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 persons directly affected has been determined to be 4,437 persons based on 2002 payroll reports of active and retired members.

7. The Public Employees' Retirement Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding public retirement rulemaking actions. Such written request may be mailed or delivered to Lucie Willson, Public Employees' Retirement Board, 100 North Park Avenue, Suite 220, P.O. Box 200131, Helena, MT 59620-0131; faxed to the office at 406-444-5428; or e-mailed to [lwillson@state.mt.us](mailto:lwillson@state.mt.us), or may be made by completing a request form at any rules hearing held by the Public Employees' Retirement Board.

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

/s/ Terry Teichrow  
Terry Teichrow, Chairman  
Public Employees' Retirement Board

/s/ Kelly Jenkins  
Kelly Jenkins, General Counsel and  
Rule Reviewer

/s/ Dal Smilie  
Dal Smilie, Chief Legal Counsel and  
Rule Reviewer

Certified to the Secretary of State on February 14, 2003.

BEFORE THE STATE AUDITOR AND COMMISSIONER OF INSURANCE  
OF THE STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PROPOSED
amendment of ARM 6.10.126	)	AMENDMENT
pertaining to unethical	)	
practices by broker-dealers	)	NO PUBLIC HEARING
and salesmen defined	)	CONTEMPLATED

TO: All Concerned Persons

1. On March 29, 2003, the state auditor and commissioner of securities proposes to amend ARM 6.10.126 pertaining to unethical practices by broker-dealers and salesmen defined.

2. The State Auditor's Office will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the office no later than 5:00 p.m., March 17, 2003, to advise us as to the nature of the accommodation needed. Please contact Darla Sautter, Legal Assistant, State Auditor's Office, 840 Helena Avenue, Helena, Montana 59601; telephone (406) 444-2726; Montana Relay 1-800-332-6145; TDD (406) 444-3246; facsimile (406) 444-3497; or by e-mail to dsautter@state.mt.us.

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

6.10.126 "UNETHICAL PRACTICES" BY BROKER-DEALERS AND SALESMEN DEFINED (1) through (1)(u) remain the same.

(2) For purposes of 30-10-201(~~12~~)(13)(g), MCA, "unethical practices" by a salesman means, but is not limited to:

(a) through (g) remain the same.

AUTH: 30-10-107, MCA

IMP: 30-10-201, MCA

4. REASON: Pursuant to 2-4-305(8) and 2-4-307(1), MCA, ARM 6.10.126(2) references 30-10-201(12)(g), MCA, which is not the correct point of reference. There is no part (g) in subsection 12. The correct code citation should be 30-10-201(13)(g), which accurately reflects the reference to dishonest or unethical practices in the securities business. Therefore, ARM 6.10.126(2) is being amended because of a clerical error.

5. Concerned persons may present their data, views, or arguments concerning the proposed amendment in writing to Darla Sautter, Legal Assistant, State Auditor's Office, 840 Helena Avenue, Helena, Montana 59601, or by e-mail to

dsautter@state.mt.us, and must be received no later March 27, 2003.

6. If a person who is directly affected by the proposed amendment wishes to express their data, views and arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments they have to Darla Sautter, Legal Assistant, State Auditor's Office, 840 Helena Avenue, Helena, Montana 59601, or by e-mail to dsautter@state.mt.us. A written request for hearing must be received no later than March 27, 2003.

7. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less of the persons who are directly affected by the proposed action; from the 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 persons directly affected has been determined to be 12 persons based on the 122 persons who have indicated interest in the rules of this agency and who the agency has determined could be directly affected by these rules.

8. The State Auditor's Office 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 mailing address of the person to receive notices and specifies whether the person wishes to receive notices regarding insurance rules, securities rules, or both. Such written request may be mailed or delivered to the State Auditor's Office, 840 Helena Avenue, Helena, Montana 59601, faxed to (406) 444-3497, e-mailed to dsautter@state.mt.us, or may be made by completing a request form at any rules hearing held by the State Auditor's Office.

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

JOHN MORRISON, State Auditor  
and Commissioner of Securities

By: /s/ Angela Huschka  
Angela Huschka  
Deputy Insurance Commissioner

By: /s/ Elizabeth L. Griffing  
Elizabeth L. Griffing  
Rules Reviewer

Certified to the Secretary of State on February 14, 2003.

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

In the matter of the	)	
adoption of new rules I	)	
through III, closing	)	
Cochrane, Morony, and Ryan	)	NOTICE OF PUBLIC HEARING ON
reservoirs to all boating,	)	PROPOSED ADOPTION AND
sailing, floating, swimming,	)	AMENDMENT
personal watercraft use, and	)	
water fowl hunting; and the	)	
amendment of ARM 12.11.501,	)	
list of water bodies, to	)	
include Cochrane, Morony,	)	
and Ryan reservoirs	)	

TO: All Concerned Persons

1. On March 20, 2003, at 7:00 p.m. the Fish, Wildlife and Parks Commission (commission) will hold a public hearing at the Montana Department of Fish, Wildlife and Parks Region 4 Headquarters, 4600 Giant Springs Road, Great Falls, Montana to consider the proposed adoption and amendment of the above-stated rules.

2. The commission 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 commission no later than 5:00 p.m. on March 13, 2003, to advise us of the nature of the accommodation that you need. Please contact Fred Schultz, 4600 Giant Springs Road, Great Falls, MT 59406; phone (406) 454-5840; fax (406) 761-8477.

3. The proposed new rules provide as follows:

NEW RULE I COCHRANE RESERVOIR (1) Cochrane Reservoir is located in Cascade County.

(2) Cochrane Reservoir is closed to all boating, sailing, floating, swimming, personal watercraft use, and waterfowl hunting.

(3) Fishing from shore is permitted only in designated areas on Cochrane Reservoir.

IMP: 23-1-106, 87-1-303, MCA  
AUTH: 23-1-106, 87-1-303, MCA

NEW RULE II MORONY RESERVOIR (1) Morony Reservoir is located in Cascade County.

(2) Morony Reservoir is closed to all boating, sailing, floating, swimming, personal watercraft use, and waterfowl hunting.

(3) Fishing from shore is permitted only in designated areas on Morony Reservoir.

IMP: 23-1-106, 87-1-303, MCA  
AUTH: 23-1-106, 87-1-303, MCA

NEW RULE III RYAN RESERVOIR (1) Ryan Reservoir is located in Cascade County.

(2) Ryan Reservoir is closed to all boating, sailing, floating, swimming, personal watercraft use, and waterfowl hunting.

(3) Fishing from shore is permitted only in designated areas on Ryan Reservoir.

IMP: 23-1-106, 87-1-303, MCA  
AUTH: 23-1-106, 87-1-303, MCA

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

12.11.501 LIST OF WATER BODIES (1) The following is a list of specific regulations on bodies of water with the reference where the rules regarding those bodies of water are located:

- (a) Alva Lake ARM 12.11.3901
- (b) Arapooish Fishing Access (Pond) ARM 12.11.801
- (c) Banana Lake ARM 12.11.3401
- (d) Bear Mouth Rest Area Pond ARM 12.11.2701
- (e) Bearpaw Lake ARM 12.11.2801
- (f) Beaver Creek Reservoir ARM 12.11.2805
- (g) Beaver Lake ARM 12.11.2201
- (h) Beavertail Pond ARM 12.11.3905
- (i) Big Hole River ARM 12.11.601
- (j) Bighorn River ARM 12.11.605
- (k) Bitterroot River ARM 12.11.610
- (l) Blackfoot River ARM 12.11.615
- (m) Blanchard Lake ARM 12.11.3910
- (n) Bootjack Lake ARM 12.11.3405
- (o) Bozeman Ponds ARM 12.11.2301
- (p) Branum Pond ARM 12.11.1601
- (q) Brown's Lake ARM 12.11.4601
- (r) Cad Lake ARM 12.11.3410
- (s) Canyon Ferry Reservoir ARM 12.11.1001 &  
12.11.3201
- (t) Carpenter Lake ARM 12.11.3415
- (u) Castle Rock Reservoir ARM 12.11.5101
- (v) Cibid Lake ARM 12.11.3420
- (w) Clark Fork River ARM 12.11.620
- (x) Clearwater Lake ARM 12.11.3915
- (y) Clearwater River ARM 12.11.625
- (z) Cochrane Reservoir NEW RULE I
- ~~(z)~~ (aa) Colt Lake ARM 12.11.3920
- ~~(aa)~~ (ab) Cooney Reservoir ARM 12.11.1201
- ~~(ab)~~ (ac) Cottonwood Lake ARM 12.11.3925
- ~~(ac)~~ (ad) Crystal Lake ARM 12.11.2101

<del>(ad)</del>	<u>(ae)</u>	East Gallatin Pond	ARM 12.11.2305
<del>(ae)</del>	<u>(af)</u>	Elsina Lake	ARM 12.11.3930
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<del>(ag)</del>	<u>(ah)</u>	Flathead Lake	ARM 12.11.2205
<del>(ah)</del>	<u>(ai)</u>	Forest Lake	ARM 12.11.3701
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<del>(aj)</del>	<u>(ak)</u>	Fort Peck Reservoir	ARM 12.11.2401 & 12.11.3601
<del>(ak)</del>	<u>(al)</u>	Fenchtown Pond	ARM 12.11.3935
<del>(al)</del>	<u>(am)</u>	Fresno Reservoir	ARM 12.11.2810
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<del>(ao)</del>	<u>(ap)</u>	Harrison Lake (Willow Creek Res.)	ARM 12.11.3501
<del>(ap)</del>	<u>(aq)</u>	Hauser Reservoir	ARM 12.11.3205
<del>(aq)</del>	<u>(ar)</u>	Helena Valley Equalizing Reservoir Regulations	ARM 12.11.3210
<del>(ar)</del>	<u>(as)</u>	Henry Reservoir	ARM 12.11.5705
<del>(as)</del>	<u>(at)</u>	Hidden Lake	ARM 12.11.3945
<del>(at)</del>	<u>(au)</u>	Holland Lake	ARM 12.11.3950
<del>(au)</del>	<u>(av)</u>	Holter Lake	ARM 12.11.3215
<del>(av)</del>	<u>(aw)</u>	Hyalite Reservoir	ARM 12.11.2310
<del>(aw)</del>	<u>(ax)</u>	Inez Lake	ARM 12.11.3955
<del>(ax)</del>	<u>(ay)</u>	Johnson Reservoir	ARM 12.11.1801
<del>(ay)</del>	<u>(az)</u>	Kerr Dam	ARM 12.11.3101
<del>(az)</del>	<u>(ba)</u>	Lake Dinah	ARM 12.11.3960
<del>(ba)</del>	<u>(bb)</u>	Lake Elmo	ARM 12.11.6201
<del>(bb)</del>	<u>(bc)</u>	Lake Helena	ARM 12.11.3220
<del>(bc)</del>	<u>(bd)</u>	Lake Koochanusa	ARM 12.11.3425
<del>(bd)</del>	<u>(be)</u>	Lavon Lake	ARM 12.11.3430
<del>(be)</del>	<u>(bf)</u>	Leon Lake	ARM 12.11.3435
<del>(bf)</del>	<u>(bg)</u>	Lilly Pad Lake	ARM 12.11.3440
<del>(bg)</del>	<u>(bh)</u>	Little Loon Lake	ARM 12.11.3445
<del>(bh)</del>	<u>(bi)</u>	Little McGregor Lake	ARM 12.11.2210
<del>(bi)</del>	<u>(bj)</u>	Little Rainbow Lake	ARM 12.11.3450
<del>(bj)</del>	<u>(bk)</u>	Lost Lake	ARM 12.11.3455
<del>(bk)</del>	<u>(bl)</u>	Lower Carter Pond	ARM 12.11.2105
<del>(bl)</del>	<u>(bm)</u>	Middle Thompson Lake	ARM 12.11.3460
<del>(bm)</del>	<u>(bn)</u>	Missouri River	ARM 12.11.630
	<u>(bo)</u>	<u>Morony Reservoir</u>	<u>NEW RULE II</u>
<del>(bn)</del>	<u>(bp)</u>	Morrell Lake	ARM 12.11.3965
<del>(bo)</del>	<u>(bq)</u>	Myron Lake	ARM 12.11.3465
<del>(bp)</del>	<u>(br)</u>	Park Lake	ARM 12.11.2901
<del>(bq)</del>	<u>(bs)</u>	Pelican Point Fishing Access Ponds	ARM 12.11.1401
<del>(br)</del>	<u>(bt)</u>	Placid Creek	ARM 12.11.3970
<del>(bs)</del>	<u>(bu)</u>	Rainbow Lake	ARM 12.11.3470
<del>(bt)</del>	<u>(bv)</u>	Rainy Lake	ARM 12.11.3975
	<u>(bw)</u>	<u>Ryan Reservoir</u>	<u>NEW RULE III</u>
<del>(bu)</del>	<u>(bx)</u>	Salmon Lake	ARM 12.11.3980
<del>(bv)</del>	<u>(by)</u>	Savage Lake	ARM 12.11.3475
<del>(bw)</del>	<u>(bz)</u>	Seeley Lake	ARM 12.11.3985
<del>(bx)</del>	<u>(ca)</u>	Smith River	ARM 12.11.635



