

PAYROLL MANUAL



Montana Association of
School Business Officials

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INTRODUCTION

We believe the content of this manual is obtained from reliable sources and we will endeavor to ensure that the content is complete, correct and timely. Nonetheless, the content may have errors or omissions. We do not, nor do any of our content providers, warrant or guarantee total accuracy or completeness. **It's in this publication that is not to be considered legal advice.**

PURPOSE

This Payroll Manual is intended to aid school district clerks or payroll personnel in the payroll process. It is a guide and is not meant to supersede federal or state law, board policy, union agreements, or employee contracts.

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CALENDAR

January

- Before processing any payrolls, update tax tables, EIC tables and Social Security limits.
- Software calendar year-end rollover (depending on vendor).
- Request a new [Form MW4](#) from employees claiming exempt status by Jan 31st.
- By the 31st, electronically file MONTANA W-2s, 1099s and MW-3s using the [TransAction Portal \(TAP\)](#). Every employer shall, on or before February 28 of each year, file with the Montana Department of Revenue a wage and tax statement (W-2) for each employee to whom Montana wages were paid, with or without withholding and all forms 1099 with Montana withholding. An Annual Reconciliation Form (MW-3) must be submitted to support the withholding reported on the W-2 and 1099 forms. All forms 1099 without Montana withholding must be accompanied by Federal form 1096.
- By the 31st, W-2's to employee
- By the 31st, 1099's to vendor
- File [Form W2](#): Mail or electronically file Copy A of Form(s) W-2 and Form W-3 with the Social Security Administration by January 31st.
- File Form [1099-NEC](#), Nonemployee Compensation (NEC) - File on or before January 31, using either paper or electronic filing procedures.

[Instructions for Forms 1099-MISC Miscellaneous Information and 1099-NEC
Nonemployee Compensation](#)

February

- Request a new [Form W4](#) from employees claiming exempt status by Feb 15th.
- File [Form 1099-MISC](#), to report Miscellaneous Information – File by February 28, if you file on paper.
- By February 28th if filing on paper, [Forms 1094-C](#) & [1095-C Forms](#), Employer Provided Health Insurance, for applicable large employers, ALE, (at least 50 full-time or “full-time equivalents” employees).

March

- Form 1094-C and 1095-C are due to employees by March 2nd. Employers must file a transmittal (Form 1094) together with copies of all 1095 forms by February 28 (filing on paper) or March 31 (filing electronically).
- File [Form 1099-MISC](#), to report Miscellaneous Information – File by March 31, if you file electronically.

April

- 1st quarter workers' compensation and unemployment reports are due. Check your specific provider for exact dates, i.e., Montana State Fund, WCRRP, MTSUIP, or private insurer.
- By the 30th, 941 federal 1st quarter reports were due.

May

- Prepare for end of school year payrolls, terminations, retirements.

June

- Attend MASBO's annual Summer Conference!
- June 30—end of 2nd quarter.
- June 30—end of fiscal year.
- Depending on district procedures, all payroll liability may need to be paid by the end of the fiscal year.

July

- Fiscal year end software rollovers (i.e., leave balances, set up new position funding, set up payroll calendar(s) and pay dates.
- Update rates for MPERA, TRS, workers compensation, unemployment
- 2nd quarter workers compensation and unemployment reports are due. Check your specific provider for exact dates, i.e., Montana State Fund, WCRRP, MTSUIP, or private insurer.
- By the 31st, 941 federal 2nd quarter reports due.
- Set up for twelve-month (year-round) employees.

August

- Prepare employee packets for the new school year.
- New employee orientation.
- Acquire all documentation necessary to complete payroll set up for school year employees.

September

- September 30—end of 3rd quarter.
- Initial payroll preparation. **(It is extremely important to check accuracy in data entry and to verify totals on your first payroll to avoid perpetuating errors in ensuing payrolls.)**
- Be sure you have CORRECTED any errors you may have found in your first payroll before processing the next payroll!

October

- 3rd quarter workers' compensation and unemployment reports are due. Check your specific provider for exact dates, i.e., Montana State Fund, WCRRP, MTSUIP, or private insurer.
- By the 31st, 941 federal 3rd quarter reports due.

November

- This would be a good month to check payroll files, update addresses, etc. in preparation for the end of the calendar year.

December

- December 31 - end of 4th quarter. Don't forget to file your normal quarterly reports for workers compensation, unemployment and the 941 for federal tax withholdings prior to processing year 3 end reporting.
- End of the calendar year. IMPORTANT--Software may require a calendar year backup.
- After final payroll, reconcile quarterly reports for the calendar year with W-2 totals.
- Check your vendor files and verify that you have W9 forms collected from any vendors that require a 1099. (Best practice- collect the W9 form from any new vendor prior to payment.)

APPLICANT PACKET

When an individual applies for employment, an applicant packet is provided. You may have 2 different Application Packets- Certified & Classified.

This packet may consist of:

- Equal Opportunity Employer Statement
- Proof of Employability
- Drug Free/Tobacco Free Policies
- Veteran’s Preference
- Right & Consent to Fingerprint
- NCPA (National Child Protection Act) /VCA (Volunteers for Children Act) Applicant Form
- Position Job Description
- Benefit Information
- Clearly defined additional documents requested- Resume, Letter of Interest, Letters of Reference, Transcripts, etc.

**Applications are considered public documents

Selected forms will be included in the district permanent files if the applicant is hired. **If the applicant is not hired, the application packet will remain on file for three years and may be destroyed thereafter.**

<p><u>Affirmative Action or EEOC (Equal Employment Opportunity Commission) form</u></p>	<p>Survey required by federal and state law to gather minority information (i.e., ethnicity, age, gender). Immediately upon receipt of the application packet, this survey must be removed and filed separately. This information must not be connected to any individual applicant.</p>
<p><u>Sample Veteran’s Preference form</u></p>	<p>Supplies information necessary to implement the Montana Veterans Employment Preference Act requirements. MCA 39-29-103, ARM 2.21.3602, ARM 2.21.3616</p>
<p>Job Description</p>	<p>A job description supplies information on all the essential functions and responsibilities of a job. The purpose of a job description is to 1) identify the job, 2) define it within established parameters, and 3) describe its scope and content. Accurate, concise, and complete job descriptions supply a structure for evaluation and means for ADA compliance and accommodations. MTSBA’s MELR supplies detailed job descriptions for all positions.</p>

EMPLOYMENT PACKET

Business Managers or HR personnel should meet individually with each new employee to review forms and benefits. When an individual is hired, an employment packet is provided. This usually consists of required forms and other district information pertinent to the employee. The packet may include:

- Form I-9 - Employment Eligibility Verification
- W-4- Federal Employee's Withholding
- MW-4 - State Employee's Withholding
- Montana New Hire Reporting Form
- Background Authorization Form and Fingerprinting Information
- ACH/Direct Deposit Form
- Handbooks, Policies, & Code of Ethics
- Drug Free/Tobacco Free Workplace (may be in Employee Handbook)
- Job Descriptions
- Master Agreement or Collective Bargaining Agreement
- Supplemental Retirement
- Health Insurance Enrollment Form
- HSA and FSA info/forms
- Other insurance or deduction forms
- Electronic Delivery of Employment and Health Plan Notices Agreement
- Contract
- Time Sheets
- TRS or PERS Documents and forms

Selected forms will be included in the district employee personnel, payroll, or medical permanent files.

Insurance Forms and Booklets	May include health, dental, vision, disability, life, and other types of insurance provided by your district. May coincide with FLEX plan forms.
<u>I-9 (Employment Eligibility Verification)</u>	New employees must supply original, appropriate documents from list A and B, or C from the I-9 form within three business days. Copies of the original documents will be made by the employer for retention.
<u>W-4</u> <u>Montana W-4</u> (Employee's Withholding Allowance Certificate)	Employer's basis for withholding federal and state income taxes. It is recommended that the employee present their original social security card to verify name and social security number. W-4's are invalid if there are any cross-outs, corrections to, or whiteout areas. They must be un-edited to be considered valid.

