

OFFICE OF THE GOVERNOR
STATE OF MONTANA

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By Email Only

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PSC Response Team and Commissioner Molnar,

Holding public office is a sacred trust between government officials and the citizens they serve. For this reason, the State of Montana expects officials, both elected and appointed, to serve the people of Montana and work collaboratively with all state employees with dignity and respect. Through law and policy, the Montana State Legislature has delineated the governor's powers to ensure that elected officials maintain this sacred trust for generations to come.

On May 21, 2026, I received a second complaint¹ from the Public Service Commission's (PSC) Department of Public Service Regulation Response Team (hereafter "the Team") requesting the

¹ I received a first complaint from the PSC Response Team on August 21, 2025. That complaint asked for a temporary suspension of Commissioner Molnar while the PSC completed its investigation of numerous workplace complaints against him. The PSC subsequently removed Commissioner Molnar from his position as President, and since that served as the primary grounds for the requested suspension, I denied the request on December 26, 2025.

suspension of Commissioner Molnar. In particular, the Team asks me to exercise statutory authority granted to me in MCA § 69-1-113, which states:

If a commissioner fails to perform the commissioner's duties as provided in this title, the commissioner may be removed from office as provided by 45-7-401. Upon complaint made and good cause shown, the governor may suspend any commissioner. ...

In support of their request, the Team provided me with copies of a May 1, 2026, Response Team Report as well as two investigative reports that resulted from independent human resource investigations conducted in 2025. The independent investigative reports, attached as Attachment 1, had personnel names redacted to protect their privacy but were otherwise provided in their entirety.

As explained more fully below, I believe the investigatory reports establish good cause to suspend Commissioner Molnar and so exercise my authority to suspend him for 1 year, with his return contingent on the completion of the trainings the PSC is presently requiring Commissioner Molnar to complete.

PROCEDURAL HISTORY

On receipt of the second complaint, I asked Commissioner Molnar to provide a response no later than June 5, 2026. On May 26, 2026, he requested an extension through June 19, 2026, which I gave on June 2, 2026.

On June 12, 2026, Commissioner Molnar asked me to pause my review until the federal court had ruled on his May 28, 2026, preliminary injunction motion, which asserts the PSC is retaliating against him in violation of the First Amendment.² On June 15, 2026, I declined to pause my review of the second complaint but remained informed of the contentions and filings occurring in the federal matter.

On June 16, 2026, Commissioner Molnar was able to secure through his federal lawsuit unredacted copies of the independent investigative reports included with the second complaint.

On June 19, 2026, Commissioner Molnar provided his response to the second complaint.

On June 29, 2026, the Team provided me with a copy of the federal court's opinion denying Commissioner Molnar's motion for preliminary injunction, *see* Attachment 2, along with two sworn declarations of Commissioner Fielder and former PSC Executive Director Alana Lake filed in that lawsuit.

² *Molnar v. Wellborn*, Cause No. 6:26-cv-00041 (D. Mont. 2026).

LEGAL FRAMEWORK

The Montana Constitution tasks the governor of Montana with ensuring “that the laws are faithfully executed.” Mont. Const., art. VI, sec. 4. The legislature acknowledges that implementation authority, identifying the governor as “the chief executive officer of the state” with supervision, approval, and direction authority over statutorily created executive branch agencies and their attached boards and commissions. MCA § 2-15-103. The PSC is one such statutorily created agency. MCA § 2-15-104(1).

By law, most executive agency leadership is appointed by the governor, confirmed by the senate, and serves at the pleasure of the governor. MCA § 2-15-111. However, the legislature adopted a different approach for the selection and oversight of PSC commissioners. PSC commissioners, although under the governor’s supervision, approval, and direction,³ are elected, MCA § 69-1-103, and enjoy greater employment protections than many other agency heads, with a showing of “good cause” required to impose the governor’s remedy of suspension.⁴ MCA § 69-1-113.

MCA § 69-1-113 does not define “good cause.” A state district court observed in the context of the Team’s first complaint that “good cause” is defined in employment law statutes governing wrongful discharge. MCA § 39-2-903(5). There, “good cause” is defined as:

- any reasonable job-related grounds for an employee's dismissal based on:
 - (a) the employee's failure to satisfactorily perform job duties;
 - (b) the employee's disruption of the employer's operation;
 - (c) the employee's material or repeated violation of an express provision of the employer's written policies; or
 - (d) other legitimate business reasons determined by the employer while exercising the employer's reasonable business judgment. The legal use of a lawful product by an individual off the employer's premises during nonworking hours is not a legitimate business reason, unless the employer acts within the provisions of 39-2-313(3) or (4).

