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# **MONTANA ADMINISTRATIVE REGISTER**

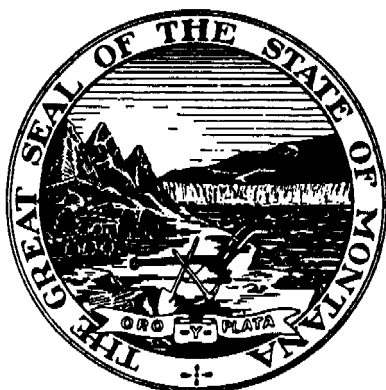
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MONTANA COLLEGE OF  
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1978 ISSUE NO. 18

PAGES 1664 — 1767



NOTICE: The July 1977 through June 1978 Montana Administrative Registers have been placed on jacketing, a method similar to microfiche. There are 31 jackets 5 3/4" x 4 1/2" each, which take up less than one inch of file space. The jackets can be viewed on a microfiche reader and the size of print is easily read. The charge is \$.12 per jacket or \$3.72 per set plus \$.93 postage per set. Montana statutes require prepayment on all material furnished by this office. Please direct your orders along with a check in the correct amount to the Secretary of State, Room 202, Capitol Building, Helena, Montana, 59601. Allow one to two weeks for delivery.

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 18

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BEFORE THE STATE AUDITOR  
AND EX OFFICIO COMMISSIONER OF INSURANCE  
OF THE STATE OF MONTANA

In the matter of the amendment )	NOTICE OF PROPOSED AMEND-
of Rule 6-2.6(11) S 872, relating )	MENT OF RULE 6-2.6(11)-
to unfair discrimination practices) )	S 872, RELATING TO UNFAIR
based upon sex or marital status )	DISCRIMINATION ON THE BASIS
	OF SEX OR MARITAL STATUS.
	NO PUBLIC HEARING
	CONTEMPLATED

TO: ALL INTERESTED PERSONS

1. On January 28, 1978, the Commissioner of Insurance proposes to amend rule 6-2.6(11) S 872 which relates to unfair discrimination practices based upon sex or marital status.

2. The language of the rule stays the same. This rule appears on the rule section in 1978 MAR p 1615. Issue 17. The language of the rule remains the same. The effective date on the rule is proposed to be amended as follows:

The adoption of this rule is to become effective  
~~February 1, 1979~~ June 1, 1979.

3. The rule is proposed to be amended to correct an inadvertent error. The correction will give the insurance carriers more time to prepare for compliance.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to The Commissioner of Insurance, Mitchell Building, Helena, MT 59601, no later than January 26, 1979.

5. The authority of the department to make the proposed amendment is based on Section 40-2710, RCM 1947 and implements 40-3509, 40-3512, 40-5351 and 40-5918(8) RCM 1947 relating to unfair discrimination.

  
Josephine M. Driscoll  
Chief Deputy Commissioner of Insurance

Certified to the Secretary of State December 13, 1978.

18-12/28/78

MAR Notice No. 6-2-15

BEFORE THE BOARD OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment  
of ARM 32-2.10(6)-S1060 requiring  
that the Department of Livestock  
be notified of proposed changes  
in tariffs.

NOTICE OF PROPOSED  
AMENDMENT ARM RULE  
32-2.10(6)-S1060

(Livestock Market Tariff  
Changes) NO PUBLIC HEARING  
CONTEMPLATED

TO: ALL INTERESTED PERSONS

1. On January 28, 1979, the Board of Livestock proposes to amend Rule 32-2.10(6)-S1060 to require that the Department of Livestock be notified of proposed changes in market tariffs.

2. The Rule as proposed to be amended provides as follows: Paragraphs (1) (2) and (3) remain the same. A new paragraph (4) is proposed which reads: "(4) Any licensed livestock market seeking to alter its market tariffs pursuant to applicable regulations of the federal government shall notify the Administrator of the Brands-Enforcement Division at least 10 days prior to the effective date of the tariff changes by sending him a copy of the proposed tariff."

3. The rule is proposed for amendment because of changes in the tariff regulations of the Packers & Stockyards Agricultural Marketing Service, USDA (P & S). Under the federal change livestock markets no longer are required to justify tariff increases and receive prior approval from P & S before tariff changes become effective. Instead, tariffs may now be changed upon 10 days notice to P & S and to the public. P & S will examine tariffs only upon valid complaints or under compelling circumstance warranting an investigation. The Board wishes to exercise its powers to examine tariff changes in order to make any appropriate response to the P & S if the Board feels any changes are unjust or discriminatory. The Board has no other interest in regulating the tariffs of livestock markets.


4. Interested parties may submit their data, views or arguments concerning the proposed amendments in writing to Les Graham, Department of Livestock, Capitol Station, Helena, MT. 59601. Written comments must be received by January 28, 1979.

5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Graham on or before January 14, 1979.

6. If the department receives requests for a public hearing from more than twenty five persons directly affected a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative

Register.

7. The authority of the department to amend this rule is based on section 46-907, R.C.M. 1947

  
ROBERT G. BARTHELMESS  
Chairman  
Board of Livestock

Certified to the Secretary of State December 19, 1978.

STATE OF MONTANA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING  
BEFORE THE BOARD OF NURSING

IN THE MATTER of the Proposed )	NOTICE OF PROPOSED ADOPTION
Adoption of a rule regarding )	OF A RULE FOR FACULTY AND
Policies for Faculty and Stu- )	STUDENT NURSES WHEN A CLINICAL
dent Nurses in relation to )	FACILITY IS IN ARBITRATION
Strike Notices and Arbitration)	OR ON STRIKE
at Agencies used for Clinical )	
Experiences )	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On January 27, 1979, the Board of Nursing proposes to adopt a rule concerning policies for faculty and student nurses in the event a cooperating facility (hospital) is in a strike situation.

2. The proposed adoption will read as follows:

" The faculty and currently registered students of the Schools of Nursing comprising all Montana Schools/ Programs of Nursing will maintain a position of neutrality in relation to strike notices and arbitration at agencies used for clinical experience. Regular clinical courses will continue in so far as adequate clinical experience is available and faculty members and students will continue to maintain only their regular educational activities during clinical assigned hours. All courses will be continuously assessed for the appropriateness of the learning environment and available experience. No faculty member or student will engage in any strike related activity during clinical assignment hours. Each faculty member and student, as an independent professional, will assume accountability for his/her actions regarding strike notice activities during non-clinical assignment hours."

3. The Board originally proposed this adoption because of the increased number of strikes within the state and nation involving areas where there are student nurses under MAR Notice No. 40-3-62-9. The Administrative Code Committee sent the Board a letter on that rule stating they felt that the proposed rule exceeded the Board's statutory authority and recommended that the rule not be adopted. Therefore the Board is proposing this notice with changes from the original notice to clarify their intent in proposing the rule originally and to request the Administrative Code Committee to consider this new proposed rule.

4. Interested parties may submit their data, views or arguments concerning the proposed adoption in writing to the Board of Nursing, Lalonde Building, Helena, Montana 59601, no later than January 25, 1979.


5. If a person who is directly affected by the proposed adoption wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written

comments he has to the Board of Nursing, Lalonde Building, Helena, Montana 59601, no later than January 25, 1979.

6. If the Board receives requests for a public hearing on the proposed adoption from more than 10% of those persons who are directly affected by the proposed adoption, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

7. The authority of the Board to make the proposed adoption is based on section 66-1225(2) R.C.M. 1947.

BOARD OF NURSING  
JANIE CROMWELL, PRESIDENT

BY:   
ED CARNEY, DIRECTOR  
DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, December 19, 1978.

STATE OF MONTANA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING  
BEFORE THE BOARD OF VETERINARIANS

IN THE MATTER of the Proposed ) NOTICE OF PROPOSED AMENDMENT  
Amendment of ARM 40-3.102(6)- ) OF ARM 40-3.102(6)-S10270 (1)  
S10270 (1) Continuing Education) CONTINUING EDUCATION

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On January 27, 1979, the Board of Veterinarians proposes to amend ARM 40-3.102(6)-S10270 sub-section (1) which concerns continuing education.

2. The proposed amendment will add a section (a) to sub-section (1) of the above stated rule and will read as follows:

"(a) A veterinarian may be granted a grace period to include a month prior to July 1st of the year preceding the application for renewal and three months after the following July 1st deadline in which to fulfill the continuing educational requirements.

This grace period shall be granted only upon written request to the Board and upon Board approval. This grace period, however, will not allow a veterinarian to use the same continuing education program for two separate certificate of registrations."

3. The amendment is proposed because the Board of Veterinarians has encountered several complaints and problems with the continuing education statute. A grace period would allow a veterinarian enough time to comply with the requirement in order to obtain his certificate of registration each year. With the adoption of this rule, it would enable the Board to act promptly on renewals and eliminate the necessity of a formal hearing each time, which would cut the costs of the Board considerably. Also, several of the association meetings are held in June, which under the present restrictions, would not qualify for renewal for corresponding years. In addition, there are association meetings in July, August, and September that would enable a veterinarian to comply with the CE requirements. This rule would also allow a veterinarian more latitude in selection of continuing education courses which is fact might be of more benefit to the public, rather than just attending a program to fulfill the requirement. There are times when single or solo practitioners might have to leave a critical patient or situation in order to fulfill the requirements.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Veterinarians, Lalonde Building, Helena, Montana 59601 no later than January 25, 1979.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Board of Veterinarians, Lalonde Building,


Helena, Montana 59601, no later than January 25, 1979.

6. If the Board receives requests for a public hearing on the proposed amendment from more than 10% or 25 or more persons who are directly affected by the proposed amendment, or from the Administrative Code Committee of the Legislature, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 61 persons based on the 610 licensed veterinarians in Montana.

7. The authority of the Board to make the proposed amendment is based on section 66-2202 (3) R.C.M. 1947.

BOARD OF VETERINARIANS  
E. WAYNE BOLAND, D.V.M., PRESIDENT

BY:

  
ED CARNEY, DIRECTOR  
DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, December 19, 1978.

STATE OF MONTANA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING  
BEFORE THE BOARD OF WATER WELL CONTRACTORS

IN THE MATTER of the Proposed)	NOTICE OF PROPOSED AMENDMENT
Amendment of ARM 40-3.106(6)-)	OF ARM 40-3.106(6)-S10630 SET
S10630 (1) and (2) Set and )	AND APPROVE REQUIREMENTS AND
Approve Requirements and )	STANDARDS - GENERAL, SUB-
Standards - General )	SECTIONS (1) and (2)

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On January 27, 1979, the Board of Water Well Contractors proposed to amend sub-sections (1) and (2) of ARM 40-3.106(6)-S10630 regarding requirements and standards for water well construction.

2. The proposed amendment will amend sub-section (1) and the first paragraph of sub-section (2) of the above stated rule and will read as follows: (deleted matter interlined, new matter underlined)

" (1) A licensed Montana Water Well Contractor shall furnish high quality materials, installed in such a manner as to make all joints water tight. Any pipe or casing used for sealing out surface waters or contaminants shall ~~have-~~ be steel with a minimum wall thickness of 1/8 inch and shall be a minimum of 12 feet in length from the ground surface.

(2) The use of plastic well casing in connection with a pitless adaptor is not acceptable. A metal transition section shall be used to attach the pitless adaptor to the casing and the metal casing shall be carried to at least a minimum of one (1) foot above and twelve (12) feet below the finished surface grade. The earth fill around the terminus of the well shall be graded and compacted so that surface water shall flow away from the casing. ..."

3. The Board is proposing the amendment of the above stated rule to include the additions above that were not included as the Board originally intended in adopting the rule. The purpose of the rule is to provide what the Board considers reasonable methods for protecting against contamination and for protecting against unnecessary damage to the casing.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Water Well Contractors, Lalonde Building, Helena, Montana 59601 no later than January 25, 1979.


5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Board of Water Well Contractors, Lalonde Building, Helena, Montana 59601 no later than January 25, 1979.

6. If the Board receives requests for a public hearing on the proposed amendment from more than 10% of the persons who are directly affected by the proposed amendment, or from the Administrative Code Committee of the Legislature, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 20 persons based on the 200 licensed water well contractors in Montana.

7. The authority of the Board to make the proposed amendment is based on section 66-2605 R.C.M. 1947.

BOARD OF WATER WELL CONTRACTORS  
WESLEY LINDSAY, CHAIRMAN

BY:

  
ED CARNET, DIRECTOR  
DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, December 19, 1978.

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF PROPOSED AMENDMENT
of Rule 1.2.121 Agency Filing	)	OF RULE 1.2.121 REGARDING
Fees in Title 1, Chapter 2	)	AGENCY FILING FEES.
of the Administrative Rules	)	
of Montana	)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On January 29, 1979, the Secretary of State proposes to amend Rule 1.2.121 relating to agency filing fees for material published in the Montana Administrative Register notice and rule section.

2. The rule proposed to be amended provides as follows:

1.2.121 AGENCY FILING FEES (1) Beginning ~~January 17, 1978~~  
~~July 1, 1979~~ all agencies will be required to pay a ~~\$7.50~~ \$1.00  
per page filing fee for all pages submitted which are applicable  
to the notice and rules section of the Montana Administrative  
Register. The Secretary of State will bill annually for all  
fees incurred by the agency for the fiscal year.

3. The present charge of \$.50 per page fee barely covers the cost for agencies to prepare no-warrant transfer of funds to my office. The true cost of \$6.50 per page may prove an unreasonable burden on agencies. The charge of \$1.00 per page in the notice and rule section of MAR would help defray a portion of the cost of printing and mailing of the register.


4. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to Leonard Larson, Room 202, Capitol Building, Helena, Montana 59601, no later than January 25, 1979.

5. The authority of the department to make the proposed amendment is based on Section 82-4206, R.C.M. 1947.

Dated this 18th day of December, 1978



FRANK MURRAY  
Secretary of State

  
By Leonard C. Larson  
Chief Deputy

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF PROPOSED ADOPTION
of two new rules in Title 1,	)	OF RULES REGARDING FORMAT
Chapter 2 of the Administra-	)	INSTRUCTIONS FOR RULEMAKING
tive Rules of Montana	)	UNDER THE MAPA
	)	
	)	NO PUBLIC HEARING CONTEM-
	)	PLATED

TO: All Interested Persons:

1. On January 29, 1979, the Secretary of State's office proposes to adopt two new rules in Title 1, Chapter 2 of the Administrative Rules of Montana.

2. The proposed new rules provide as follows:

Rule I OLD TO NEW NUMBERING TABLE (1) It will be necessary for each agency to submit an "Old to New" Numbering Table which indicates the old ARM rule number assigned to a rule before ARM recodification and the new three-part number assigned to that rule after ARM recodification.

(2) The rule numbers of the repealed rules which have been removed from ARM during recodification will also be listed on this table indicating the rule number and the date the rule was repealed.

(3) This table will remain in ARM until after recodification is complete.

Rule II SCHEDULE OF PROSPECTIVE CHAPTER NUMBERS AND PAGE NUMBERS TO BE ASSIGNED DURING RECODIFICATION (1) During recodification, each agency is requested to rearrange its chapters in ARM in a logical sequence and also to plan ahead by reserving page numbers in areas where growth has been consistent in the past. Because an agency may recodify and submit for printing, chapters that may be out of order and which may have conflicting chapter numbers or conflicting page numbers with already existing chapter numbers or page numbers, it will be necessary for each agency to submit a schedule indicating the prospective new chapter numbers that will be assigned and also the new page numbers assigned to each chapter with the number of pages that should be reserved in that area.

This information is essential for this office to be able to furnish concise instructions to the subscribers of ARM for inserting new pages and removing old pages so that there will be no confusion when dealing with conflicting page numbers and chapter numbers.

3. These rules are proposed to facilitate the publication of ARM during recodification.

4. Interested parties may submit their data, views or arguments concerning the proposed rules in writing to

18-12/28/78

MAR Notice No. 44-2-5

Leonard Larson, Room 202, Capitol Building, Helena, Montana 59601, no later than January 25, 1979.

5. The authority of the Secretary of State to prescribe revisions in the format and general provisions for style and arrangement of rules is found in 82-4205(2), R.C.M. 1947.

Dated this 18th day of December, 1978



FRANK MURRAY  
Secretary of State



By Leonard C. Larson  
Chief Deputy

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF PROPOSED AMENDMENT
of Rule 1.2.110 Updating the	)	OF RULE 1.2.110 REGARDING
Code--Procedures in Title 1,	)	UPDATING THE CODE
Chapter 2 of the Administrative	)	NO PUBLIC HEARING CONTEM-
Rules of Montana	)	PLATED

TO: All Interested Persons:

1. On January 29, 1979, the Secretary of State's office proposes to amend Rule 1.2.110 Updating the Code--Procedures relating to the number of issues during each calendar year of replacement pages which are printed and distributed to subscribers to the Administrative Rules of Montana.

2. The rule as proposed to be amended provides as follows:

1.2.110 UPDATING THE CODE--PROCEDURES

(1)(a) Remains the same.

(b) Accompanying the replacement pages which are distributed to the subscribers to the code on a ~~four~~ three month basis, will be instructions which indicate where the pages to be inserted and which pages of the existing code have been superseded and should be removed.

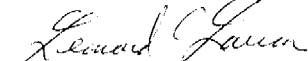
3. Because of recodification and the complete reprint of the Administrative Rules of Montana, it is felt that the change from a three issue distribution to a four issue distribution during a calendar year would facilitate the assembling, handling and mailing of the volume of replacement pages involved. This change would not only be advantageous to this office but helpful to subscribers in inserting and removing replacement pages.

4. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to Leonard Larson, Room 202, Capitol Building, Helena, Montana 59601, no later than January 25, 1979.

5. The authority of the department to make the proposed amendment is based on Section 82-4206, R.C.M. 1947.

Dated this 18th day of December, 1978

  
FRANK MURRAY  
Secretary of State

  
By Leonard C. Larson  
Chief Deputy

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the amendment )	NOTICE OF PROPOSED AMENDMENT
of Rule 48-2.10(10)-S10100, )	OF ARM RULE 48-2.10(10)-S10100
concerning Class 1 Professional )	concerning Class 1 professional
teaching certificates )	teaching certificates. NO PUB-
	LIC HEARING CONTEMPLATED.

TO: All interested persons.

1. On February 13, 1979, the Board of Public Education proposes to amend ARM Rule 48-2.10(10)-S10100, Class 1 Professional Teaching Certificate.

2. The rule as proposed to be amended provides as follows:

(1)-(6) Remain the same.

(7) The Class 1 certificate is issued to applicants qualified for the Class 2 certificate and whose preparation includes at least one year of study or 45 quarter (30 semester) credits beyond the Bachelor's degree. The study beyond the degree must be planned in consultation with and/or approved by an appropriate official (see definitions). The training must supplement the academic preparation of the applicant in teaching subject fields, or result in three endorsement areas, and/or related professional training.

3. The rule is proposed to be amended in order to increase the flexibility of the professional certificate and to accommodate programs at universities.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Harriett C. Meloy, Acting Chairperson of the Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, at any time prior to February 2, 1979.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Harriett C. Meloy, Acting Chairperson of the Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, no later than January 19, 1979.

6. If the agency receives requests for a public hearing on the proposed amendment from more than 10 percent or 25 or more persons who are directly affected by the proposed amendments, or from the Administrative Code Committee of the legislature, a hearing will be held at a later date. Notice of hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 2200 persons, based on approximately 22,000 active teacher and administrative certificates.

7. The authority of the agency to make the proposed amendment is based on sections 75-6002, 75-6006, and 75-6008, R.C.M. 1947.

  
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PROFESSIONAL ASSISTANT TO THE  
BOARD OF PUBLIC EDUCATION

Certified to the Secretary of State December 19, 1978.

18-12/28/78

MAR 48-3-11

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF PUBLIC HEARING FOR
of a rule outlining standards	)	ADOPTION OF A RULE outlining
for state approval of teacher	)	standards for state approval
education programs leading to	)	of teacher education programs
interstate reciprocity of	)	leading to interstate reciprocity
teacher certification	)	of teacher certification.

1. On January 20, 1979, at 1:00 p.m., a public hearing will be held in the Regents' Conference Room at 33 South Last Chance Gulch, Helena, Montana, to consider the adoption of a rule outlining standards for state approval of teacher education programs leading to interstate reciprocity of teacher certification.

2. The rule in a different form was noticed in the August 24 Administrative Register #10 on pages 1248-1301 and a hearing was held on October 5, 1978. On the basis of comments received, the Board determined that the rule should be substantially modified and renoticed, thereby beginning anew the rule-making procedure in this matter. This action is taken to provide an opportunity for all interested parties to comment on the proposed rule which follows.

3. The proposed rule does not replace or modify any section currently found in the Montana Administrative Code.

4. The proposed rule provides as follows:

CHAPTER 12 - STANDARDS FOR STATE APPROVAL OF TEACHER EDUCATION PROGRAMS LEADING TO INTERSTATE RECIPROCITY OF TEACHER CERTIFICATION.

Subchapter 1 - STATE ADMINISTRATIVE PROCEDURAL STANDARDS

Section 48-2.12(1)-S1200 Advisory Group (1) The Board of Public Education shall appoint an advisory group to provide continuous review of programs and implementation of the standards for state approval of teacher education programs leading to interstate reciprocity of teacher certification. Membership shall include professionals from all levels of education and other citizens concerned with teacher education.

Section 48-2.12(1)-S1210 Process Leading to Approval of Teacher Education Programs (1) The process leading to the approval of teacher education programs shall be carried out by visiting teams appointed by the Board of Public Education. These teams shall be broadly representative of the educational community.

Section 48-2.12(1)-S1220 Visitations (1) All teacher education programs shall be visited for approval at least every five years or upon request of a college.

Section 48-2.12(1)-S1230 Approved Programs (1) The Office of Public Instruction shall issue lists of institutions with programs approved by the Board of Public Education for teacher education. Such lists shall indicate the programs approved and the initial and expiration dates of such approval. Provisions shall be made to circulate these lists to institutions, school personnel offices, counselors and others within the state and to exchange lists with education agencies in other states.

Section 48-2.12(1)-S1240 Optional Compliance (1) These standards shall be optional for in-state colleges, but only those colleges adopting the standards will be reported to other states as required in the Interstate Certification Compact, Section 75-6012, R.C.M. 1947, and Board of Public Education policy.