<p>New Hire Reporting</p>	<p>Required by law. Online reporting available through your OKTA account. Physical form can be mailed or faxed in. Some computer software programs may generate a report for this purpose. This information must be submitted within 20 days of the date of hire. New Hire Reporting Helpline: 1-888-866-0327 or 406-444-9290 Employers may submit form via online or by Fax to: 1-888-272-1990 / Local Fax: 406-444-0745 Or Mail To: Montana New Hire Reporting PO Box 8013 Helena, MT 59604- 8013</p>
<p>TRS</p> <p>TRS New Hire Procedures</p> <p>Handout for New TRS Employees</p> <p>Subs/PT Employees</p>	<p>Instructional employees (teachers, substitute teachers, principals, superintendents, paraprofessionals, counselors, etc.) employed at least 210 hours during the school year must become members of TRS. Membership eligibility is further defined in the TRS Summary of Information Booklet. § 19-20-302, MCA.</p> <p>Independent Contractors may also be subject to TRS. Please see the TRS website for more details.</p>
<p>PERS (MPERA)</p> <p>Optional Membership Election</p> <p>Membership/ Designation of Beneficiary Form</p>	<p>Non-instructional employees (bus drivers, cooks, secretaries, business managers, custodians, aides, maintenance personnel, etc.). Employees must be given the opportunity to join at hire but are required by law to join at 960 hours. If a position is predicted to exceed 960 hours during the school year, the employee must join when hired. § 19-3-401, MCA. For further information, log on to the website at https://mpera.mt.gov/</p>
<p>Flex Plan (Membership or Declination Form)</p>	<p>Many employers offer employees the opportunity to contribute pre-tax dollars to a Flex Plan. This money can be used to pay out of pocket expenses for medical, dental, vision, dependent care, and health insurance premiums. Forms and requirements vary with individual district plan documents.</p>
<p>Drug Free/Tobacco Free Workplace</p>	<p>Notification of these laws should be provided to the employee in the employee packet or employee handbook. It is recommended that signed acknowledgement of this notification be required by the employer.</p>
<p>Fingerprinting and/or Background and Check Info</p>	<p>May be part of the application packet or employment packet. Consists of an FBI fingerprint card and/or a Request for Re-dissemination of Background Check Information form. Montana Department of Justice Criminal Records and Identification Services (CRISS) training is required to view any records. Contact their agency to obtain online training for all staff and/or board members who will be reviewing these documents. Recertification is also required for those who have obtained the initial training.</p> <p>Montana Criminal Records P.O. Box 201403 Helena, MT 59620-1403 E-mail: dojcriss@mt.gov Phone: (406) 444-3625 Fax: (406) 444-0689</p>

Employee Handbook(s)	A copy of the current employee handbook(s) should be provided. Recommended that employees sign-off verifying receipt of handbook(s).
Master Agreement/Collective Bargaining Agreement	Any employee covered by a Master Agreement or Collective Bargaining Agreement should receive a copy of their respective agreement.
Copy of Contract	Any new employee should receive a copy of their individual contract or whatever document is used to define the conditions of employment (may not be available when the employee packet is provided). If your district provides a probationary period, this may be acknowledged within the contract, or the contract may be issued AFTER the successful completion of a probationary period. Contract should have: <ul style="list-style-type: none"> ● Clear Beginning and End Dates ● Signed by the Employee, Board Chair, and District Clerk ● List Leave Accrual Rates ● Defines Exempt vs. Non Exempt Status ● Rates of Pay and Other Compensations
Time Sheets/Cards/Clock-In Information	Time sheets/cards and associated procedures (including pay periods, pay dates, due dates, etc.) should be provided to each employee.
Direct Deposit	The employer may provide the choice of direct deposit. Employees must submit a voided check with the completed form to take part. Do not accept emails to make changes to account information. This is a major area targeted by online scamming.
Job Description	A job description provides information on all the essential functions and responsibilities of a job. The purpose of a job description is to 1) identify the job, 2) define it within established parameters, and 3) describe its scope and content. Accurate, concise, and complete job descriptions supply a structure for evaluation and means for ADA compliance and accommodations.
<u>Electronic Delivery of Employment and Health Plan Notices</u>	A document that clearly states it is the employee's responsibility to check email or other electronic means of delivery the district uses as the standard means of notification for required employment information. This is signed and dated by the employee and initialed by the Business Official.

TYPES OF EMPLOYEES

- Administrative
- Certified
- Classified
- Substitute Teachers
- Substitute Classified
- Temporary
- Seasonal
- Student
- Foreign Teachers

Administrative Employees

Superintendents, Principals and Business Managers/Clerks.

Generally, administrative employees serve in a supervisory capacity and make decisions which affect the management of the district. Most are exempt from overtime if they meet the minimum salary requirements under the Fair Labor Standards Act (See [FLSA Overtime Rule](#)). In larger districts, there may be certain supervisory personnel (i.e., maintenance, food service, curriculum supervisors or technology coordinators) who meet criteria for exemption from overtime.

A typical administrative work year extends past the regular school year. It is important to use State Wage and Hour law to appropriately categorize these employees for your District.

**Superintendent contracts can be 3 years or less. The second and subsequent contracts are automatically renewed for one year if the Board does not take action prior to February 1st. [MCA 20-4-401](#), [MCA 20-3-321](#) and [MCA 20-3-325](#).

**Principals are governed under certified employees but may also be considered administrative staff.

Certified Employees

Teachers, principals, counselors, school nurses, librarians, specialists (psychologists, speech therapists, physical therapists).

Certificated personnel are usually contracted for the school year, often under a Master Agreement or Collective Bargaining Agreement . They are normally exempt from overtime provisions.

TENURE-Teachers and Principals are the only employees awarded tenure upon the acceptance of a contract for the fourth consecutive year of employment by a district, in accordance with [20-4-203](#), [MCA](#). The teacher is reelected from year to year as a tenured teacher at the same salary, unless the trustees resolve by majority vote to terminate the services of the teacher in accordance with [20-4-204](#), [MCA](#).

Classified Employees

Administrative assistants, secretaries, custodians, bus drivers, paraprofessionals, aides, food service personnel, crossing guards.

Hourly employees are subject to overtime. They may be covered by a master agreement or a collective bargaining agreement. The annual term of employment is determined by job responsibilities (i.e., paraprofessional=school year, custodian=full year).

Substitute Teachers

May or may not be certified. (Montana law does not require certification for substitutes.)

The rate of pay may be hourly or daily; and different rates may apply for certified vs. non-certified subs.

Licensed long-term substitutes, who have substituted in the same position for more than thirty-five consecutive teaching days, shall be placed under contract. ([ARM 10.55.716](#))

Substitute, Classified, and Temporary Employees

Anyone employed on an as-needed basis to fill-in for an absent employee or to fill a temporary special need for the district. Temporary employees should be defined in policy to determine eligibility for benefits. Defined by [2-18-101, MCA](#).

Temporary:

- They are designated as temporary by an agency for a definite period of time less than 12 months
- Performs duties on a temporary basis
- Not eligible for permanent status
- Terminated at the end of the employment period
- Not eligible to become a permanent employee without a competitive selection process.

Short Term

- May be hired without using a competitive hiring process for an hourly wage
- May not work for more than 90 days in a continuous 12 month period
- Not eligible for permanent status
- May not be hired permanently without a competitive selection process
- Is not eligible to earn leave and holiday benefits
- May be discharged without cause

Seasonal

- A permanent employee who is designated as seasonal, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights or benefits accrued during the preceding season

Student Employees

Student Interns (Teachers)

- Been accepted in or is currently enrolled in an accredited school, college, or university and may be hired by an agency in a student intern position without using a competitive selection process
- Is not eligible for permanent status
- Is not eligible to become a permanent employee without a competitive selection process
- Must be covered by the hiring school's workers' comp insurance
- Is not eligible to earn leave and holiday benefits
- May be discharged without cause

Student Employees (Non Teaching)

To ensure compliance, refer to [Montana Child Labor Law](#) for any student employment situations.

A student who is employed by a school and is regularly enrolled and regularly attending classes is excepted from FICA (social Security and Medicare) taxes. See [IRC Section 3121\(b\)\(10\) \(Student FICA Exception\)](#).

According to the Social Security Administration: "The student exclusion applies only during periods of regular school attendance, whether during the regular academic year or in summer session. The exclusion does not apply to work done during summer vacation if the student is not attending a summer session. Services performed by students during the holidays (e.g., Christmas break,) weekends, seasonal breaks and between semesters falling within the academic year when classes are not scheduled are excluded."

Full-time students working at and attending the same public school are also excluded from Montana Public Employees Retirement System (MPERA).

Students are exempt from **unemployment** if they are regularly enrolled and regularly attend classes, but **not** exempt during the summer.

Foreign Teachers

J1 Visa Employees: For the purposes of payroll tax reporting, these teachers are "nonresident aliens," under a J-1 visitor's visa.

