

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 9

The Montana Administrative Register (MAR), a twice-monthly publication, has three sections. The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The rule section indicates that the proposed rule action is adopted and lists any changes made since the proposed stage. The interpretation section contains the attorney general's opinions and state declaratory rulings. Special notices and tables are found at the back 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 Administrative Rules Bureau at (406) 444-2055.

Page Number

TABLE OF CONTENTS

NOTICE SECTION

AGRICULTURE, Department of, Title 4

4-14-116 (Alfalfa Seed Committee) Notice of Proposed Amendment - Grant Funding - No Public Hearing Contemplated. 1129-1131

COMMERCE, Department of, Title 8

8-24-24 (Board of Landscape Architects) Notice of Proposed Amendment - Fee Schedule - No Public Hearing Contemplated. 1132-1133

8-58-57 (Board of Realty Regulation) Notice of Proposed Amendment and Adoption - Continuing Education - Renewal - Mandatory Continuing Education for New Salespersons. No Public Hearing Contemplated. 1134-1137

8-99-36 (Economic Development Division) Notice of Public Hearing on Proposed Adoption - Montana Board of Research and Commercialization Technology. 1138-1147

EDUCATION, Title 10

10-3-214 (Board of Public Education) Notice of Public Hearing on Proposed Adoption - Content and Performance Standards for Social Studies, Arts, Library Media, and Workplace Competencies. 1148-1202

JUSTICE, Department of, Title 23

23-16-119 Notice of Proposed Amendment - Video  
Gambling Machines - No Public Hearing Contemplated. 1203-1207

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37-156 Notice of Public Hearing on Proposed  
Adoption and Amendment - Nursing Facility  
Reimbursement. 1208-1215

RULE SECTION

FISH, WILDLIFE AND PARKS, Department of, Title 12

AMD (Fish, Wildlife and Parks Commission)  
Personal Watercraft on the Tongue River  
Reservoir. 1216-1220

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

NEW Children's Health Insurance Program (CHIP). 1221-1245

INTERPRETATION SECTION

Opinions of the Attorney General.

11 Courts, City - Procedure for Selecting  
Substitute City Judge - Courts, Justice -  
Procedure for Selecting Substitute Justice of  
Peace - Judges - Procedures for Selecting  
Substitute City Judge and Substitute Justice  
of Peace - Justices of the Peace. 1246-1252

SPECIAL NOTICE AND TABLE SECTION

Functions of Administrative Rule Review Committee. 1253-1254

How to Use ARM and MAR. 1255

Accumulative Table. 1256-1267

BEFORE THE ALFALFA SEED COMMITTEE  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED
amendment of ARM 4.8.203	)	AMENDMENT
relating to grant funding	)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. On June 11, 2000, the Alfalfa Seed Committee proposes to amend ARM 4.8.203 relating to grant funding.

2. The Alfalfa Seed Committee will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Agriculture no later than 5:00 p.m. on May 26, 2000, to advise us of the nature of the accommodation that you need. Please contact Lee Boyer at the Montana Department of Agriculture, P.O. Box 200201, Helena, MT 59620-0201; Phone: (406) 444-2402; TDD: (406) 444-4687; Fax: (406) 444-9442; or E-mail: agr@state.mt.us.

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

4.8.203 ~~COMMITTEE DETERMINATION~~ GRANT FUNDING (1) At the first meeting of the committee held annually the projects to be funded ~~for the following fiscal period~~ are selected and the amount of grant funding will be determined. Decision will be based on project priorities set by the committee ~~for the fiscal period~~ after review and evaluation. Grants will be determined by amount of funds, type of grant last awarded, and need.

AUTH: 80-11-304, MCA  
IMP: 80-11-304, MCA

Reason: The Alfalfa Seed Committee approved this recommendation because they felt the current rule could potentially hamper their ability to be effective. Under current rules, the grants approved at their first annual meeting were not in effect until July 1 of the next fiscal year. Removing the suggested language allows the committee to make grants that could go into effect immediately. They wanted to have this ability should the need arise for research that needs to be started as soon as possible and not have to wait until the next fiscal year.

4. Concerned persons may submit their data, views or arguments concerning this proposed action in writing to Lee Boyer at the Montana Department of Agriculture, P.O. Box

200201, Helena, MT 59620-0201; Fax: (406) 444-9442; or E-mail: agr@state.mt.us. Any comments must be received no later than June 8, 2000.

5. If persons who are directly affected by the proposed amendment wish to express their data, views and 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 they have to Lee Boyer at the Montana Department of Agriculture, P.O. Box 200201, Helena, MT 59620-0201; Phone: (406) 444-2402; TDD: (406) 444-4687; Fax: (406) 444-9442; or E-mail: agr@state.mt.us. A written request for hearing must be received no later than June 8, 2000.

6. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the 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 persons directly affected has been determined to be 30 persons based on 300 producers and grant applicants.

7. The Department of Agriculture maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the Alfalfa Seed Committee. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding the Alfalfa Seed Committee. Such written request may be mailed or delivered to Montana Department of Agriculture, 303 N. Roberts, P.O. Box 200201, Helena, MT 59620-0201; faxed to the office at (406) 444-9442; or E-mail: agr@state.mt.us or may be made by completing a request form at any rules hearing held by the Department of Agriculture.

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

/s/Ernest Johnson  
Ernest Johnson, Chairman  
ALFALFA SEED COMMITTEE

/s/ Ralph Peck  
Ralph Peck  
Director  
DEPARTMENT OF AGRICULTURE

/s/ Timothy J. Meloy  
Timothy J. Meloy, Attorney  
Rule Reviewer

Certified to the Secretary of State May 1, 2000.

BEFORE THE BOARD OF LANDSCAPE ARCHITECTS  
DEPARTMENT OF COMMERCE  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF THE PROPOSED  
amendment of rules pertaining ) AMENDMENT OF ARM 8.24.409  
to fees ) FEE SCHEDULE

NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. On June 12, 2000, the Board of Landscape Architects proposes to amend the above-stated rule.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Landscape Architects no later than 5:00 p.m., on June 5, 2000, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Landscape Architects, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-5924; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667.

3. The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

8.24.409 FEE SCHEDULE (1) through (2)(g) will remain the same.

(h) ~~Reexamination registration~~ Examination fee 50

Auth: Sec. 37-1-134, 37-66-202, MCA

IMP: Sec. 37-1-134, 37-66-301, 37-66-305, 37-66-307, 37-66-308, MCA

REASON: Increased dues from the Council of Landscape Architectural Registration Boards necessitate increasing the revenue base for this program to meet expected expenditures. The board's current fee schedule does not generate enough revenue to establish a cash balance sufficient to administer the program during the next biennium. It is anticipated that this amendment will generate increased revenues of \$600 per year based on the examination fee for 12 applicants per year.

4. Concerned persons may submit their data, views or arguments concerning the proposed action in writing to the Board of Landscape Architects, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., June 8, 2000.

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 the request along with any comments they have to the Board of Landscape Architects, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., June 8, 2000.

6. If the Board receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed action, from the appropriate administrative rule review committee of the legislature, from a governmental agency or subdivision or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be one based on approximately 12 applicants per year in Montana.

7. The Board of Landscape Architects 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 which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Landscape Architects administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Landscape Architects, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 444-1667 or may be made by completing a request form at any rules hearing held by the agency.

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

BOARD OF LANDSCAPE ARCHITECTS  
SHELLY ENGLER, CHAIRMAN

BY: /s/ Annie M. Bartos  
ANNIE M. BARTOS, CHIEF COUNSEL  
DEPARTMENT OF COMMERCE

BY: /s/ Annie M. Bartos  
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, May 1, 2000.

BEFORE THE BOARD OF REALTY REGULATION  
DEPARTMENT OF COMMERCE  
STATE OF MONTANA

In the matter of the proposed	) NOTICE OF THE PROPOSED
amendment of rules pertaining to	) AMENDMENT OF ARM 8.58.415A
continuing education and renewal	) CONTINUING REAL ESTATE
and the adoption of a rule	) EDUCATION AND 8.58.426
pertaining to mandatory	) RENEWAL AND THE ADOPTION OF
continuing education for new	) NEW RULE I NEW LICENSEE
salespersons	) MANDATORY CONTINUING
	) EDUCATION - SALESPERSON

NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. On June 12, 2000, the Board of Realty Regulation proposes to amend and adopt the above-stated rules.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Realty Regulation no later than 5:00 p.m., on June 5, 2000, to advise us of the nature of the accommodation that you need. Please contact Grace Berger, Board of Realty Regulation, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-1699; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667.

3. The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

8.58.415A CONTINUING REAL ESTATE EDUCATION (1) through (10) will remain the same.

(11) A sworn affidavit attesting to the successful completion of the continuing education requirement must be submitted to the board by December 31 of each year. ~~Affidavits will be accepted until January 15 without incurring the late filing fee. Filing of an affidavit after January 15~~ December 31, but on or before February 15 will result in a late filing fee of \$100. No affidavit will be accepted after February 15.

(12) An incomplete affidavit of education will not be accepted and will be returned to the licensee. Any form returned to the licensee must be properly completed and resubmitted before the December 31 deadline, or late filing fees will be required.

~~(12) (13) All continuing education courses must be taken and completed within a calendar year. Courses completed after the December 31 deadline but reported within the allowable reporting period will not be accepted.~~

(13) through (15) will remain the same but be renumbered (14) through (16).

Auth: Sec. 37-51-203, MCA  
IMP: Sec. 37-1-306, 37-51-310, MCA

REASON: The amendments to this rule are being proposed to require the affidavit filing date to be the same as the renewal deadline date. The two different dates created a great deal of confusion resulting in licensees being assessed late renewal fees. Elimination of the two different dates will prevent this confusion in the future. It also clarifies the need for the affidavit to be completed correctly and filed prior to the filing deadline.

8.58.426 RENEWAL (1) ~~Beginning with the renewal of December 31, 1997, one-half of the licensees will renew for a period of two years with an expiration date of December 31, 1999. One-half of the licensees will renew for a period of four years with an expiration date of December 31, 2001. Following this initial renewal period,~~ e Each licensee will renew for a period of four years by December 31 of their expiration year. Licensees must complete the renewal form and pay the renewal fee by December 31 of their expiration year in order to renew their license.

(2) Renewal forms will be mailed to all real estate licensees at their last address of record. Active licensee renewals will be sent to the broker/owner of record. Inactive licensee renewals will be sent to their home address. Failure to receive a renewal form does not eliminate the renewal requirement. Each licensee is required to renew.

(3) Licensees cannot renew their license without also completing and submitting the affidavit of education at the time of renewal.

(4) Incomplete renewal forms will not be accepted and will be returned to the licensee. Any form returned to the licensee must be properly completed and resubmitted before the December 31 deadline, or late renewal fees will be required.

(5) Broker/owners must sign the renewal form for all salespersons under their supervision.

Auth: Sec. 37-51-203, MCA  
IMP: Sec. 37-51-310, MCA

REASON: The proposed amendments to this rule clarify what is required to renew a license and reiterates the statutory requirement to renew the license in the manner prescribed by the board. The amendments clarify that the broker's signature is required on the salespersons' renewal form and that forms must be properly completed and received by the renewal deadline.

4. The proposed new rule provides as follows:

NEW RULE I NEW LICENSEE MANDATORY CONTINUING EDUCATION - SALESPERSON (1) All new sales licensees are required to complete the board mandated new licensee mandatory continuing

education requirement by December 31 of the calendar year of the initial license date.

(2) New sales licensees will receive an interim license that will expire December 31 of the year of the initial license date.

(3) The interim license will convert to a permanent license upon completion of the new licensee mandatory continuing education.

(4) Evidence of completion of the new licensee mandatory continuing education may be forwarded to the board office at any time after completion of the mandatory course in order to convert the interim license to a permanent license.

(5) The new licensee mandatory continuing education does not replace the 12 hour continuing education requirement which begins with the second calendar year of licensing.

(6) All licensees are required to submit the renewal form and renewal fee by December 31 of their license renewal year.

Auth: Sec. 37-1-306, 37-1-319, 37-51-203, MCA  
IMP: Sec. 37-1-306, 37-1-319, MCA

REASON: This new rule is being proposed to implement the mandatory continuing education course for all new real estate licensees. This course is continuing education for a new licensee and will cover the fundamentals of real estate often lacking in new agents. The rule clarifies the continuing education requirement for the new licensee.

5. Concerned persons may submit their data, views or arguments concerning the proposed actions in writing to the Board of Realty Regulation, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., June 8, 2000.

6. If persons who are directly affected by the proposed actions 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 the request along with any comments they have to the Board of Realty Regulation, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., June 8, 2000.

7. If the Board receives requests for a public hearing on the proposed actions from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed actions, from the appropriate administrative rule review committee of the legislature, from a governmental agency or subdivision or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 450 based on the 4500 licensed realtors in Montana.

8. The Board of Realty Regulation 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 which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Realty Regulation administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Realty Regulation, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 444-1667 or may be made by completing a request form at any rules hearing held by the agency.

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

BOARD OF REALTY REGULATION  
JOHN BEAGLE, CHAIRMAN

BY: /s/ Annie M. Bartos  
ANNIE M. BARTOS, CHIEF COUNSEL  
DEPARTMENT OF COMMERCE

BY: /s/ Annie M. Bartos  
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, May 1, 2000.

BEFORE THE ECONOMIC DEVELOPMENT DIVISION  
DEPARTMENT OF COMMERCE  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC HEARING ON  
adoption of rules pertaining to ) THE PROPOSED ADOPTION OF  
the Montana board of research ) RULES PERTAINING TO THE  
and commercialization technology) MONTANA BOARD OF RESEARCH  
) AND COMMERCIALIZATION  
) TECHNOLOGY

TO: All Concerned Persons

1. On June 15, 2000, at 10:00 a.m., a public hearing will be held in the Department of Commerce Upstairs Conference Room, 1424 Ninth Avenue, Helena, Montana, to consider the proposed adoption of rules pertaining to the Montana board of research and commercialization technology.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department of Commerce no later than 5:00 p.m., June 7, 2000 to advise us of the nature of the accommodation that you need. Please contact Peter Ohman, Department of Commerce, 1424 Ninth Avenue, P.O. Box 200501, Helena, Montana; telephone (406)444-3553; Montana Relay 1-800-253-4091; TDD (406)444-2978; facsimile (406)444-2903. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rulemaking process should contact Peter Ohman.

3. The proposed adoption of new rules will read as follows: (new matter underlined, deleted matter interlined)

I ORGANIZATION RULE (1) The Montana board of research and commercialization technology was created in 1999 under 2-15-1819, MCA.

(2) If a board member misses three board meetings which have not been excused by the chairperson, the board shall recommend to the person who holds the office responsible for appointing that member, that the member be asked to resign his or her seat on the board, so that a person may be appointed to the board who can demonstrate his or her interest in board activities by attending regularly scheduled board meetings.

Auth: 90-3-1003, MCA  
IMP: 90-3-1003, 2-15-1819, MCA

REASON: Section 90-3-1003, MCA, directs the Board to establish policies, procedures and criteria that further its objectives for awarding grants and loans. By ensuring that board members regularly attend meetings, the above rule will ensure that Board business moves forward and only members that are truly interested in the work of the Board remain as members.

II PROCEDURAL RULES (1) The board hereby adopts and incorporates by reference the procedural rules of the department. A copy of these rules may be obtained from the Montana Department of Commerce, 1424 Ninth Avenue, Helena, Montana 59620.

Auth: 90-3-1003, MCA  
IMP: 90-3-1003, MCA

REASON: Section 90-3-1003, MCA, directs the Board to establish policies, procedures and criteria that further its objectives for awarding grants and loans. By adopting the Department's procedural rules the Board will ensure that its business proceeds in a uniform and legal manner.

III PUBLIC PARTICIPATION RULES (1) The board hereby adopts and incorporates by reference the public participation rules of the department except that information relating to proprietary matters which will be held in confidence as specified in other sections of these rules. A copy of the department's rules regarding citizen participation may be obtained from the Montana Department of Commerce, 1424 Ninth Avenue, Helena, Montana 59620.

Auth: 90-3-1003, MCA  
IMP: 90-3-1003, MCA

REASON: Section 90-3-1003, MCA, directs the Board to establish policies, procedures and criteria that further its objectives for awarding grants and loans. By adopting the Department's public participation rules the Board will ensure that its business proceeds in a uniform and legal manner.

IV DEFINITIONS The following definitions shall apply for the purposes of these rules.

(1) "Matching funds" means funds from non-state sources that are to be used for research and commercialization projects to be conducted at research and commercialization centers located in Montana.

(2) "Research and commercialization grant or loan" means funding provided by the board to a research and commercialization project.

(3) "Research and commercialization project" means a project eligible for funding under the criteria set forth under 90-3-1003(4), MCA.

Auth: 90-3-1003, MCA  
IMP: 90-3-1003, MCA

REASON: Section 90-3-1003, MCA, directs the Board to establish policies, procedures and criteria that further its objectives for awarding grants and loans. Adoption of the foregoing definitions will assist the Board and applicants by providing uniformity in the usage of these terms and thereby

avoiding confusion or uncertainty about the exact meaning of the same.

V APPLICATION PROCEDURES FOR A RESEARCH AND COMMERCIALIZATION GRANT OR LOAN - SUBMISSION AND EVALUATION OF EXECUTIVE SUMMARY

(1) An applicant for a research and commercialization grant or loan must submit a written executive summary of the project to the board's staff. The executive summary must contain the following items:

(a) a description of the proposed project, including the product or process and the technology involved;

(b) a description of how the project meets each of the statutory project criteria set forth in 90-3-1003(4)(a) through (i), MCA;

(c) a brief discussion of whether the project enhances production agriculture;

(d) a description of whether the grant or loan is to be used for basic research, applied research or some combination of both;

(e) a discussion of the feasibility and/or availability of matching funds;

(f) an estimate of the total financing needs;

(g) the amount of funds requested from the board, with a description of the expected use of proceeds; and

(h) whether or not an external peer review has been conducted.

(2) The executive summary should not contain any information that the applicant does not want subject to public inspection, subject to constitutional limitations, determinations of the department and whether the information is proprietary.

(3) Board staff will evaluate the executive summary and make a recommendation to the board. The board will determine whether the project should be advanced to the research and commercialization proposal stage.

Auth: 90-3-1003, MCA

IMP: 90-3-1003, MCA

**REASON:** Section 90-3-1003, MCA, directs the Board to establish policies, procedures and criteria to employ in order to ensure that it chooses the most deserving recipients for Research and Commercialization grants or loans. Section 90-3-1003, MCA, mandates that the Board considers certain criteria and such criteria is set forth above in (1)(a) through (h). This rule establishes the first level of review an application for a grant or loan undergoes. The rule ensures that the Board considers the statutorily mandated criteria and it adds other criteria that would be helpful in determining whether an application is worthy of further consideration. The additional criteria is set forth in (1)(a) and (1)(c) through (h).

VI APPLICATION PROCEDURES FOR A RESEARCH AND COMMERCIALIZATION GRANT OR LOAN - SUBMISSION OF RESEARCH AND COMMERCIALIZATION PROPOSAL (1) When the board has deemed the executive summary complete and determined that the proposal is appropriate for further consideration, the applicant must submit a research and commercialization proposal to the board's staff for review. The research and commercialization proposal must contain the following items:

- (a) a title page;
- (b) a table of contents;
- (c) an executive summary;
- (d) the proposal objectives;
- (e) a background review of the technology;
- (f) the project design;
- (g) a detailed description of how the project meets the grant and loan criteria listed in 90-3-1003, MCA;
- (h) the results of external peer review (preferably in abstract or other summary form), if any;
- (i) a list of required facilities and equipment;
- (j) a list of performance benchmarks, which describes specific tasks to be achieved, delineated on a time line;
- (k) a proposed budget and use of proceeds, with documentation showing source of funds and use of proceeds for each line of the budget;
- (l) the feasibility and/or availability of matching funds; and
- (m) the resumes of the major principals identified in the project design describing the education and employment experience of each.

Auth: 90-3-1003, MCA  
IMP: 90-3-1003, MCA

REASON: Section 90-3-1003, MCA, directs the Board to establish policies, procedures and criteria to employ in order to ensure that it chooses the most deserving recipients for research and commercialization grants or loans. Review of the research and commercialization proposal is the second level of review in the determination of whether to award a research and commercialization loan or grant. This rule sets forth the information that a research and commercialization proposal must contain. It provides uniformity to the application process and ensures that the Board receives enough information about a proposal to make an educated decision regarding whether to award the proposal with a grant or loan.

VII APPLICATION PROCEDURES FOR A RESEARCH AND COMMERCIALIZATION GRANT OR LOAN - EVALUATION AND REVIEW PROCESS (1) After receipt of the research and commercialization proposal, the board's staff will determine whether it is complete. Once the research and commercialization proposal is deemed complete, the board will begin to evaluate and review the proposal.

- (2) If the research and commercialization proposal

submitted is for a grant, external peer review is mandatory. The board may accept the results of the competitive peer review process conducted by a federal granting agency. However, the board may seek additional peer review if deemed necessary.

(3) Staff review of the research and commercialization proposal will verify compliance with the statutory purpose and criteria, feasibility of the technology involved (based on a peer review), the credibility and expertise of the project principals and the potential for the successful completion of the project. The staff will provide a summary of the evaluation and review to the board.

(4) The board may ask the applicant to make a presentation of the research and commercialization proposal at a board meeting.

Auth: 90-3-1003, MCA  
IMP: 90-3-1003, MCA

REASON: Section 90-3-1003, MCA, directs the Board to establish policies, procedures and criteria to employ in order to ensure that it chooses the most deserving recipients for research and commercialization grants or loans. Section 90-3-1003(6), MCA, requires the Board to refer grant applications to external peer review groups. This rule clarifies the procedures involved in evaluating a research and commercialization proposal, and expands on how peer review groups will assist the Board in evaluating proposals.