Subchapter 2 - ORGANIZATION AND ADMINISTRATION OF TEACHER EDUCATION

Section 48-2.12(2)-S1250 Purposes and Objectives (1) The catalogue of an institution shall include:

- (a) each certification program offered;
- (b) the grade span for which state approval has been granted;
- (c) clearly defined statements of objectives;
- (d) the level at which programs are offered (basic and advanced); and
- (e) the graduate programs offered for the preparation of specifically named school services personnel.

(2) Teacher preparation programs shall reflect the judgment of:

- (a) members of the faculty;
- (b) students;
- (c) graduates;
- (d) lay citizens;
- (e) schools; and
- (f) the professional educational organizations.

Section 48-2.12(2)-S1260 Organization (1) Out-of-state institutions offering teacher training programs in Montana shall meet equivalent criteria to Montana institutions including:

(a) the control of the institution shall reside in a board of trustees or an otherwise designated board. The functions of the board shall be that of assuring for the institution philosophies and policies which will result in the best possible services to the students and the faculty and which will ensure a sound educational program.

(i) In the discharge of its functions, there shall be clear evidence in the records of the board's deliberations that it recognizes and fulfills its responsibility to teacher education.

(ii) Terms of office shall be arranged to provide desirable continuity within the board membership.

(b) Under the direction of a president or an otherwise designated chief administrative officer, adequate provision shall be made for the performance of all administrative functions affecting teacher education by personnel competent in their respective assignments.

(i) An organizational chart of the institution shall be available and evidence shall be provided to support the suitability of the organization for teacher education, the competency of the personnel, and the manner in which functions are performed.

(ii) Written policies shall be provided pertaining to salary schedules, rank, tenure, group insurance, sabbatical leave, sick leave, retirement allowances, funding of inservice development of faculty, and service by the faculty in professional development on a state, regional or national basis.

(iii) Written information outlining applicable administrative policies shall be provided for administrators and faculty members. Such information shall include the functions of the board of control, the faculty and the administrative staff officers with particular reference to teacher education.

(c) Financial resources for the accomplishment of announced purposes must be available, and current income for both public and private institutions must be such as to enable an institution to carry on its proposed work. In determining the financial condition of an institution, emphasis shall be given to the income available for teacher education purposes and the manner in which that income is expended.

(i) The institution shall operate on a budget prepared in accordance with sound financial and educational practice and shall issue an annual financial statement giving a clear and accurate picture of its financial status. The financial statement shall be audited by a qualified outside agency.

(ii) The institution shall provide financial reports that clearly reveal the relative amounts as compared to other programs expended in teacher education for instruction, administration, maintenance, equipment, supplies, library, student activities, capital outlay and debt service.

(iii) The financial records shall be kept in such a form that the economic status of the institution may be readily determined.

(d) Institutions which offer extended services, such as summer sessions, evening and weekend programs, off-campus extension or correspondence classes, survey and consultant services, shall provide the needed resources to conduct such services. Information shall be provided indicating the administrative and operational provisions established to assure the quality of such special services. This information shall indicate the extent to which these special services complement and/or relate to the regular program.

Section 48-2.12(2)-S1270 Student Admission, Retention, Exit and Follow-up Policies and Practices (1) Provision shall be made within the institution for orderly methods of obtaining and maintaining information relative to candidates applying for admission to teacher education.

(2) Specific admissions standards and procedures shall be published (including the time and, if possible, alternative times for admission) and shall govern a student's acceptance into the institution's regular teacher preparation program. For experimental or special programs, specific admissions requirements shall be indicated in the description of these programs.

(3) The institution shall have a well-defined plan for the evaluation of the performance of students enrolled in its teacher education programs. Measures of academic ability, observation by faculty (in courses, laboratories, and field experiences), and other modes of appraisal shall be utilized to assess specific strengths and weaknesses of students, their retention within the teacher education program, and their readiness to assume the professional role for which they are being prepared.

(4) An institution shall have well-defined evaluation procedures to assess the quality of its graduates when they complete pre-service programs and apply for a recommendation to become certificated. Increased human sensitivity including multi-cultural awareness, specified levels of competence in teaching skills and related knowledge (including competence in teaching reading skills in each specific content area), and other pre-determined qualifications must be demonstrated as a basis for an institutional recommendation for entry into the profession. Students shall be apprised of such evaluation procedures and qualifications.

(5) The institution shall have a well-defined plan for the evaluation of its graduates.

Section 48-2.12(2)-S1280 Student Personnel Services

(1) The institution shall have a well-organized student counseling program which continues throughout the preparation program and includes an effective placement service assisting graduates in finding positions.

(2) The institution shall provide students with written information describing its student personnel services and the means of availing themselves of these services.

(3) The institution shall provide for the appointment of a faculty advisor for each student admitted to teacher education. The faculty advisor shall have a thorough understanding of the preparation program to be followed by each advisee.

(4) The institution shall collect and maintain current data on teacher supply and demand which shall be used by all faculty assigned to advise students preparing for teaching.

(5) The institution shall maintain a system of student personnel accounting including permanent cumulative records for each student enrolled. As a part of the student record, there shall be legible and intelligible transcript of records,

including a statement of course titles, credits, or the equivalent (waivers, substitutions, etc.) and degrees. The cumulative record shall also include a description of all professional laboratory experiences.

(6) The institution shall conduct periodic follow-up surveys of its graduates in teacher education in order to gather data pertaining to the effectiveness of its student personnel services.

Section 48-2.12(2)-S1290 Student Participation in Teacher Education Program Development and Evaluation (1) The institution shall provide evidence that students have been involved in program development and evaluation and that joint student-faculty committees have been active in these matters.

(2) The institution shall provide evidence that there are clearly established channels and opportunities for all students to express their views.

Section 48-2.12(2)-S12000 Faculty (1) The institution shall provide evidence that faculty members in professional education, whether working in a school or in higher education, have had specific preparation for their roles in teacher education.

(2) The institution shall provide evidence that faculty members who teach courses in the various discipline areas are well informed with respect to practices concerning those disciplines in the elementary and secondary schools.

(3) The institution shall provide evidence regarding faculty experience and participation in such professional activities as curriculum improvement, research, writing, and travel for educational purposes. The institution shall also provide evidence that faculty members are growing professionally through advanced study, research, and participation in activities closely related to their instructional assignments.

(4) The institution shall provide evidence that its policies of selection, retention, and promotion of personnel are effective in providing faculty members who are competent and professional.

(5) The institution shall have provisions for the use of part-time or adjunct faculty as needed. Such part-time faculty shall meet all institutional criteria with respect to academic preparation, experience, and scholarly performance as have been established for appointment as full-time faculty by the institution.

Section 48-2.12(2)-S12010 Instruction (1) The institution shall provide evidence that its faculty uses a variety of instructional procedures which contribute to the student's preparation, such as class discussions, large and small group work, lectures, laboratory work and use of teacher aides and a variety of media.

(2) The institution shall collect and use information pertaining to performance of the students in teaching, their performance on standardized tests, the quality of their subsequent work in accredited graduate and professional institutions, and the degree to which the institution has attained its goals in the preparation of professional school personnel.

Section 48-2.12(?) - S12020 Facilities and Instructional Materials (1) An institution shall have a physical plant designed to serve its defined purposes for teacher education. The physical facilities shall also provide for the safety, health, cultural, social and recreational needs of students and faculty.

(2) The library, as the principal materials resource center of the institution, shall be utilized for instructional research and other services supporting the teacher education program. Administrative procedures and equipment shall conform to accepted modern practices including methods of cataloging, arrangement of print and non-print materials, availability of student and faculty stations, and accessibility of materials and facilities. The library shall be administered by a professionally trained librarian.

(3) The institution shall provide laboratories and laboratory supplies and equipment needed for instructional purposes for each teacher education program offered, such as shops and shop equipment; specialized equipment for the biological, earth and physical sciences; specialized equipment for psychological, sociological and child development sciences; specialized furniture, equipment and supplies for music and art; gymnasiums and outdoor areas for physical education; equipment for business education; facilities, equipment and supplies for home economics; and demonstration farms and farm buildings for agriculture. Space and equipment shall be made available for conducting and recording experiences such as micro-teaching, role-playing, and other simulated activities.

(4) Institutions shall make teaching-learning materials and equipment available to students and faculty. They shall provide technical instruction in the use of the equipment, in the production of teaching-learning materials and the use thereof, and in the classification and preservation of such materials.

(5) The institution shall demonstrate its commitment to the improvement of instruction by developing and following a plan for the institutional use of educational media and technology. The teacher education curriculum and classes shall reflect the utilization of the findings of contemporary inquiries and studies related to the science and art of teaching.

(6) The institution shall maintain a materials laboratory or center either as a part of the library or as one or more separate units. It shall be open to students as a laboratory of materials of instruction and shall be directed by a faculty member well informed in the various instructional materials and media used at different grade levels. This laboratory shall

include a wide array of books commonly used in elementary and secondary schools; various types of teaching aids such as maps, charts, pictures, filmstrips and recordings; various types of materials used in evaluating learning; and curriculum patterns, courses of study, and teaching units. There shall be workshop facilities for preparing new curriculum materials including access to electronic, photographic and other equipment.

Section 48-2.12(2)-S12030 School-Institution Relationships

(1) Definitions and requirements affecting working relationships between the schools and the institutions shall be explicit, clear and well publicized. Officials of both the preparing institution and the elementary and secondary schools shall be certain that all programs are operated within all existing regulations.

(2) Student teaching shall be done through cooperative programs in selected schools having well-planned curriculums, needed teaching materials, and professionally educated staff members with successful teaching experience. There shall be provisions for supervision by the institutional faculty, involving both academic subject and education areas, and for special preparation of supervisors from both the school and the institution.

(3) Institutions shall make arrangements with school systems which include mutually agreed upon:

(a) activities, services and compensation;

(b) roles and responsibilities;

(c) provisions for solving problems and the coordination of ongoing activities; and

(d) means for revision to meet changing needs and conditions.

(4) Both school and institution officials responsible for directing and coordinating the experience of prospective teachers shall enter into professional dialogue with those developing bargaining positions and seek to foster and improve teacher education through understanding and through the resolution of differences in positions.

(5) In addition to those who will assume the specific instructional and supervisory role, all institutions and elementary and secondary schools engaged in providing laboratory experiences for prospective teachers shall set up properly designated and publicized channels and offices for efficient operation and communication. Each school system and institution shall have an identifiable coordinator who channels or coordinates all contacts, operations, and activities for his system or institution which pertains to laboratory experiences prior to and during the student teaching, internship or apprenticeship program.

Subchapter 3 - CURRICULUM PRINCIPLES AND STANDARDS: BASIC PROGRAMS

Section 48-2.12(3)-S12040 Curriculum Development, Planning and Patterns (1) Responsibilities for the administration of a continuing program of curriculum development, evaluation and revision, and for the advisement and programming of students in the teacher education curriculums shall be coordinated through a single designated administrative unit of the preparing institution. This unit shall recommend students to the Office of Public Instruction for certification approval.

(2) The process of curriculum development for the various teacher education programs shall make provision for enlisting the cooperation and participation of representatives of:

- (a) the public schools;
- (b) college and university teachers in fields related to the area of public school specialization;
- (c) the Office of Public Instruction;
- (d) professional associations;
- (e) professional committees and commissions; and
- (f) teacher education students.

(3) A continuing program of curriculum evaluation shall provide for a systematic follow-up of graduates to determine the strength of their preparation and their competence as teachers.

(4) Each curriculum for the preparation of teachers shall be a program planned for teaching in the area of specialization and shall include:

- (a) general education designed to prepare students for purposeful and responsible living as individuals and citizens;
- (b) appropriate content and experiences in their particular field of specialization to relate to and give background for their teaching service in public schools; and
- (c) the sequence in basic professional education designed to prepare students for their roles as teachers in the public schools.

(5) The curriculum shall be designed to develop the students' unique interests and capabilities through a system of academic guidance and electives.

Section 48-2.12(3)-S12050 General Education (1) General education is those studies known as the liberal arts, which embrace the broad areas of the humanities, mathematics, the biological and physical sciences, and the social and behavioral sciences.

(a) The content of general education, selected with discrimination from the aggregate of human experience, shall embody the major ideas and principles of the various divisions of knowledge as they bear on common concerns. More specifically, the general education program shall:

(i) stimulate scholarship that will give understanding to concepts not now extant and help prepare people for rapid adjustment to essential change;

(ii) foster individual fulfillment and nurture free, rational, and responsible adults;

(iii) cultivate appreciation for the values associated with life in a free society and for responsible citizenship;

(iv) develop leaders who are intellectually competent, imaginative, and vigorous;

(v) contribute fundamentally to and give direction to the use of professional knowledge;

(vi) encourage discernment in examining the values inherent in foreign cultures to the end that a clearer understanding of other peoples will reduce world tensions.

(b) General education shall be emphasized in the first two years of higher education, extended throughout the baccalaureate program, and continued in diminishing proportions into graduate study.

(c) Each institution approved for the education of teachers shall be responsible for building a sequential program of general studies which will help the student attain an understanding and appreciation of:

(i) language skills (see (20) of Section 48-2.12(3)-S12080) as essential tools in communication;

(ii) world literature with emphasis on, but not limited to, the writing of English and American authors;

(iii) the aesthetic values in human experience expressed through the fine arts;

(iv) the scientific and mathematical concepts upon which contemporary civilization depends;

(v) contemporary world culture;

(vi) social, geographic, political, and economic conditions and their impacts on current problems in the nation and the world;

(vii) the growth and development of the United States as a nation and its place in world affairs;

(viii) the principles of physical and mental health as they apply to the individual and to the community;

(ix) America's pluralistic culture and heritage.

Section 48-2.12(3)-S12060 Professional Education (1) Professional education is those studies which include foundations of education and methods and materials of teaching with supervised laboratory experiences designed to provide competencies required in the education professions.

(a) Each institution shall have a clearly stated set of objectives for the professional education component of its teacher education program.

(b) The program of professional preparation for teaching shall encourage individualization of the student's program while providing a range of studies and experiences to develop:

(i) knowledge of the process of human growth, development, and learning, and the practical application of this knowledge to teaching;

(ii) knowledge of research, methods, materials, and media appropriate to teaching. Emphasis shall be in the student's field(s) of specialization;

(iii) ability to teach effectively and to work ethically and constructively with pupils, teachers, administrators, and parents;

(iv) understanding of the foundations underlying the development and organization of education in the United States;

(v) understanding of the purposes, administrative organizations, and operation of the total education programs of the school;

(vi) ability and willingness to analyze teaching as a means of continually improving teaching skills;

(vii) ability to teach reading and writing skills appropriate to the level of the student and to the subject content.

(c) The program shall provide experiences which will lead the teacher candidate to develop those human qualities that will enhance pupil learnings to include but not be restricted to personal self-esteem and confidence; open attitudes of evaluating practices which affect social groups; and knowledge, humaneness, and sensitivity which reduce conflict and tension and promote constructive interactions among people of differing economic, social, racial, ethnic and religious backgrounds or sex, language, cultural and other differences.

(d) Every institution shall develop a comprehensive program of carefully designed basic experiences in a variety of realistic settings over the duration of the professional curriculum. In addition, the institution shall make available a wide range of laboratory, clinical, and practicum experiences to individualize learning patterns and to meet each student's needs.

(e) The programs of professional study in education shall make provisions throughout for observation and experience with school-age youth. Study of theory and practice shall be closely related. The institution's schedule shall be arranged to support laboratory experiences which shall be started as soon as the student enters the teacher education programs.

(f) Student teaching, or other major practicums, shall be designed both as a growth experience and as an opportunity for evaluation of a student's potential for teaching. Student teaching shall provide an opportunity for assessing a student's commitment to teaching, skill in guiding learning in inter-personal relations, and growth as a professional in teaching. In considering the approval of teacher education programs, the following statements shall be used for evaluating student teaching programs. These statements are not all-inclusive. Teacher education institutions shall develop student teaching programs of a quality superior to that implied:

(i) Admission to student teaching: Student teaching shall be permitted only after a comprehensive professional review of the student's record indicates that scholarship, performance in an area of specialization, competence in the professional sequence, performance in previous professional experiences, and personal characteristics qualify the student for the responsibilities of student teaching.

(ii) Intensity: Student teaching shall be a comprehensive experience with expanding responsibilities, including the full range of activities of a teacher in a school situation.

(iii) Length of program: A student teaching experience shall provide for intensive and continuous involvement. The length of student teaching shall depend upon the performance of the student teacher. It shall continue until objectives of the program have been achieved.

(iv) The cooperating school: The cooperating school or school system shall be chosen by the institution on the basis of the commitment of the administrators and staff members to participation in the preparation of new teachers.

(v) The cooperating teacher: Cooperating teachers shall be selected jointly by school and institutional personnel. In addition to being certificated and experienced in the area of assignment, the cooperating teacher shall have a good performance record, show continued professional growth and have the temperament, desire, and ability to work with student teachers. The number of student teachers assigned to any qualified cooperating teacher shall be determined by applying two professional criteria:

(aa) the level of support for pupil learning shall remain as high or higher than if the student teachers were not so assigned, and

(ab) the teacher can feel comfortable and confident in providing an effective, supportive learning climate.

(vi) Institutional responsibility for supervision: Institutions shall study and develop effective arrangements for administering and supervising student teaching programs. The student shall have the expertise to assist with content, methodology, inter-personal relations and professional development. The institution and cooperating school system shall strive to develop a quality system which best utilizes the resources of the institutional supervisor, cooperating teacher and student. Where the institutional supervisor functions as a generalist, the institution and school system shall assure that expertise in content and methodology in the subject area is available to the student. All institutions shall study possible alternative arrangements for administering and supervising student teaching including the use of clinical professors. Institutions and schools shall make co-operative detailed studies of roles and responsibilities; such studies shall be utilized in determining the strengths and weaknesses of supervision and in developing means to upgrade continually the skills in teacher activities of all personnel involved.

Institutional staff who have responsibility for supervision shall have equal status with other faculty. To assure adequate supervision, a full-time supervisor shall be responsible for not more than 24 student teachers.

Section 48-2.12(3)-S12070 Teaching Areas: General Standards

(1) All programs for preparing teachers in fields of specialization shall be designed to meet general standards as identified by the faculty.

(a) Each institution shall develop its teacher education program within the certification policies of the Board of Public Education.

(b) Each teaching area or field of specialization shall be built upon a statement of the purpose and objectives of teaching in this area of the public school curriculum and a well-formulated statement of the nature of the public school program that is needed to accomplish these objectives. These statements shall be prepared by the faculty concerned with teacher education, shall be based on analyses of current practices and recommendations of the professional organizations representing this field of the public school curriculum, and shall be available in writing.

(c) Each teaching area or field of specialization shall be built on a clearly formulated statement of the competencies needed by teachers in this area of the public school curriculum. These competencies shall include the attitudes, knowledges, understandings, and skills that are required, and the degree of expertise necessary for a beginning teacher. This statement of competencies shall be available in writing, and shall be based upon the statement developed in the preceding guideline regarding the objectives and program of the public school.

(d) The program of study constituting the teaching area or field of specialization shall:

(i) include a thorough study of the aspects of the subject-matter area as included in the public school curriculum;

(ii) take into account the sequential nature of the knowledge and skills to be developed to assure maximum continuity in the achievement of the objectives of the program;

(iii) provide prospective teachers with a comprehension of the aspects of study which their students will meet in subsequent courses in the field;

(iv) constitute minimum requirements for teaching in the field of specialization, with courses and content chosen for their relevance to the public school curriculums and in response to the careful study of individual needs, abilities, and objectives;

(v) be broadly conceived, to include work in fields related to the area of study to be taught.

(e) Each teaching area or field of specialization shall include provision for a systematic program of evaluation procedures to determine the degree of the student's attainment of teaching competencies. These evaluation procedures shall serve as the basis for recommending the teacher candidate for the appropriate teacher certificate.

(f) Each teaching area or field of specialization shall be supported by plant, facilities, equipment, library, and media resources. A schedule of meeting-time adequate to implement the planned program of courses, including appropriate field and laboratory experiences, shall be provided.

(g) Each teaching area or field of specialization shall be staffed by faculty members who are well-qualified by graduate training and experience in the subject-matter of the particular area of the public school curriculum and shall be sensitive to the needs of public school teachers.

Section 48-2.12(3)-S12080 Teaching Areas: Specific Standards Each teaching area or field of specialization shall consist of a carefully planned pattern of courses and experiences designed to produce the competencies identified by the faculty as necessary for successful teaching at the particular grade levels for which the program is designed: elementary, secondary, or K-12.

(1) Agriculture. The program shall:

(a) assure that practical farm or other agricultural experience is a part of the requirements to be met for completion of the program leading to certification;

(b) provide an understanding of the biological, physical and applied sciences as they relate to practical solutions of agricultural problems;

(c) provide study of the essentials for production agriculture and the breadth in technical agricultural industry;

(d) include a sequence of studies and experiences which provide basic knowledge in areas such as the following:

(i) plant science and technology

(ii) animal science and technology

(iii) agricultural business management and technology

(iv) agricultural mechanics science and technology

(e) provide general preparation in the following occupational areas:

(i) agricultural production and marketing

(ii) agricultural equipment and supplies

(iii) agricultural products

(iv) ornamental horticulture

(v) agricultural resources

(vi) natural resource management

(vii) environmental development

(viii) forestry;

(f) provide leadership development including skills necessary in the development of agricultural youth organizations as a means of teaching leadership skills through study and practice of

speech, parliamentary procedure, and group cooperative efforts; and

(g) provide studies and experiences which enable the prospective teacher to perform the appropriate occupational skills while working with pupils and adults in projects and programs relative to the agricultural instructional areas.