<del>(by)</del> <u>(cb)</u>	South Sandstone Reservoir	ARM 12.11.2001
<del>(bz)</del> <u>(cc)</u>	Spook Lake	ARM 12.11.3990
<del>(ca)</del> <u>(cd)</u>	Spring Meadow Lake	ARM 12.11.3225
<del>(cb)</del> <u>(ce)</u>	Summit Lake	ARM 12.11.3995
<del>(ce)</del> <u>(cf)</u>	Swan River	ARM 12.11.640
<del>(ed)</del> <u>(cg)</u>	Tongue River Reservoir	ARM 12.11.805
<del>(ee)</del> <u>(ch)</u>	Topless Lake	ARM 12.11.3480
<del>(ef)</del> <u>(ci)</u>	Upper Carter Pond	ARM 12.11.2110
<del>(eg)</del> <u>(cj)</u>	Upper Thompson Lake	ARM 12.11.3485
<del>(eh)</del> <u>(ck)</u>	Upsata Lake	ARM 12.11.3999
<del>(ei)</del> <u>(cl)</u>	Whitefish River	ARM 12.11.645
<del>(ej)</del> <u>(cm)</u>	Whitetail Reservoir	ARM 12.11.1701
<del>(ek)</del> <u>(cn)</u>	Willow Creek Res. (Harrison Lake)	ARM 12.11.3501
<del>(el)</del> <u>(co)</u>	Wood Lake	ARM 12.11.3230

IMP: 23-1-106, 87-1-303, MCA  
AUTH: 23-1-106, 87-1-303, MCA

5. Historically, Cochrane, Morony, and Ryan reservoirs have not been open to public access. During the years 1990-1999, the Federal Energy Regulatory Commission (FERC) and the Montana Power Company (now PPL Montana) conducted an extensive relicensing process. This process included a National Environmental Policy Act (NEPA) review and produced an Environmental Impact Statement and Comprehensive Recreational Management Plan. Working with the Montana Power Company, United States Fish and Wildlife Service, Bureau of Land Management, Bureau of Reclamation, the Montana Department of Natural Resources and Conservation, the Montana Department of Fish, Wildlife and Parks, the City of Great Falls, the Cascade County Commission, and many citizen recreational organizations and other stake holders, FERC developed a settlement agreement and mitigation plan to address the loss of recreational opportunity due to power production. As part of the plan, Montana Power donated an easement to the citizens of Montana for pedestrian and bicycle access across Cochrane Dam. All agreed that rule making to protect public safety would need to take place once mitigation provided access to the edge of the fluctuating reservoirs.

Cochrane, Morony, and Ryan are reservoirs created by dams that generate electrical power. Water levels in some of the reservoirs can fluctuate up to 10 feet within a short period of time. This fluctuation of water levels makes any public activity in the water and some public activities in close proximity to the water hazardous. The department is in the process of determining where fishing from shore may be safe because of stable banks or gradually sloping shores. These areas will be designated open for public fishing. The intent of this rule is to protect the public safety in light of the new recreational access.

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 Mike Aderhold, 4600 Giant Springs Road, Great Falls, MT 59406; telephone (406) 454-5840; fax (406) 761-8477; email maderhold@state.mt.us. Any comments must be received no later than March 27, 2003.

7. Mike Aderhold has been designated to preside over and conduct the hearing.

8. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by this department. Persons who wish to have their name added to the list shall make written request which 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, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

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

By: /s/ M. Jeff Hagener  
M. Jeff Hagener  
Commission Secretary

By: /s/ Martha C. Williams  
Martha C. Williams  
Rule Reviewer

Certified to the Secretary of State February 14, 2003

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC HEARING  
amendment of ARM 8.11.101 and ) ON PROPOSED AMENDMENT  
8.11.115 pertaining to fees )  
and renewals for licensed ) (Licensed Addiction  
addiction counselors ) Counselors)

TO: All Concerned Persons

1. On March 28, 2003, at 9:00 a.m., a public hearing will be held in the Business Standards Division, in room 438, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry 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 Cynthia Reichenbach no later than 5:00 p.m. on March 18, 2003, to advise us of the nature of the accommodation that you need. Please contact Cynthia Reichenbach, Chemical Dependency Counselors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2391; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or e-mail creichenbach@state.mt.us.

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

8.11.101 FEES (1) The following is the fee schedule for licensed addiction counselors:

(a) Application	\$125	<u>200</u>
<del>(2)(b) Renewal</del>	<del>100</del>	<u>135</u>
<del>(3)(c) Late renewal</del>	<del>150</del>	<u>185</u>
<del>(4)(d) Oral examination/re-examination</del>	<del>75</del>	<u>200</u>
<del>(5) Written examination</del>	<del>80</del>	<u>80</u>
<del>(6)(e) Certificate Document or license replacement</del>	<del>20</del>	<u>30</u>

(2) The fee for the national certified addiction counselor (level I) written examination is established by and payable directly to the vendor contracted with by the department to administer the written examination.

AUTH: 37-1-131, 37-1-134, 37-35-103, MCA  
IMP: 37-1-131, 37-35-103, 37-35-202, 37-35-203, MCA

REASON: There is reasonable necessity to amend ARM 8.11.101 to set program fees at a level commensurate with costs as required by 37-1-134, MCA. The program estimates that approximately 328 persons (220 renewing licensees, 16 late renewing licensees, 60 new license applicants, 30 applicants

testing for the oral exam, 20 document replacements) will be affected by the proposed fee changes. The estimated annual increase in revenue is approximately \$15,945.00. The program's requested appropriation for fiscal year 2004 is \$78,021.00. The program's recharge will be increased by approximately \$52,977.00 in fiscal year 2004 and by approximately \$55,432.00 in fiscal year 2005. The recharge calculation was based on the program-allocated FTE, the time distribution sheet, personnel allocation without investigator, HCLB Bureau budget, Business Standards Division recharge, and BSD legal allocation. The BSD has implemented the alternative pay plan with those increases reflected in the program's recharge. The program last raised its fees in fiscal year 1997. The proposed amendment is also reasonably necessary to advise applicants of the use of a contractor to administer the written examination, and to advise the applicant of the need to pay that contractor directly. In addition, there is reasonable necessity to add further citations to the list of statutes authorizing the rule and the list of statutes the rule implements.

8.11.115 RENEWALS (1) ~~At least three~~ Approximately two months before the renewal date, a renewal notice will be sent by the department to each certificate holder to the last address in the program's files. Failure to receive such notice shall not relieve the certificate holder of the holder's obligation to pay renewal fees in such a manner that they are received by the department on or before the renewal date.

(2) through (5) remain the same.

AUTH: 37-1-131, 37-35-103, MCA  
IMP: 37-1-131, 37-35-103, 37-35-203, MCA

There is reasonable necessity to amend ARM 8.11.115 to adjust the timing of the mailing of renewal notices to reflect improvements in the Department's renewal procedures. The Department believes that shortening the time from three months to two months will make it less likely that licensees will put the renewal notice aside until closer to the due date, and thus less likely to inadvertently forget to timely renew the license. In addition, there is reasonable necessity to add further citations to the list of statutes authorizing the rule and the list of statutes the rule implements.

4. 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 Department of Labor and Industry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibscdc@state.mt.us](mailto:dlibscdc@state.mt.us) and must be received no later than 5:00 p.m., March 28, 2003.

5. An electronic copy of this Notice of Public Hearing is available through the Department's site on the World Wide Web at <http://discoveringmontana.com/dli/cdc>, in the Rules Notices section. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives 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, and that a person's technical difficulties in accessing or posting to the e-mail address does not excuse late submission of comments.

6. The Department of Labor and Industry maintains a list of interested persons who wish to receive notices of rulemaking actions related to the Licensed Addiction Counselor program. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Licensed Addiction Counselor program rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Department as set forth in paragraph 4 above, or may be made by completing a request form at any rules hearing held by the agency.

7. Lon Mitchell, attorney, has been designated to preside over and conduct this hearing.

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

DEPARTMENT OF LABOR AND INDUSTRY,  
CHEMICAL DEPENDENCY COUNSELORS

/s/ WENDY J. KEATING  
Wendy J. Keating, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

/s/ KEVIN BRAUN  
Kevin Braun  
Rule Reviewer

Certified to the Secretary of State, February 14, 2003.

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

In the matter of the )  
amendment of ARM 37.86.1101 )  
pertaining to outpatient )  
drugs )

NOTICE OF PUBLIC HEARING  
ON PROPOSED AMENDMENT

TO: All Interested Persons

1. On March 19, 2003, at 11:30 a.m., a public hearing will be held in the auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana to consider the proposed amendment of the above-stated rule.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice or provide reasonable accommodations at the public hearing site. If you need to request an accommodation, contact the department no later than 5:00 p.m. on March 10, 2003, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; Email dphhslegal@state.mt.us.

2. The rule as proposed to be amended provides as follows. Matter to be added is underlined. Matter to be deleted is interlined.

37.86.1101 OUTPATIENT DRUGS, DEFINITIONS (1) "Estimated acquisition cost (EAC)" means the cost of drugs for which no maximum allowable cost (MAC) price has been determined. The EAC is the department's best estimate of what price providers are generally paying in the state for a drug in the package size providers buy most frequently. The EAC for a drug is:

- (a) the direct price (DP) charged by manufacturers to retailers;
- (b) if there is no available DP for a drug or the department determines that the DP is not available to providers in the state, the EAC is the average wholesale price (AWP) less 15% for brand name drugs, and AWP less 25% for generic, multiple source drugs without federal upper limits (FULs); or
- (c) through (4) remain the same.

AUTH: Sec. 53-2-201 and 53-6-113, MCA  
IMP: Sec. 53-2-201, 53-6-101, 53-6-111 and 53-6-113, MCA

3. Prescription drugs are among the most costly of Medicaid services and expenditures continue to rise. The pharmacy program costs have increased an average of 17% annually over the past five years, which results in a projected

expenditure of \$89 million for State Fiscal Year (SFY) 2003. If costs continue to increase at that rate, the pharmacy budget is expected to be more than \$105 million in SFY 2004 and more than \$123 million by the end of the next biennium (SFY 2005).

One way the Department can control costs is to use reimbursement methodologies more in line with actual drug costs. Estimated acquisition cost (EAC) is the Department's best estimate of the price Montana's pharmacy providers generally pay for a drug in the quantity most frequently purchased. The current EAC is calculated as the average wholesale price of a drug discounted 15%. Average wholesale price (AWP) is the price assigned to the drug by its manufacturer and is compiled for Montana Medicaid by First DataBank. This rule change will reduce the EAC for generic drugs by increasing the discount applied to the AWP from 15% to 25%. This rule change does not affect brand name drugs.

Federal Medicaid regulations provide for the reimbursement of drugs using the lower of the following:

(1) the pharmacist's usual and customary charge to the general public;

(2) an upper limit amount (established by the Centers for Medicare & Medicaid Services (CMS)) also known as a Federal Upper Limit (FUL) or Maximum Allowable Charge (MAC) plus a reasonable dispensing fee; or

(3) the estimated acquisition cost (EAC) plus a reasonable dispensing fee. The state agencies are responsible for determining the EAC and the dispensing fee. Montana's current EAC (AWP less 15%) methodology has been in place since July 2002. The Medicaid Services Bureau reexamined reports issued by the Office of Inspector General (OIG). OIG has conducted three studies to determine the actual acquisition cost of brand name and generic drugs. In 1997, the OIG issued a report that actual average discounts below AWP were 18.30% for brand name drugs and 42.45% for generic drugs. In 2000, the OIG conducted another study that showed that nationally, pharmacy actual acquisition cost was an average of 21.84% below AWP.

