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IDnum 291 **Language** English **Country** United States **State** MT

Union IUOE (International Union of Operating Engineers)

Local 400

Occupations Represented
Chefs, cooks, and food preparation workers
Cashiers
Industrial machinery installation, repair, and maintenance workers

Bargaining Agency Montana Board of Regents of Higher Education

Agency industrial classification (NAICS):

61 (Educational Services)

BeginYear 1999 **EndYear** 2001

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Notes

Contact

Full text contract begins on following page.

COLLECTIVE BARGAINING AGREEMENT
BETWEEN
THE MONTANA BOARD OF REGENTS OF HIGHER EDUCATION
AND
INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL
#400
JULY 1, 1999 THROUGH JUNE 30, 2001

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ARTICLE 1

RECOGNITION

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1.1 PARTIES TO THE AGREEMENT

This agreement is entered into by the Montana Board of Regents of Higher Education hereinafter referred to as the employer, and Local No. 400 of the International Union of Operating Engineers, hereinafter referred to as the union.

1.2 RECOGNITION

The employer recognizes the union as the sole and exclusive bargaining representative of all employees in the bargaining unit. The union recognizes the Board of Regents as the statutory governing body of the colleges/division of technology.

1.3 BARGAINING UNIT DEFINITION

The bargaining unit shall include custodial, maintenance and food service employees who are employed at the colleges of technology in Billings, Butte, Great Falls, Helena and Missoula in positions and classifications within the bargaining unit as defined and certified by the Board of Personnel Appeals or as mutually agreed to by the parties.

1.4 EXCLUDED EMPLOYEES

Part-time employees who are regularly scheduled for less than twenty (20) hours per week are excluded from the bargaining unit. Two or more part-time employees will not be used to replace a bargaining unit employee in order to circumvent the provisions of the collective bargaining agreement. Part-time employees that work in excess of 120 consecutive days in a bargaining unit position shall be required, as a term and condition of employment, to pay union initiation fees and union dues or a representation fee to the union.

Student employees are excluded from the bargaining unit, however, students shall not be hired into any bargaining unit positions which causes the permanent displacement of an employee or the reduction of the number of regular hours of employment of an employee.

Temporary employees are excluded from the bargaining unit unless they work in excess of four (4) consecutive months in positions and classifications listed in Addendum A. Temporary employees will not be used to replace a bargaining unit employee on a

permanent basis in order to circumvent the provisions of the collective bargaining agreement.

Part-time and temporary employees shall receive a rate of pay established by the classifications and pay established in Addendum B.

Confidential, supervisory and managerial employees are excluded from the bargaining unit.

ARTICLE 2

UNION RIGHTS

- [UNION SECURITY](#)
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2.1 UNION SECURITY

A. Employees covered by the terms of this agreement shall not be required to become members of the union, but must, as a term and condition of employment, pay a representation fee or follow the procedures for nonassociation with a labor organization on religious grounds found at 39-31-204, MCA. Upon request the union agrees to provide documentation to the employer that its representation fee rate is established in accordance with law.

B. All employees covered by the terms of this agreement shall within thirty (30) days of the approval of this agreement, or within thirty (30) days of employment, whichever is later, pay to the union initiation fees and union dues or a representation fee in an amount determined by the union. Employees who fail to comply with this requirement shall be discharged by the employer within seven (7) days after receipt of appropriate written notice of default by the union. The union may make written notice of default and demand for discharge after the thirty (30) day period specified above. The employer shall initiate appropriate discharge actions under this section to insure discharge of the affected employee(s) on the seventh day from receipt by the employer of the union's written notice of default and demand for discharge.

2.2 DUES CHECKOFF

The employer shall, without charge, deduct union dues from the salary of each employee who authorizes such deductions in writing in accordance with 39-31-203, MCA. The aggregate deductions shall be remitted together with an itemized statement to the appropriate union officer. Employees may revoke their authorization for dues deduction at any time by giving the employer thirty (30) calendar days notice of such revocation. The employer shall deliver the dues monies to the appropriate officer of the union. Within thirty (30) days from the effective date of this agreement, the union shall notify

the employer of the name and mailing address of the appropriate officer who is to receive dues monies.

2.3 INDEMNIFICATION

The union will indemnify and hold the employer harmless against any and all expenses and liability which may arise as a result of the operation of this article.

2.4 UNION ACTIVITIES PROTECTED

Employees shall not be discharged or discriminated against for upholding union principles or rights which are granted to them under state or federal law and which are not restricted in this agreement.

2.5 JOB STEWARDS

The union may appoint an employee to serve as a steward who shall be recognized by the employer as having authority to report irregularities in the application of this agreement to the union and to assist the union staff in the resolution of grievances. The job steward does not have the authority to tell employees to refuse to carry out the directives of the employer or to interrupt or stop any work.

2.6 BARGAINING POOL LEAVE

Unless work requirements require otherwise and with advance notification to the employer of the requested time off, an employee who is a member of a regularly constituted union committee or officer of the union may be granted reasonable leaves of absence with pay to conduct union business provided such time is compensated from the bargaining pool. It is the employee's responsibility to account for such leave on their time sheet.