(2) Art K-12. The program shall:

(a) provide the student with opportunities to acquire knowledge, understanding and appreciation of art in contemporary and past cultures with emphasis on the relationship of art to the culture in which it was produced and its influence on subsequent cultures;

(b) provide for the student's awareness, comprehension and ability to describe, analyze, interpret and evaluate works of art;

(c) provide opportunities for the student to develop knowledge and understanding of philosophical aspects of the nature of art and of its meaning and contributions to the individual and society;

(d) develop for the prospective art teacher the ability to work as a professional educator with pupils of all age groups and to aid these pupils by way of the unique qualities of art experience to develop the individualized capacities of:

(i) perception - the ability to exercise and refine fundamental and discriminating sensory intake

(ii) knowledge and understanding - the ability of information, particularly that which is manifest in art forms

(iii) creation - the ability to produce or create original, expressive art from a variety of media

(iv) reflection/action - the ability to respond to art, to enjoy it, appreciate it and to assimilate its meaning and presence into an individual life-style that complements society;

(e) assure that prospective teachers have the ability to develop curriculums in art education and that they are competent to guide pupils in a wide variety of art activities;

(f) provide prospective art teachers with the knowledge and competencies relative to organizing, planning, administering, and evaluating a program of art education;

(g) develop the student's ability as a producing artist. Basic concepts and skills related to the student's ability to recognize and structure original and expressive art form in a wide variety of media should be emphasized;

(h) provide for the student's knowledge and understanding of technological and safety aspects of studio work;

(i) assure that the prospective art teacher has studio experiences related to a variety of art media and that such experience and resulting ability, in breadth and depth, be commensurate with the teacher's personal and professional needs; and

(j) provide opportunities to develop the student's understanding and appreciation of related art areas such as dance, film, music, literature, theatre and practical arts.

- (3) Business Education. The program shall:
- (a) include experiences which provide prospective teachers with knowledge of our economic system, business organization, philosophy and objectives of vocational education and occupational technology;
  - (b) include studies and provide experiences which develop the following competencies:
    - (i) planning, organizing and administering a program including work experiences
    - (ii) developing and understanding concepts of automated data processing
    - (iii) planning for laboratory facilities and equipment
    - (iv) developing a knowledge of job requirements and opportunities in business and allied fields
    - (v) developing ability to operate and maintain the more common types of office equipment
    - (vi) planning, organizing, and advising a student organization in business;
  - (c) include a study of meaningful survey activities; e.g., surveys of business offices and follow-up studies of secondary school graduates to enable teachers to offer current job-related information to their students;
  - (d) provide prospective teachers with satisfactory occupational experience in one or more businesses and other occupations;
  - (e) include studies and experiences which develop competencies in teaching disadvantaged and handicapped persons;
  - (f) develop an understanding of career opportunities in business and office occupations;
  - (g) prepare students to teach clerical office occupations which will combine intensive training in accounting and office procedures and the development of typewriting skills; and secretarial and related occupations which will combine the intensive development of secretarial and communication skills along with some preparation in accounting skills;
  - (h) develop teacher proficiency in typewriting and related office skills;
  - (i) develop an understanding of office procedures and relationships of various procedures to job opportunities in the business world;
  - (j) provide the prospective teacher with an understanding of the theories and skills of accounting; and
  - (k) develop competencies in the art and techniques involved in recording, analyzing, classifying and interpreting data.
- (4) Business Education with Shorthand - Secretarial Occupations. Section 48-2.12(3)-S12070, subsection (3) is applicable. In addition, the program shall:
- (a) develop teacher proficiency in basic secretarial and related office skills;
  - (b) develop an understanding of secretarial procedures and relationships of various procedures to job opportunities in the business world; and
  - (c) provide the prospective teacher with an understanding of accounting theories and skills.

(5) Distributive Education. The program shall:

(a) provide for the development of teaching, services, coordination, research, and leadership competence in purchasing, marketing, merchandising and management;

(b) provide experiences for the development of professional competencies to:

(i) plan, develop and administer a comprehensive program of distributive education, both high school and adult

(ii) organize and utilize a wide variety of methods and techniques for teaching youth and adults

(iii) conduct learning experiences for students with a broad array of abilities and career objectives, and to recognize and respond to individual differences in students;

(c) provide for a variety of occupational work experiences; and

(d) provide experiences for developing a knowledge of and involvement in distributive education organizations.

(6) Dramatics. The program shall require that prospective teachers of drama possess:

(a) a knowledge of theater as a social and aesthetic experience, a reflection of culture, including a broad view of the history of theater and acquaintance with representative plays of past and present;

(b) ability to direct a theatrical production with artistic integrity. This involves selection analysis, casting, conducting rehearsals, performance supervision, and all other elements of direction;

(c) a knowledge of basic acting skills and techniques in order to promote, stimulate and guide the efforts of the individual as well as the interpreting group, whether in a creative dramatic context, or a cast in a theatrical production;

(d) the ability to handle the technical requirements of a theatrical production by effective planning and execution of scenery, lights, make-up, sound, properties, costume, and special effects;

(e) the ability to evaluate the production or activity and to modify and adapt future goals and objectives in the light of achievements as well as deficiencies;

(f) an understanding of the function of theater in the school at all grade levels and the place of theater in everyday life;

(g) the ability to design and provide environments conducive to the development of creativity in the individual as well as have a knowledge of potential achievements at different levels and the time needed to accomplish the objective involved;

(h) a knowledge of methodology for teaching theater, content, and organization of course work and the development of individual units of study, evaluation of student achievement and potential at various grade levels;

(i) the ability to organize an academic or non-academic production or program including audience services within the context of the school time, facilities and monies, and to augment existing facilities and materials in an order of significant priority;

(j) the ability to promote and publicize an activity or production in order to gain the attention and support of the school and community in relationship to the development of appreciation of theater in school and community audiences;

(k) the ability to serve as a resource person within a school system in the development of facilities, the preparation of classroom projects, assembly programs or any activity in which elements of theater are found;

(l) the ability to assist in the organization of a progressively planned and comprehensive theater and/or other fine arts curriculum including experiences in music, film, literature, art, dance and theater as they relate to elementary through high school students and to theater as a synthesis of the arts; and

(m) the ability to disseminate accurate information and to be a resource for educational and vocational counseling in theater arts and allied fields.

(7) Elementary. The program shall:

(a) develop understanding of child growth and development and of the social, emotional, physical and health characteristics and needs of children;

(b) include studies and experiences in the sociological and the behavioral sciences which emphasize the relation of children to their environment;

(c) develop instructional competence in teaching methods and the use of materials to promote the effective pupil language art skills of reading, writing, speaking and listening;

(d) provide preparation sufficient for competence in the subject areas normally found in the elementary school curriculum including art, health, mathematics, music, physical education, science and social studies;

(e) develop instructional competence in the use of methods and materials to promote effective pupil skills in the subject areas normally found in the elementary school curriculum;

(f) provide a comprehensive knowledge of literature appropriate for children in the elementary grades and provide teacher competency in developing children's sensitivity to and enthusiasm for literature;

(g) develop knowledge and understanding of the techniques involved in the individualization of instruction, team teaching, and various methods of grouping within a self-contained classroom;

(h) provide adequate preparation for teaching atypical children;

(i) provide preparation for the development of skills related to the diagnosis, prescription and correction of learning difficulties of elementary school children; and

(j) provide for the development of skills related to working with parents and other adults.

(8) English. The program shall:

(a) provide teacher candidates with knowledge of the structure and history of the English language, including phonology, morphology, syntax, and semantics;

(b) provide teacher candidates with knowledge of the various personal, social and communication purposes of language, including attention to factors such as:

(i) social and regional language variation

(ii) language for control and management of others; i.e., language abuse, e.g., the rhetoric of politics, advertising, etc.;

(c) provide teacher candidates with knowledge of the basic differences and similarities in the structural and semantic attributes of written and oral discourse, attendant classical and contemporary rhetorical theories regarding both modes of discourse;

(d) provide teacher candidates with knowledge of the nature of non-print and non-verbal expression as well as their relationship to verbal expression;

(e) provide teacher candidates with knowledge of the processes whereby individuals acquire, understand, and use their language;

(f) provide teacher candidates with knowledge of the attributes of oral and written language in the developing child through adolescence;

(g) provide teacher candidates with knowledge of a representative body of English, American, and non-western literature, including contemporary literature, adolescent and children's literature, and literature of minority groups;

(h) provide teacher candidates with knowledge of approaches to literary analysis, both classical and contemporary;

(i) provide teacher candidates with knowledge of the ability to teach processes by which one learns to read;

(j) provide teacher candidates with knowledge of approaches to English curriculum evaluation, design and development;

(k) provide teacher candidates with knowledge of approaches to assessment and diagnosis of students' encoding and decoding abilities in various settings and for various purposes;

(l) develop in teacher candidates the ability to help students become aware of the various social and cultural backgrounds and purposes of language use;

(m) develop in teacher candidates the ability to prescribe suitable techniques and materials for overcoming specific decoding and encoding difficulties and design effective instructional strategies and teaching approaches for the teaching of decoding and encoding skills;

(n) develop in teacher candidates the ability to make literature a substantive and worthwhile part of the students' education, and relate the purpose of English to everyday needs of students;

(o) provide teacher candidates with knowledge of the attributes of oral and written language in the developing child through adolescence;

(p) develop in teacher candidates the ability to articulate the nature and purposes of the English curriculum to professional peers, school administrators, and parents; and

(q) develop in teacher candidates a respect for the worth of all students, their language and desires, and their individual uniqueness.

(9) Exceptional Children K-12. Common standards applicable to all areas of special education are followed by standards for the respective areas. Programs leading to K-12 certification for teachers of exceptional children shall meet the common standards and have an emphasis in at least two of the special areas.

(a) Common standards. The program shall:

(i) provide an understanding of the types of exceptionalities among children and youth and their educational relevance;

(ii) provide competency in individual and group classroom management procedures appropriate to exceptional children such as:

(aa) use of diagnostic procedures to identify the learning difficulties of the exceptional child

(ab) the ability to develop and implement prescriptive programs based on diagnostic findings

(ac) knowledge of techniques utilized in behavioral control;

(iii) develop social skills and attitudes to enable the prospective teacher to work effectively with other school personnel in coordinated programs for exceptional children;

(iv) develop the ability to interpret the educational program to parents, teachers, administrators, and community groups;

(v) provide opportunities to observe institutions and facilities concerned with the education, health, and welfare of all types of exceptional children;

(vi) provide early opportunities for supervised laboratory experiences with exceptional children as one means of determining the candidate's maturity for work with exceptional children;

(vii) encourage student affiliation with professional groups, and create an awareness of the referral agencies available for aid to exceptional children; and

(viii) provide for developing in the prospective teacher competence in planning and conducting wide varieties of learning experiences for individuals and groups.

(b) Specialized standards. The program shall require in-depth study and experience which develop competence in at least two of the following specialized areas of concentration:

(i) Pre-School. The program shall:

(aa) provide general knowledge of major handicapping conditions to include: characteristics, etiology, diagnosis, and intervention;

(ab) provide understanding of normal growth and development from birth to age five;

(ac) provide specialized preparation for working with children with severe and profound handicapping conditions;

(ad) provide for demonstrated ability to identify and use appropriate diagnostic procedures for developing individualized educational programs and instructional plans;

(ae) provide for demonstrated ability to communicate effectively with parents, referral agencies, and other non-school groups;

(af) provide for demonstrated ability to develop, implement and monitor individual educational programs;

(ag) provide for demonstrated general knowledge or program administration and supervision to include legal requirements, state and local policies, financing, organization, and evaluation strategies;

(ah) provide for completion of successful supervised experience with young handicapped children. Experience should include exposure to a wide range of handicapping conditions and varied degrees of severity.

(ii) Emotionally Disturbed. The program shall:

(aa) provide the prospective teacher with the theoretical bases of counseling and psychotherapy and with in-depth studies in emotional and social problems;

(ab) provide for the development of specific teaching techniques for the diagnosis and remediation of learning problems caused by maldevelopment of personality as manifested by a variety of symptoms and problems, such as adjustment reactions of childhood, conduct disorders, neuroses, character disorders, and psychoses;

(ac) develop for the prospective teacher an awareness of the significant role of parents and the influences of the total environment of the pupil; and

(ad) provide the prospective teacher with knowledge of the results of research in the area of emotional disturbance and closely allied fields.

(iii) Hearing Impaired. The program shall:

(aa) assure teacher competencies in management of pupils with speech and hearing disorders, including diagnosis and evaluation, therapeutic methods and materials;

(ab) provide study in audiometry and hearing rehabilitation including studies in hearing problems and testing of hearing;

(ac) develop competencies in auditory training and speech reading, in speech for the acoustically handicapped, in sign language, and in working with the deaf;

(ad) provide opportunities to observe procedures of diagnosis and case management by qualified clinicians; and

(ae) develop therapeutic skills and judgments and provide opportunities to perform therapeutic services under supervision.

(iv) Mentally Retarded. The program shall:

(aa) provide the prospective teacher with knowledge related to the needs of the mentally retarded, knowledge of programs and procedures for working with the mentally retarded, and professional laboratory experiences with mentally retarded children;

(ab) include studies and experiences which will provide the prospective teacher with knowledge of the following:

- (aba) etiology of mental retardation
- (abb) characteristics of the mentally retarded and classification and diagnosis of mental retardation
- (abc) social control and adjustment of the mentally retarded
- (abd) information about the educational processes of the mildly, moderately, and severely mentally retarded
- (abe) interpretation of psychological tests
- (abf) screening and selection of children for class placement
- (abg) curriculum development, methods, materials and special teaching techniques
- (abh) problems related to integration of mentally retarded students into general school organization; and
- (ac) provide for all levels of mental retardation and allow for emphasis in one or more of these levels.
  - (v) Physically Handicapped. The program shall:
    - (aa) prepare the prospective teacher to provide learning environments for children who are medically defined as physically handicapped who have other health problems, or who have central system disorders that place them within a definition of chronic conditions;
    - (ab) provide understandings and knowledge of the special problems and processes of assessing the physically handicapped and shall emphasize the effects that the physical handicap has on the learning processes and the diagnostic procedures to be used in the teaching role; and
    - (ac) provide experiences to develop competencies in curriculum development and special methodologies relative to children who may be minimally or multiply handicapped.
  - (vi) Visually Impaired. The program shall:
    - (aa) provide study of the anatomy and physiology of the eye and knowledge of the symptoms and diagnosis of partial vision and total loss of sight;
    - (ab) provide knowledge of local, state, and national facilities for serving the visually handicapped and the blind and knowledge of the provisions available for the partially seeing child;
    - (ac) provide knowledge of common plans of organization and current facilities for serving partially seeing children, and the principles of preparation, selection and effective use of appropriate instructional materials;
    - (ad) develop teacher competencies to solve the problems of adaptation of school environments to meet the needs of partially seeing children; and
    - (ae) develop teacher competencies with teaching methods applied to the special needs and capabilities of partially seeing and blind children, and study and experience in testing programs and interpretations of test results.

(vii) Learning Disabilities. The program shall:

(aa) assure that the graduate will have knowledge of learning theory as well as educational psychology and shall have orientation in psychological testing and in diagnosis and correction of learning disabilities;

(ab) require competence in the education of those with learning disabilities (such as dyslexia, perceptual handicaps, brain injury, minimal brain dysfunction, and developmental aphasia) in remediation in basic skills, in teaching of reading, and in curriculum development for teaching of students with learning disabilities;

(ac) provide for adequate understanding of group dynamics, interviewing and counseling and for knowledge of community resources; and

(ad) assure that the prospective learning disabilities teacher-consultant shall have had professionally supervised experiences with pupils, teachers, and administrators to serve completely in this area. The practicum shall be properly planned and professionally supervised and of such duration to prepare the graduate for working in this field.

(viii) Communicative Disorders. The program shall:

(aa) provide knowledge of the study of normal speech, typical and common speech defects, and basic techniques for their prevention and correction;

(ab) provide knowledge of etiology and treatment of the more severe speech deviations such as articulation, stuttering, voice, organic, and symbolization disorders;

(ac) provide knowledge of phonetics and language development;

(ad) provide knowledge of physiological, psychological, and social foundations of speech and hearing disorders including anatomy, physiology and the function of auditory and speech mechanisms;

(ae) provide study in audiometry, speech reading, and speech for the acoustically impaired;

(af) provide opportunities to observe procedures of diagnosis and case management by qualified correctionists; and

(ag) develop skills and judgments and provide opportunities to perform under supervision with the equipment essential for the conduct of speech correction.

(10) Foreign Languages. The program shall:

(a) include work in phonology, conversation, grammar and composition, linguistics (applied to the specific language or applied to foreign languages as a whole) and literature;

(b) provide prospective teachers with the ability to understand conversation at a normal tempo, lectures and news broadcasts;

(c) provide prospective teachers with the ability to converse with a native with a command of vocabulary and syntax sufficient to express thoughts in conversation at normal speed with good pronunciation;

(d) provide the prospective teacher with the ability to read with immediate comprehension prose and verse of average difficulty and mature content;

(e) provide the prospective teacher with the ability to write a simple "free composition" (such as a letter or message) with clarity and correctness in vocabulary, idiom and syntax;

(f) provide the prospective teacher with an understanding of the differences between the sound systems, forms, structures of the foreign language and English and the ability to apply this understanding to modern foreign language teaching;

(g) provide the prospective teacher with an awareness of language as an essential element of culture, an understanding of the principal ways in which the foreign culture differs from our own, first-hand knowledge of literary masterpieces, and acquaintance with the geography, history, art, and social customs of the foreign country;

(h) provide the prospective teacher with a knowledge of the present-day objectives of foreign language teaching as communication and an understanding of the methods and techniques for attaining these objectives;

(i) provide the prospective teacher with a knowledge of the use of specialized techniques, such as educational media, the relation of modern foreign language study to other areas of the curriculum, and the ability to evaluate the professional literature of foreign language teaching; and

(j) include a study of the literature, history, geography, and contemporary civilizations of the appropriate country or countries.

(k) The preparation of teachers of classical languages will follow the preceding standards except that the emphasis will be on appreciation of the language and gaining control of its sounds, structure, and vocabulary rather than on conversational objectives.

(11) Guidance and Counseling K-12. The program shall:

(a) provide evidence that careful screening is employed to assure that only persons who have the potential for developing effective relationships with students, teachers, administrators, and parents are accepted as candidates;

(b) assure understanding of the philosophy, organization, and professional activities related to the practice of school counseling;

(c) assure that the prospective school counselor has knowledge of referral agencies and other services outside the school setting;

(d) provide an understanding of the individual, including the dynamics of human behavior;

(e) extend the prospective counselor's understanding of basic educational philosophies and school curriculum patterns;

(f) assure understanding of societal forces and cultural changes with particular reference to socio-economic, ethnic, and racial groups;

- (g) provide for competence in the following areas:
  - (i) interpretation of I.Q. aptitude, interest, and achievement and personality assessment
  - (ii) individual and group counseling
  - (iii) individual and group guidance
  - (iv) assisting students in developing vocational, career planning and lifestyle decision-making skills
  - (v) assisting students in developing personal, social and educational decision-making skills
  - (vi) placement and follow-up
  - (vii) planning, implementation, administration and evaluation of counseling programs;
  - (viii) performance, interpretation and utilization of educational research; and
  - (h) provide supervised laboratory and practicum experiences in a school setting to give the prospective school counselor the opportunity to work effectively with pupils, teachers, parents, and the community:
  - (i) practice guidance and counseling methods and techniques
    - (ii) observe how the duties of a counselor are discharged
    - (iii) perform the duties of a school counselor.
  - (12) Health The program shall:
    - (a) provide knowledge and understanding of the aims and objectives of health education in the schools;
    - (b) provide basic knowledge of the biological sciences which primarily deal with man and his quest for a healthy life. More specifically, knowledge and understanding should be acquired in human physiology and anatomy, basic body chemistry, microbiology, genetics, and ecology;
    - (c) provide basic background studies in the behavioral and social sciences pertinent to the study of health;
    - (d) provide prospective teachers with an understanding of:
      - (i) personal health and physical fitness including basic understanding of the body and its vital organs
      - (ii) community and environmental health including sanitation and pollution
      - (iii) nutrition including weight control, food fads and diet supplements
      - (iv) emotional and mental health
      - (v) physical, social and emotional health hazards of drugs, alcohol and tobacco
      - (vi) physical and emotional aspects of sex
      - (vii) communicable diseases (including venereal disease), body defenses, and immunization programs
      - (viii) common physical and mental exceptionalities and degenerative diseases
      - (ix) consumer health including the selection of health products and professional services and the evaluation of advertising
      - (x) first aid and emergency care
      - (xi) safety including outdoor, water, home, industrial and traffic; and

(e) provide prospective teachers with competency in developing, promoting and implementing a school health environment and cooperative relationships with voluntary, community and other official health agencies.

(13) Home Economics. The program shall:

(a) provide basic information about experiences in working with the developmental processes of children and in creating and maintaining an environment in which children and families develop and interact as individuals and family members;

(b) provide an understanding of the multiplicity of factors involved in clothing and textiles which satisfy the needs of persons and families;

(c) emphasize the importance of making value judgments and decisions about shelter needs, furnishings, and equipment for individuals and families;

(d) provide the knowledge and experience of selecting, planning, preparing and serving foods according to nutritional needs of various individuals, families, and groups;

(e) provide knowledge and experience in managing individual and family resources to achieve individual and family goals at the various stages of the life cycle;

(f) provide proficiency in maintaining human relations, planning, developing, teaching, supervising, and evaluating programs in occupational home economics;

(g) provide interdisciplinary and multi-agency approaches for the preparation of home economics teachers; and

(h) include substantial study in the humanities and the social, behavioral, and natural sciences.

(14) Industrial Arts. The program shall:

(a) prepare students to teach a general industrial arts course offering instruction in the main divisions of industrial arts subject matter and to teach a general unit-type laboratory or shop in one of the main divisions of industrial arts subject matter;

(b) provide for the study of philosophy, principles, and methods of industrial arts in elementary, secondary, adult and collegiate schools;

(c) provide a fundamental knowledge of the historical development of technology and its impact on man and society;

(d) ensure technical competencies in the following:

(i) Drafting: learning activities concerned with communicating ideas or illustrations graphically

(ii) Electricity-electronics: study of technology involved in the industrial uses of electrical energy including the theory, applications, and control of electrical energy

(iii) Graphic arts: learning experiences concerned with the tools, materials and processes used in the printing industries (study of the technical aspects of printing, related occupations, management problems, and the consumer-printing industry relationships)

(iv) Manufacturing and construction industries: studies of the technological achievements concerned with methods and processes used in manufacturing articles for mass consumption. These studies shall be concerned with the industry, technology, and products derived from such materials and processes as ceramics, crafts, metals, plastics, textiles, and woods.