Obtaining a Social Security Number: Your J-1 Visa must apply for a social security number immediately. Contact the nearest social security office for more information. The Social Security office will verify the documents provided to show alien status. A Social Security number card will be mailed to the teacher upon verification of the documents provided to show alien status, but could take up to 4 weeks to receive. It is important to note that someone can start work if they have applied for SSN and not received it yet according to SSA. Applicants will have a receipt for

their application which they can present to you.

Social Security and Medicare Taxes: [IRS notice](#). *“Foreign scholars, professors, teachers, trainees, researchers, physicians, au pairs, summer camp workers, and other non-student aliens temporarily present in the United States in J-1, or Q-1 nonimmigrant status for less than 2 calendar years are generally nonresident aliens under residency rules of IRC section 7701(b). These nonresident teachers, researchers and scholars are exempt from Social Security Tax and Medicare Tax on wages paid to them for services performed within the United States.”*

“However, foreign scholars, teachers, researchers, trainees, physicians, au pairs, summer camp workers, and other non-students in J-1, Q-1 or Q-2 nonimmigrant status who have been in the United States more than two calendar years are Resident Aliens and are liable for Social Security/Medicare taxes.

When measuring an alien’s date of entry for the purposes of determining the two calendar years mentioned above, the actual date of entry is not important. It is the calendar year of entry which is counted toward the two calendar years. Thus, for example, a foreign teacher who enters the United States on December 31, 2024, counts 2014 as the first of his/her two years as an "exempt individual."

Federal Withholdings: [IRS Notice](#) Pay of teachers who are residents of countries with tax treaties are generally exempt from U.S. income tax for 2 or 3 years if they temporarily visit the United States to teach. (2 years for teachers from the Philippines)

The exemption applies to pay earned by the visiting teacher during the applicable period.

For most countries under a tax treaty, the applicable period begins on the date of arrival in the United States for the purpose of teaching.

Your employee should file [Form 8233 Exemption from Withholding on Compensation](#).

Do not complete Form W-4. It seems non-resident aliens are subject to federal income tax, **except** if they are claiming an exemption due to a tax treaty between their country and the USA. For more information please, see [Notice 1392 Supplemental Form W-4 Instructions for Nonresident Aliens](#).

- ▶ Read on page 1, right side column under “Are there any exceptions to this withholding?”.
- ▶ Employers must report wages exempt under a tax treaty paid to a nonresident alien on [IRS Form 1042](#), and [IRS Form 1042-S](#). See [Aliens Employed in the U.S.](#)

State Taxes: See the [MT Dept. of Revenue Montana Employer and Information Agent Guide- Withholding from Nonresidents and Nonresident Aliens](#):

Compensation to a nonresident alien is subject to Montana income tax withholding in all cases unless the compensation is specifically exempted under Montana law.

The determination of whether a nonresident alien qualifies for tax treaty exclusion is not made

until the Montana individual income tax return is filed by the nonresident alien.

Unemployment: Aliens, nonresident: Working under section 101(a)(15) of the Immigration and Nationality Act, as amended, for the purpose identified in 8 USC 1101(a)(15)(F), (H)(ii)(a), (J), (M), or (Q) ([See 39-51-204\(p\), MCA](#)), they are **EXEMPT**.

Worker's Compensation: Under [Section 39-71-401, MCA](#), ALL employers and employees are covered under Montana's Workers' Compensation Act.

Section [39-71-118, MCA](#), defines an employee or worker as: each person in this state, including a contractor other than an independent contractor who is in the service of an employer, as defined by 39- 71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the corporations for pay.

TRS: Foreign teachers must enroll in TRS. Foreign employees will be able to withdraw their TRS contributions and may receive a tax exemption on them when their employment ends.

Health Insurance Requirements: Minimum insurance requirements outlined by Department of State regulations. Typical school health plans do not meet these requirements. Coverage **MUST** include the following:

- medical benefits of at least \$100,000 per illness or accident
- deductible not to exceed \$500 per accident or illness.
- expenses associated with medical evacuation for \$50,000.
- repatriation of remains in the event of death in the amount of \$25,000.
- Coverage of pre-existing conditions after a reasonable waiting period
- Co-payments that do not exceed 25 percent

H1B Visa Employees

The H-1B visa is a non-immigrant visa classification issued to an alien individual who will be employed temporarily in the United States in a specialty occupation. H1B visas have vastly different requirements than J visa employees. H1B visas are designed primarily for highly skilled foreign workers in specialty occupations. H1B teachers must hold at least a bachelor's degree and have a valid offer of employment from an employer. There are additional employer requirements outlined below. J1 visas are designed for cultural exchange programs, allowing foreign teachers to teach in the US for a limited time period. Their qualifications are outlined by the employer's program.

Since many of the requirement's land upon the district with this type of visa, we suggest you speak with your attorney to ensure you have met all application requirements.

H1B Visa Employers: There is an annual visa cap in relation to H visa numbers. In 2023, the cap

for those in the United States was 20,000 visas. However, Montana public schools (who are identified as non-profit inherently) who's program must be affiliated with an institute of higher education and show proof in their application. Therefore, this cap does not apply.

Employers will need to fill out a [cap exemption petition](#) and Form [I-129](#). All fees for this form of visa are the employer's responsibility. It is not permissible by law to charge back any of the filing fees to the employee. Fees as of 2023 are:

- A basic filing fee of \$460
- The ACWIA fee of \$750 for employers with fewer than 25 employees and \$1,500 for more than 25 employees.
- The Fraud Prevention and Detection fee of \$500
- The Public Law 114-113 fee of \$4,000 for employers that have a workforce of over 50 employees with at least half of them on H-1B status.
- ACWIA, Anti-Fraud, and Public Law fees are all one-time fees paid per employer per beneficiary. This means that these fees are *not* required for H-1B extensions or renewals but will be required if the employee switches to a new employer.

Fees are scheduled may have increased since publication.

Employers must provide the employee with the higher of either the prevailing wage for the occupation in the area or the in-house wage for an employee with a similar position and level of experience and training. This verification of pay will be submitted in an [LCA from the Department of Labor](#). The prevailing wage is the wage rate set for the occupational classification in the geographical area of employment by:

1. A union contract which contains a wage rate applicable to the occupation; or
2. For an occupation not covered by a union contract, the weighted average of wages paid to similarly employed workers (i.e., workers having comparable jobs in the occupational classification) in the geographic area of employment.
3. Employers can determine the prevailing wage level by submitting a request to the National Prevailing Wage Center (NPWC) or by searching through online sources such as Online Wage Library. When the employers collect the information on a prevailing wage from the NPWC, they will be given "safe-harbor status." That means, if in the future there is any doubt about the employer's compliance with the minimum wage requirement and an investigation is conducted in this regard, the US DOL and the Hour Division will not doubt the validity of the prevailing wage given by the employer as long as they apply it properly, i.e., according to the correct geographic location of the employment, the skill of the h 1b employee and the occupation type. [Form ETA-9141](#). It should be submitted on the [FLAG](#) system (Foreign Labor Application Gateway) Occupational codes can be found [here](#).

The employer must provide the H1B visa employee with the same level of benefits as other employees within the district. More information can be found here:

<https://www.dol.gov/agencies/whd/fact-sheets/62g-h1b-required-wage>

H1B Visa Employees: Based on the requirements outlined by the USCIS, to qualify the teacher must meet these conditions:

- Hold a bachelor's degree or higher for entry into the teaching position at the institution. If you require a master's degree, it must be outlined within the application process.
- For foreign degrees, it must be the equivalent of a U.S. bachelor's degree. Meaning that three full years of relevant experience is equivalent to one year of education toward a bachelor's degree. The foreign degree may be subject to examination by the USCIS.
- Possess any required licenses or permissions to work within that educational sector. If the foreign worker has not procured the license prior to arriving in the country, they may have the ability to demonstrate that they meet all the conditions for licensing.
- A valid job offer from a US employer for a role that requires specialty knowledge.
- The employer must show that there is a lack of qualified applicants for the role.

Teachers can transfer from one district to another; however, the new district employer will need to file all applicable forms and pay all fees.

The initial time period for an H1B Visa is three years. It can be extended for an additional three years. During this time, the employee may apply for a green card.

Employee fees that are NOT the responsibility of the employer are:

- DS-160 fee of \$190 for the H-1B holder and for each H-4 spouse or dependent that will be accompanying you to the U.S.
- Travel costs
- Biometric services fees (if applicable). This is usually a one-time charge of \$85.

Payroll contributions and deductions for H1B Visas:

FICA, Fed Tax, and State Tax: IRS compliance information can be found [here](#). [Fact Sheet 62H](#) from the Department of Labor is also a useful resource.