The OIG report noted the following:

"Federal Medicaid regulations require States to reimburse pharmacies' ingredient drug cost based on estimated acquisition cost. Therefore, we recommend that the Centers for Medicare and Medicaid Services (CMS) require the States to bring pharmacy reimbursement for brand name drugs more in line with the actual acquisition cost which we identified as being 21.84 percent below AWP."

The OIG studied actual acquisition cost in Montana and found that the overall estimate of the discount below AWP on invoice prices was 19.71% for brand name drugs and 65.37% for generic drugs. As noted in the OIG report:

"We believe that the difference between AWP and pharmacy acquisition costs as determined by our review was significant enough to warrant consideration by the State in any evaluation of their Medicaid drug program. Therefore, we recommend that the State Agency consider the results of this review as a factor in determining any future changes to pharmacy reimbursement for Medicaid drugs."

In its September 16, 2002 report, "Medicaid Pharmacy - Additional Analyses of the Actual Acquisition Cost of Prescription Drug Products (A-06-02-00041)", the OIG recommended that CMS encourage states to adopt a four-tiered reimbursement system if the State has a reimbursement system based on AWP. The report went on to say:

"The objectives of this report were to develop estimates of the discount below AWP available for single source drugs, all drugs without FULs, multiple source drugs without FULs, and multiple source drugs with FULs. We believe that these additional estimates will provide states with more information that will be useful in evaluating their drug reimbursement methodologies. Our current analyses were based on the data obtained from the previous reviews. We found that:

- (1) For single source innovator drugs: pharmacies purchased the drugs at an estimated discount of 17.2% below AWP.
- (2) For all drugs without FULs: pharmacies purchased the drugs at an estimated discount of 27.2% below AWP.
- (3) For multiple source drugs without FULs: pharmacies purchased the drugs at an estimated discount of 44.2% below AWP. A further breakdown of multiple source drugs without FULS showed the estimated discount for innovator multiple source drugs to be 24.4% and 54.2% for non-innovator multiple source drugs.
- (4) For multiple source drugs with FULs: pharmacies purchased the drugs at an estimated discount of 72.1% below AWP."

The Department has a mandatory generic drug policy in effect. Therefore, the Department is not adopting the four-tier reimbursement methodology in its entirety. However, significant cost savings can be realized by incorporating part of the suggested multi-tiered reimbursement methodology, specifically



by changing the reimbursement rate for generic, multiple source drugs without FULs, at a rate consistent with those noted in the OIG report.

It is important to note that while the OIG claims the discount below AWP for multiple source drugs without FULs is estimated at 44.2%, the Department is not proposing to reduce reimbursement to that level because the study failed to account for the cost of professional services and the cost of dispensing which includes supplies and staff. In addition, the Department does not set a State Maximum Allowable Charge (MAC) on multiple source drugs with FULs at a reimbursement rate lower than the FUL. It reimburses at FUL if it is the lower of:

- (1) the providers usual and customary charge;
- (2) the EAC plus a dispensing fee; or,
- (3) the MAC (based on Federal Upper Limit Pricing) plus a dispensing fee.

The Department, therefore, bases its recommended reimbursement rate in part on the OIG study as well as analysis of the implications to the overall pharmacy budget.

The Department must contain costs and is employing as many strategies as are realistic to achieve that goal, including prior authorization, mandatory generic substitution, and drug utilization review. The alternative to this rule change is to make across the board cuts to pharmacy providers. Across the board cuts are more punitive to pharmacy providers because such cuts often result in reimbursement below actual cost for providers that bill using their acquisition cost as their usual and customary charge. By taking into account the actual acquisition cost, as is demonstrated in the OIG reports, the Department can more accurately reimburse pharmacy providers for their services.

The Department estimates this decrease in reimbursement will result in general fund savings of approximately \$400,000 annually. The rule change affects all Medicaid pharmacy providers. There are approximately 470 Medicaid pharmacy providers.

4. Interested 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 Kathy Munson, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena, MT 59620-2951, no later than 5:00 p.m. on March 27, 2003. Data, views or arguments may also be submitted by facsimile (406)444-9744 or by electronic mail via the Internet to dphhslegal@state.mt.us. The Department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

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

Dawn Sliva  
Rule Reviewer

/s/ Gail Gray  
Director, Public Health and  
Human Services

Certified to the Secretary of State February 14, 2003.

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

In the matter of the	)	NOTICE OF PUBLIC HEARING
amendment of ARM 37.86.2401,	)	ON PROPOSED AMENDMENT
37.86.2402, 37.86.2501,	)	
37.86.2502, 37.86.2505,	)	
37.86.2601 and 37.86.2602	)	
pertaining to medicaid	)	
ambulance and transportation	)	
services reimbursement	)	

TO: All Interested Persons

1. On March 19, 2003, at 1:30 p.m., a public hearing will be held in the auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana to consider the proposed amendment of the above-stated rules.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice or provide reasonable accommodations at the public hearing site. If you need to request an accommodation, contact the department no later than 5:00 p.m. on March 10, 2003, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; Email dphhslegal@state.mt.us.

2. The rules as proposed to be amended provide as follows. Matter to be added is underlined. Matter to be deleted is interlined.

37.86.2401 TRANSPORTATION AND PER DIEM, DEFINITIONS

(1) "Per diem" means financial assistance with expenses for a medicaid recipient's ~~cost of~~ meals and lodging enroute to and from, and while receiving medically necessary medical care.

(2) and (3) remain the same.

AUTH: Sec. 53-6-113, MCA

IMP: Sec. 53-6-101 and 53-6-141, MCA

37.86.2402 TRANSPORTATION AND PER DIEM, REQUIREMENTS

(1) and (2) remain the same.

(3) Coverage for transportation and per diem is only available for transportation and per diem to the site of medical services nearest at the provider closest to the locality of the recipient.

(a) The closest provider is determined based on equivalent licensure or certification from the appropriate national or state licensing board without consideration of continuing education credits or units.

(b) The closest provider is determined using providers who are currently accepting medicaid recipients regardless of any individual client's:

(i) noncompliance with medical treatment plans;

(ii) financial or legal actions pending or filed against the provider;

(iii) behavior (including but not limited to aggressive, inappropriate communication, failure to keep appointments or to arrive for appointments on time) that may have caused an individual not to be accepted as a patient in a particular practice.

(a) remains the same but is renumbered (c).

(4) Coverage of transportation ~~is limited to~~ mileage fees and does not include any other fees. Reimbursement is not available for other fees.

(5) remains the same.

(6) Coverage of transportation and per diem must be prior authorized by the department or its designee.

(a) If a medical appointment has been rescheduled, any prior authorization of the original appointment does not apply to the rescheduled appointment. Prior authorization must be obtained for the rescheduled appointment if the appointment is scheduled for a date other than the original appointment date.

(7) through (11) remain the same.

(12) Mileage ~~submitted for travel~~ reimbursement purposes ~~must be is~~ rounded to the nearest whole mile.

(13) Mileage reimbursement is not available for local travel within the town or city where the client resides.

(13) remains the same but is renumbered (14).

(15) Commercial providers are required to maintain and retain original dispatch records for services provided to a Montana medicaid recipient that include:

(a) name of recipient;

(b) originating address;

(c) destination address;

(d) date;

(e) time;

(f) authorized units;

(g) charges; and

(h) the authorization number.

AUTH: Sec. 53-6-113, MCA

IMP: Sec. 53-6-101 and 53-6-141, MCA

37.86.2501 SPECIALIZED NONEMERGENCY MEDICAL TRANSPORTATION, DEFINITIONS (1) Specialized nonemergency transportation means transportation service by a provider with a class B public service commission license allowing the provider to transport physically ~~handicapped~~ disabled individuals.

(2) remains the same.

(3) "Prior authorization" means the department or its designee's review and approval of the medical necessity and coverage of a service prior to delivery of the service.

AUTH: Sec. 53-6-113, MCA  
IMP: Sec. 53-6-101 and 53-6-141, MCA

37.86.2502 SPECIALIZED NONEMERGENCY MEDICAL TRANSPORTATION, REQUIREMENTS (1) through (4) remain the same.

(5) Mileage ~~submitted for travel reimbursement purposes~~ must be is rounded to the nearest whole mile.

(6) remains the same.

(7) Specialized nonemergency medical transportation services must be prior authorized by the department or its designee.

(a) If a medical appointment has been rescheduled, any prior authorization of the original appointment does not apply to the rescheduled appointment. Prior authorization must be obtained for the rescheduled appointment if the appointment is scheduled for a date other than the original appointment date.

(8) Commercial providers are required to maintain and retain original dispatch records for services provided to a Montana medicaid recipient that include:

- (a) name of recipient;
- (b) originating address;
- (c) destination address;
- (d) date;
- (e) time;
- (f) authorized units;
- (g) charges; and
- (h) the authorization number.

AUTH: Sec. 53-6-113, MCA  
IMP: Sec. 53-6-101 and 53-6-141, MCA

37.86.2505 SPECIALIZED NONEMERGENCY MEDICAL TRANSPORTATION, REIMBURSEMENT (1) remains the same.

(2) The department hereby adopts and incorporates by reference the department's fee schedule effective ~~July 2002~~ April 2003 which sets forth the reimbursement rates for specialized nonemergency medical transportation services and other medicaid services. A copy of the department's fee schedule may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

AUTH: Sec. 53-2-201 and 53-6-113, MCA  
IMP: Sec. 53-6-101, 53-6-113 and 53-6-141, MCA

37.86.2601 AMBULANCE SERVICES, DEFINITIONS (1) through (5) remain the same.

(6) "Ground ambulance services" means ambulance services provided by a vehicle designed to operate on the ground, including both water and land. Ground ambulance services include:

(a) Basic life support (BLS), which includes, when medically necessary, the provision of BLS services as defined in the national EMS education and practice blueprint for the EMT-

basic, including other basic life support services, or the ambulance must be staffed by an individual who is qualified in accordance with state and local laws as an emergency medical technician-basic (EMT-basic);

(b) remains the same.

(c) Advanced life support, level 1 (ALS1), which includes, when medically necessary, provision of an assessment by an ALS provider trained to the level of the emergency medical technician-intermediate or paramedic as defined in the national EMS education and practice blueprint or in accordance with state and local laws or the provision of one or more ALS interventions, that is, a procedure beyond the scope of an EMT-basic as defined in (6)(a). ~~the national EMS education and practice blueprint;~~ An ALS assessment does not necessarily result in a determination that the patient requires an ALS level of service.

(d) remains the same.

(e) Advanced life support, level 2 (ALS2), which includes, when medically necessary, supplies and services including the administration of at least three separate administrations of one or more different medications and or the provision of at least one of the following ALS procedures:

(i) through (vi) remain the same.

(vii) intraosseous line; and

(f) through (7) remain the same.

AUTH: Sec. 53-6-113, MCA

IMP: Sec. 53-6-101, 53-6-113 and 53-6-141, MCA

37.86.2602 AMBULANCE SERVICES, REQUIREMENTS (1) through (8) remain the same.

(9) Emergency ambulance services must be reported to the department's designee within ~~30~~ 60 days of the emergency transport or within 90 days of the retroactive eligibility determination date.

(10) through (12) remain the same.

AUTH: Sec. 53-6-113, MCA

IMP: Sec. 53-6-101, 53-6-113 and 53-6-141, MCA

3. ARM 37.86.2402

Montana Medicaid transportation reimburses clients for travel to the closest site of a Medicaid covered health care service when there is not an equivalent provider in their local community. This change in wording clarifies how the Department determines the closest provider. If an equivalent provider is located closer to the recipient than his or her chosen provider, Montana Medicaid will either not reimburse travel or will only reimburse reduced distance travel. For example, if a client's behavior or actions causes the closest healthcare provider to terminate the provider/client relationship, Medicaid will not reimburse the client for transportation to a provider further away.

The alternative, to not outline this policy, could cause an individual to incorrectly conclude that though there is an equivalent provider in the individual's community, or closer than the individual's chosen provider, he or she will receive full distance travel funds to the location of his or her chosen provider. While Medicaid individuals are free to choose their healthcare provider, they will not receive funds for transportation if there is a closer provider with an equivalent license or certification in the local community.

This rule also clarifies that rescheduled appointments must be prior authorized. The new appointment date is a different event from the previously authorized appointment. For example, the rescheduled appointment may occur in a different calendar month, therefore eligibility or PASSPORT provider assignments may have changed. If the prior authorization contractor verifies the first appointment then is informed that the client did not keep the appointment, no travel funds will be reimbursed as the new date has not been authorized. The alternative, to not outline this policy, could cause an individual to erroneously conclude that he or she will receive transportation reimbursement.