(v) Power and transportation: study of the technology involved in harnessing and controlling power, including its source, generation, and transmission and the use of powered devices and vehicles;

(e) provide for the study of industrial problems, including provisions to make independent investigations of the origins and evolution of present industrial conditions; and

(f) provide opportunities to design, construct, and test individual projects.

(15) Journalism The program shall enable the teacher to:

(a) communicate through effective writing by providing experiences in the basic skills and mechanics of the journalism profession;

(b) demonstrate different journalistic styles;

(c) relate interviewing and research;

(d) develop knowledge and skills in the technical methods and tools used in journalism: copy reading, editing, makeup, headline writing, production process, photography, advertising copy and design;

(e) develop an understanding of the functioning of the American economic system as it relates to mass media (advertising, media sales, circulation and distribution);

(f) possess a knowledge of the history and development of the mass media, illustrating its impact upon society and the effects of technological developments upon the mass media;

(g) analyze the organizational structure of the news media, showing how and why this structure has changed;

(h) develop knowledge of the social responsibilities and of laws and ethics of mass media; illustrate the effects of the news media upon law and the effects of law upon the news media;

(i) stress the necessity for absolute accuracy;

(j) assume the responsibility for reporting on all economic and social strata in society;

(k) develop an understanding of and appreciation for the free flow of information and the role of the news media in a democratic society;

(l) recognize and deal with public relations problems related to the school and to the community served by the school;

(m) develop an awareness of career opportunities in journalism; and describe the preparation required for such professional careers.

- (16) Library K-12. The program shall:
- (a) provide a liberal arts education as stated in section 48-2.12(3)-S12070, General Standards and for a professional core as stated in section 48-2.12(3)-S12080, Specific Standards;
  - (b) provide for attaining proficiency in selection as it relates to:
    - (i) developing criteria for evaluating and selecting materials and equipment
    - (ii) planning and implementing processes, procedures and policies for the evaluation and selection of materials and equipment
    - (iii) utilizing bibliographic aids and tools and other sources to provide current reviews and information about materials and equipment
    - (iv) developing a knowledge and understanding of literature for children and young adults;
  - (c) provide for attaining proficiency in the utilization of media as it relates to:
    - (i) teaching skills in retrieval and utilization of materials and equipment
    - (ii) assisting teachers and students in identifying, obtaining and adapting media to their specific needs
    - (iii) providing reading, listening and viewing guidance for students and teachers
    - (iv) identifying and utilizing community resources
    - (v) providing specific information and responses to reference requests;
  - (d) provide for attaining proficiency in the production of media as it relates to:
    - (i) designing and producing materials to meet stated learning objectives
      - (ii) operating production equipment
      - (iii) producing media for specified learning objectives which utilize the basic principals of design;
    - (e) provide for proficiency in research and evaluation of media programs as it relates to:
      - (i) developing plans to assess needs and evaluate the media program
      - (ii) applying the principles of research to improve the media program
      - (iii) designing, developing, and writing proposals for funds to support the media programs;
    - (f) provide for proficiency in the organization of media as it relates to:
      - (i) establishing and implementing procedures for acquisition, processing, distribution, and maintenance of materials and equipment
      - (ii) applying and adapting rules and procedures for classifying and cataloging all materials (print and nonprint);

(g) provide for proficiency in administration, supervision, and management as it relates to:

(i) assessing the current status of the media program in terms of local, state, regional, and national guidelines and establishing short- and long-range plans

(ii) initiating and developing policies and procedures for the operation of a media center

(iii) applying the principles of budgeting and management to the administration of the media program

(iv) establishing job specifications and applying principles of personnel management

(v) participating in the planning, arrangement, utilization and development of the media program and the instructional program;

(h) provide for attaining proficiency in the application of the principles of learning and teaching methodologies as it relates to:

(i) determining goals for the media program as an integral part of the educational program of the school

(ii) participating as a member of the educational team in designing curriculum and the integration of media

(iii) planning activities and opportunities for increasing independence in learning

(iv) evaluating media programs as they relate to curriculum needs

(v) planning, providing, and evaluating methods and procedures for teaching media skills in a variety of school curricula;

(i) provide for proficiency in leadership and professionalism as it relates to:

(i) designing and implementing methods of interpreting media programs to teachers, students, administrators and the community

(ii) providing within the existing legal framework, the right of access to information for students and teachers

(iii) participating in local, regional, state and national professional organizations

(iv) engaging in self-evaluation to identify the areas of need for continuing education and professional growth; and

(j) provide opportunities for a supervised practicum as it relates to:

(i) providing the prospective media professional with a wide variety of instructional experiences

(ii) providing a wide variety of operational experiences which relate to a media program.

(17) Mathematics. The program shall:

(a) consider the sequential nature of mathematics and shall provide prospective teachers with an understanding of the various aspects of mathematics which their pupils will meet in subsequent courses;

(b) develop the capacity and disposition for continued learning in mathematics and shall include studies and experiences which are relevant to the school curriculum, e.g., algebra, geometry, trigonometry, analytic geometry, calculus, probability and statistics;

(c) assure knowledge by the prospective teacher of curriculum improvement studies in mathematics currently being made by various national groups;

(d) provide opportunities to gain insight into the intellectual and philosophical nature of mathematics and to acquire knowledge of ways to apply the principles of mathematics to other disciplines, e.g., logic, science, psychology, economics;

(e) relate mathematics through technology to social conditions and develop for the prospective teacher an understanding of the historical relationships of mathematics to the culture in which it existed or exists;

(f) develop the ability to select, adapt, evaluate, and use strategies and materials for teaching mathematics, provide laboratory experiences in working with pupils of both high and low academic abilities and develop the ability to teach computational as well as abstract mathematics;

(g) include experience in the field of computing as it relates to mathematics and to teaching of mathematics; and

(h) provide experience with mathematical model building.

(18) Music K-12. The program shall:

(a) enable the student to acquire a functional knowledge of the language and grammar of music;

(b) enable the student to understand the common elements of music -- rhythm, melody, harmony, timbre, texture, dynamics, form -- and their interaction, and to employ this understanding in both aural and visual analysis;

(c) provide for the development of:

(i) basic conducting skills, score reading, and rehearsal techniques

(ii) ability to compose, arrange and adapt music from a variety of sources to meet the needs and ability levels of school performing groups and classroom situations

(iii) ability to guide creative experiences and improvise in an extemporaneous performance

(iv) proficiency on piano, guitar, or other appropriate keyboard or fretted instrument sufficiently advanced for demonstration and accompaniment

(v) advanced ability sufficient to assure accurate and musically expressive performance

(vi) ability to perform in large ensembles and a variety of small ensembles;

(d) provide knowledge and understanding of music history and literature with emphasis on the relationship of music to other arts and humanities in contemporary and past cultures and the ability to place compositions in historical and stylistic perspectives;

(e) develop a knowledge of a comprehensive program of music based upon sound philosophy and an understanding of what music to teach and how to teach it at any level. In addition, the program shall include procedures in organizing a comprehensive music curriculum for a school or school system;

(f) provide a knowledge of vocal/choral music in the areas of:

(i) development of knowledge of and performance ability on keyboard and fretted instruments sufficient to employ these instruments as teaching tools

(ii) development of ability to transpose and improvise accompaniments

(iii) development of basic knowledge of vocal/choral problems and strategies and sufficient vocal skill to assure effective use of the voice in demonstrating vocal technique

(iv) experience in solo and ensemble vocal performance

(v) experiences using wind, string, and percussion instruments, which develop the knowledge and skills necessary to conduct instrumental as well as choral ensembles

(vi) laboratory experiences in teaching various vocal/choral types of classes such as choruses and general music; and

(g) provide a knowledge of instrumental music in the areas of:

(i) development of knowledge of and performance ability on wind, string and percussion instruments sufficient to teach students in heterogeneous and homogeneous groups

(ii) experiences in solo instrumental performance, as well as in both small and large instrumental ensembles

(iii) experience in using the singing voice as a teaching tool and experiences which develop knowledge and skills necessary to conduct choral as well as instrumental ensembles

(iv) laboratory experience in teaching instrumental students -- individually, in small groups, and in larger classes.

(19) Physical Education and Health K-12. The program shall:

(a) provide a knowledge of the aims and objectives of physical education in schools and the competence to provide learning experiences;

(b) provide basic knowledge in the sciences with preparation in the biological sciences for understanding the structure and function of the human body, including an understanding of the principles of human movement and a basic knowledge of human physiology and anatomy, basic body chemistry, microbiology, genetics and ecology;

(c) provide understanding of skills and capabilities to lead students in a wide variety of physical activities such as fundamental motor skills and exercises, gymnastics, individual and dual sports, team sports and games, mass games and activities, rhythms and dance, camping and outdoor recreation;

(d) provide for knowledge and competencies relative to organizing, planning, administering, and evaluating a total program of physical education. The following competencies are illustrative:

(i) relate physical education as a part of the total education program

(ii) select, purchase, care and maintain facilities, equipment, and supplies

(iii) organize and administer intramural, recreational, and interscholastic programs

(iv) select and use appropriate evaluative techniques of student performance

(v) relate principles, standards and procedures of safety

(vi) possess techniques of good public relations in interpreting the health and physical education program

(vii) organize and administer programs for atypical students

(viii) possess knowledge of legal liability and insurance aspects

(ix) possess knowledge of first aid and athletic training methods and techniques;

(e) provide prospective teachers with an understanding of:

(i) personal health and physical fitness including basic understanding of the body and its vital organs

(ii) community and environmental health including sanitation and pollution

(iii) nutrition including weight control, food fads and diet supplements

(iv) emotional and mental health

(v) physical, social and emotional health hazards of drugs, alcohol and tobacco

(vi) physical and emotional aspects of sex

(vii) communicable diseases (including venereal disease), body defenses and immunization programs

(viii) common physical and mental exceptionalities and degenerative diseases

(ix) consumer health including the selection of health products and professional services and the evaluation of advertising

(x) first aid and emergency care

(xi) safety including outdoor, water, home, industrial and traffic.

(20) Reading Specialists K-12. The program shall:

(a) have a planned sequence, but with sufficient flexibility to allow for differences in the educational background and experience of the prospective reading specialist;

(b) provide the prospective reading specialist with an understanding of the nature of the learner and the learning process with specific application to reading;

(c) assure that the prospective reading specialist has the ability to work effectively with children and youth in developing reading skills and in diagnosing and correcting reading disabilities;

(d) increase the prospective reading specialist's knowledge of the techniques and materials used in reading instruction;

(e) develop the prospective reading specialist's skills to diagnose reading problems of exceptional students and design appropriate instruction;

(f) provide a supervised practicum with children and youth in developmental, corrective, and remedial reading instruction;

(g) include studies, experiences and activities in language arts which increase the prospective reading specialist's comprehension, knowledge and competency in relation to the following:

(i) oral and written language development

(ii) communication skills including vocabulary and concept development

(iii) effect of dialects

(iv) relationship of writing and spelling to reading

(v) relationship of listening to reading;

(h) develop the prospective reading specialist's concept of the reading specialist's role including comprehension, knowledge, and competency in relation to the following:

(i) developing staff understanding and support of the reading program

(ii) organizing and developing community support for a reading program

(iii) organizing, managing and evaluating a reading program for all children.

(21) Science.

(a) General Science. Institutions with a divisional organization may offer a curriculum for the preparation of science teachers through a single division. Others, with a departmental pattern of organization, may offer individual teaching areas through separate science departments, such as physics, chemistry, biology, etc. Whatever the type of organization, the subject matter portion of the teacher's preparation shall constitute a pattern carefully planned in accordance with the following standards and in keeping with the minimum requirements to teach each science area within General Science preparation. The program shall:

(i) require the prospective teacher to attain broad minimum competencies in several fields of science and technology and high levels of competence in a teaching specialty. The program shall provide for the attainment of:

(aa) at least minimum specified levels of competency in the processes of science common to the several disciplines

(ab) at least minimum specified levels of competency in the concepts and principles in several areas of science

(ac) a specified high level of competence in a specialized field in order to be prepared to provide in that field courses and experiences relevant to the high school curriculum;

(ii) provide teachers with the knowledge and experience to illustrate the cultural significance of science, to relate science through technology to social conditions, and to apply the analytical methods of science in multidisciplinary approaches to studying and solving societal problems;

- (iii) provide opportunities for prospective teachers to gain insight into the intellectual and philosophical nature of science and mathematics;
  - (iv) develop the capacity and the disposition for continued learning in science and in the teaching of science subjects;
  - (v) include work in areas related to the subjects to be taught with at least minimal competency in mathematics;
  - (vi) provide experiences that will enable the prospective teacher to learn about the nature of learning, conditions that help young people learn, and how to maintain a proper learning environment;
  - (vii) develop the ability of the future teacher to select, adapt, evaluate and use strategies and materials for the teaching of science or mathematics so that teaching-learning situations will be consistent with general knowledge about teaching and learning and will be appropriate both to the special needs of the learners and to the special characteristics of the science disciplines or the interdisciplinary problem;
  - (viii) emphasize the processes used in investigating scientific phenomena and those used in communicating the findings of such investigations to other science students and to the general public;
  - (ix) take into account the recommendations for curriculum improvement currently being made by various national scientific groups, and incorporate, as well, new teaching strategies that research demonstrates are effective;
  - (x) assure knowledge of the basic principles of biology, chemistry, physics, and earth science with emphasis in one of those areas and at least 15 quarter credits in each of the other three areas;
  - (xi) provide emphasis of the program on breadth rather than on depth including interrelationships among the sciences and the history and philosophy of science;
  - (xii) assure that the prospective teacher will be competent in the use of teaching aids and laboratory equipment of all science fields which are appropriate; and
  - (xiii) assure a knowledge of the current curriculum studies in the various science fields.
- (b) In addition, specific science endorsements will be given based on the following specialized standards:
- (i) Biology. The program shall:
    - (aa) include study and experiences with emphasis on the actual living materials through laboratory and field experiences which promote investigation, inquiry and experimental methods;
    - (ab) assure knowledge of the significant biological phenomena as they appear in micro-organisms, plants and animals, and the relation of these phenomena to the broad areas of biology;
    - (ac) develop for the prospective teacher knowledge of the interrelationship of living organisms with their physical and biotic environments;

(ad) assure knowledge of the characteristics of living organisms in terms of maintenance, regulation, behavior, reproduction, genetics, development, evolution and systematics;

(ae) provide studies and experiences in areas which emphasize the relationships with biology, such as chemistry (including introduction to organic and bio-chemistry), physics, paleontology, behavior, and mathematics;

(af) provide opportunities for the prospective teacher to design, develop and evaluate effective laboratory activities using the special skills and techniques with equipment, facilities, and specimens; and

(ag) assure competency in organizing, presenting, and evaluating subject matter content in ways which provide for optimal learning.

(ii) Chemistry. The program shall:

(aa) provide a systematic and quantitative study of fundamental principles of chemistry, inter-related and illustrated with descriptive and historical material;

(ab) assure competency in organizing, presenting and evaluating subject matter content in a manner which develops the understanding by pupils of the concepts of chemistry;

(ac) assure competency in providing meaningful pupil learning experiences in organic, inorganic, analytical and physical chemistry;

(ad) include studies and experiences which develop for the prospective teacher basic knowledges in physics, biology, and mathematics, including a working knowledge of calculus; and

(ae) provide the prospective teacher with the laboratory skills necessary to design experiments and develop demonstrations which are adjuncts to science methods courses.

(iii) Earth Science. The program shall:

(aa) assure preparation in mathematics and the basic sciences (biology, chemistry, and physics) and a concentration in one of the earth sciences (astronomy, geology, meteorology, and/or oceanography) with supporting work in the other three. A major in the broad field of the earth science is recommended;

(ab) prepare the prospective teacher to view and present earth science as an interdisciplinary science involving the study of the lithosphere, atmosphere, and hydrosphere and their relationship to man's environment;

(ac) place emphasis on field work, assuring a mastery of technique in using the local environment as a laboratory in addition to laboratory demonstrations, experimentation and research; and

(ad) assure competency in organizing, presenting, and evaluating subject matter content in ways which provide for optimal learning.

(iv) Physical Science. The program shall:

(aa) provide for experiences in chemistry and physics in near equal proportions;

(ab) provide for experiences in at least three of the following disciplines: astronomy, biology, geology, meteorology, and physical geography;

(ac) assure that the student has developed a working knowledge of calculus;

(ad) provide for laboratory experience in chemistry and physics as well as in one other science area;

(ae) provide for an understanding of the integration of the physical sciences and the implications of the various sciences for contemporary society; and

(af) assure competency in organizing, presenting, and evaluating subject matter content in ways which provide for optimal learning.

(v) Physics. The program shall:

(aa) provide a systematic and quantitative study of the fundamental topics of physics, interrelated and illustrated with descriptive and historical material;

(ab) emphasize mathematical preparation concurrently with the preparation in physics;

(ac) assure competency in organizing, presenting and evaluating subject matter content in a manner which enhances the development by secondary school pupils of the concepts in physics;

(ad) assure the competency of prospective teachers to provide pupils learning experiences in basic principles of the physics area of classical, atomic and nuclear physics;

(ae) include studies and experiences which develop for the prospective teacher basic knowledges in biology, chemistry, and mathematics including an introduction to differential equations; and

(af) provide the prospective teacher with the laboratory skills necessary to design, develop, and evaluate effective laboratory activities using and providing proper maintenance of equipment.

(22) Social Science. The social science programs may follow the subject-major pattern. Or, the program may follow the comprehensive-major pattern, embracing a broad base social studies program including history, sociology, government, economics, psychology and geography with a concentration in one field. In Montana this concentration must be coupled with the equivalent of 15 quarter credits in at least three other social studies areas. Curriculums leading to a certificate in a discrete subject (history, political science, et al) must meet provision (a) of subsection (21) of section 2.12(3)-S12080 and the appropriate provisions (b) through (g) of that subsection.

(a) The teacher education program shall provide training and experience which will enable the teacher to:

(i) organize learning experiences which facilitate growth in group processes and human relations skills which include: the ability to feel for others, the ability to examine one's own feelings in the process of developing a positive self concept, the recognition that all human problems cannot be handled with scientific precision, and the ability to work effectively with others as a member of a group;

(ii) demonstrate a process approach to teaching social studies which utilizes the various structures and inquiry tools drawn from the social science disciplines;

(iii) organize content data from the various social sciences into teaching/learning sequences;

(aa) develop learning units based on meaningful factual information as the content base;

(ab) analyze the content data to determine the major concepts involved;

(ac) arrange the major concepts and data into learning sequences which help students discover the relationships between facts, concepts and generalizations;

(ad) organize teaching/learning strategies in a manner that students may proceed from factual information to the development of theories;

(iv) utilize the scientific processes in teaching the social studies and organize material for instruction which provides maximum opportunity for students to make:

(aa) observation in a variety of ways that utilize all of the senses; the observations may be used to collect data or develop awareness of problem areas for study;

(ab) classifications which emerge from the observations of objects and events. Classification schemes are based on observable similarities and differences;

(ac) inferences which are tentative conclusions about what is not directly or immediately observable. Inferring requires evaluation and judgment of data;

(ad) hypotheses which emerge from inferences and predictions and can be tested by a proof process;

(ae) predictions about the consequences of a solution to a particular problem of issue. The reliability or prediction depends upon the accuracy of past observations and upon the nature of the event being predicted;

(af) test hypotheses by designing and using data gathering procedures to determine whether the data support the hypotheses;

(v) utilize a variety of processes in examining controversial and value-related issues;

(aa) utilize the valuing process in examining and clarifying one's attitudes, beliefs, and values;

(ab) employ a process which permits one to examine the affective as well as the cognitive input into controversial issues;

(vi) develop and demonstrate the ability to think critically and to formulate a rational basis for decision making;

(aa) demonstrate the application of social studies data by constructing charts, maps, tables, graphs, and other pictorial models;

(ab) demonstrate the necessary skills in library research which utilize the latest information from national depositories and clearinghouses;

(ac) utilize appropriate levels of questioning which will elicit student response from recall through evaluation;

(vii) demonstrate the use of simulation and gaming techniques in the teaching of social studies;

(aa) organize materials for instruction using simulation games as a means of providing students direct experience with selected concepts;

(ab) develop a simulation game or role playing situation for selected content;

(ac) employ aspects of gaming in teaching social studies.

(b) Economics. The program shall enable the teacher to:

(i) recognize the impact of economic principles and processes as related to problems and practices in diverse economic systems;

(aa) illustrate how basic economic decisions are made with regard to production, consumption, and distribution;

(ab) recognize that all economic systems are confronted by the problem of unlimited wants and limited resources;

(ac) describe how the pattern of economic arrangements within a society reflect the values and objectives of that society;

(ad) appraise the concept of comparative advantage and how it relates to the exchange of goods and services among developed and developing nations of the world;

(ae) compare the economic performance of different cultural groups;

(af) compare the effect of production on the industrial power of different nations;

(ag) analyze the potential standards of living among nations by examining factors of production;

(ah) examine the concept of specialization and the resultant interdependency within and among nations;

(ai) analyze economic fluctuations that have resulted from periods of inflation, deflation or depression;

(aj) recognize the feelings and perceptions of the people during periods of economic fluctuations;

(ak) assess the major value difference and resulting conflict situations that occur during periods of inflation, deflation, or depression;

(al) analyze the causes of economic fluctuations and the development of policies to cope with these problems.

