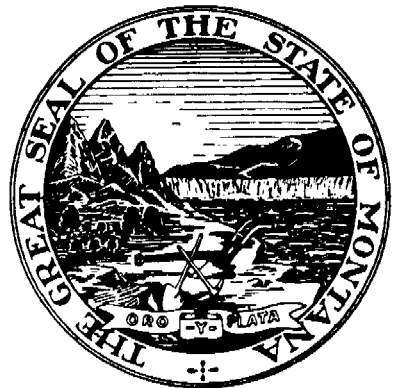


**RESERVE**

**MONTANA  
ADMINISTRATIVE  
REGISTER**

**DOES NOT  
CIRCULATE**

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AUGUST 16, 1984  
PAGES 1104-1160



MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 15

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 The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing, and where written comments may be submitted.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. Special notices and tables are inserted at the back of each register.

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

In the matter of the	)	NOTICE OF PROPOSED
amendment of rules 16.16.101,	)	AMENDMENT OF RULES
16.16.303, 16.16.304, and	)	
16.16.305, concerning	)	
sanitary approval of	)	
multiple family water and	)	
sewer systems	)	(Sanitation in Subdivisions)
		NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On September 18, 1984, the department proposes to amend rules 16.16.101, 16.16.303, 16.16.304 and 16.16.305 regarding the sanitary approval of subdivisions.

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

16.16.101 DEFINITIONS

(1) "Adequate water supply" means a water supply which meets the following criteria:

(a) Quality - the maximum contaminant levels established in ARM Title 16, Chapter 20, sub-chapter 2 shall not be exceeded unless a waiver has been provided by the department.

(b) Quantity - the following flows shall be provided:

(i) For individual water supply systems, the flow indicated in ARM 16.16.303(5).

(ii) For multiple family water supply systems, recommendations provided by Department Circular 84-11 (July, 1984 ed.)

(iii) For public water supply systems, the flow determined by the department in accordance with ARM 16.20.401.

(c) Dependability - The necessary quantity and quality of water must be available at all times unless depleted by emergencies.

(2) "Certificate of Survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(3) "Condominium" means the ownership of single units with common elements located on property.

(4) "Condominium living unit" means a part of the property of a condominium intended for occupancy.

(5) "Conventional subsurface sewage treatment system" means the process of sewage treatment in which the effluent is applied below the soil surface by distribution through horizontal open-jointed or perforated pipes in accordance with the requirements of Septic Tank Bulletin 332 for individual systems and Department Circular 84-10 (July, 1984 ed.) for multiple family systems.

(6) through (22) Same as existing rule.

AUTHORITY: Sec. 76-4-104 MCA

IMPLEMENTING: Sec. 76-4-104 MCA

16.16.303 INDIVIDUAL WATER SUPPLY SYSTEMS

(1) and (2) Same as existing rule.

(3) When wells are utilized for individual water supply systems, the construction of the systems shall be in accordance with Department Circular 12 (~~Feb.~~ Mar. 1984, rev. ed.).

(4) through (11) Same as existing rule.

AUTHORITY: Sec. 76-4-104 MCA

IMPLEMENTING: Sec. 76-4-104, 76-4-125 MCA

16.16.304 INDIVIDUAL SEWAGE TREATMENT SYSTEMS

(1) through (13) Same as existing rule.

(14) Individual sewage treatment systems other than conventional systems may be approved if they are designed in accordance with Department Circular 84-12 (~~April~~ July, 1984 ed.) and a waiver has been provided by the department.

(15) through (18) Same as existing rule.

(19) The department hereby adopts and incorporates by reference:

(a) Septic tank bulletin 332 (Mar. 1984, rev. ed.), which is a joint publication of the department and the Cooperative Extension Service of Montana State University, setting forth minimum requirements for the location and construction of septic tanks and drainfields;

(b) The U.S. Department of Agriculture's Soil Classification System which is a recognized set of methods for identifying the nature and characteristics of soils and is contained in a series of documents published by the U.S.D.A. Soils Conservation Service; and

(c) Department Circular 84-12 (July, 1984 ed.) which sets forth minimum specifications for the siting, design, construction, and operation of individual on-site alternate sewage disposal systems.

(d) Copies of these documents may be obtained from the Water Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana, 59620.

AUTHORITY: Sec. 76-4-104 MCA

IMPLEMENTING: Sec. 76-4-104, 76-4-125 MCA

16.16.305 MULTIPLE FAMILY SYSTEMS (1) Multiple family water supply systems shall be designed in accordance with Department Circular 84-11 (July, 1984 ed.)

(2) Multiple family sewage systems shall be designed in accordance with Department Circular 84-10 (July, 1984 ed.) and ARM 16.16.304 except subsections (6) and (8).

(3) Multiple family systems shall be designed in accordance with ARM Title 16, chapter 20, sub-chapter 2 and ARM Title 16, chapter 20, sub-chapter 6.

(4) Multiple family systems for six or more living units shall be designed by an engineer. Smaller systems which are complex (i.e., a water supply system with substantial pressure

differences through the distribution system or a sewage system requiring the pumping of sewage) may also be required by the department to be designed by an engineer.

(5) When more than one multiple family water system or sewer system is provided within a subdivision, they should be tied together when the department deems it necessary to provide greater system reliability.

(6) When a new multiple family water supply or sewage system is created by a proposed subdivision, the means of providing adequate maintenance and operation of such system shall be reported to the department. A non-profit homeowner's association or other equivalent mechanism shall be established to assure the maintenance, operation and perpetuation of the water supply or sewage systems.

(7) The department hereby adopts and incorporates by reference:

(a) ARM Title 16, Chapter 20, sub-chapters 2 and 6, which set forth, respectively, maximum contaminant levels allowed in public water supply systems and water quality standards for state surface waters, and

(b) Department Circular 84-10 (July, 1984 ed.) which sets forth minimum specifications for the design, construction, and operation of sewers and septic treatment and disposal systems for multi-family and non-residential buildings.

(c) Department Circular 84-11 (July, 1984 ed.) which sets forth minimum design standards for small water systems.

~~(e)~~ (d) Copies of Department Circulars 84-10 (July, 1984 ed.) and 84-11 (July, 1984 ed.) and ARM Title 16, Chapter 20, sub-chapters 2 and 6, may be obtained from the Water Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana, 59620.

AUTHORITY: Sec. 76-4-104 MCA

IMPLEMENTING: Sec. 76-4-104, 76-4-125 MCA


3. The Department is proposing the changes as house-keeping amendments simply to insert the proper edition numbers of agency circulars that are incorporated by reference into certain rules adopted under the Sanitation in Subdivisions Act, Title 16, Chapter 4, MCA. Public testimony on the recent revision of the rules necessitated additional changes in the department circulars and so, new revised edition numbers must be assigned to the circulars.

4. Interested persons may submit their data, views, or arguments concerning the proposed amendments in writing to Robert L. Solomon, Cogswell Building, Capitol Station, Helena, Montana, 59620, no later than September 17, 1984.

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

comments he has to Robert L. Solomon at the address indicated above no later than September 14, 1984.

6 If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; 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 more than 25 based on the number of persons engaged in and associated with development of subdivisions utilizing septic tanks or multiple family water or wastewater systems.

  
\_\_\_\_\_  
JOHN J. DRYNAN, M.D., Director

Certified to the Secretary of State August 6, 1984

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

In the matter of the	)	NOTICE OF PUBLIC HEARING ON
amendment of Rule 46.5.116	)	THE PROPOSED AMENDMENT OF
pertaining to protective	)	RULE 46.5.116 PERTAINING TO
services information system	)	PROTECTIVE SERVICES INFORMA-
operation.	)	TION SYSTEM OPERATION

TO: All Interested Persons

1. On September 7, 1984, at 9:30 a.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana, to consider the amendment of Rule 46.5.116 pertaining to protective services information system operation.

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

46.5.116 PROTECTIVE SERVICES INFORMATION SYSTEM OPERA-  
TION (1) Requirements:

(a) The department is responsible for maintaining a protective services information system on all ~~referrals-for~~ reports of child abuse and neglect.

(b) The protective services information system is maintained and administered by the community services division, hereafter referred to as the division.

(2) Confidentiality of reports:

(a) All reports of the protective services information system are confidential.

(b) Misuse of the information by any employee of the department is grounds for immediate dismissal.

(c) Misuse of information by persons other than department employees shall be grounds for termination of the person's rights to such information.

(d) Periodic statistical reports will be compiled.

(3) Operation of central file:

(a) Definitions:

(i) "Protective services information system" means a collection of records in a central location of all ~~referrals~~ reports of child abuse or neglect cases.

(ii) "Substantiated" means that, upon investigation, the reporting worker has determined that the reported complaint is occurring or has occurred (does not require that all evidence be ~~court-acceptable~~ admissible in court).

(iii) "Unsubstantiated" means that, upon investigation, the reporting worker has determined ~~or-was-unable-to-determine~~ that the reported complaint has not occurred or was unable to determine whether the reported complaint occurred.

(b) ~~Unsubstantiated-reports-will-be-retained-on-the system-for-a-one-year-period-and-after-the-expiration-of-one year-shall-be-removed-from-the-system.~~ Unless an investiga-

tion of a report conducted pursuant to state law determines there is some credible evidence of alleged abuse or neglect, all information identifying the subject of the report shall be expunged from the protective services information system forthwith. The decision to expunge the record shall be made by the administrator of the community services division based upon the investigation made by the county department or the local law enforcement agency.

(c) Persons who are subjects of the reports have the right to examine the protective services information system material on their case and request ~~changes-of-incorrect-or inaccurate-information~~ amendment or expungement of the record on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this rule.

(i) Request for examination of protective services information system records or changes in the information shall be made to community services division.

(ii) Persons dissatisfied with the response to their request for change of information in the protective services information system have the right to a fair hearing.

(d) At no time shall the identity of the referral source making the initial referral or providing information in the course of the investigation be shared with the person or persons about whom the referral is made.


AUTH: Sec. 53-5-205 MCA and Sec. 41-3-208 MCA

IMP: Sec. 41-3-202(4) MCA and Sec. 53-5-205 MCA

3. This rule clarifies when the PSIS record may be expunged or amended and otherwise makes corrections in the wording of the rule to make it more clear. The rule is being amended to provide greater protection for the rights of privacy of those persons who are subjects of a report to the system.

4. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, Montana 59604, no later than September 14, 1984.

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

  
Director, Social and Rehabilitation Services

Certified to the Secretary of State August 6, 1984.

15-8/16/84

MAR Notice No. 46-2-410

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

In the matter of the amend-	)	NOTICE OF PUBLIC HEARING ON
ment of Rules 46.5.501,	)	THE PROPOSED AMENDMENT OF
46.5.502 and 46.5.503 and	)	RULES 46.5.501, 46.5.502
the adoption of rules	)	AND 46.5.503 AND THE
pertaining to procedure for	)	ADOPTION OF RULES
obtaining substitute care	)	PERTAINING TO PROCEDURE FOR
services, eligibility	)	OBTAINING SUBSTITUTE CARE
requirements, services	)	SERVICES, ELIGIBILITY
provided, and foster care	)	REQUIREMENTS, SERVICES
maintenance payments.	)	PROVIDED AND FOSTER CARE
	)	MAINTENANCE PAYMENTS

TO: All Interested Persons

1. On September 7, 1984, at 10:30 a.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana, to consider the amendment of Rules 46.5.501, 46.5.502 and 46.5.503 and the adoption of rules pertaining to procedures for obtaining services, eligibility requirements and services provided, and foster care maintenance payments.

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

RULE I FOSTER CARE MAINTENANCE PAYMENTS (1) If the child is found eligible for substitute care placement and foster care maintenance payments, the department shall make payment to the licensed youth care facility where the child is placed according to the rate established by the department for such facilities.

AUTH: Sec. 41-3-1103(2)(c) MCA

IMP: Sec. 41-3-302 MCA

RULE II RIGHT TO FAIR HEARING (1) Any person denied substitute care placement or foster care maintenance payments by the department may request a hearing as provided in ARM 46.2.202 within 90 days of the notice of denial.

AUTH: Sec. 41-3-1103(2)(c) MCA

IMP: Sec. 41-3-302 MCA and 42 USC 672

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

46.5.501 PROCEDURE FOR OBTAINING SERVICES (1) Any parent, child, court, concerned individual or agency may request substitute care placement and foster care payments on behalf of a child on a form obtainable at the department's local office.

MAR Notice No. 46-2-411

15-8/16/84

~~(1) -- "Department" means the department of social and rehabilitation services for the purposes of this subchapter.~~

(2) When a child is found to be abandoned or in imminent danger of harm, a social worker or law enforcement officer may make an immediate placement of the child into foster care. However, a parental agreement for placement must be obtained or a petition for temporary investigative authority or custody filed within 48 hours, excluding weekends.

AUTH: Sec. 41-3-1103(2)(c) MCA

IMP: 42 USC 672, Sec. 41-3-301 and Sec. 41-3-302 MCA

46.5.502 ELIGIBILITY REQUIREMENTS (1) The child must meet the legal definition in section 41-3-102, MCA, and must be in need of substitute care placement.

~~(2) -- A social worker determines need for substitute care.~~

~~(3) -- A social service supervisor approves substitute care placement.~~

(2) The department has authority over the child in the form of one of the following:

(a) A certified copy of a petition filed by the department requesting the right to place the child in foster care, when the department removed the child on an emergency basis.

(b) A court order granting the department the right to place the child in a protective facility or granting the department temporary or permanent legal custody of the child.

(c) A signed relinquishment or waiver of all parental rights obtained on form SS 201-10 in compliance with departmental rules and policies concerning relinquishments.

(d) A foster home placement agreement voluntarily signed by the custodial parent granting the department the right to place the child in foster care.

~~(4) -- The parents give permission for substitute care.~~

~~(5) (3)~~ The parents assume or participate in payment when appropriate.

~~(6) (4)~~ The provider of substitute care must be licensed by the department.

AUTH: Sec. 41-3-1103(2)(c) MCA

IMP: 42 USC 672, Sec. 41-3-301 and Sec. 41-3-302 MCA

46.5.503 SERVICES PROVIDED The department provides the following services:

(1) counseling services to a child, foster parents and natural parents;

(2) referral services when appropriate;

(3) referrals for appropriate education of child;

(4) prepare preparation of child for adoption, to return home, or for permanent foster care;

(5) referral for medical services for the child, and

~~(6) -- open payments for the child's board, room and personal necessities to the substitute care provider.~~

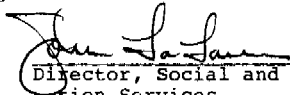
AUTH: Sec. 41-3-1103(2)(c) MCA

IMP: 42 USC 672, Sec. 41-3-301 and Sec. 41-3-302 MCA

4. This rule is necessary to grant persons denied foster care payments the opportunity for a fair hearing, as required by federal legislation. The rule also incorporates some of the federal requirements regarding eligibility for foster care payments and corrects and clarifies the existing rules.

5. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, Montana 59604, no later than September 14, 1984.

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

  
\_\_\_\_\_  
Director, Social and Rehabilitation Services

Certified to the Secretary of State August 6, 1984.

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

In the matter of the adop-	)	NOTICE OF PUBLIC HEARING ON
tion of a rule and the	)	THE ADOPTION OF A RULE AND
amendment of Rules	)	THE AMENDMENT OF RULES
46.13.106, 46.13.205,	)	46.13.106, 46.13.205,
46.13.303, 46.13.304,	)	46.13.303, 46.13.304,
46.13.305, 46.13.401,	)	46.13.305, 46.13.401,
46.13.402 and 46.13.403 per-	)	46.13.402 AND 46.13.403
taining to the low income	)	PERTAINING TO THE LOW
energy assistance program	)	INCOME ENERGY ASSISTANCE
	)	PROGRAM

TO: All Interested Persons

1. On September 10, 1984, at 1:00 p.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana to consider the adoption of a rule and the amendment of Rules 46.13.106, 46.13.205, 46.13.303, 46.13.304, 46.13.305, 46.13.401, 46.13.402, and 46.13.403 pertaining to the low income energy assistance program.

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

Rule I REVERSION OF BENEFITS (1) If a beneficiary discontinues utility service or changes residence or fuel type, the balance of the fuel benefit will be returned to the department.

AUTH: Sec. 53-2-201, MCA  
IMP: Sec. 53-2-201, MCA

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

46.13.106 FRAUD Subsections (1) and (2) remain the same.

(3) Resale or transfer of benefits to another party is expressly prohibited.

(4) Fuel vendors may not retain benefits of LIEAP beneficiaries who have discontinued service.

AUTH: Sec. 53-2-201, MCA  
IMP: Sec. 53-2-201, MCA

46.13.205 PROCEDURES FOLLOWED IN PROCESSING APPLICATIONS Subsections (1) and (1)(a) remain the same.

(b) ~~Financial~~ eEligibility requirements that must be verified are:

(i) current receipt of benefits under supplemental security income or aid to families with dependent children;

(ii) income;  
 (iii) medical/dental deductions;  
 (iv) lack of tax dependency status for individuals enrolled at least half time in an institution of higher education;

(v) primary heating fuel.  
 Subsection (c) remains the same.

AUTH: Sec. 53-2-201, MCA  
 IMP: Sec. 53-2-201, MCA

46.13.303 TABLES OF GROSS RECEIPTS AND INCOME STANDARDS

(1) The income standards in the table in (2) below are 125% of the 1983~~4~~ U.S. Government Office of Management and Budget poverty level for households of different sizes. This table applies to all households, including self-employed households. Households with annual gross income at or below 125% of the 1983~~4~~ poverty level are financially eligible for low income energy assistance. Households with an annual gross income above 125% of the 1983~~4~~ poverty level are ineligible for low income energy assistance.

(2) Income standards for all households.

Family Size	125% OMB Poverty Standard
1	\$ 6,707 <sup>5</sup> 6,225
2	8,717 <sup>5</sup> 8,400
3	10,727 <sup>5</sup> 10,575
4	12,737 <sup>5</sup> 12,750
5	14,747 <sup>5</sup> 14,925
6	16,757 <sup>5</sup> 17,100
each additional member	2,710 <sup>0</sup> 2,175

AUTH: Sec. 53-2-201, MCA  
 IMP: Sec. 53-2-201, MCA

46.13.304 INCOME (1) Definitions:

(a) Annual gross income means all non-excluded income including but not limited to wages, salaries, commissions, tips, profits, gifts, interest or dividends, retirement pay, worker's compensation, unemployment compensation, and capital gains received by the members of the household in the ~~six~~ twelve months ~~multiplied by two (6 months x 2)~~ immediately preceding the month of application.

(b) Annual gross receipts apply to households with income from self-employment and mean all income before any deductions, including any non-excluded income not from self-employment, which was received by members of the household in the ~~six~~ twelve months ~~multiplied by two (6 months x 2)~~ immediately preceding the month of application.

(c) Medical and dental deductions mean all medical and dental payments for allowable costs, as described in (4), made by members of the household in the twelve months immediately preceding the month of application. Medical and dental deductions shall not include medical payments by the household which are reimbursable by a third party. Medical deductions can only be subtracted from annual gross income that is 150% or less of the 19894 U.S. government office of management and budget poverty level for the particular household size. Households meeting the income standards in ARM 46.13.303(2) after this adjustment are eligible for benefits.

Subsections (1)(d) through (4)(j) remain the same.

AUTH: Sec. 53-2-201, MCA

IMP: Sec. 53-2-201, MCA

46.13.305 RESOURCES (1) The following property resources shall make a family unit ineligible when in total they exceed \$5,000 for a single person, \$7,500 for a couple, and \$500 for each additional member to a maximum of \$10,000 per household:

- (a) cash on hand;
- (b) certificate of deposits;
- (c) savings accounts;
- (d) market value of stocks or bonds;
- (e) equity value of business property in excess of ~~625,000~~ \$12,500.