VIII APPLICATION PROCEDURES FOR A RESEARCH AND COMMERCIALIZATION GRANT OR LOAN - BOARD ACTION (1) In its decision to fund or to deny funding of a research and commercialization proposal, the board will take into consideration the number of, and the degree to which statutory criteria are met. In addition, the board will take into consideration the purpose and goals of the research and commercialization program, the applicant's presentation and the staff report. Based on these factors, the board may vote to:

- (a) make the grant or loan in the research and commercialization project as requested;
  - (b) make the grant or loan in the research and commercialization project provided certain conditions are met;
  - (c) make the loan in the research and commercialization project for a larger or smaller amount than requested;
  - (d) refer the research and commercialization proposal back to the applicant for revisions; or
  - (e) reject the research and commercialization proposal.
- (2) In the case where the board is satisfied with the quality of the research and commercialization proposal but the required external peer review has not been conducted, the board may fund its own external peer review of the research and commercialization proposal. Upon completion of external peer review, the research and commercialization proposal will

be returned to staff for completion of the evaluation and review process.

Auth: 90-3-1003, MCA  
IMP: 90-3-1003, MCA

REASON: Section 90-3-1003, MCA, directs the Board to establish policies, procedures and criteria to employ in order to ensure that it chooses the most deserving recipients for research and commercialization grants or loans. Section 90-3-1003(6), MCA, requires the Board to refer grant applications to external peer review groups. This rule clarifies how the Board will conclude the evaluation of a research and commercialization proposal. The rule also further describes how the Board will implement peer review of research and commercialization proposals.

IX APPLICATION PROCEDURES FOR A RESEARCH AND COMMERCIALIZATION GRANT OR LOAN - FUNDING AGREEMENT (1) Upon a decision by the board to fund a research and commercialization project, the board will enter into a funding agreement with the applicant.

(2) The board may disburse the funds contemplated in the funding agreement according to performance benchmarks.

(3) The funding recipient must submit progress reports to the board as required in the funding agreement. The progress reports shall include, but not be limited to:

- (a) financial status of the project;
- (b) overall project performance; and
- (c) progress in accomplishing performance benchmarks.

(4) A final report is due upon completion of the project term.

(5) If the funding agreement is in the form of a loan, the interest on the loan will be at a rate determined by the board. The funding agreement will contain, among other provisions, a default provision if the terms of the loan are not met.

(6) If the funding agreement is in the form of a grant, the statutorily required matching funds must be in the possession of the applicant at the time grant funds are disbursed.

Auth: 90-3-1003, MCA  
IMP: 90-3-1003, MCA

REASON: Section 90-3-1003, MCA, directs the Board to establish policies, procedures and criteria that further its objective for the awarding of grants and loans. This rule sets forth the procedures the Board will utilize when formally entering into a funding agreement with a recipient of a grant or loan.

X RECONSIDERATION OF FUNDING DECISION - ALL RESEARCH AND COMMERCIALIZATION PROPOSALS (1) If the board determines that

a research and commercialization proposal is ineligible for a grant or loan due to failure to comply with applicable statutory criteria and other criteria, the applicant has 30 days from the date of notification of such determination to request the board to reconsider the research and commercialization proposal or to determine whether the determination should stand or should be modified. The request for reconsideration must be in writing and addressed to the Montana Department of Commerce, Montana Board of Research and Commercialization Technology, 1424 Ninth Avenue, Helena, Montana 59620.

Auth: 90-3-1003, MCA  
IMP: 90-3-1003, MCA

REASON: Section 90-3-1003, MCA, directs the Board to establish policies, procedures and criteria that further its objective for the awarding of grants and loans. This rule sets forth the procedures the Board will utilize when it determines that a proposal is ineligible for a grant or loan.

XI FAILURE TO PRODUCE IN MONTANA - ALL RESEARCH AND COMMERCIALIZATION GRANTS AND LOANS (1) A grant or loan recipient must agree to use its best efforts to see that the development or commercialization of new technology occurs within the state of Montana.

(2) The board may determine that a grant or loan recipient is not complying with the funding agreement if, including but not limited to, the recipient fails to:

(a) maintain offices or facilities in Montana as required by the funding agreement; or

(b) comply with the reporting requirements established by the board or with any of the provisions in the funding agreement.

(3) Actions by the board may include termination of the grant or loan agreement and calling the grant or loan.

Auth: 90-3-1003, MCA  
IMP: 90-3-1003, MCA

REASON: Section 90-3-1003, MCA, directs the Board to establish policies, procedures and criteria that further its objectives for awarding grants and loans. This rule establishes for what reasons the Board may determine that a grant or loan recipient is no longer eligible for such funds and what action it may take.

XII RIGHTS TO INTELLECTUAL PROPERTY - ALL RESEARCH AND COMMERCIALIZATION GRANTS AND LOANS (1) All intellectual property rights, including any patents, copyrights, trademarks and trade secrets developed by the funding recipient with use of funds provided by the board, will be owned by the recipient or the recipient will have appropriate rights thereto as determined in consultation and agreement with the board.

Auth: 90-3-1003, MCA  
IMP: 90-3-1003, MCA

REASON: Section 90-3-1003, MCA, directs the Board to establish policies, procedures and criteria that further its objectives for awarding grants and loans. This rule will guarantee funding recipients that they will be the beneficiaries of the products or ideas they produce thereby giving them an added incentive to remain in Montana to perform what could be valuable research and development projects.

XIII CONFIDENTIALITY OF INFORMATION AND OPEN MEETINGS

(1) Unless otherwise required by law, information submitted by an applicant will be treated as confidential by the board, its staff and technical reviewers, except the following:

- (a) name and address of applicant;
- (b) description of proposed project;
- (c) amount of grant or loan requested;
- (d) any other information in which the demand of individual privacy does not clearly exceed the merits of public disclosure;
- (e) any information in which the demand of individual privacy clearly exceeds the merits of public disclosure but the applicant has expressly waived his right to privacy; and
- (f) the applicant must designate confidential those portions of the information submitted to the board that it considers to be confidential. The designation by the applicant, however, will not guarantee the confidentiality of the information.

(2) The board shall maintain public files on each completed application received which will contain the following information:

- (a) items (1)(a) through (e) of this rule;
- (b) all written documents received or prepared concerning items (1)(a) through (e) of this rule;
- (c) the executive director's recommendation to the board regarding items (1)(a) through (e) and his recommendation for approval or denial of the application; and
- (d) a brief statement of the board's action regarding the application, including the board's approval or denial of the application, the terms and interest rate (in the case of a loan) of financing, and the repayment schedule and record (in the case of a loan).

(3) The board shall open all meetings when the discussion addresses issues enumerated in (1)(a) through (e) or when the demand of individual privacy does not exceed the merits of public disclosure, or when the applicant has expressly waived his right to privacy.

(4) This policy is based on the board's findings except for the information described in items (1)(a) through (e). The demands of individual privacy which may include personal, financial and proprietary information contained in applications and supporting documentation submitted to the

board, exceeded the merits of public disclosure.

Auth: 90-3-1003, MCA

IMP: 90-3-1003, MCA

**REASON:** Section 90-3-1003, MCA, directs the Board to establish policies, procedures and criteria that further its objectives for awarding grants and loans. This rule will encourage applicants to be candid in their applications to the Board and thereby provide the Board with the kind of information it needs to make effective decisions about which applicants to fund. The privacy protections do so and still remain consistent with the demands of the Montana Constitution.

6. 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 Department of Commerce, Montana Board of Research and Commercialization Technology, 1424 Ninth Avenue, P.O. Box 200501, Helena, Montana, 59620-0501, or by facsimile number (406)444-2903, to be received no later than 5:00 p.m., June 15, 2000.

7. Peter Ohman has been designated to preside over and conduct this hearing.

8. The Department of Commerce 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 which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Department of Commerce administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Department of Commerce, 1424 Ninth Avenue, P.O. Box 200501, Helena, MT 59620-0501 or by phone at (406)444-3553, or may be made by completing a request form at any rules hearing held by the agency.

9. The notice requirements of 2-4-302, MCA, apply and have been satisfied.

ECONOMIC DEVELOPMENT DIVISION

BY: /s/ Annie M. Bartos  
ANNIE M. BARTOS, CHIEF COUNSEL  
DEPARTMENT OF COMMERCE

BY: /s/ Annie M. Bartos  
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, May 1, 2000.

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of )  
proposed adoption )  
of rules relating )  
to content and )  
performance standards )  
for social studies, )  
arts, library media, )  
and workplace )  
competencies )

) NOTICE OF PUBLIC HEARING  
) ON THE PROPOSED ADOPTION  
) OF RULES RELATING TO  
) CONTENT AND PERFORMANCE  
) STANDARDS FOR SOCIAL STUDIES,  
) ARTS, LIBRARY MEDIA, AND  
) WORKPLACE COMPETENCIES

TO: All Concerned Persons

1. Public hearings will be held from 4:30 to 6:00 p.m. at the following sites to consider the adoption of new rules relating to content and performance standards at the end of 4th and 8th grades and upon graduation for social studies, arts, library media, and workplace competencies in public schools.

Havre	June 1, 2000,	Havre High School, Library, 900 18th Street
Miles City	June 5, 2000,	Custer County High School, Resource Room, 20 South Center
Billings	June 6, 2000,	Billings School Administration Office, Basement, 415 North 30th
Butte	June 29, 2000,	Butte School Administration Office, 2nd Floor Conference Room, 111 North Montana
Helena	July 6, 2000,	Smith Elementary School, Library, 2320 5th Avenue

2. The Montana Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in these public hearings or need an alternative accessible format of this notice. If you require an accommodation, contact the Office of Public Instruction no later than 5:00 p.m. on May 25, 2000, to advise us of the nature of the accommodation that you need. Please contact Pat Reichert, Office of Public Instruction, P.O. Box 202501, Helena, Montana 59620-2501; Telephone (406) 444-3172; FAX (406) 444-2893. A TTD number will be available upon request.

3. Statement of Reasonable Necessity. These proposed new rules continue the process of replacing model learner

goals with content and performance standards. Mathematics and reading content and performance standards were adopted in the fall of 1998. Literature, writing, speaking and listening, media literacy, science, health, technology, and world languages content and performance standards were adopted in the fall of 1999. These proposed rules replace Montana's current model learner goals for social studies, arts, and library/media which will be repealed by reference upon adoption of these proposed rules.

In future rulemaking, the remaining model learner goals will be replaced with content and performance standards. The next step in the rulemaking process will be the development of content and performance standards for vocational and technical education and the revision of the program area standards.

These changes are necessary because the 55th Legislature directed the Office of Public Instruction (OPI) to review the 1989 program area standards and recommend revisions to the model learner goals associated with the Board of Public Education's (BPE) accreditation standards. By revising these rules the BPE and the State Superintendent are carrying out their statutory duties under Sections 20-2-114, 20-2-121, 20-3-106 and 20-7-101, MCA, to define the basic instruction program for pupils in Montana's public schools. The revisions are also necessary for school districts and the state to comply with requirements to continue receiving federal funding.

The 55th Legislature directed the BPE and OPI to act with the assistance and advice of Montana's educators, parents and the public. These proposed rules represent the work to date of interested members of Montana's education community. This rulemaking process provides the BPE with additional input from the general public concerning how Montana should revise its content standards and develop performance standards in arts, social studies, library media, and workplace competencies.

4. The proposed new rules provide as follows:

RULE I SOCIAL STUDIES CONTENT STANDARD 1 (1) To satisfy the requirements of social studies content standard 1, a student must access, synthesize, and evaluate information to communicate and apply social studies knowledge to real world situations.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE II BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 1 FOR END OF GRADE 4 (1) The benchmark for social studies content standard 1 for a student at the end of grade 4 is the ability to:

(a) identify and practice the steps of an inquiry process (i.e., identify question or problem, locate and

evaluate potential resources, gather and synthesize information, create a new product, and evaluate product and process);

(b) evaluate information quality (e.g., accuracy, relevance, fact or fiction); and

(c) use information to support statements and practice basic group decision making strategies in real world situations (e.g., class elections, playground and classroom rules, recycling projects, school stores).

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE III BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 1 FOR END OF GRADE 8 (1) The benchmark for social studies content standard 1 for a student at the end of grade 8 is the ability to:

(a) apply the steps of an inquiry process (i.e., identify question or problem, locate and evaluate potential resources, gather and synthesize information, create a new product, and evaluate product and process);

(b) assess the quality of information (e.g., primary or secondary sources, point of view and embedded values of the author); and

(c) interpret and apply information to support conclusions and use group decision making strategies to solve problems in real world situations (e.g., school elections, community projects, conflict resolution, role playing scenarios).

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE IV BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 1 UPON GRADUATION (1) The benchmark for social studies content standard 1 for a student upon graduation is the ability to:

(a) analyze and adapt an inquiry process (i.e., identify question or problem, locate and evaluate potential resources, gather and synthesize information, create a new product, and evaluate product and process);

(b) apply criteria to evaluate information (e.g., origin, authority, accuracy, bias, distortion of information and ideas); and

(c) synthesize and apply information to formulate and support reasoned personal convictions within groups and participate in negotiations to arrive at solutions to differences (e.g., elections, judicial proceedings, economic choices, community service projects).

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE V SOCIAL STUDIES CONTENT STANDARD 2 (1) To satisfy the requirements of social studies content standard 2, a student must analyze how people create and change structures of power, authority, and governance to understand the

operation of government and to demonstrate civic responsibility.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE VI BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 2 FOR END OF GRADE 4 (1) The benchmark for social studies content standard 2 for a student at the end of grade 4 is the ability to:

(a) explain the purpose and various levels of government;

(b) recognize local, state, tribal, and federal governments and identify representative leaders at these levels (e.g., mayor, governor, chairperson, president);

(c) identify the major responsibilities of local, state, tribal, and federal government;

(d) explain how governments provide for needs and wants of people by establishing order and security and managing conflict;

(e) identify and explain the individual's responsibilities to family, peers, and the community, including the need for civility, respect for diversity, and the rights of others;

(f) describe factors that cause conflict and contribute to cooperation among individuals and groups (e.g., playground issues, misunderstandings, listening skills, taking turns); and

(g) explore the role of technology in communications, transportation, information processing, or other areas as it contributes to or helps resolve problems.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE VII BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 2 FOR END OF GRADE 8 (1) The benchmark for social studies content standard 2 for a student at the end of grade 8 is the ability to:

(a) describe the purpose of government and how the powers of government are acquired, maintained and used;

(b) identify and describe basic features of the political system in the United States and identify representative leaders from various levels (e.g., local, state, tribal, federal, branches of government);

(c) identify the significance of tribal sovereignty and Montana tribal governments' relationships to local, state, and federal governments;

(d) analyze and explain governmental mechanisms used to meet the needs of citizens, manage conflict, and establish order and security;

(e) identify and explain the basic principles of democracy (e.g., Bill of Rights, individual rights, common good, equal opportunity, equal protection of the laws, majority rule);

(f) explain conditions, actions and motivations that contribute to conflict and cooperation within and among groups and nations (e.g., discrimination, peer interaction, trade agreements); and

(g) explain the need for laws and policies governing technology and explore solutions to problems that arise from technological advancements.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE VIII BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 2 UPON GRADUATION (1) The benchmark for social studies content standard 2 for a student upon graduation is the ability to:

(a) analyze the historical and contemporary purpose of government and how the powers of government are acquired, modified, justified, and used (e.g., checks and balances, Bill of Rights, court decisions);

(b) compare and contrast various world political systems (e.g., ideologies, structure, institutions) with that of the United States;

(c) identify representative political leaders and philosophies from selected historical and contemporary settings;

(d) relate the concept of tribal sovereignty to the unique powers of tribal governments as they interact with local, state, and federal governments;

(e) analyze the effectiveness of various systems of government to protect the rights and needs of citizens and balance competing conceptions of a just society;

(f) analyze the impact of the Constitution, laws, and court decisions on the rights and responsibilities of citizens;

(g) analyze and evaluate conditions, actions, and motivations that contribute to conflict and cooperation within and among groups and nations (e.g., current events from newspapers, magazines, television); and

(h) analyze laws and policies governing technology and evaluate the ethical issues and the impacts of technology on society.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE IX SOCIAL STUDIES CONTENT STANDARD 3 (1) To satisfy the requirements of social studies content standard 3, a student must apply geographic knowledge and skills (e.g., location, place, human/environment interactions, movement, regions).

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE X BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 3 FOR END OF GRADE 4 (1) The benchmark for social studies

content standard 3 for a student at the end of grade 4 is the ability to:

(a) identify and use various representations of the earth (e.g., maps, globes, photographs, latitude and longitude, scale);

(b) locate on a map or globe physical features (e.g., continents, oceans, mountain ranges, land forms), natural features (e.g., flora, fauna), and human features (e.g., cities, states, national borders);

(c) describe and illustrate ways in which people interact with their physical environment (e.g., land use, location of communities, methods of construction, design of shelters);

(d) describe how human movement and settlement patterns reflect the wants and needs of diverse cultures;

(e) use appropriate geographic resources (e.g., atlases, databases, charts, grid systems, technology, graphs, maps) to gather information about local communities, reservations, Montana, the United States, and the world;

(f) identify and distinguish between physical system changes (e.g., seasons, climate, weather, water cycle, natural disasters) and describe the social and economic effects of these changes; and

(g) describe and compare the ways in which people in different regions of the world interact with their physical environments.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XI BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 3 FOR END OF GRADE 8 (1) The benchmark for social studies content standard 3 for a student at the end of grade 8 is the ability to:

(a) analyze and use various representations of the earth (e.g., physical, topographical, and political maps; globes; geographic information systems; aerial photographs; satellite images) to gather and compare information about a place;

(b) locate on a map or globe physical features (e.g., continents, oceans, mountain ranges, land forms), natural features (e.g., flora, fauna), and human features (e.g., cities, states, national borders) and explain their relationships within the ecosystem;

(c) analyze diverse land use and explain the historical and contemporary effects of this use on the environment, with an emphasis on Montana;

(d) explain how movement patterns throughout the world (e.g., people, ideas, diseases, products, food) lead to interdependence and/or conflict;

(e) use appropriate geographic resources to interpret and generate information explaining the interaction of physical and human systems (e.g., estimate distance, calculate scale, identify dominant patterns of climate and land use, compute population density);

(f) describe and distinguish between the environmental effects on the earth of short-term physical changes, (e.g., floods, droughts, snowstorms) and long-term physical changes (e.g., plate tectonics, erosion, glaciation); and

(g) describe major changes in a local area that have been caused by human beings (e.g., a new highway, a fire, construction of a new dam, logging, mining) and analyze the probable effects on the community and environment.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XII BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 3 UPON GRADUATION (1) The benchmark for social studies content standard 3 for a student upon graduation is the ability to:

(a) interpret, use, and synthesize information from various representations of the earth (e.g., maps, globes, satellite images, geographic information systems, three-dimensional models);

(b) differentiate and analyze the relationships among various regional and global patterns of geographic phenomena, (e.g., land forms, soils, climate, vegetation, natural resources, population);

(c) assess the major impacts of human modifications on the environment (e.g., global warming, deforestation, erosion, pollution);

(d) analyze how human settlement patterns create cooperation and conflict which influence the division and control of the earth (e.g., treaties, economics, exploration, borders, religion, exploitation, water rights);

(e) select and apply appropriate geographic resources to analyze the interaction of physical and human systems (e.g., cultural patterns, demographics, unequal global distribution of resources) and their impact on environmental and societal changes;

(f) analyze the short-term and long-term effects that major physical changes in various parts of the world have had or might have on the environments (e.g., land use, population, resources); and

(g) describe and compare how people create places that reflect culture, human needs, government policy, and current values and ideas as they design and build (e.g., buildings, neighborhoods, parks, industrial and agricultural centers, farms and ranches).

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XIII SOCIAL STUDIES CONTENT STANDARD 4 (1) To satisfy the requirements of social studies content standard 4, a student must demonstrate an understanding of the effects of time, continuity, and change on historical and future perspectives and relationships.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XIV BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 4 FOR END OF GRADE 4 (1) The benchmark for social studies content standard 4 for a student at the end of grade 4 is the ability to:

(a) identify and use various sources of information (e.g., artifacts, diaries, photographs, charts, biographies, paintings, architecture, songs) to develop an understanding of the past;

(b) use a timeline to select, organize, and sequence information describing eras in history;

(c) examine biographies, stories, narratives, and folk tales to understand the lives of ordinary people and extraordinary people, place them in time and context, and explain their relationship to important historical events;

(d) identify and describe famous people, important democratic values (e.g., democracy, freedom, justice), symbols (e.g., Montana and United States flags, state flower), and holidays in the history of Montana, American Indian tribes, and the United States;

(e) identify and illustrate how technologies have impacted the course of history (e.g., energy, transportation, communications);

(f) recognize that people view and report historical events differently; and

(g) explain the history, culture, and current status of the American Indian tribes in Montana and the United States.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XV BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 4 FOR END OF GRADE 8 (1) The benchmark for social studies content standard 4 for a student at the end of grade 8 is the ability to:

(a) interpret the past using a variety of sources (e.g., biographies, documents, diaries, eyewitnesses, interviews, internet, primary source material) and evaluate the credibility of sources used;

(b) describe how history can be organized and analyzed using various criteria to group people and events (e.g., chronology, geography, cause and effect, change, conflict, issues);

(c) use historical facts and concepts and apply methods of inquiry (e.g., primary documents, interviews, comparative accounts, research) to make informed decisions as responsible citizens;

(d) identify significant events, people and important democratic values (e.g., freedom, equality, privacy) in the major eras/civilizations of Montana, American Indian, United States, and world history;

(e) identify major scientific discoveries and technological innovations and describe their social and economic effects on society;

(f) explain how and why events (e.g., American revolution, battle of the Little Big Horn, immigration,

women's suffrage) may be interpreted differently according to the points of view of participants, witnesses, reporters, and historians; and

(g) summarize major issues affecting the history, culture, tribal sovereignty, and current status of the American Indian tribes in Montana and the United States.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XVI BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 4 UPON GRADUATION (1) The benchmark for social studies content standard 4 for a student upon graduation is the ability to:

(a) select and analyze various documents and primary and secondary sources that have influenced the legal, political, and constitutional heritage of Montana and the United States;

(b) interpret how selected cultures, historical events, periods, and patterns of change influence each other;

(c) apply ideas, theories, and methods of inquiry to analyze historical and contemporary developments, and to formulate and defend reasoned decisions on public policy issues;

(d) analyze the significance of important people, events, and ideas (e.g., political and intellectual leadership, inventions, discoveries, the arts) in the major eras/civilizations in the history of Montana, American Indian tribes, the United States, and the world;

(e) analyze issues (e.g., freedom and equality, liberty and order, region and nation, diversity and civic duty) using historical evidence to form and support a reasoned position;

(f) analyze both the historical impact of technology (e.g., industrialization, communication, medicine) on human values and behaviors and how technology shapes problem solving now and in the future;

(g) investigate, interpret, and analyze the impact of multiple historical and contemporary viewpoints concerning events within and across cultures, major world religions, and political systems (e.g., assimilation, values, beliefs, conflicts); and

(h) analyze and illustrate the major issues concerning history, culture, tribal sovereignty, and current status of the American Indian tribes and bands in Montana and the United States (e.g., artifacts, repatriation, natural resources, language, jurisdiction).

