IN THE SUPREME COURT OF THE STATE OF MONTANA

No. OP 21-0173

BETH McLAUGHLIN,

Petitioner,

v.

The MONTANA STATE LEGISLATURE, and the MONTANA DEPARTMENT OF ADMINISTRATION,

Respondents.

THE MONTANA STATE LEGISLATURE'S PETITION FOR REHEARING

APPEARANCES:

KRISTIN HANSEN
Lieutenant General
DEREK J. OESTREICHER
General Counsel
215 N. Sanders
P.O. Box 201401
Helena, MT 59620-1401
Phone: 406-444-2026
Fax: 406-444-3549
khansen@mt.gov
derek.oestreicher@mt.gov

ATTORNEYS FOR RESPONDENT
MONTANA STATE LEGISLATURE

RANDY J. COX
BOONE KARLBERG P.C.
201 West Main, Suite 300
P.O. Box 9199
Missoula, MT 59807-9199

ATTORNEY FOR PETITIONER

MICHAEL P. MANION
Department of Administration
P.O. Box 200101
Helena, MT 59620-0101

DALE SCHOWENGERDT
Crowley Fleck PLLP
900 N. Last Change Gulch, Ste. 200
Helena, MT 59601

ATTORNEYS FOR RESPONDENT
DEPARTMENT OF ADMINISTRATION

INTRODUCTION

In a proceeding that began and remains on diaphanous legal footings, the Court's July 14, 2021, Opinion[1] exacerbates inter-branch conflict and upheaves the separation of powers. It is deeply flawed, sets dangerous precedent, and the Legislature therefore, (1) petitions for rehearing, and in so doing (2) implores the Court to disengage from pitched battle and reengage as a necessary party to fruitful negotiation.

After the Opinion issued, the U.S. Department of Justice ("USDOJ") issued its opinion, *Ways and Means Committee's Request for the Former President's Tax Returns*, 45 Op. O.L.C. ___ (July 30, 2021) (hereafter "O.L.C."), in which USDOJ acquiesced to Congressional requests for former-President Trump's tax returns. O.L.C.'s analysis confirms the Legislature's reading of the relevant caselaw and its application to this dispute and it should inform the Court's reconsideration of its Opinion.

[1] *McLaughlin v. Mont. State Legislature*, 2021 MT 178, __ Mont. __ , __ P.3d __ ("Opinion").

I. The Opinion misapplies *Mazars* and disrupts the separation of powers.

"[T]he essential purpose of the separation of powers is to allow for independent functioning of each coequal branch of government within its assigned sphere of responsibility." *McLaughlin*, ¶ 65 (McKinnon, J., specially concurring). The Legislature has a well-established right to the information it sought. *See United States v. Harriss*, 347 U.S. 612, 625 (1954). Contrarily, the Opinion violates the separation of powers by devaluing the Legislature's instant investigation and purporting to submit all future legislative subpoenas to state officials to judicial preclearance. *See McLaughlin*, ¶¶ 31, 37, 41, 49, 54. The Court misreads *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019 (2020). First, the U.S. Supreme Court wasn't party to the case. Second, the High Court didn't invalidate Congressional subpoenas for the President's private documents; it instead ordered further consideration in light of separation of powers issues. *Mazars* can't support the circumstances here, where the Montana Supreme Court is hearing a case in which it is an interested party and in which it has refused any further consideration of production of the Court Administrator's public records.

The Opinion belittles the Legislature's authority unnecessarily. *See McLaughlin*, ¶¶ 8–10. "It is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees" and unless the Legislature "ha[s] and use[s] every means of acquainting itself with the acts and the disposition of the administrative agents of the government" the state would "be helpless to learn how it is being served." *Mazars*, 140 S. Ct. at 2033 (quoting *United States v. Rumely*, 345 U.S. 41, 43 (1953)). "It is beyond dispute that Congress may conduct investigations in order to obtain facts pertinent to possible legislation and in order to evaluate the effectiveness of current laws." O.L.C. at 20 (internal citation omitted). Here, the Court acknowledges by word only, that the Legislature's investigation concerns the effectiveness of laws governing judicial branch oversight. *See McLaughlin*, ¶¶ 27–28 (collecting numerous statutes regulating judicial conduct). Yet the Court's conclusion denies the acknowledged ability of the Legislature to seek these records any effect. The Court also recognizes that the Legislature may seek the records at issue through the Legislative Auditor. *See id.* ¶ 50. But the Court fails to acknowledge that the Legislature's delegation of certain judicial oversight functions to a legislative officer does not

preclude the Legislature from exercising oversight directly.

