RESERVE

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 5

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 The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing, and where written comments may be submitted.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 of rules relating to adoption of personnel policy	)	NOTICE OF PROPOSED ADOPTION OF RULES RELATING TO ADOPTION OF PERSONNEL POLICY
	)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On April 12, 1982, the Department of Administration proposes to adopt rules which pertain to adoption of personnel policy.

2. The proposed rules provide as follows:

RULE I SHORT TITLE (1) This sub-chapter may be cited as the adoption of personnel policy rules.

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

RULE II SPECIFIC STATUTORY POLICY-MAKING AUTHORITY (1) The Department of Administration is authorized in 2-18-604, MCA, to promulgate rules for the administration of annual vacation, sick, military, and jury duty leaves.

(2) The Department of Administration is authorized in 2-18-603 and 2-18-102, MCA to promulgate rules for the administration of alternate leave days for employees whose regular day off falls on a holiday and for pro-rated holiday compensation for part-time employees.

(3) The policies and procedures promulgated under the authority of 2-18-604, MCA, establish uniform administration of benefits which must be followed by all agencies. There is no statutory provision for delegation of authority to agencies to set policy in these areas.

(4) These policies will be adopted as Administrative Rules of Montana and will be published in the Montana Operations Manual, Volume III.

(AUTH. and IMP. Secs. 2-18-102 and 2-18-604 MCA)

RULE III GENERAL, STATUTORY POLICY-MAKING AUTHORITY (1) The Department of Administration is authorized in 2-18-102, MCA, to promulgate general personnel policies.

(2) Policies issued by the Department of Administration under the authority of 2-18-102, MCA, will be issued as minimum standards which establish uniform administration of benefits and which must be followed by all agencies.

(3) Minimum standards will be limited to provisions which in the judgment of the Personnel Division are required by law, are required by central systems or are required to maintain minimally acceptable personnel practices.

(4) Minimum standards will be reviewed by agency heads and the Personnel Network and will be approved by the Director of the Department of Administration.

(5) Minimum standards will be adopted as Administrative Rules of Montana.

(6) In appropriate cases, the Personnel Division may issue an interpretive guide to provide interpretations of minimum standards; for example, cases where a policy standard does or does not apply.

(7) Interpretive guides will not be adopted as Administrative Rules of Montana and in no way establish policy or precedent, but are advisory.

(8) The Department of Administration is authorized in 2-18-102, MCA, to delegate to state agencies authority for making policy which is in compliance with rules or which covers areas of personnel management not covered by state policy.

(9) Internal policies and procedures adopted by an agency based on minimum standards will be adopted under the authority of the Department of Administration in 2-18-102, MCA, to delegate policy-making authority to an agency.

(10) An agency may adopt internal policies and procedures which are more specific than those found in the minimum standards, but may not adopt internal policies and procedures which are less specific, inconsistent or conflicting.

(11) Model policies, based on minimum standards, may be prepared by the Personnel Division, with the assistance of the Personnel Network and will contain more detail than minimum standards and may include procedural steps.

(12) Model policies may be adopted by agency heads as internal policy and procedure, may be modified to meet particular agency needs or may not be adopted.

(13) Internal policies and procedures should be placed in a section of the Montana Operations Manual separate from state policies and should be clearly identified as internal or should be placed in an agency's personnel manual/handbook.

(14) Any policies adopted under this rule will supercede any policies already in force in an agency to the extent they are inconsistent or conflicting.

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

RULE IV PERSONNEL NETWORK (1) The Personnel Network is made up of one lead representative from each executive branch agency, who serves as the agency liaison with the Personnel Division. The lead representative is the agency's voting member on the Network. Other agency staff may attend Network meetings and may comment on policies.

(2) The Personnel Network is an advisory body to the Personnel Division. It serves as the vehicle through which the Personnel Division solicits comments on policies. Recommendations of the Network are not binding on the Personnel Division.

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

RULE V REVIEW AND APPROVAL (1) Any internal policy and procedure adopted by an agency under the authority of 2-18-102, MCA, shall be submitted to the Personnel Division for review to ensure compliance with minimum standards before the policy is adopted by the agency.

(2) Any internal policy and procedures adopted under the authority in 2-18-102, MCA, shall be adopted upon the signature of the agency head.

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

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

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

3. These rules are proposed to be adopted to clarify the process of adopting personnel policy.

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

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

no later than April 9, 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 April 9, 1982.

6. If the agency receives requests for a public hearing on the proposed adoption from within 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 at least 25 persons.

7. The authority of the department to make the proposed rules is based on Sections 2-18-102 and 2-18-604 MCA, and the rules implement Sections 2-18-102 and 2-18-604, MCA.

Morris L. Brusett, Director
Department of Administration

Certified to the Secretary of State March 1, 1982.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the repeal of rules relating to exit interviews	)	NOTICE OF PROPOSED REPEAL OF RULES 2.21.5101 THROUGH 2.21.5104 FOR EXIT INTERVIEWS
	)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On April 12, 1982, the Department of Administration proposes to repeal rules 2.21.5101 through 2.21.5104 relating to exit interviews.

2. The rules proposed to be repealed are on pages 2-1295 through 2-1298 of the Administrative Rules of Montana.

3. The agency proposes to repeal these rules because they do not set minimum standards for agency operation, and are more appropriately issued as guides in the Montana Operations Manual, Volume III.

4. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to Dennis M. Taylor, Administrator, Personnel Division, Department of Administration, Room 130, Mitchell Building, Helena, Montana, 59620, no later than April 9, 1982.

5. If a person who is directly affected by the proposed repeal of rules 2.21.5101 through 2.21.5104 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 the 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 April 9, 1982.

6. If the agency receives requests for a public hearing on the proposed repeal from either 10% or 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 at least 25 persons.

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

Morris L. Brusett, Director
Department of Administration

Certified to the Secretary of State March 1, 1982.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption of rules relating to education and training	)	NOTICE OF PROPOSED ADOPTION OF RULES RELATING TO EDUCATION AND TRAINING
	)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On April 12, 1982, the Department of Administration proposes to adopt rules which pertain to education and training.

2. The proposed rules provide as follows:

RULE I SHORT TITLE (1) This sub-chapter may be cited as the education and training policy.

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

RULE II POLICY AND OBJECTIVE (1) It is the policy of the State of Montana that:

(a) employees of the State of Montana are eligible to apply for education and training leave and agency payment of expenses; and

(b) the granting and extent of education and training leave and agency payment of expenses is at the agency's discretion.

(2) It is the objective of this policy to provide managers with criteria with which to assess requests for education and training leave and agency payment of expenses based on an analysis of costs and benefits to the agency.

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

RULE III LEAVE AND EXPENSES (1) At the agency's discretion, an employee may be placed on leave with pay or leave without pay, or a combination.

(2) An employee on leave with pay for education and training purposes shall receive employee benefits.

(3) An employee on leave without pay for education and training purposes shall receive the same benefits as other employees on leave without pay.

(4) An employee who needs to be in training part-time may be allowed to work some hours and be placed on leave with pay, leave without pay or a combination during training hours.

(5) An agency may, at its discretion, deny any education or training leave.

(6) At the agency's discretion, the agency may pay for tuition, fees, transportation, per diem, any combination of these expenses or any proportion of these expenses which would be appropriate, given anticipated benefits to the agency.

(7) An agency may condition payment of expenses on successful completion of coursework, provided "successful completion" is defined by the agency at the time a written agreement with the employee is reached.

(8) An agency may, pursuant to a written agreement as provided in (9), provide a subsistence allowance for an employee who is placed on leave of absence without pay for education and training. A subsistence allowance is not wages, salary or compensation, but merely an amount granted by the agency to help defray living expenses.

(9) An agency may enter into a written agreement with an employee whereby the agency agrees to pay all or part of the expenses of an extended course of study in return for the employee's promise to return to work for the agency for a specified period after completion of the course of study. The agency may, at its discretion, agree to grant the employee a subsistence allowance to be paid periodically or in lump-sum. The amount of such allowance may be determined by the agency, but shall not be considered as wages, salary or compensation for services rendered. The agreement may specify that in the event the employee fails to successfully complete his studies or return to the agency for the specified period, the employee shall reimburse the agency for all or part of the amounts expended by the agency. The reimbursement provision of the agreement should be specifically drafted.

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

RULE IV DETERMINATION OF BENEFITS (1) When management requires an employee to attend training as a condition of employment, the agency shall pay all appropriate costs, including:

(a) regular salary while on leave and overtime or compensatory time where appropriate;

(b) all tuition and fees;

(c) transportation and per diem where appropriate.

(2) The requirement to pay all costs of training does not extend to courses required for professional certification. However, costs should be paid where funds are available and the content of a specific course is sufficiently job-related that management determines the course should be required as a condition of employment.

(3) Leave or expenses granted for education or training not required by management should be in proportion to the anticipated benefits to the agency and may range from no leave and no expenses paid to paid leave and full expenses.

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

RULE V COST/BENEFIT ANALYSIS CRITERIA (1) An agency shall assess requests for education and training leave and agency payment of expenses based on a cost/benefit analysis which weighs both direct and indirect costs against the benefits to the agency.

(2) Benefits to the agency management shall consider when assessing requests for education and training leave and agency payment of expenses include, but are not limited to:

(a) whether the education or training is necessary to enable the employee to meet agency expectations in accomplishing performance objectives;

(b) how likely it is the education or training will improve the employee's job performance;

(c) how likely it is the education or training will improve performance on potential job duties;

(d) to what degree the education or training will contribute to meeting current and future agency goals and objectives.

(3) Costs to the agency management shall consider when assessing requests for education and training leave and agency payment of expenses include, but are not limited to:

(a) actual costs of the education or training, including tuition, fees, transportation, per diem, and subsistence allowance, if any;

(b) costs to the agency in time lost by the employee, including loss of the employee's productivity, and other costs such as overtime or compensatory time for other employees and/or the cost of hiring a temporary replacement;

(c) the impact on the agency budget and agency training budget.

(4) Consideration should be given to potential future inequities which may result between employees of current equal status when education and training is provided by the agency to some, but not all, similarly situated employees.

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

RULE VI AGENCY HEAD'S APPROVAL (1) The agency head or a designee's approval is required for all requests for education or training leave with pay which exceed 15 working days.

(2) The agency head or a designee's approval is required for all requests for expenses, for education and training where the costs of tuition, fees, transportation, per diem, and subsistence allowance exceed $750.

(3) This provision does not restrict the agency's authority to establish more restrictive criteria than those in 1 or 2.

(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.

3. These rules are proposed to establish minimum standards for the administration of education and training benefits for state agencies.

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

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

no later than April 9, 1982.

5. If a person who is directly affected by the proposed adoption of rules 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 April 9, 1982.

6. If the agency 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 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 at least 25 persons.

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

Morris L. Brusett, Director
Department of Administration

Certified to the Secretary of State March 1, 1982.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the repeal of rules relating to new employee orientation	)	NOTICE OF PROPOSED REPEAL OF RULES 2.21.4701 THROUGH 2.21.4705 FOR NEW EMPLOYEE ORIENTATION
	)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On April 12, 1982, the Department of Administration proposes to repeal rules 2.21.4701 through 2.21.4705 relating to new employee orientation.

2. The rules proposed to be repealed are on pages 2-1239 through 2-1244 of the Administrative Rules of Montana.

3. The agency proposes to repeal these rules because they do not set minimum standards for agency operation, and are more appropriately issued as guides in the Montana Operations Manual, Volume III.

4. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to Dennis M. Taylor, Administrator, Personnel Division, Department of Administration, Room 130, Mitchell Building, Helena, Montana, 59620, no later than April 9, 1982.

5. If a person who is directly affected by the proposed repeal of rules 2.21.4701 through 2.21.4705 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 April 9, 1982.

6. If the agency receives requests for a public hearing on the proposed repeal from either 10% or 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 at least 25 persons.

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

Morris L. Brusett, Director
Department of Administration

Certified to the Secretary of State March 1, 1982.

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

In the Matter of the adoption) NOTICE OF PUBLIC HEARING CONCERNING ADOPTION OF NEW RULES REGARDING MEDICATION
of new rules regarding)
medication.)

TO: All Interested Persons:

1. On April 1, 1982 at 1:00 p.m. a public hearing will be held in the downstairs conference room of the Department of Commerce, 1424 9th Avenue, Helena, Montana to consider the proposed adoption of new rules regarding medication.

2. The proposed new rules on medication are in addition to the current board general rule 8.22.1401 located at pages 8-717 through 8-720, Administrative Rules of Montana and will read as follows:

"I. POLICY (1) It is the intent of these rules to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public and the racing participants through the prohibition or control of all drugs and medications or substances foreign to the natural horse." (Authority: Section 23-4-202, MCA; Implement: Section 23-4-104(8), MCA)

"II. DEFINITIONS (1) For purposes of this Sub-Chapter the following definitions shall apply:

(a) Hypodermic injection means any injection into or under the skin or mucosa, including intradermal injection, subcutaneous injection, submucosal injection, intramuscular injection, intravenous injection, intra-arterial injection, intra-articular injection, intrabursal injection, intraocular (intraconjunctival) injection.

(b) Foreign substance means all substances except those which exist naturally in the untreated horse at normal physiological concentration.

(c) Veterinarian means a veterinary practitioner authorized to practice on the race track.

(d) Chemist means any official racing chemist designated by the commission.

(e) Test sample means any body substances including but not limited to blood or urine taken from a horse under the supervision of the Commission Veterinarian and in such manner as prescribed by the Commission for the purpose of analysis.

(f) Race day means the 24-hour period prior to the scheduled post time for the first race.

(g) Test level means the concentration of a foreign substances found in the test sample.