AUTH: Sec. 53-2-201, MCA

IMP: Sec. 53-2-201, MCA

46.13.401 BENEFIT AWARD MATRICES Subsections (1) through (1)(g) remain the same.

(2) The benefit ~~ward~~ award matrices which follow establish the maximum benefit available to an eligible household for a full winter heating season (October thru April). The maximum benefit varies by type of primary heating fuel and in certain cases by vendor, the type of dwelling (single family unit, multi-family unit, mobile home), and the number of bedrooms in a shelter or rental unit. The maximum benefit also varies by local contractor districts to account for weather differences across the state.

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICTS I, II & III

Phillips, Valley, Daniels, Sheridan, Roosevelt, Garfield,  
McCone, Richland, Dawson, Prairie, Wibaux, Rosebud,  
Treasure, Custer, Fallon, Powder River and Carter Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
	334	215	284	425	297	361
Natural Gas	303	196	258	386	270	320
	697	488	592	851	596	723
Fuel Oil	703	492	597	859	601	730
	593	415	504	724	507	616
Propane	620	440	534	760	537	652
Electricity	525	367	446	641	449	545
R.E.A.	552	387	469	675	472	574
Electricity						
M.D.U.	844	591	717	1031	722	877
Electricity						
Sidney-R-E-A	70	70	70	70	70	70
	242	170	206	303	212	258
*Coal (tons)	3/195	3/195	3/195	4/245	4/245	4/245
	263	184	223	328	230	279
*Wood (cords)	3/195	3/195	3/195	4/245	4/245	4/245

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
	493	345	419	561	393	477
Natural Gas	529	370	449	594	416	505
	968	678	823	1084	759	921
Fuel Oil	823	576	700	922	645	784
Propane	1020	714	867	1142	799	971
Electricity	729	510	619	816	571	694
R.E.A.	767	537	652	859	601	730
Electricity						
M.D.U.	1172	820	996	1313	919	1116
Electricity						
Sidney-R-E-A	70	70	70	70	70	70
	364	255	309	424	297	361
*Coal (tons)	5/325	5/325	5/325	6/390	6/390	6/390
	394	276	335	460	322	391
*Wood (cords)	5/325	5/325	5/325	6/390	6/390	6/390

\*--Value-of-coal/wood-may-not-exceed-dollar-value-indicated

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT IV

Liberty, Hill and Blaine Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family	Multi-Family	Mobile Home	Single Family	Multi-Family	Mobile Home
	Unit	Unit	Unit	Unit	Unit	Unit
Natural Gas	355 <del>342</del>	229 <del>221</del>	302 <del>296</del>	452 <del>434</del>	316 <del>304</del>	384 <del>369</del>
Fuel Oil	745 <del>634</del>	521 <del>444</del>	633 <del>539</del>	910 <del>775</del>	637 <del>542</del>	774 <del>658</del>
Propane	730 <del>561</del>	516 <del>393</del>	627 <del>477</del>	902 <del>686</del>	631 <del>480</del>	766 <del>583</del>
Electricity	501 <del>259</del>	413 <del>181</del>	502 <del>220</del>	722 <del>324</del>	565 <del>227</del>	614 <del>275</del>
*Coal (tons)	37195 <del>281</del>	37195 <del>197</del>	37195 <del>239</del>	47245 <del>351</del>	47245 <del>246</del>	47245 <del>298</del>
*Wood (cords)	37195	37195	37195	47245	47245	47245

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family	Multi-Family	Mobile Home	Single Family	Multi-Family	Mobile Home
	Unit	Unit	Unit	Unit	Unit	Unit
Natural Gas	524 <del>504</del>	367 <del>353</del>	445 <del>428</del>	596 <del>573</del>	417 <del>401</del>	507 <del>487</del>
Fuel Oil	1035 <del>880</del>	725 <del>616</del>	880 <del>748</del>	1159 <del>986</del>	811 <del>690</del>	985 <del>838</del>
Propane	1025 <del>779</del>	717 <del>545</del>	871 <del>662</del>	1140 <del>873</del>	803 <del>611</del>	975 <del>742</del>
Electricity	820 <del>389</del>	574 <del>272</del>	697 <del>330</del>	919 <del>454</del>	643 <del>318</del>	781 <del>386</del>
*Coal (tons)	57325 <del>421</del>	57325 <del>295</del>	57325 <del>358</del>	67390 <del>491</del>	67390 <del>344</del>	67390 <del>418</del>
*Wood (cords)	57325	57325	57325	67390	67390	67390

\*-Value-of-coal/wood-may-not-exceed-dollar-value-indicated

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT V

Glacier, Toole, Pondera, Teton,  
Chouteau and Cascade Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
Natural Gas	367	257	312	464	325	395
G.F.G.	353	247	300	447	313	380
Natural Gas	317	222	269	403	282	342
M.P.C.	305	213	259	387	274	329
Fuel Oil	664	465	565	811	568	690
	679	469	579	819	573	696
Propane	565	396	480	691	483	587
	599	419	509	732	512	622
	500	350	425	611	428	520
Electricity	527	369	448	644	451	547
	231	162	196	289	202	246
*Coal (tons)	3/195	3/195	3/195	4/245	4/245	4/245
	250	175	213	313	219	266
*Wood (cords)	3/195	3/195	3/195	4/245	4/245	4/245

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
Natural Gas	537	376	457	610	427	519
G.F.G.	517	362	439	587	411	499
Natural Gas	467	327	397	532	372	452
M.P.C.	449	314	382	511	356	435
Fuel Oil	923	646	785	1034	723	878
	785	549	667	879	615	747
Propane	922	601	626	1009	762	926
	695	486	591	778	545	661
Electricity	731	512	622	819	572	696
	347	243	295	404	283	344
*Coal (tons)	5/325	5/325	5/325	6/396	6/396	6/396
	376	263	319	436	307	372
*Wood (cords)	5/325	5/325	5/325	6/396	6/396	6/396

\*-Value-of-coal/wood-may-not-exceed-dollar-value-indicated

MAXIMUM BENEFIT AWARD MATRIX FOR  
IC DISTRICT VI

Fergus, Judith Basin, Petroleum, Wheatland,  
Golden Valley and Musselshell Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single	Multi-	Mobile	Single	Multi-	Mobile
	Family	Family		Family	Family	
	Unit	Unit	Home	Unit	Unit	Home
	317	205	269	403	282	342
Natural Gas	<del>305</del>	<del>197</del>	<del>259</del>	<del>387</del>	<del>271</del>	<del>329</del>
	664	465	565	811	568	690
Fuel Oil	<del>646</del>	<del>452</del>	<del>549</del>	<del>769</del>	<del>552</del>	<del>671</del>
	565	396	480	691	483	587
Propane	<del>649</del>	<del>455</del>	<del>552</del>	<del>794</del>	<del>556</del>	<del>675</del>
	500	350	425	611	428	520
Electricity	<del>527</del>	<del>369</del>	<del>448</del>	<del>644</del>	<del>451</del>	<del>547</del>
	231	162	196	289	202	246
*Coal (tons)	<del>3/195</del>	<del>3/195</del>	<del>3/195</del>	<del>4/245</del>	<del>4/245</del>	<del>4/245</del>
	250	175	213	313	219	266
*Wood (cords)	<del>3/195</del>	<del>3/195</del>	<del>3/195</del>	<del>4/245</del>	<del>4/245</del>	<del>4/245</del>

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single	Multi-	Mobile	Single	Multi-	Mobile
	Family	Family		Family	Family	
	Unit	Unit	Home	Unit	Unit	Home
	467	327	397	532	372	452
Natural Gas	<del>449</del>	<del>314</del>	<del>382</del>	<del>511</del>	<del>358</del>	<del>435</del>
	923	646	785	1034	723	878
Fuel Oil	<del>898</del>	<del>628</del>	<del>763</del>	<del>1005</del>	<del>704</del>	<del>854</del>
	785	549	667	879	615	747
Propane	<del>902</del>	<del>631</del>	<del>767</del>	<del>1010</del>	<del>707</del>	<del>859</del>
	695	486	591	778	545	661
Electricity	<del>731</del>	<del>512</del>	<del>622</del>	<del>819</del>	<del>573</del>	<del>696</del>
	347	243	295	404	283	344
*Coal (tons)	<del>5/325</del>	<del>5/325</del>	<del>5/325</del>	<del>6/390</del>	<del>6/390</del>	<del>6/390</del>
	376	263	319	438	307	372
*Wood (cords)	<del>5/325</del>	<del>5/325</del>	<del>5/325</del>	<del>6/390</del>	<del>6/390</del>	<del>6/390</del>

\*-Value-of-coal/wood-may-not-exceed-dollar-value-indicated

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT VII

Sweetgrass, Stillwater, Carbon,  
Yellowstone and Big Horn Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family	Multi- Family	Mobile	Single Family	Multi- Family	Mobile
	Unit	Unit	Home	Unit	Unit	Home
Natural Gas	291	204	247	370	259	315
M.D.U.	264	185	225	337	236	286
Natural Gas	289	203	246	368	258	313
M.P.C.	278	195	237	354	248	301
	607	425	516	742	519	630
Fuel Oil	590	413	502	721	505	613
	516	361	439	631	442	536
Propane	601	421	511	735	514	625
Electricity	735	515	625	899	629	764
	211	148	180	264	185	224
*Coal (tons)	3/195	3/195	3/195	4/245	4/245	4/245
	229	160	194	286	200	243
*Wood (cords)	3/195	3/195	3/195	4/245	4/245	4/245

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family	Multi- Family	Mobile	Single Family	Multi- Family	Mobile
	Unit	Unit	Home	Unit	Unit	Home
Natural Gas	430	301	365	489	342	416
M.D.U.	391	273	332	445	311	378
Natural Gas	427	299	363	486	340	413
M.P.C.	411	287	349	467	327	397
	843	590	717	944	661	803
Fuel Oil	826	574	697	918	643	781
	717	502	610	803	562	683
Propane	824	577	701	923	646	785
	1021	715	868	1144	801	972
Electricity	660	468	568	749	524	636
	317	222	269	370	259	314
*Coal (tons)	5/325	5/325	5/325	6/390	6/390	6/390
	343	240	292	400	280	340
*Wood (cords)	5/325	5/325	5/325	6/390	6/390	6/390

