

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 11

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after print publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 444-2055.

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BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rule I pertaining to the administration) PROPOSED ADOPTION
of the 2016 and 2017 Program Year)
Community Development Block Grant)
(CDBG) Program – Affordable)
Housing Development Projects)

TO: All Concerned Persons

1. On June 23, 2016, at 11:00 a.m., the Department of Commerce will hold a public hearing in Room 228 of the Park Avenue Building at 301 South Park Avenue, in Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Commerce no later than 5:00 p.m., June 21, 2016, to advise us of the nature of the accommodation that you need. Please contact Bonnie Martello, Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0523; telephone (406) 841-2596; TDD 841-2702; fax (406) 841-2771; or e-mail bmartello@mt.gov.

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

NEW RULE I INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) – AFFORDABLE HOUSING DEVELOPMENT PROJECTS (1) The Department of Commerce adopts and incorporates by reference the 2016-2017 Application and Administrative Guidelines for Affordable Housing Development Projects as rules for the administration of the 2016-2017 Community Development Block Grant (CDBG) Program.

(2) The rules incorporated by reference in (1) relate to the scope and procedures for the award, administration, monitoring, and close-out of matching project grants to cities, towns, counties, consolidated governments, county or multicounty water, wastewater or solid waste districts, and tribal governments.

(3) Copies of the regulations adopted by reference in (1) may be obtained from the Department of Commerce, Grants Bureau, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523, or on the Grants Bureau web site at <http://comdev.mt.gov/Programs/CDBG/Housing/GrantAdmin>.

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

REASON: It is reasonably necessary to adopt this rule because the federal regulations governing the state's administration of the Community Development Block Grant Program (CDBG) and 90-1-103, MCA, require the department to adopt rules to implement the program.

4. Concerned 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 the Department of Commerce, Grants Bureau, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523; telephone (406) 841-2770; TDD 841-2702; fax (406) 841-2771; or e-mail DOCDBG@mt.gov, and must be received no later than 5:00 p.m., July 1, 2016.

5. Andrew Chanania, CDBG Public Facility and Housing Program Manager, Department of Commerce, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact listed in 4 above or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rule will not significantly and directly impact small businesses.

/s/ KELLY A. LYNCH
KELLY A. LYNCH
Rule Reviewer

/s/ MEG O'LEARY
MEG O'LEARY
Director
Department of Commerce

Certified to the Secretary of State May 23, 2016.

BEFORE THE MONTANA COAL BOARD
DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of)
ARM 8.101.203 and 8.101.302)
pertaining to the Montana Coal Board)
and applications for Montana Coal)
Board grant assistance)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On June 23, 2016, at 10:00 a.m., a public hearing will be held in Room 228 of the Park Avenue Building, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., June 21, 2016, to advise us of the nature of the accommodation that you need. Please contact Bonnie J. Martello, Paralegal, Director's Office, Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0501; telephone (406) 841-2596; TDD (406) 841-2702; fax (406) 841-2771; or e-mail Bmartello@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

8.101.203 CATEGORICAL EXCLUSIONS FROM ENVIRONMENTAL REVIEW PROCESS (1) As authorized by ARM 8.2.304(5), the board may ~~category~~ excludes the following projects from MEPA requirements which apply to ARM 8.2.328 and will not normally prepare either an environmental assessment or an environmental impact statement in considering applications for grants or loans to finance these projects.

~~(a) projects that will be partially funded by, or for which the applicant must obtain a permit from, a state or federal agency which, by reason of its funding or permitting function, has primary responsibility to consider the environmental impacts of the project under MEPA or the National Environmental Policy Act;~~

~~(b) projects primarily involving the acquisition of capital equipment;~~

~~(c) projects primarily involving planning studies or scientific research and analysis; or~~

~~(d) projects primarily involving, the provision of human services.~~

~~(2) If information available to the board suggests that a proposed project in one of the categories described in (1)(b) through (1)(d) may significantly affect the quality of the human environment, the board may, in its discretion, require an applicant to provide additional information relevant to environmental concerns and~~

~~the board will prepare an environmental assessment or environmental impact statement as may be appropriate.~~

AUTH: 90-6-205, MCA

IMP: 75-1-201, MCA

REASON: The Montana Coal Board has decided to modify the existing exemptions in order to use exemptions established by the department which allows for greater coordination between projects funded by the board and the department. This modification also allows projects expanded language when using environmental exemptions.

8.101.302 APPLICATION FORM (LIF 1-75) (1) remains the same.

(2) Applications will be evaluated based on the five criteria listed in ARM 8.101.301, and must include documentation of a completed environmental review process. The application shall be considered by the Coal Board during the next scheduled quarterly meeting after receipt of the completed application, and either be approved, denied, or tabled pending submittal of additional information to the Coal Board. The application form is available online.

(3) and (4) remain the same.

(5) Coal impact grant funds used for the preparation of plans, studies, analyses, or necessary research for the preparation of a preliminary engineering report must meet the requirements of the most current Uniform Application for Montana Public Facility Projects. Coal impact grant funds used for the preparation of a preliminary architectural report must meet the requirements described in the Coal Impact Grant Application. This application is available online at <http://comdev.mt.gov/Boards/Coal>.

AUTH: 90-6-205, MCA

IMP: 90-6-208, MCA

REASON: The Montana Coal Board has decided to modify the existing exemptions in order to use exemptions established by the department which allows for greater coordination between projects funded by the board and the department. This modification also allows projects expanded language when using environmental exemptions.

4. Concerned persons may submit their data, views, or arguments concerning the proposed actions either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Coal Board, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523; telephone (406) 841-2819; fax (406) 841-2702; or e-mail doccb@mt.gov, and must be received no later than 5:00 p.m., July 1, 2016.

5. Melinda Cummings, Coal Board Administrative Officer, Department of Commerce, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the Department of Commerce, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523, by fax to (406) 841-2702, by e-mail to doccb@mt.gov, or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Kelly A. Lynch
KELLY A. LYNCH
Rule Reviewer

/s/ Douglas Mitchell
DOUGLAS MITCHELL
Deputy Director
Department of Commerce

Certified to the Secretary of State May 23, 2016.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF PUBLIC HEARING ON
RULES I through IX, the amendment	)	PROPOSED ADOPTION,
of ARM 10.53.101 through 10.53.103	)	AMENDMENT, AND REPEAL
and 10.54.2501, and the repeal of)	
ARM 10.54.2810 through 10.54.2813,)	
10.54.2820 through 10.54.2823,)	
10.54.2830 through 10.54.2833,)	
10.54.2840 through 10.54.2843,)	
10.54.2850 through 10.54.2853,)	
10.58.2860 through 10.54.2863, and)	
10.54.2887 through 10.54.2898)	
pertaining to K-12 arts content)	
standards)	

TO: All Concerned Persons

1. On June 27, 2016, at 11:00 a.m., the Board of Public Education will hold a public hearing in room 172 of the Montana Capitol Building, Helena, Montana, to consider the proposed adoption, amendment, and repeal of the above-stated rules.

2. The Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Education no later than 5:00 p.m. on June 20, 2016, to advise us of the nature of the accommodation that you need. Please contact Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov.

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

NEW RULE I ARTS CONTENT STANDARDS (1) The content areas covered by the arts standards include:

- (a) visual arts;
- (b) media arts;
- (c) theatre arts;
- (d) music; and
- (e) dance.

(2) When a district incorporates or integrates arts content into district curriculum or offers an elective course in the arts, the following content standards apply.

- (3) At each grade level a student will be able to:
 - (a) generate and conceptualize artistic ideas and work;
 - (b) organize and develop artistic ideas and work;

- (c) refine and complete artistic work;
- (d) select, analyze, and interpret artistic work for presentation;
- (e) develop and refine artistic techniques and work for presentation;
- (f) convey meaning through the presentation of artistic work;
- (g) perceive and analyze artistic work;
- (h) construct meaningful interpretations of artistic works;
- (i) apply criteria to evaluate artistic work;
- (j) synthesize and relate knowledge and personal experiences to create art;

and

(k) relate artistic ideas and works with societal, cultural, and historical context to deepen understanding, including traditional and contemporary artistic ideas and works by American Indians.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-1-501, 20-2-121, 20-3-106, 20-7-101, 20-9-309, MCA

NEW RULE II ARTS CONTENT STANDARDS FOR KINDERGARTEN

(1) The media arts content standards for kindergarten are that each student will:

- (a) explore ideas for media artworks using play and experimentation;
- (b) explore ideas to form models for media arts productions;
- (c) combine arts and media content to form media artworks;
- (d) choose varied art forms and other content in media artwork;
- (e) identify skills and roles used to create media arts presentations;
- (f) share reactions to the presentation of media artworks;
- (g) recognize messages in media artworks;
- (h) identify a variety of media artworks;
- (i) identify qualities and possible changes in media artworks;
- (j) use personal experiences and choices in making media artworks; and
- (k) share ideas relating media artworks to everyday life.

(2) The visual arts content standards for kindergarten are that each student will:

- (a) engage in creative play with art materials;
- (b) create artworks or designs that represent natural and constructed objects;
- (c) explain the artistic process while making artworks;
- (d) choose art objects for a personal portfolio and display;
- (e) explain the purpose of a portfolio or collection;
- (f) explain the purpose of an art museum;
- (g) identify uses of artwork within one's personal environment;
- (h) identify subject matter and details in artworks;
- (i) explain reasons for selecting a preferred artwork;
- (j) create art that tells a story about a personal experience; and
- (k) identify a purpose of an artwork.

(3) The theatre arts content standards for kindergarten are that each student will:

- (a) identify ways in which movement may be used to create or retell a story;

- (b) express original ideas in guided creative drama;
 - (c) identify plot details in guided creative drama;
 - (d) use facial expressions to communicate character and emotions in guided creative drama;
 - (e) identify various design elements in guided creative drama;
 - (f) use voice and sound in guided creative drama;
 - (g) describe a response to characters in guided creative drama;
 - (h) describe a setting in creative drama;
 - (i) identify design elements in guided creative drama;
 - (j) identify similarities between characters and oneself in guided creative drama; and
 - (k) identify similarities and differences in stories from multiple cultures.
- (4) The music content standards for kindergarten are that each student will:
- (a) explore and experience musical concepts;
 - (b) demonstrate a musical idea;
 - (c) identify changes in musical ideas;
 - (d) identify expressive qualities in musical selections;
 - (e) rehearse to improve performances;
 - (f) perform music with expression;
 - (g) discuss preferences in musical selections;
 - (h) discuss expressive qualities of music;
 - (i) identify preferences in evaluating music;
 - (j) identify emotions when experiencing music; and
 - (k) identify connections between music, arts, and daily life in a variety of contexts.
- (5) The dance content standards for kindergarten are that each student will:
- (a) respond in movement to a variety of sounds;
 - (b) explore dances with beginning, middle, and end;
 - (c) use improvised movement to change dance sequences;
 - (d) explore different movement qualities;
 - (e) coordinate dance movements with other dancers;
 - (f) identify production elements of a dance for and with others;
 - (g) identify a movement that repeats in a dance;
 - (h) observe movement and describe it;
 - (i) identify criteria to describe movement in dance;
 - (j) identify an emotion expressed in a dance; and
 - (k) replicate movement in dances.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE III ARTS CONTENT STANDARDS FOR FIRST GRADE

- (1) The media arts content standards for first grade are that each student will:
- (a) express ideas for media artworks through traditional and nontraditional media;
 - (b) express ideas to form plans and models for media arts productions and products;

- (c) identify the effects of making changes to the content form or presentation of media artworks;
 - (d) combine art forms and media content to form media artworks;
 - (e) demonstrate skills and roles in media arts presentations;
 - (f) discuss the presentation of media artworks and identify reactions;
 - (g) identify components and messages in media artworks;
 - (h) describe the meanings of a variety of media artworks;
 - (i) identify qualities of media artworks considering audience;
 - (j) use personal experiences, interests, and models in creating media artworks; and
 - (k) discuss uses of media artworks in everyday life.
- (2) The visual arts content standards for first grade are that each student will:
- (a) engage and collaborate in creative investigation of art materials;
 - (b) create artwork that identifies uses of everyday objects;
 - (c) use art vocabulary to describe choices while creating art;
 - (d) explain why objects, artifacts, and artwork are valued differently by different audiences;
 - (e) identify how artwork should be prepared for a presentation;
 - (f) identify the roles and responsibilities of people who visit and work in museums;
 - (g) select and describe artworks that illustrate daily life comparing different images that represent the same subject;
 - (h) describe characteristics of artworks;
 - (i) classify artwork based on reasons for preferences;
 - (j) identify reasons to create art outside of school; and
 - (k) describe the reasons that people from different places and times create artwork.
- (3) The theatre arts content standards for first grade are that each student will:
- (a) identify ways in which gestures and movement may be used to create or retell a story;
 - (b) contribute to the development of a sequential plot in guided creative drama;
 - (c) contribute to the adaptation of the plot in guided creative drama;
 - (d) use body, face, gesture, and voice to communicate character and emotions in guided creative drama;
 - (e) experiment with design elements in creative drama;
 - (f) use movement and gesture to communicate emotions in guided creative drama;
 - (g) discuss an emotional response to guided creative drama;
 - (h) discuss how setting can influence character actions in creative drama;
 - (i) describe design elements in guided creative drama;
 - (j) describe similarities between characters and oneself in a guided creative drama; and
 - (k) describe similarities and differences in stories from multiple cultures.
- (4) The music content standards for first grade are that each student will:
- (a) create musical ideas for a purpose;

- (b) identify expressive intent of musical ideas;
- (c) discuss changes in musical ideas;
- (d) describe the purpose of a variety of musical selections;
- (e) rehearse to revise musical performances;
- (f) perform music for a purpose;
- (g) identify influences in making musical selections;
- (h) identify expressive qualities of music;
- (i) describe preferences while evaluating music;
- (j) describe emotions when experiencing music; and
- (k) describe connections between music, arts, and daily life in a variety of contexts.

- (5) The dance content standards for first grade are that each student will:
- (a) experiment with movement inspired by a variety of sounds;
 - (b) improvise a dance with beginning, middle, and end;
 - (c) apply changes to movement in dance sequences;
 - (d) identify movement qualities using simple dance vocabulary;
 - (e) demonstrate a range of movements while coordinating with other dancers;
 - (f) use production elements in a dance for and with others;
 - (g) identify a movement that repeats in a dance to make a pattern;
 - (h) discuss selected movements from a dance using dance vocabulary;
 - (i) use criteria to identify and demonstrate movements in dance;
 - (j) identify the movements in a dance that relate to a familiar experience; and
 - (k) demonstrate and describe movements in dances.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE IV ARTS CONTENT STANDARDS FOR SECOND GRADE

- (1) The media arts content standards for second grade are that each student will:
- (a) use resources to generate creative ideas for media artworks;
 - (b) use ideas to create plans and models for media arts productions;
 - (c) describe expressive effects in altering, refining, and completing media artworks;
 - (d) combine a variety of art and media content into unified media artworks;
 - (e) use experimentation skills and various roles in creating media arts presentations;
 - (f) identify and describe the experience of presenting media artworks;
 - (g) describe the components and messages in media artworks;
 - (h) define the purposes and meanings of media artworks;
 - (i) discuss the effectiveness of and improvements for media artworks;
 - (j) create media artworks and discuss their meaning and purpose; and
 - (k) identify how media artworks and ideas relate to everyday life and culture.
- (2) The visual arts content standards for second grade are that each student will:
- (a) discover multiple approaches and solutions to an art or design problem;

- (b) demonstrate personal interest in an artwork or design using various materials, tools, and everyday objects;
- (c) discuss choices made in creating artwork;
- (d) categorize artwork based on a theme or concept for an exhibit;
- (e) describe different materials or artistic techniques for preparing artwork for presentation;
- (f) describe how exhibited art, in a variety of venues, contributes to communities;
- (g) describe aesthetic characteristics of the natural world and constructed environments based on expressive properties;
- (h) describe the mood suggested by an artwork;
- (i) use art vocabulary to express preferences about artwork;
- (j) create artworks about events in home, school, or community life; and
- (k) discuss cultural uses of artwork from different times and places.

(3) The theatre arts content standards for second grade are that each student will:

- (a) identify ways in which voice and sounds may be used to create or retell a story;
- (b) develop dialogue in creative drama;
- (c) contribute to the adaptation of dialogue in a creative drama;
- (d) alter voice and body to expand and articulate character in creative drama experiences;
- (e) identify the basic design elements in creative drama experiences;
- (f) contribute original ideas or choices to group creative drama experiences;
- (g) describe the artistic choices made in creative drama experiences;
- (h) describe how setting influences character actions and consequences in creative drama;
- (i) discuss design elements in guided creative drama;
- (j) compare character experiences to personal experiences in creative drama; and
- (k) compare similarities and differences in stories from multiple cultures through creative drama experiences.

(4) The music content standards for second grade are that each student will:

- (a) explore rhythmic musical ideas for a purpose;
- (b) discuss the expressive intent of patterns and ideas for music;
- (c) interpret changes in musical ideas;
- (d) identify expressive qualities and the purpose of musical selections;
- (e) evaluate the expressiveness of musical performances;
- (f) perform music with expression and technical accuracy;
- (g) explain responses to musical selections;
- (h) explain how expressive qualities support intent in music;
- (i) discuss personal preferences in evaluating musical selections;
- (j) discuss emotions when experiencing music; and
- (k) describe musical expressions in terms of patterns and connections to daily life.

(5) The dance content standards for second grade are that each student will:

- (a) explore movement inspired by a variety of sources;

- (b) create a dance sequence with a beginning, middle, and end;
- (c) make choices to change movement in a dance sequence;
- (d) correlate movement to music;
- (e) coordinate body movements and alignment with other dancers;
- (f) integrate basic production elements to perform a dance sequence for and with others;
- (g) identify movements in a dance that develop a pattern;
- (h) identify meaning and intent from the movement in a dance;
- (i) use criteria to describe dance movements from a specific genre;
- (j) create and perform a dance that expresses personal meaning; and
- (k) discuss dances and the relationship between the types of movement and the dancers.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE V ARTS CONTENT STANDARDS FOR THIRD GRADE

(1) The media arts content standards for third grade are that each student will:

- (a) develop ideas for media artworks using a variety of tools, methods, and materials;
- (b) make plans and models for media arts productions;
- (c) demonstrate how the use of different elements alters media artworks;
- (d) integrate varied art forms and media content into media artworks;
- (e) exhibit a variety of skills and roles to create new content in media arts presentations;
- (f) discuss ways to improve media artworks presentations;
- (g) describe how messages are created by components in media artworks;
- (h) discuss the purposes and meanings of media artworks;
- (i) identify basic criteria to evaluate media artworks;
- (j) demonstrate how media artworks influence popular media; and
- (k) explain how media artworks and ideas can influence everyday life.

