

RESERVE
KFM
9035
1973
.A245a

RESERVE

STATE LAW LIBRARY

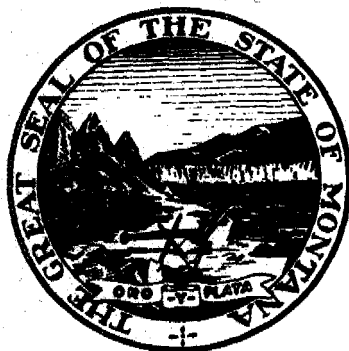
FEB 23 1990

OF MONTANA

**MONTANA
ADMINISTRATIVE
REGISTER**

**DOES NOT
CIRCULATE**

1990 ISSUE NO. 4
FEBRUARY 22, 1990
PAGES 330-396



FM
225
273
1245a

STATE LAW JOURNAL

FEB 23 1990

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 4

OF MONTANA

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 The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing and where written comments may be submitted.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.

TABLE OF CONTENTS

Page Number

NOTICE SECTION

EDUCATION, Title 10

(Superintendent of Public Instruction)

10-2-66 Notice of Public Hearing on Proposed Adoption, Amendment and Repeal - Tuition and Accounting Practices.

330-348

LABOR AND INDUSTRY, Department of, Title 24

(Workers' Compensation Judge)

24-26-21 Notice of Proposed Amendment, Repeal and Adoption - Procedural Rules of the Workers' Compensation Court. No Public Hearing Contemplated.

349-366

STATE LANDS, Department of, Title 26

26-2-57 (Board of Land Commissioners) Supplemental Notice and Reopening of Comment Period on Proposed Adoption and Amendment of Strip and Underground Coal and Uranium Mining and Reclamation Rules.

366A

REVENUE, Department of, Title 42

42-2-458 Notice of Extended Comment Period on Proposed Adoption - Reappraisal of Real Property - Property Tax.

367

SOCIAL AND REHABILITATION SERVICES, Department of, Title 46

46-2-595	Notice of Public Hearing on Proposed Amendment - Medically Needy Income Levels.	368-369
46-2-596	Notice of Public Hearing on Amendment or Repeal - Occupational Therapy Services.	370-374
46-2-597	Notice of Public Hearing on Proposed Adoption and Repeal - Child Support Enforcement Procedures and Administration.	375-376

RULE SECTION

ADMINISTRATION, Department of, Title 2

AMD	Grievances.	377
-----	-------------	-----

AGRICULTURE, Department of, Title 4

AMD	Alfalfa Leafcutting Bees.	
REP		378

SOCIAL AND REHABILITATION SERVICES, Department of, Title 46

AMD	Medicaid Overpayment Recovery.	379
-----	--------------------------------	-----

INTERPRETATION SECTION

Opinions of the Attorney General.

53	Cities and Towns - Authority of City with Self-government Powers to Enact Ordinance Allowing Vehicles in Funeral Procession to Disobey Traffic-control Devices by Designating Them as "Authorized Emergency Vehicles" - Funerals - Local Government - Motor Vehicles - Municipal Government.	380-385
----	--	---------

SPECIAL NOTICE AND TABLE SECTION

	Functions of the Administrative Code Committee.	386
	How to Use ARM and MAR.	387
	Accumulative Table.	388-396

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PUBLIC HEARING
proposed adoption, amendment,	)	ON THE PROPOSED ADOPTION,
and repeal of rules relating	)	AMENDMENT AND REPEAL OF
to accounting practices and	)	RULES RELATING TO TUITION
tuition	)	AND ACCOUNTING PRACTICES,
	)	TITLE 10, CHAPTER 9, 10,
	)	AND 16, AND RULES I
	)	THROUGH XXII

To: All Interested Parties.

1. On March 15, 1990, at 9:00 a.m., in Room 108, State Capitol, Helena, Montana, a public hearing will be held to consider the adoption, amendment and repeal of rules which relate to accounting practices and tuition computation.

2. The proposed rules provide as follows:

RULE I FORMULA FOR CALCULATING REGULAR EDUCATION TUITION RATES

(1) The following formula shall be used by school districts to calculate maximum tuition charges for regular education. Sources for data used in the formula shall be the trustees' annual financial report for the previous fiscal year and the pupil data reports used for the current year budget.

(a) The calculation of tuition at kindergarten, elementary and high school levels shall not exceed the actual costs incurred.

(b) (EFFECTIVE FROM ADOPTION THROUGH JUNE 30, 1991) The formula for calculating elementary tuition shall be as follows:

	In County	Out of County
A) Total Fund 101 Expenditures (last FY)		
B) Total Fund 114 Expenditures (last FY)	XXXXXXX	
C) Total Fund 150 Expenditures (last FY)		
D) Total (line A + B + C)		
E) ANB (current FY budget)		
F) Line D divided by line E		
G) County Equalization Revenue (last FY) (Revenue Code 101-2110)		
H) State Equalization Revenue (last FY) (Revenue Code 101-3110)		
I) State Permissive Revenue (last FY) (Revenue Code 101-3120)		
J) Total (line G + H + I)		
K) Line J divided by line E		
L) Line F minus line K		

(b) (EFFECTIVE JULY 1, 1991*) The formula for calculating elementary tuition shall be as follows:

	<u>In County</u>	<u>Out of County</u>
A) Total Fund 101 Expenditures (last FY)	_____	_____
B) Total Fund 114 Expenditures (last FY)	<u>XXXXXXXX</u>	_____
C) Total Fund 150 Expenditures (last FY)	_____	_____
D) Total (line A + B + C)	_____	_____
E) ANB (current FY budget)	_____	_____
F) Line D divided by line E	_____	_____
G) County Equalization Revenue (last FY) (Revenue Code 101-2110)	_____	_____
H) State Equalization Revenue (last FY) (Revenue Code 101-3110)	_____	_____
I) Guaranteed Tax Base Aid (last FY) (Revenue Code 101-3120)	_____	_____
J) Total (line G + H + I)	_____	_____
K) Line J divided by line E	_____	_____
L) Line F minus line K	_____	_____

[*Although the new tuition calculation identified in 20-5-305, MCA is effective July 1, 1990, final state assistance for the guaranteed tax base subsidy will not be known until the following fiscal year.]

(c) (EFFECTIVE FROM ADOPTION THROUGH JUNE 30, 1991) The formula for calculating high school tuition shall be as follows:

	<u>In County</u>	<u>Out of County</u>
A) Total Fund 201 Expenditures (last FY)	_____	_____
B) Total Fund 214 Expenditures (last FY)	<u>XXXXXXXX</u>	_____
C) Total Fund 250 Expenditures (last FY)	_____	_____
D) Total (line A + B + C)	_____	_____
E) ANB (current FY budget)	_____	_____
F) Line D divided by line E	_____	_____
G) County Equalization Revenue (last FY) (Revenue Code 201-2110)	_____	_____
H) State Equalization Revenue (last FY) (Revenue Code 201-3110)	_____	_____
I) State Permissive Revenue (last FY) (Revenue Code 201-3120)	_____	_____
J) Total (line G + H + I)	_____	_____
K) Line J divided by line E	_____	_____
L) Line F minus line K	_____	_____

(c) (EFFECTIVE JULY 1, 1991*) The formula for calculating high school tuition shall be as follows:

	<u>In County</u>	<u>Out of County</u>
A) Total Fund 201 Expenditures (last FY)	_____	_____
B) Total Fund 214 Expenditures (last FY)	<u>XXXXXXXX</u>	_____
C) Total Fund 250 Expenditures (last FY)	_____	_____
D) Total (line A + B + C)	_____	_____
E) ANB (current FY budget)	_____	_____
F) Line D divided by line E	_____	_____

G) County Equalization Revenue (last FY) _____
(Revenue Code 201-2110) _____
H) State Equalization Revenue (last FY) _____
(Revenue Code 201-3110) _____
I) Guaranteed Tax Base Aid (last FY) _____
(Revenue Code 201-3120) _____
J) Total (line G + H + I) _____
K) Line J divided by line E _____
L) High School Tuition Line F minus line K _____

[*Although the new tuition calculation identified in 20-5-305, MCA is effective July 1, 1990, final state assistance for the guaranteed tax base subsidy will not be known until the following fiscal year.]

AUTH: 20-5-305, MCA

IMP: 20-5-305, MCA

10.10.101-OBLIGATION OF DEBTS INCURRED FOR THE PURCHASE OF PROPERTY- VALID OBLIGATION CRITERIA FOR ENCUMBRANCES (1) The district may obligate debts incurred for the purchase of property subject to the following rules: (1) Obligations can be made for personal property only. encumber current year appropriations for valid obligations existing as of June 30th. Encumbrances outstanding at year end shall be added to expenditures to arrive at the budgetary basis expenditures for the year. Expenditures shall be reported in the Trustee's Annual Financial Report on the budgetary basis.

(2) Criteria for determining whether a valid obligation exists are as follows:

(a) The cost of personal property, including materials, supplies and equipment, ordered but not received may be encumbered if a valid purchase order for the items was issued prior to June 30th.

(b) The cost of commitments related to construction in progress may be encumbered if a legally binding contract was signed and effective or a valid purchase order was issued prior to June 30th. If performance under the contract is complete, or virtually complete, the cost of the entire contract should be accrued.

(2) Obligations can be made only on forms designed by the office of the superintendent of public instruction and which are consecutively numbered by the district as used.

(3) Obligations are only valid if a copy of the purchase order is attached to the obligation record.

(4) The obligation record with the attached purchase order must be in the office of the county treasurer by the 30th of June.

(5) Obligations must be liquidated prior to midnight on September 30 of the same calendar year.

(6) The liquidation of obligation must use the same number originally given the obligation record.

(7) The liquidation of obligation must have the same dollar amount shown on the obligation record.

(8) Obligations not liquidated by midnight, September 30 will lapse and payment must then be charged against the current budget.

~~(9) After September 30 and before October 30, the school district must submit to the superintendent of public instruction an amended expenditure report (forms 20 and 21 for the preceding school fiscal year:-~~

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-102, 20-9-201, AND 20-9-209, MCA

RULE II PAYMENT AND CLOSING OF PRIOR YEAR ACCRUED EXPENDITURES AND ENCUMBRANCES (1) In order to comply with Sections 20-9-206, 20-9-212, and 20-9-222, MCA, for budgetary control purposes, the county treasurer shall add the total of accrued expenditures and encumbrances reported in the prior year's Trustee's Annual Financial Report to the current year's budget for each fund.

(2) A list showing the detail and total amount of accrued expenditures and encumbrances reported by fund shall be provided to the county treasurer no later than August 1st. A copy of the list and supporting documentation shall be retained by the district for audit purposes.

(3) If requested by the county treasurer, the district will include an accounting of the payment of accrued expenditures, encumbrances and current year expenditures at the time the district transmits duplicate warrants or a list of warrants issued to the county treasurer.

(4) All accrued expenditures and encumbrances reported on the prior year's trustees' annual financial report must be closed before June 30th of the current year.

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-102, 20-9-201, AND 20-9-209, MCA

10.10.202 MONTHLY TRANSFERS TO EQUAL WARRANTS ISSUED PLUS UNREMITTED PAYROLL LIABILITIES (1) The monthly expenditures recorded in each fund must equal the amount to be transferred to the clearing accounts. Warrants issued from the clearing account and unremitted payroll liabilities must equal the total of the amounts transferred to the clearing accounts. The county treasurer must be notified by letter of the monthly transfers to be made along with a list of warrants written or a duplicate of each warrant.

AUTH: 20-9-102, 20-9-201 AND 20-9-220, MCA

IMP: 20-9-102, 20-9-201, AND 20-9-220, MCA

10.10.203 REPORTS (1) Reports must be prepared that support the amounts transferred from each fund to the clearing account. The report(s) must provide a trail that identifies the fund(s), appropriation item(s) charged and the claim(s) or invoice(s) being paid for each warrant issued from the clearing account. Such reports will the requirements of 20-9-221(1), MCA. (History: Sec. 20-9-220(2), MCA; IMP, Sec. 20-9-220, MCA; NEW, 1987 MAR p. 2375, Eff. 12/25/87.)

10.10.204 WARRANTS (1) Warrants issued from the clearing account must equal the total of the amounts transferred to the clearing accounts. The warrants should be issued immediately

~~following the notification to the county treasurer of the amount to be transferred from each fund. (History: Sec. 20-9-220(2), MCA; IMP, Sec. 20-9-220, MCA; NEW, 1987 MAR p. 2375, Eff. 12/25/87.)~~

10.10.205 RECONCILIATION (1) The clearing accounts shall be reconciled each month. The total of the unpaid outstanding warrants outstanding and unpaid payroll liabilities shall equal the cash remaining in each clearing account. ~~An exception may be necessary for quarterly payroll obligations not yet paid.~~
AUTH: 20-9-102, 20-9-201 AND 20-9-220, MCA
IMP: 20-9-102, 20-9-201, AND 20-9-220, MCA

10.10.206 INSUFFICIENT CASH AVAILABLE (1) If the sum of the cash available in all budgeted funds of the district is insufficient to finance the transfers to the clearing accounts, a warrant must be issued from the depleted budgeted fund(s) for transfer to the clearing accounts. This transfer warrant must be registered by the county treasurer as outlined in 20-9-212(9), MCA.

(2) As an alternative, the district may temporarily abandon use of the clearing accounts, draw warrants against each fund, and register warrants as provided in 20-9-212(9). School districts may also issue revenue anticipation notes through the economic development board of the department of commerce to provide temporary financing to pay warrants issued against budgeted funds. In addition, section 7-6-2701, MCA, allows counties to invest in the registered warrants of school districts.

AUTH: 20-9-102, 20-9-201 AND 20-9-220, MCA
IMP: 20-9-102, 20-9-201, AND 20-9-220, MCA

10.10.207 TRANSFERS-NONBUDGETED FUNDS (1) Transfers to clearing accounts cannot be made from non-budgeted funds in excess of the cash available. Cash available shall include cash on hand and receivables to be collected within thirty (30) days.

AUTH: 20-9-102, 20-9-201 AND 20-9-220, MCA
IMP: 20-9-102, 20-9-201, AND 20-9-220, 20-9-210, MCA

10.10.208 VOIDED WARRANTS (1) If a warrant is subsequently voided, the warrant must be deleted from the payroll or claim accounts¹ account's outstanding warrant list and the cash returned to the fund(s) which had originally transferred the money.

(a) If the voided warrant was issued against the current year's budget, the appropriate expenditure account(s) should be credited in these funds should be reduced by the amount of the voided warrant.

(b) If the voided warrant was issued against a prior year's budget, the appropriate revenue account should be increased by the amount of the voided warrant.

AUTH: 20-9-102, 20-9-201 AND 20-9-220, MCA
IMP: 20-9-102, 20-9-201, AND 20-9-220, MCA

10.10.209 INTEREST EARNED (1) ~~As warrants are written at the same time the monies are transferred, there will be very little, if any, money in the clearing accounts. However, interest earned on the investment of money in the payroll and claims clearing accounts cannot be deposited to the accounts. Clearing accounts such as these cannot earn revenue. The interest earned is distributed back to the funds from which the money is drawn.~~ (1) Interest revenue shall not be recorded in payroll and claims clearing accounts.

(2) Interest earned on the investment of money in payroll and claims clearing accounts shall be added to the regular interest earnings for distribution to the various funds.

AUTH: 20-9-102, 20-9-201 AND 20-9-220, MCA
IMP: 20-9-102, 20-9-201, AND 20-9-220, MCA

RULE III. COST ALLOCATIONS BETWEEN DISTRICTS (1) In the event certain shared costs, such as administrative costs, curriculum coordinator salaries, school psychologist salaries, etc., cannot reasonably be identified directly to either the elementary district or the high school district, the school district administration shall prepare a cost allocation plan for approval by the board of trustees prior to adoption of the final budget. The cost allocation plan should reasonably distribute such costs between districts, consistently from year to year. Shared costs shall be budgeted and accounted for in accordance with the cost allocation plan approved by the board of trustees.