H1B visa employees are required to pay all federal and state income taxes and FICA, unless specifically outlined in a US tax treaty. They may also elect to pay voluntary deductions including union dues, insurance premiums or other elective deductions.

Employers must include applicable wages paid to H1B employees on Form 941, Employer's Quarterly Federal Tax Return, Form W-2, Wage and Tax Statement, and Form 940, Annual Federal Unemployment Tax Return.

Employees will fill out a W4 in the same manner as resident employees. However, to be absolutely certain an alternative form ([Notice 1392](#)) is not needed, please perform a residency test. How an alien individual determines their tax residency status under these tests is outlined in [Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities](#) and [Publication 519, U.S. Tax Guide for Aliens](#).

Worker's Compensation: H1B visa employees are considered regular payroll employees and are subject to all worker compensation costs and reporting.

Unemployment: An H-1B visa employee is covered under section 101(a)(15)(H) of the Immigration &

Nationality Act and is therefore EXEMPT from unemployment in Montana.

TRS: Foreign teachers must enroll in TRS. Foreign employees will be able to withdraw their TRS contributions and may receive a tax exemption on them when their employment ends.

J-1 vs H-1B Comparisons*

	J-1	H-1B
Purpose of visa	Provide foreign nationals with exchange opportunities in research as well as access to cultural and general educational programs.	Dual intent visa: used for temporary employment visitors and for those who intend to apply for permanent residency
Eligibility	This category of visa is reserved for researchers, faculty and scholars, specialists and speakers, and students in exchange programs. All are in the U.S. on fixed terms. Researchers must be brought in for a specific purpose as defined by the sponsoring institution.	Reserved for specialty occupations (scholars and scientists) that require theoretical and practical application of a body of highly specialized knowledge in a field of human endeavor. Requires a Ph.D.
Maximum length of stay	Up to three years with possible six months extension.	Up to six years.
Grace Period (time allowed to remain in the US after program completion)	30 days	None
Requirements for obtaining visa	Academic and financial screening by the sponsoring institution confirmed by the issuance of the DS-2019.	Employer must demonstrate: -employer-employee relationship -position applied for is professional -requires B.A./B.S at minimum; Ph.D. for postdocs and/or special skills -salary paid must meet the prevailing wage -benefits are commensurate with other similar positions -initial intent to hire is temporary -must pay for return transportation home if employer terminates job.
Extensions	Yes, but the total stay cannot exceed three years.	Yes, but the total stay cannot exceed six years.
Home residency requirement	You may be required to live in your home country for two years if you have special skills needed by your country, or you used government funding for the program. Waiver of the two-year home residency requirement may be possible. See the information on J-1 waivers .	Not required. (J1 Visa applicants can shift to this visa if ending their third year under J1 visa). H1b visa employees may apply for a Green Card.
Travel restrictions	Check with the institution and/or immigration attorney.	Check with the employer and/or immigration attorney.
Cost to obtain the immigration status (as of May 2023)	<ul style="list-style-type: none"> • \$650 service fee • \$300 additional fee for expedite requests • \$400 extension fee • \$1000 student intern fee 	<ul style="list-style-type: none"> • \$2200 or \$2500 BIO recharge fee for preparing the petition • \$250 additional fee for certain late extension/amendment requests

	<ul style="list-style-type: none"> • \$220 U.S. Dept of Homeland Security SEVIS fee *Fees may be paid by the department, professor, or J-1 visitor 	<ul style="list-style-type: none"> • Department of Homeland Security (DHS) \$460 • I -129 Petition \$500 • Fraud Prevention and Detection \$2500 • Optional Premium Processing \$370 • H-4 Dependents (paper filing) <p>*Employer must pay all fees except for dependents</p>
Who pays for visa processing	The professor, researcher or postdoc or the institution.	The employer.
Who files the request for immigration status	The institution issues the DS-2019	The employer files the H-1B petition
Processing Times	The institution can take two weeks or several months to issue the DS-2019. The U.S. embassy may take another two months or more to issue the visa.	Employers can take up to three months to process the paperwork. The Immigration Service can take up to another six months. The U.S. embassy or consulate can take another two months to issue a visa stamp.
Can the procedure be expedited?	No.	Yes, for the petition with the Immigration Service. No, for the visa stamp issuance.
Cost of Expedited Service	Not applicable.	\$1,000 premium processing fee.
Authorized Employer	May receive compensation from the school or institution that issued the DS-2019. You may also engage in temporary work in another institution if the work is related to the program and if you receive advance permission. Compensation may include travel grants and reimbursements.	May only work for the H-1B employer in the specific position approved. You are not eligible for honorariums; however, in some cases they can be paid reimbursements.
Limit on obtaining status	No, however, the applicant has to remain off J status for at least one year before the next three-year period.	No, however, the applicant has to remain outside of the U.S. for at least one year before the next six-year period.
Consequences of letting immigration status lapse	Termination of participation in J-1 program. Visits to the U.S. in the future will be prohibited in varying degrees depending on the length of unlawful presence. For example, if you are unlawfully present for more than 180 days, you are prohibited from returning to the U.S. in any visa status for three years.	Must leave the U.S. and reapply for admission in proper status. Visits to the U.S. in the future will be prohibited in varying degrees depending on length of unlawful presence. For example, if you are unlawfully present for more than 180 days, you are prohibited from returning to the U.S. in any visa status for three years.
Work while waiting for a change in visa category	<p>You may continue in F-1 (student visa status) in an optional practical training (OPT) category for up to a year; however, you should apply at least six months in advance before OPT expires for change of status to J-1 or H-1B.</p> <p>Persons in J-1 status who are changing status to H-1B cannot start work until the application is approved.</p> <p>While a change in status is pending you cannot “volunteer” for work where you would normally be paid.</p>	<p>Cannot work until H1-B application is approved. You may remain in the country if a petition is submitted before previous status ends.</p> <p>While a change in status is pending you cannot “volunteer” for work where you would normally be paid.</p>
Federal taxes	Depends on the tax treaty between the home country and U.S. Most J-1 visa holders are considered residents of the U.S. for tax purposes if they meet the substantial presence test.	Depending on the tax treaty between the home country and U.S. Most H1-B visa holders are required to pay federal taxes and Social Security withholding.

Health Insurance	<p>US Department of State requires:</p> <ol style="list-style-type: none"> 1. medical benefits of at least \$100,000 per illness or accident 2. deductible not to exceed \$500 per accident or illness. 3. expenses associated with medical evacuation in the amount of \$50,000 4. repatriation of remains in the event of death in the amount of \$25,000 5. Coverage of pre-existing conditions after a reasonable waiting period 6. Co-payments that do not exceed 25 percent. 7. Does not exclude benefits for perils inherent to the activities of the exchange visitor program. <p>In addition, USDOS requires that the corporation underwriting the insurance policy must have one of the following ratings:</p> <ol style="list-style-type: none"> 1. an A.M. Best rating of "A-" or above; 2. an Insurance Solvency International, Ltd. (ISI) rating of "A-i" or above; 3. a Standard & Poor's Claims-paying Ability rating of "A-" or above; or 4. a Weiss Research, Inc. rating of "B+" or above <p>Your policy must be underwritten by an insurance corporation meeting the USDOS rating requirements or backed by the full faith and credit of the home country government designated sponsor or Scholar's employee group plan (22 CFR§62.14). Repatriation and evacuation coverage will protect you and your family in the event of an emergency and are as important as the primary medical benefits.</p>	<p>If an employer is required to provide health insurance, the employer must provide this employee the same insurance options as other employees in similar positions.</p>
Worker's Compensation	Yes	Yes
Unemployment	Exempt	Exempt
TRS	Must Enroll	Must Enroll
Transfers	Transfer to another J-1 sponsoring institution may be possible	<p>Change of employer requires filing of a new petition</p> <p>Employee can begin work and get paid after the change of employer petition is received by USCIS</p>
Outside Work	<p>J-1 visitor may receive compensation from the Form DS-2019 sponsoring institution provided activity is within academic program objective</p> <p>J-1 visitor needs to check with program sponsor about outside payment authorization</p>	<p>Employees are not eligible for honorariums. In some cases, employees can be reimbursed for travel costs</p> <p>Employees can work for more than one employer, but each employer must file a separate H-1B petition</p>

Dependents	<p>J-2 status for spouse and children under 21</p> <p>J-2 dependents may apply for an employment authorization document (EAD)</p> <p>J-2 earnings cannot be used for the support of the J-1</p>	<p>H-4 status for spouse and children under 21</p> <p>USCIS accepts applications for H-4 work permission in limited situations in cases where the H-1B primary beneficiary is in the process of obtaining permanent residency</p>
Family members work authorization	<p>Family members on J-2 visas may apply for an Employment Authorization Document (EAD) for any type of employment. However, their earnings cannot substitute for the support of the J-1 visa holder.</p>	<p>No.</p>

* graphic information provided by a variety of sources including <https://www.greencardlawyers.com/> and <https://internationaloffice.berkeley.edu>

PAYROLL SET UP

Initiate New Employees

Input information from employee packets, contracts, or work agreements, including W-4 information, position, salary or hourly wage, deductions/benefits, and leave plans as defined. For ACA reporting purposes make notation if the name differs on Social Security Card than employee packet. Establish the payroll funding source (fund and line item) for each position. An individual employee **may** hold more than one position or have multiple sources of funding for one position.