(h) Bleeder means a horse which hemorrages from within the respiratory tract during a race or within one hour postrace, or during exercise or within one hour of such exercise.

(i) Bleeder list means a tabulation of all bleeders to be maintained by the Commission.

(j) Racing soundness examination means the physical inspection of each horse by a licensed veterinarian representing the Official State Veterinarian outside the stall including but not limited to the examination of eyes, legs, and temperature and observation at rest and while being jogged." (Authority: Section 23-4-202, MCA; Implement: Section 23-4-104 (8), MCA)

"III. FOREIGN SUBSTANCES PROHIBITED (1) No horse participating in a race shall carry in its body any substance foreign to the natural horse except as hereinafter provided.

(2) No foreign substance shall be administered to a horse entered to race by injection, oral administration, rectal infusion or suppository, or by inhalation within 24 hours prior to the scheduled post time for the first race, except as hereinafter provided." (Authority: Section 23-4-202, MCA; Implement: Section 23-4-104 (8), MCA)

"IV. POSSESSION OF PROHIBITED SUBSTANCES OR EQUIPMENT - EXCEPTIONS (1) No person other than a veterinarian shall have in his/her possession any equipment for hypodermic injection, any substance for hypodermic administration, or any foreign substance which can be administered internally to a horse by any route, except for an existing condition and as prescribed by a veterinarian. The supply of such prescribed foreign substance(s) shall be limited by ethical practice consistent with the purposes of this rule.

(2) Notwithstanding the provisions of subsection (1) above, any person may have in his possession within a race track enclosure any chemical or biological substance for use on his own person, provided that, if such chemical substance is prohibited from being dispensed by any Federal law or law of this state without a prescription, he is in possession of documentary evidence that a valid prescription for such chemical or biological substance has been issued to him.

(3) Notwithstanding the provisions of subsection (1) above, any person may have in his possession within any race track enclosure any hypodermic syringe or needle for the purpose of administering a chemical or biological substance to himself, provided that he has notified the state steward:

(a) of his possession such device,

(b) of the size of such device, and

(c) of the chemical substance to be administered by such device, and has obtained written permission for possession and use from the state steward." (Authority:

Section 23-4-202, MCA; Implement: Section 23-4-104 (8), MCA)

"V. EFFECT OF POSITIVE TEST (1) A finding by the chemist that a foreign substance is present in the test sample shall be prima facie evidence that such foreign substance was administered and carried in the body of the horse while participating in a race. Such a finding shall also be taken as prima facie evidence that the trainer and his agents responsible for the care or custody of the horse has/have been negligent in the handling or care of the horse." (Authority: Section 23-4-202, MCA; Implement: Section 23-4-104 (8), MCA)

"VI. STANDARDS TO BE SET BY BOARD (1) To carry out its responsibility to control the use of foreign substances in horses, the board shall:

(a) set standards and guidelines for its race-testing laboratory in cooperation with other racing commissions, including but not limited to, a list of detection equipment, staffing, screening and specific identification methods to ensure the quality and capability of its laboratory and an operational budget sufficient to implement said standards and guidelines, and

(b) include funds in its annual budget request for research and development in the areas of: analytical chemistry, drug metabolities, clearance times and pharmacological effects of foreign substances on horses.

(2) The board may participate in and share the costs of cooperative regional or national research and development programs designed to achieve these ends." (Authority: Section 23-4-202, MCA; Implement: Section 23-4-104 (8), MCA)

"VII. VETERINARY EXAMINATION (1) Each and every horse entered to race shall be subjected to a veterinary examination for racing soundness and health on race day, not later than two hours prior to official post time for the first race.

(2) Such an examination shall be referred to as the "Racing Soundness Exam".

(3) All such examinations shall be conducted in or near the stall to which the animal is assigned and shall be conducted by the State Veterinarian.

(4) The veterinarian shall keep or cause to be kept a continuing health and racing soundness record of each horse so examined." (Authority: Section 23-4-202, MCA; Implement: Section 23-4-104 (8), MCA)

"VIII. POSTMORTEM EXAMINATION (1) Every horse which suffers a breakdown on the race track, in training, or in competition, and is destroyed, and every other horse which expires while stabled on the race track under the jurisdiction of the board, shall undergo a postmortem

examination at a time and place acceptable to the State Veterinarian to determine the injury or sickness which resulted in euthanasia or natural death.

(2) The postmortem examination required under this rule shall be conducted by a veterinarian employed by the owner or his trainer in the presence of and in consultation with the State Veterinarian.

(3) Test samples must be obtained from the carcass upon which the postmortem examination is conducted and shall be sent to a laboratory approved by the Commission for testing for foreign substances and natural substances at abnormal levels. When practical, blood and urine test samples should be procured prior to euthanasia.

(4) The owner of the deceased horse shall make payment of any charges due the veterinarians employed by him to conduct the postmortem examination. The services of the Commission Veterinarian and the laboratory testing of postmortem samples shall be made available by the Racing Commission without charge to the owner.

(5) A record of every such postmortem shall be filed with the Racing Commission by the owner's veterinarian within 72 hours of the death and shall be submitted on a form supplied by the Commission.

(6) Each owner and trainer accepts the responsibility for the postmortem examination provided herein as a requisite for maintaining the occupational license issued by the Commission." (Authority: Section 23-4-202, MCA; Implement: Section 23-4-104 (8), MCA)

"IX. PRESERVATION OF SAMPLES The Racing Commission has the authority to direct the official laboratory to retain and preserve by freezing samples for future analysis." (Authority: Section 23-4-202, MCA; Implement: Section 23-4-104 (8), MCA)

"X. DISTRIBUTION OF PURSES The fact that purse money has been distributed prior to the issuance of a laboratory report shall not be deemed a finding that no chemical substance has been administered, in violation of these rules, to the horse earning such purse money." (Authority: Section 23-4-202, MCA; Implement: Section 23-4-104 (8), MCA)

"XI. OFFICIAL CHEMIST The commission may designate one or more chemists, whether in or out of state, to receive specimens from the State Veterinarian and may execute contracts with said chemists to perform and report the results of routine examinations of body fluids for foreign substances, and to participate in cooperative regional or national race testing and monitoring procedures and studies to improve testing procedures." (Authority: Section 23-4-202, MCA; Implement: Section 23-4-104 (8), MCA)

3. The board is proposing the rules as they believe that the State of Montana should adopt these uniform medication rules to provide consistency in racing conditions and rulings throughout the United States and Canada where pari-mutuel racing is conducted. This consistency will remove a great deal of confusion experienced by horse owners and others involved in the sport who participate in more than one racing jurisdiction.

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 Daniel G. Diemert, 1424 9th Avenue, Helena, Montana 59620-0407, no later than April 8, 1982.

5. The board or its designee will preside over and conduct the hearing.

6. The authority and implementing sections are listed after each proposed new rule.

BOARD OF HORSE RACING
HAROLD HOPWOOD, CHAIRMAN

BY: _____
ROBERT WOOD, ACTING DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, March 1, 1982.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF LANDSCAPE ARCHITECTS

In the matter of the proposed Amendments of ARM 8.24.405 subsections (5) and (6) concerning examinations and ARM 8.24.407 concerning reciprocity) NOTICE OF PROPOSED AMENDMENTS OF ARM 8.24.405 (5) & (6) EXAMINATIONS AND ARM 8.24.407 RECIPROCITY

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On April 10, 1982, the Board of Landscape Architects proposes to amend ARM 8.24.405 subsections (5) & (6) concerning examinations and ARM 8.24.407 concerning reciprocity.

2. The proposed amendment of ARM 8.24.405 subsections (5) & (6) will read as follows: (complete text of rule is located at page 8-789 Administrative Rules of Montana) (new matter underlined, deleted matter interlined)

" 8.24.405 EXAMINATIONS (1) ...

(5) The examination required of applicants shall be as established and administered by CLARB (Council of Landscape Architects Registration Boards). A minimum passing grade in each subject shall be ~~75% of a possible 100%~~ determined by CLARB before registration will be issued.

(6) The written examination shall occupy no less than 3 days and shall cover the subjects of history and theory of landscape architecture relative to landscape architectural design, site planning and land design, subdivision, urban design, landscape construction materials and methods, grading and drainage, plant materials suited for use in Montana, specifications and supervisory practice, and a practical knowledge of botany, horticulture, and similar subjects relating to the practice of landscape architecture. Total examination length will be ~~a minimum of 20 hours~~ determined by CLARB."

3. The board is proposing the changes to conform with CLARB requirements making it easier for licensees to reciprocate from one state to another. The authority of the board to make the proposed change is based on section 37-66-202, MCA and implements section 37-66-305, MCA.

4. The proposed amendment of ARM 8.24.407 concerning reciprocity will read as follows: (new matter underlined, deleted matter interlined)

"8.24.407 RECIPROCITY (1) The board may, without written examination, upon application therefore and payment of proper fee, issue a certificate of registration as a landscape architect to any person who submits evidence that he holds a current certificate of qualification or registration issued to him by proper authority of the Council of Landscape Architecture Registration Boards. Such applicants shall, as part of their application, complete and send to the board the standard application form.

(a) When application for registration by reciprocity is made, the Montana board shall review the certificate of qualification or registration issued to him by the Council of Landscape Architecture Registration Board bearing thereon as an endorsement of his qualifications for registration in Montana.

(b) The board will, upon application for reciprocal registration by one of its registrants, attest as to his qualifications."

5. The board is proposing the change to clarify that the certificate must be a current certificate. The authority of the board to make the proposed amendment is based on section 37-66-202, MCA and implements section 37-66-306, MCA.

6. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Landscape Architects, 1424 9th Avenue, Helena, Montana 59620-0407 no later than April 8, 1982.

7. 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 the Board of Landscape Architects, 1424 9th Avenue, Helena, Montana 59620-0407 no later than April 8, 1982.

8. If the board receives requests for a public hearing on the proposed amendments 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 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.

9. The authority and implementing sections are indicated after each proposed change.

BOARD OF LANDSCAPE ARCHITECTS
ESTHER HAMEL, CHAIRMAN

BY: _____
ROBERT WOOD, ACTING DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, March 1, 1982.

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

In the matter of the amendment of Rule 12.3.101 relating to regulations for issuance of fish and game licenses	NOTICE OF PROPOSED AMENDMENT OF A RULE RELATING TO REGULATIONS FOR ISSUANCE OF FISH AND GAME LICENSES NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On April 10, 1982, the Montana Department of Fish, Wildlife, and Parks proposes to amend Rule 12.3.101 relating to regulations for issuance of fish and game licenses.

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

12.3.101 REGULATIONS FOR ISSUANCE OF FISH AND GAME LICENSES (1) License agents are required to fill in all blank information spaces on licenses issued with factual information supplied by the applicants.

(2) It is prohibited for any license agent to date a license with any date other than the actual date the license is issued, except nonresident ~~1-day-and-nonresident-6-day~~ 2-day fishing licenses which may be postdated for the ~~date~~ dates the applicant wishes to ~~start-fishing~~ fish.

(3) and (4) remain the same.

3. The rule is proposed to be amended because the 1981 legislature replaced the one-day license with a two-day license. This amendment is to comply with that legislative action.

4. Interested parties may submit their data, views, or arguments concerning the proposed amendment in writing to Jim Herman, License Bureau Chief, Department of Fish, Wildlife, and Parks, 1420 E. 6th Avenue, Helena, Montana 59620. Written comments in order to be considered must be received no later than April 8 , 1982.

5. If a person who is directly affected wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make a written request for a hearing and submit this request along with any written comments to Mr. Herman at the above-stated address no later than April 8 , 1982.

6. If the department receives requests for a public hearing on the proposed amendments 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.

7. The authority of the agency to make the proposed amendment is based on Sections 2-15-112 and 87-1-201, and implements Sections 87-2-106 and 87-2-304, MCA.

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

Certified to Secretary of State March 1, 1982

BEFORE THE DEPARTMENT OF INSTITUTIONS
OF THE STATE OF MONTANA

In the matter of the repeal of Rules 20.11.101 through 20.11.107 and the adoption of new rules concerning reimbursement policies	)))))	NOTICE OF PUBLIC HEARING ON REPEAL OF RULES 20.11.101 through 20.11.107 AND PROPOSED ADOPTION OF NEW RULES (Reimbursement Policies)

TO: All Interested Persons

1. On April 13, 1982, at 9:00 a.m., a public hearing will be held in room 210 of the Department of Institutions, 1539 11th Avenue, Helena, Montana to consider the repeal of rules 20.11.101 through 20.11.107 which pertain to the reimbursement policies of the Department of Institutions and the adoption of new rules in this matter.

2. The rules proposed to be repealed can be found on pages 20-151 through 20-156 of the Administrative Rules of Montana.

3. The Department has decided to repeal the existing rules and adopt new ones. Because the content of the new proposed rules is considerably different than the content of the existing rules, this format of repeal and adoption of new rules is more feasible. It is the desire of the Department to make the reimbursement rules clearer and more understandable to the public and this format should accomplish this goal.