(c) Geography. The program shall enable the teacher to:

(i) identify the effects that spatial relationships, physical environments, and regionalization have on the development of the human experience;

(aa) trace the changes affecting the nature of a locale through time;

(ab) analyze the effects of site and situation on developing cultures and life patterns;

(ac) hypothesize as to why different human activities occur in regions of similar natural factors;

(ad) hypothesize as to why similar human activities occur in regions of different environmental conditions;

(ae) assess the impact of the uneven distribution of human numbers and the resultant pressure of those numbers on the physical resources of selected areas of the world;

(af) appraise adverse conditions associated with the use of human space: crime, slums, pollution, value systems, degeneration and deterioration, and deterioration of other physical, mental and moral qualities;

(ag) demonstrate a knowledge of the earth's physical environment and its influences on the development of culture;

(ah) analyze the factors of the natural environment and man's ability to alter them in a positive or negative way;

(ai) select a portion of the world and analyze its physical and cultural component parts;

(aj) analyze current environmental problems and examine the roles of individuals, societal agents, and technology on developing and effecting solutions;

(ak) analyze the use of formal and functional regions in the organization of space;

(al) evaluate the region as a planning device for making rational use of the earth's resources by evolving strategies and establishing priorities;

(am) analyze the region as a convenient method of organizing space and employ regional systems as a useful framework for handling large amounts of diverse information;

(an) assess the disorganization of space and those factors that account for discontinuity.

(d) Government. The program shall enable the teacher to:

(i) articulate the fact that every society has some authority structure which can be recognized as a government, which has been created by the interdependence of individuals and groups within the society;

(aa) illustrate that decisions, policies and laws made by a given society reflect and are based on the values, beliefs, and traditions of the society;

(ab) cite examples of the interrelatedness of the political aspects of a culture with the economic, social, geographic and environmental factors and problems within a culture;

(ac) analyze the current political actions and attitudes of a society in relation to its prior history;

(ad) examine critically governmental systems, not only as forms of government, but also as methods, processes and reflections of societal convictions;

(ae) identify sources of political power and authority;

(af) examine political ethics as a reflection of the moral conduct of the society as a whole;

(ag) demonstrate a knowledge of the processes involved in conflict resolution and public policy adjudication in a society;

(ah) illustrate how public policy evolves from the bargaining and compromising among competing demands of influential groups;

(ai) analyze the governmental structures and institutions established to protect public policy decisions and enforce them on the society at large;

(aj) examine the agencies created to protect the rights, liberties, and obligations of each member or group within the society;

(ak) explain methods of interest articulation and communication as practiced by interest groups, pressure groups, and lobbies in various systems.

(e) History. The program shall enable the teacher to:

(i) gain a knowledge of the human past as a means in understanding the present and the possibilities for the future;

(aa) understand the relationship of history to the social sciences in explaining the human experience;

(ab) recognize that history is a response to the eternal desire of man to know about himself and others;

(ac) understand that history is concerned with societies as well as individuals;

(ad) recognize that history emphasizes the uniqueness of man's experience both individual and collective;

(ae) understand that continuous and unrelenting change has been a universal condition of human society throughout remembered and recorded time;

(af) understand that each generation tends to create and re-write history in terms of its own needs, aspirations and points of view;

(ag) recognize the record of the past is irremediably fragmentary, selective and biased;

(ah) develop the realization that the past should be examined in light of contemporary standards, values, attitudes and beliefs rather than exclusively by modern standards;

(ai) understand that history has the obligation to reassess and reinterpret the past, bringing it to bear on the present and translating it into a form each new generation can use;

(aj) understand that a knowledge of the possibilities of history can help people in influencing a more favorable course for the human race;

(ak) develop an awareness of the value dilemmas of modern times and the prospects for resolving the dilemmas;

(al) develop an understanding of the interrelated factors--economic, social, cultural, political, geographical and intellectual--that have shaped historical development.

(am) understand that multiple causation is the dominant pattern in explaining the human past and that historical events can seldom be explained in terms of a simple, one-to-one, cause and effect relationship;

(an) identify knowledge from areas of study that are important to the modern student and relevant to his needs as an intelligent being: Montana and the Rocky Mountain region; the United States; European and non-western civilization.

- (f) Psychology. The program shall enable the teacher to:
  - (i) develop an understanding of behavior in man and other animals;
  - (ii) apply investigative and scientific methods to the study of behavior;
  - (iii) develop an understanding of the effects of stimuli on behavior;
  - (iv) be aware of the cultural influence on behavior and the modification of it;
  - (v) recognize and explain behavior classified as deviant.
- (g) Sociology. The program shall enable the teacher to:
  - (i) develop an awareness of the various aspects of human behavior which are related to the fact that man lives in groups;
  - (aa) develop an understanding of the diverse and similar patterns of human groupings in relation to specific cultural values;
    - (ab) recognize that every society develops a system of roles, norms, values, and sanctions to guide behavior of individuals and groups;
    - (ac) analyze the general structure of society in terms of the following concepts: values, institutions, organizations, groups, status positions, and social roles, and recognize that any given concept is concerned with the similarities and diversities of society as well as with the interrelationships among the concepts;
    - (ad) develop an awareness that diversity and variations exist within a given and comparative social structure;
    - (ae) illustrate that no society is completely harmonious; some form of social disorganization is present in all societies;
    - (af) be aware of how culture is adapted to serve man's needs as well as how man adapts to cultural conditions.
- (23) Speech. The program shall:
  - (a) provide for competencies in the area of speech fundamentals, public address, oral interpretation, dramatics and simple speech problems;
  - (b) provide for the development and demonstration of personal proficiency in oral communications; and
  - (c) include experience with dialects and other regionalisms regarding their origin, development and place in contemporary culture.
- (24) Trades and Industry. Teacher preparation for teaching in many such occupational areas requires the baccalaureate degree as a prerequisite for beginning teaching.
  - (a) If a student is admitted to the occupational education program without appropriate occupational training and/or work experience, the institution shall arrange such vocational training and/or supervised work experience as part of the program.
  - (b) The general education requirements shall be based on studies which include the humanities, mathematics, natural sciences, social studies and behavioral sciences and shall be designed to acquaint the learner with the areas of human experience to which he has not yet been exposed.

(c) The professional education program in occupational areas shall allow for necessary modification from the requirements described in this rule. If trade and industry teachers begin to teach without student teaching, the programs shall include on-the-job supervision by the preparing institution during the first year of teaching.

(25) Traffic Education. The program shall:

(a) require that the candidate for the traffic education certificate possess a standard teacher's certificate in another area of certification;

(b) include opportunities for the candidate to experience student teaching in theory classes and behind-the-wheel situations under professional supervision;

(c) provide the candidate with specific knowledge of administrative procedures, practices, and policies required for organizing and operating an approved traffic education program;

(d) develop the candidate's ability to assess current trends and provide information about current materials and innovative methods in traffic education; and

(e) develop for the candidate an awareness of the necessity to provide students with positive attitudes toward safe driving as well as with the required skills for safe driving.

48-2.12(3)-S12090 Programs for Teachers Developing Qualifications in Additional Fields These programs are designed for teachers holding at least an initial regular teaching certificate who desire to develop competencies in a different teaching field.

(1) The program shall be designed to produce competencies at least equivalent to those developed by programs approved as meeting the standards for basic programs in the teaching field as outlined above.

(2) When necessary, laboratory experiences shall be provided under the jurisdiction of the preparing institution.

#### Subchapter 4 - CURRICULUM PRINCIPLES AND STANDARDS: ADVANCED PROGRAMS

##### 48-2.12(4)-S12100 Program Development, Planning and Patterns

(1) Responsibility for assuring the quality of the various post-baccalaureate programs of advanced study in education within an institution shall be centralized and vested in a single specifically designated administrative unit. Although aspects of this responsibility may be shared with appropriate units or committees, responsibility shall be unified, specific, widely understood and generally accessible. The assurance of the quality of programs is the essential value involved. The provisions for communication, cooperation and deliberate coordination shall be clear in institutions operating several programs. Data shall be available to indicate the objectives being served, the unique and cooperative program provisions, and the means of program evaluation. Furthermore, evidence concerning such evaluation shall be accessible.

Those institutions offering both graduate and undergraduate programs shall maintain consistency in philosophy, principles, and objectives upon which teacher education programs are based. The Board of Public Education is responsible for stimulating the development of objectives by all concerned, for developing legal policies, and for evolving and carrying out appropriate procedures for certifying teachers. The institutions shall be responsible for designing actual programs within the meaning and scope of such objectives and policies and within the guidelines of the Board of Regents.

(2) All programs beyond the baccalaureate for educational personnel shall include the following common development and planning areas:

(a) Program objectives shall be stated specifically and an outline of each program shall be published giving evidence of the provision for achieving the objectives of the program. When two or more related kinds of student objectives are served within one broad program, the provisions for achieving each shall be made clear.

(b) Planning shall make clear the provisions for assuring scholarship in depth appropriate to the announced level. Each program shall clearly provide for maintaining quality of scholarship.

(c) Programs shall provide sufficient breadth of coverage to enable the student to develop supporting and related competencies and insights in addition to a major emphasis.

(d) Each advanced study and specialization program shall be supported by adequate resources of staff, equipment, special facilities, library and general institutional backing to provide maximum quality in each program.

(e) Curriculum designed for the development of initial competence in teaching or in an area of educational specialization shall include a program of supervised practical experience in the functions for which the student is being prepared. This program shall be designed both to develop competence and to serve as a basis for evaluating the student's performance and for recommending appropriate certification and/or a master's degree. Adequate time for both on-campus and off-campus experiences shall be provided to meet these objectives.

(f) Each program shall have sufficient flexibility to permit adaptation to the individual backgrounds and objectives of the students.

(g) Institutions shall be responsible to the Board of Public Education for evaluating and recommending their graduate students with reference to their special competencies in terms of specific program objectives.

(3) The application of operating controls shall be such as to guarantee the integrity of each program and shall include:

- (a) an advisory system for advanced study programs which:
- (i) reflects attention to individual student potentialities
- (ii) utilizes all instructional resources, and
- (iii) recognizes the rapid growth of knowledge;

(b) selective admission and retention procedures to maintain a quality of students in each program appropriate to its objectives;

(c) student evaluation and degree requirements supporting the admission and selective retention procedures in harmony with program objectives over and above general institutional requirements;

(d) program evaluation procedures assuring continued professional appraisal and improvement;

(e) residence requirements academically appropriate to the objectives of the programs in which they apply;

(f) internal provisions giving evidence of harmony between objectives and prerequisites, to the effect that such prerequisites and program provisions together shall form a consistent and interrelated whole.

48-2.12(4)-S12110 Advanced Programs for Teachers Holding Initial Regular Certificates (1) Admission to such programs shall be open to persons who already hold the initial regular teaching certificate in the teaching field. The emphasis, in both content and rigor, should be on advanced study.

(2) Content shall provide for breadth in the field, for the detailed study of one or more specialized aspects of the field, and for access to new research and developments. This applies to programs in subject fields, and/or professional education.

(3) Learning procedures shall be appropriate to the competence of the students and to their growing knowledge in the area of specialization.

48-2.12(4)-S12120 Specific Programs for Supervisory and Administrative Specializations

(1) Supervisors. The program shall:

(a) have well-defined criteria for admission which shall include professional experiences in the schools;

(b) provide for increased understanding of the crucial and dynamic role of the school in our culture and for the development of the knowledge and skills needed to focus the resources of the school on recognized social concerns;

(c) provide an advanced level of preparation with emphasis on recent research and new developments in the area to be supervised;

(d) develop competence in understanding principles and practices in curriculum development and interpreting this development to others;

(e) provide competence in understanding learning theory and in applying such theory to the improvement of teaching;

(f) develop competence in school supervision with emphasis on the individual and on group processes; and

(g) be designed to facilitate the acquisition of those competencies deemed essential for effective supervision and shall include supervised experiences in schools to provide an opportunity to:

- (i) observe how supervisors discharge supervisory duties
- (ii) gain knowledge of essentials in successful school supervision
- (iii) acquire theoretical understandings of successful school supervisory practices
- (iv) learn about school organization and essentials of coordination of various aspects of the school program
- (v) acquire supervisory competence through practice carefully assessed by administrative or supervisory personnel.
- (2) School Principals. The program shall:
  - (a) have well-defined criteria for admission which shall include professional experiences in the schools;
  - (b) assure that a graduate will have acquired:
    - (i) knowledge of a broad range of learning experiences and an understanding of the interrelationships involved
    - (ii) administrative and supervisory knowledge and skills
    - (iii) knowledge and skills related to group dynamics and curricular improvements
    - (iv) understanding of the particular rights, responsibilities and ethics inherent in professional service
    - (v) knowledge and skills related to school-community relations
    - (vi) ability to conceptualize the interrelationships of the various disciplines
    - (vii) knowledge of school law
    - (viii) competence in research and development with specific application to school programs and administration;
  - (c) be flexible enough to allow for individualized programs of study and experience;
  - (d) provide for supervised off-campus practicum which aids in integrating theory and effective school practices;
  - (e) be designed to use selection, retention and final evaluation procedures which identify candidates possessing the qualities of leadership, sensitivity, and scholarship along with the human relations skills and insights necessary for effective selection and continuing development of personnel;
  - (f) provide for comprehension of learning theory and competence in applying such theory and to the evaluation and improvement of learning and teaching; and
  - (g) provide for understanding of the crucial and dynamic role of the school in our culture and knowledge and skills needed to focus the resources of the school on recognized social concerns.
- (3) School Superintendents. The program shall:
  - (a) have well-defined criteria for admission which shall include professional experiences in the schools;
  - (b) be designed to assure competence in administration of educational programs, administration of funds and facilities, personnel administration and continuing staff development;
  - (c) assure development of competence in such administrative processes as: discovering, diagnosing, goal setting, planning, decision making, establishing priorities, organizing, delegating, communicating and evaluating.

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(d) provide for understanding of the crucial and dynamic role of the school in our culture and knowledge and skills needed to focus the resources of the school on recognized social concerns;

(e) be based on selection, retention, and final evaluation procedures which will assure candidates who possess qualities of leadership, sensitivity, and scholarship along with the human relations skills and insights necessary for effective selection and continuing development of all school personnel; and

(f) include studies, experiences, and activities which increase a candidate's comprehension, knowledge and competency in relation to the following:

- (i) the learner and the learning process
- (ii) curriculum development
- (iii) school organization and operation
- (iv) supervision of professional and non-professional personnel
- (v) school board relationships, school law, professional personnel responsibilities, negotiations, school finance, and public relations
- (vi) relevant concepts from the social and behavioral sciences
- (vii) performance and interpretation of research and development with specific applications to school programs and administration
- (viii) dealing with school-community needs.

#### Subchapter 5 - INNOVATIVE AND EXPERIMENTAL PROGRAMS

48-2.12(5)-S12130 Types of Programs "Innovative and experimental programs" include but are not necessarily limited to the following:

- (1) New Approaches: programs designed to develop new approaches, new arrangements, and/or new contexts for the preparation of school personnel.
- (2) New Positions: programs designed to prepare school personnel for new types of positions that are emerging on the education scene.
- (3) Special Needs: programs designed to meet the special needs of particular segments of our society.
- (4) Specific Curricular Areas: programs designed for specific curricular areas for which recognized standards have not been developed.

48-2.12(5)-S12140 Standards (1) A clear statement justifying the request for the approval of an experimental or innovative program shall be provided and it shall include the assumptions, rationale and objectives on which the proposed program is based.

(2) Each program shall be based upon a statement of the purpose and objectives of teaching in this area of the public school curriculum and upon a well-formulated statement of the nature of the public school program that is needed to accomplish

these objectives. These statements shall be prepared cooperatively by the agencies concerned with teacher education, shall be based on analyses of current practices and trends in this field of the public school curriculum, and shall be available in writing.

(3) Each program shall include a clearly formulated statement of the competencies needed by teachers in this area of the public school curriculum. These competencies shall include the required attitudes, knowledges, understandings, and skills and also the degree of expertise necessary for the beginning teacher. This statement of competencies shall be available in writing, and shall be based upon the statement developed in the preceding standards regarding the objectives and program of the school.

(4) The administrative structure of the program shall be such that responsibility for the program is vested in the preparing institution. Institutions which accept responsibility for the education of teachers shall establish and designate the appropriate division, school, college or department within the institution to act within the framework of general institutional policies on all matters relating to such programs.

(5) The experimental program shall include a description of the process by which the personnel will be prepared, provision for keeping records of the students' progress in the program, and arrangements for systematic review of the process at stated intervals by both institution and the Office of Public Instruction.

(6) The program shall be supported by identified human and physical resources. The continuing availability of the resources shall be assured for the duration of the program. Any resources not under the control of the teacher education institution shall be outlined and confirmed by the Board of Public Education.

(7) The innovative-experimental program shall include the following timetable which sets forth the starting and terminal dates:

- (a) the sequence of activities that will occur;
- (b) the anticipated schedule of evaluative check points;
- (c) the identification of competencies or other changes at selected intervals in the program.

The timetable shall give the approximate dates on which periodic program reports are to be submitted to the appropriate institutional officials and to the Superintendent of Public Instruction.

(8) The experimental program shall provide for continuing evaluation with definite provisions for performance criteria and for follow-up at specified intervals. The evaluation plan shall include definition and specification of the kinds of evidence that will be gathered and reported. Evaluation shall provide information to identify areas in the program that need strengthening and to suggest new directions for program development.

Subchapter 6 - STANDARDS FOR APPROVING COMPETENCY-BASED OR PERFORMANCE-BASED PROGRAMS

48-2.12(6)-S12150 Standards for Approving Competency-Based or Performance-Based Programs The standards which follow apply to all competency-based and performance-based teacher education programs.

(1) For each preparation program the institution shall develop and adopt an explicit statement of "program exit" competencies that relate to the entry-level professional role. These competencies must include all of the criteria implicit in the General Standards (48-2.12(3)-S12070) and Specific Standards (48-2.12(3)-S12080) of Subchapter 3.

(2) The institution shall provide a program design:

(a) relating the competencies (cited in (1) above) to modules, subcourses or courses;

(b) listing the learning activities involved; and

(c) specifying the assessment techniques used to verify the attainment of these competencies.

(3) The institution shall formally assess follow-up data to determine the relationship between "exit" competencies and initial professional role performance. Such assessment shall be considered in program development.

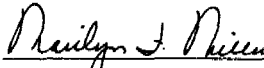
(4) The institution's performance in the development and verification of a candidate's role competency and in collecting and using follow-up data shall be determined by an on-site evaluation team designated by the Office of Public Instruction.

4. The Board is proposing this rule to fulfill their constitutional authority to ensure reasonable training for teachers, supervisors, and administrators as dictated under Montana school law and to provide a basis for interstate reciprocity of teacher certification. Such reciprocity is sought to enable graduates of Montana's public and private colleges and universities to more easily qualify for teacher certification in other states.

5. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may be submitted to Harriett C. Meloy, Acting Chairperson of the Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, at any time prior to February 2, 1979. Written data, views or arguments received by the Board after February 2, 1979, or post mark dated after February 2, 1979, may not be considered in the adoption of the rule.

6. Harriett C. Meloy, Acting Chairperson of the Board of Public Education, has been designated to preside over and conduct the hearing.

7. The authority of the agency to make the proposed rule is based on sections 75-6001, 75-6002 and 75-6012, R.C.M. 1947.

A handwritten signature in cursive script, reading "Marilyn J. Nissen", is written over a horizontal line.

ASSISTANT TO THE BOARD OF PUBLIC  
EDUCATION

Certified to the Secretary of State December 19, 1978

BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES  
OF THE STATE OF MONTANA

In the Matter of the amendment	)	NOTICE OF THE
of Rule ARM 16-2.14(1)-S1410,	)	AMENDMENT OF
defining a term used in the	)	RULE ARM 16-2.14(1)-S1410
air quality rules	)	(Definitions)

TO: All Interested Persons:

1. On September 14, 1978, the Board of Health and Environmental Sciences published notice of a proposed amendment to rule 16-2.14(1)-S1410 concerning a change in the catchphrase and the addition of a definition for "opacity" at page 1338 of the 1978 Montana Administrative Register, issue number 11.

2. The Board has amended the rule as proposed.

3. At a public hearing, a representative of Cenex suggested that the proposed definition be modified to authorize the setting of opacity standards which correlate with particulate emission standards so as to exclude the possible influence of uncombined water.

A representative of the Continental Oil Co. commented that he wanted to be sure that the proposed definition of opacity conformed with the federal definition found in 40 CFR, Section 60.11.

The Board overruled the concerns of Cenex, based upon response by the Department of Health and Environmental Sciences that the use by the Department of EPA test method 9 excludes water vapor from opacity readings and to require the setting of particulate emission standards for each source in lieu of an opacity reading would be placing an unwarranted burden on the Department.

The Board also was assured by the Department that the opacity definition conformed to the federal standard and those of most other states.

In the Matter of the amendment	)	NOTICE OF THE
of Rule ARM 16-2.14(1)-S1460,	)	AMENDMENT OF
restrictions on visible air	)	RULE ARM 16-2.14(1)-S1460
contaminants	)	(Visible Air Contaminants, Restrictions)

TO: All Interested Persons:

1. On September 14, 1978, the Board of Health and Environmental Sciences published notice of a proposed amendment to rule 16-2.14(1)-S1460, concerning restrictions on the emission of visible air contaminants at page 1344 of the 1978 Montana Administrative Register, issue number 11.

2. The Board has amended the rule as noticed with the following changes:

16-2.14(1)-S1460 VISIBLE AIR CONTAMINANTS, RESTRICTIONS

(1) ~~No person shall cause, suffer, allow or permit emissions from any installations which are:~~  
~~(a) -- of a shade or density darker than that designated as No. 2 on the Ringelmann Chart; or~~  
~~(b) -- of such opacity as to obscure an observer's view to a degree greater than does smoke described in subsection (1)(a) of this regulation.~~

~~This section does not apply to existing incinerators or existing wood waste burners.~~ No person shall cause or authorize emissions to be discharged into the outdoor atmosphere from any source installed on or before November 23, 1968, which exhibit an opacity of forty percent (40%) or greater averaged over six (6) consecutive minutes. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO TRANSFER OF MOLTEN METALS OR EMISSIONS FROM TRANSFER LADLES.

- (2) Same as proposed rule.
- (3) Same as proposed rule.
- (4) Same as proposed rule.

3. The agency has amended this rule in order to eliminate outdated references to existing and new sources; to substitute opacity readings for Ringelmann Chart as the test for compliance; and to clarify other provisions.

The Anaconda Co. commented at a public hearing that the present rule excludes from its coverage those visible emissions caused by transfer of molten metals or transfer ladles while the proposed rule as amended would apply to them and impose a standard that it cannot meet. It urged that the original exclusion be retained.