A. *Mazars* demands accommodation and negotiation.

O.L.C. properly applied the traditional rules governing interbranch disputes, which reaffirmed the legislative prerogative to diligently examine every affair of government. *See* O.L.C. at Part II–III. This Court did not. When a legislative subpoena implicates core institutional concerns of a sister branch, such as confidentiality, then the branches should engage in "this tradition of negotiation and compromise." *See Mazars*, 140 S. Ct. at 2031; *see also* O.L.C. at 23. Failure to engage in negotiation allows a rivalrous branch to discount the "significant" legislative interests in inquiring into "every affair of government" and "simply walk away from the bargaining table and compel compliance in court." *Id.* at 2033-34. Here, the Court—as a representative of the Judiciary—is the rivalrous branch. Out of respect for the separation of powers, the Legislature has consistently demanded this matter be resolved through negotiation, not adjudication. *See* Legislature's Response to Petition for Original Jurisdiction at 17–20 (April 30, 2021). The Court's hostility to accommodation and negotiation violates *Mazars*.

B. Administrator McLaughlin is not entitled to the same special considerations as the sitting U.S. President.

Mazars does not "alter the legal framework" for legislative subpoenas directed at other coordinate branches. O.L.C. at 28. But this Court uses *Mazars* to impute that *any* subpoena directed at a coordinate branch triggers the same concerns as one issued to a sitting President. *See McLaughlin*, ¶ 10; *but see Mazars*, 140 S. Ct. at 2036. The sitting President occupies a "unique constitutional position" and congressional subpoenas directed to him raise unique constitutional considerations. *See Mazars* 140 S. Ct. at 2034, 2036. The Court Administrator is not the President and her position is quite different. Her statutorily created position requires her to respond to legislative information requests. *See* Mont. Code Ann. § 3-1-702(2). *Mazars* accordingly offers no justification for this Court's conclusion that the Administrator (or the judiciary) may spurn the good faith negotiations the Legislature has repeatedly requested.

C. The Legislature may investigate official malfeasance.

The Legislature has broad authority to investigate official malfeasance. *Compare McLaughlin*, ¶¶ 8–9, (arguing the current investigation probes into matters within the judiciary's "exclusive province," seeks

"expos[ure] for the sake of exposure," and to aggrandize the investigators and punish the judiciary), *with Watkins v. United States*, 354 U.S. 178, 200 n.33 (1957) ("We are not concerned with the power of the Congress to inquire into and publicize corruption, maladministration or inefficiency in agencies of the Government."). It is wholly wrong that only the judiciary may investigate the judiciary. *See McLaughlin*, ¶ 41. "It is beyond dispute that" the Legislature may "obtain facts pertinent to possible legislation and in order to evaluate the effectiveness of current laws." O.L.C. at 20. Despite the Opinion's contrary conclusions, the Judiciary is merely a component of State Government and is already administered by numerous *legislative* enactments. *See McLaughlin*, ¶¶ 26–28, 34–35, 40, 50. The Legislature may investigate judicial officers for maladministration, particularly in view of what this investigation has so far uncovered—potential statutory, administrative, and ethical violations by judges and the Administrator that legitimately threaten public confidence in a fair and impartial judiciary. *See generally* Report.[2] This investigation probes areas the Legislature already regulates (or

[2] *See* Montana State Legislature, Special Joint Select Committee on Judicial Accountability and Transparency, *Initial Report to the 67th Montana Legislature* (May 5, 2021) ("Report"), https://leg.mt.gov/content/Committees/JointSlctJudical/CommitteeReportFinal.pdf.

rightfully could); it doesn't invade the judiciary's exclusive province (deciding cases). Simply ignoring why we're here doesn't change why we're here—questionable judicial conduct. True, the Legislature cannot investigate to self-aggrandize or mete out punishment; but neither may the Court extirpate investigations that reveal misconduct and embarrass judicial officers. *See* O.L.C. at 23 (If the Court "were to deny altogether the good faith of [the Legislature's] assertion of its legitimate interests, it would pretermit the accommodation process" required in these disputes.).

II. The Court lacks prudential standing, violates due process, and worsens an already disqualifying conflict of interest.

"Each branch is subject to an implicit constitutional mandate to seek optimal accommodation through a realistic evaluation of the needs of the conflicting branches in the particular fact situation." *See* O.L.C. at 23. But this Court concludes otherwise.