4. The proposed rules provide as follows:

RULE I DEFINITIONS (1) "Hardship" is to be deprived of basic needs.
(2) "Basic needs" means food, clothing, shelter, medical care, transportation and items necessary for the production of income.
(3) "Personal needs" means toiletries, newspaper, tobacco, or other personal comfort items not normally supplied by the institution.
(4) "Income" means money, wages, salary, net income from self-employment, social security, veterans pensions, railroad pensions, dividends, interest (on savings or bonds), income from estates or trusts, inheritances, net rental income or royalties, pensions or annuities, unemployment compensation, alimony and child support.
(5) "Long term" care means being in continuous care for more than 120 days.
(6) "Short term" care means being in continuous care for 120 days or less.
(7) "Liquid Assets" means stocks, bonds, certificate of deposit, etc., which can be easily converted to cash.
(8) "Fixed expenses" means those over which an individual

or family have little or no control, such as rent or mortgage payments, basic utilities, medical expenses, mandatory payroll deductions, and contracted debts.
(9) "Controllable expenses" means those over which an individual or family may exercise control, such as food, clothing, entertainment, education and child care.
(10) "Primary controllable expenses" means those for basic needs.
(11) "Secondary controllable expenses" means all expenses which are not considered primary expenses.
(12) "Discretionary income" is determined by subtracting fixed expenses from income.
AUTH: 53-1-403 MCA IMP: 53-1-401 MCA

RULE II PROCEDURE TO OBTAIN FINANCIAL INFORMATION (1) Upon admission or commitment to one of the institutions listed in Section 53-1-402 MCA, a representative of the department shall contact the resident or his next of kin or responsible person(s) to obtain financial information. This statement will be on a form approved by the department of institutions.
(2) The financial information form shall not be required when the following conditions can be documented:
(a) the resident is a recipient of SSI benefits.
(b) the resident is currently eligible for medicaid.
(3) If the resident or financially responsible person(s) fails to give adequate financial information within 30 days the department shall assess the full cost of care, and shall use the following procedure to obtain this information:
(a) A personal representative of the department will contact the resident or responsible person(s) and will explain what information is needed and why it is necessary.
(b) If the financial information is still not received, the department will send a letter to the resident or responsible person(s) requesting the needed information. The letter will explain that this information must be submitted to the department within 10 working days.
(c) If after 10 working days, the above information still has not been received, a demand letter will be made on the resident or responsible person(s) by the department's legal counsel requesting the information and explaining that if the information is not forthcoming within 15 working days, a subpoena will be issued by the department.
(d) If after 15 working days, the legal counsel has not received the necessary information, he will request that the director issue a subpoena. If it appears to the satisfaction of the director that there is reasonable cause for the subpoena to be issued, he shall issue the subpoena under his signature and with the seal of the department

through the sheriff of the county where the resident or responsible person(s) resides at the time the subpoena is issued. The subpoena shall direct the individual who is named on it to appear at a designated place and time with the necessary documents, papers, records, etc., as listed on the subpoena.

(i) The director of the department shall appoint a person to act as a hearings officer to appear at the time set forth on the subpoena for appearance. This hearings officer shall be empowered to administer an oath, take testimony which shall be transcribed; ask questions; examine documents; and request copies of any document.

(ii) If the patient or responsible person refuses to appear pursuant to the subpoena, or refuses at the hearing to cooperate with the hearings officer, the hearings officer shall submit a written report to the director of the department.

(iii) Within five working days after receipt of the report, the director of the department may petition the district court to order a hearing to show cause why the subpoena was not obeyed.

AUTH: 53-1-403 MCA IMP: 53-1-406 MCA

RULE III ASSESSMENT OF CHARGES (1) The charge assessed against each resident or responsible person shall be the lower of:

(a) the full cost of care, as determined by recorded charges, less any payments received from other sources;

(b) the ability to pay;

(c) the maximum parental liability, for parents of long-term residents.

AUTH: 53-1-403 MCA IMP: 53-1-405 MCA

RULE IV MAXIMUM PARENTAL LIABILITY (1) The maximum liability for parents of long-term residents, which is effective on the 121st day of care, shall be determined from a schedule published by the department. This schedule is based on the annual cost of raising a child, as estimated by the U.S. department of agriculture, and shall be updated annually by the department.

AUTH: 53-1-403 MCA IMP: 53-1-409 MCA

RULE V ABILITY TO PAY (1) Upon receipt of the requested information, the department shall classify the expenses of the resident or responsible person(s) as either fixed or controllable, and as either primary or secondary.

(2) The department shall evaluate the fixed expenses and primary expenses to determine that they are reasonable, or shall substitute standard allowances from a schedule,

according to the following criteria:
(a) fixed expenses for liabilities contracted prior to the resident's admission to the institution shall be allowed in full. Payment for debts contracted after admission will be considered controllable and will be disregarded, unless the debt incurred was necessary to obtain basic needs.
(b) primary expenses:
(i) food and clothing needs shall be standard allowances determined from a schedule published by the department, which is based on a moderate family budget, as estimated by the U.S. departments of agriculture and labor. This schedule shall be updated annually by the department. These amounts may be exceeded only upon documentation of extraordinary circumstances.
(ii) transportation expenses shall be the costs of operating one vehicle per family, unless a second vehicle is essential to the production of income. If no vehicle is owned, the actual cost of public transportation shall be allowed.
(3) Discretionary income is then determined by subtracting fixed expenses from the income of the resident or responsible person(s).
(4) The department shall determine ability to pay by dividing discretionary income by the number of persons dependent on that income, including the resident, subject to the evaluations enumerated below. The ability to pay for a short-term resident shall be the monthly amount multiplied by four, and shall apply to the entire 120 days of short term residency. For long-term residents, the ability to pay shall be calculated as a monthly amount.
(5) Hardship evaluation. The controllable primary expenses shall be subtracted from discretionary income to determine the balance of income available after basic needs are met. If this amount is less than the ability to pay determined above, the ability to pay shall be reduced to this amount.
(6) Personal needs allowance. The ability to pay shall be reduced by forty dollars per month to provide for the personal needs of the resident. If, however, the department learns that this allowance is not being made available to the resident, or otherwise used by the responsible person(s) for the resident's benefit, this reduction may be disallowed.
(7) Excess assets evaluation.
(a) long-term residents' assets which exceed eligibility standards for medicaid shall be viewed as available to meet maintenance costs, and shall be added to the ability to pay unless protected as follows:
(i) as protected by law or an order of the court.

(ii) as may be protected in full or in part by a written agreement approved by the department upon presentation in writing by the resident or responsible person(s) of any specific and viable future plans or uses for which the excess assets are intended. Such documentation shall include the extent to which the funds need to be protected for purposes of preventing further dependency of the resident or responsible person(s) upon the public and/or of enhancing development of the resident into a normal and self-supporting member of society.
(b) short-term residents' liquid assets in excess of $5,500 shall be added to the ability to pay, unless protected as provided for in Rule V (7)(a), above.
(8) The department shall review its determination of ability to pay for each resident or responsible person(s) at least once each year.
AUTH: 53-1-403, 405 MCA IMP: 53-1-405 MCA

RULE VI THIRD PARTY RESOURCES (1) Applicable medicare, medicaid, or private insurance will be considered as a resource of the resident. When the insurance company, as third party payer, makes direct payment to the insured resident or their responsible party, such payment will be payable to the state of Montana.
AUTH: 53-1-403 MCA IMP: 53-1-405 MCA

RULE VII ACCEPTANCE OF REDUCED PAYMENT (1) The department may, by written agreement with the resident or responsible person(s), accept a minimum monthly payment which is less than the assessed charge, with the balance accumulating as a liability of the resident or responsible person(s), in the following circumstances:
(a) when the ability to pay has been adjusted on the basis of excess assets, as provided in Rule V (7), and the department has determined that it is in the best interest of both the resident or responsible person(s) and the state not to eliminate those assets in the near future.
(b) for residents whose care-treatment plans provide for discharge and economic independence within one year, and additional funds are needed for:
(i) Savings to furnish and initiate an independent living arrangement for the resident upon release from the facility. Under this provision, funds will not be conserved beyond the point that the client would no longer meet the asset eligibility limits for SSI or medicaid, if the resident would otherwise be eligible.
(ii) Purchase of clothing and other reasonable personal expenses the client will need to enter an independent living arrangement.

AUTH: 53-1-403 MCA IMP: 53-1-405, 408 MCA

RULE VIII APPEALS PROCEDURE (1) If the resident or responsible person(s) disagrees with the department's determination of ability to pay, that person may at any time request a redetermination of the ability to pay. The request shall be in writing, and shall state the reasons for disagreement as well as any additional facts relevant to the request. The department may, in its discretion, request a conference with the resident or responsible person(s). Within 30 days of receiving the request for redetermination, or within 30 days of the conference, if a conference is held, the department shall submit its written redetermination to the resident or responsible person(s).
(2) If the resident or responsible person(s) is dissatisfied with the department's redetermination, he may appeal to the director of the department of institutions, 1539 11th Avenue, Helena, Montana 59620. This appeal must be in writing, and be filed within 30 days after the aggrieved party has received the department's written redetermination. At the time the appeal is filed, the aggrieved party must state in writing his reasons for the appeal and the intended relief that he wishes to receive. At any time during these procedures, the aggrieved party may be represented by counsel at his own expense.
(3) Upon receipt of the notice of appeal, the director of the department of institutions will ask the person responsible for the redetermination and the aggrieved party if they wish to have any discovery process. If either party requests discovery, the director will designate a period of time in which discovery is to take place and be completed. By discovery it is meant the use of written interrogatories and/or depositions, production of documents, etc. All means of discovery will be pursuant to the Montana Rules of Civil Procedure concerning discovery. At the conclusion of discovery, the matter will be deemed at issue and the director will decide whether a hearings examiner will be appointed. When it is decided by the director whether to hear the matter himself or appoint a hearings examiner, the director will then set a date for the hearing and if need be, name a hearings examiner. At the time set for the hearing, the director of the department of institutions or the hearings examiner will conduct the hearing in accordance with the Montana Rules of Evidence. The hearing will be adequately transcribed. At the conclusion of the hearing, the director of the department of institutions or the hearings examiner may request proposed findings of fact and conclusions of law and supporting briefs from the parties. The time for submission from these proposed findings of fact

and conclusions of law and supporting memorandums will be set by the director of the department of institutions or the hearings examiner. When all matters have been submitted to the hearings examiner, he will write his proposed findings of fact and conclusions of law and submit them to the director of the department of institutions for adoption, or the director may proceed to hear and decide the matter on its own merits.
AUTH: 53-1-403 MCA IMP: 53-1-407 MCA

RULE IX REFUNDS AND RETROACTIVE ASSESSMENTS (1) If in the process of reviewing a resident's or responsible person(s) ability to pay, the department determines that information has been misrepresented on a previous financial statement, which if honestly represented would have resulted in a higher ability to pay determination, a retroactive assessment based on the adjusted increased ability to pay will be made.
(2) If a new determination results in a retroactive reduction of a prior ability to pay determination, and a refund or reduction of the liability exists, a refund request or credit will be initiated, complete with a corrected statement sent to the party.
(3) If a billing error occurs resulting in receipts which exceed the cost of care or if combined payments from more than one payer are received which exceed the cost of care, a refund request will be initiated with the appropriate party or intermediary listed as designated recipient.
AUTH: 53-1-403 MCA IMP: 53-1-408 MCA

RULE X RECORDING CHARGES (1) The department shall maintain records of services provided to residents, and shall prepare a monthly itemized statement for each resident receiving chargeable services. Charges shall be recorded for each service and for each day the resident is at the institution at midnight. No per diem charge shall be recorded for the day the resident leaves, unless the resident both enters and leaves the institution during the same day.
AUTH: 53-1-403 MCA IMP: 53-1-403 MCA

RULE XI PROCEDURE FOR FAILURE TO PAY (1) Accounts which are delinquent will be identified by the department at 30, 60, 90 and 120 day intervals. At 90 days, letters will be prepared which state the intent to use the department of revenue for debt collection unless payment is received in 30 days. If no payment is received at 120 days, another letter will be sent stating that action has been taken, and requesting that all correspondence and/or payment be

directed to the department of revenue.
AUTH: 53-1-403 MCA IMP: 53-1-411 MCA

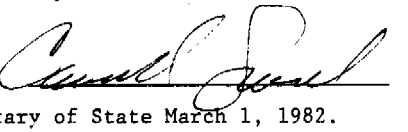
5. The rules are proposed because the Department desires to make the reimbursement policies clearer and more understandable to the public and the Department particularly wanted to clarify Rule V - Ability to Pay because the old rule did not adequately reflect the Department's criteria for determining an ability to pay.

6. 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 Nick A. Rotering, Department of Institutions, 1539 11th Avenue, Helena, Montana 59620, no later than April 12, 1982.

7. Nick A. Rotering has been designated to preside over and conduct the hearing.

8. The authority of the agency to make the proposed rules is based on Section 53-1-403, 405, and 408 MCA, and the rules implement Sections 53-1-401 through 53-1-411 MCA.

CARROLL V. SOUTH, Director
Department of Institutions

By 

Certified to the Secretary of State March 1, 1982.

BEFORE THE DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

In the matter of Amendment, Repeal and Adoption of Rules Pertaining to the Renewable Energy Grant and Loan Program	NOTICE OF PUBLIC HEARING ON THE PROPOSED AMENDMENT OF ARM 36.8.101 through 36.8.105, 36.8.111, 36.8.113 through 36.8.116, 36.8.121 through 36.8.124, 36.8.128 and 36.8.130; THE REPEAL OF ARM 36.8.106, 36.8.107, 36.8.112, 36.8.120 and 36.8.129; and, THE ADOPTION OF NEW RULES I THROUGH VII. ALL PERTAINING TO THE RENEWABLE ENERGY GRANT AND LOAN PROGRAM

TO: All Interested Persons

1. On April 2, 1982, at 7:00 p.m. in the Old Highway Auditorium, Scott Hart Building, 303 Roberts Street, Helena, Montana a public meeting will be held to consider the amendment, repeal and adoption of new rules, all pertaining to the Renewable Energy Grant and Loan Program.

2. The proposed amendments would replace present rules ARM 36.8.101 through 36.8.105, 36.8.111, 36.8.113 through 36.8.116, 36.8.121 through 36.8.124, 36.8.128 and 36.8.130; the rules proposed to be repealed can be found in the Administrative Rules of Montana on page 36-154 for ARM 36.8.106 and 36.8.107, on page 36-157 for ARM 36.8.112, on page 36-161 for ARM 36.8.120, and on page 36-165 for ARM 36.8.129; and the proposed new Rules I through VII do not replace or modify any sections currently found in the Administrative Rules of Montana.