(2) The visual arts content standards for third grade are that each student will:

- (a) apply knowledge of available resources to enhance personal ideas through the art-making process;
- (b) create artwork using a variety of artistic processes and materials;
- (c) elaborate on artwork by adding details to enhance meaning;
- (d) research and discuss the possibilities and limitations of physical and digital spaces for exhibiting artwork;
- (e) prepare artworks for presentation;
- (f) explain how and where different cultures record and illustrate stories and history of life through art;
- (g) identify processes an artist uses to create artwork;
- (h) discuss the use of media to create subject matter, form, and mood in artwork;
- (i) evaluate artwork based on criteria;

(j) develop artwork based on observations and details of surroundings; and
(k) compare how responses to art change based on knowledge of the artwork's cultural and historical context.

(3) The theatre arts content standards for third grade are that each student will:

- (a) experiment with character choices in creative drama;
- (b) devise original ideas for a creative drama experience;
- (c) collaborate to revise ideas of creative drama;
- (d) determine how movement and voice are incorporated into creative drama experiences;
- (e) describe design elements in a creative drama experience;
- (f) rehearse and discuss reflections about a drama experience;
- (g) discuss artistic choices and how they shape reactions to drama and theatre works;
- (h) discuss ways to develop a character for a creative drama;
- (i) compare design elements in creative drama;
- (j) discuss personal experiences and knowledge to make connections to community and culture in creative drama; and
- (k) describe how stories are adapted from literature to become drama or theatre works.

(4) The music content standards for third grade are that each student will:

- (a) identify the connection between rhythmic and melodic ideas;
- (b) identify expressive intent of selected musical ideas;
- (c) explain revisions to musical ideas;
- (d) discuss how intent is conveyed through expressive qualities;
- (e) evaluate the effectiveness of musical performances;
- (f) perform music for a purpose with expression and technical accuracy;
- (g) evaluate responses to musical selections;
- (h) describe how expressive qualities determine intent in music;
- (i) identify criteria to evaluate musical performances;
- (j) explain emotions experienced when creating, performing, and responding to music;

(k) discuss patterns and connections between music, arts, and daily life.

(5) The dance content standards for third grade are that each student will:

- (a) experiment with movement using a variety of sources;
- (b) identify movement patterns and sequences;
- (c) describe differences in movement changes in dance sequences;
- (d) choose specific movements to express intent in a dance sequence;
- (e) identify technical dance skills that coordinate with other dancers;
- (f) create production elements for a dance performance;
- (g) discuss a movement pattern that creates a dance sequence;
- (h) explain how specific movements relate to the main idea of a dance;
- (i) use criteria to identify characteristic movements in dances from a variety of genres;
- (j) create movement based on an event or issue; and
- (k) explain what the movements of a dance may communicate about culture.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE VI ARTS CONTENT STANDARDS FOR FOURTH GRADE

(1) The media arts content standards for fourth grade are that each student will:

- (a) develop original media artworks using a variety of creative methods;
- (b) discuss, test, and assemble models for media arts productions;
- (c) demonstrate intentional effect in refining media artworks;
- (d) demonstrate how a variety of forms and content can be mixed and coordinated into media artworks;
- (e) apply a variety of skills and knowledge to solve problems while creating media arts presentations;
- (f) explain results of and improvements for presenting media artworks;
- (g) explain how various forms, methods, and styles influence the message of a media artwork;
- (h) explain reactions to a variety of media artworks considering their purpose and context;
- (i) apply basic criteria to evaluate and improve media artworks and production processes;
- (j) examine how media artworks affect meanings, situations, and cultural experiences in popular media; and
- (k) demonstrate how media artworks and ideas relate to everyday life and culture.

(2) The visual arts content standards for fourth grade are that each student will:

- (a) collaborate on multiple approaches to a creative art or design problem and develop a plan from concept to completion for an artwork;
- (b) apply research to art-making for the purpose of communicating about constructed environments;
- (c) revise artwork on the basis of insights gained through discussion;
- (d) describe how past, present, and emerging technologies impact the preservation and presentation of artwork;
- (e) analyze considerations for presenting and protecting artworks;
- (f) compare purposes of art museums, art galleries, and other venues with the types of experiences they provide;
- (g) compare components of visual imagery;
- (h) analyze subject matter, form, and use of media in artwork;
- (i) apply criteria to analyze artworks;
- (j) create artworks that reflect community cultural traditions; and
- (k) interpret artworks through observation and information about context.

(3) The theatre arts content standards for fourth grade are that each student will:

- (a) design technical elements that support the story and drama experiences;
- (b) develop original ideas for characters and plot in a theatre performance;
- (c) revise an improvised or scripted theatre work;
- (d) make physical and vocal choices to develop a character in a drama

experience;

- (e) discuss the use of technical elements to enhance a drama experience;
- (f) perform small-group drama and theatre works to an audience;
- (g) identify artistic choices made through participation in and observation of drama and theatre works;
- (h) compare character qualities in drama or theatre works;
- (i) propose criteria to evaluate drama and theatre works;
- (j) identify the ways drama and theatre work reflect the perspectives of a community or culture; and
- (k) discuss cross-cultural approaches to storytelling in drama and theatre works.

(4) The music content standards for fourth grade are that each student will:

- (a) explain the connection between rhythmic, melodic, and harmonic ideas;
- (b) organize musical ideas for an express purpose;
- (c) identify revisions for personal musical ideas;
- (d) identify the structure and elements in music selected for performance;
- (e) evaluate accuracy and expressiveness of musical performances;
- (f) perform music with expression, technical accuracy, and interpretation;
- (g) explain connections to responses, musical structure, and elements;
- (h) explain how expressive qualities help performers interpret music;
- (i) use established criteria to evaluate musical works and performances;
- (j) convey personal emotions using elements of music; and
- (k) demonstrate understanding of the connection between music and its

historical and cultural context.

(5) The dance content standards for fourth grade are that each student will:

- (a) use elements of dance to create a series of movements;
- (b) plan a dance sequence with a variety of movement patterns and structures;
- (c) revise and explain choices made in movement changes within dance sequences;
- (d) demonstrate shapes and expand the range of movements in a dance sequence;
- (e) demonstrate technical dance skills that coordinate with other dancers;
- (f) use a variety of production elements to create a formal dance performance space;
- (g) compare movement patterns within a genre or style;
- (h) identify intent of a dance by relating the movements, ideas, and context using dance vocabulary;
- (i) discuss and demonstrate the movement characteristics of a dance;
- (j) explain how the main idea of a dance is similar to or different from personal experience; and
- (k) describe how specific movements of a dance relate to culture and time period.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE VII ARTS CONTENT STANDARDS FOR FIFTH GRADE

- (1) The media arts content standards for fifth grade are that each student will:
- (a) demonstrate original ideas and innovations for media artworks using personal and community experiences;
 - (b) develop, present, and test ideas, plans, models, and proposals for media arts productions;
 - (c) determine how elements and components can be altered for clear communication and intentional effects in media artwork;
 - (d) create media artworks through the integration of multiple contents and forms;
 - (e) perform a variety of roles while solving problems to create media art presentations;
 - (f) compare results of and improvements for presenting media artworks;
 - (g) differentiate how message and meaning are created by components in media artworks;
 - (h) compare personal and group interpretations of a variety of media artworks considering their intention and context;
 - (i) apply criteria to evaluate media artworks and production processes, considering context and practicing constructive feedback;
 - (j) demonstrate how media artworks affect meanings, situations, and cultural experiences; and
 - (k) research how media artworks and ideas relate to personal, social, and community life and culture.
- (2) The visual arts content standards for fifth grade are that each student will:
- (a) combine diverse concepts and artistic methods to choose an approach and create an artwork;
 - (b) create artworks that document places or objects of personal significance;
 - (c) create artist statements using art vocabulary to describe personal choices in art-making;
 - (d) explain the role of a curator;
 - (e) discuss responsible and effective use of materials and techniques for preparing, presenting, and preserving artwork;
 - (f) cite evidence to explain how an exhibition presents ideas and provides information about a specific concept or topic;
 - (g) compare personal interpretations of artwork to others' interpretations;
 - (h) analyze use of structure, context, and visual elements to convey ideas and mood in artworks;
 - (i) evaluate artworks based on styles, genres, and media;
 - (j) apply formal and conceptual knowledge of art and design to make artwork;
- and
- (k) identify how artworks are used to inform or change beliefs, values, or behaviors of an individual or society.
- (3) The theatre arts content standards for fifth grade are that each student will:
- (a) implement design ideas that support the story in a drama or theatre work;
 - (b) participate in specific responsibilities required to present a drama or theatre work informally to an audience;

- (c) evaluate choices to improve an improvised or scripted drama or theatre work;
 - (d) experiment with physical and vocal choices to create meaning in drama and theatre works;
 - (e) demonstrate the use of technical elements in drama and theatre works;
 - (f) present drama and theatre works informally for an audience;
 - (g) explain personal reactions to artistic choices made in drama and theatre works;
 - (h) explain how cultural perspectives influence personal responses to characters in drama and theatre works;
 - (i) implement criteria to evaluate drama and theatre works;
 - (j) explain how drama and theatre work connects one to a community or culture; and
 - (k) investigate historical, global, and cultural issues in drama and theatre works.
- (4) The music content standards for fifth grade are that each student will:
- (a) improvise rhythmic, melodic, and harmonic ideas for a specific purpose;
 - (b) develop musical ideas for an express purpose;
 - (c) describe revisions to personal musical ideas;
 - (d) compare the structure and elements of music in works selected for performance;
 - (e) evaluate the accuracy, effectiveness, and expressiveness of musical performances;
 - (f) perform music with expression, technical accuracy, and interpretation that conveys the composer's intent;
 - (g) cite evidence that connects musical selections to specific experiences;
 - (h) describe how performers interpret expressive intent in music;
 - (i) use established criteria to evaluate the quality of musical works and performances;
 - (j) demonstrate how a musical experience forms an emotional, physical, and cultural connection; and
 - (k) compare connections between music and historical and cultural context.
- (5) The dance content standards for fifth grade are that each student will:
- (a) use elements of dance to create a movement series;
 - (b) create a dance sequence that communicates an idea;
 - (c) revise and explain choices made to refine movement changes in dance sequences;
 - (d) perform dance sequences using a variety of rhythms;
 - (e) execute a series of dance sequences using technical dance skills;
 - (f) collaborate to adapt dance to performance venues;
 - (g) analyze characteristics of diverse dance genres and styles;
 - (h) explain how movement can communicate meaning and intent in a dance using dance vocabulary;
 - (i) use criteria to compare characteristic movements in dances from a variety of genres and styles;
 - (j) analyze dances with contrasting themes; and
 - (k) describe how specific movements or qualities of a dance communicate

the ideas and perspectives of culture.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE VIII ARTS CONTENT STANDARDS FOR SIXTH THROUGH EIGHTH GRADES (1) The media arts content standards for sixth through eighth

grades are that each student will:

- (a) produce ideas, goals, and solutions for original media artworks;
- (b) analyze ideas, plans, prototypes, and creative processes for media arts productions;
- (c) improve the technical quality of media artworks by selecting expressive and stylistic elements to reflect an understanding of purpose, audience, and place;
- (d) integrate multiple content areas and forms into media artwork productions that convey perspectives, themes, and narratives;
- (e) demonstrate a range of skills and roles in creating and performing media arts presentations;
- (f) analyze results of and improvements for presenting media artworks;
- (g) evaluate the qualities of and relationships between the components and style in media artworks;
- (h) compare and contrast the intent of a variety of media artworks and how they impact understanding of one's own culture and other cultures;
- (i) compare and contrast media artworks and production processes to context and artistic goals;
- (j) analyze how media artworks expand meaning and knowledge, create cultural experiences, and influence local and global events; and
- (k) compare how media artworks and ideas relate to various contexts, purposes, and values.

(2) The visual arts content standards for sixth through eighth grade are that each student will:

- (a) design project steps and criteria to reach an identified goal and investigate personally relevant content for art-making;
- (b) demonstrate awareness of issues and ethics of appropriation as they create artworks and design;
- (c) apply criteria to plan revisions for artwork or design;
- (d) compare similarities and differences associated with preserving and presenting two-dimensional, three-dimensional, and digital artwork;
- (e) evaluate methods for preparing and presenting artwork based on criteria;
- (f) explain and cite evidence about how exhibits reflect history and values of a community;
- (g) explain how a person's aesthetic choices are influenced by culture and environment;
- (h) collaborate to interpret artworks;
- (i) develop criteria to evaluate artwork;
- (j) use art to express ideas and current interests; and
- (k) distinguish different ways that artworks represent, establish, reinforce, and reflect group identity.

(3) The theatre arts content standards for sixth through eighth grades are that each student will:

- (a) develop a character in a drama or theatre work;
- (b) demonstrate leadership and collaboration when developing a drama or theatre work;
- (c) analyze scripted drama and theatre works;
- (d) identify the essential events in a story or script that make up the dramatic structure;
- (e) analyze how technical elements enhance drama and theatre works;
- (f) perform a rehearsed drama or theatre work for an audience;
- (g) evaluate the artistic choices in drama and theatre works;
- (h) analyze how cultural perspectives influence the evaluation of drama and theatre work;
- (i) evaluate drama and theatre works using supporting evidence;
- (j) research how cultural perspectives, community ideas, and personal beliefs impact a drama or theatre work; and
- (k) use different forms of drama and theatre work to examine contemporary, social, cultural, or global issues.

(4) The music content standards for sixth through eighth grades, when a district incorporates or integrates music into district curriculum or offers an elective course in general music, performance-based classes, music technology, or music theory, are that each student will:

- (a) generate rhythmic, melodic, and harmonic phrases and harmonic accompaniments;
- (b) select musical ideas for arrangements, songs, and compositions;
- (c) evaluate personal musical ideas;
- (d) evaluate the structure of contrasting pieces of music selected for performance;
- (e) rehearse and determine when music is ready to perform;
- (f) perform music with technical accuracy, expression, and culturally respectful practices to convey the composer's intent;
- (g) compare connections between musical selections for a specific purpose;
- (h) compare how composers and performers interpret expressive qualities of music to create performances;
- (i) develop criteria to evaluate musical works and performances;
- (j) evaluate how personal connections inform creation, performance, and response to music; and
- (k) evaluate connections between music and historical and cultural context.

(5) The dance content standards for sixth through eighth grade are that each student will:

- (a) create an original dance;
- (b) create an original dance that communicates an idea;
- (c) revise movements in dance sequences based on artistic criteria;
- (d) present dance sequences from a variety of genres and styles;
- (e) execute and coordinate technical dance skills in performance;
- (f) collaborate with others to design and execute a dance production;
- (g) explain how the elements of dance are used to communicate intent in a

variety of genres or styles;

- (h) explain relationships among the elements of dance that support intent;
- (i) use criteria to determine what makes an effective performance;
- (j) create a movement sequence of two contrasting ideas; and
- (k) analyze how dances from a variety of cultures and time periods reveal ideas and perspectives.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE IX ARTS CONTENT STANDARDS FOR NINTH THROUGH TWELFTH GRADES (1) The media arts content standards for ninth through twelfth grades are that each student will:

- (a) integrate ideas, develop artistic goals, and problem solve in media arts creation processes;
- (b) apply criteria in developing and refining artistic ideas, plans, prototypes, and production processes;
- (c) enhance and modify media artworks, honing aesthetic quality;
- (d) synthesize various art forms and themes into media artwork productions considering the reaction and interaction of the audience;
- (e) demonstrate a progression of skills by fulfilling specific roles in the production of a variety of media arts presentations;
- (f) evaluate impact and implement improvements in presenting media artworks considering personal, local, and social impacts;
- (g) synthesize the qualities and relationships of the components in a variety of media artworks to create intention and persuasion;
- (h) analyze the intent, meanings, and reception of a variety of media artworks, focusing on personal and cultural contexts;
- (i) analyze critiques of media artworks and production processes;
- (j) demonstrate the use of media artworks to synthesize new meaning and knowledge that reflect and form cultural experiences; and
- (k) analyze how media artworks and ideas relate to various contexts, purposes, and values.

(2) The visual arts content standards for ninth through twelfth grades are that each student will:

- (a) develop plans for creating art and design works using various materials and methods from traditional and contemporary practices;
- (b) create art or design projects in response to contemporary issues that demonstrate an awareness of ethical implications of making and distributing creative works;
- (c) complete artworks or designs incorporating relevant criteria as well as personal artistic vision;
- (d) curate artifacts and artworks for presentation and preservation;
- (e) apply appropriate methods or processes to display artwork in a specific place;
- (f) analyze an exhibit or collection's impact on personal awareness of social, cultural, or political beliefs and understandings;

(g) evaluate the effectiveness of an artwork as perceived by a variety of audiences;

(h) defend an interpretation of an artwork or collections of artworks;

(i) analyze a collection of artwork based on sets of criteria;

(j) incorporate knowledge of personal, social, cultural, and historical life to create artworks; and

(k) compare uses of art in a variety of personal, societal, cultural, and historical contexts.

(3) The theatre arts content standards for ninth through twelfth grades are that each student will:

(a) examine the roles of character, story, playwright, theatre tradition, and genre in a drama or theatre work;

(b) analyze the collaborative relationship of the actor, director, and playwright in creating a drama or theatre work;

(c) refine design choices to support the story and impact of devised or scripted drama and theatre works;

(d) apply a variety of acting techniques in the rehearsal and performance of drama and theatre works;

(e) apply technical elements to enhance the production of drama and theatre works;

(f) perform a rehearsed scripted drama or theatre work for a specific audience;

(g) synthesize what is seen, felt, and heard in drama and theatre works to develop criteria for personal artistic choices;

(h) analyze how artistic choices are developed from personal experiences in drama and theatre works;

(i) analyze a drama or theatre work using personal aesthetics and artistic criteria;

(j) collaborate on drama or theatre work that examines a critical issue using various perspectives; and

(k) analyze the social, historical, and cultural contexts of drama and theatre works.

(4) The music content standards for ninth through twelfth grades, when a district incorporates or integrates music into district curriculum or offers an elective course in general music, performance-based classes, music technology, or music theory, are that each student will:

(a) analyze rhythmic, melodic, and harmonic phrases and harmonic accompaniments for expressive intent;

(b) assemble and organize sounds or short musical ideas for express purposes;

(c) analyze and revise the technical and expressive aspects of personal musical ideas;

(d) analyze how the elements of a musical performance relate to style and mood;

(e) analyze ways a performance conveys the elements of music, style, and mood;

(f) analyze musical performances to explain how the elements of music are

used to convey intent;

(g) analyze elements of music in selected works for specific responses;

(h) analyze composers' and performers' expressive intent in interpretations of music;

(i) develop criteria to analyze the technical and expressive qualities of music and performances;

(j) analyze how interests, knowledge, and skills relate to intent when creating, performing, and responding to music; and

(k) analyze relationships between music, arts, society, and cultures.