Update Existing Employees

At the beginning of each contract year, existing employee information, including new or revised funding sources, must be updated. It is advisable to set up and maintain a “tickler” file system containing pertinent payroll adjustments for each pay period. Examples: (1) new W-4 (2) an increase to a credit union deduction because of a new loan, (3) adding a new dependent to health insurance, (4) employee ending direct deposit of their paycheck or changing financial institution.

Assignment of leave plans, benefits, and deductions

A. Leave plans

Diverse types of employees are covered by leave plans that are specific to their employment category.

Superintendent	At a minimum, per state law 2-18-601 , 2-18-612 MCA . Individual contracts may supply added benefits.
Administrative (certified)	Per individual contracts. Often receives the same benefits as teachers, plus an administrative package.
Administrative (other)	At a minimum, per state law 2-18-601 , 2-18-612 MCA . Individual contracts may supply added benefits.
Certified employees	Per collective bargaining agreement or individual contracts.
Classified employees	At a minimum, per state law 2-18-601 , 2-18-612 MCA and per collective bargaining agreement, if applicable.

Please see MCA, [§2-18-601](#) and [§2-18-612](#)

B. Deductions

Annuity, Tax-sheltered (IRC 403-b)	Contribution is pre-tax (federal and state only). It is a tax-deferred retirement plan available to educational employees, provided by a qualified vendor approved in the district's Plan Document per IRS 2007-71. Employees must supply a Salary Reduction Agreement.
Banks or Credit Unions	Loan payments or savings deposits, as your district allows.
Deferred Compensation Plan (IRC 457 -b)	Contribution is pre-tax (federal and state only). It is a tax-deferred retirement plan available to governmental employees, provided by a qualified vendor. Employees must supply a Salary Reduction Agreement.
FSA (Flexible Spending Arrangements—FLEX plans, IRC 125, Cafeteria Plan)	Contribution is pre-tax (federal, state, Social Security and Medicare). Contributions to medical savings accounts, dependent care accounts, administrative fee, or (possibly life, disability, or medical) insurance premiums as dictated in the plan document. Decisions on allowable changes are determined by the district's plan administrator.
Garnishments See DOL Website	Any legal or fair procedure through which an employee's earnings must be withheld to pay off a debt incurred by the employee. Examples: child support, federal and state tax levies, creditor garnishments, and student loans. Each garnishment type has individual rules, regulations, and priority levels. MCA, 25-13- 614 , authorizes wage attachment. There is no continuous garnishment for employees provided by the Montana Law. The wage exemption statute is identical to the federal exemption statute and the execution writ is good for 120 days.
HSA (Health Savings Account, IRS Section 125)	Contribution is pre-tax (federal, state, Social Security and Medicare). To be eligible for a Health Savings Account, an individual must be covered by an HSA-qualified High Deductible Health Plan (HDHP) and must not be covered by other health insurance that is not an HDHP. Participation in FSA Medical spending plan may disqualify you from taking part in an HSA. Qualified deductible limits may change from year to year.
Insurance Premiums (non-FLEX)	Taxable insurance premiums withheld by payroll deduction as allowed by the district, such as health, life, disability, etc.
Taxes, State & Federal	Mandated by law, per federal and state withholding guidelines. Determined by information provided on the W-4 form.
TRS/MPERA Buybacks	Initiated by the employee to purchase service from their retirement system. Documentation is provided by the proper agency.
Union Dues	Union dues will be decided by the union.

C. Benefits---contributions by the employer & (possibly) employee

FICA (Medicare)	Federal Insurance Contributions Act. Mandated by federal law, with few exceptions, per federal withholding guidelines. (Circular E).
FICA (Social Security)	Federal Insurance Contributions Act. Mandated by federal law, with few exceptions, per federal withholding guidelines (Circular E). A maximum wage base is determined each calendar year.
FSA (Flexible Spending Arrangements—FLEX plans, IRC 125, Cafeteria Plan)	Contributions to medical savings accounts, dependent care accounts, administrative fee, or (possibly life, disability, or medical) insurance premiums as dictated in the plan document. Decisions about allowable changes are determined by the district’s plan administrator.
HSA (Health Savings Account, IRC 125)	To be eligible for a Health Savings Account, an individual must be covered by an HSA-qualified High Deductible Health Plan (HDHP) and must not be covered by other health insurance that is not an HDHP. Participation in FSA Medical spending plan may disqualify you from taking part in an HSA. Qualified deductible limits may change from year to year.
Insurance Premiums (non-FLEX)	Taxable insurance premiums withheld by payroll deduction as allowed by the district, such as health, life, disability, etc.
MPERA (Montana Public Employee Retirement Administration) MTRS (Montana Teachers Retirement System)	Mandated by state law for employees meeting specific criteria as defined by MPERA or MTRS guidelines.

D. Benefits (employer only)

Montana VEBA (Voluntary Employees’ Beneficiary Account) HRA (Health Reimbursement Account)	State of Montana health reimbursement account provided through a qualified vendor. It is a portable pre-retirement and post- retirement health reimbursement plan to enable employers to make tax-free deposits on the employee’s behalf.
Unemployment	State mandated percentage-based employer tax. Schools can participate through the State of Montana or the Montana Schools Unemployment Insurance Program (MTSUIP).
Worker’s Compensation	State mandated percentage-based employer tax. Schools can participate through the State of Montana, Workers Compensation Risk Retention Program (WCRRP), or a private insurer. There are two classifications for School district employees— 8868 (professional—clerical, certified, paraprofessionals) and 9101 (other—bus drivers, cooks, custodians, maintenance).

PAYROLL PROCESSING

- ✓ *Establish a tickler or reminder system for changes, additions, deletions pertinent to that pay period. This could be as simple as a pocket folder or file folder for all payroll information or as specific as a file for each month or pay period.*
- ✓ *Create a checklist of your procedures for every payroll. Delineating these items will help avoid omission of important steps. Your individual software vendor should supply step-by-step procedures.*
- ✓ *You may develop spreadsheets for balancing deduction and benefit information.*

Per Payroll Procedure

1. Establish a monthly payroll calendar.

Payrolls can be run at any time necessary to meet your district's needs. Such dates may be established by board policy, employee handbook and/or collective bargaining agreements. Different employee types and/or job classifications (certified, classified, subs, students, administrative, stipends) may be paid in separate payrolls or grouped for convenience, depending on the size of your district. Included within the payroll calendar should be the pay periods (established starting and ending dates), due date for timecards or time sheets, and payday. For example, the starting and ending date for Sample A School classified employees is March 1-31, due date for time sheets is April 1st, and payday is April 10th. Sample B School starting date is March 11-April 10, due date for time sheets is April 11th, and payday is April 20th.

2. After the due date, gather, review and tabulate time sheets and/or timecards.

Review and check time sheets for calculation errors, documented leave time, signatures (employee AND supervisor). Ensure hourly limits for ACA, TRS and MPERA enrollment are not exceeded.

3. Input payroll data into your software program.

Payroll processors are encouraged to give themselves an adequate amount of time for this process to allow for unforeseen problems or circumstances. By minimizing stress, you can optimize performance.

4. Overtime

Determine overtime payments for this payroll. Review timesheets or time cards for hours worked in excess of 40 in a work week (work week determined by district policy). Calculate excess hours at a rate of not less than 1.5 times the employees' hourly wage rate. This is the minimum standard. Master Agreements may exceed these standards. [39-3-405, MCA](#) or the [Wage Hour Laws of the State of Montana](#) from the Department of Labor and Industry Employment Relations Division are all good resources.

5. Two positions/different wage rates

Employees may hold more than one position at different rates of pay. Special calculations are needed to determine the proper overtime hourly rate for these employees.