ARM 37.86.2501

This rule change implements the prior authorization requirement for specialized nonemergency medical transportation to assure that this service is being properly utilized by the providers and clients.

ARM 37.86.2502

This rule clarification maintains consistent requirements within the rules governing transportation reimbursement (ARM 37.86.2402) and specialized nonemergency medical transportation. This clarification is consistent with the prior authorization requirement stated in ARM 37.82.2402 and explained above.

ARM 37.86.2601

This rule change incorporates definitions for ambulance services consistent with the changes Center for Medicare and Medicaid Services (CMS) made in its definition of advanced life support, level 2 (ALS2) ambulance service. These changes will avoid discrepancies and different definitions between the companion ambulance programs of Medicare and Medicaid. The federal cite for ambulance services is 42 CFR part 410 subpart B.

ARM 37.86.2602

The majority of the ambulance companies in Montana are volunteer ambulance companies. In order to assist these companies in meeting the requirements for the review of medical necessity, the Department is extending the current 30 day notification requirement to either 60 days from the date of transportation or

90 days from the retroactive eligibility date.

Estimated Financial/Budget Impact

The proposed changes to the ambulance rules will not result in any financial impact to the Department or providers.

The proposed changes to the Specialized Nonemergency Medicaid Transportation program may result in cost savings because of the prior authorization procedure. These savings will be recognized by assuring that the providers and clients are utilizing the program efficiently. The Department projects a cost savings of 10% or approximately \$13,000 when the prior authorization is implemented.

The proposed changes to the personal vehicle reimbursed rate for medical transportation has the potential of cost savings of approximately \$281,000.

4. Interested 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 Kathy Munson, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena, MT 59620-2951, no later than 5:00 p.m. on March 27, 2003. Data, views or arguments may also be submitted by facsimile (406)444-9744 or by electronic mail via the Internet to dphhslegal@state.mt.us. The Department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

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

Dawn Sliva  
Rule Reviewer

/s/ Gail Gray  
Director, Public Health and  
Human Services

Certified to the Secretary of State February 14, 2003.



BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PROPOSED AMENDMENT  
amendment of ARM 42.14.103 )  
relating to diplomatic )  
exemption regarding the )  
lodging facilities use tax ) NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. On April 25, 2003, the department proposes to amend ARM 42.14.103 relating to diplomatic exemption regarding the lodging facilities use tax.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Revenue no later than 5:00 p.m. on March 10, 2003, to advise us of the nature of the accommodation that you need. Please contact Cleo Anderson, Department of Revenue, Director's Office, P.O. Box 5805, Helena, Montana 59604-5805; telephone (406) 444-2855; fax number (406) 444-3696; e-mail address canderson@state.mt.us.

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

42.14.103 EXEMPT FACILITIES/ACCOMMODATION CHARGES

(1) through (7) remain the same.

(8) ~~An accommodation charge for lodging furnished to~~ Foreign diplomats, entitled under international law or a bilateral treaty, is are exempt from the lodging facility tax upon showing of a tax-exempt card issued by the U.S. state department as follows:

(a) a blue stripe at the bottom indicates the bearer is entitled to full tax exemption; and

(b) a yellow stripe indicates there is some type of restriction on the full tax exemption, which will be indicated in the yellow stripe area.

(9) remains the same.

AUTH: Sec. 15-65-102, MCA

IMP: Sec. 2-18-501, 15-65-101, and 15-65-111, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.14.103 at the request of the U.S. Department of State. The Office of Foreign Missions has created new personal and mission tax exemption cards, and it has asked the department to amend the rule to comply with the restrictions these cards will provide.

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

Cleo Anderson  
Department of Revenue  
Director's Office  
P.O. Box 5805  
Helena, Montana 59604-5805  
no later than March 28, 2003.

5. If persons who are directly affected by the proposed action wish to express their data, views, and 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 they have, to Cleo Anderson at the above address no later than March 28, 2003.

6. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee; from a governmental subdivision or agency; or from an association having no 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.

7. An electronic copy of this Proposal Notice is available through the Department's site on the World Wide Web at [http://www.state.mt.us/revenue/rules\\_home\\_page.htm](http://www.state.mt.us/revenue/rules_home_page.htm), under the Notice of Rulemaking section. The Department strives to make the electronic copy of this Proposal Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives 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 Department of Revenue 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 mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Such written request may be mailed or delivered to the person in 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

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

/s/ Cleo Anderson  
CLEO ANDERSON  
Rule Reviewer

/s/ Kurt G. Alme  
KURT G. ALME  
Director of Revenue

Certified to Secretary of State February 14, 2003

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

In the matter of the )  
amendment of ARM 12.3.140, )  
12.3.150 and 12.3.175, ) NOTICE OF AMENDMENT  
pertaining to the bonus )  
point program )

TO: All Concerned Persons

1. On November 27, 2002, the Fish, Wildlife and Parks Commission (commission) published MAR Notice No. 12-285 regarding the proposed amendment of the above-stated rules at page 3201 of the 2002 Montana Administrative Register, Issue Number 22.

2. The agency has amended ARM 12.3.140, 12.3.150 and 12.3.175 exactly as proposed.

3. The following comments were received and appear with the commission's responses:

COMMENT 1: Eleven individuals simply stated that they were in favor of expanding the bonus point system to include the listed species.

RESPONSE: The commission appreciates the support of this proposal which will allow applicants to accumulate bonus points for special deer and elk permits, as well as deer "B", antelope, and swan licenses.

COMMENT 2: Four individuals stated that they were in favor of expanding the bonus point system, and they would also like to see a waiting period for the more difficult to draw elk and deer permits. Another individual believed that a seven-year wait should be placed on bull elk permits in certain districts. The suggested waiting periods ranged from three years to once in a lifetime.

RESPONSE: Instituting a waiting period for special permits is beyond the scope of this rulemaking. However, there is currently legislation proposed that would allow the commission to set waiting periods for certain permits in certain areas.

COMMENT 3: Two individuals were in favor of the bonus point system; however, they did not like the \$2 fee that was associated with it.

RESPONSE: The \$2 fee for residents was assigned by the Legislature and is used to maintain the bonus point system database, and to pay for the costs of running the program.

COMMENT 4: One individual thought that landowners should be allowed to use their preference for bull permits only once in a lifetime. This individual reasoned that since there are more cow elk eating landowner's hay than bull elk, landowners could use their preference for antlerless animals and other hunters would have a better chance of drawing the more sought-after permits.

RESPONSE: Changing the landowner preference program is beyond the scope of this rulemaking. Additionally, 87-2-705, MCA, which creates the landowner preference program, does not restrict the type of permit for which a landowner may be eligible to draw. Administering a landowner preference program with these restrictions would be extremely difficult.

COMMENT 5: Two individuals in favor of the amendments also wanted a set number of permits for nonresidents rather than a percentage, or at least an increase in the allotment for nonresidents.

RESPONSE: Section 87-2-506, MCA, restricts the number of nonresident special permits to not more than 10% of the total quota, with the exception that any leftover resident permits may be issued to nonresidents in excess of the 10%.

COMMENT 6: One comment received from a rod and gun club was in favor of the amendment, and would also like to see it expanded further to include turkey permits.

RESPONSE: Turkey permit drawings are currently conducted through the regional offices. The current system of issuing turkey permits would not allow the bonus point system to be utilized.

COMMENT 7: One individual in favor of the amendment wanted an age restriction placed on applicants for special drawings. This person claimed that people under the age of 25 would not appreciate the tag as much as an older person. Additionally, this person believed he knew of a case where the father filled the tag of a 16 year old girl who drew a special permit.

RESPONSE: Many people begin hunting at an early age, and there are many people under the age of 25 who would strongly disagree that a younger hunter would not appreciate a special permit as much as an older hunter. Filling a permit that was drawn by another individual is an illegal activity that should be reported to authorities immediately. The department maintains a telephone line for the purpose of reporting illegal activities: 1-800-TIPMONT (1-800-847-6668). The individual reporting the illegal activity may remain anonymous.

COMMENT 8: One individual in favor of the amendment would like to see landowner sponsorship for nonresident antelope licenses, and have region seven antelope licenses issued specific to each district (701, 702, 705, etc.).

RESPONSE: ARM 12.3.112 allows for landowner preference in the antelope drawing for both residents and nonresidents. Landowner sponsorship is reserved for the nonresident deer combination licenses only under 87-2-511, MCA. The regional wildlife managers determine district structure, and issuance of licenses within districts.

COMMENT 9: An individual in favor of the amendment would like a way for nonresidents that do not draw a combination license to be able to apply for bonus points for special permits.

RESPONSE: Sections 87-2-505 and 87-2-510, MCA, allow nonresidents that are unsuccessful in the combination license drawing to apply for bonus points for special deer and elk permits without being eligible to draw the permit.

COMMENT 10: Four individuals opposed to the current amendments believed that the bonus point fee is too high. They thought that the services received do not justify the increased fees.

RESPONSE: The \$2 fee for residents and \$20 fee for nonresidents were set by the Montana Legislature. These fees are used to maintain a database for tracking points accumulated by applicants.

COMMENT 11: Four individuals opposed to the amendment thought that only those people with the most bonus points would be eligible to draw the licenses.

RESPONSE: The bonus point system allows everyone that applies for a license, at least one opportunity to draw the license. People with points will have greater odds of drawing, however no applicants will ever be denied at least one chance at drawing the license.

COMMENT 12: Two individuals were generally opposed to the amendments. They thought that the expansion was not necessary since residents can still hunt elk and deer without the special permits, and that there are deer "B" and antelope districts that are under subscribed.

RESPONSE: The amendments will not change a resident's ability to purchase and hunt with licenses that are not special permits. Nonresidents require special permits or licenses to hunt, although nonresidents are not required to draw for an outfitter sponsored license. The current amendment expands the bonus point system from only allowing

bonus points for moose, sheep and goat permits to allow hunters to collect bonus points for special elk, deer, deer "B", antelope, and swan licenses also.

COMMENT 13: One comment received by an individual opposed to the rule amendments would rather have a waiting period established.

RESPONSE: Establishing a waiting period for drawing special permits is outside the scope of this rulemaking process. However, there is currently legislation proposed that would allow the commission to set waiting periods for certain permits in certain areas.

COMMENT 14: One individual opposed the amendment and claimed that the new system would "give an unfair advantage to nonresidents as they already possess bonus points in the drawings proposed."

RESPONSE: Before these rule amendments, both residents and nonresidents could collect bonus points for moose, sheep, and goat permits. Nonresidents have been accumulating bonus points for the big game, deer, and elk combination licenses. These licenses are nonresident licenses that are limited in number, and nonresidents purchase them at nonresident rates. Nonresidents and residents have not been able to accumulate bonus points for special deer and elk permits, antelope, deer "B", and swan drawings until this rule amendment. The new amendment would allow both residents and nonresidents to begin accumulating points for these species in 2003. Since both residents and nonresidents will begin accumulating bonus points for the special permits at the same time, nonresidents do not have an advantage over residents.

COMMENT 15: One individual opposed to the new amendment thought that the system would discourage youth hunters that had fewer points from applying. This individual stated that the bonus point system was historically ineffective, expensive, and that "paying your dues should not be a part of hunting." This person thought a waiting period would be more effective and less costly.

RESPONSE: The current bonus point system allows all applicants at least one opportunity to draw a license. Historically this type of bonus point system was not tried in the state of Montana until 2001. The results of the combination license drawings with the bonus points system have proved effective and consistent with statistical odds. Currently legislation has been proposed that would allow the commission to set waiting periods for certain permits in certain areas.

By: /s/ Dan Walker  
Dan Walker  
Commission Chairman

By: /s/ Rebecca Dockter  
Rebecca Dockter  
Rule Reviewer

Certified to the Secretary of State February 14, 2003



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

In the matter of the adoption )  
of new rule I (ARM 12.3.410) )  
authorizing the director to ) NOTICE OF ADOPTION  
extend deadlines for )  
purchasing or applying for a )  
license or permit )

TO: All Concerned Persons

1. On November 11, 2002, the Fish, Wildlife and Parks Commission (commission) published MAR Notice No. 12-283 regarding the proposed adoption of the above-stated rule at page 3198 of the 2002 Montana Administrative Register, Issue Number 22.