Prudential standing and conflict of interest concerns should have dissuaded the Court from taking this case at all. *See generally* Legislature's Motion to Disqualify Justices (April 30, 2021); *see also* Legislature's Response to Petition for Original Jurisdiction (April 30, 2021). Once self-imbued, however, the Court never responded to these

arguments in either its role as party or its role as tribunal, instead rejecting without explanation the Legislature's petition for rehearing of its motion to disqualify the Court. *See generally*, Order Denying Petition for Rehearing (July 14, 2021). Issuing an expansive, disarming Opinion against this backdrop confirms the Legislature's consistent argument: it cannot obtain due process from this Court under these circumstances.

Purportedly, the Court "carefully scrutinize[s]" a "rival political branch['s]" use of constitutional authority for "institutional advantage," implying that the Legislature is intentionally overreaching. *McLaughlin*, ¶ 13. But the Court is doing precisely what it decries. Here, at the request of its employee whose subpoenaed documents reveal questionable judicial behavior, the Court engineers its own institutional advantage and forever expropriates a legitimate legislative oversight tool. *Id.* ¶ 41 (opining that the judiciary can't remain independent unless the judiciary—solely—oversees judges). Transforming a general truism about judicial self-regulation into an absolute rule that jettisons historic and well-recognized interbranch limitations elevates the judiciary above its sisters and breeds unaccountability. *See State ex rel. Fletcher v. District Court*, 260 Mont. 410, 417, 859 P.2d 992, 996 (1993) ("Each branch

constitutes a check or balance upon the other branches, in order that no one branch has too much power in its hands") (citations omitted).

To squelch the Legislature's inherent investigatory power, the Court requisitions caselaw vindicating judicial independence in areas textually committed to the judiciary. *See McLaughlin*, ¶ 17–18. Here though, the dispute centers, in part, on the judiciary's participation in lobbying—a legislative process. The Legislature controls that process, *see* MONT. CONST. ART. V, §§ 1, 10, and judge-made rules cannot the usurp Legislature's authority. *See McLaughlin*, ¶ 36. It may inquire into potential abuses of its lobbying strictures to assess whether those regulations should be strengthened. The Opinion doesn't reclaim lost judicial territory; it snatches ground constitutionally assigned to the Legislature. The subpoenas, while not artful, were not confiscatory of case-based decisional authority. The Opinion, on the other hand, is an unwarranted confiscatory decree.

III. The Court unduly sapped the Legislature's investigatory authority.

The Opinion depletes the Legislature's legitimate, broad investigatory authority. Because neither the Justices nor the Administrator receive the special considerations afforded the U.S. President, *see supra*

Part I(B), the Court "must indulge a presumption that the legislative activity has as its object a legitimate goal towards possible legislation." *McLaughlin*, ¶ 8 (quoting *McGrain*, 287 U.S. at 178–79). But the Court didn't extend that presumption. Instead, it raised and then knocked down strawmen enroute to denying any legitimate legislative purpose.

Legislative inquiry into potential wrongdoing is not "law enforcement." *See McLaughlin*, ¶ 24. The Court's statement that investigating "alleged violations of existing law is an enforcement matter" outside the Legislature's purview, *id.*, doesn't jibe with the settled rule that Legislatures may "look diligently into every affair of government." *Rumely*, 345 U.S. at 43; *see also* O.L.C. at 20. To make informed legislative choices, the Legislature must have access to at least some of the judiciary's information. The Court's statement that judicial lobbying is "critical to informed legislative efforts" ignores the risk such lobbying poses to an impartial judiciary and is not a replacement for independent legislative inquiry. *McLaughlin*, ¶ 43, *see infra* Part III(C). Lobbying is not its constitutionally assigned role, and the Legislature is correct to examine the extent of it. *See Mazars,* 140 S. Ct. at 2031; *see also* O.L.C. at 22–23 (stating that Congress has a legitimate interest in overseeing

enforcement of a statute to determine "whether legislative revisions" are necessary).

A. Public Records Retention.

The Legislature's inquiry into judicial branch record-keeping, or deleting, legitimately probes the efficacy of existing laws. *See Mazars* 140 S. Ct. at 2031. "The Legislature unquestionably may seek data from the court administrator" pursuant to Mont. Code Ann. § 3-1-702(2). *McLaughlin*, ¶¶ 26–28 (citing numerous public records retention statutes). The Court Administrator responded to information requests by first claiming she does not retain "ministerial type" records and later "acquiesc[ed] to sloppiness" in deleting public records at which point the Legislature subpoenaed the records to recover them. *See* Report at 6.