3. The present rules proposed to be amended and the proposed new rules provide as follows:

36.8.101 POLICY AND PURPOSE OF RULES Title 90, chapter 4, part 1, MCA, provides ~~for the~~ grant and loan funding through the department ~~for~~ to stimulate research, development, ~~and~~ demonstration, and commercialization of ~~alternative~~ renewable energy sources. The policy and purpose of this subchapter ~~is~~ are to provide criteria and guidelines to aid in ~~the implementation of that~~ implementing the law; to prescribe the form and content of applications; to provide policies and procedures for the preparation, evaluation and administration of those applications; to prescribe the terms and conditions for making grants and loans; and to establish interest charges for loans.

AUTH: 90-4-104, MCA IMP: 90-4-104, MCA

36.8.102 DEFINITIONS Unless the context requires otherwise, as used in this subchapter:

(1) "Act" means Title 90, chapter 4, part 1, MCA.

(2) "Commercialization" means the engagement by a new or expanding business incorporated, licensed or otherwise authorized to do business in Montana in developing, designing, building, manufacturing, marketing, distributing, or selling renewable energy forms, processes, systems, system components or information for a profit.

(3) "Contract monitoring" means a purposeful examination and supervision of a contractor's performance, plans, records, reports and expenditures to insure compliance with the terms and conditions described in a contractual agreement with the department.

(4) "Demonstration" means a physical display or example to illustrate the operation of a renewable energy system or device and to provide evidence of its performance to a large population.

(5) "Development" means an activity that utilizes the results of research or available knowledge and applies those results or knowledge to the design, construction and testing of hardware, models, or prototypes.

(6) "Educational or informational project" means any project that stimulates research, development, demonstration, commercialization or use of renewable energy through workshops, publications, curriculum development, technical assistance services, audio-visual materials, or other means.

(7) "Financial institution" means any state or federally chartered commercial bank, savings and loan association or credit union authorized to do business or domiciled in the State of Montana and whose deposits are insured by the Federal Deposit Insurance Corporation (F.D.I.C.), the Federal Savings and Loan Insurance Corporation (F.S.L.I.C.) or the National Credit Union Administration (N.C.U.A.). It shall also mean the Farmer's Home Administration, the Federal Land Bank and the Production Credit Association.

(8) "Performance monitoring" means a systematic check, test, or investigation to collect, record, and interpret data that will describe the efficiency, energy output, or other operational functions of a renewable energy system or device.

~~(2)~~ (9) "Person" means, as defined in subsection 90-4-102(2), MCA, "a natural person, corporation, partnership, or other business entity, association, trust, foundation, any educational or scientific institution, or any governmental unit~~;, however, the term will not include religious organizations defined in 37 Att'y Gen. Rep. 165 that are constitutionally ineligible to receive alternative renewable energy source grants~~.

~~(3) "Application" means a written application to the department for funding under the terms of the Act and these rules.~~

~~(4)~~(10) "Research" means ~~an extensive~~ a systematic study to discover facts or to discover or revise theories that will bring to a more advanced state the capabilities, understanding, availability, and suitability of ~~an alternative~~ a renewable energy source.

~~(5) "Develop" means to utilize the basic results of research or available knowledge and apply those results or knowledge to the production of hardware or models. The term also means to establish manufacturing facilities to produce alternative renewable energy systems in Montana. Manufacturing facilities may include components or facilities that commercially market electricity, heat, energy, or energy by-products.~~

~~(6) "Demonstrate" means to provide operational and performance information to increase the general knowledge and encourage the use of renewable energy systems and to provide definitive data through testing under actual operational use and conditions for performance and design criteria and economic assessment. Demonstration projects may be physical models or educational and training undertakings.~~

AUTH: 90-4-104, MCA IMP: 90-4-104, MCA

36.8.103 ELIGIBLE PROJECTS (1) The department will ~~support~~ fund projects ~~which~~ that best enable the state to meet the legislative mandate to reduce ~~the~~ reliance on nonrenewable energy sources.

(2) Only projects that will be conducted within Montana are eligible for funding.

~~(2)~~(3) Funding will be granted only for projects that are applicable to Montana's energy needs. ~~If the technology is not suited to the needs of Montana, the project will not be funded.~~

~~(3)~~(4) ~~The department may fund all or only a portion of a proposed project.~~ Only ~~that portion of a project~~ projects or those portions of projects directly related to the research, development, ~~or~~ demonstration, or commercialization of ~~alternative~~ renewable energy sources and educational or informational projects ~~is~~ are eligible for funding.

(5) Applications dealing with energy storage devices that would promote more efficient utilization of renewable energy will be considered.

AUTH: 90-4-104, MCA IMP: 90-4-101 and 90-4-104, MCA

36.8.104 ELIGIBLE APPLICANTS (1) ~~The department will grant funding only for applications by residents of Montana and only for projects conducted in Montana. This condition does not prohibit the use of expertise outside the state of Montana.~~ Any person may make application for a grant or a loan to fund a project under the Act and these rules.

(2) Persons who are employees ~~or contractors of the department~~, contractors of the energy division, or ~~who~~ are members of the board of natural resources and conservation or the renewable energy advisory council (reac) and their immediate families are not eligible for funding ~~under the Act~~. ~~Individuals related to such persons by consanguinity within the fourth degree or by affinity within the second degree are likewise not eligible for funding~~.

AUTH: 90-4-104, MCA IMP: 90-4-104 and 90-4-105, MCA

36.8.105 ~~ALTERNATIVE~~ RENEWABLE ENERGY ADVISORY COUNCIL The department ~~will~~ may appoint ~~a an alternative~~ renewable energy advisory council ~~(aeac)~~ (reac) that ~~will~~ may advise the department on matters pertaining to program development and ~~that may~~ make recommendations on funding projects. The department shall make the final decision concerning which projects will ~~shall~~ be funded.

AUTH: 90-4-104, MCA IMP: 90-4-104, MCA

RULE I SIZE OF AWARDS The maximum award given to a single project or applicant as a grant or loan shall be less than the total project cost and shall not exceed 10 percent of the annual appropriation from the earmarked account. There is no minimum funding limit.

AUTH: 90-4-104, MCA IMP: 90-4-101 and 90-4-104, MCA

RULE II TYPE OF AWARD (1) The department may award loans or grants. Commercialization projects will be considered for loan funding exclusively.

(2) The department will determine the appropriate type of funding based on the nature of the project.

AUTH: 90-4-104, MCA IMP: 90-4-101 and 90-4-104, MCA

36.8.111 APPLICATION ~~FORMAT~~ (1) An applicant shall submit an application on forms prescribed by the department. ~~Any person may make application for a grant to fund a project under the Act and these rules.~~

(2) An ~~The~~ applicant shall submit ~~ten~~ 4 copies of the application to the department at the time of filing~~, to the energy division of the department, 32 South Ewing, Helena, Montana 59601~~ and shall provide additional copies as requested by the department. ~~A lesser number of copies may be submitted upon prior approval of the department.~~

~~(2) There is no application form adopted by the department.~~

~~(3) To facilitate uniformity the application should meet the following requirements:~~

~~(a) The application should be typed, printed, or otherwise legibly reproduced on 8 1/2 x 11 inch paper. Maps, drawings, or charts may accompany an application as separate exhibits, but should be cut or folded to 8 1/2 x 11 inch size if possible.~~

~~(b) Typed or offset material should have a 1" margin on all sides.~~

~~(c) All pages in an application should be consecutively numbered. Maps, drawings, or charts accompanying the application as exhibits should be identified as "Exhibit ___," and if comprising more than one sheet should be numbered "sheet ___ of ___."~~

AUTH: 90-4-104, MCA IMP: 90-4-10[illegible], MCA

36.8.113 SUPPLEMENTAL MATERIAL The applicant shall submit additional or supplemental material as requested by the department ~~and shall update drawings and information submitted with the original application without undue delay as needed~~.

AUTH: 90-4-104, MCA IMP: 90-4-104 and 90-4-105, MCA

36.8.114 CHANGES OR ADDITIONS If an applicant desires to change or to add to an application other than as required by ARM 36.8.113 after it is formally filed, the applicant shall ~~inform the department in writing as soon as possible of~~ submit the change or addition to the department in writing. ~~If the change or addition will result in a substantial change in the amount of funding requested or the goals and objectives stated in the original application, the~~ The department will consider ~~the~~ any substantial change or addition to an application to constitute a new application. No substantial changes or additions to an application will be accepted after the deadlines for submittal set forth in ARM 36.8.115

AUTH: 90-4-104, MCA IMP: 90-4-104, MCA

36.8.115 APPLICATION SUBMITTAL DEADLINES (1) Applications for unsolicited grants must be submitted ~~from August 1 through October 1~~ prior to November 1 or at other times specified by the department.

(2) Applications for solicited grants must be submitted at ~~a time~~ times specified by the department.

(3) Loan applications must be submitted to the department prior to January 1 or at other times specified by the department.

AUTH: 90-4-104, MCA IMP: 90-4-104, MCA

36.8.116 APPLICATION EVALUATION PROCEDURE (1) The department will accept and review ~~the~~ each application to determine whether it is in substantial compliance with the Act and these rules. If the department determines that the application is not in substantial compliance, ~~with the Act and these rules~~ the application will be considered deficient and the department will ~~reject~~ return the application, notifying the applicant in writing and listing the application deficiencies. The application may be re-submitted after ~~corrections are~~ the necessary revisions have been made. All listed deficiencies must be corrected and the revised application filed in compliance with ARM 36.8.111 prior to the submittal deadline to be eligible for funding consideration.

(2) ~~The department may appoint individuals to assist with the review and evaluation of applications. These individuals shall be qualified technical people in their respective fields.~~ Grant applications received for consideration in each period will be compared with one another for relative merit as well as evaluated for individual merit. The technical soundness of the proposed project, the public benefits associated with the proposed project, and the likelihood that the proposed project will lessen reliance

on nonrenewable energy sources will be evaluated in determining the merits of each application. The department will fund those grant applications showing the highest individual and relative merit consistent with the availability of funds.

(3) ~~The alternative energy advisory council (aeac) may meet to discuss applications and make recommendations to the department.~~ The department will evaluate loan applications independent of one another to determine whether the loan application meets minimum standard technical criteria established by the department. Applicants whose applications meet these criteria will be authorized for loan consideration subject to the availability of funds and the participation of a financial institution.

(4) The department shall make the final decision concerning which applications to fund.

AUTH: 90-4-104, MCA IMP: 90-4-104, MCA

RULE III ENVIRONMENTAL FEASIBILITY AND COMPLIANCE WITH STATUTES AND RULES (1) The applicant shall demonstrate the probable environmental and ecological consequences of the proposed project by considering all areas of concern identified on an environmental checklist supplied by the department. The department will assess these results to determine if a proposed project or activity is environmentally acceptable. If the project or activity constitutes a major state action or further information is necessary, an environmental impact statement may be required as prescribed by the administrative rules governing the Montana Environmental Policy Act.

(2) The applicant shall certify that the proposed project or activity will comply with applicable statutory and regulatory standards such as those protecting the quality of resources such as air, water, land, fish, wildlife and recreational opportunities.

AUTH: 90-4-104-MCA IMP: 90-4-101 and 90-4-104, MCA

36.8.121 CONDITIONS ON GRANTS (1) Funds granted under the terms of the Act and these rules ~~may~~ shall be used only for the purposes described in the contract. ~~Detailed~~ Accurate records must be kept by the grant recipient documenting all ~~for all~~ expenditures. ~~Because the initial project budgets are estimates, transfers of up to 25% of any budget category will be allowed to another budget category. Such transfers will be based upon the budget contained in the grant contract.~~

(2) ~~Persons receiving demonstration funds may~~ Grant recipients shall be required to make their projects open to the public during reasonable hours for a period of time specified in the ~~grant~~ contract.

(3) The department ~~may~~ will retain the right to inspect and monitor the performance of all projects for a specified period of up to 5 years after completion of the project.

(4) ~~Arrangements shall be made~~ The department will require the grant recipient to assist, guide and inform the department during on-site investigations. The department may make such investigations at its discretion.

(5) ~~The applicant may be required in the grant contract to~~ The grant recipient shall operate and maintain his funded project ~~during the monitoring period~~ for a specified period to comply with the performance monitoring provisions.

(6) All patents and copyrights that result directly from projects funded in whole or in part by a grant made under the Act and these rules shall be the property of the department.

AUTH: 90-4-104, MCA IMP: 90-4-104, 90-4-106, and 90-4-107, MCA

36.8.122 GRANT CONTRACT ~~(1)~~ If an applicant's proposal is ~~accepted,~~ approved and determined to be appropriate for funding by a grant pursuant to Rule II, ~~the applicant may~~ the department will enter into a ~~contract~~ contractual grant agreement with the ~~department~~ applicant under such terms and conditions as the department considers ~~appropriate~~ necessary.

~~(2) Anytime the recipient feels that changes in the contract are necessary, the proposed changes may be negotiated with the department. If a satisfactory agreement cannot be reached, the contract and the funding may be terminated by the department with the consent of the recipient.~~

~~(3) The duration of a project may be extended if the department determines that the grant recipient has made a diligent effort to complete the project and that additional time is required to adequately accomplish the funded scope of work.~~

AUTH: 90-4-104, MCA IMP: 90-4-104, MCA

36.8.123 PAYMENT OF GRANTS (1) Upon approval of an application by the department, funds will be set aside for that particular project.