A bargaining pool may be established at each campus by each employee having the right to donate eight (8) hours annually of his/her annual leave time to a reserve fund for the purpose of allowing certain employees time off with pay for performance of their duties as committee members or officers. A list of members of regularly constituted committees and/or officers of the bargaining agent will be supplied to the personnel director or other appropriate official by the bargaining agent.

ARTICLE 3

MANAGEMENT RIGHTS

3.1 MANAGEMENT RIGHTS

The employer retains all rights and prerogatives which are not specifically limited or relinquished by the express language of this agreement. Employer rights include but are not limited to the following:

- 1) directing employees;
- 2) hiring, promoting, transferring, assigning, and retaining employees;
- 3) relieving employees from duties because of lack of work or funds or under conditions where continuation of such work would be inefficient or nonproductive;
- 4) maintaining the efficiency of the employer's operations;
- 5) determining the methods, means, job classification, and personnel by which the employer's operations are to be conducted;
- 6) taking whatever actions may be necessary to carry out the missions of the employer in situations of emergency; and
- 7) establishing the methods and processes by which work is to be performed. (39-31-303, MCA)

ARTICLE 4

NO STRIKES

4.1 STRIKES PROHIBITED

There shall be no strikes, slowdowns or other work stoppages on the part of the union and there shall be no lockouts by the employer during the term of this agreement.

ARTICLE 5

COMPENSATION

- [PAY SCHEDULE](#)
- [CLASSIFICATION AND PAY PLAN](#)
- [WAGE WITHHOLDING](#)
- [INSURANCE COVERAGE](#)
- [RETIREMENT](#)
- [PAY DAYS](#)
- [UNION PENSION PLAN](#)
- [TEMPORARY ASSIGNMENTS TO HIGHER CLASSIFICATION](#)
- [LONGEVITY](#)

5.1 PAY SCHEDULE

The pay schedule which establishes the rate of employee compensation is included in [Addendum B](#) and is hereby incorporated into this agreement. Effective the first day of the pay period that includes October 1, 1999 the employee's base salary shall be increased by 3 percent plus 20 cents per hour, and effective the first day of the pay period that includes October 1, 2000 the employee's base salary shall be increased by 3 percent plus 25 cents per hour.

5.2 CLASSIFICATION AND PAY PLAN

All employees shall be classified and compensated in accordance with state pay plan rules, classification plan rules and state law unless there is a conflict between this agreement and the pay plan and classification plan rules in which case this agreement shall take precedence. If an employee believes his/her duties have become more complex, the employee may request a review of his/her classification and may file a formal classification appeal. In the event of a classification related grievance, the statutory classification appeal route shall be followed.

5.3 WAGE WITHHOLDING

The employer shall have the right to withhold from wages or any other funds due and payable to an employee any amount the employee owes the employer or which the employee has unjustly received from the employer in accordance with the provisions of state law. Unresolved differences regarding implementation of this provision shall be subject to the grievance procedure.

5.4 INSURANCE COVERAGE

The employer contribution to health insurance for full-time and permanent part-time employees working twenty (20) or more hours a week shall be \$285.00 per month for fiscal year ending June 30, 2000, and \$295.00 per month for the fiscal year ending June 30, 2001. Permanent half-time employees and employees who regularly work more than

six (6) months in any twelve (12) month period are eligible for coverage under the Montana University Group Health Insurance Program. The employer will continue to make insurance contributions on behalf of employees for up to four (4) months while an employee is on a workers' compensation leave of absence as a result of an injury sustained while employed at a unit of the university system.

5.5 RETIREMENT

Employees shall participate in the Public Employees Retirement System in accordance with state law. Employees who have questions concerning their retirement should write or call:

[Public Employees Retirement Division](#)

1712 Ninth Avenue
Helena, Montana 59601
Phone: 444-3154

5.6 PAY DAYS

The employer shall establish regular pay days which may only be modified in exceptional circumstances. The employer may change to an every other week pay day.

5.7 UNION PENSION PLAN

If all employees at any college/division of technology desire to participate in the union pension plan, the employer will execute the required agreement and make the agreed upon contribution to the fund in lieu of wages. All contributions to the pension shall be made to and information regarding the pension shall be obtained from:

Wintermute & Associates
P.O. Box 1976
Billings, Montana 59103

5.8 TEMPORARY ASSIGNMENTS TO HIGHER CLASSIFICATION

Employees may be temporarily assigned the responsibilities of a higher graded position for reasons deemed appropriate by the appointing authority. An employee so assigned shall be notified in writing at the beginning of the assignment as to the anticipated duration of the temporary promotion. The employee will return to his/her former position and salary at the end of the temporary promotion. Employees temporarily assigned to a position which is one grade higher than their present position shall be paid at their current market ratio in the higher grade. Employees assigned to a position which is more than one grade higher than their present position shall receive a five percent (5%) per grade salary increase. Employees may be temporarily assigned to a higher graded position in accordance with this section for up to three (3) consecutive working days before becoming eligible to receive a temporary salary increase. Employees assigned to a higher

graded position in excess of three (3) consecutive working days shall receive the temporary salary increase effective the first day in the higher graded position.

