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MONTANA ADMINISTRATIVE REGISTER

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JAN 28 1982

OF MONTANA

1982 ISSUE NO. 2
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PAGES 48-117



NOTICE TO ALL MAR SUBSCRIBERS

AS OF JANUARY 1, 1982 THE MONTANA ADMINISTRATIVE REGISTER WILL HAVE A NEW FORMAT TO HELP GUIDE YOU THROUGH THE INFORMATION MAR PROVIDES FOR YOU. THE FOLLOWING IS A LISTING OF THE NEW FORMAT:

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 2

The Montana Administrative Register (MAR), a twice monthly publication, has three sections. The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing, and where written comments may be submitted. The rule section indicates that the proposed rule action is adopted and lists any changes made since the proposed stage. The interpretation section contains the attorney general's opinions and state declaratory rulings. Notices and tables are inserted at the back of each register.

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BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption)	NOTICE OF PUBLIC
of new rules relating to the	)	HEARING FOR ADOPTION
state employee incentive	)	OF RULES RELATING TO
awards program	)	THE STATE EMPLOYEE
	)	INCENTIVE AWARDS PRO-
	)	GRAM

To: All Interested Persons.

1. On February 22, 1982, at 1:30 p.m., a public hearing will be held in Room 136 of the Mitchell Building, Helena, Montana to consider the adoption of rules which pertain to the state employee incentive awards program.

2. The proposed rules do not replace or modify any section currently found in the Montana Administrative Code.

3. The proposed rules provide as follows:

RULE I SHORT TITLE (1) This sub-chapter may be cited as the State Employee Incentive Awards Program policy.

(AUTH. and IMP. Sect. 2-18-1101 through 1106 MCA)

RULE II DEFINITIONS As used in this sub-chapter, the following definitions apply: (1) "Adopted Suggestion" means a formal suggestion that has been approved for an award and implementation by the program administrator.

(2) "Advisory Council" means the Incentive Awards Advisory Council established by the Director of the Department of Administration as provided in Rule IV.

(3) "Agency Head" means a director, commissioner, or constitutional officer of an executive, legislative, or judicial branch agency or an agency of the Montana University System.

(4) "Date of Receipt" means the date on which a formal suggestion is postmarked or received, whichever is earlier, and documented as being received by the program administrator.

(5) "Department" means the Department of Administration created in 2-15-1001, MCA.

(6) "Eligible Employee" means any employee of the executive, legislative, or judicial branch or the Montana University System.

(7) "Formal Suggestion" means an employee's suggestion to reduce costs or improve services that is documented on an Incentive Awards Suggestion Form prepared by the Department.

(8) "Implemented Suggestion" means formal suggestion that has become a function being performed by one or more agencies.

(9) "Incentive Award" means a monetary inducement of up to \$500 per suggestion to encourage employees to suggest ways to save costs and/or improve state services.

(10) "Incentive Award Committee" means a committee established by an agency head in accordance with Rule V.

(11) "Personal Grievance" means a complaint or dispute initiated by an employee regarding the application, meaning or interpretation of personnel policies or procedures and/or other terms or conditions of employment.

(12) "Program Administrator" means the Director of the Department of Administration or his designee.

(13) "Recognition Certificate" means a certificate of achievement signed by the Governor, the program administrator, and the relevant agency head recognizing an employee for his adopted suggestion and incentive award.

(14) "Suggestion Delayed for Further Evaluation" means a formal suggestion that has had the adoption decision delayed through a recommendation by an agency incentive awards committee as provided in Rule V.

(15) "Suggestion Review" means a review conducted by the program administrator in consultation with the Incentive Awards Advisory Council at the request of the suggesting employee to reevaluate his formal suggestion.

(16) "Unadopted Suggestion" means a formal suggestion that has been disapproved for an award and implementation by the program administrator.

(AUTH. and IMP. Sect. 2-18-1101 through 1106 MCA)

RULE III POLICY (1) It is the policy of the State of Montana to provide incentives to State employees whose suggestions or inventions result in one or both of the following:

(a) reduction or elimination of state agency expenditures, in a manner that does not reduce the ability of the agency to meet its program objectives or reduce its ability to serve the public; and

(b) improved services to the public by permitting more work to be accomplished within state agencies without increasing the cost of governmental operations.

(2) The Director of the Department of Administration or his designee shall administer and promote the State Employee Incentive Awards Program on a state-wide basis and shall:

(a) provide an opportunity for all State employees to participate in the program;

(b) determine the originality and eligibility of suggestions;

(c) protect a suggester's anonymity within reason until an agency or committee decides to implement or not to implement the suggestion in whole or in part;

(d) refer eligible suggestions to the relevant agencies or committees for investigation and evaluation;

- (e) assist agencies in making incentive awards;
 - (f) approve/disapprove incentive awards nominated by an agency head after consultation with the Incentive Awards Advisory Council, and determine the amount of each incentive award based on incurred or reasonably estimated first-year monetary savings;
 - (g) acknowledge receipt of suggestions;
 - (h) hear appeals from employees on the general operation and administration of the program; and
 - (i) prepare a biennial report to the legislature containing a list of incentive awards and the corresponding savings to the State resulting from each employee's suggestion or invention and providing a general review of and recommendations for improving the program.
- (3) The acceptance of a cash award for any suggestion adopted through the State Incentive Awards Program shall constitute an agreement by the employee that all reasonable claims, immediate and future, on the State of Montana are waived.
- (4) An employee may receive a monetary award based on tangible and/or intangible criteria established pursuant to the provisions of these rules.
- (AUTH. and IMP. Sect. 2-18-1101 through 1106 MCA)

RULE IV CREATION OF THE STATE INCENTIVE AWARDS ADVISORY COUNCIL (1) The Director of the Department of Administration shall appoint nine members to an incentive awards advisory council under 2-15-122, MCA.

- (2) Members of the advisory council must be selected from a diverse group to adequately represent State employees.
- (3) Members shall be appointed for a term to end June 30, 1983.
- (4) The program administrator will serve as an ex-officio member of the council with no voting privileges.
- (5) The incentive awards advisory council shall:
- (a) meet regularly and consult with the program administrator to review all suggestions evaluated by the agencies and recommend granting or rejecting these awards;
 - (b) in reviewing suggestions, the advisory council shall evaluate the arguments for and against approval as presented by the agencies.
- (AUTH. and IMP. Sect. 2-18-1101 through 1106 MCA)

RULE V CREATION OF AGENCY INCENTIVE AWARDS COMMITTEES (1) Each agency head shall appoint an agency awards committee of at least three members.

- (2) Members shall be employees of the agency and shall each be appointed for a term to end June 30, 1983.

(3) Any vacancies on a committee due to resignation shall be filled by appointment for the unexpired term.

(4) Each agency incentive awards committee shall:

(a) elect a chairman and furnish the program administrator with the name, business address, and telephone number of the chairman;

(b) investigate and evaluate suggestions;

(c) make recommendations concerning suggestions to the agency head who in turn shall recommend to the Incentive Awards Advisory Council whether or not the suggestion should be adopted or whether the decision to adopt should be delayed;

(d) send such recommendations to the program administrator within 30 days after being assigned to evaluate a suggestion, unless the program administrator approves a request for an extension of the 30 days in advance;

(e) include with such recommendations documentation of the expected cost savings or improved services and sufficient arguments both for and against adopting the suggestion;

(f) specify, for a recommendation to delay the adoption decision, an estimate of the length of the delay and a list of the barriers to be overcome;

(g) encourage all employees in their agency to participate in the State Incentive Awards Program.

(5) An agency may establish an incentive awards committee for any division or institution within the agency with approval of the program administrator.

(AUTH. and IMP. Sect. 2-18-1101 through 1106 MCA)

RULE VI DUTIES OF AGENCY HEADS (1) Agency heads shall:

(a) encourage employees to participate in the State Incentive Awards Program;

(b) consult with relevant subordinate managers before recommending approval/disapproval of a suggestion;

(c) provide relevant information and advice to the Incentive Awards Advisory Council concerning suggestions.

(2) Upon receiving notice that a suggestion has been approved for an award by the program administrator, the agency shall expeditiously implement the suggestion. The employee shall then be compensated by affected agencies at 10% of the first-year savings or value of improved services up to \$500 for each suggestion. If an employee produces significant evidence that the first-year savings or value of improved services of his suggestion are underestimated, adjusted compensation

may be awarded by the affected agencies. Employees shall not be required to pay back any part of his award if agency cost savings or values are overestimated. The agency head shall notify the program administrator whenever compensation for an award has been paid.

(3) The agency head or his designee shall formally present incentive awards in the presence of the employee's co-workers. A recognition certificate shall accompany the awarded compensation. The agency head may recommend to the Incentive Awards Advisory Council which award recipients should be personally recognized by the Governor.

(AUTH. and IMP. Sect. 2-18-1101 through 1106 MCA)

RULE VII ELIGIBILITY OF SUGGESTIONS (1) Each suggestion shall be reviewed by the program administrator to determine if it is a duplicate, or similar to, a suggestion which has previously been submitted or adopted. If duplicate suggestions are received by the program administrator, the one bearing the earliest date of receipt shall be eligible for consideration and all others shall be ineligible. Similar suggestions may be eligible for consideration to the extent the second suggestion adds to the cost savings or value of improved services realized by the first suggestion.

(2) Formal suggestions shall be submitted on forms prescribed by the Department.

(3) Suggestions related to the following subjects are not eligible for awards:

- (a) personal grievances;
- (b) classification and pay of positions;
- (c) matters recommended for study or review;
- (d) matters which are the result of assigned or contracted audits, surveys, studies, reviews or research; and
- (e) matters which are directly related to an employee's assigned duties and responsibilities unless the proposal is so superior or meritorious as to warrant special recognition as determined by the program administrator.

(4) Parts of a suggestion may be considered ineligible according to the above criteria. The remaining parts may be considered eligible and sent to the relevant agencies for investigation and evaluation.

(AUTH. and IMP. Sect. 2-18-1101 through 1106 MCA)

RULE VIII MODIFICATIONS OF SUGGESTIONS (1) If an agency modifies a suggestion that is subsequently approved by the program administrator, the employee is eligible for an award based only on the savings or value of improved services that directly result from the sug-

gestion. Parts of a suggestion not used or modifications made by management shall not be used as a basis for calculating the amount of an employee's award.

(AUTH. and IMP. Sect. 2-18-1101 through 1106 MCA)

RULE IX INTERAGENCY SUGGESTIONS (1) Each suggestion shall be reviewed by the program administrator to determine if it has application to agencies other than the one for which it was proposed. If it is determined that a suggestion has interagency application, it shall be investigated and evaluated by each agency to which it applies.

(AUTH. and IMP. Sect. 2-18-1101 through 1106 MCA)

RULE X GROUP SUGGESTIONS (1) The amount of an award for a suggestion made by a group of employees shall be determined on the same basis as if the suggestion had been submitted by one employee, and the amount awarded shall not exceed a total of \$500 and shall be prorated among the employees making the suggestion.

(AUTH. and IMP. Sect. 2-18-1101 through 1106 MCA)

RULE XI TIME LIMIT ON IMPLEMENTED SUGGESTIONS (1) An employee who has made an oral or other informal suggestion that has already been implemented shall be eligible for an award only if the suggestion is formally submitted to the program administrator within 30 days from the date the suggestion was implemented by an agency. Suggestions implemented after July 1, 1981 but before April 1, 1982 shall be considered for an award if submitted before May 1, 1982. Suggestions implemented before July 1, 1981 are not eligible for an award.

