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## Economic Affairs Interim Committee

68th Montana Legislature

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LJ JENNINGS, Secretary

February 21, 2024

TO: Economic Affairs Interim Committee  
FROM: Jameson Walker, Staff Attorney  
RE: Administrative Rulemaking and Rule Review, February 2024

The Economic Affairs Interim Committee is required to review administrative rules promulgated by the Department of Agriculture, Department of Commerce, Department of Labor and Industry, Department of Livestock, State Auditor's Office, Division of Banking and Financial Institutions, Governor's Office of Economic Development, and Department of Revenue, Alcoholic Beverage Control Division and Cannabis Control Division for compliance with the Montana Administrative Procedure Act (MAPA). The following notices are filed with the Secretary of State's Office for publication in the Montana Administrative Register (MAR). Notices are available at <http://www.mtrules.org> (search by notice number).

### PROPOSAL NOTICES

#### Department of Agriculture and administratively attached entities

There are no new rules.

#### Department of Commerce and administratively attached entities

##### **MAR Notice Number:** 8-97-102

**Subject:** Repeal of rules pertaining to the Board of Investments Conservation Reserve Payment Enhancement Program.

**Summary:** The Board proposes to repeal ARM 8.97.2001, 8.97.2002, 8.97.2003, 8.97.2004, 8.97.2005, 8.97.2006, 8.97.2007, 8.97.2008, and 8.97.2009. The board states that the current administrative rules contain outdated programs and do not reflect current board practices.

**Notes/Hearing:** The board does not anticipate the need to conduct a public hearing.

##### **MAR Notice Number:** 8-99-208

**Subject:** Amendment of a rule pertaining to the Housing Credit Program.

**Summary:** The department proposes to amend 8.111.602 to update references from 2024 to 2025 and to update a telephone number that the public may call.

**Notes/Hearing:** The board held a public hearing on February 15, 2024, to consider the notice.

**MAR Notice Number:** 8-99-209

**Subject:** Adoption of a rule pertaining to the administration of the Economic Impact and Destination Event Grant Program.

**Summary:** The department proposes to adopt New Rule I:

NEW RULE I INCORPORATION BY REFERENCE OF RULES GOVERNING THE GUIDELINES FOR THE ECONOMIC IMPACT AND DESTINATION EVENT GRANT PROGRAM (1) The department adopts and incorporates by reference Guidelines for the Economic Impact and Destination Event Grant Program (Program or Event Grant Program), with the most current version being posted on the Tourism Grant Program website (Guidelines), as rules governing how the department will administer the Program.

(2) The Guidelines address the following:

- (a) Introduction;
- (b) Definitions;
- (c) Eligible Applicants;
- (d) Eligible Events;
- (e) Ineligible Events;
- (f) Eligible Uses of Funds;
- (g) Ineligible Uses of Funds;
- (h) Application Process;
- (i) Application Review and Ranking Criteria; and
- (j) Program Administration.

(3) Copies of the Guidelines may be obtained from the department's Destination MT Division, Office of Tourism, 301 South Park Avenue, P.O. Box 200501, Helena, Montana, 59620-0501, or on its web site at <https://brand.mt.gov/Programs/Office-Of-Tourism/Tourism-Grant-Program>.

The department states that the new rule is necessary to implement the Event Grant Program in accordance with Senate Bill 540 (2023).

**Notes/Hearing:** The department held a public hearing on February 15, 2024, to consider the notice.

**MAR Notice Number:** 8-99-210

**Subject:** Adoption of a new rule pertaining to the administration of the Regional Assistance Program.

**Summary:** The Board proposes to adopt New Rule I:

NEW RULE I INCORPORATION BY REFERENCE OF RULES GOVERNING THE GUIDELINES FOR THE REGIONAL ASSISTANCE PROGRAM

(1) The department adopts and incorporates by reference Guidelines for the Regional Assistance Program (Program or RAP), with the most current version being posted on the Tourism Grant Program website (Guidelines), as rules governing how the department will administer the Program.