5.9 LONGEVITY

Each employee who has completed five (5) years of uninterrupted state service shall receive 1.5% of their base salary multiplied by the number of completed, continuous five (5) year periods of uninterrupted state service, in accordance with state statutes, for the first, second, fifth and sixth increments, and shall receive 2% for the third and fourth increments.

ARTICLE 6

HOURS OF WORK AND OVERTIME

- [WORKDAY/WORKWEEK](#)
- [ALTERNATE WORK SCHEDULE](#)
- [MEAL PERIODS](#)
- [REST BREAK](#)
- [OVERTIME](#)
- [CALL BACK](#)
- [COMPENSATORY TIME](#)
- [PROTECTIVE CLOTHING OR UNIFORMS](#)

6.1 WORKDAY/WORKWEEK

The normal straight time work day shall be eight (8) consecutive hours, exclusive of a lunch period. A normal workweek shall consist of forty (40) hours worked in five (5) consecutive days. Nothing in this agreement shall be construed to guarantee employees an eight hour day, forty hour workweek.

6.2 ALTERNATE WORK SCHEDULE

Temporary adjustments to a workweek schedule which may include workdays in excess of eight hours may be made through mutual agreement between the affected employees and the employer. When alternate work schedules are agreed to, only those hours in excess of forty (40) hours per week will be considered overtime and paid at one and one-half (1-1/2) times the normal rate.

The employer must give a ten (10) working day notice of any long-term change in the employee's regular work schedule, or such change may be implemented by mutual agreement between the employee and employer. Long-term is defined as ten (10) working days or more. When alternate work schedules are implemented, only those hours in excess of the scheduled workday of forty (40) hours per week will be considered overtime and paid at one and one-half (1-1/2) times the normal rate.

6.3 MEAL PERIODS

No employee shall be required to work longer than five consecutive hours without being granted either an unpaid meal period of at least one-half (1/2) hour, or an opportunity to consume a meal during working hours.

6.4 REST BREAK

Employees shall be allowed a fifteen (15) minute rest break in the approximate middle of each four hour shift.

6.5 OVERTIME

When an employee is required to work in excess of eight (8) hours per shift or in excess of forty (40) hours per week, the employee shall receive overtime at the rate of one and one-half (1-1/2) times the normal rate of pay for all overtime worked. All overtime and compensatory time must be approved in advance by the employer.

6.6 CALL BACK

Employees who are called back to work after completing their regular eight (8) hour shift or forty (40) hour workweek shall be paid for a minimum of two (2) hours at the rate of one and one-half (1-1/2) times the regular rate of pay. It is understood that this provision does not apply to work which occurs immediately prior or immediately after the work day.

6.7 COMPENSATORY TIME

Upon agreement of the employer and the employee, an employee may receive compensatory time in lieu of overtime in accordance with the provisions of the Fair Labor Standards Act.

A. Accrual Rate Compensatory time for employees will accrue at the rate of one and one-half (1-1/2) hours for each one (1) hour of overtime worked.

B. Maximum Accumulation The maximum amount of time which may be accumulated is 160 hours of overtime worked or 240 hours of compensatory time.

C. Use of Compensatory Time An employee must have the appropriate supervisor's prior approval to use accumulated compensatory time.

D. Payment on Termination If employment is terminated, any unused compensatory time will be paid to the employee at the regular rate of pay at the time of termination, or the average regular rate received by the employee during the last three (3) years of the employee's employment, whichever is higher. The employing center may establish other timeframes in which compensatory time must be used or will be cashed out.

6.8 PROTECTIVE CLOTHING OR UNIFORMS

If any employee is required to wear a uniform, protective clothing or any type of protective device, the employer shall furnish said items. The selection of the type and

determination of the number as well as the means of maintenance of said items to be provided by the employer shall be the prerogative of the employer. Coveralls will be made available for exceptionally dirty work.

ARTICLE 7

LEAVES OF ABSENCE

- [ANNUAL VACATION LEAVE](#)
- [SICK LEAVE](#)
- [JURY AND WITNESS LEAVE](#)
- [MILITARY TRAINING LEAVE](#)
- [PUBLIC SERVICE LEAVE](#)
- [MATERNITY LEAVE](#)
- [UNPAID LEAVE](#)
- [PROFESSIONAL LEAVE](#)

7.1 ANNUAL VACATION LEAVE

Employees shall be eligible for annual vacation leave in accordance with state law and applicable regulations. A copy of the state law governing annual vacation leave is included in [Addendum E](#).

Employees will be allowed to split their vacation periods, however, the employer may limit the amount of vacation which may be taken at any one time. Employee's choice of vacation periods will be based on seniority, the choice must be made no later than April 30th each year. Such choices are subject to the approval of the employer and must be registered with the employer and posted in a conspicuous place. Employees who fail to make their choice as of April 30th will relinquish their right to vacation choice based on seniority. Requests for additional vacation after April 30th are subject to the approval of the employer on a first-come first-served basis.

7.2 SICK LEAVE

Employees shall be eligible for sick leave in accordance with state law and applicable regulations. A copy of the state law governing sick leave is included in [Addendum E](#).