(2) The following allocation bases shall be used to allocate shared costs:

- (a) ANB or enrollment per district;
 - (b) Full Time Equivalent (FTE) staff per district;
 - (c) FTE teaching staff per district;
 - (d) Floor space occupied or space occupied over time per district;
 - (e) Miles driven, student miles driven, driver hours per district;
 - (f) Students served per district;
 - (g) Taxable valuation per district; or
 - (h) Time spent providing services.
- (3) As provided by 20-6-506, MCA, the cost of operating the junior high school must be prorated between the elementary district and the high school district on the basis of the ratio that the number of pupils of their district is to the total enrollment of the junior high school.

(4) As provided by 20-4-401, MCA, whenever a joint board of trustees employs a person as the district superintendent under subsection (2) and (3), the districts shall prorate the compensation provided by the contract of employment on the basis of the number of teachers employed by each district.

AUTH: 20-9-102 AND 20-9-201, MCA
IMP: 20-9-102 AND 20-9-201, MCA

RULE IV STUDENT EXTRACURRICULAR ACTIVITY FUNDS (1) School districts maintaining student extracurricular activity funds may use a separate checking account or the county treasurer as a depository for student funds.

(2) To allow the superintendent of public instruction to comply with reporting requirements by the National Center for Education Statistics of the U.S. Department of Education, school districts shall report all the financial activity relating to student extracurricular activity funds on the annual financial report forms provided by the superintendent of public instruction.

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-102 AND 20-9-201, MCA

RULE V EQUITY TRANSFERS BETWEEN FUNDS (1) Equity transfers are nonrecurring or nonroutine transfers of equity between funds - for example, contributions of working capital to an enterprise fund or an internal service fund from the general fund, subsequent return of all or part of such contributions to the general fund, and transfers of residual balances in obsolete or discontinued funds to the general fund or debt service fund.

(2) Residual equity transfers allowed by statute are as follows:

(a) As provided in section 20-9-443, MCA, when all the bonds and bond interest of any school district have been paid, all moneys remaining and amounts receivable in the debt service fund shall be transferred by the county treasurer and the school district to the general fund of the school district.

(b) As provided in section 20-9-505, MCA, when establishing the nonoperating fund, the trustees shall close each fund except for the debt service fund and miscellaneous programs fund to the non-operating fund.

(c) As provided in section 20-9-508(3), MCA, any money realized by the sale of bonds and remaining to the credit of the building fund after the full accomplishment of the purpose for which the bonds were sold shall be transferred to the debt service fund to be used for the redemption of bonds of such issue.

(d) As provided in section 20-10-147(4), MCA, whenever the trustees of a district maintaining a bus depreciation reserve fund consider it to be in the best interest of the district to transfer any portion or all of the bus depreciation reserve cash balance to any other fund maintained by the district, it shall submit such proposition to the electors of the district. If the transfer is approved by the voters, the district shall record the transfer as a residual equity transfer.

(e) As provided in chapter 11 section 49 of the 1989 special session laws (house bill 28), section 20-3-331, MCA, and 20-6-608, MCA, a district that has a fund balance remaining on June 30, 1990 in the district comprehensive insurance fund shall transfer all account balances remaining to the district general fund.

(3) Obsolete funds no longer used by the district may be

transferred to the general fund upon approval of the superintendent of public instruction.

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-102 AND 20-9-201, MCA

RULE VI BUDGET AUTHORITY FOR CORRECTION OF PRIOR PERIOD EXPENDITURE ERRORS (1) Transactions recorded to correct expenditures reported in a prior year shall be charged against the current year's budget as provided in section 20-9-209(2), MCA.

(2) As provided in section 20-9-208(1), MCA, a budget transfer shall be made from other appropriation item(s) to provide budget authority for corrections of prior period expenditure errors which result in a net reduction to beginning fund balance.

AUTH: 20-9-102 AND 20-9-201, MCA IMP: 20-9-102 AND 20-9-201, MCA

RULE VII BANK ACCOUNTS OR OTHER DEPOSITORIES (1) As provided by 20-9-212 and 20-9-504, MCA, the county treasurer is the custodian and depository of all school district monies except student extracurricular funds. Other bank accounts or depositories outside the control of the county treasurer shall be limited to petty cash accounts, interim depository accounts for school lunch or driver's education fees, and gifts or endowments if such accounts are required by the donor. The county treasurer shall be the custodian for all other school district monies, including gifts, donations, endowments, interlocal agreements, direct federal or state revenues and district administered self-insurance programs.

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-212 AND 20-9-504, MCA

RULE VIII REPLACEMENT WARRANTS (1) When a replacement warrant is issued to replace a lost warrant as provided in 7-7-2104, MCA, or a cancelled warrant as provided in 20-9-223, MCA, the following rules shall apply:

(a) The original warrant shall be removed from the unpaid outstanding warrant list.

(b) The word "duplicate" and phrase "replacement warrant for warrant no. " shall be plainly printed across the face of the warrant.

(c) The school district shall send the county treasurer a letter, including the original indemnity bond if required, stating which warrant number has been lost or cancelled and which warrant number has been issued to replace the lost or cancelled warrant.

(d) The amount of the replacement warrant shall be shown on the list of warrants issued for the month but shall not be included in the total of the warrants issued or in the amounts transferred to the clearing accounts.

AUTH: 20-9-102 and 20-9-201, MCA

IMP: 20-9-102 and 20-9-201, MCA

RULE IX COUNTY INVESTMENT OF SCHOOL DISTRICT FUNDS - PENALTY

(1) As required by 20-9-212, MCA, county treasurers shall invest, within three days of receipt, money received from the basic county tax in support of elementary school foundation programs and money received from the basic special tax in support of high school foundation programs. The taxes must remain invested until one working day before they are distributed to school districts within the county or remitted to the state.

(2) County treasurers shall allocate proportionately to, and deposit investment income received, in the funds established to account for the basic county tax and the basic special tax.

(3) If a county treasurer fails to invest the basic county tax or basic special tax within three days of receipt, the board of trustees may, after informing the county commissioners, require the county treasurer to pay a penalty to the district from county general funds. The amount of penalty to be paid will be calculated using the following formula:

$$\frac{[\text{Taxes Collected} \times 10\%] \times \# \text{ Days Taxes not Invested}}{365 \text{ Days}}$$

(4) The county treasurer shall allocate the penalty payment proportionately to, and deposit it in, the district's funds in the same manner as investment income.

Auth: 20-9-102, MCA

IMP: 20-9-213, MCA

RULE X DISTRIBUTION OF COUNTY-WIDE RETIREMENT FUNDS

(1) The county superintendent of schools shall distribute the cash balance in the county-wide retirement fund to district funds on a monthly basis.

(2) The cash balance in the county-wide retirement fund at fiscal year end must be zero.

Auth: 20-9-102, MCA

IMP: 20-9-213, MCA

RULE XI INTRODUCTION

(1) The 1989 legislature passed house bill 16 which requires that school districts maintain accounting systems based on generally accepted accounting principles (GAAP) and that the superintendent of public instruction adopt rules necessary to implement this requirement. The superintendent of public instruction is authorized to supervise public school financial administration and is required to adopt rules establishing requirements for budgeting and financial administration of public school districts, including accounting and reporting requirements.

(2) This legislation requires the superintendent of public instruction to supervise public school financial administration, including budgeting, accounting and reporting and to provide training, forms and assistance as necessary.

(3) The new legislation also provides that the board of public education may order state and/or county equalization aid withheld from a school district which fails to submit reports or budgets as required by law or rules adopted by the board of public education.

(4) Schools are not required to purchase computer equipment or standard accounting software.

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-201(2), MCA

RULE XII DEFINITION (1) The governmental environment differs markedly from that of business enterprises. Governmental accounting systems and reports and the information they provide will differ accordingly. Thus, a set of generally accepted accounting principles (GAAP) applicable to governmental accounting and reporting has been developed for use by governmental units. These accounting principles are designed to enhance fiscal control, facilitate compliance with GAAP and finance-related legal and contractual requirements and result in financial statements and reports that fulfill many user information needs. GAAP provide uniform minimum standards of and guidelines for financial accounting and reporting. GAAP encompass the conventions, rules and procedures necessary to define accepted accounting practices at a particular time. They include not only broad guidelines of general application, but also detailed practices and procedures.

(2) The primary authoritative source on the application of GAAP to school districts is the Governmental Accounting Standards Board (GASB). The basic accounting principles are explained in detail in the Codification of Governmental Accounting and Financial Reporting Standards published by GASB. In Statement 1, GASB sets forth the authoritative status of the Statements and Interpretations promulgated by financial reporting guidelines contained in the Industry Audit Guide, Audits of State and Local Governments Units (revised edition), issued by the American Institute of Certified Public Accountants (AICPA) in 1986. These pronouncements will remain in force until altered, amended, supplemented, revoked, or superseded by subsequent GASB pronouncements.

(3) To assure school districts comply with GAAP and to clarify application of GAAP when necessary, the superintendent of public instruction establishes uniform accounting and reporting policies for all school districts. This will be accomplished through the issuance of the School Accounting Manual and subsequent updates. In the absence of policy from the superintendent of public instruction, the hierarchy of GAAP set forth in GASB Statement 1 should be followed. This hierarchy is as follows:

1. Pronouncements of the Governmental Accounting Standards Board (GASB);
2. Pronouncements of the Financial Accounting Standards Board (FASB).
3. Pronouncements of bodies composed of expert accountants that follow a due process procedure, including broad distribution of proposed accounting principles for public comment, for the intended purpose of establishing accounting principles or describing existing practices that are generally accepted;

4. Practices or pronouncements that are widely recognized as being generally accepted because they represent prevalent practice in a particular industry or the knowledgeable application to specific circumstances of pronouncements that are generally accepted;

5. Other accounting literature.

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-201(2), MCA

RULE XIII FOCUS OF GENERALLY ACCEPTED ACCOUNTING

PRINCIPLES (1) The primary focus during the implementation of generally accepted accounting principles shall be accounting methods and internal financial reporting.

(2) Each district's accounting methods shall provide information to present fairly and with full disclosure the financial position and results of financial operations of the funds and account groups of the district in conformity with generally accepted accounting principles, except that for budgetary control purposes, encumbrances may be recorded as expenditures in the accounting records.

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-201(2), MCA

RULE XIV SCHOOL ACCOUNTING MANUAL (1) The

superintendent of public instruction shall publish and distribute to each school district an accounting manual which shall be referred to as the School Accounting Manual. Such accounting manual, as now or hereafter amended, shall govern the accounting procedures of each school district and is hereby incorporated into this chapter by this reference. The accounting manual shall prescribe accounting methods and principles to be used by each school district.

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-201(2), MCA

RULE XV BASIS OF ACCOUNTING (1) All school districts

will use the generally accepted basis of accounting for each fund as set forth by the Governmental Accounting Standards Board to measure the district's financial position and results of financial operations. School districts shall be permitted to maintain the accounting system on the cash basis during the year. However, all adjusting entries required to convert the accounting system to the modified accrual or full accrual basis of accounting must be recorded prior to the year-end closing of the accounts.

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-201(2), MCA

RULE XVI CLOSING PERIOD (1) The time period used after

June 30th to determine the actual or estimated amount of all accruals, deferrals, and necessary adjustments existing as of June 30th shall be known as the "closing period."

(2) As required by 20-9-213, MCA, every transaction will be recorded in the appropriate account before the accounts are closed at the end of the fiscal year in order to properly report the receipt, use, and disposition of all money and property for which the district is accountable.

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-201(2), MCA

RULE XVII STANDARD CHART OF ACCOUNTS (1) For reporting purposes, a standard chart of accounts will be used by all school districts as prescribed by the superintendent of public instruction. The chart of accounts will be in substantial conformity to the chart of accounts as presented in Financial Accounting for Local and State School Systems published by the National Center for Education Statistics. School districts shall not maintain funds or accounts that are not included in the standard chart of accounts.

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-201(2), MCA

RULE XVIII FIXED ASSET INVENTORY (1) All school districts shall maintain fixed asset inventory records to allow reporting of fixed assets in conformity with generally accepted accounting principles no later than June 30, 1993. Earlier implementation is recommended and strongly encouraged.

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-201(2), MCA

RULE XIX COUNTY TREASURER'S FINANCIAL REPORTS (1) As provided by 20-9-212, MCA, the county treasurer's monthly report shall include an itemized report for each fund maintained by the district showing the paid warrants, registered warrants, amounts and types of revenue received, and the cash balance.

(2) The county treasurer's monthly report will also include information on investments, bonds and interest paid, and taxes receivable by type, year and by fund or district. The county treasurer's report for June 30th should include accrued interest receivable by fund and the amount of unpaid outstanding bonds and matured interest payable.

(3) Every month each school district shall reconcile ending cash, investments, cash receipts and cash disbursements reported by the county treasurer with the district's records for all funds. Any differences shall be documented and adjustments to the school district or county treasurer's records made as necessary.

(4) Before closing the accounts for each fiscal year, each school district shall reconcile ending cash, investments, taxes receivable balances, accrued interest receivable, unpaid outstanding bonds, and matured interest payable reported by the county treasurer with the district records for all funds. Significant cash differences shall be explained in the annual financial reports submitted to the superintendent of public instruction. Adjustments to the school district records shall be made prior to closing the accounts. Adjustments to the county treasurer's records shall be made as necessary in the next fiscal year.

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-121, 20-9-212, 20-9-442 MCA

RULE XX FINANCIAL REPORTS FILED WITH THE SUPERINTENDENT OF PUBLIC INSTRUCTION (1) Monthly, quarterly, and annual financial reports shall be prepared by the administration of

each school district and the county superintendent of schools as required and on the forms provided by the superintendent of public instruction. If a district or county superintendent chooses to generate their own forms, they will be accepted only if format and color coding duplicate the pre-printed forms provided by the superintendent of public instruction.

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-102 AND 20-9-201, MCA

RULE XXI WITHHOLDING OF STATE EQUALIZATION AID (1)

According to section 20-9-344(3), MCA, the board of public education may order the superintendent of public instruction to withhold distribution of state equalization aid, and may order the county superintendent of schools to withhold county equalization aid, from a district when the district fails to submit reports or budgets as required by law or rule.

(2) The purpose of withholding a district's equalization aid is to ensure that required reports and budgets are prepared properly and are submitted timely. Therefore, the office of public instruction will notify the board of public education if a district or county repeatedly fails to submit reports or budgets:

(a) in accordance with prescribed deadlines, or

(b) that have been prepared incorrectly,

including reports and budgets that are necessary for the office of public instruction to determine the district's equalization aid entitlement or are necessary for the office of public instruction to monitor a district's compliance with statutory restrictions.

(3) The superintendent of public instruction may extend a district or county report or budget due date for "reasonable cause." "Reasonable cause" exists for an extension if the district or county exercised ordinary business care and prudence and was nevertheless unable to prepare and submit the report or budget properly and within the prescribed time. What constitutes the exercise of ordinary business care and prudence must be determined by the facts of a particular case. The existence of "reasonable cause" will be determined on a case by case basis at the discretion of the superintendent of public instruction.

(4) Examples of "reasonable cause" for failure to properly prepare and submit a required report or budget on the date required include:

(a) where the delay was caused by death or extended illness of a person integral to the preparation of the report or budget;

(b) where the delinquency was caused by the destruction by fire or other casualty of the district or county's business records.

(5) The examples stated in subsection (4) are for illustration only. Other reasonable causes may exist for failure to prepare properly and submit timely a required report or budget.