(AUTH. and IMP. Sect. 2-18-1101 through 1106 MCA)

RULE XII INVENTIVE SUGGESTIONS (1) Suggestions which involve patentable or nonpatentable inventions are eligible for awards. Awards for inventions shall be determined on the same basis as awards for other types of suggestions.

(AUTH. and IMP. Sect. 2-18-1101 through 1106 MCA)

RULE XIII RESUBMITTAL OF SUGGESTIONS (1) If an employee's suggestion is not adopted, the employee may re-submit the suggestion to the program administrator. Resubmitted suggestions shall not be considered by the program administrator or the Incentive Awards Advisory Council unless the resubmittal includes specific and new evidence or documentation that sufficiently warrants reconsideration to adopt the suggestion.

(AUTH. and IMP. Sect. 2-18-1101 through 1106 MCA)

RULE XIV MAXIMUM TIME LIMIT FOR CONSIDERING SUGGESTIONS FOR IMPLEMENTATION

(1) A current employee may be entitled to an award if his previously unadopted suggestion is later adopted and implemented within four years from the date the suggestion was first received by the program administrator.

(2) A current or former employee shall be entitled to an award if his previously delayed suggestion, as defined by Rule II (14), is later adopted and implemented within four years from the date the suggestion was first received by the program administrator.

(AUTH. and IMP. Sect. 2-18-1101 through 1106 MCA)

RULE XV AWARDS IN EXCESS OF \$500 (1) Awards in excess of \$500 may be proposed by the Incentive Awards Advisory Council to the State Legislature for possible action. If barriers to implementation such as legislative action are not present, the initial \$500 may be awarded immediately by the program administrator, while the excess shall be awarded when authorized by the legislature.

(AUTH. and IMP. Sect. 2-18-1101 through 1106 MCA)

RULE XVI SUGGESTIONS REQUIRING LEGISLATIVE ACTION

(1) Suggestions requiring legislative action shall be considered ineligible until the appropriate law is passed to enable feasible implementation of the suggestion. In these cases, the Department shall assist agencies in drafting the necessary legislation.

(AUTH. and IMP. Sect. 2-18-1101 through 1106 MCA)

4. The rules are proposed to be adopted to implement the directives of sections 2-18-1101 through 1106, MCA and to clarify administrative rules concerning the state employee incentive awards program.

5. Interested persons may submit their data, views or arguments concerning the proposed adoption of rules either orally or in writing at the hearing. Written data, views or arguments may also be submitted to:

Dennis M. Taylor, Administrator
Personnel Division
Department of Administration
Room 130, Mitchell Building
Helena, Montana 59620

no later than February 27, 1982.

6. Rod Sundsted, Employee Benefits Bureau Chief, Personnel Division, Department of Administration, Room 130, Mitchell Building, Helena, Montana 59620, has been designated to preside over and conduct the hearing.

7. The authority of the agency to make the proposed adoption of new rules is based on section 2-18-1101 through 1106, MCA, and the rules implement section 2-18-1101 through 1106, MCA.

By: Morris L. Brusett
Morris L. Brusett, Director
Department of Administration

Certified to the Secretary of State January 18, 1982.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED ADOPT-
adoption of rules re-	)	ION OF RULES RELATING TO
lating to alternate	)	ALTERNATE WORK SCHEDULES
work schedules)	
	)	NO PUBLIC HEARING CONTEM-
	)	PLATED

To: All Interested Persons.

1. On March 1, 1982, the Department of Administration proposes to adopt rules which pertain to alternate work schedules.

2. The proposed rules provide as follows:

RULE I SHORT TITLE (1) This sub-chapter may be cited as the alternate work schedules policy.
(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE II POLICY AND OBJECTIVES (1) It is the policy of the State of Montana that at the agency's discretion, a system of alternate work schedules may be implemented for agency employees.

(2) It is the objective of this policy to establish the criteria which an agency must consider when implementing a system of alternate work schedules.

(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE III DEFINITIONS As used in this sub-chapter, the following definitions apply:

(1) "Alternate work schedule" means a work schedule requested by an employee which allows the entire work day and work week schedule to start and end at an earlier or later time than the work schedule established by the agency. Alternate work schedules may be approved by an agency when they comply with written guidelines established by the agency and when they do not conflict with agency objectives.

(2) "Agency established work schedule" means the standard 8 a.m. to 5 p.m. Monday through Friday schedule or another work schedule established by agency management to effectively operate the agency's programs and meet objectives.

(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE IV ELIGIBILITY (1) Implementation of alternate work schedules in an agency work unit is at the agency's discretion. Employees working in a work unit where alternate work schedules are implemented may request an alternate schedule based on the procedures established by the agency to administer such schedules.

(2) Provisions of this policy apply only to alternate work schedules requested by the employee and not to work schedules established by management. Nothing in this policy limits the authority of the agency to establish or change work schedules as necessary for the successful operation of agency programs.

(3) Approval of an alternate schedule request for an employee is at the agency's discretion, based on the considerations listed in Rules V and VI and any other factors which the agency deems appropriate.

(4) An agency may withdraw approval for an alternate work schedule on 24-hours notice.

(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE V ALTERNATE SCHEDULE LIMITATIONS (1) Core hours shall be established when all agency employees normally work, regardless of schedule, for example, a block of time from 9 a.m. to 3:30 p.m. or 9:30 a.m. to 4 p.m.

(2) Outside limits on the work day shall be established, for example, a starting time no earlier than 7 a.m. and an ending time no later than 6 p.m.

(3) Limits on the time range during which an employee may take a lunch break shall be established, for example, 11 a.m. to 2 p.m. or 11:30 a.m. to 1:30 p.m.

(4) Each employee on an alternate schedule should determine, with the approval of the immediate supervisor, a regular lunch period schedule, which may range from one-half hour to one and one-half hours.

(5) An agency shall adopt a procedure to deal with requests for long-term change of alternate work schedules which establishes how far in advance an employee must request a change, and how long the employee must remain on the new schedule.

(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE VI CRITERIA FOR ALTERNATE SCHEDULES (1) Where appropriate, supervisory staff shall be scheduled so that someone with supervisory authority is in the general work area at all times during the extended day. Because four, 10-hour days create special problems of supervisory coverage, such a schedule shall not be approved for a supervisor, unless the entire work unit supervised shifts to this schedule.

(2) State offices must be open from 8 a.m. to 5 p.m. daily, as required by Section 2-16-117, MCA. Approval of alternate work schedules must be contingent on maintaining adequate staff coverage during those hours.

(3) When establishing alternate work schedules, the agency must assure coverage of essential functions during regular work hours, such as a receptionist's duties, which are contingent on an 8 a.m. to 5 p.m. schedule or for other employees who provide assistance

to persons outside the agency who would expect to contact them during regular business hours.

(4) Where an employee's duties require considerable or frequent interaction with other employees in order to perform required tasks, an alternate work schedule which significantly reduces the amount of this cooperative work time must not be approved. The four, 10-hour days schedule specifically can result in a significant loss of cooperative work time.

(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE VII CLOSING (1) This policy shall be followed unless it conflicts with negotiated labor contracts or specific statutes, which shall take precedence to the extent applicable.

(AUTH. and IMP. Sect. 2-18-102 MCA)

3. These rules are proposed to be adopted to provide guidelines for agencies who wish to allow alternate work schedules for agency employees.

4. Interested parties may submit their data, views or arguments concerning the proposed repeal and adoption of the rules in writing to:

Dennis M. Taylor, Administrator
Personnel Division
Department of Administration
Room 130, Mitchell Building
Helena, MT 59620

no later than February 27, 1982.

5. If a person who is directly affected by the proposed adoption of rules 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 that request along with any written comments he has to: Dennis M. Taylor, Administrator, Personnel Division, Department of Administration, Room 130, Mitchell Building, Helena, Montana 59620, no later than February 27, 1982.

6. If the agency receives requests for a public hearing on the proposed adoption from with 10% or 25, whichever is less, of the persons directly affected, from the Administrative Code Committee of the Legislature, from a governmental sub-division or agency or from an association having not less than 25 members who will be directly affected, 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 25 persons.

7. The authority of the department to make the proposed rules is based on section 2-18-102 MCA, and the rules implement section 2-18-102 MCA.

By: Morris L. Brusett
Morris L. Brusett, Director
Department of Administration

Certified to the Secretary of State January 18, 1982.

2-1/28/82

MAR Notice No. 2-2-85

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED REPEAL
repeal of rules 2.21.6501	)	OF RULES 2.21.6501
through 2.21.6504 and the	)	THROUGH 2.21.6504 RE-
adoption of new rules	)	LATING TO DISCIPLINE
relating to the administra-	)	HANDLING AND THE ADOPT-
tion of discipline handling	)	TION OF NEW RULES
)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons.

1. On March 1, 1982, the Department of Administration proposes to repeal Rules ARM 2.21.6501 through 2.21.6504 which pertain to discipline handling and to adopt new rules in this matter.

2. The rules proposed to be repealed are on pages 2-1493 through 2-1495 of the Administrative Rules of Montana.

3. The proposed rules provide as follows:

RULE I SHORT TITLE (1) This sub-chapter may be cited as the discipline handling policy.
(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE II POLICY (1) It is the policy of the state of Montana that:

(a) state employees who fail to perform their jobs in a satisfactory manner or whose behavior otherwise interferes with or obstructs agency operations be subject to discipline, including termination, if the performance deficiency continues or violation is sufficiently severe;

(b) discipline be conducted in accordance with the principles of cause, employee right to be informed of the deficiency or violation, and employee right to respond.

(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE III DEFINITIONS As used in this sub-chapter, the following definitions apply: (1) "Corrective discipline" means action taken by management to improve unacceptable employee job performance or behavior.

(2) "Documentation" means a record of facts and incidents which states what violation or deficiency occurred, including time and location of incidents and witnesses, if any; time and form(s) of discipline administered, if any; is dated and signed by disciplining supervisor.

(3) "Employee" means an employee of the state of Montana who has completed the initial state service

probationary period and is in a permanent status. Excluded are elected officials, appointed officers and their personal staffs as defined in 2-18-101(7), MCA.

(4) "Insubordination" means willful refusal by an employee to carry out a legitimate order from a supervisor, or superior in the direct chain of authority.

(5) "Cause" means reasonable, job-related grounds for taking a disciplinary action based on evidence of failure or inability to satisfactorily perform assigned job duties, or obstruction of agency operations.

(6) "Punitive discipline" means management action which punishes an employee for seriously unacceptable job performance or behavior.

(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE IV CORRECTIVE DISCIPLINE (1) Corrective discipline, either an informal counseling session or a corrective interview, shall be applied before punitive measures for all routine performance deficiencies and lesser offenses.

(2) An informal counseling session may be conducted when the deficiency or behavior does not require a written record.

(3) A corrective interview may be conducted when the deficiency or behavior is so serious that it requires a written record of the need for improvement or correction.

(4) The disciplining supervisor shall tell the employee specifically in what way performance is deficient or what unacceptable behavior has taken place, what the employee must do to improve performance or avoid the behavior, in what time period, and when the employee's progress will be reviewed.

(5) The employee shall have the right to respond during informal counseling and a corrective interview. The supervisor shall offer the employee the opportunity to sign and date the corrective interview form. The employee shall have the right to review and add written comment to the corrective interview form.