A. Immediate Family Illness Leave: Sick leave may be used for the necessary care of or attendance to the illness of an immediate family member until other attendance can reasonably be obtained. Immediate family includes the employee's spouse, parent, child, grandparent, grandchild or corresponding in-law or another member of the employee's household.

B. Bereavement Leave: Sick leave may be used for the death of or funeral attendance for an immediate family member.

7.3 JURY AND WITNESS LEAVE

Employees who are summoned as a juror or subpoenaed as a witness shall be granted leave in accordance with state law and applicable regulations. A copy of the state law governing jury and witness leave is included in [Addendum E](#).

7.4 MILITARY TRAINING LEAVE

Military training leave shall be granted in accordance with state law and applicable regulations. A copy of the state law governing military leave is included in [Addendum E](#).

7.5 PUBLIC SERVICE LEAVE

An employee who is elected or appointed to a public office shall be entitled to a leave of absence without pay not to exceed 180 days per year in accordance with state law. A copy of the state law governing public service leave is included in [Addendum E](#).

7.6 MATERNITY LEAVE

Employees shall be eligible for maternity leave in accordance with state law. A copy of the state law governing maternity leave is included in [Addendum E](#).

7.7 UNPAID LEAVE

At the discretion of the employer, an unpaid leave of absence may be granted employees for good and sufficient reasons.

7.8 PROFESSIONAL LEAVE

Upon request and approval, employees shall be granted a minimum of one (1) day per year of time off with pay to attend self development, job enrichment, or safety related training.

ARTICLE 8

HOLIDAYS

- [HOLIDAYS LISTED](#)
- [HOLIDAY EXCHANGES AUTHORIZED](#)
- [HOLIDAY ELIGIBILITY REQUIREMENTS](#)
- [HOLIDAY PAY](#)

8.1 HOLIDAYS LISTED

Eligible employees shall be granted the following paid holidays in accordance with state law and applicable regulations. Holiday benefits shall not exceed eight hours per holiday.

- 1) New Year's Day - January 1
- 2) Martin Luther King Jr. Day - Third Monday in January
- 3) Lincoln's and Washington's Birthdays - Third Monday in February
- 4) Memorial Day - Last Monday in May
- 5) Independence Day - July 4
- 6) Labor Day - First Monday in September
- 7) Columbus Day - Second Monday in October
- 8) Veteran's Day - November 11
- 9) Thanksgiving Day - Fourth Thursday in November
- 10) Christmas Day - December 25
- 11) State General Election Day - Even numbered years

8.2 HOLIDAY EXCHANGES AUTHORIZED

The Board of Regents of Higher Education may designate the following business days as holidays for employees in exchange for the same number of legal holidays enumerated above in accordance with 20-25-306, MCA.

- 1) the Friday following Thanksgiving;

2) the Monday before Christmas Day or New Year's Day if either holiday falls on Tuesday; and

3) the Friday after Christmas or New Year's Day if either holiday falls on Thursday.

8.3 HOLIDAY ELIGIBILITY REQUIREMENTS

Employees must be in a paid status (includes time on sick leave, annual vacation leave, or other paid leave) either the last regularly scheduled working day before or after a holiday is observed to be eligible to receive holiday benefits. An employee is not eligible to receive holiday benefits if the employee is a new employee and begins work on the day after a holiday is observed or if the employee is recalled from a layoff and returns to work on the day after the holiday is observed.

8.4 HOLIDAY PAY

Eligible employees who are not required to work on an observed holiday shall receive a maximum of eight (8) hours regular pay for the holiday. When an employee is required to work on an observed holiday, the employee will receive either two and one-half (2-1/2) times the regular rate of pay or, upon agreement of the affected employee and the employer, one and one-half (1-1/2) times the regular rate of pay and an alternate day off to be taken at a mutually agreeable time.

ARTICLE 9

PROBATION AND DISCHARGE

- [PROBATIONARY PERIOD](#)
- [DISCHARGE OF EMPLOYEES](#)

9.1 PROBATIONARY PERIOD

The first six (6) months of employment of any employee newly hired to a position covered by this agreement shall be a period of probation. At any time during the period of probation an employee may be discharged at the sole discretion of the employer and without any showing of cause. The first 30 days for an employee promoted from one position covered by this agreement to another shall be a period of probation. If the employee does not satisfactorily complete the thirty day probationary period, the employee will be returned to the previous position. An employee who takes a new position at another college/division of technology must serve a new six (6) month probationary period if the new position is within a different classification.

9.2 DISCHARGE OF EMPLOYEES

Employees who have completed the probationary period may be discharged for just cause.

ARTICLE 10

SENIORITY, LAYOFFS, AND VACANCIES

- [SENIORITY DEFINED](#)
- [SENIORITY IN HIRING](#)
- [SENIORITY IN UNSCHEDULED LAYOFFS](#)
- [SCHEDULED LAYOFF](#)
- [RECALL TO EMPLOYMENT](#)

10.1 SENIORITY DEFINED

Seniority shall date from the first day of employment in a bargaining unit position and is available for use after completion of the probationary period. Seniority shall cease to accrue if an employee is laid off, transferred or promoted out of the bargaining unit or during a leave without pay in excess of ninety days. Seniority shall be forfeited upon termination or after a layoff in excess of one year. However, if a person is reemployed in accordance with workers' compensation statute 39-71-317 MCA, veteran statute 10-2-221 MCA, or public service leave statute the employee's seniority date shall be the date of employment prior to the injury, or military or public service. Seniority is not transferable between colleges/division of technology.