(6) The following are examples which do not constitute reasonable cause for failure to prepare properly and submit timely a required report or budget:

(a) forgetfulness or inadvertence on the part of a district's or county's employee or professional preparer;

(b) the advent of new laws, regulations, or administrative rules;

(c) inability of a district or county to secure competent help in sufficient time to cope with the workload;

(d) failure to secure the proper forms;

(e) failure to attend training in the preparation of required reports and budgets;

(f) ignorance of the law; and

(g) failure to obtain the data necessary to complete the report or budget form where such data can be reasonably estimated.

(7) The examples in subsection (6) are for illustration only. Other circumstances may exist which do not constitute reasonable cause for submitting improperly prepared or untimely reports or budgets.

(8) Upon discovery that a report or budget has not been submitted or has not been prepared properly, the office of public instruction will notify the district clerk, the board of trustees, and the county superintendent of the specific violation(s). If the report is a county report, the county treasurer and county commissioners will also be notified.

(9) The district, and the county if notified, will have five (5) working days to respond to the office of public instruction's notice. Failure of the district or county to respond within five working days of receiving the office of public instruction's notice will result in the office of public instruction immediately notifying the Board of Public Education.

(10) The district or county's response must include the reason why the required report or budget was not submitted in time and/or was prepared improperly. The response must request an extension of the report's due date and state the date when the properly completed report or budget will be submitted to the office of public instruction. In no case, will a date more than 35 calendar days from the report's or budget's original due date be approved.

(11) The office of public instruction will determine whether "reasonable cause" exists for the extension and will notify the district within five (5) working days of receiving their request whether or not the extension is approved.

(12) If a district's state or county equalization aid is withheld because district or county reports or budgets were not submitted to the office of public instruction as required by law or rule, the office of public instruction will notify the board of public education and the district when such reports are received and all reporting requirements have been met and will request approval from the board to release withheld state equalization aid.

(13) Upon receiving approval from the board, the office of public instruction will release any state equalization moneys

being held from the district with the next regular distribution of state equalization aid.

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-344, MCA

RULE XXII FUNDING ADJUSTMENTS FOR PRIOR/CURRENT YEAR REPORTING ERRORS (1) The office of public instruction conducts several checks on the accuracy of data reported by trustees, county treasurers, county superintendents of schools and school districts. If errors are found in data reported as a result of these checks, or if an error is brought to the office of public instruction's attention by the district, county or another outside party, the office of public instruction will require an amended report or budget to be submitted and will make any necessary adjustment to the district's prior year and/or current year state equalization aid payments. ADJUSTMENTS TO GUARANTEED TAX BASE AID PAYMENTS DUE TO PRIOR/CURRENT YEAR REPORTING ERRORS ARE DISCUSSED IN CHAPTER 45.

(2) Regardless of the year the report or budget error occurred, whenever possible any resulting adjustment to the district's state equalization aid will be made in the year the error is discovered. The adjustment will be made by increasing or decreasing, as appropriate, current year state equalization aid payments remaining to be distributed to the district.

(3) If the amount remaining to be distributed to the district in the current year is less than the amount of an adjustment decreasing the district's state equalization aid, the balance of the adjustment will be made by reducing state equalization aid payments to the district in the following year or years until all over distributions of State monies have been recovered.

(4) The superintendent of public instruction may require a district to provide reasonable documentation supporting the amount of additional state equalization aid to be distributed to the district due to errors in financial or ANB data reported in the prior or current year. Examples of reasonable supporting documentation include copies of district accounting records, copies of county accounting records and official audit opinions.

AUTH: 20-9-102 AND 20-9-201, MCA

IMP: 20-9-344 (5), MCA

10.16.1314 FORMULA FOR SPECIAL EDUCATION TUITION RATES (EFFECTIVE FROM ADOPTION THROUGH JUNE 30, 1991) (1) The following formula shall be used by school districts ~~in to calculating calculate~~ maximum special education tuition rates. The source of data shall be the immediate past year ~~derived from trustees' annual financial report and pupil data reports used for the current year budgeted ANB budget.~~

(a) The calculation of special education tuition at the kindergarten, elementary and high school levels shall not exceed the actual costs incurred.

(b) In the event that the school district has a 100% special education enrollment, then ADA (average daily attendance) shall be used in place of ANB and ARM 10.16.1312 does not apply. The calculation procedure shall be the same as ~~for non-handicapped students~~ regular tuition.

	IN COUNTY	OUT OF COUNTY
(c) Formula:		
(i) Elementary tuition — Regular—		
1. Fund 101 Expenditures (last FY)		
2. Fund 114 Expenditures (last FY)	XXXXXXX	
3. Fund 150 Expenditures (last FY)		
4. Total (line 1 + 2 + 3)		
5. ANB (current FY budgeted)		
6. Line 4 divided by line 5		
7. Fund 101-2110 Co-county equalization revenue (last FY) (Revenue Code 101-2110)		
8. Fund 101-3119 State Equalization Revenue (last FY) (Revenue Code 101-3110)		
9. Fund 101-3120 State Permissive Revenue (last FY) (Revenue Code 101-3120)		
10. Total (line 7 + 8 + 9)		
11. Line 10 divided by line 5		
12. <u>Regular Tuition - Elementary</u> (Line 6 minus line 11) (reg. rate)		
Special Education Tuition Rate		
13. Mod. handic. rate (line 12 x-2 doubled)		
14. Plus EHA Part B flow through per student rate (current year)		
15. Mod. handic. rate (line 13+14)		
16. Severe handic. rate (line 12 x-3 tripled)		
17. Plus EHA Part B flow through per student rate (current year)		
18. Severe handic. rate (line 16 + 17)		
19. Prof. handic. rate (line 12 x-4 quadrupled)		
20. Plus EHA Part B flow through per student rate (current year)		
21. Prof. handic. rate (line 19 + 20)		
Kindergarten (1/2 day program)		
22. Regular tuition (1/2 line 12)		
23. Mod. handic. rate (1/2 line 15)		
24. Severe handic. rate (1/2 line 18)		
25. Prof. handic. rate (1/2 line 21)		
(ii) High School Tuition — Regular		
1. Fund 201 Expenditures (last FY)		
2. Fund 214 Expenditures (last FY)	XXXXXXX	
3. Fund 250 Expenditures (last FY)		
4. Total (line 1 + 2 + 3)		
5. ANB (current FY budgeted)		
6. Line 4 divided by line 5		
7. Fund 201-2110 Co-county Equalization Revenue		

(last FY) (Revenue Code 201-2110)

8. ~~Fund 201-3119~~ State Equalization Revenue

(last FY) (Revenue Code 201-3110)

9. ~~Fund 201-3120~~ State Permissive Revenue

(last FY) (Revenue Code 201-3120)

10. Total (line 7 + 8 + 9)

11. Line 10 divided by line 5

12. Regular Tuition - High School

(Line 6 minus line 11) ~~(reg. rate)~~

Special Education Tuition Rate

13. Mod. handic. rate

(line 12 ~~x-2~~ doubled)

14. Plus EHA Part B flow through per student rate (current year)

15. Mod. handic. rate (line 13+14)

16. Severe handic. rate

(line 12 ~~x-3~~ tripled)

17. Plus EHA Part B flow through per student rate (current year)

18. Severe handic. rate (line 16 + 17)

19. Prof. handic. rate

(line 12 ~~x-4~~ quadrupled)

20. Plus EHA Part B flow through per student rate (current year)

21. Prof. handic. rate (line 19 + 20)

(d) Nothing within the rules for calculating the maximum regular special education tuition rates shall prevent districts from agreeing to lesser rates. AUTH: Secs. 20-5-305, 20-5-312, MCA; IMP, Secs. 20-5-305, 20-5-312, MCA;

10.16.1314 FORMULA FOR SPECIAL EDUCATION TUITION RATES (EFFECTIVE JULY 1, 1991*) (1) The following formula shall be used by school districts to calculate maximum special education tuition rates. The source of data shall be the immediate past year trustees' annual financial report and pupil data reports used for the current year budget.

(a) The calculation of special education tuition at the kindergarten, elementary and high school levels shall not exceed the actual costs incurred.

(b) In the event that the school district has a 100% special education enrollment, then ADA (average daily attendance) shall be used in place of ANB and ARM 10.16.1312 does not apply. The calculation procedure shall be the same as for ~~non-handicapped students~~ regular tuition.

	<u>In</u>	<u>Out of</u>
	<u>County</u>	<u>County</u>

(c) Formula:

(i) Elementary tuition

1.	Fund 101 Expenditures (last FY)		
2.	Fund 114 Expenditures (last FY)	XXXXXXX	
3.	Fund 150 Expenditures (last FY)		
4.	Total (line 1 + 2 + 3)		
5.	ANB (current FY budgeted)		
6.	Line 4 divided by line 5		
7.	County Equalization revenue (last FY) (REVENUE CODE 101-2110)		
8.	State Equalization Revenue (last FY) (REVENUE CODE 101-3110)		
9.	State Permissive Revenue <u>Guaranteed Tax Base Aid</u> (Last FY) (Revenue Code 101-3120)		
10.	Total (line 7 + 8 + 9)		
11.	Line 10 divided by line 5		
12.	Regular Tuition - Elementary Line 6 minus line 11		

Special Education Tuition Rate

13.	Mod. handic. rate (line 12 doubled)		
14.	Plus EHA Part B flow through per student rate (current year)		
15.	Mod. handic. rate (line 13+14)		
16.	Severe handic. rate (line 12 tripled)		
17.	Plus EHA Part B flow through per student rate (current year)		
18.	Severe handic. rate (line 16 + 17)		
19.	Prof. handic. rate (line 12 quadrupled)		
20.	Plus EHA Part B flow through per student rate (current year)		
21.	Prof. handic. rate (line 19 + 20)		

Kindergarten (1/2 day program)

22.	Regular tuition (1/2 line 12)		
23.	Mod. handic. rate (1/2 line 15)		
24.	Severe handic. rate (1/2 line 18)		
25.	Prof. handic. rate (1/2 line 21)		

		In County	Out of County
(ii) High School Tuition			
1.	Fund 201 Expenditures (last FY)		
2.	Fund 214 Expenditures (last FY)	XXXXXXX	
3.	Fund 250 Expenditures (last FY)		
4.	Total (line 1 + 2 + 3)		
5.	ANB (current FY budgeted)		
6.	Line 4 divided by line 5		
7.	County Equalization revenue (last FY) (Revenue Code 201-2110)		
8.	State Equalization Revenue		

- (last FY) (Revenue Code 201-3110) _____
9. ~~State Permissive Revenue~~ _____
~~Guaranteed Tax Base Aid~~ (Last FY) _____
(Revenue Code 201-3120) _____
10. Total (line 7 + 8 + 9) _____
11. Line 10 divided by line 5 _____
12. Regular Tuition - High School _____
Line 6 minus line 11 (reg. rate) _____

Special Education Tuition Rate

13. Mod. handic. rate _____
(line 12 doubled) _____
14. Plus EHA Part B flow through per _____
student rate (current year) _____
15. Mod. handic. rate (line 13+14) _____
16. Severe handic. rate _____
(line 12 tripled) _____
17. Plus EHA Part B flow through per _____
student rate (current year) _____
18. Severe handic. rate (line 16 + 17) _____
19. Prof. handic. rate _____
(line 12 quadrupled) _____
20. Plus EHA Part B flow through per _____
student rate (current year) _____
21. Prof. handic. rate (line 19 + 20) _____

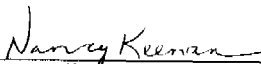
[*ALTHOUGH THE NEW TUITION CALCULATION IDENTIFIED IN 20-5-312, MCA IS EFFECTIVE JULY, 1, 1990, THE FINAL STATE ASSISTANCE FOR THE GUARANTEED TAX BASE SUBSIDY WILL NOT BE KNOWN UNTIL THE FOLLOWING FISCAL YEAR.]

(d) Nothing within the rules for calculating the maximum regular special education tuition rates shall prevent districts from agreeing to lesser rates. AUTH: Secs. 20-5-305, 20-5-312, MCA; IMP, Secs. 20-5-305, 20-5-312, MCA

3. The Office of Public Instruction is required by statute to adopt these rules in order to implement HB 16 (GAAP).

4. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written testimony may be submitted to the Office of Public Instruction, State Capitol, Helena, MT 59620, Attention: Kathy Fabiano, until 5:00 p.m. March 22, 1990.

5. Bada Lovitt, Chief Legal Counsel, Office of Public Instruction, has been designated to preside over and conduct the hearing.



Nancy Keenan,
Superintendent of Public Instruction

Certified to the Secretary of State on February 12, 1990.

BEFORE THE OFFICE OF THE WORKERS' COMPENSATION JUDGE
OF THE STATE OF MONTANA

In the matter of	)	NOTICE OF PROPOSED
the amendment, repeal	)	AMENDMENT OF RULES
and adoption of	)	ARM 24.5.101, 24.5.301,
procedural rules.		24.5.303, 24.5.308,
		24.5.309, 24.5.310,
		24.5.316, 24.5.317,
		24.5.318, 24.5.322,
		24.5.323, 24.5.324,
		24.5.330, 24.5.331,
		24.5.343, 24.5.344,
		24.5.348, and 24.5.350;
		PROPOSED REPEAL OF RULE
		24.5.359; and PROPOSED
		ADOPTION OF NEW RULES
		I AND II. (No public
		hearing is contemplated)

TO: All interested Persons.

1. On March 26, 1990, the Office of the Workers' Compensation Judge proposes to amend, repeal and adopt new procedural rules of the Court.

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

24.5.101 ORGANIZATION RULE (1) Organization of the Office of the Workers' Compensation Judge.

(a) History Same as existing rule.

(b) Workers' Compensation Judge The workers' compensation judge is appointed by statute for a six-year term of office and granted all of the privileges and other emoluments afforded a district judge. The office of the workers' compensation judge is attached to the department of administration labor and industry for administrative purposes only and is expressly authorized to hire its own personnel.

(c) Workers' Compensation Court. To carry out the legislative intent, the office of the workers' compensation judge was organized and functions along the lines of the district court, except that it is not bound by common law and statutory rules of evidence for injuries which occurred prior to July 1, 1987. and The court follows the appropriate provisions of the Montana Administrative Procedure Act.

(2) Functions of Workers' Compensation Court

(a) Workers' Compensation Same as existing rule.

(b) Occupational Disease Same as existing rule.

(c) ~~Services for Victims of Crime. --- The workers' compensation court acts as an appeal court for all matters~~

~~in Title 53, Chapter 9, MCA, services for victims of crime.~~

(dc) Final Determination Same as existing rule.

(ed) Full and Final Compromise Settlements. For those injuries which occurred prior to July 1, 1987, the judge reviews all orders allowing a full and final compromise settlement of workers' compensation claims that are referred to him and the judge may, within ten days of receipt of an order, disapprove an order allowing a full and final compromise settlement.

(fe) Final Settlement. For an injury which occurred prior to July 1, 1987, if the claimant and insurer cannot agree regarding the rescinding, altering, or amending of a final settlement, the dispute shall be considered a dispute for which the workers' compensation judge has jurisdiction to make a determination; ~~except as provided in 39-71-2906, MCA.~~

(gf) Lump Sum Payments. For an injury which occurred prior to July 1, 1987 if there is if a controversy between a claimant and an insurer regarding the conversion of biweekly payments into a lump sum it is considered a dispute, in which the workers' compensation judge has jurisdiction to make a determination.

(hg) Nominal Disability Awards. For those injuries which occurred prior to July 1, 1987 ~~in cases~~ where it is found that an accident has occurred in the course and scope of employment but no disability has resulted therefrom, the judge may grant nominal disability awards.

(ih) Authority. Upon a petition that the disability of the claimant has changed, the judge may review, diminish, or increase, in accordance with the law on benefits as set forth in Title 39, chapter 71, MCA, any benefits previously awarded by the judge ~~or benefits received by a claimant through settlement agreements.~~ The workers compensation court has the power to: (a) preserve and enforce order in its immediate presence; (b) provide for the orderly conduct of proceedings before it and its officers; (c) compel obedience to its judgments, orders, and process in the same manner and by the same procedures as in civil actions in district court; (d) compel the attendance of persons to testify; and (e) punish for contempt in the same manner and by the same procedures as in district court. The workers' compensation court shall impose an appropriate sanction upon a person, a represented party, or both who files a petition which does not meet the requirements of section 39-71-2914(3), MCA, 1987.