2. The agency has adopted new rule I, ARM 12.3.410, exactly as proposed.

3. No comments or testimony were received.

By: /s/ Dan Walker  
Dan Walker  
Commission Chairman

By: /s/ Rebecca Dockter  
Rebecca Dockter  
Rule Reviewer

Certified to the Secretary of State February 14, 2003

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

In the matter of the )  
adoption of new rule I (ARM )  
12.7.1401) pertaining to ) NOTICE OF ADOPTION  
cooperative agreements )  
with landowners to allow )  
fishing access on )  
private property )

TO: All Concerned Persons

1. On December 26, 2002, the Fish, Wildlife and Parks Commission (commission) and the Department of Fish, Wildlife and Parks (department) published MAR Notice No. 12-286 regarding the proposed adoption of the above-stated rule at page 3459 of the 2002 Montana Administrative Register, Issue Number 24.

2. The agency has adopted new rule I (ARM 12.7.1401) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I (12.7.1401) COOPERATIVE FISHING ACCESS AGREEMENTS (1) remains as proposed.

(2) In determining whether or not to enter into a cooperative agreement and/or the amount of monetary benefits paid under the agreement, the department shall evaluate the public benefit of acquiring access to the site. The department shall use the 2002 private land fishing access scoring form to make this evaluation. This form is incorporated by reference as part of this rule and is available ~~for~~ from the Department of Fish, Wildlife and Parks, Fisheries Division, 1420 East Sixth Ave., P.O. Box 200701, Helena, MT 59620-0701.

(3) and (4) remain as proposed.

AUTH: 87-1-285, MCA  
IMP: 87-1-285, MCA

3. No comments or testimony were received.

By: /s/ Dan Walker  
Dan Walker, Chairman  
Fish, Wildlife and Parks  
Commission

By: /s/ M. Jeff Hagener  
M. Jeff Hagener, Director  
Department of Fish,  
Wildlife and Parks

By: /s/ John F. Lynch  
John F. Lynch  
Rule Reviewer

Certified to the Secretary of State February 14, 2003

BEFORE THE BOARD OF NURSING HOME ADMINISTRATORS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the ) NOTICE OF AMENDMENT  
amendment of ARM 8.34.418, )  
pertaining to fees )

TO: All Concerned Persons

1. On October 17, 2002, the Board of Nursing Home Administrators published MAR Notice No. 8-34-34 regarding the public hearing on the proposed amendment of the above-stated rule relating to fees, at page 2817 of the 2002 Montana Administrative Register, issue no. 19.

2. The public hearing was held on November 12, 2002. The Board has amended ARM 8.34.418 exactly as proposed.

3. One written comment was received and appears with the Board's response:

COMMENT: Sylvia Hammer, a licensed Nursing Home Administrator, commented in opposition to the proposed amendment. Ms. Hammer stated that it feels like "balancing the budget is being put on the shoulders of the licensees." In addition, she feels the fee increases are unreasonable.

RESPONSE: The Board acknowledged and thanked Ms. Hammer for her comment(s) but went on to state that fees licensees pay are for Board use only, not to balance the State's budget. The Board is self-supporting and licensees do have to absorb costs needed to administer the Board. Section 37-1-134, MCA requires that fees must be commensurate with costs.

BOARD OF NURSING HOME ADMINISTRATORS  
DEBORAH WILSON, CHAIR

/s/ WENDY J. KEATING  
Wendy J. Keating, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

/s/ KEVIN BRAUN  
Kevin Braun  
Rule Reviewer

Certified to the Secretary of State February 14, 2003.

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

In the matter of the amendment ) NOTICE OF AMENDMENT  
of ARM 8.52.604 and 8.52.616, ) AND ADOPTION  
and the adoption of new rule I )  
(8.52.624), relating to )  
psychology matters )

TO: All Concerned Persons

1. On December 26, 2002, the Department of Labor and Industry published MAR Notice No. 8-52-25 on the proposed amendment and adoption of the above-stated rules relating to psychology matters at page 3507 of the 2002 Montana Administrative Register, Issue Number 24.

2. No public hearing was requested on the proposed rule amendment and adoption. Two written comments were received prior to the closing of the comment period on January 24, 2003.

3. The Board of Psychologists (Board) has thoroughly considered the comments made regarding the proposed amendments and adoption. A summary of the comments received and the Board's responses are as follows:

Comment 1: Elizabeth A. Rock, Ph.D., stated that the proposed requirement of student-to-faculty contact involving face-to-face group courses in the definition of "one year's academic residency" could exclude graduates of distance learning programs from being licensed in the state and could limit or discourage psychologists educated via distance learning from pursuing practice within Montana.

Response 1: The Board states that it is not the intent behind the proposed new rule to preclude all opportunities for distance learning. Distance learning is acceptable as long as the residency requirement (18 semester hours or 27 quarter hours, on a full or part-time basis, earned in not less than nine months or more than 18 months, in face-to-face group courses at the educational institution granting the doctoral degree) is fulfilled.

Comment 2: Kathy Miller commented that it appears the Board is considering altering the residency requirements for those who wish to become psychologists in Alaska. She also stated her belief that with the definition proposed in the new rule, graduates of distance learning will be ineligible for licensure in Montana.

Response 2: The Board has no jurisdiction over licensure in Alaska. The concerns as to distance learning have been addressed in response 1 above.

4. After consideration of the comments, the Board has amended ARM 8.52.604 and 8.52.616, and has adopted new rule I (8.52.624) exactly as proposed:

BOARD OF PSYCHOLOGISTS  
MARIAN MARTIN, Ph.D., Chair

/s/ WENDY J. KEATING  
Wendy J. Keating, Commissioner  
DEPARTMENT OF LABOR & INDUSTRY

/s/ KEVIN BRAUN  
Kevin Braun  
Rule Reviewer

Certified to the Secretary of State: February 14, 2003.

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

In the matter of the ) NOTICE OF AMENDMENT  
amendment of )  
ARM 24.150.401, Fees )

TO: All Concerned Persons

1. On December 26, 2002, the Board of Hearing Aid Dispensers published MAR Notice No. 24-150-32 regarding the public hearing on the proposed amendment of the above-stated rule relating to fees, at page 3511 of the 2002 Montana Administrative Register, issue no. 24.

2. The public hearing was held on January 21, 2003. The Board has amended ARM 24.150.401 exactly as proposed.

3. The Board received written comments on the proposed rule amendment. The Board has thoroughly considered the comments received. A summary of the comments received and the Board's responses are as follows:

Comment 1: A licensee stated opposition to the proposed rule change because "the increase would only take care of the deficit and not address the hearing aid dispensers' needs."

Response 1: The Board acknowledges the comment on the proposed rule change, but notes that section 37-1-134, MCA, requires that fees be commensurate with costs. The Board believes it has no alternative but to raise certain fees in order to continue to be able to enforce the laws and regulate the industry for the protection of the public. The Board also notes that fees paid by hearing aid dispensers go into a special revenue account, and do not go into Montana's general fund.

Comment 2: The licensee also stated the Department was understaffed and that licensees have to wait too long to get results.

Response 2: The Board acknowledges the comment, but notes that Department is subject to restrictions placed on it by the legislature regarding the number of employees the Department is allowed to hire. The Board believes that the Department's implementation of new systems, such as on-line renewal of professional and occupational licenses via the Internet, will increase the speed in which license renewals are processed and renewals are issued.

BOARD OF HEARING AID DISPENSERS  
DAVID KING, CHAIR

/s/ WENDY J. KEATING  
Wendy J. Keating, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

/s/ KEVIN BRAUN  
Kevin Braun  
Rule Reviewer

Certified to the Secretary of State February 14, 2003.



BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF AMENDMENT  
of ARM 42.14.101, 42.14.102, )  
42.14.104, 42.14.105, 42.14.106,) )  
42.14.107, 42.14.108, 42.14.109,) )  
and 42.14.111 relating to )  
lodging facility use taxes )

TO: All Concerned Persons

1. On December 24, 2002, the department published MAR Notice No. 42-2-707 regarding the public hearing on the proposed amendment of the above-stated rules relating to lodging facility use taxes at page 3551 of the 2002 Montana Administrative Register, issue no. 24.

2. A public hearing was held on January 16, 2003, to consider the proposed amendments. No one appeared at the hearing to testify. Written comments were received subsequent to the hearing and are summarized as follows, along with the response of the department:

COMMENT NO. 1: Mary Whittinghill, representing the Montana Taxpayers Association (MonTax), stated that the language shown in ARM 42.14.101(8) (definition of "Outfitting Facility") should be the same as that found in Title 50, MCA. She suggested that the department make a distinction between outfitting facility and outfitting operation. She also suggested that it would be helpful to specifically exempt outfitting operations in ARM 42.14.103 by definition. That definition could be similar to outfitting facilities, but would allow a permanent structure for storage of tack or gear.

RESPONSE NO. 1: The definition of "outfitting and guide facility" as found in Title 50, MCA, is very similar to the definition the department has proposed in this rule. However, there are aspects of that definition that do not relate to the language in Title 15, chapter 65, MCA, regarding the lodging facility use tax. The department does not agree that it would be helpful to clarify aspects of an outfitting facility as exempt in ARM 42.14.103. The department does not believe that an outfitting facility is exempt from the tax if the facility meets the criteria of the definition found in ARM 42.14.101. The department would clearly not consider a permanent structure that is used solely for storage of tack or gear to qualify for the collection of the lodging facility use tax. The department has amended the rule as shown below, and believes that this amendment should resolve the concerns raised by MonTax concerning permanent structures that are not used for sleeping or a bathhouse facility.

COMMENT NO. 2: MonTax suggested deleting the proposed new language shown in ARM 42.14.105(2). They stated that they believe this is already stated in section (1)(c) of that same rule.

RESPONSE NO. 2: The department does not agree that this amendment is stated in (1)(c). See the response to Comment No. 3 for further clarification.

COMMENT NO. 3: Jean Johnson, representing the Montana Outfitters and Guides Association (MOGA), stated that initially they were going to oppose the department's proposal to strike the requirement to have running water, sewage disposal, and a kitchen because they thought that language was necessary to prevent the department from taxing cots in tent camps. They also intended to oppose the department's proposal to strike (d) in ARM 42.14.101 because the department alleges "it is hard to define what constitutes a 'small establishment' and 'seasonal establishments' are not referenced in the law." The 1997 legislature was able to define a 'small establishment' in 50-41-102(9), MCA, and 'seasonal establishments' are very definitely defined in 50-51-102(10), MCA. MOGA stated that they reviewed 15-65-101, MCA, and determined that it lists the facilities to be included in the tax to be those "represented to the public" for the purpose of the lodging facility use tax and the list does not include "outfitting facilities." They stated that they do not believe the department has the authority to define "outfitting facilities" as facilities that are required to levy the lodging facility use tax.

MOGA stated that they support the fairness inherent in charging an accommodations tax on outfitter facilities that provide sleeping accommodations to guests in permanent structures that include access to running water and/or bathhouse and kitchen facilities. Such a definition would capture those businesses that provide sleeping and bathroom accommodations for guests in private cabins or "permanent structures." Outfitters are also brought into the taxing fold through the definition of "guest ranch" found in 50-51-102(4), MCA.

RESPONSE NO. 3: The department believes that it does have a requirement to define the term "outfitting facility" as it applies to the lodging facility use tax statute. Clearly, those establishments that offer sleeping accommodations and/or bathhouse facilities in a permanent structure meet the criteria for collecting the lodging facility use taxes. Therefore, those facilities that fit the department's definition of "outfitting facility" shall be required to collect and pay the tax.

Further, for example, the department believes that an outfitter or guide that has a permanent structure used solely for a tack house or storage shed, but does not have a permanent structure used for sleeping or bathhouse facility, would be exempt from collecting and paying the tax.

COMMENT NO. 4: MOGA stated that they oppose the new language in ARM 42.14.105(2), "an owner or operator must substantiate and itemize each charge and provide these charges for review." Section (1)(c) already requires a lodging facility to justify its charge by reasonable documentation. The new language insinuates that the facility is guilty of submitting false charges until proven innocent.

RESPONSE NO. 4: The department believes that the addition of (2) is necessary to clarify that 15-65-113, MCA, requires an owner or operator to maintain records to support the collection and payment of the lodging facility use tax for a period of five years. It is not the intent of the department to insinuate a facility is guilty of submitting false information through this text. It is the intent of the department to clarify that this is a requirement of the law for all records relating to the collection and payment of these taxes, including the items shown in (1)(a) through (1)(c).