\*-Value-of-coal/wood-may-not-exceed-dollar-value-indicated

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT VIII

Lewis & Clark, Jefferson and  
Broadwater Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
	332	215	282	422	296	359
Natural Gas	319	206	272	406	284	345
	697	488	592	851	596	723
Fuel Oil	690	483	587	843	590	717
	593	415	504	724	507	616
Propane	681	477	579	832	583	708
	525	367	446	641	449	545
Electricity	552	387	469	675	472	574
	242	170	206	303	212	258
*Coal (tons)	3/195	3/195	3/195	4/245	4/245	4/245
	263	184	223	328	230	279
*Wood (cords)	3/195	3/195	3/195	4/245	4/245	4/245

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
	490	343	417	558	390	474
Natural Gas	471	330	400	536	375	456
	968	678	823	1084	759	921
Fuel Oil	941	659	800	1054	730	896
	823	576	700	922	645	784
Propane	946	662	804	1059	742	901
	729	510	619	816	571	694
Electricity	767	537	652	859	601	730
	364	255	309	424	297	361
*Coal (tons)	5/325	5/325	5/325	6/390	6/390	6/390
	394	276	335	460	322	391
*Wood (cords)	5/325	5/325	5/325	6/390	6/390	6/390

\*-Value-of-coal/wood-may-not-exceed-dollar-value-indicated

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT IX

Meagher, Gallatin and Park Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
Natural Gas	335 <del>322</del>	216 <del>208</del>	285 <del>274</del>	426 <del>409</del>	298 <del>287</del>	362 <del>348</del>
Fuel Oil	702	491	597	858	600	729
Propane	597 <del>669</del>	418 <del>468</del>	508 <del>568</del>	730 <del>817</del>	511 <del>572</del>	621 <del>695</del>
Electricity	529 <del>557</del>	370 <del>398</del>	450 <del>473</del>	646 <del>680</del>	452 <del>476</del>	549 <del>578</del>
*Coal (tons)	244 <del>37195</del>	171 <del>37195</del>	208 <del>37195</del>	305 <del>47245</del>	214 <del>47245</del>	260 <del>47245</del>
*Wood (cords)	265 <del>37195</del>	185 <del>37195</del>	225 <del>37195</del>	331 <del>47245</del>	232 <del>47245</del>	281 <del>47245</del>

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
Natural Gas	494 <del>475</del>	346 <del>332</del>	420 <del>404</del>	562 <del>548</del>	393 <del>378</del>	478 <del>459</del>
Fuel Oil	976	683	829	1093	765	929
Propane	830 <del>929</del>	581 <del>650</del>	705 <del>789</del>	929 <del>1040</del>	650 <del>728</del>	790 <del>884</del>
Electricity	734 <del>775</del>	514 <del>541</del>	624 <del>657</del>	823 <del>866</del>	576 <del>606</del>	699 <del>736</del>
*Coal (tons)	366 <del>57325</del>	257 <del>57325</del>	312 <del>57325</del>	428 <del>67390</del>	299 <del>67390</del>	363 <del>67390</del>
*Wood (cords)	397 <del>57325</del>	278 <del>57325</del>	337 <del>57325</del>	463 <del>67390</del>	324 <del>67390</del>	394 <del>67390</del>

\*-Value-of-coal/wood-may-not-exceed-dollar-value-indicated

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT X

Lincoln, Flathead, Lake  
and Sanders Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family Unit	Multi- Family Unit	Mobile Home	Single Family Unit	Multi- Family Unit	Mobile Home
Natural Gas	314 <del>322</del>	216 <del>208</del>	267 <del>254</del>	388 <del>409</del>	271 <del>287</del>	330 <del>340</del>
Fuel Oil	702 <del>715</del>	491 <del>500</del>	597 <del>600</del>	858 <del>874</del>	600 <del>612</del>	729 <del>743</del>
Propane	597 <del>591</del>	418 <del>512</del>	508 <del>621</del>	730 <del>894</del>	511 <del>625</del>	621 <del>759</del>
Electricity	529 <del>557</del>	370 <del>390</del>	450 <del>473</del>	646 <del>680</del>	452 <del>476</del>	549 <del>570</del>
M.P.C.	557 <del>677</del>	390 <del>474</del>	473 <del>575</del>	680 <del>827</del>	476 <del>579</del>	570 <del>703</del>
Electricity	677 <del>645</del>	474 <del>451</del>	575 <del>540</del>	827 <del>700</del>	579 <del>551</del>	703 <del>670</del>
P.P.L.	645 <del>244</del>	451 <del>171</del>	540 <del>208</del>	700 <del>305</del>	551 <del>214</del>	670 <del>260</del>
*Coal (tons)	<del>3/195</del>	<del>3/195</del>	<del>3/195</del>	<del>4/245</del>	<del>4/245</del>	<del>4/245</del>
*Wood (cords)	<del>3/195</del>	<del>3/195</del>	<del>3/195</del>	<del>4/245</del>	<del>4/245</del>	<del>4/245</del>

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family Unit	Multi- Family Unit	Mobile Home	Single Family Unit	Multi- Family Unit	Mobile Home
Natural Gas	494 <del>475</del>	346 <del>332</del>	420 <del>404</del>	562 <del>540</del>	393 <del>378</del>	478 <del>459</del>
Fuel Oil	976 <del>994</del>	683 <del>696</del>	829 <del>845</del>	1093 <del>1113</del>	765 <del>779</del>	929 <del>946</del>
Propane	830 <del>815</del>	581 <del>711</del>	705 <del>863</del>	929 <del>1137</del>	650 <del>796</del>	790 <del>967</del>
Electricity	734 <del>773</del>	514 <del>541</del>	624 <del>657</del>	823 <del>866</del>	576 <del>606</del>	699 <del>736</del>
M.P.C.	773 <del>940</del>	541 <del>658</del>	657 <del>799</del>	866 <del>1053</del>	606 <del>737</del>	736 <del>895</del>
Electricity	940 <del>895</del>	658 <del>627</del>	799 <del>761</del>	1053 <del>1002</del>	737 <del>702</del>	895 <del>852</del>
P.P.L.	895 <del>366</del>	627 <del>257</del>	761 <del>312</del>	1002 <del>428</del>	702 <del>299</del>	852 <del>363</del>
*Coal (tons)	<del>5/325</del>	<del>5/325</del>	<del>5/325</del>	<del>6/390</del>	<del>6/390</del>	<del>6/390</del>
*Wood (cords)	<del>5/325</del>	<del>5/325</del>	<del>5/325</del>	<del>6/390</del>	<del>6/390</del>	<del>6/390</del>

\*-Value-of-coal/wood-may-not-exceed-dollar-value-indicated

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT XI

Mineral, Missoula and Ravalli Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
Natural Gas	332 <del>319</del>	215 <del>206</del>	282 <del>272</del>	422 <del>406</del>	296 <del>284</del>	359 <del>345</del>
Fuel Oil	697 <del>593</del>	488 <del>415</del>	592 <del>504</del>	851 <del>724</del>	596 <del>507</del>	723 <del>616</del>
Propane	696 <del>525</del>	483 <del>367</del>	586 <del>446</del>	843 <del>641</del>	590 <del>449</del>	717 <del>545</del>
Electricity	552 <del>242</del>	387 <del>170</del>	469 <del>206</del>	675 <del>303</del>	472 <del>212</del>	574 <del>258</del>
*Coal (tons)	3/195 <del>263</del>	3/195 <del>184</del>	3/195 <del>223</del>	4/245 <del>328</del>	4/245 <del>230</del>	4/245 <del>279</del>
*Wood (cords)	3/195 <del>263</del>	3/195 <del>184</del>	3/195 <del>223</del>	4/245 <del>328</del>	4/245 <del>230</del>	4/245 <del>279</del>

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
Natural Gas	490 <del>471</del>	343 <del>330</del>	417 <del>400</del>	558 <del>536</del>	390 <del>375</del>	474 <del>456</del>
Fuel Oil	968 <del>823</del>	678 <del>576</del>	823 <del>700</del>	1084 <del>922</del>	759 <del>645</del>	921 <del>784</del>
Propane	958 <del>729</del>	671 <del>510</del>	845 <del>619</del>	1073 <del>816</del>	751 <del>571</del>	912 <del>694</del>
Electricity	767 <del>364</del>	537 <del>255</del>	652 <del>309</del>	859 <del>424</del>	601 <del>297</del>	730 <del>361</del>
*Coal (tons)	5/325 <del>394</del>	5/325 <del>276</del>	5/325 <del>335</del>	6/390 <del>460</del>	6/390 <del>322</del>	6/390 <del>391</del>
*Wood (cords)	5/325 <del>394</del>	5/325 <del>276</del>	5/325 <del>335</del>	6/390 <del>460</del>	6/390 <del>322</del>	6/390 <del>391</del>

\*-Value-of-coal/wood-may-not-exceed-dollar-value-indicated

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT XII

Powell, Granite, Deer Lodge, Silver Bow,  
Beaverhead and Madison Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
Natural Gas	332 <del>319</del>	215 <del>206</del>	282 <del>272</del>	422 <del>406</del>	296 <del>284</del>	359 <del>345</del>
Fuel Oil	697 <del>593</del>	488 <del>415</del>	592 <del>504</del>	851 <del>724</del>	596 <del>507</del>	723 <del>616</del>
Propane	734 <del>525</del>	514 <del>367</del>	624 <del>446</del>	897 <del>641</del>	628 <del>449</del>	769 <del>545</del>
Electricity	552 <del>242</del>	387 <del>170</del>	469 <del>206</del>	675 <del>303</del>	472 <del>212</del>	574 <del>258</del>
*Coal (tons)	3/195 <del>263</del>	3/195 <del>184</del>	3/195 <del>223</del>	4/245 <del>328</del>	4/245 <del>230</del>	4/245 <del>279</del>
*Wood (cords)	3/195 <del>3/195</del>	3/195 <del>3/195</del>	3/195 <del>3/195</del>	4/245 <del>4/245</del>	4/245 <del>4/245</del>	4/245 <del>4/245</del>

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
Natural Gas	490 <del>471</del>	343 <del>338</del>	417 <del>400</del>	558 <del>536</del>	390 <del>375</del>	474 <del>456</del>
Fuel Oil	968 <del>823</del>	678 <del>576</del>	823 <del>700</del>	1084 <del>922</del>	759 <del>645</del>	921 <del>784</del>
Propane	1020 <del>729</del>	714 <del>510</del>	867 <del>619</del>	1142 <del>816</del>	799 <del>571</del>	971 <del>694</del>
Electricity	767 <del>364</del>	537 <del>255</del>	652 <del>309</del>	859 <del>424</del>	601 <del>297</del>	730 <del>361</del>
*Coal (tons)	5/325 <del>394</del>	5/325 <del>276</del>	5/325 <del>335</del>	6/390 <del>460</del>	6/390 <del>322</del>	6/390 <del>391</del>
*Wood (cords)	5/325 <del>5/325</del>	5/325 <del>5/325</del>	5/325 <del>5/325</del>	6/390 <del>6/390</del>	6/390 <del>6/390</del>	6/390 <del>6/390</del>

\*-Value of coal/wood may not exceed dollar value indicated

AUTH: Sec. 53-2-201, MCA  
IMP: Sec. 53-2-201, MCA

46.13.402 DETERMINING BENEFIT AWARD (1) For applications filed during the period October 1, ~~1983~~ through April 30, ~~1984~~, households found eligible will receive the full amount of their applicable matrix if available.