Representatives of several companies argued that the proposed amendments would conflict with rule 16-2.14(1)-S14082, new source performance standards, which allow an exemption for start-up, shut-downs and malfunctions. They urged the Board to exempt these occurrences in this rule.

Arguments were also advocated that a greater time period and a more lenient standard of opacity be allowed for soot-blowing. It was argued that a greater time period was necessary from an engineering standpoint to complete the soot-blowing process, although the representatives could not agree on a revised time period.

A Montana Sulfur Co. representative argued that those industries subject to any particulate emission regulation under rule 16-2.14(1)-S1430 should be exempt from this rule.

The Board agreed with the arguments advocated by the Anaconda Co. and agreed to retain the exemptions it was concerned with. The Department testified that it could not foresee any conflicts between the proposed rule and rule 16-2.14(1)-S14082, occurring in Montana and so the Board decided not to amend the proposed rule to reflect this concern.

Although the Board recognized that the present four-minute period for soot-blowing needs revision, additional study is needed before setting a new standard and no action was therefore taken implementing these requested changes sought by industry. The Board decided that it would be best to incorporate exemptions for malfunctions, start-ups and shut-downs in rule 16-2.14(1)-S14000, and not in this rule as advocated; therefore the Board decided against that proposal.

The Board determined that it would continue subjecting some sources to both a visible emission contaminants restriction and particulate restrictions, thus deciding against the expressions of Montana Sulfur Co.

In the matter of the adoption	)	NOTICE OF THE
of a rule establishing stand-	)	ADOPTION OF
ards for stack heights and	)	RULE ARM 16-2.14(1)-S14086
dispersion techniques used for	)	(Stack Heights and
air pollutant emission limita-	)	Dispersion Techniques)
tions	)	

TO: All Interested Persons:

1. On September 14, 1978, the Board of Health and Environmental Sciences published notice of the proposed adoption of a rule concerning the credit to be given to stack heights and other air pollutant dispersion techniques as air pollutant emission controls at page 1349 of the 1978 Montana Administrative Register, issue number 11.

2. The agency has adopted the rule as proposed with the following changes:

16-2.14(1)-S14086 STACK HEIGHTS AND DISPERSION TECHNIQUES.

(1) Same as proposed rule.  
(2) Same as proposed rule.  
(3) This rule shall not apply to stack heights in existence, or dispersion techniques implemented, prior to December 31, 1970, or to non-ferrous smelters operating under non-ferrous smelter orders obtained pursuant to section 119 of the Federal Clean Air Act as amended on August 7, 1977.

3. The Board adopted this rule in order to have a formula that would assist in determining good engineering practice stack height and the reduction of air pollutant emissions necessary for certain non-attainment areas under the Montana State Implementation Plan of the Federal Clean Air Act.

At the public hearing, several comments were made

which urged the Board to await promulgation of a rule limiting the pollution control credit that could be given to stack heights until after the U.S. Environmental Protection Agency (EPA) adopted its rule.

Comments were made by several representatives of industry that the Board should incorporate by reference section 123 of the Federal Clean Air Act so that the state rule would agree with the federal rule when one is finally promulgated.

Questions were also raised as to whether the Board intended to physically limit stack heights by this rule and whether it would apply to flares.

A representative of one company advocated a change in the proposed definition of "excessive concentrations". Another company urged the Board to await the federal regulation because the proposed rule would be difficult to apply to sources such as petroleum refineries that do not have rectangular shapes.

Comments were also received which stated that emergency flaring operations should be excluded; that if the best available control technology (BACT) and reasonably available control technology (RACT) were being met, no limit on stack height should apply, and that 30 meters as the good engineering practice stack height was too low a figure.

A final comment was made that the proposed rule should be modified to clearly indicate that sources receiving a non-ferrous smelter order under section 119 of the Federal Clean Air Act as amended in 1977 were exempt from this rule.

The Board considered the arguments advocating postponing adoption of a state rule until after EPA has acted and decided in favor of promulgating a state rule now in view of a need by the Department for this rule in preparing plan revisions for the state implementation plan. Arguments to incorporate by reference a federal rule were not accepted for similar reasons.

The Board thought that the proposed rule should apply to flares based upon comments by the Department that the preamble of two proposed federal drafts clearly indicates that flares are covered. The rule was not intended, however, to physically limit stack heights. The definition of "excessive concentrations" was retained as proposed in that it agreed with the proposed federal drafts. Although the Board recognized that the proposed rule would be difficult to apply to some sources such as petroleum refineries, it was decided that the rule would be amended at a later date. The Department stated that it would propose amendments to clarify some of these problems of application after EPA promulgated the federal rule.

The Department advised the Board that it interpreted section 123 of the Federal Clean Air Act as not authorizing full credit for a stack even if BACT or RACT was met. With regard to the comment on expressly recognizing an exception for

sources with non-ferrous smelter orders, the Department thought that such an express exclusion was unnecessary but had no objections to it. Thirty (30) meters was the figure chosen for good engineering practice stack height in the drafts of the federal rule and it should therefore be adopted for the time being in the state rule.

In the matter of the amendment )	NOTICE OF THE
of Rule ARM 16-2.14(1)-S1420, )	AMENDMENT OF
establishing standards for )	RULE ARM 16-2.14(1)-S1420
incinerators )	(Incinerators)

TO: All Interested Persons:

1. On September 14, 1978, the Board of Health and Environmental Sciences published notice of proposed amendments to rule 16-2.14(1)-S1420 concerning the regulation of incinerators at page 1339 of the 1978 Montana Administrative Register, issue number 11.

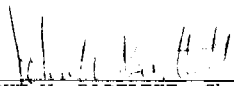
2. The Board has amended the rule as proposed.

3. This rule was amended by the Board to remove outdated language and to substitute the opacity standard for references to the Ringelmann Chart.

Comments were received at the public hearing that this rule should not apply to petroleum and chemical process waste incinerators for they are already subject to ARM 16-2.14(1)-S1430 or 16-2.14(1)-S1460, and they do not contain carbon dioxide. Concern was also expressed over the discretionary power given to the Department by the rule to require a source to operate between 8:00 a.m. and 5:00 p.m., in view of the many sources' needs to operate on a 24-hour basis.

The Department responded to these comments by indicating that a question exists at the present time as to the applicability of the rule to process incinerators and that the Department had not studied the issue sufficiently to make a decision at this time. It also stated that the daylight hours provision would be used carefully and that adequate checks were available to prevent Department abuse of such authorization. The Department suggested that it study the comments for future amendment and report back within a year.

The Board considered the comments and the Department's responses to the proposed amendments and it decided to amend the rule only to the extent noticed in the register at this time.

  
JOHN W. BARTLETT, Chairman

Certified to the Secretary of State December 19, 1978

Montana Administrative Register

18-12/28/78

BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES  
OF THE STATE OF MONTANA


In the matter of the	)	NOTICE OF THE AMENDMENT
amendment of	)	OF ARM 16-2.14(1)-S14030
ARM 16-2.14(1)-S14030,	)	(Wood-Waste Burners)
air quality standards for	)	
wood-waste burners	)	

TO: All Interested Persons

On September 14, 1978, the Board of Health and Environmental Sciences published notice of proposed amendments to Rule ARM 16-2.14(1)-S14030, air quality standards for wood-waste burners at page 1346 of the 1978 Montana Administrative Register, issue number 11.

2. The Board of Health and Environmental Sciences amended the rule as proposed.

3. No comments or testimony in opposition to the amendments were received. The Board of Health and Environmental Sciences amended the rule for purposes of eliminating obsolete and unnecessary language, implementing a change in methods for determining compliance with the visibility restrictions under subsection two, and reorganizing the rule. Existing and new wood-waste burners have had to meet the same standards for a number of years and so they are all treated as one class under the amended rule. The department was desirous of utilizing the U.S. Environmental Protection Agency's opacity method for determining compliance with visible air contaminant standards and so the references to the Ringelmann Chart have been replaced by opacity. Opacity is defined under ARM 16-2.14(1)-S1410. The requirement for reporting employee names and their duties to the department is unnecessary and was discontinued.

  
\_\_\_\_\_  
JOHN W. BARTLETT, Chairman  
Board of Health and Environmental  
Sciences

Before the Department of Public Service Regulation  
of The State of Montana

In the matter of the Adoption of )	NOTICE OF THE ADOPTION
a New Rule regarding Minimum Fil- )	OF NEW RULE I
ing Standards for Motor Carrier )	
Rate Increases. )	

TO: All Interested Parties

1. On August 10, 1978, the Department of Public Service Regulation published notice of proposed adoption of a rule concerning minimum filing standards for motor carrier rate increases at page 1143 of the 1978 Montana Administrative Register, issue number 9.

2. The Commission has adopted the rule with the following changes:

Rule I has been assigned 38-2.6(2)-S6200 COMPARISON OF PRESENT AND PROPOSED RATES and has been adopted with the following changes:

(1) No change.

(2) Independent Carrier Filings. Income statements and balance sheets must be submitted for the last two calendar or fiscal years. Where possible, that year should run from January 1 through December 31, or other established regulatory fiscal year (i.e., four 13-week periods).

(a) A pro forma ~~or future year~~ income statement must be submitted which includes all known expense increases, along with the revenue derived from the current requested increase.

(b) No change.

(c) No change.

(3) Rate Tariff Bureau Filings. When submitting a bureau filing, all carrier's data must be submitted for the same time frame with no overlapping periods.

(a) A consolidated income statement for ~~each of the two previous last~~ calendar or fiscal years must be submitted. A consolidated pro forma income statement must be submitted, including all known expense increases and the revenue to be derived from the requested increase.

(b) A verified statement must be supplied on a consolidated basis. ~~only, however, the individual carrier's forms must be verified-~~ Individual carrier's forms must be filed and verified and shall include all back-up data for significant expense increases.

(c) No change.

(d) The carriers submitting detailed information will account for at least ~~75%~~ 65% of the issue revenue.

(4) Carriers That File With The I.C.C. A copy of the annual report filed with the I.C.C. must be attached. If two or more applications are filed during the year, only one annual report must be filed with this Commission. However, Class III I.C.C. carriers need not file their I.C.C. reports with the Commission.

(5) No change.

(6) For good cause shown substantial compliance with

these rules will be considered sufficient.

3. Carriers expressed concern at the public hearing that the proposed minimum filing requirements would overwhelm smaller carrier operations which lacked necessary staff and expertise. While maintaining uniform standards for carriers in general a clause has been inserted to permit substantial compliance upon a showing of good cause. The I.C.C. reports of Class III I.C.C. carriers need not accompany their tariff filing with the Commission. No additional information would be supplied by the less-detailed I.C.C. reports. Moreover Rule I(3) has been amended to require only the most recent years financial statement to avoid the redundancy of annually requiring two years worth of statements.

Widely divergent figures were offered at the hearing as an alternative to the 75% figure proposed in Rule I(3)(d). This has been revised downward to 65% in an effort to set a more acceptable standard.

Wording which was found ambiguous at some points has been revised for clarity.

4. Authority of the Department to make the proposed rule is found in §§8-103, 82-4204 and 82-4204.1, R.C.M. 1947.

  
F. J. GILFEATHER  
Acting Chairman

CERTIFIED TO THE SECRETARY OF STATE December 19, 1978.

BEFORE THE DEPARTMENT OF PUBLIC SERVICE REGULATION  
PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

In The Matter of the Adoption of )	NOTICE OF ADOPTION OF
New Rules Regarding "Standby )	NEW RULES ON "STANDBY
Charges" by Public Utilities )	CHARGES"

TO: All Interested Persons

1. On August 24, 1978 the Department of Public Service Regulation published notice of proposed new rules concerning standby charges by public utilities at pages 1228-1229 of the 1978 Montana Administrative Register, issue number 10. Pursuant to a request for a public hearing on the proposed rules, the Department of Public Service Regulation published notice of a public hearing on November 15, 1978 at page 1417 of the 1978 Montana Administrative Register, issue number 13. The public hearing was held pursuant to that notice.

2. The Commission has adopted the rules as proposed, with the following changes:

Rule I. (38-2.14(10)-S14750) DEFINITIONS (1) "Standby charges" are defined for the purposes of this rule as charges ~~above those authorized for general utility service different than those generally available for service under the utility's tariffs, imposed where utility service is either provided:~~ (a) only in the event of the nonavailability to the customer of any other form or source of energy from any supply, which other form of energy is predominately relied upon by the customer; or (b) on a regular basis as the customer's predominate energy source but is subject to periodic partial or complete curtailment, at the customer's option, and replacement by another energy form or source.

Comment: This rule was changed at the suggestion of the Montana Power Company, which pointed out that standby charges were not necessarily "above" rates for general utility service.

Rule II. (38-2.14(10)-S14760) "STANDBY CHARGES" NOT ALLOWED (1) The Montana Public Service Commission, in view of both the state energy conservation policy and the lack of cost impact data in this area, will not approve any "standby charges" at this time. Utilities shall supply "standby service" at presently authorized rates for all classes of customers, ~~and shall supply such service to all requesting customers. A hearing will be held under the Commission rules governing contested case proceedings prior to any Commission action on a request for standby charges.~~

Comment: The Montana Power Company and the Montana-Dakota Utilities Company testified that Rule II, as written, was redundant, since any proposed change would have to be approved by the Commission. The intent of the rule as proposed was to assure the interested public that such changes would be approved only after full consideration. To clarify the intent, the hearing provision has been added, thereby excepting standby charge applications from the temporary increase provisions of Section 70-113, R.C.M. 1947.

See the comment following Rule III for an explanation of the deletion in Rule II.

Rule III. (38-2.14(10)-S14770) SERVICE TO STANDBY CUSTOMERS (1) Utilities shall supply standby service to requesting customers, subject to limitations imposed by federal regulatory agencies. However, unless specifically required by order of a federal regulatory agency, no utility may refuse service to a requesting customer solely on the grounds that the request is for standby service.

Comment: This rule was added as a replacement to the last phrase in Rule II. MDU testified that the rule as proposed directly contravened MDU's curtailment plan which has been imposed by the Federal Energy Regulatory Commission. Ronald Pogue, of the Alternative Energy Resources Organization, testified that, under the curtailment plan, MDU was refusing to supply standby service. The Commission finds that this refusal is contrary to sound energy conservation policy, and that under the recently approved National Energy Act, energy conservation practices may result in MDU being authorized to serve more new customers than it now can under the curtailment plan. (This information was submitted as additional testimony by Ronald Pogue.)

Rule ~~III~~ IV. (38-2.14(10)-S14780) MINIMUM FILING REQUIREMENTS FOR FUTURE REQUESTS (1) Any utility requesting "standby charges" before this Commission in the future shall provide adequate data supporting "standby service" costs incurred, including but not limited to:

(a) number of customers equipped with alternative, renewable energy sources who would be affected by such charges;  
(b) current costs and payback periods of the major alternative energy systems with no standby charge; current costs and payback periods of the major alternative energy systems if the standby charge as requested is authorized;

Comment: The title of this rule was changed only for clarification purposes.

The Department of Natural Resources and Conservation recommended that the rules be amended to require the requesting utility to provide information regarding the 20 year projected growth in the number of customers using alternative energy systems, with and without a standby charge. The Commission believes that such projections would be purely speculative and therefore of little benefit to its consideration of a proposal for a standby charge. Subsection (b) was substituted as a more useful information requirement which will assist the Commission in its assessment of the impact of a standby charge on the use of alternative energy systems.

~~(b)~~ (c) for proposed standby charges for electric utility service, time-of-day and load information for the various classes of customers; and for the various energy source systems employed by them;

Comment: Testimony by MDU correctly pointed out that time of day and load information is usually available only for

electric service. The Commission believes that such information would be difficult to obtain for natural gas service and that such information is not necessary for fair consideration of a standby charge for natural gas service.

(e) (d) cost of service information, including incremental cost of service information broken down by cost of service to the class of customers with unlimited use backup systems and the class of customers with backup service restricted to off-peak replenishment of energy storage systems.

Comment: See Comment following Rule IV(2) for an explanation of this change.

The Commission did not adopt a proposed amendment submitted by Jeffrey T. Renz, member of the Headwaters Alliance, which would have specifically required data on the cost of running a supply line from existing lines to an alternative energy user. This information will be included in any cost of service study submitted in accordance with the rule as proposed.

(2) In accordance with the information presented in response to Rule IV(1)(d), proposed standby charges must distinguish between standby customers with unlimited use of the utility's service, and those with backup service restricted to off-peak replenishment of energy storage systems.

Comment: The changes made in Rule IV(1)(d) and the addition of Rule IV(2) reflect recommendations by the Department of Natural Resources and Conservation; they are intended to encourage the development and installation of alternative energy systems which incorporate storage systems for use in off-peak energy use periods.

(3) The means by which the utility intends to determine which of its customers are to be subject to the standby charge if approved.

Comment: MDU testified that "the utility may not know which of its customers has alternative, renewable energy sources..." The statement highlights what the Commission views as a major difficulty, which Rule IV(3) is intended to at least partially address: In order to assure that any standby charge is assessed fairly, the utility must develop a method by which it can locate customers who have installed alternative energy systems.

Jeffrey T. Rentz, member of the Headwaters Alliance proposed amendments which would place a moratorium on requests for standby charges unless the requesting utility could show that 10% of its customers had instituted energy conservation measures under a utility sponsored program as authorized by Section 84-7405, R.C.M. 1947, or that 10% of its customers had installed alternative renewable energy systems. The Commission has not adopted these proposals on the grounds that they are beyond the scope of the proposed rule as noticed to the public.

Rule V. (38-2.14(10)-S14790) EXEMPTION: STANDBY CHARGES FOR INDUSTRIAL CUSTOMERS (1) These rules shall apply to all requests for standby charges for residential and commercial

classes of customers; these rules shall not apply to requests for standby charges for industrial customers.

Comment: Testimony submitted by the Pacific Power and Light Company expressed concern that the rule as proposed could impose a substantial service requirement on the utility for large industrial customers using alternative fossil fuel systems. Since this was not the intent of the rule, and because most utilities individually contract with large industrial customers, Rule V was added.

3. The authority for the Commission to make this rule is based on Sections 70-113 and 70-104, Revised Codes of Montana, 1947.

  
GORDON E. BOLLINGER, Chairman

CERTIFIED TO THE SECRETARY OF STATE December 19, 1978.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING  
BEFORE THE BOARD OF ATHLETICS

In the matter of the Proposed) NOTICE OF AMENDMENT OF ARM  
Amendment of ARM 40-3.14(6)- ) 40-3.14(6)-S1430 (1)  
S1430 Licensing Requirements ) LICENSING REQUIREMENTS  
Sub-section (1) )


TO: All Interested Persons:

1. On November 17, 1978, the Board of Athletics published a notice of a proposed amendment to sub-section (1) of ARM 40-3.14(6)-S1430 concerning licensing requirements for individuals at page 1518-1519 of the 1978 Montana Administrative Register, issue number 15.

2. The Board received a letter of comment from the Administrative Code Committee on November 21, 1978 stating that for the rule to be within statutory authority, it should be put in terms of licensing only those who "conduct" or "hold" contests or exhibitions. No other comment or testimony was received. Taking into account the recommendation of the Administrative Code Committee, the Board is amending the rule as proposed with the following change: (deleted matter interlined, new matter underlined)

" (1) ~~All persons, clubs, corporations, organizations, or associations, must be licensed by the board and~~  
~~No such person, club, corporation, organization,~~  
~~association may be permitted to hold or conduct~~  
~~participate, either directly or indirectly, in any~~  
boxing, sparring or wrestling match, contest or  
exhibition, ~~or the holding thereof,~~ unless such club,  
corporation, organization, association or person shall  
have first procured a license from the Board."

3. The Board has amended the rule in response to a recommendation of the Legislative Code Committee that the Board delete license fees for individual's licenses as the Board does not have statutory authority over individual's licenses or to charge fees for individuals. Should have been included on the proposed amendments in Notice 40-3-14-6.

  
ED CARNBY, DIRECTOR  
DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, December 19, 1978.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING  
BEFORE THE BOARD OF PHARMACISTS

In the matter of the Proposed )	NOTICE OF ADOPTION OF ARM
Adoption of a new rule regard-) 40-3.78(6)-S78071	
ing Continuing Education for )	CONTINUING EDUCATION FOR
Pharmacists )	PHARMACISTS

To: All Interested Persons:

1. On November 17, 1978 the Board of Pharmacists published a notice of a proposed adoption of a new rule requiring continuing education for pharmacists at page 1520 through 1523 Montana Administrative Register, issue number 15.

2. The Board received two petitions requesting a hearing, one from the Missoula area and one from the Anaconda area, signed by 15 individuals. Their main concern was that this might be restricted to only one Board approved program per year. When it was pointed out that there were no such restrictions in the rule, their petitions were withdrawn. Therefore the Board has adopted the rule as proposed.

3. The reason for the adoption is to set the guidelines and implement the Continuing Education requirement that is required for pharmacists in renewing their licenses beginning with the fiscal year renewal for 1980/81. Section 66-1507.2 states that the Board shall adopt rules for the proper administration of the continuing education provisions of this chapter including but not limited to: (1) determinations as to accredited programs; (2) the number of hours of continuing education required for license renewal; and (3) alternative methods for fulfilling continuing education requirements as prescribed in 66-1507.1(2). Specific reasons for each item adoption are as listed in the notice.

In the matter of the Proposed)	NOTICE OF AMENDMENT OF ARM
Amendment of ARM 40-3.78(6)- )	40-3.78(6)-S78030 (5)
S78030 Statutory Rules and )	STATUTORY RULES AND REGULA-
Regulations - Dangerous Drugs)	TIONS - DANGEROUS DRUGS
Sub-section (5) )	

TO: All Interested Persons:

1. On November 17, 1978 the Board of Pharmacists published a notice of a proposed amendment to ARM 40-3.78(6)-S78030, sub-section (5) relating to dangerous drugs at page 1524-1525 of the 1978 Montana Administrative Register, issue number 15.

2. The Board has amended the rule as proposed with the exception of any material, compound, mixture or preparation which contains any quantity of pentazocine, including its salts, as it has not been federally controlled at this time.