10.2 SENIORITY IN HIRING

When filling a vacant or newly created position in the bargaining unit, where qualifications, skills and performance are equal, seniority shall prevail.

10.3 SENIORITY IN UNSCHEDULED LAYOFFS

Layoffs shall be in order of seniority within a classification by campus within the bargaining unit.

10.4 SCHEDULED LAYOFF

An employee's employment may be temporarily discontinued at certain specified times or intervals which are understood to be an inherent condition of employment. Upon expiration of the term specified, the employee shall be reinstated. Scheduled layoffs are not subject to the conditions outlined above for unscheduled layoffs.

10.5 RECALL TO EMPLOYMENT

Employees shall be recalled to their former position in reverse order of layoff. Employees will be eligible for recall for one year from the date of layoff. The laid off employee shall be notified at their last known address by certified mail of any recall to employment. If

the employee fails to communicate acceptance of a recall to employment within fourteen (14) calendar days from the date of the mailing of the notice of recall to the employee's last known address, the employee shall be considered as having forfeited any right to reemployment.

ARTICLE 11

MISCELLANEOUS CONTRACT PROVISIONS

- [COPIES OF AGREEMENT](#)
- [NONDISCRIMINATION](#)
- [FEE WAIVERS](#)
- [PARKING](#)

11.1 COPIES OF AGREEMENT

Upon final ratification and approval of this agreement, the employer shall prepare and make available to the bargaining agent and each employee a copy of the agreement.

11.2 NONDISCRIMINATION

Neither the employer nor the union shall discriminate on the basis of race, creed, religion, color or national origin or because of his age, physical or mental disability, marital status, or sex when the reasonable demands of the position do not require an age, physical, or mental disability, marital status or sex distinction.

Neither the employer nor the union shall discriminate against employees because of union membership or nonmembership. No employee shall be discharged or discriminated against for upholding union principles or rights granted them under state or federal law unless otherwise restricted in this agreement. An employee serving on a board or committee shall not be discontinued from employment or be discriminated against for that reason.

Employees who file a complaint alleging unlawful discrimination under state or federal complaint procedures may not file a contractual grievance over the same matter.

11.3 FEE WAIVERS

Any permanent employee who works at least three-quarter time (.75 FTE) shall be entitled to a waiver of fees in accordance with Board of Regents policy. The employer may limit the number of courses an employee may take, and access to courses shall be on a space available basis. When a course which an employee desires to take is offered only when the employee is scheduled to work, the employee must obtain advance approval from the supervisor and may take leave without pay for all hours absent from the regular work schedule or make up the time absent from work.

11.4 PARKING

Employees will not be required to pay a parking fee during the term of this agreement without prior negotiations with the bargaining agent.

ARTICLE 12

GRIEVANCE PROCEDURE AND ARBITRATION

- [GRIEVANCE DEFINITION](#)
- [PROCEDURES FOR FILING GRIEVANCES](#)
- [ARBITRATION](#)
- [RULES OF GRIEVANCE PROCESSING](#)

12.1 GRIEVANCE DEFINITION

A grievance is defined as an allegation that there has been a violation or misinterpretation of a provision of the agreement.

12.2 PROCEDURES FOR FILING GRIEVANCES

All grievances must be filed within ten (10) days following the act or omission giving rise to the grievance or within ten (10) days after the employee should have reasonably known of the circumstances which gave rise to the grievance. Prior to the filing of a formal grievance the employee with a grievance should discuss their grievance with their immediate supervisor and attempt to resolve the matter.

Step 1: If the grievance is not resolved informally after discussion with the immediate supervisor, a formal grievance may be presented in writing by the employee to the Dean within ten (10) days following the act of omission giving rise to the grievance. The Dean or his/her designee shall conduct a meeting with the grievant no later than ten (10) days following receipt of the grievance. The Dean shall issue a written decision within ten (10) days following the conclusion of the meeting.

Step 2: If the grievance has not been settled at Step 1, then within ten (10) days after receipt of the written decision of the Dean or his/her designee or expiration of the limits for making such decision, the employee may submit the written grievance to the University President or Chancellor or his/her designee, as appropriate, together with a copy of all materials submitted or received at prior steps. The President or Chancellor shall, within fifteen (15) days after receipt of the grievance, issue a decision in writing to the employee.

Step 3: If the grievance has not been settled at Step 3, then within ten (10) days after receipt of the written decision of the President or Chancellor or his/her designee or the expiration of the time limits for making such decision, the employee may submit the written grievance to the Commissioner of Higher Education together with a copy of all materials

submitted or received at prior steps. The Commissioner of Higher Education shall, within fifteen (15) days after receipt of the grievance, issue a decision in writing to the employee and the union.