(a) Households found eligible may apply all or a portion of their benefit award for conversion to a less costly heating fuel.

(b) Eligible households who convert to a less costly heating fuel must disclaim any right to additional program benefits for the current heating season regardless of change of address or any other circumstance except emergencies as defined in ARM 46.13.501.

Subsection (2) remains the same.

AUTH: Sec. 53-2-201, MCA

IMP: Sec. 53-2-201, MCA

46.13.403 METHOD OF PAYMENT (1) Definitions:

(a) "Eligible energy costs" means costs of the various types of energy supplied by the household's fuel vendors. Energy delivered by the household's fuel vendors prior to October 1, are ineligible for payment under the current year's program.

(i) Notwithstanding the above, eligible energy costs may include energy delivered 15 days prior to October 1 for applications filed after September 30, when the type of fuel and the vendor's normal billing procedures make the above definition impracticable.

(2) For eligible households that are billed for energy costs directly by the fuel vendor:

(a) Reimbursement may, with the approval of the department only, be made by check payable to the household for any eligible energy costs which have been paid by the household at the time of the benefit or adjusted award. Paid eligible fuel costs claimed by the household must be supported by fuel receipts.

(b) The amount of the benefit or adjusted award remaining after the application of (a) will be paid by check directly to the fuel vendor and will be applied by the fuel vendor against any unpaid, including any future, eligible energy costs of the household in accordance with the department-provided vendor application and contract. Any credit balance attributable to the benefit or adjusted award for eligibility periods after September 30, ~~1983~~ will remain in the recipient's account and will not be considered in determination of future benefit awards.

(c) Application for new benefits will not be processed until all benefits attributable to previous program awards are used.

(d) All credit balances are presumed to be from previous program awards unless the applicant provides proof to the contrary.

(3) For eligible households that have their energy costs included in their rental payments:

(a) Reimbursement at the rate of 1/7 of the full amount of the benefit award matrix per month not to exceed the household's benefit award will be made by check payable to the household for paid eligible energy costs. Reimbursement will be made by check directly payable to the household and in no more than two installments. Paid eligible energy costs claimed by the household must be supported by rent receipts.

(4) Households using wood to heat their home may be reimbursed for wood purchased between July 1 and October 1.

AUTH: Sec. 53-2-201, MCA

IMP: Sec. 53-2-201, MCA

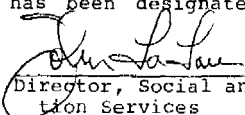
4. The LIEAP utilize a three step review process to ensure that to the maximum extent possible, the program operates in the most efficient manner.

All local contractors are given the opportunity to share their concerns and recommendations at two regional meetings. Their consensus is then submitted to the Low-Income Energy Program Advisory Council which, in turn, submits recommendations to the Department. It is the Department's responsibility to issue rules governing the program's operation.

The proposed rules reflect this review process. Major changes include updating the matrix benefit awards to show current fuel prices, restricting client's ability to apply for benefits until prior year benefits are used, prohibiting the sale of fuel supplied, changing the period of income determination, allowing for LIEAP benefits to install less expensive heating sources and several technical changes designed to clarify existing policies.

5. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, Montana 59604, no later than September 14, 1984.

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

  
\_\_\_\_\_  
Director, Social and Rehabilitation Services

Certified to the Secretary of State August 3, 1984.

15-8/16/84

MAR Notice No. 46-2-412

BEFORE THE MERIT SYSTEM COUNCIL  
OF THE STATE OF MONTANA

In the matter of the repeal or	)	NOTICE OF THE REPEAL OF ALL
all rules found in ARM Title 2,	)	RULES FOUND IN ARM TITLE 2,
Chapter 23, relating to the	)	CHAPTER 23, RELATING TO THE
operation of a Merit System	)	OPERATION OF A MERIT SYSTEM

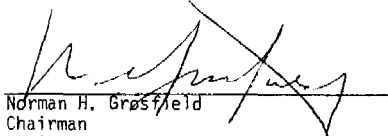
TO: All Interested Persons.

1. On May 31, 1984, the Merit System Council published notice of the proposed repeal of all rules found in Title 2, Chapter 23, Administrative Rules of Montana, relating to the administration of a Merit System, on page 858, issue 10 of the 1984 Montana Administrative Register.

2. The rules have been repealed as proposed.

3. The Council received no comments during the comment period.

By

  
Norman H. Grosfield  
Chairman  
Merit System Council

Certified to the Secretary of State, August 6, 1984.

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

IN THE MATTER of Proposed	)	NOTICE OF AMENDMENT OF
amendment of rules regarding	)	38.3.201(1)(g)(n),
Public Service Commission	)	38.3.202(1)(e), 38.3.203(2),
fees, and proposed adoption	)	38.3.502(4), 38.3.801(1),
of new fee rules regarding	)	38.3.805(1), 38.3.204(2)
motor carrier, railroad and	)	38.3.2101(1) AND ADOPTION OF
utility fees.	)	NEW FEE RULES PERTAINING TO
	)	MOTOR CARRIER, RAILROAD AND
	)	UTILITY FEES

TO: All Interested Persons

1. On June 28, 1984 the Department of Public Service Regulation published notice of proposed amendment and adoption of new fee rules pertaining to motor carrier, railroad, and utility fees at pages 950-955 of the 1984 Montana Administrative Register Issue Number 12.

2. The Commission has amended the rules as proposed:

38.3.201 INTRASTATE CARRIERS

38.3.202 INTERSTATE AND FOREIGN CARRIERS

38.3.502 APPLICATIONS FOR TEMPORARY OPERATING AUTHORITY

38.3.801 FEES

38.3.805 REPORTS AND UNIFORM SYSTEM OF ACCOUNTS

38.3.2014 LEASE OF CERTIFICATES OF AUTHORITY - GENERAL

38.3.2101 SALE OR TRANSFER OF CERTIFICATE OF AUTHORITY

3. The Commission has amended the rules with the following changes:

38.3.203 REGISTRATION OF INTERSTATE AUTHORITIES (1) No change.

(2) Such initial registration of a certificate and vehicle shall be accepted and permit granted upon payment of the appropriate filing fee of twenty-five dollars (\$25), as prescribed by the Interstate Commerce Commission rules under PL. 89-170.

(3) No change.

(4) No filing fee shall be charged for the registration of supplementary interstate Commerce Commission operating authority.

4. The Commission has adopted the rules as proposed:

RULE I. 38.4.701 RAILROAD APPLICATION AND PETITION FEES

RULE II. 38.4.702 ANNUAL REPORTS AND FEES

RULE IV. 38.5.2602 ANNUAL REPORTS AND FEES

5. The Commission has adopted the rule proposed with the following changes:

RULE III. 38.5.2601 RATE TARIFF FILING FEE (1) No change.

(2) The tariff filing fee shall also apply to interim or temporary tariff rate filings, and tariff changes ordered by the Commission.

6. Comments:

(a) The July Notice of Proposed Amendments to rules incorrectly stated in the Notice heading that Rule 38.3.402(a) was

to be amended; it was not amended.

(b) Although the Commission did not receive any written comments on Rule 38.3.203, numerous questions were raised. The revision to 38.3.203 clarifies that the \$25 filing fee is charged to a carrier upon the carrier's initial registration of its ICC certificate. The annual \$5 vehicle registration fee for each vehicle operated by the carrier, under its ICC authority, is provided for in 38.3.202. The new subsection (4) to 38.3.203 clarifies that ICC carriers are not charged a fee for filing their supplementary ICC authorities with the Commission. All of these revisions reflect the fees that have been charged by the Commission in the past; there has been no change, with this rule revision, of the amounts of fees paid, pursuant to 38.3.202 and 38.3.203.

(c) Montana-Dakota Utilities Company and Northwestern Telephone Systems, Inc. both submitted comments concerning the proposed new Rule III, Rate Tariff Filing Fee. Both companies stated that the Rule was unclear concerning whether the \$5 per tariff page filing fee would apply to tariff changes that are ordered to be filed by the Commission.

Under the legislative direction given in Senate Bill No. 436, the Commission finds that it must set and charge fees commensurate with the costs the Commission entails in administering/processing the particular functions. The Commission will charge the \$5 tariff page filing fee for any tariff changes regardless of whether they are initiated by the utility or are ordered by the Commission.

Subsection (2) has been amended to so state.

  
THOMAS J. SCHNEIDER, CHAIRMAN

CERTIFIED TO THE SECRETARY OF STATE AUGUST 6, 1984.

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

IN THE MATTER of Proposed	)	NOTICE OF ADOPTION OF NEW
Adoption of New Rules for	)	RULES FOR CHARGES RELATED
Charges Related to Utility	)	TO UTILITY LINE MOVES
Line Moves Associated with	)	ASSOCIATED WITH MOVEMENT OF
Movement of Structures	)	STRUCTURES

TO: All Interested Persons

1. On February 29, 1984 the Department of Public Service Regulation published notice of proposed adoption of new rules for charges related to utility line moves associated with movement of structures at pages 360-362 of the 1984 Montana Administrative Register Issue Number 4.