(6) The supervisor shall make a written record of employee actions which result in a corrective interview and of the topics discussed in the interview.

(7) The employee shall receive a copy of the corrective interview document and a copy shall be placed in the employee's personnel file along with any employee comments.

(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE V PUNITIVE DISCIPLINE (1) The supervisor shall make every reasonable effort to verify that an apparent deficiency or offense has taken place, that the employee is involved, and to examine any extenuating

circumstances. This effort should include questioning of witnesses and the employee and review of all pertinent data available.

(2) The disciplining supervisor or other superiors shall provide the employee with written notice specifying what violation has occurred, what disciplinary measure is being taken and, for measures other than termination, what the employee must do to correct unacceptable behavior, in what time period the correction must take place, and what further action will be taken if the employee does not improve or correct the behavior or deficiency.

(3) The supervisor shall offer the employee the opportunity to review, sign and date all disciplinary notices when issued. If the employee will not sign, a witness should so indicate on the notice and date it.

(4) The employee shall have the right to submit a written response to be attached to the personnel file copy of the discipline notice and to file a grievance.

(5) The supervisor shall keep a written record of all performance deficiencies, violations, and previous disciplinary measures which lead to punitive discipline.

(6) The employee shall receive a copy of the disciplinary notice and a copy shall be placed in the employee's personnel file along with any supporting documentation and employee's written response.

(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE VI WARNING NOTICE (1) The supervisor may issue a warning notice when the violation is so serious that it requires punitive discipline, but not so serious as to call for suspension or termination.

(2) A warning notice shall specify what performance deficiency or violation has occurred, what the employee must do to correct the deficiency or violation and in what time period (the time period the notice is in effect) and what further action will be taken if the employee does not improve or correct the performance or behavior.

(3) The supervisor shall offer the employee the opportunity to sign and date the warning notice when it is issued. If the employee will not sign, a witness should so indicate on the notice and date it.

(4) The employee shall have the right to make written response.

(5) The employee shall receive a copy of the warning notice and a copy shall be placed in the employee's personnel file along with any written response.

(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE VII SUSPENSION (1) An employee may be placed on suspension for serious or repeated violations or while awaiting the outcome of an investigation, charge or trial, the substance of which seriously impairs the employee's effectiveness of the job.

(2) An employee placed on suspension shall receive notice specifying the total length of the suspension, what violation or unacceptable behavior has occurred, what the employee must do to correct the unacceptable behavior, in what time period the correction or improvement must take place, and what further action will be taken if the employee does not make the correction or improvement.

(3) When possible, the suspension notice will be issued at the time of suspension.

(4) When it is necessary to immediately remove the employee from the workplace, suspension may be initiated by oral notice followed by a written suspension notice.

(5) An orally-suspended employee shall be returned to work after no more than three working days unless a written notice of suspension is issued extending the suspension beyond that time.

(6) The supervisor shall offer the employee the opportunity to sign and date the suspension notice when it is issued. If the employee will not sign, a witness should so indicate on the notice and date it.

(7) The employee has the right to make written response which is to be filed with the suspension notice in the employee's personnel file.

(8) An employee suspended while under investigation by the employing agency shall be reinstated to the same or comparable job with back pay if found innocent of the alleged offense.

(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE VIII TERMINATION (1) An employee may be terminated when other forms of punitive discipline fail, or when the violation is so serious that it demands that the employee is removed permanently from the job.

(2) The employee shall be given a written termination letter setting forth the reasons for the termination and the effective date.

(3) The termination shall be carried out with the concurrence of the division administrator or the department director. The director or appropriate appointing authority shall sign the termination letter.

(4) The employee shall have the right to make written response.

(5) The employee shall receive a copy of the termination letter and a copy shall be placed in the employee's personnel file along with any written response.

(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE IX GRIEVANCES (1) Corrective discipline is not grievable, while punitive discipline is griev-

able under ARM Title 2, chapter 21, sub-chapter 80 Grievances, or under procedures available in collective bargaining agreements or by statute.

(2) An employee shall elect to proceed under only one grievance procedure, except when unlawful discrimination is alleged. A discrimination claim also may be filed with the Human Rights Commission. (AUTH. and IMP. Sect. 2-18-102 MCA)

RULE X RECORDS (1) Written materials related to discipline handling, including documentation of facts, corrective interview forms, warning notices, suspension notices and termination notices shall be retained in the employee's personnel file for three years.

(2) These materials shall be purged from personnel files after the three-year retention period unless the violations or deficiencies continue or new offenses or deficiencies occur. In this case, the materials may be retained beyond three years to support additional disciplinary measures.

(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE XI CLOSING (1) This policy shall be followed unless it conflicts with negotiated labor contracts or specific statutes, which shall take precedence to the extent applicable.

(AUTH. and IMP. Sect. 2-18-102 MCA)

4. The rules are proposed to be repealed and replaced with reworded rules for clarity.

5. Interested parties may submit their data, views or arguments concerning the proposed repeal and adoption of the rules in writing to:

Dennis M. Taylor, Administrator
Personnel Division
Department of Administration
Room 130, Mitchell Building
Helena, MT 59620

no later than February 27, 1982.

6. If a person who is directly affected by the proposed repeal of rules ARM 2.21.6501 through 2.21.6504 and the adoption of new rules 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 that request along with any written comments he has to: Dennis M. Taylor, Administrator, Personnel Division, Department of Administration, Room 130, Mitchell Building, Helena, Montana, 59620 no later than February 27, 1982.

7. If the agency receives requests for a public hearing on the proposed repeal and adoption from

either 10% of 25, whichever is less, of the persons directly affected, from the Administrative Code Committee of the Legislature, from a governmental subdivision or agency or from an association having not less than 25 members who will be directly affected, 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 25 persons.

8. The authority of the department to make the proposed rules is based on section 2-18-102 MCA, and the rules implement section 2-18-102 MCA.

By: Morris L. Brusett
Morris L. Brusett, Director
Department of Administration

Certified to the Secretary of State January 18, 1982.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED
amendment of rules	)	AMENDMENT OF RULES
2.21.3002 and 2.21.3005	)	2.21.3002 AND 2.21.3005
relating to decedent's	)	RELATING TO DECEDENT'S
warrants	)	WARRANTS
)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons.

1. On March 1, 1982, the Department of Administration proposed to amend rules 2.21.3002 and 2.21.3005 relating to decedent's warrants.

2. The rules are proposed to be amended as follows:

2.21.3002 STANDARD STATE FORM (1) The "designation of person authorized to receive decedent's warrants form" has been designed for uniform, statewide usage. Forms may be obtained from Department of Administration, ~~general services division, mitchell building, telephone 449-3060,~~ publications and graphics division, Front and Lyndale, telephone 449-3053. Please request a 6 months' supply when ordering forms. See attached example.

(2) ~~The employee's supervisor should explain to the employee shall be informed by the agency that the designation is a legally binding document. There is nothing in 2-18-412, MCA, that precludes a minor from being designated as the person to receive a decedent's warrant. Only one designee should be named on this form since. Only one warrant can be issued from the state auditor's Office as a replacement for each warrant the decedent would have received.~~

(3) The instructions on the form are fairly detailed. The employee prepares the form in duplicate. The form should be reviewed by the agency's ~~personnel or payroll clerk~~ for accuracy. The person making the review and the review date is to be recorded in the "for agency use only" block provided in the lower right hand corner of the form. The original copy of the designation is retained by the employing agency's personnel office or payroll clerk. The duplicate may be returned to the employee or kept in a central personnel file, depending on each agency's internal procedures.

(AUTH. 2-18-102 MCA. IMP. 2-18-412 MCA)

2.21.3005 DECEASE DEATH OF AN EMPLOYEE (1) Upon the ~~decease~~ death of an employee, the employing agency will immediately complete the information of the right-hand margin of the designation form (employee's name, date ~~deceased~~ of death, and signature of certifying

officer.) If the employee has completed an older form that does not have this information printed on the side, this same information should must be typed on the right-hand margin. The employing agency should must keep the original of the designation form on file at all times. Two ~~xerox~~ copies photocopies of the designation form should must be sent to the state auditor's office with each unnegotiated warrant. The designation form and unnegotiated warrants should must not be sent to the central payroll division.

(2) Applicable warrants are to be identified by number, date and amount on the reverse side of the original designation. After all warrants have been delivered to the designees, the designation shall be cancelled and appropriately filed.

(3) Warrants shall be delivered to a designee by the state auditor and should be accompanied by a photocopy of the designation on file.

(AUTH. 2-18-102 MCA. IMP. 2-18-412 MCA)

3. The rules are proposed to be amended at the request of the state auditor's office to clarify the procedure for handling the "designation of person authorized to receive decedent's warrants" form.

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

Dennis M. Taylor, Administrator
Personnel Division
Department of Administration
Room 130, Mitchell Building
Helena, Montana 59620

no later than February 27, 1982.

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 Dennis M. Taylor, Administrator, Personnel Division, Department of Administration, Room 130, Mitchell Building, Helena, Montana 59620, no later than February 27, 1982.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, 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 25 persons.

7. The authority of the agency to make the proposed amendments is based on section 2-18-102, MCA, and the rule implements section 2-18-412, MCA.

By: Morris L. Brusett
Morris L. Brusett, Director
Department of Administration

Certified to the Secretary of State January 18, 1982.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the repeal	)	NOTICE OF PUBLIC HEARING
of rules 2.21.5001 through	)	ON THE REPEAL OF RULES
2.21.5004 relating to re-	)	2.21.5001 THROUGH
duction in work force and	)	2.21.5004 RELATING TO
the adoption of new rules	)	REDUCTION IN WORK FORCE
	)	AND THE ADOPTION OF NEW
	)	RULES

To: All Interested Persons.

1. On February 22, 1982, at 1:30 p.m., a public hearing will be held in Room 136 of the Mitchell Building, Helena, Montana to consider the repeal of rules 2.21.5001 through 2.21.5004 relating to reduction in work force and the adoption of new rules.

2. The rules proposed to be repealed can be found on pages 2-1275 through 2-1279 of the Administrative Rules of Montana.

3. The proposed rules provide as follows:

RULE I SHORT TITLE (1) This sub-chapter may be cited as the reduction in work force policy.
(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE II DEFINITIONS As used in this sub-chapter, the following definitions apply: (1) "Reduction in force" means a management action taken for non-disciplinary reasons in which an employee is laid off from his/her present position. The RIF may take place for reasons including, but, not limited to: elimination of programs; reduction in FTE's by the Legislature; lack of work; lack of funds; expiration of grants; or reorganization.

(2) "Preference period" means a period of one calendar year from the effective date of a layoff.
(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE III POLICY (1) If it is necessary to achieve a reduction in the work force, consideration must be given to the programs to be carried out by the agency and the staff structure which, after the reduction, will most expeditiously achieve program objectives. Accordingly, employees will be retained giving consideration to the importance of the following qualities possessed by the work force: skill and length of service in the agency.

(2) Skill means an assessment of qualifications and experience and consideration should be given to any or all of the following:

(a) Qualifications and experience to perform the duties of a specific position which will be retained.

(b) General qualifications and experience beneficial to future achievement of agency goals and objectives.

(c) The performance on specific, related tasks to those required by the position which will be retained.

(d) General performance history.

(3) Skill should be applied first and only if skill does not differentiate between employees should length of service in the agency be considered.

