

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 20

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 444-2055.

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

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rules I through XI, pertaining to a) PROPOSED ADOPTION
Deferred Retirement Option Plan)
(DROP) for members of the Highway)
Patrol Officers' Retirement System)

TO: All Concerned Persons

1. On November 18, 2015, at 2:00 p.m., the Public Employees' Retirement Board will hold a public hearing in Room 201, 100 N. Park Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The Public Employees' Retirement Board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Montana Public Employee Retirement Administration no later than 5:00 p.m. on November 12, 2015, to advise us of the nature of the accommodation that you need. Please contact Kris Vladic, Public Employees' Retirement Board, 100 North Park Avenue, Suite 200, P.O. Box 200131, Helena, Montana, 59620-0131; telephone 406-444-2578; fax (406) 444-5428; TDD (406) 444-1421; or e-mail kvladic@mt.gov.

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

NEW RULE I DEFINITIONS (1) "DROP" means the HPORS deferred retirement option plan.

(2) "DROP account" means the accumulated amount of money that has accrued to a DROP participant, and interest.

(3) "Monthly DROP accrual" means the amount equal to the monthly benefit that would have been payable to the participant had the participant terminated and retired, plus the participant's member contributions for the month at the percentage provided in 19-6-402, MCA.

AUTH: 19-2-403, 19-6-1003, MCA

IMP: 19-6-1005, MCA

NEW RULE II DROP APPLICATION PROCESS (1) Eligible members who wish to participate in the DROP must file a DROP information request with MPERA.

(2) The information request must include the member's:

- (a) full name;
- (b) social security number;
- (c) mailing address;
- (d) date of birth; and
- (e) anticipated DROP period start date.

(3) MPERA will calculate estimates of the monthly benefit that would have been payable to the member had the member terminated employment and retired at the commencement of the DROP period. The estimate and a DROP application will be sent to the member.

(4) An eligible member who wishes to participate must complete the DROP application and return it to MPERA. MPERA must receive the completed application at least two weeks before the first day of the month the member wants the DROP period to be effective; otherwise MPERA will notify the member that the DROP period will be effective the following month. If a birth certificate or other acceptable proof of age is required by the application, it must accompany the application for the application to be complete.

(5) Once the application is filed with MPERA, the election to participate in the DROP is irrevocable.

AUTH: 19-2-403, 19-6-1003, MCA

IMP: 19-6-1003, 19-6-1004, MCA

NEW RULE III DROP PERIOD (1) The DROP period must begin on the first day of a month, must be prospective, and must end on the last day of a month. The DROP period will end as specified on the application, upon termination, or upon the participant's death, whichever occurs first.

(2) If the participant terminates or dies during the DROP period, the DROP period will end on the last day of the last full month of active service.

(3) A participant may not receive a retirement benefit or the monthly benefit portion of the DROP accrual for the month in which they terminate or die.

AUTH: 19-2-403, 19-6-1003, MCA

IMP: 19-6-1003, 19-6-1004, 19-6-1006, MCA

NEW RULE IV DROP PARTICIPATION LIMITS (1) A DROP participant:

- (a) is not eligible for disability retirement;
- (b) may not purchase service;
- (c) may not receive membership or service credit, except as provided in [NEW RULE X]; and
- (d) may not receive a refund of their HPORS account balance.

AUTH: 19-2-403, 19-6-1003, MCA

IMP: 19-6-1003, 19-6-1004, 19-6-1005, MCA

NEW RULE V ESTIMATED MONTHLY DROP ACCRUAL (1) Once a member files an application to participate in the DROP and the participant's DROP period begins, the participant may be paid estimated monthly DROP accruals.

(2) The employer shall provide all documents MPERA needs to determine the participant's total service credit and highest average compensation. Once the documents are received, the MPERA will finalize the monthly benefit portion of the participant's monthly DROP accrual.

(3) MPERA will suspend the estimated monthly benefit portion of the participant's monthly DROP accrual after three months if the employer has not provided the above documents.

(a) The monthly benefit portion of the participant's monthly DROP accrual will not resume until after the documents are received from the employer and the monthly benefit has been approved.

(b) Retroactive payments of the monthly benefit will be made to the member's DROP account, if necessary.

(c) The participant's member contributions portion of the monthly DROP accrual will continue despite suspension of the estimated monthly benefit portion.

AUTH: 19-2-403, 19-6-1003, MCA

IMP: 19-6-1003, 19-6-1005, MCA

NEW RULE VI INTEREST PAID TO PARTICIPANTS (1) A participant's DROP account must include compounded annual interest.

(2) Subject to (3), the interest rate will be fixed at the end of each fiscal year and will equal the actuarially assumed rate of return for the trust fund.

(3) Interest credited on the DROP account shall comply with any applicable provisions of 29 USC 623(i)(10)(B)(i) of the federal Age Discrimination in Employment Act (ADEA) and any applicable federal treasury regulations establishing market rates of return for purposes of complying with ADEA.

AUTH: 19-2-403, 19-6-1003, MCA

IMP: 19-6-1003, 19-6-1005, MCA

NEW RULE VII DISTRIBUTION OF DROP BENEFIT (1) The DROP benefit will be distributed upon the participant's termination of employment. The participant may request to receive the DROP benefit in a lump sum, or in a direct rollover to another eligible plan, as allowed by the Internal Revenue Service (IRS).

(2) To make a direct rollover of the DROP benefit, the participant must make arrangements with the other plan and provide any necessary information to MPERA.

(3) A participant must designate a distribution method within 60 days after termination of employment; otherwise MPERA will pay the DROP benefit to the participant in a lump sum. Any required federal or state withholding will reduce the amount of the payment.

(4) MPERA will distribute the DROP benefit as soon as administratively feasible once all appropriate documents are filed with MPERA.

(5) Upon a DROP participant's death, the participant's DROP benefit will be paid to the participant's survivors or, if no survivors exist, then to the participant's designated beneficiaries. The DROP benefit will be paid in a lump sum, unless the recipient chooses to receive the DROP benefit in a direct rollover to another eligible retirement plan, as allowed by the IRS.

AUTH: 19-2-403, 19-6-1003, MCA

IMP: 19-6-1003, 19-6-1006, 19-6-1008, MCA

NEW RULE VIII DISTRIBUTION OF DROP BENEFIT PURSUANT TO FAMILY LAW ORDER (1) A family law order (FLO) may distribute all or a portion of a DROP participant's DROP benefit to an alternate payee. To do so, the FLO must specifically reference distribution of a DROP benefit and provide a specific method for determining the amount of the DROP benefit to be paid to the alternate payee.

(2) The alternate payee named in the FLO is entitled to the same distribution options available to the participant and as allowed by the IRS.

(3) A FLO may distribute all or a portion of a DROP participant's DROP benefit even if the participant joined the DROP subsequent to approval of the FLO.

(4) A FLO that does not specifically address a DROP benefit will not be considered to distribute any portion of the payee's DROP benefit to an alternate payee.

(5) A FLO cannot specifically require or forbid that the payee participate in the DROP.

(6) To distribute any portion of a participant's DROP benefit, a FLO approved prior to the effective date of the DROP legislation (October 1, 2015) must be amended to specifically address the DROP benefit.

(7) A DROP benefit cannot be distributed pursuant to a FLO until the DROP participant terminates employment.

AUTH: 19-2-403, 19-6-1003, MCA

IMP: 19-6-1003, MCA

NEW RULE IX EMPLOYMENT AFTER THE DROP PERIOD (1) Unless the participant's DROP period is extended pursuant to [NEW RULE X], monthly DROP accruals will stop at the end of the designated DROP period even if the participant continues HPORS-covered employment.

(2) The participant's monthly service retirement benefit payments will begin the month following the month in which the participant terminates post-DROP employment.

(3) The participant's DROP benefit will be distributed pursuant to [NEW RULE VII].

AUTH: 19-2-403, 19-6-1003, MCA

IMP: 19-6-1003, 19-6-1007, MCA

NEW RULE X IMPACT OF UNIFORMED SERVICE DURING DROP PERIOD (1) HPORS DROP participants called to duty for a period or periods of service in the uniformed services during their DROP period must, within 90 days from the date they return to employment, make an irrevocable election to either:

(a) include in their original DROP period, pursuant to ARM 2.43.2315, the time in which they were called to duty; or

(b) add this time to the end of their original DROP period.

(2) The time that can be either included in or added to a participant's DROP period under (1) is the total number of whole months during which the participant served in uniformed services during the DROP period. However, the total number of

months in the new DROP period may not exceed the total number of months in the DROP period originally elected by the participant under 19-6-1004, MCA.

(3) If the participant elects to include the period of uniformed services in the participant's original DROP period:

(a) the participant's member contributions must be based on the compensation the participant would have received had the participant not been called to uniformed services duty, including any pay raises; and

(b) once the member and employer contributions are paid to MPERA pursuant to ARM 2.43.2315, the applicable member contributions and the participant's monthly retirement benefit for each month of included USERRA service will be added to the participant's DROP account.

(4) If the participant elects to add the period of uniformed services to the participant's original DROP period:

(a) the participant's member contributions to the participant's DROP account will be determined based on the compensation earned during the added months; and

(b) the participant's monthly retirement benefit will be paid to the participant's DROP account during the added months.

AUTH: 19-2-403, 19-6-1003, MCA

IMP: 19-6-1004, MCA

NEW RULE XI DIFFERENTIAL PAY FOR MILITARY LEAVE (1) For purposes of (2) and (3), differential pay is pay by an employer to a member who leaves HPORS-covered employment to serve in the uniformed services, and the pay is for all or some of the difference between the member's normal salary and military pay.

(2) During the DROP period, employer contributions under 19-6-404, MCA, for all differential pay must continue to be made to the retirement system.

(3) Member contributions under 19-6-402, MCA, for differential pay must be made to the member's DROP account.

(4) The remainder of the participant's monthly DROP accrual will be subject to [NEW RULE X].

AUTH: 19-2-403, 19-6-1003, MCA

IMP: 19-6-1005, MCA

STATEMENT OF REASONABLE NECESSITY: The proposed new rules are necessary to implement a Deferred Retirement Option Program (DROP) for the Highway Patrol Officers' Retirement System (HPORS) as provided by Chapter 258, Laws of 2015. The rules are also necessary to ensure the DROP will be administered in compliance with the Internal Revenue Code. The procedures outlined in these rules ensure compliance with the applicable rules, regulations, and determinations of the Internal Revenue Service. These rules also provide specific information necessary for members of the HPORS for their retirement planning. Those members who plan to participate in the DROP require clarification of the process for and implementation of the DROP, as well as the future financial

implications of their decision to participate in the DROP. An in-depth understanding of the program is imperative for the member to know whether it is in their best interest to make this one-time irrevocable election.

New Rules X and XI are necessary in order to address the impact of USERRA service on the DROP participants. The purpose of USERRA is to ensure that employees called to service not be penalized upon their return to employment. USERRA protections, including the receipt of differential pay, extend to the employees' retirement benefits and thus necessarily to their rights as DROP participants. The rules ensure that the participant's DROP account is not adversely impacted by uniformed service, provided the member returns to covered employment.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kris Vlado, Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0513; telephone (406) 444-2578; fax (406) 444-5428; or e-mail kvlado@mt.gov, and must be received no later than 5:00 p.m., November 27, 2015.

5. William Holahan, Montana Public Employee Retirement Administration, has been designated to preside over and conduct this hearing.

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

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by mail on July 24, 2015.

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

/s/ Melanie A. Symons
Melanie A. Symons
Chief Legal Counsel
and Rule Reviewer

/s/ Sheena Wilson
Sheena Wilson
President
Public Employees' Retirement Board

Certified to the Secretary of State October 19, 2015

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rules I through XI, pertaining to	)	PROPOSED ADOPTION
Surety Insurance Producers Who)	
Sell, Solicit, or Negotiate)	
Commercial Bail Bonds)	

TO: All Concerned Persons

1. On November 18, 2015, at 10:00 a.m., the Commissioner of Securities and Insurance, Montana State Auditor, will hold a public hearing in the basement floor conference room, at the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), 840 Helena Ave., Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The CSI 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 CSI no later than 5:00 p.m., November 12, 2015, to advise us of the nature of the accommodation that you need. Please contact Darla Sautter, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; TDD (406) 444-3246; fax (406) 444-3499; or e-mail dsautter@mt.gov.

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

NEW RULE I DEFINITIONS For the purposes of this subchapter, the following terms have the following meanings:

(1) "Bail bond agency" means a surety bail insurance producer agency which may be a corporation, limited liability company, partnership, limited partnership, limited liability partnership, or other legal entity formed by an organizational document which is owned by, employs, or contracts with one or more individual bail bond agents.

(2) "Bail bond agent" means a surety bail insurance producer who sells, solicits, or negotiates commercial bail bonds.

(3) "Commercial bail bond surety insurer" means a surety insurer who sells, solicits, or negotiates commercial bail bonds.

(4) "Indemnitor" is a person who, by agreement with a bail bond agent, accepts liability for loss of the bail bond agent in the event that a principal fails to perform according to the standards agreed upon between the principal and the bail bond agent.

(5) "On the board" means the name of a bail bond agent that has been publicly posted, or disseminated by a court, as being ineligible to write bail bonds within the court's jurisdiction.

(6) "Principal" is a defendant or a witness who has been admitted to bail and who is obligated to appear in court as required upon penalty of forfeiting bail under a commercial bail bond.

AUTH: 33-1-313, 33-26-108, MCA

IMP: 33-26-108, MCA

NEW RULE II FINANCIAL RESPONSIBILITY REQUIREMENTS -- CLAIMS AGAINST BONDS (1) Each bail bond agent shall purchase and maintain a surety bond in the amount of \$25,000 issued by a surety company authorized to do business in this state.

(2) A surety on a bail bond agent's bond referred to in (1) may not cancel the bond without giving at least 21 days written notice of cancellation to the bail bond agent and the commissioner. If the commissioner receives notice of a surety's intention to cancel a bail bond agent's bond, the commissioner shall notify the affected bail bond agent that unless the bail bond agent files another \$25,000 surety bond with the commissioner, the bail bond agent may no longer transact insurance as a bail bond agent in this state.

(3) The surety bond required by this rule must be issued on the form found in Appendix A of [New Rule XI], and must be established in favor of a person, and the commissioner on behalf of a person injured as a result of a violation of the Montana Insurance Code, or an administrative rule promulgated thereunder. The surety bond must cover any restitution or fine ordered by the commissioner.

(4) Each bail bond agent licensed in this state as of the effective date of this rule shall file with the commissioner a copy of a surety bond, together with a power of attorney, on a form supplied by the surety company within 90 days of the effective date of this rule. Each bail bond agent who becomes licensed after the effective date of this rule shall file with the commissioner a copy of a surety bond purchased pursuant to (1), together with a power of attorney on a form supplied by the surety company within 45 days prior to commencing business in this state.

AUTH: 33-1-313, 33-26-108, MCA

IMP: 33-17-1001, 33-26-108, MCA

NEW RULE III NOTICE OF BANKRUPTCY OR RECEIVERSHIP (1) Upon the filing for protection under the United States Bankruptcy Code, or any state receivership law, by any bail bond agent or bail bond agency licensed under Title 33, chapter 17, MCA, the bail bond agent or bail bond agency shall, in writing, notify the commissioner of the filing within three business days of the filing. Failure to give such notice may be deemed a violation of 33-17-1001, MCA.

AUTH: 33-1-313, 33-26-108, MCA

IMP: 33-17-1001, 33-26-108, MCA

NEW RULE IV DEATH, INCAPACITATION, OR INCOMPETENCE OF A BAIL BOND AGENT (1) In the case of death, incapacitation, or incompetence of a bail bond agent the commercial bail bond surety insurer who has made, guaranteed,

or become a surety upon commercial bail bonds issued by the deceased, incapacitated, or incompetent bail bond agent may contract with another licensed and appointed bail bond agent to perform the duties required to have the deceased, incapacitated, or incompetent bail bond agent's outstanding bail bond obligations resolved to the satisfaction of the courts.

(2) A copy of the contract must be filed with the commissioner and every clerk of court where the deceased, incapacitated, or incompetent bail bond agent has outstanding bail bond obligations. The bail bond agent who has agreed to assume these obligations shall not, at the time of the execution of the contract, have any pending administrative or criminal actions.

AUTH: 33-1-313, 33-26-108, MCA

IMP: 33-17-201, 33-17-1001, 33-26-108, MCA

NEW RULE V SALE OR TRANSFER OF BUSINESS BY BAIL BOND

AGENT (1) A bail bond agent may contract to transfer or assign the bail bond agent's business to another licensed and appointed bail bond agent, bail bond agency, or commercial bail surety insurer.

(2) The bail bond agent transferring or assigning his or her business shall file with the commissioner a copy of the contract and an affidavit containing a list of the transferring bail bond agent's outstanding bail bond obligations. The affidavit must identify the name of the principal, the case docket number, and the name of the bail bond agent, bail bond agency, or commercial surety insurer to whom business is transferred.

(3) A bail bond agent or bail bond agency to whom business is transferred must be appointed by each commercial bail bond surety insurer who has made, guaranteed, or become a surety upon all commercial bail bonds affected by the sale or transfer.

AUTH: 33-1-313, 33-26-108, MCA

IMP: 33-17-201, 33-17-236, 33-26-108, MCA

NEW RULE VI BOND INSTRUMENTS NOT TO BE SIGNED IN BLANK

(1) A bail bond agent may not sign or countersign bail bonds in blank. A bail bond agent may not give power of attorney to, or otherwise authorize, anyone to countersign the bail bond agent's signature to bonds.

AUTH: 33-1-313, 33-26-108, MCA

IMP: 33-17-201, 33-26-108, MCA

NEW RULE VII COLLATERAL, TRUST ACCOUNTS, RECORDS OF ARREST AND SURRENDER, LIST OF FORFEITURES, COSTS (1) The collateral security required by a bail bond agent must be commercially reasonable in relation to the amount of the bond. The value of any collateral security received by a bail bond agent must not exceed two-and-one-half times the amount of the bond unless no other collateral is available.

(2) A bail bond agent who accepts collateral shall give a written receipt for the collateral. The receipt must give a detailed description of the collateral received.

(3) Collateral security must be held and maintained in trust. When collateral security is received in the form of cash, check, or other negotiable instrument, the bail bond agent shall deposit the cash or instrument, within five banking days after receipt, in a trust account in a bank insured by the Federal Deposit Insurance Corporation. The trust account may not contain operating or personal funds.

(4) Each bail bond agent shall keep records identifying all collateral received, the source of funds placed into all trust accounts, and the terms of all commercial bail bond transactions. The records are open to inspection without notice by the commissioner.

(5) If the court exonerates a bail bond, the bail bond agent shall return all collateral or other security to the person entitled to it within five business days after receipt of written notification of exoneration. All collateral or security must be returned in the condition it was received, and at the location it was received, unless it is not reasonably practical to return the collateral or security at the location it was received or the parties mutually consent to another location.

(6) Each bail bond agent shall maintain and update on a continual basis:

(a) a list of forfeitures, which must include the names of the principal and indemnitor, the case name and number, the date of the forfeiture; and

(b) a list of arrests and surrenders, which must include the names of the principal and indemnitor, the case name and number, and the date of the failure of the principal to appear.

(7) A bail bond agent may bill for actual costs. A bail bond agent shall keep receipts for actual costs for a period of three years.

(8) If collateral is liquidated it must be done according to commercially reasonable standards and the balance, if any, must be returned to the principal or indemnitor as appropriate within ten business days of liquidation.

(9) All additional costs and fees must be commercially reasonable.

AUTH: 33-1-313, 33-26-108, MCA

IMP: 33-17-1001, 33-26-108, MCA

NEW RULE VIII PROHIBITED PRACTICES (1) A bail bond agent may not:

(a) pay a fee or rebate, or give or promise anything of value, directly or indirectly to any public official, employee, or agent who has power to arrest or hold in custody in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond, or the forfeiture thereof;

(b) pay a fee or rebate, or give, or promise anything of value to the principal or anyone on his or her behalf;

(c) participate in the capacity of an attorney at a trial or hearing of a person on whose bond the bail bond agent is a surety;

(d) personally solicit business, or loiter in, or on the premises of, any court in Montana, in the office of any judge or justice of the peace, or in or about, any prisoner confinement facility; except that a bail bond agent may post court or prisoner confinement facility approved advertising material as permitted;

(e) advise or assist the principal for the purpose of forfeiting bond;

- (f) impersonate a law enforcement officer;
- (g) falsely represent that the bail bond agent is in any way connected with an agency of the federal, state, or local government;
- (h) continue to execute bail bonds in any court in a judicial district where a bail bond agent is on the board;
- (i) fail to report, preserve without use, retain separately, or return after payment in full, collateral taken as security on any bail bond to the party entitled to the collateral;
- (j) arrest and surrender a principal unless the principal has failed to appear, and the court has issued an order of forfeiture during the pendency of forfeiture proceedings;
- (k) fail to return collateral within five business days of receiving written notice of exoneration;
- (l) fail to purchase and maintain the surety bond required by [New Rule II];
- (m) gain access to a prospective principal in a prisoner confinement facility for the purpose of solicitation by misrepresenting to facility officials that the prospective principal or someone on the prospective principal's behalf had so requested; or
- (n) sell, solicit, or negotiate surety bail insurance while employed as an investigator with the Office of the Public Defender.

AUTH: 33-1-313, 33-26-108, MCA

IMP: 33-17-1001, 33-17-1103, 33-18-210, 33-18-212, 33-26-108, 46-9-401, 46-9-402, 46-9-502, 46-9-503, 46-9-505, 46-9-510, 46-9-511, 46-9-512, MCA

NEW RULE IX PORTION OF BOND PREMIUM PAYMENTS DEFERRED

(1) If an agreement between the principal and bail bond agent calls for some portion of the bond premium payments to be deferred or paid after the principal is released from custody, the bail bond agent shall keep the agreement on file and provide a copy to the principal and indemnitor, if applicable. The agreement must contain the following information:

- (a) the amount of the premium payment deferred, or not yet paid, at the time the principal is released from custody;
- (b) the method and schedule of payment to be made by the principal or indemnitor to the bail bond agent, including the dates of payment and amount to be paid on each date; and
- (c) the interest rate.

(2) For the agreement to be enforceable, interest and finance charges on any unpaid premium must comply with 31-1-107, MCA.

AUTH: 33-26-108, MCA

IMP: 31-1-107, 33-18-213, 33-26-108, 46-9-403, MCA

NEW RULE X BAIL BOND DOCUMENTS (1) The following requirements apply to documentation a bail bond agent uses in connection with transacting business:

- (a) an indemnity agreement must:

- (i) be in writing;
 - (ii) be signed by the principal;
 - (iii) be signed by the indemnitor, if any;
 - (iv) be signed by the bail bond agent;
 - (v) set forth the amount of bail, the name of the principal, the amount and type of collateral held by the bail bond agent, and the conditions under which the collateral is to be returned;
 - (vi) state that the principal and the indemnitor have received copies of signed and dated disclosure forms referred to in (1)(e); and
 - (vii) if the principal or indemnitor is illiterate or does not read English, state that the bail bond agent or a third party has read or translated the agreement for the principal or indemnitor.
- (b) if used in the bail bond transaction, a promissory note must be:
- (i) in writing;
 - (ii) signed by the bail bond agent; and
 - (iii) signed by the principal or indemnitor.
- (c) a collateral receipt must:
- (i) be dated;
 - (ii) be in writing;
 - (iii) be signed by the bail bond agent;
 - (iv) be signed by the principal or indemnitor;
 - (v) be prenumbered;
 - (vi) contain a full description of the collateral, including the condition of the collateral at the time it is taken into custody; and
 - (vii) set forth the amount of bail, the name of the principal, the court case number, the court where the bond is executed, the amount of premium, the amount and type of collateral held by the bail bond agent, and the conditions under which the collateral is to be returned.
- (d) a prenumbered, signed receipt for payments made pursuant to a promissory note must be given to the person tendering payment for each payment received. The payment receipt must contain the date, the principal's name, a description of the consideration and amount of money received, the purpose for which it was received, the amount of the bail bond, and the name of the person tendering payment; and
- (e) a bail bond agent shall provide an advance written disclosure of any and all charges, excluding premium, that the principal or indemnitor may incur including, but not limited to, costs, storage, mileage, and fees. The disclosure must be:
- (i) in writing;
 - (ii) dated;
 - (iii) signed by the bail bond agent; and
 - (iv) signed by the principal or indemnitor.

AUTH: 33-26-108, MCA

IMP: 33-17-1001, 33-18-213, 33-26-108, 46-9-403, MCA

NEW RULE XI FORM (1) The following form must be used pursuant to [New Rule II(3)]:

(a)

APPENDIX A

**STATE OF MONTANA
BAIL BOND AGENT BOND**

BOND NO. _____

BOND AMOUNT \$25,000.00

KNOW ALL PERSONS BY THESE PRESENTS:

That we, _____ as PRINCIPAL, and _____, a corporation duly organized and existing under the laws of the state of _____, and authorized to do business in the state of Montana, as SURETY, are held and firmly bound unto the state of Montana, in the penal sum of \$25,000 lawful money of the United States for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the PRINCIPAL is subject to the provisions of the Montana Insurance Code, Mont. Code Ann. § 33-1-101 et seq. (Code), and the administrative rules promulgated thereunder (Rules), and shall faithfully comply with the provisions thereof;

WHEREAS, this bond is established in favor of a person, and the Montana State Auditor, Commissioner of Securities and Insurance (Commissioner) on behalf of a person injured as a result of a violation or violations of the Code or the Rules by the PRINCIPAL; and

WHEREAS, this bond is established in favor of the Commissioner on behalf of the state of Montana for any fines levied, or restitution ordered, as against the PRINCIPAL and SURETY for a violation or violations of the Code or the Rules by the PRINCIPAL.

NOW THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE SUCH that if the above bonded PRINCIPAL shall faithfully comply with the provisions of the Code, the Rules, and orders of the Commissioner pursuant thereto, then and in that event the forgoing obligation shall be void, otherwise to remain in full force and effect.

PROVIDED HOWEVER, AND UPON THE FOLLOWING EXPRESS CONDITIONS that any person, an issuing commercial bail surety insurer, or a court claiming against the bond for a violation of the Code or Rules occurring during the time period during which this bond is in effect may maintain an action at law against the PRINCIPAL and SURETY, or may file a consumer complaint with the Office of the Montana State Auditor, Commissioner of Securities and Insurance, which may result in fines and/or restitution after notice and opportunity for hearing before the Commissioner. The aggregate liability of the SURETY may not exceed the amount of this surety bond.

PROVIDED FURTHER, that the SURETY may terminate its liability hereunder as to future acts of the PRINCIPAL at any time by giving twenty-one days written notice of such termination to the Commissioner.

This bond is for a definite term beginning _____, and ending _____, and may be continued by a Continuation Certificate.

SIGNED, SEALED, and DATED this _____ day of _____.

PRINCIPAL, Bail Bond Agent

By _____
(Signature)

(Printed Name)

SURETY, Attorney in Fact

By:

_____,
(Signature)

(Printed Name)

[Affix Power of Attorney]

AUTH: 33-1-313, 33-26-108, MCA
IMP: 33-17-1001, 33-26-108, MCA

4. STATEMENT OF REASONABLE NECESSITY: The Montana State Auditor, Commissioner of Securities and Insurance, Monica J. Lindeen, (commissioner) is the statewide elected official responsible for administering the Montana Insurance Code and regulating the business of insurance.

The commissioner is the President of the National Association of Insurance Commissioners (NAIC). The NAIC is an organization of insurance regulators from the 50 states, the District of Columbia, and the U.S. Territories. The NAIC provides a forum for the development of uniform policy and regulation when uniformity is appropriate.

In 2003, the legislature granted the commissioner rulemaking authority for surety insurance producers who sell, solicit, or negotiate commercial bail bonds pursuant to 33-26-108, MCA. The commissioner has received consumer complaints indicating the need for regulation of bail bond agents. Additionally, the commissioner has

received requests for regulation from members of the industry seeking specific rules in order to give guidance to the industry, to proscribe against certain conduct, to prevent abuse against consumers, and to level the field in order to prevent unfair methods of competition. Therefore, the commissioner has determined that new rules be proposed in accord with 33-26-108, MCA, at this time.

NEW RULE I is proposed to be adopted in order to define terms for these rules.

NEW RULE II is proposed to be adopted in order to establish the requirement of the posting of a surety bond by each bail bond agent so as to protect or indemnify persons, and the commissioner on behalf of persons injured as a result of a violation of an administrative rule or the Montana Insurance Code. The commissioner has determined that the proposed rule is reasonably necessary so as to ensure against financial irresponsibility of bail bond agents, and to provide a mechanism to redress harm resulting to consumers and other persons involved in the surety bail industry.

NEW RULE III is proposed to be adopted in order to establish the requirement for a bail bond agent, or a bail bond agency, to provide notice to the commissioner in the event that the bail bond agent, or the bail bond agency, files for bankruptcy. The proposed rule is reasonably necessary to allow the commissioner to take the necessary regulatory action in the event that bail bond agents, or bail bond agencies, become insolvent.

NEW RULE IV is proposed to be adopted to establish a procedure for the winding up of business of a bail bond agent in the event that the bail bond agent dies, or becomes incapacitated, or incompetent. The proposed rule is reasonably necessary in order to promote the orderly transfer of business in the event that a bail bond agent becomes unable to carry on the bail bond agent's business, to provide notice to the commissioner in such an event, and to ensure that a bail bond agent accepting bail bond business from a bail bond agent who has died, or become incapacitated or incompetent, is in good standing with the commissioner and compliant with Montana law and regulations.

NEW RULE V is proposed to be adopted in order to establish an orderly procedure for the sale or transfer of the business of a bail bond agent to another bail bond agent pursuant to a contract, and to provide the commissioner with notice of the transferring bail bond agent's outstanding bond obligations so that the interests of insurance consumers may be protected.

NEW RULE VI is proposed to be adopted in order to prohibit the signing of blank bail bonds, and the utilization of unlicensed bail bond agents. The proposed rule is reasonably necessary to prevent the illegal utilization of unlicensed bail bond agents.

NEW RULE VII is proposed to be adopted in order to establish rules relating to collateral and trust accounts, and to establish the requirement that bail bond agents keep records of arrests and lists of forfeitures. It also seeks to clarify that bail bond agents may bill for actual costs. The proposed rule is reasonably necessary so as to

ensure that adequate records are maintained for collateral security, and that collateral security, costs, and fees are reasonable.

NEW RULE VIII is proposed to be adopted in order to establish proscriptions against certain conduct in the surety bail bond industry and to provide for discipline for engaging in such conduct. The proposed rule is necessary in order to clearly prohibit improper conduct and to address certain conduct that has been the subject of consumer complaints.

NEW RULE IX is proposed to be adopted in order to establish rules for bail bond agents who defer payment of full premium. The proposed rule is reasonably necessary to protect consumers from usurious interest rates and so that consumers will be reasonably informed of the terms and conditions of their payment agreement.

NEW RULE X is proposed to be adopted to establish minimum requirements for documents relating to the surety bail bond industry. The proposed rule is reasonably necessary to ensure that documents used in bail bond transactions meet minimum legal requirements in order to provide full disclosure and to protect insurance consumers.

NEW RULE XI is proposed to be adopted to provide a template for the surety bond required under New Rule II. The proposed rule is reasonable necessary to allow bail bond agents to fulfill the requirements of New Rule II, which requires the use of an approved surety bond.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Michael Winsor, Attorney, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-2004; fax (406) 444-5223; or e-mail mwinsor@mt.gov, and must be received no later than 5:00 p.m., November 27, 2015.

6. Michael Winsor, Attorney, has been designated to preside over and conduct this hearing.

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

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of

State strives to make the electronic copy of the 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. Pursuant to 2-4-302, MCA, the bill sponsor contact requirement applies. Senator Jim Keane, sponsor of HB 169, was contacted directly by mail through the U.S. Postal Service on February 11, 2014.

10. ECONOMIC IMPACT STATEMENT: The CSI has complied with the requirements of 2-4-111, MCA. New Rule II requires each individual surety producer to post bond in the amount of \$25,000. The actual out-of-pocket cost to each individual surety producer per annum is estimated to be approximately 1 to 2% of premium for the bond, equaling approximately \$50-\$250.