~~(2) Requests for payment shall not be submitted more often than once a month.~~

~~(3)~~(2) ~~Payments will be made only on valid project related.~~ The department will reimburse the grantee only for actual and necessary expenditures incurred in compliance with the grant contract.

~~(4)~~(3) Any balance of a grant that ~~which~~ remains unused at the conclusion of the contract period shall revert to the Department.

AUTH: 90-4-104, MCA IMP: 90-4-103, 90-4-104, and 90-4-107, MCA

36.8.124 REPORTS AND ACCOUNTING (1) Each grant recipient shall submit periodic progress reports as specified by the department and shall submit a final report to the department within 3 months following the completion of the contract period.

(2) Grant recipients shall make oral or written presentations of progress if requested to do so by the department.

(3) The grant recipient shall adequately account for expenditures in a manner acceptable to the department. All records, reports, and other documents that relate to the project and that are required by the department to be maintained by the grant recipient are subject to audit by the office of the legislative auditor ~~and~~, the department, and, where required by law, the legislative fiscal analyst.

AUTH: 90-4-104, MCA IMP: 90-4-104, 90-4-103 and 90-4-107, MCA

36.8.128 SOLICITED GRANT PROPOSALS ~~PROCEDURE-ELIGIBILITY (1)~~ The department may issue a request for a proposal (rfp) at any time ~~solicit specific proposals~~ to initiate projects ~~that are needed~~ to meet program goals and objectives and may fund ~~the~~ solicited proposals at any time ~~during the year.~~

~~(2) The department may solicit proposals by the following methods:~~

~~(a) The department may issue a request for proposal (rfp).~~ The rfp will describe the objective(s) of the project, the maximum funding that is available for the project, ~~and~~ the deadline for submittal, and the criteria that will be used to evaluate applications submitted in response to the rfp. The rfp~~'s~~ will be sent to consultants who are on the department's bid list, maintained in compliance with Title 18, chapter 8, part 1, MCA and will be advertised and sent to other selected groups or individuals that the department considers to have the necessary credentials and experience to successfully carry out the project.~~; or~~

~~(b) The department may issue a single-source agreement with an individual or group to accomplish a specific objective for a specified grant amount.~~

~~(3) To be eligible for grant consideration, applicants must:~~

~~(a) submit priced proposals responsive to the objectives or effort cited in the solicitation;~~

~~(b) submit the proposal by the specific due date; and~~

~~(c) submit a solicited proposal meeting the requirements of ARM 36.8.111 and ARM 36.8.112.~~

AUTH: 90-4-104, MCA IMP: 90-4-104, MCA

RULE IV LOAN CONDITIONS (1) No loan will be made under the act and these rules to refinance existing debt previously incurred by the applicant.

(2) The maximum term for loans is ~~ten (10)~~ years.

(3) Loans made under the Act and these rules shall be used only for the purposes described in the loan application.

(4) The department's participation in any loan made through a financial institution under the Act and these rules shall not exceed 90 percent of the principal loan amount.

AUTH: 9-4-104, MCA IMP: 90-4-101 and 90-4-104, MCA

RULE V AUTHORIZATION FOR LOAN CONSIDERATION (1) If an applicant's proposal is approved and determined to be appropriate for funding by a loan pursuant to Rule II, the department will provide the applicant with a letter of authorization for loan consideration.

(2) The letter of authorization for loan consideration will certify to financial institutions that:

(a) the applicant's proposal is consistent with the purposes of the Act and these rules; and that

(b) the department will consider participation in a loan made by a financial institution for the purposes described in the proposal subject to the availability of funds.

(3) The department will describe in the authorization for loan consideration such terms and conditions as it considers necessary for the department's participation in a loan made by a financial institution for the proposed project.

AUTH: 90-4-104, MCA IMP 90-4-101 and 90-4-104, MCA

RULE VI EVALUATION OF LOAN REQUESTS (1) The applicant shall choose a financial institution to consider his loan request and shall provide the department's letter of authorization for loan consideration to the lender.

(2) The department will participate in a loan made by a financial institution only if the applicant submits to the department:

(a) written evidence that the financial institution has investigated and analyzed the applicant's loan request and related materials in the same manner as its other loan requests and consistent with the standard practices of financial institutions considering the type, size, risk, and complexity of the loan requested and the type of applicant, and

(b) a signed servicing agreement the terms and conditions of which have previously been approved by the department evidencing the financial institution's intent to originate the loan under the conditions previously described by the department.

(3) The department will indicate its decision to participate in a loan by executing the servicing agreement and providing the financial institution with a completed standard participation agreement the terms and conditions of which have been approved by the department.

(4) When the financial institution executes and delivers the completed participation agreement to the department, the department is bound to participate in the loan.

AUTH: 90-4-104, MCA IMP: 90-4-101 and 90-4-104, MCA

RULE VII INTEREST RATES (1) A financial institution when making a loan to an applicant authorized for loan consideration by the department, may set the rate of interest on its share of a loan. The financial institution may charge a fixed or a variable rate on its share.

(2) The department shall charge a fixed interest rate on its share of a loan. The rate of interest the department charges on its loan share shall be equal to the Federal Reserve Discount Rate on the day the loan closes.

(3) The effective interest rate to the applicant will be the weighted average based on the respective prorata participation of the financial institution and the department.

AUTH: 90-4-104, MCA IMP: 90-4-101 and 90-4-104, MCA

36.8.130 APPLICATIONS AND RESULTS PUBLIC (1) ~~Upon submitting an application~~ Applications submitted to the department ~~pursuant~~ under ~~to [this subchapter],~~ the Act and these rules ~~the application becomes a government document~~ are subject to public ~~scrutiny~~ review. The applicant waives any claim of confidentiality by filing an application with the department.

(2) The results of all ~~research, development, or demonstration~~ projects that are funded shall be made public ~~record~~.

AUTH: 90-4-104, MCA IMP: 90-4-106, MCA

4. The Department of Natural Resources and Conservation (Department) is proposing the amendments, repeal, and adoption of rules to implement changes in Title 90, Chapter 4, part 1, MCA, the Renewable Energy Grant and Loan Program that were adopted by the 1981 Montana Legislature in Chapters 356 and 402, Laws of 1981, and to make other changes in the Renewable Energy Program based on the Department's recent reevaluation of the program. In particular, the Legislature authorized the Department to make loans through financial institutions in Montana for commercializtion of alternative renewable energy.

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 Van Jamison, Renewable Energy Grant and Loan Program Manager, Department of Natural Resources and Conservation, 25 South Ewing, Helena, Montana 59620, no later than April 12, 1982.

6. Rick Itami, Chief, Conservation and Renewable Energy Bureau, Department of Natural Resources and Conservation, has been designated to preside over and conduct the hearing.

7. The authority and implementing sections are listed at the end of each rule.

Leo Berry, Jr.
Director
Department of Natural
Resources and Conservation

Certified to the Secretary of State March 1, 1982.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of rules 2.21.3002 and 2.21.3005 relating to decedent's warrants	)))))	NOTICE OF THE AMENDMENT OF RULES 2.21.3002 AND 2.21.3005 RELATING TO DECEDENT'S WARRANTS

TO: All Interested Persons.

1. On January 28, 1982, the Department of Administration published notice of proposed amendments to rules 2.21.3002 and 2.21.3005 concerning decedent's warrants at page 66 of the 1982 Montana Administrative Register, issue number 2.

2. The agency has amended the rules as proposed.

3. The following comment was received:

COMMENT: (Russell McDonald, Department of Highways): Provision should be made in the rules for naming contingent designees.
RESPONSE: The department disagrees. While there is nothing in the rules to prohibit naming a contingent designee, the department does not want to encourage the practice because it creates various administrative problems for the State Auditor's Office in processing the warrants.

In the matter of the amendment of rules 2.21.1513, 2.21.1515 and 2.21.1517 relating to the administration of compensatory time and overtime	)))))	NOTICE OF THE AMENDMENT OF RULES 2.21.1513, 2.21.1515 AND 2.21.1517 RELATING TO COMPENSATORY TIME AND OVERTIME

TO: All Interested Persons.

1. On January 28, 1982, the Department of Administration published notice of proposed amendments to rules 2.21.1513, 2.21.1515 and 2.21.1517 concerning compensatory time and overtime at page 73 of the 1982 Montana Administrative Register, issue number 2.

2. The agency has adopted the rules with the following changes:

2.21.1517 RECORDS (1) Same as proposed rule.

~~(2)~~ Compensatory time: compensatory time may be earned, ~~and~~ recorded, and used in half hour increments during the workweek.

(3) Overtime: overtime ~~shall~~ may be recorded in 1/10 hour increments, for example, .1 hour equals 6 minutes; .2 hours equals 12 minutes, or 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.

3. The agency has received the following written comments:

COMMENT: From several state agencies: The record keeping requirements for overtime are unreasonable.
RESPONSE: The department agrees and has reinserted language allowing fractional overtime hours to be rounded.

COMMENT: (Lynda Brown, University of Montana): The rules do not allow enough agency flexibility. Each agency should be able to develop its own guidelines on compensatory time.
RESPONSE: The department disagrees. There is need for minimum standards which provide consistency between agencies in the administration of compensatory time. The department is authorized in 2-18-102 MCA, to establish those minimum standards.

In the matter of the adoption of new rules relating to the state employee incentive awards program	))))	NOTICE OF THE ADOPTION OF RULES RELATING TO THE STATE EMPLOYEE INCENTIVE AWARDS PROGRAM

TO: All Interested Persons.

1. On January 28, 1982, the Department of Administration published notice of a public hearing to consider the adoption of rules relating to the state employee incentive awards program at page 48, 1982 MAR, issue #2.

2. The agency has adopted the rules with the following changes:

2.21.6701 (RULE I) SHORT TITLE (1) This sub-chapter may be cited as the State Employee Incentive Awards Program policy.

(AUTH. and IMP. Sec. 2-18-110~~1~~ 3 ~~through 1106~~ MCA)

2.21.6702 (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, and has been approved for implementation within at least one state agency.

(2) Same as proposed rule.

~~(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)~~ (3) "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)~~ (4) "Eligible Employee" means any employee of the executive, legislative, or judicial branch or the Montana University System.

~~(7)~~ (5) "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)~~ (6) "Implemented Suggestion" means formal suggestion that has become a function being performed by one or more agencies.

~~(9)~~ (7) "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)~~ (8) "Incentive Award Committee" means a commitee established by an agency head in accordance with Rule V.

~~(11)~~ (9) "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)~~ (10) "Program Administrator" means the Director of the Department of Administration or his designee.

~~(13)~~ (11) "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)~~ (12) "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)~~ (13) "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)~~ (14) "Unadopted Suggestion" means a formal suggestion that has been disapproved for an award and implementation by the program administrator.

(AUTH. and IMP. Sec. 2-18-~~1101~~ 3 ~~through 1106~~ MCA)

2.21.6703 (RULE III) POLICY (1) It is the policy of the State of Montana to provide ~~incentives~~ awards 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 statewide basis and shall:

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

~~(b)~~ (a) determine the originality and eligibility of suggestions;

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

~~(e) assist agencies in making incentive awards;~~

~~(f)~~ (d) 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)~~ (e) acknowledge receipt of suggestions;

~~(h)~~ (f) 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;~~

(g) publicize awards and the reasons awards are granted.

(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 pertaining to the suggestion, immediate and future, on the State of Montana are waived.

(4) Same as proposed rule.

(AUTH. and IMP. Sec. 2-18-110~~1~~ 3 ~~through 1106~~ MCA)

2.21.6704 (RULE IV) CREATION OF THE STATE INCENTIVE AWARDS ADVISORY COUNCIL (1) Same as proposed rule.

(2) ~~Members of the advisory council must be selected from a diverse group to adequately represent State employees.~~ The composition of the advisory council shall consist of six members from the executive branch, two members from the legislature, two members representing public employee unions, one member from the private sector, and one ex-officio non-voting member.

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

(5) The incentive awards advisory council shall:

(a) meet ~~regularly~~ whenever scheduled by the program administrator and consult with the program administrator to review all suggestions evaluated by the agencies and ~~recommend granting or rejecting these awards;~~ to review employee appeals on the general operation and administration of the program;

(b) in reviewing suggestions and appeals, the advisory council shall evaluate the arguments for and against approval as presented by the agencies and by the employee~~.~~ ; and

(c) recommend which course of action to be taken on each suggestion and appeal reviewed.

(6) Recommendations of the council shall be in the form of votes cast by those members present. At least six members shall be present, otherwise, the meeting shall be rescheduled since no action can be taken unless two-thirds of the members are present. The council shall make a concerted effort to resolve the tie votes including rescheduling consideration of the suggestion or appeal. However, if this is not possible, tie votes shall be recorded as such.

2.21.6705 (RULE V) CREATION OF AGENCY INCENTIVE AWARDS COMMITTEES (1) ~~Each~~ It is suggested that each agency head ~~shall~~ appoint an agency awards committee of at least three members.

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

(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. Sec. 2-18-1101 3 ~~through 1106~~ MCA)

2.21.6706 (RULE VI) ~~DUTIES~~ COOPERATION REQUESTED OF AGENCY HEADS (1) ~~Agency~~ It is suggested that 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; and

(d) carry out or ensure that the provisions of Rule V (4) are properly carried out for each assigned suggestion.

(2) Upon receiving notice that a suggestion has been approved for an award by the program administrator, the agency shall be encouraged to expeditiously implement the suggestion if this has not already been done. Within 15 calendar days of implementation and award approval, whichever is later, ~~The~~ 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) Same as proposed rule.

(AUTH. ~~and IMP~~ Sec. 2-18-1103 and IMP. Sec. 2-18-1101 6 ~~through 1106~~ MCA)

2.21.6707 (RULE VII) ELIGIBILITY OF SUGGESTIONS

(1) Same as proposed rule.