Overtime Calculation for Different Rates of Pay (U.S. Department of Labor)

An employee paid by the hour must be paid at a rate of one and one-half that rate for all hours worked over forty per week.

Employees who perform several types of work for which they receive varying rates of pay must be paid overtime at a weighted average hourly rate.

EXAMPLE: One week an employee works 36 hours entering data into the computer database for which \$7.60 per hour is paid. The employee then spends 6 hours preparing payroll for which \$8 per hour is paid. This same worker performs janitorial services in the evenings for the employer and is paid \$6 per hour for those 4 hours worked per week. The wages are computed as follows:

*36 hours x \$7.60 per hour = \$273.60
6 hours x \$8.00 per hour = \$ 48.00
4 hours x \$6.00 per hour = \$ 24.00
46 hours worked = \$345.60 regular earnings*

*\$345.60 ÷ 46 hours = regular rate = \$7.51 per hour
\$7.51 ÷ 2 = ½ time rate = \$3.76 per hour
\$3.76 x 6 overtime hours = \$22.56 overtime earnings*

*\$345.60
\$ 22.56
\$368.16 total due*

The regular rate of an employee paid on a commission, piece rate or flat book rate basis is arrived at by dividing the total weekly earnings by the total number of hours actually worked in the week. The employee is entitled to payment of one-half this regular rate for each hour worked over 40 - in addition to the full commission or piecework earnings.

EXAMPLE: Ann works 45½ hours and earns \$325. Her regular rate is \$7.15 per hour (\$325 divided by 45½ hours). She is entitled to her regular earnings (\$325) plus an additional half of her regular rate of \$3.58 for each hour worked over forty. In this case, she is due an additional \$19.69 or a total of \$344.69 for that workweek.

An employee paid on a salary basis is entitled to overtime pay at a rate that is based in part on the terms of employment.

***Holiday pay, sick leave, and vacation hours do not count toward the 40 hours.*

6. Stipends

Stipends paid to Classified Personnel – Classified stipends are treated differently than those paid to certified staff because certified staff is exempt from overtime and minimum wage provisions.

- You must make certain that a classified employee is paid at least minimum wage for the hours worked for the stipend. (Timesheet documentation is best.)
- You must make certain that a classified employee is paid overtime if the hours worked for the regular job and the stipend exceed forty in one work week.
- If overtime is earned, an hourly rate must be figured out for the stipend and overtime pay calculation must be done per the example cited above.

When stipends are paid to an employee in addition to regular wages, it is required by law that taxes be calculated on the TOTAL taxable income. (E.g., the employee's regular taxable wages = \$2,000 and the employee's stipend = \$1,000; therefore, the taxable income is \$3,000 and taxes must be withheld accordingly.)

Stipends paid to Teachers – Stipends such as travel stipends paid to teachers are taxable wages for purposes of FICA, federal taxes, and state taxes. (See [IRS Circular E-Employers Tax Guide - Supplemental Wages](#)).

Stipends are reportable to unemployment and worker compensation, (Helpful Hint-if the compensation is included on the employee's W2 as taxable income, it is considered reportable for workers comp.

Not reportable to TRS.

7. Signing Bonuses to Teachers – Same as stipends.

8. Input leave data for types of leave requiring record keeping.

Such as sick, vacation, discretionary, personal, bereavement, professional or those specified by your district.

9. Print payroll reports for balancing.

Examples could be entitled payroll register, payroll deduction report, payroll journal totals, or something similar.

10. Balancing your payroll.

Suggestions or examples of ways to balance your payroll:

- a. Make sure your gross wages are in balance. You might run a tape totaling wages on time sheets and matching it to your gross wages on your payroll report.
- b. Compare payroll journal totals from pay period to pay period to find and verify differences.
- c. Develop spreadsheets for deductions, benefits, and wage basis calculations to compare to payroll deduction reports. These are only suggestions. You may develop your own methods to verify your payroll. Your auditor may also supply suggestions or templates

for your use.

11. Make any necessary corrections.

After making any necessary corrections, print a final, clean copy of payroll reports for final recordkeeping. These reports are kept forever.

12. Finalize payroll and print payroll checks and direct deposit receipts.

Finalizing payroll may involve an actual posting step or an automatic process in your payroll software. This step usually includes updating employee and employer year to date (YTD), fiscal year to date (FYTD) and quarterly (QTD) information. Make sure you complete writing your payroll checks, print a check register, print direct deposit receipts, and/or create an ACH file.

13. Transmit direct deposit file to bank and print the direct deposit report.

Transmittal of the direct deposit can be done via modem, internet, or hand delivery of a check to the financial institution(s). Some districts may not offer direct deposit. Notify the county treasurer of the amount and date of deposit.

After-Payroll Procedure

After-payroll payments consist of employee deductions withheld from wages and/or employer contributions for benefits. Payment may be made by check given with a payment coupon or electronic transfer using the Electronic Federal Tax Payment System (EFTPS) by phone or internet.

1. Federal taxes

The determination of an employers' tax liability classification (monthly or semi-weekly deposit schedules) is made by the IRS and mailed to you during the last quarter of the year for the ensuing year. An employer's classification is determined by its' employment tax liability during a prior "look back" period. This period is the previous year ending June 30th. It is particularly important for every payroll manager to be aware of your district's tax deposit schedule, so taxes are paid promptly as mandated by the IRS. Refer to IRS Publication 15, Circular E for information. Federal tax deposits must be made by electronic funds transfer (EFT).

- Federal tax withholding (as per W-4)
- Social Security(FICA)
- Medicare

2. State taxes

Your payment schedule for state taxes is determined by the State of Montana and mailed to you in the fall for the ensuing calendar year. It may be monthly, quarterly, accelerated, or annual. Accelerated payers follow the federal guidelines for deposits.

- State tax withholding (as per Montana MW-4)

3. Garnishment, tax levy, child support, student loan withholding order

Follow the guidelines provided with the individual garnishment you receive. All have specific requirements unique to them. Garnishments are processed first by order of precedence, and then by order received. In Montana, the order of precedence is: 1) IRS Tax Levy, 2) Student Loans, 3) State tax levies and other creditor garnishments. If the employee also has a Child Support Order to withhold, it has priority over garnishments (the Child Support obligation is also taken into consideration when calculating IRS levies). Be sure to appropriately identify the garnishment with a case number or other reference number.

4. FLEX

Submit payments with a detailed report or bill to the FLEX plan administrator.

5. Credit Union or financial institution

Submit payment with a detailed report, including employees' names, ID number and amount paid.

6. Union Dues

Submit payment with a report including employees' name and amount paid.

Monthly Payroll Procedures

1. TRS - Montana Teachers Retirement System

Refer to the Montana Teachers' Retirement System Employers' Manual: <https://trs.mt.gov/trs-info/employers> Complete the MTRS report via MTRS On-Line. Print total contributions summary screen and submit the payment via ACH.

2. MPERA - Montana Public Employees Retirement Administration

Refer to the MPERA Reporting Handbook for Employers: <http://mpera.mt.gov> . Reporting will be done via the ERIC system. ERIC is MPERA's secure Internet site designated just for our employers. Submit the payment via ACH.

3. Health , life, dental, vision, or disability insurance

Reconcile the payment to the bill. Make necessary adjustments and notations to the bill. Submit payment.

4. Annuity/403(b), 457, Roth

Submit payment with bill or a detailed report including employees' name, identifying number and amount paid.

Quarterly Payroll Procedures

1st quarter—January, February, March

2nd quarter—April, May, June

3rd quarter—July, August, September

4th quarter—October, November, December

1. 941 Federal ([Form 941, 2023](#)) ([Form 941, 2024 draft version](#))

Submit quarterly on paper. Follow instructions provided with the form. Pay particular attention to recording the correct liability dates on Schedule B, if applicable. Refer to IRS Publication 15, Circular E to determine your specific deposit schedule (semi-weekly, monthly, or quarterly depending on your total deposits for the look-back period). Note quarterly filing deadline.

2. Unemployment

These checks may be written each pay period or quarter through your payroll system or processed as an accounts payable claim. Unemployment insurance may be purchased through the State of Montana or Montana Schools Unemployment Insurance Program (MTSUIP). Be sure to meet reporting deadlines to maintain coverage.

3. Worker's Compensation

These checks may be written each pay period or quarter through your payroll system or processed as an accounts payable claim. Worker's compensation insurance may be purchased through a private provider, the State of Montana, or the Worker's Compensation Risk Retention Program (WCRRP). Be sure to meet reporting deadlines to maintain coverage.