/s/ Nick Mazanec
Nick Mazanec
Rule Reviewer

/s/ Jesse Laslovich
Jesse Laslovich
Chief Legal Counsel

Certified to the Secretary of State October 19, 2015.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 6.6.4907 pertaining to Patient-) PROPOSED AMENDMENT
Centered Medical Homes)

TO: All Concerned Persons

1. On November 24, 2015, at 10:00 a.m., the Commissioner of Securities and Insurance, Montana State Auditor, will hold a public hearing in the 2nd floor conference room, at the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), 840 Helena Ave., Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The CSI 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 CSI no later than 5:00 p.m., November 17, 2015, to advise us of the nature of the accommodation that you need. Please contact Darla Sautter, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; TDD (406) 444-3246; fax (406) 444-3499; or e-mail dsautter@mt.gov.

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

6.6.4907 PATIENT-CENTERED MEDICAL HOME REPORTING--SPECIFIC QUALITY MEASURES REQUIRED (1) A qualified or provisionally qualified patient-centered medical home (PCMH) shall report annually to the commissioner on its performance related to certain standards and health care quality measures, as prescribed by the commissioner. A PCMH health care provider that provides care to adults only, or both children and adults, shall choose at least three of the ~~four~~ five quality measures listed in ~~(2)(3)(a)~~ through ~~(d)~~(e) to report to the commissioner. A ~~PCMH health care provider that provides care only to children shall choose only the child immunization performance measure in (2)(c).~~ A PCMH shall choose four out of five measures for the 2016 reporting year, for the report due in March 2017.

(2) A PCMH health care provider that provides care only to children, referred to as a pediatric practice, shall choose at least the child immunization performance measure in (3)(c). Reporting on depression screening in (3)(e) is optional for pediatric practices until the 2017 reporting year, for the report due in March 2018. At that time, all pediatric clinics shall report on both the depression and immunization measures.

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

(b) screening for tobacco use and tobacco cessation intervention ~~counseling~~ for adults;

(c) age appropriate immunization for children who turned age three during the reporting year; and

(d) poor control of A1C levels in adults with diagnosed diabetes; and
(e) screening for clinical depression and follow-up plan for individuals age 12 and older.

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

~~(4)(5)~~ A PCMH health care provider may not change the reporting measures the provider ~~chooses~~ chose for the 2014 reporting year until after the end of the 2016 reporting year for the report due in March of 2017, or until otherwise instructed by the commissioner. However, a provider may report on additional measures at any time.

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

~~(6)(7)~~ The commissioner shall provide detailed instructions on the agency web site for reporting by qualified and provisionally qualified PCMHs on the quality measures described in ~~(2)(3)~~. Date reporting requirements must be aligned with the federal Physician Quality Reporting System (PQRS), except for childhood immunizations, and the instructions provided on the commissioner's web site.

~~(7)(8)~~ The report referenced in ARM 6.6.4906 is separate from the report required for the quality measures in ~~(2)(3)~~.

(8) remains the same, but is renumbered (9).

~~(9)(10)~~ Payers who choose to participate in the Montana PCMH program, and who use require reporting on quality measures in their contract with PCMH health care providers reporting in their payment model shall include, but are not limited to, the four measures specified in (2). Those payers must also use the same data reporting requirements prescribed by the commissioner, if the payer collects data on the measures described in (3).

AUTH: 33-40-104, MCA

IMP: 33-40-104, 33-40-105, MCA

4. STATEMENT OF REASONABLE NECESSITY: The Montana State Auditor, Commissioner of Securities and Insurance, Monica J. Lindeen, (commissioner) is the statewide elected official responsible for administering the Montana Insurance Code and regulating the business of insurance.

Amendments to ARM 6.6.4907 are proposed for the purpose of adding clarity to the existing rule language and to add one new quality measure: depression screening. The PCMH stakeholder council and other interested parties discussed the importance of adding the depression screening measure to the rule for several months. The stakeholders and the commissioner believe that need for increased mental health services is very significant in Montana and that depression screening during primary care visits is a significant step towards improving outcomes. As the PCMH program evolves, it is necessary to add new measures from time to time in order to expand and improve the outcome reporting necessary to evaluate the success of this program with regard to improving health outcomes for the citizens of this state. These rules must include specific guidance for patient-centered medical homes regarding the "uniform set of health care quality and performance measures that include prevention services," as required by 33-40-105(2)(c), MCA. This new measure is specifically aligned with the PQRS reporting measure for depression

screening because most health care providers already report on PQRS measures. Aligning the PCMH data reporting with PQRS measures will reduce data reporting burdens and complications. Furthermore, reporting on this measure is not required until March of 2017 in order to give the PCMHs additional time to prepare for reporting on this measure.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Christina Goe, General Counsel, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-2040; fax (406) 444-5223; or e-mail cgoe@mt.gov, and must be received no later than 5:00 p.m., December 2, 2015.

6. Christina Goe, General Counsel, has been designated to preside over and conduct this hearing.

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

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. Pursuant to 2-4-302, MCA, the bill sponsor contact requirements apply. Christine Kaufmann is the bill sponsor, and she was contacted by e-mail on May 9, 2014, with a previous filing, and contacted again on October 14, 2015, by e-mail.

10. ECONOMIC IMPACT STATEMENT: The CSI has complied with the requirements of 2-4-111, MCA, and determined that the amendments to ARM 6.6.4907 will not have a significant adverse impact on small businesses. The reporting requirement discussed in ARM 6.6.4907 already exists under 33-40-105, MCA. The amendments and additions to ARM 6.6.4907 further clarify the health care quality and performance measures that are subject to that requirement, and the

timeline for reporting the data. Additionally, the affected parties already report the quality measures in ARM 6.6.4907 to other entities. Thus, the amendments to ARM 6.6.4907 do not require the parties to collect and collate substantial amounts of additional information.

/s/ Nick Mazanec
Nick Mazanec
Rule Reviewer

/s/ Christina L. Goe
Christina L. Goe
General Counsel

Certified to the Secretary of State October 19, 2015.

BEFORE THE MONTANA STATE LIBRARY
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 10.102.1152 pertaining to) AMENDMENT
deferrals)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On December 9, 2015, the Montana State Library proposes to amend the above-stated rule.

2. The Montana State Library will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Montana State Library no later than 5:00 p.m. on November 19, 2015, to advise us of the nature of the accommodation that you need. Please contact Marlys Stark, Montana State Library, P.O. Box 201800, Helena, Montana, 59620-1800; telephone (406) 444-3384; fax (406) 444-0266; TTY (406) 444-4799; or e-mail mstark2@mt.gov.

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

10.102.1152 DEFERRALS (1) Any library may request a waiver from the state librarian in writing by July 25 of each year.

(a) The state librarian may grant a waiver of any of the standards in ARM ~~10.102.1150E~~ 10.102.1150A through 10.102.1150M if:

(i) through (d) remain the same.

~~(e) Any library that employs a director without a graduate degree in library or information science or its equivalent as of July 1, 2001 is exempt from ARM 10.102.1150E.~~

AUTH: 22-1-103, MCA

IMP: 22-1-103, MCA

REASON: The first change is necessary to more clearly state the state librarian may grant a deferral for any standard as is current practice. The final change is necessary because the language of this subsection is confusing and it is no longer applicable because the exception can no longer be applied and all libraries that serve a population of 25,000 meet the standard.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Marlys Stark, Montana State Library, P.O. Box 201800, Helena, Montana, 59620-1800; telephone (406) 444-3384; fax

(406) 444-0266; or e-mail mstark2@mt.gov, and must be received no later than 5:00 p.m., November 27, 2015.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Marlys Stark at the above address no later than 5:00 p.m., November 27, 2015.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be more than 25 persons based on the number of governmental subdivisions or agencies, as well as professional organizations and members of the public that use the many library services.

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

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

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

/s/ Jennie Stapp

Jennie Stapp
Rule Reviewer

/s/ Colet Bartow

Colet Bartow
Chairman
Montana State Library

Certified to the Secretary of State October 19, 2015.

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 12.2.601 pertaining to state land) AMENDMENT
access tax credit)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On February 19, 2016, the Fish and Wildlife Commission (commission) proposes to amend the above-stated rule.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than November 13, 2015, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

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

12.2.601 STATE PUBLIC LAND ACCESS TAX CREDIT (1) Pursuant to 15-30-2380 and 87-1-294, MCA, landowners may apply for a contract with the department to become eligible to receive a ~~\$500~~ \$750 tax credit for qualified access to ~~state public~~ land, as defined in ~~77-1-104~~ 87-1-294(9)(b), MCA.

(2) and (3) remain the same.

(4) The application must state the following and failure to include any one portion may result in denial of the application:

(a) legal land description of parcel of ~~state~~ public land to which access will be provided;

(b) remains the same.

(c) description of the road or travel route providing public access to the ~~state~~ public land parcel;

(d) map depicting ~~state~~ public land parcel, adjacent private land through which public access will be provided, access point where public access on private land begins, and travel route proposed for public access;

(e) description of method permitted to access ~~state~~ public lands;

(f) indication as to whether or not the landowner is lessee of ~~the~~ a state land parcel to which public access will be provided; and

(g) remains the same.

(5) The department must consider the following when awarding contracts:

- (a) verification that the state public lands are not restricted or closed to general recreational use by ~~Department of Natural Resources and Conservation~~ the land management agency that owns or has legal control of the public land parcel;
- (b) verification that the state public land will be available for a majority of the year to all general recreational use including hunting, fishing, hiking, wildlife watching, and other uses compatible with the use of state public lands;
- (c) access routes restricted to foot travel only;;
- (i) remains the same.
- (ii) must not exceed ~~half a mile~~ one linear mile from the beginning to the end of the access route; and
- (d) and (6) remain the same.
- (7) Land enrolled in any other department program that secures public access to a state public land parcel is not eligible for a contract through this program to provide access to that same state public land parcel.
- (8) remains the same.

AUTH: 87-1-294, MCA

IMP: 15-30-2380, 87-1-294, MCA

REASON: The 2015 Legislature passed Senate Bill (SB) 309, which amended statutes to expand the scope of a state lands access program to include federal lands, change the name from "Unlocking State Lands Program" to "Unlocking Public Lands Program," and increase the landowner tax benefits from \$500 to \$750 per enrolled parcel, with a total increase to the annual maximum benefit from \$2000 to \$3000. The proposed amendments are necessary to implement these new provisions contained in SB 309. The proposed amendment in (5)(c)(ii) is necessary to correct a clerical error in language that was previously adopted in 2014.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Department of Fish, Wildlife and Parks Wildlife Division, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail fwpwld@mt.gov, and must be received no later than November 27, 2015.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Alan Charles at the above address no later than November 27, 2015.

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

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East 6th Street, Helena, Montana 59620-0701, or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by e-mail on September 16, 2015.

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

/s/ Aimee Fausser
Aimee Fausser
Rule Reviewer

/s/ Dan Vermillion
Dan Vermillion
Chairman
Fish and Wildlife Commission

Certified to the Secretary of State October 19, 2015.

REASON: The sunrise-sunset requirement for ice shelter removal on Hauser Lake and Lake Helena was put in place when Kokanee salmon were abundant and it was a common practice to set up shelters and leave them for long periods of time which blocked access for others. Kokanee abundance is no longer a factor and the requirement limits angling hours and is no longer necessary. The commission is also proposing amending section (1)(a)(vi) to state Helena Valley Regulating (rather than Equalizing) Reservoirs, for clarity. The internal catchphrases are being stricken to meet the format requirements of the Secretary of State.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Department of Fish, Wildlife and Parks Fisheries Division, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail fwpfsh@mt.gov, and must be received no later than November 27, 2015.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Joel Tohtz at the above address no later than November 27, 2015.

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

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East 6th Street, Helena, Montana 59620-0701, or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site

may be unavailable during some periods, due to system maintenance or technical problems.

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

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

/s/ Aimee Fausser
Aimee Fausser
Rule Reviewer

/s/ Dan Vermillion
Dan Vermillion
Chairman
Fish and Wildlife Commission

Certified to the Secretary of State October 19, 2015.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the repeal of ARM)	NOTICE OF PROPOSED REPEAL
17.8.334, 17.8.335, and 17.8.772 pertaining)	
to emission standards for existing aluminum)	(AIR QUALITY)
plants--startup and shutdown, maintenance)	
of air pollution control equipment for)	NO PUBLIC HEARING
existing aluminum plants, and mercury)	CONTEMPLATED
allowance allocations under cap and trade)	
budget)	

TO: All Concerned Persons

1. On February 5, 2016, the Board of Environmental Review proposes to repeal the above-stated rules.

2. The board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Elois Johnson, Paralegal, no later than 5:00 p.m., November 9, 2015, to advise us of the nature of the accommodation that you need. Please contact Elois Johnson at the Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov.

3. The rules proposed for repeal are as follows:

17.8.334 EMISSION STANDARDS FOR EXISTING ALUMINUM PLANTS--STARTUP AND SHUTDOWN (AUTH: 75-2-111, 75-2-203, MCA; IMP: 75-2-203, MCA), located at page 17-334, Administrative Rules of Montana.

17.8.335 MAINTENANCE OF AIR POLLUTION CONTROL EQUIPMENT FOR EXISTING ALUMINUM PLANTS (AUTH: 75-2-111, MCA; IMP: 75-2-203, MCA), located at page 17-335, Administrative Rules of Montana.

17.8.772 MERCURY ALLOWANCE ALLOCATIONS UNDER CAP AND TRADE BUDGET (AUTH: 75-2-203, 75-2-204, 75-2-211, MCA; IMP: 75-2-211, MCA), located at page 17-469, Administrative Rules of Montana.

REASON: ARM 17.8.334, adopted by the board on February 26, 1982, established emission standards during startup and shutdown for existing aluminum reduction plants. Any plant not yet constructed and operating on that date is not "existing" and is not subject to this rule. The Columbia Falls Aluminum Company (CFAC) plant in Columbia Falls was the only existing aluminum reduction plant in Montana; it discontinued operations in 2009. Because there are now no existing aluminum reduction plants in Montana, no source is now or ever will be subject to ARM 17.8.334. Because there are no longer any existing aluminum reduction plants

in Montana, and no new plant will be subject to this rule, this rule is no longer necessary and should be repealed. If a new aluminum reduction plant is constructed in Montana, it will be subject to regulation under the federal new source performance standards in 40 CFR Part 60, subpart S, which is incorporated by reference in ARM 17.8.302(1)(a) and Montana's air quality permitting programs.

In addition, the federal Environmental Protection Agency (EPA) has determined that the provisions contained in this rule are impermissible because they interfere with enforcement of the federal Clean Air Act by providing an automatic exemption from applicable emission limitations during start-up, shutdown, and/or malfunction (SSM) events. To address this issue, on May 22, 2015, the EPA promulgated a State Implementation Plan (SIP) Call, finding that this rule makes Montana's SIP substantially inadequate to protect the National Ambient Air Quality Standards at all times, including during SSM events. The SIP Call requires Montana to correct or remove the specific provision from the SIP within 18 months after the SIP Call, which is by November 22, 2016. If the board repeals this rule, the Department of Environmental Quality (department) would then address the SIP Call by proposing to submit a proposal to the EPA to withdraw the rule from the SIP.

ARM 17.8.335, which also regulates existing primary aluminum reduction plants only, also applied only to the plant operated by CFAC, because it was the only existing such plant in Montana when the rule was adopted by the board on August 16, 2002. This rule allows exceedances of emission limits during necessary scheduled maintenance of air pollution control equipment at existing primary aluminum reduction plants. Before this rule was adopted, CFAC was required to apply to the board for a variance from rules governing emissions of air pollutants so the plant could continue to operate during maintenance of its control equipment. For the same reasons provided above for the repeal of ARM 17.8.334, this rule is no longer necessary or appropriate and should be repealed.

ARM 17.8.772 concerns the regulation of mercury-emitting electrical generating units through the creation and trading of mercury emissions allowances under a "cap-and-trade" program. The rule was adopted effective October 27, 2006, in response to the federal Clean Air Mercury Rule (CAMR). Promulgated in May 2005, CAMR established a federal mercury emissions trading budget and allowed states to adopt cap-and-trade rules modeled after EPA regulations. Montana's cap-and-trade allocations, described in ARM 17.8.772, anticipated legal challenges to CAMR. Due to litigation that began before adoption of the rule, ARM 17.8.772(4) states, "The department is not required to submit mercury allowance allocations if the federal Clean Air Mercury Rule (CAMR), adopted in 70 Fed. Reg. 28606 (May 18, 2005), is invalidated by a court of competent jurisdiction." Indeed, on February 8, 2008, the federal D.C. Circuit Court of Appeals vacated CAMR. As a result of that vacatur, there is no mercury trading budget in the federal regulations and no requirement for states to submit mercury allowance allocations under that budget. Under ARM 17.8.772(4), because the federal regulation was invalidated, Montana is not required to submit such allocations. Because there is no federal trading budget and there are no state allocations, the department has not been using or submitting such allocations and it will not do so in the future. As a result, the board is proposing to repeal the rule. The department will continue to regulate emissions from mercury-emitting electrical generating units under ARM 17.8.771.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov, no later than November 27, 2015. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov, no later than November 27, 2015.

6. If the board receives requests for a public hearing on the proposed action from either 10 percent 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 1 based on no persons affected by this rulemaking.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supply; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to Elois Johnson at ejohnson@mt.gov, or may be made by completing a request form at any rules hearing held by the department.

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

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

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL
QUALITY

/s/ John F. North

JOHN F. NORTH

Rule Reviewer

BY: /s/ Joan Miles

JOAN MILES, CHAIRMAN

Certified to the Secretary of State, October 19, 2015.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.17.103, 24.17.127, and) PROPOSED AMENDMENT AND
24.17.501, and the repeal of ARM) REPEAL
24.17.526, pertaining to prevailing)
wage rates for public works projects)

TO: All Concerned Persons

1. On November 20, 2015, at 10:00 a.m., the Department of Labor and Industry (department) will hold a public hearing in the second floor conference room (conference rooms A and B), 1805 Prospect Avenue, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on November 16, 2015, to advise us of the nature of the accommodation that you need. Please contact the Labor Standards Bureau, Employment Relations Division, Department of Labor and Industry, Attn: Mike Smith, P.O. Box 201503, Helena, MT 59620-1503; telephone (406) 444-1741; fax (406) 444-7071; TDD (406) 444-0532; or e-mail msmith3@mt.gov.

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

24.17.103 DEFINITIONS As used in this subchapter, the following definitions apply, unless the context of the rule clearly indicates otherwise:

(1) through (10) remain the same.

(11) "Dispatch city" is the courthouse in the city from the following list which is closest to the center of the job and within the same prevailing wage district, if any: Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, and Missoula.

(12) through (24) remain the same.

AUTH: 18-2-409, 18-2-431, 39-3-202, MCA

IMP: 18-2-402, 18-2-403, 18-2-411, 18-2-422, 39-3-201, 39-3-202, 39-3-203, 39-3-204, 39-3-205, 39-3-206, 39-3-207, 39-3-208, 39-3-209, 39-3-210, 39-3-211, 39-3-212, 39-3-213, 39-3-214, 39-3-215, 39-3-216, MCA

REASON: Reasonable necessity exists to modify this section to clarify that, for those prevailing wage rates which use prevailing wage districts, as created by 18-2-411, MCA, the dispatch city is the one listed which is within the same prevailing wage district.

24.17.127 ADOPTION OF STANDARD PREVAILING RATE OF WAGES

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

(e) The current building construction services rates are contained in the ~~2015~~ 2016 version of the "Montana Prevailing Wage Rates for Building Construction Services" publication.

(f) The current nonconstruction services rates are contained in the ~~2015~~ 2016 version of the "Montana Prevailing Wage Rates for Nonconstruction Services" publication.

(g) The current heavy construction services rates are contained in the ~~2015~~ 2016 version of the "Montana Prevailing Wage Rates for Heavy Construction Services" publication.

(h) The current highway construction services rates are contained in the ~~2015~~ 2016 version of the "Montana Prevailing Wage Rates for Highway Construction Services" publication.

(2) and (3) remain the same.

AUTH: 2-4-307, 18-2-409, 18-2-431, MCA

IMP: 18-2-401, 18-2-402, 18-2-403, 18-2-406, 18-2-411, 18-2-412, 18-2-413, 18-2-414, 18-2-415, 18-2-422, 18-2-431, MCA

REASON: There is reasonable necessity to update the prevailing wage rates for building construction services, heavy construction services, highway construction services, and nonconstruction services following the annual survey of wages that is provided for in 18-2-413, 18-2-414, and 18-2-415, MCA, respectively. The department surveys employers and applies the methodologies provided by ARM 24.17.119 through 24.17.122 to determine those prevailing wage rates.

24.17.501 PUBLIC WORKS CONTRACTS FOR CONSTRUCTION SERVICES SUBJECT TO PREVAILING RATES (1) and (2) remain the same.

(a) Examples of building construction include, but are not limited to, alterations and additions to buildings, apartment buildings (five stories and above), arenas (closed), auditoriums, automobile parking garages, banks and financial buildings, barracks, churches, city halls, civic centers, commercial buildings, court houses, detention facilities, dormitories, farm buildings, fire stations, hospitals, hotels, industrial ~~buildings~~ structures (buildings only), institutional buildings, libraries, mausoleums, motels, museums, nursing and convalescent facilities, office buildings, out-patient clinics, passenger and freight terminal buildings, police stations, post offices, power plants (buildings only), prefabricated buildings, remodeling buildings, renovating buildings, repairing buildings, restaurants, schools, service stations, shopping centers, stores, subway stations, theaters, warehouses, water and sewage treatment plants (buildings only), etc.

(b) through (4) remain the same.

(a) Heavy construction projects include, but are not limited to, antenna towers, bridges (major bridges designed for commercial navigation), breakwaters, caissons (other than building or highway), canals, channels, channel cut-offs, chemical complexes or facilities (other than buildings), cofferdams, coke ovens, dams, demolition (not incidental to construction), dikes, docks, drainage projects, dredging projects, electrification projects (outdoor), fish hatcheries, flood control

projects, industrial structures (other than buildings), industrial incinerators (other than buildings), irrigation projects, jetties, kilns, land drainage (not incidental to other construction), land leveling (not incidental to other construction), land reclamation, levees, locks and waterways, oil refineries (other than buildings), pipe lines, ponds, power plants (other than buildings), pumping stations (prefabricated drop-in units—not buildings), railroad construction, reservoirs, revetments, sewage collection and disposal lines, sewers (sanitary, storm, etc.), shoreline maintenance, ski tows, storage tanks, swimming pools (outdoor), subways (other than buildings), tipples, tunnels, unsheltered piers and wharves, viaducts (other than highway), water mains, waterway construction, water supply lines (not incidental to building), water and sewage treatment plants (other than buildings) and wells.

AUTH: 18-2-431, MCA

IMP: 18-2-401, 18-2-402, 18-2-403, MCA

REASON: Reasonable necessity exists to amend this rule to provide clarification to utilizing parties as to the proper classification for particular projects, particularly when project work is closely related to multiple classifications.

4. The department proposes to repeal the following rule:

24.17.526 PROJECTS OF A MIXED NATURE

AUTH: 18-2-431, MCA

IMP: 18-2-401, 18-2-402, 18-2-403, MCA

REASONS: There is reasonable necessity to repeal this rule because it conflicts with the current 18-2-418, MCA, adopted by the Montana Legislature in 2013. That statute requires that jobs be classified based upon the preponderance of work being done. It therefore does not permit mixed nature jobs or jobs with multiple wage rate classifications.

5. Copies of the proposed 2016 publications, identified as "preliminary building construction rates," "preliminary highway construction rates," "preliminary heavy construction rates," and "preliminary nonconstruction rates" are available and can be accessed online at: <http://erd.dli.mt.gov/labor-standards>.

6. A printed version of the proposed 2016 publications is also available by contacting Mike Smith at the address, e-mail, or telephone numbers listed in paragraph 2 of this notice.

7. 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: Labor Standards Bureau, Employment Relations Division, Department of Labor and Industry, Attn: Mike Smith, P.O. Box 201503, Helena, MT 59620-1503; fax (406) 444-7071; TDD (406) 444-0532; or e-mailed to msmith3@mt.gov, and must be received no later than 5:00 p.m., November 30, 2015.

8. An electronic copy of this notice of public hearing is available through the department's web site at <http://dli.mt.gov/events/calendar.asp>, under the Calendar of Events, Administrative Rules Hearings 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 web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that a person's difficulties in sending an e-mail do not excuse late submission of comments.

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

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

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules may significantly and directly impact small businesses. The proposed amendments will have an impact on some, but not all, small businesses (those with less than 50 full-time employees). The proposed amendments directly affect the wages that must be paid for work on Montana public works contracts. The types of businesses affected are primarily those in the construction industry, but only affect those businesses that perform (or seek to perform) work on public works projects. In addition, there are businesses that provide certain types of nonconstruction services to state and local government agencies that are subject to payment of the prevailing wage rate. The types of nonconstruction service businesses that potentially are subject to the award of a public works contract are listed in 18-2-401(9), MCA.

There is no single effect on small businesses as a result of the proposed amendments. Some employers may have to pay higher wages as a result of changes to the prevailing wage rates; other employers may have a wage structure that is the same as or higher than the prevailing wage rate. Historically, some employers have stated that the prevailing wage rates are set too high, while other employers have stated that the rates are too low. In certain cases the difference

between the established prevailing wage rate and the employer's customary wage rate may be significant, but it is unclear whether that difference will result in a significant change to the profitability of any given small business, as there are many other economic factors at play.

Montana law requires that prevailing wage rates be set following an annual survey of wages. There is an established statutory and administrative formula that establishes the prevailing wage rate for each work classification, based on the data and information gathered. The alternative to amending the wage rates is to not amend the rate, thus freezing the wage rate at the last-adopted level. Some employers would probably be adversely affected by the failure to adopt new prevailing wage rates. The department believes that under either alternative, some small businesses will be adversely affected by the selected alternative. The small businesses likely to be adversely affected by adoption of new rates are probably not the same as those that are likely to be adversely affected by not adopting new rates.

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

13. The department proposes to make the above amendments and repeal effective on January 2, 2016, in order to coincide with the start of the calendar year. The department believes there is reasonable necessity to propose the changes now so that interested parties have further opportunity to review them prior to them becoming effective. The department reserves the right to make the proposed amendments effective on a different date, or to not make the proposed changes.

/s/ MARK CADWALLADER

Mark Cadwallader
Alternate Rule Reviewer

/s/ PAM BUCY

Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 19, 2015.

BEFORE THE BOARD OF RADIOLOGIC TECHNOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.204.401 and 24.204.404	)	PROPOSED AMENDMENT AND
fees, 24.204.409 military training,	)	REPEAL
24.204.507 course requirements for)	
limited permit applicants, and)	
24.204.607 code of ethics, and the)	
repeal of 24.204.2115 renewals)	

TO: All Concerned Persons

1. On November 19, 2015, at 9:00 a.m., a public hearing will be held in the 4th floor large conference room, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Radiologic Technologists (board) no later than 5:00 p.m., on November 13, 2015, to advise us of the nature of the accommodation that you need. Please contact Jason Steffins, Board of Radiologic Technologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdrts@mt.gov (board's e-mail).

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

24.204.401 FEE SCHEDULE (1) remains the same.

(a) Application fee - radiologic technologist (includes temporary permit if requested)	\$ 60 <u>100</u>
(b) Original license fee	30
(c) <u>(b)</u> Renewal license fee - radiologic technologist	50 <u>75</u>
(d) remains the same but is renumbered (c).	

AUTH: 37-1-131, 37-1-134, 37-14-202, MCA

IMP: 37-1-134, 37-1-141, 37-14-305, 37-14-306, MCA

REASON: The board determined it is reasonably necessary to increase application and renewal fees in this rule and ARM 24.204.404 to comply with 37-1-134, MCA, and ensure that board fees provide the amount of money usually needed for the operation of the board for its services. Costs associated with board programs, including rent, staffing and legal costs, contractor fees for board inspections, etc. have increased over the past 15 years. In providing administrative

services to the board, the department has advised that unless licensure fees are increased as proposed, the board will have a shortage of operating funds by the end of fiscal year 2016. The board has not increased fees since 2000.

The board proposes to increase efficiencies in new application processing in both rules by eliminating separate fees for original licenses for radiology technologist licensees and permit holders. The board is amending both rules to combine application and renewal fees into a single application fee with a slight overall fee increase.

The board estimates that the proposed increase in fees will affect approximately 1,560 licensees and applicants, and increase annual revenue by approximately \$36,035.

Authority citations in ARM 24.204.404 are being amended to accurately reflect the complete sources of the board's rulemaking authority.

24.204.404 PERMIT FEES

(1) Application fee	\$45 <u>100</u>
(2) remains the same.	
(3) Original license fee	40
(4) (3) Renewal fee	40 <u>60</u>
(5) remains the same but is renumbered (4).	

AUTH: 37-1-131, 37-1-134, 37-14-202, ~~37-14-306~~, MCA

IMP: 37-1-134, 37-1-141, 37-14-305, 37-14-306, MCA

24.204.409 MILITARY TRAINING OR EXPERIENCE (1) and (2) remain the same.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a radiologic technologist. At a minimum, satisfactory evidence ~~shall include~~ includes:

(a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);

(b) through (4) remain the same.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: The board has been advised that certain military personnel (i.e., reservists and national guardsmen who have never been activated) do not receive a DD 214 form upon discharge. The board is amending this rule to allow applicants who wish to have the board consider evidence of relevant military training, service, or education for licensing purposes to submit alternative discharge documentation.

24.204.507 COURSE REQUIREMENTS FOR LIMITED PERMIT APPLICANTS (1) through (1)(b) remain the same.

(2) The course shall be ~~56~~ a minimum of 104 hours in length and ~~consist of the following~~ shall include:

- (a) through (3) remain the same.
- (a) chest - minimum four hours, and passing competencies - ten actual;
- (b) extremities - minimum eight hours, and passing upper extremities competencies - five actual and passing lower extremities competencies - five actual;
- (c) spine - minimum eight hours, and passing competencies - ten actual;
- (d) skull - minimum eight hours, and passing competencies - ten, all of which ~~five~~ may be simulated;
- (e) abdomen - minimum four hours, and passing competencies - ten actual;
- (f) GI tract and associated overhead films - eight hours, and passing competencies - ten, all of which may be simulated; and
- (g) positioning - minimum eight hours, and passing competencies - ten actual.
- (4) through (8) remain the same.

AUTH: 37-1-131, 37-14-202, MCA
IMP: 37-14-301, 37-14-306, MCA

REASON: The board is amending this rule to address instructor and applicant questions by specifying the total number of minimum required hours as 104 hours in sum for course work and competencies. For the same reasons, the board is also amending this rule to clearly identify that the rule articulates minimum standards per competencies, which must be met to fulfill coursework and competency requirements.

The board is amending (3)(d) to change competencies required for skull x-ray techniques from actual to simulated x-ray evaluations. The board concluded this change is necessary to address concerns that opportunities available for applicants to fulfill the requirement for actual competencies are limited and that the requirement is impractical and prevents otherwise qualified applicants from meeting licensure requirements.

24.204.607 CODE OF ETHICS (1) The board adopts and incorporates by reference the August 1, ~~2008~~ 2013 edition of the code of ethics by the American Registry of Radiologic Technologists (ARRT).

(2) through (4) remain the same.

AUTH: 37-1-131, 37-14-202, 37-14-313, MCA
IMP: 37-1-131, 37-14-313, MCA

REASON: The board determined it is reasonably necessary to amend (1) to adopt and incorporate by reference the most recently published version of the ARRT code of ethics.

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

24.204.2115 RENEWALS found at ARM page 24-23195.

AUTH: 37-1-141, 37-14-202, MCA

IMP: 37-1-141, MCA

REASON: The board determined it is reasonably necessary to repeal the rule because it is redundant to provisions in department rule and therefore unnecessary.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Radiologic Technologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdrts@mt.gov, and must be received no later than 5:00 p.m., November 27, 2015.

6. An electronic copy of this notice of public hearing is available at www.radiology.mt.gov (department and board's web site). The department strives to make the electronic copy of this 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 web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

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

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

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.204.401, 24.204.404, 24.204.409, 24.204.507, and 24.204.607 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.204.2115 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Radiologic Technologists, 301 South Park Avenue, P.O. Box

200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdrts@mt.gov (board e-mail).

10. Graden Hahn, attorney, has been designated to preside over and conduct this hearing.

BOARD OF RADIOLOGIC
TECHNOLOGISTS
MIKE NIELSEN, RPA, BOARD CHAIR

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

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 19, 2015

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

In the matter of the amendment of	)	AMENDED NOTICE OF PROPOSED
ARM 37.86.2803, 37.86.3001,	)	AMENDMENT
37.86.3002, and 37.86.3003)	
pertaining to the addition of lactation)	
services to Medicaid outpatient)	
hospital services)	

TO: All Concerned Persons

1. On October 15, 2015, the Department of Public Health and Human Services published MAR Notice No. 37-725 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1661 of the 2015 Montana Administrative Register, Issue Number 19.