(ji) Costs and Attorney's Fees Same as existing rule.

(j) Recusal of workers' compensation judge. Upon the filing of a petition requesting that a settlement previously reviewed by the judge be set aside on basis of fraud, lack of capacity, mutual mistake or other matters previously reviewed by the compensation judge, the compensation judge shall accept jurisdiction unless an interested party, within twenty days of receipt of notice of the proceeding,

shall show good cause for the judge to recuse himself. In the event of recusal, either for good cause shown by an interested party or sua sponte because the basis asserted for setting aside the settlement involves matters from the settlement documents previously reviewed, the judge shall require the parties to confer and agree on the names of three district judges or retired judges to be submitted to the compensation judge within ten days of the date of recusal. The compensation judge shall select one of those so named and extend an invitation to assume jurisdiction over the matter. Should the invitation be refused, it shall be extended to another judge or retired judge, on the list, and thereafter to the third judge or retired judge. The selection from the list is in the sole discretion of the compensation judge, until a judge or retired judge agrees to assume jurisdiction over the matter. Once jurisdiction of the case has been assumed under this rule, no further disqualification procedures shall be permitted except as provided in section 3-1-803, MCA.

(3) Information or Submissions Same as existing rule.

(4) Personnel Roster. Addresses for the personnel of the workers' compensation court are as follows:

(a) Same as existing rule.

(b) Same as existing rule.

(c) Same as existing rule.

(d) Court Reporter, Workers' Compensation Court, 46 North First Chance Gulch, P.O. Box 537, Helena, Montana 59624.

(5) Chart of Workers' Compensation Court Organization. Same as existing rule.

AUTH: Sec. 2-4-201, MCA IMP: 2-4-201, MCA

24.5.301 PETITION FOR TRIAL (1) All requests for trial before the workers' compensation court shall be in petition form, and signed by petitioner or his attorney. The petition shall comply with ARM 24.5.303(5). Upon request, the court will provide a form which can be used as a petition. The petition shall include the following information:

(a) The date and a description of the accident;

(b) The county where the accident occurred; and a request for venue; other than as set forth in ARM 24.5.310 (3) and (5);

(c) Same as existing rule.

(d) For accidents occurring before July 1, 1987, a statement to the effect that the parties have made an effort to resolve the dispute, but have been unable to do so;

(e) For accidents occurring on or after July 1, 1987, a statement that the mediation provisions set forth in section 39-71-2411, MCA, have been complied with; Reference to every particular section of the Montana code annotated

~~and the rules in the administrative rules of Montana that are involved in the dispute;~~

(f) Same as existing rule.

(g) The identity of the attorney representing the petitioner, if any, including the attorney's name, address and telephone number, must appear in the upper left hand corner of the first page;

(h) A list of individuals who are potential witnesses for the petitioner and a short summary of the information known by each individual;

(i) A list of written documents relating to the claim which may be introduced as evidence by the petitioner;

~~(h)(j)~~ Same as existing rule.

(2) There is no filing fee. Petitions and all other materials are to be filed with the Clerk of Court at 46 North Last Chance Gulch, P.O. Box 537, Helena, Montana 59624. The party should file an original and five copies of the petition as many copies of the petition as are necessary to serve the adverse parties and furnish a copy to the administrator of the division of workers' compensation; and should indicate the names and addresses of all adverse parties to be served. The clerk will issue a receipt for each document filed. Failure to comply with subsections (1) and (2) of this rule will result in the document being returned to the petitioner. AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

24.5.303 SERVICE (1) The court will serve the furnished copies of the petition upon adverse parties and others, as designated in the petitioner's instructions, by mailing them at Helena, Montana, with first class postage prepaid unless the petitioner or defendant is an unrepresented claimant in which event the petition will be mailed to such claimant by certified mail with return receipt requested. The petitioner is responsible for providing correct names and addresses of all parties to be served.

(2) Same as existing rule.

(3) Same as existing rule.

~~(4) All material required by these rules, or other order, to be filed with the court, must be placed in the custody of the clerk within the time fixed for filing. Filing~~ Unless the court specifically orders otherwise, filing with the court may be accomplished by mail addressed to the clerk, and such filing will be deemed complete on the date shown on the certificate of mailing. but filing shall not be timely unless the papers are actually received within the time fixed for filing.

(5) All pleadings and documents filed with the court shall be typewritten or legibly printed on eight and one-half by eleven inch paper.

(6) Every pleading, motion, or other paper of a party represented by an attorney shall be signed by at least one

attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his pleading, motion, or other paper and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

24.5.308 JOINING THIRD PARTIES (1) Same as existing rule.

(2) A request to join a third party may be made at any time up to twenty days prior to trial. A request to join a third party may be made at any time prior to trial. The request shall be served on all parties and filed with the court, together with the proposed third party petition and copies sufficient for service by the clerk upon the party sought to be joined. Service by the clerk shall be in accordance with ARW-24-5-303-(1) and shall be accompanied by an order and notice setting time and place for hearing upon such request.

(3) If the joinder of a third party results in the trial being vacated and good cause is shown, the court must order that the insurance company on risk at the time of the accident alleged by the claimant to be responsible for his disability to pay benefits pending the trial. That insurer has a right to seek indemnity from the responsible insurer if it is later determined that it was not responsible.

AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

24.5.309 INTERVENTION (1) Anyone may request move to intervene and become a party in a matter that is set for trial before the court. The applicant requesting party moving for intervention shall serve a copy of the motion to

intervene and supporting brief or affidavit upon all parties. The motion shall state the grounds upon which intervention is sought. Any party to the dispute shall have ten days following service to file an answering brief. The court, in its discretion, will determine whether or not to allow intervention ~~of the applicant upon consideration of the factors set forth in ARM 24.5.308 (1); and shall notify the applicant and all parties of its decision.~~ AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

24.5.310 TIME AND PLACE OF TRIAL GENERALLY (1) ~~for the purpose of setting trials, the court has divided the year into four terms of three months each, designated as the June term, September term, December term, and March term.~~

(2)(1) The court has divided the state into nine ~~six~~ geographic areas ~~(subsection (5) of this rule).~~ Except ~~for emergency trials (ARM 24.5.311) or~~ upon stipulation of all parties and consent of the court or at the court's own discretion to hold trials elsewhere, trials will be held ~~at the time and in the place designated in subsections (3) and (4) of this rule.~~

(3) ~~Court will be in session at the call of the court. The court will not convene in an area where no petition has been filed. Cases will be heard beginning the first full week during the September and March terms in the area cities at the following times, subject to any exceptions the court may make:~~

- (a) Butte area, first and second weeks;
- (b) Miles City area, third week;
- (c) Billings area, fourth and fifth weeks;
- (d) Glasgow area, sixth week;
- (e) Great Falls area, seventh and eighth weeks;
- (f) Bozeman area, ninth week;
- (g) Missoula area, tenth and eleventh weeks;
- (h) Helena area, twelfth week;
- (i) Kalispell area, thirteenth week.

~~During the December term, trials will be held in Helena, subject to any exceptions the court may make. During the June term, trials may be held in any location set by the court.~~

(4)(2) Unless otherwise ordered, trials will commence on Monday of the week set for trial. The court will convene in each area four times per year unless good cause to cancel a trial term exists. Court will be in session or recess at the convenience of the court. The court will regularly prepare a schedule which sets deadlines, the dates for pretrials and trials and the location of the pretrials or trials in each area. If all matters before the court are not completed on the first day scheduled for trials, the court will reconvene on the following and as many days thereafter as are necessary to complete the docket. The court will not convene in an area where a petition has not been filed.

(5)(3) Each of the ~~nine~~ six areas designated for trial schedule purposes is named for the principal city in the counties making up the area as follows:

(a) Kalispell area:

(i) Flathead and Lincoln

(ii)---~~Lincoln~~

(b) Missoula area:

(i) Lake, Mineral, Missoula, Ravalli and Sanders

(ii)---~~Mineral~~

(iii)---~~Missoula~~

(iv)---~~Ravalli~~

(v)---~~Sanders~~

(c) Butte area:

(i) Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Powell, Silver Bow, Gallatin, Park, Sweet Grass and Wheatland

(ii)---~~Deer-Lodge~~

(iii)---~~Granite~~

(iv)---~~Jefferson~~

(v)---~~Madison~~

(vi)---~~Powell~~

(vii)---~~Silver-Bow~~

(d) Bozeman-area:

(i)---~~Gallatin~~

(ii)---~~Park~~

(iii)---~~Sweet-Grass~~

(iv)---~~Wheatland~~

(e)(d) Billings area:

(i) Big Horn, Carbon, Golden Valley, Musselshell, Petroleum, Stillwater, Treasure, Yellowstone, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Wibaux, Daniels, Garfield, Phillips, Roosevelt, Sheridan and Valley

(ii)---~~Carbon~~

(iii)---~~Golden-Valley~~

(iv)---~~Musselshell~~

(v)---~~Petroleum~~

(vi)---~~Stillwater~~

(vii)---~~Treasure~~

(viii)---~~Yellowstone~~

(f) Miles-City-area:

(i)---~~Carter~~

(ii)---~~Custer~~

(iii)---~~Dawson~~

(iv)---~~Fallon~~

(v)---~~McCone~~

(vi)---~~Powder-River~~

(vii)---~~Prairie~~

(viii)---~~Richland~~

(ix)---~~Rosebud~~

(x)---~~Wibaux~~

(g) Glasgow-area:

(i)---~~Daniels~~

(ii)---Garfield
(iii)---Phillips
(iv)---Roosevelt
(v)---Sheridan
(vi)---Valley

(f)(e) Great Falls area:

(i) Blaine, Cascade, Chouteau, Fergus, Glacier,
Hill, Judith Basin, Liberty, Pondera, Teton and
Toole

(ii)---Cascade
(iii)---Chouteau
(iv)---Fergus
(v)---Glacier
(vi)---Hill
(vii)---Judith-Basin
(viii)---Liberty
(ix)---Pondera
(x)---Teton
(xi)---Toole

(f)(f) Helena area:

(i) Broadwater, Lewis and Clark and Meagher

(ii)---Lewis-and-Clark

(iii)---Meagher

(6)(4) Upon receipt a petition regarding a dispute and meeting the requirements of these rules, the court will set a trial in the area where the accident occurred and at the time and in the place designated in subsections (3) and (4) of this rule and at a time that will allow sixty days notice to be given of the trial. The court may, for good cause, hold a trial over to the next regular trial date in or for the area.

(7)(5) For petitions filed for an injury which occurred on or after July 1, 1987, and as provided by law, the sixty days notice requirement set forth in ARM 24.5.310 (6)(4) does not apply if the parties have completed the mediation proceedings required by statute or if an appeal is filed from a final division department order.

(8)(6) Following the completion of the mediation procedures by the department of labor and industry and upon the taking of an appeal from a final division department order, all time deadlines to comply with the procedural rules of the court shall be set by the court on an individual case basis.

AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

24.5.316 PRETRIAL MOTIONS (1) Pretrial-m Motions to amend a pleading, to dismiss, to quash or for other summary ruling shall be filed in writing on or before the date set for pretrial conference, unless allowed at a later time for good cause shown. Upon filing such motion, the moving party shall also file a supporting brief or affidavit, and failure to do so shall be deemed an admission that the motion is without merit. An adverse party shall have ten

days following service of the motion within which to file an answering brief or affidavit. Failure to file an answering brief may be deemed an admission that the motion has merit. A reply brief may be filed no later than five (5) days from the date of service of the answer of the adverse party. Unless otherwise ordered, oral argument will not be permitted upon pretrial motions.

(2) Same as existing rule.

(3) Nothing in this rule shall be construed to preclude the filing or presentation of motions related to matters of discovery or evidence at any time, or for summary ruling at the conclusion of trial. Summary ruling in this context refers to ruling by the trier of fact that the substantial and credible evidence of record permits only one determination of a contested issue or issues presented to the court, and does not refer to bench rulings, which are governed by ARM 24.5.335, rather than this rule. AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

24.5.317 MEDICAL RECORDS (1) Prior to any scheduled trial, the parties shall exchange all medical records based upon examination of the claimant. ~~Failure to exchange such materials on a timely basis before trial~~ any medical records, whether or not based on an examination, by the exchange deadline shall preclude its use at trial, except for good cause as set forth in subsection (4). ~~Medical records will only be accepted by the court as evidence if stipulated to by the parties or by the laying of proper foundation.~~

(2) Medical records based on an examination of the claimant and exchanged by the parties or their attorneys by the exchange deadline are admissible without the necessity of foundation testimony. A party may object to those reports being admitted into evidence and the objecting party will be allowed to depose or subpoena the author of any such records for purposes of cross-examination. An objecting party may subpoena the author for trial, or deposition before or subsequent to the trial.

(3) Subsection (2) applies only to admissibility. All other objections, such as relevance and materiality, are preserved and may be raised as in any other proceeding.

(4) Medical records exchanged after the exchange deadline may be admitted into evidence only if stipulated to by the parties, or by the laying of the proper foundation by the proponent of the record. Upon proper motion and for good cause shown, the court, in its discretion may permit a post trial deposition under this section.

AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

24.5.318 PRETRIAL CONFERENCE AND ORDER (1) Same as existing rule.

(2) Same as existing rule.

~~(3) At the time of the pretrial conference, all parties shall exchange written statements of:~~

- ~~(a) proposed uncontested facts;~~
- ~~(b) contentions of fact;~~
- ~~(c) significant or unique questions of law;~~
- ~~(d) exhibits;~~
- ~~(e) witnesses; and~~
- ~~(f) other matters to be included in the pretrial order.~~

~~(4) In the discretion of the court in appropriate circumstances, a pretrial conference may be conducted by a telephone conference call. If a pretrial conference is to be conducted by a conference call, the parties must file with the court and serve upon opposing counsel written statements as provided in subsection (3) of this rule prior to the date of the conference call. Copies of all proposed exhibits known by the parties must also be exchanged prior to the conference call. At the time of the conference the court will rely on the information included in the petition for trial and the response to petition. A party may supplement its list of witnesses and exhibits up to the exchange deadline.~~

~~(4) Oral motions may be made and argued during the pretrial conference, and when appropriate will be ruled on by the hearing examiner.~~

(5) The court shall designate one of the parties to prepare a pretrial order which recites the actions taken at the pretrial conference. This pretrial order must be signed by both all parties and submitted to the court for approval. The pretrial order shall supersede all other pleadings and shall set forth the following:

(a) Same as existing rule.
(b) motions made by either any party; if ruled on at the pretrial conference, the disposition;

(c) Same as existing rule.
(d) Same as existing rule.
(e) Same as existing rule.
(f) Same as existing rule.
(g) identification of all exhibits to be offered by a party. Exhibits which are stipulated into evidence, shall be attached to the final pretrial order, known to the parties at the time of the pretrial conference which may be introduced, whether stipulated to or not, including the approved attorney-fee agreement;

(h) Same as existing rule.
(i) Same as existing rule.
(j) estimated length of trial, and the time and place for trial.

~~(6) Unless some other schedule is set at the pretrial conference, the final draft of the proposed pretrial order shall be mailed by the party designated to prepare same to the opposing parties within ten (10) days of the pretrial conference. Opposing parties must mail the pretrial order for filing within five (5) days of receipt of same. Addi-~~

~~tional time may be granted either party by the hearing examiner upon oral application without notice to the adverse party.~~

(76) Amendments to the pretrial order shall be allowed by either stipulation of the parties or leave of court for good cause shown.

AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

24.5.322 DEPOSITIONS (1) Any party may take the testimony of any person, including a party, by deposition upon oral examination ~~prior to trial~~ after the petition has been filed. Leave of court, granted with or without notice, must be obtained only if the claimant seeks to take a deposition prior to the expiration of ~~ten~~ twenty-three days from the date of filing of the petition. The attendance of witnesses may be compelled by subpoena as provided by ARM 24.5.331.

(2) Same as existing rule.

(3) Same as existing rule.

(4) Same as existing rule.

(5) Examination and cross-examination of witnesses may proceed as permitted at the trial. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other reliable means. If requested by one of the parties, the testimony shall be transcribed.

Unless otherwise agreed, all objections must be made at the time of taking the deposition and be included within the transcript of the deposition. Evidence objected to shall be taken subject to the objections. Objections and objections to evidence made at the time of the deposition must be presented to the court at the time of trial for a ruling. Failure to do so will be deemed a withdrawal of the objection.

(6) Same as existing rule.

(7) Same as existing rule.

(8) Unless the court orders otherwise, the parties, by written stipulation, or by stipulation entered upon the record of a deposition, may provide that depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions.

(89) Regardless of the availability of a witness or party to testify at trial, the circumstances of workers' compensation cases makes it desirable, in the interest of justice, that a deposition of a witness or a party may be used by any party for any purpose unless the court restricts such usage upon a finding that the interests of justice would be served thereby. AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

24.5.323 INTERROGATORIES (1) A party may serve upon an adverse party, at any time after the filing of a petition, a trial has been set, written interrogatories to be answered by the party served. The answers shall be signed by the person making them, and the party upon whom the interrogatories have been served shall serve a copy of the answers on the party submitting the interrogatories and on the court within twenty days after the service of the interrogatories, unless the court lengthens or shortens the time.

In no event shall answers be due in less than thirty days from the filing of the petition.

(2) No party shall serve on any other party more than twenty interrogatories in the aggregate, inclusive of subparts. Subparts of any interrogatories shall relate directly to the subject matter of the interrogatory. Any party desiring to serve additional interrogatories shall file a written motion setting forth the proposed additional interrogatories and the reasons establishing the necessity for their use.

(23) Same as existing rule.

(34) Same as existing rule.

AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

24.5.324 MOTIONS TO PRODUCE (1) A party may serve upon an adverse party any time after the filing of a petition a trial has been set a request:

(a) to produce and permit the party making the request, or his agent, to inspect and copy any designated documents or records, or to copy, test, or sample any tangible things, which may be relevant and which are in the possession, custody or control of the party upon whom the request is served; or

(b) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the limits of relevancy.

(2) The party upon whom the request is served shall serve a written response within twenty days after service of the request. The court may allow a longer or shorter time. In no event shall a response be due in less than thirty days from the filing of the petition. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. For a partial objection the part shall be specified.

(3) If the request is for production of the file of a party and objection is made to such production, the objection will be ruled on only after an in camera inspection of such file upon the following conditions:

(a) Counsel for the objecting party shall number each document in the file;

(b) Counsel for the objecting party shall identify all documents he will concede are not privileged and further classify them on the basis of whether they are relevant or irrelevant (and if objected to on that basis);

(c) Counsel for the objecting party shall classify all the remaining documents on the basis of whether each is privileged under the attorney-client privilege, the work-product rule, or both;

(d) Counsel for the objecting party shall support his classification of the documents he asserts are privileged with special emphasis on why material purportedly within the ordinary, as opposed to opinion, work-product rule is either:

(i) not substantially needed by the opposing party; or
(ii) if substantially needed by the opposing party, is material he can obtain without undue hardship by other means.

(34) Same as existing rule.

AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

24.5.330 VACATING AND RESETTING PRETRIAL CONFERENCE OR TRIAL (1) The pretrial conference or trial may be vacated. A request to vacate and reset a trial must be in writing and be supported by order of the court, upon motion of counsel for good cause shown, or upon its own motion. After a matter has been vacated and reset once, any A subsequent request to vacate and reset must be made by motion with affidavit or brief which details the efforts of the parties and necessity for an additional trial delay. shall be accompanied by a statement in writing of the party or counsel setting forth the reasons for not being able to proceed as scheduled.

AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

24.5.331 SUBPOENA (1) A subpoena shall be issued in accordance with the procedure set forth in Rule 45, M.R.Civ.P. (1979). Every subpoena shall be issued by the clerk under the seal of the court, shall state the name of the court and the title of the action, and shall command each person to whom it is directed to attend and give testimony at a time and place therein specified. The clerk shall issue a subpoena, or a subpoena for the production of documentary evidence, signed and sealed but otherwise in blank, to a party requesting it, who shall fill it in before service.

(2) In case of disobedience of any subpoena issued and served under this rule or of the refusal of any witness to testify as to any material matter with regard to which he may be interrogated in a proceeding before the court, the court may apply to any district court in the state for an order to compel compliance with the subpoena or the giving of testimony. If the court fails or refuses to seek

~~enforcement of a subpoena issued at the request of a party or to compel the giving of testimony considered material by a party; the party may make such application.~~

(32) A subpoena may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein; but the court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may quash or modify the subpoena if it is unreasonable and oppressive or condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents or tangible things. Any party serving a subpoena for the production of documentary evidence shall provide all other parties to the dispute reasonable notice of the place, date, and time for such production.

(3) A subpoena may be served by any person who is not a party and is not less than eighteen years of age. Service is made by exhibiting the original and delivering a true copy to the witness personally, giving or offering to him at the same time, if demanded by him, the fees to which he is entitled for travel to and from the place designated, and one day's attendance there. The service must be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance.

(4) If the subpoena is for the production of the file of a party, and objection is made to the production of such file, the deposition, if one is in progress, shall be recessed, and the procedures set forth in Rule 24.5.324 (3) shall be followed.

(5) At the request of any party subpoenas for attendance at a hearing or trial shall be issued as provided by subsection (1) of this rule.

(6) Failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court.

AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

24.5.343 ATTORNEY FEES (1) In those cases where the claimant is awarded attorney fees pursuant to section 39-71-611 or 39-71-612, MCA, the court will determine and award a reasonable attorney fee in the following manner:

~~(a) On the date designated for submission of proposed findings of fact and conclusions of law, claimant's attorney shall submit a verified copy of his attorney fee agreement with the claimant, documentation regarding the time spent by the attorney in representing the claimant, and the attorney's claim concerning his customary and current hourly fee.~~

~~(b) In its findings of fact and conclusions of law and judgment, the court shall indicate the basis for and the amount of claimant's attorney fees. indicate in its findings of fact and conclusions of law the basis for the award of reasonable costs and attorney fees, but the court~~

will not determine the amount of the award until after the appeal period for its final decision has passed or after affirmation of its final decision on appeal.

(2) The court will determine and award reasonable costs and attorney fees in the following manner:

(a) Within twenty days following the expiration of the appeal period or affirmation on appeal of the court's final decision, claimant's attorney shall file with the court a claim for reasonable costs and attorney fees which shall contain the following; a verified copy of his attorney fee agreement with the claimant, a listing of the costs claimed, documentation regarding the time spent by the attorney in representing the client and the attorney's claim concerning his hourly fee.

(b) Following the filing of a claim for costs and attorney fees, any party to the dispute may file an objection to the reasonableness of the claimed costs and fees, specifically identifying the objectionable portions of the claim and stating the reasons for the objection. General allegations to the effect that the award is unreasonable shall not be sufficient.

(c) If an objection is made to the reasonableness of the costs and attorney fee claim, any party may request an evidentiary hearing, stating specifically the reasons a hearing is needed. The request for hearing must be made at the same time an objection is filed if by the objecting party, or within ten days of the filing of the objection if requested by claimant's attorney.

(d) The court will determine if an evidentiary hearing is required. If a hearing is deemed necessary, it will be scheduled at the court's earliest convenience and the court will issue its decision following the hearing. Evidentiary hearings will generally be set in Helena unless good cause to the contrary can be demonstrated by a party. If the court determines that no hearing is necessary the court will determine costs and attorney fees based on the claim and objections. No additional pleadings will be allowed unless requested by the court.

(e) The court's determination of reasonable costs and attorney fees is a final decision for the purposes of appeal.

AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

24.5.344 PETITION FOR NEW TRIAL OR RECONSIDERATION OF ATTORNEY-FEE-AWARD

(1) After a trial, the court will issue an order or will issue findings of fact and conclusions of law and judgment setting forth the court's determination of the disputed issues. The parties to the dispute may consider the order or the judgment as a final decision of the court for appeal purposes. A party to the dispute may request a new trial or a hearing to determine the reasonableness of attorney fees before the court within twenty days after the order or judgment is filed and, if any party submits such a request, the order or judgment

issued by the court shall not be considered a final decision of the court for appeal purposes.

(2) Same as existing rule.

(3) ~~If a petition to determine the reasonableness of attorney fees is filed, the party objecting to the award shall have twenty (20) days from the date the judgment is filed within which to file a written petition with the court requesting a hearing to determine the reasonableness of the court's attorney fee award. General allegations to the effect that the award is unreasonable shall not be sufficient. The court shall review the petition and determine whether a prima facie basis for reconsideration is established. If not, the petition shall be denied and the original order or judgment issued by the court shall be considered the final decision of the court as of the day the request is denied. If so, a hearing shall be set and the petitioner shall be offered an opportunity to present evidence in support of its petition.~~

(4) ~~If a new trial or a determination of the reasonableness of attorney fees is not requested or an appeal filed within the time allowed by law, the court may order the file sent to the division of workers' compensation, subject to any order the court may make in the future.~~
AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

24.5.348 APPEALS (1) Same as existing rule.

(2) The court may certify its decision as final for purposes of appeal without a final determination of the amount of reasonable costs and attorney fees.

(23) Same as existing rule.

AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

24.5.350 APPEALS TO WORKERS' COMPENSATION COURT UNDER TITLE 39, CHAPTER 71 and 72, and TFPB 53, CHAPTER 9

(1) An appeal from a final decision of the Division of Workers' Compensation department of labor and industry under Title 39, chapters 71 and 72, and Title 53, chapter 9, MCA, shall be filed with the court by filing a petition for notice of appeal which should include: with the court within thirty days after service of the final decision of the Division. ~~ARM 24.5.301-(2) applies to the filing of a petition.~~

(a) the relief to which the appellant believes he is entitled;

(b) the grounds upon which the appellant contends he is entitled to that relief.

(2) ~~The petition for appeal shall state the grounds upon which the petitioner contends he is entitled to relief. The petition shall demand the relief to which the petitioner believes he is entitled, and the demand for relief may be in the alternative.~~ Service deadlines for filing an appeal are as follows:

(a) From an order of determination following a rehabilitation panel evaluation, within ten working days of the final order.

(b) From an order regarding noncooperation with the rehabilitation provider, within ten working days of the department order.

(c) From all other proceedings within thirty days of service of the final order of the department of labor and industry.

(3) The filing of the petition notice shall not stay the Division's department decision. However, the court may, upon application of a party, order a stay upon terms which the court considers proper.

(4) Within ten days after the service of the petition, the Division department shall transmit to the court the original or a certified copy of the entire record of the proceedings under review.

(5) Because of the overriding concern in a workers' compensation case to render a prompt decision, especially in matters concerning the payment of a workers' biweekly compensation benefits, and because of the time delays inherent in remanding a case to the department to hear additional evidence, the provisions of section 2-4-701, MCA, are not appropriate in workers' compensation court proceedings within the meaning of section 39-71-2903, MCA. In lieu thereof, if, before the date set for trial, a motion application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceedings before the Division department, the court may order that the additional evidence be presented to the court. (6) The--trial--regarding--the petition--shall--be--set--with--other--proceedings--in--accordance--with--ARM-24-5-310-

(7) The court shall base its decision on the record, and additional evidence (if allowed), ~~and oral argument.~~ The court may shall require briefs or other documents to be filed by ~~a party the parties~~, and a proposed order.

(8) Same as existing rule.

AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

3. The new rules as proposed provide the following:

I. RESPONSE TO PETITION (1) Within twenty days after the service of a petition, an answer shall be served upon the petitioner and filed with the court by the defendant which shall include the following information:

(a) A short, plain statement of the defendant's contentions;

(b) A list of individuals who are potential witnesses for the defendant and a short summary of the information known by each individual;

(c) A list of written documents relating to the claim which may be introduced as evidence by the defendant.

AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

II. NATURE OF RULES (1) These rules are procedural in nature and will be applied uniformly to all cases regardless of the date of injury unless specifically otherwise provided.

AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

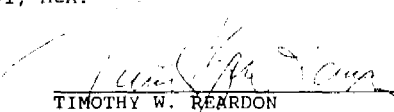
4. The rule as proposed to be repealed follows:

~~2-5-359--NOTICE-OF-REPRESENTATION--(1)--An initial appearance or notice of representation shall be filed by or on behalf of each party served with a copy of the petition within ten days following date of such service. The notice of representation shall contain the name, address and telephone number of the attorney representing the party.~~ AUTH: Sec. 2-4-201, MCA IMP: Sec. 2-4-201, 39-71-2901, MCA

5. The rationale for amending, repealing and proposing these rules is to clarify certain aspects of the existing rules as determined by the court's rules committee in its annual review and to bring these rules into compliance with Supreme Court decisions regarding procedures and those changes to the Workers' Compensation Act which were made by the legislature during the 1987 and 1989 legislative sessions.

6. Interested parties may submit their data, views or arguments concerning these changes in writing to Workers Compensation Court, 46 North Last Chance Gulch, P.O. Box 537, Helena, MT 59601-0537 on or before March 22, 1990.

7. The authority of the Court to make the proposed changes in the rules is based on and implements section 2-4-201, MCA. The implementing authority is sections 2-4-201 and 39-71-2901, MCA.


TIMOTHY W. BEARDON
JUDGE

CERTIFIED TO THE SECRETARY OF STATE: February 12, 1990

BEFORE THE BOARD OF LAND COMMISSIONERS
AND THE DEPARTMENT OF STATE LANDS
OF THE STATE OF MONTANA

In the Matter of the Adop-)	
tion of Rules I through	)	SUPPLEMENTAL NOTICE
VII, pertaining to dispos-	)	OF PROPOSED RULEMAKING
al of underground coal	)	AND REOPENING OF
mine waste, Rules VIII	)	COMMENT PERIOD ON
through XI pertaining to	)	ADOPTION AND AMENDMENT
individual civil penalties,	)	OF STRIP AND UNDERGROUND
and Rule XII, pertaining	)	COAL AND URANIUM MINING
to restrictions on	)	AND RECLAMATION RULES
financial interests of)	
multiple interest advisory)	
boards; and amendment of)	
ARM 26.4.301, 303, 304,)	
305, 313, 321, 324, 325,)	
404, 405, 501, 522, 624,)	
639, 711, 721, 305, 836,)	
837, 1129, and 1221.)	

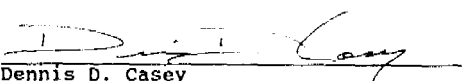
TO: All Interested Persons

1. On September 14, 1989, the Board and Department published notice of public hearing on proposed new rules relating to disposal of wastes from underground coal mining, individual civil penalties, multiple interest advisory boards, and rule amendments on other miscellaneous topics. The notice appeared in 1989 MAR Issue No. 17, at page 1309.

2. The public hearing was held as scheduled on October 5, 1989, and the comment period closed as scheduled on October 16, 1989.

3. Numerous comments have been received. Several comments indicated that the proposed rules were presented in a confusing format. Many comments sought clarification of the law relating to the proposed rules and the meaning of the terminology used in some of those rules. The Department has summarized and prepared responses to all comments. These responses clarify the meaning and purpose of many of the rules. A copy of this document along with the full text of existing rules proposed for amendment is being sent to each person who submitted comments. Other interested persons may receive copies of these documents upon request from Bonnie Lovelace, Chief, Coal and Uranium Bureau, Department of State Lands, Capitol Station, Helena, Montana 59620.