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

Rule I. 38.5.1401 GENERAL PROHIBITION.

Rule IV. 38.5.1404 EXCEPTIONS TO NECESSARY AND REASONABLE EXPENSES.

3. The Commission has adopted the proposed rules with the following changes:

Rule II. 38.5.1402 PERMITTED CHARGES (1) A public utility may charge any person transporting or hauling the owner of a prefabricated structure, built with the intention of being transported or hauled, the necessary and reasonable costs of ~~raising~~ moving or cutting wires or moving poles to facilitate ~~that~~ the movement of that structure.

(2) A public utility may charge the owner of any other building or structure only one-half of the necessary and reasonable expense of moving poles and ~~raising~~ moving or cutting wires necessary to accomplish the transportation or hauling of any other such building or structure.

Rule III. 38.5.1403 DETERMINATION OF NECESSARY AND REASONABLE EXPENSES (1), (2) (a), (b), (3) No change.

(4) Average employee and equipment costs shall be determined for the tasks of

- (a) ~~raising~~ moving wires,
- (b) cutting wires, and
- (c) moving poles.

(5) (a), (b) No change.

Rule V. 38.5.1405 AVERAGE COSTS (1) Average costs for time and materials expended are determined to be:

(a) ~~\$50~~ \$40 for each telephone wire ~~raised~~ moved; except that the cost shall decrease \$7 for each successive wire moved on the same pole or support structure. (Example: The average cost of moving four wires located on the same support structure is \$118.),

(b) ~~\$100~~ \$70 for each telephone wire cut. For purposes of this provision only, a telephone wire is deemed to consist of 25 pairs; for each increment of 25 pairs, or part thereof, contained within the same cable, the average cost shall increase by \$3.75. (Example: The average cost of cutting a 75 pair telephone cable is \$77.50.),

(c) \$50 \$40 for each electric wire raised moved; except that the cost shall decrease \$7 for each successive wire moved on the same pole or support structure,

(d) \$100 \$70 for each electric wire cut, and

(e) \$150 \$105 for each telephone or electric pole moved.

Rule VI. 38.5.1406 PREPAYMENT PREPARATION AND SERVICE OF ESTIMATE (1) No change.

(2) Estimated charges shall be paid to the utility in advance of any work performed by the utility to accomplish the transportation or hauling of a building or other structure. Upon notifying the affected utilities of the time and place of moving a structure, pursuant to 69-4-602, MCA, the entity moving the structure shall also provide the name and address of the owner of the structure. Estimates shall be promptly served upon both the mover and the owner of the structure.

(3) No change.

(4) Any over or under charges based on the original estimate shall be promptly paid to the utility or refunded to the owner of the building or structure.

Rule VII. 38.5.1407 BIENNIAL REVIEW (1) No change.

(2) Public utilities shall maintain records indicating the location and dates of all activities governed by this sub-chapter, and shall file a summary report of such information simultaneously with the average cost data in (1) above.

(3) Upon filing, the Commission shall publish a notice of proposed rulemaking in accordance with the Montana Administrative Procedure Act, to establish average costs set forth in ARM 38.5.1405.

4. Comments: No comments suggested changes to Rule I, and it is adopted as proposed.

Rule II. Comment: The Housemovers suggested that the rule clearly identify the owner as the party responsible to pay. Both utilities and housemovers suggested that line "raising" be changed to line "moving" to cover situations where lines are lowered.

Response: Both suggestions have been incorporated.

Rule III. Comment: Numerous comments were received from both housemovers and utilities to the effect that actual expenses should replace averages.

The Housemovers requested that (2)(b) be deleted for the reason that equipment costs are not specifically enumerated in 69-4-603, MCA. In addition, they requested the following changes: specifically define types of necessary employees; change wording of (3) so that wages of employees required by collective bargaining agreements, but not by state or federal safety regulations, would be excluded; delete (5) for lack of statutory authority to create such categories.

The utilities uniformly stated that labor costs should be fully loaded, so that costs of fringe benefits as well as general office overhead would be recovered.

Response: The Commission recognizes that, due to the very nature of averaging, some inequities will occur by applying average costs to specific moves. From this perspective, actual

costs would be more desirable. Section 69-4-603, MCA, specifically requires, however, that the Commission fix expenses "on the average cost per line or pole."

The Commission believes that "necessary and reasonable expenses" based on "time and materials expended" should logically include equipment costs. Necessary employees should, within reason, be determined by sound discretion of management, including collective bargaining agreements. Abuses may be brought to the attention of the Commission at the fixing of average costs during each biennial review. Finally, the Commission sees no reason why utility-type categories should not be created in (5). Indeed, this could provide some small measure of relief from the inequities of averaging complained of by nearly everyone. In fact, the difference in average costs for these two categories is de minimus based on this proceeding.

With respect to overhead costs, the Commission believes they should be excluded, at least in this initial proceeding. While it may be true that some overhead costs are incurred in connection with structure moves, the Commission sees no indication that general loading factors are applicable to that specific activity. Given this substantial lack of information, the Commission believes it would be ill-advised to include such costs during the initial period of this new cost sharing scheme.

Rule IV. Comments: The Housemovers generally supported this rule, but requested that statutory exemptions should not apply where clearance does not meet minimum national safety codes.

The utilities stated that this rule is unnecessary.

Response: The Commission believes this rule is necessary to clarify the effect of Montana's minimum clearance requirements in this specific area of cost sharing and determination of averages. The Commission will not go beyond statutory requirements, including statutory exemptions.

Rule V. Comments: The Housemovers stated that the average costs established were arbitrary and capricious, and submitted a study of actual costs of a few recent moves. The Housemovers also requested the following changes: clarification that "wire" is used interchangeably with "line," and may include several individual wires; capital costs should not be included in equipment costs; actual costs should be the basis of rates.

Several comments were received from both utilities and housemovers to the effect that inequities are created by having a single charge for moving wires, without recognizing economies due to clusters of wires.

Mountain Bell requested that a telephone "wire" be defined as 25 pairs, so that, for example, cutting a 75 pair cable would be charged at three times the cost of cutting a 25 pair cable. Similarly, the electric utilities requested that the charge be doubled for any wire exceeding .464 inch diameter.

Response: The initially proposed average costs were based on very sketchy information provided to the Commission prior to publication of the proposed rules. Even at this stage, the available data could be improved upon. Based on historical costs submitted by MPC and the Housemovers, the Commission

believes that the proposed rates were 30 percent too high; the final rates have been scaled back to that extent. The Commission has also determined that recognition should be given to economies involved in moving clusters of wires. To this end, a \$7 decrement has been established in (1)(a) and (c). To accommodate for lower charges on clusters, the charge has been raised from \$35 to \$40 on single wire moves. The Commission notes that actual costs of unregulated utility coop moves, provided by the Housemovers, also indicate that these final averages are within a lower range of reasonableness.

The Commission has established an incremental charge of \$3.75 for each additional 25 pairs in telephone cables. Providing a full charge for each 25 pair increment was found unjustified where the only information provided (by Mountain Bell) indicated the incremental cost to be \$3.71. No cost justification has been provided for differentiating between electric wire size. More specific categories may be justified in future filings.

The Commission agrees with utility comments that there is no reason to exclude capital costs from equipment costs; this is a reasonable and necessary expense to accomplish a move. The word "wire" is used consistent with statutory language; it is clear from the context of the rules, however, that this term is used interchangeably with "line" or cable." See, for example, (1)(b). Finally, the debate over actual versus average costs has been addressed under Rule III, above.

Rule VI. Comments: The utilities contended that prepayment is necessary since the party required to pay will not be the party in direct contact with the utility.

The Housemovers strongly opposed the prepayment provision, describing problems with owners getting mortgage money prior to the move, and contending that such a requirement is beyond the Commission's statutory authority.

Response: The Commission believes there may, indeed, be unforeseen problems lurking in a prepayment requirement. Moreover, the utilities' primary concern appears to be met with the notice provision included in the final rule in lieu of a prepayment requirement.

Rule VII. Comments: The Housemovers suggested a detailed record keeping requirement. The utilities objected to the detail in this proposal, but stated a willingness to provide essential record keeping. The utilities also requested that average costs be reviewed annually.

Response: The Commission has added (2), specifying what information must be kept.

The Commission believes that biennial review, as provided in 69-4-603(2), MCA, is adequate.

  
THOMAS J. SCHNEIDER, Chairman

CERTIFIED TO THE SECRETARY OF STATE AUGUST 6, 1984.

VOLUME NO. 40

OPINION NO. 58

COUNTIES - Fees to be charged by clerk and recorder for recording documents for mining claims;

FEES - For recording documents for mining claims by mechanical means;

MONTANA CODE ANNOTATED - Sections 7-4-2631,  
7-4-2631(1)(a), 7-4-2631(1)(b), 7-4-2631(1)(n),  
7-4-2632;

REVISED CODES OF MONTANA, 1947 - Section 25-231.

SESSION LAWS OF 1955 - Chapter 202, section 1.

HELD: When recording documents for mining claims by mechanical means, the clerk and recorder is to charge only the fee prescribed by section 7-4-2632, MCA.

20 July 1984

Mike McGrath  
Lewis and Clark County Attorney  
Lewis and Clark County Courthouse  
Helena MT 59623

Dear Mr. McGrath:

You have requested my opinion on the following question:

When recording documents for mining claims by photographic or similar process, is the clerk and recorder to charge the fee set forth in section 7-4-2631(1)(a) and (b), MCA, or section 7-4-2632, MCA, or both?

Section 7-4-2631(1)(a) and (b), MCA, provides:

Montana Administrative Register

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7-4-2631. Fees of county clerk. (1) The county clerks must charge, for the use of their respective counties:

(a) for recording and indexing each certificate of location of a quartz or placer mining claim or millsite claim, including a certificate that the instrument has been recorded with seal affixed, \$6;

(b) for recording and indexing each affidavit of annual labor on a mining claim, including certificate that the instrument has been recorded with seal affixed:

(i) for the first mining claim in the affidavit, \$3; and

(ii) for each additional mining claim included in it, 50 cents;

Section 7-4-2632, MCA, provides:

7-4-2632. Fee when recording done by mechanical means. Where recording is done by photographic or similar process, the county clerk and recorder shall charge \$2.50 for each page or fraction of a page of the instrument for recording.