(2) Formal suggestions shall be submitted on official forms prescribed by the Department, specifically for this incentive awards program. Such forms shall be made available to the agencies. Completed forms shall be sent directly to the program administrator. The program administrator shall review suggestions for compliance with the following criteria and then assign the suggestions to be evaluated by potentially affected agencies.

(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, " (2-18-1105, MCA).

(4) Same as proposed rule.
(AUTH. ~~and IMP~~ Sec. 2-18-1103 and IMP Sec. 2-18-1101 5 ~~through 1106~~ MCA)

2.21.6710 (RULE VIII) MODIFICATIONS OF SUGGESTIONS (1) Same as proposed rule.
(AUTH. and IMP. Sec. 2-18-1101 3 ~~through 1106~~ MCA)

2.21.6711 (RULE IX) INTERAGENCY SUGGESTIONS (1) Same as proposed rule.
(AUTH. and IMP. Sec. 2-18-1101 3 ~~through 1106~~ MCA)

2.21.6712 (RULE X) GROUP SUGGESTIONS (1) Same as proposed rule.
(AUTH. and IMP. Sec. 2-18-1101 3 ~~through 1106~~ MCA)

2.21.6713 (RULE XI) TIME LIMIT ON IMPLEMENTED SUGGESTIONS (1) Same as proposed rule.
(AUTH. and IMP. Sec. 2-18-1101 3 ~~through 1106~~ MCA)

2.21.6714 (RULE XII) INVENTIVE SUGGESTIONS (1) Same as proposed rule.
(AUTH. and IMP. Sec. 2-18-1101 3 ~~through 1106~~ MCA)

2.21.6715 (RULE XIII) RESUBMITTAL OF SUGGESTIONS (1) Same as proposed rule.
(AUTH. and IMP. Sec. 2-18-1101 3 ~~through 1106~~ MCA)

2.21.6716 (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,~~ before July 1, 1983.
(2) A current or former employee shall be entitled to an award if his previously delayed suggestion, as defined by Rule II (12), is later adopted and implemented ~~within four years from the date the suggestion was first received by the program administrator,~~ before July 1, 1983.
(AUTH. ~~and IMP,~~ Sec. 2-18-1101 3 and IMP. Sec. 2-18-1106 ~~through 1106~~ MCA)

2.21.6717 (RULE XV) AWARDS IN EXCESS OF $500 (1) Same as proposed rule.
(AUTH. ~~and IMP,~~ Sec. 2-18-1101 3 and IMP. Sec. 2-16-1106 MCA)

2.21.6718 (RULE XVI) SUGGESTIONS REQUIRING LEGISLATIVE ACTION (1) Same as proposed rule.
(AUTH. and IMP. Sec. 2-18-1101 3 ~~through 1106~~ MCA)

3. On February 22, 1982, the Department of Administration held a public hearing regarding the adoption of these rules. The following oral and written comments were received:

COMMENT: (Joe Maronick, Department of Labor and Industry): Rule II (11) should be deleted.
RESPONSE: The department disagrees as "personal grievances" are not to be considered eligible for awards by statute and a definition of such is necessary.

COMMENT: (Joe Maronick, Department of Labor and Industry): The word "incentives" in Rule III (1) is inappropriate.
RESPONSE: The department agrees and has changed "incentives" to "awards".

COMMENT: (David Niss, Counsel to the Administrative Code Committee, Montana Legislature): Citations of rule making and implementation authority are consistently too general according to the requirements of 2-4-305(3) and (4) MCA.
RESPONSE: The department agrees and has made the appropriate changes.

COMMENT: (David Niss, Counsel to the Administrative Code Committee, Montana Legislature): In Rule VII (3), statutory language was either unnecessarily repeated or not appropriately referenced as such.
RESPONSE: The department agrees and has made the appropriate changes. In addition, other rule sections that appeared to unnecessarily repeat statutory language were deleted.

COMMENT: (Robert Pyfer, Director of Legal Services, Montana Legislative Council): The rules illegally imply that the program administrator has authority to require implementation of suggestions.
RESPONSE: The department agrees and has changed the rules so that implementation authority rests clearly with the relevant agency heads.

COMMENT: (Robert Pyfer): The rules are too cumbersome in that suggestion evaluations involve too many layers and implementation should await approval of the program administrator.
RESPONSE: The rules were changed to clearly state that implementation of suggestions rests with agency heads. Thus, if time is of the essence, a director can order implementation while the award can be approved later.

COMMENT: (Robert Pyfer): The department cannot set forth the duties of agency heads in Rule VI.
RESPONSE: The department agrees and has made the appropriate changes.

COMMENT: (David Niss): The rules were written with little regard for the Statement of Intent provided with the bill as passed by the legislature.
RESPONSE: The department has changed the rules to more adequately reflect the Statement of Intent. The Statement of Intent suggested that the following items be addressed by the rules:

(1) The composition of the advisory council. The rules were revised to more thoroughly describe this composition.

(2) The procedures and bylaws that the Advisory Council will use when conducting its business. The rules were revised to provide some procedures and bylaws for the Advisory Council.

(3) Model suggestion system for agencies to use when administering the program. The department felt that a model system should not be included with the rules because such a system could change as the program gains experience.

(4) Standards to assure administration of the program on a statewide basis. The department felt that the program rules taken as a whole already addressed this issue.

(5) Forms that may be necessary to administer provisions in the bill. The department felt it would not be wise to include developed forms as part of the rules because it may be necessary to revise these forms later as the program gains experience and as the information needed to evaluate suggestions becomes clearer.

(6) Procedures for detailed investigation and evaluation of suggestions. The department felt that this is now addressed by the rules to some extent and felt that to provide more detailed procedures in the rules would not be wise until the program gains experience.

(7) Procedures for filing suggestions with the department. The department felt that this was already addressed by the rules; however, the rules were changed so that these procedures are now more clear.

(8) Procedures for the review of employee concerns regarding fair administration of the program. The rules were changed to reflect this.

(9) Time limit for the review of suggestions and inventions. This has already been addressed by the rules.

(10) Procedures for presenting to the Legislature those suggestions with an award potential that exceeds the $500 limitation. The department felt that this was addressed by the rules.

(11) Procedures covering timely payment of cash awards. The rules were changed to address this.

(12) Procedures for making reasons for the award public and for assuring awards are equitable and on the basis of merit. The rules were changed so that the department will publicize awards. The department felt that the rest of this item was already addressed by the rules.

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

TO: All Interested Persons.

1. On January 28, 1982, the Department of Administration published notice of the proposed repeal of rules 2.21.5001 through 2.21.5004 concerning reduction in work force and the adoption of new rules at page 69 of the 1982 Montana Administrative Register, issue number 2.

2. The rules have been repealed and adopted with the following changes:

2.21.5006 (RULE II) DEFINITIONS (1)-(2) Same as proposed rules.

(3) "Effective date of lay off" means the date determined by the agency to be the end of employment for an employee, allowing adequate time for 10 working days advance notice of lay off.

(4) "Termination Date" means the date the employee is actually removed from the payroll.

2.21.5007 (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 continuous service in the agency.

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

(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 or grant preference to 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.~~ ends the preference period.

(6) Same as proposed rule.

(7) Acceptance of a permanent position with a state agency ends preference provided in (6); however, an employee retains reinstatement rights as provided in (5). If an employee is subsequently terminated for reasons other than lay-off as defined in this rule, the employee loses preference and reinstatement rights.

(8) All privileges and benefits extended by this rule end at the end of the one-year preference period.

~~(7)~~ (9) If the lay-off is anticipated to last longer than 15 working days, the employee shall be terminated. Upon termination due to reduction in work force, the employee shall cash out accumulated annual leave and sick leave and may cash out retirement contributions, or 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, even though terminated. An employee must receive cash out for accrued leave credits at the end of the preference period or if hired by another agency, unless the hiring agency agrees to assume the liability for the accrued leave credits. (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)~~ (10) 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~~. If recall or placement is with another agency, Pay Plan Rule Employee Initiated Transfer Between Agencies shall apply. The employee need not serve

the qualifying period for use of annual leave and sick leave. ~~The employee should be treated as a continuing employee.~~

~~(9)~~ (11) 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)~~(12) 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)~~(13) In some cases, a demotion as a result of a RIF may be considered "exceptional circumstances" for purposes of a pay plan exception.

~~(12)~~(14) 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)~~(15) 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)~~(16) 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)~~(17) 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.

3. On February 22, 1982, the Department of Administration held a public hearing regarding the proposed repeal and adoption of rules. The following oral and written comments were received:

COMMENT: (David L. Hunter and Joe Maronick, Department of Labor and Industry): The term experience in Rule III (2) should be defined.
RESPONSE: The department believes there is adequate definition for this term in sub-parts (a) and (b) of this rule.

COMMENT: (Mona Jamison, Interdepartmental Coordinating Committee for Women): Provision should be made to allow employees to continue to self-pay into the state group insurance plan.
RESPONSE: The department is negotiating with Blue Cross of Montana on this question.

COMMENT: (Lynda Brown, University of Montana): Termination for lay-offs exceeding 15 working days is too restrictive.
RESPONSE: The department disagrees. Employees can be reinstated with all rights protected.

COMMENT: (Lynda Brown, University of Montana): The rules are too liberal in terms of the conditions of an offer of reinstatement.
RESPONSE: The department has modified the rule to clarify the terms.

COMMENT: (Several state agencies): Rule III (7) appears to be contradictory in terms of the cash out or retention of leave credits.
RESPONSE: The department agrees and has modified the rule accordingly.

COMMENT: (Tom Gooch, Department of Institutions): There is a conflict between reinstatement and preference.
RESPONSE: The department disagrees. A reinstatement offer is not opened as a vacancy and preference would not apply.

COMMENT: (Tom Gooch, Department of Institutions): An employee should be terminated completely or placed in some type of employment status.
RESPONSE: The department disagrees. The special conditions under which an employee is terminated due to reduction in force are established in the rules.

COMMENT: (Dave Mott, Department of Fish, Wildlife and Parks): The prior notice should be at least 30 days.
RESPONSE: The department disagrees. The 10 working day period establishes the minimum notice time. An agency may adopt a longer period of time if it chooses.

COMMENT: (Russell McDonald, Department of Highways): Length of service should be defined to include "unbroken."
RESPONSE: The department agrees and the rule has been modified.

COMMENT: (Russell McDonald, Department of Highways): All rights should cease at the end of a one-year preference period.
RESPONSE: The department agrees and the rule has been modified.

COMMENT: (Russell McDonald, Department of Highways): If an employee rejects a reinstatement offer, preference also should be revoked.
RESPONSE: The department agrees and the rule has been modified.

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

Certified to the Secretary of State March 1, 1982.

BEFORE THE DEPARTMENT OF ADMINISTRATION
BUILDING CODES DIVISION
OF THE STATE OF MONTANA

In the matter of the amendment of rule ARM 2.32.303 concerning the minimum required plumbing fixtures	NOTICE OF AMENDMENT OF RULE ARM 2.32.303, Minimum Required Plumbing Fixtures.

TO: All Interested Persons:

1. On November 25, 1981, the Department of Administration published a notice of proposed amendment of rule 2.32.303, concerning the minimum required plumbing fixtures, at page 1533 of the 1981 Montana Administrative Register, issue number 22.

2. The department has amended the rule as proposed.

3. No comments or testimony were received.

Morris L. Brusett, Director
Department of Administration

Certified to the Secretary of State February 17, 1982.

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

In the matter of the amendment of ARM 8.22.801 subsection (29) pertaining to eligibility of a horse 12 years or older and 8.22.803 subsection (6) pertaining to permission to withdraw from a race.	NOTICE OF AMENDMENT OF RULES ARM 8.22.801 GENERAL REQUIREMENTS and ARM 8.22.803 DECLARATIONS AND SCRATCHES

TO: All Interested Persons:

1. On January 28, 1982, the Board of Horse Racing published a notice of proposed amendments of ARM 8.22.801 subsection (29) pertaining to eligibility of a horse 12 years or older and ARM 8.22.803 subsection (6) pertaining to permission to withdraw from a race at pages 76 & 77, 1982 Montana Administrative Register, issue number 2.
2. The board has amended the rules exactly as proposed.
3. No comments or testimony were received.

DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF PSYCHOLOGISTS

In the matter of the adoption of a new rule setting out a fee schedule	NOTICE OF ADOPTION OF ARM 8.52.616 FEE SCHEDULE

TO: All Interested Persons:

1. On January 28, 1982, The Board of Psychologists published a notice of adoption of a new rule setting out a fee schedule at pages 78 & 79, 1982 Montana Administrative Register, issue number 2.
2. The board has adopted the rule exactly as proposed.
3. No comments or testimony were received.

BY: _____
ROBERT WOOD,
ACTING DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, March 1, 1982.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF MEDICAL EXAMINERS

In the matter of the adoption) NOTICE OF ADOPTION OF NEW RULES
of new rules concerning) ARM 8.28.1501 through 8.28.1515
physician's assistants.) PHYSICIAN'S ASSISTANTS

TO: All Interested Persons:

1. On December 31, 1981, the Board of Medical Examiners published a notice of proposed adoption of new rules concerning physician's assistants at pages 1805 through 1815, 1981 Montana Administrative Register, issue number 24.

2. The board has adopted the rules exactly as proposed.

3. Several comments were received with regard to the proposed rules.

Comment: The board shall address the issue of liability insurance.

Response: Since the conditions vary from institution to institution, the board feels that each institution which deals with a physician's assistant should establish its own guidelines for liability insurance.

Comment: Additional rules should be promulgated to limit the activities of a physician's assistant when the supervising physician is not physically present.

