

BEFORE THE MONTANA STATE LIBRARY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF PUBLIC HEARING
10.102.4001 pertaining to reimbursement) ON PROPOSED AMENDMENT
to libraries for interlibrary loans)

TO: All Concerned Persons

1. On June 8, 2006, at 10:00 a.m., a public hearing will be held in the Grizzly conference room of the Montana State Library, at 1515 East 6th Ave., Helena, Montana to consider the proposed amendment of the above-stated rule.

2. The Montana State Library will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice or provide reasonable accommodations at the public hearing site. If you need to request an accommodation, contact the State Library no later than 5:00 p.m. on June 1, 2006 to advise us of the nature of the accommodation that you need. Please contact Julie Stewart, Montana State Library, 1515 East 6th Ave., P. O. Box 201800, Helena, MT 59620-1800, phone (406) 444-3384, TDD (406) 444-3005, fax (406) 444-0266, or e-mail jstewart2@mt.gov.

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

10.102.4001 REIMBURSEMENT TO LIBRARIES FOR INTERLIBRARY LOANS (1) Definitions used in this ~~section~~ subchapter include:

(a) "Interlibrary loan" means the loaning or provision of copies of library materials from one Montana library to another Montana library. Such materials are to include, but are not limited to, the following: book, copy in lieu of book, magazine/periodical, copy in lieu of magazine/periodical, audiovisual title, government document/technical report, and pamphlets, some of which are to be returned.

(b) "Libraries eligible for interlibrary loan reimbursement" are defined in 22-1-328(2), MCA.

(c) "Net loaning libraries" are those libraries whose interlibrary loans exceed their borrowing of library materials during the year for which they seek net loaning reimbursement, provided the libraries reported and requested reimbursement for the loans.

(2) Reimbursements will be made on an annual basis based on the following:

(a) Reimbursement will be made at a rate determined by the State Library.

(i) This rate is based upon an estimated number of annual interlibrary loans (ILL) in Montana and available funds.

(ii) Available funds for ILL reimbursement will be divided evenly in half.

(iii) Every eligible library will be reimbursed from one-half these total available funds. These funds, shared between every eligible library, shall be called "simple loaning reimbursement".

(iv) Simple loaning reimbursement will be computed by dividing the total available funds in half, and distributing that half of the funds in proportional amounts to every library eligible for simple loaning reimbursement. The total amount of money available to the State Library for simple loaning reimbursement will be divided by the total number of loans reported to obtain the per-loan rate of reimbursement. The rate of reimbursement will then be applied to each simple loan to determine the amount of reimbursement for each library.

(v) Only net loaning libraries are eligible for reimbursement from the remaining half of the total available funds after simple loaning reimbursement funds are distributed. These funds shall be called "net loaning reimbursement".

(vi) Net loaning reimbursement will be computed by dividing the total amount of money available to the State Library for net loaning reimbursement by the total number of net loans reported to obtain the per-loan rate of reimbursement. The rate of reimbursement will then be applied to each net loan to determine the amount of reimbursement for each library.

~~(ii) (vii) This rate~~ These rates may be adjusted if deemed necessary by the State Library, by dividing any remaining funds by the number of interlibrary loans claimed for reimbursement.

(b) A form for requesting reimbursement will be issued by the State Library. No reimbursement shall be made to any library which does not use the reimbursement form to submit its reimbursement request, or which fails to meet specified submittal deadlines for such requests.

(c) Each annual payment shall be made only for interlibrary loans within the specified year for which reimbursement funding is available. No count of interlibrary loan transactions shall be carried over from one year to another.

(d) Reimbursements will be made within 30 working days after the submittal date.

(e) No library may levy service charges, handling charges, or use fees for interlibrary loans for which it is reimbursed under the provisions of 22-1-325 through 22-1-331, MCA and these rules.

(i) Actual charges for postage are discouraged but not expressly prohibited under these rules.

(ii) Costs for special postal handling of interlibrary loan requests, when requested by the borrowing library, are chargeable costs.

(iii) Interlibrary loans, when completed via electronic submission, also count as reimbursable interlibrary loans. Costs associated with such electronic submission are chargeable if the transmission was specified by the requesting library. Electronic submissions qualify as special handling.

(iv) Per page photocopying charges may not be separately charged to the borrowing library but are assumed to be covered by the reimbursement under these rules.

(f) Providers of interlibrary loan are expected to follow the law in relation to copyright.

(g) Libraries applying for interlibrary loan reimbursement under 22-1-325 - through 22-1-331, MCA and these rules must retain certain records as follows:

(i) The library requesting reimbursement shall retain records of interlibrary loans which support and agree with the number submitted for reimbursement.

These records must include both the number of items loaned to eligible libraries, and the number of items borrowed. Reimbursement requests will include library-by-library detail of items lent to, and borrowed from, as well as total items borrowed and lent.

(ii) Libraries requesting reimbursement shall retain their records of interlibrary loan transactions for a period of three years and must produce these records for auditing purposes.

(h) For any questions arising because of this rule, the final arbiter is the State Library Commission.

(3) For a library to receive reimbursement through the program, it must annually certify to the State Library that the appropriate member of its staff has demonstrated competence regarding the application of the standardized interlibrary loan protocols.

AUTH: 22-1-330, MCA

IMP: 22-1-328, MCA

4. The Montana State Library Commission is requesting these administrative rule changes because the interlibrary loan reimbursement program is struggling to meet the libraries' needs. The available monies to fund the program remain stable, while the number of interlibrary loan requests within Montana continue to grow, thus the amount of reimbursement per item is decreasing. The commission wants the ability to provide more subsidy to those libraries who loan more materials than they borrow. The proposed rule change will make that possible.

5. Interested persons 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 Julie Stewart, Montana State Library, 1515 East 6th Ave., P.O. Box 201800, Helena, MT 59620-1800 no later than 5:00 p.m. on June 16, 2006. Data, views, or arguments may also be submitted by facsimile to (406) 444-0266 or by e-mail to jstewart2@mt.gov.

6. An electronic copy of this Notice of Public Hearing is available through the State Library's website at <http://msl.mt.gov>. The State Library strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the State Library strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. Darlene Staffeldt, State Librarian, has been designated to preside over and conduct this hearing.

8. The Montana State Library maintains a list of persons who wish to receive notices of rulemaking actions proposed by the State Library. Persons who wish to have their name added to the list shall make a written request, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding State Library administrative rulemaking proceedings or other administrative proceedings. Such written requests may be mailed to Julie Stewart, Montana State Library, 1515 East 6th Ave., P.O. Box 201800, Helena, MT 59620-1800, faxed to the library at (406) 444-0266, e-mailed to jstewart2@mt.gov or may be made by completing a request form at any rules hearing held by the agency.

9. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

By: /s/ Ron Moody
State Library Commission
Ron Moody, Chairperson

By: /s/ Darlene Staffeldt
Rule Reviewer
Montana State Library

Certified to the Secretary of State May 8, 2006.