Annual Payroll Procedures- W-2 and 1099 Forms

Remember to order forms in November at the latest so you have them in time.

Forms

- If you have not already done so, it is time to order forms. Depending on how you do your reporting, paper or electronic, you may need to consider ordering the following forms:
- [W-2](#) – Wage and Tax Statement, is required by the Social Security Administration, IRS, and the Montana Department of Revenue. You must furnish a form W-2 annually to each employee ([Instructions for Forms W-2 and W-3](#)).
- [W-3](#) – Required Federal transmittal form if you are filing paper W2s.
- [MW3](#) - Montana Annual W-2/1099 Withholding Tax Reconciliation – due by January 31.
- [1099 MISC](#) – Miscellaneous Information
- [1099 NEC](#) – Non-employee Compensation

- [1096](#) – Transmittal form for 1099s
- [1094-C](#) and [1095-C](#) – Affordable Care Act requirement for large employer reporting of Employer Provided Health Insurance Coverage Instructions for form 1094 & 1095 Contact your health insurance carrier for additional information and guidance on your particular circumstances.

Electronic Filing

Federal regulation threshold is 10 for which employers must file certain information returns electronically, including Form W-2. To determine whether you must file information returns electronically, employers must add together the number of information returns (including the Form 1094 series, Form 1095-B, Form 1095-C, Form 1098, the Form 1099 series,) and the number of Forms W-2 they must file in a calendar year. If the total is at least 10 returns, they must file them all electronically. The new threshold is effective for information returns required to be filed in calendar years beginning with 2024. The new rules apply to tax year 2023 Forms W-2 because they are required to be filed by January 31, 2024.

For electronic reporting, be sure you are registered with the following agencies as soon as possible:

Montana Department of Revenue – for W-2/1099 reporting

- Sign up for the [TransAction Portal \(TAP\)](#).
- Upload files securely with TAP.

Social Security Administration – for W-2 reporting – BSO (Business Services Online)

- Register for BSO. Apply for a password and PIN at their website: www.ssa.gov/bsa.
- Upload files or create W-2's online.

Internal Revenue Service – for 1099 reporting –

- Must electronically file if you have more than 10 Information Files of any type (W2s, 1099s, ACA forms, etc **combined**) across any portal (FIRE or IRIS).
- Same deadlines in FIRE & IRIS - Due to vendor January 31st, with electronic 1009 & 1099-MISC files due to the IRS March 31st and 1099-NEC due to the IRS January 31st. Note: If the due date falls on a weekend or legal holiday, the due date is extended to the next business day.
- Currently both FIRE & IRIS are open and accepting submissions, but do not use both portals for the same information though
- To use the IRIS Taxpayer Portal, you need an IRIS Transmitter Control Code (TCC). This 5-digit code identifies your business when you e-file forms. It can only be used for IRIS. To use the FIRE portal you have to have a FIRE TCC, which is also a 5 digit code. Unfortunately the codes are not interchangeable. According to a few tax professional websites, IRIS TCC codes start with a D, while FIRE TCC codes start with a numeric character.

Here are some resources and links specific to IRIS-

- TCC Codes with IRIS start with a “D”
- [IRIS TCC Application Link](#)
- [IRIS TCC Application Instructions](#)
- [IRIS Publication 5717](#)

Here are some resources and links specific to FIRE-

- TCC Codes for FIRE typically start with a number
- [IR Application for FIRE TCC](#)
- [FIRE Publication 1220](#)

Submit an IR Application for TCC (for FIRE) by November 1st of the year before information return(s) are due to ensure you're ready to electronically file. Allow 45 days for processing. An IR Application for TCC received after November 1st may not be processed in time to meet your electronic filing needs. All IR Applications for TCC are subject to review before the approval to transmit returns electronically is granted and the IRS may request additional information to process the request.

We recommend you do this ASAP if you have not already. The FIRE system will be down from Nov 22 to Jan 13th. If you are not sure which TCC you have you may want to look back at your original TCC application or try to log into a system and test it.

Here are some general 10 resources-

- [General FIRE & IRIS Questions & Answers by the IRS](#)
- [1099 Instructions & Information](#)

Final Pay Procedures

1. Termination pay (severance of employment)

Administrative/Superintendent/Classified personnel—must have met minimums prescribed by state law.

- 100% of accrued vacation hours are paid-out at the current hourly wage.
- 25% of accrued sick hours are paid out at the current hourly wage.
- The Master Agreement, individual contract, or board policy may grant added severance benefit(s).

Administrative/Principals/Certified personnel

- Severance benefit(s) determined by the Master Agreement, individual contract, or board policy.

2. Employer Terminated

Montana Law requires that employer terminated employees must receive final pay immediately unless written policy states that employees terminated will be paid in the same manner as employees who quit (earlier of next regular payday or fifteen calendar days from separation).

3. Payment to Deceased

Contact the family to learn who the estate or beneficiary contact is and open lines of communication with this individual.

If an uncashed paycheck exists, a new check should be issued in the name of the estate or beneficiary in the same amount with the same amounts withheld for tax purposes.

If wages are still owed to the deceased employee at time of death, issue a check made to the beneficiary or to the estate of the employee. Final wages paid within the same calendar year in which the employee died are not subject to Federal Income Tax Withholding (FWH), but final wages are subject to Federal Insurance Contributions Act (FICA) taxes. If wages are paid in the year following the employee's death, they are not subject to either federal withholdings or FICA taxes.

See <https://www.irs.gov/instructions/iw2w3#idm139631596409712>

Treat accrued vacation, sick, and other leave in accordance with state law, collective bargaining, or negotiated agreement.

Terminate health insurance as of the date of death. If the employee had a spouse and/or dependents enrolled in the health insurance plan, let them know of their choice to elect COBRA coverage. Determine the balance of the health care flexible spending account prior to the date of death and notify the family about the process to access these funds.

Notify beneficiaries of any life insurance policies that may be available.

Follow the normal termination process to ensure the return of all equipment, keys, fobs, credit cards and other items are returned.

4. COBRA

Required of employers providing a group health insurance plan with some specific exceptions for very small employers. Carefully review COBRA information to determine if COBRA applies to your district. If you are a COBRA employer, separating employees need to be offered coverage for 18 or 36 months.

Contact your health insurance provider.

COBRA may also apply to your medical spending account (FLEX). **Contact your flexible benefits provider about your plan and COBRA.**

5. Retirement

TRS - Teachers Retirement System

- Pay calculation will be based on which option 1,2 or 3 the employee has selected.
- Option 2 must be completed and filed 90 days in advance of their last day of work prior to retirement.

- Master Agreement, individual contract, board policy or individual incentive authorized by the Board of Trustees may decide retirement severance payment.

Types of Leaves (according to established pay period calendar)

1. Bereavement

Classified or certified employees may be granted this leave per the collective bargaining agreement, individual contract, or board policy.

2. Discretionary (personal, paid time off [PTO])

Classified or certified employees may be granted this leave per the collective bargaining agreement, individual contract, or board policy.

3. Extended Leave of Absence

This leave may fall under FMLA or be further defined in the collective bargaining agreement, individual contract, or board policy

4. [FMLA—Family Medical Leave Act \(Federal law\)](#)

Schools are covered under the special rules of 29 CFR 825.600, which states that all educational institutions are covered by FMLA, and the 50-employee coverage test does not apply. The usual requirements for employees to be “eligible” do apply, however, including employment at a worksite where at least fifty employees are employed within a 75-mile radius. ***Essentially, all schools are covered under the law, but small schools would have no eligible employees because they employ less than 50 people.***

Three criteria must be met for the employee to be eligible to receive this leave:

- The employer must employ at least fifty employees within a 75-mile radius.
- Your employee must have been employed for at least 12 months. District policy should state what periods make up the 12-month period.
- Your employee must have worked at least 1,250 hours during the year preceding the start of the leave.

Depending on district policy, sick leave and/or worker’s compensation leave may run concurrently with FMLA.

5. Jury Duty

Classified or certified employees are granted this leave per Montana law ([MCA, 2-18-619](#)). It may be further defined in the collective bargaining agreement, an individual contract, or board policy.

6. Leave Without Pay

Absence during regularly scheduled work time not covered with paid leave, resulting in zero hourly wage or wage reduction. See your district policy.

7. Maternity/Paternity Leave

This leave may fall under FMLA or be further defined in the collective bargaining agreement, individual contract, or board policy.

8. Military Leave

See [Montana law 10-1-1009](#). This leave may be further defined in the collective bargaining agreement, individual contract, or board policy.