3. As a result of the comments received the department amends ARM 42.14.101 and 42.14.105 with the following changes:

42.14.101 DEFINITIONS The following definitions apply to this sub-chapter:

(1) through (7) remain the same.

(8) "Outfitting facility" means a facility that may:

(a) use one or more permanent structures, ~~one or more of which have running water, sewage disposal, and a kitchen~~ TO FURNISH SLEEPING ACCOMMODATIONS OR BATHHOUSE FACILITIES TO GUESTS; AND

(b) ~~furnish sleeping accommodations to guests; or~~

~~(c) offer hunting, fishing, or recreational services in conjunction with the services of an outfitter; or~~

~~(d) is a small establishment or a seasonal establishment.~~

(9) through (12) remain as proposed.

AUTH: Sec. 15-65-102, MCA

IMP: Sec. 15-65-101, MCA

42.14.105 COMBINED CHARGE FOR SERVICES (1) When lodging facility use taxes are combined with food, beverage, recreation, or other charges which are a substantial portion of the charge, the owner or operator may allocate the lodging facility use tax using one of the following:

(a) a flat rate of the allowable state reimbursement for the standard cost of in-state lodging each day for each person;

(b) twenty-five percent of all charges each day for each person; or

(c) a charge justified by reasonable documentation.

(2) AS REQUIRED BY 15-65-113, MCA, AN OWNER OR OPERATOR MUST MAINTAIN AND HAVE AVAILABLE FOR INSPECTION, RECORDS TO SUBSTANTIATE THE ITEMS REFERRED TO IN (1)(a) THROUGH (c). THE DEPARTMENT MAY REQUEST An THE owner or operator OF A FACILITY TO ~~must~~ substantiate and itemize each charge and ~~provide these charges for review~~ TO VERIFY THE CORRECT AMOUNT OF TAX.

(3) through (7) remain as proposed.

AUTH: Sec. 15-65-102, MCA

IMP: Sec. 2-18-501, 15-65-111, AND 15-65-113, MCA

4. Therefore, the department amends ARM 42.14.101 and 42.14.105 with the amendments listed above, and amends ARM 42.14.102, 42.14.104, 42.14.106, 42.14.107, 42.14.108, 42.14.109, and 42.14.111 as proposed.

5. An electronic copy of this Adoption Notice is available through the Department's site on the World Wide Web at [http://www.state.mt.us/revenue/rules\\_home\\_page.htm](http://www.state.mt.us/revenue/rules_home_page.htm), under the Notice of Rulemaking section. The Department strives to make the electronic copy of this Adoption Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives 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.

/s/ Cleo Anderson

CLEO ANDERSON

Rule Reviewer

/s/ Kurt G. Alme

KURT G. ALME

Director of Revenue

Certified to Secretary of State February 14, 2003

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF AMENDMENT  
of ARM 42.20.501 and 42.20.515 )  
relating to new construction )  
for class four commercial and )  
residential property )

TO: All Concerned Persons

1. On December 12, 2002, the department published MAR Notice No. 42-2-706 regarding the public hearing on the proposed amendment of the above-stated rules relating to new construction for class four commercial and residential property at page 3381 of the 2002 Montana Administrative Register, issue no. 23.

2. A public hearing was held on January 6, 2003, to consider the proposed amendments. Oral comments received at the hearing are summarized as follows, along with the response of the department:

COMMENT NO. 1: Mary Whittinghill, representing the Montana Taxpayers Association (MonTax), stated that MonTax did not have any amendments to offer at the hearing, but had a couple of questions. ARM 42.20.515(1)(a) describes "beginning with tax year 2001, class 4 newly taxable property in a taxing jurisdiction will include the total reappraisal value of the class 4 property for any taxing increment finance district (TIFD) which has been dissolved or terminated." She stated that she understood that it is retroactive because it was effective by the passage of the legislation, but no rules have been implemented yet. Have there been any situations where the department would have to go back retroactively and fix a disparity, or will that occur through this rule amendment? Also, could this amendment create a retroactive situation?

RESPONSE NO. 1: No retroactive situation has occurred at this time. The first case occurred in Kalispell June 2002. The TIFD existed on January 1, 2002, but did not exist on January 1, 2003.

COMMENT NO. 2: MonTax stated that with regard to splitting out the residential and commercial property, in terms of newly taxable - why does it have to be converted to a taxable value, doesn't the system keep track of the actual assessment value, which would be the value after the comstead or the homestead? Therefore, the department would not need to do a blend of the commercial or a blend of the residential to get to that point. She stated that she understands that it is because of the way the department applies it to measure the new construction. The department is taking full reappraisal before the exemption and then the real taxable value which reflects that the exemption has been taken. It appears the department is going to try to

take a measurement by going back and measuring the physical components year to year and she is not clear on why that is necessary.

RESPONSE NO. 2: The comparisons are based on the 2003 reappraisal values for both residential and commercial property. The reappraisal value must be converted to a taxable value. This includes accounting for the phase-in of reappraisal. It is important to split these out because of the disparity that would occur in districts that were more predominately residential or commercial.

3. The department further amends the implementing cite for ARM 42.20.501 as follows:

42.20.501 DEFINITIONS (1) through (25) remain as proposed.

AUTH: Sec. 15-1-201 and 15-7-111, MCA

IMP: Sec. 15-6-201, 15-7-111, and ~~15-10-120~~ 15-10-420, MCA

4. The department amends ARM 42.20.501 as shown above and amends 42.20.515 as proposed.

5. An electronic copy of this Adoption Notice is available through the Department's site on the World Wide Web at [http://www.state.mt.us/revenue/rules\\_home\\_page.htm](http://www.state.mt.us/revenue/rules_home_page.htm), under the Notice of Rulemaking section. The Department strives to make the electronic copy of this Adoption Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives 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.

/s/ Cleo Anderson  
CLEO ANDERSON  
Rule Reviewer

/s/ Kurt G. Alme  
KURT G. ALME  
Director of Revenue

Certified to Secretary of State February 14, 2003

VOLUME NO. 50

OPINION NO. 1

CITIES AND TOWNS - Contracts for city-county planning board staff;  
COUNTIES - Contracts for city-county planning board staff;  
INTERGOVERNMENTAL COOPERATION - Contracts for city-county planning board staff;  
LOCAL GOVERNMENT - Contracts for city-county planning board staff;  
ZONING AND PLANNING - Application of Mont. Code Ann. § 76-1-306 to contracts for staff of planning boards;  
MONTANA CODE ANNOTATED - Sections 76-1-305, -306;  
OPINIONS OF THE ATTORNEY GENERAL - 39 Op. Att'y Gen. No. 75 (1981).

HELD: A city-county planning board established under Montana Code Annotated Title 76, chapter 1, may enter into a contract with the city to provide the professional services of a planning director and staff that are subject to the supervision of the city manager rather than the planning board.

February 6, 2003

Mr. Brent Brooks  
City Attorney  
P.O. Box 1178  
Billings, MT 59103

Dear Mr. Brooks:

You have requested my opinion on a question I have framed as follows:

Where a city-county planning board has been established under Montana Code Annotated Title 76, chapter 1, may the city and county enter into an agreement to provide that the planning director and staff are subject to the supervision of the city manager rather than the planning board?

Your letter informs me that the City of Billings, the Town of Broadview, and Yellowstone County have for some time been joined together in a city-county planning board. Your letter further informs me that the parties are discussing amendments to the interlocal agreement that created the Board. In the course of these discussions the question has arisen whether the City-County Planning Director and staff may lawfully be subject to the direct supervision of the Billings City Manager.

Title 76, chapter 1 of the Montana Code Annotated provides for the creation of planning boards to advise local governments

regarding growth issues. The statutes allow the creation of city, county, city-county, and joint or consolidated planning boards, and set forth the procedures for the creation and operation of each.

Mont. Code. Ann. § 76-1-305 provides that the Board shall have the power and duty to "exercise general supervision of and make regulations for the administration of the affairs of the board."

Mont. Code Ann. § 76-1-306 states:

(1) The board may appoint and prescribe the duties and fix the compensation of a secretary and such employees as are necessary for the discharge of the duties and responsibilities of the board.

(2) To effectuate the purpose of this chapter, the board shall have the power and duty to prescribe the qualifications of, remove, and fix the compensation of the employees of the board and delegate to employees authority to perform ministerial acts in all cases except where final action of the board is necessary.

(3) The board may make contracts for special or temporary services and any professional services.

Subsection (1) of the above statute provides that the Board may appoint employees as are necessary for the discharge of the duties of the Board. However, nothing in state law precludes the planning board from contracting for these staff services. In fact, Mont. Code Ann. § 76-1-306(3) specifically allows the Board to make contracts for "any professional services."

Moreover, nothing in state law precludes the city from entering into such a contract. The city has adopted a self-government charter, and it may exercise any power not prohibited by law. Mont. Const. art. XI, § 6.

In Op. Att'y Gen. No. 75 (1981), Attorney General Greely considered the question of whether a joint city-county planning board could delegate to a subcommittee certain of its functions, without requiring that the full board review and approve the subcommittee's decisions. The opinion held that certain functions of the joint city-county planning board require the "official action" of the board, and included within that category "the hiring and firing of employees" pursuant to Mont. Code. Ann. § 76-1-306. Thus, the opinion concluded, the board could delegate the work in these areas to a subcommittee of the board, but the Board must retain final decision-making authority with respect to the subcommittee's recommendations. That opinion, however, did not address the



question of whether the full Board could contract for all professional services.

It appears from information provided in connection with this request that the staff serving the joint planning board in this case are employees of the City of Billings who are assigned staffing functions for the Board in addition to other zoning and planning duties that are city functions and not functions of the Board. I note that the Board's power to hire and supervise staff under Mont. Code Ann. § 76-1-306 applies only to "employees of the board." While the statute requires that the Board be responsible for hiring and supervising staff that it "appoints" pursuant to Mont. Code Ann. § 76-1-306, the statute does not prevent the Board from contracting with the city for the services of city employees.

THEREFORE IT IS MY OPINION:

A city-county planning board established under Montana Code Annotated Title 76, chapter 1, may enter into a contract with the city to provide the professional services of a planning director and staff that are subject to the supervision of the city manager rather than the planning board.

Very truly yours,

/s/ Mike McGrath  
MIKE McGRATH  
Attorney General

mm/jym

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;
- Department of Public Service Regulation; and
- Office of the State Auditor and Insurance Commissioner.

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.

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.

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 PO 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) is a soft back, bound 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<br>Subject                    | 1. Consult ARM topical index.<br>Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute<br>Number and<br>Department | 2. Go to cross reference table at end of each title which lists MCA section numbers and corresponding ARM rule numbers.   |

ACCUMULATIVE TABLE

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, 2002. This table includes those rules adopted during the period January 1, 2003 through March 31, 2003 and any proposed rule action that was pending during the past six-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 31, 2002, this table and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule and the page number at which the action is published in the 2002 Montana Administrative Registers.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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## BOARD 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 appointees and upcoming or current vacancies on those boards and councils.

In this issue, appointments effective in January 2003, appear. Vacancies scheduled to appear from March 1, 2003, through May 31, 2003, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

Each month, the previous month's appointees are printed, and current and upcoming vacancies for the next three months are published.

### IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of February 7, 2003.

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.