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XVII SOCIAL STUDIES CONTENT STANDARD 5 (1) To satisfy the requirements of social studies content standard 5, a student must make informed decisions based on economic principles of production, distribution, exchange, and consumption.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XVIII BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 5 FOR END OF GRADE 4 (1) The benchmark for social studies content standard 5 for a student at the end of grade 4 is the ability to:

(a) give examples of needs and wants, scarcity and choice (e.g., budgeting of allowance, trading cards);

(b) identify basic economic concepts (e.g., supply and demand, price) that explain events and issues in the community;

(c) distinguish between private goods and services (e.g., family car, local restaurant) and public goods and services (e.g., interstate highway system, United States postal service);

(d) describe how personal economic decisions, (e.g., deciding what to buy, what to recycle, how much to contribute to people in need) affect the lives of people in Montana, the United States, and the world;

(e) explain the roles of money, banking, and savings in everyday life; and

(f) identify and describe examples in which science and technology have affected economic conditions (e.g., assembly line, robotics, internet, media advertising).

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XIX BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 5 FOR END OF GRADE 8 (1) The benchmark for social studies content standard 5 for a student at the end of grade 8 is the ability to:

(a) identify and explain basic economic concepts (e.g., supply, demand, production, exchange and consumption; labor, wages, and capital; inflation and deflation; private goods and services);

(b) apply economic concepts to explain historical events, current situations, and social issues in local, Montana, tribal, national, or global concerns;

(c) compare and contrast the difference between private and public goods and services;

(d) analyze how various personal and cultural points of view influence economic decisions (e.g., land ownership, taxation, unemployment);

(e) explain and illustrate how money is used (e.g., trade, borrow, save, invest, compare the value of goods and services) by individuals and groups (e.g., businesses, financial institutions, governments); and

(f) analyze the influences of technological advancements (e.g., machinery, internet, genetics) on household, state, national, and global economies.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XX BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 5 UPON GRADUATION (1) The benchmark for social studies content standard 5 for a student upon graduation is the ability to:

(a) analyze the impact that supply and demand, scarcity, prices, incentives, competition, and profits influence what is produced and distributed in various economic systems;

(b) use basic economic concepts (e.g., production, distribution, consumption, market economy, command economy) to compare and contrast local, regional, national, and global economies across time and at the present time;

(c) assess the costs and benefits to society of allocating goods and services through private and public sectors;

(d) compare and contrast how values and beliefs influence economic decisions in different economic systems;

(e) explain the operations, rules, and procedures of common financial instruments (e.g., stocks and bonds, retirement funds, IRAs) and financial institutions (credit companies, banks, insurance companies); and

(f) explain and evaluate the effects of new technology, global economic interdependence, and competition on the development of national policies (e.g., social security system, medicare, other entitlement programs) and on the lives of the individuals and families in Montana, the United States, and the world (e.g., international trade, space exploration, national defense).

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXI SOCIAL STUDIES CONTENT STANDARD 6 (1) To satisfy the requirements of social studies content standard 6, a student must demonstrate an understanding of the impact of human interaction and cultural diversity on individuals and societies.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXII BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 6 FOR END OF GRADE 4 (1) The benchmark for social studies content standard 6 for a student at the end of grade 4 is the ability to:

(a) identify the ways groups (e.g., families, faith communities, schools, social organizations, sports) meet human needs and concerns (e.g., belonging, self worth, personal safety) and contribute to personal identity;

(b) describe ways in which expressions of culture influence people (e.g., language, spirituality, stories, folk tales, music, art, dance);

(c) identify and describe ways families, groups, tribes, and communities influence the individual's daily life and personal choices;

(d) identify characteristics of American Indian tribes and other cultural groups in Montana;

(e) identify examples of individual struggles and contributions (e.g., Sitting Bull, Louis Riel, Chief Plenty Coups, Evelyn Cameron, Helen Keller, Mohandas Gandhi, Rosa Parks); and

(f) identify roles in group situations (e.g., student, family member, peer member).

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXIII BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 6 FOR END OF GRADE 8 (1) The benchmark for social studies content standard 6 for a student at the end of grade 8 is the ability to:

(a) compare and illustrate the ways various groups (e.g., cliques, clubs, ethnic communities, American Indian tribes) meet human needs and concerns (e.g., self esteem, friendship, heritage) and contribute to personal identity;

(b) explain and give examples of how human expression (e.g., language, literature, arts, architecture, traditions, beliefs, spirituality) contributes to the development and transmission of culture;

(c) identify and differentiate ways regional, ethnic and national cultures influence individual's daily lives and personal choices;

(d) compare and illustrate the unique characteristics of American Indian tribes and other cultural groups in Montana;

(e) explain the cultural contributions of and tensions between racial and ethnic groups in Montana, the United States, and the world; and

(f) identify and describe the stratification of individuals within social groups (e.g., status, social class, haves and have nots).

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXIV BENCHMARK FOR SOCIAL STUDIES CONTENT STANDARD 6 UPON GRADUATION (1) The benchmark for social studies content standard 6 for a student upon graduation is the ability to:

(a) analyze and evaluate the ways various groups (e.g., social, political, cultural) meet human needs and concerns (e.g., individual needs, common good) and contribute to personal identity;

(b) analyze human experience and cultural expression (e.g., language, literature, arts, traditions, beliefs, spirituality, values, behavior) and create a product which illustrates an integrated view of a specific culture;

(c) analyze the impact of ethnic, national and global influences on specific situations or events;

(d) evaluate how the unique characteristics of American Indian tribes and other cultural groups have contributed to Montana's history and contemporary life (e.g., legal and political relationships between and among tribal, state, and federal governments);

(e) analyze the conflicts resulting from cultural assimilation and cultural preservation among various ethnic and racial groups in Montana, the United States, and the world; and

(f) analyze the interactions of individuals, groups, and institutions in society (e.g., social mobility, class conflict, globalization).

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXV ADVANCED SOCIAL STUDIES PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth grade student at the advanced level in social studies demonstrates superior performance. He/she:

(a) consistently recognizes and follows the steps of an inquiry process to locate, evaluate, and thoughtfully use information in decision making;

(b) clearly describes the purpose and various levels of government in our lives;

(c) effectively practices citizenship rights and responsibilities across various communities;

(d) consistently applies geographic knowledge to other subject areas and independently relates geographic understandings to the world around him/her in meaningful ways;

(e) consistently locates and applies information of historical events and issues from a variety of sources to effectively explain connections between past and present;

(f) consistently identifies basic economic principles and clearly describes their effects on individuals and communities; and

(g) independently recognizes and clearly describes how culture influences and diversity contributes to human development, identity, and behavior.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXVI PROFICIENT SOCIAL STUDIES PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth grade student at the proficient level in social studies demonstrates solid academic performance. He/she:

(a) recognizes and follows the steps of an inquiry process to locate, evaluate and use information in decision making roles;

(b) describes the purpose and various levels of government in our lives;

(c) practices citizenship rights and responsibilities across various communities;

(d) applies basic geographic knowledge to other subject areas and relates geographic understanding to the world around him/her;

(e) locates and uses basic information of historical events to explain connections between past and present;

(f) identifies basic economic principles and describes their general effects on individuals and communities; and

(g) recognizes and describes how culture influences and diversity contributes to human development, identity, and behavior.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXVII NEARING PROFICIENCY SOCIAL STUDIES  
PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth grade student at the nearing proficiency level demonstrates a partial mastery of prerequisite knowledge and skills fundamental for proficiency in social studies. He/she:

- (a) recognizes and follows some of the steps of an inquiry process to locate and use information in decision making, but has difficulty evaluating the quality of the information;
- (b) identifies, with assistance, the purpose and some of the levels of government in our lives;
- (c) practices, with assistance, citizenship rights and responsibilities across various communities;
- (d) sometimes applies geographic knowledge to other subject areas and relates obvious geographic knowledge to the world around him/her;
- (e) locates and sometimes uses basic information of historical events to explain obvious connections between past and present;
- (f) sometimes identifies basic economic principles, but incompletely describes their obvious effects on individuals and communities; and
- (g) sometimes recognizes but has difficulty explaining how culture influences and diversity contributes to human development, identity, and behavior.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXVIII NOVICE SOCIAL STUDIES PERFORMANCE STANDARDS  
FOR END OF GRADE 4 (1) A fourth grade student at the novice level is beginning to attain prerequisite knowledge and skills that are fundamental at each benchmark in social studies. He/she:

- (a) sometimes recognizes and follows some of the steps of an inquiry process to locate information, but needs much assistance to evaluate the quality of information or to use it in decision making;
- (b) seldom identifies the purpose or levels of government in our lives;
- (c) has difficulty practicing citizenship rights and responsibilities in the classroom community;
- (d) sometimes identifies geographic knowledge but often is unable to relate this knowledge to other subject areas and usually needs assistance relating geographic knowledge to the world around him/her;
- (e) locates but seldom uses basic information of historical events and has difficulty explaining connections between past and present;
- (f) seldom identifies economic principles but, with assistance, describes some of the effects on individuals and communities; and

(g) seldom recognizes how culture influences and diversity contributes to human development, identity, and behavior.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXIX ADVANCED SOCIAL STUDIES PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth grade student at the advanced level in social studies demonstrates superior performance. He/she:

(a) consistently and effectively applies an inquiry process to locate, evaluate, and use in a variety of decision making situations;

(b) clearly describes and compares the principles and structure of power, authority, and governance;

(c) purposefully practices citizenship rights and responsibilities across various communities;

(d) actively explores geographic information and problems, and proposes novel, well-articulated ideas and solutions by independently applying geographic skills and tools;

(e) consistently conducts research to draw unique parallels between historical and current events and issues;

(f) independently recognizes fundamental economic issues and thoroughly illustrates how they interrelate and affect families, communities, cultures, and nations; and

(g) critically examines and effectively compares and contrasts how culture influences and diversity contributes to human development, identity, and behavior.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXX PROFICIENT SOCIAL STUDIES PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth grade student at the proficient level in social studies demonstrates solid academic performance. He/she:

(a) applies an inquiry process to locate, evaluate, and use information in a variety of decision making scenarios;

(b) describes and compares the principles and structure of power, authority, and governance;

(c) practices citizenship rights and responsibilities across various communities;

(d) effectively seeks information, solves problems, and communicates findings using geographic skills and tools;

(e) conducts appropriate research to draw reasonable parallels between historical and current events and issues;

(f) recognizes fundamental economic issues and meaningfully illustrates how they interrelate and affect families, communities, cultures, and nations; and

(g) examines and compares and contrasts how culture influences and diversity contributes to human development, identity, and behavior.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXXI NEARING PROFICIENCY SOCIAL STUDIES PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth grade student at the nearing proficiency level demonstrates a partial mastery of prerequisite knowledge and skills fundamental for proficiency in social studies. He/she:

(a) applies an inquiry process to locate information for use in limited decision making scenarios, but has difficulty evaluating the information;

(b) describes, but with difficulty, compares the principles and structure of power, authority, and governance;

(c) practices, with assistance, citizenship rights and responsibilities across various communities;

(d) gathers, with assistance, information related to geographic problems, but has difficulty using geographic skills and tools to communicate findings;

(e) sometimes conducts appropriate research and, with assistance, draws parallels between historical and current events and issues;

(f) frequently recognizes fundamental economic issues and, with assistance, illustrates how they interrelate and affect families, communities, cultures, and nations; and

(g) explains and sometimes compares how culture influences and diversity contributes to human development, identity, and behavior.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXXII NOVICE SOCIAL STUDIES PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth grade student at the novice level is beginning to attain prerequisite knowledge and skills that are fundamental at each benchmark in social studies. He/she:

(a) sometimes applies an inquiry process to locate information for use in limited decision making scenarios, and seldom evaluates the information;

(b) sometimes describes, but seldom compares, the principles and structure of power, authority, and governance;

(c) seldom practices citizenship rights and responsibilities;

(d) inconsistently locates required geographic information, has difficulty relating this information to a larger geographic problem, and does not clearly understand when to apply specific geographic skills and tools to his/her work;

(e) seldom conducts appropriate research, but with assistance, draws a few obvious parallels between historical and current events;

(f) sometimes recognizes fundamental economic issues but seldom illustrates how they interrelate and affect families, communities, cultures, and nations; and

(g) sometimes explains, but seldom compares, how culture influences and diversity contributes to human development, identity, and behavior.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXXIII ADVANCED SOCIAL STUDIES PERFORMANCE  
STANDARDS UPON GRADUATION (1) A graduating student at the advanced level in social studies demonstrates superior performance. He/she:

(a) independently analyzes and adapts an inquiry process to locate and evaluate information from a variety of sources and effectively applies that information to various decision making situations;

(b) effectively analyzes and critiques the principles and structure of power, authority, and governance;

(c) independently demonstrates civic responsibility by participating meaningfully as a citizen in the process;

(d) makes meaningful geographic inferences in a variety of contexts and independently conducts geography-related research to develop and extensively support a position on an issue;

(e) consistently analyzes historical patterns and conducts independent research to thoroughly and effectively develop and defend a position on an issue;

(f) analyzes unique impacts of the application of economic principles on decision making in national and global economies; and

(g) independently analyzes and critiques the impact of human interaction on society and purposefully evaluates the effects of cultural diversity on individuals and society.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXXIV PROFICIENT SOCIAL STUDIES PERFORMANCE  
STANDARDS UPON GRADUATION (1) A graduating student at the proficient level in social studies demonstrates solid academic performance. He/she:

(a) analyzes and adapts an inquiry process to locate and evaluate information from a variety of sources and applies that information to various decision making situations;

(b) analyzes and critiques the principles and structure of power, authority, and governance;

(c) demonstrates civic responsibility by participating meaningfully as a citizen across various communities;

(d) makes meaningful geographic inferences and actively conducts geography-related research to develop and adequately support a position on an issue;

(e) analyzes historical patterns and conducts research to develop and adequately defend a position on an issue;

(f) analyzes various impacts of the application of economic principles on decision making in national and global economies; and

(g) analyzes and critiques the impact of human interaction on society and evaluates the effects of cultural diversity on individuals and society.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXXV NEARING PROFICIENCY SOCIAL STUDIES PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the nearing proficiency level demonstrates a partial mastery of prerequisite knowledge and skills fundamental for proficiency in social studies. He/she:

- (a) usually analyzes and adapts an inquiry process to locate information from a variety of sources, incompletely evaluates information, and with limited success, applies the information to various decision making situations;
- (b) sometimes analyzes, but ineffectively critiques the principles and structure of power, authority, and governance;
- (c) occasionally demonstrates civic responsibility by participating as a citizen across various communities;
- (d) sometimes makes meaningful geographic inferences but has difficulty conducting geography-related research to develop and support a position on an issue;
- (e) identifies some historical patterns, and with assistance, conducts research to develop and partially defend a position on an issue;
- (f) sometimes analyzes obvious impacts of the application of economic principles on decision making in national and global economies; and
- (g) sometimes analyzes and critiques the impact of human interaction on society and evaluates the obvious effects of cultural diversity on individuals and society.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXXVI NOVICE SOCIAL STUDIES PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the novice level is beginning to attain prerequisite knowledge and skills that are fundamental at each benchmark in social studies. He/she:

- (a) inconsistently uses and seldom analyzes or adapts an inquiry process to locate information even from limited sources, evaluates information with assistance, and rarely applies information to decision making situations;
- (b) incompletely analyzes and, with difficulty, critiques the principles and structure of power, authority, and governance;
- (c) demonstrates limited civic responsibility;
- (d) seldom makes meaningful geographic inferences and requires assistance conducting geography-related research to develop and support a position on an issue;
- (e) sometimes identifies historical patterns and, with assistance, conducts research, but has difficulty developing or defending a position on an issue;
- (f) analyzes, with much assistance, obvious impacts of the application of economic principles on decision making in national and global economies; and
- (g) seldom analyzes the impact of human interaction on society and exhibits limited ability to evaluate the effects of cultural diversity on individuals and society.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXXVII ARTS CONTENT STANDARD 1 (1) To satisfy the requirements of arts content standard 1, a student must create, perform/exhibit, and respond in the arts.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXXVIII BENCHMARK FOR ARTS CONTENT STANDARD 1 FOR END OF GRADE 4 (1) The benchmark for arts content standard 1 for a student at the end of grade 4 is the ability to:

(a) identify his/her own ideas and images based on themes, symbols, events, and personal experiences;

(b) use a variety of materials and sources to experiment with an art form;

(c) present his/her own work and works of others;

(d) collaborate with others in the creative process; and

(e) describe how a variety of materials, techniques, and processes cause different responses.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XXXIX BENCHMARK FOR ARTS CONTENT STANDARD 1 FOR END OF GRADE 8 (1) The benchmark for arts content standard 1 for a student at the end of grade 8 is the ability to:

(a) create a work from his/her own ideas and images based on themes, symbols, events, and personal experiences;

(b) select a variety of materials and sources to demonstrate a specific art form;

(c) prepare and/or revise works for presentation;

(d) collaborate with others to make artistic choices;

and

(e) describe and analyze artistic choices in his/her own work and works of others.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XL BENCHMARK FOR ARTS CONTENT STANDARD 1 UPON GRADUATION (1) The benchmark for arts content standard 1 for a student upon graduation is the ability to:

(a) conceive and create works of art;

(b) demonstrate imagination and technical skill in a minimum of one art form using traditional and nontraditional resources;

(c) select or adapt the elements of a presentational style;

(d) apply artistic discipline (e.g., concentration, focus) to complete a collaborative work; and

(e) articulate meaning by describing and analyzing artistic choices in his/her own work and works of others.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XLI ARTS CONTENT STANDARD 2 (1) To satisfy the requirements of arts content standard 2, a student must apply

and describe the concepts, structures, and processes in the arts.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XLII BENCHMARK FOR ARTS CONTENT STANDARD 2 FOR END OF GRADE 4 (1) The benchmark for arts content standard 2 for a student at the end of grade 4 is the ability to:

- (a) identify and apply the concept of composition in:
  - (i) dance by applying the elements of space (shape, level, path in space, pattern, form), time (duration, rhythm), and energy (movement quality) to compose dance phrases;
  - (ii) music by applying the elements of rhythm, melody, harmony, timbre/tone color, and form;
  - (iii) theatre by applying the elements of plot, character, and setting; and
  - (iv) visual arts by applying the elements of line, shape, form, color, space, value, and texture to compose works of art;
- (b) identify and apply the concept of technique in:
  - (i) dance by identifying and applying the techniques of body awareness (e.g., control, flexibility, dynamics, expression, musicality) in class and performance;
  - (ii) music by identifying and applying the techniques of expressive devices, dynamics, tempo, phrasing, accompaniment, interpretation, and improvisation;
  - (iii) theatre by identifying and applying techniques to develop scenarios, direct, and act; and
  - (iv) visual arts by identifying and applying the techniques common to drawing, painting, sculpture, design, printmaking, and indigenous/traditional arts;
- (c) identify and apply the concept of medium in:
  - (i) dance by demonstrating the human body in motion;
  - (ii) music by performing vocal and/or instrumental solos, or in ensembles;
  - (iii) theatre by performing in ensemble (e.g., live, film, video productions); and
  - (iv) visual arts by selecting a course of action using two-dimensional processes (e.g., painting, drawing, printmaking) and three-dimensional processes (e.g., sculpture, indigenous/traditional arts);
- (d) identify and apply the concept of function in:
  - (i) dance by identifying examples of social, theatrical, and traditional dance;
  - (ii) music by identifying examples of music (e.g., ceremonial, celebration, concerts, theatre, dance, film, social, community, entertainment);
  - (iii) theatre by performing in classroom or school programs/productions; and
  - (iv) visual arts by identifying examples of cultural, political, communication, expressive, commercial, and environmental visual arts;
- (e) identify and apply the concept of style in:

- (i) dance by identifying examples of ethnic, folk, classical, popular, historical, and contemporary (e.g., ballet, jazz, modern, tap) dance;
  - (ii) music by identifying examples of music (e.g., folk, jazz, ethnic, popular, classical, time period);
  - (iii) theatre by identifying and performing examples of theatre (e.g., comedy, melodrama); and
  - (iv) visual arts by identifying examples of historical, contemporary, and traditional visual arts; and
- (f) identify and apply the concept of presentation in:
- (i) dance by showing dance composition with peers, emphasizing focus and concentration;
  - (ii) music by participating in performances;
  - (iii) theatre by demonstrating storytelling and creative dramatics; and
  - (iv) visual arts by exhibiting craftsmanship, completion, and developing a body of work.
- AUTH: 20-2-114, MCA  
IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XLIII BENCHMARK FOR ARTS CONTENT STANDARD 2 FOR END OF GRADE 8 (1) The benchmark for arts content standard 2 for a student at the end of grade 8 is the ability to:

- (a) apply the concept of composition in:
  - (i) dance by applying the elements of space (shape, level, path in space, pattern, form), time (duration, rhythm), and energy (movement quality) to compose dances;
  - (ii) music by applying the elements of rhythm, melody, harmony, timbre/tone color, and form;
  - (iii) theatre by applying the elements of plot, character, setting, and mood; and
  - (iv) visual arts by applying the elements of line, shape, form, color, space, value, and texture to compose works of art;
- (b) apply the concept of technique in:
  - (i) dance by applying the techniques of body awareness (e.g., control, flexibility, dynamics, expression, musicality) in class and performance;
  - (ii) music by applying the techniques of expressive devices, dynamics, tempo, phrasing, accompaniment, interpretation, and improvisation;
  - (iii) theatre by applying techniques to write, direct, act, and design; and
  - (iv) visual arts by applying knowledge of techniques to create works (e.g., painting, drawing, printmaking, photography, computer arts, graphic design, sculpture, indigenous/traditional arts);
- (c) apply the concept of medium in:
  - (i) dance by demonstrating the human body in motion;
  - (ii) music by performing vocal and/or instrumental solos, or in ensembles;
  - (iii) theatre by performing solo and in ensemble (e.g., mime, live, film, video productions); and