12.3 ARBITRATION

Within ten (10) days of the receipt of the Step 3 decision the union and the grievant may, but are not required to, file a written request for arbitration with the Commissioner of Higher Education. The written request for arbitration must be signed by the grievant and the union business agent. Only those alleged violations of the agreement identified in Steps 1 or 2 may be considered at arbitration.

A. Selection of an Arbitrator If the union and the employer cannot agree upon an acceptable arbitrator, they shall forward a joint written request to the Federal Mediation and Conciliation Service to provide a list of names of seven (7) arbitrators. Each party shall alternatively strike names from the list until only one (1) name remains. The remaining person shall be designated the arbitrator.

B. Arbitrator's Authority The arbitrator shall not have the power to add to, detract from, modify or amend this agreement in any way.

C. Decision Binding The decision of the arbitrator shall be final and binding upon the employer, the employee grievant, and the union.

D. Arbitration Expenses Each party shall be responsible for the fees and expenses of presenting its own case. The fees and expenses of an impartial arbitrator shall be shared equally between the parties. In the event one of the parties wants a transcript of the arbitration proceedings, the party requesting the transcript shall pay the cost of such transcript.

12.4 RULES OF GRIEVANCE PROCESSING

A. Timeframes Reference to days regarding time periods in this procedure shall refer to working days. A working day is defined as all week days which are not designated as holidays. Time limits specified herein may be extended by mutual agreement of the parties at that step of the procedure. Any grievance which is not filed or advanced within the time limits provided for herein shall be invalid and without further recourse.

B. Grievance Mediation Upon agreement of the parties, grievance mediation may be used as an alternative to or prior to arbitration.

C. Written Grievances Grievances presented in writing shall include the following specific information: complete statement of the grievance

including the facts upon which the grievance is based, specific contract provision allegedly violated, names of witnesses having knowledge of relevant facts, specific remedy requested and the employee grievant's signature. Copies of relevant documents should be attached to the grievance.

D. Union Representation The employee grievant may be represented by the union at any step of the grievance procedure.

E. Grievance Meetings Either party may initiate a meeting to discuss the grievance at any step of the procedure.

ARTICLE 13

EFFECT OF AGREEMENT

- [FINANCIAL AND LEGISLATIVE CONTINGENCIES](#)
 - [SAVINGS CLAUSE](#)
 - [INTERIM AGREEMENT](#)
-

13.1 FINANCIAL AND LEGISLATIVE CONTINGENCIES

In the event the budget request of the colleges/division of technology is appropriated by the legislature in the amount requested, this agreement shall remain in full force and effect. Should the appropriation be less than the request or should the appropriation be reduced during the term of this agreement, this agreement may be reopened for renegotiation by the employer as to any portion for which the performance of which is contingent upon availability of financial resources. Should the legislature alter or amend a statutory provision contained in this agreement those clauses of the agreement affected by legislative action may be opened for renegotiation by either party.

13.2 SAVINGS CLAUSE

Should any portion of this agreement be determined unlawful, invalid, or unenforceable by a competent authority, that portion of the agreement declared invalid shall be null and void, however, the rest of the agreement shall remain in full force and effect and either party may request negotiations to seek agreement on a mutually satisfactory replacement for that invalidated or unenforceable portion.

13.3 INTERIM AGREEMENT

This is the sole and complete agreement between the parties and supersedes all prior agreements, understandings, and practices, oral or written, express or implied. Each party hereby waives the right to insist that the other party bargain collectively during the life of this agreement with respect to any questions of wages, hours, fringe benefits, or other conditions of employment. Changes to this agreement may be negotiated only upon mutual agreement of the parties to this agreement. Any agreed to changes shall be made effective upon any date agreed upon by both parties. In order for any changes to be effective, they must be set down in writing, and approved and signed by the union and the Commissioner of Higher Education.

ARTICLE 14

TERM OF AGREEMENT

14.1 CONTRACT TERM

This contract shall be in effect from ten (10) working days after the date of ratification or July 1, 1999, whichever is later, and shall continue until and including June 30, 2001 and shall be considered renewed from year to year thereafter unless either party to this agreement notifies the other party in writing on or before March 30, 2001 of its desire to modify or terminate this agreement.

ADDENDUM A

POSITIONS AND CLASSIFICATIONS WITHIN BARGAINING UNIT

Classifications - Positions

Asst. Food Service Supv. (Grade 10) 3512/44113

Food Service Worker (Grade 5) 3515/41003

Food Service Worker (Grade 6) 3515/41001

Maintenance Supervisor (Grade 12) 3512/07100

Maintenance Worker (Grade 8) 5106/10622, 3513/70003, 3513/70002, 3513/90701, 3514/72011, 3514/72013, 3514/72012, 3515/10706, 3515/10707, 3515/10708, 3512/07103, 3512/07104, 3512/07102, 3512/44110

Maintenance Worker (Grade 10) 3515/10704, 3515/10705, 3512/07101, 3513/70001, 5106/10621