(4) An employee must be given written notice a minimum of 10 working days preceding the effective date of the layoff. An employee should be counseled as much in advance of the anticipated action as possible regarding available options and reasons for layoff.

(5) Agencies shall maintain a roster of employees who have been laid off and offer reinstatement on a "last-out, first-in" basis by skill match and job classification. An employee shall be reinstated to the same position or a position in the same class when such a position becomes vacant in the agency from which the employee was laid off if such vacancy occurs during the employee's preference period. Specific reinstatement offers shall be made to the employee in writing. The employee must accept or reject the reinstatement offer in writing within 5 working days following receipt of the offer. If a reinstatement offer is rejected by the employee, the employee loses all rights to the employment offered. An agency is no longer required to reinstate a laid-off employee who has rejected a previous reinstatement offer. Such rejection does not affect hiring preference over others equally qualified as provided in section 6.

(6) Each agency shall make a concerted effort to make other agencies aware of both the names of persons laid off and their job classifications, and agencies with vacancies shall give hiring preference over others of equal qualifications for a period of one calendar year from the effective date of lay-off to employees laid off from that agency or other agencies. It is the employee's responsibility to apply for those positions for which the employee wants to be considered and to make his eligibility for lay-off preference known to the agency.

(7) If the lay-off is anticipated to last longer than 15 working days, the employee shall be terminated. Upon termination, the employee shall cash out accumulated annual leave and sick leave and may cash out retirement contributions. The agency may allow the employee to maintain accumulated annual leave and

sick leave for a period of one calendar year from the effective date of lay-off. (Accumulated vacation credits may be used to delay the termination date in lieu of a lump sum payment. This delay is for employee convenience only and does not alter the effective date of lay-off or extend the preference period.)

(8) Upon recall from a lay-off or upon placement of an employee during the preference period necessitated by a lay-off, the employee's salary shall be determined as if the employee had never been laid off, and the employee need not serve the qualifying periods for use of annual leave and sick leave. The employee should be treated as a continuing employee.

(9) An employee who is reinstated to a grade lower than the one held at lay-off, should be treated as a voluntary demotion under the pay plan rules. The employee receives the same step as the position from which he was laid off at the grade assigned to the new position.

(10) An employee who is demoted as the result of a RIF, but who is not laid-off, may, at the agency's discretion, receive up to a maximum of 180 days of salary protection, depending on budgetary constraints.

(11) In some cases, a demotion as a result of a RIF may be considered "exceptional circumstances" for purposes of a pay plan exception.

(12) If an individual re-enters state employment after the preference period has expired, that individual's salary shall be step 1 of the assigned grade. Further, the employee must begin anew earning time toward the qualifying period for annual leave and sick leave. A termination caused by lay-off shall not constitute a break in service for longevity purposes unless the employee has refused to accept a reinstatement offer. Only actual years of service count toward longevity.

(13) Lay-off shall NOT be used as an alternative to discharging an employee for cause or disciplinary purposes. Unsatisfactory employees should be terminated subsequent to complete and appropriate evaluation review, and documentation. If an unsatisfactory employee is laid off without appropriate evaluation, review and documentation, the employee must be treated the same as any other laid-off employee.

(14) In the process of achieving necessary reduction in the work force, an intra-department "bumping process" wherein individuals may be assigned to lower classifications within a series in lieu of a lay-off can be used. This "bumping process" policy must be described in writing, posted for employees to see and submitted to the Personnel Division, Department of Administration. Bumping is at the agency's

discretion, not the employee's. If an agency chooses to allow bumping, the agency must have a written policy which must be applied consistently. The policy must identify work units and classes in which bumping may occur. The criteria used to bump must be as job specific as possible and the results of the bumping process should not have disparate impact on any protected group of employees, i.e. women, minorities, the handicapped.

(15) The lay-off policy described above will apply to permanent, full or part-time employees, and would not apply to seasonal employees whose employment is regularly interrupted by the seasonal nature of their work or to temporary employees with a specific employment period.

(AUTH. and IMP. Sect. 2-18-102 MCA)

RULE IV CLOSING (1) This policy shall be followed unless it conflicts with negotiated labor contracts or Merit System rules which shall take precedence to the extent applicable.

(AUTH. and IMP. Sect. 2-18-102 MCA)

4. The rules are proposed to be repealed and replaced with new rules to clarify the procedure for laying off employees.

5. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to: Dennis M. Taylor, Administrator, Personnel Division, Department of Administration, Room 130, Mitchell Building, Helena, Montana 59620, no later than February 27, 1982.

6. Gale Kuglin, Personnel Division, Department of Administration, Room 130, Mitchell Building, Helena, Montana 59620, has been designated to preside over and conduct the hearing.

7. The authority of the agency to repeal the rules and adopt new rules is based on section 2-18-102 MCA.

By: Morris L. Brusett
Morris L. Brusett, Director
Department of Administration

Certified to the Secretary of State January 18, 1982.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED
amendment of rules re-	)	AMENDMENT OF RULES
lating to the admini-	)	2.21.1513, 2.21.1515
stration of compensatory	)	and 2.21.1517
time and overtime	)	RELATING TO COMPENSATORY
	)	TIME AND OVERTIME
)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons.

1. On March 1, 1982, the Department of Administration proposes to amend Rules ARM 2.21.1513, 2.21.1515 and 2.21.1517 which pertain to compensatory time and overtime.

2. The rules as proposed to be amended provide as follows:

2.21.1513 COMPENSATORY TIME (1) Exempt employees as defined above will receive compensatory time if they work over 40 hours in a workweek. The time shall be recorded, then used at a mutually agreeable later date during regular work hours.

(2) Compensatory time may be accumulated to a maximum of 120 hours. When assigning necessary work in excess of 40 hours to an employee with the maximum hours already accrued, the excess hours are not forfeited if taken within 90 calendar days from the last day of the calendar year in which the excess was accrued.

(3) Upon receipt of a reasonable and timely request, the employer shall allow an employee compensatory time off to avoid forfeiture of compensatory time as in (2) above, when determined according to the best interest of the state and each employee. The same shall apply if a voluntary termination or transfer to another agency within the same jurisdiction is pending.

(4) Compensatory time may be transferred with the employee to another agency providing the new employer agrees.

(5) Compensatory time may be accrued in excess of the 120-hour limit to deal with special or unique circumstances which represent periodic or temporary situations which cannot be adequately addressed by other management actions.

(AUTH. and IMP. Sect. 2-18-102 MCA)

2.21.1515 AUTHORITY TO APPROVE OVERTIME OR COMPENSATORY TIME EARNED (1) Employees shall obtain approval from the proper authority, in advance when possible, for permission to work in excess of 40 hours per workweek.

2-1/28/82

MAR Notice No. 2-2-89

(2) Requests to exceed the 120-hour compensatory time accrual limit must be approved by the agency head in advance.

(3) Managers should use caution in approving extra work hours which result in excessive accrual of compensatory time where it would be difficult to allow the employee to use accrued time later or the employee would be forced to forfeit accrued time due to retirement, termination or transfer.

(AUTH. and IMP. Sect. 2-18-102 MCA)

2.21.1517 RECORDS (1) Hours worked in excess of 40 in a workweek must be reported on a time and attendance form to be compensable.

(2) Compensatory Time: compensatory time may be earned and recorded in half hour increments during the workweek, but the recorded amount for compensation purposes shall be in full hours only.

(3) Overtime: overtime must be paid even though it may be in fractional hours. The fractional increment may be rounded off provided that over a period of time this does not result in the failure to compensate the employee for the entire time actually worked; shall be recorded in 1/10 hour increments, for example .1 hour equals 6 minutes; .2 hour equals 12 minutes.

(AUTH. and IMP. Sect. 2-18-102 MCA)

3. The rules are proposed to be amended to provide more flexibility to agency management in the administration of compensatory time.

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

Dennis M. Taylor, Administrator
Personnel Division
Department of Administration
Room 130, Mitchell Building
Helena, Montana 59620

no later than February 27, 1982.

5. If a person who is directly affected by the proposed amendments wishes to express his data, views or 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: Dennis M. Taylor, Administrator, Personnel Division, Department of Administration, Room 130, Mitchell Building, Helena, Montana 59620, no later than February 27, 1982.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendments; from the Administrative Code Committee of the legislature; from a governmental sub-division or agency; or from an association having not

less than 25 members who will be directly affected, 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 25 persons.

7. The authority of the agency to make the proposed amendments is based on Section 2-18-102, MCA, and the rule implements Section 2-18-102, MCA.

By: Morris L. Brusett
Morris L. Brusett, Director
Department of Administration

Certified to the Secretary of State January 18, 1982.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF HORSE RACING

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of rules ARM 8.22.801) OF RULES ARM 8.22.801 GENERAL
subsection (29) pertaining to) REQUIREMENTS and ARM 8.22.803
eligibility of a horse 12 years) DECLARATIONS AND SCRATCHES
or older and 8.22.803 subsec-)
tion (6) pertaining to permis-) NO PUBLIC HEARING CONTEMPLATED
sion to withdraw from a race.)

TO: All Interested Persons:

1. On February 27, 1982, the Board of Horse Racing proposes to amend subsection (29) of ARM 8.22.801 pertaining to the eligibility of horses 12 years and older and 8.22.803 subsection (6) pertaining to the procedure for allowing scratches in certain races.

2. The proposed amendment of 8.22.801 amends only subsection (29), the rest of the rule remains as is. The full text of the rule can be found at pages 8-679 - 8-685, Administrative Rules of Montana. The proposed amendment reads as follows: (deleted matter interlined)

"8.22.801 GENERAL REQUIREMENTS (1)...

...

(29) Any horse over 12 years old can run in Montana provided they have had one win in the previous season ~~on a recognized track.~~

..."

3. The board is proposing the amendment to allow horses which may not have sufficient opportunity to win in a preceeding year on a recognized track to enter races if they won on an unrecognized track. The amendment is warranted in the board's opinion because Montana only has two recognized meets. The authority of the board to make the proposed change is based on section 23-4-104, MCA and implements the same.

4. The proposed amendment of ARM 8.22.803 amends subsection (6) only. The rest of the rule remains as it is. The full text of the rule can be found at pages 8-686 and 8-687 Administrative Rules of Montana. The proposed amendment reads as follows: (new matter underlined)

"8.22.803 DECLARATIONS AND SCRATCHES (1)...

...

(6) Any trainer who has entered a horse, will be allowed the right and privilege of scratching from said race prior to scratch time, until there remain in the race only eight interests. If there are more requests to withdraw than are available, permission to withdraw shall be granted first to the also eligible horses by lot, and thereafter to the in-today horses in the same manner. No other entries will be excused as provided above except upon receipt of a veterinarian's certificate of unfitness, or other cause acceptable to the stewards.

..."

5. The board is proposing the amendment to enhance the accuracy of information to the betting public by reducing the opportunity for horses drawn into a race from scratching. The authority of the board to make the proposed amendment is based on section 23-4-104, MCA and implements the same.

6. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to Daniel G. Diemert, 1424 9th Avenue, Helena, Montana 59620-0407, no later than February 25, 1982.

7. If a person who is directly affected by the proposed amendment wishes to express his data, views or 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 Daniel G. Diemert, 1424 9th Avenue, Helena, Montana 59620-0407, no later than February 25, 1982.