(5) The dance content standards for ninth through twelfth grades are that each student will:

(a) analyze established dance forms to inform their own original dances;

(b) analyze dance patterns and sequences;

(c) analyze and evaluate the impact of choices made in revising dance sequences;

(d) present an expanded repertoire of movement and dance compositions;

(e) use technical dance skills to perform in a variety of dance genres;

(f) collaborate with others to produce a dance production that reflects the artistic intent of a dance performance;

(g) compare and contrast movement patterns and the elements of dance in a variety of genres and styles;

(h) analyze and interpret how elements of dance contribute to artistic expression across genres and styles;

(i) analyze the artistic expression of a dance and discuss insights using criteria and genre-specific dance vocabulary;

(j) perform a dance inspired by a topic of interest; and

(k) analyze how dances from a variety of cultures and time periods communicate specific purpose and meaning.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

10.53.101 EXPLANATION OF THE CONTENT STANDARDS (1) The content standards shall be used by school districts to develop local curriculum and assessment in all the content areas including:

(a) English language arts and literacy in history/social studies, science and technical subjects and mathematics and mathematical practices. proficiency;

(b) English language arts and literacy;

(c) mathematics; and

(d) arts.

(2) The K-12 content standards describe what students shall know, understand, and be able to do in these content standards. These K-12 grade-specific standards define end-of-year expectations and a cumulative progression designed to enable students to meet college and career readiness expectations no

later than the end of high school.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

10.53.102 INDIAN EDUCATION (1) Curriculum and instruction of the content standards ~~ARM 10.53.104~~ under this chapter shall incorporate the distinct and unique cultural heritage of Montana American Indians pursuant to Article X, ~~Section~~ section 1(2) of the Constitution of the state of Montana and 20-1-501 and 20-9-309(2)(c), MCA.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-1-501, 20-2-121, 20-3-106, 20-7-101, 20-9-309, MCA

10.53.103 DEFINITIONS (1) "Content standard" means what all students should know, understand, and be able to do in ~~English language arts and literacy in history/social studies, science and technical subjects and mathematics and mathematical practices~~ in each of the content areas in this chapter.

(2) "Mathematical practices" describe processes and proficiencies students use as practitioners of the discipline of mathematics.

(3) The symbol "+" denotes science, technology, engineering, mathematics (STEM) standards that students should learn in order to take advanced courses such as calculus, advanced statistics, or discrete mathematics.

(4) The symbol "*" denotes specific modeling standards appearing throughout the high school mathematics standards.

(5) "Literacy in history/social studies, science, and technical subjects" means instruction in reading, writing, speaking, listening, and language use is a shared responsibility by teachers of English language arts and other content areas.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2501 EXPLANATION OF THE CONTENT AND PERFORMANCE STANDARDS (1) The content and performance standards shall be used by school districts to develop local curriculum and assessment in ~~all the~~ content areas including: ~~communication arts (reading, literature, writing, speaking and listening, and media literacy); arts; health enhancement; library media; mathematics; science; social studies; technology; world languages; workplace competencies; and career and vocational/technical education.~~ The K-12 content standards describe what students shall know, understand, and be able to do in these content areas. Benchmarks define the expectations for students' knowledge, skills, and abilities along a developmental continuum in each content area. Progress toward meeting these standards is measured at three points along that continuum: the end of grade 4, the end of grade 8, and upon graduation. Performance standards define the quality of student performance and describe the performance to be demonstrated. Performance level descriptions provide a picture or profile of student achievement at

the four performance levels: advanced, proficient, nearing proficiency, and novice.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

5. The board proposes to repeal the following rules:

10.54.2810 ARTS CONTENT STANDARD 1, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2811 BENCHMARK FOR ARTS CONTENT STANDARD 1 FOR END OF GRADE 4, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2812 BENCHMARK FOR ARTS CONTENT STANDARD 1 FOR END OF GRADE 8, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2813 BENCHMARK FOR ARTS CONTENT STANDARD 1 UPON GRADUATION, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2820 ARTS CONTENT STANDARD 2, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2821 BENCHMARK FOR ARTS CONTENT STANDARD 2 FOR END OF GRADE 4, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2822 BENCHMARK FOR ARTS CONTENT STANDARD 2 FOR END OF GRADE 8, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2823 BENCHMARK FOR ARTS CONTENT STANDARD 2 UPON GRADUATION, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2830 ARTS CONTENT STANDARD 3, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2831 BENCHMARK FOR ARTS CONTENT STANDARD 3 FOR END OF GRADE 4, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2832 BENCHMARK FOR ARTS CONTENT STANDARD 3 FOR END OF GRADE 8, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2833 BENCHMARK FOR ARTS CONTENT STANDARD 3 UPON GRADUATION, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2840 ARTS CONTENT STANDARD 4, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2841 BENCHMARK FOR ARTS CONTENT STANDARD 4 FOR END OF GRADE 4, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2842 BENCHMARK FOR ARTS CONTENT STANDARD 4 FOR END OF GRADE 8, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2843 BENCHMARK FOR ARTS CONTENT STANDARD 4 UPON GRADUATION, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2850 ARTS CONTENT STANDARD 5, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2851 BENCHMARK FOR ARTS CONTENT STANDARD 5 FOR END OF GRADE 4, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2852 BENCHMARK FOR ARTS CONTENT STANDARD 5 FOR END OF GRADE 8, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2853 BENCHMARK FOR ARTS CONTENT STANDARD 5 UPON GRADUATION, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2860 ARTS CONTENT STANDARD 6, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2861 BENCHMARK FOR ARTS CONTENT STANDARD 6 FOR END OF GRADE 4, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2862 BENCHMARK FOR ARTS CONTENT STANDARD 6 FOR END OF GRADE 8, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2863 BENCHMARK FOR ARTS CONTENT STANDARD 6 UPON GRADUATION, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2887 ADVANCED ARTS PERFORMANCE STANDARDS FOR END OF GRADE 4, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2888 PROFICIENT ARTS PERFORMANCE STANDARDS FOR END OF GRADE 4, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2889 NEARING PROFICIENCY ARTS PERFORMANCE STANDARDS FOR END OF GRADE 4, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2890 NOVICE ARTS PERFORMANCE STANDARDS FOR END OF GRADE 4, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2891 ADVANCED ARTS PERFORMANCE STANDARDS FOR END OF GRADE 8, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2892 PROFICIENT ARTS PERFORMANCE STANDARDS FOR END OF GRADE 8, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2893 NEARING PROFICIENCY ARTS PERFORMANCE STANDARDS FOR END OF GRADE 8, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2894 NOVICE ARTS PERFORMANCE STANDARDS FOR END OF GRADE 8, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2895 ADVANCED ARTS PERFORMANCE STANDARDS UPON GRADUATION, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2896 PROFICIENT ARTS PERFORMANCE STANDARDS UPON GRADUATION, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2897 NEARING PROFICIENCY ARTS PERFORMANCE STANDARDS UPON GRADUATION, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.2898 NOVICE ARTS PERFORMANCE STANDARDS UPON GRADUATION, AUTH: 20-2-114; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

6. Statement of Reasonable Necessity: The Board of Public Education has determined it is reasonable and necessary to adopt, amend, and repeal rules relating to arts content standards pursuant to ARM 10.54.2503 Standards Review Schedule and 10.53.104 Standards Review Schedule. The board has determined that to stay consistent with the legislative intent of Senate Bill 152 of the 2005 Legislative Session it must review and make contemporary amendments to its standards. The Legislature recognizes the need to reassess educational needs on a cyclical basis and the board recognizes its standards represent the minimum standards. These standards are the basis upon which a quality system of education is built and maintained. The board strives to conform to a regular review cycle for every chapter of accreditation. The standards review process shall use context information, criteria, processes, and procedures identified by the Office of Public Instruction with input from representatives of accredited schools and in accordance with the requirements of 20-7-101, MCA.

Using a negotiated rulemaking process involving stakeholder groups, Superintendent of Public Instruction Denise Juneau has developed recommendations for the revision of the Montana Arts Content Standards. The current arts standards were adopted in 1999. In order to benefit students, it is important to implement standards that are based on current knowledge and understanding of best practices in artistic literacy. The proposed standards include

five disciplines of arts education including dance, music, theatre, visual arts, and media arts, and address the ability of students to create, perform, present, critique, and connect the arts to their lives and the world around them.

The board also proposes to include in the authorizing and implementing statutes a citation to its constitutional authority requiring the board "to exercise general supervision over the public school system." This inclusion would recognize the board's constitutional authority to conduct rulemaking.

7. Economic impact statement summary: The Office of Public Instruction (OPI) surveyed school districts in January 2016 about the impacts of the proposed standards on district resources for staffing, instructional materials, curriculum development, and professional development. Sixty-one percent of respondents indicated that their district could implement the proposed standards using existing resources. Of the remaining respondents, many of these districts face challenges in meeting the current standards. A majority of the respondents in this group indicated that they have a shortage of time and materials for curriculum development and professional development. A smaller number face challenges finding teachers endorsed in the arts and/or finding instructional materials.

The OPI has identified \$52,945 to support the implementation of the proposed arts standards. This funding will provide for face-to-face trainings in nine regions throughout the state in addition to online professional development opportunities. The OPI will also develop a model curriculum guide to assist school districts with curriculum development. For those districts that are having trouble meeting the current standards, the statewide trainings and model curriculum guide may provide more support than the districts are presently receiving. Given the supports that will be provided at the state level, the OPI estimates that school districts will be able to absorb, in their existing budgets, the cost of modifying their current arts curriculum to align with the proposed standards.

Based on the analysis of the survey results and the advice of the negotiated rulemaking committee, the OPI has concluded that the school district expenditures required under the proposed standards are insubstantial expenditures that can be readily absorbed into the budgets of existing district programs.

8. The proposed effective date of these rules is July 1, 2017.

9. Concerned 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: Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov and must be received no later than 5:00 p.m., July 1, 2016.

10. Peter Donovan has been designated to preside over and conduct this hearing.

11. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 9 above or may be made by completing a request form at any rules hearing held by the board.

12. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

13. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

14. With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption, amendment, and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Peter Donovan
Peter Donovan
Rule Reviewer

/s/ Sharon Carroll
Sharon Carroll
Board Chair
Board of Public Education

Certified to the Secretary of State May 23, 2016.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF PUBLIC HEARING ON
RULES I through XIX and repeal of	)	PROPOSED ADOPTION AND
ARM 10.54.7010 through 10.54.7013,	)	REPEAL
10.54.7020 through 10.54.7023,)	
10.54.7030 through 10.54.7033,)	
10.54.7040 through 10.54.7043,)	
10.54.7050 through 10.54.7053,)	
10.54.7060 through 10.54.7063,)	
10.54.7070 through 10.54.7073,)	
10.54.7087 through 10.54.7098)	
pertaining to K-12 health and physical)	
education content standards)	

TO: All Concerned Persons

1. On June 27, 2016, at 10:00 a.m., the Board of Public Education will hold a public hearing in room 172 at the Montana Capitol Building, Helena, Montana, to consider the proposed adoption and repeal of the above-stated rules.

2. The Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Education no later than 5:00 p.m. on June 20, 2016, to advise us of the nature of the accommodation that you need. Please contact Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov.

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

NEW RULE I HEALTH CONTENT STANDARDS (1) The content standards for health are that students:

- (a) comprehend concepts related to health promotion and disease prevention to enhance personal health;
- (b) analyze the influence of family, peers, culture, media, technology, and other factors on health behaviors;
- (c) demonstrate the ability to access valid information, products, and services to enhance health;
- (d) demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks;
- (e) demonstrate the ability to use decision-making skills to enhance health and safety;
- (f) demonstrate the ability to use goal-setting skills to enhance health;
- (g) demonstrate the ability to practice health-enhancing behaviors and avoid

or reduce health risks; and

(h) demonstrate the ability to advocate for personal, family, and community health.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

- NEW RULE II HEALTH STANDARDS FOR KINDERGARTEN (1) The health standards for kindergarten are that each student will be able to:
- (a) comprehend concepts related to health promotion and disease prevention to enhance personal health by:
 - (i) identifying healthy and unhealthy behaviors;
 - (ii) identifying characteristics of physical, mental, and emotional health;
 - (iii) identifying characteristics of family and social health, including those of traditional and contemporary American Indian cultures and practices;
 - (iv) identifying ways germs are spread;
 - (v) showing ways to prevent the spread of germs;
 - (vi) identifying environmental factors that can affect health;
 - (vii) identifying safety practices at school and in the community;
 - (viii) identifying common childhood injuries;
 - (ix) giving examples of health care; and
 - (x) identifying body parts and their function.
 - (b) analyze the influence of family, peers, culture, media, technology, and other factors on health behaviors by:
 - (i) identifying family practices that promote health; and
 - (ii) identifying healthy practices at school.
 - (c) demonstrate the ability to access valid information, products, and services to enhance health by:
 - (i) identifying adults who help promote health; and
 - (ii) identifying school and community health and safety resources.
 - (d) demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks by:
 - (i) identifying feelings and emotions;
 - (ii) understanding that listening is a respectful and caring behavior;
 - (iii) using refusal skills in risky situations;
 - (iv) identifying risky situations; and
 - (v) identifying dangerous situations.
 - (e) demonstrate the ability to use decision-making skills to enhance health and safety by:
 - (i) giving examples of safe and healthy decisions;
 - (ii) identifying persons who can assist with safety and health-related decisions;
 - (iii) identifying ways to solve safety and health-related issues or problems; and
 - (iv) identifying possible consequences of choices when making safety and health-related decisions.
 - (f) demonstrate the ability to use goal-setting skills to enhance health by:

- (i) identifying healthy habits; and
 - (ii) identifying ways family members model healthy behaviors.
 - (g) demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks by:
 - (i) identifying healthy behaviors toward self and others;
 - (ii) identifying personal health practices and behaviors; and
 - (iii) identifying behaviors that are harmful or risky to health.
 - (h) demonstrate the ability to advocate for personal, family, and community health by:
 - (i) identifying ways to ask others to assist in promoting health;
 - (ii) identifying positive health choices that can be made by peers and self;
- and
- (iii) identifying health-related messages.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE III HEALTH STANDARDS FOR FIRST GRADE (1) The health standards for first grade are that each student will be able to:

- (a) comprehend concepts related to health promotion and disease prevention to enhance personal health by:
 - (i) describing healthy behaviors;
 - (ii) giving examples of physical, mental, emotional, family, and social health, including those of traditional and contemporary American Indian cultures and practices;
 - (iii) identifying ways to prevent the spread of germs;
 - (iv) identifying environmental factors that can affect health;
 - (v) identifying ways to be safe and healthy at school and in the community;
 - (vi) identifying common childhood injuries and their treatment;
 - (vii) identifying reasons for seeing a health care professional; and
 - (viii) identifying basic body systems such as circulatory, respiratory, cardiovascular, skeletal, muscular, digestive, and nervous systems.
- (b) analyze the influence of family, peers, culture, media, technology, and other factors on health behaviors by:
 - (i) describing ways a family practices health promotion;
 - (ii) identifying ways that peers influence behavior;
 - (iii) identifying ways in which schools promote personal health practices and behaviors; and
 - (iv) identifying examples from different media sources that influence health.
- (c) demonstrate the ability to access valid information, products, and services to enhance health by:
 - (i) describing ways adults can help promote health; and
 - (ii) describing school and community health and safety resources.
- (d) demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks by:
 - (i) showing how to share feelings in a healthy way;
 - (ii) describing ways listening is a respectful and caring behavior;

- (iii) describing and demonstrating how to use a variety of refusal skills; and
- (iv) describing how to get help in a dangerous situation.
- (e) demonstrate the ability to use decision-making skills to enhance health and safety by:
 - (i) identifying steps in making safe and healthy decisions;
 - (ii) identifying examples of responsible safety and health-related decisions;
 - (iii) identifying ways to solve safety and health-related issues or problems;
- and
- (iv) identifying possible consequences of choices when making safety and health-related decisions.
- (f) demonstrate the ability to use goal-setting skills to enhance health by:
 - (i) explaining types of healthy habits; and
 - (ii) identifying a goal and who can help achieve that goal.
- (g) demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks by:
 - (i) identifying examples of healthy behaviors toward self and others;
 - (ii) telling ways to maintain or improve personal health behaviors; and
 - (iii) explaining harmful or risky behaviors to health.
- (h) demonstrate the ability to advocate for personal, family, and community health by:
 - (i) expressing how to ask others to assist in promoting health;
 - (ii) showing how peers can make positive health choices; and
 - (iii) listing a variety of health-related messages.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

- NEW RULE IV HEALTH STANDARDS FOR SECOND GRADE (1) The health standards for second grade are that each student will be able to:
- (a) comprehend concepts related to health promotion and disease prevention to enhance personal health by:
 - (i) identifying and explaining how health behaviors affect personal health;
 - (ii) recognizing that there are multiple dimensions of health, such as physical, mental, and emotional, as well as family and social health, including those of traditional and contemporary American Indian cultures and practices;
 - (iii) describing some ways to prevent childhood communicable diseases;
 - (iv) describing common environmental factors that can affect health;
 - (v) giving examples of how to be safe at school and in the community;
 - (vi) identifying ways to prevent and treat common childhood injuries;
 - (vii) describing why it is important to seek health care; and
 - (viii) identifying basic body systems and their function such as the circulatory, respiratory, cardiovascular, skeletal, muscular, digestive, and nervous systems.
 - (b) analyze the influence of family, peers, culture, media, technology, and other factors on health behaviors by:
 - (i) identifying how family and culture influence personal health practices and behaviors;
 - (ii) identifying ways that peers influence behavior;

- (iii) identifying what the school can do to support personal health practices and behaviors;
 - (iv) describing how the media can influence health behaviors; and
 - (v) giving examples of school or community policies that promote health and safety.
- (c) demonstrate the ability to access valid information, products, and services to enhance health by:
- (i) identifying trusted adults and professionals who can help promote health; and
 - (ii) identifying ways to locate school and community health and safety resources.
- (d) demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks by:
- (i) identifying healthy ways to express needs, wants, and feelings;
 - (ii) using listening skills to enhance health;
 - (iii) exhibiting ways to respond in an unwanted, threatening, or dangerous situation; and
 - (iv) expressing ways to tell a trusted adult if threatened or harmed.
- (e) demonstrate the ability to use decision-making skills to enhance health and safety by:
- (i) identifying situations when a safety and health-related decision is needed;
 - (ii) differentiating between situations when a safety and health-related decision can be made individually or when assistance is needed;
 - (iii) describing ways to solve safety and health-related issues or problems; and
 - (iv) describing possible consequences of choices when making safety and health-related decisions.
- (f) demonstrate the ability to use goal-setting skills to enhance health by:
- (i) identifying short-term personal health goals and taking action towards achieving goals; and
 - (ii) identifying who can help when assistance is needed to achieve a personal health goal.
- (g) demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks by:
- (i) exhibiting healthy behaviors toward self and others;
 - (ii) exhibiting healthy practices and behaviors to maintain or improve personal health; and
 - (iii) discussing behaviors that avoid or reduce health risk.
- (h) demonstrate the ability to advocate for personal, family, and community health by:
- (i) making requests to promote health;
 - (ii) identifying ways to encourage others to make positive health choices; and
 - (iii) describing health messages and communication techniques.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE V HEALTH STANDARDS FOR THIRD GRADE (1) The health standards for third grade are that each student will be able to:

(a) comprehend concepts related to health promotion and disease prevention to enhance personal health by:

(i) identifying links between healthy choices and personal health;
(ii) defining life skills that improve health and wellness;
(iii) using goal-setting to practice healthy behaviors;
(iv) describing various characteristics of physical, mental, emotional, family, and social health, including those of traditional and contemporary American Indian cultures and practices;

(v) explaining the difference between childhood communicable and non-communicable diseases;

(vi) identifying the potential sources of environmental factors that affect health;

(vii) describing how health can be affected by school and community environments;

(viii) identifying common childhood health problems;

(ix) identifying situations that require health care; and

(x) identifying body systems and their function including circulatory, respiratory, cardiovascular, skeletal, muscular, digestive, and nervous systems.