2. As originally scheduled, on November 4, 2015, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana. The department is extending the comment period to November 19, 2015.

3. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on November 2, 2015, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena MT 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

4. Two sections of information were inadvertently left out of the original MAR notice. One of these sections helps describe why these proposed amendments are needed and will be added to the statement of reasonable necessity. The other section pertains to the performance-based measurement requirement of 53-6-196, MCA, and will be added to paragraph 11.

5. The "statement of reasonable necessity" will remain the same except for the addition of the following new text after the second paragraph of the statement of reasonable necessity under ARM 37.86.3002:

Montana currently offers only very limited coverage for lactation services. Outpatient hospital and physician systems currently allow reimbursement of lactation services only for normal pre- or postnatal appointments with patients' obstetrical provider.

Lactation consults at the time of delivery are currently bundled into the inpatient payment for all hospitals.

The department proposes expanding coverage of and payment for outpatient lactation support for members (mother and child) through breastfeeding education and consults with certified lactation providers because evidence indicates doing so will decrease the risk of health care issues for children and mothers and reduce the formula cost for eligible members under WIC and SNAP. A 2011 Surgeon General report indicates that compared with breastfed children, non-breastfed children experienced higher percentage risks of:

- childhood obesity (32%);
- type 2 diabetes (64%); and
- sudden infant death syndrome (56%).

A 2011 Surgeon General's Call to Action to Support Breastfeeding indicated mothers who have never breastfed experience higher percentage risk of:

- breast cancer (4%); and
- ovarian cancer (27%).

Cigna Insurance Company reports by increasing their coverage of lactation services they save an estimated \$240,000 annually in women's health care expenses.

6. The department has determined that with the exception of the proposed program changes presented in this notice related to the reference in ARM 37.86.3001(15) and 37.86.3002(2)(f) to the addition of lactation services as a service it will cover on an outpatient basis, the changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measurements requirement of 53-6-196, MCA.

The outcomes related to the addition of lactation services as a service the department will cover on an outpatient basis under ARM 37.86.3001(15) and 37.86.3002(2)(f) will be measured by:

- measuring the number of Medicaid women who receive outpatient lactation services yearly;
- measuring the number of breast pump rentals for Medicaid members yearly;
- comparing the 2016 breastfeeding rates at time of discharge, three months, and six months to the 2014 Breastfeeding Report Card by the Centers for Disease Control and Prevention (CDC) for increases in these rates; and
- comparing the 2015 WIC and SNAP formula expenditures for any county in which a Baby-Friendly Facility provides service to the 2016 WIC and SNAP formula expenditures.

7. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, and arguments may also be submitted to: Kenneth Mordan, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210, no later than 5:00 p.m. on November 19, 2015. Comments may also be faxed to (406) 444-9744 or e-mailed to dphhslegal@mt.gov. The department has extended the comment period seven days.

/s/ Francis X. Clinch
Francis X. Clinch, Attorney
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State October 19, 2015.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.85.105 and 37.86.1807) PROPOSED AMENDMENT
pertaining to Effective Dates of)
Montana Medicaid Provider Fee)
Schedules)

TO: All Concerned Persons

1. On November 19, 2015, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on November 12, 2015, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID PROVIDER FEE SCHEDULES (1) and (2) remain the same.

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

(a) and (b) remain the same.

(c) The hearing aid services fee schedule, as provided in ARM 37.86.805, is effective ~~July 1, 2015~~ January 1, 2016.

(d) The Relative Values for Dentists, as provided in ARM 37.86.1004, reference published in 2015 resulting in a dental conversion factor of \$33.18 and fee schedule is effective ~~July 1, 2015~~ January 1, 2016.

(e) through (k) remain the same.

(l) Montana Medicaid adopts and incorporates by reference the Region D Supplier Manual, ~~December 2014~~ January 2016, which outlines the Medicare coverage criteria for Medicare covered durable medical equipment, local coverage determinations (LCDs), and national coverage determinations (NCDs) as provided in ARM 37.86.1802, effective ~~July 1, 2015~~ January 1, 2016. The prosthetic devices,

durable medical equipment, and medical supplies fee schedule, as provided in ARM 37.86.1807, is effective ~~July 1, 2015~~ January 1, 2016.

(m) through (o) remain the same.

(p) The ambulance services fee schedule, as provided in ARM 37.86.2605, is effective ~~July 1, 2015~~ January 1, 2016.

(q) and (r) remain the same.

(s) The optometric fee schedule provided in ARM 37.86.2005, is effective ~~July 1, 2015~~ January 1, 2016.

(4) through (6) remain the same.

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

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

37.86.1807 PROSTHETIC DEVICES, DURABLE MEDICAL EQUIPMENT, AND MEDICAL SUPPLIES, FEE SCHEDULE (1) and (2) remain the same.

(3) The department's DMEPOS Fee Schedule for items other than those billed under generic or miscellaneous codes as described in (1) will include fees set and maintained according to the following methodology:

(a) 100% of the Medicare region D allowable fee; or

(b) When there is no Medicare region D allowable fee established, 100% of the Medicaid allowable fee established by the department;

~~(b)~~ (c) Except as provided in (4), for all items for which no Medicare or Medicaid allowable fee is available, the department's fee schedule amount will be 75% of the provider's usual and customary charge.

(i) For purposes of (3)~~(b)~~(c) and (4), the amount of the provider's usual and customary charge may not exceed the reasonable charge usually and customarily charged by the provider to all payers.

(A) through (4) remain the same.

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, ~~53-6-144~~, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing the amendment of ARM 37.85.105 and 37.86.1807 pertaining to updating effective dates of Montana Medicaid provider fee schedules.

Medicare implements updates to procedure codes in January every year that reflect any new code additions, code deletions, or changes to existing codes descriptions. Several Montana Medicaid programs utilize Medicare pricing for some procedure codes and when codes are deleted or added. These proposed amendments to rules are necessary because Montana Medicaid programs must stay current and compliant with the Medicare procedure code updates.

The amendments also propose to implement a change to fees for incontinence supplies and to add two new dental preventative procedure codes for adults, both of

which proposed changes should result in lower overall costs for incontinence supplies and for dental services.

ARM 37.85.105

The department is proposing to change the fee schedule effective date in (3)(c), (3)(d), (3)(l), (3)(p), and (3)(s) from July 1, 2015 to January 1, 2016 to reflect the current procedure codes and reimbursement amount for codes that are reimbursed with a resource-based relative value scale (RBRVS) Medicare methodology. These amendments will permit the department to update fee schedules to reflect the most current Medicare fees, additions, deletions, or changes to procedure codes. The department is proposing to change the fee schedule effective date in (3)(d) from July 1, 2015 to January 1, 2016 to reflect the addition of two new dental preventive procedure codes for adults. The department decided to add the dental procedure codes to the fee schedule based on recommendations from the Montana Dental Association that these procedure codes are evidence-based in the prevention of dental caries.

ARM 37.86.1807

When Medicare releases the code file with deletions, additions, and changes to descriptions with a January effective date, the department reviews this file and applies any of the changes to the program fee schedules that utilize Medicare fees codes. The department also reviews the new codes if they replace deleted ones or are in addition to existing codes currently covered. The department examines and makes appropriate changes to any descriptions of codes that may have resulted with the release of the file. Once this review and changes to the fee schedule are made, the program staff will release a current durable medical equipment fee schedule with a January 2016 effective date and change the date in the corresponding program's rule.

The department is proposing to add a new (3)(b) to reflect that when Medicare does not establish an allowable fee, the department will pay durable medical equipment (DME) items at 100% of the fee that is established by the department. Except for incontinence supplies, the department has already established fees and these fees have been published in the department's fee schedule for durable medical equipment. Thus, the proposed change will have no substantive impact on fees for these items.

However, for incontinence supplies, the department has determined that it is overpaying for incontinence supplies. In a comparison of Montana's average reimbursement to the average reimbursement rate of 15 other states, who have a set fee schedule rate, Montana's overall reimbursement rate is higher than all states except Indiana. Idaho and Wyoming both use a specific fee-for-service rate for the same services as Montana and those states are reimbursing at an average rate of 25.68% less than Montana.

From this comparison, it was determined that Montana Medicaid should change to a set rate fee schedule for incontinence supplies and to use an average of the Idaho and Wyoming fee schedules as these states are very similar in their rural nature as Montana. The proposed fee schedule can be found online at <http://medicaidprovider.mt.gov/enduserproposedfs>.

5. The department intends to adopt these rules as effective on January 1, 2016.

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: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., November 27, 2015.

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

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

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

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

12. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies,

make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

With the exception of the proposed change to ARM 37.85.105(3)(d) to add dental preventative procedure codes and to 37.86.1807(3)(b) as applied to incontinence supplies, the department has determined that the proposed program changes presented in this notice are not subject to the requirement for performance-based measures because the changes either implement federal requirements or do not impact the fee that the department has already established for durable medical equipment for which Medicare has not established a fee.

The proposed addition of dental preventative procedure codes can be assessed by performance-based measures. The effectiveness of the proposed addition will be measured by:

1. Calculating the cost of dental caries treatment in the year following adoption of the proposed change;
2. Calculating the cost of dental caries treatment in the year prior to the adoption of the proposed change;
3. Comparing the two numbers, adjusting for any differences between the volume of claims between the two years.

The department would expect to see a savings in the amount of Medicaid funds paid out for claims for dental caries treatment.

The proposed change in the payment method for incontinence supplies can be assessed by performance-based measures. The effectiveness of the proposed change in payment method will be measured by:

1. Calculating the amount the department pays for claims for incontinence supplies in the year following adoption of the proposed change;
2. Calculating the amount the department paid for claims for incontinence supplies in the year prior to the adoption of the proposed change;
3. Comparing the two numbers, adjusting for any differences between the volume of claims between the two years.

The department would expect to see a savings in the amount of Medicaid funds paid out for claims for incontinence supplies.

/s/ Susan Callaghan

/s/ Richard H. Opper

Susan Callaghan, Attorney
Rule Reviewer

Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State October 19, 2015.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.79.304 and 37.79.326) PROPOSED AMENDMENT
pertaining to Healthy Montana Kids)
(HMK)/CHIP dental benefits and)
evidence of coverage)

TO: All Concerned Persons

1. On November 18, 2015, at 2:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on November 10, 2015, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.79.304 SERVICES COVERED (1) The department adopts and incorporates by reference the HMK Evidence of Coverage dated ~~July 1, 2015~~ January 1, 2016, which is available on the department's web site at www.hmk.mt.gov.

(2) remains the same.

AUTH: 53-4-1009, 53-4-1105, MCA

IMP: 53-4-1005, 53-4-1109, MCA

37.79.326 DENTAL BENEFITS (1) remains the same.

(2) Providers must bill for services using the procedure codes and modifiers set forth, and according to the definitions contained in the American Dental Association Manual of Current Dental Terminology (CDT ~~2014~~ 2016).

(3) ~~The following procedures are not Effective January 1, 2016, only the dental procedures listed at <http://dphhs.mt.gov/HMK/HMKDental.aspx> are a benefits of the HMK coverage group Dental Program.~~ :

~~(a) D5900 through D5999 maxillofacial prosthetics;~~

- ~~(b) D7610 through D7780 treatment of fractures;~~
 - ~~(c) D7940 through D7999 other repair procedures; and~~
 - ~~(d) D8000 through D8999 orthodontics.~~
- (4) through (6) remain the same.

AUTH: 53-4-1004, 53-4-1005, 53-4-1009, 53-4-1105, MCA

IMP: 53-4-1003, 53-4-1004, 53-4-1005, 53-4-1009, 53-4-1104, 53-4-1105, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Centers for Medicare and Medicaid Services (CMS) approved the Montana Medicaid state plan (and the CHIP state plan contained within) citing the requirement for the Department of Public Health and Human Services Healthy Montana Kids (HMK)/CHIP program (department) to adopt an operational benchmark for its HMK dental program, such as the State of Montana Employee Dental Benefit Plan. The department proposes to follow the Employee Dental Benefit Plan as the benchmark for the HMK dental program, as required in the approved CMS state plan.

As a part of the department modeling the Employee Dental Benefit Plan, the department proposes to amend ARM 37.79.304 regarding the effective date of a proposed revised HMK Evidence of Coverage (EOC), which is adopted and incorporated by reference in the rule. The proposed revised EOC, effective January 1, 2016, can be located at the current HMK web site listed in (1).

The department also proposes to amend ARM 37.79.326 to remove dental procedure codes that will not be covered under the HMK dental program from administrative rule as covered procedures will be listed on the department's web site only at <http://dphhs.mt.gov/HMK/HMKDental>.

Lastly, the department desires to use this rulemaking opportunity to further amend the EOC for other HMK/CHIP state plan purposes, to include folic acid as a covered over-the-counter medication.

The proposed amendments to the EOC described in ARM 37.79.304 are as follows:

1. Revise language on page 22 to clarify that prior authorization is required for hospital-administered dental anesthesia for children over age 6.
2. Make general housekeeping revisions on pages 10 and 22 to improve general readability of the EOC; and
3. Amend page 34 of the EOC for the above-described inclusion of folic acid as a covered over-the-counter medication.

The EOC amendments described in #1 are necessary because the age limit will be further clarified to determine necessity for prior authorization. Based on its periodic

review of the EOC, the department contends the amendments in #2 are necessary to clarify EOC provisions and generally improve the text contained in the EOC. The EOC amendments described in #3 for the HMK/CHIP state plan are proposed and are deemed necessary at this time because scientific data indicates preconception folic acid supplementation for expectant mothers prevents 69 percent of recurrent fetal neural tube defects and folic acid is already covered as a prescription drug. The proposed addition of folic acid also follows the department's efforts to review continually pharmacy benefits for beneficial changes.

As for the proposed amendments to ARM 37.79.326, the department proposes to:

1. Revise (2) to reflect the department's proposed use of 2016 Current Dental Terminology (CDT) code book reference from the 2014 version.
2. Revise (3) to change those dental procedure codes that are not covered by the HMK dental program to include only those dental procedure codes listed at the department's web site.

The amendment for the updated reference of the CDT code book is necessary because CDT codes change frequently, as does the HMK dental program's acceptance of those codes. Adopting the most current reference will keep the department and its providers compliant with federal requirements and industry standards.

The proposed changes to (3) are necessary because the list of covered dental procedure codes is too lengthy to include in administrative rule and the removal will eliminate procedures such as dental hygiene instructions and nutritional counseling, which are not part of the benchmark plan.

The result of adopting the proposed amendments will enable the department and the HMK dental program to function like the Employee Dental Benefit Plan. As the Employee Dental Benefit Plan issues revised covered procedure codes lists each January 1, the department will be able to review this list and apply changes (new, deleted, or revised codes) to its operation of the HMK dental program.

Fiscal Impact

The proposed rule changes pertaining to CDT codes and the department's adoption of the Employee Dental Benefit Plan benchmark may affect an estimated 456 dental providers and 32,597 HMK members. The proposed dental procedure code changes should have no fiscal impact at this time.

The folic acid addition to the EOC affects approximately 40 HMK-enrolled teens each year who give birth. The folic acid addition should be budget neutral as this preventive drug is effective in preventing certain birth defects.

5. The department intends to adopt these new rules effective January 1, 2016.

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: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., November 27, 2015.

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

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

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

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

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

The department has determined that the proposed program changes presented in this notice are not subject to the performance-based measures requirement of 53-6-196, MCA, as they implement a federal Medicaid requirement.

/s/ Susan Callaghan
Susan Callaghan, Attorney
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State October 19, 2015.

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

In the matter of the adoption of New)
Rules I through X pertaining to the)
implementation of the Montana health)
and economic livelihood partnership)
(HELP) program)

NOTICE OF PUBLIC HEARING ON
PROPOSED ADOPTION

TO: All Concerned Persons

1. On November 18, 2015, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on November 10, 2015, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

NEW RULE I HELP PROGRAM: PURPOSE (1) The purpose of this subchapter is to implement the Montana Health and Economic Livelihood Partnership Act (HELP Act) enacted by the 64th Montana Legislature, Ch. 368, L. 2015 MT.

AUTH: 53-2-215, 53-6-113, 53-6-1305, 53-6-1318, MCA
IMP: 53-2-215, 53-6-101, 53-6-113, 53-6-131, 53-6-1302, 53-6-1303, 53-6-1304, 53-6-1305, 53-6-1306, 53-6-1307, MCA

NEW RULE II HELP PROGRAM: DEFINITIONS (1) "Advance Benefit Notice (ABN)" means a notice that providers give to the participant when they have determined that a service or item is a noncovered benefit of the Health and Economic Livelihood Partnership (HELP) Program. The ABN provides notice to the participant that the participant is responsible for the full payment of the particular service.

(2) "Advanced practice registered nurse (APRN)" means a registered professional nurse who has completed educational requirements related to the

nurse's specific practice role, in addition to basic nursing education, as specified by the Board of Nursing in ARM 24.159.1414.

(3) "American Indian and Alaska Native" means an American Indian, Alaska Native, or other individual who is eligible for health services through the Indian Health Service, tribes and tribal organizations, or urban Indian organizations.

(4) "Benefit year" means the state fiscal year from July 1 through June 30.

(5) "Benefits" means the services a participant is eligible to receive. The HELP Program benefits are stated in its Evidence of Coverage.

(6) "Copayment" means a predetermined portion of the cost for a health care service or item that is owed by the participant directly to a provider for a covered health care service.

(7) "Cost Share" means the total of premium and copayment costs in relation to the delivery of health care services to the participant that are the responsibility of the participant to pay.

(8) "Department" means the Montana Department of Public Health and Human Services.

(9) "Early and periodic screening, diagnostic, and treatment (EPSDT) services" means services as defined in ARM Title 37, chapter 86, subchapter 22.

(10) "Emergency medical condition" means a medical condition manifesting itself with acute symptoms of sufficient severity, including severe pain, such that a prudent layperson could reasonably expect the absence of immediate medical attention to result in any of the following:

(a) serious jeopardy to the health of the participant or the participant's unborn child;

(b) serious impairment of bodily function; or

(c) serious dysfunction of any bodily organ or part.

(11) "Evidence of Coverage (EOC)" means a document that explains covered services, defines the plan's obligations, and explains the rights and responsibilities of the plan participant.

(12) "Experimental and unproven" means any drug, device, treatment, or procedure that meets any of the following criteria:

(a) prescription drugs not approved by the Food and Drug Administration (FDA) to be lawfully marketed for the proposed use, and it is not identified in the American Hospital Formulary Service, the AMA Drug Evaluation, or the Pharmacopoeia as an appropriate use;

(b) it is subject to review or approval by an institutional review board (meaning that a hospital considered it experimental and put it under review to meet federal regulations, or review is required and defined by federal regulations, particularly those of the FDA or U.S. Department of Health and Human Services);

(c) it is the subject of an ongoing clinical trial that meets the definition of a Phase 1, 2, or 3 clinical trial set forth in FDA regulations, regardless of whether it is an FDA trial;

(d) it has not been demonstrated through prevailing, peer-reviewed medical literature to be safe and effective for treating or diagnosing the condition or illness for which its use is proposed;

(e) the predominant opinion among experts as expressed in the published authoritative literature is that further research is necessary in order to define safety,

toxicity, and effectiveness (or effectiveness compared with conventional alternatives), or that usage should be substantially confined to research settings;

(f) it is not a covered benefit under Medicare, as determined by the Centers for Medicare and Medicaid Services (CMS), because it is considered experimental, investigational, or unproven;

(g) it is experimental, investigational, unproven, or not a generally acceptable medical practice in the predominate opinion of independent experts utilized by the administrator of each plan; or

(h) it is not experimental or investigational in itself pursuant to the above and would not be medically necessary, but it is being provided in conjunction with the provision of a treatment, procedure, device, or drug which is experimental, investigational, or unproven.

(13) "Eyeglasses" mean corrective lens, frames, or both prescribed by an ophthalmologist or by an optometrist to improve vision.

(14) "Federal poverty level (FPL)" means the poverty income guidelines published annually in the Federal Register by the U.S. Department of Health and Human Services.

(15) "Federally Qualified Health Center (FQHC)" means an entity as defined in 42 USC 1396d(l)(2)(B) (2015) and 42 CFR, part 491, subpart A (2015).

(16) "Health and economic livelihood partnership (HELP) program" means a Medicaid coverage program for persons as authorized at Title 53, chapter 6, part 13, MCA, and as implemented in accordance with that part, 53-2-215, MCA, 42 U.S.C. 1315 (2015), 42 U.S.C. 1396d(y) (2015), and other applicable state and federal authorities for those persons who are eligible for the HELP Program as authorized under 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) (2015), exclusive of those individuals exempt pursuant to 53-6-1305(3), MCA, and served under Title 53, chapter 6, part 1, MCA.

(17) "Indian Health Service (IHS)" means an agency within the U.S. Department of Health and Human Services that is responsible for providing federal health services to American Indians and Alaska Natives.

(18) "Inpatient hospital services" means services that are ordinarily furnished in an acute care hospital for the care and treatment of a patient under the direction of a physician, dentist, or other practitioner as permitted by federal law. The facility must:

(a) be licensed or formally approved as an acute care hospital by the officially designated authority in the state where the institution is located; and

(b) except as otherwise permitted by federal law, meet the requirements for participation in Medicare as a hospital and have in effect a utilization review plan that meets the requirements of 42 CFR 482.30 (2015).

(19) "Medicaid state plan benefit" means the Medicaid services described in ARM Title 37, chapter 86.

(20) "Medically frail" means individuals defined in 42 CFR 440.315(f) (2015).

(21) "Medically necessary" or "medically necessary covered services" means services and supplies that are necessary and appropriate for the diagnosis, prevention, or treatment of physical or mental conditions as specified in the HELP Program Evidence of Coverage provided in [New Rule IV].

(22) "Modified adjusted gross income (MAGI)" means income determined in accordance with 42 U.S.C. 1396a(e)(14) (2015) and 42 CFR 435.603(d)(4) (2015).

(23) "Nonemergency transportation service" means travel furnished by a licensed motor carrier or by a private vehicle.

(a) Nonemergency transportation service does not include ambulance services.

(b) A motor carrier operated by the Indian Health Service (IHS) or by a federally recognized Indian Tribe, which meets all applicable standards for a class B public service commission license, need not be licensed for the purposes of this subchapter.

(24) "Outpatient hospital services" means preventive, diagnostic, therapeutic, rehabilitative, or palliative services provided to an outpatient by or under the direction of a physician, dentist, or other practitioner as permitted by federal law. The facility must:

(a) be licensed or formally approved as a hospital by the officially designated authority in the state where the institution is located; and

(b) except as otherwise permitted by federal law, meet the requirements for participation in Medicare as a hospital.

(25) "Participant" means an individual who is eligible for and enrolled with the HELP Program and who can receive covered benefits as determined by the department under this subchapter or 42 U.S.C. 1396a. An individual who meets the criteria of 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) (2015) is eligible to be a participant. An individual is not a participant while an eligibility hearing decision is pending or during any period a hearing officer determines the individual was not eligible for HELP Program coverage benefits.

(26) "Participating provider" means a health care professional or facility that is enrolled in the HELP Program.

(27) "Physician assistant (PA)" means a mid-level practitioner as defined in ARM 37.86.202.

(28) "Premium" means a fee owed by an individual as a participant in the HELP Program.

(29) "Preventative health care services" means routine health care that includes screenings, checkups, and patient counseling to prevent illnesses, disease, or other health problems, including secondary and tertiary preventive care.

(30) "Qualifying life event" is a change in a participant's life that allows them to change benefit plans, examples are pregnancy and the onset of a disability.

(31) "Rural health clinic (RHC)" means a clinic determined by the U.S. Department of Health and Human Services to meet the rural health clinic conditions of certification specified in 42 U.S.C. 1396d(l)(1) (2015) and 42 CFR, part 491, subpart A (2015).

(32) "Third party administrator (TPA)" means an entity with a certificate of registration to conduct business in Montana in accordance with 33-17-603, MCA. TPA services include, but are not limited to, claims processing, maintaining an adequate network of participating providers, coordination and continuation of care, health education, notices, quality assurance, reporting, case management services, and customer service.

(33) "Tribal health services" means a facility or location owned and operated by a federally recognized American Indian Tribe or tribal organization under a P.L. 93-638 agreement, which provides diagnostic, therapeutic (surgical and nonsurgical), and rehabilitation services to tribal members either in an inpatient or outpatient setting.

(34) "Wellness program" means a program implemented to improve the health of participants by providing services focused on the promotion or maintenance of good health.

(35) "Workforce program" means a program developed and administered by the Department of Labor and Industry that includes employment assessment and workforce development opportunities to participants.

AUTH: 53-2-215, 53-6-113, 53-6-1305, 53-6-1318, MCA

IMP: 53-2-215, 53-6-101, 53-6-113, 53-6-131, 53-6-1304, 53-6-1305, 53-6-1306, 53-6-1307, MCA

NEW RULE III HELP PROGRAM: ELIGIBILITY FOR COVERAGE (1) An individual qualifies for Medicaid coverage under the HELP Program if the person is a Montana resident who meets the eligibility criteria for Medicaid expansion coverage as authorized at 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) (2015).

(2) HELP Program coverage, as specified in (1), is inclusive of a person who is over the age of 19 and under the age of 65 who has a modified adjusted gross income at or below 138% of FPL as appropriate to the household size and who is not:

- (a) pregnant at the time of enrollment;
- (b) entitled to or enrolled in Medicare;
- (c) disabled as determined for purposes of social security;
- (d) in one of the other categories for Medicaid coverage that are excluded from Medicaid expansion coverage by the language of the federal statute; or
- (e) receiving coverage through the standard Medicaid state plan as a person who is:
 - (i) medically frail;
 - (ii) an American Indian or Native Alaskan; or
 - (iii) excluded otherwise by federal law.

AUTH: 53-2-215, 53-6-113, 53-6-1305, 53-6-1318, MCA

IMP: 53-2-215, 53-6-101, 53-6-131, 53-6-1304, MCA

NEW RULE IV HELP PROGRAM: BENEFITS PLANS (1) Coverage of health care services for a participant in the HELP Program, except as provided in (2), is provided through the HELP TPA benefits plan.

(2) A participant may be excluded from the HELP TPA benefits plan and receive coverage through the standard Medicaid state plan if the participant:

- (a) lives in a geographical area, including an Indian reservation, for which the TPA is unable to make arrangements with sufficient numbers and types of health care providers to offer services to participants; or

(b) needs continuity of care that would not otherwise be available or cost-effective through the TPA.

(3) The department adopts and incorporates by reference the HELP Program Evidence of Coverage (EOC) dated January 1, 2016, which is available on the department's web site at <http://dphhs.mt.gov/MontanaHealthcarePrograms>.

(4) The HELP Program EOC describes the health care benefits, inclusive of limitations upon those benefits, available to the HELP Program participants.

(5) Services that are not covered, not reimbursable, not medically necessary, experimental, unproven, or performed in an inappropriate setting are not covered benefits in the HELP Program.

(6) Prior authorization may be required for certain types and levels of services.

AUTH: 53-2-215, 53-6-113, 53-6-1305, 53-6-1318, MCA

IMP: 53-2-215, 53-6-101, 53-6-1305, MCA

NEW RULE V MAGI AS THE MEASURE OF INCOME (1) Effective January 1, 2014, except for participants receiving aged, blind, or disabled benefits or benefits based on participation in a Medicaid home and community-based services waiver, a participant's income must be determined in accordance with 42 U.S.C. 1396a(e)(14) (2015), which establishes modified adjusted gross income (MAGI) as the required measure of income.

(2) There is no resource test for participants whose income is calculated based on MAGI.

(3) To create uniformity among the states for income disregards, federal regulation 42 CFR 435.603(d)(4) (2015) requires a state to subtract an amount equal to five percentage points of the current FPL to determine an individual's eligibility. This is implemented by increasing the maximum income to qualify for Medicaid from 133% to 138% of the current FPL.

AUTH: 53-6-113, MCA

IMP: 53-6-131, MCA

NEW RULE VI HELP PROGRAM: PREMIUMS (1) A HELP Program participant must pay an annual premium, billed monthly, equal to two percent of the prorated share of the participant's annual household income.

(2) A participant, except as provided in (4) and (5), for whom a due premium has not been paid and remains owing may be disenrolled from coverage until the department has been compensated for the overdue premium.

(3) The process for collection of overdue premiums is as follows:

(a) Within 30 days of the date a participant's premium payment was due, the TPA must notify the participant that the payment is overdue and that all overdue premiums must be paid within 90 days of the date the notification was sent. The TPA must provide a copy of the notice to the department.

(b) If payment for overdue premiums is not received, the department will notify the Department of Revenue of the sum owed.

(c) Unless the person states the intent not to reenroll, the department may reenroll the person in the HELP Program when the Department of Revenue assesses the unpaid premium through the participant's income tax.

(4) A participant who has an annual household income below 100 percent of the current FPL is not subject to disenrollment due to nonpayment of a premium.

(5) A participant is not subject to disenrollment for failure to pay a premium if the participant meets two of the following criteria:

(a) discharge from the United States military within the previous 12 months;

(b) enrollment in any Montana university system unit, a tribal college, or an accredited Montana college offering at least an associate degree. A participant cannot claim the education exemption for more than four years;

(c) participation in a workforce program or activity established under the authority of 39-12-101 through 39-12-107, MCA; or

(d) participation in any of the following health behavior activities developed by a health care provider or the TPA or approved by the department:

(i) participation in a Medicaid health home;

(ii) participation in a patient-centered medical home;

(iii) participation in a cardiovascular disease, obesity, or diabetes prevention program;

(iv) participation in a program requiring the participant to obtain primary care services from a designated provider and to obtain prescriptions from a designated pharmacy;

(v) participation in a Medicaid primary care case-management program established by the department;

(vi) participation in a tobacco use prevention or cessation program;

(vii) participation in a substance abuse treatment program;

(viii) participation in a care coordination or health improvement plan administered by the TPA; or

(ix) participation in a department-approved wellness program.

(6) A premium payment is assessed for a participant's coverage based upon retroactive eligibility.

AUTH: 53-2-215, 53-6-113, 53-6-1305, 53-6-1318, MCA

IMP: 53-2-215, 53-6-101, 53-6-1307, MCA

NEW RULE VII HELP PROGRAM: COPAYMENTS (1) Except as provided in this rule each participant in the HELP Program must pay to the provider of service the copayments as described in ARM 37.85.204, not to exceed the cost of service.

(2) Additional copayments may not be charged if, during the current benefit year the participant has paid in total, three percent of the participant's annual income in copayments.

(3) Copayments may not be charged for:

(a) preventative health care services;

(b) immunizations provided according to a schedule established by the department that reflects guidelines issued by the Centers for Disease Control and Prevention;

- (c) medically necessary health screenings ordered by a health care provider;
 - (d) pregnancy services;
 - (e) generic pharmaceutical drugs;
 - (f) eyeglasses purchased by the Medicaid program under a volume purchasing agreement;
 - (g) EPSDT;
 - (h) transportation services;
 - (i) family planning services;
 - (j) emergency services;
 - (k) hospice;
 - (l) independent laboratory and x-ray services; and
 - (m) tobacco cessation.
- (4) Copayments may not be charged for services rendered in circumstances of third party liability (TPL) claims where the HELP Program is the secondary payer under ARM 37.85.407. If a service is not subject to TPL, but is covered by the HELP Program, copayments are applied.
- (5) The following categories of persons are exempt from copayments:
- (a) American Indian and Alaska Native;
 - (b) pregnant women;
 - (c) individuals under age 21;
 - (d) terminally ill individuals; and
 - (e) individuals covered under the Breast and Cervical Cancer Treatment Program.
- (6) Premiums and copayments combined may not exceed an aggregate limit of five percent of the annual family household income.
- (7) Providers may only charge participants for the following services if the participant signs an ABN for the specific service prior to services being provided:
- (a) noncovered services;
 - (b) experimental services;
 - (c) unproved services;
 - (d) services performed in an inappropriate setting; and
 - (e) services that are not medically necessary.

AUTH: 53-2-215, 53-6-113, 53-6-1305, 53-6-1318, MCA
IMP: 53-2-215, 53-6-101, 53-6-1306, MCA

NEW RULE VIII HELP PROGRAM: REIMBURSEMENT (1) Covered services for participants in the HELP Program enrolled with the TPA, except as otherwise provided in (2), are reimbursed directly by the TPA according to the schedule found at <https://medicaidprovider.mt.gov>.