(iv) visual arts by selecting a course of action using two-dimensional processes (e.g., painting, drawing, printmaking, photography, computer arts) and three-dimensional processes (e.g., sculpture, indigenous/traditional arts);

(d) apply the concept of function in:

(i) dance by identifying examples of social, theatrical, and traditional dance;

(ii) music by performing examples of music (e.g., ceremonial, celebration, concerts, theatre, dance, film, social, community, entertainment);

(iii) theatre by performing in classroom or school programs/productions; and

(iv) visual arts by demonstrating and comparing examples of cultural, political, communication, expressive, commercial, and environmental visual arts;

(e) apply the concept of style in:

(i) dance by demonstrating examples of ethnic, folk, classical, popular, historical, and contemporary (e.g., ballet, jazz, modern, tap) dance;

(ii) music by performing examples of music (e.g., folk, jazz, ethnic, popular, classical, time period);

(iii) theatre by performing examples of theatre (e.g., comedy, melodrama, plays from historical periods); and

(iv) visual arts by demonstrating examples of historical, contemporary, and traditional visual arts; and

(f) apply the concept of presentation in:

(i) dance by rehearsing, performing, and critiquing dance;

(ii) music by rehearsing, performing, and critiquing musical performances;

(iii) theatre by rehearsing, performing, and critiquing storytelling and improvisation; and

(iv) visual arts by exhibiting craftsmanship, completion, and developing a body of work.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XLIV BENCHMARK FOR ARTS CONTENT STANDARD 2 UPON GRADUATION (1) The benchmark for arts content standard 2 for a student upon graduation is the ability to:

(a) apply the concept of composition in:

(i) dance by applying the elements of space (shape, level, path in space, pattern, form), time (duration, rhythm), and energy (movement quality) to compose dances;

(ii) music by applying the elements of rhythm, melody, harmony, timbre/tone color, and form;

(iii) theatre by applying the elements of character and plot as exposition, action, climax, and resolution; and

(iv) visual arts by applying the elements of line, shape, form, color, space, value, and texture to compose works of art;

(b) apply the concept of technique in:

(i) dance by applying the techniques of body awareness (e.g., control, flexibility, dynamics, expression, musicality) in class and performance;

(ii) music by applying the techniques of expressive devices, dynamics, tempo, phrasing, accompaniment, interpretation, and improvisation;

(iii) theatre by applying techniques to write, direct, act, design, and produce; and

(iv) visual arts by applying techniques to create works of art (e.g., painting, drawing, printmaking, photography, computer arts, graphic design, sculpture, indigenous/traditional arts);

(c) apply the concept of medium in:

(i) dance by demonstrating the human body in motion;

(ii) music by performing vocal and/or instrumental solos, or in ensembles;

(iii) theatre by performing solo and in ensemble (e.g., mime, live, film, video productions); and

(iv) visual arts by selecting a course of action using two-dimensional processes (e.g., painting, drawing, printmaking, photography, computer arts, graphic design) and three-dimensional processes (e.g., sculpture, indigenous/traditional arts);

(d) apply the concept of function in:

(i) dance by identifying examples of social, theatrical, and traditional dance;

(ii) music by performing and comparing examples of music (e.g., ceremonial, celebration, concerts, theatre, dance, film, social, community, entertainment);

(iii) theatre by performing in classroom or school programs/productions; and

(iv) visual arts by demonstrating and comparing examples of cultural, political, communication, expressive, commercial, and environmental visual arts;

(e) apply the concept of style in:

(i) dance by demonstrating examples of ethnic, folk, classical, popular, historical, and contemporary (e.g., ballet, jazz, modern, tap) dance;

(ii) music by performing examples of music (e.g., folk, jazz, ethnic, popular, classical, time period);

(iii) theatre by performing examples of theatre (e.g., comedy, tragedy, melodrama plays from historical periods); and

(iv) visual arts by demonstrating examples of historical, contemporary, and traditional visual arts; and

(f) apply the concept of presentation in:

(i) dance by rehearsing, performing, and critiquing dance;

(ii) music by rehearsing, performing, and critiquing musical performances;

(iii) theatre by rehearsing, performing, and critiquing improvisation and performances; and

(iv) visual arts by exhibiting craftsmanship, completion, and developing a body of work.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XLV ARTS CONTENT STANDARD 3 (1) To satisfy the requirements of arts content standard 3, a student must develop and refine arts skills and techniques to express ideas, pose and solve problems, and discover meaning.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XLVI BENCHMARK FOR ARTS CONTENT STANDARD 3 FOR END OF GRADE 4 (1) The benchmark for arts content standard 3 for a student at the end of grade 4 is the ability to:

(a) use arts materials, techniques, technology, and processes to create general responses;

(b) communicate meaning through the art forms from selected subject matter;

(c) explore potential solutions to a given problem through the arts;

(d) use technical skills in:

(i) dance by performing movements and rhythm patterns;

(ii) music by singing and playing music using dynamics, phrasing, and interpretation;

(iii) theatre by using mind, voice, and body to create characters and tell stories; and

(iv) visual arts by creating works of art with content that is consistent with media possibilities; and

(e) identify and use an appropriate symbol system in:

(i) dance by using dance elements (space, time, energy) to discuss movement and produce movements demonstrated and/or described in words;

(ii) music by using standard symbols to identify meter, rhythm, pitch, and dynamics;

(iii) theatre by recognizing and using stage direction; and

(iv) visual arts by recognizing and using symbol language appropriate to media used to create works of art.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XLVII BENCHMARK FOR ARTS CONTENT STANDARD 3 FOR END OF GRADE 8 (1) The benchmark for arts content standard 3 for a student at the end of grade 8 is the ability to:

(a) use arts materials, techniques, technology, and processes to create specific responses;

(b) communicate intended meaning based on his/her own ideas and concepts from other sources;

(c) use improvisation/experimentation to determine solutions;

(d) use technical skills in:

(i) dance by performing movements and rhythm patterns with control and expression;

(ii) music by using accepted performance and expressive techniques (e.g., breath control, posture) while singing and playing music in small and large ensembles;

- (iii) theatre by using scenery, properties, sound, costume, and make-up to communicate locale and mood; and
  - (iv) visual arts by experimenting and practicing with a variety of media to achieve clarity of expression; and
  - (e) understand and use symbol systems in:
    - (i) dance by using improvisation to discover and invent several new solutions to movement problems and relating movements in his/her dances to the idea or feeling he/she wants to communicate;
    - (ii) music by identifying and defining standard notation symbols including pitch, rhythm, dynamics, tempo, articulation, and expression;
    - (iii) theatre by understanding and applying stage direction and ground plans; and
    - (iv) visual arts by examining the breadth and depth of possible responses presented by media and media techniques.
- AUTH: 20-2-114, MCA  
IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XLVIII BENCHMARK FOR ARTS CONTENT STANDARD 3 UPON GRADUATION (1) The benchmark for arts content standard 3 for a student upon graduation is the ability to:

- (a) use arts materials, techniques, technology, and processes to create specific products and responses to ideas;
- (b) communicate intended meaning through the interpretation of a subject;
- (c) use improvisation/experimentation to predict potential solutions to problems and pose new problems;
- (d) use technical skills in:
  - (i) dance by performing movements and rhythm patterns with appropriate range of dynamics and expression;
  - (ii) music by singing or playing music with expression and technical accuracy, exhibiting a large and varied repertoire of vocal or instrumental literature;
  - (iii) theatre by using scenery, properties, sound, costume, make-up, and lighting to communicate locale and mood; and
  - (iv) visual arts by exploring and practicing skills to enhance communication with consistency; and
- (e) understand and use symbol systems in:
  - (i) dance by relating movement to a concept and explaining the connection;
  - (ii) music by reading and using standard and nonstandard notation symbols through participation in small and large ensembles;
  - (iii) theatre by understanding and applying stage direction and ground plans; and
  - (iv) visual arts by understanding and applying appropriate symbol language to maximize expression in a specific media.

AUTH: 20-2-114, MCA  
IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XLIX ARTS CONTENT STANDARD 4 (1) To satisfy the requirements of arts content standard 4, a student must analyze characteristics and merits of his/her work and the work of others.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE L BENCHMARK FOR ARTS CONTENT STANDARD 4 FOR END OF GRADE 4 (1) The benchmark for arts content standard 4 for a student at the end of grade 4 is the ability to:

(a) use vocabulary of the discipline to describe a variety of works of art;

(b) describe personal works to others;

(c) devise criteria for evaluation; and

(d) recognize a variety of different responses to specific works of art.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LI BENCHMARK FOR ARTS CONTENT STANDARD 4 FOR END OF GRADE 8 (1) The benchmark for arts content standard 4 for a student at the end of grade 8 is the ability to:

(a) evaluate the quality and effectiveness of his/her own and other art works by applying specific criteria appropriate to the style, and offer constructive suggestions for improvement;

(b) describe the influence of personal experience on the interpretation of works of art;

(c) develop and apply criteria for evaluating quality and effectiveness of the work of art; and

(d) describe and compare a variety of individual responses to works of art.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LII BENCHMARK FOR ARTS CONTENT STANDARD 4 UPON GRADUATION (1) The benchmark for arts content standard 4 for a student upon graduation is the ability to:

(a) evaluate an art work by comparing and contrasting it to similar or exemplary works of art;

(b) compare and contrast how meaning is communicated in two or more of the student's own works and/or works of others;

(c) refine specific criteria for making informed critical evaluation of the quality and effectiveness of a work of art; and

(d) analyze various interpretations as a means for understanding/evaluating works of art.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LIII ARTS CONTENT STANDARD 5 (1) To satisfy the requirements of arts content standard 5, a student must understand the role of the arts in society, diverse cultures, and historical periods.

AUTH: 20-2-114, MCA  
IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LIV BENCHMARK FOR ARTS CONTENT STANDARD 5 FOR END OF GRADE 4 (1) The benchmark for arts content standard 5 for a student at the end of grade 4 is the ability to:

- (a) recognize ways in which the arts have both an historical and distinctive relationship to various cultures (e.g., American Indian) and media of expression;
- (b) identify and describe specific works of art belonging to particular cultures, times, and places;
- (c) recognize various reasons for creating works of art;
- (d) recognize common emotions, experiences, and expression in art;
- (e) demonstrate appropriate audience behavior for the context and style of art presented; and
- (f) explore his/her own culture as reflected through the arts.

AUTH: 20-2-114, MCA  
IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LV BENCHMARK FOR ARTS CONTENT STANDARD 5 FOR END OF GRADE 8 (1) The benchmark for arts content standard 5 for a student at the end of grade 8 is the ability to:

- (a) demonstrate how history/culture and the arts influence each other;
- (b) identify, describe, and analyze specific works of art as belonging to particular cultures, times, and places in the context in which they were created;
- (c) compare various reasons for creating works of art;
- (d) describe how people's emotions and experiences influence the development of specific art works;
- (e) demonstrate appropriate audience behavior for the context and style of art presented; and
- (f) determine the connection of a work of art to societal and cultural change or preservation.

AUTH: 20-2-114, MCA  
IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LVI BENCHMARK FOR ARTS CONTENT STANDARD 5 UPON GRADUATION (1) The benchmark for arts content standard 5 for a student upon graduation is the ability to:

- (a) identify and describe the role of the artist in cultures and societies;
- (b) identify, describe, and analyze specific works of art as belonging to particular cultures, times, and places in the context in which they were created;
- (c) identify intentions of those creating art works, explore the implications of various purposes, and justify analysis;
- (d) analyze contemporary and historic meanings and emotions in specific art works through cultural and aesthetic inquiry;

(e) demonstrate appropriate audience behavior for the context and style of art presented; and

(f) investigate a variety of artworks from resources in the community and analyze and communicate cultural and historical context.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LVII ARTS CONTENT STANDARD 6 (1) To satisfy the requirements of arts content standard 6, a student must make connections among the arts, other subject areas, life, and work.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LVIII BENCHMARK FOR ARTS CONTENT STANDARD 6 FOR END OF GRADE 4 (1) The benchmark for arts content standard 6 for a student at the end of grade 4 is the ability to:

(a) identify similarities and differences in the meanings of common terms/elements used in the various arts;

(b) identify interrelated elements among the arts and other subject areas;

(c) identify the role of the arts in the world of work; and

(d) identify how art reflects life.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LIX BENCHMARK FOR ARTS CONTENT STANDARD 6 FOR END OF GRADE 8 (1) The benchmark for arts content standard 6 for a student at the end of grade 8 is the ability to:

(a) compare and explain how the characteristic materials of each art (e.g., sound in music, visual stimuli in visual arts, movement in dance, human interrelationships in theatre) correlate to similar events, scenes, emotions, or ideas;

(b) utilize interrelated elements among the arts and other subject areas;

(c) explore vocational and avocational opportunities in the arts; and

(d) identify how works of art reflect the environment in which they are created.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LX BENCHMARK FOR ARTS CONTENT STANDARD 6 UPON GRADUATION (1) The benchmark for arts content standard 6 for a student upon graduation is the ability to:

(a) explain how elements, processes (e.g., imagination, craftsmanship), and organizational principles are used in similar and distinctive ways;

(b) connect and analyze interrelated elements of the arts and other subject areas;

(c) experience the elements of art careers in a professional setting; and

(d) analyze how works of art reflect the environment in which they are created.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXI ADVANCED ARTS PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth grade student at the advanced level in the arts demonstrates superior performance. He/she:

(a) independently creates, performs/exhibits in, and responds through a minimum of one art form;

(b) consistently applies, with confidence, the concepts, structures, and processes in the four art forms of dance, music, theatre, and visual arts;

(c) uses a variety of skills and techniques to express ideas and poses and solves problems in the arts;

(d) independently practices responsible, safe, and appropriate personal and group behavior in the arts;

(e) analyzes the characteristics and merits of his/her work and the works of others in the arts;

(f) consistently recognizes and respects the role of the arts in his/her society, diverse cultures, and historical periods; and

(g) consistently finds and shares multiple connections among the arts, other subject areas, and life.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXII PROFICIENT ARTS PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth grade student at the proficient level in the arts demonstrates solid academic performance. He/she:

(a) demonstrates the ability to create, perform/exhibit, and respond through a minimum of one art form;

(b) applies a basic understanding of the concepts, structure, and processes in the four art forms of dance, music, theatre, and visual arts;

(c) uses skills and techniques to express ideas and poses and solves problems in the arts;

(d) practices responsible, safe, and appropriate personal and group behavior in the arts;

(e) communicates an understanding of the characteristics and merits of his/her work and the work of others in the arts;

(f) recognizes and respects the role of the arts in his/her society, diverse cultures, and historical periods; and

(g) finds and communicates connections among the arts, other subject areas, and life.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXIII NEARING PROFICIENCY ARTS PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth grade student at the nearing proficiency level demonstrates a partial mastery of prerequisite knowledge and skills fundamental for proficiency in the arts. He/she:

(a) creates, performs/exhibits in, and responds with specific directions and assistance through a minimum of one art form in a limited way;

(b) identifies but has difficulty demonstrating concepts, structures, and processes in the four art forms of dance, music, theatre, and visual arts;

(c) identifies skills and techniques in the arts and sometimes expresses ideas and poses and solves problems in the arts;

(d) sometimes practices responsible, safe, and appropriate personal and group behavior in the arts;

(e) sometimes identifies and demonstrates the characteristics and merits of his/her work and the work of others in the arts;

(f) sometimes recognizes the role of the arts in his/her society, diverse cultures, and historical periods; and

(g) finds and shares limited connections among the arts, other subject areas, and life.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXIV NOVICE ARTS PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth grade student at the novice level is beginning to attain prerequisite knowledge and skills that are fundamental at each benchmark in the arts. He/she:

(a) has difficulty creating, performing/exhibiting in, and responding through a minimum of one art form;

(b) demonstrates a limited understanding of concepts, structures, and processes in the four art forms of dance, music, theatre, and visual arts;

(c) identifies, with assistance, some of the skills and techniques but does not express ideas or pose or solve problems in the arts;

(d) has difficulty practicing responsible, safe, and appropriate personal and group behavior in the arts;

(e) seldom identifies the characteristics and merits of his/her work or the works of others in the arts;

(f) has limited recognition of the role of the arts in his/her society, diverse cultures, and historical periods; and

(g) has difficulty finding connections among the arts, other subject areas, and life.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXV ADVANCED ARTS PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth grade student at the advanced level in the arts demonstrates superior performance. He/she:

(a) effectively creates, performs/exhibits in, and responds through more than one art form;

(b) consistently applies, with confidence, concepts, structures, and processes in the four art forms of dance, music, theatre, and visual arts;

(c) applies a variety of skills and techniques to effectively express ideas and to pose and solve problems in the arts;

(d) independently practices responsible, safe, and appropriate personal and group behavior in the arts;

(e) evaluates the characteristics and merits of his/her work and the works of others in the arts;

(f) effectively and consistently analyzes the role of the arts in his/her society, diverse cultures, and historical periods; and

(g) synthesizes and evaluates connections among the arts, other subject areas, life, and work.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXVI PROFICIENT ARTS PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth grade student at the proficient level in the arts demonstrates solid academic performance. He/she:

(a) effectively creates, performs/exhibits in, and responds through a minimum of one art form;

(b) applies concepts, processes, and structures in the four art forms of dance, music, theatre, and visual arts;

(c) uses a variety of skills and techniques to express ideas and to pose and solve problems in the arts;

(d) practices responsible, safe, and appropriate personal and group behavior in the arts;

(e) analyzes the characteristics and merits of his/her work and the work of others in the arts;

(f) analyzes and clearly describes the role of the arts in his/her society, diverse cultures, and historical periods; and

(g) analyzes and describes connections among the arts, other subject areas, life, and work.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXVII NEARING PROFICIENCY ARTS PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth grade student at the nearing proficiency level demonstrates a partial mastery of prerequisite knowledge and skills fundamental for proficiency in the arts. He/she:

(a) sometimes creates, performs/exhibits in, and responds through a minimum of one art form;

(b) applies, with some assistance, a basic understanding of the concepts, structures, and processes in the four art forms of dance, music, theatre, and visual arts;

(c) identifies skills and techniques and sometimes expresses ideas and poses and solves problems in the arts;

(d) sometimes practices responsible, safe, and appropriate personal and group behavior in the arts;

(e) describes, with assistance, some of the characteristics and merits of his/her work and the works of others in the arts;

(f) sometimes identifies the role of the arts in his/her society, diverse cultures, and historical periods but has difficulty describing that role; and

(g) identifies and describes, with some assistance, limited connections among the arts, other subject areas, life, and work.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXVIII NOVICE ARTS PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth grade student at the novice level is beginning to attain prerequisite knowledge and skills that are fundamental at each benchmark in the arts. He/she:

(a) seldom creates, performs/exhibits without specific direction, and sometimes responds in a limited way through one art form;

(b) applies, with much assistance, a basic understanding of some of the concepts, structures, and processes in the four art forms of dance, music, theatre, and visual arts;

(c) identifies, with assistance, skills and techniques, but has difficulty expressing ideas and posing and solving problems in the arts;

(d) has difficulty practicing responsible, safe, and appropriate personal and group behavior in the arts;

(e) seldom recognizes the characteristics and merits of his/her work or the works of others in the arts;

(f) identifies, with assistance, the role of the arts in his/her society, diverse cultures, and historical periods; and

(g) identifies, with difficulty, limited connections among the arts, other subject areas, life, and work.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXIX ADVANCED ARTS PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the advanced level in the arts demonstrates superior performance. He/she:

(a) creates, performs/exhibits, and responds through more than one art form at an accomplished level;

(b) consistently applies, analyzes, and interprets the concepts, structures, and processes in the four art forms of dance, music, theatre, and visual arts;

(c) distinguishes and analyzes appropriate skills and techniques to effectively express ideas and to pose and solve problems in the arts;

(d) independently practices responsible, safe, and appropriate personal and group behavior in the arts;

(e) accepts responsibility for the characteristics and merits of his/her works and appreciates the works of others in the arts;

(f) effectively and consistently analyzes and evaluates the role of the arts in his/her society, diverse cultures, and historical periods; and

(g) synthesizes and evaluates connections among the arts, other subject areas, life, and work.

AUTH: 20-2-114, MCA  
IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXX PROFICIENT ARTS PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the proficient level in the arts demonstrates solid academic performance. He/she:

- (a) creates, performs/exhibits, and responds through a minimum of one art form at an accomplished level;
- (b) applies varied concepts, processes, and structures in the four art forms of dance, music, theatre, and visual arts;
- (c) demonstrates effective skills and techniques in the arts to express ideas and poses and solves problems;
- (d) practices responsible, safe, and appropriate personal and group behavior in the arts;
- (e) analyzes and evaluates the characteristics and merits of his/her work and the work of others in the arts;
- (f) examines and analyzes the role of the arts in his/her society, diverse cultures, and historical periods; and
- (g) analyzes and responds to connections among the arts, other subject areas, life, and work.

AUTH: 20-2-114, MCA  
IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXI NEARING PROFICIENCY ARTS PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the nearing proficiency level demonstrates a partial mastery of prerequisite knowledge and skills fundamental for proficiency in the arts. He/she:

- (a) creates, performs/exhibits, and responds through a minimum of one art form in a limited way;
- (b) applies, with some assistance, concepts, structures, and processes in the four art forms of dance, music, theatre, and visual arts;
- (c) identifies skills and techniques and sometimes expresses ideas and poses and solves problems in the arts;
- (d) sometimes practices responsible, safe, and appropriate personal and group behavior in the arts;
- (e) demonstrates a limited understanding of the characteristics and merits of his/her work and the works of others in the arts;
- (f) sometimes examines the role of the arts in his/her society, diverse cultures, and historical periods; and
- (g) demonstrates connections among the arts, other subject areas, life, and work.