(2) The Guidelines address the following:

- (a) Summary;
- (b) Definitions;
- (c) Eligible Applicants;
- (d) Eligible Projects;
- (e) Funding Availability;
- (f) How to Apply;
- (g) Application Review Process;
- (h) Application Review Criteria;
- (i) Award Process and Contract; and
- (j) Program Contact.

(3) Copies of the Guidelines may be obtained from the department's Destination MT Division, Office of Tourism, 301 South Park Avenue, P.O. Box 200501, Helena, Montana, 59620-0501, or on its web site at <https://brand.mt.gov/Programs/Office-Of-Tourism/Tourism-Grant-Program>.

The department states that the new rule is necessary to implement and administer the Regional Assistance Program in accordance with Senate Bill 540 (2023). This bill authorized the department to provide funding to eligible applicants to support Montana tourism.

Notes/Hearing: The board will hold a public hearing on February 29, 2024, to consider the notice.

Department of Labor and Industry and administratively attached entities

**MAR Notice Number:** 24-16-388

Subject: Amendment, transfer, adoption, and repeal of rules relating to wages and hours.

Summary: The department proposes to amend ARM 24.16.7551 and amend and transfer ARM 24.16.102, 24.16.111, 24.16.211, and 24.16.1508. The department proposes to transfer ARM 24.16.2101. The department proposes to adopt NEW RULES I through IV. The department proposes to repeal 24.16.501, 24.16.502, 24.16.503, 24.16.1002, 24.16.1004, 24.16.1005, 24.16.1006, 24.16.1007, 24.16.1008, 24.16.1009, 24.16.1010, 24.16.1011, 24.16.1012, 24.16.1501, 24.16.1502, 24.16.1503, 24.16.1504, 24.16.1505, 24.16.1506, 24.16.1507, 24.16.2501, 24.16.2502, 24.16.2503, 24.16.2504, 24.16.2505, 24.16.2512, 24.16.2513, 24.16.2514, 24.16.2515, 24.16.2516, 24.16.2517, 24.16.2518, 24.16.2519, 24.16.2520, 24.16.2521, 24.16.2522, 24.16.2523, 24.16.2524, 24.16.2525, 24.16.2531, 24.16.2532, 24.16.2533, 24.16.2541, 24.16.2542, 24.16.2543, 24.16.2544, 24.16.2551, 24.16.2552, 24.16.2553, 24.16.2554, 24.16.2555, 24.16.2556, 24.16.2557, 24.16.2571, 24.16.2581, 24.16.5501, 24.16.6101, 24.16.6102, and 24.16.6901.

The department provided the following general statement of reasonable necessity:

In support of the Governor's Red Tape Relief Initiative, the Department of Labor and Industry (department) is conducting comprehensive reviews of the department's administrative rules. This review focuses on updating rules to current standards and procedures and eliminating unnecessary and redundant regulations.

The department determined it is reasonably necessary to repeal numerous wages and hour rules and replace their provisions with four new rules. The rules proposed for repeal were adopted in 1972 by restating similar federal regulatory provisions in Title 29 of the Code of Federal Regulations (CFR). Many of the current wages and hour rules are verbatim duplicates of the federal language but have not been updated to match their federal counterparts in decades. Instead of amending and retaining the lengthy, repetitive rules, the department is adopting NEW RULES I through IV to align with the current federal provisions by adopting and incorporating them by reference as allowed by 2-4-307, MCA.

The department is amending/retaining six rules, repealing 59 rules, and adopting four new rules to align with the Red Tape Relief Initiative. The new and transferred rules will be located in new subchapter 30 of Title 24, chapter 16 of the Administrative Rules of

Montana (ARM). Where additional specific bases for a proposed action exist, the department will identify those reasons immediately following the specific rule.

Notes/Hearing: The department held a public hearing on February 15, 2024, to consider the notice.

**MAR Notice Number:** 24-7-388

Subject: Amendment and repeal of rules pertaining to the Unemployment Insurance Appeals Board.

Summary: The department proposes to amend ARM 24.7.101, 24.7.303, 24.7.304, 24.7.305, 24.7.306, and 24.7.308. The department proposes to repeal ARM 24.7.312. The department is amending the rules to change language from passive to active voice, use similar terminology throughout the rules, provide clarity and simplification of language, and to identify persons responsible for specific actions allowed by the rules.