Id. Notably, that statute was adopted well after the creation of the PSC and the adoption of MCA § 69-1-113 and permits dismissal where good cause is found. However, because the statute

³ In this way, they differ from constitutionally created elected executive branch officers, who are necessarily exempted from gubernatorial oversight beyond their general supervision. *See, e.g.*, MCA § 2-15-201(1) (directing that the governor shall “supervise the official conduct of all executive and ministerial officers; ...”) and MCA § 2-15-103 (expressly excluding other constitutional officers from the governor’s “supervision, approval, [and] direction”).

⁴ Removal is reserved to court adjudication. *See* MCA § 69-1-113 (“If a commissioner fails to perform the commissioner's duties as provided in this title, the commissioner may be removed from office as provided by 45-7-401,” which provides exclusive court jurisdiction).

provides useful, objective criteria in assessing whether good cause exists, I use it as a guide for my review here.

ANALYSIS

In declining to find good cause for the Team's first complaint, I urged the Team to complete its investigation. With this second complaint, the Team has now included two independent investigative reports providing factual context to the claims made against Commissioner Molnar in the form of interviews and documents. These two reports provide the sole factual source for my review here, for a number of reasons.

First, the reports reflect an investigation conducted by independent experts not employed by the PSC. Commissioner Molnar alleges retaliation against him by his fellow Commission members—some of whom are members of the Team—in his federal lawsuit, and bias against him on my part in reviewing this matter, all on account of a Northwestern Energy merger that he asserts they—and I—endorse. While I cannot speak for the Commission members, this assertion falsely represents my position on the matter. As I made clear in a press release made at the time of the merger announcement, there is a need for Montana consumers to have “access to affordable, reliable energy,” and so I am “hopeful” that the proposed merger could have the effect of “increas[ing] the supply of affordable and reliable power for consumers, while creating more good-paying jobs.” *See* Attachment 3. I stated my continued commitment to an “‘all of the above’ energy strategy” to address this issue. I also indicated that the State of Montana “look[ed] forward to engaging with Northwestern and Black Hills to learn more about the proposed merger.” This was not an endorsement of, or expectation of approval of, the merger. As such, recusal from review is unwarranted.

Nevertheless, I believe exclusive reliance on these independently produced reports mitigates against whatever real or perceived bias may exist. Neither the Team nor Commissioner Molnar express concerns with the impartiality of the reports, nor do they contest the veracity of facts collected in them. And while the reports themselves consider nine discrete issues collectively, only three issues were found by the independent investigators to point to unlawful conduct. The reports reflect a careful, thorough, and competent analysis of the respective claims.

Second, Commissioner Molnar asserts that facts from a PSC human resources employee, who allegedly did not believe misconduct occurred and was subsequently terminated, have not been provided for my consideration, prejudicing Commissioner Molnar. But that employee did not conduct the investigation nor review all the collected facts. Indeed, the federal judge considered and rejected this very argument. *See* Attachment 2 at 40-41. Given the thorough and comprehensive investigation presented to me, I will not be considering subsequent allegations, actions, or conclusions of anyone outside of the independent investigations.

I review the three issues from the independent investigative reports in turn.

1. Sex Discrimination Against Four PSC Staff

The August 2025 independent investigative report Issue #3 identifies the first issue of discriminatory comments made to four staff on five occasions in violation of the PSC Personnel Policy. Attachment 1 at 26. That Policy in turn relies on U.S. Equal Employment Opportunity Commission (EEOC) guidance relating to unlawful harassment and hostile work environment. *Id.* The report collects the relevant facts and applies them under EEOC guidance to assess whether a hostile work environment existed. The report describes numerous unwelcome sexual comments, ranging from suggesting a female employee dreams about a male coworker at night to “Topless Tuesdays.” The report acknowledges that EEOC guidance around hostile work environments due to sexual harassment requires more than just a few stray remarks and can be rebutted if steps are taken to correct the behavior. The PSC undertook repeated efforts to correct the behavior, behavior that Commissioner Molnar appears to admit to. For this reason and based on the totality of the circumstances, the report finds that Commissioner Molnar likely engaged in sexual harassment in violation of the PSC Personnel Policy. *Id.* at 30.