The subpoenaed documents are public records and salient to the underlying inquiry whether the judiciary is fair, impartial, and entitled to the public's trust. Administrator McLaughlin deleted those documents. The Court's dismissive treatment of the Legislature's investigation into the records-retention practices of judicial officers blinks reality. *McLaughlin*, ¶ 30.

B. Lobbying

The Court acknowledges public employee lobbying is a legitimate legislative interest. *See McLaughlin*, ¶ 34.

The Legislature's inquiries were narrowly tailored to probe the extent of the Administrator's lobbying conduct made public by separately unearthed emails. *See McLaughlin*, ¶¶ 32–33. The Legislature may reasonably reconsider the efficacy of current ethics laws when it learns a public official regularly uses public time and resources to benefit a private party and provides and participates in a forum where judges opine on pending legislation. *See McLaughlin*, ¶¶ 35–36. Even if the Court's advisory opinion that the Administrator acted lawfully was binding, it would not preclude a legislative inquiry to determine if changes to current law are needed. *See* O.L.C. at 39.

C. Judicial Misconduct

Judicial misconduct is an area of valid legislative interest. The Constitution instructs the Legislature to establish a Judicial Standards Commission ("JSC"). *See* Mont. Const. art. VII, § 11(1). But that directive doesn't close the door to other, concurrent legislative oversight. *See, e.g., id.* at § 11(4) ("The proceedings of the commission are

confidential except as provided by statute"); *see also McLaughlin*, ¶ 50 (conceding the JSC is subject to the oversight of the Legislative Auditor—and thus the Legislature). Without some textual evidence, a specific constitutional delegation like Article VII, § 11 doesn't preclude other forms of legislative action and oversight, like the current investigation. *See Sheehy v. Comm'r of Political Practices for Montana*, 2020 MT 37, ¶ 43, 399 Mont. 26, 458 P.3d 309 (McKinnon, J., specially concurring) ("Those who seek[] to limit the power of the [legislature] must be able to point out the particular provision of the Constitution which contains the limitation expressed in no uncertain terms") (internal quotations and citation omitted).

The Legislature may investigate to learn whether parties before state courts receive fair, impartial justice, and that inquiry isn't limited to misconduct proceedings. *See Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 889 (2009).

The Court's actions in *Brown v. Gianforte*, OP 21-0125, make the legitimacy of this legislative inquiry even clearer. There, Acting Chief Justice Jim Rice appointed District Judge Krueger to sit on a case despite receiving Krueger's disqualifying statements via email. *See* Declaration

of Derek Oestreicher, OP 21-0125 Exhibit A (April 1, 2021) (Judge Krueger's stated "I am also adamantly oppose this bill"); Kurt Krueger's Notice of Recusal, OP 21-0125 (April 2, 2021). Every other member of this Court likewise received Kruger's statements but did nothing. These emails, which included several disrespectful and prejudicial statements by the Chief Justice, revealed a judiciary that cavalierly prejudged issues sure to come before them.[3]

Reasonable observers immediately recognize that this behavior suggests partiality and bias. Thus the Court's statement is remarkable; "[n]either has the Legislature explained how the practice of responding to Montana Judges Association polls could suggest partiality for or against any given party or a lack of open-mindedness by district court judges." *McLaughlin*, ¶45. That is a stunning, counterfactual denial. Judge Kreuger's recusal speaks loudly. The emails speak for themselves. And both raise obvious questions about judicial impartiality. The fact that the Administrator and Justices deleted them justified the subpoenas. *See* Report at 12, 19–20. Prejudicial statements located in the deleted emails make the Legislature's basis for inquiry apparent.

[3] *See also* Report at 17–18.

Finally, for the reasons set forth in Part I, the Opinion is simply incorrect that the JSC is the one-and-only entity that may investigate and discipline judicial officers. *See McLaughlin*, ¶ 41. The Legislature moreover may impeach and remove judicial officers without regard to the JSC. *See* Mont. Const. art. V, § 13(1).