AUTH: 20-2-114, MCA  
IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXII NOVICE ARTS PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the novice level is beginning to attain prerequisite knowledge and skills that are fundamental at each benchmark in the arts. He/she:

(a) creates, performs/exhibits, and responds, with specific direction and in a limited way, through a minimum of one art form;

(b) applies, with much assistance, a basic understanding of some of the concepts, structures, and processes in the four art forms of dance, music, theatre, and visual arts;

(c) identifies, with assistance, skills and techniques, but shows limited ability to express ideas or to pose and solve problems in the arts;

(d) practices, with assistance, responsible, safe, and appropriate personal and group behavior in the arts;

(e) demonstrates, with assistance, a limited understanding of the characteristics and merits of his/her work and the works of others in the arts;

(f) rarely examines, without specific direction, the role of the arts in his/her society, diverse cultures, and historical periods; and

(g) demonstrates, with some assistance, limited connections among the arts, other subject areas, life, and work.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXIII LIBRARY MEDIA CONTENT STANDARD 1 (1) To satisfy the requirements of library media content standard 1, a student must understand an inquiry process including how to access, evaluate, and use information.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXIV BENCHMARK FOR LIBRARY MEDIA CONTENT STANDARD 1 FOR END OF GRADE 4 (1) The benchmark for library media content standard 1 for a student at the end of grade 4 is the ability to:

(a) identify the steps of the inquiry process as it is used in research (i.e., identify question or problem, locate and evaluate potential resources, gather and synthesize information, create a new product, and evaluate product and process);

(b) state the question or need for information;

(c) identify and locate probable sources of information;

(d) judge information for accuracy, relevancy, and type (e.g., fact, fiction);

(e) identify and use information to create a product that satisfies the need or solves the problem; and

(f) recognize that he/she has followed an inquiry process and describe how well his/her products satisfy the need or solve the problem.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXV BENCHMARK FOR LIBRARY MEDIA CONTENT STANDARD 1 FOR END OF GRADE 8 (1) The benchmark for library media

content standard 1 for a student at the end of grade 8 is the ability to:

(a) apply steps of the inquiry process to satisfy both academic and personal information needs (i.e., identify question or problem, locate and evaluate potential resources, gather and synthesize information, create a new product, and evaluate product and process);

(b) focus the information need as it relates to what he/she already knows to formulate specific questions;

(c) select multiple print and nonprint sources using various search strategies (e.g., human guidance, reflective thinking, Boolean operatives);

(d) recognize point of view or bias, use primary and secondary sources, and analyze and evaluate information for specific needs;

(e) interpret and use information in original products or presentations; and

(f) apply criteria to determine how well the research process, products, and conclusions meet the original need for information.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXVI BENCHMARK FOR LIBRARY MEDIA CONTENT STANDARD

1 UPON GRADUATION (1) The benchmark for library media content standard 1 for a student upon graduation is the ability to:

(a) analyze and adapt the inquiry process to satisfy individual and group information needs (i.e., identify question or problem, locate and evaluate potential resources, gather and synthesize information, create a new product, and evaluate product and process);

(b) refine and revise the information need to meet the specific format, purpose, and scope of the project;

(c) develop a plan to obtain needed information using a variety of research and investigative strategies (e.g., interviews, questionnaires, experiments, surveys);

(d) assess information sources using multiple criteria (e.g., coverage, misleading presentation, manipulated data);

(e) synthesize information to create a new product that meets a specific purpose or vision; and

(f) critique the process and the product of the inquiry.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXVII LIBRARY MEDIA CONTENT STANDARD 2 (1) To satisfy the requirements of library media content standard 2, a student must demonstrate an understanding of ethical, legal, and social responsibility in accessing, evaluating, and using information, materials, and technology.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXVIII BENCHMARK FOR LIBRARY MEDIA CONTENT STANDARD 2 FOR END OF GRADE 4 (1) The benchmark for library media content standard 2 for a student at the end of grade 4 is the ability to:

- (a) demonstrate individual responsibility for equitable access to information (e.g., share access to limited resources, return materials diligently);
- (b) state the conclusion of the research finding in his/her own words and cite sources;
- (c) follow school guidelines for responsible use of information resources (e.g., check out policies, library rules); and
- (d) share knowledge and information with others.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXIX BENCHMARK FOR LIBRARY MEDIA CONTENT STANDARD 2 FOR END OF GRADE 8 (1) The benchmark for library media content standard 2 for a student at the end of grade 8 is the ability to:

- (a) explain the importance of equitable access to a variety of information in a democratic society;
- (b) recognize and apply concepts of intellectual property rights, avoid plagiarism, follow bibliographic form, and cite all information sources used;
- (c) follow school guidelines for responsible use of information resources (e.g., circulation policies, acceptable use policies); and
- (d) recognize the ideas and backgrounds of others and acknowledge their contributions.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXX BENCHMARK FOR LIBRARY MEDIA CONTENT STANDARD 2 UPON GRADUATION (1) The benchmark for library media content standard 2 for a student upon graduation is the ability to:

- (a) evaluate the impact of equitable access to information in a democratic society;
- (b) use information in an ethical manner by adhering to copyright laws, requesting permission to use information, and properly citing sources;
- (c) follow school guidelines for responsible use of information resources (e.g., circulation policies, acceptable use policies); and
- (d) collaborate with others, both in person and through technologies, to identify information problems, seek solutions, and generate new information.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXXI LIBRARY MEDIA CONTENT STANDARD 3 (1) To satisfy the requirements of library media content standard 3, a student must use a variety of materials for independent

learning and personal enjoyment, including the appreciation of literature and other creative expressions.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXXII BENCHMARK FOR LIBRARY MEDIA CONTENT STANDARD 3 FOR END OF GRADE 4 (1) The benchmark for library media content standard 3 for a student at the end of grade 4 is the ability to:

(a) recognize that diverse cultures are represented in a variety of creative formats;

(b) experience a variety of literature and other creative expressions and relate them to his/her own life; and

(c) use libraries as places to seek information for personal interest.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXXIII BENCHMARK FOR LIBRARY MEDIA CONTENT STANDARD 3 FOR END OF GRADE 8 (1) The benchmark for library media content standard 3 for a student at the end of grade 8 is the ability to:

(a) use and respond to materials and creative expressions from diverse cultures;

(b) interpret a wide variety of literature and other creative expressions in various genres and formats; and

(c) use the library to find information for personal use and to make connections to resources beyond the school library.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXXIV BENCHMARK FOR LIBRARY MEDIA CONTENT STANDARD 3 UPON GRADUATION (1) The benchmark for library media content standard 3 for a student upon graduation is the ability to:

(a) compare and analyze literature and other creative expressions from diverse cultures;

(b) select, analyze, and evaluate literature and other creative expressions from diverse origins and connect them to his/her own life and to the human experience; and

(c) apply his/her knowledge of the use of libraries to a variety of new information environments.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXXV LIBRARY MEDIA CONTENT STANDARD 4 (1) To satisfy the requirements of library media content standard 4, a student must distinguish among, evaluate, and appropriately use current and emerging media and technologies in the inquiry process.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXXVI BENCHMARK FOR LIBRARY MEDIA CONTENT STANDARD 4 FOR END OF GRADE 4 (1) The benchmark for library media content standard 4 for a student at the end of grade 4 is the ability to:

- (a) identify and use various media and technologies to meet information needs;
- (b) identify and use search strategies to locate information in various media and technologies; and
- (c) compare and contrast the quality and accuracy, relevancy, and type of information from a variety of media and technologies.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXXVII BENCHMARK FOR LIBRARY MEDIA CONTENT STANDARD 4 FOR END OF GRADE 8 (1) The benchmark for library media content standard 4 for a student at the end of grade 8 is the ability to:

- (a) select and apply appropriate media and technologies to meet information needs;
- (b) select and refine appropriate search strategies to locate information in various media and technologies; and
- (c) apply criteria to evaluate the point of view and embedded values in information from a variety of media and technologies.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXXVIII BENCHMARK FOR LIBRARY MEDIA CONTENT STANDARD 4 UPON GRADUATION (1) The benchmark for library media content standard 4 for a student upon graduation is the ability to:

- (a) analyze and evaluate various media and technologies when applying information necessary to complete a specific task;
- (b) develop and demonstrate research strategies to effectively locate information in various media and technologies; and
- (c) generate and apply criteria to evaluate the origin, authority, accuracy, bias, and distortion of information from a variety of media and technologies.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE LXXXIX ADVANCED LIBRARY MEDIA PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth grade student at the advanced level in library media demonstrates superior performance. He/she:

- (a) consistently recognizes and follows all steps of an inquiry process;
- (b) consistently recognizes the importance of equitable access; independently uses information, materials, and

technology responsibly; and effectively shares information with others;

(c) independently chooses material from a variety of cultures and realizes the library is a center for learning and enjoyment; and

(d) effectively uses a variety of search strategies to locate and evaluate print and nonprint materials.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XC PROFICIENT LIBRARY MEDIA PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth grade student at the proficient level in library media demonstrates solid academic performance. He/she:

(a) recognizes and follows all the steps of an inquiry process;

(b) recognizes the importance of equitable access; uses information, materials, and technology responsibly; and shares information with others;

(c) chooses materials from a variety of cultures and realizes the library is a center for learning and enjoyment; and

(d) uses a variety of search strategies to locate, select, and evaluate print and nonprint materials.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XCI NEARING PROFICIENCY LIBRARY MEDIA PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth grade student at the nearing proficiency level demonstrates partial mastery of the prerequisite knowledge and skills fundamental for proficiency in library media. He/she:

(a) recognizes and follows some of the steps of an inquiry process;

(b) recognizes, with some assistance, the importance of equitable access; often, but not always, uses information, materials, and technology responsibly; and shares some information with others;

(c) chooses materials, with assistance, from a variety of cultures and realizes the library is a center for learning and enjoyment; and

(d) uses a variety of search strategies, with some assistance, to locate and evaluate print and nonprint material.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XCII NOVICE LIBRARY MEDIA PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth grade student at the novice level is beginning to attain the prerequisite knowledge and skills that are fundamental in library media. He/she:

(a) recognizes and follows some of the steps of an inquiry process with much assistance;

(b) seldom recognizes the importance of equal access; inconsistently uses information, materials, and technology responsibly; and seldom shares information with others;

(c) sometimes chooses materials, with assistance, from a variety of cultures and realizes the library is a center for learning and enjoyment; and

(d) seldom understands how to use search strategies to locate or select print and nonprint material and has limited ability to evaluate information.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XCIII ADVANCED LIBRARY MEDIA PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth grade student at the advanced level in library media demonstrates superior performance. He/she:

(a) effectively applies an inquiry process in a variety of situations and consistently analyzes his/her use of the process;

(b) explains beyond obvious understanding the importance of equitable access, consistently uses information responsibly, and consistently demonstrates respect for others' ideas and contributions;

(c) consistently seeks and effectively interprets materials from a variety of cultures and uses materials found in many locations; and

(d) effectively applies appropriate search strategies to locate various print and nonprint information and consistently evaluates the information using criteria.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XCIV PROFICIENT LIBRARY MEDIA PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth grade student at the proficient level in library media demonstrates solid academic performance. He/she:

(a) applies an inquiry process in a variety of situations and analyzes his/her use of the process;

(b) explains the importance of equitable access, uses information responsibly, and acknowledges others' ideas and contributions;

(c) seeks and interprets materials from a variety of cultures and realizes materials are found in many locations; and

(d) applies appropriate search strategies to locate various print and nonprint information and evaluates the information using criteria.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XCV NEARING PROFICIENCY LIBRARY MEDIA PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth grade student at the nearing proficiency level demonstrates partial mastery of

the prerequisite knowledge and skills fundamental for proficiency in library media. He/she:

(a) applies an inquiry process in some situations but has difficulty analyzing his/her use of the process;

(b) briefly explains the importance of equitable access; often, but not always, uses information responsibly; and sometimes, but not consistently, demonstrates respect for others' ideas and contributions;

(c) sometimes seeks materials from a variety of cultures and interprets them with some assistance and sometimes, but not consistently, realizes materials are found in many locations; and

(d) inconsistently applies appropriate search strategies to locate print and nonprint information and seldom evaluates the information using criteria.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XCVI NOVICE LIBRARY MEDIA PERFORMANCE STANDARDS FOR END OF GRADE 8

(1) An eighth grade student at the novice level is beginning to attain the prerequisite knowledge and skills that are fundamental in library media. He/she:

(a) inconsistently applies an inquiry process and seldom analyzes his/her use of the process;

(b) briefly explains, with assistance, the importance of equal access, seldom uses information responsibly, and acknowledges others' ideas and contributions in a limited way;

(c) has difficulty finding or understanding materials from other cultures and seldom realizes that materials are found in many locations; and

(d) seldom applies appropriate search strategies to locate print and nonprint information and almost never evaluates the information using criteria.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XCVII ADVANCED LIBRARY MEDIA PERFORMANCE STANDARDS UPON GRADUATION

(1) A graduating student at the advanced level in library media demonstrates superior performance. He/she:

(a) independently applies a complex inquiry process and monitors and adjusts his/her effective use of the process;

(b) independently evaluates the importance of equitable access, consistently uses information independently, and responsibly and effectively collaborates with others in the information process;

(c) analyzes and evaluates complex materials from a variety of cultures and effectively transfers information literacy skills to new settings; and

(d) effectively analyzes and modifies various search strategies to locate print and nonprint information and generates multi-faceted criteria to appropriately evaluate the quality of information.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XCVIII PROFICIENT LIBRARY MEDIA PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the proficient level in library media demonstrates solid academic performance. He/she:

(a) independently applies a complex inquiry process and monitors his/her effective use of the process;

(b) evaluates the importance of equitable access; uses information, materials, and technology responsibly; and collaborates with others in the information inquiry;

(c) analyzes and evaluates materials from a variety of cultures and transfers information literacy skills to new settings; and

(d) analyzes the effectiveness of various search strategies to locate print and nonprint information and generates criteria useful in evaluating the quality of information.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE XCIX NEARING PROFICIENCY LIBRARY MEDIA PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the nearing proficiency level demonstrates partial mastery of the prerequisite knowledge and skills fundamental for proficiency in library media. He/she:

(a) usually, but not consistently, initiates applying an inquiry process and minimally monitors his/her effective use of the process;

(b) evaluates, with some assistance, the importance of equitable access; sometimes, but not consistently, uses information responsibly; and, to some degree, collaborates with others in the information process;

(c) analyzes and evaluates some materials from a variety of cultures and sometimes, but not consistently, transfers information literacy skills to new settings; and

(d) analyzes, with assistance, various search strategies and applies given criteria to appropriately evaluate the quality of information.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE C NOVICE LIBRARY MEDIA PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the novice level is beginning to attain the prerequisite knowledge and skills that are fundamental in library media. He/she:

(a) seldom initiates an inquiry process and has difficulty monitoring his/her use of the process;

(b) lacks clarity in his/her evaluation of the importance of equitable access; sometimes uses information responsibly; and, with much assistance and prompting, collaborates with others;

(c) has difficulty analyzing and evaluating materials from a variety of cultures and, with assistance, transfers information literacy skills to new settings; and

(d) incompletely analyzes a limited range of search strategies to locate print and nonprint information and, with much assistance, evaluates the information.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CI WORKPLACE COMPETENCIES CONTENT STANDARD 1

(1) To satisfy the requirements of workplace competencies content standard 1, a student must identify, organize, plan, and allocate workplace resources of time, money, materials, facilities, and human resources.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CII BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT STANDARD 1 FOR END OF GRADE 4

(1) The benchmark for workplace competencies content standard 1 for a student at the end of grade 4 is the ability to:

(a) manage time effectively (e.g., assignment notebook, calendar);

(b) use basic monetary skills;

(c) acquire, store, allocate, and use materials or space (e.g., supplies, notebook); and

(d) manage personal resources.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CIII BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT STANDARD 1 FOR END OF GRADE 8

(1) The benchmark for workplace competencies content standard 1 for a student at the end of grade 8 is the ability to:

(a) create and manage plans/schedules with specific timelines that take into account constraints, priorities, and goals;

(b) practice maintaining personal financial records;

(c) acquire, store, allocate, and use materials or space; and

(d) manage personal and team resources to achieve personal and team goals.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CIV BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT STANDARD 1 UPON GRADUATION

(1) The benchmark for workplace competencies content standard 1 for a student upon graduation is the ability to:

(a) select goal-relevant activities, rank them, allocate time, and prepare and follow schedules;

(b) use or prepare budgets, make forecasts, keep records, make adjustments to meet objectives, and evaluate financial records;

(c) allocate and evaluate time, materials, facilities, and resources to set and achieve goals; and

(d) assess skills and distribute work accordingly, evaluate performance, and provide feedback toward the accomplishment of personal and team goals.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CV WORKPLACE COMPETENCIES CONTENT STANDARD 2

(1) To satisfy the requirements of workplace competencies content standard 2, a student must acquire and demonstrate interpersonal workplace skills.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CVI BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT STANDARD 2 FOR END OF GRADE 4

(1) The benchmark for workplace competencies content standard 2 for a student at the end of grade 4 is the ability to:

(a) practice one's role as an active and cooperative team player while recognizing individual differences and cultural diversity (e.g., be accountable for one's actions);

(b) demonstrate a learned skill to peers (e.g., give a "how to" demonstration);

(c) identify and practice leadership skills (e.g., team leader, class officer, class job);

(d) identify and practice negotiation skills and conflict resolution in structured situations; and

(e) practice basic customer and electronic etiquette (e.g., roleplay, order from a menu, appropriate e-mail language).

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CVII BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT STANDARD 2 FOR END OF GRADE 8

(1) The benchmark for workplace competencies content standard 2 for a student at the end of grade 8 is the ability to:

(a) use a variety of skills to work as a member of a team while recognizing individual differences and cultural diversity (e.g., listening skills);

(b) demonstrate a learned skill and teach others;

(c) demonstrate leadership skills by making positive use of rules, regulations, and policies of schools and community;

(d) work toward agreements that include exchanging specific resources or resolving divergent interests in structured and unstructured situations; and

(e) practice positive interpersonal communication skills (e.g., customer service, electronic etiquette, community service project).

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CVIII BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT STANDARD 2 UPON GRADUATION (1) The benchmark for workplace competencies content standard 2 for a student upon graduation is the ability to:

- (a) practice various roles required as a member of an effective team while recognizing individual differences and cultural diversity;
- (b) demonstrate and teach a learned skill including performance evaluation of self and others in this process;
- (c) communicate ideas to justify position, persuade and convince others, and responsibly challenge existing procedures and policies;
- (d) practice and evaluate negotiating process including researching, goal setting, presenting, listening, clarifying, adjusting, and compromising; and
- (e) practice and evaluate positive service skills (e.g., resolving misunderstandings, consumer complaints).

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CIX WORKPLACE COMPETENCIES CONTENT STANDARD 3

(1) To satisfy the requirements of workplace competencies content standard 3, a student must acquire and use workplace information.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CX BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT STANDARD 3 FOR END OF GRADE 4 (1) The benchmark for workplace competencies content standard 3 for a student at the end of grade 4 is the ability to:

- (a) identify a variety of sources that provide workplace information;
- (b) organize information using systematic methods (e.g., assignment book, alphabetizing, calendar);
- (c) use a variety of methods (e.g., oral, written, graphic, pictorial, multimedia) to complete a task; and
- (d) access and organize information from print and electronic sources.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXI BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT STANDARD 3 FOR END OF GRADE 8 (1) The benchmark for workplace competencies content standard 3 for a student at the end of grade 8 is the ability to:

- (a) identify the need for and obtain data in order to make informed decisions in the workplace;
- (b) organize and maintain written or computerized records using systematic methods;
- (c) select and present information using a variety of methods (e.g., oral, written, graphic, pictorial, multimedia); and

(d) acquire, organize, communicate, process, and analyze information from print and electronic sources.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXII BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT

STANDARD 3 UPON GRADUATION (1) The benchmark for workplace competencies content standard 3 for a student upon graduation is the ability to:

(a) gather, compile, and analyze data from a variety of sources and evaluate relevance and accuracy in making informed decisions in the workplace;

(b) organize, process, analyze, and maintain written and computerized records and other forms of information using systematic methods;

(c) select, analyze, and present information using a variety of methods (e.g., oral, written, graphic, pictorial, multimedia); and

(d) acquire, organize, communicate, process, analyze, and evaluate information from print and electronic sources.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXIII WORKPLACE COMPETENCIES CONTENT STANDARD 4

(1) To satisfy the requirements of workplace competencies content standard 4, a student must demonstrate an understanding of how social, organizational, and technological systems work.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXIV BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT

STANDARD 4 FOR END OF GRADE 4 (1) The benchmark for workplace competencies content standard 4 for a student at the end of grade 4 is the ability to:

(a) identify components of family, school, and community systems encountered in daily life;

(b) identify and model how components of systems interact (e.g., roleplay, class jobs); and

(c) work within a system (e.g., team, study group, group structure, classroom rules, mechanical model).

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXV BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT

STANDARD 4 FOR END OF GRADE 8 (1) The benchmark for workplace competencies content standard 4 for a student at the end of grade 8 is the ability to:

(a) describe and illustrate a system (e.g., relationships among self, family, school, community);

(b) analyze how a system works (i.e., input, process, output, feedback, performance improvement); and

(c) design and work within a system (e.g., committees, student council, mock government, simple electrical circuit) to manage, control, and improve performance.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXVI BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT

STANDARD 4 UPON GRADUATION (1) The benchmark for workplace competencies content standard 4 for a student upon graduation is the ability to:

(a) evaluate quality and performance of a variety of systems (e.g., impact of technology on production);

(b) practice and analyze principles of successful system management considering external factors and planning for uncontrolled variables (e.g., balance professional and personal lives); and

(c) design, evaluate, and refine a system composed of subsystems (e.g., community service project, peer mediation, web page design).