Response: The board feels that the matter of supervision has been adequately addressed in the proposed rule. Further limitations have the potential of too rigorously defining the possible activities of a physician's assistant and those decisions should be retained by institutions.

Comment: In Rule VII (1), the words "reasonable cause to believe" should be further defined.

Response: The baord feels that the words "reasonable cause to believe" provide adequate instruction to the involved health care practitioners and that such a definition will be more appropriate considering the variety of situations a physician's assistant might encounter in dealings with other health care practitioners.

Comment: Rule X on informed consent should be deleted.

Response: The informed consent rule is an attempt to avoid being excessively restrictive concerning the medical situations that might occur. It is felt by the board that Rule X as drafted takes into account the broad variety of medical situations that might occur.

Comment: The rule defining assessments should be expanded to mean a record of observations and not include manner of treatment or determination of condition of patient.

Response: The board feels that Rule XI (2) provides an adequate definition of assessment as the collection of pertinent data in a manner meaningful to the primary care physician and individual fact situations.

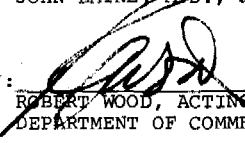
Comment: Proposed rule regarding prescriptions are severely limited and should be expanded.

Response: State and Federal law indicate that prescriptions of drugs by a physician's assistant is illegal and that further legislative changes would have to occur in order for physician's assistants to have the authority to prescribe drugs.

Comment: An objection was raised to providing temporary approval of a utilization plan by one member of the board.

Response: The board felt that such temporary approval may be necessary in order to assist in providing health care under certain circumstances. The rules regarding temporary approval are felt to be sufficiently stringent to provide protection for both the patient as well as provide control over the activities of the physician's assistant.

BOARD OF MEDICAL EXAMINERS
JOHN LAYNE, M.D., PRESIDENT

BY: 
ROBERT WOOD, ACTING DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, March 1, 1982.

BEFORE THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

In the Matter of the Amendment) NOTICE OF AMENDMENT OF
of a Rule Adopting the Attorney) ARM 36.2.101 Model
General's Model Rules) Procedural Rules

TO: ALL INTERESTED PERSONS

1. On December 17, 1981, the Department of Natural Resources and Conservation (Department) published Notice of a proposed amendment to ARM 36.2.101, concerning the adoption by reference of the Attorney General's Model Rules, at page 1670 of the 1981 Montana Administrative Register, issue number 23.

2. The Department has adopted the rule as proposed.

3. No comments, testimony, or requests for a public hearing were received.

4. The authority of the Department to make the proposed amendment is based on Section 2-4-201, MCA, and the rule implements Section 2-4-201, MCA.

Leo Berry
Director
Department of Natural Resources
and Conservation

Certified to the Secretary of State 3/1/82, 1982.

BEFORE THE BOARD OF OIL
AND GAS CONSERVATION

In the matter of the amendment of Rule 36.22.602 by requiring the survey plat with notice of intention to drill by a registered surveyor only.	))))	NOTICE OF PROPOSED AMENDMENT OF RULE 36.22.602, SURVEY PLAT WITH NOTICE OF INTENTION TO DRILL

TO: ALL INTERESTED PERSONS

1. On January 14, 1982, the Board of Oil and Gas Conservation published Notice of a proposed amendment to ARM 36.22.602 concerning the survey plat which must accompany a notice of intention to drill by requiring that the survey plat may be certified only by a registered surveyor. The notice was published at page 4 of the 1981 Montana Administrataive Register, issue number 1.

2. The Board has adopted the rule as proposed.

3. No comments, testimony, or requests for a public hearing were received.

4. The authority of the Board to make the proposed amendment is based on Section 82-11-111, MCA, and the rule implements Sections 82-11-122, MCA.

Richard A. Campbell
Richard A. Campbell, Chairman
Board of Oil and Gas Conservation

BY: Dee Rickman
Dee Rickman
Assistant **Administrator**
Oil and Gas Conservation District

Certified to the Secretary of State March 1, 1982.

VOLUME NO. 39 OPINION NO. 50

ELECTIONS -- Ballot measures, verification of addresses on petitions;
ELECTIONS -- Duty of Election Administrator regarding ballot measures;
INITIATIVE AND REFERENDUM -- Duty of Election Administrator;
INITIATIVE AND REFERENDUM -- Petition, verification of signatures, addresses;
INITIATIVE AND REFERENDUM -- Addresses on petitions;
MONTANA CODE ANNOTATED -- Sections 13-27-103, 13-27-204, 13-27-205, 13-27-206, 13-27-207, 13-27-303.

HELD: A signature of a properly registered voter on a petition for a ballot measure should not be disqualified if the address on the petition is not the same as the address on the voter registry card.

11 February 1982

The Honorable Jim Waltermire
Secretary of State
State Capitol
Helena, Montana 59620

Dear Mr. Waltermire:

You have requested my opinion concerning whether a signature on a petition for a ballot measure should be disqualified if the address on the petition is not the same as the address on the voter's registration card.

The question has arisen because of recent legislative amendments to the procedures for processing petitions for ballot measures, 1981 Mont. Laws, Ch. 488. For example, section 13-27-204(1)(e), MCA, regarding initiative petitions, provides:

> Each person must sign his/her name and address in substantially the same manner as on his/her voter registry card or the signature will not be counted. (Emphasis added.)

The reference to the address being substantially the same as on the voter registry card is new language. Virtually identical amendments were made to section 13-27-205, MCA, concerning petitions for referendum; section 13-27-206, MCA, concerning petitions for an initiative for a constitutional convention; and section 13-27-207, concerning petitions for an initiative for a constitutional amendment.

Our society has become increasingly mobile and many people have moved to new addresses, often within the same county, since they registered to vote. You have advised that approximately one-third to one-half of the signatures in some counties would not be counted if the election administrators require the addresses to be identical.

Where questions of statutory interpretation are presented, the intent of the legislature controls. Hammill v. Young, 168 Mont. 81, 540 P.2d 971 (1975). Legislative intent must be ascertained from an examination of all of the statutes on one subject matter as a whole, not just the wording of one particular section. Vita-Rich Dairy Inc. v. Department of Business Regulation, 170 Mont. 341, 533 P.2d 980, 984 (1976).

Significantly, the language in question here applies only to the suggested form of a petition. Section 13-27-204(1) provides by way of introduction to the provision in question:

> The following is substantially the form for a petition calling for a vote to enact a law by the initiative. (Emphasis added.)

The section then provides an example to be followed for the form of the petition. Similar introductory paragraphs are contained in the statutes cited above for other ballot measures. Thus, the language in question is more in the nature of a procedural recommendation than a substantive requirement to be followed by an election administrator in approving petition signatures.

Two other provisions contain substantive requirements for verification of signatures. No amendments were made to these sections last session. Section 13-27-103, regarding the sufficiency of petition signatures, provides that signatures may not be counted unless signed in substantially the same manner as on the voter registry card. That statute does not contain a reference to address. Section 13-27-303,

MCA, outlines the procedure the election administrator must follow to verify petition signatures. The administrator is required to check each name to determine if the individual is registered to vote. The administrator is then required to compare signatures at random to determine if the signature is signed in substantially the same manner as the voter registry card. Again, the election administrator is not required to check the address of the petition signer. By reading the statutes as a whole, it is clear that the legislature did not intend to add a new substantive requirement that the address on the petition be the same as the address on the voter's registration card.

In State ex rel. Miller v. Murray, 36 St.Rptr. 1713, 1716, 600 P.2d 1174 (1979), it was held:

> Addresses aid the clerk and recorders in the certification process. The only purpose of the address is to aid in the identification of the signer so that the clerk can then locate the signer's voter registration for the purpose of certification.

See also Graham v. Board of Examiners, 125 Mont. 419, 426, 239 P.2d 283 (1952). Those cases held in essence that the requirement for an address was merely ancillary to the substantive requirement of checking that the signature was that of a duly registered voter. Minor, technical defects or mistakes on a petition for a ballot measure should not be used to invalidate the measure. C.f., Graham v. Board of Examiners, supra.

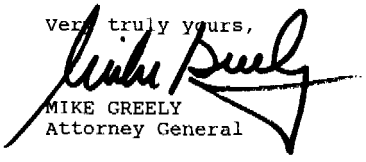
One additional statutory provision has influenced my decision in rendering this opinion. The legislature has established procedures to allow registered voters the opportunity to vote in their old precinct if they have moved to a new precinct and failed to update the registry card. See sections 13-2-512 and 13-2-514, MCA. Those provisions allow an individual to vote even though he or she is no longer a resident of that precinct. The voter's registration then must be updated at the time of voting. To impose the address requirement for petition signatures would create a situation where electors would be eligible to vote, even though they had moved to a new precinct, but would be ineligible to sign a petition for a ballot measure. Statutory construction should not lead to contrary or absurd results

if reasonable construction will avoid it. State ex rel. Ronish v. School District No. 1 For Fergus County, 136 Mont. 453, 348 P.2d 797 (1960).

THEREFORE, IT IS MY OPINION:

A signature of a properly registered voter on a petition for a ballot measure should not be disqualified if the address on the petition is not the same as the address on the voter registry card.

Very truly yours,



MIKE GREELY
Attorney General

VOLUME NO. 39 OPINION NO. 51

CONTRACTS - Employment for firefighters;
CONTRACTS - Impairment of;
FIRE DEPARTMENTS - Pensions for retired firemen;
FIREFIGHTERS - Adoption of Unified Retirement System;
RETIREMENT SYSTEMS - Firefighters' Unified Retirement System;
RETIREMENT SYSTEMS - Vested rights;
1972 MONTANA CONSTITUTION - Article II, section 31;
MONTANA CODE ANNOTATED - Title 19, chapter 11; Title 19, chapter 13; sections 19-11-602(1), 19-11-602(3), 19-11-606, 19-13-105, 19-13-107, 19-13-704(1)(a), 19-13-704(2), 19-13-1006, 19-13-1007, 19-13-1007(1).
OPINIONS OF THE ATTORNEY GENERAL - 37 Op. Att'y Gen. No. 3.

HELD: In converting to the Unified Retirement System, all eligible firefighters are entitled to all pension benefits accrued to them under the old retirement system.

19 February 1982

M. Valencia Lane, Esq.
Public Employees' Retirement Board
Department of Administration
1712 Ninth Avenue
Helena, Montana 59620

Dear Ms. Lane:

You requested an opinion concerning whether the allowance adjustments in section 19-13-1007, MCA, apply to firemen who were hired before July 1, 1973 and who retired between July 1, 1973 and July 1, 1981.

In 1981, the Legislature established a new retirement system for firefighters. The purpose of the new system is to promote equity and security for retired firefighters by creating a centrally administered retirement system. § 19-13-102, MCA. The Firefighters' Unified Retirement System, Title 19, chapter 13, of the Montana Code Annotated, applies to first- and second-class cities with full-paid firefighters on a compulsory basis, and to other cities on a

voluntary basis. § 19-13-105, MCA. Because those other cities retain their relief associations, the old retirement system has been retained, and now two separate retirement systems exist.

Under the old system, all retirees (or survivors) are entitled to a monthly pension, paid by the respective relief association, of one-half the monthly compensation last received by the member. § 19-11-602(1), MCA. In addition, those firefighters retiring after July 1, 1973 are entitled to an adjustment up to at least one-half the regular monthly salary paid to a confirmed active firefighter of that city, as provided in the budget each year. § 19-11-602(3), MCA. It appears that the associations pay this adjustment. As a confirmed active firefighter's salary increases due to inflation and other factors, the retiree's benefits would likewise reflect the increases. See 37 Op. Att'y Gen. No. 3. The same adjustment provisions are provided to firefighters who retired before July 1, 1973. However, this supplemental sum is paid to the relief associations by the State under a formula outlined in section 19-11-606, MCA. Thus, under the old system all eligible retirees are entitled to a monthly service pension of at least one-half of the regular monthly salary paid to a newly confirmed active firefighter of that city, adjusted whenever there is a salary increase.

A similar formula has been incorporated in the new system, which first- and second-class cities must now join. Under the provisions of section 19-13-704(1)(a), MCA, all eligible members hired before July 1, 1981 are entitled to a monthly service retirement equal to one-half the monthly compensation last received by the member prior to retirement. In addition, section 19-13-1007(1), MCA, provides an "allowance adjustment" for a member hired on or after July 1, 1973, but before July 1981. Those individuals are entitled to receive at least one-half the monthly compensation paid to a newly confirmed active firefighter of the city, adjusted annually. A similar adjustment is provided in section 19-13-1006, MCA, to firefighters who retired before July 1, 1973. Separate provisions apply to firefighters hired on or after July 1, 1981. See, e.g., § 19-13-704(2), MCA.

Unfortunately, the new plan has failed to specifically provide an adjustment for one group of firefighters--those who were hired prior to July 1, 1973, but retired between

July 1, 1973 and July 1, 1981. As noted above, those firefighters were given an "adjustment allowance" under the old plan in section 19-11-602(3), MCA. Your question is whether that group of firefighters is entitled to all of the pension benefits accrued to them under the old system. It is my opinion that they are entitled to those benefits.

It is clear that the Legislature intended that no one was to lose existing benefits as a result of the new plan. In referring to the implementation of the new system, section 19-13-107, MCA, provides:

> Effect on members of prior plans. A firefighter hired before July 1, 1981, who was a member of a prior plan and who becomes a member of this plan retains all rights and benefits accrued under a prior plan.