Both of the provisions appear to apply to recording mining documents by mechanical means. An ambiguity presents itself because the statutes fail to instruct which fees should be charged in the situation you describe in your request. This ambiguity necessitates statutory construction to reconcile these statutes.

The fundamental rule of statutory construction is that the intention of the Legislature controls. Dunphy v. Anaconda Co., 151 Mont. 76, 438 P.2d 660 (1968). In my opinion, the legislative intent, revealed through the history of these two sections, resolves the ambiguity.

Section 7-4-2632, MCA, was originally enacted as an amendatory addition to the present section 7-4-2631, MCA. In 1955, section 25-231, R.C.M. 1947, was amended to include:

[P]rovided that in all cases where recording is done by photographic or similar process the fee to be charged by the county clerk and recorder for filing and indexing the same shall be one dollar (\$1.00) for each page or fraction thereof of said instrument.

1955 Mont. Laws, ch. 202, § 1.

It is clear that in 1955 the Legislature intended that the fee in this provision be the only fee charged when recording was done by photographic or similar process. The present section 7-4-2632, MCA, is the same law in substance as the 1955 enactment. Therefore, the intent of the 1955 Legislature should control the present construction. State ex rel. Montgomery Ward v. District Court, 115 Mont. 521, 146 P.2d 1012, 1014 (1944). The ambiguity which now exists was created by the recodification in 1978, when the present section 7-4-2632, MCA, was separated from its parent statute. I cannot construe legislative intent to change the effect of these statutes by recodification without a clear indication of such intent by the Legislature. Missoula County Free High School v. Smith, 91 Mont. 419, 8 P.2d 800 (1932).

On this basis I conclude that when mining documents are recorded by mechanical means, the fee in section 7-4-2632, MCA, is the only fee to be charged. My conclusion is supported by the requirement that both of the sections be read together and construed to give effect to each. Corwin v. Brieswanger, 126 Mont. 337, 251 P.2d 252 (1953). Furthermore, section 7-4-2631(1)(n), MCA, indicates that section 7-4-2632, MCA, is an alternative rather than an additional fee:

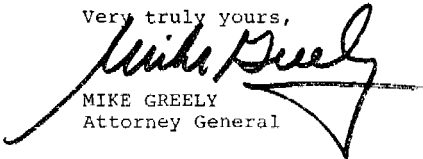
[f]or filing, recording, or indexing any other instrument not expressly provided for in this section or 7-4-2632, the same fee provided in this section or 7-4-2632 for a similar service; [Emphasis added.]

The word "or" in a statute generally indicates alternatives and requires that the alternative provisions be treated separately. Azure v. Morton, 514 F.2d 897 (C.A. Mont. 1975).

THEREFORE, IT IS MY OPINION:

When recording documents for mining claims by mechanical means, the clerk and recorder is to charge only the fee prescribed by section 7-4-2632, MCA.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Mike Greely", is written over the typed name. The signature is fluid and extends to the right, ending in a large, stylized loop.

MIKE GREELY  
Attorney General

VOLUME NO. 40

OPINION NO. 59

FIREFIGHTERS - Retirement dates for service retirement benefits under the Firefighters' Unified Retirement System;

RETIREMENT SYSTEMS - Retirement dates for service retirement benefits under the Firefighters' Unified Retirement System;

MONTANA CODE ANNOTATED - Sections 19-13-104(13), 19-13-104(21), 19-13-701, 19-13-701(1)(a), 19-13-701(1)(b), 19-13-701(2), 19-13-702, 19-13-703, Title 19, chapter 13;

SESSION LAWS OF 1983 - Chapter 53, section 7.

Held: Under section 19-13-701(2), MCA, the retirement date for a firefighter retiring from active service is the first day of the month following his last day of membership service. On that day, and not before, his service retirement benefits become payable.

23 July 1984

M. Valencia Lane  
Associate Counsel  
Insurance and Legal Division  
Department of Administration  
Sam W. Mitchell Building  
Helena MT 59620

Dear Ms. Lane:

You requested my opinion on the following question:

If a member of the Firefighters' Unified Retirement System retires before the end of the month, will his service retirement benefits commence immediately, or on the first day of the following month?

Your question arises because of a 1983 legislative amendment to section 19-13-701, MCA, which states:

(2) The retirement allowance must commence on the first day of the month following the member's last day of membership service.

The question is one of interpretation of this subsection: that is, does the retirement allowance begin to accrue on "the first day of the month following the member's last day of membership service," or is the first payment, covering the portion of the previous month after the member's termination from service, to be made on that date?

It is my opinion that under subsection (2) the member's retirement allowance begins to accrue--it becomes payable--on "the first day of the month following the member's last day of membership service." My opinion is based on the pertinent language contained in the Firefighters' Unified Retirement Act, and the legislative history of section 19-13-701(2), MCA.

The Firefighters' Unified Retirement Act, Title 19, ch. 13, MCA, contains substantial language which creates a legislative scheme that contemplates uniformity of retirement dates for firefighters applying to receive service pensions. A member's earliest retirement date is his "minimum retirement date," which occurs on "the first day of the month coinciding with or immediately following, if none coincides, the date on which a member becomes both age 50 or older and completes 10 or more years of credited service." (Emphasis added.) §§ 19-13-701(1)(a), 19-13-104(13), MCA. His latest retirement date, his "mandatory retirement date," occurs "on the first day of the month coinciding with or immediately following, if none coincides, the date on which he reaches age 65." (Emphasis added.) §§ 19-13-701(1)(b), 19-13-702, MCA. He can retire after the "minimum retirement date" and before the "mandatory retirement date." § 19-13-703, MCA. This section states:

Application for service retirement. On or after a member's minimum retirement date and prior to his mandatory retirement date, he may retire on a service retirement allowance by making written application to the employer. The employer shall forward the application to the board not less than 30 days or more than 90 days before the elected retirement date. The application shall state the elected retirement date.

This section lacks an express requirement that the elected retirement date be the first day of the month. However, section 19-13-104(21), MCA, defines "retirement date" to be "the date on which the first payment of the retirement or disability benefits of a member is payable." (Emphasis added.) Subsection (20) of that section defines "retirement allowance" to be "the monthly benefit payable after service or disability retirement." (Emphasis added.) These provisions must be read together with section 19-13-701(2), MCA, which, again, states, "The retirement allowance must commence on the first day of the month following the member's last day of membership service." Rocky Mountain Elevator Co. v. Bammel, 106 Mont. 407, 81 P.2d 673, 676 (1938). I construe these sections to mean the service retirement benefits begin to accrue on the first day of the month following the member's termination from service; the benefits are payable, not paid on that day.

The legislative history of section 19-13-701(2), MCA, is an additional basis for my conclusion. That subsection came from Senate Bill 216 (1983 Mont. Laws, ch. 53, § 7). Senate Bill 216 included the same language for most of the public retirement systems, including the Firefighters' Unified Retirement System. The purpose of this particular legislation was clearly explained by Lawrence P. Nachtsheim, administrator of the Public Employees' Retirement Division. In his testimony to the House and Senate State Administration Committees, he explained the twofold purpose of the bill. First, its purpose was to establish uniform retirement dates, on the first day of the month following the member's termination from service for service retirement benefits. Second, the bill would ensure that all retirees begin accruing their benefits on that first day of the month whether or not they had timely filed their retirement applications in accordance with section 19-13-703, MCA.

It is clear, therefore, that the purpose of Senate Bill 216 was to establish the first day of the month after termination from service as the retirement date for all members who apply for service retirement benefits. The bill does not establish the first pay date for the benefit payments. Consequently, if a member should terminate his active service at any time prior to the last day of the month, he would not begin to accrue

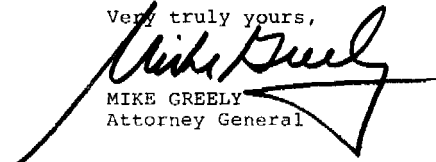
service retirement benefits until the first day of the next month.

I understand that prior to the 1983 legislation, firefighters were able to retire during the month and receive pro rata credit for the portion of that month after retirement. The 1983 legislation eliminates this pro rata credit because the firefighters can no longer elect a retirement day other than the first day of the month.

THEREFORE, IT IS MY OPINION:

Under section 19-13-701(2), MCA, the retirement date for a firefighter retiring from active service is the first day of the month following his last day of membership service. On that day, and not before, his service retirement benefits become payable.

Very truly yours,



MIKE GREELY  
Attorney General

VOLUME NO. 40

OPINION NO. 60

CLERK AND RECORDER - Duty of county clerk and recorder to file continuation statement;  
CONTINUATION STATEMENT - Duty of county clerk and recorder to file;  
CONTINUATION STATEMENT - Extension of financing statement's effectiveness;  
COUNTIES - Duty of clerk and recorder to file continuation statement;  
FINANCING STATEMENT - Effect of continuation statement;  
SECURED TRANSACTIONS - Duty of county clerk and recorder to file continuation statement;  
SECURED TRANSACTIONS - Extension of financing statement's effectiveness;  
MONTANA CODE ANNOTATED - Section 30-9-403;  
OPINIONS OF THE ATTORNEY GENERAL - 38 Op. Att'y Gen. No. 114 (1980).

- HELD: 1. A valid continuation statement becomes effective upon the conclusion of the five-year initial period during which a financing statement is effective or upon the conclusion of any previous five-year extension of that initial period.
2. To be valid, continuation statements must be filed during the six-month period preceding conclusion of the initial five-year financing statement period or any extension thereof.
3. County clerk and recorders are not required to accept for filing continuation statements tendered other than during the six-month period preceding conclusion of the initial five-year financing statement period or any extension thereof.