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXVII WORKPLACE COMPETENCIES CONTENT STANDARD 5

(1) To satisfy the requirements of workplace competencies content standard 5, a student must work safely with a variety of workplace technologies.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXVIII BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT

STANDARD 5 FOR END OF GRADE 4 (1) The benchmark for workplace competencies content standard 5 for a student at the end of grade 4 is the ability to:

(a) identify and select information sources using technology;

(b) solve problems both individually and with others;

(c) prevent or identify and solve problems using technology;

(d) discriminate between responsible and irresponsible use of technology; and

(e) identify and demonstrate appropriate care of technological tools.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXIX BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT

STANDARD 5 FOR END OF GRADE 8 (1) The benchmark for workplace competencies content standard 5 for a student at the end of grade 8 is the ability to:

(a) use technology for learning, communications, and productivity;

(b) use technology to observe, analyze, interpret, and draw conclusions;

- (c) prevent or identify and solve problems using technology;
- (d) acknowledge others' rights and practice responsible use of technology; and
- (e) manage and maintain technological tools and follow troubleshooting protocol.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXX BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT STANDARD 5 UPON GRADUATION (1) The benchmark for workplace competencies content standard 5 for a student upon graduation is the ability to:

- (a) choose procedures and technology to complete a task;
- (b) create new knowledge by evaluating, combining, and extending information using multiple technologies;
- (c) prevent or identify and solve problems using technology;
- (d) practice and advocate ethical behavior in the use of technology; and
- (e) manage and maintain technological systems and follow troubleshooting protocol.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXXI WORKPLACE COMPETENCIES CONTENT STANDARD 6

(1) To satisfy the requirements of workplace competencies content standard 6, a student must develop skills in career planning and workplace readiness.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXXII BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT STANDARD 6 FOR END OF GRADE 4 (1) The benchmark for workplace competencies content standard 6 for a student at the end of grade 4 is the ability to:

- (a) describe how current learning relates to work;
- (b) demonstrate positive ways of performing work activities;
- (c) describe how decisions affect self and others;
- (d) describe various lifetime roles (e.g., friend, student, leader, worker, family member);
- (e) explore and discuss a variety of occupational clusters (e.g., health, science); and
- (f) describe and demonstrate the importance of goal setting and planning.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXXIII BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT STANDARD 6 FOR END OF GRADE 8 (1) The benchmark for workplace competencies content standard 6 for a student at the end of grade 8 is the ability to:

- (a) identify how the skills taught in school subjects are used in various occupations;
- (b) demonstrate personal qualities (e.g., dependability, punctuality, cooperation) that are needed to get and keep jobs;
- (c) identify possible outcomes and consequences of decisions;
- (d) recognize and describe the interrelationships of family, community, work, and leisure roles;
- (e) identify a variety of occupations not limited by stereotypes, bias or traditional roles; and
- (f) explore and identify personal interests, aptitudes, and abilities and develop strategies to achieve tentative career goals.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXXIV BENCHMARK FOR WORKPLACE COMPETENCIES CONTENT STANDARD 6 UPON GRADUATION (1) The benchmark for workplace competencies content standard 6 for a student upon graduation is the ability to:

- (a) describe how skills developed in academic and occupational programs relate to career goals;
- (b) display workplace readiness skills (e.g., responsibility, sociability, self-management, job-seeking skills);
- (c) demonstrate decision making and problem-solving skills;
- (d) describe and evaluate career choices and the effect on family and lifestyle;
- (e) discuss and demonstrate strategies to overcome bias and stereotyping in the workplace; and
- (f) develop, evaluate, and adjust personal career plans.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXXV ADVANCED WORKPLACE COMPETENCIES PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth grade student at the advanced level in workplace competencies demonstrates superior performance. He/she:

- (a) consistently and effectively applies basic management tools to plan the use of personal resources;
- (b) purposefully practices leadership skills and is an effective team member;
- (c) consistently locates, organizes, and presents workplace information using a variety of print and electronic sources;
- (d) consistently identifies group members and defines their roles within a system;
- (e) consistently demonstrates understanding of the overall operations and practices responsible, safe use of appropriate technologies; and

(f) clearly describes various lifetime roles and consistently demonstrates positive ways to perform work activities.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXXVI PROFICIENT WORKPLACE COMPETENCIES PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth grade student at the proficient level in workplace competencies demonstrates solid academic performance. He/she:

(a) applies basic management tools to plan the use of personal resources;

(b) practices leadership skills and is an effective team member;

(c) locates, organizes, and presents workplace information using a variety of print and electronic sources;

(d) identifies group members and defines their roles within a system;

(e) demonstrates understanding of the overall operations and practices responsible, safe use of appropriate technologies; and

(f) describes various lifetime roles and demonstrates positive ways to perform work activities.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXXVII NEARING PROFICIENCY WORKPLACE COMPETENCIES PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth grade student at the nearing proficiency level demonstrates partial mastery of the prerequisite knowledge and skills fundamental for proficiency in workplace competencies. He/she:

(a) sometimes applies basic management tools to plan the use of personal resources;

(b) sometimes practices leadership skills and, with assistance, is an effective team member;

(c) locates workplace information from a variety of print and electronic sources, but has difficulty organizing workplace information and is uncomfortable making presentations;

(d) identifies group members and sometimes defines their roles within a system;

(e) demonstrates understanding of some of the basic operations and, with assistance, practices responsible use of appropriate technologies; and

(f) sometimes describes various lifetime roles and, with assistance, demonstrates positive ways to perform work activities.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXXVIII NOVICE WORKPLACE COMPETENCIES PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth grade student at the novice level is beginning to attain the prerequisite

knowledge and skills that are fundamental in workplace competencies. He/she:

- (a) seldom applies basic management tools to plan the use of personal resources;
- (b) rarely practices leadership skills, but is sometimes an effective team member;
- (c) sometimes locates workplace information from a variety of print and electronic sources, but rarely organizes or presents workplace information;
- (d) sometimes identifies group members, but seldom defines their roles within a system;
- (e) demonstrates a limited understanding of the basic operations, but seldom practices responsible use of appropriate technologies; and
- (f) sometimes describes various lifetime roles, but seldom demonstrates positive ways to perform work activities.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXXIX ADVANCED WORKPLACE COMPETENCIES PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth grade student at the advanced level in workplace competencies demonstrates superior performance. He/she:

- (a) consistently selects and uses a variety of tools to practice time, money, and space management;
- (b) consistently recognizes and practices workplace skills and effectively uses a variety of leadership styles to cooperatively participate as a team member;
- (c) independently uses computers to acquire, organize, process, and analyze information to make informed decisions;
- (d) effectively designs, implements, and evaluates a simple system;
- (e) uses technological skills effectively to create original work, solve problems, including troubleshooting, and evaluate the results; and
- (f) consistently applies personal interests, aptitudes, abilities, and work ethics to daily life and develops strategies to plan future career goals.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXXX PROFICIENT WORKPLACE COMPETENCIES PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth grade student at the proficient level in workplace competencies demonstrates solid academic performance. He/she:

- (a) prepares and works with a variety of tools to practice time, money, and space management;
- (b) recognizes and practices workplace skills and uses a variety of leadership styles to cooperatively participate as a team member;
- (c) uses computers to acquire, organize, process, and analyze information to make informed decisions;
- (d) designs, implements, and evaluates a simple system;

(e) uses technological skills to create original work, solve problems, including troubleshooting, and evaluate the results; and

(f) applies personal interests, aptitudes, abilities, and work ethics to daily life and develops strategies to plan future career goals.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXXXI NEARING PROFICIENCY WORKPLACE COMPETENCIES PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth grade student at the nearing proficiency level demonstrates partial mastery of the prerequisite knowledge and skills fundamental for proficiency in workplace competencies. He/she:

(a) sometimes prepares and works with a variety of tools to practice time, money, and space management;

(b) recognizes and practices workplace skills and uses some leadership styles to cooperatively participate as a team member;

(c) uses computers to acquire and organize information, but needs assistance to analyze information and make informed decisions;

(d) sometimes designs and implements a simple system, but has difficulty evaluating system performance;

(e) sometimes uses technological skills to create original work and, with assistance, solve problems, but has difficulty evaluating the results; and

(f) sometimes recognizes how the connections among personal interests, aptitudes, abilities, and work ethics help to plan future career goals.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXXXII NOVICE WORKPLACE COMPETENCIES PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth grade student at the novice level is beginning to attain the prerequisite knowledge and skills that are fundamental in workplace competencies. He/she:

(a) seldom practices or uses a variety of tools to practice time, money, and space management;

(b) recognizes, but has difficulty practicing workplace skills and seldom uses any leadership styles to participate as a team member;

(c) sometimes uses computers to acquire information, but has difficulty organizing and analyzing information;

(d) sometimes designs and implements a simple system, but seldom evaluates system performance;

(e) sometimes, with assistance, uses technological skills to solve problems, but seldom evaluates the results; and

(f) recognizes, but has a limited understanding of how personal interests, aptitudes, abilities, and work ethics help to plan future career goals.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXXXIII ADVANCED WORKPLACE COMPETENCIES PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the advanced level in workplace competencies demonstrates superior performance. He/she:

(a) independently identifies, organizes, plans, and allocates workplace resources of time, money, human resources, material, and facilities;

(b) consistently practices workplace skills to identify, analyze, and evaluate procedures, policies, and individual team members' strengths;

(c) competently communicates, interprets, and evaluates information;

(d) independently evaluates and redesigns a variety of complex systems to improve system performance;

(e) consistently selects, uses, and evaluates appropriate technologies and troubleshooting protocol in all learning situations; and

(f) purposefully develops, evaluates, and adjusts personal career plans and effectively demonstrates workplace readiness skills.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXXXIV PROFICIENT WORKPLACE COMPETENCIES PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the proficient level in workplace competencies demonstrates solid academic performance. He/she:

(a) identifies, organizes, plans, and allocates workplace resources of time, money, human resources, material, and facilities;

(b) practices workplace skills to identify, analyze, and evaluate procedures, policies, and individual team members' strengths;

(c) competently communicates, interprets, and evaluates information;

(d) evaluates and redesigns a variety of complex systems to improve system performance;

(e) selects, uses, and evaluates appropriate technologies and troubleshooting protocol in all learning situations; and

(f) develops, evaluates, and adjusts personal career plans and demonstrates workplace readiness skills.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXXXV NEARING PROFICIENCY WORKPLACE COMPETENCIES PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the nearing proficiency level demonstrates partial mastery of the prerequisite knowledge and skills fundamental for proficiency in workplace competencies. He/she:

(a) sometimes identifies, organizes, and plans workplace resources of time, money, human resources, material, and

facilities, but has difficulty allocating these resources effectively;

(b) sometimes practices workplace skills to identify and analyze procedures, policies, and individual team members' strengths and, with assistance, evaluates the results;

(c) communicates basic workplace information and, with assistance, interprets and evaluates basic workplace information;

(d) sometimes evaluates and, with assistance, redesigns a system to improve system performance;

(e) sometimes selects and uses appropriate technologies in learning situations and, with assistance, uses troubleshooting protocol; and

(f) develops personal career plans and, with assistance, evaluates and makes adjustments and demonstrates workplace readiness skills.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

RULE CXXXVI NOVICE WORKPLACE COMPETENCIES PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the novice level is beginning to attain the prerequisite knowledge and skills that are fundamental in workplace competencies. He/she:

(a) identifies, but has difficulty organizing, planning, or allocating workplace resources of time, money, human resources, material, and facilities;

(b) seldom practices workplace skills;

(c) seldom communicates, interprets, or evaluates information;

(d) seldom evaluates and has difficulty redesigning a basic system to improve system performance;

(e) seldom selects or uses technologies or troubleshooting protocol in learning situations; and

(f) rarely develops, evaluates, or adjusts personal career plans but, with assistance, demonstrates workplace readiness skills.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

5. Concerned persons may present their data, views or arguments, either orally or in writing, at the hearings. Written data, views or arguments may also be submitted by mail to the Office of Public Instruction, P.O. Box 202501, Helena, Montana 59620-2501, or by e-mail to [opirules@state.mt.us](mailto:opirules@state.mt.us) and must be received no later than 5:00 p.m. on July 21, 2000.

6. Geralyn Driscoll and Janice Frankino Doggett of the Legal Services Unit, Office of Public Instruction, have been designated to preside over and conduct the hearings.

7. The Board of Public Education 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 which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding content and performance standards or other school related rulemaking actions. Such written request may be mailed or delivered to the Board of Public Education, P.O. Box 200601, Helena, Montana 59620-0601, telephone number (406) 444-6576, FAX (406) 444-0684.

For purposes of this rulemaking, you may also be placed on the Board's list of interested persons by contacting Pat Reichert, Office of Public Instruction, PO Box 202501, Helena, Montana 59620-2501, telephone number (406) 444-4402.

8. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. The requirements of 20-1-501, MCA, have been fulfilled. Copies of these rules have been sent to all tribal governments in Montana.

By: /s/Storrs Bishop  
Storrs Bishop  
Chairperson  
Board of Public Education

/s/Geralyn Driscoll  
Geralyn Driscoll  
Staff Attorney  
Office of Public Instruction

Certified to the Secretary of State May 1, 2000.

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED
amendment of ARM 23.16.101,	)	AMENDMENT
23.16.1901, 23.16.1906,	)	
23.16.1907, 23.16.1909,	)	NO PUBLIC HEARING
23.16.1911 concerning video	)	CONTEMPLATED
gambling machines	)	

TO: All Concerned Persons

1. On June 30, 2000, the Department of Justice proposes to amend ARM 23.16.101, 23.16.1901, 23.16.1906, 23.16.1907, 23.16.1909, and 23.16.1911. ARM 23.16.101 is changed to add a definition of an "institutional lender" and change the definition of "noninstitutional lender" for purposes of clarifying the use of the terms in these rules. Changes to ARM 23.16.1901, 23.16.1906, and 23.16.1911 set forth requirements for the implementation of the automated accounting and reporting system. ARM 23.16.1907 and 23.16.1909 are being changed to eliminate the requirement to provide a meter summary for each machine payable or game option breakdown. Only one total meter summary will be required.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on May 22, 2000, to advise us of the nature of the accommodation that you need. Please contact Kathy Fisher, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, MT, 59620-1424; (406) 444-1973, FAX (406) 444-9157.

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

23.16.101 DEFINITIONS As used throughout this subchapter, the following definitions apply:

(1) through (5) remain the same.

(6) "Institutional lender" means a person who:

(a) has been authorized under Title 32, chapters 1, 2, 3, and 4, MCA, to receive money on deposit or transact a trust or investment business, including banks, savings and loans, credit unions, investment companies, and development corporations; or

(b) is identified as a regulated lender in 31-1-111, MCA, which, in addition to lenders identified in (6)(a), includes bank holding companies, consumer loan licensees owned by bank holding companies, mutual or stock insurance companies, and federal and state agencies authorized to lend money.

(6) through (11) remain the same but are renumbered (7) through (12).

~~(12)~~(13) "Noninstitutional lender" or "noninstitutional source" means: a person, other than a state or federally regulated banking or financial institution,

(a) a person other than an institutional lender as defined in (6) of this rule; or

(b) a consumer lender who is not a subsidiary of a bank or bank holding company who loans money or supplies financing to an applicant, or a licensee, or the owner of an applicant or licensee.

(13) through (18) remain the same but are renumbered (14) through (19).

AUTH: 23-5-115, MCA

IMP: 23-5-112, 23-5-118, 23-5-176, 23-5-629, MCA

23.16.1901 GENERAL SPECIFICATIONS OF VIDEO GAMBLING MACHINES (1) through (1)(d)(xiv) remain the same.

(xv) a machine shall be equipped with a surge protector that will feed all A.C. electrical current to the machine and a backup power supply capable of maintaining for a 30-day period the accuracy of all electronic meters, date, and time during power fluctuations and loss. The battery must be in a state of charge during normal operation of the machine. Manufacturers incorporating either the use of E2 PROMs or a lithium battery for memory retention will be considered to meet this requirement; and

(e) provide an available and unused serial port for automated accounting and reporting system communication. The serial port must be capable of supporting full duplex communication.

(2) and (3) remain the same.

AUTH: 23-5-605, 23-5-621, MCA

IMP: 23-5-115, 23-5-136, 23-5-602, 23-5-606,  
23-5-609, 23-5-610, 23-5-621, 23-5-637, MCA

23.16.1906 GENERAL VIDEO GAMING MACHINE SOFTWARE SPECIFICATIONS (1) through (3) remain the same.

(4) Each video gambling machine must provide sufficient available and unused program and RAM storage space for automated accounting and reporting system communication protocol and related data.

AUTH: 23-5-115, 23-5-605, 23-5-621, MCA

IMP: 23-5-111, 23-5-112, 23-5-115, 23-5-605, 23-5-621, 23-5-637, MCA

23.16.1907 VIDEO DRAW POKER SOFTWARE (1) through (1)(b) remain the same.

(c) replace discarded cards with remaining cards in the frozen field starting with the sixth card and drawing any additional cards in the order of that frozen field; and

~~(d) meter for each breakdown in the payable; and~~

(e) remains the same but is renumbered (d).

AUTH: 23-5-605, 23-5-621, MCA  
IMP: 23-5-606, 23-5-607, 23-5-621, MCA

23.16.1909 SOFTWARE SPECIFICATIONS FOR VIDEO BINGO MACHINES (1) through (1)(c) remain the same.

~~(d) meter each breakdown in the payable;~~  
(e) through (i) remain the same but are renumbered (d) through (h).

AUTH: 23-5-605, 23-5-621, MCA  
IMP: 23-5-609, 23-5-621, MCA

23.16.1911 INFORMATION TO BE PROVIDED TO THE DEPARTMENT (1) through (1)(j) remain the same.

(k) programmer's memory map defining unused program and data storage space reserved for automated accounting and reporting system communication protocol and related data storage;

(k) through (m) remain the same but are renumbered (l) through (n).

AUTH: 23-5-115, 23-5-605, MCA  
IMP: 23-5-605, 23-5-606, 23-5-607, 23-5-621, 23-5-631, 23-5-637, MCA

4. RATIONALE: (a) The department proposes to amend ARM 23.16.101 to add the definition of an institutional lender and change the definition of a noninstitutional lender. These changes will more clearly define the meaning of an institutional lender and a noninstitutional lender as they are used throughout the rules. This is important to applicants because there is a stricter review process when noninstitutional lenders are involved.

(b) The department proposes to amend ARM 23.16.1901, ARM 23.16.1906, and ARM 23.16.1911. The amendments are necessary to ensure that all new devices submitted for approval are capable of being linked to the automated accounting and reporting system authorized by HB 109. ARM 23.16.1901 is amended to add the requirement of a serial port for full duplex communication. ARM 23.16.1906 is being amended to allow for sufficient available and unused program and RAM storage space. ARM 23.16.1911 is amended to add to the requirements for the programmer's memory map an additional requirement for the unused program and data storage space for the automated accounting and reporting system.

(c) The department proposes to amend ARM 23.16.1907 and ARM 23.16.1909. The amendments are necessary to remove the requirement that each machine be able to provide a meter summary for each breakdown in the payable or game option. Metering each payable breakdown or game option has been found unnecessary. The department does not use them.

5. Concerned persons may submit their data, views or arguments concerning the proposed amendments in writing to Rick

Ask, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, MT 59620-1424. Any comments must be received no later than June 8, 2000.

6. If persons who are directly affected by the proposed amendments wish to present 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 they have to Rick Ask, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, MT 59620-1424. A written request for hearing must be received no later than June 8, 2000.

7. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the 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 persons directly affected has been determined to be 182 persons based on the 1823 licensed operators and route operators in Montana.

8. The Department of Justice 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 which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices of rules regarding the Crime Control Division, the Central Services Division, the Forensic Sciences Division, the Gambling Control Division, the Highway Patrol Division, the Law Enforcement Academy, the Division of Criminal Investigation, the Legal Services Division, the Motor Vehicle Division, the Justice Information Systems Division, or any combination thereof. Such written request may be mailed or delivered to Elizabeth S. Baker, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401, faxed to the office at (406) 444-3549, ATTN: Elizabeth S. Baker, or may be made by completing a request form at any rules hearing held by the Department of Justice.

9. The bill sponsor notice requirements of 2-4-302, MCA apply and have been fulfilled.

By: /s/ Joseph P. Mazurek  
Joseph P. Mazurek  
Attorney General  
Department of Justice

/s/ Elizabeth S. Baker  
Elizabeth S. Baker, Rule Reviewer

Certified to the Secretary of State May 1, 2000.

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

In the matter of the adoption )  
of Rule I and the amendment of )  
ARM 37.40.307, 37.40.308, )  
37.40.326 and 37.40.361 )  
pertaining to nursing facility )  
reimbursement )

NOTICE OF PUBLIC HEARING  
ON PROPOSED ADOPTION AND  
AMENDMENT

TO: All Interested Persons

1. On May 31, 2000, at 1:30 p.m., a public hearing will be held in the auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana to consider the proposed adoption and amendment of the above-stated rules.

The Department of Public Health and Human Services 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 request an accommodation, contact the department no later than 5:00 p.m. on May 22, 2000, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; Email dphhslegal@state.mt.us.

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

[Rule I] RATE ADJUSTMENT FOR COUNTY FUNDED RURAL NURSING FACILITIES (1) For state fiscal year 2001, and subject to the availability of sufficient state, county and federal funding, the department will provide a mechanism for additional per diem payments to county funded rural nursing facilities when the computed payment rate as calculated in ARM 37.40.307 is less than the statewide median medicaid rate in effect for rate year 2001.

(a) A nursing facility is eligible to participate in this payment rate adjustment if it receives county funds and has a per diem medicaid rate computed as specified in ARM 37.40.307 which is less than the statewide median.

(b) The department will calculate the amount of per diem rate increase that will be allowed for each county funded provider as specified in ARM 37.40.307 so that the total per day reimbursement is computed at the statewide median medicaid rate for rate year 2001.

(c) In order to qualify for this per diem rate adjustment effective July 1 of the rate year the rural, county based provider must execute and enter into a written agreement with the department and agree to abide by the terms of the written

agreement. Rural county facilities that do not enter into a written agreement with the department, or do not abide by the terms of the agreement will have their medicaid payment rate computed under the provisions outlined in ARM 37.40.307 and will not be entitled to a per diem adjustment in their computed payment rate up to the statewide median payment rate effective July 1, 2000.

(d) Any amounts that have been paid at the median rate when payment should be limited to the computed payment rate, as provided in ARM 37.40.307, will be retroactively recovered by the department.

AUTH: Sec. 53-6-113, MCA

IMP: Sec. 53-6-101, 53-6-111 and 53-6-113, MCA

3. The rules as proposed to be amended provide as follows. Matter to be added is underlined. Matter to be deleted is interlined.

37.40.307 NURSING FACILITY REIMBURSEMENT (1) through (3)(c)(ii) remain the same.

(4) A provider's per diem rate effective for the rate period July 1, 2000 through June 30, 2001 shall be determined in accordance with this rule.