(b) analyze the influence of family, peers, culture, media, technology, and other factors on health behaviors by:

(i) describing ways family and culture influence personal health practices and behavior;

(ii) describing ways that peers influence behavior;

(iii) explaining ways the school can support personal health practices and behaviors;

(iv) discussing ways the media can influence thoughts, feelings, and health behaviors;

(v) identifying types of technology that influence personal health; and

(vi) describing ways that school and community policies promote health and safety.

(c) demonstrate the ability to access valid information, products, and services to enhance health by:

(i) giving examples of valid health information, products, and services; and

(ii) identifying resources available at home, school, tribe, and community that provide valid health information.

(d) demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks by:

(i) expressing ways to show respect for self and others, including those of traditional and contemporary American Indian cultures and practices;

(ii) identifying verbal and nonverbal refusal skills;

(iii) recognizing conflict and applying nonviolent strategies to manage or resolve conflict; and

(iv) discussing situations when it is necessary to seek assistance for the health and safety of self and others.

(e) demonstrate the ability to use decision-making skills to enhance health

and safety by:

- (i) identifying routine safety and health-related situations;
 - (ii) discussing situations when support is needed in making safety and health-related decisions;
 - (iii) discussing various options to safety and health-related issues or problems;
 - (iv) discussing possible consequences of choices when making safety and health-related decisions; and
 - (v) identifying outcomes for various safety, healthy, and unhealthy decisions.
- health by:
- (f) demonstrate the ability to use goal-setting skills to enhance health by:
 - (i) describing ways to set personal health goals; and
 - (ii) explaining how friends, adults, and resources help in achieving a personal health goal.
 - (g) demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks by:
 - (i) describing practices of healthy behaviors toward self and others;
 - (ii) discussing reasons for responsible personal health behaviors; and
 - (iii) identifying healthy and unhealthy behaviors.
 - (h) demonstrate the ability to advocate for personal, family, and community health by:
 - (i) sharing accurate information about a health issue;
 - (ii) encouraging peers to make positive health choices; and
 - (iii) discussing health-related messages and communication techniques.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE VI HEALTH STANDARDS FOR FOURTH GRADE (1) The health standards for fourth grade are that each student will be able to:

- (a) comprehend concepts related to health promotion and disease prevention to enhance personal health by:
 - (i) identifying life skills that improve health and wellness;
 - (ii) discussing healthy and unhealthy behaviors and their effect on health;
 - (iii) identifying personal health-enhancing strategies that encompass substance abuse prevention, nutrition, exercise, injury and disease prevention, and stress management, including traditional and contemporary strategies from American Indian cultures;
 - (iv) describing risky behaviors and their potential consequences;
 - (v) discussing various characteristics of physical, mental, emotional, family, and social health, including those of traditional and contemporary American Indian cultures and practices;
 - (vi) describing how universal precautions and other hygienic practices reduce the risk for contracting disease;
 - (vii) describing the potential sources of environmental factors that affect health;
 - (viii) discussing practices for safe school and community environments;
 - (ix) describing common childhood health problems and potential treatments;

- (x) describing when it is important to seek health care; and
- (xi) discussing the structure and function of each of the following major systems: circulatory, respiratory, cardiovascular, skeletal, muscular, digestive, and nervous.
 - (b) analyze the influence of family, peers, culture, media, technology, and other factors on health behaviors by:
 - (i) explaining ways family and culture influence personal health practices and behaviors;
 - (ii) discussing ways that peers influence behavior;
 - (iii) identifying how the school, tribe, and community can support personal health practices and behaviors;
 - (iv) discussing why the media influences thoughts, feelings, and health behaviors;
 - (v) identifying ways technology can influence personal health; and
 - (vi) discussing ways that school and community policies promote health, safety, and disease prevention.
 - (c) demonstrate the ability to access valid information, products, and services to enhance health by:
 - (i) identifying qualities of valid health information, products, and services; and
 - (ii) describing resources from home, school, tribe, and community that provide valid health information.
 - (d) demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks by:
 - (i) demonstrating ways to communicate care, consideration, and respect of self and others, including those of traditional and contemporary American Indian cultures and practices;
 - (ii) identifying reasons to use refusal skills to avoid or reduce health risks;
 - (iii) identifying strategies to control angry feelings; and
 - (iv) describing reasons for seeking assistance to enhance the health and safety of self and others.
 - (e) demonstrate the ability to use decision-making skills to enhance health and safety by:
 - (i) discussing options of what to do in potential safety and health-risk situations;
 - (ii) identifying situations when assistance is needed to make safety and health-related decisions;
 - (iii) identifying positive alternatives to resolving safety and health-related issues or problems;
 - (iv) explaining possible consequences of health-related decisions; and
 - (v) creating a list of positive and negative outcomes related to various safety and health-related decisions.
 - (f) demonstrate the ability to use goal-setting skills to enhance health by:
 - (i) discussing reasons for setting personal health goals; and
 - (ii) discussing personal health goal-setting and the resources that can assist in achieving goals.
 - (g) demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks by:

- (i) discussing practices of healthy behaviors toward self and others;
 - (ii) identifying responsible personal health behaviors;
 - (iii) explaining personal health practices and behaviors that maintain or improve personal health; and
 - (iv) discussing reasons for healthy behaviors that avoid or reduce health risks.
- (h) demonstrate the ability to advocate for personal, family, and community health by:
- (i) discussing accurate information about a health issue;
 - (ii) discussing ways that encourage others to make positive health choices;
- and
- (iii) comparing and contrasting health messages and communication techniques.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE VII HEALTH STANDARDS FOR FIFTH GRADE (1) The health standards for fifth grade are that each student will be able to:

(a) comprehend concepts related to health promotion and disease prevention to enhance personal health by:

- (i) explaining the relationship between healthy behaviors and personal health;
 - (ii) describing personal health-enhancing strategies that encompass substance abuse prevention, nutrition, exercise, injury and disease prevention and stress management, including traditional and contemporary strategies from American Indian cultures;
 - (iii) identifying potential consequences of engaging in risky behaviors;
 - (iv) identifying examples of physical, mental, emotional, family and social health, including those of traditional and contemporary American Indian cultures and practices;
 - (v) explaining practices used to prevent or reduce the risk of spreading or contracting communicable diseases;
 - (vi) discussing ways environmental factors affect health;
 - (vii) describing ways in which safe and healthy school and community environments can promote personal health;
 - (viii) describing ways to prevent and treat common childhood injuries and health problems;
 - (ix) giving examples of health care and their benefits, including the unique issues regarding American Indians and health care benefits; and
 - (x) identifying the basic structure and function of the major human body systems, including growth and development and the reproductive system.
- (b) analyze the influence of family, peers, culture, media, technology, and other factors on health behaviors by:
- (i) examining how family and culture influence personal health practices and behaviors;
 - (ii) identifying how peers can influence healthy and unhealthy behaviors;

- (iii) describing how the school, tribe, and community can support personal health practices and behaviors;
 - (iv) explaining how media influences thoughts, feelings, and health behaviors;
 - (v) discussing ways that technology can influence personal health; and
 - (vi) explaining how school, public, and tribal health policies can influence health promotion and disease prevention.
- (c) demonstrate the ability to access valid information, products, and services to enhance health by:
- (i) identifying characteristics of valid health information, products, and services; and
 - (ii) locating resources from home, school, tribe, and community that provide valid health information.
- (d) demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks by:
- (i) using effective verbal and nonverbal communication skills to enhance health, including those of traditional and contemporary American Indian cultures and practices;
 - (ii) using refusal skills that avoid or reduce health risks;
 - (iii) using nonviolent strategies to manage or resolve conflict; and
 - (iv) discussing how to ask for assistance to enhance the health and safety of self and others.
- (e) demonstrate the ability to use decision-making skills to enhance health and safety by:
- (i) identifying health-related situations that might require thoughtful decisions;
 - (ii) analyzing when assistance is needed in making safety and health-related decisions;
 - (iii) comparing and contrasting healthy options to safety and health-related issues or problems;
 - (iv) predicting the potential outcomes of options when making safety and health-related decisions; and
 - (v) describing the outcomes of safety and health-related decisions.
- (f) demonstrate the ability to use goal-setting skills to enhance health by:
- (i) setting a personal health goal and tracking progress toward its achievement; and
 - (ii) identifying resources to assist in achieving a personal health goal.
- (g) demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks by:
- (i) explaining benefits of healthy behaviors toward self and others;
 - (ii) practicing responsible personal health behaviors;
 - (iii) using a variety of healthy practices and behaviors to maintain or improve personal health; and
 - (iv) using a variety of behaviors to avoid or reduce health risks.
- (h) demonstrate the ability to advocate for personal, family, and community health by:
- (i) expressing opinions and giving accurate information about health issues;
 - (ii) practicing and rationalizing reasons for positive health choices; and

- (iii) evaluating various health messages and communication techniques.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE VIII HEALTH STANDARDS FOR SIXTH THROUGH EIGHTH GRADES (1) The health standards for sixth through eighth grades are that each student will be able to:

(a) comprehend concepts related to health promotion and disease prevention to enhance personal health by:

(i) discussing the relationship between healthy behaviors and personal health;

(ii) describing the benefits of and barriers to practicing healthy behaviors;

(iii) analyzing behaviors that promote health enhancing strategies for issues such as substance abuse prevention, nutrition, sexual activity, exercise, injury and disease prevention, and stress management, including traditional and contemporary strategies from American Indian cultures;

(iv) analyzing the potential consequences of engaging in risky behaviors;

(v) identifying characteristics of physical, mental, emotional, family, and social health including those of traditional and contemporary American Indian cultures and practices;

(vi) explaining practices used to prevent or reduce the risk of spreading or contracting communicable diseases;

(vii) discussing ways environmental factors affect health;

(viii) analyzing ways in which safe and healthy school and community environments can promote personal health;

(ix) describing ways to reduce or prevent injuries and other adolescent health problems;

(x) explaining how appropriate health care can promote personal health, including the unique issues regarding American Indians and health care benefits;

(xi) defining human body systems, their function, and their interrelationship with one another; and

(xii) identifying basic structures and functions of the male and female reproductive health systems.

(b) analyze the influence of family, peers, culture, media, technology, and other factors on health behaviors by:

(i) explaining how family and culture influence the health of adolescents;

(ii) explaining how the perception of societal norms influence healthy and unhealthy behaviors;

(iii) explaining the influence of personal values and beliefs on individual health practices and behaviors;

(iv) describing how peers influence healthy and unhealthy behaviors;

(v) explaining how the school, tribe, and community can affect personal health practices and behaviors;

(vi) explaining how messages from media influence health behaviors;

(vii) explaining the influence of technology on personal and family health; and

(viii) comparing and contrasting how school, public, and tribal health policies

can influence health promotion and disease prevention.

(c) demonstrate the ability to access valid information, products, and services to enhance health by:

- (i) analyzing the validity of health information, products, and services;
- (ii) accessing valid health information from home, school, tribe, and community;
- (iii) determining the accessibility of products that enhance health; and
- (iv) describing situations that may require professional health services.

(d) demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks by:

- (i) applying effective verbal and nonverbal communication skills to enhance health, including those of traditional and contemporary American Indian cultures and practices;
- (ii) using refusal and negotiation skills that avoid or reduce health risks;
- (iii) using effective conflict management or resolution strategies; and
- (iv) discussing how to ask for assistance to enhance the health and safety of self and others.

(e) demonstrate the ability to use decision-making skills to enhance health and safety by:

- (i) identifying circumstances that can help or hinder safe and healthy decision making;
- (ii) determining when safety and health-related situations require the application of a thoughtful decision-making process;
- (iii) determining when individual or collaborative decision making is appropriate;
- (iv) distinguishing between safe, healthy, and unhealthy alternatives to health-related issues or problems;
- (v) predicting the potential short-term and long-term impact of health and safety-related options on self and others; and

(vi) analyzing the outcomes of safety and health-related decisions.

(f) demonstrate the ability to use goal-setting skills to enhance health by:

- (i) developing a goal to adopt, maintain, or improve personal health practices;
- (ii) assessing personal health practices;
- (iii) applying strategies and skills needed to attain a personal health goal; and
- (iv) describing how personal health goals can vary with changing abilities, priorities, and responsibilities.

(g) demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks by:

- (i) analyzing healthy practices and behaviors that will maintain or improve the health of self and others;
- (ii) explaining the importance of assuming responsibility for personal health behaviors; and
- (iii) describing behaviors to avoid or reduce health risks to self and others.

(h) demonstrate the ability to advocate for personal, family, and community health by:

- (i) stating a health-enhancing position on a topic and support it with accurate information;

- (ii) describing how to influence and support others to make positive health choices;
- (iii) working cooperatively to advocate for healthy individuals, families, tribes, and schools; and
- (iv) identifying ways in which health-related messages and communication techniques can be altered for different audiences.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE IX HEALTH STANDARDS FOR NINTH THROUGH TWELFTH GRADES (1) The health standards for ninth through twelfth grades are that each student will be able to:

(a) comprehend concepts related to health promotion and disease prevention to enhance personal health by:

- (i) predicting how health behaviors can affect health status;
 - (ii) comparing and contrasting the benefits of and barriers to practicing a variety of healthy behaviors;
 - (iii) developing personal health-enhancing strategies for issues such as substance abuse prevention, nutrition, exercise, sexual activity, injury and disease prevention, and stress management, including traditional and contemporary strategies from American Indian cultures;
 - (iv) comparing and contrasting the potential consequences of engaging in risky behavior;
 - (v) analyzing the interrelationships of physical, mental, emotional, family and social health or personal health, including those of American Indian cultures and practices;
 - (vi) comparing and contrasting various ways to prevent communicable diseases;
 - (vii) analyzing how environmental factors and personal health are interrelated;
 - (viii) analyzing how genetics and family history can impact personal health;
 - (ix) comparing and contrasting ways to advocate for safe and healthy school and community environments to promote personal health;
 - (x) proposing ways to reduce or prevent injuries and health problems;
 - (xi) analyzing the relationship between access to health care and health status, including the unique issues regarding American Indians and health care benefits resulting from treaty obligations;
 - (xii) analyzing human body systems, their function, and their interrelationship with one another;
 - (xiii) explaining the natural body changes of reproductive health;
 - (xiv) explaining fertilization, conception, and how the baby's sex and inherited traits are determined; and
 - (xv) comparing and contrasting how physical, mental, social, spiritual, and cultural factors influence attitudes about sexuality.
- (b) analyze the influence of family, peers, culture, media, technology, and other factors on health behaviors by:

- (i) comparing and contrasting how the family and culture influence the health of individuals;
 - (ii) explaining how the perception of societal norms influence healthy and unhealthy behaviors, including those of traditional and contemporary American Indian cultures and practices;
 - (iii) explaining the influence of personal values and beliefs on individual health practices and behaviors;
 - (iv) explaining how peers influence healthy and unhealthy behaviors;
 - (v) evaluating how the school, tribe, and community can affect personal health practices and behaviors;
 - (vi) evaluating the effect of media on personal and family health;
 - (vii) evaluating the impact of technology on personal, family, and community health; and
 - (viii) explaining how public health policies and governmental regulations, including tribal, can influence health promotion and disease prevention.
- (c) demonstrate the ability to access valid information, products, and services to enhance health by:
- (i) evaluating the validity of health information, products, and services;
 - (ii) using resources from home, school, tribe, and community that provide valid health information;
 - (iii) determining the accessibility of products and services that enhance health; and
 - (iv) determining when professional health services may be required.
- (d) demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks by:
- (i) using skills for communicating effectively with family, peers, and others to enhance health, including those of traditional and contemporary American Indian cultures and practices;
 - (ii) using refusal, negotiation, and collaboration skills to enhance health and avoid or reduce health risks;
 - (iii) using strategies to prevent, manage, or resolve interpersonal conflicts without harming self or others; and
 - (iv) discussing how to ask for and offer assistance to enhance the health and safety of self and others.
- (e) demonstrate the ability to use decision-making skills to enhance health and safety by:
- (i) examining barriers that can hinder safe and healthy decision making;
 - (ii) determining the value of applying a thoughtful decision-making process in safety and health-related situations;
 - (iii) justifying when individual or collaborative decision making is appropriate;
 - (iv) generating alternatives to safety and health-related issues or problems;
 - (v) analyzing the potential short-term and long term impact of health and safety alternatives on self and others; and
 - (vi) evaluating the effectiveness of safety and health-related decisions.
- (f) demonstrate the ability to use goal-setting skills to enhance health by:
- (i) developing a plan to attain a personal health goal that addresses strengths, needs, and risks;

- (ii) assessing personal health practices and overall health status;
- (iii) implementing strategies and monitoring progress in achieving a personal health goal; and
- (iv) formulating an effective long-term personal health plan.
- (g) demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks by:
 - (i) discussing ways to advocate for a variety of healthy practices and behaviors that will maintain or improve the health of self and others;
 - (ii) analyzing the role of individual responsibility for enhancing health; and
 - (iii) discussing ways to advocate for a variety of behaviors to avoid or reduce health risks to self and others.
- (h) demonstrate the ability to advocate for personal, family, and community health by:
 - (i) using accurate peer and societal norms to formulate a health-enhancing message;
 - (ii) advocating for behaviors and practices that will support others in making positive health choices;
 - (iii) working cooperatively as an advocate for improving personal, family, and community health; and
 - (iv) adapting health messages and communication techniques to target audiences.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE X CONTENT STANDARDS FOR PHYSICAL EDUCATION

- (1) The content standards for physical education are that students:
- (a) demonstrate competency in a variety of motor skills and movement patterns;
 - (b) apply knowledge of concepts, principles, strategies, and tactics related to movement and performance;
 - (c) demonstrate the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness;
 - (d) exhibit responsible personal and social behavior that respects self and others;
 - (e) recognize the value of physical activity for health, enjoyment, self-expression, and/or social interaction.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE XI DEFINITIONS (1) For purposes of the physical education content standards contained in this chapter, the following definitions apply:

- (a) "Locomotor skills" are defined as skills used to move the body from one place to another including walking, running, skipping, leaping, sliding, galloping, jumping, and hopping.
- (b) "Manipulative skills" are defined as skills developed when a person

handles some kind of object including throwing, kicking, striking, catching, redirecting an object in flight (such as a volleyball) or continuous control of an object such as a hoop.