- (2) The following services received by participants enrolled with the TPA are reimbursed directly through the department:
- (a) FQHC;
 - (b) RHC;
 - (c) dental;
 - (d) eyeglasses;
 - (e) Indian Health Services and tribal health services;

- (f) diabetes prevention programs;
- (g) transportation;
- (h) prescription drugs;
- (i) home infusion;
- (j) hearing aids; and
- (k) audiology.

(3) The services specified in (2) are reimbursed at the established Medicaid reimbursement rates for those services.

AUTH: 53-2-215, 53-6-113, 53-6-1305, 53-6-1318, MCA

IMP: 53-2-215, 53-6-101, 53-6-1305, MCA

NEW RULE IX HELP PROGRAM: PROVIDER QUALIFICATIONS (1) As a condition of participation in the HELP Program, all providers must comply with all applicable state and federal statutes, rules, and regulations governing the Montana Medicaid Program and all applicable Montana statutes and rules governing licensure and certification.

(2) Any health care provider that is currently subject to exclusion by the U.S. Department of Health and Human Services (HHS) or that is suspended or terminated by the Medicaid or the Medicare program or by a state Medicaid program may not be enrolled as a HELP Program provider or receive reimbursement from the department for the delivery of health care or other services to participants.

(3) Participating providers must be licensed or certified in Montana. Out-of-state providers must be licensed in the state in which they practice.

(4) Physicians, APRNs, and PAs must either have admitting privileges to at least one general or critical access hospital or must have a mechanism in place to ensure that participant hospitalization may occur when appropriate.

(5) Providers that are delivering services to participants outside of the TPA provider network must be enrolled as a Montana Medicaid Program provider. Providers that are enrolled with the TPA network and are not delivering services to participants or other Medicaid eligible persons outside of the TPA network need not be enrolled as a Medicaid provider.

(6) A TPA may not prohibit a participating provider from:

- (a) discussing a treatment option with a participant, parent of a minor, spouse, legal guardian, or other responsible representative; or
- (b) advocating on behalf of a participant within the utilization review or grievance processes established by the TPA or the department.

AUTH: 53-2-215, 53-6-113, 53-6-1305, 53-6-1318, MCA

IMP: 53-2-215, 53-6-101, 53-6-113, 53-6-1305, MCA

NEW RULE X HELP PROGRAM: GRIEVANCE AND APPEAL PROCESS

(1) An applicant or participant aggrieved by a denial, suspension, or termination of the HELP Program eligibility by the department, or a participant aggrieved by a reduction or denial of benefits by the department, may request a fair hearing in accordance with ARM 37.5.103.

(2) The TPA acts under the oversight of the department in all grievance and appeal processes.

AUTH: 53-2-215, 53-6-113, 53-6-1305, 53-6-1318, MCA

IMP: 53-2-215, 53-6-101, 53-6-113, 53-6-1305, MCA

4. STATEMENT OF REASONABLE NECESSITY

The 2015 Montana Legislature authorized through the enactment of Senate Bill 405 (SB405), the Montana Health and Economic Livelihood Partnership (HELP) Act, a program to implement an expansion of Medicaid coverage in Montana. This new category of Medicaid coverage is authorized by federal law and in accordance with federal case law is within the discretion of each state to implement. The Legislature directed the department to implement Medicaid expansion and provided express rulemaking authority for doing so.

The persons to be covered in this Medicaid category are adults with limited incomes who are without minor children, who do not qualify for Medicare, and who are not pregnant. The new coverage generally includes persons between the ages of 19 and 65 who are at or below 138 percent of the current federal poverty level (FPL). It is estimated that 70,000 Montanans are potentially eligible for this new coverage.

The Legislature chose to primarily implement the expansion by directing the department to contract with a third party administration (TPA) to provide a provider network and claims processing. This is an innovative approach which has not been applied before in the context of the delivery of Medicaid health care services. While the department will administer eligibility determinations for persons seeking coverage through the expansion category and will establish the array of health care benefits that must be made available, the TPA will be responsible for arranging for providers for delivery of services, managing participants' health care access, providing health improvement programs, and conducting various other administrative functions. The Legislature directed the department to competitively procure the TPA.

Since Medicaid is a federally authorized and, in part, federally funded program, the TPA approach to implementation of the expansion of Medicaid coverage in Montana must meet with federal approval. The request for federal approval necessitates formal submittal to, and approval by, the Centers for Medicare and Medicaid Services (CMS). The submittal is in the form of a request for waivers along with additional documents necessary for approval of various aspects of the overall proposal.

The department, based on the HELP Act, has crafted the federal waiver requests, using certain features of the existing health care market, particularly the TPA vehicle, to analyze the efficiency and cost-effectiveness of those features for delivery of Medicaid health care coverage.

On September 15, 2015, the department formally submitted the waivers proposal to CMS along with the other necessary documents. Currently, CMS is reviewing those documents in consideration of possible approval. Approval may contain certain conditions that may necessitate changes to certain aspects of the proposed rule subchapter. There is active discussion between the State of Montana (State) and CMS as to various features in the State's proposed innovative TPA model. There is no definite date certain as to when CMS approval might be given. Because of this, there are certain features of the proposed rules that may require modification before final adoption.

The department has initiated preliminary activities for the purposes of eventual implementation of the HELP Act Medicaid expansion coverage. A request for proposals to provide TPA services to the State was published and proposals were received in response to it. The department, subject to federal approval, intends to award the contract in the near future. In addition, the department is undertaking some activities that will foster enrollment once federal approval is received and the new coverage is ready to implement.

The department has additionally submitted to CMS a Montana proposal for the Alternative Benefit Plan of Medicaid funded services that will be available to the participants in the Medicaid expansion coverage. This plan has to provide for the ten essential health benefits set forth in the Affordable Care Act (ACA).

The HELP Act authorized the application of copayments and premiums generally for persons who are participating in the Medicaid expansion coverage. These are intended to familiarize the participant with standard features of the private insurance market.

Based on the HELP Act provisions and certain federal requirements and limitations, some persons eligible for the new expansion category will not receive services through the TPA. Persons of certain statuses or circumstances will receive services through the department under the standard Medicaid state plan.

These proposed rules are necessary to provide the public with further knowledge and understanding of the various features for the implementation of the HELP Act. The proposed rules are also necessary to implement additional requirements and limitations that are necessary for implementation of the HELP Act. The Legislature directed the adoption of implementing rules, and the implementation of the HELP Act would be seriously impeded, if not impossible, without the additional requirements and limitations.

New Rule I HELP Program: Purpose

Proposed New Rule I states the relationship of the proposed rules to the 2015 Legislature's SB405, the Montana Health and Economic Livelihood Partnership (HELP) Act. The HELP Act expressly authorized the department to proceed with the

implementation, inclusive of rules, of the expansion of Medicaid coverage to a new population.

New Rule II HELP Program: Definitions

Proposed New Rule II provides a set of definitions for principal terms appearing in the proposed rules. These definitions serve to set the full meaning of many provisions and provide for the use of acronyms in the subchapter so as to reduce the amount of text. Definitions are an essential feature of understanding the meaning of written text. The department determined that the addition of definitions is essential to the implementation of the rules and that a comprehensive presentation of the definitions in one rule is the most appropriate practice.

New Rule III HELP Program: Eligibility for Coverage

Proposed New Rule III states the eligibility criteria governing entry into Medicaid expansion coverage. This rule does not change the persons identified by the Legislature as the population who will receive benefits because of the HELP Act. The rule is necessary because the expansion group is identified in the HELP Act by reference to the federal statute, 42 U.S.C. 1396a (a)(10)(A)(i)(VIII), that provides the parameters for the population encompassed by the new Medicaid expansion category. This rule specifies, in accordance with the federal law, that the coverage group is those persons with income at or below 138% of FPL who are not pregnant, not entitled to or enrolled in Medicare, and not disabled as determined by the social security administration.

New Rule IV HELP Program: Benefits Plans

The proposed New Rule IV explains the benefits that are to be available for persons in the expansion population. The proposed rule is necessary to the implementation of the HELP Act since the Act did not specify the benefits to be provided.

There are two benefit plans through which a participant in the Medicaid expansion coverage may receive health care services. The first is the TPA benefit plan which is administered by the TPA that generally applies to participants in the HELP expansion. The second benefits plan is the standard Medicaid state plan that is generally applicable to members of Montana Medicaid.

The proposed rule is necessary to provide a clear delineation of those participants who are to receive health care coverage through each benefit plan and to provide the specific features of both benefit plans with respect to covered services, requirements, and limitations.

The TPA plan will serve most of the participants in the Medicaid expansion population. In conformity with federal law, American Indians and Native Alaskans are to receive health care through the standard Medicaid plan. Persons who are medically frail, who live in an area that is without TPA who are otherwise excluded

by federal law coverage, or who need continuity of care not available through the TPA are also to receive services through the standard Medicaid Plan.

Federal Medicaid law does provide certain requirements as to the benefits to be provided. The benefits plan that is to apply to persons receiving coverage through the TPA is presented in a HELP Program Evidence of Coverage (EOC) document which the proposed rule incorporates by reference. The department determined that development of the EOC document was the best manner by which to provide an accessible reference for providers and participants.

New Rule V MAGI as the Measure of Income

Proposed Rule V would cross reference the federally mandated Modified Adjusted Gross Income (MAGI) as the standard measure of income for eligibility in the income-based categories of the Montana Medicaid program. MAGI is not applicable to persons who qualify for Medicaid on the basis of a disability or based on being elderly. The federal requirement for the application of MAGI took effect on January 1, 2014. Prior to January 1, 2014, states did not use a consistent measure of income. With the enactment of the Affordable Care Act (ACA), states use a uniform standard based on reported taxable income, which is an easily verified income standard.

The proposed rule would establish the MAGI eligibility criteria in state authority. The department considered not adopting a rule since the requirement is mandatory under federal law. However, the department decided to propose this rule to clarify in state authority that the MAGI standard is being applied to measure income.

MAGI is how an income is measured; it does not determine whether a person is eligible for Medicaid. That determination is based on the standard percentage of the FPL set in ACA and CMS federal regulation. Upon implementation of Medicaid expansion in Montana, if a person's income, calculated using MAGI, is at or below 138 percent of FPL, that person qualifies for Medicaid. The statutory percentage of 133 percent is adjusted by federal regulation to take into account the income disregards that states previously used.

New Rule VI HELP Program: Premiums

The HELP Act provides for annual premium based on two percent of a participant's annual income. The proposed rule provides several procedural features to govern the application of the premiums to participants. Those procedures include the procedures for providing notice to the participants and providing for how reenrollment occurs. These additional procedures in the proposed rule are necessary to establish certain features essential for the implementation of the HELP Act premium requirement and to address the role that the TPA is to undertake in the application of premiums to participants.

New Rule VII HELP Program: Copayments

The HELP Act provides that copayments are to be applied for plan participants. The proposed rule describes how copayments are to be assessed and collected and specifies the groups of persons, the services, and the circumstances that are exempt from copayments. The HELP Act established the requirement for copayments but did not address all the criteria necessary for the application of the copayments. The features set forth in the rule are necessary to ensure successful implementation of copayments under the HELP Act.

In addition, the proposed rule would establish a limited set of circumstances where a provider may charge the person for the delivery of a health care service. These circumstances encompass services that are not covered by Medicaid. There is a proposed requirement that a provider may not impose the charge unless the participant is informed prior to the delivery of the service and has signed an advanced benefit notice. This aspect of the proposed rule is necessary to protect the participant from unknown charges and to provide a process that will engage the participant in the decision making as to the delivery of the service.

New Rule VIII HELP Program: Reimbursement

The proposed rule establishes the rates of reimbursement that are to be paid to providers. Since the HELP Act provides for the use of a TPA to administer health care coverage in general for the Medicaid expansion population, the rates of reimbursement paid for health care services by the TPA will be those that the TPA has established for those providers that it engages in the delivery of services. The comprehensive schedule of rates established by the TPA is consequently referenced in the proposed rule.

The proposed rule further describes those services that are to be reimbursed directly through the department and establishes that the rates of reimbursement for those services are based on the current Medicaid state plan reimbursement methodologies.

For purposes of the implementation of coverage for the Medicaid expansion population it is necessary to have in place the rates that are to be paid to providers. The HELP Act does not specify the rates that are to apply to the health care services delivered under the Act. The proposed rule is necessary to provide notice of what rates are to be applicable.

New Rule IX HELP Program: Provider Qualifications

The proposed rule will establish the qualifications that a provider must meet in order to receive reimbursement from the HELP Program. These requirements include complying with all applicable state and federal statutes, rules, and regulations governing the Montana Medicaid Program, and all applicable Montana statutes and rules governing licensure and certification. The HELP Act does not specify the provider requirements that are to apply to the health care services delivered under

the HELP Act. The proposed rule is necessary to provide notice of what requirements the department has determined to be applicable. The requirements chosen are those that are generally required in accordance with federal law applicable to the provision of Medicaid-funded health care services.

In addition, the proposed rule would prohibit the TPA from interfering with the health care provider and patient relationship. The administrator role of the TPA is a strong one and the department determined that this protection of the patient's relationship with the health care provider is a necessary feature to adopt into rule.

New Rule X HELP Program: Grievance and Appeal Process

The proposed rule provides notice of what due process is to be afforded an applicant or participant in the Medicaid expansion. The proposed rule does so by referencing an existing departmental rule that serves as the focal rule for due process requests from Medicaid members.

While this proposed rule is not necessary for the application of due process for participants in the Medicaid expansion, the department contends that the unique implementation of the Medicaid expansion through the TPA may cause concern about what due process would be available for participants in the TPA benefit plan. The proposed rule plainly states the availability of Medicaid-related due process for participants.

This proposed rule also states that the TPA is subject to departmental oversight in all due process matters. Again, the administrator role of the TPA is strong and the department determined that discretion to direct the TPA's actions in relation to any grievance matters is a necessary feature for rule adoption.

Fiscal Impact

The HELP Program will significantly increase the number of adults eligible for Medicaid. This increase of Montanans with health care coverage will benefit not only the newly eligible participants, but also health care providers and other businesses. The HELP Program will use federal matching funds to provide for state savings through fiscal year 2017.

	FY 2016 Difference	FY 2017 Difference	FY 2018 Difference	FY 2019 Difference
Expenditures:				
General Fund	(\$3,531,530)	\$5,168,060	\$18,695,371	\$26,468,487
Federal Special Revenue	\$191,272,643	\$240,800,385	\$287,192,889	\$327,412,364
Other	\$75,000	\$0	\$0	\$0
Revenue:				

General Fund	\$5,844,176	\$7,317,465	\$8,593,301	\$9,405,291
Federal Special Revenue	\$191,272,643	\$240,800,385	\$287,192,889	\$327,412,364
Other	\$75,000	\$0	\$0	\$0
Net Impact-General Fund	\$9,375,706	\$2,149,405	(\$10,102,070)	(\$17,063,196)

5. The department intends to adopt these new rules effective January 1, 2016.

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: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., November 27, 2015.

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

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

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was notified by e-mail and text on October 9, 2015.

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

12. 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are appropriate for performance-based measurement and therefore are subject to the performance-based measures requirement of 53-6-196, MCA.

The following matrix presents the department's intended performance monitoring scheme.

Principal reason for the rule	Measurement	Data Collection Methods/Metrics	Period of Measurement
Provide coverage of health care services for low-income Montanans	HELP Act enrollment	Track enrollment via eligibility determination system (CHIMES)	Quarterly
Provide greater value for the tax dollars spent on the Montana Medicaid program	Ratio of state and federal funds expended on adult mental health	Track expenditure by funding source via the state accounting system	Annually
Provide incentives that encourage Montanans to take greater responsibility for their personal health	Health Behavior Activities	Track the level of participant engagement in health behavior activities via the department's data systems	Quarterly

/s/ Cary B. Lund
Cary B. Lund, Attorney
Rule Reviewer

/s/ Richard H. Oppen
Richard H. Oppen, Director
Public Health and Human Services

Certified to the Secretary of State October 19, 2015.

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

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rules I through IV pertaining to	)	PROPOSED ADOPTION
implementing the Medicaid rate as)	
the reimbursement rate the State of)	
Montana will pay health care)	
providers for services provided to)	
individuals in the care or custody of)	
the Department of Corrections or the)	
Department of Public Health and)	
Human Services)	

TO: All Concerned Persons

1. On November 19, 2015, at 9:00 a.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on November 12, 2015, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

NEW RULE I PURPOSE (1) The purpose of these rules is to implement 53-6-1312, MCA, which establishes the Medicaid schedule of rates as the reimbursement rates that the State of Montana (State) pays for health care services provided to an individual who does not qualify for Medicaid and is:

(a) in the custody of the Department of Corrections; or
(b) a resident, by commitment or otherwise, of the Montana State Hospital, the Montana Mental Health Nursing Care Center, the Montana Chemical Dependency Center, or the Montana Developmental Center.

(2) The State will process these health care claims through the Department of Public Health and Human Services' Medicaid claims processing agent.

AUTH: 53-6-1318, MCA
IMP: 53-6-1312, MCA

NEW RULE II A PROVIDER MUST ENROLL IN MEDICAID AND ACCEPT THE MEDICAID REIMBURSEMENT RATE TO RECEIVE PAYMENT BY STATE

(1) To receive payment from the State for health care services provided to an individual identified in 53-6-1312, MCA, a provider must:

- (a) be enrolled as a Montana Medicaid provider;
- (b) accept the Montana Medicaid rates as full payment for all health care services; and
- (c) comply with the requirements of this subchapter.

(2) A provider who accepts an individual identified in 53-6-1312, MCA, as a patient is agreeing to accept the Medicaid rate as payment in full.

(3) In service settings where an individual identified in 53-6-1312, MCA, is accepted as a patient by a provider who arranges for services by other providers, all providers performing services are deemed to have accepted reimbursement from the State at the Montana Medicaid rates.

(4) A provider may not "balance bill" or seek payment in addition to, or in lieu of, the payment by the State. "Balance bill" means a provider bills the patient, or responsible party, the difference between the amount the state reimburses for services and what the provider chooses to charge.

AUTH: 53-6-1318, MCA

IMP: 53-6-1312, MCA

NEW RULE III PROVIDER REQUIREMENTS (1) Except for the administrative rules listed in (2), the provider requirements of ARM Title 37, chapter 85, subchapter 4, "Provider Requirements," apply to the delivery of health care services provided to an individual identified in 53-6-1312, MCA. For purposes of this subchapter, a reference to "Montana Medicaid" or "Medicaid" in ARM Title 37, chapter 85, subchapter 4 is understood to mean payments made under 53-6-1312, MCA.

(2) The following administrative rules do not apply to providers receiving payment for services provided to an individual identified in 53-6-1312, MCA:

- (a) ARM 37.85.407, Third Party Liability;
- (b) ARM 37.85.411, Provider Rights;
- (c) ARM 37.85.415, Medical Assistance Medicaid Payment; and
- (d) ARM 37.85.416, Statistical Sampling Audits.

(3) A provider who disputes a payment is entitled to an administrative hearing on the matter according to the procedures of the department responsible for payment. A provider who is aggrieved by a final written decision is entitled to a judicial review of the decision.

AUTH: 53-6-1318, MCA

IMP: 53-6-1312, MCA

NEW RULE IV COST SHARING DOES NOT APPLY (1) The cost sharing requirements of ARM 37.85.204 do not apply to the individuals identified in 53-6-1312, MCA.

AUTH: 53-6-1318, MCA

IMP: 53-6-1312, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (DPHHS) is proposing these rules to implement 53-6-1312, MCA, which the 64th Legislature (2015) enacted as part of the Health and Economic Livelihood Partnership Act (HELP Act), Chapter 368, 2015 Session Laws of Montana. The Department of Corrections (DOC) is adopting and incorporating these rules by reference in a separate rulemaking.

In some circumstances, the State of Montana (State) is obligated to pay for the health care of individuals in the custody of DOC or in the care of DPHHS and residing at the Montana State Hospital, the Montana Mental Health Nursing Care Center, the Montana Chemical Dependency Center, or the Montana Developmental Center. These rules implement the Legislature's decision to set the Medicaid rate as the amount the State will pay for health care provided to individuals identified in 53-6-1312, MCA.

DPHHS considered the alternative of not adopting rules and proceeding with 53-6-1312, MCA, as self-enacting legislation but decided that adopting rules requiring providers to enroll in Medicaid and providing a method of promptly processing claims was in the best interest of the State and the providers.

DPHHS also considered processing the claims without using the State's Medicaid claims-processing agent because these are claims for health care costs that are paid with state funds only. DPHHS determined that processing claims through the State's Medicaid claims-processing agent would take advantage of economies of scale and be a process familiar to health care providers.

New Rule I

DPHHS is proposing this rule to provide context for the subchapter.

New Rule II

The Legislature established the Medicaid rate as the maximum amount the State will pay for health care provided to individuals identified in 53-6-1312, MCA. DPHHS is proposing to require a health care provider who wants to receive payment from the State to enroll as a Medicaid provider and comply with the requirements of this new subchapter of administrative rules. This will make it possible for the Medicaid claims-processing agent to pay the claims and will simplify the administrative burden for the State and providers.

New Rule II requires a provider who accepts the State payment for some services to accept the State payment rate for all covered services and for all services arranged

by the provider. This is necessary for the State to pay the Medicaid rate for all health care services to individuals identified in 53-6-1312, MCA.

New Rule II also prohibits "balance billing." The amount paid by the State will be full payment to the provider. This is necessary to prevent the patient or responsible party from being billed for an amount in addition to the Medicaid rate.

New Rule III

DPHHS is proposing to make the Medicaid provider requirements stated in ARM Title 37, chapter 85, subchapter 4 also applicable to a provider billing the State for health care services to individuals identified in 53-6-1312, MCA, unless the requirement is specifically excluded in New Rule III. Adopting these procedures establishes a consistent method for coding and processing claims that is already familiar to providers and their billing staff and already in place for the State.

The Medicaid provider requirements that will not apply to claims for payment by the State are ARM 37.85.407, Third Party Liability, ARM 37.85.411, Provider Rights, ARM 37.85.415, Medical Assistance Medicaid Payment, and ARM 37.85.416, Statistical Sampling Audits. These Medicaid provisions are not necessary for prompt, efficient claim processing.

DPHHS is also proposing that each department provide an administrative review process for claims disputes because a process for a provider and each department to review and resolve disputes is necessary and the administrative process for Medicaid claims payment does not apply to these claims.

New Rule IV

DPHHS is proposing not to impose cost-sharing requirements. The administrative costs of attempting to collect cost-sharing payments from individuals in the care or custody of the State outweigh any benefits of a cost-sharing program.

Fiscal Impact

DPHHS estimates that Montana State Hospital and the Montana Mental Health Nursing Care Center will experience an approximate 30% savings in the cost of laboratory, outside medical and pharmaceutical costs. The estimated savings for one-half of SFY 2016 is \$480,000. The fiscal impact for DOC will be estimated in its rulemaking.

5. The effective date of 53-6-1312, MCA, is contingent upon the Centers for Medicare and Medicaid Services' (CMS) approval of the State's request for a waiver. Under the authority of 2-4-309, MCA, DPHHS is proceeding with this rulemaking with an anticipated effective date of January 1, 2016.

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: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., November 27, 2015.

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

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

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was notified by e-mail on October 9, 2015.

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

/s/ Geralyn Driscoll
Geraldyn Driscoll, Attorney
Rule Reviewer

/s/ Richard H. Oppen
Richard H. Oppen, Director
Public Health and Human Services

Certified to the Secretary of State October 19, 2015.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.86.1006 pertaining to the) PROPOSED AMENDMENT
establishment of an annual payment)
limit for dental services provided)
through Medicaid)

TO: All Concerned Persons

1. On November 18, 2015, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on November 10, 2015, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.86.1006 DENTAL SERVICES, COVERED PROCEDURES (1) For purposes of specifying coverage of dental services through the Medicaid program, the department adopts and incorporates by reference the Dental and Denturist Program Provider Manual as provided in ARM 37.85.105(3). The Dental and Denturist Program Provider Manual informs the providers of the requirements applicable to the delivery of services. Copies of the manual are available on the Montana Medicaid provider web site at <http://medicaidprovider.hhs.mt.gov> <http://medicaidprovider.mt.gov> and from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(2) through (5) remain the same.

(6) Medically necessary dental services outlined in (5)(c) through (e) are subject to an annual limit of \$1,125 per benefit year. A benefit year begins on July 1st, and ends the following June 30th.

(6) through (17) remain the same, but are renumbered (7) through (18).

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

20-10/29/15

MAR Notice No. 37-732

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

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) proposes amending ARM 37.86.1006 to establish an annual payment limit on Montana Medicaid Program dental treatment services and to provide an updated internet link for the Medicaid provider web site.

Montana Medicaid covers diagnostic and preventative dental services and some restorative dental services, including extractions and prefabricated crowns, with prior authorization. Currently there is no limit on the payment for dental treatment. The department is proposing to set a cap of \$1,125.00 per member or participant, per year, for covered services other than diagnostic or preventative services, which would remain uncapped. The proposed amendment is necessary to control dental costs by establishing program limits.

The department must also update the web site link for its Medicaid provider web page to <http://medicaidprovider.mt.gov>. This housekeeping amendment is necessary to direct providers and interested parties to the relocated web page.

Fiscal Impact

The department estimates there will be no fiscal impact from this rule change because the typical dental expenditure per Medicaid member is currently less than the \$1,125 cap.

5. The department intends to amend this rule effective January 1, 2016.

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: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., November 27, 2015.

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

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

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

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

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

The department has determined that the proposed program changes presented in this notice are appropriate for performance-based measurement. The department will measure the cost and effectiveness of this rulemaking by tracking, over a twelve-month period, the number of members whose dental benefit is capped to determine the number of individuals, if any, who are adversely impacted by the \$1,125 annual limit.

/s/ Geralyn Driscoll
Geraldyn Driscoll, Attorney
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State October 19, 2015.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.4.2902, 42.4.2904, and) PROPOSED AMENDMENT
42.4.2905 pertaining to tax credits for)
historic property preservation)

TO: All Concerned Persons

1. On November 19, 2015, at 10:30 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building facing Sanders Street.

2. The Department of Revenue 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, advise the department of the nature of the accommodation needed no later than 5 p.m. on November 9, 2015. Contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

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

42.4.2902 COMPUTATION OF THE TAX CREDIT FOR THE PRESERVATION OF HISTORIC PROPERTIES (1) ~~Except as provided in (3),~~ Montana's tax credit for the preservation of historic buildings is to be computed using the federal credit allowed by 26 USC 47₁, which is a component of the federal general business credit. No other component of the federal general business credit may be used to compute Montana's credit for the preservation of historic buildings.

(2) remains the same.

~~(3) For tax years beginning January 1, 2002, through December 31, 2011, an alternative credit may be claimed for placing a conservation easement on historically significant property equal to 20% of the cost of creating the conservation easement and the diminution in value of the historically significant property. Qualified costs used in computing the credit for creating a conservation easement are those direct costs incurred in connection with the creation of the conservation easement and do not include the cost of acquiring the property or for improvements made to the property unless they are directly related to creating the conservation easement.~~

AUTH: 15-30-2620, 15-31-501, MCA
IMP: 15-30-2342, 15-31-151, MCA

REASON: The department proposes amending ARM 42.4.2902 to remove (3) because it is no longer necessary. The credit for placing a conservation easement is no longer applicable other than the carryover of excess amounts.

42.4.2904 OWNERSHIP OF HISTORIC PROPERTY (1) and (2) remain the same.

~~(3) Third parties to whom the federal rehabilitation credit is transferred may not claim the Montana credit and, correspondingly, transfer of the federal credit by a person entitled to claim the Montana credit does not disqualify them from claiming the Montana credit.~~

~~(4)~~(3) A credit for the preservation of historic property jointly owned by more than one individual must be allocated between owners based on each owner's share of ownership in the property. Unless specified otherwise when the property is purchased, percentage of ownership will be considered equal to 100% percent divided by the number of owners.

(5) and (6) remain the same, but are renumbered (4) and (5).

AUTH: 15-30-2620, MCA

IMP: 15-30-2342, 15-31-151, MCA

REASON: The department proposes amending ARM 42.4.2904 to remove (3) because it is no longer necessary. Recent Internal Revenue Service regulations and rulings provide an enforcement mechanism the department can use to address potential abuses in the area of transfers of the credit.

The department also proposes revising the punctuation of a sentence in newly numbered (3).

42.4.2905 CLAIMING THE HISTORIC PRESERVATION CREDIT

(1) Except as provided in (2) ~~and (3)~~, federal Form 3468, the federal form used in claiming the federal rehabilitation credit, must be attached to the applicable Montana tax returns. S corporations and entities taxable as partnerships must attach the form to their information returns and the owners of the pass-through entities must also attach a copy to their individual income or corporate income tax returns.

~~(2) Taxpayers claiming the alternate credit for creating a conservation easement must attach a statement identifying the historically significant property for which the credit is claimed and the costs of creating the conservation easement and the diminution in value of the historically significant property used in calculating the alternate credit.~~

~~(3)~~(2) A taxpayer who elected made a valid election to transfer the federal rehabilitation credit to a lessee must attach a copy of the election statement required by U.S. Treasury regulation 26 C.F.R. 1.48-4(f) and (g), and the lessee's Form 3468 that identifies the taxpayer as the transferor. If the credit calculation for certified historic structures on the lessee's Form 3468 contains qualified rehabilitation expenditures other than those incurred by the taxpayer, the taxpayer must provide a schedule breaking out the taxpayer's own expenditures and a pro forma federal credit calculation.

AUTH: 15-30-2620, MCA
IMP: 15-30-2342, 15-31-151, MCA

REASON: The department proposes amending ARM 42.4.2905 to remove (2) because it is no longer necessary. The credit for placing a conservation easement is no longer applicable other than the carryover of excess amounts.

The department also proposes amending newly numbered (2) to better specify that the election to transfer the federal credit must be made in conformance with the corresponding regulations.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than December 1, 2015.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

6. 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 that includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A 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.

7. An electronic copy of this notice is available on the department's web site at revenue.mt.gov/rules. The department strives to make the electronic copy of this 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. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

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

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses. Documentation of the department's determination is available at revenue.mt.gov/rules or upon request from the person in 4.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State October 19, 2015

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 42.21.113, 42.21.123,	)	PROPOSED AMENDMENT
42.21.131, 42.21.137, 42.21.138,)	
42.21.139, 42.21.140, 42.21.151,)	
42.21.153, 42.21.155, and)	
42.22.1311 pertaining to the trended)	
depreciation schedules for valuing)	
property)	

TO: All Concerned Persons

1. On November 19, 2015, at 1:30 p.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building facing Sanders Street.

2. The Department of Revenue 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 advise the department of the nature of the accommodation needed no later than 5 p.m. on November 9, 2015. Contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY. The department uses data from the guides and valuation manuals listed in its rules to determine the trended depreciation schedules published in those rules. Personal property is valued annually and because the trend tables used to value personal property change from year to year, the department must provide taxpayers with notice of those changes and does so through the rulemaking process. The annual update to the trended depreciation schedules provides taxpayers with the current depreciation percentage for each of the personal property classifications for the upcoming year. The updates also clearly identify for the taxpayer how the department values and depreciates property over time.

ARM 42.21.157 requires the department to update the depreciation schedules of tangible personal property on an annual basis. The annual changes affect all businesses with tangible personal property. By annually updating the depreciation schedules the department accounts for the impact an additional year of wear and tear has on the value of tangible personal property. Small businesses would see a negative impact if these tables were not updated. Therefore, it is reasonably necessary to update the trend tables to reflect any changes for the upcoming year.

The department has considered the small business impact study requirements of 2-4-111, MCA, and determined that with the exception of ARM 42.21.123, the proposed amendments to the above-stated rules will not significantly and directly impact small businesses. For detail on how the proposed amendments to ARM 42.21.123 could significantly and directly impact some small businesses, see the supplemental reason statement for ARM 42.21.123 and also the department's small business impact analysis for this proposal notice, MAR Notice No. 42-2-946, located at revenue.mt.gov/rules.

This general statement of reasonable necessity applies to all of the following proposed rule amendments and has been supplemented as appropriate for any further amendments.