(a) For each nursing facility provider, the rate as computed and in effect on June 30, 2000 shall be increased by \$.50 per day effective July 1, 2000.

(b) Any nursing facility provider whose computed payment rate inclusive of the \$.50 per day amount provided for in (4)(a), is less than the computed statewide median rate inclusive of the \$.50 per day amount, will be entitled to receive additional reimbursement to bring the computed medicaid per diem payment rate closer to the statewide median rate. This additional reimbursement will be computed as follows:

(i) The total dollar difference between the facility's computed rate per day and the statewide median rate per day will be computed by subtracting the facility rate from the statewide median rate.

(ii) The per day rate difference for each facility, computed in (4)(b)(i) will be multiplied by each facility's projected medicaid days for fiscal year 2001, based upon the previous fiscal year's utilization experience, to determine the full amount of funding required to reimburse each facility up to the statewide median level.

(iii) The percentage of the funding that will be paid to each facility will be determined by dividing the total medicaid funding allocated for this purpose, by the total dollars that would be required to bring all facilities up to the statewide median level of reimbursement as computed in (4)(b)(ii).

(iv) The percentage that is computed above will be applied to the difference in each facility's per diem rate when compared to the statewide median rate to determine each facility's per day proportional share of the appropriated funding allocated for this purpose.

(c) The total payment rate available for the period July 1, 2000 through June 30, 2001 will be the rate as computed in (4)(a), plus any additional amount computed in (4)(b) plus the direct care wage and benefits increase as provided in ARM 37.40.361 plus any additional amount computed in [Rule I] for qualified county funded rural nursing facilities.

~~(4)~~ (5) For providers which who, as of July 1 of the rate year, have not filed with the department a cost report covering a period of at least 6 months participation in the medicaid program in a newly constructed facility or shall have a rate set at the statewide median rate as computed on July 1, 2000 for this transition year. Following a change in provider as provided in ARM 37.40.325, the per diem rate shall be as provided in ARM 37.40.326 for the new provider shall be set at the previous provider's rate, as if no change in provider had occurred, during this transition rate year.

(5) through (13) remain the same but are renumbered (6) through (14).

AUTH: Sec. 53-6-113, MCA

IMP: Sec. 53-6-101, 53-6-111 and 53-6-113, MCA

37.40.308 RATE EFFECTIVE DATES (1) Except as specifically provided in these rules, per diem rates and interim rates are set no more than once a year, effective July 1, and remain in effect at least through June 30 of the following year.

(a) Nothing in this subchapter shall be construed to require that the department apply any inflation adjustment, recalculate the median operating costs or the statewide median average wage, or otherwise adjust or recalculate per diem rates or interim rates on July 1 of a rate year, unless the department adopts further rules or rule amendments providing specifically for a rate methodology for the rate year.

(i) A provider's per diem rate effective for the rate period July 1, 2000 through June 30, 2001 shall be determined in accordance with ARM 37.40.307.

(b) through (2)(d)(iv) remain the same.

AUTH: Sec. 53-6-201 and 53-6-113, MCA

IMP: Sec. 53-6-101 and 53-6-113, MCA

37.40.326 INTERIM PER DIEM RATES FOR NEWLY CONSTRUCTED FACILITIES AND NEW PROVIDERS (1) This rule specifies the methodology the department will use to determine the interim per diem rate for in-state providers, other than ICF/MR providers, which as of July 1 of the rate year have not filed with the department a cost report covering a period of at least 6 months participation in the medicaid program in a newly constructed facility or following a change in provider as provided in ARM 37.40.325.

(a) For the rate period July 1, 2000 through June 30, 2001, providers who, as of July 1 of the rate year, have not filed with the department a cost report covering a period of at least 6 months participation in the medicaid program in a newly

constructed facility shall have a rate set at the statewide median rate as computed on July 1, 2000 for this rate year in accordance with the rule provisions in ARM 37.40.308. Following a change in provider as provided in ARM 37.40.325, the per diem rate for the new provider shall be set at the previous provider's rate, as if no change in provider had occurred, for the July 1, 2000 through June 30, 2001 transition rate year.

(2) through (3)(b) remain the same.

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

37.40.361 ADDITIONAL PAYMENTS FOR DIRECT CARE WAGE AND BENEFITS INCREASES (1) through (4) remain the same.

(5) A facility that does not submit a qualifying request for use of the funds distributed under this rule which includes all of the information that is requested by the department, within the time established by the department, or a facility that does not wish to participate in this additional funding amount shall not be entitled to their share of the funds. The department shall make retroactive adjustment to the payment rate established on July 1, 1999 and in each state fiscal year thereafter, which will reduce the medicaid per day payment amount by the amount of funds that have been designated for the direct care wage add-on for any non-participating or non-qualifying facility. Any amounts paid by the department up to that time for the direct care wage add-on shall be recovered by the department.

(6) remains the same.

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

4. The purpose of the proposed amendments is to establish payment levels for nursing facility providers for the rate year beginning July 1, 2000.

The Department has been working with a nursing facility reimbursement work group for several months on the proposed amendments and future changes that will be made to the system of reimbursement for nursing facility providers.

These proposed rule changes will serve as transitional rules in order to move toward a system of reimbursement which will narrow the range of rates being paid to nursing facility providers and which will stabilize the levels of reimbursement paid across all facilities. By granting each provider an increased rate and then distributing available funding to those providers below the state wide median, the Department will bring lower rate facilities closer to the median rate. This will be the beginning of the transition to a reimbursement methodology anticipated over the next biennium which will better recognize the increasing levels of acuity of residents being admitted to the nursing facilities and will serve to lessen the volatility

of the rates, which historically has resulted in dramatic fluctuations upward and downward in years where updated cost information was incorporated into the system of reimbursement. The volatility will be mitigated by decoupling the system of reimbursement from the costs being directly incurred by each nursing facility and moving to a system of reimbursement based on an established price for nursing facility services. The reimbursement system will pay providers based upon their rates relative to the recognized price for nursing facility services and will serve to narrow the range of rates being paid for nursing facility services under medicaid and will stabilize the system of reimbursement for providers which is a disadvantage of the current system of reimbursement.

The Department finds the following facts which justify the proposed changes. Statewide occupancy rates are currently at 80% in Montana nursing facilities. At the same time, the care needs of the typical nursing facility resident are increasing. These residents are being admitted at an older age, are medically fragile and have complex care needs that can no longer be met in home or community settings. As the trends toward lower occupancy and increased acuity continue, it will become more important that nursing facility providers receive rate increases to reflect the increased cost of doing business. If medicaid rates do not stabilize, small rural providers of nursing facility services will find it more difficult to keep their doors open. Decreasing occupancy levels and the inability to predict the level of funding that may be available will make it difficult to determine the best way to provide nursing facility services in their communities. Increased costs due to lower occupancy levels and unpredictability of the system of reimbursement are likely to be passed on to the privately paying individuals.

The Department considered the option of continuing the current reimbursement system, which would result in volatility in rates, including rate decreases for some providers if the methodology remained the same. This would have perpetuated the volatility in the system of reimbursement because rates would have continued to be linked to costs being incurred. Costs have been increasing faster than the rate of inflation and faster than the rate of funding increases provided by the legislature. The Department has been working with the industry to make changes to the system of reimbursement both short-term as well as long-term and believe that the proposed approach to reimbursing nursing facility providers for their services over the next several years is the most prudent option.

The specific changes that are being proposed and an explanation why these changes are necessary as well as any other alternatives or options that were considered are listed below.

The Department proposes ARM 37.40.307 be amended so that the nursing facility per diem rate for rate year 2001 (July 1, 2000

through June 30, 2001) will be computed as follows:

(1) \$0.50 will be added to the medicaid payment rate in effect on June 30, 2000, for each facility.

(2) For facilities with a rate below the state wide median a proportional amount of the remaining funding will be added to each facility's computed medicaid rate in relation to how far below the state wide median their rate is. Facilities further from the median rate will receive greater increases in rates in relationship to the facilities closer to the state wide median rate.

(3) No facility will receive less than the \$0.50 increase. This is a 1 year transition rule to initiate the process of narrowing the range of reimbursement rates for facilities below the median and to begin the transition to a new system of reimbursement which will further narrow the range of rates being paid to facilities under medicaid. The proposed rates will lessen the volatility in rate setting and will provide a more stable transition approach to reimbursement changes for all nursing facilities in fiscal year 2002 and beyond.

(4) The Legislature has appropriated additional funding in fiscal year 2001 to pay for wage increases for direct care workers in nursing homes. The appropriated funding also includes an amount to pay for benefits increases. Nursing facilities will be reimbursed a separately computed add on amount, which will be added to the computed formula rate in accordance with ARM 46.12.1267, for wage and benefit increases for direct care workers in nursing facilities.

The Legislature's funding authorization (House Bill No. 2, Chapter 578, Laws of Montana 1999) required the Department to provide reasonable assurance that funds are used solely for direct care wage and benefit increases. The bill language makes it clear that not all providers must receive the same rate of increase in each year of the biennium. This funding is provided by the legislature. It would be contrary to legislative intent to not distribute these funds as the Legislature directed for this purpose.

[Rule I] is proposed to provide a mechanism whereby county funded rural providers may be reimbursed up to the statewide median medicaid rate by utilizing local county funding for matching dollars. A county government would have the option to contribute funding that could be utilized to bring the medicaid payment rate of county funded rural nursing facilities in the county up to the statewide median reimbursement rate. Because many of the rural county funded providers have rates below the median, this proposal would provide a mechanism during this transition period to bring these facilities' rate of reimbursement up to the median and to assist them in the transition to a new system of reimbursement that narrows the

range of payment rates for nursing facility providers. Because of occupancy declines, and because these facilities are typically smaller in size, rural in nature, and in many cases linked to all other health care service delivery in their community they have a more difficult time in finding resources to keep their doors open. The Department seeks to preserve the valuable public service provided by accessible nursing facilities in the sparsely populated counties of rural Montana. This proposal will provide a mechanism for increases to these facilities up to the median rate by utilizing local funding to provide for rate increases and will not result in increased general fund obligations.

Estimated Financial/Budget Impacts

The proposed rule changes are being proposed as transitional rules to be in effect for the rate year July 1, 2000 through June 30, 2001. The Legislature has approved a 1% provider rate increase to nursing facility providers with a 1/2% increase in case load or bed day growth for nursing facility providers in fiscal year 2001. The total state and federal funding available for fiscal year 2001 is projected at \$102,840,307. Included in this funding amount is \$5,859,658 of state and federal funds for direct care wage increases that will be distributed separately from the reimbursement funding formula as a rate add on. The estimated total funding available for fiscal year 2001 nursing facility reimbursement is approximately \$130,174,338 of combined state funds, federal funds, and patient contributions.

The estimated financial impact of the proposed changes is an increase of approximately \$4,162,655 in state and federal funds in fiscal year 2001 when compared to the fiscal year 2000 base expenditure projections inclusive of the direct care wage funding. Appropriated days for state fiscal year 2001 are estimated at 1,339,247. There are 98 nursing facilities in Montana that will be affected by these rule changes.

5. Interested persons may submit their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than 5:00 p.m. on June 8, 2000. Data, views or arguments may also be submitted by facsimile (406) 444-1970 or by electronic mail via the Internet to [dphhslegal@state.mt.us](mailto:dphhslegal@state.mt.us). The Department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

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

/s/ Dawn Sliva  
Rule Reviewer

/s/ Laurie Ekanger  
Director, Public Health and  
Human Services

Certified to the Secretary of State May 1, 2000.

BEFORE THE FISH, WILDLIFE AND PARKS COMMISSION  
OF THE STATE OF MONTANA

In the matter of the proposed )  
amendment of rule 12.6.901 )  
regulating personal water- ) NOTICE OF AMENDMENT  
craft on Tongue River )  
Reservoir )

TO: All Concerned Persons

1. On January 27, 2000, the Montana Fish, Wildlife and Parks Commission (commission) published notice of the proposed amendment of ARM 12.6.901 concerning regulation of personal watercraft on the Tongue River Reservoir at page 175 of the 2000 Montana Administrative Register, Issue Number 2. The commission provided two alternative proposals for consideration.

2. The commission has adopted Alternative B with the following changes, stricken matter interlined, new matter underlined:

ALTERNATIVE B

12.6.901 WATER SAFETY REGULATIONS (1) In the interest of public health, public welfare, public safety, and protection of property and public resources, the following regulations concerning the public use of certain waters of the state of Montana are hereby adopted and promulgated by the Montana fish, wildlife and parks commission.

(a) and (b) remain the same.

(c) The following waters are limited to a controlled no wake speed. No wake speed is defined as a speed whereby there is no "white" water in the track or path of the vessel or in created waves immediate to the vessel:

- Big Horn County: (A) Tongue River Reservoir as buoyed in the marina area at Campers Point;
- (B) The entire Tongue River Reservoir from the shoreline to ~~200~~ 300 feet off from the shoreline from the south point that forms Corral Creek Bay (DNRC cabin site) north to the face of the dam, west along the dam face, and south along the west shore of the reservoir to the point where the Tongue River enters the reservoir. Exceptions: (1) Personal watercraft which must maintain a certain minimum operating speed to remain upright

and maneuver in the water may travel at that minimum operating speed following the most direct route between the no wake zone and shore. (2) Motorized watercraft towing a skier from a dock or the shore.

(C) The following Tongue River Reservoir bays: Rattlesnake, Camper Point, Pee Wee Point, Cormorant Bay, Corral Creek (DNRC cabin site bay). Exceptions: (1) Personal watercraft which must maintain a certain minimum operating speed to remain upright and maneuver in the water may travel at that minimum operating speed following the most direct route from shore.

(d) through (g) remain the same.

~~(h) The use of personal watercraft is restricted on the following waters. The definition of a personal watercraft in 23-2-502, MCA applies to this rule:~~

~~Bighorn County: (A) Tongue River Reservoir is closed to the operation of personal watercraft. Exceptions: (1) Personal watercraft are allowed from July 15 to the Thursday before Labor Day each year between the hours of 12:01 p.m. until 6:00 p.m. daily.~~

AUTH: 23-1-106, 87-1-303, MCA

IMP: 23-1-106, 87-1-303, MCA

3. A total of 227 comments and one petition with 71 signatures were received regarding the proposed rule amendment. The following is a summary of the comments and appear with the commission's responses.

COMMENT 1: A number of individuals recommended increased enforcement and education of current regulations. The individuals stated the problems attributed to personal watercraft (PWC) operation are caused by the minority of PWC operators. Thirty-one individuals opposed either alternative and suggested the commission collect data over the 2000 recreation season. These individuals believed expanded camping opportunities and a larger reservoir size coupled with self-policing would help alleviate conflicts.

RESPONSE 1: More than half of the individuals providing comments thought both alternatives were too restrictive. The commission has adopted the least restrictive alternative and made that alternative even less restrictive than originally proposed in response to public comments. Numerous public complaints about irresponsible PWC operation prompted the commission to consider amending the water safety rule. The rule amendments enacted should help eliminate this concern. Additionally, the department will increase its enforcement activities at Tongue River Reservoir, institute an educational campaign to inform recreationists of existing boating regulations, and conduct a survey of site users to determine the effectiveness of the new rule or the need for further restrictions.

COMMENT 2: Many individuals stated that they felt a conflict does exist between PWC operators and other recreationists. Twelve of these individuals felt that PWC's should be banned entirely from Tongue River Reservoir as provided in Alternative A, and several individuals favored enactment of Alternative B, restricting PWC use on Tongue River Reservoir to specific dates and time of day. Other individuals favored less restrictive regulations such as imposing a no wake zone around the reservoir, establishing of no wake zones in all bays with camp areas and cabins, and applying zone specific uses to specific areas of the reservoir.

RESPONSE 2: The commission believes that most people are not in favor of eliminating PWC's from Tongue River Reservoir or restricting PWC operation to specific dates and times of day. This is borne out by thirty-seven comments, indicating that the proposed regulations are too harsh and recommending establishment of no wake bays and a no wake zone around the reservoir. The commission believes that the amendment as passed is a fair compromise to all recreationists who use the waters of Tongue River Reservoir. No wake bays have been established in addition to a no wake zone along the entire western shore extending around the dam to the south point of Corral Creek bay on the east shore of the reservoir. The commission is also requesting voluntary quiet hours from all watercraft operators. The quiet hours requested are from 8:00 p.m. until 8:00 a.m. the following day.

COMMENT 3: A petition with 71 signatures was submitted. The heading on each sheet of the petition stated that the undersigned disagreed with any type of ban on PWC's from Tongue River Reservoir. The writers of the petition cover letter expressed their frustration with irresponsible PWC operators who tarnish the reputation of all PWC owners. The writers suggested that a reasonable solution would be to increase enforcement and levy heavier fines for those found breaching the regulations.

RESPONSE 3: The commission believes that most people oppose the banning of PWC's from the Tongue River Reservoir. Therefore, the rule amendment passed did not ban PWC use. The commission agreed to give all recreationists the opportunity to police their own ranks in an attempt to lessen conflicts. Furthermore, the department has agreed to intensify enforcement efforts at the Tongue River Reservoir by scheduling more warden patrols, assigning a Motor Boat Safety Officer at the Reservoir, and by creating a Tongue River Reservoir State Park Manager position at the park. Like all new regulations, the department would first provide educational information about the rule, issue warnings when necessary, and issue citations when it becomes unavoidable. Additionally, the department will conduct a user survey this summer to determine the public's perception of how well the new rules are being received and obeyed.

The dollar amount for fines is established by the Montana Legislature. The commission does not plan to propose to ask the Legislature to increase the amount of fines.

COMMENT 4: Four individuals stated they have PWC's because they are less expensive to purchase and operate than a boat. These same four individuals also stated that PWC use is as much a family activity as water skiing and fishing.

RESPONSE 4: The adopted rule amendment does not single out or restrict PWC's more than any other watercraft.

COMMENT 5: One individual stated banning PWC use at the Tongue will send a clear message that PWC users need to clean up their act.

RESPONSE 5: The commission feels that PWC operators have heard loud and clear the need for them "to clean up their act". The number of comments received from PWC users asking that they be given the opportunity to police their ranks evidences this. The commission is giving the PWC community this opportunity and has instructed the department to conduct a user survey this summer for the purpose of determining the effectiveness of the new rule. The department will report these findings back to the commission. Should the survey show the need for more stringent regulations the commission will enact them.

COMMENT 6: Three individuals stated the proposed regulations on PWC's would only lead to restrictions on all motorized water craft in the future.

RESPONSE 6: The commission does not pass regulation for the sake of regulation. The proposed rule amendment was advanced in response to public request. It was public response that led the commission to adopt the new rule amendment which did not discriminate against any one type of watercraft. However, should the commission continue to receive complaints regarding

irresponsible watercraft operation they will again advance a more stringent regulation.

COMMENT 7: A few individuals commented that the commission needs to address PWC conflicts now before the problem is even larger.

RESPONSE 7: The basis for the proposed rule amendment was public comments received by the commission and the department urging action on PWC conflicts at Tongue River Reservoir. Comments received at public meetings and in writing led the commission to soften the rule amendment. It is the commission's belief that PWC operators have been placed on notice that continued irresponsible PWC operation at Tongue River Reservoir will result in more stringent rule amendments. The department will conduct a survey at Tongue River Reservoir during the 2000 recreation season to determine the public's reaction to the rule amendment. When the results of this survey are available they will be reported to the commission. Should the survey reveal that the new rule amendment has not significantly reduced conflicts, a more stringent rule amendment will be proposed.

COMMENT 8: One individual commented restricting PWC use at the Tongue River Reservoir would result in lost revenues to the department. Another individual commented restricting PWC use at the Tongue River Reservoir would result in increased revenues to the department as more families will come to the Reservoir to fish and camp.

RESPONSE 8: The commission believes the rule amendment as passed will not negatively impact department revenues at Tongue River Reservoir State Park. Both PWC operators and camping and fishing enthusiasts should find that the rule amendment satisfies their needs. The result of this amendment will be hard to judge from fee revenues alone. The two year closure of two camp areas and reduced reservoir levels needed for dam reconstruction resulted in decreased visitation at the park. With all the camp areas open and the reservoir levels returning to normal, operations should result in increased visitation and revenues at the park. The recreationist survey, to be conducted this recreation season, will reveal if revenues are being impacted negatively.

BY:

/s/ S.F. Meyer

/s/ Robert N. Lane

S.F. MEYER  
Commission Chairman

ROBERT N. LANE  
Rule Reviewer

Certified to the Secretary of State May 1, 2000

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

In the matter of the adoption ) NOTICE OF ADOPTION  
of rules I through XXX )  
pertaining to the children's )  
health insurance program )  
(CHIP) )

TO: All Interested Persons

1. On February 10, 2000, the Department of Public Health and Human Services published notice of the proposed adoption of the above-stated rules at page 416 of the 2000 Montana Administrative Register, issue number 3.

2. The Department has adopted the rules I (37.79.101); X (37.79.307); XI (37.79.308), XII (37.79.309), XIV (37.79.313), XV (37.79.316), XVI (37.79.317), XVIII (37.79.325) and XXIX (37.79.801) as proposed.

3. The Department has adopted the following rules as proposed with the following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined. Rule XVII (37.79.321) is adopted with changes to the effect of (2) through (5) being moved into new Rule XXX (37.79.322).

[RULE II] 37.79.102 DEFINITIONS As used in this subchapter, unless expressly provided otherwise, the following definitions apply:

(1) remains as proposed.

(2) "Applicant" or ~~"child"~~ means a person child under the age of 19 years and who ~~is the applicant~~ has applied or whose guardian has applied on the child's behalf, for CHIP services.

(3) remains as proposed.

(4) "Beneficiary" means a child who is eligible to receive CHIP benefits as determined by the department under this subchapter and is enrolled with an insurer. A child is not a beneficiary pending issuance of a hearing decision or during any period a hearing officer determines the child was not eligible for CHIP benefits.

(5) through (13) remain as proposed.

(14) "Income" or "family income" means adjusted gross earned income of all family members as defined by federal tax law and regulations plus unearned income. Regular, continuing and intermittent sources of income will be annualized for purposes of determining the annual income level.