(c) "Mature form/pattern" are defined as movement that is performed with ease using critical elements of the motor skill pattern that are smooth, efficient, and repetitive, and can be performed without thinking out each step of the movement.

(d) "Nonlocomotor skills" are defined as skills that are performed in place without appreciable spatial movement and include bending, and stretching, pushing, pulling, raising and lowering, twisting and turning, and shaking.

(e) "Small-sided practice tasks" are defined as games or deliberate tasks utilizing fewer students which are designed to practice particular skills or tasks.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE XII PHYSICAL EDUCATION STANDARDS FOR KINDERGARTEN (1) The physical education standards for kindergarten are that each student will be able to:

(a) demonstrate competency in a variety of motor skills and movement patterns by:

- (i) performing basic locomotor, nonlocomotor, and manipulative skills; and
- (ii) performing locomotor skills in response to teacher-led creative dance.

(b) apply knowledge of concepts, principles, strategies, and tactics related to movement and performance by:

(i) moving in different pathways, general space with different speeds, and in personal space to a rhythm.

(c) demonstrate the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness by:

- (i) recognizing that food provides energy for physical activity;
- (ii) identifying active play opportunities outside health enhancement class;
- (iii) actively participating in health enhancement class;
- (iv) recognizing that physical activity causes physical changes; and
- (v) practicing warm-ups and cool-downs relative to vigorous physical activity.

(d) exhibit responsible personal and social behavior that respects self and others by:

- (i) following directions in group settings;
- (ii) acknowledging responsibility for behavior when prompted;
- (iii) following instruction and direction when prompted;
- (iv) recognizing the established protocol for class activities;
- (v) sharing equipment and space with others;
- (vi) recognizing differences in ideas, cultures, and body types; and
- (vii) following teacher directions for safe participation and proper use of equipment with minimal reminders.

(e) recognize the value of physical activity for health, enjoyment, self-expression, and or social interaction by:

- (i) understanding that physical activity is important for good health;
- (ii) acknowledging that some physical activities are challenging or difficult;

and

(iii) identifying physical activities that result in a positive personal experience while playing with friends.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE XIII PHYSICAL EDUCATION STANDARDS FOR FIRST

GRADE (1) The physical education standards for first grade are that each student will be able to:

(a) demonstrate competency in a variety of motor skills and movement patterns by:

(i) performing most basic locomotor, nonlocomotor, and manipulative skills using mature patterns;

(ii) combining locomotor and nonlocomotor skills in a teacher-designed dance.

(b) apply knowledge of concepts, principles, strategies, and tactics related to movement and performance by:

(i) moving in self-space; and

(ii) differentiating between fast and slow speeds, strong and light force.

(c) demonstrate the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness by:

(i) differentiating between healthy and unhealthy foods;

(ii) discussing the benefits of being active and exercising or playing;

(iii) actively engaging in health enhancement class;

(iv) understanding that muscles grow stronger with physical activity; and

(v) identifying warm-up and cool-down activities related to vigorous physical activity.

(d) exhibit responsible personal and social behavior that respects self and others by:

(i) accepting personal responsibility by using equipment and space appropriately;

(ii) following the rules or parameters of the learning environment;

(iii) responding appropriately to general feedback from a teacher;

(iv) exhibiting the established protocols for class activities;

(v) working independently with others in a variety of class environments;

(vi) discussing ways to accept others' ideas, cultural diversity, and body types; and

(vii) following teacher directions for safe participation and proper use of equipment without teacher reminders.

(e) recognize the value of physical activity for health, enjoyment, self-expression, and or social interaction by:

(i) identifying physical activity as a component of good health;

(ii) understanding challenges in physical activities can lead to success; and

(iii) describing positive results gained from participating in physical activities with others.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE XIV PHYSICAL EDUCATION STANDARDS FOR SECOND

GRADE (1) The physical education standards for second grade are that each student will be able to:

(a) demonstrate competency in a variety of motor skills and movement patterns by:

(i) performing basic locomotor, nonlocomotor, and manipulative skills in mature patterns; and

(ii) performing rhythmic activity with correct response to simple rhythms.

(b) apply knowledge of concepts, principles, strategies, and tactics related to movement and performance by:

(i) identifying games, sports, or dances performed in other cultures; and

(ii) combining locomotor skills in general space to rhythm or beat.

(c) demonstrate the knowledge and skills needed to achieve and maintain a health-enhancing level of physical activity and fitness by:

(i) recognizing the balance of good nutrition with physical activity;

(ii) describing physical activities outside health enhancement class;

(iii) actively engaging in health enhancement class in response to instruction and practice;

(iv) identifying physical activities which contribute to developing strength and fitness; and

(v) describing warm-up and cool-down activities related to vigorous physical activity.

(d) exhibit responsible personal and social behavior that respects self and others by:

(i) practicing skills with minimal teacher prompting;

(ii) accepting responsibility for class protocols with behavior and performance actions;

(iii) accepting specific corrective feedback from a teacher;

(iv) recognizing the role of rules and etiquette in teacher-designed physical activities;

(v) working independently with others in partner environments;

(vi) recognizing ways to accept others' ideas, cultural diversity, and body types during games and physical activities; and

(vii) working independently and safely in physical activity settings.

(e) recognize the value of physical activity for health, enjoyment, self-expression, and or social interaction by:

(i) describing the value of "good health balance";

(ii) comparing physical activities that bring confidence and challenges; and

(iii) discussing positive results gained from participating in physical activities with others.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE XV PHYSICAL EDUCATION STANDARDS FOR THIRD GRADE (1) The physical education standards for third grade are that each student will be able to:

- (a) demonstrate competency in a variety of motor skills and movement patterns by:
 - (i) performing a combination of motor skills in various contexts; and
 - (ii) performing developmentally appropriate dance steps and movement patterns.
- (b) apply knowledge of concepts, principles, strategies, and tactics related to movement and performance by:
 - (i) discussing the origin of a game, sport, or dance, including traditional and contemporary American Indian contributions and cultures; and
 - (ii) recognizing the concept of open space in movement context.
- (c) demonstrate the knowledge and skills needed to achieve and maintain a health-enhancing level of physical activity and fitness by:
 - (i) identifying foods that are beneficial for pre- and post-physical activity;
 - (ii) charting participation in physical activities outside health enhancement class;
 - (iii) engaging in the activities of health enhancement class without teacher prompting;
 - (iv) describing the concept of physical fitness and provide examples of physical activity that enhances fitness; and
 - (v) recognizing the importance of warm-up and cool-down activities related to vigorous physical activity.
- (d) exhibit responsible personal and social behavior that respects self and others by:
 - (i) practicing personal responsibility in teacher-directed activities;
 - (ii) working independently for extended periods of time;
 - (iii) accepting and implementing specific corrective teacher feedback;
 - (iv) recognizing the role of rules and etiquette in physical activity with peers;
 - (v) supporting and working cooperatively with others;
 - (vi) discussing ways to accept others' ideas, cultural diversity, and body types during games and physical activity; and
 - (vii) working independently and safely in physically active settings.
- (e) recognize the value of physical activity for health, enjoyment, self-expression, and or social interaction by:
 - (i) discussing the relationship between physical activity and good health;
 - (ii) discussing the challenge that comes from learning a new physical activity;and
 - (iii) describing the positive social interactions that come when engaged with others in physical activity.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE XVI PHYSICAL EDUCATION STANDARDS FOR FOURTH GRADE (1) The physical education standards for fourth grade are that each

student will be able to:

(a) demonstrate competency in a variety of motor skills and movement patterns by:

(i) using a combination of motor skills to engage in a variety of activities; and
(ii) combining locomotor movement patterns and dance steps used in an original dance.

(b) apply knowledge of concepts, principles, strategies, and tactics related to movement and performance by:

(i) discussing the origin of a variety of games, sports, or dances, including traditional and contemporary American Indian contributions and cultures; and
(ii) understanding the concept of open spaces to activities such as combination skills, small-sided practice tasks, gymnastics, and dance environments.

(c) demonstrate the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness by:

(i) discussing the importance of hydration and hydration choices relative to physical activities;
(ii) analyzing opportunities for participating in physical activities outside health enhancement class;
(iii) actively engaging in the activities of health enhancement class, both teacher-directed and independent;
(iv) identifying the components of health-related fitness; and
(v) engaging in warm-up and cool-down activities related to cardio-respiratory fitness assessment.

(d) exhibit responsible personal and social behavior that respects self and others by:

(i) demonstrating responsible behavior in independent group situations;
(ii) reflecting on personal social behavior in physical activity;
(iii) listening respectfully to corrective feedback from others;
(iv) adhering to rules of etiquette in a variety of physical activities;
(v) recognizing and supporting individual differences in movement performance at all skill levels;
(vi) describing ways to accept others' ideas, cultural diversity, and body types during games and physical activities;
(vii) working safely with peers and equipment in physical activity settings.

(e) recognize the value of physical activity for health, enjoyment, self-expression, and or social interaction by:

(i) examining the health benefits of participating in physical activity;
(ii) rating the enjoyment of participating in challenging and mastered physical activities; and
(iii) describing and comparing the positive social interactions when engaged in partner, small-group, and large-group physical activities.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE XVII PHYSICAL EDUCATION STANDARDS FOR FIFTH GRADE (1) The physical education standards for fifth grade are that each student

will be able to:

(a) demonstrate competency in a variety of motor skills and movement patterns by:

(i) exhibiting competency in fundamental motor skills and selected combinations of skills; and

(ii) combining locomotor skills in cultural as well as creative dances (self and group), including those of traditional and contemporary American Indian cultures, with correct rhythm and pattern.

(b) apply knowledge of concepts, principles, strategies, and tactics related to movement and performance by:

(i) recognizing that many different countries and cultures have been the origin of games, sports, and dance, including those of traditional and contemporary American Indian cultures; and

(ii) combining spatial concepts with locomotor and nonlocomotor movements for small groups in gymnastics, dance, and games environments.

(c) demonstrate the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness by:

(i) analyzing the impact of food choices related to physical activity, youth sports, and personal health;

(ii) charting and analyzing fitness benefits of physical activity outside health enhancement class;

(iii) actively participating in all activities of health enhancement class;

(iv) differentiating between skill-related and health-related fitness; and

(v) identifying the need for warm-up and cool-down activities related to various physical activities.

(d) exhibit responsible personal and social behavior that respects self and others by:

(i) participating in physical activity with responsible interpersonal behavior;

(ii) participating with responsible personal behavior in a variety of physical activity contexts, environments, and facilities;

(iii) giving corrective feedback respectfully to peers;

(iv) critiquing the etiquette involved in rules of various activities;

(v) accepting, recognizing, and actively involving others with both higher and lower skill abilities into physical activities and group projects;

(vi) accepting others' ideas, cultural diversity, and body types by engaging in cooperative and collaborative movement projects; and

(vii) applying safety principles with physical activities.

(e) recognize the value of physical activity for health, enjoyment, self-expression, and or social interaction by:

(i) comparing the health benefits of participating in selected physical activities;

(ii) expressing, through various media, the enjoyment and challenge of participating in a favorite physical activity; and

(iii) analyzing the social benefits gained from participating in physical activity.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE XVIII PHYSICAL EDUCATION STANDARDS FOR SIXTH THROUGH EIGHTH GRADES (1) The physical education standards for sixth through eighth grades are that each student will be able to:

(a) demonstrate competency in a variety of motor skills and movement patterns by:

(i) performing, with mature form, locomotor, nonlocomotor, and manipulative skills necessary for participating in games and sports, outdoor pursuits, and individual performance activities; and

(ii) identifying correct rhythm and pattern for a different dance form among folk, social, creative, line, and world dance, including those of traditional and contemporary American Indian cultures.

(b) apply knowledge of concepts, principles, strategies, and tactics related to movement and performance by:

(i) researching the history and origin of various games, sports, and dance, including those of traditional and contemporary American Indian cultures;

(ii) using tactics to create open space and close space during small-side play by combining locomotor movements; and

(iii) describing and applying a variety of movement concepts.

(c) demonstrate the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness by:

(i) describing the relationship between poor nutrition and health risk factors;

(ii) identifying the five components of health-related fitness and explaining the connections between fitness and overall physical and mental health;

(iii) identifying forms of technology and social media that support a healthy, active lifestyle;

(iv) participating in a variety of self-selected aerobic fitness activities, and lifetime activities outside of health enhancement class;

(v) planning and implementing a program to enhance personal fitness;

(vi) comparing and contrasting health-related fitness components;

(vii) describing the role of stretching and flexibility in injury prevention; and

(viii) explaining how body systems interact with one another during physical activity.

(d) exhibit responsible personal and social behavior that respects self and others by:

(i) accepting responsibility for improving one's own levels of physical activity and fitness;

(ii) explaining practices that promote responsible behavior of self and others in a variety of physical activities;

(iii) providing encouragement and feedback to peers without prompting from teacher;

(iv) applying rules and etiquette by acting as an official during modified games, dance, and rhythm;

(v) cooperating with classmates on problem-solving initiatives during adventure activities, large-group initiatives, and game play;

(vi) responding appropriately to participant's ethical and unethical behavior during physical activity by using roles and guidelines for resolving conflicts;

(vii) providing ways to accept others' ideas, cultural diversity, and body types by engaging in cooperative and collaborative movement projects; and

(viii) identifying safety concerns and using physical activity and fitness equipment appropriately.

(e) recognize the value of physical activity for health, enjoyment, self-expression, and/or social interaction by:

(i) identifying the five components of health-related fitness and explaining the connection between fitness and overall physical and mental health;

(ii) developing a plan of action and making appropriate decisions based on that plan when faced with an individual challenge; and

(iii) comparing and contrasting various physical activities for their social benefit.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

NEW RULE XIX PHYSICAL EDUCATION STANDARDS FOR NINTH THROUGH TWELFTH GRADES (1) The physical education standards for ninth through twelfth grades are that each student will be able to:

(a) demonstrate competency in a variety of motor skills and movement patterns by:

(i) refining activity-specific movement skills in one or more lifetime activities;

(ii) exhibiting competency in two or more specialized skills in health-related fitness activities; and

(iii) choreographing or participating in a form of dance.

(b) apply knowledge of concepts, principles, strategies, and tactics related to movement and performance by:

(i) identifying and discussing the historical and cultural roles of games, sports, and dance, including those of traditional and contemporary American Indian cultures;

(ii) comparing similarities and differences in various dance forms, including those of traditional and contemporary American Indian cultures and practices;

(iii) using spatial concepts of locomotor and nonlocomotor movements in outdoor pursuits; and

(iv) identifying the stages of learning a motor skill.

(c) demonstrate the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness by:

(i) creating a healthy snack plan for before, during, and after exercise that addresses nutrition needs for each phase;

(ii) investigating the relationships among physical activity, nutrition, and body composition;

(iii) analyzing and applying technology and social media as tools to support a healthy, active lifestyle;

(iv) analyzing the impact of life choices, economics, motivation, and accessibility on maintaining physical activity in college or career settings;

(v) creating a plan, training for and participating in a community event with a focus on physical activity, including those of American Indian cultural traditions;

- (vi) designing and implementing a strength and conditioning program;
 - (vii) evaluating the importance of stretching and flexibility in lifetime activities;
 - (viii) identifying the structure of skeletal muscle and fiber types as they relate to muscle development; and
 - (ix) identifying the different energy systems used in physical activities.
- (d) exhibit responsible personal and social behavior that respects self and others by:
- (i) accepting differences between personal characteristics and the idealized body images and elite performance levels portrayed in various media;
 - (ii) advocating for responsible behavior of self and others in a variety of physical activities;
 - (iii) analyzing the benefits of a variety of feedback techniques;
 - (iv) examining moral and ethical conduct in specific competitive situations;
 - (v) assuming a leadership role in a physical activity setting such as coach, referee, or group leader;
 - (vi) advocating for acceptance of others' ideas, cultural diversity, and body types by engaging in cooperative and collaborative movement projects; and
 - (vii) applying best practices for participating safely in physical activity, exercise, and dance.
- (e) recognize the value of physical activity for health, enjoyment, self-expression, and or social interaction by:
- (i) analyzing the health benefits of a self-selected physical activity;
 - (ii) choosing an appropriate level of challenge to experience success while participating in a self-selected physical activity; and
 - (iii) evaluating social interactions and supports in a variety of physical activities.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

4. The board proposes to repeal the following rules:

10.54.7010 HEALTH ENHANCEMENT CONTENT STANDARD 1, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7011 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 1 FOR END OF GRADE 4, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7012 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 1 FOR END OF GRADE 8, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7013 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 1 UPON GRADUATION, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7020 HEALTH ENHANCEMENT CONTENT STANDARD 2, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7021 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 2 FOR END OF GRADE 4, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7022 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 2 FOR END OF GRADE 8, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7023 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 2 UPON GRADUATION, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7030 HEALTH ENHANCEMENT CONTENT STANDARD 3, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7031 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 3 FOR END OF GRADE 4, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7032 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 3 FOR END OF GRADE 8, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7033 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 3 UPON GRADUATION, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7040 HEALTH ENHANCEMENT CONTENT STANDARD 4, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7041 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 4 FOR END OF GRADE 4, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7042 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 4 FOR END OF GRADE 8, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7043 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 4 UPON GRADUATION, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7050 HEALTH ENHANCEMENT CONTENT STANDARD 5, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7051 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 5 FOR END OF GRADE 4, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7052 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 5 FOR END OF GRADE 8, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7053 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 5 UPON GRADUATION, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7060 HEALTH ENHANCEMENT CONTENT STANDARD 6, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7061 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 6 FOR END OF GRADE 4, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7062 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 6 FOR END OF GRADE 8, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7063 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 6 UPON GRADUATION, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7070 HEALTH ENHANCEMENT CONTENT STANDARD 7, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7071 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 7 FOR END OF GRADE 4, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7072 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 7 FOR END OF GRADE 8, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7073 BENCHMARK FOR HEALTH ENHANCEMENT CONTENT STANDARD 7 UPON GRADUATION, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7087 ADVANCED HEALTH ENHANCEMENT PERFORMANCE STANDARDS FOR END OF GRADE 4, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7088 PROFICIENT HEALTH ENHANCEMENT PERFORMANCE STANDARDS FOR END OF GRADE 4, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7089 NEARING PROFICIENCY HEALTH ENHANCEMENT PERFORMANCE STANDARDS FOR END OF GRADE 4, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7090 NOVICE HEALTH ENHANCEMENT PERFORMANCE STANDARDS FOR END OF GRADE 4, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7091 ADVANCED HEALTH ENHANCEMENT PERFORMANCE STANDARDS FOR END OF GRADE 8, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7092 PROFICIENT HEALTH ENHANCEMENT PERFORMANCE STANDARDS FOR END OF GRADE 8, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7093 NEARING PROFICIENCY HEALTH ENHANCEMENT PERFORMANCE STANDARDS FOR END OF GRADE 8, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7094 NOVICE HEALTH ENHANCEMENT PERFORMANCE STANDARDS FOR END OF GRADE 8, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7095 ADVANCED HEALTH ENHANCEMENT PERFORMANCE STANDARDS UPON GRADUATION, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7096 PROFICIENT HEALTH ENHANCEMENT PERFORMANCE STANDARDS UPON GRADUATION, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7097 NEARING PROFICIENCY HEALTH ENHANCEMENT PERFORMANCE STANDARDS UPON GRADUATION, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.54.7098 NOVICE HEALTH ENHANCEMENT PERFORMANCE STANDARDS UPON GRADUATION, AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA

5. Statement of Reasonable Necessity: The Board of Public Education has determined it is reasonable and necessary to adopt and repeal rules relating to health enhancement content standards pursuant to ARM 10.54.2503 Standards

Review Schedule and 10.53.104 Standards Review Schedule. The board has determined that to stay consistent with the legislative intent of Senate Bill 152 of the 2005 Legislative Session it must review and make contemporary amendments to its standards. The Legislature recognizes the need to reassess educational needs on a cyclical basis and the board recognizes its standards represent the minimum standards. These standards are the basis upon which a quality system of education is built and maintained. The board strives to conform to a regular review cycle for every chapter of accreditation. The standards review process shall use context information, criteria, processes, and procedures identified by the Office of Public Instruction with input from representatives of accredited schools and in accordance with the requirements of 20-7-101, MCA.