Notes/Hearing: The department will hold a public hearing on February 29, 2024, to consider the notice.

**MAR Notice Number:** 24-22-411

Subject: Amendment and repeal of rules pertaining to work-based learning grants.

Summary: The department proposes to amend ARM 24.22.701, 24.22.704, 24.22.707, and 24.22.713. The department proposes to repeal ARM 24.22.710. Generally, the rule notice removes duplicative language, eliminates unnecessary definitions, and provides cross-references for ease of use.

Notes/Hearing: The department will hold a public hearing on March 1, 2024, to consider the notice.

#### Department of Livestock and administratively attached entities

There are no new rules.

#### State Auditor's Office

**MAR Notice Number:** 6-285

Subject: Amendment and repeal of rules pertaining to Network Adequacy for Managed Care.

Summary: The department proposes to amend ARM 6.6.8801, 6.6.8805, 6.6.8806, 6.6.8807, 6.6.8808, 6.6.8820, and 6.6.8841. The department proposes to repeal ARM 6.6.8850 and 6.6.8851.

The department provided the following statement of necessity:

The 68th Montana Legislature passed House Bill 156, which transferred the authority and operation of the Managed Care Plan Network Adequacy and Quality Assurance Act from the Department of Public Health and Human Services (DPHHS) to CSI. The first step in implementing the relevant sections of HB 156 occurred on October 20, 2023, when the commissioner published MAR Notice No. 6-282, which transferred rules pertaining to Network Adequacy for Managed Care Plans from DPHHS to CSI. The second step in implementing the relevant sections of HB 156 is amending the rules to conform to the

changes made by HB 156 and to CSI operations, which is accomplished by the amendments proposed in this notice.

Notes/Hearing: The department does not anticipate the need to conduct a public hearing on the rule notice.

**MAR Notice Number:** 6-286

Subject: Amendment, repeal, and adoption of rules pertaining to Quality Assurance for Managed Care Plans.

Summary: The department proposes to amend ARM 6.6.8901, 6.6.8905, 6.6.8906, 6.6.8907, 6.6.8910, 6.6.8911, 6.6.8915, and 6.6.8916. The department proposes to repeal ARM 6.6.8920 and 6.6.8921. The department proposes to adopt New Rule I:

NEW RULE I NOTICE OF DISAGREEMENT AND PROGRESSION TO ENFORCEMENT ACTION

(1) If a health carrier disagrees with a corrective action recommended by the commissioner pursuant to 33-36-401(1), MCA, the health carrier must provide a written notice to the commissioner containing a short and plain statement of the grounds for disagreement with the corrective action.

(2) Once the carrier provides written notice to the commissioner pursuant to this rule, the matter proceeds as an enforcement action for non-compliance pursuant to 33-36-401(2)(a), MCA. The enforcement action will be held in accordance with the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, MCA, and ARM 6.2.101.

The department provided the following statement of necessity:

The Commissioner of Securities and Insurance, Montana State Auditor, Troy Downing (commissioner) is the statewide elected official responsible for administering the Montana Insurance Code and regulating business of insurance. These amendments are necessary to ensure compliance with the Managed Care Plan Network Adequacy and Quality Assurance Act, the administration of which was transferred from DPHHS to CSI by House Bill 156, enacted by the 68th Montana Legislature. The above-stated amendments conform the already-existing rules to the changes made by HB 156 and to CSI's operations. Notes/Hearing: The board did not anticipate the need to conduct a public hearing.

Notes/Hearing: The department does not anticipate the need to conduct a public hearing on the rule notice.

Division of Banking and Financial Institutions

There are no new rules.

Department of Revenue, Alcoholic Beverage Control Division and Cannabis Control Division

**MAR Notice Number:** 42-1075

Subject: Amendment of rules pertaining to beer and wine tax reporting.

Summary: The department proposes to amend ARM 42.13.402, 42.13.406, 42.13.701, and 42.13.702. The department states that the rule notice implements House Bill 124 and Senate Bill 20 from 2023.

Notes/Hearing: The department will hold a public meeting on March 1, 2024, to consider the notice.

Governor's Office of Economic Development

There are no new rules.