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

42.21.113 LEASED AND RENTAL EQUIPMENT (1) remains the same.

(a) For equipment that has an acquired cost of \$0 to \$500, the department shall use a four-year trended depreciation schedule. The trended schedule will be the same as ARM 42.21.155, category 1.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2014 <u>2015</u>	70%
2013 <u>2014</u>	44%
2012 <u>2013</u>	19%
2011 and older <u>2012</u>	9%
<u>Older</u>	<u>5%</u>

(b) For equipment that has an acquired cost of \$501 to \$1,500, the department shall use a five-year trended depreciation schedule. The trended schedule will be the same as ARM 42.21.155, category 2.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2014 <u>2015</u>	85%
2013 <u>2014</u>	69% <u>71%</u>
2012 <u>2013</u>	50% <u>53%</u>
2011 <u>2012</u>	33%
2010 and older <u>2011</u>	22% <u>23%</u>
<u>Older</u>	<u>18%</u>

(c) For equipment that has an acquired cost of \$1,501 to \$5,000, the department shall use a ten-year trended depreciation schedule. The trended schedule will be the same as ARM 42.21.155, category 8.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2014 <u>2015</u>	92%
2013 <u>2014</u>	85% <u>86%</u>

2012 <u>2013</u>	77% <u>79%</u>
2011 <u>2012</u>	70%
2010 <u>2011</u>	61% <u>62%</u>
2009 <u>2010</u>	52% <u>53%</u>
2008 <u>2009</u>	44% <u>42%</u>
2007 <u>2008</u>	35%
2006 <u>2007</u>	28%
2005 and older <u>2006</u>	26% <u>25%</u>
<u>Older</u>	<u>20%</u>

(d) For equipment that has an acquired cost of \$5,001 to \$15,000, the department shall use the trended depreciation schedule for heavy equipment. The schedule will be the same as ARM 42.21.131.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2015 <u>2016</u>	80%
2014 <u>2015</u>	65%
2013 <u>2014</u>	62% <u>60%</u>
2012 <u>2013</u>	58% <u>57%</u>
2011 <u>2012</u>	52%
2010 <u>2011</u>	49% <u>48%</u>
2009 <u>2010</u>	43% <u>46%</u>
2008 <u>2009</u>	40% <u>43%</u>
2007 <u>2008</u>	37% <u>38%</u>
2006 <u>2007</u>	34% <u>36%</u>
2005 <u>2006</u>	33% <u>34%</u>
2004 <u>2005</u>	32% <u>33%</u>
2003 <u>2004</u>	29% <u>30%</u>
2002 <u>2003</u>	27% <u>28%</u>
2001 <u>2002</u>	25% <u>26%</u>
2000 <u>2001</u>	23%
1999 <u>2000</u>	22% <u>23%</u>
1998 <u>1999</u>	21%
1997 <u>1998</u>	21% <u>20%</u>
1996 <u>1997</u> and older	19% <u>20%</u>

(e) For rental video tapes and digital video disks, the following trended depreciation schedule will be used:

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2014 <u>2015</u>	25%
2013 <u>2014</u>	15%
2012 <u>2013</u> and older	10%

(2) through (4) remain the same.

(5) This rule is effective for tax years beginning after December 31, ~~2014~~ 2015.

AUTH: 15-1-201, 15-23-108, MCA

IMP: 15-6-135, 15-6-138, 15-6-202, 15-6-219, MCA

REASON: The department proposes further amending ARM 42.21.113 to add a bottom row exclusively for older years in tables (a) through (c) to more precisely apply a 5 percent to 25 percent residual value as described in ARM 42.21.155(1).

42.21.123 FARM MACHINERY AND EQUIPMENT (1) remains the same.

(2) The market value for farm machinery and equipment shall be the ~~"average wholesale" value~~ most current quick sale as shown in the ~~Iron Solutions, Northwest Region Official Guide, Fall Edition, for the year previous to~~ online version of the Green Guide known as the Equipment Watch, as of October of the year prior to the year of the assessment appraisal. This online guide may be reviewed in the department or purchased from the publisher: ~~North American Equipment Dealers Association, 1195 Smizer Mill Road, Fenton, Missouri 63026-3480 at equipmentwatch.com or Dataquest, 1290 Ridder Park Drive, San Jose, California 95131.~~

(3) For all farm machinery and equipment that cannot be valued under (2), the department has developed a manual to value the equipment. This manual will be used in conjunction with the depreciation schedule in (5) when valuing farm equipment and machinery. The purpose of the manual developed by the department is to arrive at values which approximate ~~average wholesale~~ quick sale value. The department's farm machinery manual is hereby incorporated by reference. Customers can contact the department to obtain copies.

(4) and (5) remain the same.

(6) A trended ~~average wholesale~~ quick sale value shall be applied to equipment if:

(a) the equipment cannot be valued under (2) but ~~an average wholesale~~ a quick sale value is available for the same make and model with a different year new; and

(b) the equipment cannot be valued under (4) or the value as calculated under (4) results in a higher value being placed on a piece of farm equipment than the last year listed in the ~~current Official Guide mentioned~~ guide cited in (2) for the same make and model. The trended ~~average wholesale~~ quick sale value for farm equipment shall be ascertained by trending the ~~average wholesale~~ quick sale as found in the guide in (2), for the same make and model with a different year new. The trend factors are the same as those mentioned in (4).

(7) If the methods mentioned in (2) through (5) cannot be used to ascertain ~~average wholesale~~ quick sale value for farm machinery and equipment, the owner or applicant must certify to the department the year acquired and the acquired price before that value can be applied to the schedule in (8).

(8) The trended depreciation schedule referred to in (2) through (6) is listed below and shall be used for tax year ~~2015~~ 2016. The schedule is derived by using the ~~guidebook~~ listed in (2) as the data base. The values derived through use of the trended depreciation schedule will approximate ~~average wholesale~~ quick sale value.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD AVERAGE WHOLESALE</u>
2015 <u>2016</u>	80%
2014 <u>2015</u>	75% <u>54%</u>
2013 <u>2014</u>	66% <u>48%</u>
2012 <u>2013</u>	61% <u>47%</u>
2011 <u>2012</u>	58% <u>46%</u>
2010 <u>2011</u>	55% <u>44%</u>
2009 <u>2010</u>	48% <u>43%</u>
2008 <u>2009</u>	48% <u>41%</u>
2007 <u>2008</u>	47% <u>40%</u>
2006 <u>2007</u>	44% <u>39%</u>
2005 <u>2006</u>	41% <u>38%</u>
2004 <u>2005</u>	39% <u>38%</u>
2003 <u>2004</u>	35% <u>38%</u>
2002 <u>2003</u>	31% <u>36%</u>
2001 <u>2002</u>	28% <u>35%</u>
2000 <u>2001</u>	27% <u>34%</u>
4999 <u>2000</u> and older	21% <u>30%</u>

(9) remains the same.

(10) This rule is effective for tax years beginning after December 31, ~~2014~~ 2015.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, MCA

REASON: The department proposes further amending ARM 42.21.123 to change the farm machinery valuation source. Each year the department performs valuation look-ups and calculates the depreciation trends for the coming year using values that are available at that time. The department has been using an online valuation guide for heavy equipment since 2010. That online guide now also includes farm machinery values.

Therefore, the department proposes transitioning to this single online source for valuing both heavy equipment and farm machinery beginning in 2016. The proposed transition to using the online Equipment Watch guide will save the department in excess of \$20,000 in subscription fees annually because the proposed change eliminates the need for the department to separately purchase hard copies of the Iron Solutions Northwest Region Official Guide to use for valuing farm machinery.

Owners of farm machinery and equipment will notice a significant change, either up or down depending on the model year of the equipment, in the trended good percentage table during the first year of this proposed transition. For example, as proposed in the table amendments for 2016 using the online Equipment Watch guide, farm machinery and equipment acquired new in 2015 will see a trended percentage wholesale change from 75 percent good down to 54 percent good. At

the same time, equipment acquired new in 2004 will have a trended percentage wholesale change from 35 percent up to 38 percent. However, after this initial transition year, the department expects future valuation differences to stabilize and the percentages in the chart to fluctuate minimally from year-to-year as they have historically.

42.21.131 HEAVY EQUIPMENT (1) The wholesale market value of heavy equipment shall be the most current quick sale as shown in the ~~"Green Guide" and "Green Guide for Older Equipment"~~ or the ~~on-line~~ online version of the Green Guide known as Equipment Watch, as of ~~January 1 of~~ October of the year prior to the year of assessment appraisal. This online guide may be reviewed in the department or purchased from the publisher and is incorporated by reference: Dataquest, 1290 Ridder Park Drive, San Jose, California 95131.

(2) For all heavy equipment which cannot be valued under (1), the department shall try to ascertain the original FOB (free on board value) through old heavy equipment valuation guidebooks. If an original FOB cannot be ascertained, the department may use trending to determine the FOB. The FOB or "trended" FOB will be used in conjunction with the depreciation schedule in (5) to arrive at a value which approximates wholesale value. The trend factors are calculated using the most recent Contractor's Equipment factors available in the Marshall & Swift Valuation Service Guide for the year of ~~assessment~~ appraisal. The Marshall & Swift Valuation Service Guide, published by Marshall and Swift Publication Company, 915 Wilshire Boulevard, 8th Floor, P.O. Box 26307, Los Angeles, California 90026-0307, is adopted by reference.

(3) and (4) remain the same.

(5) The trended depreciation schedule referred to in (2), (3), and (4) is listed below and shall be used for tax year ~~2015~~ 2016. The values derived through the use of these percentages approximate the "quick sale" values ~~as calculated in provided in~~ the guidebooks listed in (1).

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD WHOLESALE</u>
2015 <u>2016</u>	80%
2014 <u>2015</u>	65%
2013 <u>2014</u>	62% <u>60%</u>
2012 <u>2013</u>	58% <u>57%</u>
2011 <u>2012</u>	52%
2010 <u>2011</u>	49% <u>48%</u>
2009 <u>2010</u>	43% <u>46%</u>
2008 <u>2009</u>	40% <u>43%</u>
2007 <u>2008</u>	37% <u>38%</u>
2006 <u>2007</u>	34% <u>36%</u>
2005 <u>2006</u>	33% <u>34%</u>
2004 <u>2005</u>	32% <u>33%</u>
2003 <u>2004</u>	29% <u>30%</u>
2002 <u>2003</u>	27% <u>28%</u>
2001 <u>2002</u>	25% <u>26%</u>

2000 <u>2001</u>	23%
1999 <u>2000</u>	22% <u>23%</u>
1998 <u>1999</u>	21%
1997 <u>1998</u>	21% <u>20%</u>
1996 <u>1997</u> and older	19% <u>20%</u>

(6) This rule is effective for tax years beginning after December 31, ~~2014~~ 2015, and applies to all heavy equipment.

AUTH: 15-1-201, 15-23-108, MCA

IMP: 15-6-135, 15-6-138, 15-6-219, MCA

REASON: The department proposes further amending ARM 42.21.131 to strike outdated references to hardcopy valuation guides in (1). The department has fully transitioned away from using the hardcopy guides to use of the online guide. This has improved efficiency and created subscription cost savings. The department further proposes amending (1) to clarify that heavy equipment assessments are based on values determined in the fall of the year prior to the year of appraisal and replacing the word "assessment" with "appraisal" to reflect the term currently used.

42.21.137 SEISMOGRAPH UNITS AND ALLIED EQUIPMENT (1) through (3) remain the same.

(4) The trended depreciation schedules referred to in (1) through (3) are listed below and shall be used for tax year ~~2015~~ 2016.

SEISMOGRAPH UNIT

<u>YEAR</u> <u>NEW/ACQUIRED</u>	<u>%</u> <u>GOOD</u>	<u>TREND</u> <u>FACTOR</u>	<u>TRENDED</u> <u>% GOOD</u>	<u>WHOLESALE</u> <u>FACTOR</u>	<u>WHOLESALE</u> <u>% GOOD</u>
2015 <u>2016</u>	100%	1.000	100%	80%	80%
2014 <u>2015</u>	85%	1.000	85%	80%	68%
2013 <u>2014</u>	69%	1.009	70%	80%	56%
2012 <u>2013</u>	52%	1.010 <u>1.021</u>	53%	80%	42%
2011 <u>2012</u>	34%	1.038 <u>1.023</u>	35%	80%	28%
2010 <u>2011</u>	23%	1.066 <u>1.051</u>	25% <u>24%</u>	80%	20% <u>19%</u>
2009 <u>2010-2006</u>	18%	1.051 <u>1.079</u>	19%	80%	15% <u>16%</u>
2005 and older	5%				5%

SEISMOGRAPH ALLIED EQUIPMENT

<u>YEAR NEW/</u> <u>ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED %</u> <u>GOOD</u>
2015 <u>2016</u>	100%	1.000	100%
2014 <u>2015</u>	85%	1.000	85%
2013 <u>2014</u>	69%	1.009	70%
2012 <u>2013</u>	52%	1.010 <u>1.021</u>	53%
2011 <u>2012</u>	34%	1.038 <u>1.023</u>	35%

2010 <u>2011</u>	23%	1.066 <u>1.051</u>	25% <u>24%</u>
2009 <u>2010-2006</u>	18%	1.051 <u>1.079</u>	19%
2005 and older	5%		5%

(5) This rule is effective for tax years beginning after December 31, ~~2014~~ 2015.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-219, MCA

42.21.138 OIL AND GAS FIELD MACHINERY AND EQUIPMENT (1) and (2) remain the same.

(3) The trended depreciation schedule referred to in (1) and (2) is listed below and shall be used for tax year ~~2015~~ 2016.

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2015 <u>2016</u>	100%	1.000	100%
2014 <u>2015</u>	95%	1.000	95%
2013 <u>2014</u>	90%	1.009	91%
2012 <u>2013</u>	85%	1.010 <u>1.021</u>	86% <u>87%</u>
2011 <u>2012</u>	79%	1.038 <u>1.023</u>	82% <u>81%</u>
2010 <u>2011</u>	73%	1.066 <u>1.051</u>	78% <u>77%</u>
2009 <u>2010</u>	68%	1.051 <u>1.079</u>	71% <u>73%</u>
2008 <u>2009</u>	62%	1.088 <u>1.064</u>	67% <u>66%</u>
2007 <u>2008</u>	55%	1.137 <u>1.101</u>	63% <u>61%</u>
2006 <u>2007</u>	49%	1.204 <u>1.151</u>	59% <u>56%</u>
2005 <u>2006</u>	43%	1.265 <u>1.219</u>	54% <u>52%</u>
2004 <u>2005</u>	37%	1.372 <u>1.281</u>	51% <u>47%</u>
2003 <u>2004</u>	31%	1.420 <u>1.390</u>	44% <u>43%</u>
2002 <u>2003</u>	26%	1.449 <u>1.438</u>	38% <u>37%</u>
2001 <u>2002</u>	23%	1.457 <u>1.467</u>	34%
2000 <u>2001</u> and older	21%	1.471 <u>1.475</u>	31%

(4) and (5) remain the same.

(6) This rule is effective for tax years beginning after December 31, ~~2014~~ 2015.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-213, 15-6-219, MCA

42.21.139 WORK-OVER AND SERVICE RIGS (1) through (3) remain the same.

(4) For self-propelled wheeled work-over and service rigs, an additional 80 percent wholesale factor shall be used in determining market value in conjunction with the schedules ~~mentioned~~ referenced in (2).

(5) The trended depreciation schedule referred to in (2) and (4) is listed

below and shall be used for tax year ~~2015~~ 2016.

<u>YEAR/NEW</u> <u>ACQUIRED</u>	<u>% GOOD</u>	<u>TREND</u> <u>FACTOR</u>	<u>WHOLESALE</u> <u>FACTOR</u>	<u>TRENDED</u> <u>WHOLESALE</u> <u>% GOOD</u>
2015 <u>2016</u>	100%	1.000	80%	80%
2014 <u>2015</u>	92%	1.000	80%	74%
2013 <u>2014</u>	84%	1.009	80%	68%
2012 <u>2013</u>	76%	1.010 <u>1.021</u>	80%	61% <u>62%</u>
2011 <u>2012</u>	67%	1.038 <u>1.023</u>	80%	56% <u>55%</u>
2010 <u>2011</u>	58%	1.066 <u>1.051</u>	80%	49%
2009 <u>2010</u>	49%	1.051 <u>1.079</u>	80%	41% <u>42%</u>
2008 <u>2009</u>	39%	1.088 <u>1.064</u>	80%	34% <u>33%</u>
2007 <u>2008</u>	30%	1.137 <u>1.101</u>	80%	27% <u>26%</u>
2006 <u>2007</u>	24%	1.204 <u>1.151</u>	80%	23% <u>22%</u>
2005 <u>2006</u> and older	21%	1.265 <u>1.219</u>	80%	21% <u>20%</u>

(6) This rule is effective for tax years beginning after December 31, ~~2014~~ 2015.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-219, MCA

REASON: The department proposes further amending ARM 42.21.139 to make a grammatical revision in (4).

42.21.140 OIL DRILLING RIGS (1) Bids for new rigs will be solicited from manufacturers of oil drilling rigs to determine current replacement costs based on the depth rating listed below. For each depth rating listed below for oil drilling rigs, there will be two replacement cost categories. One category will represent current replacement cost of a mechanical rig and the second category will represent current replacement cost of an electric rig. Each rig as it is assessed will be placed in a value category based on its depth.

DEPTH CATEGORIES

<u>Class</u>	<u>Depth Capacity</u>
1	0 to 3,000 ft.
2	3,001 ft. to 5,000 ft.
3	5,001 ft. to 8,000 ft.
4	7,501 <u>8,001</u> ft. to 10,000 ft.
5	10,001 ft. to 12,500 ft.
6	12,501 ft. to 15,000 ft.
7	15,001 ft. to 20,000 ft.

8 20,001 ft. and over

<u>MANUFACTURER'S DEPTH RATING</u>	<u>ELECTRICAL RIG R.C.N</u>	<u>MECHANICAL RIG R.C.N</u>
0 - 3,000 ft.	\$	\$ 285,209
3,001 ft. - 5,000 ft.		432,135
5,001 ft. - 7,500 ft.	868,250	654,750
7,501 ft. - 10,000 ft.	1,167,210	998,750
10,001 ft. - 12,500 ft.	1,265,500	1,130,600
12,501 ft. - 15,000 ft.	1,720,400	1,538,500
15,001 ft. - 20,000 ft.	1,990,100	
20,001 ft. and over	2,036,047	

The depth capacity for drilling rigs will be based on the "Manufacturers Depth Rating." These replacement costs will then be depreciated to arrive at market value according to the schedule ~~mentioned~~ provided in (2).

(2) The department shall prepare a ten-year trended depreciation schedule for oil drilling rigs. The trended depreciation schedule shall be derived from depreciation factors published in the Marshall & Swift Valuation Service Guide. The "% good" for all drill rigs less than one year old shall be 100 percent. The trended depreciation schedule for tax year ~~2015~~ 2016 is listed below.

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2015 <u>2016</u>	100%	1.000	100%
2014 <u>2015</u>	92%	1.000	92%
2013 <u>2014</u>	84%	1.009	85%
2012 <u>2013</u>	76%	1.010 <u>1.021</u>	77% <u>78%</u>
2011 <u>2012</u>	67%	1.038 <u>1.023</u>	70% <u>69%</u>
2010 <u>2011</u>	58%	1.066 <u>1.051</u>	62% <u>61%</u>
2009 <u>2010</u>	49%	1.054 <u>1.079</u>	51% <u>53%</u>
2008 <u>2009</u>	39%	1.088 <u>1.064</u>	42% <u>41%</u>
2007 <u>2008</u>	30%	1.137 <u>1.101</u>	34% <u>33%</u>
2006 <u>2007</u>	24%	1.204 <u>1.151</u>	29% <u>28%</u>
2005 <u>2006</u> and older	21%	1.265 <u>1.219</u>	27% <u>26%</u>

(3) remains the same.

(4) This rule is effective for tax years beginning after December 31, ~~2014~~ 2015.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-219, MCA

REASON: The department proposes further amending ARM 42.21.140 to correct a wrong number in the depth category table and to make a grammatical revision in (1).

42.21.151 LOCALLY ASSESSED CABLE TELEVISION SYSTEMS

(1) through (3) remain the same.

(4) The trended depreciation schedules referred to in (2) and (3) are listed below and shall be in effect for tax year ~~2015~~ 2016.

FIVE-YEAR "DISHES"

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2014 <u>2015</u>	85%	1.000	85%
2013 <u>2014</u>	69%	1.010	70%
2012 <u>2013</u>	52%	1.018 <u>1.023</u>	53%
2011 <u>2012</u>	34%	1.047 <u>1.032</u>	36% <u>35%</u>
2010 <u>2011</u> and older	23%	1.080 <u>1.061</u>	25% <u>24%</u>

TEN-YEAR "TOWERS"

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2014 <u>2015</u>	92%	1.000	92%
2013 <u>2014</u>	84%	1.010	85%
2012 <u>2013</u>	76%	1.018 <u>1.023</u>	77% <u>78%</u>
2011 <u>2012</u>	67%	1.047 <u>1.032</u>	70% <u>69%</u>
2010 <u>2011</u>	58%	1.080 <u>1.061</u>	63% <u>62%</u>
2009 <u>2010</u>	49%	1.072 <u>1.094</u>	53% <u>54%</u>
2008 <u>2009</u>	39%	1.103 <u>1.086</u>	43% <u>42%</u>
2007 <u>2008</u>	30%	1.146 <u>1.117</u>	34%
2006 <u>2007</u>	24%	1.209 <u>1.161</u>	29% <u>28%</u>
2005 <u>2006</u> and older	21%	1.265 <u>1.225</u>	27% <u>26%</u>

(5) This rule is effective for tax years beginning after December 31, ~~2014~~ 2015.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-219, MCA

42.21.153 SKI LIFT EQUIPMENT (1) and (2) remain the same.

(3) The depreciation schedules shall be determined by the life expectancy of the equipment and will normally compensate for the loss in value due to ordinary wear and tear, offset by reasonable maintenance, and ordinary functional obsolescence due to the technological changes during the life expectancy period.

(4) The trend and depreciation schedule referred to in (2) and (3) is listed below.

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2014 <u>2015</u>	92%	1.000	92%
2013 <u>2014</u>	84%	1.010	85%
2012 <u>2013</u>	76%	1.018 <u>1.023</u>	77% <u>78%</u>
2011 <u>2012</u>	67%	1.047 <u>1.032</u>	70% <u>69%</u>
2010 <u>2011</u>	58%	1.080 <u>1.061</u>	63% <u>62%</u>
2009 <u>2010</u>	49%	1.072 <u>1.094</u>	53% <u>54%</u>
2008 <u>2009</u>	39%	1.103 <u>1.086</u>	43% <u>42%</u>
2007 <u>2008</u>	30%	1.146 <u>1.117</u>	34%
2006 <u>2007</u>	24%	1.209 <u>1.161</u>	29% <u>28%</u>
2005 <u>2006</u> and older	21%	1.265 <u>1.225</u>	27% <u>26%</u>

(a) and (b) remain the same.

(4)~~(5)~~ This methodology is effective for tax years beginning after December 31, 2014 2015.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-219, MCA

REASON: The department proposes further amending ARM 42.21.153 to add new (4) to provide lead-in language for the depreciation schedule that follows.

42.21.155 DEPRECIATION SCHEDULES (1) remains the same.

(2) The trended depreciation schedules for tax year ~~2015~~ 2016 are listed below. The categories are explained in ARM 42.21.156. The trend factors are derived according to ARM 42.21.156 and 42.21.157.

CATEGORY 1

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2014 <u>2015</u>	70%	1.000	70%
2013 <u>2014</u>	45%	0.986 <u>0.979</u>	44%
2012 <u>2013</u>	20%	0.934 <u>0.966</u>	19%
2011 and older <u>2012</u>	10%	0.864 <u>0.915</u>	9%
Older			<u>5%</u>

CATEGORY 2

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2014 <u>2015</u>	85%	1.000	85%
2013 <u>2014</u>	69%	0.998 <u>1.024</u>	69% <u>71%</u>

<u>2012 2013</u>	52%	<u>0.960 1.022</u>	<u>50% 53%</u>
<u>2011 2012</u>	34%	<u>0.973 0.984</u>	<u>33%</u>
<u>2010 and</u>			
<u>older 2011</u>	23%	<u>0.977 0.997</u>	<u>22% 23%</u>
<u>Older</u>			<u>18%</u>

CATEGORY 3

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2014 2015</u>	85%	1.000	85%
<u>2013 2014</u>	69%	<u>0.999 0.995</u>	69%
<u>2012 2013</u>	52%	<u>0.983 0.994</u>	<u>51% 52%</u>
<u>2011 2012</u>	34%	<u>0.955 0.979</u>	<u>32% 33%</u>
<u>2010 and</u>			
<u>older 2011</u>	23%	<u>0.924 0.950</u>	<u>21% 22%</u>
<u>Older</u>			<u>18%</u>

CATEGORY 4

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2014 2015</u>	85%	1.000	85%
<u>2013 2014</u>	69%	<u>0.996 0.989</u>	<u>69% 68%</u>
<u>2012 2013</u>	52%	<u>0.995 0.985</u>	<u>52% 51%</u>
<u>2011 2012</u>	34%	<u>0.994 0.984</u>	<u>34% 33%</u>
<u>2010 and</u>			
<u>older 2011</u>	23%	<u>0.978 0.981</u>	<u>23%</u>
<u>Older</u>			<u>18%</u>

CATEGORY 5

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2014 2015</u>	85%	1.000	85%
<u>2013 2014</u>	69%	<u>1.008 1.013</u>	70%
<u>2012 2013</u>	52%	<u>1.020 1.021</u>	53%
<u>2011 2012</u>	34%	<u>1.050 1.033</u>	<u>36% 35%</u>
<u>2010 and</u>			
<u>older 2011</u>	23%	<u>1.059 1.064</u>	<u>24%</u>
<u>Older</u>			<u>18%</u>

CATEGORY 6

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2014 2015</u>	85%	1.000	85%

<u>2013</u> <u>2014</u>	69%	<u>1.015</u> <u>1.016</u>	70%
<u>2012</u> <u>2013</u>	52%	<u>1.032</u> <u>1.030</u>	54%
<u>2011</u> <u>2012</u>	34%	<u>1.060</u> <u>1.051</u>	36%
<u>2010</u> and older <u>2011</u> <u>Older</u>	23%	<u>1.097</u> <u>1.088</u>	25% <u>18%</u>

CATEGORY 7

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2014</u> <u>2015</u>	92%	1.000	92%
<u>2013</u> <u>2014</u>	84%	<u>1.015</u> <u>1.012</u>	85%
<u>2012</u> <u>2013</u>	76%	<u>1.031</u> <u>1.026</u>	78%
<u>2011</u> <u>2012</u>	67%	<u>1.063</u> <u>1.043</u>	71% <u>70%</u>
<u>2010</u> <u>2011</u>	58%	<u>1.079</u> <u>1.075</u>	<u>63%</u> <u>62%</u>
<u>2009</u> <u>2010</u>	49%	<u>1.074</u> <u>1.092</u>	53%
<u>2008</u> <u>2009</u>	39%	<u>1.108</u> <u>1.086</u>	43% <u>42%</u>
<u>2007</u> <u>2008</u>	30%	<u>1.128</u> <u>1.120</u>	34%
<u>2006</u> <u>2007</u>	24%	<u>1.152</u> <u>1.140</u>	<u>28%</u> <u>27%</u>
<u>2005</u> and older <u>2006</u> <u>Older</u>	21%	<u>1.187</u> <u>1.165</u>	<u>25%</u> <u>24%</u> <u>20%</u>

CATEGORY 8

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2014</u> <u>2015</u>	92%	1.000	92%
<u>2013</u> <u>2014</u>	84%	<u>1.012</u> <u>1.023</u>	85% <u>86%</u>
<u>2012</u> <u>2013</u>	76%	<u>1.016</u> <u>1.037</u>	77% <u>79%</u>
<u>2011</u> <u>2012</u>	67%	<u>1.045</u> <u>1.042</u>	70%
<u>2010</u> <u>2011</u>	58%	<u>1.056</u> <u>1.071</u>	61% <u>62%</u>
<u>2009</u> <u>2010</u>	49%	<u>1.060</u> <u>1.082</u>	52% <u>53%</u>
<u>2008</u> <u>2009</u>	39%	<u>1.127</u> <u>1.087</u>	44% <u>42%</u>
<u>2007</u> <u>2008</u>	30%	<u>1.152</u> <u>1.155</u>	35%
<u>2006</u> <u>2007</u>	24%	<u>1.185</u> <u>1.181</u>	28%
<u>2005</u> and older <u>2006</u> <u>Older</u>	21%	<u>1.223</u> <u>1.214</u>	<u>26%</u> <u>25%</u> <u>20%</u>

(3) This rule is effective for tax years beginning after December 31, 2014 2015.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-219, MCA

REASON: The department proposes further amending ARM 42.21.155 to add a bottom row exclusively for "older" years in all of the tables to more precisely apply "a 5 percent to 20 percent residual" value as described in (1).

42.22.1311 INDUSTRIAL MACHINERY AND EQUIPMENT TREND

FACTORS (1) The trend factors will be used to value industrial machinery and equipment for ad valorem tax purposes pursuant to ARM 42.22.1306. The department uses annual cost indexes from the Marshall & Swift Valuation Service Guide. The current index is divided by the annual index for each year to arrive at a trending factor. Each major industry has its own trend table. Where no index existed in the Marshall & Swift Valuation Service Guide for a particular industry, that industry was grouped with other industries using similar equipment. The department will utilize the machinery and equipment trend factors that are set forth in the following tables: tables in (2) and (3).

(2) remains the same.

(3) Tables 1 through 32 represent the yearly trend factors for each of the categories.