3. No comments or testimony were received. The Board amended the rule because such additional drugs have been controlled or rescheduled by the Federal Government since the last changes made to the Board rules and pursuant to its instructions in Section 54-302 R.C.M. 1947. The Board is likewise proposing

controlling or rescheduling the drugs by amendment of the rule.

BEFORE THE BOARD OF PUBLIC ACCOUNTANTS

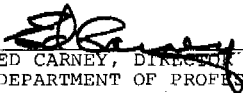
In the matter of the proposed)	NOTICE OF AMENDMENT OF ARM 40-
Amendment of ARM 40-3.94(6)- )	3.94(6)-S94020 (1)(d) EXAMINA-
S94020 Examinations - )	TIONS - APPLICATIONS
Applications, sub-section (1))	
(d) )	

TO: All Interested Persons:

1. On November 17, 1978, the Board of Public Accountants published a notice of proposed amendment to rule ARM 40-3.94(6)-S94020 concerning the hardship definition under examinations and applications at page 1526 of the 1978 Montana Administrative Register, issue number 15.

2. The Board has amended the rule as proposed.

3. No comments or testimony were received. The Board amended the rule because the restriction of the hardship definition to death or illness in the immediate family was too restrictive and did not allow for other unavoidable and/or unexpected happenings that may create a hardship.

  
ED CARNEY, DIRECTOR  
DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, December 19, 1978.

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the adoption )	NOTICE OF THE ADOPTION OF
of new rules, 1.2.028, 1.2.008, )	NEW RULES AND AMENDMENT OF
1.2.082, and the amendment of )	RULES RELATING TO FORMAT
rules 1.2.030, 1.2.070, 1.2.090, )	INSTRUCTIONS FOR THE ADMIN-
Chapter 2, General Provisions, )	ISTRATIVE RULES OF MONTANA
Title 1, regarding format )	
instructions. )	

TO: All Interested Persons:

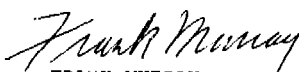
1. On November 17, 1978, the Secretary of State published notice of proposed adoption of new rules and amendment of rules concerning format instructions pertaining to the Administrative Rules of Montana, at page 1527 of the 1978 Montana Administrative Register, issue number 15.

2. The Secretary of State has amended 1.2.030 Code Numbering of Rules (Before Recodification), 1.2.070 Page Numbering System, 1.2.090 Position of Code Items, as proposed.

The new rules 1.2.028 New Numbering Method for ARM, 1.2.008 New Arrangement of the Administrative Rules of Montana, 1.2.082 Removal of Repealed Rules from ARM, have been adopted as proposed.

3. An informal meeting was held on December 7, 1978, and no comments were received. The Secretary of State has adopted these new rules and amended rules to facilitate the publication of the Administrative Rules of Montana.

Dated this 18th day of December, 1978



FRANK MURRAY  
Secretary of State



By Leonard C. Larson  
Chief Deputy

BEFORE THE SUPERINTENDENT OF PUBLIC  
INSTRUCTION OF THE STATE OF MONTANA

In the matter of the amend-	) NOTICE OF AMENDMENT OF
ment of Rule 48-2.18(42)-	) A.R.M. RULE 48-2.18(42)-
P18760 concerning administra-	) P18760 CONCERNING ADMINIS-
tive appeals of special edu-	) TRATIVE APPEAL OF SPECIAL
cation controversies.	) EDUCATION CONTROVERSYIES.

T0: All interested persons:

1. On November 17, 1978, the Superintendent of Public Instruction published notice of a proposed amendment to A.R.M. Rule 48-2.18(42)-P18760, Administrative Appeal at page 1534 of the Montana Administrative Register, issue number 15.

2. The Superintendent has amended the rule with the following changes:

48-2.18(42)-P18760. ADMINISTRATIVE APPEAL. (1) Scope. An impartial hearing officer shall conduct an impartial review of a hearings on appeal from a decision ~~in special education controversies heard made~~ pursuant to the provision of Rule 48-2.18(42)-P18750.

(2) Impartial Review. The hearing officer conducting the review of the hearing shall:

(a) Examine the entire hearing record;

(b) Insure that the procedures at the hearing were consistent with the requirements of due process;

(c) Seek additional evidence if necessary, and if by hearing, the hearing shall be conducted in accordance with Rule 48-2.18(42)-P18750(6),(7), and (8)(a)-(h), at a time and place which is reasonably convenient to the parent or guardian and child and the trustees;

(d) Afford the parties an opportunity for oral or written argument, or both; ~~at the discretion of the hearing officer; and~~

(e) On completion of the review, submit a proposed decision to the Superintendent of Public Instruction in accordance with the provisions of section 82-4212, R.C.M. 1947, and the rules promulgated thereto, and not later than 30 days after the Superintendent of Public Instruction receives the notice of appeal plus specific time extensions granted at the request of a party and delays attributable to the parties, the hearing officer shall make a decision written in language understandable to the general public and in the native language of the parent or guardian, or other mode of communication used by the parent or guardian, unless it is clearly not feasible to do so, whereupon the decision will be translated orally to the parent or guardian in his native language or other means of communication; and

(f) Personally serve or mail a copy of the decision on the parties, the county superintendent and the Superintendent of Public Instruction.

(3) Timeliness. Not later than 30 days after the Superintendent of Public Instruction receives the notice of appeal, plus specific time extensions granted at the request of a party and delays attributable to the parties.

(a)--The Superintendent of Public Instruction shall make a decision written in language understandable to the general public and in the native language of the parent or guardian or other mode of communication used by the parent or guardian, unless it is clearly not feasible to do so, whereupon the decision will be translated orally to the parent or guardian in his native language or other means of communication; and

(b)--Personally serve or mail a copy of the decision on the parties and the county superintendent. Delays attributable to the parties include the time for compiling and forwarding the record and the time during which the provisions of rule 48-2.18(42)-PI8760(2)(c) and (d) are in effect and while the parties are reviewing and making exceptions to the hearing officer's proposed decision.

(4) Court Action. The decision of the hearing officer is final unless a party seeks judicial review pursuant to section 82-4216, R.C.M. 1947, or brings a civil action pursuant to 20 U.S.C. 1415.

(5) Placement. The child shall remain in his current educational placement until the hearing officer enters a decision, except in an emergency situation when the health and safety of the child or other children would be endangered or when the child's presence substantially disrupts the educational programs for other children as provided in rule 48-2.18(14)-SI8120(1)(c)(vi). (History: Section 75-7802, R.C.M. 1947; IMP Sec. 75-7802, R.C.M. 1947).

3. No petition for public hearing was received. A letter was received from the staff attorney for the Administrative Code Committee of the Montana Legislature. The two comments in the letter about the proposed amendment and the responses follow:

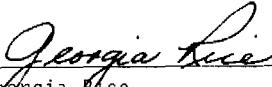
Comment: The Committee commented about the ambiguity of subparagraph (2)(e).

Response: The ambiguity arises from a line being left out inadvertently when the language was transferred from the provisions of the original subparagraphs (3) and (3)(a). The line reads, "delays attributable to the parties, the hearing officer shall make a", and has been inserted in subparagraph (2)(e) following the phrase about specific time extensions granted at the request of a party and before the phrase about the decision being written in language

understandable by the general public. Consistent with subparagraph (4), the line designates who writes the decision. Moreover, the line incorporates the provision of the original subparagraph (3) of adding the time caused by the parties to the thirty days in which the hearing officer has to reach a decision.

Comment: The Committee expressed concern, "... [T]hat to place complete authority in a hearing examiner without at least approval authority in SPI violates 20-3-107 MCA [75-5709] which mandates SPI to decide such controversies. The Committee feels that the proposed rule does not represent a proper delegation of authority under that section."

Response: The SPI is mindful of her duty under 20-3-107 MCA [75-5709]. She is also aware of the procedural due process provisions of the Education of the Handicapped Act [20 U.S.C. sections 1401 et seq.], and the regulations promulgated pursuant thereto [45 C.F.R. Part 121a.] which provide for an independent decision to be made by the official reviewing the decision of a county superintendent. During the course of the review additional evidence can be taken at a hearing. 45 C.F.R. section 121a.507(a)(1) prohibits a person who is an employee of a public agency which is involved in the education or care of a handicapped child from conducting the hearing. Therefore, the SPI has delegated her authority to decide the special education appeals to the appellate hearing officer in an effort to satisfy the Federal requirements in the performance of her state duties, and thereby insure the availability of Federal funds needed to provide special education in Montana.

  
Georgia Rice  
Superintendent of Public  
Instruction

Certified to the Secretary of State December 19, 1978.

VOLUME NO. 37

OPINION NO. 172

EMPLOYEES, PUBLIC - Use of private vehicles on state business;

STATE AGENCIES - Power to permit use of private vehicles on state business;

STATE AGENCIES - Rate of reimbursement for use of private vehicles by state employees on state business.

SECTIONS - 59-801, R.C.M. 1947; 2-2.4(1)-S450, A.R.M.

HELD: 1. A state agency may permit its employees to use personal vehicles while on state business notwithstanding the availability of state motor pool vehicles.

2. A state employee using a personal vehicle on state business must be reimbursed at the rate set forth in the applicable subdivision of Section 59-801, R.C.M. 1947, even though the rate may exceed the rate allowed for state motor pool vehicles.

4 December 1978

Mr. Morris L. Brusett  
Legislative Auditor  
Capitol Building  
Helena, Montana 59601

Dear Mr. Brusett:

You have requested my opinion on the following questions:

1. May a state employee use his personal automobile on state business if a state motor pool vehicle is available to the agency?
2. If so, may the agency reimburse the employee at the mileage rate established by the Department of Highways for state motor pool vehicles, notwithstanding the provisions of Section 59-801, R.C.M. 1947?

The answer to your first question appears in Section 2-2.4 (1)-S450, A.R.M., which provides in part:

(b)\*\*\*(2) Reimbursement at 12 Cents a Mile. All agencies (concerning only Helena based employees) have blanket authorization to permit their employees to use their personal vehicles while conducting state business and receive reimbursement at the rate of 12 cents a mile. That authorization does not preclude any agency from

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establishing internal procedures requiring employees to receive specific authorizations from departmental personnel as a prerequisite to using and receiving reimbursement for the use of a personal vehicle...

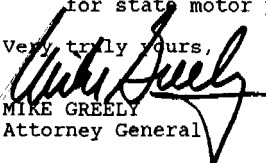
This provision, promulgated pursuant to legislative authorization in Section 59-801, R.C.M. 1947, specifically leaves it to the individual agencies to determine whether an employee may use his personal vehicle rather than a state vehicle. Further, Section 59-801(2) implicitly recognizes this practice by providing a mileage rate for use "[w]hen the individual is authorized to operate a privately owned vehicle even though a government-owned or leased vehicle is available." It is therefore my opinion that an agency may allow its employees to use private rather than state vehicles when engaged in state business.

The answer to your second question is quite clear in both the statute and the regulations. Section 59-801 requires that an employee be reimbursed at one of two rates when using his personal vehicle for state business, the applicable rate to depend on the availability and suitability of state vehicles. This rule is also reflected in the applicable regulation, Section 2-2.4(1)-S450, ARM, although the amount set forth in the regulation does not reflect an increase to seventeen (17) cents per mile authorized under Section 59-801(2) pursuant to an increase in the United States Internal Revenue Service mileage allowance. The language of the statute regarding the applicable rates of reimbursement is mandatory, and the regulation must be construed to contain a similar mandatory rule.

THEREFORE, IT IS MY OPINION:

1. A state agency may permit its employees to use personal vehicles while on state business notwithstanding the availability of state motor pool vehicles.
2. A state employee using a personal vehicle on state business must be reimbursed at the rate set forth in the applicable subdivision of Section 59-801, R.C.M. 1947, even though the rate may exceed the rate allowed for state motor pool vehicles.

Very truly yours,

  
MIKE GREELY  
Attorney General

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Montana Administrative Register

VOLUME NO. 37

OPINION NO. 173

CONTRACTS - County: Power to Obtain Hospital Services for Indigent Aged;  
COUNTIES - Lease of Hospital Facilities and Contracts for Services for Indigent Aged;  
HOSPITALS - County Lease and Contract for Rooms and Services for Indigent Aged;  
LEASES - County: Power to Lease Hospital Rooms for Indigent Aged;  
REVISED CODES OF MONTANA, 1947 - Sections 16-1007, 16-1032, 16-1037, 16-1038.

HELD: A county which has leased hospital facilities may lease rooms in that hospital from the lessee and contract for services with the lessee to provide room and care for the indigent aged who cannot be accommodated in the county nursing home.

5 December 1978

Conrad B. Fredricks  
Sweet Grass County Attorney  
P.O. Box 1047  
Big Timber, Montana 59011

Dear Mr. Fredricks:

You have requested my opinion on the following question:

May a county which has leased hospital facilities pursuant to Section 16-1032, R.C.M. 1947, lease rooms in that hospital from the lessee and contract for services with the lessee in order to provide room and care for the indigent aged who cannot be accommodated in the county nursing home?

According to your letter, Sweet Grass County has constructed and leased a hospital in compliance with Sections 16-1008A and 16-1032 of the Revised Codes of Montana 1947. Furthermore, the county has built and is operating a nursing home for the aged pursuant to Sections 16-1037 and 16-1038, R.C.M. 1947. The nursing home, however, cannot accommodate all the indigent aged seeking admission, while the hospital facilities are not being used to capacity. The question has therefore arisen as to whether the county may now lease space in the hospital and contract for services from the lessee to provide for the indigent aged who are at present on a waiting list for the nursing home.

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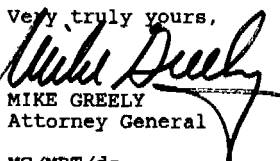
Section 16-1007, R.C.M. 1947, gives the board of county commissioners the power to lease or otherwise obtain property which is "necessary for the use of the county." Section 16-1037, R.C.M. 1947, further empowers the county not only to construct and equip a boarding house or nursing home, but also to maintain and operate those facilities. From a reading of these statutes, it is clear that the county may lease the space and provide or contract for the services necessary to the operation of a nursing home.

Section 16-1038, R.C.M. 1947, requires that a county nursing home "provide care, nursing care, maintenance, board and room for the indigent aged." The manifest intent of this statute is that the county, if possible, should furnish care for the elderly who are financially unable to care for themselves. In order to effectuate this purpose and perform the functions enumerated in Section 16-1038, a county may use its explicit powers to lease property and operate a nursing home to obtain from a hospital necessary rooms and services for those indigent aged who cannot be accommodated in the county nursing home.

THEREFORE IT IS MY OPINION:

A county which has leased hospital facilities may lease rooms in that hospital from the lessee and contract for services with the lessee to provide room and care for the indigent aged who cannot be accommodated in the county nursing home.

Very truly yours,



MIKE GREELY  
Attorney General

MG/MBT/dc

VOLUME NO. 37

OPINION NO. 174

LICENSES, PROFESSIONAL AND OCCUPATIONAL - License Fees for  
Emergency Medical Technician Certification;  
RULES AND REGULATIONS - Authority of Board of Medical  
Examiners to Establish Fees;  
SECTION - 69-7003, et seq., R.C.M. 1947.

HELD: The Board of Medical Examiners may charge a fee of  
applicants for certification as Emergency Medical  
Technicians. That fee may be an amount which is  
sufficient to defray the cost of administering the  
EMT certification program.

6 December, 1978

Chester L. Jones, Esq.  
Madison County Attorney  
Courthouse Building  
Virginia City, Montana 59755

Dear Mr. Jones:

You have requested my opinion concerning the following  
question:

May the Montana Board of Medical Examiners charge  
an application and processing fee of persons  
applying for certification as emergency medical  
technicians under Section 69-7003, et seq., R.C.M.  
1947?

In your letter of request you state that Madison County is  
considering reimbursing volunteer ambulance operators in the  
county for fees they incur in connection with certification  
as emergency medical technicians (EMT's). The Montana Board  
of Medical Examiners is responsible for EMT certification  
and at present charges applicants for basic EMT certification  
a testing and processing fee of \$35. However, you have  
been unable to find any statutory authority for the fee.  
The county will consider reimbursement of its EMT's only if  
the fee is a lawful one.

Emergency medical technician certification requirements were  
established by an act of the 1975 Montana legislature,  
Section 69-7003, et seq., R.C.M. 1947. See Laws of Montana  
(1975), ch. 84. The purpose of the act is to promote the  
qualified, safe and efficient delivery of emergency medical

care. The act establishes two categories of EMT's - "basic" and "advanced". Sections 69-7004 to 69-7006. The Board of Medical Examiners is authorized to establish training and certification programs for both types, Section 69-7008, R.C.M. 1947, and certified EMT's are permitted to perform specific emergency medical services, Sections 69-7005 to 69-7007.

The Board's rule making powers with respect to the EMT program are found in Section 69-7008, which provides:

The board, after consultation with the department of health and environmental sciences, the department of intergovernmental relations [community affairs] shall adopt rules of the board implementing this act, including, but not limited to, training and certification of personnel, administration of drugs, and other acts as allowed herein. (Emphasis added.)

In 1976 the Board adopted rules governing the training, qualifications and certification of EMT's. Those rules require successful completion of both written and practical examinations as a prerequisite to certification. ARM, §§40-3.54(18)-S54080 to S544120. The regulations further require that each applicant for certification pay a fee sufficient to cover the costs of the examination and application processing not to exceed fifty dollars for "basic" EMT certification and one hundred dollars for "advanced" EMT certification. ARM, §§40-3.54(18)- S54100(5)(d) and S54110 (3)(c). At present, the fee for "basic" EMT certification is thirty-five dollars. Of that amount, fifteen dollars is forwarded to the National Registry of Emergency Medical Technicians, which supplies a written examination and instructions for administration of a practical examination. The Emergency Medical Service Bureau of the Department of Health and Environmental Sciences administers the written and practical tests and seventeen dollars and fifty cents is paid by the Board to the Bureau for its costs. (Ten dollars was initially allocated to the Bureau, but that amount was insufficient to cover costs of administering the examination.) Two dollars and fifty cents is retained by the Board for its own costs.

There is no express authority under the EMT act authorizing the Board to charge fees in connection with certification. In contrast, other licensing statutes expressly provide for licensing fees. E.g., Section 66-108 (architects); Section

66-411 (barbers); Section 66-505 (chiropractors); Section 66-603 and 66-604 (podiatrists); Section 66-815 (cosmetologists); Sections 66-905 and 66-906 (dentists); Section 66-1031 (physicians); Sections 66-1228 and 66-1234 (nurses); Sections 66-1305 and 66-1307 (optometrists); Section 66-1403 (osteopaths); Sections 66-1506 and 66-1507 (pharmacists); Sections 66-1826 and 66-1833 (accountants); Section 66-1934 (real estate brokers and salesmen); Section 66-2108 (title abstractors); Section 66-2204 (veterinarians); Section 66-2358 (engineers and surveyors); Section 66-2405 (plumbers); Section 66-2503 (physical therapists); Section 66-2606 (water well contractors); Sections 66-2707, 66-2709, and 66-2711 (morticians and funeral directors); Sections 66-2814 and 66-2815 (electricians); Section 66-2906 (masseurs); Sections 66-3014 and 66-3016 (hearing aid dispenser); Section 66-3105 (nursing home administrators); Section 66-3211 (psychologists); Section 66-3330 (private investigators); Sections 66-3406 and 66-3408 (acupuncture); Section 66-3509 (heaters, ventilators and air conditioners); Section 66-3608 (electrologists); Sections 66-3706 and 66-3707 (radiology technologists); Section 66-3807 (landscape architects); Section 66-3910 (speech pathologists and audiologists). Many of these provisions specifically authorize fees in connection with examinations and the processing of applications.

Express provisions for fees in other licensing statutes gives credence to an argument that where the legislature intended to authorize examination and processing fees, it did so expressly.

On the other hand, the legislature has not expressly forbidden such fees and has given the Board of Medical Examiners broad rule-making powers to implement the act, providing that the Board "shall adopt rules \*\*\* implementing this Act, including, but not limited to \*\*\*." The lack of either express authority or prohibition regarding fees, raises difficult questions concerning the scope of the Board's rule-making authority under Section 69-7008 and the scope of implied administrative powers. Administrative agencies have, "by implication such powers as are necessary for the due and efficient exercise of those expressly granted or such as may be fairly implied therefrom. But no power will be implied other than those which are necessary for the effective exercise and discharge of the powers and duties expressly conferred." Guillot v. State Highway Commission, 102 Mont. 149, 154, 56 P.2d 1072 (1936), and see also State ex rel. Dragstedt v. State Board of Education, 103 Mont. 336, 338, 62 P.2d 330 (1936).

Initially, it is obvious that any certification procedure involves costs and requires funding. In the case of the Board of Medical Examiners, funding derives solely from charges and fees received in connection with its licensing and certification functions. These fees are placed into an earmarked revenue fund from which the Board then pays its operating expenses. See Laws of Montana (1977), H.B.145, Sections 7 and 17. The Board is expressly authorized to charge fees in connection with licensing of both physical therapists and physicians, and deposit such fees in the earmarked revenue fund. Sections 66-1031, 66-1042, 66-1043, 66-2503, 66-2508 and 66-2510, R.C.M. 1947. Thus, the legislature either intended fees and charges derived by the Board in connection with the licensing of other professions to subsidize EMT certification, or it intended that the EMT program pay its own way through the extraction of fees from applicants.

Figures provided by the Department of Professional and Occupational Licensing create serious doubt that the legislature intended fees derived from other professional licenses to underwrite the EMT program. A memo, prepared by the Emergency Medical Services Bureau projects that as many as one thousand nine hundred persons will take the EMT "basic" exam during the 1978 calendar year. Assuming that the thirty-five dollar fee accurately reflects the Board's per person cost of administering the EMT exam, the total cost of the EMT program would be \$66,500.00 for the calendar year 1978. This approaches the total budget for the Board of Medical Examiners for all functions for the 1978 fiscal year (\$67,718.00), see, H.B. 145, supra, and exceeds the entire budget of the Board for fiscal 1977, see, Laws of Montana (1975), H.B. 264, a year in which the EMT program was beginning and in which only a handful of examinations were given. The actual cost of the EMT program for fiscal year 1978 is further evidence that the legislature did not intend other license fees to underwrite the EMT program. During fiscal 1978, which was the first full year of EMT program operation, five hundred ninety-six (596) applicants took the EMT examination. At thirty-five dollars each, the fees paid to the Board and the corresponding costs of giving the examination were approximately \$21,000.00.