Maintenance Worker (Grade 11) 3513/70004, 3515/10703, 3515/10702

Parts Technician (Grade 10) 5106/10630

Sales Clerk (Grade 7) 3513/10001, 3513/10003

ADDENDUM B

*Hourly and Annual Pay Schedules Based on 2080 Hours
Does Not Include Insurance*

**For new entry employees effective the first day of the pay period
that includes October 1, 1999**

1999-2000

GRADE	ANNUAL ENTRY SALARY	ANNUAL MARKET SALARY	HOURLY ENTRY SALARY	HOURLY MARKET SALARY
4	11,346	13,445	5.455	6.464
5	12,262	14,562	5.895	7.001
6	13,283	15,814	6.386	7.603
7	14,383	17,164	6.915	8.252
8	15,631	18,695	7.515	8.988
9	16,964	20,342	8.156	9.78
10	18,445	22,171	8.868	10.659
11	20,064	24,172	9.646	11.621
12	21,859	26,397	10.509	12.691
13	23,810	28,827	11.447	13.859

2000-2001

**For new entry employees effective the first day of the pay period
that includes October 1, 2000**

GRADE	ANNUAL ENTRY SALARY	ANNUAL MARKET SALARY	HOURLY ENTRY SALARY	HOURLY MARKET SALARY
4	11,346	13,445	5.455	6.464
5	12,262	14,562	5.895	7.001
6	13,316	15,854	6.402	7.622
7	14,456	17,249	6.95	8.293
8	15,748	18,834	7.571	9.055

9	17,135	20,546	8.238	9.878
10	18,676	22,447	8.979	10.792
11	20,365	24,534	9.791	11.795
12	22,241	26,859	10.693	12.913
13	24,286	29,403	11.676	14.136

ADDENDUM C

MEMORANDUM OF UNDERSTANDING

STUDY COMMITTEES

The Montana University System and Local 400 of the International Union of Operating Engineers agree to the formation of study committees to consider and make recommendations to the parties to the agreement on changes to the existing bargaining unit structure and other changes including but not limited to parking policies and fees which are appropriate in light of the restructuring of the University System. Committees will be convened within thirty (30) days of the request of either party and shall consist of an equal number of employer and employee/union representatives.

ADDENDUM D

STATE STATUTES

2-18-611. Annual vacation leave. (1) Each permanent full-time employee shall earn annual vacation leave credits from the first day of employment. Vacation leave credits earned shall be credited at the end of each pay period. However, employees are not entitled to any vacation leave with pay until they have been continuously employed for a period of 6 calendar months.

(2) Seasonal employees shall earn vacation credits. However, such persons must be employed 6 qualifying months before they may use the vacation credits. In order to qualify, such employees must immediately report back for work when operations resume in order to avoid a break in service.

(3) Permanent part-time employees are entitled to prorated annual vacation benefits if they have worked the qualifying period.

(4) An employee may not accrue annual vacation leave credits while in a leave-without-pay status.

(5) Temporary employees do not earn vacation leave credits, except that a temporary employee who is subsequently hired into a permanent position within the same jurisdiction without a break in service and temporary employees who are employed continuously longer than 6 months may count as earned leave credits for the immediate term of temporary employment.

2-18-612. Rate earned. (1) Vacation leave credits are earned at a yearly rate calculated in accordance with the following schedule, which applies to the total years of an employee's employment with any agency whether the employment is continuous or not:

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

(2) (a) For the purpose of determining years of employment under this section, an employee eligible to earn vacation credits under 2-18-611 must be credited with 1 year of employment for each period of:

(i) 2,080 hours of service following his date of employment; an employee must be credited with 80 hours of service for each biweekly pay period in which he is in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in the pay period; or

(ii) 12 calendar months in which he was in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in any one month. An employee of a school district, a school at a state institution, or the university system must be credited with 1 year of service if he is employed for an entire academic year.

(b) State agencies, other than the university system and a school at a state institution, must use the method provided in subsection (2)(a)(i) to calculate years of service under this section.

2-18-614. Military leave considered service. A period of absence from employment with the state, county, or city occurring either during a war involving the United States or in any other national emergency and for 90 days thereafter for one of the following reasons is considered as service for the purpose of determining the number of years of employment used in calculating vacation leave credits under this section:

(1) having been ordered on active duty with the armed forces of the United States;

(2) voluntary service on active duty in the armed forces or on ships operated by or for the United States government; or

(3) direct assignment to the United States department of defense for duties related to national defense efforts if a leave of absence has been granted by the employer.

2-18-615. Absence because of illness not chargeable against vacation unless employee approves.

Absence from employment by reason of illness shall not be chargeable against unused vacation leave credits unless approved by the employee.

2-18-616. Determination of vacation dates. The dates when employees' annual vacation leaves shall be granted shall be determined by agreement between each employee and his employing agency with regard to the best interest of the state, any county or city thereof as well as the best interests of each employee.

2-18-617. Accumulation of leave -- cash for unused -- transfer. (1)(a) Except as provided in subsection (1)(b), annual vacation leave may be accumulated to a total not to exceed two times the maximum number of days earned annually as of the end of the first pay period of the next calendar year. Excess vacation time is not forfeited if taken within 90 calendar days from the last day of the calendar year in which the excess was accrued.