8. If the board receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental agency or subdivision; or from an association having not less than 25 members who will be directly affected, 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 25 persons.

9. The authority and implement sections are shown at the end of each proposed amendment.

BOARD OF HORSE RACING
DALE MAHLUM
CHAIRMAN

BY: 

GARY BUCHANAN, DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, January 18, 1982.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF PSYCHOLOGISTS

In the matter of the proposed) NOTICE OF PROPOSED ADOPTION
adoption of a new rule setting) OF A NEW RULE CONCERNING
out a fee schedule.) FEES

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On January 14, 1982, the Board of Psychologists published a notice of proposed adoption of a new rule concerning fees at page 3, 1982 Montana Administrative Register, issue number 1.

2. As there was an error made in one of the fees, the board is renouncing the proposed adoption. On February 27, 1982 the Board of Psychologists proposes to adopt a fee schedule.

3. The proposed rule will read as follows: (The change from the first notice is reflected as deleted matter interlined, new matter underlined)

"1. FEE SCHEDULE (1) The department will collect the following fees, none of which are refundable:

(a) Application fee	-\$50.00 \$65.00
(b) Examination fee	75.00
(c) Renewal fee	65.00
(d) Certificate fee	10.00"

3. The board is proposing the new rule to establish a fee schedule commensurate with costs as required by sections 37-1-134, MCA and 37-17-307, MCA.


4. Interested persons may submit their data, views or arguments concerning the proposed adoption in writing to the Board of Psychologists, 1424 9th Avenue, Helena, Montana 59620-0407 no later than February 25, 1982.

5. If a person who is directly affected by the proposed adoption wishes to express his data, views or 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 Psychologists, 1424 9th Avenue, Helena, Montana 59620-0407 no later than February 25, 1982.

6. If the board receives requests for a public hearing on the proposed adoption from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed adoption; from the Administrative Code Committee of the legislature; from a governmental agency or subdivision; or from an association having not less than 25 members who will be directly affected, 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 37-17-202, MCA and implements sections 37-1-134 and 37-17-302,303,306, and 307, MCA.

BOARD OF PSYCHOLOGISTS
J. BAILEY MOLINEUX, Ph.D.
CHAIRMAN

BY: 
GARY BUCHANAN, DIRECTOR
DEPARTMENT OF COMMERCE

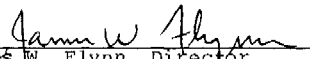
Certified to the Secretary of State, January 18, 1982.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE, & PARKS
OF THE STATE OF MONTANA

In the matter of the amendment	) NOTICE OF TIME CHANGE FOR
of Rules 12.6.501 through	) PUBLIC HEARING ON PROPOSED
12.6.513 relating to	) AMENDMENT OF RULES 12.6.501
outfitters and professional	) THROUGH 12.6.513 --
guides regulations	) OUTFITTERS AND PROFESSIONAL
	) GUIDES REGULATIONS

TO: All Interested Persons.

1. On Friday, February 19, 1982, at 10:00 a.m., a public hearing will be held in the Fish & Game Commission Room, Department of Fish, Wildlife, & Parks, 1420 E. 6th Ave., Helena, Montana, to consider the amendment of Rules 12.6.501 through 12.6.513. The time of public hearing is changed from February 12, 1982 at 10:00 a.m. to February 19, 1982 at 10:00 a.m. in order to avoid holding the hearing on a state holiday.


James W. Flynn, Director
Department of Fish, Wildlife,
& Parks

Certified to Secretary of State January 18, 1982

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

In the matter of the adoption) NOTICE OF PUBLIC HEARING
of rules setting water and sewer) FOR ADOPTION OF RULES
standards for day care centers) (Day Care Centers)

To: All Interested Persons

1. On February 22, 1982, at 1:30 p.m., a public hearing will be held in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the adoption of rules which set water supply and sewer system requirements for day care centers. The hearing will be held in conjunction with a hearing for consideration of other related day care standards which is already scheduled at that time, notice of which was published on page 1845 of the Montana Administrative Register, issue no. 24.

2. The proposed rules will replace rule 16.24.402 found at pages 16-1142 through 16-1144 of the Administrative Rules of Montana.

3. The proposed rules provide as follows:

RULE I WATER SUPPLY SYSTEM (1) The department hereby adopts and incorporates by reference ARM 16.20.207, stating maximum microbiological contaminant levels for public water supplies, and the following department publications setting construction, operation, and maintenance standards for spring, wells, and cisterns, respectively:

- (a) Circular #11, "Springs";
- (b) Circular #12, "Sanitary Features of Water Wells";
- (c) Circular #17, "Cisterns for Water Supplies".

Copies of ARM 16.20.207 and Circulars #11, #12, and #17 may be obtained from the Water Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Helena, Montana 59620.

(2) In order to ensure an adequate and potable supply of water, a day care center must either:

(a) connect to a water supply system meeting the requirements of Title 16, Chapter 20, sub-chapters 2, 3, and 4 of the Administrative Rules of Montana; or

(b) if the day care center is not utilized by more than 25 persons daily at least 60 days out of the calendar year, including children, staff, and residents; and an adequate public water supply system is not accessible; utilize a non-public system whose construction and use meet those standards set in one of the following circulars published by the department:

- (i) Circular #11 for springs
- (ii) Circular #12 for water wells
- (iii) Circular #17 for cisterns.

(3) If a non-public water supply system is used in accordance with subsection (2)(b) above, a day care center must:

(a) Submit a water sample at least quarterly to a laboratory licensed by the department to perform microbiological analysis of water supplies in order to determine that the water does not exceed the maximum microbiological contaminant levels stated in ARM 16.20.207, incorporated by reference in subsection (1) above.

(b) Prior to beginning operation, or [within 6 months after the effective date of this rule], whichever is later, submit a water sample to a laboratory licensed by the department to perform chemical analysis of water supplies in order to determine that the maximum contaminant level for nitrates of 10 milligrams per liter is not exceeded.

(4) A day care center must replace or repair the water supply system serving it whenever the water supply:

(a) contains microbiological contaminants in excess of the maximum levels contained in ARM 16.20.207, as incorporated by reference in subsection (1) of this rule, or nitrates in excess of the maximum level stated in subsection (3)(b) of this rule; or

(b) does not have the capacity to provide adequate water for drinking, cooking, personal hygiene, laundry, and water-carried waste disposal.

AUTHORITY: Sec. 53-4-506, MCA

IMPLEMENTING: Sec. 53-4-506, MCA

RULE 11. SEWAGE SYSTEM (1) The department hereby adopts and incorporates by reference Bulletin 332, "Septic Tanks", published by the Montana State University Cooperative Extension Service, which contains standards for construction and operation of adequate individual sewage systems. A copy of Bulletin 332 may be obtained from the Water Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Helena, Montana 59620.

(2) In order to ensure sewage is completely and safely disposed of, a day care center must:

(a) connect to a public sewage system meeting the requirements of Title 16, Chapter 20, sub-chapter 4, of the Administrative Rules of Montana; or

(b) if the day care center is not utilized by more than 25 persons daily at least 60 days out of the calendar year, including children, staff, and residents; and an adequate public sewage system is not available; utilize a non-public system whose construction and use meet the construction and operation standards contained in Bulletin 332, "Septic Tanks", published by the Montana State University Cooperative Extension Service, and incorporated by reference in subsection (1) of this rule, with the proviso that the necessary size of the system be determined utilizing the following:

(i) Sewage flow must be determined using a rate of 20 gallons per day per child and per staff member attending the day care center, plus 75 gallons per day per resident.

(ii) A septic tank must have a minimum of 1000 gallons liquid capacity and be sufficient in size to provide for a minimum of 24 hours of retention time;

(iii) The rate of sewage application for standard trenches must be calculated using the formula Q equals 5 divided by the square root of t , where Q equals the rate of sewage application in gallons per square foot per day and t equals the percolation rate in minutes per inch.

(3) A 4-foot vertical separation must exist between the bottom of the drainfield trench and both the highest ground-water level and the bedrock level.

(4) The maximum slope of an area used for subsurface sewage disposal must not exceed 15%.

(5) A sewage system design other than the type described in this rule, may be utilized only if it is designed by an engineer registered in Montana and offers equivalent sanitary protection.

(6) A day care center must replace or repair its sewage system whenever:

(i) it fails to accept sewage effluent at the rate of application;

(ii) seepage of effluent from, or ponding of effluent on or around the system occurs;

(iii) contamination of a potable water supply or state waters is traced to effluent from the sewage system; or

(iv) a mechanical failure occurs, including electrical outage, or collapse or breakage of septic tank, lead lines, or drainfield lines.

AUTHORITY: Sec. 53-4-506, MCA

IMPLEMENTING: Sec. 53-4-506, MCA

4. The Department is proposing these rules as part of a package (see paragraph 1 above) designed to completely revise and update the pre-existing day care rules. These particular rules add specific requirements to ensure adequate water and sewage systems exist for the protection of children in day care centers.

5. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Robert L. Solomon, Cogswell Building, Capitol Complex, Helena, MT, no later than February 26, 1982.

6. Robert L. Solomon, Cogswell Building, Capitol Complex, Helena, MT, has been designated to preside over and conduct the hearing.

7. The authority of the Department to make the proposed rules is based on section 53-4-506, MCA, and the rules implement section 53-4-506, MCA.


JOHN J. DRYNAN, M.D., Director

Certified to the Secretary of State January 18, 1982

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

In the matter of the adoption	)	AMENDED NOTICE OF
of rules setting health	)	PUBLIC HEARING
standards for day care centers	)	FOR ADOPTION OF RULES
	)	(Day Care Centers)

To: All Interested Persons

The notice of proposed agency action published in the Montana Administrative Register on December 31, 1981, is amended as follows to conform the proposed rule containing definitions to the language used in two additional day care proposed rules relating to water and sewer systems, notice of which is in this issue of the Montana Administrative Register.

1. On February 22, 1982, at 1:30 p.m., a public hearing will be held in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the adoption of rules which are intended to protect children in day care centers from the health hazards of inadequate food preparation, poor nutrition, and communicable diseases.

2. The proposed rules will replace rules 16.24.401 through 16.24.405 found at pages 16-1141 through 16-1147 of the Administrative Rules of Montana.

3. The proposed rules provide as follows:

RULE I. DEFINITIONS (1) "Department" means the Montana state department of health and environmental sciences.

(2) "Local health authority" means a local health officer, local department of health, or local board of health.

(3) "Public sewage system" means a system for collection, transportation, treatment or disposal of sewage that is designed to serve or serves 10 or more families or 25 or more persons for a period of at least 60 days out of the calendar year.

(4) "Public water supply system" means a system for the delivery to the public of piped water for human consumption, if such a system serves at least 10 families or regularly serves at least 25 persons daily at least 60 days out of the calendar year.

AUTHORITY: Sec. 53-4-506, MCA

IMPLEMENTING: Sec. 53-4-506, MCA

RULES II through XI -- Same as original notice (pages 1845-1853 of the 1981 Montana Administrative Register, issue no. 24).

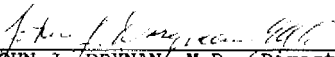
4. The Department is proposing these rules in order to completely revise and update the pre-existing day care rules and, in particular, to add specific nutritional requirements which an amendment by the 1981 legislature authorized.

5. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing.

Written data, views, or arguments may also be submitted to Robert L. Solomon, Cogswell Building, Capitol Complex, Helena, MT, no later than February 26, 1982.