4. The Department and Board hereby reopen the comment period on the proposed new rules and amendments to existing rules until March 22, 1990. Interested person may submit data, views, or arguments no later than March 22, 1990 to Bonnie Lovelace at the address listed above.


Dennis D. Casey
Commissioner of State Lands

Certified to the Secretary of State February 17, 1990.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE ADOPTION)	NOTICE OF EXTENDED COMMENT
of RULE I through V for)	PERIOD on the PROPOSED
relating to Reappraisal of)	ADOPTION of RULE I through
Real Property - Property Tax.)	V relating to Reappraisal
)	of Real Property - Property
)	Tax.

TO: All Interested Persons:

1. On January 11, 1990, MAR No. 1, p. 54 the Department noticed public hearings to be held on January 31, February 1, 5, 6, and 7, 1990, at various locations throughout the state. Public hearings were held on those dates and times as noticed. From the comments made at the hearings it has been determined a longer comment period will be required for the public to adequately respond to the proposed rules.


2. Therefore, the comment period for these rules will be continued to February 23, 1990.

3. The authority to amend these rules is found in 15-1-201, MCA and implements 15-7-111, MCA.

4. Interested parties may submit their written comments, data, views, or arguments to:

Cleo Anderson
Department of Revenue
Office of Legal Affairs
Mitchell Building
Helena, Montana 59620

no later than February 23, 1990.


DENIS ADAMS, Director
Department of Revenue

Certified to Secretary of State February 12, 1990

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) THE PROPOSED AMENDMENT OF
46.12.3803 pertaining to) RULE 46.12.3803 PERTAINING
medically needy income) TO MEDICALLY NEEDED INCOME
levels) LEVELS

TO: All Interested Persons

1. On March 16, 1990, at 9:00 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 proposed amendment of Rule 46.12.3803 pertaining to medically needy income levels.

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

46.12.3803 MEDICALLY NEEDED INCOME STANDARDS Subsections (1) through (2) remain the same.

(3) The following table lists the amounts of adjusted income, based on family size, which may be retained for the maintenance of SSI and AFDC-related families. Since families are assumed to have a shelter obligation, an amount for shelter obligation is included in each level.

MEDICALLY NEEDED INCOME LEVELS
FOR SSI and AFDC-RELATED INDIVIDUALS
AND FAMILIES

Family Size	One Month Net Income Level	Two Month Net Income Level	Three Month Net Income Level
1	\$368 383	\$736 766	\$1,104 1,149
2	383	766	1,149
3	408	816	1,224
4	433	866	1,299
5	507	1,014	1,521
6	580	1,160	1,740
7	654	1,308	1,962
8	727	1,454	2,181
9	762	1,524	2,286
10	795	1,590	2,385
11	826	1,652	2,478
12	854	1,708	2,562
13	882	1,764	2,646
14	907	1,814	2,721
15	930	1,860	2,790
16	951	1,902	2,853

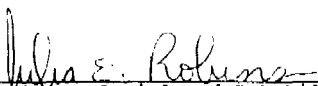
AUTH: Sec. 53-6-113 MCA
IMP: Sec. 53-6-101 and 53-6-131 MCA

3. This rule change is being made due to the Supplemental Security Income (SSI) benefit standard increase for a one person household. The Medically Needy Income Level (MNIL) for one person increases to \$383 because it is the maximum standard allowable for federal financial participation (FFP) purposes (see 42 CFR part 435.811).

4. This rule will be applied retroactively to January 1, 1990.

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 59604-4210, no later than March 23, 1990.

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 February 12, 1990.

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

In the matter of amendments	)	NOTICE OF PUBLIC HEARING ON
or repeal of Rules	)	AMENDMENTS OR REPEAL OF
46.12.545, 46.12.546 and	)	RULES 46.12.545, 46.12.546
46.12.547 pertaining to	)	and 46.12.547 PERTAINING TO
occupational therapy	)	OCCUPATIONAL THERAPY
services	)	SERVICES

TO: All Interested Persons

1. On March 16, 1990, 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 amendments or repeal of Rules 46.12.545, 46.12.546 and 46.12.547 pertaining to occupational therapy services.

2. The rules which the department is requesting comment on provide as follows:

46.12.545 OCCUPATIONAL THERAPY SERVICES, DEFINITIONS

(1) "Occupational therapy" means the use of purposeful activity with an individual who is limited by physical injury or illness, psychosocial dysfunction, developmental or learning disability, or the aging process in order to maximize independence, prevent disability, and maintain health.

(a) The practice encompasses evaluation, treatment, consultation, administration and interpretation of tests and instruction and supervision of supportive personnel. Occupational therapy encompasses designing, fabricating or applying splints or selective adaptive equipment and training in the use of upper extremity prosthetic or upper extremity orthotic devices, and developing perceptual-motor skills and sensory integrative functioning.

(b) Occupational therapy also includes teaching daily living skills, developing prevocational and avocational skills and capacities, and adapting environments for the handicapped.

(c) Occupational therapy are those services provided other than by a hospital or home health agency.

(2) "Restorative therapy" means occupational therapy services that are reasonable and medically necessary to the treatment of the individual's illness as provided in ARM 46.12.546.

(3) "Maintenance therapy" means repetitive services required to maintain functions which do not involve complex and sophisticated occupational therapy procedures, or the judgment and skill of a qualified occupational therapist and without the expectation of significant progress.

(4) "Maintenance plan" means the initial evaluation, design and instruction of a plan of care by a licensed

occupational therapist appropriate to the objectives of a physician and the capacity of a patient.

AUTH: Sec. 53-6-113 MCA

JMP: Sec. 53-6-101 MCA

46.12.546 OCCUPATIONAL THERAPY SERVICES, REQUIREMENTS

(1) These requirements are in addition to those contained in ARM 46.12.301 through 46.12.308.

(2) Only restorative therapy which is reasonable and necessary to the treatment of the recipient's illness or injury will be reimbursed by the Montana medicaid program.

(3) "Reasonable and necessary" means:

(a) The services must be considered under accepted standards of occupational therapy practice to be a specific and effective treatment for the patient's condition;

(b) Therapy services must be of such a level of complexity and sophistication or the recipient's condition is such that the services required can be safely and effectively performed only by a licensed occupational therapist or by a certified occupational therapy assistant (COTA) under his supervision;

(i) At a minimum, supervision must include: initial direction, an on site supervisory visit for every four COTA visits, and weekly direct supervisory contact including case note review.

(c) There must be either:

(i) an expectation that the recipient's condition will improve significantly in a reasonable and predictable period of time based on the assessment made by a physician of the patient's restoration potential after any needed consultation with the licensed occupational therapist; or

(ii) the services must be necessary to the establishment of a safe and effective maintenance program required in connection with a specific disease.

(A) If an individual's expected restoration potential would be insignificant in relation to the extent and duration of occupational therapy services required, the occupational therapy would not be considered reasonable and necessary.

(B) If at any point in the treatment of an illness it is determined that the expectations will not materialize, the services will no longer be considered reasonable and necessary and will not be reimbursed.

(d) The amount and frequency of the services must be within the recognized standards of occupational therapy practices as determined by the American Occupational Therapy Association.

(4) Services which do not require the performance or supervision of a licensed occupational therapist are not considered reasonable and necessary even if these services are performed by an occupational therapist.

(5) The establishment of a maintenance plan is reimbursable under the program.

(a) Establishment of a maintenance program by a licensed occupational therapist includes the initial evaluation of the patient's needs, a plan designed to be appropriate to the capacity and tolerance of the patient and which incorporates the treatment objectives of the physician, the instruction of others in carrying out the program and occupational therapy evaluations as required.

(b) Maintenance therapy is not reimbursable under the Montana medicaid program.

(6) All occupational therapy services must be provided by, or under the supervision of, a licensed occupational therapist as set forth in subsection (3)(b) of this rule.

(a) Students and aides must be under direct supervision.

(7) Occupational therapy service is limited per fiscal year to 70 hours without prior authorization and an additional 30 hours with prior authorization by the department. A maximum of 100 hours per fiscal year is allowed.

(8) All occupational therapy must be prescribed by a physician.

(a) Prescriptions must be obtained before occupational therapy is provided.

(b) Prescriptions for occupational therapy are only valid for 90 days.

(c) Written physicians' prescriptions and occupational therapy reports must be current and available upon request of the department or its designated representative.

(9) Occupational therapy will be subject to review by the designated review organization.

(10) The design, fabrication, fitting and instruction in the use of of dynamic and static splints, braces and slings is reimbursable as set forth in ARM 46.12.801 through 46.12.806.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-191 MCA

46.12.547 OCCUPATIONAL THERAPY SERVICES, REIMBURSEMENT

(1) The department will pay the lower of the following for outpatient occupational therapy services not also covered by medicare:

(a) the provider's actual (submitted) charge for the service; or

(b) the department's fee schedule contained in this rule.

(2) The department will pay the lowest of the following for outpatient occupational therapy services which are also covered by medicare:

(a) the provider's actual (submitted) charge for the service;

(b) the amount allowable for the same service under medicare; or

(c) the department's fee schedule contained in this rule.

(3) Effective July 1, 1989, the reimbursement rates listed will be increased by two percent (2%). All items paid by report will remain at the rate indicated.

(4) Occupational therapy fee schedule:

EVALUATION AND INSTRUCTION

H5240	Occupational therapy evaluation Each 15 minute unit (maximum 4 units).....	8.32
Z9210	Home instruction including design of maintenance plans Each 15 minute unit (maximum 4 units).....	8.32

ACTIVITIES OF DAILY LIVING (ADL)

(Physical & Psychological)

Z9217	Each 15 minute unit.....	7.50
-------	--------------------------	------

MODALITIES

Modality is the employment, or method of employment, of a therapeutic agent (used in conjunction with occupational therapy procedures)

H5300	Modalities, initial 15 minutes	13.31
Z9216	Each additional 15 minutes	3.00

PROCEDURES

Each 15 minute unit	7.50
---------------------------	------

Z9211	Prosthetic training (upper extremity only)	
Z9212	Orthotics training (dynamic bracing, splinting)	

Neuromuscular

Z9218	Reflex integration	
Z9219	Range of motion	
Z9220	Gross and fine coordination	
Z9221	Strength and endurance	

Cognitive Integration

Z9213 Orientation to environment
Z9214 Conceptionalization/comprehension
Z9215 Cognitive integration

Sensory Integration


Z9222 Sensory awareness
Z9223 Visual spatial awareness
Z9224 Body integration

AUTH: Sec. 53-6-113 MCA
IMP: Sec. 53-6-101 MCA

3. The department recently adopted the above stated rules pertaining to occupational therapy. See 46-2-576, Montana Administrative Register, Issue 16, August 31, 1989. A request for a second public hearing was made by the Montana Chapter of the American Physical Therapy Association. They claim that the current rules provide reimbursement to occupational therapists for services that should only be provided by physical therapists. The renoticing of the department's current rules pertaining to reimbursement for occupational therapists is necessary to allow the public another opportunity to comment.

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 59604-4210, no later than March 23, 1990.

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 February 12, 1990.

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

In the matter of the	)	NOTICE OF PUBLIC HEARING ON
adoption of Rules I	)	THE PROPOSED ADOPTION OF
through LXV and the repeal	)	RULES I THROUGH LXV AND THE
of Rules 46.30.201,	)	REPEAL OF RULES 46.30.201,
46.30.203, 46.30.205,	)	46.30.203, 46.30.205,
46.30.207, 46.30.209,	)	46.30.207, 46.30.209,
46.30.211, 46.30.213,	)	46.30.211, 46.30.213,
46.30.215, 46.30.217,	)	46.30.215, 46.30.217,
46.30.219, 46.30.301,	)	46.30.219, 46.30.301,
46.30.303, 46.30.305,	)	46.30.303, 46.30.305,
46.30.307, 46.30.401,	)	46.30.307, 46.30.401,
46.30.403, 46.30.405,	)	46.30.403, 46.30.405,
46.30.407, 46.30.411,	)	46.30.407, 46.30.411,
46.30.413, 46.30.415,	)	46.30.413, 46.30.415,
46.30.417, 46.30.419,	)	46.30.417, 46.30.419,
46.30.421, 46.30.423,	)	46.30.421, 46.30.423,
46.30.425, 46.30.427 and	)	46.30.425, 46.30.427 AND
46.30.429 pertaining to	)	46.30.429 PERTAINING TO
child support enforcement	)	CHILD SUPPORT ENFORCEMENT
procedures and administra-	)	PROCEDURES AND ADMINISTRA-
tion	)	TION

TO: All Interested Persons


1. On March 19, 1990, at 10:00 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 proposed adoption of Rules I through LXV and the repeal of Rules 46.30.201, 46.30.203, 46.30.205, 46.30.207, 46.30.209, 46.30.211, 46.30.213, 46.30.215, 46.30.217, 46.30.219, 46.30.301, 46.30.303, 46.30.305, 46.30.307, 46.30.401, 46.30.403, 46.30.405, 46.30.407, 46.30.411, 46.30.413, 46.30.415, 46.30.417, 46.30.419, 46.30.421, 46.30.423, 46.30.425, 46.30.427 and 46.30.429 pertaining to child support enforcement procedures and administration.

2. The rules as proposed to be adopted and repealed provide as they appeared at page 74 of Issue No. 1 of the January 11, 1990 Montana Administrative Register, MAR Notice No. 46-2-587.

3. The department recently published the above stated rules pertaining to child support enforcement. Previous mailing of the proposed rules was delayed, therefore, the renoticing of the rules is necessary to allow the public another opportunity to comment at a hearing, and to extend the written comment period.

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 59604-4210, no later than March 23, 1990.

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 February 12, 1990.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF THE AMENDMENT OF ARM
ARM 2.21.8017 (3)(c)(i) and)	2.21.8017 (3)(c)(i) AND 2.21.8018 (9)
2.21.8018 (9), relating to grievances)	RELATING TO GRIEVANCES

TO: All Interested Persons.

1. On December 7, 1989, the department of administration published notice of the proposed amendment of ARM 2.21.8017 (3)(c)(i) and 2.21.8018 (9) relating to grievances, at page 1997 of the 1989 Montana Administrative Register, issue number 23.

2. The rules have been amended as proposed.

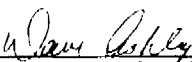
3. A public hearing was conducted on December 28, 1989, to receive comments on these proposed rules. Written comments and testimony are summarized below.

COMMENT: Two comments noted the fact that the timeframes provided in the rule amendments are not consistent with union contracts. The rules should either be brought in line with the contracts or the policy should acknowledge that the contract supersedes the rules and is controlling.

RESPONSE: ARM 2.21.8030 in the Grievance policy provides that the policy shall be followed unless it conflicts with negotiated labor contracts or specific statutes, which take precedence to the extent applicable. This rule is not affected by the proposed amendments and the timeframes in specific contracts are controlling.

COMMENT: Does the number of days management has to respond change due to the proposed amendments?

RESPONSE: No, the amendments only clarify the fact that the number of days refers to working days, not calendar days. The actual number of days is not changed.



Dave Ashley, Acting Director
Department of Administration

Certified to the Secretary of State February 12, 1990.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA


In the matter of the proposed)	
amendment of ARM 4.12.1221,	)	NOTICE OF ADOPTION OF
4.12.1224 through 4.12.1230	)	AMENDMENT AND REPEAL OF
and the repeal of ARM 4.12.1202,	)	RULES PERTAINING TO
4.12.1222 and 4.12.1223	)	ALFALFA LEAFCUTTING BEES

TO: All Interested Persons

1. On January 11, 1990, the Department published notice of the proposed amendment of ARM 4.12.1221, 4.12.1224 through 4.12.1230 and repeal of ARM 4.12.1202, 4.12.1222 and 4.12.1223 pertaining to Alfalfa Leafcutting Bees at page 1-7 of the 1990 Montana Administrative Register, issue no. 1.