I agree with this finding. “Good cause” includes “the employee's material or repeated violation of an express provision of the employer's written policies.” MCA § 39-2-903(5). Additionally, “legitimate business reasons” include sexual harassment. *See Reinlasoder v. City of Colstrip*, 2016 MT 175, ¶ 18. Commissioner Molnar’s repeated need for counseling to correct his behavior, which no one disputes occurred, shows a repeated violation of the policy and is a legitimate reason for corrective action.

2. Retaliation Against PSC Staff and Commissioners

The August 2025 independent investigative report Issue #6 identifies a second issue of retaliatory behavior towards PSC staff and other Commissioners designed to discourage or deter workplace complaints made against him in violation of the PSC Personnel Policy. Attachment 1 at 35. Applying the EEOC criteria, the report shows that the staff and Commissioners engaged in protected activity (i.e., the filing and investigation of a complaint), Commissioner Molnar took adverse action designed to deter the protected activity, and there is a clear connection between the protected activity and the adverse action. *Id.* at 41. Because the EEOC criteria for retaliation were met and the PSC Policy expressly prohibits retaliation, the report finds Commissioner Molnar likely engaged in unlawful retaliation.

I agree with this finding. “Good cause” includes “the employee's material or repeated violation of an express provision of the employer's written policies.” MCA § 39-2-903(5). Commissioner Molnar received written warnings regarding his conduct and was therefore aware of his behavior, Attachment 1 at 40, which had the effect not only of reduced employee morale, but their actual departure from their jobs, *id.* at 41. This is a “legitimate business reason” that, taken together with violations of policy, establish good cause to exercise corrective action.

3. Continued Retaliation Against PSC Staff

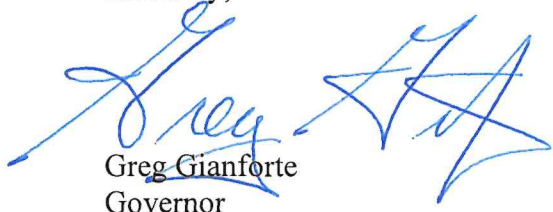
The November 2025 independent investigative report Issues #1 and #2 identify a third issue of whether continued retaliation occurred subsequent to the complaints investigated in the August 2025 independent investigative report. The report found the facts demonstrated employees' protected activity (i.e., investigating complaints against Commissioner Molnar), adverse action by Commissioner Molnar (e.g., calling an employee at her personal number about an invoice for costs of his own investigation, observing that now that he knew her number, he could find out where she lived and, most disturbingly, get pictures of her kids sleeping in their beds), and a causal connection. The report concludes several instances of retaliation occurred in violation of the PSC Personnel Policy. *Id.* at 94, 96, 101.

I agree with these findings. "Good cause" includes "the employee's material or repeated violation of an express provision of the employer's written policies." And behaviors such as Commissioner Molnar's relocation of his office next to an employee while she was out of state to then glare at the employee when passing her office and removing duties ascribed to her together suggest a disruption to the employer's operation. They form a legitimate business concern that establish good cause for corrective action.

Suspension Terms

I take very seriously allegations of workplace misconduct in the executive branch, and the gravity and unwillingness to correct the illegal conduct identified above by a department head warrants a meaningful suspension from office—indeed, ordinary outcomes for such misconduct would likely result in termination. In my view, Commissioner Molnar has repeatedly violated the sacred trust between him and the people of Montana and has shown no remorse for it. In fact, he retaliated for months against those at the PSC who have brought legitimate concerns to light. *See Fenger v. Flathead County*, 277 Mont. 507, 513, 922 P.2d 1183, 1186 (1996) (holding that violation of employment policy is reasonable grounds, as a matter of law, for termination). The PSC should be given adequate time to reestablish order and morale within the agency. And Commissioner Molnar should have some time to both reflect on and assess his conduct and to complete any appropriate training the PSC has required of him to ensure proper decorum and lawful behavior on his return. I recognize a suspension of an elected official by a governor is unprecedented in state history. But given the unprecedented behavior, I must act and so conclude that the suspension of Commissioner Molnar for one year is warranted, effective immediately (without pay), with his return contingent on the completion of trainings required of him.

Sincerely,



Greg Gianforte
Governor