IV. The Opinion contains multiple advisory opinions.

Courts may only decide cases or controversies; they may not issue advisory opinions. *See Plan Helena, Inc. v. Helena Reg'l Airport Auth. Bd.*, 2010 MT 26, ¶ 9, 355 Mont. 142, 226 P.3d 567. But the Opinion includes several advisory opinions issued by way of attacking the Legislature's investigative purposes. *See McLaughlin*, ¶ 27 ("McLaughlin nor any other Judicial Branch member was required by state law or policy to retain access to e-mail messages."); ¶ 35 ("To the extent the court administrator coordinates or facilitates district judges' contacts with legislators, her activity is not lobbying."); ¶ 36 ("[T]he Court Administrator acts within her job duties when she coordinates contacts between district court judges and legislators or conducts a poll …."); ¶ 46 ("More pointedly, the conduct the Legislature alleges does not, as a matter of

law, constitute the purported legal violations it uses to support its asserted legislative purposes.").

Additionally, the Court holds that "Legislative subpoenas to a governmental officer reaching information that may be protected by law require that the matter first be submitted to a court for *in camera* review of the affected information and an order for any necessary redactions." *McLaughlin*, ¶ 54. The Court does not apply this holding to this case, only to hypothetical subpoenas in hypothetical cases. The Court's newfound power furthers the mistaken notion that the judiciary is immune to independent inquiry.

These advisory statements must be withdrawn.

V. The Opinion contains multiple inaccuracies, omissions, and insertions of material fact that lack any record basis.

This controversy began with an unnoticed weekend order in a case the present defendant was not party to, facilitated by ex parte communications. That irregularity was followed by a letter that prompted tacit recognition of the situational infirmity by filing of an Original Petition. This was followed by an Order—that the Court sua sponte made itself party to. Basic justiciability and jurisdictional infirmities abound. But the Court's sweeping Opinion atop those irregularities has deprived the

Legislature of due process. The Legislature therefore incorporates its prior arguments and encourages the Court to take this last chance to defuse the constitutional tinder box it has kindled. The Court cannot umpire its own dispute, especially when the dispute is no longer—if it ever was—a case or controversy.

Apart from that, the Opinion contains numerous misstatements, or contested statements that have not been developed in a record. The Court declares as fact:

- "Current Judicial Branch policies do not require Judicial Branch members to save e-mails or retain access to their communications." *McLaughlin*, ¶ 27; *but see* Report at 19 (state retention schedules require retention of "routine: non-permanent" email for three years).

- "[T]he Court Administrator acts within her job duties when she coordinates contacts between district court judges and legislators or conducts a poll to allow district judges, through the Montana Judges Association…" *McLaughlin*, ¶36.

- The Court concludes that Administrator McLaughlin is not a lobbyist under the exemption Mont. Code Ann. § 5-7-102(12)(b)(ii) (which exempts an individual who works for the same principal as a licensed lobbyist in certain circumstances). *See McLaughlin*, ¶ 35.

- The Court finds that the Legislature resorted to subpoenas prior to opening any discussion for records from the Court Administrator. *McLaughlin*, ¶ 51; *but see McLaughlin*, ¶ 3.

This isn't an exhaustive list of the Opinion's contested statements of fact.

VI. The Opinion's Orders violate established laws, rules, and constitutional principles.

The Orders that conclude the Court's Opinion ¶ 57(c)–(d) cannot stand for several reasons.

The plain terms of ¶ 57(c) prohibit any further discussions regarding the emails or their contents between legislators, between legislators and legislative staff, between legislators and their counsel, and among counsel's staff. The Order impermissibly intrudes upon the Legislature's duty to "look diligently into every affair of government *and to talk much about what it sees*." *Rumely*, 345 U.S. at 43 (emphasis added). And any attempt to enforce the Order would violate the Speech or Debate Clause. *See* Mont. Const. art. V, § 8, *see also Cooper v. Glaser*, 2010 MT 55, ¶ 14; *see Gravel v. United States*, 408 U.S. 606, 616 (1972) (A senator could not be prosecuted for entering the Pentagon Papers in the public record because "[t]he Speech or Debate Clause was designed to assure a co-equal branch of the government wide freedom of speech, debate, and deliberation without intimidation or threats."). By so ordering, the Montana Supreme Court claims far greater powers than the U.S. Supreme Court. The immunity afforded by Montana's speech or debate clause operates when the legislature holds documents that justifiably embarrass

members of the Montana judiciary. *See* Report at 17–18.

As the Court knows, the Legislature's concerns regarding the judiciary's conduct was inspired by the content of the unprivileged yet inappropriate judicial emails. The Special Joint Select Committee on Judicial Accountability and Transparency published its Initial Report to the 67th Montana Legislature in May. That Report discusses and quotes from those emails *extensively*. *See* Report at 11–15, 17–18. The Court is powerless to prevent the Legislature from discussing these emails.