6. Robert L. Solomon, Cogswell Building, Capitol Complex, Helena, MT, has been designated to preside over and conduct the hearing.

7. The authority of the Department to make the proposed rules is based on section 53-4-506, MCA, and the rules implement section 53-4-506, MCA.


JOHN J. DRYNAN, M.D., Director

Certified to the Secretary of State January 18, 1982


BEFORE THE DEPARTMENT OF INSTITUTIONS
OF THE STATE OF MONTANA

In the matter of the	)	AMENDED NOTICE OF PROPOSED
proposed amendment of Rules	)	AMENDMENT AND REPEAL OF
20.7.101, 20.7.102, 20.7.103,	)	RULES 20.7.101 THROUGH 20.7.109
20.7.104, 20.7.105, 20.7.106,	)	FORMERLY CALLED THE FURLOUGH
and 20.7.108 and the proposed	)	PROGRAM, NOW TO BE CALLED THE
repeal of Rules 20.7.107 and	)	SUPERVISED RELEASE PROGRAM.
20.7.109)	
(Supervised Release Program)	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons.

1. On February 1, 1982, the Department of Institutions intends to amend and repeal administrative rules 20.7.101 through 20.7.109. Notice of this proposed action was published on pages 1855 through 1865, Montana Administrative Register, number 24, December 31, 1981.

2. The Department of Institutions hereby amends the time schedule for submitting written data, views, or arguments concerning the proposed new rules and amendments and the time schedule for requesting a public hearing by amending the dates in paragraphs 5. and 6. on page 1864, Montana Administrative Register, number 24 to read January 28, 1982 when such written data, views, or arguments or request for a public hearing may be made.


CARROLL V. SOUTH, Director
Department of Institutions

Certified to the Secretary of State this 12 day of
January, 1982.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE)	NOTICE OF PUBLIC HEARING ON PRO-
AMENDMENT OF RULES)	POSED AMENDMENT OF RULES 42.22.105
42.22.105 and 42.22.111,) and 42.22.111, and the adoption of	
and the adoption of New) New Rule I concerning the reporting	
Rule I concerning the) requirements for centrally assessed	
reporting requirements) companies, found in Title 42,	
for centrally assessed) Chapter 22, ARM.	
companies, found in)	
Title 42, Chapter 22,)	
ARM.)	

TO: All Interested Persons:

1. On February 18, 1982 at 9:30 a.m., a public hearing will be held in the First Floor Conference Room, Mitchell Building, Helena, Montana, to consider the revision of rules relating to reporting requirements for centrally assessed companies, found in Title 42, Chapter 22, ARM.

2. The rules proposed to be amended can be found at pages 42-2207, 42-2208 and 42-2211. The Department proposes to amend 42.22.105 and 42.22.111.

3. The rules proposed for amendment provide as follows:

42.22.105 REPORTING REQUIREMENTS (1) Each year all centrally assessed companies shall submit to the department of revenue a report of operations for the preceding year. Railroads shall submit the report by April 15 and all others by March 31, on forms supplied by the department.

(2) The report shall contain the following information on the operating properties:

(a) balance sheet for the system;

(b) statement of income for the system;

(c) original cost and book depreciation for system property, including an estimate of current value of property leased from others;

(d) statement of outstanding preferred stock, common stock, and debt, showing both book value and market value;

(e) statement of actual revenue and expense for the Montana operation. If actual amounts are not available, a statement of allocated revenue and expense may be substituted.

(f) if nonoperating properties are included in subsections (a) through (e), their original cost, book depreciation, market value, and income;

(g) general description, original cost, and book depreciation of Montana properties, including description and location of property leased from others, together with name of lessor, current value or annual rental, and responsibility for

the property tax (lessor or lessee);

(h) if rolling stock is allocated to Montana, the method used;

(i) pertinent statistical data on the company's operations within and without this state;

(j) copy of annual report to stockholders;

(k) copy of annual report to the federal regulatory agency if one is filed;

(l) copy of annual report to the Montana public service commission if no report is filed with a federal regulator agency;

(m) in the case of centrally assessed railroads, all information required under 42.22.106.

~~(m)~~ (n) all other information requested by the department which will assist in valuing the operating properties;

~~(n)~~ (o) signed and notarized statement of correctness.

(3) In addition to the report each centrally assessed company must revise and update a statement of mileage printout provided by the department and return it along with the report. Telephone, telegraph, and microwave companies shall also include a list of Montana communications equipment and towers including book cost and the school and special districts in which they are situated. (History: Sec. 15-23-108 MCA; IMP, Sec. 15-23-103, 15-23-201, 15-23-301, 15-23-402, 15-23-502, 15-23-602, and 15-23-701 MCA; NEW, Eff. 12/4/76; AMD, 1980 MAR p. 1011, Eff. 3/28/80.)

42.22.111 VALUATION METHOD (1) The unit method of valuation will be used to appraise centrally assessed companies whenever appropriate. When applying this method, the department will use commonly accepted methods and techniques of appraisal to determine market value. The application of the unit method may include a cost indicator, capitalized income indicator, and a market indicator (stock and debt) of value when sufficient information is available. If the department determines that an individual indicator, the unit method of valuation or other method of valuation does not reflect a company's market value or that information is ~~not available~~ unavailable, it may substitute adopt a different method or methods of valuation, including but not limited to net scrap, net salvage, corridor value in the case of railroads, or ~~other accepted indicators of value~~ any combination of methods of valuation which reflect the company's market value.

(2) When the unit method of valuation is used with multiple indices of value, they will be combined into one (system) value. Combining of the indices shall require the department to review all available information including: reliability of the cost data, sufficiency of the depreciation allowed, frequency of full audit by a regulatory agency, quality of the income to be capitalized, level of income to be capitalized, accuracy of information used to set a capitalization rate, accounting principles used to report data from which the valuation is made, fluctuations in the stock market, methods used by other taxing

authorities, and all other pertinent information. After thoroughly acquainting itself with the indices, the department shall determine the degree to which each indicator will influence the unit valuation.

(3) This rule shall be effective for all reporting years ending December 31, 1981 and thereafter. (History: Sec. 15-23-108 MCA; IMP, Title 15, chapter 23, part 1 MCA; NEW, Eff. 12/4/76.)

The rule proposed for adoption provides as follows:

RULE 1 ADDITIONAL REPORTING REQUIREMENTS FOR CENTRALLY ASSESSED RAILROADS (1) Each year all centrally assessed railroads shall submit by April 15 a report of operations for the preceeding year containing in addition to that information required by 42.22.105 the following information and items:

- (a) copies of all Montana valuation maps;
- (b) copies of all Montana track charts;
- (c) a statement setting forth by individual counties the total acreage of Montana real property and right-of-way;
- (d) a statement setting forth by individual state the total acreage of all system real property and right-of-way;
- (e) a statement of all track in Montana listing the pattern weight, number of miles, and location by railroad segment and milepost;
- (f) a statement of all agreements authorizing the longitudinal use of Montana right-of-way, including for each agreement the names of the parties to the agreement, a summary of its terms, the amounts paid thereunder, the longitudinal use contemplated, and the location and length of right-of-way covered;
- (g) a statement of all monthly bad order ratios for cars and locomotives in Montana;
- (h) a statement by network segment of Montana gross and net tons hauled during the year and a copy of any chart setting forth this information;
- (i) a statement by network segment of system gross and net tons hauled during the year, and a copy of any chart setting forth this information;
- (j) a copy of the company's freight car diagram book;
- (k) a statement setting forth all locomotive tonnage ratings;
- (l) a copy of Montana employee timetables for the year;
- (m) a copy of Montana operating rules;
- (n) a copy of freight train schedules for the year;
- (o) a list of all Montana equipment and repair shops and yards.

(2) This rule shall be effective for all reporting years ending December 31, 1981, and thereafter.

AUTH: 15-23-108; IMP: 15-23-201, MCA.

4. The amendments to the existing rule and the adoption of a new rule are proposed for the purpose of obtaining more extensive information concerning centrally assessed railroad opera-

tions and values. While the statute and existing regulations give the Department the right to request the information contained in the new rule, it is the position of the Department that for the regularity of reporting it was best to adopt a new regulation. This regulation will specifically govern railroads and will require the submission of this information every year rather than just upon request.


The amendments to §42.22.111 make it clear that the Department may use such methods as are necessary to obtain a value for centrally assessed properties to carry out its statutory mandate to appraise all property at 100% of market value.

5. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted no later than February 26, 1982, to:

R. Bruce McGinnis
Legal Bureau
Department of Revenue
Mitchell Building
Helena, Montana 59620

6. Mr. John Clark, Deputy Director, Montana Department of Revenue has been designated to preside over and conduct the hearing.

7. The authority of the Department to make the proposed amendments and adoption is found at 15-23-108, MCA. The implementing sections are listed below each amendment or adoption.


ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 1/18/82

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES
OF THE STATE OF MONTANA

IN THE MATTER of the adoption) NOTICE OF PUBLIC HEARING
of rules implementing Initia-) FOR THE ADOPTION OF RULES
tive 85, the Montana Lobbyist)
Disclosure Act of 1980)

TO: All Interested Persons

1. On February 23, 1982, at 10:00 o'clock a.m., a public hearing will be held in Room 104 of the State Capitol Building, Helena, Montana, to consider the adoption of rules implementing Initiative 85, now codified as §§ 5-7-101 et seq., MCA. A more detailed summary of the rules' provisions are given below.

2. An initial hearing on these same rules was held on November 19, 1981 (see MAR notice 44-3-10-15). The rules appearing below incorporate suggestions and comments by various parties as well as by the Agency. In addition, two new rules are proposed which did not appear in the prior hearing.

2. The proposed rules do not replace or modify any sections currently found in the Administrative Rules of Montana.

Authority for all rules is based on Section 5-7-111, MCA. The text of the proposed rules is as follows (all language is new):

RULE 1. LOBBYING--DEFINITION--EXEMPTIONS (1) General.

As used in section 5-7-102(4), the phrase "practice of promoting or opposing" the introduction or enactment of legislation means attempting to influence the course of pending or proposed legislation by direct personal contact and persuasion, or direct communications from a lobbyist to a legislator.

(2) It is immaterial whether such contact or persuasion occurs during a legislative session or other official proceeding or not.

(3) Exemptions. (a) Appearances before the legislature or a committee thereof in response to a subpoena or written request to appear from the presiding official of the body shall not be considered "lobbying."

(b) A person whose contacts with legislators are not substantial or regular but are isolated or incidental shall not be considered to be "lobbying." For purposes of this exemption, "substantial or regular" means more than two hours in any calendar month.

(c) Response to a public invitation for comment is not considered "lobbying."

RATIONALE: The rule as originally proposed contained some language which people found confusing, and which has been clarified. In addition, the new version incorporates a provision providing an exemption for activity which may technically be defined as "lobbying" but which is so minor

or irregular that it should not require registration. For example, certain primarily social activities involving legislators could be construed to fall under the Act, or one-time testimony by some member of the public at a hearing or session of the legislature might require registration if some de minimis provision is not included. The rule implements Section 5-7-102(4). AUTH: 5-7-111 MCA

RULE II. NON-LEGISLATIVE LOBBYING - DEFINITION - REGISTRATION (1) For purposes of section 5-7-102(4)(b), an individual is engaged in "lobbying" as defined when he is attempting to influence the decision or action of an official or governmental entity when it is engaged in a proceeding which is quasi-legislative in nature. Examples of such activities include but are not necessarily limited to the following:

(a) any hearing conducted by any executive branch agency of state government pursuant to the Montana Administrative Procedure Act, the purpose of which is to adopt, amend, or repeal administrative rules; and

(b) any proceeding of a state or local governmental agency, the purpose of which is to enact, amend, or repeal ordinances, adopt a land-use plan, or zoning regulation.