Using a negotiated rulemaking process involving stakeholder groups, the Superintendent of Public Instruction Denise Juneau has developed recommendations for the revision of the Health Enhancement Content Standards. The current health enhancement standards were adopted in 1999. Our understanding of best practices in health and wellness has grown significantly over the past 16 years. Current health trends show the need to address topics such as mental health; respectful relationships; chronic diseases such as diabetes and asthma; substance abuse; environmental factors that affect health, wellness, or physical activity levels; and bullying, including cyberbullying. The proposed physical education standards include a focus on developing lifetime fitness activities.

The board also proposes to include in the authorizing and implementing statutes a citation to its constitutional authority requiring the board "to exercise general supervision over the public school system." This inclusion would recognize the board's constitutional authority to conduct rulemaking.

6. Economic impact statement summary: The Office of Public Instruction (OPI) surveyed school districts in November and December 2015 about the impacts of the proposed standards on district resources for staffing, instructional materials, curriculum development, and professional development. Sixty-three percent of respondents indicated that their district could implement the proposed standards using existing resources. Of the remaining respondents, many of these districts face challenges in meeting the current standards. A majority of the respondents in this group indicated that they have a shortage of time and materials for curriculum development and professional development. A smaller number face challenges finding teachers endorsed in health enhancement and physical education and/or finding instructional materials.

The OPI has identified \$35,000 to support the implementation of the proposed health enhancement standards. This funding will provide for face-to-face trainings in nine regions throughout the state in addition to online professional development opportunities. The OPI will also develop a model curriculum guide to assist school districts with curriculum development. For those districts that are having trouble meeting the current standards, the statewide trainings and model curriculum guide may provide more support than the districts are presently receiving. Given the

supports that will be provided at the state level, the OPI estimates that school districts will be able to absorb, in their existing budgets, the cost of modifying their current health enhancement curriculum to align with the proposed standards.

Based on the analysis of the survey results and the advice of the negotiated rulemaking committee, the OPI has concluded that the school district expenditures required under the proposed standards are insubstantial expenditures that can be readily absorbed into the budgets of existing district programs.

7. These rules are proposed to be effective July 1, 2017.

8. Concerned 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: Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov and must be received no later than 5:00 p.m., July 1, 2016.

9. Peter Donovan has been designated to preside over and conduct this hearing.

10. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 8 above or may be made by completing a request form at any rules hearing held by the board.

11. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

12. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

13. With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Peter Donovan
Peter Donovan
Rule Reviewer

/s/ Sharon Carroll
Sharon Carroll
Board Chair
Board of Public Education

Certified to the Secretary of State May 23, 2016.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 10.56.101 pertaining to student) PROPOSED AMENDMENT
assessment)

TO: All Concerned Persons

1. On June 24, 2016, at 10:00 a.m., the Board of Public Education will hold a public hearing in the Board of Public Education Conference room at 46 North Last Chance Gulch, 2nd Floor, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Education no later than 5:00 p.m. on June 17, 2016, to advise us of the nature of the accommodation that you need. Please contact Peter Donovan, Executive Director, Board of Public Education, 46 North Last Chance Gulch, P.O. Box 200601, Helena, MT 59620; telephone (406) 444-6576; fax (406) 444- 0847; or e-mail pdonovan@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

10.56.101 STUDENT ASSESSMENT (1) and (2) remain the same.

(3) In order to obtain state-level achievement information, all accredited schools shall annually administer a single system of state-level assessments approved by the board. The following state-level assessments shall be administered according to standardized procedures. Districts and schools shall ensure that all test administrators are trained in and follow those procedures.

(a) ~~State-level assessments aligned to Montana content standards (phase 1) and the Montana common core standards (phase 2)~~ shall be administered to all students as specified below: ~~for each phase.~~

(i) ~~Phase 1 - school years 2012-2013 and 2013-2014, the assessments shall be:~~

- ~~(A) aligned to Montana content standards;~~
- ~~(B) administered to grades 3-8 and 10 in math and reading;~~
- ~~(C) administered to grades 4, 8, and 10 in science; and~~
- ~~(D) administered in the spring of the year.~~

~~(ii) Phase 2 - beginning in school year 2014-2015, the assessments shall be:~~

- ~~(A) aligned to Montana common core standards;~~
- ~~(B) administered to grades 3-8 and 11 in math and English language arts;~~

(i) The English language arts and mathematics assessments shall be aligned to Montana content standards in English language arts and mathematics and administered in grades 3-8 and 11;

~~(C)~~ (ii) The science assessments shall be aligned to Montana content standards for science and administered in grades 4, 8, and 10; and

~~(D)~~ (iii) The assessments shall be administered in the spring of the year.

(b) State-level assessments aligned to Montana English language proficiency standards shall be administered to all students identified as Limited English Proficient (LEP) in grades K-12. These assessments shall be administered mid-school year.

~~(c) Beginning in the 2012-13 school year, the ACT Plus Writing college readiness test shall be offered to all eleventh grade public school students in their high schools on a school day without charge to the students or schools. Students may participate without accommodations, with ACT-approved accommodations, or with state-allowed accommodations. The testing window for the ACT Plus Writing will be in April and May of each year. All eleventh grade students will take the test unless:~~

~~(i) a parent or guardian requests in writing that the student not participate; or~~

~~(ii) a student, 18 or older, requests in writing to not participate.~~

~~(d)~~ The obligation for funding the assessments identified in ~~(3)(a)~~, and (b), ~~and (c)~~ is an obligation of the state. This section may not be construed to require a school district to provide these assessments if the state does not have a current contract with test vendors for provision of these assessments to Montana school districts.

(4) State-level assessment results are a part of each student's permanent record as described in ARM 10.55.909.

(5) The Superintendent of Public Instruction shall provide a report of the results to ~~the board and the Legislature~~ and annually to the board.

(6) remains the same.

(7) All students shall participate in the state-level assessments, ~~except as provided in (3)(d)~~.

(a) through (8)(c) remain the same.

(9) The Superintendent of Public Instruction shall recommend in writing to the board any modifications to the single system of state level assessment as set forth in (3)(a)(i) through (iii). The board may consider recommended modifications as an information item on an agenda at a board meeting. At that meeting, the board may vote to list the recommendations as an action item on the agenda of a subsequent board meeting. Unless approved by the board, no recommended modifications are effective and no accredited schools may implement the recommended modifications.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-121, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-7-402, MCA

REASON: The board proposes to amend the rule to remove obsolete language regarding the phasing in of the Montana content standards.

The board also proposes to remove the requirement specifying that the ACT Plus Writing college readiness test must be offered. This amendment is proposed because no other approved assessments are listed in rule.

The board also proposes to require reporting by the Office of Public Instruction to the Board of Public Education regarding assessment reporting as soon as practical. This amendment is proposed to ensure timely reporting to the board of the assessment results no later than the results are reported to any other entity.

The board also proposes to provide a process for the Superintendent of Public Instruction to recommend modifications of the state level assessments and for the board to consider and approve those modifications. This amendment is proposed to prevent confusion at the school district level about actual, as opposed to recommended, modifications to the single system of state level assessment.

The board also proposes to include in the authorizing and implementing statutes a citation to its constitutional authority requiring the board "to exercise general supervision over the public school system." This inclusion would recognize the board's constitutional authority to conduct rulemaking.

4. Concerned 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: Peter Donovan, Executive Director, Board of Public Education, 46 North Last Chance Gulch, P.O. Box 200601, Helena, MT 59620; telephone (406) 444-6576; fax (406) 444- 0847; or e-mail pdonovan@mt.gov, and must be received no later than 5:00 p.m., July 1, 2016.

5. Peter Donovan, Executive Director of the Board of Public Education, has been designated to preside over and conduct this hearing.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the board.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Peter Donovan
Peter Donovan
Rule Reviewer

/s/ Sharon Carroll
Sharon Carroll, Chair
Board of Public Education

Certified to the Secretary of State May 23, 2016.

BEFORE THE BOARD OF REAL ESTATE APPRAISERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.207.2101 continuing) PROPOSED AMENDMENT
education)

TO: All Concerned Persons

1. On June 24, 2016, at 9:00 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Real Estate Appraisers (board) no later than 5:00 p.m., on June 17, 2016, to advise us of the nature of the accommodation that you need. Please contact Sharon Peterson, Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2375; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsirea@mt.gov (board's e-mail).

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

24.207.2101 CONTINUING EDUCATION (1) through (4) remain the same.

(5) Every other renewal year, licensees must complete at least 28 hours of instruction in courses or seminars approved by the board, at least seven hours of which must be the national USPAP update course or its AQB-approved equivalent.
~~No online or alternative USPAP courses will be accepted.~~

(6) through (9) remain the same.

AUTH: 37-1-131, 37-1-319, 37-54-105, 37-54-303, MCA

IMP: 37-1-131, 37-1-306, 37-54-105, 37-54-303, 37-54-310, MCA

REASON: The board has determined it is reasonable and necessary to amend this rule by removing the prohibition against online or alternative USPAP courses. This amendment will ensure that more acceptable courses are available to licensees at more varied places and times and at lower cost. The board has addressed any apprehension about the use of alternative courses by assuring that the courses are AQB-approved as equivalent to the national USPAP update course.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box

200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdua@mt.gov, and must be received no later than 5:00 p.m., July 1, 2016.

5. An electronic copy of this notice of public hearing is available at www.realestateappraiser.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice 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 department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdua@mt.gov; or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.207.2101 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdua@mt.gov.

9. Gene Allison, attorney, has been designated to preside over and conduct this hearing.

BOARD OF REAL ESTATE APPRAISERS
THOMAS STEVENS, CERTIFIED
GENERAL APPRAISER, CHAIRPERSON

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 23, 2016

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 32.2.406 pertaining to licensee	)	AMENDMENT
assessments to administer the milk)	
inspection and milk diagnostic lab)	
functions of the department	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. On July 3, 2016, the Department of Livestock proposes to amend the above-stated rule.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m., June 30, 2016, to advise us of the nature of the accommodation that you need. Please contact Executive Officer, Department of Livestock, 301 N. Roberts St., Room 304, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9525; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: MDOLcomments@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

32.2.406 LICENSEE ASSESSMENTS (1) Pursuant to 81-23-202, MCA, the following assessment is levied: a fee of ~~\$0.155~~ \$0.14 per hundredweight per month, with a minimum of \$50.00 per month, whichever is greater, or a maximum of \$1,050.00 per month, on the volume of all classes of milk produced and sold by a person licensed by the Milk and Egg Bureau of the department, to be used for the administration of the milk inspection and milk diagnostic laboratory functions of the department. For a person licensed both as a dairy and as another licensee, only one assessment will be levied, whichever assessment is higher.

(2) The fee assessed in (1) must be paid before the 25th day of each month for milk sold in the preceding month.

(3) The fee assessed in (1) must be paid to the department in accordance with ARM 32.23.102(1).

AUTH: 81-1-102, 81-23-202, MCA

IMP: 81-1-102, 81-23-202, MCA

REASON: The department proposes the above-stated amendment to assess the milk inspection and milk diagnostic laboratory administration fee consistent with 81-23-202(4)(a), MCA, and to establish assessments that are commensurate with costs consistent with 81-1-102(2), MCA. Commensurate with costs does not

necessarily mean equal to costs and it is appropriate to consider general fund and other appropriations in setting the fee amount. The department has determined that the assessment, currently collected from dairies, should be collected from all persons that are licensed by the Milk and Egg Bureau of the department, including licensees other than dairies. This is consistent with the language provided in MCA.

The assessment rate was calculated on the department's fiscal projections of costs, actual historical costs of administration of the milk inspection and milk diagnostic laboratory functions for all persons licensed by the department and not just those licensed as a dairy. A portion of general fund that was appropriated by the 2015 Legislature in the amount of \$186,100 was subtracted from the amount of funds necessary to fund the administration of the milk inspection and the milk diagnostic laboratory functions. The amount of the shortage between general fund appropriation and the cost to administer the two programs is supplemented by the fee structure.

The assessment collected under the proposed amendment potentially will affect 72 persons in the state who are licensed by the department through the Milk and Egg Bureau for the production and sale of milk. The proposed amendment, in combination with the general fund in the amount of \$186,100 by the 2015 legislature, will fund the two programs.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Executive Officer, Department of Livestock, 301 N. Roberts St., Room 304, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9525; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: MDOLcomments@mt.gov, and must be received no later than 5:00 p.m., July 1, 2016.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Mike Honeycutt, Executive Officer at the above address no later than 5:00 p.m., July 1, 2016.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 7 persons based on the number of affected licensees in the state.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-

mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in paragraph 4 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will significantly and directly impact small businesses.

BY: /s/ Michael S. Honeycutt
Michael S. Honeycutt
Executive Officer
Board of Livestock
Department of Livestock

BY: /s/ Cinda Young-Eichenfels
Cinda Young-Eichenfels
Rule Reviewer

Certified to the Secretary of State, May 23, 2016.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of)
ARM 37.104.3006, 37.104.3007,)
37.104.3014, and 37.104.3020,)
pertaining to trauma care councils)
and registry)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On June 23, 2016, at 9:00 a.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on June 15, 2016, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.104.3006 REGIONAL TRAUMA CARE ADVISORY COMMITTEES

(1) remains the same.

(2) Each Regional Trauma Care Committee must have, ~~as a minimum,~~ a ~~subcommittee~~ structure that addresses each of the following elements:

(a) through (4) remain the same.

AUTH: 50-6-402, MCA

IMP: 50-6-402, 50-6-412, 50-6-415, MCA

37.104.3007 STATE TRAUMA CARE COMMITTEE (1) remains the same.

(2) The Trauma Care Committee must, ~~at a minimum,~~ have a ~~subcommittee~~ structure that addresses each of the following:

(a) through (5) remains the same.

AUTH: 50-6-402, MCA

IMP: 50-6-402, 50-6-415, MCA

37.104.3014 TRAUMA REGISTRIES AND DATA REPORTING (1) remains the same.

(2) Within 60 days after the end of each quarter, each health care facility that provides service or care to trauma patients within Montana must submit to the department the information required by (4) concerning any trauma patient that it serves during any month of the quarter and who meets the criteria for inclusion in the trauma register that are set forth in ~~Appendix J~~ of the State Trauma Plan.

(3) The data must be submitted to the department's trauma register in the same format as the state register uses, unless the department allows an alternate means of submission if use of the department's prescribed format would impose a severe hardship on the reporting facility. ~~Regional trauma centers and area trauma hospitals must submit the data electronically, and community trauma facilities, trauma receiving facilities and all other health care facilities treating trauma patients must submit the data using a paper format.~~ All health care facilities must submit the data electronically.

(4) and (5) remain the same.

AUTH: 50-6-402, MCA

IMP: 50-6-401, 50-6-402, MCA

37.104.3020 COMPOSITION OF SITE REVIEW TEAMS (1) The site review team for regional trauma centers must be composed of out-of-state surveyors, including a two general surgeons and a ~~trauma nurse coordinator, as well as~~ department staff ~~and~~ or any other members determined to be necessary by the department or requested by the health care facility being reviewed.

(2) and (3) remain the same.

AUTH: 50-6-402, MCA

IMP: 50-6-402, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.104.3006, 37.104.3007, 37.104.3014, and 37.104.3020 to update the rules to reflect current routines and practices.

Since their original adoption in 2006, the rules have not been altered or updated. In the ten years since its adoption into rule, the State Trauma Care Committee (STCC) and Regional Trauma Care Committees (RTACs) have matured and developed into well-established work groups that function smoothly in their existing format. Current administrative rules mandate a structure that is not ideal for the committees to address topics that affect trauma across the state and needs to be altered to reflect how the committees are actually performing and meeting the duties accurately. In addition to the committees, the composition of designation site-review teams also necessitates an update to modify the reviewer's level(s) of proficiency to perform the reviews at the various levels of trauma centers. And finally, as technology has advanced significantly in the past decade, the trauma registry has moved from a

paper format to an electronic format and these administrative rules are being amended to reflect that change.

The STCC has been reviewing and recommending language changes since 2015 when it recognized the need for updates. STCC is comprised of members of various medical groups across the state: Montana Trauma Coordinators; Central Regional Trauma Advisory Committee (RTAC); Eastern RTAC; Montana Committee on Trauma/American College of Surgeons (ACS); Montana Medical Association; Montana Hospital Association; Montana Emergency Nurses Association; Montana Emergency Medical Services (EMS) Association; Indian Health Service; Western RTAC; Private Ambulance Operators; and American College of Emergency Physicians.