BOARD AND COUNCIL APPOINTEES FROM JANUARY 2003

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Aeronautics (Transportation)			
Mr. Craig Denney	Governor	reappointed	1/1/2003
Billings			1/1/2007
Qualifications (if required):	commercial airlines representative		
Mr. Lonnie Leslie	Governor	Palmersheim	1/1/2003
Miles City			1/1/2007
Qualifications (if required):	fixed base operator		
Mr. Charles J. Manning	Governor	Eisenzimer	1/1/2003
Kalispell			1/1/2007
Qualifications (if required):	actively engaged in aviation education		
Mr. John Rabenberg	Governor	reappointed	1/1/2003
Fort Peck			1/1/2007
Qualifications (if required):	public member		
Board of Crime Control (Justice)			
Rep. Sylvia Bookout-Reinicke	Governor	reappointed	1/1/2003
Alberton			1/1/2007
Qualifications (if required):	member of the Montana House of Representatives		
Mr. Alex Capdeville	Governor	Buchanan	1/1/2003
Havre			1/1/2007
Qualifications (if required):	public member		
Mr. Richard L. Kirn	Governor	reappointed	1/1/2003
Poplar			1/1/2007
Qualifications (if required):	representative of local government		
Mr. Marko Lucich	Governor	Anderson	1/1/2003
Butte			1/1/2007
Qualifications (if required):	chief probation officer		



BOARD AND COUNCIL APPOINTEES FROM JANUARY 2003

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Crime Control (Justice) cont. Rev. Steven Rice Miles City Qualifications (if required): representative of the Youth Justice Council	Governor	reappointed	1/1/2003 1/1/2007
Board of Environmental Review (Environmental Quality) Ms. Susan Brooke Bozeman Qualifications (if required): public member	Governor	not listed	1/7/2003 1/1/2007
Ms. Kim Lacey Glasgow Qualifications (if required): public member	Governor	not listed	1/7/2003 1/1/2007
Mr. Joseph Russell Kalispell Qualifications (if required): county health officer	Governor	not listed	1/7/2003 1/1/2007
Board of Horse Racing (Livestock) Ms. Barbara Cole Shelby Qualifications (if required): representative of District 3	Governor	reappointed	1/31/2003 1/20/2006
Mr. Tim Donnelly Miles City Qualifications (if required): representative of District 1	Governor	reappointed	1/31/2003 1/20/2006
Board of Housing (Commerce) Ms. Judy Glendenning Helena Qualifications (if required): public member	Governor	Farris	1/1/2003 1/1/2007

BOARD AND COUNCIL APPOINTEES FROM JANUARY 2003

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Housing (Commerce) cont.			
Ms. Susan Moyer	Governor	Lightbody	1/1/2003
Kalispell			1/1/2007
Qualifications (if required): public member			
Mr. Bob Thomas	Governor	reappointed	1/1/2003
Stevensville			1/1/2007
Qualifications (if required): public member			
Board of Investments (Commerce)			
Ms. Karen B. Fagg	Governor	reappointed	1/27/2003
Billings			1/1/2007
Qualifications (if required): business person			
Dr. Maureen J. Fleming	Governor	reappointed	1/27/2003
Missoula			1/1/2007
Qualifications (if required): labor representative			
Mr. Terrill R. Moore	Governor	Bardwell	1/27/2003
Billings			1/1/2007
Qualifications (if required): financial representative			
Mr. Calvin Wilson	Governor	reappointed	1/27/2003
Busby			1/1/2007
Qualifications (if required): attorney and an agriculture representative			
Board of Oil and Gas Conservation (Natural Resources and Conservation)			
Mr. Jack King	Governor	reappointed	1/1/2003
Billings			1/1/2007
Qualifications (if required): representative of the oil and gas industry			

BOARD AND COUNCIL APPOINTEES FROM JANUARY 2003

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Oil and Gas Conservation (Natural Resources and Conservation) cont.			
Ms. Elaine Mitchell	Governor	reappointed	1/1/2003
Cut Bank			1/1/2007
Qualifications (if required): public member			
Mr. Denzil Young	Governor	reappointed	1/1/2003
Baker			1/1/2007
Qualifications (if required): landowner with no mineral rights			
Board of Plumbers (Labor and Industry)			
Mr. Tim Regan	Governor	Lyford	1/8/2003
Miles City			5/4/2006
Qualifications (if required): master plumber			
Board of Speech-Language Pathologists and Audiologists (Labor and Industry)			
Ms. Jennifer L. Hartze	Governor	reappointed	1/1/2003
Belgrade			12/31/2005
Qualifications (if required): audiologist			
Ms. Marilyn Thaden	Governor	reappointed	1/1/2003
Butte			12/31/2005
Qualifications (if required): speech-language pathologist			
Capitol Restoration Commission (Administration)			
Rep. Linda L. Holden	Governor	Murfitt	1/8/2003
Valier			12/3/2003
Qualifications (if required): public member			
Department of Corrections Advisory Council (Corrections)			
Mr. Allan Underdal	Governor	Garner	1/15/2003
Shelby			11/13/2003
Qualifications (if required): public member			

BOARD AND COUNCIL APPOINTEES FROM JANUARY 2003

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
District Court Judge, 1st Judicial District, Department 3 (Justice) Judge Thomas C. Honzel Helena	elected	re-elected	1/1/2003 1/1/2009
Qualifications (if required): none specified			
District Court Judge, 7th Judicial District, Department 2 (Justice) Ms. Katherine Irigoin Helena	elected	re-elected	1/1/2003 1/1/2009
Qualifications (if required): none specified			
District Court Judge, 8th Judicial District, Department 4 (Justice) Judge Dirk M. Sandefur Great Falls	elected	re-elected	1/1/2003 1/1/2009
Qualifications (if required): none specified			
District Court Judge, 13th Judicial District, Department 4 (Justice) Judge Gregory R. Todd Billings	elected	re-elected	1/1/2003 1/1/2009
Qualifications (if required): none specified			
District Court Judge, 13th Judicial District, Department 5 (Justice) Mr. G. Todd Baugh Billings	elected	re-elected	1/1/2003 1/1/2009
Qualifications (if required): none specified			
District Court Judge, 18th Judicial District, Department 2 (Justice) Judge Mike Salvagni Bozeman	elected	re-elected	1/1/2003 1/1/2009
Qualifications (if required): none specified			

BOARD AND COUNCIL APPOINTEES FROM JANUARY 2003

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
District Court Judge, 20th Judicial District, Department 1 (Justice) Judge C. B. McNeil Polson	elected	re-elected	1/1/2003 1/1/2009
Qualifications (if required): none specified			
District Court Judge, 21st Judicial District, Department 2 (Justice) Judge Jim Haynes Hamilton	elected	re-elected	1/1/2003 1/1/2009
Qualifications (if required): none specified			
Fish, Wildlife, and Parks Commission (Fish, Wildlife, and Parks) Rep. John Brenden Scobey	Governor	Dascher	1/10/2003 1/1/2007
Qualifications (if required): representative of District 4			
Mr. Tim Mulligan Whitehall	Governor	reappointed	1/10/2003 1/1/2007
Qualifications (if required): representative of District 2			
Judicial Nomination Commission (Judiciary) Mr. Jack Galt Martinsdale	Governor	Stock	1/14/2003 1/1/2007
Qualifications (if required): public member			
Martin Luther King, Jr. Commemorative Commission (Office of Community Service) Rev. Phillip Caldwell Great Falls	Governor	not listed	1/20/2003 1/20/2005
Qualifications (if required): public member			
Rev. Marcus Collins Great Falls	Governor	not listed	1/20/2003 1/20/2005
Qualifications (if required): public member			

BOARD AND COUNCIL APPOINTEES FROM JANUARY 2003

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Martin Luther King, Jr. Commemorative Commission (Office of Community Service) cont.			
Ms. Kathy Day	Governor	not listed	1/20/2003
Great Falls			1/20/2005
Qualifications (if required):	public member		
Ms. Lindley Dupree	Governor	not listed	1/20/2003
Kalispell			1/20/2005
Qualifications (if required):	public member		
Mr. Robert Fourstar	Governor	not listed	1/20/2003
Wolf Point			1/20/2005
Qualifications (if required):	public member		
Ms. Gwendolyn Kircher	Governor	not listed	1/20/2003
Billings			1/20/2005
Qualifications (if required):	public member		
Ms. Nancy Knauff	Governor	not listed	1/20/2003
Great Falls			1/20/2005
Qualifications (if required):	public member		
Ms. Cristina Medina	Governor	not listed	1/20/2003
Helena			1/20/2005
Qualifications (if required):	public member		
Ms. Carol Murray	Governor	not listed	1/20/2003
Browning			1/20/2005
Qualifications (if required):	public member		
Mr. Benjamin Pease	Governor	not listed	1/20/2003
Lodge Grass			1/20/2005
Qualifications (if required):	public member		

BOARD AND COUNCIL APPOINTEES FROM JANUARY 2003

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Martin Luther King, Jr. Commemorative Commission (Office of Community Service) cont. Mr. Alan Thompson Helena Qualifications (if required): public member	Governor	not listed	1/20/2003 1/20/2005
Montana Geographic Information Council (Administration) Mr. Don Wetzel, Jr. Billings Qualifications (if required): representative of Montana tribes	Governor	Villegas	1/8/2003 11/28/2003
Montana Vocational Rehabilitation Council (Public Health and Human Services) Mr. Don Jones Helena Qualifications (if required): federally mandated Client Assistance Program position	Director	Winslow	1/17/2003 1/17/2005
Peace Officers' Standards and Training Advisory Council (Justice) Mr. John Strandell Great Falls Qualifications (if required): representative of the Sheriffs' and Peace Officers' Association	Governor	Edmisten	1/1/2003 2/14/2004
Public Employees' Retirement Board (Administration) Rep. Betty Lou Kasten Brockway Qualifications (if required): public member	Governor	Lambert	1/6/2003 4/1/2006
Public Service Commissioner, District 1 (Public Service Commission) Commissioner Greg Jergeson Chinook Qualifications (if required): none specified	elected		1/1/2003 1/1/2007

BOARD AND COUNCIL APPOINTEES FROM JANUARY 2003

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Public Service Commissioner, District 3 (Public Service Commission) Commissioner Tom Schneider Helena	elected		1/1/2003 1/1/2007
Qualifications (if required): none specified			
State Emergency Response Commission (Military Affairs) Sen. Thomas Beck Helena	Governor	Schwarz	1/10/2003 10/1/2003
Qualifications (if required): representative of the Governor's Office			
State Lottery Commission (Administration) Mr. Robert Crippen Butte	Governor	reappointed	1/1/2003 1/1/2007
Qualifications (if required): certified public accountant			
State Tax Appeal Board (Administration) Mr. Gregory Thornquist Helena	Governor	reappointed	1/1/2003 1/1/2009
Qualifications (if required): public member			
State-Tribal Economic Development Commission (Office of Indian Affairs) Mr. Lawrence Big Hair, Jr. Crow Agency	Governor	Bulltail	1/8/2003 6/30/2003
Qualifications (if required): representative of the Crow Tribe			
Supreme Court Justice #1 (Justice) Justice Jim Rice, Jr. Helena	elected	re-elected	1/1/2003 1/1/2007
Qualifications (if required): none specified			



BOARD AND COUNCIL APPOINTEES FROM JANUARY 2003

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Supreme Court Justice #4 (Justice) Justice Bill Leaphart, Jr. Helena	elected	re-elected	1/1/2003 1/1/2011
Qualifications (if required): none specified			
Transportation Commission (Transportation) Ms. Nancy Espy Broadus	Governor	reappointed	1/1/2003 1/1/2007
Qualifications (if required): representative of District 4 and a Republican			
Mr. S. Kevin Howlett Arlee	Governor	Larson	1/1/2003 1/1/2007
Qualifications (if required): representative of District 1 and an Independent			

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2003 through MAY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Architects (Commerce) Mr. John W. Peterson, Kalispell Qualifications (if required): registered architect	Governor	3/27/2003
Board of Athletics (Commerce) Ms. Anita Vandolah, Conrad Qualifications (if required): public member	Governor	4/24/2003
Board of Clinical Laboratory Science Practitioners (Commerce) Ms. Susan Pullman, Butte Qualifications (if required): clinical laboratory science practitioner	Governor	4/16/2003
Ms. Doris Knox, Winifred Qualifications (if required): public member	Governor	4/16/2003
Ms. Karen McNutt, Sidney Qualifications (if required): clinical laboratory science practitioner	Governor	4/16/2003
Board of County Printing (Commerce) Mr. Verle L. Rademacher, White Sulphur Springs Qualifications (if required): representative of the printing industry	Governor	4/1/2003
Ms. Nancy Clark, Ryegate Qualifications (if required): public member	Governor	4/1/2003
Mr. Curtis Starr, Malta Qualifications (if required): representative of the printing industry	Governor	4/1/2003
Ms. Marianne Roose, Eureka Qualifications (if required): County Commissioner	Governor	4/1/2003
Ms. Julie Jordan, Miles City Qualifications (if required): County Commissioner	Governor	4/1/2003

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2003 through MAY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Dentistry (Commerce) Dr. George Olsen, Missoula Qualifications (if required): dentist	Governor	3/29/2003
Board of Hail Insurance (Agriculture) Mr. Larry Barbie, Inverness Qualifications (if required): public member	Governor	4/18/2003
Board of Livestock (Livestock) Ms. Meg Smith, Glen Qualifications (if required): cattle producer	Governor	3/1/2003
Mr. George Hammond, Hardin Qualifications (if required): cattle producer	Governor	3/1/2003
Board of Nursing Home Administrators (Commerce) Ms. Lori Henderson, Havre Qualifications (if required): nursing home administrator	Governor	5/28/2003
Board of Optometry (Commerce) Ms. Charliene Staffanson, Deer Lodge Qualifications (if required): public member	Governor	4/3/2003
Dr. Larry Obie, Havre Qualifications (if required): registered optometrist	Governor	4/3/2003
Board of Plumbers (Commerce) Ms. Jo Hawkins, Helena Qualifications (if required): public member	Governor	5/4/2003
Mr. Greg Butts, Helena Qualifications (if required): sanitary engineer	Governor	5/4/2003