Paragraph 57(c) also impermissibly disrupts the attorney-client relationship. *See Sweeney v. Mont. Third Judicial Dist. Court*, 2018 MT 95, ¶ 14, 391 Mont. 224, 416 P.3d 187 ("[A]n attorney has a legal duty of undivided loyalty to a client, a duty which we have held to be inviolate and fundamental to the attorney-client relationship and the proper functioning of our adversarial system of justice."). The Court may not prohibit the Legislature and its counsel from discussing the already disclosed public records. *See McLaughlin*, ¶ 57(c) ("The Montana Legislature and its counsel are permanently ENJOINED from disseminating, publishing, reproducing, or disclosing *in any manner*, *internally or otherwise*, any documents produced pursuant to the subject subpoenas…") (emphasis

added).

Paragraph 57(d) poses equally serious enforceability and constitutionality problems. It demands the Legislature "return any copies or reproductions [of the subpoenaed emails] to … Administrator McLaughlin." *Id.* ¶ 57(d). Copies of the subpoenaed emails, however, are now possessed by journalists. The Order dictates that the Legislature should take measures to retrieve those reproduced emails from the recipient journalists and ensure that copies of the subpoenaed emails posted on various press websites be removed, destroyed, and/or returned to the Legislature for turnover. The Court knows this dispute has garnered considerable public interest, and the compliance measures summarized above would necessitate unprecedented, in America, government interference with First Amendment speech and press freedoms. The Court should withdraw this Order.

CONCLUSION

The Court should rehear this matter.[4]

Montanans are sensible and can see plainly what happened here. Judicial misconduct or embarrassing malfeasance was revealed to the public, and this Court seems bent to put Jack back in the box. The only path forward is for the judiciary and Legislature to talk. To facilitate those discussions, the Legislature went so far as to withdraw the subpoenas and reset the conversation. But the Court has steadfastly refused to negotiate over the production of public records in its possession.

When one branch of government throws the balance so violently out of kilter as the Court does here, our institutions—including the Court—are on the brink. *See State ex rel. Hall v. Niewoehner*, 116 Mont. 437, 473 (1944) (Morris, J., dissenting) ("[t]he safety of our government is dependent to a great extent on the confidence and respect which the people have for the courts, and it is the duty of every court to strive by honorable means to merit and preserve that confidence and respect.") The Legislature seeks public records. The Court holds them. Their disclosure does

[4] Due to the gravity of the issues under consideration, the Legislature requests the Court suspend M. R. App. 20(1)(e) and order oral argument on this Petition. If Court is determined to adjudicate this dispute to resolution it should give the Legislature its day in court.

not have to be rife with animosity.

The Legislature respectfully requests that this Court withdraw the Opinion and Orders, dismiss the case, and enter the field of negotiation and accommodation for the good of Montana.

Respectfully submitted this 11th day of August, 2021.

AUSTIN KNUDSEN
Montana Attorney General
Justice Building
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

By: */s/ Kristin Hansen*
Kristin Hansen
Lieutenant General

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 20 of the Montana Rules of Appellate Procedure, I certify that this pleading is printed in a proportionately spaced Century Schoolbook, 14-point font; is double-spaced except for footnotes and for quoted and indented material; and the word count calculated by Microsoft Word for Windows is 3,996 words, excluding certificate of service and certificate of compliance.

By: */s/ Kristin Hansen*
Kristin Hansen
Lieutenant General

CERTIFICATE OF SERVICE

I, Kristin N. Hansen, hereby certify that I have served true and accurate copies of the foregoing Petition - Rehearing to the following on 08-11-2021:

Randy J. Cox (Attorney)
P. O. Box 9199
Missoula MT 59807
Representing: Beth McLaughlin
Service Method: eService

Austin Miles Knudsen (Govt Attorney)
215 N. Sanders
Helena MT 59620
Representing: Montana State Legislature
Service Method: eService

Dale Schowengerdt (Attorney)
900 N. Last Chance Gulch
Suite 200
Helena MT 59624
Representing: Administration, Department of
Service Method: eService

Michael P. Manion (Attorney)
Department of Administration
P.O. Box 200101
Helena MT 59620-0101
Representing: Administration, Department of
Service Method: E-mail Delivery

Electronically signed by Rochell Standish on behalf of Kristin N. Hansen
Dated: 08-11-2021