<u>YEAR</u>	<u>TABLE 1</u> <u>Airplane Mfg.</u>	<u>TABLE 2</u> <u>Baking</u>	<u>TABLE 3</u> <u>Bottling</u>	<u>TABLE 4</u> <u>Brew/Dis.</u>	<u>TABLE 5</u> <u>Candy Confect.</u>
2014	1.000	1.000	1.000	1.000	1.000
2013	1.007	1.011	1.009	1.010	1.011
2012	1.008	1.020	1.013	1.019	1.021
2011	1.037	1.048	1.041	1.046	1.049
2010	1.076	1.082	1.075	1.074	1.083
2009	1.058	1.074	1.065	1.068	1.077
2008	1.089	1.101	1.093	1.098	1.102
2007	1.133	1.145	1.141	1.147	1.147
2006	1.196	1.226	1.209	1.216	1.232
2005	1.258	1.282	1.271	1.278	1.288
2004	1.362	1.379	1.378	1.381	1.384
2003	1.414	1.431	1.429	1.428	1.434
2002	1.440	1.456	1.455	1.454	1.458
2001	1.445	1.465	1.462	1.463	1.468
2000	1.455	1.481	1.475	1.479	1.485
1999	1.481	1.511	1.503	1.507	1.514
1998	1.483	1.516	1.506	1.515	1.519
1997	1.495	1.532	1.518	1.530	1.536
1996	1.513	1.558	1.541	1.554	1.564
1995	1.533	1.581	1.564	1.584	1.588
2015	1.000	1.000	1.000	1.000	1.000
2014	1.006	1.012	1.009	1.011	1.012
2013	1.015	1.026	1.022	1.025	1.027
2012	1.016	1.035	1.027	1.034	1.037
2011	1.046	1.064	1.055	1.061	1.066
2010	1.085	1.099	1.089	1.090	1.101
2009	1.067	1.090	1.079	1.084	1.094

<u>2008</u>	<u>1.097</u>	<u>1.117</u>	<u>1.107</u>	<u>1.115</u>	<u>1.120</u>
<u>2007</u>	<u>1.142</u>	<u>1.162</u>	<u>1.156</u>	<u>1.164</u>	<u>1.165</u>
<u>2006</u>	<u>1.206</u>	<u>1.244</u>	<u>1.225</u>	<u>1.234</u>	<u>1.251</u>
<u>2005</u>	<u>1.268</u>	<u>1.302</u>	<u>1.288</u>	<u>1.297</u>	<u>1.308</u>
<u>2004</u>	<u>1.373</u>	<u>1.400</u>	<u>1.396</u>	<u>1.401</u>	<u>1.406</u>
<u>2003</u>	<u>1.426</u>	<u>1.452</u>	<u>1.448</u>	<u>1.449</u>	<u>1.457</u>
<u>2002</u>	<u>1.452</u>	<u>1.477</u>	<u>1.474</u>	<u>1.475</u>	<u>1.482</u>
<u>2001</u>	<u>1.457</u>	<u>1.487</u>	<u>1.481</u>	<u>1.485</u>	<u>1.491</u>
<u>2000</u>	<u>1.467</u>	<u>1.503</u>	<u>1.494</u>	<u>1.501</u>	<u>1.508</u>
<u>1999</u>	<u>1.494</u>	<u>1.534</u>	<u>1.523</u>	<u>1.529</u>	<u>1.538</u>
<u>1998</u>	<u>1.495</u>	<u>1.539</u>	<u>1.526</u>	<u>1.537</u>	<u>1.543</u>
<u>1997</u>	<u>1.507</u>	<u>1.555</u>	<u>1.537</u>	<u>1.552</u>	<u>1.560</u>
<u>1996</u>	<u>1.525</u>	<u>1.581</u>	<u>1.561</u>	<u>1.577</u>	<u>1.588</u>
<u>1995</u>	<u>1.546</u>	<u>1.605</u>	<u>1.585</u>	<u>1.607</u>	<u>1.613</u>

<u>YEAR</u>	<u>TABLE 6</u> <u>Cement Mfg.</u>	<u>TABLE 7</u> <u>Chemical Mfg.</u>	<u>TABLE 8</u> <u>Clay Mfg.</u>	<u>TABLE 9</u> <u>Contractor Eq.</u>	<u>TABLE 10</u> <u>Creamery/Dairy</u>
<u>2014</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2013</u>	<u>1.010</u>	<u>1.009</u>	<u>1.011</u>	<u>1.011</u>	<u>1.010</u>
<u>2012</u>	<u>1.020</u>	<u>1.010</u>	<u>1.023</u>	<u>1.030</u>	<u>1.020</u>
<u>2011</u>	<u>1.055</u>	<u>1.038</u>	<u>1.056</u>	<u>1.065</u>	<u>1.048</u>
<u>2010</u>	<u>1.085</u>	<u>1.066</u>	<u>1.087</u>	<u>1.095</u>	<u>1.082</u>
<u>2009</u>	<u>1.071</u>	<u>1.051</u>	<u>1.079</u>	<u>1.091</u>	<u>1.077</u>
<u>2008</u>	<u>1.119</u>	<u>1.088</u>	<u>1.129</u>	<u>1.123</u>	<u>1.101</u>
<u>2007</u>	<u>1.169</u>	<u>1.137</u>	<u>1.177</u>	<u>1.159</u>	<u>1.148</u>
<u>2006</u>	<u>1.230</u>	<u>1.204</u>	<u>1.241</u>	<u>1.200</u>	<u>1.228</u>
<u>2005</u>	<u>1.291</u>	<u>1.265</u>	<u>1.300</u>	<u>1.254</u>	<u>1.289</u>
<u>2004</u>	<u>1.403</u>	<u>1.372</u>	<u>1.403</u>	<u>1.339</u>	<u>1.387</u>
<u>2003</u>	<u>1.459</u>	<u>1.420</u>	<u>1.453</u>	<u>1.378</u>	<u>1.436</u>
<u>2002</u>	<u>1.489</u>	<u>1.449</u>	<u>1.482</u>	<u>1.400</u>	<u>1.459</u>
<u>2001</u>	<u>1.498</u>	<u>1.457</u>	<u>1.492</u>	<u>1.411</u>	<u>1.469</u>
<u>2000</u>	<u>1.513</u>	<u>1.471</u>	<u>1.508</u>	<u>1.419</u>	<u>1.485</u>
<u>1999</u>	<u>1.538</u>	<u>1.495</u>	<u>1.534</u>	<u>1.444</u>	<u>1.516</u>
<u>1998</u>	<u>1.545</u>	<u>1.502</u>	<u>1.539</u>	<u>1.455</u>	<u>1.522</u>
<u>1997</u>	<u>1.561</u>	<u>1.517</u>	<u>1.555</u>	<u>1.472</u>	<u>1.537</u>
<u>1996</u>	<u>1.580</u>	<u>1.537</u>	<u>1.579</u>	<u>1.501</u>	<u>1.564</u>
<u>1995</u>	<u>1.609</u>	<u>1.567</u>	<u>1.609</u>	<u>1.525</u>	<u>1.591</u>
<u>2015</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2014</u>	<u>1.008</u>	<u>1.009</u>	<u>1.010</u>	<u>1.012</u>	<u>1.013</u>
<u>2013</u>	<u>1.021</u>	<u>1.021</u>	<u>1.023</u>	<u>1.026</u>	<u>1.027</u>
<u>2012</u>	<u>1.031</u>	<u>1.023</u>	<u>1.035</u>	<u>1.046</u>	<u>1.037</u>
<u>2011</u>	<u>1.067</u>	<u>1.051</u>	<u>1.069</u>	<u>1.080</u>	<u>1.065</u>
<u>2010</u>	<u>1.097</u>	<u>1.079</u>	<u>1.101</u>	<u>1.111</u>	<u>1.099</u>
<u>2009</u>	<u>1.082</u>	<u>1.064</u>	<u>1.093</u>	<u>1.107</u>	<u>1.095</u>
<u>2008</u>	<u>1.131</u>	<u>1.101</u>	<u>1.143</u>	<u>1.140</u>	<u>1.119</u>
<u>2007</u>	<u>1.182</u>	<u>1.152</u>	<u>1.192</u>	<u>1.176</u>	<u>1.167</u>
<u>2006</u>	<u>1.244</u>	<u>1.219</u>	<u>1.256</u>	<u>1.218</u>	<u>1.249</u>

<u>2005</u>	<u>1.305</u>	<u>1.281</u>	<u>1.316</u>	<u>1.272</u>	<u>1.310</u>
<u>2004</u>	<u>1.418</u>	<u>1.390</u>	<u>1.420</u>	<u>1.359</u>	<u>1.410</u>
<u>2003</u>	<u>1.475</u>	<u>1.438</u>	<u>1.471</u>	<u>1.399</u>	<u>1.459</u>
<u>2002</u>	<u>1.505</u>	<u>1.467</u>	<u>1.500</u>	<u>1.420</u>	<u>1.483</u>
<u>2001</u>	<u>1.514</u>	<u>1.475</u>	<u>1.511</u>	<u>1.432</u>	<u>1.493</u>
<u>2000</u>	<u>1.529</u>	<u>1.489</u>	<u>1.527</u>	<u>1.440</u>	<u>1.510</u>
<u>1999</u>	<u>1.555</u>	<u>1.514</u>	<u>1.553</u>	<u>1.465</u>	<u>1.541</u>
<u>1998</u>	<u>1.561</u>	<u>1.521</u>	<u>1.558</u>	<u>1.477</u>	<u>1.547</u>
<u>1997</u>	<u>1.578</u>	<u>1.537</u>	<u>1.575</u>	<u>1.494</u>	<u>1.562</u>
<u>1996</u>	<u>1.597</u>	<u>1.556</u>	<u>1.599</u>	<u>1.523</u>	<u>1.589</u>
<u>1995</u>	<u>1.627</u>	<u>1.587</u>	<u>1.630</u>	<u>1.548</u>	<u>1.617</u>

<u>YEAR</u>	<u>TABLE 11</u> <u>Elec. Pwr.</u> <u>Eq.</u>	<u>TABLE 12</u> <u>Elec. Eq.</u> <u>Mfg.</u>	<u>TABLE 13</u> <u>Cannery/Fish</u>	<u>TABLE 14</u> <u>Flour, Cer.</u> <u>Feed</u>	<u>TABLE 15</u> <u>Cannery/Fruit</u>
<u>2014</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2013</u>	<u>0.999</u>	<u>1.003</u>	<u>1.011</u>	<u>1.010</u>	<u>1.012</u>
<u>2012</u>	<u>0.987</u>	<u>0.996</u>	<u>1.020</u>	<u>1.018</u>	<u>1.024</u>
<u>2011</u>	<u>1.010</u>	<u>1.022</u>	<u>1.049</u>	<u>1.047</u>	<u>1.053</u>
<u>2010</u>	<u>1.065</u>	<u>1.071</u>	<u>1.084</u>	<u>1.082</u>	<u>1.087</u>
<u>2009</u>	<u>1.057</u>	<u>1.057</u>	<u>1.074</u>	<u>1.073</u>	<u>1.082</u>
<u>2008</u>	<u>1.061</u>	<u>1.074</u>	<u>1.102</u>	<u>1.101</u>	<u>1.104</u>
<u>2007</u>	<u>1.119</u>	<u>1.126</u>	<u>1.147</u>	<u>1.148</u>	<u>1.145</u>
<u>2006</u>	<u>1.212</u>	<u>1.205</u>	<u>1.228</u>	<u>1.223</u>	<u>1.220</u>
<u>2005</u>	<u>1.300</u>	<u>1.280</u>	<u>1.284</u>	<u>1.285</u>	<u>1.273</u>
<u>2004</u>	<u>1.422</u>	<u>1.394</u>	<u>1.384</u>	<u>1.387</u>	<u>1.365</u>
<u>2003</u>	<u>1.487</u>	<u>1.454</u>	<u>1.437</u>	<u>1.438</u>	<u>1.416</u>
<u>2002</u>	<u>1.512</u>	<u>1.478</u>	<u>1.462</u>	<u>1.462</u>	<u>1.439</u>
<u>2001</u>	<u>1.506</u>	<u>1.477</u>	<u>1.472</u>	<u>1.470</u>	<u>1.449</u>
<u>2000</u>	<u>1.517</u>	<u>1.487</u>	<u>1.488</u>	<u>1.486</u>	<u>1.464</u>
<u>1999</u>	<u>1.547</u>	<u>1.515</u>	<u>1.518</u>	<u>1.516</u>	<u>1.494</u>
<u>1998</u>	<u>1.540</u>	<u>1.509</u>	<u>1.522</u>	<u>1.522</u>	<u>1.499</u>
<u>1997</u>	<u>1.543</u>	<u>1.516</u>	<u>1.538</u>	<u>1.537</u>	<u>1.513</u>
<u>1996</u>	<u>1.551</u>	<u>1.530</u>	<u>1.566</u>	<u>1.561</u>	<u>1.544</u>
<u>1995</u>	<u>1.564</u>	<u>1.547</u>	<u>1.589</u>	<u>1.585</u>	<u>1.564</u>
<u>2015</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2014</u>	<u>0.998</u>	<u>1.001</u>	<u>1.012</u>	<u>1.011</u>	<u>1.013</u>
<u>2013</u>	<u>1.000</u>	<u>1.007</u>	<u>1.027</u>	<u>1.024</u>	<u>1.029</u>
<u>2012</u>	<u>0.988</u>	<u>1.000</u>	<u>1.036</u>	<u>1.032</u>	<u>1.041</u>
<u>2011</u>	<u>1.010</u>	<u>1.026</u>	<u>1.065</u>	<u>1.062</u>	<u>1.070</u>
<u>2010</u>	<u>1.066</u>	<u>1.076</u>	<u>1.100</u>	<u>1.097</u>	<u>1.105</u>
<u>2009</u>	<u>1.058</u>	<u>1.061</u>	<u>1.091</u>	<u>1.088</u>	<u>1.100</u>
<u>2008</u>	<u>1.062</u>	<u>1.078</u>	<u>1.119</u>	<u>1.116</u>	<u>1.122</u>
<u>2007</u>	<u>1.120</u>	<u>1.131</u>	<u>1.164</u>	<u>1.164</u>	<u>1.164</u>
<u>2006</u>	<u>1.213</u>	<u>1.210</u>	<u>1.247</u>	<u>1.240</u>	<u>1.240</u>
<u>2005</u>	<u>1.301</u>	<u>1.285</u>	<u>1.304</u>	<u>1.303</u>	<u>1.294</u>
<u>2004</u>	<u>1.423</u>	<u>1.400</u>	<u>1.405</u>	<u>1.406</u>	<u>1.388</u>

<u>2003</u>	<u>1.489</u>	<u>1.459</u>	<u>1.459</u>	<u>1.458</u>	<u>1.439</u>
<u>2002</u>	<u>1.513</u>	<u>1.484</u>	<u>1.485</u>	<u>1.483</u>	<u>1.462</u>
<u>2001</u>	<u>1.507</u>	<u>1.483</u>	<u>1.495</u>	<u>1.491</u>	<u>1.473</u>
<u>2000</u>	<u>1.518</u>	<u>1.493</u>	<u>1.511</u>	<u>1.507</u>	<u>1.488</u>
<u>1999</u>	<u>1.548</u>	<u>1.520</u>	<u>1.541</u>	<u>1.537</u>	<u>1.519</u>
<u>1998</u>	<u>1.541</u>	<u>1.515</u>	<u>1.546</u>	<u>1.544</u>	<u>1.524</u>
<u>1997</u>	<u>1.544</u>	<u>1.522</u>	<u>1.562</u>	<u>1.559</u>	<u>1.538</u>
<u>1996</u>	<u>1.552</u>	<u>1.536</u>	<u>1.590</u>	<u>1.582</u>	<u>1.569</u>
<u>1995</u>	<u>1.565</u>	<u>1.553</u>	<u>1.614</u>	<u>1.607</u>	<u>1.590</u>

<u>YEAR</u>	<u>TABLE 16</u> <u>Packing/</u> <u>Fruit</u>	<u>TABLE 17</u> <u>Laundry/</u> <u>Clean</u>	<u>TABLE 18</u> <u>Logging Eq.</u>	<u>TABLE 19</u> <u>Packing/</u> <u>Meat</u>	<u>TABLE 20</u> <u>Metal</u> <u>Work</u>
<u>2014</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2013</u>	<u>1.014</u>	<u>1.010</u>	<u>1.010</u>	<u>1.012</u>	<u>1.008</u>
<u>2012</u>	<u>1.033</u>	<u>1.018</u>	<u>1.020</u>	<u>1.024</u>	<u>1.008</u>
<u>2011</u>	<u>1.062</u>	<u>1.047</u>	<u>1.051</u>	<u>1.054</u>	<u>1.039</u>
<u>2010</u>	<u>1.094</u>	<u>1.081</u>	<u>1.081</u>	<u>1.085</u>	<u>1.074</u>
<u>2009</u>	<u>1.093</u>	<u>1.071</u>	<u>1.066</u>	<u>1.080</u>	<u>1.054</u>
<u>2008</u>	<u>1.114</u>	<u>1.107</u>	<u>1.101</u>	<u>1.114</u>	<u>1.093</u>
<u>2007</u>	<u>1.153</u>	<u>1.153</u>	<u>1.140</u>	<u>1.158</u>	<u>1.135</u>
<u>2006</u>	<u>1.207</u>	<u>1.216</u>	<u>1.188</u>	<u>1.234</u>	<u>1.198</u>
<u>2005</u>	<u>1.257</u>	<u>1.270</u>	<u>1.240</u>	<u>1.287</u>	<u>1.251</u>
<u>2004</u>	<u>1.342</u>	<u>1.370</u>	<u>1.333</u>	<u>1.379</u>	<u>1.350</u>
<u>2003</u>	<u>1.388</u>	<u>1.420</u>	<u>1.381</u>	<u>1.426</u>	<u>1.393</u>
<u>2002</u>	<u>1.409</u>	<u>1.446</u>	<u>1.402</u>	<u>1.450</u>	<u>1.416</u>
<u>2001</u>	<u>1.422</u>	<u>1.454</u>	<u>1.411</u>	<u>1.461</u>	<u>1.419</u>
<u>2000</u>	<u>1.433</u>	<u>1.466</u>	<u>1.419</u>	<u>1.477</u>	<u>1.428</u>
<u>1999</u>	<u>1.464</u>	<u>1.494</u>	<u>1.445</u>	<u>1.505</u>	<u>1.448</u>
<u>1998</u>	<u>1.470</u>	<u>1.496</u>	<u>1.450</u>	<u>1.512</u>	<u>1.448</u>
<u>1997</u>	<u>1.482</u>	<u>1.508</u>	<u>1.462</u>	<u>1.529</u>	<u>1.462</u>
<u>1996</u>	<u>1.517</u>	<u>1.532</u>	<u>1.485</u>	<u>1.556</u>	<u>1.480</u>
<u>1995</u>	<u>1.536</u>	<u>1.556</u>	<u>1.506</u>	<u>1.583</u>	<u>1.506</u>
<u>2015</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2014</u>	<u>1.014</u>	<u>1.009</u>	<u>1.008</u>	<u>1.014</u>	<u>1.006</u>
<u>2013</u>	<u>1.032</u>	<u>1.023</u>	<u>1.020</u>	<u>1.029</u>	<u>1.018</u>
<u>2012</u>	<u>1.051</u>	<u>1.030</u>	<u>1.031</u>	<u>1.041</u>	<u>1.017</u>
<u>2011</u>	<u>1.081</u>	<u>1.060</u>	<u>1.062</u>	<u>1.072</u>	<u>1.048</u>
<u>2010</u>	<u>1.113</u>	<u>1.094</u>	<u>1.092</u>	<u>1.104</u>	<u>1.084</u>
<u>2009</u>	<u>1.112</u>	<u>1.084</u>	<u>1.077</u>	<u>1.098</u>	<u>1.063</u>
<u>2008</u>	<u>1.134</u>	<u>1.121</u>	<u>1.113</u>	<u>1.133</u>	<u>1.103</u>
<u>2007</u>	<u>1.173</u>	<u>1.167</u>	<u>1.152</u>	<u>1.178</u>	<u>1.146</u>
<u>2006</u>	<u>1.229</u>	<u>1.231</u>	<u>1.201</u>	<u>1.255</u>	<u>1.210</u>
<u>2005</u>	<u>1.279</u>	<u>1.286</u>	<u>1.254</u>	<u>1.309</u>	<u>1.263</u>
<u>2004</u>	<u>1.366</u>	<u>1.387</u>	<u>1.348</u>	<u>1.403</u>	<u>1.363</u>
<u>2003</u>	<u>1.413</u>	<u>1.437</u>	<u>1.396</u>	<u>1.450</u>	<u>1.406</u>
<u>2002</u>	<u>1.434</u>	<u>1.464</u>	<u>1.417</u>	<u>1.475</u>	<u>1.429</u>

<u>2001</u>	<u>1.447</u>	<u>1.472</u>	<u>1.426</u>	<u>1.486</u>	<u>1.432</u>
<u>2000</u>	<u>1.459</u>	<u>1.484</u>	<u>1.434</u>	<u>1.502</u>	<u>1.441</u>
<u>1999</u>	<u>1.490</u>	<u>1.512</u>	<u>1.460</u>	<u>1.530</u>	<u>1.461</u>
<u>1998</u>	<u>1.496</u>	<u>1.515</u>	<u>1.466</u>	<u>1.538</u>	<u>1.461</u>
<u>1997</u>	<u>1.508</u>	<u>1.527</u>	<u>1.478</u>	<u>1.555</u>	<u>1.475</u>
<u>1996</u>	<u>1.544</u>	<u>1.551</u>	<u>1.501</u>	<u>1.583</u>	<u>1.494</u>
<u>1995</u>	<u>1.563</u>	<u>1.575</u>	<u>1.522</u>	<u>1.611</u>	<u>1.520</u>

<u>YEAR</u>	<u>TABLE 21</u>	<u>TABLE 22</u>	<u>TABLE 23</u>	<u>TABLE 24</u>	<u>TABLE 25</u>
	<u>Mine</u>	<u>Paint</u>			<u>Paper</u>
	<u>Mill</u>	<u>Mfg.</u>	<u>Petroleum</u>	<u>Printing</u>	<u>Mfg.</u>
<u>2014</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2013</u>	<u>1.013</u>	<u>1.009</u>	<u>1.008</u>	<u>1.006</u>	<u>1.011</u>
<u>2012</u>	<u>1.032</u>	<u>1.014</u>	<u>1.015</u>	<u>1.010</u>	<u>1.020</u>
<u>2011</u>	<u>1.078</u>	<u>1.045</u>	<u>1.045</u>	<u>1.036</u>	<u>1.051</u>
<u>2010</u>	<u>1.113</u>	<u>1.079</u>	<u>1.072</u>	<u>1.068</u>	<u>1.085</u>
<u>2009</u>	<u>1.112</u>	<u>1.067</u>	<u>1.055</u>	<u>1.058</u>	<u>1.073</u>
<u>2008</u>	<u>1.163</u>	<u>1.104</u>	<u>1.098</u>	<u>1.081</u>	<u>1.107</u>
<u>2007</u>	<u>1.212</u>	<u>1.153</u>	<u>1.152</u>	<u>1.119</u>	<u>1.152</u>
<u>2006</u>	<u>1.265</u>	<u>1.220</u>	<u>1.226</u>	<u>1.181</u>	<u>1.210</u>
<u>2005</u>	<u>1.327</u>	<u>1.281</u>	<u>1.298</u>	<u>1.228</u>	<u>1.265</u>
<u>2004</u>	<u>1.439</u>	<u>1.389</u>	<u>1.410</u>	<u>1.309</u>	<u>1.371</u>
<u>2003</u>	<u>1.493</u>	<u>1.442</u>	<u>1.460</u>	<u>1.347</u>	<u>1.424</u>
<u>2002</u>	<u>1.522</u>	<u>1.471</u>	<u>1.489</u>	<u>1.369</u>	<u>1.451</u>
<u>2001</u>	<u>1.540</u>	<u>1.480</u>	<u>1.504</u>	<u>1.371</u>	<u>1.464</u>
<u>2000</u>	<u>1.551</u>	<u>1.493</u>	<u>1.523</u>	<u>1.382</u>	<u>1.473</u>
<u>1999</u>	<u>1.577</u>	<u>1.522</u>	<u>1.544</u>	<u>1.402</u>	<u>1.502</u>
<u>1998</u>	<u>1.584</u>	<u>1.526</u>	<u>1.552</u>	<u>1.403</u>	<u>1.506</u>
<u>1997</u>	<u>1.601</u>	<u>1.541</u>	<u>1.573</u>	<u>1.411</u>	<u>1.519</u>
<u>1996</u>	<u>1.627</u>	<u>1.564</u>	<u>1.599</u>	<u>1.433</u>	<u>1.549</u>
<u>1995</u>	<u>1.653</u>	<u>1.591</u>	<u>1.632</u>	<u>1.455</u>	<u>1.570</u>
<u>2015</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2014</u>	<u>1.012</u>	<u>1.009</u>	<u>1.009</u>	<u>1.005</u>	<u>1.011</u>
<u>2013</u>	<u>1.026</u>	<u>1.022</u>	<u>1.020</u>	<u>1.013</u>	<u>1.025</u>
<u>2012</u>	<u>1.046</u>	<u>1.027</u>	<u>1.027</u>	<u>1.017</u>	<u>1.034</u>
<u>2011</u>	<u>1.092</u>	<u>1.058</u>	<u>1.057</u>	<u>1.044</u>	<u>1.065</u>
<u>2010</u>	<u>1.128</u>	<u>1.093</u>	<u>1.084</u>	<u>1.076</u>	<u>1.100</u>
<u>2009</u>	<u>1.127</u>	<u>1.080</u>	<u>1.067</u>	<u>1.066</u>	<u>1.088</u>
<u>2008</u>	<u>1.179</u>	<u>1.118</u>	<u>1.111</u>	<u>1.089</u>	<u>1.123</u>
<u>2007</u>	<u>1.228</u>	<u>1.167</u>	<u>1.166</u>	<u>1.127</u>	<u>1.168</u>
<u>2006</u>	<u>1.282</u>	<u>1.235</u>	<u>1.240</u>	<u>1.190</u>	<u>1.227</u>
<u>2005</u>	<u>1.345</u>	<u>1.297</u>	<u>1.313</u>	<u>1.237</u>	<u>1.283</u>
<u>2004</u>	<u>1.458</u>	<u>1.406</u>	<u>1.426</u>	<u>1.319</u>	<u>1.390</u>
<u>2003</u>	<u>1.513</u>	<u>1.460</u>	<u>1.477</u>	<u>1.357</u>	<u>1.444</u>
<u>2002</u>	<u>1.543</u>	<u>1.490</u>	<u>1.506</u>	<u>1.379</u>	<u>1.471</u>
<u>2001</u>	<u>1.561</u>	<u>1.498</u>	<u>1.521</u>	<u>1.381</u>	<u>1.484</u>
<u>2000</u>	<u>1.572</u>	<u>1.512</u>	<u>1.540</u>	<u>1.393</u>	<u>1.493</u>

<u>1999</u>	<u>1.598</u>	<u>1.541</u>	<u>1.562</u>	<u>1.412</u>	<u>1.523</u>
<u>1998</u>	<u>1.606</u>	<u>1.545</u>	<u>1.570</u>	<u>1.413</u>	<u>1.527</u>
<u>1997</u>	<u>1.623</u>	<u>1.560</u>	<u>1.591</u>	<u>1.421</u>	<u>1.540</u>
<u>1996</u>	<u>1.649</u>	<u>1.583</u>	<u>1.618</u>	<u>1.444</u>	<u>1.571</u>
<u>1995</u>	<u>1.676</u>	<u>1.611</u>	<u>1.651</u>	<u>1.466</u>	<u>1.592</u>

<u>YEAR</u>	<u>TABLE 26</u>	<u>TABLE 27</u>	<u>TABLE 28</u>	<u>TABLE 29</u>	<u>TABLE 30</u>
	<u>Refrigeration</u>	<u>Rubber</u>	<u>Steam Power</u>	<u>Textile</u>	<u>Warehousing</u>
<u>2014</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2013</u>	<u>1.010</u>	<u>1.008</u>	<u>1.007</u>	<u>1.010</u>	<u>1.011</u>
<u>2012</u>	<u>1.017</u>	<u>1.009</u>	<u>1.007</u>	<u>1.015</u>	<u>1.027</u>
<u>2011</u>	<u>1.048</u>	<u>1.036</u>	<u>1.036</u>	<u>1.041</u>	<u>1.057</u>
<u>2010</u>	<u>1.084</u>	<u>1.066</u>	<u>1.073</u>	<u>1.067</u>	<u>1.087</u>
<u>2009</u>	<u>1.076</u>	<u>1.051</u>	<u>1.063</u>	<u>1.052</u>	<u>1.081</u>
<u>2008</u>	<u>1.113</u>	<u>1.089</u>	<u>1.099</u>	<u>1.085</u>	<u>1.115</u>
<u>2007</u>	<u>1.161</u>	<u>1.132</u>	<u>1.152</u>	<u>1.122</u>	<u>1.154</u>
<u>2006</u>	<u>1.229</u>	<u>1.192</u>	<u>1.229</u>	<u>1.170</u>	<u>1.196</u>
<u>2005</u>	<u>1.288</u>	<u>1.242</u>	<u>1.294</u>	<u>1.214</u>	<u>1.238</u>
<u>2004</u>	<u>1.389</u>	<u>1.332</u>	<u>1.411</u>	<u>1.300</u>	<u>1.325</u>
<u>2003</u>	<u>1.439</u>	<u>1.379</u>	<u>1.463</u>	<u>1.338</u>	<u>1.371</u>
<u>2002</u>	<u>1.468</u>	<u>1.407</u>	<u>1.493</u>	<u>1.357</u>	<u>1.387</u>
<u>2001</u>	<u>1.480</u>	<u>1.411</u>	<u>1.498</u>	<u>1.363</u>	<u>1.392</u>
<u>2000</u>	<u>1.494</u>	<u>1.423</u>	<u>1.510</u>	<u>1.374</u>	<u>1.400</u>
<u>1999</u>	<u>1.523</u>	<u>1.444</u>	<u>1.533</u>	<u>1.395</u>	<u>1.426</u>
<u>1998</u>	<u>1.529</u>	<u>1.450</u>	<u>1.535</u>	<u>1.397</u>	<u>1.428</u>
<u>1997</u>	<u>1.545</u>	<u>1.466</u>	<u>1.546</u>	<u>1.408</u>	<u>1.433</u>
<u>1996</u>	<u>1.570</u>	<u>1.486</u>	<u>1.562</u>	<u>1.432</u>	<u>1.456</u>
<u>1995</u>	<u>1.598</u>	<u>1.514</u>	<u>1.587</u>	<u>1.452</u>	<u>1.469</u>
<u>2015</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2014</u>	<u>1.010</u>	<u>1.008</u>	<u>1.006</u>	<u>1.008</u>	<u>1.012</u>
<u>2013</u>	<u>1.024</u>	<u>1.020</u>	<u>1.017</u>	<u>1.020</u>	<u>1.026</u>
<u>2012</u>	<u>1.031</u>	<u>1.020</u>	<u>1.017</u>	<u>1.026</u>	<u>1.042</u>
<u>2011</u>	<u>1.062</u>	<u>1.048</u>	<u>1.046</u>	<u>1.052</u>	<u>1.072</u>
<u>2010</u>	<u>1.098</u>	<u>1.078</u>	<u>1.083</u>	<u>1.078</u>	<u>1.103</u>
<u>2009</u>	<u>1.091</u>	<u>1.063</u>	<u>1.073</u>	<u>1.063</u>	<u>1.097</u>
<u>2008</u>	<u>1.128</u>	<u>1.101</u>	<u>1.109</u>	<u>1.096</u>	<u>1.131</u>
<u>2007</u>	<u>1.177</u>	<u>1.144</u>	<u>1.162</u>	<u>1.134</u>	<u>1.171</u>
<u>2006</u>	<u>1.245</u>	<u>1.206</u>	<u>1.241</u>	<u>1.183</u>	<u>1.214</u>
<u>2005</u>	<u>1.306</u>	<u>1.256</u>	<u>1.307</u>	<u>1.227</u>	<u>1.256</u>
<u>2004</u>	<u>1.408</u>	<u>1.347</u>	<u>1.424</u>	<u>1.314</u>	<u>1.344</u>
<u>2003</u>	<u>1.458</u>	<u>1.394</u>	<u>1.477</u>	<u>1.352</u>	<u>1.391</u>
<u>2002</u>	<u>1.488</u>	<u>1.423</u>	<u>1.507</u>	<u>1.372</u>	<u>1.408</u>
<u>2001</u>	<u>1.500</u>	<u>1.427</u>	<u>1.512</u>	<u>1.378</u>	<u>1.413</u>
<u>2000</u>	<u>1.514</u>	<u>1.439</u>	<u>1.524</u>	<u>1.388</u>	<u>1.421</u>
<u>1999</u>	<u>1.544</u>	<u>1.460</u>	<u>1.548</u>	<u>1.409</u>	<u>1.447</u>
<u>1998</u>	<u>1.550</u>	<u>1.466</u>	<u>1.549</u>	<u>1.411</u>	<u>1.449</u>

<u>1997</u>	<u>1.566</u>	<u>1.482</u>	<u>1.561</u>	<u>1.423</u>	<u>1.454</u>
<u>1996</u>	<u>1.591</u>	<u>1.503</u>	<u>1.577</u>	<u>1.447</u>	<u>1.478</u>
<u>1995</u>	<u>1.619</u>	<u>1.531</u>	<u>1.603</u>	<u>1.467</u>	<u>1.491</u>

<u>YEAR</u>	<u>TABLE 31</u> <u>Woodworking</u>	<u>TABLE 32</u> <u>Glass Mfg.</u>
2014	1.000	1.000
2013	1.013	1.008
2012	1.031	1.014
2011	1.058	1.044
2010	1.090	1.080
2009	1.082	1.068
2008	1.107	1.104
2007	1.143	1.154
2006	1.189	1.223
2005	1.234	1.289
2004	1.318	1.403
2003	1.359	1.458
2002	1.379	1.487
2001	1.391	1.495
2000	1.393	1.509
1999	1.416	1.538
1998	1.418	1.541
1997	1.424	1.554
1996	1.460	1.574
1995	1.475	1.601
<u>2015</u>	<u>1.000</u>	<u>1.000</u>
<u>2014</u>	<u>1.019</u>	<u>1.008</u>
<u>2013</u>	<u>1.037</u>	<u>1.019</u>
<u>2012</u>	<u>1.055</u>	<u>1.024</u>
<u>2011</u>	<u>1.083</u>	<u>1.055</u>
<u>2010</u>	<u>1.116</u>	<u>1.091</u>
<u>2009</u>	<u>1.107</u>	<u>1.080</u>
<u>2008</u>	<u>1.133</u>	<u>1.115</u>
<u>2007</u>	<u>1.170</u>	<u>1.167</u>
<u>2006</u>	<u>1.217</u>	<u>1.236</u>
<u>2005</u>	<u>1.263</u>	<u>1.303</u>
<u>2004</u>	<u>1.349</u>	<u>1.418</u>
<u>2003</u>	<u>1.390</u>	<u>1.474</u>
<u>2002</u>	<u>1.411</u>	<u>1.503</u>
<u>2001</u>	<u>1.424</u>	<u>1.510</u>
<u>2000</u>	<u>1.425</u>	<u>1.525</u>
<u>1999</u>	<u>1.449</u>	<u>1.554</u>
<u>1998</u>	<u>1.451</u>	<u>1.558</u>
<u>1997</u>	<u>1.458</u>	<u>1.570</u>
<u>1996</u>	<u>1.494</u>	<u>1.591</u>

1995

1.509

1.618

AUTH: 15-1-201, MCA

IMP: 15-6-138, 15-8-111, MCA

REASON: The department proposes further amending ARM 42.22.1311 to correct a punctuation error in (1).