The Board has interpreted its powers under the Act to include authority to assess examination and processing fees. That interpretation, although not binding, is entitled to respectful consideration. *Doe v. Colberg*, \_\_\_ Mont. \_\_\_, 555 P.2d 753 754 (1976), particularly where an ambiguous or

uncertain provision is interpreted, see Miller Insurance Agency v. Porter, 93 Mont. 567, 575, 20 P.2d 643, 646 (1933). Under the present circumstances, I must defer to that interpretation. Two courts which have considered the authority of an administrative agency to charge for the reasonable costs of licensing in absence of express authorization to do so, declared that the power to charge reasonable costs of licensing is incidental to the power to license. Schmidt v. Indianapolis, 168 Ind. 631, 80 N.E. 632, 635 (1907); Welch v. Hotchkiss, 39 Conn. 140.

Moreover, the Board acts only as an intermediary with respect to that part of the fee which is passed on to the National Registry of Emergency Medical Technicians; the Board could require applicants to pay the fee directly.

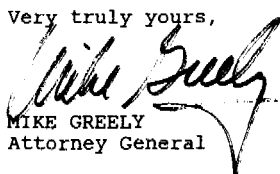
Finally, the Montana Legislature has consistently required professional and occupational licensees to pay the costs of licensing. The Board's interpretation accords with that policy.

Although it is my opinion that the Board of Medical Examiners has the power to charge an application and processing fee of applicants for EMT certification, I recommend that the Board seek clarifying legislation. Express legislative provision for certification fees would eliminate the need for interpretive opinions.

THEREFORE, IT IS MY OPINION:

The Board of Medical Examiners may charge a fee of applicants for certification as Emergency Medical Technicians. That fee may be an amount which is sufficient to defray the cost of administering the EMT certification program.

Very truly yours,



MIKE GREELY  
Attorney General

VOLUME NO. 37

OPINION NO. 175

MUNICIPAL CORPORATIONS - Competitive bidding requirements; self-government cities;  
CONTRACTS - Construction management contract; competitive bidding requirements;  
LOCAL GOVERNMENT - Self-government unit; competitive bidding requirements;  
PURCHASING - Construction management contract; competitive bidding requirements; self-government units;  
SECTIONS - 11-1202, R.C.M. 1947, and Title 47A, R.C.M. 1947.

- HELD:
1. A contract for the employment of a construction manager, which requires the use of the manager's skill and expertise in supervising a proposed construction project undertaken by local government, is a necessary contract for professional and technical services excluded from the competitive bidding requirements outlined in section 11-1202, R.C.M. 1947.
  2. A local government unit with self-government powers cannot supersede by the passage of a resolution or ordinance the requirements of competitive bidding outlined in section 11-1202, R.C.M. 1947.

7 December 1978

Ken Peterson  
City Attorney  
City of Billings  
220 North 27th Street  
P.O. Box 1178  
Billings, Montana 59103

Dear Mr. Peterson:

You have requested my opinion on the following questions:

1. Do the requirements for competitive bidding outlined in section 11-1202, R.C.M. 1947, apply to a contract for employment of a construction manager for a single project?
2. May a local government unit with self-government powers pass a resolution or ordinance to

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supersede the statutory requirements of competitive bidding outlined under section 11-1202, R.C.M. 1947?

Section 11-1202, R.C.M. 1947, requires that "[a]ll contracts for the purchase of any automobile, truck or other vehicle or road machinery, ... or for construction for which must be paid a sum exceeding four thousand dollars (\$4,000) must be let to the lowest responsible bidder after advertisement for bids ...." The last sentence of this section creates an exemption from competitive bid requirements and states, "[a]ll necessary contracts for professional, technical, engineering and legal services are excluded from the provisions of this act." This last sentence codifies a well-recognized rule that "[t]he employment of a person who is highly and technically skilled in his science or profession is one which may properly be made without competitive bidding." Kennedy v. Ross, 28 Cal.2d 569, 170 P.2d 904, 912(1946). Accord, Krohnberg v. Pass, 187 Minn. 73, 244 N.W. 329, 330(1932); Hunter v. Whiteaker & Washington, 230 S.W. 1096, 1098(Tex. Ct. App. 1921).

To determine whether the employment of a construction manager properly falls within the exemption of section 11-1202, R.C.M. 1947, it is necessary to determine if the duties of such a manager are technical and professional in character and the services provided are of a personal nature. Krohnberg v. Pass, 187 Minn. 73, 244 N.W. 329(1932).

There are no Montana cases which examine the activities of a construction manager in light of the requirements of the competitive bidding statute. There are, however, cases in other jurisdictions which have considered whether public contracts for similar activities fall within an exemption from the competitive bidding requirements.

In Krohnberg v. Pass, supra, the Minnesota Supreme Court considered various employment contracts entered into without the acceptance of competitive bids in connection with the construction of a school building. The Minnesota court considered specifically the contract for employment of a superintendent of construction. In reviewing the duties of the superintendent the court stated:

He watched the contractors to see that the work was done in accordance with the plans and specifications of the architects and engineers. It was not the intention of the statute that for such

services there should be a public advertising for bids and a letting of a contract of employment to the lowest responsible bidder,....

244 N.W. at 331. The court found the superintendent to be a personal representative of the school district and therefore not subject to the competitive bidding statute. 244 N.W. at 330.

A California case, City of Inglewood-Los Angeles Co. Civic Center Authority v. Superior Court of Los Angeles, 7 Cal. 3d 861, 103 Cal. Rptr. 689, 500 P.2d 601(1972), also considered the applicability of a competitive bidding statute to the employment of a construction manager. The court in this case held:

It is true that the management contractor was to perform services and to lend his experience and expertise in the preparation of the final plans, and in that respect may be likened to an engineer or an architect whose services may be procured without strict compliance with competitive bidding requirements. (Citations omitted.) However, our view of the other duties and obligations which were required of the management contractor in this case, including his guarantee of the outside price based on the subcontract bids, persuades us that the management contracting procedure as proposed and followed here is too closely akin to traditional lump sum general construction contracting to be held exempt from the statutory competitive bidding requirements.

500 P.2d at 604.

From these cases it is clear that where a construction management contract calls only for the application of the contractor's technical expertise and experience in a supervisory capacity and does not involve the procurement of supplies or actual construction, the services of a construction manager are within the meaning of professional services exempted from the bidding requirements of section 11-1202, R.C.M. 1947.

Your second question is whether a local government unit with self-government powers may pass a resolution or ordinance which would supersede the competitive bidding requirements of section 11-1202, R.C.M. 1947. You state that the City of Billings has adopted a charter which states in Article I, section 1.01:

The City shall have all powers possible for a self-government city to have under the constitution and laws of this state as fully and completely as though they were specifically enumerated in this chapter.

As a result of the adoption of the charter the city has apparently become a self-governing local government unit pursuant to Article XI, section 5, Montana Constitution 1972, and section 47A-3-208, R.C.M. 1947. A local government unit with self-government powers may exercise any power not prohibited by the constitution, law, or charter. Mont. Const., art. XI, §6, section 47A-7-101, R.C.M. 1947, 37 OP. ATT'Y GEN. NO. 68 (1977).

Section 47A-7-106 requires that the powers of a self-governing local government unit be liberally construed and that every reasonable doubt as to the existence of a local government power be resolved in favor of the existence of that power.

Section 47A-7-204, R.C.M. 1947 requires that local government units with self-government powers act in accordance with specified state laws. Subsection (7) prohibits such units from enacting ordinances contrary to "[a]ny law regulating the budget, finance or borrowing procedures and powers of local government. . ."

The requirements established under section 11-1202, R.C.M. 1947, constitute a law regulating the budget and finance procedures of local government. Cf. Sangamon County Fair & Agricultural Association v. Stanard, 9 Ill. 2d 267, 137 N.E. 2d 487, 491 (1956) (defining finance as "the science and practice of raising and expending public revenue"); In re Borough of Sharpsburg, 163 Pa. Super. 84, 60A.2d 557, 560 (1948) (holding that laws prescribing annexation procedures are "laws affecting the budget" of a political subdivision). Since the letting of governmental contracts necessarily involves the expenditure of public revenue, the procedures for the letting of contracts form an integral part of the budget and finance functions of local government. The requirements of competitive bidding outlined in section 11-1202, R.C.M. 1947, have long been imposed on local government units. The first competitive bidding statute was passed in Montana in 1907 and has been effective, with minor amendments, until the present. The purpose of competitive bidding statutes is to guard against collusion and corrup-

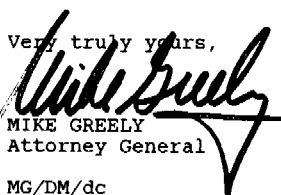
tion in the letting of governmental contracts and to assure economy in the use of tax dollars.

The liberal construction required by section 47A-7-106 cannot overcome the express prohibition with regard to matters of the budget and finance. Therefore, the requirements for competitive bidding expressed in section 11-1202, R.C.M. 1947, are mandatory provisions applicable to local government units with self-government powers.

THEREFORE, IT IS MY OPINION:

1. A contract for the employment of a construction manager, which requires the use of the manager's skill and expertise in supervising a proposed construction project undertaken by local government, is a necessary contract for professional and technical services excluded from the competitive bidding requirements outlined in section 11-1202, R.C.M. 1947.
2. A local government unit with self-government powers cannot supersede by the passage of a resolution or ordinance the requirements of competitive bidding outlined in section 11-1202, R.C.M. 1947.

Very truly yours,



MIKE GREELY  
Attorney General

MG/DM/dc

VOLUME NO.37

OPINION NO. 176

EMPLOYEES, PUBLIC - Severance and accumulated leave payments;  
LEAVES OF ABSENCE - Attribution of sick and vacation leave payments to earned compensation;  
SCHOOLS AND SCHOOL DISTRICTS - Severance and accumulated leave payments, contractual and noncontractual;  
TEACHERS' RETIREMENT SYSTEM - Earned compensation: attribution of severance and accumulated leave payments;  
TEACHERS - Severance and accumulated leave payments: attribution for purposes of retirement benefits;  
REVISED CODES OF MONTANA, 1947 - Sections 68-1503(11), 75-6201(11) & (12), 75-6208(3) & (5);  
37 OP. ATT'Y GEN. NO. 113 (1978).

- HELD:        1.    Contractual severance payments and payments based on unused sick or vacation leave are earned compensation of a member of the Teachers' Retirement System for the year in which they are actually paid to the member, provided they are properly reported to the system.
2.    Severance payments or retirement stipends which are not provided for by contract and are unrelated to length of service or accumulated sick or vacation leave are not included in a member's earned compensation in the Teachers' Retirement System.

11 December 1978

Owen L. Morris, Jr., Administrator  
Teachers' Retirement System  
1500 Sixth Avenue  
Helena, Montana    59601

Dear Mr. Morris:

You have requested my opinion on the following questions:

1.    Are contractual severance payments or payments based on unused sick or vacation leave considered earned compensation of a member of the Teachers' Retirement System for the year in which they are actually paid to the member

or for the year(s) in which they are technically earned or accumulated?

2. Are severance payments or retirement stipends in flat dollar amounts, which are non-contractual in nature and are unrelated to the length of service or accumulated sick or vacation leave, considered earned compensation in the Teachers' Retirement System attributable to the year in which they are paid?

In the Teachers' Retirement System, as established by Title 75, Chapter 62, of the Revised Codes of Montana 1947, superannuation retirement allowances and related benefits are figured as a percentage of a member's average final compensation. See §75-6208 (3) & (5), R.C.M. 1947. "Average final compensation" is defined in section 75-6201 (12), R.C.M. 1947, as "the average of the earned compensation of a member during the three consecutive years of full-time service which yield the highest average and on which contributions have been made as required by 75-6207 (1)(a)." (Emphasis added). Typically, it is the last three years of service on which average final compensation is based, because a member's highest compensation is generally earned in those years.

The linchpin of the computation of benefits in the Teachers' Retirement System is the amount of earned compensation attributable to each year of a member's service. "Earned compensation" is defined in section 75-6201 (11), R.C.M. 1947, as "the full compensation, pay, or salary actually paid to a member and reported to the retirement system, including irregular forms of remuneration, such as amounts paid for special duty or under a salary reduction agreement, and amounts paid in kind, such as maintenance." (Emphasis added). The initial question posed here concerns the validity of the system's policy of attributing contractual severance payments and payments based on accumulated sick and vacation leave to the earned compensation of a member's final year of service. The normal effect of this policy is to increase the member's average final compensation and consequently his benefits upon retirement or termination.

A prior Attorney General Opinion, reported at 37 OP. ATT'Y GEN. No. 113 (1978), has evidently caused some doubt as to the propriety of the system's method of attributing severance and leave payments. That opinion, however, did

not bear directly on the issue presented here. It dealt instead with the isolated issue of the legality of severance pay provisions in teachers' contracts and collective bargaining agreements, and held that such provisions are legal because contractual severance payments constitute a form of deferred compensation for services rendered by the employees throughout the course of employment. Nothing in that opinion was intended to prescribe the proper attribution of severance payments or the computation of earned compensation in the context of the Teachers' Retirement System.

In a technical sense, severance pay and payments based on unused leave are earned or accumulated throughout a member's period of employment. The definition of "earned compensation" in section 75-6201 (11), R.C.M. 1947, however, is based not on the time of earning or accrual, but on the time of actual payment of compensation, pay, or salary to the system member. In this regard, the computation of a member's earned compensation for a given year is analogous to the computation of a cash-basis taxpayer's yearly income. The language of section 75-6201 (11), R.C.M. 1947, then, clearly mandates attribution of contractual severance pay and payments based on accumulated leave to the earned compensation of the last year of employment because that is the time of actual payment to the member.

Furthermore, in the absence of contrary judicial or legislative interpretation, the interpretation of a statute by the agency responsible for its implementation is entitled to great respect. See Miller Insurance Agency v. Porter, 93 Mont. 567, 575, 20 P.2d 643, 646 (1933). As pointed out earlier, it is the system's policy to allocate severance and accumulated leave payments to the year of actual payment, so long as the compensation is properly reported to the system and the required contributions are made thereon. The legislature, which is presumptively aware of the system's past practice, has not amended the statutory definition of "earned compensation" to require a proration or allocation of these payments to the period of actual accrual. In the Public Employees' Retirement System, on the other hand, the legislature specifically supplemented the definition of "final compensation" in 1977 to restrict the allocation of lump-sum leave payments to the replacement of normal compensation on a month for month basis. §68-1503 (11), R.C.M. 1947. The absence of analogous amendment to the definition of "earned compensation" in the Teachers' Retirement System indicates legislative acceptance of the system's policy of attributing severance pay and accumulated sick and vacation

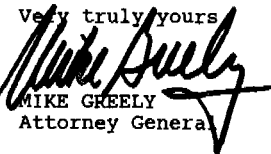
leave payments to the member's earned compensation for the year in which they are actually paid.

The second issue presented by your inquiry concerns the inclusion of noncontractual severance payments or retirement stipends in the earned compensation of a member of the Teachers' Retirement System. As stated above, Attorney General Opinion No. 113 addressed and sanctioned the legality of contractual provisions for severance pay. Under the reasoning of that opinion, retirement payments not provided for in agreements or contracts between the parties during the course of employment amount to gratuities rather than any type of compensation, pay, or salary for services actually rendered. Therefore, noncontractual severance payments do not fall within the definition of "earned compensation," as provided in section 75-6201(11), R.C.M. 1947.

THEREFORE IT IS MY OPINION:

1. Contractual severance payments and payments based on unused sick or vacation leave are earned compensation of a member of the Teachers' Retirement System for the year in which they are actually paid to the member, provided they are properly reported to the system.
2. Severance payments or retirement stipends which are not provided for by contract and are unrelated to length of service or accumulated sick or vacation leave are not included in a member's earned compensation in the Teachers' Retirement System.

Very truly yours



MIKE GREELY  
Attorney General

MG/MBT/dc

18-12/28/78

Montana Administrative Register

VOLUME NO. 37

OPINION NO. 178

CONTRACTS - Disposition of a body; compliance with trust requirements of Section 86-701, R.C.M. 1947;

DEATH - Contracts for the disposition of a body; prearranged funeral plans;

FUNERALS - Prearranged funeral plans; pre-need purchase of funeral services and casket;

FUNERAL DIRECTORS AND EMBALMERS - Sale of prearranged funeral plans by; money paid for prearranged funeral plans held in trust by;

SECTION - 86-701, R.C.M. 1947.

HELD: All money paid under a prearranged funeral plan contract, including money allocated to a casket which under the contract may be delivered at the seller's option prior to the time its use is required, must be held in trust as provided in Section 86-701, R.C.M. 1947.

12 December 1978

Mr. Timothy J. Meloy  
Board of Morticians  
Department of Professional and  
Occupational Licensing  
LaLonde Building  
Helena, Montana 59601

Dear Mr. Meloy:

You have requested my opinion on the following questions concerning Section 86-701, R.C.M. 1947:

1. Must all money paid under a prearranged funeral plan contract, including money allocated to a casket which under the contract may be delivered at the seller's option prior to the time its use is required, be held in trust until funeral services are needed or the money paid is refunded?
2. If all such money paid need not be held in trust, is it entirely within the discretion of the seller to determine the amount allocated to the casket sold under a prearranged funeral plan contract, or is that amount subject to some fair market value restriction?

Section 86-701, R.C.M. 1947, as amended, provides:

In all cases when, prior to his death, a person, or someone in his behalf, makes a contract for the final disposition of his body, under which contract, pursuant to a prearranged funeral plan, personal property will be delivered upon his death or the professional services of a funeral director, embalmer, cemetery firm, or mausoleum-columbarium corporation will then be furnished, all money paid under such contract shall be held in trust for the purpose for which it was paid until the obligation is fulfilled according to its terms or, by mutual consent of both parties to the contract, said money is refunded to the proper party. Accruals of interest upon this money are subject to this same trust. Such a trust is not necessary for that part of the contract that involves the sale of a cemetery lot if title is passed at the time the cemetery firm receives payment for the cemetery lot. (Emphasis added.)

Section 86-701, enacted in 1953, was amended in 1977 to provide for the protection of persons dealing with cemetery or mausoleum-columbarium corporations and to except the sale of cemetery lots where title passes. Laws of Mont. (1977), Ch. 454, sec. 1. As amended, Section 86-701 seeks to insure the performance of contractual obligations by sellers of prearranged funeral plans and to guarantee that purchasers of those plans receive what they have paid for when it is needed.

Your questions relate to a prearranged funeral plan now being offered. Under that plan the contract price for purchase of a casket and future professional funeral services is allocated in part to the casket and in part to professional services. The contract states that all money applicable to professional services shall be deposited in a trust account until such services are rendered. This provision complies with Section 86-701, R.C.M. 1947. However, the contract goes on to provide that each payment applicable to the casket shall be deposited in a separate trust account only until such time as the seller chooses to deliver the casket, and that if the seller delivers the casket before its use is required the seller will store it without charge until needed. This provision does not comply with Section 86-701, R.C.M. 1947.

The Montana Supreme Court has long held that the intent of the legislature, which must first be determined from the plain meaning of the words used, is controlling in statutory construction. Dunphy v. Anaconda Co., 151 Mont. 76, 79, 80, 438 P.2d 660 (1968); Security Bank & Trust Co. v. Conners, 170 Mont. 59, 66, 550 P.2d 1313 (1976).

By its terms, Section 86-701, R.C.M. 1947, provides that when a person makes a contract for the final disposition of his body under which personal property will be delivered or professional services will be furnished at his death, all money paid under such a contract shall be held in trust until the obligation is fulfilled or the money refunded by mutual consent of both parties. Significantly, the legislature expressly provided that the trust requirement is inapplicable to the sale of a cemetery lot if title is passed at the time payment is received but did not exclude from the trust requirement any other part of a contract for the final disposition of a body. In the absence of legislative approval, pre-death delivery of a casket purchased under a prearranged funeral plan does not take the casket purchase out of the trust requirement.

Courts in other states, construing statutes similar to Section 86-701, R.C.M. 1947, have held that contract payments attributable to property which will be used at the beneficiary's funeral must be held in trust even though the beneficiary may, under the contract, become entitled to that property before his death. Utah Funeral Dir. & Emb. Ass'n. v. Memorial Gardens, 408 P.2d 190 (Utah, 1965); Messerli v. Monarch Memorial Gardens, Inc., 397 P.2d 34 (Idaho, 1964). As the Illinois Appellate Court stated in People ex rel. Lindberg v. Memorial Consultants, Inc., 366 N.E.2d 127, 130 (1977):

[T]he provisions for delivery upon request do not change the character of defendant's contracts. These sales agreements are for the purpose of furnishing burial merchandise for future use at a time determinable by the death of a person to be buried, and as such are governed by the statute.

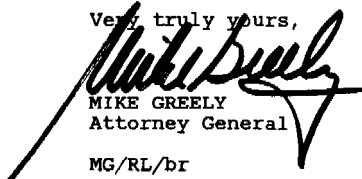
Section 86-701, R.C.M. 1947, is unambiguous in requiring that all money paid under a contract which provides for a prearranged funeral plan is to be held in trust until the obligation is fulfilled or the money is refunded to the proper party. The seller has no other option. Whether a contract allocates payments to each of several items or

services or to a complete package thereof, the money received must be held in trust in accordance with Section 86-701. The provision regarding the casket sale in the prearranged funeral plan contract you question does not comply with this trust requirement and is therefore void. McManus v. Fulton, 85 Mont. 170, 179, 278 P. 126 (1929). Since I have concluded all money paid under a prearranged funeral contract must be held in trust as provided in Section 86-701, R.C.M 1947, it is unnecessary to consider whether a seller's determination of the amount allocated to a casket is subject to a fair market value restriction.

THEREFORE, IT IS MY OPINION:

All money paid under a prearranged funeral plan contract, including money allocated to a casket which under the contract may be delivered at the seller's option prior to the time its use is required, must be held in trust as provided in Section 86-701, R.C.M 1947.

Very truly yours,



MIKE GREELY  
Attorney General

MG/RL/br