(2) The definition of "lobbying" is not confined to efforts conducted at a formal proceeding. An individual who expends \$1000 or more in a calendar year on such efforts, exclusive of personal travel and living expenses is required to register as a lobbyist.

RATIONALE: This version of the rule eliminates some confusing language and makes clearer that the subsection in question (§5-7-102(4)(b)) refers to the expenses of lobbyists and not principals. The earlier version was unclear on that point. The proposed rule implements §5-7-102(4)(b). AUTH: 5-7-111, MCA

RULE IV. STATE GOVERNMENT AGENCIES--LOBBYING--DEFINITIONS AND REPORTING (1) For purposes of calculation of expenditures for lobbying efforts by state government agencies, salaries paid to employees engaged in the following types of activities need not be calculated or reported:

(a) requests for appropriations by a state agency to the office of budget and program planning or requests by the office of budget and program planning to the Legislature on behalf of another agency;

(b) recommendations or reports to the legislature or a committee thereof in response to a legislative request expressly requesting or directing a specific study, recommendation, or report by an agency on a particular subject;

(c) request, recommendations, or other communications between or within state agencies or between state or local government agencies;

(d) any appearance before the legislature or a committee thereof if the appearance is in response to a subpoena or a written request to appear from the presiding official of the body;

(e) any other duty which is mandated by law or rule, such as the governor's annual message to the legislature.

(2) With the above exceptions, any other activities of state government agencies which are direct attempts to influence the course of proposed or pending legislation are "lobbying" as defined, and the staff time and resources expended are lobbying payments. Each individual department of the executive branch is a "principal" as defined if lobbying payments reach the threshold \$1000 level. Each department shall file a single report on the statutory dates which covers lobbying activities of all employees of the department.

(3) For purposes of section 5-7-102(3), "public official" has the same meaning as "public officer" as defined in section 2-16-602, MCA, except that department heads of executive branch agencies are considered to be "public officials" within the meaning of this rule. No activity by any such public official is considered to be "lobbying" within the meaning of the Act or this rule.

RATIONALE: Since the Act defines "lobbying" as any direct attempt to influence the actions of the Legislature, making an exception only for actions of public officials, by necessary implication it covers activities of public employees. However, since many of their activities are mandated by law, it seems logical to make certain exceptions. The Act itself does this in section 5-7-211. The proposed rule implements sections 5-7-208 and 5-7-211. AUTH: 5-7-111, MCA

RULE VII. REPORTING OF CONTRIBUTIONS AND MEMBERSHIP FEES

(1) As used in section 11(5)(c), a contribution or membership fee is considered to be paid for the purpose of lobbying and therefore reportable by a principal if it is:

(a) solicited by the recipient to be used primarily for payment of lobbying expenses;

(b) paid to a group formed or existing primarily for the purpose of lobbying;

(c) earmarked or intended by the donor to be used for payment of lobbying expenses.

RATIONALE: A rule in this area is required to clarify what is meant by the phrase "paid for the purpose of lobbying" in section 5-7-208(5)(c). The rule implements that section. AUTH: 5-7-111, MCA

RULE VIII. PERSONAL FINANCIAL DISCLOSURE BY ELECTED OFFICIALS

(1) For purposes of sections 5-7-102(12) and 5-7-213, the term "business interest" means any interest in any business, firm, corporation, partnership, or other business or professional entity or trust owned by an elected official,

his spouse or minor children, the current fair market value of which is \$1000 or more. Ownership of any security, equity, or evidence of indebtedness in any business corporation or other entity is a "business interest."

(2) Not included within the meaning of "business interest" and therefore not reportable under section 5-7-213 are interests of the following nature:

(a) ownership of any personal property held in an individual's name and not held for use or sale in a trade or business or for investment purposes, such as personal automobiles or household furnishings;

(b) cash surrender value of any insurance policy or annuity;

(c) money held in any retirement fund, whether public or private;

(d) bank deposits, including checking or savings accounts or certificates of deposit, if they are not held for use in a trade or business;

(e) securities issued by any government or political subdivision.

(3) In section 5-7-102(12), "property held in anticipation of profit" includes an ownership interest in real property. An ownership interest includes a fee, life estate, joint or common tenancy, leasehold, beneficial interest (through a trust), option to purchase, or mineral or royalty interest, if the current fair market value of the interest is \$1000 or more.

(a) It is not necessary to disclose ownership of a personal residence, but each elected official is entitled to exclude only one residence for himself and one for any member of his immediate family who does not reside with the official.

(b) While valuation of the property is not required (it need only be disclosed if its current fair market value exceeds \$1000), a description of both the property and the nature of the interest must be included. This must be a legal or other description sufficient to identify the property without recourse to oral testimony. A street address is sufficient unless it is a rural route. The nature of the property must be described; for example, farm, ranch, vacation home, commercial or residential property, raw land held for investment, etc. Any real property held by or through a corporation or other business entity which was disclosed pursuant to paragraph (1) above need not be disclosed pursuant to this part.

RATIONALE: Under section 5-7-213, certain elected officials must file biennial reports of personal financial interests. This rule is needed to clarify what must be reported under the section. Real property is treated either as a "business interest" or "property held in anticipation of profit." We see no need to treat a personal residence, however, as either.

This version of the proposed rule is identical to the previously-proposed version. Very few comments were received on the rule, probably due to the occurrence of a special session of the legislature at the same time as the hearing. Thus the agency is offering it again. The proposed rule implements sections 5-7-102(12) and 5-7-213. AUTH: 5-7-111, MCA

RULE IX COMPLAINTS--PROCEDURE--RIGHT TO HEARING (1) A person against whom a complaint is filed with the Commissioner by a third party may request an administrative hearing prior to a determination by the Commissioner that the complaint is or is not justified. In addition, such a hearing may be requested by the complaining party or by the Commissioner.

(2) Such hearings shall be conducted in accordance with the Montana Administrative Procedure Act and the Attorney General's model rules for contested-case or declaratory rulings.

RATIONAL: This rule is proposed at the request of several persons who have suggested that an administrative determination would be useful prior to a decision by the Commissioner to either reject a complaint or pursue formal legal action. Adoption of the MAPA and model rules eliminates the need for further procedural rules adopted by the agency and establishes both procedures and procedural safeguards. The proposed rule implements section 5-7-305. AUTH: 5-7-111, MCA

RULE X AUDITS (1) From time to time the Commissioner may undertake audits or reports filed by principals and of the circumstances and documentation underlying them. Such audits may be conducted either pursuant to a complaint or on the agency's own initiative.

(2) Such audits shall be conducted during normal and reasonable business hours and under circumstances that will assure minimal disruption of business affairs.


(3) The results or findings of such audits shall not be made public by the commissioner unless the audit results in formal administrative or legal action, and then only to the extent necessary to accomplish such action.

RATIONALE: Another rule proposed at the request of several parties subject to the act. Audits could no doubt be undertaken in the absence of a rule, but the rule attempts to guarantee that they will not be made in an unreasonable manner and that business affairs will not be unnecessarily made public. The rule implements section 5-7-305. AUTH: 5-7-111 MCA

4. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Peg Krivec, Commissioner of Political Practices, Capitol Station, Helena, Montana 59620, no later than March 30, 1982.

5. Jack Lane, & Commissioner of Political Practices, Capitol Station, Helena, Montana 59620, has been designated to preside over and conduct the hearing.

6. The authority of the agency to make the proposed rules is based on New Section 17 of Initiative 85.



PEG KRIVEC
Commissioner of Political
Practices

Certified to the Secretary of State January 18, 1982.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption)	NOTICE OF ADOPTION OF AN
of an amendment to a federal)	AMENDMENT TO A FEDERAL
agency rule pertaining to the)	AGENCY RULE INCORPORATED
food stamp program, Rule)	BY REFERENCE IN RULE
46.11.101)	46.11.101, FOOD STAMP
)	PROGRAM. NO PUBLIC HEAR-
)	ING CONTEMPLATED

TO: All Interested Persons

1. The Department of Social and Rehabilitation Services hereby gives notice to the adoption and incorporation by reference of later amendments to 7 CFR 272, 273, and 274 published in 46 Fed. Reg. 60160, Tuesday, December 8, 1981. 7 CFR 272, 273, and 274 are presently incorporated by reference in Rule 46.11.101, Food Stamp Program. The amendments allow residents of shelters for battered women and children to receive food stamps when they are otherwise eligible. The new rules establish special procedures for permitting shelter residents to use food stamps to purchase meals prepared by shelters. A copy of 7 CFR 272, 273, and 274 published in 46 Fed. Reg. 60160, Tuesday, December 8, 1981, may be obtained from the Department of Social and Rehabilitation Services, Economic Assistance Division, Box 4210, 111 Sanders, Helena, Montana 59604.

2. The effective date for the adoption of the later amendment is April 1, 1982.

3. No hearing will be held unless requested under 2-4-315, MCA, by either 10% or 25, whichever is less, of the persons who will be directly affected by the incorporation, by a government subdivision or agency, or by an association having not less than 25 members who will be directly affected.

4. The authority of the Department to amend the rule is based on Section 53-2-201, MCA and the rule implements 53-2-306, MCA.



Director, Social and Rehabilitation Services

Certified to the Secretary of State January 18, 1981.

2-1/28/82

MAR Notice No. 46-2-320

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF PUBLIC HEARING ON
of a rule pertaining to the	)	THE PROPOSED ADOPTION OF A
reduction of the number of	)	RULE PERTAINING TO THE
children in foster care for	)	REDUCTION OF THE NUMBER OF
more than 24 months	)	CHILDREN IN FOSTER CARE
	)	FOR MORE THAN 24 MONTHS

TO: All Interested Persons

1. On February 17, 1982, at 9:30 a.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana, to consider the adoption of a rule pertaining to the reduction of the number of children who have been in foster care for more than 24 months.

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

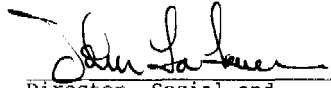
RULE I REDUCTION OF THE NUMBER OF CHILDREN IN FOSTER CARE The department shall reduce the number of children who have been in foster care, at any time during the fiscal year, for more than 24 months by not less than 2% of the total number of children in foster care receiving assistance under Title IV-E of the Social Security Act each year commencing with the fiscal year beginning October 1, 1983.

3. The authority of the agency to make the proposed rule is based on Section 53-4-111, MCA and the rule implements Sections 53-4-111 and 53-4-304, MCA.

4. The agency proposes to adopt this rule as required by the federal Adoption Assistance and Child Welfare Act of 1980, P.L. 96-272. This rule along with a state plan will make Montana eligible for up to \$782,000.00 in federal funds under Title IV-E of the Social Security Act. The funds are available for subsidized adoptions which have previously been totally state funded.

5. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, Montana 59604, no later than February 25, 1982.

6. The Office of Legal Affairs, Department of Social and Rehabilitation Services has been designated to preside over and conduct the hearing.



Director, Social and
Rehabilitation Services

Certified to the Secretary of State January 18, 1982.