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than December 1, 2015.

6. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

7. 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 that includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 5 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.

8. An electronic copy of this notice is available on the department's web site at revenue.mt.gov/rules. The department strives to make the electronic copy of this 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. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

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

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of ARM 42.21.123 will significantly and directly impact small businesses that own and pay property tax on farm machinery and equipment. The department has determined that the amendment of the remaining above-stated rules will not significantly and directly impact small businesses. The department's impact analysis is available at revenue.mt.gov/rules or upon request from the person in 5.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State October 19, 2015

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 2.43.3502 pertaining to the)
investment policy statement for the)
Defined Contribution Retirement Plan)
and ARM 2.43.5102 pertaining to the)
investment policy statement for the)
457 Deferred Compensation Plan)

TO: All Concerned Persons

1. On August 27, 2015, the Public Employees' Retirement Board published MAR Notice No. 2-43-529 pertaining to the proposed amendment of the above-stated rules at page 1220 of the 2015 Montana Administrative Register, Issue Number 16.

2. The Public Employees' Retirement Board has amended the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

2.43.3502 ADOPTION OF INVESTMENT POLICY STATEMENT AND STABLE VALUE FUND INVESTMENT GUIDELINES (1) The board adopts and incorporates by reference the State of Montana 401(a) Defined Contribution Plan Investment Policy Statement approved by the board on June 11, 2015. The Investment Policy Statement provides investment guidelines for the defined contribution plan, a long-term retirement-savings vehicle that permits participants to invest employer and participant contributions on a tax-deferred basis. The investment guidelines help the board to meet its fiduciary responsibilities to evaluate and positively influence the direction of the plan and its investments for the benefit of the plan participants and beneficiaries.

(2) The board adopts and incorporates by reference the State of Montana Stable Value Investment Guidelines Schedule approved by the board on December 29, 2009. These guidelines apply to the investment of 401(a) defined contribution plan participant assets and 457(b) deferred compensation plan participant assets that are pooled together in the plans' stable value group trust. The guidelines were developed through mutual agreement amongst the board, the investment manager, and the insurance wrap provider and provide guidance to the investment manager when investing participants' funds contained within the stable value group trust.

(3) remains as proposed.

AUTH: 19-3-2104, MCA

IMP: 19-3-2104, 19-3-2122, MCA

2.43.5102 ADOPTION OF INVESTMENT POLICY STATEMENT AND STABLE VALUE FUND INVESTMENT GUIDELINES (1) The board adopts and

incorporates by reference the State of Montana 457 Plan (deferred compensation) Investment Policy Statement approved by the board on June 11, 2015. The Investment Policy Statement provides investment guidelines for the 457(b) deferred compensation plan, a supplemental retirement-savings vehicle that permits participants to invest on either a pre-tax or a tax-deferred basis. The investment guidelines help the board to meet its fiduciary responsibilities to evaluate and positively influence the direction of the plan and its investments for the benefit of the plan participants and beneficiaries.

(2) The board adopts and incorporates by reference the State of Montana Stable Value Investment Guidelines Schedule approved by the board on December 29, 2009. These guidelines apply to the investment of 401(a) defined contribution plan participant assets and 457(b) deferred compensation plan participant assets that are pooled together in the plans' stable value group trust. The guidelines were developed through mutual agreement amongst the board, the investment manager, and the insurance wrap provider and provide guidance to the investment manager advisor when investing participants' funds contained within the stable value group trust.

(3) remains as proposed.

AUTH: 19-50-102, MCA

IMP: 19-50-102, MCA

3. The Public Employees' Retirement Board has thoroughly considered the comments received. A summary of the comments received and the board's responses are as follows:

COMMENT 1: An employee of the Legislative Services Division noted that the rules proposed for amendment did not contain either a "statement of the general subject matter of the omitted rule" as required by 2-4-307, MCA, or a "description of the policy implemented" as required by 2-4-305, MCA. The commenter further asked if the board would amend the adoption notice to include those statements.

RESPONSE 1: The board agrees and has amended both rules to include statements that simultaneously provide a statement of the general subject matter and a description of the policy implemented. The board took the same action with respect to the Stable Value Investment Guidelines Schedule previously adopted by reference.

/s/ Melanie A. Symons
Melanie A. Symons
Chief Legal Counsel
and Rule Reviewer

/s/ Sheena Wilson
Sheena Wilson
President
Public Employees' Retirement Board

Certified to the Secretary of State October 19, 2015

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

In the matter of the amendment of	)	NOTICE OF AMENDMENT
ARM 2.43.3501 and 2.43.5101)	
pertaining to the adoption by)	
reference of the State of Montana)	
Public Employee Defined)	
Contribution Plan Document and the)	
State of Montana Public Employee)	
Deferred Compensation (457) Plan)	
Document)	

TO: All Concerned Persons

1. On August 27, 2015, the Public Employees' Retirement Board published MAR Notice No. 2-43-530 pertaining to the proposed amendment of the above-stated rules at page 1223 of the 2015 Montana Administrative Register, Issue Number 16.

2. The Public Employees' Retirement Board has amended the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

2.43.3501 ADOPTION OF DEFINED CONTRIBUTION PLAN DOCUMENT AND TRUST AGREEMENT (1) remains as proposed.

(a) State of Montana Public Employee Defined Contribution Plan Document (August 2015 edition) that was approved by the board on August 13, 2015, and describes the terms and conditions related to the operation and administration of the plan; and

(b) State of Montana Public Employee Defined Contribution Plan Trust Agreement (July 1, 2002, edition), that was approved by the board on April 26, 2001, and September 28, 2001, and approved by the Internal Revenue Service on September 24, 2001. The trust agreement sets the board's responsibilities as trustee of the defined contribution plan and requires that the assets of the trust be used for the exclusive benefit of the plan participants and beneficiaries.

(2) remains as proposed.

2.43.5101 ADOPTION OF DEFERRED COMPENSATION PLAN DOCUMENT AND TRUST AGREEMENT (1) remains as proposed.

(a) State of Montana Public Employee Deferred Compensation Plan Document (August 2015 edition), that was approved by the board on August 13, 2015, and describes the terms and conditions related to the operation and administration of the plan; and

(b) State of Montana Public Employee Deferred Compensation Plan Trust Agreement (January 1, 2002 edition), that was approved by the board on February 22, 2001, and September 28, 2001. The trust agreement sets the board's

responsibilities as trustee of the deferred compensation plan and requires that the assets of the trust be used for the exclusive benefit of the plan participants and beneficiaries.

(2) remains as proposed.

3. The Public Employees' Retirement Board has thoroughly considered the comments received. A summary of the comments received and the board's responses are as follows:

COMMENT 1: An employee of the Legislative Services Division noted that the rules proposed for amendment did not contain either a "statement of the general subject matter of the omitted rule" as required by 2-4-307, MCA, or a "description of the policy implemented" as required by 2-4-305, MCA. The commenter further asked if the board would amend the adoption notice to include those statements.

RESPONSE 1: The board agrees and has amended both rules to include statements that simultaneously provide a statement of the general subject matter and a description of the policy implemented. The board took the same action with respect to the trust agreements previously adopted by reference.

/s/ Melanie A. Symons
Melanie A. Symons
Chief Legal Counsel
and Rule Reviewer

/s/ Sheena Wilson
Sheena Wilson
President
Public Employees' Retirement Board

Certified to the Secretary of State October 19, 2015

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 2.43.1306 pertaining to actuarial)
rates and assumptions)

TO: All Concerned Persons

1. On August 27, 2015, the Public Employees' Retirement Board published MAR Notice No. 2-43-531 pertaining to the proposed amendment of the above-stated rule at page 1226 of the 2015 Montana Administrative Register, Issue Number 16.

2. The Public Employees' Retirement Board has amended the above-stated rule as proposed.

3. No comments were received.

/s/ Melanie A. Symons
Melanie A. Symons
Chief Legal Counsel
and Rule Reviewer

/s/ Sheena Wilson
Sheena Wilson
President
Public Employees' Retirement Board

Certified to the Secretary of State October 19, 2015

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

In the matter of the amendment of	)	NOTICE OF AMENDMENT
ARM 2.43.3504 pertaining to defined)	
contribution plan default investment)	
fund and 2.43.5103 pertaining to)	
deferred compensation plan)	
investment options)	

TO: All Concerned Persons

1. On August 27, 2015, the Public Employees' Retirement Board published MAR Notice No. 2-43-532 pertaining to the proposed amendment of the above-stated rules at page 1229 of the 2015 Montana Administrative Register, Issue Number 16.

2. The Public Employees' Retirement Board has amended the above-stated rules as proposed.

3. No comments were received.

/s/ Melanie A. Symons
Melanie A. Symons
Chief Legal Counsel
and Rule Reviewer

/s/ Sheena Wilson
Sheena Wilson
President
Public Employees' Retirement Board

Certified to the Secretary of State October 19, 2015.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 8.99.917 pertaining to the)
implementation of the Big Sky)
Economic Development Trust)
Program)

TO: All Concerned Persons

1. On September 10, 2015, the Department of Commerce published MAR Notice No. 8-99-138 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1328 of the 2015 Montana Administrative Register, Issue Number 17.

2. The department has amended the above-stated rule as proposed.

3. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: A comment was received regarding what is the Department of Commerce going to expect to have documented to make sure the business is meeting these qualifications/criteria.

RESPONSE #1: As part of the start-up activities after award is made, the business will need to provide a written statement how they are meeting the program requirements.

COMMENT #2: A comment was received regarding page 5. Under New Eligible Job – added "Priority is given to a: net new job created by the assisted business which employs an individual.... This allows the department to consider other types of jobs with varying levels of hours worked each week. What exactly is meant by this, what other types of jobs would qualify? Is the definition of an "eligible job" just at the discretion of Commerce?

RESPONSE #2: As per the guidelines, New Eligible Jobs – priority is given to a net new job created by the assisted business which employs an individual that is new to the company and has not been filled prior to the BSTF notice of the award effective date; is a permanent, full-time job, meaning a predominantly year-round position requiring an average of 35 hours of work each week, and the new job pays the BSTF required wage rate. The term does not include replacement (turnover) jobs, part-time jobs, seasonal jobs, temporary jobs, or contractors.

COMMENT #3: A comment was received regarding Page 6. Eligible Uses of Funds includes an option for wages of Net New Employees - 1. (d). Wages of Net New

Employees are eligible expenses if jobs pay the higher of 170% of state current minimum wage, or the current average weekly wage of the county in which the employees are to be principally employed including the value of employee benefits. We are in favor of this change but as an administrator of the Category I grant funds, we do have some questions. How will the reimbursement work? Does the business turn their payroll into the state every pay period until they have reached the allowed grant amount or is it done in one lump sum after the employee has been paid the amount of the grant awarded/dedicated to that employee? Does it cover the benefits or just the hourly pay rate? Can the wages now be used to match the grant funds?

RESPONSE #3: If an application chooses to have wages reimbursed, the wage must meet the higher threshold (higher of 170% of minimum wage or county average wage). The assisted business would select the job for which it would want wage reimbursement. For reimbursement, the business would need to submit either the UI5 and/or payroll records. Disbursement will only be made once the job has a total wage that meets or exceeds the cost per job (typically \$5,000 or \$7,500). Reimbursement would be wages only. Eligible benefits under Employee Retirement Income Security Act of 1974 (ERISA) may be used in the calculation in meeting the required wage requirement. If proposed in the application, wages can be used for match.

COMMENT #4: A comment was received regarding Page 7. Administration Costs – there have been comments from the field about the department only allowing 5% for administration (\$30,000 cap for job creation and \$500 for planning). Should the % be raised and to what level? We do not believe the administration costs should be raised. The funds are meant to assist the private sector business in their expansion efforts.

RESPONSE #4: The administration costs shall not exceed 8%. Applicants are not required to include administration expenses in the proposed budget or to utilize the full 8%. The maximum ceiling will remain at \$30,000.

COMMENT #5: A comment was received regarding Page 7. Under Planning Grant Projects: Added, "Preproduction costs for film or media." (This assists the film industry.)

RESPONSE #5: The program's legislative purpose is to assist in economic development for Montana. Films produced in Montana bring in an estimated 7 to 10 million dollars per year of new money to the state's economy.

COMMENT #6: A comment was received regarding Page 10. Language on submission of projections updated to include requirement for submittal of updated projections at the end of the first year of contract. In the case of the Job Creation Grant, the grant is not dependent on the financial stability of the company; it is dependent on job creation and is reimbursed for creating jobs. Funds are granted to a business and given as reimbursement when they create jobs, so why would a

grant that does not provide up front capital require ongoing financial reporting? As grant administrators and economic development professionals who deal with businesses on a daily basis, we have been informed by businesses in the past that providing financial information is a concern because it can potentially be requested publicly. We assume that providing updated financials would also be a concern for these businesses as well as a possible burden in creating more reporting requirements for the business that the grant is meant to help. What is the purpose of collecting the financials? Will it affect the possibility of the businesses receiving the funds for creating jobs? Will the Department of Commerce pull the grant if the company's financials are poor?

RESPONSE #6: The BSTF Program has always required financial statements, both historical and projections. Financial information submitted must demonstrate that the business to be assisted is or will be an ongoing viable company that can achieve and maintain the amount of employment projected. If the business is unable to demonstrate that they can create the proposed jobs, the department does reserve the right to not extend the contract another year.

COMMENT #7: A comment was received regarding Page 16. Job creation projects and planning grant projects will only withhold 10% of grant until all activities are completed. In the case of the Job Creation grant, the money is released when the business hires and shows proof of matching funds. Why would the grant withhold 10% in this case? It makes sense for planning grants while projects are in process, but not grants related to job creation that are on a reimbursement basis for actual expenses.

RESPONSE #7: The holdback is to ensure that the grantee submits all the required close-out documentation in a timely fashion.

COMMENT #8: A comment was received regarding Appendix C. Hiring and Training Plan include a form for businesses to set monthly hiring goals. Does this requirement create more of a burden for the business? The hiring plan is a projection for what the business foresees in the future. Through experience as administrators, businesses that meet the projected timeline for hiring 100% is rare and requiring more reporting will not solve this problem. The Job Creation Grant is meant to project jobs for a two-year period, not monthly. What will happen if they are not meeting their projections? Will the business lose the grant if monthly projections are not met? The business does not receive the funds until they create the jobs. Does it matter when those jobs are created if it falls within the two-year period for which they are receiving the grant? We understand the need to track the use of the funds, but monthly reporting may serve as a disincentive to use the program at all.

RESPONSE #8: In order to more closely estimate the funding obligation on behalf of the state, the department has deployed a strategy to ensure funds are utilized during the time period specified by the business. Part of the strategy includes monthly projections by the business and follow-up activities that will ensure job creation as a

priority for all partners involved. The department will not be evaluating the business performance based on meeting the monthly projections; if the business is not meeting its overall hiring projections and there are not extenuating circumstances, the department reserves the right to not extend the contract.

The department is moving to one-year contracts. The department wants realistic hiring goals, which are established by the business. The Job Creation Report and/or Job Creation Certification will not be required monthly. We are looking for more general information such as total full-time employment, which would be accomplished via phone and/or e-mail. By reporting more frequently, MDOC and the grant administrator can deploy additional resources if needed.

COMMENT #9: A comment was received regarding the true "guidance" is that we all need to remember that the business community does not live in a world where things are predictable, ever. In asking them to predict what is going to happen in the next two years you are really asking them to look into their crystal balls and predict the best possible outcome. If it were easy, everyone would do it! They are working hard to do what they do and we don't ever want to make this harder or more time-consuming than it has to be. Things change and we need to be as flexible and nimble as any business that we are trying to assist.

RESPONSE #9: The revised guidelines are meant to provide additional flexibility to the program.

COMMENT #10: One comment stated we don't want to be solving problems that do not exist, so I hope that every change we make to this program happens after we ask ourselves "Why are we doing this?" and "Does this change make us more effective or more efficient?"

RESPONSE #10: We believe that the proposed changes will make the program more effective and more efficient in deploying the funds.

COMMENT #11: One comment stated it would be helpful to have a comprehensive checklist of items required for reports, requests for reimbursements, and closeouts. It would be helpful if this checklist did not change every six months. Perhaps on the web site with the guidelines?

RESPONSE #11: The BSTF contract already identifies all the required information for reporting and for reimbursement. We would be happy to develop a checklist for closeout. The online system will clearly identify the needed information.

COMMENT #12: One comment stated that there needs to be a contract template that is constant and not changing regularly so that we don't need an attorney to review every contract.

RESPONSE #12: Contract language is only changed as the need arises or as advised by our Office of Legal Affairs.

COMMENT #13: A comment was received regarding the department allowing wages as an eligible use of grant funds; BSTF will need to create a very clear process for documenting those as people are hired, not just at the end of the contract. It isn't like buying a piece of equipment where you just provide the invoice and proof of payment.

RESPONSE #13: If an application chooses to have wages reimbursed, the wage must meet the higher threshold (higher of 170% of minimum wage or county average wage). The assisted business would select the job for which it would want wage reimbursement. For reimbursement, the business would need to submit either the UI5 and/or payroll records. Disbursement will only be made once the job has a total wage that meets or exceeds the cost per job (typically \$7,500 or \$5,000). Reimbursement would be wages only. Eligible benefits under Employee Retirement Income Security Act of 1974 (ERISA) may be used in the calculation in meeting the wage requirement.

COMMENT #14: A comment was received regarding posting the application deadline on the web site, but the review committee meeting date and the date of award decisions are much more important in the planning and crystal-ball-gazing process that is part of putting an application together and are really necessary in order for the company to plan when they will begin hiring and purchasing equipment, etc. If the process is more than two months for applying and then waiting for the award, many companies will decide not to wait. Two or three months are a long time in the life of a fast-growing company. And fast-growing is who this program appeals to.

RESPONSE #14: The Grant Review meetings are dependent on the number of applications and committee members' and staff's schedules. Our goal is to shorten the time frame between submittal of an application to approval.

COMMENT #15: A comment was received regarding BSTF allowing benefits as part of the calculation of compensation. Could you provide a spreadsheet template (not a Word document) that calculates the per hour value by inputting each type of benefit eligible and then adding it to the hourly wage so I can consistently calculate that number? Also a clear list of which benefits to include is necessary.

RESPONSE #15: As per the statute, ERISA benefits can be included in the calculation of meeting the minimum wage requirement. ERISA is a very complex law. Besides the actual benefits, the implementation of the plan must comply with the ERISA law. We recommend that businesses contact their plan provider to verify that their individual plan meets the ERISA requirements.

COMMENT #16: A comment was received regarding page 11 and states that businesses may be required to report job creation on a monthly basis in addition to monthly progress reports. This is too much and the opposite of streamlining. The current system is working well.

RESPONSE #16: The Job Creation Report and or Job Creation Certification will not be required monthly. We are looking for more general information such as total full-time employment, which would be accomplished via phone and or e-mail. This will help us deploy other types of assistance that business may need.

COMMENT #17: A comment was received regarding page 13 that has a note that state contracts will be executed for one year and then renewed. Why would you do this? It is more work for every entity involved for no definable benefit. It makes the planning/predicting process even more complex and appears to be trying to solve a problem that does not exist.

RESPONSE #17: In order to more closely estimate the funding obligation on behalf of the state, the department has deployed a strategy to ensure funds are utilized during the time period specified by the business. By overstating the employment number, MDOC is obligating the BSTF funds, which could potentially restrict other applicants from receiving BSTF funds. In 2014, the spend-down rate for those grants was less than 15%.

COMMENT #18: A comment was received regarding the Application Checklist that isn't particularly helpful. It should either be a table of contents as the first page or just be a checklist to be used by the applicant for their convenience and not included in the application. Perhaps that will go away when we return to the online application process? In that case it would be helpful to have a checklist online with the other checklists suggested in #3.

RESPONSE #18: The application checklist will be eliminated once the program migrates to the online system.

COMMENT #19: A comment was received regarding section A.1. Statement of Purpose. Why was Manufacturing ammunition components a qualified economic development purpose?

RESPONSE #19: With the passage of SB 122 during the 2015 Legislative Session, this language was added to this section.

COMMENT #20: A comment was received regarding section I.3.a. If the business receives reimbursement for 25 jobs. At the next reporting period, the business is down by three jobs, will the contract be withdrawn?

RESPONSE #20: Unless there are extenuating circumstances, the department would not typically withdraw a contract. The department will review the assisted business' compliance with their hiring plan and financial statement before deciding if the one-year contract will be extended another year. Contract extensions will be reviewed prior to the expiration date.

COMMENT #21: A comment was received regarding the definition of "Ready to

Proceed."

RESPONSE #21: "Ready to proceed" means when all the start-up requirements have been completed and submitted to the department. Once this occurs, the department will issue a "Release of Funds."

COMMENT #22: A comment was received regarding section J.2. Planning Grants Award withdrawal. What does executed contract mean?

RESPONSE #22: Executed contract means the contract has been executed by all parties.

COMMENT #23: A comment was received regarding section K.5. Project updates for three-year requirements. Could this be defined and identified in the contract?

RESPONSE #23: The requirement to provide annual project updates for three years after the close of the contract is already included in the contract.

/s/ G. Martin Tuttle
G. MARTIN TUTTLE
Rule Reviewer

/s/ Douglas Mitchell
DOUGLAS MITCHELL
Deputy Director
Department of Commerce

Certified to the Secretary of State October 19, 2015.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the repeal of ARM	)	NOTICE OF REPEAL
8.119.201, 8.119.202, 8.119.203,)	
8.119.204, 8.119.205, 8.119.206,)	
8.119.207, 8.119.208, and 8.119.209)	
pertaining to the Movie and TV)	
Industries and Related Media–Tax)	
Incentives)	

TO: All Concerned Persons

1. On September 10, 2015, the Department of Commerce published MAR Notice No. 8-119-137 pertaining to the proposed repeal of the above-stated rules at page 1330 of the 2015 Montana Administrative Register, Issue Number 17.
2. The department has repealed the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ G. Martin Tuttle
G. MARTIN TUTTLE
Rule Reviewer

/s/ Douglas Mitchell
DOUGLAS MITCHELL
Deputy Director
Department of Commerce

Certified to the Secretary of State October 19, 2015.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION
Rules I through III pertaining to the)	
Clean Air Act	)	(AIR QUALITY)

TO: All Concerned Persons

1. On August 13, 2015, the Board of Environmental Review published MAR Notice No. 17-372 regarding a notice of proposed adoption of the above-stated rules at page 1092, 2015 Montana Administrative Register, Issue Number 15.

2. The board has adopted New Rules I (17.8.150) and III (17.8.152) exactly as proposed and has adopted New Rule II (17.8.151) as proposed, but with the following changes, stricken matter interlined, new matter underlined:

NEW RULE II (17.8.151) BOARD ACTION (1) The board may not take action on any contested case matter that arises under the Clean Air Act of Montana unless a majority of members of the board at the time of the action:

(a) remains as proposed.

(b) do not derive a significant portion of income from a regulated persons.

3. The following comment was received and appears with the board's response:

COMMENT: In New Rule II(1)(b), the word "person" should be plural to provide the same requirement as is contained 42 U.S.C. 7428, which requires that a majority of state board members who do not derive a significant portion of their income from "regulated persons."

RESPONSE: The board agrees and has made the suggested amendment.

4. No other comments or testimony were received.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North

JOHN F. NORTH

Rule Reviewer

By: /s/ Joan Miles

JOAN MILES

Chairman

Certified to the Secretary of State, October 19, 2015.

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

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 24.138.406 dental auxiliaries	)	REPEAL
functions, 24.138.505 dentist)	
licensure by credentials, 24.138.507)	
dentist licensure by credentials for)	
specialists, 24.138.509 dental)	
hygiene limited access permit,)	
24.138.512 denturist intern,)	
24.138.514 converting inactive)	
license to active, 24.138.525)	
reactivation of an expired license,)	
24.138.540 military training or)	
experience, 24.138.2101,)	
24.138.2102, 24.138.2104,)	
24.138.2105, and 24.138.2106)	
continuing education, 24.138.2402)	
screening panel, 24.138.3229)	
continuing education in anesthesia,)	
and the repeal of ARM 24.138.401)	
introduction)	

TO: All Concerned Persons

1. On August 13, 2015, the Board of Dentistry (board) published MAR Notice No. 24-138-71 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 1099 of the 2015 Montana Administrative Register, Issue No. 15.

2. On September 3, 2015, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. Several comments were received by the September 11, 2015, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments and the board responses are as follows:

COMMENT 1: Multiple commenters supported continuing education requirements for licensees, including verification of attendance. However, the commenters opposed the amendments to ARM 24.138.505, 24.138.507, 24.138.509, 24.138.514, 24.138.525, 24.138.2105, and 24.138.3229 to accept only certificates to verify attendance. The commenters suggested allowing certificates or other documented evidence of attendance, because at times it is difficult to obtain an actual certificate.

RESPONSE 1: The board agrees with the commenters and is amending ARM 24.138.2105(2) to allow other forms of verifying CE attendance. The board concluded that it is not necessary to amend the other rules, since they reference ARM 24.138.2105(2) to ensure compliance with the board's reporting procedures.

COMMENT 2: Several commenters supported the amendment to ARM 24.138.406(8)(b), to no longer accept other states' dental radiology certification to qualify assistants in Montana. The commenters stated that Montana dentists should not be liable for determining the equivalency of other states' radiology qualifications.

RESPONSE 2: The board appreciates all comments made during the rulemaking process.

COMMENT 3: Several commenters opposed the striking of ARM 24.138.406(8)(b), stating that it is relatively simple for a Montana dentist to determine the basis for another state's radiography certification, as the information is readily available on the Dental Assistant National Board web site. The commenters asserted that the proposed change will make it more difficult for dentists to employ qualified assistants, and will create a barrier to accessing healthcare, particularly in hard-to-serve rural areas.

RESPONSE 3: The board concluded that requiring out-of-state assistants to pass a board-approved written radiography exam, because they can no longer utilize another state's certification, is not overly burdensome. The board also believes this change will help safeguard the public's protection by ensuring that assistants are qualified by Montana standards to expose radiographs in Montana.

4. The board has amended ARM 24.138.406, 24.138.505, 24.138.507, 24.138.509, 24.138.512, 24.138.514, 24.138.525, 24.138.540, 24.138.2101, 24.138.2102, 24.138.2104, 24.138.2106, 24.138.2402, and 24.138.3229 exactly as proposed.

5. The board has repealed ARM 24.138.401 exactly as proposed.

6. The board has amended ARM 24.138.2105 with the following changes, stricken matter interlined, new matter underlined:

24.138.2105 REPORTING PROCEDURES (1) remains as proposed.

(2) Licensees are required to keep a certificate or other documentation of attendance of continuing education completed and make this available to the board if so requested. The certificate or document of attendance shall include at a minimum:

(a) through (5) remain as proposed.

AUTH: 37-1-131, 37-1-319, 37-4-205, MCA

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

BOARD OF DENTISTRY
DR. AIMEE AMELINE, D.D.S., PRESIDENT

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

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 19, 2015

BEFORE THE BOARD OF PHYSICAL THERAPY EXAMINERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT,
ARM 24.177.501 examinations,	)	ADOPTION, AND REPEAL
24.177.507 licensure of out-of-state)	
applicants, the adoption of NEW)	
RULE I dry needling, and the repeal)	
of ARM 24.177.2101 renewals and)	
24.177.2401 complaint procedure)	

TO: All Concerned Persons

1. On May 14, 2015, the Board of Physical Therapy Examiners (board) published MAR Notice No. 24-177-32 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 531 of the 2015 Montana Administrative Register, Issue No. 9.

2. On June 8, 2015, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. Numerous comments regarding proposed NEW RULE I were received by the June 12, 2015, deadline. No comments were received regarding the proposed amendments and repeals.

3. The board has amended ARM 24.177.501 and 24.177.507 exactly as proposed.

4. The board has repealed ARM 24.177.2101 and 24.177.2401 exactly as proposed.

5. The board is not adopting NEW RULE I at this time. The board received numerous comments both opposing and supporting the proposed new rule. Following review and consideration of all comments, and due to concerns raised by the comments, the board has decided to not adopt the rule as proposed at this time. The board anticipates conducting additional research and having subsequent discussions to address the issues raised by the comments.

BOARD OF PHYSICAL THERAPY
EXAMINERS
BRIAN MILLER, PRESIDING OFFICER

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

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 19, 2015

BEFORE THE BOARD OF MILK CONTROL
AND THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 32.23.102, 32.23.301 and the) AND ADOPTION
adoption of New Rule I pertaining to)
licensee assessments)

TO: All Concerned Persons

1. On September 10, 2015, the Board of Milk Control and the Department of Livestock published MAR Notice No. 32-15-266 regarding the proposed amendment and adoption of the above-stated rules at page 1351 of the 2015 Montana Administrative Register, Issue Number 17.
2. The department has amended the above-stated rules as proposed.
3. The department has adopted New Rule I (ARM 32.2.406) as proposed.
4. No comments or testimony were received.

DEPARTMENT OF LIVESTOCK

BY: /s/ Martin Zaluski
Martin Zaluski
Interim Executive Officer
Board of Livestock
Department of Livestock

BY: /s/ Sherry Rust
Sherry Rust
Rule Reviewer

Certified to the Secretary of State October 19, 2015.

BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 36.16.101 through 36.16.104,	)	REPEAL
36.16.105B, 36.16.106 through)	
36.16.107A, 36.16.110, 36.16.113,)	
36.16.114, and 36.16.118 through)	
36.16.120, and the repeal of ARM)	
36.16.107B, 36.16.117, 36.16.121,)	
and 36.16.122 regarding water)	
reservation rules)	

To: All Concerned Persons

1. On August 13, 2015, the Department of Natural Resources and Conservation published MAR Notice No. 36-22-181 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 1108 of the 2015 Montana Administrative Register, Issue Number 15.

2. The department has amended ARM 36.16.101 through 36.16.104, 36.16.105B, 36.16.106 through 36.16.107A, 36.16.110, 36.16.113 through 36.16.114, and 36.16.118 through 36.16.120 as proposed.

3. The department has repealed ARM 36.16.107B, 36.16.117, 36.16.121, and 36.16.122 as proposed.

4. The department has thoroughly considered the one comment received. No oral testimony was received at the September 10, 2015, public hearing. A summary of the comment received and the department's response is as follows:

COMMENT 1:

Fish, Wildlife and Parks (FWP) is concerned the existing rule and the revised rule fail to place the appropriate burden of proof on the party seeking the reallocation of a reservation for maintaining minimum flow, level, or quality of water (instream flow reservation).

FWP contends ARM 36.16.119(3) "places considerable burdens upon the holder of the instream flow reservation" in defending against a proposed reallocation of that reservation. FWP proposes language be added at the end of ARM 36.16.119(3) to the effect that the holder of an instream flow reservation be reimbursed by the petitioner for all expenditures made in relation to a reallocation petition.

RESPONSE 1:

As recognized by FWP, no substantive changes in the requirements or burdens of either petitioners or existing instream flow reservants were made in the instant

amendment/repeal of the reservation rules regarding reallocation. As such, the comment does not address any proposed changes to the rule.

/s/ John E. Tubbs
JOHN E. TUBBS
Director
Natural Resources and Conservation

/s/ Brian Bramblett
BRIAN BRAMBLETT
Rule Reviewer

Certified to the Secretary of State on October 19, 2015.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.85.104 and 37.85.105)
pertaining to updating the fee)
schedules for adult and children's)
mental health fee schedules)

TO: All Concerned Persons

1. On July 30, 2015, the Department of Public Health and Human Services published MAR Notice No. 37-718 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1018 of the 2015 Montana Administrative Register, Issue Number 14.

2. The department has amended the above-stated rules as proposed.

3. No comments or testimony were received.

4. The department intends to apply these rule amendments retroactively to October 1, 2015. A retroactive application of the proposed rule amendments does not result in a negative impact to any affected party.