(b) It is the responsibility of the head of an employing agency to provide reasonable opportunity for an employee to use rather than forfeit accumulated vacation leave. If an employee makes a reasonable written request to use excess vacation leave before the excess vacation leave must be forfeited under subsection (1)(a) and the employing agency denies the request, the excess vacation leave is not forfeited and the employing agency shall ensure that the employee may use the excess vacation leave before the end of the calendar year in which the leave would have been forfeited under subsection (1)(a).

(2) An employee who terminates employment for a reason not reflecting discredit on the employee is entitled upon the date of termination to cash compensation for unused vacation leave, assuming that the employee has worked the qualifying period set forth in 2-18-611.

(3) However, if an employee transfers between agencies of the same jurisdiction, cash compensation may not be paid for unused vacation leave. In a transfer, the receiving agency assumes the liability for the accrued vacation credits transferred with the employee.

2-18-618. Sick leave. (1) A permanent full-time employee earns sick leave credits from the first day of employment. For calculating sick leave credits, 2,080 hours (52 weeks x 40 hours) equals 1 year. Sick leave credits must be credited at the end of each pay period. Sick leave credits are earned at the rate of 12 working days for each year of service without restriction as to the number of working days that may be accumulated. Employees are not entitled to be paid sick leave until they have been continuously employed 90 days.

(2) An employee may not accrue sick leave credits while in a leave-without-pay status.

(3) Permanent part-time employees are entitled to prorated leave benefits if they have worked the qualifying period.

(4) Full-time temporary and seasonal employees are entitled to sick leave benefits provided they work the qualifying period.

(5) An employee who terminates employment with the agency is entitled to a lump-sum payment equal to one-fourth of the pay attributed to the accumulated sick leave. The pay attributed to the accumulated sick leave must be computed on the basis of the employee's salary or wage at the time he terminates his employment with the state, county, or city. Accrual of sick leave credits for calculating the lump-sum payment provided for in this subsection begins July 1, 1971. The payment is the responsibility of the agency in which the sick leave accrues. However, an employee does not forfeit any sick leave rights or benefits he had accrued prior to July 1, 1971. However, when an employee transfers between agencies within the same jurisdiction, he is not entitled to a lump-sum payment. In a transfer between agencies, the receiving agency shall assume the liability for the accrued sick leave credits earned after July 1, 1971, and transferred with the employee.

(6) An employee who receives a lump-sum payment pursuant to this section and who is again employed by any agency may not be credited with any sick leave for which the employee has previously been compensated.

(7) Abuse of sick leave is cause for dismissal and forfeiture of the lump-sum payments provided for in this section.

(8) An employee may contribute any portion of his accumulated sick leave to a nonrefundable sick leave fund for state employees and becomes eligible to draw upon the fund if an extensive illness or accident exhausts his accumulated sick leave. The department of administration shall, in consultation with the state employee group benefits advisory council, provided for in 2-15-1016, administer the sick leave fund and adopt rules to implement this subsection.

(9) A local government may establish and administer through local rule a sick leave fund into which its employees may contribute a portion of their accumulated sick leave.

2-18-619. Jury duty -- service as witness. (1) Each employee who is under proper summons as a juror shall collect all fees and allowances payable as a result of the service and forward the fees to the appropriate accounting office. Juror fees shall be applied against the amount due the employee from his employer. However, if an employee elects to charge his juror time off against his annual leave, he shall not be required to remit his juror fees to

his employer. In no instance is an employee required to remit to his employer any expense or mileage allowance paid him by the court.

(2) An employee subpoenaed to serve as a witness shall collect all fees and allowances payable as a result of the service and forward the fees to the appropriate accounting office. Witness fees shall be applied against the amount due the employee from his employer. However, if an employee elects to charge his witness time off against his annual leave, he shall not be required to remit his witness fees to his employer. In no instance is an employee required to remit to his employer any expense or mileage allowances paid him by the court.

(3) Employers may request the court to excuse their employees from jury duty if they are needed for the proper operation of a unit of state or local government.

2-18-620. Mandatory leave of absence for employees holding public office -- return requirements. (1)

Employers of employees elected or appointed to a public office in the city, county, or state shall grant such employees leaves of absence, not to exceed 180 days per year, while they are performing public service. Employees of an employer who employs 10 or more persons must, upon complying with the requirements of subsection (2), be restored to their positions, with the same seniority, status, compensation, hours, locality, and benefits as existed immediately prior to their leaves of absence for public service under this section.

(2) Employees granted a leave shall make arrangements to return to work within 10 days following the completion of the service for which the leave was granted unless they are unable to do so because of illness or disabling injury certified to by a licensed physician.

(3) Any unemployment benefits paid to any person by application of this section shall not be charged against any employer under the unemployment insurance law.

49-2-310. Maternity leave -- unlawful acts of employers. It shall be unlawful for an employer or his agent to:

(1) terminate a woman's employment because of her pregnancy;

(2) refuse to grant to the employee a reasonable leave of absence for such pregnancy;

(3) deny to the employee who is disabled as a result of pregnancy any compensation to which she is entitled as a result of the accumulation of disability or leave benefits accrued pursuant to plans maintained by her employer, provided that the employer may require disability as a result of pregnancy to be verified by medical certification that the employee is not able to perform her employment duties; or

(4) require that an employee take a mandatory maternity leave for an unreasonable length of time.