2-1/28/82

MAR Notice No. 46-2-321

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF THE AMEND-
of Rule 2.4.113 concerning the) MENT OF RULE 2.4.113
use of personal vehicles on)
state business)

TO: All Interested Persons.

1. On December 17, 1981, the Department of Administration published notice of a proposed amendment to rule 2.4.113 concerning the requirement that a department director submit a written authorization form along with a travel voucher for reimbursement of the use of a personal vehicle on state business at the standard rate at pages 1633 and 1634 of the 1981 Montana Administrative Register, issue number 23.

2. The agency has amended the rule as proposed.

3. No comments or testimony were received.

4. The authority for the rule is section 2-18-503, MCA.

MORRIS L. BRUSETT, DIRECTOR
DEPARTMENT OF ADMINISTRATION

By: Morris L. Brusett

Certified to the Secretary of State, January 18, 1982.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE STATE ELECTRICAL BOARD

In the matter of the amendment) NOTICE OF AMENDMENT OF ARM
of ARM 8.18.402 concerning) 8.18.402 APPLICATION APPROVAL
application approvals)

TO: All Interested Persons:

1. On December 17, 1981, the State Electrical Board published a notice of proposed amendment of ARM 8.18.402 concerning application approval at pages 1638 and 1639, 1981 Montana Administrative Register, issue number 23.
2. The board has amended the rule exactly as proposed.
3. No comments or testimony were received.

STATE ELECTRICAL BOARD
ALBERT BERSANTI, PRESIDENT

BY: 

GARY BUCHANAN, DIRECTOR
DEPARTMENT OF COMMERCE

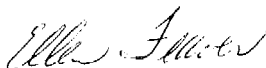
Certified to the Secretary of State, January 18, 1982.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF AMENDMENT OF RULES
Amendment of Rules 42.21.101,	)	42.21.101, 42.21.102,
42.21.102, 42.21.104,	)	42.21.104, 42.21.106,
42.21.106, 42.21.107,	)	42.21.107, 42.21.123,
42.21.123, 42.21.131, and	)	42.21.131, and 42.21.151
42.21.151 relating to the	)	relating to the assessment of
assessment of personal	)	personal property.
property.)	

TO: All Interested Persons:

1. On December 17, 1981, the Department of Revenue published notice of the proposed amendment of rules 42.21.101, 42.21.102, 42.21.104, 42.21.106, 42.21.107, 42.21.123, 42.21.131, and 42.21.151, relating to the assessment of personal property at pages 1679-1692 of the 1981 Montana Administrative Register, issue no. 23.
2. The Department has amended the rules as proposed.
3. No testimony or comments were received.



ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 1/18/82

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE REPEAL	)	NOTICE OF REPEAL OF RULES
OF RULES 42.21.103 and	)	42.21.103 and 42.21.105 re-
42.21.105 relating to the	)	lating to the assessment of
assessment of snowmobiles	)	snowmobiles and automobiles
and automobiles and light	)	and light trucks.
trucks.)	

TO: All Interested Persons:

1. On December 17, 1981, the Department of Revenue published notice of repeal of Rules 42.21.103 and 42.21.105 relating to the assessment of snowmobiles and automobiles and light trucks, at pages 1673 through 1694 of the 1981 Montana Administrative Register, issue no. 23.
2. The rules repealed can be found on pages 42-2107, 42-2108 and 42-2109 of the Administrative Rules of Montana.
3. No testimony or comments were received.



ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 1/18/82

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF REVISION OF RULES
PROPOSED REVISION OF RULES	)	relating to Montana Corporate
relating to Montana Corporate)		License and Income Tax, found
License and Income Tax, found)		in ARM Title 42, Chapters 23,
in ARM Title 42, Chapters 23,)		24 and 26.
24 and 26.)	

TO: All Interested Persons:

1. On December 17, 1981, the Department of Revenue published notice of the proposed revision of rules relating to Montana corporate license and income tax, at pages 1699 through 1713 of the 1981 Montana Administrative Register, issue no. 23.
2. The Department has revised the rules as proposed.
3. No comments or testimony were received.



ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 1/18/82

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the amend-	)	NOTICE OF THE AMENDMENT OF
ment of Rule 46.12.102 per-	)	RULE 46.12.102 PERTAINING
taining to medical assistance,	)	TO MEDICAL ASSISTANCE,
definitions	)	DEFINITIONS

TO: All Interested Persons

1. On December 17, 1981, the Department of Social and Rehabilitation Services published notice of the proposed amendment of Rule 46.12.102 pertaining to medical assistance, definitions, at page 1737 of the Montana Administrative Register, issue number 23.

2. The agency has amended the rule as proposed.

3. No comments or testimony were received.

In the matter of the amend-	)	NOTICE OF THE AMENDMENT OF
ment of Rule 46.12.3803 per-	)	RULE 46.12.3803 PERTAINING
taining to medical services,	)	TO MEDICAL SERVICES,
medically needy income stand-	)	MEDICALLY NEEDY INCOME
ards	)	STANDARDS

TO: All Interested Persons

1. On December 17, 1981, the Department of Social and Rehabilitation Services published notice of the proposed amendment of Rule 46.12.3803 pertaining to medical services, medically needy income standards, at page 1774 of the Montana Administrative Register, issue number 23.

2. The agency has amended the rule as proposed.

3. No comments or testimony were received.

In the matter of the amend-	)	NOTICE OF THE AMENDMENT OF
ment of Rule 46.12.702 per-	)	RULE 46.12.702 PERTAINING
taining to medical services,	)	TO MEDICAL SERVICES,
outpatient drugs	)	OUTPATIENT DRUGS

TO: All Interested Persons

1. On December 17, 1981, the Department of Social and Rehabilitation Services published notice of the proposed amendment of Rule 46.12.702 pertaining to medical services, outpatient drugs, at page 1772 of the Montana Administrative Register, issue number 23.

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

46.12.702 OUTPATIENT DRUGS, REQUIREMENTS These requirements are in addition to those contained in ARM 46.12.301 through 46.12.308.

(1) Drugs may not be filled or refilled without the authorization of the physician.

(2) The department will participate only in the payment of drugs which require a prescription and those over-the-counter drugs which are insulin, antacids or laxatives.

(3) The inappropriate use of drugs, as determined by professional review, may result in the imposition of a limitation upon the quantities of medications which are payable by the medical assistance program. Retroactive limitation will not be applied, unless the involved pharmacy has knowledge or can reasonably be expected to have had knowledge of the inappropriate use of drugs by the recipient.

(4) Each prescription shall be dispensed in the quantity ordered by a physician.

(a) Prescriptions for chronic conditions for which a physician has not ordered a specific quantity shall be dispensed in quantities of 100 or a minimum of one month's supply of medication.

(b) Prescriptions for acute conditions for which a physician has not ordered a specific quantity shall be dispensed in sufficient quantities to cover the period of time for which the condition is being treated except for injectable antibiotics, which may be dispensed in sufficient quantities to cover a three day period.

(5) The department will not participate in the payment of prescription drugs:

(a) which the secretary of HHS has determined to be less than effective for all conditions of use prescribed, recommended or suggested in the drug's labeling; and

(b) any other prescription drug products which are identical, ~~related or similar~~. CONSIDERED GENERICALLY EQUIVALENT.

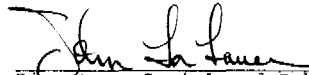
3. No written comments were received. Comments received at the public hearing are as follows:

Comment: The Montana Pharmaceutical Association testified that the way (b) on page (2) of the notice is written, it could apply to any prescription drug. Therefore, they recommended that the wording be changed to --- Products which are considered generically equivalent.

Response: The Department is adopting this change to clarify which drugs are excluded by the rule.

Comment: The Department testified that the rule would not be implemented until the Federal requirement was in effect.

Response: On January 11, 1982, the Department was notified that the requirement was in effect. Therefore, the rule will be implemented effective January 29, 1982.



Director, Social and Rehabilitation Services

Certified to the Secretary of State January 18, 1982.

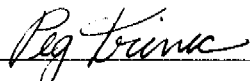
BEFORE THE COMMISSIONER OF POLITICAL PRACTICES
OF THE STATE OF MONTANA

IN THE MATTER OF filing dates)	NOTICE OF CONSOLIDATED
for lobbyist expenditure re-)	FILING DATES
ports by principals)	

1. The Lobbyist Disclosure Act of 1980, section 5-7-208, MCA, prescribes that a report of lobbying expenditures shall be filed by principals 60 days after the close of each legislative session. It also specifies that a yearly report shall be filed covering expenditures during the prior year through February 1, which is due prior to February 16.

2. Due to the timing of the recent special session of the Legislature, the dates for these reports fall within six days of each other.

3. Under these circumstances, the office of the Commissioner of Political Practices will accept one consolidated report fulfilling both requirements rather than two. Principals wishing to may file a single report for the period through February 1, which should be filed prior to February 16, 1982. Forms and an explanatory letter have been mailed to all registered principals.



PEG KRIVEC
Commissioner

Certified to the Secretary of State January 18, 1982.

NOTICE OF FUNCTIONS OF ADMINISTRATIVE CODE COMMITTEE

The Administrative Code Committee reviews all proposals for adoption of new rules or amendment or repeal of existing rules filed with the Secretary of State. Proposals of the Department of Revenue are reviewed only in regard to the procedural requirements of the Montana Administrative Procedure Act. The Committee has the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of the estimated economic impact of a proposal. In addition, the Committee may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a Joint Resolution directing an agency to adopt, amend or repeal a rule.

The Committee welcomes comments from the public and invites member of the public to appear before it or to sent it written statements in order to bring to the Committee's attention any difficulties with existing or proposed rules. The address is Room 138, State Capitol, Helena, Montana 59620.

2-1/28/82

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA
AND THE MONTANA ADMINISTRATIVE REGISTER

Definition: Administrative Rules of Montana (ARM) is a loose-leaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR) is a soft back, bound publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statute and rules by the attorney general (Attorney General's Opinions) and agencies' (Declaratory Rulings) issued since publication of the preceding register.

Use of the Administrative Rules of Montana (ARM):

- | | |
|-------------------------------|--|
| Known Subject Matter | 1. Consult General Index, Montana Code Annotated to determine department or board associated with subject matter or statute number. |
| Department | 2. Refer to Chapter Table of Contents, Title 1 through 46, page 1, Volume 1, ARM, to determine title number of department's or board's rules.

3. Locate volume and title. |
| Subject Matter and Title | 4. Refer to topical index, end of title, to locate rule number and catchphrase. |
| Title Number and Department | 5. Refer to table of contents, page 1 of title. Locate page number of chapter. |
| Title Number and Chapter | 6. Go to table of contents of Chapter, locate rule number by reading catchphrase (short phrase describing rule.) |
| Statute Number and Department | 7. Go to cross reference table at end of each title which lists each MCA section number and corresponding rules. |
| Rule in ARM | 8. Go to rule. Update by checking the accumulative table and the table of contents for the last register issued. |

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies which have been designated by the Montana Procedure Act for inclusion in the ARM. The ARM is updated through September 30, 1981. This table includes those rules adopted during the period October 1, 1981 through December 31, 1981, and any proposed rule action that is pending during the past 6 month period. (A notice of adoption must be published within 6 months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through September 30, 1981, this table and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule and the page number at which the action is published in the 1981 and 1982 Montana Administrative Registers.

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