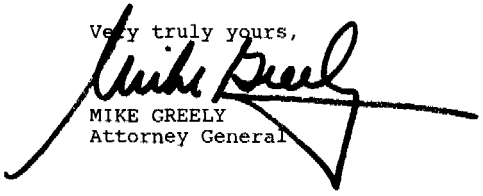
This section codifies what is already protected by the Montana Constitution, Article II, section 31, which provides that no "law impairing the obligation of contracts* * *shall be passed by the legislature." A firefighter's pension constitutes an element of compensation, and a vested contractual right to pension benefits, which are stated in the retirement plan during the firefighter's employment, accrues when he begins paying into the retirement fund. State v. Fire Dept. Relief Ass'n, 138 Mont. 172, 355 P.2d 670 (1960). Once this right has accrued it becomes an integral part of the employment contract and cannot be impaired by subsequent legislation. Local No. 8 International Ass'n v. City of Great Falls, 174 Mont. 53, 568 P.2d 541 (1977); Bartels v. Miles City, 145 Mont. 116, 399 P.2d 768 (1965); Clarke v. Ireland, 122 Mont. 191, 199 P.2d 965 (1948).

It is clear that those firemen who have transferred to the new retirement system cannot lose any retirement benefits accrued to them under the old system. These vested pension rights include the provisions which were used to compute the adjusted benefits under the old system. Thus, those firefighters who were hired before July 1, 1973 and who retired during the period between July 1, 1973 and July 1, 1981 are entitled to all pension benefits accrued to them under the old retirement system.

THEREFORE, IT IS MY OPINION:

In converting to the Unified Retirement System, all eligible firefighters are entitled to all pension benefits accrued to them under the old retirement system.

Very truly yours,



MIKE GREELY
Attorney General

VOLUME NO. 39 OPINION NO. 52

CHARITABLE ORGANIZATIONS - Section 23-5-413, MCA, does not allow charitable organizations to use real property as raffle prizes;
GAMBLING - Using real property as a raffle prize not authorized by section 23-5-413, MCA;
RAFFLES - Real property not allowed as a raffle prize under section 23-5-413, MCA;
MONTANA CODE ANNOTATED - Sections 1-2-101, 23-5-413.

HELD: The language in section 23-5-413(2)(c), MCA, cannot be interpreted to allow the use of real property as raffle prizes.

23 February 1982

Ted O. Lympus, Esq.
Flathead County Attorney
Flathead County Courthouse
P.O. Box 1516
Kalispell, Montana 59901

Dear Mr. Lympus:

You have asked my opinion on the following question:

> Can the language in section 23-5-413(2)(c), MCA, referring to tangible personal property, be interpreted to refer only to the type of personal property used as the prize, if in fact personal property is to be the prize, and not to be a prohibition on the use of the real property, such as a residence, as the prize instead of personal property?

The above subsection was added by the 1981 Legislature to exempt charitable organizations from the value limits placed on raffle prizes. 1981 Mont. Laws, ch. 510, § 1. The amendment, part of the "Bingo and Raffles Law," states:

> The proceeds from the sale of the raffle tickets are to be used only for charitable purposes or to pay for prizes. The raffle prize must be in tangible personal property only and not in money, cash, stock, bonds, evidence of indebtedness, or other intangible personal property. None of the proceeds may be used for the administrative cost of conducting the raffle.

Your question, simply put, is whether the section can be interpreted to allow real property to be used as a raffle prize. The statute draws distinctions between the types of personal property that can be used but is silent on the use of real property. However, applying the general rules of statutory construction it is clear the statute does not include real property in its description of raffle proceeds.

The function of any court in construing a statute is to give effect to the intent of the Legislature, Chennault v. Sager, 37 St. Rptr. 857, 861, 610 P.2d 173, 176 (1980). § 1-2-101, MCA. That intent is best evidenced by looking at the plain meaning of the statute. A court "is simply to ascertain and declare what in terms or in substance is contained in the statute and not insert what has been omitted." Security Bank and Trust v. Connors, 170 Mont. 59, 67, 550 P.2d 1313, 1317 (1976). Section 23-5-413(2)(c), MCA, clearly states that raffle prizes "must be in tangible personal property only... ." (Emphasis added.)

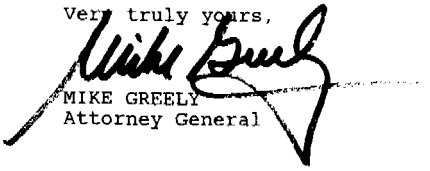
The statute does not specifically mention real property prizes but its express wording admits to no other construction. Prizes must be in tangible personal property only. "If the statute is plain, unambiguous, direct and certain, the statute speaks for itself and there is nothing left...to construe." Shannon v. Keller, 37 St. Rptr. 1079, 1081, 612 P.2d 1293, 1294 (1980). The use of real property as a raffle prize is not authorized within section 23-5-413, MCA. In order to offer such prizes it will be necessary to seek curative legislation.

THEREFORE, IT IS MY OPINION:

> The language in section 23-5-413(2)(c), MCA, cannot be

interpreted to allow the use of real property as raffle prizes.

Very truly yours,



MIKE GREELY
Attorney General

VOLUME NO. 39 OPINION NO. 53

PROPERTY, PERSONAL - Rights conveyed to grantee in tax deed to real property issued in foreclosure of real and personal property tax liens;
PROPERTY, REAL - Rights conveyed to grantee in tax deed to real property issued in foreclosure of real and personal property tax liens;
TAXATION - Rights conveyed to grantee in tax deed to real property issued in foreclosure of real and personal property tax liens;
MONTANA CODE ANNOTATED - Sections 15-16-401, 15-16-402, 15-17-207, 15-17-303, 15-18-101 to 15-18-108, 15-18-309; Title 15, Chapter 16, Part 5; Title 15, Chapter 17.

HELD: The grantee under a tax deed to real property issued after foreclosure of real and personal property liens on the property acquires no right to recover the amount of personal property tax owed by the taxpayer.

24 February 1982

Charles A. Graveley, Esq.
Lewis & Clark County Attorney
Lewis & Clark County Courthouse
Helena, Montana 59601

Dear Mr. Graveley:

You have requested my opinion regarding the rights conveyed to the grantee of real property under a tax deed which he or she receives in consideration of payment of delinquent real and personal property taxes which are a lien on the real property. Under section 15-16-402, MCA, taxes on personal property are a lien against the real property of the taxpayer. Your letter informs me that it is the practice in your county when real property is sold under Title 15, Chapter 17, Part 1, MCA, to collect both real and personal property taxes which are a lien against the real property sold. The Montana Supreme Court tacitly approved this procedure in Stensvad v. Mussellshell County, 36 St. Rptr. 382, 591 P.2d 225 (1979). If no purchaser appears and the

property is struck off to the county, section 15-17-207, MCA, the county then recovers both kinds of taxes through an assignment of the county's interest under section 15-17-303, MCA. The assignee of the county's interest acquires an inchoate ownership interest in the property which allows him to apply for a tax deed if the taxpayer does not exercise his or her statutory right of redemption. § 15-18-201, MCA; see §§ 15-18-101 to 108, MCA. Johnson v. Silver Bow County, 151 Mont. 283, 287, 443 P.2d 6, 8 (1968). You inquire whether a grantee under such a tax deed has any recourse against the taxpayer to recover the amount paid to the county to satisfy delinquent personal property taxes.

In my opinion the grantee has no recourse. In Montana, property taxes operate as a personal obligation against the taxpayer and as a lien against his or her property. §§ 15-16-401 and 15-16-402, MCA. The tax may be collected by suit against the taxpayer, see Title 15, Chapter 16, Part 5, MCA, or by seeking issuance of a tax deed in foreclosure of a tax lien. Title 15, Chapter 17, MCA. A personal property tax is a lien against the taxpayer's real property. When that lien is foreclosed, a purchaser pays the county the amount of the tax due. The Montana Supreme Court has held that upon receipt of the amount of the delinquent tax by the county and issuance of a tax deed to the person paying the tax or his assignee, the taxpayer's liability for the tax is extinguished. Sutter v. Scudder, 110 Mont. 390, 394, 103 P.2d 303, 305 (1940); Blackford v Judith Basin County, 109 Mont. 578, 586, 98 P.2d 872, 876 (1940); Calkins v. Smith, 106 Mont. 453, 460, 78 P.2d 74, 77 (1938). Issuance of a tax deed extinguishes the county's right to proceed against the taxpayer to collect the taxes which resulted in foreclosure of the tax lien. My research discloses no case or statute providing that the grantee of property under a tax deed also acquires the county's extinguished right of action against the delinquent taxpayer.

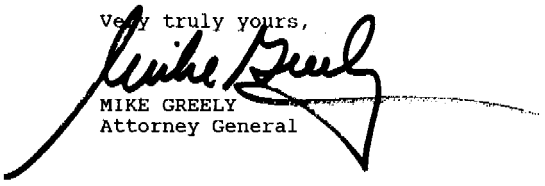
This result is only fair. The taxpayer's right, title and interest in the property are cut off by issuance of a tax deed. The grantee, in consideration of his or her satisfaction of the taxpayer's obligation, receives title to the foreclosed property "free of all encumbrances and clear of any and all claims...except the lien for taxes which may have attached subsequent to the sale" and of the lien of any one of several kinds of special assessments. § 15-18-309, MCA. The taxpayer's obligation is satisfied by his or her forfeiture of the property. The grantee acquires only title

to the property, not a right to proceed further against the taxpayer.

THEREFORE, IT IS MY OPINION:

> The grantee under a tax deed to real property issued after foreclosure of real and personal property liens on the property acquires no right to recover the amount of personal property tax owed by the taxpayer.

Very truly yours,



MIKE GREELY
Attorney General

VOLUME NO. 39 OPINION NO. 54

HUMAN RIGHTS ACT - Age discrimination provisions affecting maximum age qualifications for teachers and specialist certification;
SUPERINTENDENT OF PUBLIC INSTRUCTION - Certification of teachers after age 70;
TEACHERS - Eligibility for teacher and specialist certification after age 70;
MONTANA CODE ANNOTATED - Sections 20-4-101, 20-4-103, 20-4-104(1), 20-4-104(1)(a), 20-4-203(2), 49-2-303, 49-2-308, 49-2-308(1), 49-3-201, 49-3-204.

HELD: The age limitation established in section 20-4-104(1)(a), MCA, as a qualification for certification to teach is repealed by implication by sections 49-2-308 and 49-3-204, MCA.

25 February 1982

Mr. Ed Argenbright
Superintendent of Public Instruction
State Capitol
Helena, Montana 59620

Dear Mr. Argenbright:

You have requested my opinion on the following question:

> Is the provision of section 20-4-104(1)(a), MCA, establishing age limitations for issuance of teacher and specialist certificates, repealed by implication by the Montana Human Rights Act?

Your question arises from the recent decision of the Montana Supreme Court in Dolan v. School District No. 10, 38 St. Rptr. 1903, 636 P.2d 825 (1981), in which the court unanimously held that section 20-4-203(2), MCA, was repealed by implication by the Human Rights Act to the extent that section 20-4-203(2), MCA, established a mandatory retirement age for teachers.

Montana law provides that a teacher may not be employed in a public school unless certified by the Superintendent of Public Instruction. § 20-4-101, MCA. The superintendent is empowered to issue certificates to teachers and is explicitly prohibited from certifying a teacher who does not meet certain statutory qualifications. § 20-4-103, MCA. The qualifications are set forth in section 20-4-104(1), MCA, and include the following: "Any person may be certified as a teacher when he satisfies the following qualifications: (a) He is 18 years of age or older but is not more than 70 years of age." It is clear that under the law the superintendent may not issue or renew a certificate for a teacher who has reached the age of 70.

The decision in Dolan involved statutes prohibiting discrimination based on age by a school district as a public employer. The Supreme Court held that the provisions of the Human Rights Act prohibiting discrimination in employment, section 49-2-303, MCA, and discrimination by a public employer, section 49-3-201, MCA, repeal by implication any prior legislation establishing or authorizing mandatory teacher retirement policies based solely on age as an arbitrary limitation. Your inquiry is somewhat different than the one decided by the court in Dolan. Section 20-4-104(1), MCA, does not deal directly with employment. Rather, it provides the qualifications for a teaching certificate, which is a privilege or license granted by the State. The hiring practice statutes relied on by the court in Dolan therefore do not control. However, analogous statutes prohibit the State from denying any person "advantages, or privileges because of...age,...unless based on reasonable grounds." § 49-2-308(1), MCA. Further, section 49-3-204, MCA, provides that "[n]o state or local governmental agency may grant, deny, or revoke the license or charter of a person on the grounds of...age... ." Under Dolan, these enactments must be held to supersede prior inconsistent legislation.

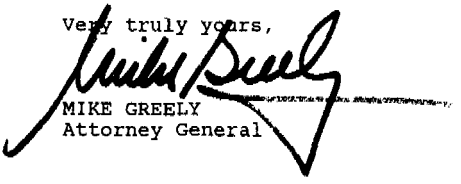
Dolan held that age alone is not a valid predictor of job performance for teachers. 636 P.2d at 830. It follows that age alone may not serve as "reasonable grounds" under section 49-2-308, MCA, to deny a teacher the certificate needed to secure a teaching job. This is especially true in light of the legislative finding in section 20-4-101, MCA, that certification is required to assure "quality education" and "maintenance of professional standards." The court's conclusion in Dolan was apparently one of fact based on the

expert testimony presented in that case. 636 P.2d at 827. I express no opinion as to the factual issue of the validity of age as a predictor of performance in any other job or profession.

THEREFORE, IT IS MY OPINION:

The age limitation established in section 20-4-104(1)(a), MCA, as a qualification for certification to teach is repealed by implication by sections 49-2-308 and 49-3-204, MCA.

Very truly yours,



MIKE GREELY
Attorney General

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.

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 i, 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 December 31, 1981. This table includes those rules adopted during the period January 1, 1982 through March 31, 1982, 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 December 31, 1981, this table and the table of contents of this issue of the MAR.

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