The committee has reviewed each proposed rule amendment, fully discussed and scrutinized the proposed changes, and only then recommended approval for the changes to move forward to public rules.

ARM 37.104.3006 and 37.104.3007

The department proposes to amend these rules by changing the reference to the subcommittee structure that addresses the minimum of five different elements. Currently, these elements are addressed at each meeting in the general session, not in individual subcommittees. If these rules are not amended, they will not reflect current routines and practices that presently allow the committees to meet all mandatory requirements in a format that is suitable and straightforward. Mandating a strict, rigid structure that does not allow the committees to function in a way that meets their needs, while still conducting all necessary business, does not make good sense.

ARM 37.104.3014

The department proposes to amend this rule by changing where it refers to "Appendix J" to the title "State Trauma Plan." Also, the department proposes to change the reference to data submission in a paper format to submission electronically for all healthcare facilities to comply with current technological demands. Not updating and allowing for submission of trauma registry data electronically does not keep current with modern technology and provide ease of submission of the mandatory data into the central registry where it is amassed.

Adjusting the rules to confirm that the right surveyor with the appropriate experience and expertise can review the right level of facility is very important to ensure high quality trauma services are being provided across the state.

ARM 37.104.3020

The department proposes to amend this rule by changing the requirement for regional trauma centers from one general surgeon and one nurse coordinator to two

general surgeons. Also, the department proposes to remove the requirement of surveyors for area and community trauma hospitals to only come from a trauma region other than the one the facility is in. This is necessary because adjusting the administrative rules to confirm that the right surveyor with the appropriate experience and expertise can review the right level of facility is very important to ensure high quality trauma services are being provided across the state.

Fiscal Impact

There is no fiscal impact with these proposed administrative rule amendments.

5. Concerned 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: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., July 1, 2016.

6. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

11. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

/s/ Nicholas Domitrovich
Nicholas Domitrovich, Attorney
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State May 23, 2016.

BEFORE THE BOARD OF EXAMINERS
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 2.53.201 pertaining to model)
procedural rules)

TO: All Concerned Persons

1. On April 22, 2016, the Board of Examiners (board) published MAR Notice No. 2-53-511 pertaining to the proposed amendment of the above-stated rule at page 627 of the 2016 Montana Administrative Register, Issue Number 8.

2. No comments were received.

3. The board has amended ARM 2.53.201 exactly as proposed.

By: /s/ Sheila Hogan
Sheila Hogan, Executive Secretary
Board of Examiners

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State May 23, 2016.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rule I pertaining to the administration)
of the 2016 and 2017 Program Year)
Federal Community Development)
Block Grant (CDBG) Program – Public)
Facilities Projects)

TO: All Concerned Persons

1. On April 22, 2016, the Department of Commerce published MAR Notice No. 8-94-143 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 633 of the 2016 Montana Administrative Register, Issue Number 8.

2. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: Please clarify in your application whether or not sidewalks (new construction or rehabilitation) are applicable infrastructure projects. Many communities are now evaluating their sidewalks, and are struggling with ways to fund their installation, particularly in old neighborhoods that serve a low to moderate income demographic.

RESPONSE #1: Thank you for your comment. Sidewalks, curbs, and gutters are listed as eligible public infrastructure projects on page 4 of the application guidelines.

3. The department has adopted NEW RULE I (ARM 8.94.3819) as proposed.

/s/ KELLY A. LYNCH
KELLY A. LYNCH
Rule Reviewer

/s/ MEG O'LEARY
MEG O'LEARY
Director
Department of Commerce

Certified to the Secretary of State May 23, 2016.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
AND THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF AMENDMENT
17.30.1001, 17.36.345, 17.36.914,)	
17.38.101, and 17.50.819 pertaining to)	(WATER QUALITY)
definitions, adoption by reference,)	(SUBDIVISIONS/ON-SITE
wastewater treatment systems: technical))	SUBSURFACE WASTEWATER
requirements, plans for public water)	TREATMENT)
supply or public sewage system, plans)	(PUBLIC WATER AND SEWAGE
for public water supply or wastewater)	SYSTEM REQUIREMENTS)
system, and incorporation by reference)	(SOLID WASTE MANAGEMENT)
and availability of referenced documents)	

TO: All Concerned Persons

1. On December 24, 2015, the Board of Environmental Review and the Department of Environmental Quality published MAR Notice No. 17-379 regarding a public hearing on the proposed amendment of the above-stated rules at page 2188, 2015 Montana Administrative Register, Issue Number 24.

2. The board and the department have amended 17.30.1001, 17.36.345, 17.36.914, 17.38.101, and 17.50.819 exactly as proposed.

3. No formal comments were submitted and the board and department recommend that the board and department adopt the amendments as proposed.

Reviewed by: BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North
JOHN F. NORTH
Rule Reviewer

By: /s/ Joan Miles
JOAN MILES
Chairman

DEPARTMENT OF ENVIRONMENTAL QUALITY

BY: /s/ Tom Livers
TOM LIVERS
Director

Certified to the Secretary of State, May 23, 2016.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 18.8.512 pertaining to Motor)
Carrier Services)

TO: All Concerned Persons

1. On April 22, 2016, the Department of Transportation published MAR Notice No. 18-159 pertaining to the proposed amendment of the above-stated rule at page 638 of the 2016 Montana Administrative Register, Issue Number 8.
2. The department has amended the above-stated rule as proposed.
3. No comments or testimony were received.

/s/ Valerie D. Wilson
Valerie D. Wilson
Rule Reviewer

/s/ Michael T. Tooley
Michael T. Tooley
Director
Transportation

Certified to the Secretary of State May 23, 2016.

BEFORE THE BOARD OF NURSING
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 24.159.301 definitions,) REPEAL
24.159.1601 purpose, 24.159.1611)
criteria for delegation of nursing)
tasks, 24.159.1625 general nursing)
functions, and the repeal of)
24.159.411 parliamentary authority,)
24.159.1036 and 24.159.1236)
preparation of licenses, 24.159.1040,)
24.159.1240, and 24.159.1430)
duplicate or lost licenses, and)
24.159.1602, 24.159.1604,)
24.159.1605, 24.159.1610,)
24.159.1612, 24.159.1616,)
24.159.1630, 24.159.1631,)
24.159.1636, and 24.159.1640 all)
relating to nursing delegation)

TO: All Concerned Persons

1. On March 18, 2016, the Board of Nursing (board) published MAR Notice No. 24-159-82 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 497 of the 2016 Montana Administrative Register, Issue No. 6.

2. On April 8, 2016, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. Several comments were received by the April 15, 2016 deadline.

3. The board has thoroughly considered the comments received. A summary of the comments and the board responses are as follows:

COMMENT 1: One commenter appreciated the proposed changes regarding delegation and stated that current rules are confusing and complex and add to rigidity in health care delivery, where creativity and innovation are needed. The commenter pointed out there are various professionals and paraprofessionals educated in many functions that previously had been considered to be within the domain of nursing practice, creating an overlap of training and duties. The commenter stated the rule changes as simplifications to the delegation rules that grant nurses flexibility to optimize the utilization of educated, trained, and competent unlicensed persons in providing patient care.

RESPONSE 1: The board agrees with the substance of this comment. The board is amending and repealing the delegation rules exactly as proposed, with one clarifying amendment to ARM 24.159.1611.

COMMENT 2: A commenter expressed general support for the proposed delegation rule changes and asserted they will remove unnecessary restrictions against delegation in outpatient clinics.

RESPONSE 2: The board recognizes the rule changes provide generally applicable guidance for nurses in all practice settings to determine when a task may be delegated. In this way, the rule amendments and repeals remove the rigid, setting-specific prohibitions of the prior rules. The board wishes to emphasize, however, that the delegation rule amendments are not intended to have any particular meaning or application that is specific to any particular nursing practice setting.

COMMENT 3: Several commenters supported the delegation rule changes and particularly those changes impacting the school setting. The commenters stated that in schools, students with chronic health conditions such as diabetes, need routine as well as emergency nursing care, often in the absence of an onsite school nurse. By removing unnecessary restrictions on nursing delegation, the commenters believe the amended rules will allow nurses to use their professional judgment to provide more practical, higher quality care in the school setting. Specifically regarding diabetes treatment, most of the commenters believe the new rules will allow nurses to determine when to delegate the administration of glucagon and insulin, and the monitoring of glucose, among other tasks.

RESPONSE 3: See RESPONSE 2. Additionally, the board intends that the amended rules will expand the management of care through generally applicable standards of delegation. While the board agrees the rule changes simplify the language of the rules, application of delegation standards will still require careful critical thinking and nursing judgment.

COMMENT 4: Several commenters expressed support for the proposed delegation rule changes and either offered specific conclusions about what can be delegated or posed specific questions to the board, and requested setting-specific interpretations of the rules after amendment.

RESPONSE 4: See RESPONSE 2. In addition, the board declines to provide setting-specific interpretations of the amended rules because the standards set forth in ARM 24.159.1611(5)(a) through (m) will provide sufficient guidance to the nurse, regardless of practice setting.

COMMENT 5: One commenter stated that the proposed language of ARM 24.159.1611(3) is ambiguous and leaves open the question of whether a non-nurse might delegate.

RESPONSE 5: The board determined this rule language is clear and unambiguous in this regard. Delegation, as used in the board's rules, is a nursing act. The board is careful to point out that while its rules are based on Montana laws that define the practice of nursing, which requires a license, the board's rules do not purport to regulate any person other than nurses. These rules do not limit or apply to schools, facilities, parents, or anyone else.

COMMENT 6: Several commenters questioned the requirement in ARM 24.159.1611(5)(b) that the delegating nurse ensure the task delegated is consistent with the UAP's job description. One commenter suggested changing the proposed language to require consistency with a UAP's assigned and volunteered job duties. The commenters stated that some settings, such as the school nurse setting, will present circumstances where delegation should be permitted even though the job descriptions of those available as UAP's are not expected to include any mention of administering medications or performing health care tasks. The commenters stated that the issue is whether a UAP's job description must include the administration of medications, the performance of health care tasks, or similar descriptions.

RESPONSE 6: See RESPONSES 2 and 4. Further, the board notes that the responsibility falls on the various employers, institutions, and facilities to ensure they have policies, procedures, and job descriptions suitable to their practice settings so that a nurse may delegate in the appropriate circumstances.

Moreover, in the *Journal of Nursing Regulation*, Vol. 7, Issue 1, April 2016, the National Council of State Boards of Nursing published national guidelines for delegation based on current research and literature in order to facilitate and standardize the nursing delegation process nationwide. The summary of what delegation is, found on page 6, says: "a delegatee is allowed to perform a specific nursing activity, skill, or procedure that is outside the traditional role and basic responsibilities of the delegatee's current job." This suggests, and the board agrees, that a delegatee's job description need not specifically permit the performance of nursing tasks in order to be "consistent with the UAP's job description" as required by ARM 24.159.1611(5)(b).

COMMENT 7: A commenter noted that while ARM 24.159.1611(5)(e) requires the nurse to ensure "the task does not require assessment or independent decision making during its performance or at completion," in school settings it is impractical for a UAP to consult the nurse for each dosage administration of insulin, or even to determine whether to administer insulin at all based on a blood glucose test. The commenter suggested adding "except that the acts of administering medication and calculating medication dosage pursuant to medical instruction shall not constitute assessment or independent decision making."

RESPONSE 7: The board reiterates that the standards in ARM 24.159.1611(5)(a) through (m) provide sufficient guidance to each nurse to determine whether and how the nurse may delegate a particular task, to a particular UAP, for the benefit of a particular patient. These are not setting-specific nor task-specific rules. The board believes the rules provide standardized parameters within which a nurse may give

specific algorithms, orders, procedures, etc., for a UAP to follow without requiring the UAP to exercise clinical reasoning, nursing judgment, or critical decision making.

The National Council for State Boards of Nursing in the *Journal of Nursing Regulation*, Vol. 7, Issue 1, April 2016, offers the national standard as: "regardless of how the state defines delegation as compared to assignment, the practice pervasive functions of clinical reasoning, nursing judgment, or critical decision making cannot be delegated." That language very nearly matches the proposed language of ARM 24.159.1611(5)(e), but is more concise and clear. The board is now amending this rule to incorporate this language and more accurately and clearly capture the board's intended meaning.

COMMENT 8: One commenter suggested the board clarify the language of ARM 24.159.1611(5)(f) to acknowledge the role of follow up care in terms of minimizing ultimate risk from the task itself, using the example of diabetes treatment in the school setting. The commenter suggested adding "taking into account the availability of follow up care to address any changes in the patient's condition that may result from performing the task."

RESPONSE 8: The board believes this rule already provides adequate direction, affording broad and practical direction while requiring the delegator to be responsible for supervising and evaluating of the task. The suggested language is not inconsistent with the rule's direction, but the board gave careful thought to how the standards would be described in ARM 24.159.1611(5). In particular, the board suggests the standards described in ARM 24.159.1611(5)(i) through (k) adequately address this commenter's concerns without identifying any specific direction that might be tailored for a particular range of tasks or a particular type of setting.

COMMENT 9: Noting the proposed language of ARM 24.159.1611(5)(h) and the ARM 24.159.301 definition of "routine medication," one commenter suggested the amendments leave a question as to whether a nurse may delegate the administration of insulin in a school setting. The commenter stated more clarity is needed for settings where there may be a lack of policies on nurse delegation of insulin. The commenter offered an amendment to the proposed language.

RESPONSE 9: The board emphasizes it is the responsibility of the employers, institutions, and facilities to ensure they have policies and procedures suitable to their practice settings so that a nurse may delegate in the appropriate circumstances. The standards set forth in ARM 24.159.1611(5)(a) through (m) should provide sufficient guidance to the nurse, regardless of practice setting.

COMMENT 10: One commenter questioned the requirement in ARM 24.159.1611(5)(i), that nurses ensure that they delegate to UAPs who are properly supervised by monitoring. The commenter stated that it is not always possible to supervise emergency care tasks, due to their unpredictable nature. The commenter asked if a nurse teaching UAPs emergency care tasks, such as re-inserting a dislodged tube into a gastrostomy site or administering glucagon, is considered

delegation subject to supervision, or an act "distinct from delegation," per ARM 24.159.1611(1).

RESPONSE 10: The board notes that this question requires a fact-intensive analysis. Depending on the particulars of the situation, this may constitute teaching or it may be delegation, but the board cannot answer for every variable that may exist even in this one example. The board acknowledges there is no way to predict emergency care, but there is always a way to measure performance and outcome. The board points out that the nurse need not always provide direct supervision since the level of supervision appropriate for the circumstances must be determined by the delegating nurse, consistent with the standards set forth in ARM 24.159.1611(5).

COMMENT 11: One commenter stated that ARM 24.159.1611(5)(l) requires a nurse to observe and communicate the outcomes of the delegated task which, in a school setting, is not always practical. The commenter suggested the board amend the rule to specify that observation need not be in person or onsite.

RESPONSE 11: The board notes that the language of ARM 24.159.1611(5)(l) does not require the person to be on site and in person, but requires the nurse to evaluate the plan of care. While employers, institutions, and facilities may be more specific, the board's rule is purposefully designed to provide standardization without too much specificity, applicable to all situations, including those that may or may not require in-person and on-site observation and communication.

4. The board has amended ARM 24.159.301, 24.159.1601, and 24.159.1625 exactly as proposed.

5. The board has repealed ARM 24.159.411, 24.159.1036, 24.159.1040, 24.159.1236, 24.159.1240, 24.159.1430, 24.159.1602, 24.159.1604, 24.159.1605, 24.159.1610, 24.159.1612, 24.159.1616, 24.159.1630, 24.159.1631, 24.159.1636, and 24.159.1640 exactly as proposed.

6. The board has amended ARM 24.159.1611 with the following changes, stricken matter interlined, new matter underlined:

24.159.1611 CRITERIA FOR DELEGATION OF NURSING TASKS

(1) through (5)(d) remain as proposed.

(e) the task does not require ~~assessment or independent decision making during its performance or at completion~~ clinical reasoning, nursing judgment, or critical decision making;

(f) through (6) remain as proposed.

BOARD OF NURSING
HEATHER O'HARA, RN, PRESIDENT

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 23, 2016

BEFORE THE BOARD OF PUBLIC ACCOUNTANTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.201.301 definitions,)
24.201.410 fee schedule, 24.201.415)
use of cpa/lpa designation,)
24.201.501, 24.201.502, 24.201.503,)
24.201.504, 24.201.510, 24.201.517,)
24.201.528, 24.201.529, 24.201.535,)
and 24.201.537 licensing and)
examinations, 24.201.704 through)
24.201.710, 24.201.718, 24.201.720,)
24.201.723, and 24.201.726)
professional conduct rules,)
24.201.1103, 24.201.1105, and)
24.201.1108 mandatory peer review,)
24.201.2101, 24.201.2106,)
24.201.2120, 24.201.2124,)
24.201.2137, 24.201.2145,)
24.201.2148, and 24.201.2154)
renewal and continuing education,)
24.201.2402 and 24.201.2410)
complaint procedures, the adoption of)
NEW RULES I firms – registration,)
and II approved peer review)
programs and standards, and the)
repeal of 24.201.412 fee abatement,)
24.201.701 definitions, and)
24.201.2114 out-of-state applicants)
continuing education requirement)

NOTICE OF AMENDMENT,
ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On January 22, 2016, the Board of Public Accountants (board) published MAR Notice No. 24-201-49 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 110 of the 2016 Montana Administrative Register, Issue No. 2.

2. On February 23, 2016, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. Several comments were received by the February 23, 2016, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments and the board responses are as follows:

COMMENT 1: One commenter noted that the board failed to insert "licensee" to replace the second stricken "permit holder" in ARM 24.201.706(1)(a). The commenter also noted that in ARM 24.201.2106(3), the board failed to replace "permit" with "license" to conform to legislative changes.

RESPONSE 1: The board appreciates all comments made during the rulemaking process and concurs with this comment. The board is amending the rules accordingly.

COMMENT 2: One commenter stated that the amendment to ARM 24.201.2148(1) requiring that licensees provide CPE audit information via the NASBA CPE tracking system is burdensome, as some licensees may lack the required technology. The commenter noted the cost of obtaining the necessary equipment to convert the documents to JPG and asserted there is also a risk of identity theft and personal data fraud. The commenter asked that the board reconsider the changes, or at least not mandate use of the CPE tracking system.

RESPONSE 2: The board appreciates all comments made during the rulemaking process, but does not agree with the commenter that using the NASBA CPE tracking system is a burden. It will allow licensees to keep up-to-date on their CPE requirement with minimal equipment and time. The board is amending the rule exactly as proposed.