2. No comments were received.

3. The Department has adopted the rules as proposed.


Oran Roy Bjornson, Administrator
Plant Industry Division

Certified to Secretary of State February 12, 1990.

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

In the matter of the	)	NOTICE OF THE AMENDMENT OF
amendment of Rule	)	RULE 46.12.303 PERTAINING
46.12.303 pertaining to	)	TO MEDICAID OVERPAYMENT
medicaid overpayment	)	RECOVERY
recovery)	

TO: All Interested Persons

1. On December 21, 1989, the Department of Social and Rehabilitation Services published notice of the proposed amendment of Rule 46.12.303 pertaining to medicaid overpayment recovery at page 2175 of the 1989 Montana Administrative Register, issue number 24.

2. The Department has amended the following rules as proposed with the following changes:

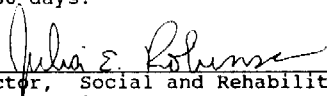
46.12.303 BILLING, REIMBURSEMENT, CLAIMS PROCESSING, AND PAYMENT Subsections (1) through (7)(b) remain as proposed.

AUTH: Sec. ~~53-2-201 and 53-6-131~~ 53-6-113 MCA
IMP: Sec. ~~53-6-101, 53-6-111 and 53-6-131~~ MCA

3. The Department has thoroughly considered all commentary received:

COMMENT: The statement of reasonable necessity should be expanded upon.

RESPONSE: This change is necessary to allow the department to collect overpayments without a time limit. The existing rule was unclear to some, being variously interpreted on one hand as prohibiting "prompt" recoveries in less than 60 days, while on the other hand not allowing recoveries after 60 days had expired. Federal law requires the department to repay the federal share of overpayments within 60 days of discovery, so the department needs the ability to recover quickly. Alternately, the department needs the authority to recover over a period of time more lengthy than 60 days.



Director, Social and Rehabilitation Services

Certified to the Secretary of State February 12, 1990.

VOLUME NO. 43

OPINION NO. 53

CITIES AND TOWNS - Authority of city with self-government powers to enact ordinance allowing vehicles in funeral procession to disobey traffic-control devices by designating them as "authorized emergency vehicles";
FUNERALS - Authority of city with self-government powers to enact ordinance allowing vehicles in funeral procession to disobey traffic-control devices by designating them as "authorized emergency vehicles";
LOCAL GOVERNMENT - Authority of city with self-government powers to enact ordinance allowing vehicles in funeral procession to disobey traffic-control devices by designating them as "authorized emergency vehicles";
MOTOR VEHICLES - Authority of city with self-government powers to enact ordinance allowing vehicles in funeral procession to disobey traffic-control devices by designating them as "authorized emergency vehicles";
MUNICIPAL GOVERNMENT - Authority of city with self-government powers to enact ordinance allowing vehicles in funeral procession to disobey traffic-control devices by designating them as "authorized emergency vehicles";
MONTANA CODE ANNOTATED - Sections 7-1-111 to 7-1-114, 61-1-119, 61-8-107, 61-8-201(1), 61-9-402(2), (3), 61-9-501, 61-9-504;
MONTANA CONSTITUTION - Article XI, section 6;
OPINIONS OF THE ATTORNEY GENERAL - 43 Op. Att'y Gen. No. 41 (1989), 37 Op. Att'y Gen. No. 68 (1977).

HELD: A city with self-government powers may not enact an ordinance exempting vehicles in a funeral procession from obeying traffic-control devices by designating such vehicles as "authorized emergency vehicles."

January 31, 1990

James L. Tillotson
City Attorney
P.O. Box 1178
Billings MT 59103

Dear Mr. Tillotson:

You have requested my opinion concerning a question which I have rephrased as follows:

Montana Administrative Register

4-2/22/90

May a city with self-government powers enact an ordinance exempting vehicles in a funeral procession from obeying traffic-control devices by designating such vehicles as "authorized emergency vehicles"?

I understand from your letter that in response to a proposal by a local morticians' group the City of Billings, which has adopted a charter form of government with self-governing powers, is contemplating the enactment of an ordinance which would excuse vehicles in a funeral procession from obeying traffic-control devices. Such an ordinance would conflict with section 61-8-201(1), MCA, which provides:

The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto in accordance with the provisions of this chapter unless otherwise directed by a highway patrol officer or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

However, the driver of an "authorized emergency vehicle" is granted the privilege of disregarding traffic-control devices under particularly defined conditions set forth in section 61-8-107, MCA. The proposed ordinance would purportedly avoid the requirement of section 61-8-201(1), MCA, by granting vehicles in a funeral procession the privilege granted "authorized emergency vehicles" in section 61-8-107, MCA.

The Montana Constitution permits local government units which have adopted a self-government charter to "exercise any power not prohibited by this constitution, law, or charter." Mont. Const. Art. XI, § 6; § 7-1-101, MCA. Under this constitutional provision, "the assumption is that local government possesses the power, unless it has been specifically denied." D & F Sanitation Service v. City of Billings, 219 Mont. 437, 445, 713 P.2d 977, 981-82 (1986) (emphasis in original). However, the Legislature has provided specific statutory limitations on the exercise of power by a unit of local government with self-government powers. §§ 7-1-101 to 114, MCA; 43 Op. Att'y Gen. No. 41 (1989). In addition to various particular limits on the exercise of power by a governmental unit with self-governing powers, this statutory scheme includes a general prohibition of "the exercise of any power in a manner inconsistent with state law or administrative regulation in any area affirmatively subjected by law to state regulation or control." § 7-1-113(2), MCA.

Consequently, in determining whether a self-government power is authorized, it is necessary to: 1) consult the charter and consider constitutional ramifications; 2) determine whether the exercise is prohibited under the various provisions of [Title 7, chapter 1, part 1, MCA] or other statute specifically applicable to self-government units; and 3) decide whether it is inconsistent with state provisions in an area affirmatively subjected to state control as defined by section [7-1-113].

37 Op. Att'y Gen. No. 68 at 272, 274 (1977), 43 Op. Att'y Gen. No. 41 (1989).

Regarding the first step of this analysis, in adopting the Billings city charter the city has reserved all powers available to a self-government city under the Constitution and the laws of Montana. All reserved powers are vested in the city council, which, together with the mayor, constitutes the legislative branch. I can find no provision in the charter itself denying the city council's authority to enact the proposed ordinance. With regard to constitutional ramifications, although you have not provided me with a copy of the proposed ordinance I conclude that such an ordinance could be drafted without running afoul of any constitutional provisions.

The second step of the analysis requires consideration of sections 7-1-111 and 7-1-112, MCA, which limit the exercise of power by local governments with self-government powers, and section 7-1-114, MCA, which enumerates those provisions of state law with which a local government with self-government powers must comply. Enactment of the proposed ordinance is not prohibited by any of the provisions of section 7-1-111 or 7-1-112, MCA. Nor would such an enactment conflict with any of the provisions of section 7-1-114, MCA.

It is therefore necessary to proceed to the third step of the analysis, which is controlled by section 7-1-113, MCA, to resolve your question. That statute provides as follows:

(1) A local government with self-government powers is prohibited the exercise of any power in a manner inconsistent with state law or administrative regulation in any area affirmatively subjected by law to state regulation or control.

(2) The exercise of a power is inconsistent with state law or regulation if it establishes standards or requirements which are lower or less stringent than those imposed by state law or regulation.

(3) An area is affirmatively subjected to state control if a state agency or officer is directed to establish administrative rules governing the matter or if enforcement of standards or requirements established by statute is vested in a state officer or agency.

Stated conversely, section 7-1-113, MCA "allows a local government with self-government powers to enact any ordinance unless the ordinance (1) is inconsistent with state law or regulation and (2) concerns an area affirmatively subjected by law to state control." 43 Op. Att'y Gen. No. 41 (1989) (emphasis in original).

The proposed ordinance is clearly inconsistent with state law, since it would permit the driver of a vehicle in a funeral procession to disobey traffic-control devices, in contravention of section 61-8-201(1), MCA. Further, the proposed ordinance concerns an area affirmatively subjected by law to state control, because it would avoid the prohibition of section 61-8-201(1), MCA, by classifying vehicles in a funeral procession as "authorized emergency vehicles." As noted above, authorized emergency vehicles are permitted the privilege of disregarding traffic-control devices under carefully described circumstances set forth in section 61-8-107, MCA. However, the authority to designate or authorize a particular class of vehicles as "authorized emergency vehicles" is statutorily vested in the Department of Justice (the department), a state agency. §§ 61-1-119, 61-1-301, MCA. Before a vehicle qualifies as an authorized emergency vehicle privileged to disregard traffic-control devices under section 61-8-107, MCA, it must first meet the requirement established in section 61-1-119, MCA, that it be designated an authorized emergency vehicle by the department. Furthermore, authorized emergency vehicles must be equipped with certain audio and visual signals, § 61-9-402(2), (3), MCA, and enforcement of that requirement is again relegated to the department by statute. § 61-9-501, MCA. The department is also generally empowered to promulgate "additional rules governing the use of safety equipment on motor vehicles ... as it shall deem advisable for the protection of the public." § 61-9-504, MCA. These statutes clearly indicate that the department has exclusive statutory

authority to designate "authorized emergency vehicles," to enforce mandatory equipment requirements for vehicles so designated, and to promulgate rules governing motor vehicle safety equipment.

The proposed ordinance is thus inconsistent with state law, and concerns an area affirmatively subjected by law to state control. The terms of section 7-1-113, MCA, therefore prohibit the city from enacting the proposed ordinance.

It has been suggested that sections 61-8-103 and 61-12-101, MCA, may be dispositive of the question presented. Those statutes provide in pertinent part:

61-8-103. The provisions of this chapter shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein and no local authority shall enact or enforce any ordinance, rule, or regulation in conflict with the provisions of this chapter unless expressly authorized herein. Local authorities may, however, adopt additional traffic regulations which are not in conflict with the provisions of this chapter.

61-12-101. The provisions of chapter 8 and chapter 9 shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from:

....

(3) regulating or prohibiting processions or assemblages on the highways;

....

(14) enacting as ordinances any and all provisions of chapter 8 or chapter 9 and any and all other laws regulating traffic, pedestrians, vehicles, and operators thereof, not in conflict with state law or federal regulations and to enforce the same within their jurisdiction.

However, as a local government unit with self-government powers, the City of Billings inherently possesses all of the powers specifically authorized by sections 61-8-103 and 61-12-101, MCA. Furthermore, the limits on the power

of local authorities described in sections 61-8-103 and 61-12-101, MCA, do not specifically apply to local government units with self-government powers. For that reason, those prohibitions do not limit the exercise of power by a city with self-government. § 7-1-103, MCA; D & F Sanitation, 219 Mont at 445, 713 P.2d at 982 (statutory preemption of self-government powers of a municipality requires express statutory prohibition forbidding local governments with self-government powers from acting in a certain area). Instead, my analysis is based upon section 7-1-113, MCA, and as noted above, under that statute the city is prohibited from enacting the proposed ordinance.

THEREFORE, IT IS MY OPINION:

A city with self-government powers may not enact an ordinance exempting vehicles in a funeral procession from obeying traffic-control devices by designating such vehicles as "authorized emergency vehicles."

Sincerely,

Marc Racicot

MARC RACICOT
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 the 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 statutes and rules by the attorney general (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding register.

Use of the Administrative Rules of Montana (ARM):

- | | |
|-------------------------------------|---|
| Known
Subject
Matter | 1. Consult ARM topical index.
Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute
Number and
Department | 2. Go to cross reference table at end of each title which list 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 December 31, 1989. This table includes those rules adopted during the period January 1, 1990 through March 31, 1990 and any proposed rule action that is pending during the past 6 month period. (A notice of adoption must be published within 6 months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 31, 1989, 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 1989 and 1990 Montana Administrative Registers.

ADMINISTRATION, Department of, Title 2

- I-XIII and other rules - Veteran's Employment Preference - Veteran's and Handicapped Person's Employment Preference, p. 1361
- 2.21.8017 and other rule - Grievances, p. 1997
(Public Employees' Retirement Board)
- 2.43.302 and other rules - Montana's Retirement Systems - State Social Security Program - Purchasing Service Credit - Post-retirement Benefit Adjustments - Return to Covered Employment After Retirement, p. 1999
(Teachers' Retirement Board)
- I-VII and other rules - Crediting Military Service - Payment of Benefits at Death - Payment of Child's Benefit - Bonuses as Compensation - Correcting Errors on Wages Not Reported, p. 800, 1276
(Workers' Compensation Court)
- 2.52.101 Transfer of Organizational and Procedural Rules of the Workers' Compensation Court to the Department of Labor & Industry, p. 2177

AGRICULTURE, Department of, Title 4

- I-V Production of Mint, p. 1374, 1839
(Montana Agriculture Development Council)
- I-XIII and other rules - Growth Through Agriculture Program, p. 810, 1190, 1338
- 4.12.1202 and other rules - Alfalfa Leafcutting Bees, p. 1
- 4.12.2618 Bond Schedule for Itinerant Merchants, p. 1037, 1482

- 4.15.101 and other rule - Fees - Agriculture Debt Mediation
Scheduling and Agreement Procedures, p. 807, 1278

STATE AUDITOR, Title 6

- I-VII Establishment and Operations of a Prelicensing
Education Program, p. 8
I-IX Establishment and Operations of a Surplus Lines
Stamping Office - Imposition Upon Transactions of
Surplus Lines Insurance of a Stamping Fee -
Compulsory Membership in a Surplus Lines Advisory
Organization, p. 2008, 218
6.6.505 Policy Definitions and Terms, p. 1252
6.6.506 and other rules - Medicare Supplement Insurance
Minimum Standards, p. 1039, 1230, 1301

COMMERCE, Department of, Title 8

(Board of Architects)

- 8.6.406 and other rules - Reciprocity - Qualification
Required for Branch Office - Examinations -
Individual Seal - Renewals - Standards of
Professional Conduct - Fee Schedule - Architect
Partnerships to File Statement with Board Office -
Board Meetings - Seal - Governor's Report - Financial
Records and Other Records - Grant and Issue Licenses
- Duplicate License - Public Participation, p. 250

(Board of Athletics)

- 8.8.2803 and other rules - Prohibitions - Boxing Contestants -
Physician Requirements - Weights and Classes -
Scoring - Down - Equipment - Judges - Inspectors -
Appeals - Appeal of Decisions of Officials, p. 630,
967, 1483

(Board of Chiropractors)

- I-V Applications - Minimum Requirements for Certification
- Approval of Training Programs - Recertification and
Fees of Impairment Evaluators, p. 255

- 8.12.601 and other rules - License Applications - Educational
Standards for Licensure - License Examinations -
Temporary Permits - Renewals - Unprofessional Conduct
Standards - Reinstatement of Licenses - Disciplinary
Actions - Recordation of License - Definitions, p.
258

(Board of Cosmetologists)

- 8.14.814 and other rules - Fees, Initial, Renewal, Penalty and
Refund - Salons - Cosmetological/Manicuring, p. 1062,
1663

(Board of Dentistry)

- I Prior Referral for Partial Dentures, p. 1065, 222
8.16.101 and other rules - Board Organization - Examinations -
Allowable Functions - Minimum Qualifying Standards -
Minimum Monitoring Standards - Facility Standards -
Reporting Adverse Occurrences - Fees - Oral Interview