30 July 1984

Harold F. Hanser  
Yellowstone County Attorney  
Yellowstone County Courthouse  
Billings MT 59101

Dear Mr. Hanser:

You have requested my opinion concerning three questions which I have stated as follows:

1. When does the five-year extension period provided under section 30-9-403(3), MCA, become effective if a valid continuation statement has been filed?
2. Is a continuation statement valid if it is filed more than six months before the end of the five-year period specified in section 30-9-403(2), MCA, or the end of a five-year extension period?
3. May a county clerk and recorder refuse to accept a continuation statement not tendered during the six months before the end of the five-year period specified in section 30-9-403(2), MCA, or the end of a five-year extension period?

Your questions must be answered with reference to section 30-9-403(3), MCA.

Section 30-9-403(2), MCA, provides that, generally, a financing statement is valid for five years after filing and that its effectiveness then lapses unless a continuation statement is filed. Section 30-9-403(3), MCA, then states in part:

(3) A continuation statement may be filed by the secured party within 6 months prior to the expiration of the 5-year period specified in [section 30-9-403(2)].... Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for 5 years after the last date to which the filing was effective, whereupon it lapses in the same manner as provided in [section 30-9-403(2)] unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement....

A literal reading of section 30-9-403(3), MCA, clearly indicates that the five-year extension period effected by a valid continuation statement commences to run upon conclusion of the initial five-year financing statement period and any previous five-year extension period. Conversely, extension periods do not commence on the

date a continuation statement is filed. Courts and attorneys general construing similar provisions of the Uniform Commercial Code in other states have consistently adopted this interpretation. See In re Davison, 29 B.R. 987, 989, 36 U.C.C. Rep. Serv. 717, 719-20 (Bankr. W.D. Mo. 1983); Chrysler Credit Corp. v. United States, 24 U.C.C. Rep. Serv. 794, 796 (E.D. Va. 1978); Op. Att'y Gen., 13 U.C.C. Rep. Serv. 971, 972 (Mich. 1973); Op. Att'y Gen., 14 U.C.C. Rep. Serv. 860, 863 (Ohio 1974); Op. Att'y Gen., 22 U.C.C. Rep. Serv. 266, 267-68 (N.C. 1977). The Michigan Attorney General has thus stated that:

[I]n plain language the Legislature has manifested its intent that upon filing of a continuation statement the effectiveness of the financing statement is continued for five years after the last date to which the filing was effective and not the date of the filing of the continuation statement. Upon timely filing of succeeding continuing statements, the effectiveness of the original financing statement is continued for a period of five years from the expiration of the original financing statement and for five-year periods thereafter.

13 U.C.C. Rep. Serv. at 972.

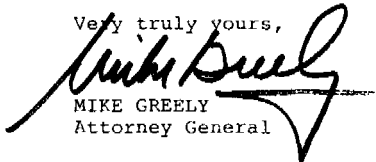
A literal reading of section 30-9-403(3), MCA, also compels the conclusion that, to be effective, a continuation statement must be filed during the six-month period preceding termination of the original five-year financing statement period or any five-year extension of that original period. Any other reading of section 30-9-403(3), MCA, renders the six-month period a mere surplusage--a result inconsistent with accepted rules of statutory construction. In re Wilson's Estate, 102 Mont. 178, 193, 56 P.2d 733, 736 (1936); Continental Oil Co. v. Board of Labor Appeals, 178 Mont. 143, 151, 582 P.2d 1236, 1241 (1978). Again, other attorneys general considering this issue have similarly concluded. Op. Att'y Gen., 12 U.C.C. Rep. Serv. 1251, 1252 (Iowa 1973); Op. Att'y Gen., 14 U.C.C. Rep. Serv. at 863; Op. Att'y Gen., 22 U.C.C. Rep. Serv. at 267. Consequently, any continuation statement filed outside the six-month period does not extend the effectiveness of the financing statement.

Last, county clerk and recorders are not required to accept for filing continuation statements outside the six-month period specified in section 30-9-403(3), MCA. See Op. Att'y Gen., 14 U.C.C. Rep. Serv. at 863; Op. Att'y Gen., 22 U.C.C. Rep. Serv. at 268. Any other conclusion would obligate county clerk and recorders to engage in meaningless acts. Cf. 38 Op. Att'y Gen. No. 114 (1980) (clerk and recorder has no duty to file "common law" lien).

THEREFORE, IT IS MY OPINION:

1. A valid continuation statement becomes effective upon the conclusion of the five-year initial period during which a financing statement is effective or upon the conclusion of any previous five-year extension of that initial period.
2. To be valid, continuation statements must be filed during the six-month period preceding conclusion of the initial five-year financing statement period or any extension thereof.
3. County clerk and recorders are not required to accept for filing continuation statements tendered other than during the six-month period preceding conclusion of the initial five-year financing statement period or any extension thereof.

Very truly yours,



MIKE GREELY  
Attorney General

VOLUME NO. 40

OPINION NO. 61

COUNTY OFFICERS AND EMPLOYEES - Vacation accrual rate for county employees under section 2-18-612, MCA;  
EMPLOYEES, PUBLIC - State and local government employees' vacation accrual rate;  
EMPLOYEES, PUBLIC - State employees' longevity allowance accrual rate;

HOURS OF WORK - One year of service under sections 2-18-304 and 2-18-612, MCA, equals 2,080 hours;

MONTANA CODE ANNOTATED - Sections 2-18-101(7), 2-18-303, 2-18-304, 2-18-306, 2-18-601(2), 2-18-611, 2-18-612, 2-18-617, 2-18-618;

OPINIONS OF THE ATTORNEY GENERAL - 39 Op. Att'y Gen. No. 78 (1982).

- HELD: 1. Under section 2-18-304, MCA, a state employee must be in a pay status for 2,080 hours in order to be credited with a year of service for longevity accrual purposes.
2. Under section 2-18-612, MCA, a public employee must be in a pay status for 2,080 hours in order to be credited with a year of employment for vacation accrual purposes.

31 July 1984

Morris Brusett, Director  
Department of Administration  
Sam W. Mitchell Building  
Helena MT 59620

Dear Mr. Brusett:

You have requested my opinion concerning the following questions:

1. Whether a state employee, as defined in section 2-18-101(7), MCA, must be in a pay status for 2,080 hours to be credited with one year of service toward the longevity period under section 2-18-304, MCA?

2. Whether an employee, as defined in section 2-18-601(2), MCA, must be in a pay status for 2,080 hours to be credited with one year of employment toward the vacation accrual rate under section 2-18-612, MCA?

A longevity allowance is added to the salary of "each employee who has completed 5 years of uninterrupted state service." § 2-18-304, MCA. The term "year" is not defined in this section, nor is it defined in section 2-18-612, MCA, which provides:

Rate earned. Vacation leave credits are earned at a yearly rate calculated in accordance with the following schedule, which applies to the total years of an employee's employment with any agency whether the employment is continuous or not:

Years of employment	Working days credit
1 day through 10 years	15
10 years through 15 years	18
15 years through 20 years	21
20 years on	24

[Emphasis added.]

For purposes of administration of the longevity and vacation statutes, you wish to know whether a year of service is equivalent to 2,080 hours.

According to the principles of statutory construction, if the language of a statute is plain, unambiguous and direct, the plain meaning of the words is to be followed. Dunphy v. Anaconda Co., 151 Mont. 76, 438 P.2d 660 (1968). In the construction of a statute, the legislative intent is to be pursued, if possible. § 1-2-102, MCA. Statutes must be read together and harmonized to give effect to the legislative intent. Gaffney v. Industrial Accident Board, 133 Mont. 448, 324 P.2d 1063 (1958).

Within Title 2, chapter 18, MCA, definitions of the word "year" appear in several other sections. In sections 2-18-306, 2-18-611 and 2-18-618, MCA, "year" is defined as 2,080 hours for calculation of hourly wages, vacation

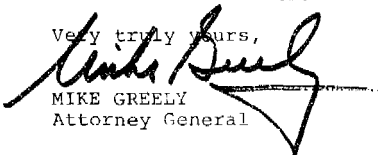
credits and sick leave credits. On the other hand, the language of sections 2-18-303 and 2-18-617, MCA, refers specifically to "fiscal year" and "calendar year," respectively. The descriptive terms "fiscal" and "calendar" are omitted from the sections concerning longevity and vacation accrual. If the Legislature had intended calculations to be based upon a fiscal or calendar year, it would have expressly inserted one of these descriptive terms. In construing a statute, it is not my function to insert words which have been omitted.

In a previous opinion, I concluded that a normal work year consists of 2,080 hours of labor and that a "year of service" for purposes of deputy sheriffs' longevity therefore consists of 2,080 hours. 39 Op. Att'y Gen. No. 78 at 299 (1982). Similarly, in this situation, the statutes appear to express a general legislative intent that a year of service or employment is equivalent to 2,080 hours. Thus, I conclude that in calculating an employee's past employment for longevity or vacation accrual purposes, the agency or unit of local government should utilize an hourly basis. You have informed me that different practices may have existed in the agencies in the past, and that you intend to adopt new rules to implement a uniform practice. Under the recent decision of the Montana Supreme Court in Wage Appeal of Montana Highway Patrol Officers v. Board of Personnel Appeals, 41 St. Rptr. 154, 676 P.2d 194 (1984), it is permissible to change the method of computing benefits in order to comply with the legislative intent, so long as the change is prospective in application.

THEREFORE, IT IS MY OPINION:

1. Under section 2-18-304, MCA, a state employee must be in a pay status for 2,080 hours in order to be credited with a year of service for longevity accrual purposes.
2. Under section 2-18-612, MCA, a public employee must be in a pay status for 2,080 hours in order to be credited with a year of employment for vacation accrual purposes.

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 a rule or to request that the agency prepare a statement 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 bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt or amend a rule.

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

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

Definitions: Administrative Rules of Montana (ARM) is a looseleaf 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<br>Subject<br>Matter          | 1. Consult ARM topical index, volume 16. Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute<br>Number and<br>Department | 2. Go to cross reference table at end of each title which lists MCA section numbers and corresponding ARM rule numbers.   |

# 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 March 31, 1984. This table includes those rules adopted during the period April 1, 1984 through June 30, 1984, 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 March 31, 1984, this table and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule and the page number at which the action is published in the 1983 and 1984 Montana Administrative Registers.

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