COMMENT 3: One commenter disagreed with the board's determination that the amendment to ARM 24.201.2148(1) requiring that licensees utilize the NASBA CPE system will not be a significant and direct impact on Montana small business. The commenter asserted that the cost of implementing the amendment will exceed the proposed savings in licensing fees.

RESPONSE 3: The board appreciates all comments made during the rulemaking process. Although the board acknowledges the change may result in a direct impact to small business, 2-4-111, MCA, requires a "yes" determination only if the impact is found to be both direct and significant. As well, the statute requires a small business impact analysis only following a "yes" determination.

COMMENT 4: Several commenters raised concerns over the requirement proposed in ARM 24.201.501 requiring completion of 120 semester hours of education to qualify to sit for the Uniform CPA Exam as a Montana candidate. The commenters stated that many foreign students in the process of meeting the current education requirements would have to abandon the CPA exam and licensing. The commenters requested the board either not proceed with the amendment or provide a one-year grace period for current students.

RESPONSE 4: The board agrees with the commenters and notes that the proposed amendment would have unintended consequences for foreign exam candidates. The board is amending the rule accordingly to remove the requirement.

COMMENT 5: One commenter requested clarification that exam candidates who qualified under the current requirements would be allowed to complete the exam without meeting the new proposed amended requirements.

RESPONSE 5: Because the board is not proceeding with the proposed amendment, the commenter's concerns are now resolved.

4. The board has amended ARM 24.201.301, 24.201.410, 24.201.415, 24.201.502, 24.201.503, 24.201.504, 24.201.510, 24.201.517, 24.201.528, 24.201.529, 24.201.535, 24.201.537, 24.201.704, 24.201.705, 24.201.707, 24.201.708, 24.201.709, 24.201.710, 24.201.718, 24.201.720, 24.201.723, 24.201.726, 24.201.1103, 24.201.1105, 24.201.1108, 24.201.2101, 24.201.2120, 24.201.2124, 24.201.2137, 24.201.2145, 24.201.2148, 24.201.2154, 24.201.2402, and 24.201.2410 exactly as proposed.

5. The board has adopted NEW RULES I (24.201.505) and II (24.201.1109) exactly as proposed.

6. The board has repealed ARM 24.201.412, 24.201.701, and 24.201.2114 exactly as proposed.

7. The board has amended ARM 24.201.501, 24.201.706, and 24.201.2106 with the following changes, stricken matter interlined, new matter underlined:

24.201.501 EDUCATION REQUIREMENTS TO SIT FOR EXAM (1) through (1)(a)(ii) remain as proposed.

~~(b) 120 semester hours of education from a college or university.~~

(2) through (5) remain as proposed.

24.201.706 COMPETENCE (1) remains as proposed.

(a) a firm, licensee, or practice privilege holder shall undertake only those engagements which the firm, licensee, or practice privilege holder can reasonably expect to complete with professional competence, including compliance where applicable, with ARM 24.201.718;

(b) and (c) remain as proposed.

24.201.2106 BASIC CONTINUING EDUCATION REQUIREMENT (1) and (2) remain as proposed.

(3) Applicants for a ~~permit to practice~~ license must meet the basic requirement of CPE by December 31 of the third year following the year of the initial issuance of the Montana ~~permit~~ license (example: If an individual received their license in 2015, they must meet the basic CPE requirement by December 31, 2018).

(4) remains as proposed.

BOARD OF PUBLIC ACCOUNTANTS
LINDA HARRIS, CPA,
PRESIDING OFFICER

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 23, 2016

BEFORE THE BOARD OF LAND COMMISSIONERS AND THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT,
ARM 36.25.1001, 36.25.1002,	)	ADOPTION, AND REPEAL
36.25.1004 through 36.25.1006,)	
36.25.1008 through 36.25.1011, and)	
36.25.1013, the adoption of New)	
Rules I and II, and the repeal of ARM)	
36.11.101, 36.25.1003, 36.25.1007,)	
36.25.1012, and 36.25.1016 through)	
36.25.1021 regarding cabin site)	
leasing)	

To: All Concerned Persons

1. On February 5, 2016, the Board of Land Commissioners and the Department of Natural Resources and Conservation published MAR Notice No. 36-22-184 pertaining to the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules at page 181 of the 2016 Montana Administrative Register, Issue Number 3.

2. The department has repealed the above-stated rules as proposed.

3. The department has adopted New Rule I (36.25.1014) and New Rule II (36.25.1015) as proposed.

4. The department has amended ARM 36.25.1001, 36.25.1004, 36.25.1006, 36.25.1008 through 36.25.1011, and 36.25.1013 as proposed.

5. Upon further review of the proposal notice, the department discovered "felling" was incorrectly spelled as "falling" in ARM 36.25.1002(7). Additionally, the grammatical construct of ARM 36.25.1005(1)(a)(ii) was inconsistent with the rest of the subsection. The department has amended ARM 36.25.1002 and 36.25.1005 as proposed, but with the following changes, stricken matter interlined, new matter underlined:

36.25.1002 AUTHORITIES, LIMITATIONS, AND RESTRICTIONS

(1) through (6) remain as proposed.

(7) Any ~~falling~~ felling of live or green trees is prohibited unless otherwise permitted by the department.

(8) remains as proposed.

AUTH: 77-1-202, 77-1-204, 77-1-209, MCA

IMP: 77-1-208, MCA

36.25.1005 IMPROVEMENTS (1) A cabin site lessee may apply to the department to request authorization to place improvements on, or to install utilities to, the leased land. Approval is at the discretion of the department.

(a) The lessee must apply for permission prior to placing any improvements or utilities on state trust land using a form provided by the department. Failure of the lessee to obtain prior written permission from the department, may result in:

(i) limited or no compensation paid to the lessee for the improvements upon termination of the lease; or

(ii) the department ~~may require~~ requiring the lessee to remove any improvements placed on the leased land, at the lessee's expense.

(b) through (2) remain as proposed.

AUTH: 77-1-202, 77-1-204, 77-1-209, MCA

IMP: 77-1-208, MCA

6. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT 1: Four commenters objected to, or requested clarification of ARM 36.25.1002(4)(a), which gives the department "...the right to require the formation of a road users association (RUA), at lessee's expense, to address the potential of multiple uses on access roads to leased land."

RESPONSE 1: This provision is necessary to allow the department the flexibility to work with neighborhoods and other third parties to address issues of access and to create cooperative arrangements to resolve access and maintenance issues involving cabin sites.

COMMENT 2: Two commenters requested clarification of what the term "limited right" in ARM 36.25.1006 meant with respect to the right of a lessee to remove improvements from the leased land.

RESPONSE 2: The term "limited right" as used in this rule means that the right of a lessee to remove improvements from leased land is limited to, and defined by, the rights provided in ARM 36.25.1006.

COMMENT 3: Two commenters objected to ARM 36.25.1006(4)(b)(ii) as it refers to appraisals of cabin site improvements being valued by "...giving full consideration to the improvement's condition, its contribution to the value of the property for residential purposes, and remaining economic life."

RESPONSE 3: An appraisal of improvements based upon the condition of those improvements and their contribution to the overall value of the property on which they reside is an appropriate factor to consider when determining value. Personal property improvements to real property are not appraised in a vacuum; and

therefore, considering their condition and contribution to the value of the overall property is an appropriate part of the equation.

COMMENT 4: Seven commenters generally disagreed with the new lease rate structure proposed by these rule revisions.

RESPONSE 4: The new lease rate structure contained in these rule revisions conforms to the settlement agreement in the Montrust III litigation (Cause No. BDV-2012-39, in the First Judicial District, Lewis and Clark County, Montana) which was approved by the Montana Board of Land Commissioners (Land Board) on October 19, 2015, and signed by Judge Jeffrey Sherlock on November 10, 2015.

COMMENT 5: Three commenters disagreed with the new lease rate structure as it pertains to the new minimum annual rental rate of \$800.

RESPONSE 5: The new minimum annual rental rate contained in these rule revisions conforms to the settlement agreement in the Montrust III litigation (as referenced in Response 4).

COMMENT 6: Three commenters disagreed with the new lease rate structure as it pertains to the 2 percent annual incremental rental rate increase.

RESPONSE 6: The department has determined that a 2 percent annual incremental rental rate increase is an appropriate formula for: matching rental rate to market conditions; and, conforming cabin site rental rates to the requirements of the settlement agreement in the Montrust III litigation (as referenced in Response 4).

COMMENT 7: Two commenters expressed general displeasure with the fact the department is leasing cabin sites. Commenters would prefer all cabin sites be sold.

RESPONSE 7: These comments are outside the scope of this rulemaking.

COMMENT 8: Commenter expressed displeasure with the fact the department has not prevented neighboring livestock from rubbing on the personal property improvements upon his cabin site.

RESPONSE 8: This comment is outside the scope of this rulemaking.

COMMENT 9: Commenter expressed displeasure with the management of the department as it pertains to requests for information under the Freedom of Information Act.

RESPONSE 9: This comment is outside the scope of this rulemaking.

COMMENT 10: Commenter expressed displeasure with the staff employed by the department to manage the cabin site leasing program.

RESPONSE 10: This comment is outside the scope of this rulemaking.

COMMENT 11: Three commenters expressed displeasure with the department's cabin site sale program and the staff employed by the department to manage the cabin site sale program.

RESPONSE 11: These comments are outside the scope of this rulemaking.

COMMENT 12: Two commenters expressed displeasure with the communication between the department and cabin site lessees with regard to the cabin site sale program.

RESPONSE 12: These comments are outside the scope of this rulemaking.

COMMENT 13: Commenter requested that personal property improvements located on real property owned by the department be valued based upon the value that such improvements are given by the Montana Department of Revenue (DOR).

RESPONSE 13: The department is permitted to have reasonable rules regulating the personal property located on its real property. These rule revisions provide such reasonable rules. In the event that a property valuation needs to be obtained under these rules, both real and personal property are valued by an appraisal conducted by a Montana generally certified appraiser.

COMMENT 14: Commenter objected to the provisions ARM 36.25.1009(2)(a) as it pertains to the department's right to reject a bidder on an unleased cabin site.

RESPONSE 14: ARM 36.25.1009(2)(a) addresses the process for securing a lease on an unleased cabin site. This rule provides the department the right to reject a potential lessee that was the highest bidder, but only if the department provides the reason for its rejection to that potential lessee in writing. The department is not required to execute a lease that is contrary to its interest. This provision provides the department with the flexibility to reject such a lease, if necessary.

COMMENT 15: One commenter objected to ARM 36.25.1009(7) which states the department may require the successful bidder on an unleased cabin site to pay for the costs associated with "...surveys, fulfillment of zoning and subdivision requirements, and other assessments or costs related to compliance with any other local, state, and federal statutes and regulations."

RESPONSE 15: The department may require a new party choosing to lease an unleased cabin site to be responsible for reasonable costs associated with the leasing of that site. This includes the cost of a survey, costs related to zoning and subdivision requirements, or other costs related to compliance with statutes and regulations.

COMMENT 16: Commenter objected to ARM 36.25.1010(2)(a), which states that an assignment of a cabin site lease by a lessee may not be assigned unless approved by the department and the assignment fee has been paid.

RESPONSE 16: The department is not required to permit the assignment of a lease that is contrary to its interest. This provision provides the department with the flexibility to reject such an assignment if the assignment fee has not been paid.

COMMENT 17: Commenter generally disagreed with the provisions of ARM 36.25.1005 in their entirety on the grounds that the department should not regulate personal property in any manner.

RESPONSE 17: ARM 36.25.1005 pertains to personal property improvements on real property leased under the cabin site leasing program. The department is permitted to have reasonable rules regulating the personal property located on its real property. This section provides such reasonable rules.

COMMENT 18: Four commenters expressed displeasure with the rulemaking process. Specifically, the public notice requirements of the process and the specific dates and times of the hearings on the rule proposal.

RESPONSE 18: Notice of the hearings for this rulemaking and the hearings themselves were conducted accordingly within the requirements for rulemaking under the Montana Administrative Procedure Act and ARM Title 1, chapter 2. This included conducting hearings in two different regions of the state during business hours.

COMMENT 19: Commenter objected to ARM 36.25.1001(12), which defines the meaning of the term "security bond," on the grounds that security bonds should never be utilized by the department.

RESPONSE 19: The department is permitted to create reasonable rules for the governance of its cabin site leases, such as utilizing security bonds to protect itself against risk. ARM 36.25.1001(12) simply defines the term "security bond."

COMMENT 20: Commenter objected to the phrase "unless otherwise determined by the board" in ARM 36.25.1001(11), which defines the term "rental rate."

RESPONSE 20: The phrase "as otherwise determined by the board" was inserted into this provision to recognize the Land Board's ultimate authority and discretion concerning the leasing and disposition of all school trust lands, as provided by Article 10, section 4 of the Montana Constitution.

COMMENT 21: Commenter objected to ARM 36.25.1005(1)(b), which only permits one single family residence per cabin site lease.

RESPONSE 21: This provision is not new to the cabin site leasing rules as cabin site lessees are currently limited to one single family residence per cabin site. This provision amends the wording to clarify that one, single family residence is permitted per lease.

COMMENT 22: Commenter objected to ARM 36.25.1006(3) which states that if a former lessee is attempting to remove personal property improvements from the department's real property, the department reserves the right to withhold authorization to remove such improvements during any time a lease is being actively offered for bid by the department.

RESPONSE 22: The department is permitted to have reasonable rules regulating the personal property located on its real property. This section provides such reasonable rules and addresses the instance in which a former lessee is attempting to interfere with the department's efforts to lease its real property.

COMMENT 23: Commenter requested clarification regarding the meaning of ARM 36.25.1006(5)(b), as it pertains to the distribution of revenue.

RESPONSE 23: ARM 36.25.1006(5)(b) states: "When a former lessee intends to unconditionally abandon the lease and improvements, the improvements may be sold to a new lessee at a price determined by the department. Any revenue generated from the sale of improvements that have been unconditionally abandoned shall be distributed by the department in the same manner as rentals for the applicable leased land." Any revenue generated under this rule will be distributed by the department in the same manner that rent from the same property would have been distributed, including distributions to applicable trust beneficiaries.

COMMENT 24: Commenter objected to ARM 36.25.1009(5)(a), as it pertains to lessee initiated lease cancellations.

RESPONSE 24: ARM 36.25.1009(5)(a) states: "Any former lessee who has had a cabin site lease cancelled and not reinstated by the board or department for nonpayment of lease fees may bid upon that cancelled lease, or any other cabin site lease, provided that before the bid the former lessee pays the unpaid lease fee billed for that cancelled lease." This section requires a formerly cancelled lessee wishing to reinstate his/her lease to pay any past due fees, regardless of whether the cancellation was initiated by the lessee or the department. This provision exists in the current cabin site leasing rules; and, the department elects not to limit this provision solely to lease cancellations initiated by the department.

COMMENT 25: Two commenters objected to the concept that the fees under their existing leases could potentially be higher than the fees new bidders would pay to lease nearby vacant lots.

RESPONSE 25: The new lease rate structure contained in these rule revisions conforms to the settlement agreement in the Montrust III litigation (as referenced in Response 4).

/s/ John E. Tubbs

JOHN E. TUBBS

Director

Natural Resources and Conservations

/s/ Dennison Butler

DENNISON BUTLER

Rule Reviewer

Certified to the Secretary of State on May 17, 2016.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) CORRECTED NOTICE OF
ARM 42.29.101, 42.29.102, and) AMENDMENT
42.29.103 pertaining to universal)
system benefits programs)

TO: All Concerned Persons

1. On January 8, 2016, the Department of Revenue published MAR Notice No. 42-2-947 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 13 of the 2016 Montana Administrative Register, Issue Number 1. On April 22, 2016, the department published an amended notice of proposed amendment and extension of comment period at page 712 of the 2016 Montana Administrative Register, Issue Number 8. On May 20, 2016, the department published a notice of amendment at page 894 of the 2016 Montana Administrative Register, Issue Number 10.

2. The department subsequently determined that it had failed to include timely-submitted written comments from an interested party. Therefore, the department is publishing this corrected notice of amendment to respond to the comments and to further amend ARM 42.29.103 accordingly. ARM 42.29.101 and 42.29.102 remain as previously amended.

3. The rule, as amended in corrected form, reads as follows, deleted matter interlined, new matter underlined:

42.29.103 ANNUAL REPORTING AND PENALTIES (1) and (2) remain as amended.

(3) If the department does not receive a USB programs annual summary report from the utility or large customer claiming the USB credit within 20 business days of the department's written notice, as set forth in (2), the department shall impose a \$1,000 administrative penalty against the utility or large customer. For each additional 30 calendar days that the utility or large customer does not file with the department a USB programs annual summary report for previous calendar year credits and expenditures, an additional \$1,000 administrative penalty, up to a maximum of \$5,000, will be assessed.

(4) through (6) remain as amended.

(7) A USB programs summary report received on or before March 1 for the previous calendar year is considered timely and recorded as received on March 1 for the purpose of publishing the public notice listing of annual reports received.

(8) A USB programs summary report received March 2 through April 1 for the previous calendar year is considered delinquent and recorded as received on April 1 for the purpose of publishing the public notice listing of annual reports received.

(9) remains as amended.

AUTH: 15-1-201, 69-8-413, MCA
IMP: 69-8-402, 69-8-414, MCA

4. A summary of the additional comments received and the department's response are as follows:

COMMENT 1: Deb Young, representing NorthWestern Energy, requested that the department amend the language in ARM 42.29.103 for better clarity. She recommended adding the word "calendar" after the 30 day reference in (3), because the word "business" follows the 20 day reference in that same section. Ms. Young further recommended adding the statement "for the purpose of publishing the public notice listing of annual reports received" to the end of the sentence in (8), to allow the department to accumulate the reports received March 1 to April and publish them with just one public notice.

RESPONSE 1: The department appreciates Ms. Young's suggestions and agrees with her recommendations. The department has amended ARM 42.29.103 to incorporate the recommended language in (3) and (8). The department further determined it made sense to also add the language recommended for (8) into (7), to add the same clarity in that section, too.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State May 23, 2016

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee:

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

Education and Local Government Interim Committee:

- State Board of Education;
- Board of Public Education;
- Board of Regents of Higher Education; and
- Office of Public Instruction.

Children, Families, Health, and Human Services Interim Committee:

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

- Department of Administration;
- Department of Military Affairs; and
- Office of the Secretary of State.

Environmental Quality Council:

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

Water Policy Interim Committee (where the primary concern is the quality or quantity of water):

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

These interim committees and the EQC have 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. They also 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, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

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 or Register) 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 | 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 | 2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers. |

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through December 31, 2015. This table includes those rules adopted during the period January 1, 2016, through March 31, 2016, and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 31, 2015, this table, and the table of contents of this issue of the Register.

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 2015/2016 Montana Administrative Register.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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