- Applications - Mandatory CPR, p. 942, 2179
- 8.16.402 and other rules - Examination - Permit Required for Administration or Facility, p. 1066, 2187
- (Board of Hearing Aid Dispensers)
- 8.20.401 and other rules - Traineeship Requirements and Standards - Fees - Notification of Address Change - Record Retention - Code of Ethics - Disciplinary Actions - Fines - Hearings - Minimum Testing and Recording Procedures, p. 694, 1069, 1840
- (Board of Horse Racing)
- I-VI Superfecta Sweepstakes - Tri-superfecta Wagering, p. 1693, 2191
- 8.22.301 and other rules - Simulcast Horse Racing - Simulcast Race Meets Under the Parimutuel System for Wagering, p. 1683, 2189
- 8.22.501 and other rules - Definitions - Parimutuel Exercise Persons - Jockeys - Pony Persons - Trainers - Veterinarians - General Requirements - Medication, p. 635, 968
- (Board of Landscape Architects)
- 8.24.403 and other rules - Applications - Seals - Examinations - Reciprocity - Suspensions and Revocations - Complaint Process - Disciplinary Actions - Fines, p. 698, 1279
- (Board of Morticians)
- 8.30.406 and other rules - Examinations - Fee Schedule - Itemization, p. 1624, 2193
- (Board of Nursing)
- 8.32.411 Renewals, p. 1627
- (Board of Public Accountants)
- 8.54.204 and other rules - Licensing of Public Accountants, p. 1870
- 8.54.817 and other rules - Credit for Service as Report Reviewer - Definitions - Filing of Reports - Alternatives and Exemptions Reviews and Enforcement, p. 1866
- (Board of Realty Regulation)
- 8.58.412 Inactive Licenses - Reactivation of Licenses - Continuing Education, p. 467, 1339
- (Board of Speech/Language Pathologists and Audiologists)
- 8.62.404 and other rules - Speech/Language Pathology and Audiology, p. 1699, 2194
- 8.62.504 Nonallowable Functions of Aides, p. 645, 1566
- (Board of Veterinary Medicine)
- I Advisory Committee, p. 952, 1341
- (Building Codes Bureau)
- 8.70.104 Incorporation by Reference of the Model Energy Code, p. 1070, 1909
- (Financial Division)
- I Investment Securities, p. 1377, 2196
- I-III Application Procedure for Authorization to Engage In the Escrow Business - Change of Ownership in Escrow Businesses - Examination of Escrow Business, p. 2015

- 8.80.102 Banks - Direct Leasing of Personal Property, p. 470, 1280
- (Board of Milk Control)
- 8.86.301 Class I Price Formula - Class I Wholesale Prices, p. 2101
- 8.86.301 Formula for Fixing Class I Wholesale, Retail, Jobber and Institutional Prices, p. 1546
- 8.86.301 Class I Resale Pricing Formula, p. 710, 2047
- 8.86.505 Quota Rules for Producers Supplying Meadow Gold Dairies, Inc., p. 2099
- 8.86.506 Statewide Pooling Arrangements as it Pertains to Producer Payments, p. 2109
- (State Banking Board)
- I Application Procedure for a Certificate of Authorization to Establish a New Branch, p. 1380, 2201
- I Application Procedure for Approval to Merge Affiliated Banks, p. 1302, 2198
- (Board of Investments)
- I-IX Montana Economic Development Act - The Conservation Enhancement Program, p. 1634, 2204
- 8.97.802 and other rules - Montana Capital Company Act - Investments by the Montana Board of Investments, p. 1881
- 8.97.1101 and other rule - Names and Addresses of Board Members - Conventional Loan Program - Purpose and Loan Restrictions, p. 182
- 8.97.1101 and other rules - Organizational Rule - Forward Commitment Fees and Yield Requirements for All Loans - Loan Programs Assumptions, p. 1631, 2203
- (Montana State Lottery Commission)
- 8.127.101 and other rule - Organizational Rule - Retailer Commissions, p. 954, 1484
- 8.127.203 and other rules - Definitions - Retailer Bonding - Duties - Revocation or Suspension of Licensed - Prizes - On-line Endorsement, p. 2017, 226

EDUCATION, Title 10

- (Superintendent of Public Instruction)
- I-IV Spending and Reserve Limits, p. 24
- I-V Guaranteed Tax Base, p. 15
- I-VII Permissive Amount, Voted Amount and School Levies, p. 29
- 10.13.101 and other rules - State Equalization, p. 184
- (Board of Public Education)
- 10.55.804 and other rules - Gifted and Talented - Experience Verification - Class 3 Administrative Certificate, p. 1072, 2050
- 10.57.301 and other rules - Endorsement Information - Endorsement of Computer Science Teachers - Policy Governing Pupil Instruction-Related Days Approved for Foundation Program Calculations - Program of Approved

- Pupil Instruction-Related Days, p. 2116
10.57.401 Class I Professional Teaching Certificate, p. 1640
(State Library Commission)
I Reimbursement to Libraries for Interlibrary Loans,
p. 956, 1844

FAMILY SERVICES, Department of, Title 11

- 11.5.1002 and other rule - Day Care Rates Payments and Parental
Access to Day Care Facilities, p. 1305, 1664
11.7.402 and other rules - Composition of and Criteria for
Approving Recommendations of Youth Placement
Committees - Composition of Foster Care Review
Committees, p. 265
11.12.104 and other rule - Licensure of Youth Care Facilities,
p. 263
11.14.314 and other rule - Group Day Care Home Health Care
Requirements, p. 2020
11.16.120 and other rules - Licensure of Adult Foster Care
Homes, p. 1706, 2207

FISH, WILDLIFE AND PARKS, Department of, Title 12

- I-VI Paddlefish Egg Donations, Marketing and Sale,
p. 1383, 2051
I-VI Upland Game Bird Habitat Enhancement Program,
p. 1386, 2054
12.6.901 Water Safety Regulations - Closing Certain Waters,
p. 35
12.6.901 Water Safety Regulations, p. 1257, 1910
12.6.903 Helena Valley Equalizing Regulations, p. 506, 1281
12.9.210 Warm Springs Game Preserve, p. 38

HEALTH AND ENVIRONMENTAL SCIENCES, Department of, Title 16

- I Access of Funeral Directors or Morticians to Copies
of Death Certificates, p. 1480
I-III Living Will Procedures for Emergency Medical Services
Personnel, p. 1737, 2232
I-V Reports of Unprotected Exposure to Infectious
Disease, p. 1733, 2229
I-XV Pretreatment Standards for Discharges Into Publicly
Operated Treatment Works, p. 1457, 2063
I-XXIV Petroleum Tank Release Compensation Program, p. 40
I-XXXII Occupational Health - Asbestos Control, p. 1740, 2234
I-XXXVIII and other rules - Licensing of Emergency Medical
Services, p. 1712, 2212
16.8.807 and other rule - Monitoring and Reporting of Air
Quality Data, p. 1259, 2059
16.10.606 Temporary Licensing of Tourist Homes During the
Montana Centennial Cattle Drive, p. 1390, 2211
16.20.901 and other rules - Montana Pollutant Discharge
Elimination System, p. 1391, 2060

- 16.26.102 and other rules - Women, Infants and Children, p. 2022, 227
- 16.45.101 and other rules - Underground Storage Tanks - Reimbursement for Petroleum Storage Tank Release Clean Ups, p. 1075, 1308, 1912

HIGHWAYS, Department of, Title 18

- I-XX Installation of Motorist Information Signs Along Interstate and Primary Highways, p. 1641, 111
- 18.8.510B and other rules - Convoy Moves of Oversize Vehicles - Flag Vehicle Requirements, p. 2027

INSTITUTIONS, Department of, Title 20

- 20.3.202 and other rules - Definitions - Clients' Rights - Outpatient Component Requirements - Certification System for Chemical Dependency Personnel - Chemical Dependency Education Course Requirements - ACT, p. 2121
- 20.7.102 Prisoner Application Procedure, General Statute Requirement, p. 1767, 285

JUSTICE, Department of, Title 23

- I-XLVII. Emergency Rules - Gambling, p. 1485
- I-L Gambling, p. 1769, 286
- 8.124.101 and other rules - Gambling, p. 2127
- 8.124.102 and other rules - Emergency Amendment and Adoption - Video Gambling Machine Rules, p. 1504
(Board of Crime Control)
- 23.14.401 and other rules - Administration of Peace Officer Standards and Training - Minimum Standards for the Employment of Detention Officers - Requirements for Detention Officer Certification - Referenced Rules to Apply to Full-time and Part-time Detention Officers, p. 1559, 2064
- 23.14.404 and other rule - General Requirements for Certification - Requirements for the Basic Certificate, p. 1557, 2065

LABOR AND INDUSTRY, Department of, Title 24

- (Human Rights Commission)
- 24.9.212 Confidentiality - Procedure on Finding of Lack of Reasonable Cause - Contested Case Record - Exceptions to Proposed Orders, p. 2157
- 24.16.9009 and other rule - Prevailing Wage Enforcement - Placing All Prevailing Wage Cases Under Wage Claim Proceedings, p. 1654, 2249
(Board of Personnel Appeals)
- I-VIII Review of Wage Claims by the Board of Personnel Appeals, p. 1656, 2250

(Workers' Compensation)

- 24.29.101 and other rules - Transfer of Part of the Organization and Function of the Division of Workers' Compensation to the Employment Relations Division, p. 2151

STATE LANDS, Department of, Title 26

- I-VII Authorizing Permitting and Requiring Reclamation of Hard Rock Mills and Operations that Reprocess Tailings and Waste Rock from Previous Operations, p. 267
- I-XII and other rules - Disposal of Underground Coal Mine Waste - Individual Civil Penalties - Restrictions on Financial Interests of Multiple Interest Advisory Boards, p. 1309
- 26.4.724 and other rules - Revegetation of Land Disturbed by Coal and Uranium Mining Operations, p. 1885

LIVESTOCK, Department of, Title 32

- I Notice of Change of Agent Employment Status, p. 511, 1845
- 32.2.401 and other rules - Requiring a Sheep Permit before Removal of Sheep from County or State - Fees, p. 1894, 300
- 32.3.201 and other rules - Regulating Sheep, Bison and Llamas, p. 1660, 300

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

- I-II Reject Permit Applications for Consumptive Uses - Modify Permits for Nonconsumptive Uses in Rock Creek Basin, p. 1334, 301
- I-II Reject Permit Applications for Consumptive Uses and to Modify Permits for Nonconsumptive Uses in Grant Creek Basin, p. 959, 228
- (Board of Natural Resources and Conservation)
- 36.15.101 and other rules - Floodplain Management, p. 727, 1665
- 36.16.118 Voluntary Transfer of A Reserved Water Right, p. 1564, 2066
- (Board of Water Well Contractors)
- I Abandonment of Monitoring Wells, p. 273
- 36.21.415 Fee Schedule, p. 1790, 119
- (Board of Oil and Gas Conservation)
- I Incorporating by Reference Rules Pertaining to the Montana Environmental Policy Act, p. 2164
- 36.22.307 and other rules - Issuance of Oil and Gas Drilling Permits - Public Notice Requirements - Change of Ownership Requirements - Bond Release, p. 1792, 305
- 36.22.601 and other rules - Emergency Amendment - Public Notice and Opportunity to be Heard Before Drilling Permits May Be Issued, p. 1512

PUBLIC SERVICE REGULATION, Department of, Title 38

- I-XXIII and other rule - Establishing Certain Minimum Standards for the Adequacy of Telecommunications Services, p. 377, 1515
- 38.4.105 and other rules - Intrastate Rail Rate Proceedings, p. 1796, 2252
- 38.5.2202 and other rule - Federal Pipeline Safety Regulations Including Drug-Testing Requirements, p. 275
- 38.5.3332 Customer Billing, p. 192

REVENUE, Department of, Title 42

- I Property Tax for Co-op Vehicles, p. 1805, 233
- I Bad Debt Credit - Special Fuel Dealers - Motor Fuels Tax, p. 1262, 1847
- I Prepayment of Motor Fuel Taxes, p. 1264, 2068
- I Allocation of Accommodation Tax, p. 1164, 1529
- I Bad Debt Credit - Motor Fuels Taxes, p. 831, 1282
- I Keylock or Cardtroll Statements, p. 745, 1284
- I-III Property Tax - Reappraisal of Real Property Dealing With Statistical Procedures and Results, p. 198
- I-V Property Tax - Reappraisal of Real Property, p. 54, 202
- 42.12.205 and other rule - Requirements When Licensing Is Subject to Lien, p. 194
- 42.15.106 Personal Income Tax Surcharge, p. 1801, 120
- 42.15.117 Capital Gain Exclusion for Income Taxes, p. 1266
- 42.17.105 Computation of Withholding Taxes, p. 1803, 121
- 42.17.114 and other rule - W-2 Filing Dates for Withholding Taxes, p. 1268, 1846
- 42.18.101 and other rules - Property Tax - Reappraisal Plan, p. 2031
- 42.20.401 and other rules - Property Tax - Sales Assessment Ratio, p. 2039
- 42.23.117 Surtax for Corporations, p. 2044, 234
- 42.23.413 Carryover of Net Operating Losses - Corporation License Tax, p. 2166
- 42.27.102 Distributors Bond for Motor Fuels, p. 1799, 122
- 42.27.301 Gasoline Seller's License for Motor Fuels, p. 747, 1283

SECRETARY OF STATE, Title 44

- I Interpretive Rule Regarding Facsimile Requests for Absentee Ballots, p. 749, 1343
- I-III and other rules - Fee Schedules for Filing Documents in the Secretary of State's Office - Facsimile Filings - Priority Fees, p. 963, 1342
- 1.2.419 Filing, Compiling, Printer Pickup and Publication for the Montana Administrative Register, p. 1806, 2253
- 44.9.103 and other rules - Mail Ballot Elections, p. 2168, 308

(Commissioner of Political Practices)

44.10.331 Limitations on Receipts From Political Committees to Legislative Candidates, p. 203

SOCIAL AND REHABILITATION SERVICES, Department of, Title 46

- I and other rule - Transfer of Resources for General Relief Eligibility Purposes, p. 1905, 127
- I-II Transitional Child Care, p. 207
- I-VIII Skilled Nursing and Intermediate Care Services In Institutions for Mental Diseases, p. 278
- I-LXV and other rules - Child Support Enforcement Procedures and Administration, p. 74
- 46.10.407 Transfer of Resources Rule for the AFDC Program, p. 1896, 123
- 46.10.508 and other rules - Eligibility Requirements for the AFDC Program, p. 1166, 1570
- 46.12.102 and other rules - Medicaid Provider Sanctions, p. 1819
- 46.12.303 Medicaid Overpayment Recovery, p. 2175
- 46.12.402 Medicaid Sanctions for Intermediate Care Facilities for the Mentally Retarded, p. 1808
- 46.12.505 and other rules - Reimbursement for Certified Registered Nurse Anesthetists' Services, p. 1171, 1848
- 46.12.532 Reimbursement for Speech Therapy Services, p. 596, 876
- 46.12.545 and other rules - Occupational Therapy Services, p. 1270, 1669
- 46.12.550 and other rules - Home Health Services, p. 654, 1285
- 46.12.570 and other rules - Clinic Services Provided by Public Health Departments, p. 1168, 1850
- 46.12.571 and other rules - Coverage Requirements and Reimbursement for Clinic Services - Psychological Services - Clinical Social Work Services, p. 71
- 46.12.1011 and other rules - Specialized Nonemergency Medical Transportation, p. 1811, 2254
- 46.12.1201 and other rules - Reimbursement of Nursing Facilities for Nurse Aide Wage Increases - Oxygen Equipment - Incorporation of the Patient Assessment Manual - Other Matters, p. 1814, 2255
- 46.12.1823 and other rule - Hospice Services, p. 205
- 46.12.2013 Reimbursement for Certified Registered Nurse Anesthetists, p. 214
- 46.12.3207 Ineligibility for Certain Medicaid Benefits Following Certain Transfers of Resources, p. 1898, 124
- 46.12.3401 Transitional Medicaid Coverage, p. 210
- 46.12.3401 Medicaid Coverage for Pregnant Women and Children up to Age Six, p. 212
- 46.12.4008 Earned Income Disregards for Institutionalized Individuals, p. 216
- 46.13.405 Low Income Energy Assistance Program (LIEAP), p. 1174, 1571
- 46.25.101 and other rules - General Relief, p. 1825, 2271