9. Sick Leave

- Classified employees earn sick leave on the basis of time worked per [MCA 2-18-618](#). This leave is earned from the first day of employment but cannot be used until the employee has worked ninety (90) days.
- Certified employees acquire sick leave per the collective bargaining agreement, individual contract, or board policy.

10. Vacation Leave

Classified employees, and District Superintendents, only are eligible for this leave. It is earned on the basis of time worked per [MCA 2-18-611](#) and [MCA 2-18-612](#). This leave is earned from the first day of employment but cannot be used until the employee has been continuously employed for a period of six calendar months.

Certified employees may be granted this leave per the collective bargaining agreement, individual contract, or board policy.

RECORDS MAINTENANCE AND RETENTION

Records Maintenance

This is a suggested organizational model. Files should be kept locked with limited access. Districts should develop procedures for file access. Files could be maintained in several ways. Some examples might be by type (W-4 file, I-9 file, health insurance enrollment form file, monthly time sheets), payroll date (alphabetized time cards/sheets, reconciliation sheets), or by individual employees.

1. Personnel file

Original application (with EEOC survey removed and placed in separate file), transcripts*, certification (licenses, CPR/first aid, teaching certificate, paraprofessional certificate), placement file, original contracts, evaluations, disciplinary or commendation letters, fingerprint/background check report, extended leave of absence requests (if no medical information is provided), change of job assignment, hours or pay, signed acknowledgement of Employee Handbook and other key policies. (*Birth date information is sensitive due to the possibility of age discrimination claims, so access by authorized personnel *only* is critical. Federal law for age discrimination pertains to age 40 and older, but Montana law has no limit on age discrimination.)

2. Payroll file

W-4 / Montana W-4, MPERA/TRS membership forms, timecards/sheets, copy of the contract, New Hire Reporting Form, garnishments, child support agreement or garnishment, payroll deduction forms. FLEX, health insurance enrollment forms, family medical leave act requests, and leave request forms can be included if they contain **no** medical information.

3. Health file

Medical release to work, worker's compensation injury form and related information, ADA accommodation, veteran's preference form, and TB test results. FLEX, health insurance enrollment, Family Medical Leave Act (FMLA) request, and leave request forms must be included if they contain **any** medical information (HIPAA). These files should be kept in a separate filing cabinet with a separate key from all other payroll/personnel records.

4. I-9 File

A separate I-9 file is recommended to restrict information provided for a federal audit. Limiting access may make the process more efficient and less problematic. Refer to <https://www.uscis.gov/i-9-central> for the most current I-9.

5. Payroll journals

File chronologically by pay period for each fiscal or calendar year. These are permanent records.

Records Retention

Refer to [Schedule No. 7, Montana Local Government Retention and Disposition Schedule](#), sections SDR VIII and IX located on the MASBO, OPI or Secretary of State Websites.

AUDIT PREPARATION

Prior to on-site audit work, send the following to your auditor and/or other information as requested.

- Compensated absences liability report. An Excel spreadsheet template is available on the OPI website. Some auditors may supply their own template. This report is used to calculate the fiscal year-end liability for compensable leaves (sick, vacation, etc.). It may include severance payouts unique to your district. It includes calculation of applicable benefits for FICA, MTRS or MPERS, Unemployment, and Workers Compensation.
- State and Federal payroll reports including monthly MPERS and MTRS; quarterly 941, unemployment and workers compensation; annual state tax, and W-2 summary information.
- Approved salary schedules for classified and certified employees (may include Master Agreements).
- Schedule of MTRS and MPERS wages and employer/employee contributions by month and annual reconciliation to the 1XX and 2XX expenditure object codes.

Available for auditor's on-site review.

- Payroll registers or journals.
- Timecards/sheets.
- Employee leave records.
- Individual employee payroll information (i.e., contracts, I-9, W-4, wage rate, deduction/benefit information). Employees paid by Federal programs may be subject to more detailed scrutiny.
- Support documentation which substantiates your payroll deduction expenditures.

The auditor may request specific payroll records for individual employees, programs and/or certain deductions, or certain pay periods. Be sure that your payroll records and files are in order prior to the arrival of the auditor!

RESOURCES AND REFERENCES

Booklets, manuals, references

American Payroll Association Basic Guide to Payroll, Aspen Publishers, published annually.
ISBN-13 978-0735549906

IRS Publications

[Publication 15 \(Circular E\)](#)

[IRS Cat. No. 25979S, "Instructions for Forms W-2 and W-3"](#)

[Montana State Withholding Tax Guide](#), Montana Department of Revenue, Helena, MT.

[2023 School Laws of Montana](#), Montana Office of Public Instruction, Helena, MT, published bi-annually.

[Wage Hour Laws of the State of Montana](#), Department of Labor & Industry, Employment Relations Division, State of Montana, Helena, MT, published bi-annually.

District documents--

Board Policy

Collective bargaining agreements (Master Agreements)

Health insurance plan document and summary plan description

Individual contracts

IRS 125 (FLEX) plan document Salary
schedules

WEBSITES

Association of School Business Officials International (ASBO)

<http://asbointl.org/>

American Payroll Association

<http://www.americanpayroll.org/>

Federal/FICA Tax Electronic Fund Transfer

<http://www.eftps.gov/>

Internal Revenue Service

<http://www.irs.gov/>

Montana Administrative Rules

<http://sos.mt.gov/arm>

Montana Association of School Business Officials (MASBO)

<https://masbo.com>

Montana Constitution and Laws

<http://leg.mt.gov/bills/mca/index.html>

Montana Department of Health and Human Services - Child Support

<http://www.dphhs.mt.gov/> and <http://dphhs.mt.gov/CSED>

Montana Department of Labor & Industry - Labor Standards and State Workers' Compensation

<http://erd.dli.mt.gov/>

Montana Department of Labor & Industry - State Unemployment

<http://uid.dli.mt.gov/>

Montana Department of Labor & Industry – Wage & Hour

www.mtwagehourbopa.com

Montana Department of Revenue

<http://revenue.mt.gov/>

Montana Employer and Information Agent Tax Guide

[Montana Employer and Information Agent Tax Guide](#)

Montana Office of Public Instruction

<http://www.opi.mt.gov/>

Montana Public Employees Retirement System

<http://mpera.mt.gov/>

Montana Secretary of State

<http://sos.mt.gov>

Montana Teachers Retirement

<http://www.trs.mt.gov>

Montana Voluntary Employees' Beneficiary Association (VEBA)

<http://www.montanaveba.org/>

Montana TransAction Portal (TAP)

<https://tap.dor.mt.gov/>

Social Security BSO for electronically submitting W-2 forms.

<https://www.ssa.gov/employer/>

U.S. Department of Labor - Family and Medical Leave Act

<http://www.dol.gov/whd/fmla/>

GLOSSARY

ACH—Automated Clearing House

ARM—Administrative Rules of Montana

COBRA—Consolidated Omnibus Budget Reconciliation Act

DOL—Department of Labor

EEOC—Equal Employment Opportunity Commission

EFTPS—Electronic Federal Tax Payment EIC—Earned

Income Credit

FICA—Federal Insurance Contributions Act

FMLA—Family Medical Leave Act

FSA—Flexible Spending Arrangement

FYTD—Fiscal Year to Date

HIPAA—Health Insurance Portability and Accountability Act

HR—Human Resources

HSA—Health Savings Account

I-9—Employment Eligibility Verification

INS—Immigration and Naturalization Service

J1-Visa- Typical visa utilized by Foreign Employees working in Montana

MCA—Montana Code Annotated

MDR—Montana Department of Revenue

MPERA—Montana Public Employees' Retirement Administration

MTSUIP—Montana Schools Unemployment Insurance Program

TRS—Montana Teachers' Retirement System

QTD—Quarterly

SSA—Social Security Administration

VEBA—Voluntary Employees' Beneficiary Account

W-2—Employees Withholding Allowance Certificate

W-5—Earned Income Credit

WCRRP—Workers Compensation Risk Retention Report YTD—Year
to Date

FORMS

[Affirmative Action \(EEOC\)](#)

[Background Check/Fingerprint Process](#)

[I-9 \(Employment Eligibility Verification\)](#)

[Montana W-4](#)

[MPERA Membership Forms](#)

[TRS Membership Forms](#)

[New Hire Reporting \(Montana\)](#)

[Veteran's Employment Preference Form](#)

[W-4 \(Employee's Withholding Allowance Certificate\)](#)

[941 Quarterly](#) and [Schedule B](#)

[Electronic Delivery of employment & Health Plan](#)

[W-9](#)

[1099NEC](#)

[1099 MISC](#)