/s/ Geralyn Driscoll
Geralyn Driscoll, Attorney
Rule Reviewer

/s/ Richard H. Oppen
Richard H. Oppen, Director
Public Health and Human Services

Certified to the Secretary of State October 19, 2015.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.86.5110 pertaining to the)
revision of exceptions for Passport to)
Health services referrals)

TO: All Concerned Persons

1. On August 13, 2015, the Department of Public Health and Human Services published MAR Notice No. 37-720 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1127 of the 2015 Montana Administrative Register, Issue Number 15.
2. The department has amended the above-stated rule as proposed.
3. No comments or testimony were received.
4. The department intends to apply this rule amendment retroactively to September 1, 2015. A retroactive application of the proposed rule amendment does not result in a negative impact to any affected party.

/s/ Susan Callaghan
Susan Callaghan, Attorney
Rule Reviewer

/s/ Robert Runkel for Richard H. Oppen
Richard H. Oppen, Director
Public Health and Human Services

Certified to the Secretary of State October 19, 2015.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION,
Rules I through IV, amendment of) AMENDMENT, AND REPEAL
ARM 44.15.101, and repeal of ARM)
44.15.104, pertaining to notaries)
public)

TO: All Concerned Persons

1. On September 10, 2015, the Secretary of State published MAR Notice No. 44-2-198 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 1358 of the 2015 Montana Administrative Register, Issue Number 17.

2. The Secretary of State has amended and repealed the above-stated rules as proposed.

3. The Secretary of State has adopted the above-stated rules as proposed: New Rules II (44.15.107) and IV (44.15.109).

4. The Secretary of State has adopted the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

NEW RULE I (44.15.106) NOTIFICATION TO SECRETARY OF STATE OF CHANGE IN INFORMATION (1) through (2)(a) remain as proposed.

(b) an ~~written~~ example of the notary's new official signature using the form prescribed by the Secretary of State.

(3) remains as proposed.

AUTH: ~~Ch. 391, Sec. 25, L. 2015 1-5-628, MCA~~

IMP: ~~Ch. 391, Sec. 16, L. 2015 1-5-619, MCA~~

NEW RULE III (44.15.108) REAL-TIME, TWO-WAY AUDIO-VIDEO NOTARIZATIONS (REMOTE NOTARIZATIONS) (1) through (5)(a) remain as proposed.

(b) the notary public's commission expiration date;

(b) and (c) remain as proposed, but are renumbered (c) and (d).

(d)(e) the state and county in which the notary public is located when the notarial act is being performed;

(e) through (i) remain as proposed, but are renumbered (f) through (j).

(6) through (8) remain as proposed.

AUTH: ~~Ch. 391, Sec. 25, L. 2015 1-5-628, MCA~~

IMP: ~~Ch. 391, Sec. 12, L. 2015 1-5-615, MCA~~

5. The Secretary of State has thoroughly considered the comments received. A summary of the comments received and the Secretary of State's responses are as follows:

COMMENT #1: A commenter remarked that the language "a written example of the notary's new official signature" in (2)(b) of New Rule I "does not seem to contemplate change to the notary's e-signature."

RESPONSE #1: The proposed rule has been modified to take into account e-signatures.

COMMENT #2: In conjunction with proposed New Rule III, a commenter suggested that a rule be created requiring notaries who perform remote notarizations to use an electronic journal with the capability of allowing the individual requesting the notarization to sign the notary's journal in real time.

RESPONSE #2: The Secretary of State does not believe a rule requiring the use of electronic journals when performing remote notarizations is appropriate since proper journalizing of a remote notarial act could be accomplished using a paper journal. While it is true an individual requesting a notarization would not be in a position to physically sign a notary's paper journal when remote notarization is used, the law allows an individual who intends to execute a record to direct another person to sign on the individual's behalf. An individual requesting a notarization could therefore direct another individual to sign the notary's paper journal on his or her behalf, allowing a proper and complete paper journal entry to be made when a remote notarization is performed.

COMMENT #3: A commenter suggested the language in (1) of New Rule III be changed to read, "Real-time, two-way audio-video notarizations (remote notarizations) shall only be performed using technology that allows the individuals to communicate with each other simultaneously by sight and sound" to conform with draft, proposed Revised Uniform Law on Notarial Acts (RULONA) amendment language.

RESPONSE #3: The proposed language is based on existing language in Montana's statutes that reference audio-video communication. Those statutes require that the communication operate in a manner that allows the parties to "see each other simultaneously and converse with each other." See, e.g., 46-7-101(2), 46-12-201(4), and 53-21-140(2), MCA. The Secretary of State declines to modify language that is consistent with existing Montana statutes in favor of draft, proposed RULONA amendment language.

COMMENT #4: A commenter suggested adding a second sentence to (3) in New Rule III reading, "The entire communication shall be recorded" to conform with statutory wording.

RESPONSE #4: The suggested language is repetitious of the language found in 1-5-618(4), MCA. In light of the mandate in 2-4-305(2), MCA, to refrain from unnecessarily repeating statutory language, the Secretary of State declines to add the suggested language.

COMMENT #5: A commenter suggested that if the recording is meant to satisfy the notary's journal entry requirement, language be added to (3) in New Rule III indicating the recording satisfies the requirements of 1-5-618(3), MCA.

RESPONSE #5: The recording criteria as proposed is not meant to satisfy the notary's journal entry. Rather, it is designed to help verify that the remote notarial act performed was authorized by, and completed in accordance with, Montana statutory law. It will remain the responsibility of the notary to ensure that a proper and complete journal entry is made contemporaneously with the performance of each notarial act performed using remote notarization.

COMMENT #6: A commenter suggested adding a requirement in New Rule III that the notary public state his or her commission expiration date.

RESPONSE #6: Because the rule is designed to help verify that the notarial act performed was authorized by Montana statutory law, requiring the notary public state his or her commission expiration date is an appropriate addition to the proposed rule. The addition has been made to New Rule III.

COMMENT #7: A commenter suggested adding language to (5)(d) of New Rule III to clarify that the location of the notarial act is the notary public's physical location.

RESPONSE #7: To alleviate any ambiguity in the proposed rule, the rule has been modified as suggested.

COMMENT #8: A commenter suggested adding a requirement to (5) in New Rule III that the notary state the fee, if any, charged by the notary public.

RESPONSE #8: Pursuant to 1-5-618(3)(g), MCA, the journal entry must include the fee, if any, charged by the notary public. Adding the requirement to the recitation by the notary public would be unnecessarily repetitive. The Secretary of State therefore declines to add the suggested requirement.

COMMENT #9: A commenter suggested relocating (7) and (8) under (5)(h) in New Rule III to consolidate required information regarding method of identification.

RESPONSE #9: Sections (7) and (8) are placed as shown in the proposed rule for readability purposes. The Secretary of State therefore declines to relocate (7) and (8) as suggested.

COMMENT #10: A commenter suggested the phrase "competency or capacity" as used in (5)(i) of New Rule III be defined, perhaps as meaning "the person

reasonably appears able to execute the record and understands he or she is signing a record."

RESPONSE #10: The terms "competent" and "capacity" are used in 1-5-622(1)(a), MCA, but have been left undefined in 1-5-602, MCA. At this time, the Secretary of State therefore declines to define either term or the phrase "competency or capacity."

COMMENT #11: A commenter suggested that (6)(b) in New Rule III be modified to require the inclusion of the individual's address.

RESPONSE #11: Pursuant to 1-5-618(3)(c), MCA, the journal entry must contain the address of each individual for whom the notarial act is performed. Adding the requirement to the recitation by the individual for whom the notarial act is performed would be unnecessarily repetitive. The Secretary of State therefore declines to add the suggested requirement.

COMMENT #12: A commenter suggested that the following be added to New Rule III:

Certificate of Notarial Act, Remote Notarization

The following certificates of notarial acts shall be utilized for notarial acts performed using audio-video communications technology.

For a verification on oath or affirmation by use of audio-video communication technology:

State of _____
County of _____

This record was signed and sworn to (or affirmed) before me by use of real-time, two-way audio and video communication technology on (date) by (name(s) of individual(s)).

Signature of Notarial Officer
Official Stamp

For an acknowledgment in an individual capacity by use of audio-video communication technology:

State of _____
County of _____

This record was acknowledged before me by use of real-time, two-way audio and video communication technology on (date) by (name(s) of individual(s)).

Signature of Notarial Officer

Official Stamp

RESPONSE #12: The requirements for notarial certificates are described in 1-5-609, MCA, and acceptable short-forms certificates for various notarial acts, including verification on oath or affirmation and acknowledgments, are set forth in 1-5-610, MCA. Neither 1-5-609, MCA, nor 1-5-610, MCA, require language specifically referring to the use of real-time, two-way audio and video communication technology be included in the notarial certificate. The Secretary of State therefore declines to adopt a rule requiring such language.

/s/ JORGE QUINTANA
Jorge Quintana
Rule Reviewer

/s/ LINDA MCCULLOCH
Linda McCulloch
Secretary of State

Dated this 19th day of October, 2015.

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

In the matter of Bradley Lins' Petition) Docket No. DO 2015-1
for Declaratory Ruling that he is)
statutorily entitled to reinstate PERS)
membership service) DECLARATORY RULING

INTRODUCTION

1. On August 21, 2015, Bradley Lins (Lins) filed a Petition for Declaratory Ruling (Petition) with the Montana Public Employees' Retirement Board (Board) requesting a ruling confirming that he is entitled, pursuant to § 19-2-603, MCA, to reinstate prior membership service in the Public Employees' Retirement System (PERS). The Petition and the Montana Public Employee Retirement Administration (MPERA) Response (Response) constitute the record in this declaratory ruling proceeding.

BACKGROUND

2. On September 4, 2015, counsel for the Board notified Lins' counsel and counsel for MPERA that the Board would address the Petition at their October 8, 2015 meeting and that unless good cause was shown, there would not be a hearing on the matter. Lins' counsel responded, but did not request a hearing.

3. MPERA filed a Response to Petitioner's Petition for Declaratory Ruling (Response) on September 23, 2015 and did not request a hearing.

4. On October 2, 2015 the Board issued a public meeting notice with an agenda for their October 8, 2015 meeting, including Lins' requested ruling with copies of Lins' Petition and MPERA's Response. The Board did not schedule a formal hearing for the matter because there was no good cause shown to hold a hearing, or even a request for a hearing.

5. On October 8, 2015, the Board reviewed the Petition and Response and requested public comment on the matter. There was no public comment. Lins' counsel then requested a hearing but the Board determined the request was not timely, good cause was not established, and the delay that would result from postponing a determination of the matter would not result in a prompt disposition of the Petition.

FACTS

6. Lins was an employee of Cascade County working in a PERS covered position from January 1991 to April 1999, during which time he accumulated 7 years and 6.95 months of membership service. When he terminated this employment, he requested and received a refund of his PERS accumulated contributions.

7. Lins was subsequently hired by Cascade County on November 16, 2009 but voluntarily declined optional PERS membership as allowed under § 19-3-412, MCA for employees in a PERS covered position who work less than 960 hours in a fiscal year.

8. In February 2010, Lins became a PERS member under the terms of §§ 19-3-401 and 19-3-412, MCA, when he had worked over 960 hours in the fiscal year in his PERS covered position with Cascade County. Lins incurred work related shoulder injuries in March 2014 and subsequently received workers' compensation disability benefits from April 2014 through November 2014. Upon being released to return to work, Lins was informed that Cascade County could not accommodate his shoulder limitations and was terminated on November 17, 2014.

9. Lins received membership service for all months of service he accrued from February 2010 through April 2014. Pursuant to § 19-3-504, MCA, he was also credited six months of membership service for the months when he did not work because of his injury and during which he was receiving workers' compensation disability benefits. Consequently, upon termination in November 2014, Lins had accumulated 4 years and 10 months of membership service.

10. On July 31, 2015, Lins' counsel sent MPERA a request to confirm Lins' eligibility to reinstate refunded membership service pursuant to § 19-2-603, MCA, for March and April of 1999 and the cost to do the same. MPERA sent a response letter on August 7, 2015 stating that Lins was not eligible to reinstate service credit because he did not meet the "active or vested inactive" status requirement of a member to purchase service under § 19-2-704(2), MCA.

11. Lins' Petition asserts that a reinstatement of refunded service pursuant to § 19-2-603, MCA is distinct from a service purchase or transfer as provided in § 19-2-704(2), MCA and that a member wishing to reinstate service is not subject to the "active or vested and inactive" eligibility requirement of a member electing to purchase or transfer service.

ANALYSIS

12. The Board "shall provide by rule for the filing and prompt disposition of petitions for declaratory rulings as to the applicability of any statutory provision..." Section 2-4-501, MCA. The ruling shall be published pursuant to § 2-4-501, MCA, and is subject to judicial review in the same manner as decisions or orders in contested cases. *Id.*

13. The Board has adopted the Attorney General's Model Procedural Rules governing declaratory rulings as provided in ARM 1.3.226 through 1.3.229. ARM 2.43.1401. "A party may seek a declaratory ruling from the agency when doubt exists as to how a statute or rule administered by an agency affects the party's legal rights." ARM 1.3.226.

14. A pension trust fund is established and maintained for PERS. Section 19-2-501, MCA. The Board must administer that trust fund as provided in Article VIII, section 15 of the Montana Constitution and subject to the provisions of Title 19, chapters 2 and 3 of the Montana Code Annotated. Sections 19-2-302, 19-2-502, MCA. PERS members are subject to the provisions of these chapters and the rules that the Board is authorized to establish for the administration, operation, and enforcement of PERS. Section 19-2-403, MCA.

15. "Where several statutes may apply to a given situation, such a construction, if possible is to be adopted as will give effect to all." *City of Bozeman v. Raccicot* (1992), 253 Mont. 204, 208-209, 832 P.2d 767, 770.

16. When a member's accumulated contributions in PERS are refunded, "the person ceases to be a member of that system, all the person's service is canceled, and the person relinquishes claim to any benefits payable to members of the retirement system." Section 19-2-601, MCA.

17. Following a refund of a member's contributions upon termination of service, if the person again becomes a member of PERS, the person may "reinstate that membership service or service credit by redepositing the sum of the accumulated contributions that were refunded to the person at the last termination of the person's membership plus the interest that would have been credited to the person's accumulated contributions had the refund not taken place." Section 19-2-603, MCA.

18. Membership service means the periods of service that are used to determine eligibility for retirement benefits. Section 19-2-303(33), MCA. Service credit means the periods of time for which the required contributions have been made to a retirement plan and that are used to calculate benefits. Section 19-2-303(47), MCA.

19. Reinstating refunded membership service or service credit by redepositing the refunded amount and interest as required under § 19-2-603, MCA constitutes a service purchase under several statutes and rules that apply to the situation. "Subject to [1] the rules promulgated by the board, an **eligible** member may elect to make additional contributions to purchase service credits as provided by [2] the statutes governing the retirement system." Section 19-2-704(1) (emphasis added).

20. The rules promulgated by the Board reflect that the redeposit or payment of accumulated contributions and interest in exchange for reinstating refunded service constitutes a type of service purchase. ARM 2.43.2303(2)(b) lists the documentation required to prove the amount of service eligible to be purchased including the date and amount of a refund. ARM 2.43.2308 provides that when purchasing a portion of a member's refunded service, the member must first purchase the most recent refund first. ARM 2.43.2309 provides the "purchase

request date for all service purchases other than refunded service." ARM 2.43.2317, titled "Purchase of Refunded Service or Service From Another MPERA-Administered Retirement" provides that a "member who is statutorily **eligible** to do so may elect to purchase into their current retirement system all or any portion of their previously refunded service in that system" (emphasis added) after filing a request and then receiving a notice from MPERA of the amount of service the member is eligible to purchase and the cost of that service.

21. The statute authorizing service purchases, titled "Purchasing service credits allowed – payroll deduction," reflects that reinstating refunded service constitutes a type of service purchase by including the "redeposit of amounts withdrawn under 19-2-602" in the statute and allowing the same payment methods and process for redeposits as other types of service purchases. Section 19-2-704(3)-(7), MCA. This statute also provides: "Subject to any statutory provision establishing stricter limitations, only active or vested inactive members are eligible to purchase or transfer service credit, membership service, or contributions." Section 19-2-704(2), MCA.

22. The PERS membership statute further establishes limits on the rights of members – distinguishing between active members and both inactive vested members and inactive nonvested members, providing in relevant part: "An inactive member of the defined benefit plan with less than 5 years of membership service is an inactive nonvested member and is not eligible for any benefits from the retirement plan. An inactive nonvested member of the defined benefit plan is eligible only for a refund of the member's accumulated contributions." Section 19-3-401(3), MCA.

23. An "active member" is "a paid employee of an employer, is making the required contributions, and is properly reported to the board for the most current reporting period." Section 19-2-303(2), MCA. An "inactive member" is "a member who terminates service and does not retire or take a refund of the member's accumulated contributions." Section 19-2-303(30), MCA

RULING

24. The Board declines to issue the declaratory ruling sought by Lins that he is entitled to reinstate previously refunded service because he is not an active or vested inactive member and is therefore not eligible to purchase previously refunded service. Section 19-2-704, MCA. As long as he remains an inactive, nonvested member of PERS he is eligible only for a refund of his accumulated contributions. Section 19-3-401(3), MCA.

DATED this 19th day of October, 2015.

MONTANA PUBLIC EMPLOYEES'
RETIREMENT BOARD

/s/ Sheena Wilson
SHEENA WILSON, PRESIDENT

/s/ Mike McGinley
MIKE MCGINLEY, VICE PRESIDENT

/s/ Timm Twardoski
TIMM TWARDOSKI

/s/ Maggie Peterson
MAGGIE PETERSON

/s/ Marty Tuttle
MARTY TUTTLE

/s/ Julie McKenna
JULIE MCKENNA

/s/ Pepper Valdez
PEPPER VALDEZ

NOTICE: Petitioner has the right to appeal this ruling by filing a petition for judicial review in district court within 30 days after service of this decision. Judicial review is conducted pursuant to § 2-4-702, MCA.

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 19th day of October 2015, a true and correct copy of the foregoing was served by placing same in the U.S. mail, postage prepaid, addressed as follows:

Ben A. Snipes
LEWIS, SLOVAK, KOVACICH & SNIPES, P.C.
P.O. Box 2325
Great Falls, MT 59403

/s/ Kris Vladic
KRIS VLADIC
Program Specialist

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

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

Economic Affairs Interim Committee:

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

Education and Local Government Interim Committee:

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

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

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

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

Environmental Quality Council:

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

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

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

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

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

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

Definitions:

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

Montana Administrative Register (MAR or Register) is 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
Subject

1. Consult ARM Topical Index.
Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued.

Statute

2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.

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 June 30, 2015. This table includes those rules adopted during the period July 1, 2015, through September 30, 2015, and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through June 30, 2015, this table, and the table of contents of this issue of the Register.

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 2015 Montana Administrative Register.

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 September 2015 appear. Vacancies scheduled to appear from November 1, 2015 through January 31, 2016, 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 October 1, 2015.

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 SEPTEMBER 2015

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Achieving a Better Life Experience (ABLE) Program Oversight Committee (Public Health and Human Services)			
Mr. Jon Bennion	Governor	not listed	9/4/2015
Helena			9/1/2017
Qualifications (if required): Experience working on behalf of disabled individuals			
Director Sheila Hogan	Governor	not listed	9/4/2015
Helena			9/1/2019
Qualifications (if required): Director of the Department of Administration or designee			
Ms. Novelene Martin	Governor	not listed	9/4/2015
Miles City			9/1/2019
Qualifications (if required): Director of the Department of Public Health and Human Services or designee			
Ms. Katalin Kallay Patterson	Governor	not listed	9/4/2015
Bozeman			9/1/2018
Qualifications (if required): Knowledge, skill and experience in accounting, risk management, or investment management			
Board of Physical Therapy Examiners (Labor and Industry)			
Ms. Dawn Christian	Governor	Appel	9/4/2015
Missoula			7/1/2018
Qualifications (if required): Physical Therapist			
Ms. Kelsey Wadsworth	Governor	Hughes	9/4/2015
Bozeman			7/1/2018
Qualifications (if required): Physical Therapist			

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2015

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Certification Committee for Developmental Disabilities Professionals (Public Health and Human Services)			
Ms. Rebecca DeCamera	Director	Not Listed	9/11/2015
Helena			9/1/2017
Qualifications (if required): Representative of the Developmental Disabilities Program			
Dr. Michelle McCall	Director	Not Listed	9/11/2015
Helena			9/1/2017
Qualifications (if required): Representative of the Developmental Disabilities Program			
Mr. Sam Morgenroth	Governor	Not Listed	9/11/2015
Helena			9/1/2017
Qualifications (if required): Chair appointed by the Governor			
Ms. Deborah Swingley	Director	Not Listed	9/11/2015
Helena			9/1/2017
Qualifications (if required): none specified			
Mr. Sherman Weimer	Director	Not Listed	9/11/2015
Miles City			9/1/2017
Qualifications (if required): none specified			
Montana State Workforce Innovation Board (Labor and Industry)			
Ms. Vicky Byrd	Governor	not listed	9/4/2015
Montana City			7/1/2017
Qualifications (if required): Workforce Representative			

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2015

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Noxious Weed Seed Free Forage Advisory Council (Agriculture)			
Mr. Tom Benson Pablo	Director	Not Listed	9/11/2015 9/1/2017
Qualifications (if required): Weed District			
Mr. James Bouma Choteau	Director	Not Listed	9/11/2015 9/1/2017
Qualifications (if required): Forage Producer			
Mr. Carter Butori Dillon	Director	Not Listed	9/11/2015 9/1/2017
Qualifications (if required): Forage Producer			
Ms. Jennifer Cramer Hysham	Director	Not Listed	9/11/2015 9/1/2017
Qualifications (if required): County Weed District			
Mr. Steve Johns Helena	Director	Not Listed	9/11/2015 9/1/2017
Qualifications (if required): Forage Producer			
Ms. Jane Mangold Bozeman	Director	Not Listed	9/11/2015 9/1/2017
Qualifications (if required): Montana State University			
Ms. Michelle Miller Billings	Director	Not Listed	9/11/2015 9/1/2017
Qualifications (if required): Forage Pellets Producer			

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2015

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Noxious Weed Seed Free Forage Advisory Council (Agriculture) cont.			
Mr. Bob Rangitsch Ovando	Director	Not Listed	9/11/2015 9/1/2017
Qualifications (if required): Livestock/Agriculture			
Mr. Mark Siderius Kalispell	Director	Not Listed	9/11/2015 9/1/2017
Qualifications (if required): Forage Producer			
Mr. Kehoe Wayman Ronan	Director	Not Listed	9/11/2015 9/1/2017
Qualifications (if required): Outfitter			
Mr. Stephen Henry White Great Falls	Director	Not Listed	9/11/2015 9/1/2017
Qualifications (if required): MSU Agriculture Research Center			
Director Ron de Yong Helena	Director	Not Listed	9/11/2015 9/1/2017
Qualifications (if required): Department of Agriculture			
Potato Commodity Advisory Committee (Agriculture)			
Mr. Bill Buyan Sheridan	Director	Not Listed	9/11/2015 9/1/2017
Qualifications (if required): actively involved in the potato industry			

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2015

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Potato Commodity Advisory Committee (Agriculture) cont.			
Mr. Dave Cottom Dillon	Director	Not Listed	9/11/2015 3/1/2017
Qualifications (if required):	Potato Producer		
Mr. Pat Fleming Pablo	Director	Not Listed	9/11/2015 3/1/2016
Qualifications (if required):	Potato Producer		
Mr. Brad Haidle Fallon	Director	Not Listed	9/11/2015 3/1/2016
Qualifications (if required):	Potato Producer		
Mr. Dan Lake Ronan	Director	Not Listed	9/11/2015 3/1/2017
Qualifications (if required):	Potato Producer		
Mr. Jack Meyer Missoula	Director	Not Listed	9/11/2015 3/1/2018
Qualifications (if required):	Potato Producer		
Water and Waste Water Operators' Advisory Council (Environmental Quality)			
Mr. Logan McInnis Missoula	Governor	not listed	9/4/2015 7/1/2017
Qualifications (if required):	Workforce Representative		

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2015

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Water and Waste Water Operators' Advisory Council (Environmental Quality) cont.			
Mr. Eleazer Resurreccion	Governor	Richards	9/4/2015
Havre			10/16/2017
Qualifications (if required): Faculty of a university or college whose major field is related to water supply systems			

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2015 THROUGH JANUARY 31, 2016

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Chiropractors (Labor and Industry) Dr. Cathleen Fellows, Billings Qualifications (if required): Chiropractor	Governor	1/1/2016
Board of Occupational Therapy Practice (Labor and Industry) Ms. Sanna Beerman, Black Eagle Qualifications (if required): occupational therapist	Governor	12/31/2015
Board of Personnel Appeals (Labor and Industry) Ms. Anne L MacIntyre, Helena Qualifications (if required): labor-management experience and an attorney	Governor	1/1/2016
Children's System of Care Committee (Public Health and Human Services) Mr. Bob Peake, Helena Qualifications (if required): Appointee of Supreme Court representing youth courts	Director	1/1/2016
Ms. Lesa Evers, Helena Qualifications (if required): Other appropriate appointee	Director	1/1/2016
Ms. Cindy McKenzie, Helena Qualifications (if required): Appointee by Department of Corrections	Director	1/1/2016
Ms. Zoe Barnard, Helena Qualifications (if required): Mental Health Program	Director	1/1/2016
Ms. Sarah Corbally, Helena Qualifications (if required): Child Protective Services	Director	1/1/2016

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2015 THROUGH JANUARY 31, 2016

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Children's System of Care Committee (Public Health and Human Services) cont.		
Ms. Rebecca de Camara, Helena Qualifications (if required): Developmental Disability Program	Director	1/1/2016
Ms. Jamie Palagi, Helena Qualifications (if required): Other appropriate appointee	Director	1/1/2016
Ms. Malayia Hill, Missoula Qualifications (if required): Other appropriate appointee	Director	1/1/2016
Ms. Kim Monroe, Missoula Qualifications (if required): Other appropriate appointee	Director	1/1/2016
Mr. Matt Kunz, Helena Qualifications (if required): Other appropriate appointee	Director	1/1/2016
Mr. Dennis Parman, Helena Qualifications (if required): Appointee of Superintendent of Public Instruction	Director	1/1/2016
Ms. Cil Robinson, Helena Qualifications (if required): Appointee of Youth Justice Council	Director	1/1/2016
Children's Trust Fund (Public Health and Human Services)		
Ms. Patty Butler, Lewistown Qualifications (if required): DPHHS Agency Representative	Governor	1/1/2016
Ms. Mary Gallagher, no city listed Qualifications (if required): Agency Representative	Governor	1/1/2016

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2015 THROUGH JANUARY 31, 2016

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Children's Trust Fund (Public Health and Human Services) cont. Ms. JoAnn Eder, Red Lodge Qualifications (if required): Public Representative	Governor	1/1/2016
Ms. Betty Hall-Munger, Helena Qualifications (if required): Public Representative	Governor	1/1/2016
Commission on Practice of the Supreme Court (Supreme Court) Ms. Jean Faure, Great Falls Qualifications (if required): none specified	elected	1/1/2016
Community Service Commission (Governor) Mr. Kevin Myhre, Lewistown Qualifications (if required): Local Government Representative	Governor	1/1/2016
Judicial Nomination Commission (Justice) Ms. Mona Charles, Kalispell Qualifications (if required): public representative	Governor	1/1/2016
Local Government Advisory Council (Revenue) Commissioner Carol Brooker, Plains Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe	Director	12/31/2015
Ms. Carole Lankford, Pablo Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe	Director	12/31/2015
Mr. Doug Kaercher, Havre Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe	Director	12/31/2015

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2015 THROUGH JANUARY 31, 2016

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Government Advisory Council (Revenue) cont.		
Mr. Jerry Jimison, Glendive	Director	12/31/2015
Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe		
Ms. Kim Buchanan, Bozeman	Director	12/31/2015
Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe		
Mr. Greg Chilcott, Hamilton	Director	12/31/2015
Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe		
Ms. Paulette DeHart, Helena	Director	12/31/2015
Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe		
Ms. Donnie McVee, Laurel	Director	12/31/2015
Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe		
Ms. Betty Romo, Wolf Point	Director	12/31/2015
Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe		
Ms. Christina Volek, Billings	Director	12/31/2015
Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe		
Mr. Jason Wiener, Missoula	Director	12/31/2015
Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe		
Mental Disabilities Board of Visitors (Governor)		
Mr. Graydon Davies Moll, Ronan	Governor	1/1/2016
Qualifications (if required): Experience with Treatment and Welfare of adults with developmental disabilities		

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2015 THROUGH JANUARY 31, 2016

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Mental Disabilities Board of Visitors (Governor) cont. Mr. Dan Laughlin, Anaconda Qualifications (if required): Experience with Treatment and Welfare of children with serious emotional disturbances	Governor	1/1/2016
Montana Alfalfa Seed Committee (Agriculture) Mr. Tim Wetstein, Joliet Qualifications (if required): alfalfa seed grower	Governor	12/31/2015
Mr. Dallas Steiger, Hysham Qualifications (if required): alfalfa seed grower	Governor	12/21/2015
Montana Children's Trust Fund Board (Public Health and Human Services) Ms. Kristina Davis, Great Falls Qualifications (if required): General Public Representative	Governor	1/1/2016
Mrs. Catherine Molloy, Helena Qualifications (if required): General Public Representative	Governor	1/1/2016
Small Business Health Insurance Pool Board of Directors (Insure Montana) (State Auditor) Ms. Tara Veazey, Helena Qualifications (if required): non-voting representative of the Governor's Office	Governor	1/1/2016
Ms. M. Katherine Buckley-Patton, Helena Qualifications (if required): Management Level Knowledge of Medicaid Services	Governor	1/1/2016
Statewide Independent Living Council (Public Health and Human Services) Ms. Astghik Iknatian, Billings Qualifications (if required): DPHHS Representative and ex-officio member	Governor	12/1/2015

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2015 THROUGH JANUARY 31, 2016

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Statewide Independent Living Council (Public Health and Human Services) cont.		
Ms. Monique Casbeer, Missoula	Governor	12/1/2015
Qualifications (if required): Person with Disability not employed by a State Agency or Independent Living Center		
Mr. Robert Idol, Whitefish	Governor	12/1/2015
Qualifications (if required): Person with Disability not employed by a State Agency or Independent Living Center		
Trauma Care Committee (Public Health and Human Services)		
Mr. Tim Sinton, Choteau	Governor	11/2/2015
Qualifications (if required): representative of the Central Region Trauma Advisory Council		
Dr. Dennis Maier, Billings	Governor	11/2/2015
Qualifications (if required): representative of the Montana Committee on Trauma/ACS		
Ms. Elaine Schuchard, Glasgow	Governor	11/2/2015
Qualifications (if required): representative of the Emergency Nurses Association		
Ms. Kristen Lowery, Deer Lodge	Governor	11/2/2015
Qualifications (if required): representative of the Montana Trauma Coordinators		
Ms. Leah Emerson, Ronan	Governor	11/2/2015
Qualifications (if required): representative of the Western Region Trauma Advisory Council		
Mr. Sam Miller, Bozeman	Governor	11/2/2015
Qualifications (if required): representative of the Eastern Region Trauma Advisory Council		

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2015 THROUGH JANUARY 31, 2016

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Trauma Care Committee (Public Health and Human Services) cont.		
Mr. Sam Miller, Bozeman	Governor	11/2/2015
Qualifications (if required): representative of the Eastern Region Trauma Advisory Council		
Mr. Don Whalen, Missoula	Governor	11/2/2015
Qualifications (if required): representative of private ambulances		
Ms. Becky Arbuckle,	Governor	11/2/2015
Qualifications (if required): representative of the Montana Emergency Medical Services Association		
Dr. Sidney Williamson, Bozeman	Governor	11/2/2015
Qualifications (if required): representative of the American College of Emergency Physicians		
Ms. Roberta Shupe, Harlem	Governor	11/2/2015
Qualifications (if required): representative of the Indian Health Service		
Ms. Joy Fortin, Kalispell	Governor	11/2/2015
Qualifications (if required): representative of the Montana Trauma Coordinators		
Traumatic Brain Injury Advisory Council (Public Health and Human Services)		
Dr. James Wright, Butte	Governor	1/1/2016
Qualifications (if required): Advocate of Brain Injured Persons		
Mr. Charles Gutierrez, Vaughn	Governor	1/1/2016
Qualifications (if required): Survivor		
Dr. Richard Felix, Saint Ignatius	Governor	1/1/2016
Qualifications (if required): Advocate for Brain-Injured Persons		

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2015 THROUGH JANUARY 31, 2016

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Water Well Contractors Board (Natural Resources and Conservation) Mr Pat Byrne, Great Falls Qualifications (if required): Water Well Contractor	Governor	1/1/2016