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2003 through MAY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Plumbers (Commerce) cont. Mr. Robert Metcalf, Bozeman Qualifications (if required): journeyman plumber	Governor	5/4/2003
Mr. Stephen R. Nelson, Great Falls Qualifications (if required): master plumber	Governor	5/4/2003
Ms. Margaret Laknar, Dillon Qualifications (if required): public member	Governor	5/4/2003
Board of Real Estate Appraisers (Commerce) Mr. David Heine, Kalispell Qualifications (if required): real estate appraiser	Governor	5/1/2003
Ms. Janeth Martin, Helena Qualifications (if required): public member	Governor	5/1/2003
Board of Realty Regulation (Commerce) Mr. John Beagle, Sidney Qualifications (if required): real estate broker	Governor	5/9/2003
Ms. Teddye Beebe, Libby Qualifications (if required): public member	Governor	5/9/2003
Governor's Council on Families (Public Health and Human Services) Mr. Peyton Terry, Glasgow Qualifications (if required): public member	Governor	4/24/2003
Sen. Dale Mahlum, Missoula Qualifications (if required): legislator	Governor	4/24/2003
Ms. Kathleen Jensen, Westby Qualifications (if required): public member	Governor	4/24/2003

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2003 through MAY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's Council on Families (Public Health and Human Services) cont. Mr. John Vincent, Gallatin Gateway Qualifications (if required): public member	Governor	4/24/2003
Rev. Peter Bruno, Terry Qualifications (if required): public member	Governor	4/24/2003
Mr. Stanley Rathman, Choteau Qualifications (if required): public member	Governor	4/24/2003
Mr. Bill Pena, Seeley Lake Qualifications (if required): public member	Governor	4/24/2003
Ms. Kim Visser, Missoula Qualifications (if required): public member	Governor	4/24/2003
Ms. Kathleen Heiser, Billings Qualifications (if required): public member	Governor	4/24/2003
Mr. Tom Burnett, Bozeman Qualifications (if required): public member	Governor	4/24/2003
Ms. Crystal LaPlant, Browning Qualifications (if required): public member	Governor	4/24/2003
Ms. Floral Goodman, Laurel Qualifications (if required): public member	Governor	4/24/2003
Ms. Melissa Sundberg, Victor Qualifications (if required): public member	Governor	4/24/2003
Ms. Julie Lovell, Big Timber Qualifications (if required): public member	Governor	4/24/2003

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2003 through MAY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's Council on Families (Public Health and Human Services) cont. Ms. Arlene Nicholuson Diehl, East Helena Qualifications (if required): public member	Governor	4/24/2003
Ms. Lilly Motl, Helena Qualifications (if required): youth representative	Governor	4/24/2003
Ms. Kristen Blystone, Great Falls Qualifications (if required): youth representative	Governor	4/24/2003
Helena College of Technology of the U of M Executive Board (University System) Mr. Rick Hays, Helena Qualifications (if required): public member	Governor	4/15/2003
Missouri River Basin Advisory Council (Natural Resources and Conservation) Ms. Diane Brandt, Glasgow Qualifications (if required): public member	Governor	3/20/2003
Mr. Don Pfau, Lewistown Qualifications (if required): public member	Governor	3/20/2003
Mr. Bud Clinch, Helena Qualifications (if required): director of the Department of Natural Resources and Conservation	Governor	3/20/2003
Mr. Jim Rector, Glasgow Qualifications (if required): public member	Governor	3/20/2003
Mr. Ron Miller, Glasgow Qualifications (if required): public member	Governor	3/20/2003
Mr. Steve Page, Glasgow Qualifications (if required): public member	Governor	3/20/2003

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2003 through MAY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Missouri River Basin Advisory Council (Natural Resources and Conservation) cont. Mr. Tom Huntley, Sidney Qualifications (if required): public member	Governor	3/20/2003
Mr. John Foster, Lewistown Qualifications (if required): public member	Governor	3/20/2003
Mr. Boone A. Whitmer, Wolf Point Qualifications (if required): public member	Governor	3/20/2003
Mr. Buzz Mattelin, Brockton Qualifications (if required): public member	Governor	3/20/2003
Montana Heritage Preservation and Development Commission (Historical Society) Mr. F. W. Howell, West Yellowstone Qualifications (if required): managing a facility catering to tourists	Governor	5/23/2003
Sen. Dale Mahlum, Missoula Qualifications (if required): none specified	Senate President	4/24/2003
Ms. Mary Oliver, Ennis Qualifications (if required): businessperson	Governor	5/23/2003
Rep. Diane Rice, Harrison Qualifications (if required): none specified	Speaker of the House	3/5/2003
Montana Potato Advisory Committee (Agriculture) Mr. Bill Buyan, Sheridan Qualifications (if required): none specified	Director	5/20/2003
Mr. Art Mangels, Dillon Qualifications (if required): none specified	Director	5/20/2003

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2003 through MAY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana State University Billings Executive Board (University System) Ms. Carolyn Ennis, Billings Qualifications (if required): public member	Governor	4/15/2003
Montana State University Executive Board (University System) Ms. Sue Leigland, Bozeman Qualifications (if required): public member	Governor	4/15/2003
Montana State University Great Falls College of Technology Executive Board (University System) Dr. Clay Gehring, Great Falls Qualifications (if required): public member	Governor	4/15/2003
Montana State University Northern Executive Board (University System) Ms. Judy Greenwood, Havre Qualifications (if required): public member	Governor	4/15/2003
Montana State Veterans Cemetery Advisory Council (Military Affairs) Mr. Mickey Nelson, Helena Qualifications (if required): technical expert	Director	5/1/2003
Ms. Alma Dickey, Helena Qualifications (if required): Disabled American Veterans Auxiliary	Director	5/1/2003
Ms. Alma Dickey, Helena Qualifications (if required): Prisoners of War	Director	5/1/2003
Mr. Fred Olson, Fort Harrison Qualifications (if required): Veterans of Foreign Wars	Director	5/1/2003
Ms. Rose Marie Storey, Helena Qualifications (if required): American Legion Auxiliary	Director	5/1/2003



VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2003 through MAY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana State Veterans Cemetery Advisory Council (Military Affairs) cont. Mr. George Paul, Helena Qualifications (if required): Military Order of the Cooties	Director	5/1/2003
Mr. Jim Heffernan, Helena Qualifications (if required): Marine Corps League	Director	5/1/2003
Mr. Raymond Read, Helena Qualifications (if required): American Legion	Director	5/1/2003
Mr. Raymond Read, Helena Qualifications (if required): Vietnam Veterans of America	Director	5/1/2003
Mr. M. Herbert Goodwin, Helena Qualifications (if required): First Special Service Force	Director	5/1/2003
Mr. Robert C. McKenna, Helena Qualifications (if required): technical expert	Director	5/1/2003
Mr. James F. Jacobsen, Helena Qualifications (if required): none specified	Director	5/1/2003
Mr. George Poston, Helena Qualifications (if required): Disabled American Veterans	Director	5/1/2003
Major John Walsh, Helena Qualifications (if required): Department of Military Affairs	Director	5/1/2003
Ms. Eve Longfellow, Helena Qualifications (if required): Veterans of Foreign Wars Auxiliary	Director	5/1/2003
Mr. William Hill, Helena Qualifications (if required): Military Order of the Purple Heart	Director	5/1/2003

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2003 through MAY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana State Veterans Cemetery Advisory Council (Military Affairs) cont. Mr. Don Buffington, Conrad Qualifications (if required): 40 & 8	Director	5/1/2003
Montana Tech of the University of Montana Executive Board (University System) Ms. Carol Vega, Butte Qualifications (if required): public member	Governor	4/15/2003
Montana-Alberta Bilateral Advisory Council (Commerce) Sen. Glenn A. Roush, Cut Bank Qualifications (if required): representing the legislative branch	Governor	4/27/2003
Mr. David A. Galt, Helena Qualifications (if required): representing the executive branch	Governor	4/27/2003
Mr. Mark A. Simonich, Helena Qualifications (if required): representing the executive branch	Governor	4/27/2003
Mr. W. Ralph Peck, Helena Qualifications (if required): representing the executive branch	Governor	4/27/2003
Lt. Governor Karl Ohs, Harrison Qualifications (if required): representing the executive branch	Governor	4/27/2003
Mr. Mark Cole, Shelby Qualifications (if required): representing private citizens	Governor	4/27/2003
Sen. E. P. (Pete) Ekegren, Choteau Qualifications (if required): representing the legislative branch	Governor	4/27/2003
Rep. Edith J. Clark, Sweet Grass Qualifications (if required): representing the legislative branch	Governor	4/27/2003

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2003 through MAY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana-Alberta Bilateral Advisory Council (Commerce) cont. Rep. Carol C. Juneau, Browning Qualifications (if required): representing the legislative branch	Governor	4/27/2003
Mr. Bob Davis, Townsend Qualifications (if required): representing private citizens	Governor	4/27/2003
Property Tax Reappraisal Advisory Council (Revenue) Sen. Emily Stonington, Bozeman Qualifications (if required): legislator	Governor	4/30/2003
Rep. Robert R. Story, Jr., Park City Qualifications (if required): legislator	Governor	4/30/2003
Rep. Roger Somerville, Kalispell Qualifications (if required): legislator	Governor	4/30/2003
Rep. Gary Branae, Billings Qualifications (if required): legislator	Governor	4/30/2003
Mr. Kurt Alme, Helena Qualifications (if required): director of the Department of Revenue	Governor	4/30/2003
Ms. Susan Humble, Great Falls Qualifications (if required): representative of the business community	Governor	4/30/2003
Mr. Ward Ernst, Stanford Qualifications (if required): representative of the agriculture community	Governor	4/30/2003
Mr. Nick Hogan, Missoula Qualifications (if required): residential appraiser	Governor	4/30/2003

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2003 through MAY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Public Employees' Retirement Board (Administration) Mr. Troy W. McGee, Helena Qualifications (if required): retired public employee	Governor	4/1/2003
Col. Robert Griffith, Helena Qualifications (if required): public member	Governor	4/1/2003
State Compensation Insurance Fund Board of Directors (Administration) Mr. Tom Horn, Cohagen Qualifications (if required): representing private enterprise and a policy holder	Governor	4/28/2003
Ms. Lorretta Lynde, Helena Qualifications (if required): public member	Governor	4/28/2003
Ms. Wendy Susott, Missoula Qualifications (if required): representing private enterprise	Governor	4/28/2003
State Library Commission (Education) Ms. Rosemary Garvey, Butte Qualifications (if required): public member	Governor	5/22/2003
Mr. David Johnson, Billings Qualifications (if required): public member	Governor	5/22/2003
State Park Futures Committee II (Fish, Wildlife, and Parks) Sen. Jim Elliott, Trout Creek Qualifications (if required): public member	Governor	4/3/2003
Rep. Dave Kasten, Brockway Qualifications (if required): public member	Governor	4/3/2003
Sen. Bob Keenan, Bigfork Qualifications (if required): public member	Governor	4/3/2003

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2003 through MAY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Park Futures Committee II (Fish, Wildlife, and Parks) cont. Mr. Ed Heinrich, Fairmont Qualifications (if required): public member	Governor	4/3/2003
Ms. Michele Reese, Whitefish Qualifications (if required): public member	Governor	4/3/2003
Rep. Christine Kaufmann, Helena Qualifications (if required): public member	Governor	4/3/2003
Rep. John Brueggeman, Polson Qualifications (if required): public member	Governor	4/3/2003
Mr. Mike Penfold, Billings Qualifications (if required): public member	Governor	4/3/2003
Ms. Margaret Moddison, Great Falls Qualifications (if required): public member	Governor	4/3/2003
University of Montana Executive Board (University System) Mr. Leonard Landa, Missoula Qualifications (if required): public member	Governor	4/15/2003
Western Montana College of the University of Montana (University System) Ms. Evelyn Ann Lohman, Dillon Qualifications (if required): public member	Governor	4/15/2003