(a) Income does not include:

(i) earned income of children in the household, unless they are of school age and are not attending school or are emancipated minors;

(ii) money received as assets drawn down such as

withdrawals from a bank or the sale of a house or a car;

(iii) gifts, loans, one-time insurance payments, except as beneficiary of a life insurance policy, or compensation for injury;

(iv) per capita income to enrolled members of Native American tribes;

(v) earned income which is excluded and dependent care expenses which are deducted from income under the state medicaid poverty programs for children; or

(vi) income excluded under federal medicaid regulations.

(14) through (19) remain as proposed but are renumbered (15) through (20).

(21) "Participating provider" means a health care professional or facility as defined at 33-36-103(19), MCA.

(20) remains as proposed but is renumbered (22).

~~(21)~~ (23) "Premium" means the amount of money the department pays monthly to an insurer for the provision of covered benefits to for each child beneficiary. The premium is paid whether or not the enrollee received covered benefits during the month for which the premium is intended. All benefits outlined in this subchapter, except eyeglass and dental services benefits, are paid by the department through this premium.

(24) "Primary care provider" means a participating health care professional designated by the insurer to supervise, coordinate or provide initial care or continuing care to a CHIP beneficiary and who may be required by the insurer to initiate a referral for specialty care and to maintain supervision of health care services to the CHIP beneficiary.

(22) and (23) remain as proposed but are renumbered (25) and (26).

~~(24) "Total family income" means earned and unearned income when appropriate. Regular, continuing and intermittent sources of income will be annualized for purposes of determining the annual income level.~~

~~(a) Total family income does not include:~~

~~(i) earned income of children in the household, unless they are of school age and are not attending school or are emancipated minors;~~

~~(ii) money received as assets drawn down such as withdrawals from a bank or the sale of a house or a car;~~

~~(iii) gifts, loans, one-time insurance payments, except as beneficiary of a life insurance policy, or compensation for injury; or~~

~~(iv) per capita income to enrolled members of Native American tribes.~~

(25) remains as proposed but is renumbered (27).

AUTH: Sec. 53-4-1009, MCA

IMP: Sec. 53-4-1003, MCA

[RULE III] 37.79.201 ELIGIBILITY (1) through (4)(k) remain as proposed.

(5) Children eligible to receive services from the Indian

health services (IHS) program administered by the United States department of health and human services are eligible for CHIP if they meet the criteria specified in this rule subchapter.

(6) Children and their guardians must comply with the procedures specified by the insurer or the department or both as necessary to obtain or access services benefits.

(7) remains as proposed.

~~(8) If a family fails to pay the fee specified in [Rule XIX], the child will not be enrolled with an insurer even though he/she is otherwise eligible.~~

(9) remains as proposed but is renumbered (8).

~~(10)~~ (9) CHIP eligibility and services benefits are not an entitlement. If funding is insufficient, the department may reduce eligibility to a lower percentage of the federal poverty level to reduce the number of individuals who are eligible to participate.

AUTH: Sec. 53-4-1004 and 53-4-1009, MCA  
IMP: Sec. 53-4-1003 and 53-4-1004, MCA

[RULE IV] 37.79.202 CHILDREN NOT ELIGIBLE (1) Children determined by the department to be eligible for medicaid through a medicaid application and eligibility determination process are not eligible to receive covered services benefits under CHIP.

(2) Children determined by the department to be potentially eligible for medicaid during CHIP eligibility determination must be screened and found ineligible for medicaid through a medicaid application and eligibility determination process before they are eligible to receive covered services benefits under CHIP.

(3) through (5) remain as proposed.

AUTH: Sec. 53-4-1004 and 53-4-1009, MCA  
IMP: Sec. 53-4-1003 and 53-4-1004, MCA

[RULE V] 37.79.206 ELIGIBILITY REDETERMINATION, NOTICE OF CHANGES (1) Eligibility determinations shall be effective for a period of 1 year unless one or more of the following changes occurs:

(a) through (e) remain as proposed.

~~(f) the child's guardian or the child himself is employed by the state becomes eligible for state employee benefits before the expiration of the 1 year eligibility period;~~

(g) and (h) remain as proposed.

(2) Eligibility may be redetermined sooner than 1 year after the most recent determination upon a change in residency, insurance status, medicaid eligibility status, incarceration in a public institution, age, eligibility of the guardian or child for state employee benefits, or the federal poverty level decreases any of the conditions specified in (1). Guardians may be required to submit completed forms and verification by a specified date for purposes of eligibility redetermination.

(3) remains as proposed.

AUTH: Sec. 53-4-1009, MCA  
IMP: Sec. 53-4-1003, MCA

[RULE VI] 37.79.207 TERMINATION OF ELIGIBILITY AND GUARDIAN LIABILITY (1) through (1)(c) remain as proposed.

(2) CHIP eligibility terminates at the end of the month:  
(a) the child beneficiary attains the age of 19 years;  
(b) remains as proposed.  
(c) the child beneficiary becomes a beneficiary of other creditable health insurance; or  
(d) the beneficiary is determined eligible for medicaid;  
or

~~(d)~~ (e) voluntary disenrollment of the CHIP beneficiary.  
(3) remains as proposed.  
(4) A guardian is liable to the department and the department may collect from the guardian the amount of actual premiums or payments or both to providers for any services benefits furnished to the child beneficiary because of an intentional misrepresentation of income or a failure to give the required notice of changes as required by this subchapter.

AUTH: Sec. 53-4-1009, MCA  
IMP: Sec. 53-4-1003, MCA

[RULE VII] 37.79.301 COVERED BENEFITS (1) An insurer must provide medically necessary benefits including inpatient and outpatient hospital services, physician services, advanced practice registered nursing services, prescription drugs, laboratory and radiology services, mental health services, chemical dependency services, vision services and eyeglasses, audiology services and medical dental services benefits as provided in this subchapter unless specific limitations to benefit coverage are noted.

(2) Eyeglasses and dental benefits are reimbursed by the department as specified in ARM 37.79.322 and 37.79.326.

~~(2)~~ (3) Emergency services, including urgent care and emergency room screening to determine if a medical emergency exists, shall be available 24 hours per day, 7 days per week. In emergency situations, no pre-authorization is required to provide necessary medical care and children may seek care from nonparticipating providers. The insurer may, however, require prior authorization for any needed follow-up care.

AUTH: Sec. 53-4-1009, MCA  
IMP: Sec. 53-4-1003, MCA

[RULE VIII] 37.79.302 COVERAGE LIMITATIONS (1) The lifetime maximum benefit coverage is one million dollars per child beneficiary per insurer.

(2) Pre-existing conditions of each child beneficiary are covered as of the effective date of enrollment if the condition would be otherwise covered except in the following conditions:

(a) a child beneficiary, hospitalized prior to the date of enrollment, who remains in the hospital on the effective date of

initial CHIP coverage shall not be covered for inpatient benefits for such hospitalization only. Upon discharge, the child beneficiary shall become eligible for benefits for any subsequent inpatient hospitalizations. This exclusion shall not apply to children who are renewing their CHIP enrollments.

~~(b) (3) The insurer shall provide covered benefits to a child beneficiary who is receiving inpatient hospital services benefits up to and including the 11th day after the effective date of losing CHIP eligibility.~~

~~(c) (4) A newborn child of a mother covered by CHIP shall have all medically necessary benefits covered by the insurer for 31 days after the newborn's date of live birth. Coverage for the newborn shall begin the day of live birth, without regard to whether the newborn is hospitalized on the date of coverage.~~

AUTH: Sec. 53-4-1009, MCA  
IMP: Sec. 53-4-1003, MCA

[RULE IX] 37.79.303 SERVICES BENEFITS NOT COVERED

(1) In addition to any exclusions noted elsewhere in these rules, the following services are not covered benefits:

(a) through (q) remain as proposed.

~~(r) benefits for a child who is incarcerated in a criminal justice institution; and~~

(s) remains as proposed.

AUTH: Sec. 53-4-1009, MCA  
IMP: Sec. 53-4-1003, MCA

[RULE XIII] 37.79.312 PRESCRIPTION DRUG BENEFITS

(1) through (3) remain as proposed.

(4) Food supplements and vitamins are not covered except prenatal vitamins and medical foods for treatment of inborn errors of metabolism as provided in 33-22-131, MCA. The need for a prescription to obtain a food supplements or vitamins shall not affect the application of this rule.

(5) remains as proposed.

AUTH: Sec. 53-4-1009, MCA  
IMP: Sec. 53-4-1003, MCA

[RULE XVII] 37.79.321 VISION BENEFITS (1) through (1)(c) remain as proposed.

~~(2) Eyeglasses shall be paid by the department through a single volume purchase contract.~~

~~(3) A child is limited to one pair of eyeglasses per 365 day period unless additional pairs are necessary due to any of the following circumstances:~~

~~(a) cataract surgery;~~

~~(b) .50 diopter change in correction in sphere;~~

~~(c) .75 diopter change in cylinder;~~

~~(d) .5 prism diopter change in vertical prism;~~

~~(e) .50 diopter change in the near reading power;~~

~~(f) a minimum of a 5 degree change in axis of any cylinder~~

- ~~less than or equal to 3.00 diopters;~~  
~~(g) a minimum of 3 degree change in axis of any cylinder greater than 3.00 diopters;~~  
~~(h) any 1 prism diopter or more change in lateral prism;~~  
or  
~~(i) the inability of the recipient to wear bifocals because of a diagnosed medical condition.~~  
~~(4) When the child meets one or more of the conditions in (3)(a) through (3)(i), the recipient may be allowed two pairs of single vision eyeglasses every 365 day period.~~  
~~(5) Contact lenses are not a covered benefit.~~

AUTH: Sec. 53-4-1009, MCA

IMP: Sec. 53-4-1003, MCA

[RULE XXX] 37.79.322 EYEGLASS BENEFITS (1) Eyeglasses shall be paid by the department through a single volume purchase contract.

(2) A beneficiary is limited to one pair of eyeglasses per 365 day period unless additional pairs are necessary due to any of the following circumstances:

- (a) cataract surgery;
  - (b) .50 diopter change in correction in sphere;
  - (c) .75 diopter change in cylinder;
  - (d) .5 prism diopter change in vertical prism;
  - (e) .50 diopter change in the near reading power;
  - (f) a minimum of a 5 degree change in axis of any cylinder less than or equal to 3.00 diopters;
  - (g) a minimum of 3 degree change in axis of any cylinder greater than 3.00 diopters;
  - (h) any 1 prism diopter or more change in lateral prism;
- or
- (i) the inability of the recipient to wear bifocals because of a diagnosed medical condition.

(3) When the beneficiary meets one or more of the conditions in (2)(a) through (2)(i), the recipient may be allowed two pairs of single vision eyeglasses every 365 day period.

(4) Contact lenses are not a covered benefit.

AUTH: Sec. 53-4-1009, MCA

IMP: Sec. 53-4-1003, MCA

[RULE XIX] 37.79.326 DENTAL BENEFITS (1) Dental services benefits will be reimbursed paid at 85% of the billed charges up to a maximum of \$200 \$350 per benefit year for each beneficiary by the department.

(a) Providers may not balance bill the child's beneficiary or guardian for the remaining 15% of the billed charges.

(b) Providers may bill the child's beneficiary or guardian for services in excess of the \$200 \$350 per benefit year covered by the department.

(2) remains as proposed.

(3) The following procedures are not a benefit of the CHIP

dental program:

(a) procedure codes D5900-D5999 maxillofacial prosthetics; D6000-D6199 implant services; ~~D7160~~ D7610-D7780 treatment of fractures; and D7940-D7999 other repair procedures; and D8000-D8999 orthodontics.

(4) through (6) remain as proposed.

AUTH: Sec. 53-4-1009, MCA

IMP: Sec. 53-4-1003, MCA

[RULE XX] 37.79.501 COST-SHARING PROVISIONS ~~(1) An annual enrollment fee of \$12 shall be assessed for a family of one whose income is greater than 100% of the federal poverty level.~~

~~(2) An annual enrollment fee of \$15 shall be assessed for a family of two or more whose income is greater than 100% of the federal poverty level.~~

~~(3) (1) Except as provided in (4) (2) and (5) (3), each CHIP beneficiary enrollee whose family income is greater than 100% of the federal poverty level must pay to the provider of service the following copayments not to exceed the cost of service:~~

~~(a) through (d) remain as proposed.~~

~~(i) dentist dental, pathologist pathology, radiologist radiology or anesthesiologist anesthesiology services are not subject to this copayment.~~

~~(e) and (f) remain as proposed.~~

~~(4) remains as proposed but is renumbered (2).~~

~~(5) (3) The total copayment for each family shall not exceed \$200 \$215 per family per beneficiary benefit year.~~

~~(6) (4) No annual enrollment fee or copayment shall apply to a child who declares himself to be the family of an applicant who is a Native American Indian or Alaska native. A guardian must declare that the applicant is a Native American Indian or Alaskan native for this exemption to apply.~~

AUTH: Sec. 53-4-1009, MCA

IMP: Sec. 53-4-1003, MCA

[RULE XXI] 37.79.503 ENROLLMENT WITH AN INSURER

(1) through (5) remain as proposed.

(6) The insurer must issue an appropriate identification card to a child beneficiary.

AUTH: Sec. 53-4-1009, MCA

IMP: Sec. 53-4-1003 and 53-4-1007, MCA

[RULE XXII] 37.79.504 ACCESS TO SERVICES RIGHT TO CHOOSE PRIMARY CARE PROVIDER (1) A child or guardian must have the opportunity to choose a primary care provider to the extent possible and medically appropriate from the providers available at the time of enrollment. The insurer may assign a child beneficiary to a primary care provider if a child or the guardian fails to ~~choose~~ choose one after being notified to do

so. The assignment must be appropriate to the child's age, sex and residence. The child beneficiary may change primary care providers once annually without good cause as defined in Montana insurance law and rules.

AUTH: Sec. 53-4-1009, MCA  
IMP: Sec. 53-4-1003, MCA

[RULE XXIII] 37.79.505 DISENROLLMENT WITH AN INSURER

(1) Participation in CHIP is voluntary and a child or guardian may withdraw from the program at any time.

(2) A child beneficiary or guardian who wishes the child to remain on CHIP may request, without good cause, disenrollment from one insurer and enrollment with another insurer annually.

(3) An insurer, based on good cause, may request that the department disenroll a child. The request with the reason for the request must be in writing.

(a) ~~A child~~ CHIP benefits may be terminated for good cause if the child beneficiary or guardian has violated rules adopted by the Montana commissioner of insurance for enrollment with an insurer.

(b) remains as proposed.

(4) Disenrollment takes effect, at the earliest, the first day of the month after the month in which the state or its designee contractor for ~~CHIP~~ receives the request for disenrollment, but no later than the first day of the ~~2nd~~ second calendar month after the month in which the request for disenrollment is received. The child remains enrolled with the insurer and the insurer is responsible for ~~services~~ benefits covered under the contract until the effective date of disenrollment, which is always the first day of a month.

(5) The department will disenroll a child beneficiary from a particular insurer if:

(a) remains as proposed.

(b) the child beneficiary permanently moves outside the insurer's enrollment area; or geographic area served by the insurer and:

(i) no other insurer can provide care through participating providers; and

(ii) the beneficiary or guardian does not agree to travel to the nearest participating provider for medical care except in the instances noted in ARM 37.79.605; or

(c) remains as proposed.

AUTH: Sec. 53-4-1009, MCA  
IMP: Sec. 53-4-1003, MCA

[RULE XXIV] 37.79.601 CONTRACTS FOR SERVICES BENEFITS

(1) The department may enter into a contract with an insurer with a certificate of authority issued by the Montana commissioner of insurance to provide any of the services benefits specified in these rules.

(2) An insurer entering into a contract with the department for the delivery of services benefits assumes the

risk that the costs of performance may exceed the consideration available through the premium.

(3) through (6) remain as proposed.

(7) The department may contract with individual dentists to provide dental services benefits as specified in ARM 37.79.326.

AUTH: Sec. 53-4-1009, MCA

IMP: Sec. 53-4-1003, MCA

[RULE XXV] 37.79.602 PROVISION OF SERVICES BENEFITS

(1) An insurer may impose the following requirements in the provision of services benefits:

(a) remains as proposed.

(b) preauthorization for services benefits other than emergency services;

(c) directing a child beneficiary to the appropriate level of care for receipt of covered services benefits; and

(d) denial of payment to a provider for services benefits provided to a child beneficiary if the participation requirements in this rule are not met by the child or the child's guardian.

(2) A child beneficiary must use an insurer's participating providers unless:

(a) remains as proposed.

(b) the child beneficiary receives ~~services provided for~~ an emergency services or emergency room screen.

(3) An insurer and its participating providers must provide covered services benefits as listed in this subchapter to children in the same manner as those services benefits are provided to non-CHIP enrollees beneficiaries.

(4) An insurer may at its discretion offer services benefits to children beyond the scope of CHIP benefits defined in this subchapter.

AUTH: Sec. 53-4-1009, MCA

IMP: Sec. 53-4-1003, MCA

[RULE XXVI] 37.79.605 PARTICIPATING PROVIDERS (1)

through (3) remain as proposed.

(4) Upon written notice by the department, the insurer must exclude from providing covered services benefits to CHIP children beneficiaries a provider who is currently suspended or terminated by the medicaid or the medicare program in any state.

(5) through (7) remain as proposed.

(8) A participating provider has no right to an administrative hearing with the department for a denial of payment by the insurer to the provider for a service provided to a child beneficiary.

(9) A participating provider, in providing services benefits under contract with an insurer, is not subject to any requirements or rights provided in this rule.

(10) remains as proposed.

AUTH: Sec. 53-4-1009, MCA  
IMP: Sec. 53-4-1003, MCA

[RULE XXVII] 37.79.606 REIMBURSEMENT OF INSURERS (1) In consideration for all services rendered by an insurer under a contract with the department, the insurer will receive a payment each month for each child beneficiary. This payment is the premium. Unless otherwise provided in this rule, the premium represents the total obligation of the department with respect to the costs of medical care and services benefits provided to each child beneficiary under the contract. Payment of the premium is considered to be payment in full and the insurer may not bill the child beneficiary or guardian, nor let its providers bill the child beneficiary or guardian, for any medical care provided beyond the cost-sharing provisions outlined in ARM 37.79.501.

(2) The insurer may retain any savings realized by the insurer from the expenditures for necessary health services benefits by the enrolled population totaling less than the premium paid by the department.

~~(3) The department may recover from the insurer any payments made to a provider who is used by the insurer in a manner that is not consistent with the provider's licensure.~~

AUTH: Sec. 53-4-1009, MCA  
IMP: Sec. 53-4-1003, MCA

[RULE XXVIII] 37.79.607 UTILIZATION REVIEW AND QUALITY ASSURANCE (1) The insurer shall have adequate staff and procedures to assure that health care provided to children beneficiaries is medically necessary and appropriate.

(2) remains as proposed.

AUTH: Sec. 53-4-1009, MCA  
IMP: Sec. 53-4-1003, MCA

3. The Department initiated changes in the rules adopted in this notice. A summary of the Department's changes is as follows:

Effective April 1, 2000 Montana Medicaid began applying earned income disregards for working guardians and began offsetting payment of dependent care expenses against earned income. The Department must consider the two disregards when a CHIP application is screened for potential Medicaid eligibility. To remain as consistent as possible with the Medicaid program, the Department will apply the same disregards to CHIP. Thus, subsection (24)(a)(v) was added to Rule II (37.79.102) to specify that "earned income which is excluded and dependent care expenses which are deducted from income under the state Medicaid program in the poverty programs for children" will not be counted as family income.

The Department has withdrawn its proposal for an annual  
Montana Administrative Register

9-5/11/00

enrollment fee charged to families whose income is above 100% of the poverty level. The final rules replace this fee with an increase in the annual copayment limit to \$215. In the final rules, Rule III(8) (37.79.201), Rule XX(1) and (2) (37.79.501) were deleted. In Rule XX(6) (37.79.501) the phrase "annual enrollment fee or" was struck, and "\$200" in Rule XX(5) (37.79.501) was replaced with "\$215". The Department made these changes so that CHIP will be more expedient for families. The earned income disregards discussed in the previous paragraph would have made it much more difficult for a family to determine whether they would owe an enrollment fee. Currently 20 to 25% of the families otherwise eligible for CHIP fail to send the enrollment fee without a second notice from the Department. When the applicant does not submit the enrollment fee with the initial application, enrollment of the child in CHIP is delayed and families experience a lack of timely access to reimbursement for medical care. There are also corresponding increases in administrative costs for the Department. The Department believes that the number of families who would fail to send the fee or who would send the fee unnecessarily will increase significantly when disregards are implemented.

The increase in the copayment amount from \$200 to \$215 annually will partially offset the state's cost of eliminating the enrollment fee. Many families have suggested that they wish to participate financially in their child's insurance costs. The governor and the legislature identified family financial participation as an important factor in enacting the CHIP enabling legislation. The proposed change will not adversely affect families because, overall, out-of-pocket expense will not increase while enabling those above the poverty level to continue to make a financial contribution to CHIP. All families participating in cost sharing will be subject to a maximum out-of-pocket expense of \$215 annually. Elimination of the \$15 enrollment fee will partially offset the increase in copayment amount for cost sharing families. Families who use few medical services will benefit from this change if they do not reach the \$215/annual copayment cap.

The Department discovered a typographical error in Rule XIX(3)(a) (37.79.326). The procedure code range of "D7160-D7780" should read "D7610-D7780". This error has been corrected in the final rule.

4. The Department has thoroughly considered all commentary received. The comments received and the department's responses to each follow:

COMMENT #1: CHIP insurers must cover outpatient physical therapy services in hospitals but not private practice. Physical therapists work in private practice as well as in hospitals. The Department should allow CHIP coverage for outpatient physical therapy provided by physical therapists working outside a hospital or clinic.

RESPONSE: The Legislature, in enacting the CHIP legislation, did not choose to specify that physical therapy benefits should be provided. The Department believes it is without authority to mandate physical therapy coverage. However, individual insurers who contract with CHIP are free to offer this service if they believe it will be more cost effective.

COMMENT #2: Rule XX (37.79.501) on cost sharing should specifically state that the Department will assess no enrollment fee or copayment to families below 100% of poverty.

RESPONSE: The Department believes that the current language specifying that cost sharing will apply to families above 100% of the federal poverty level is adequate to accomplish the commentor's intent.

COMMENT #3: Nurse anesthetist services should be exempted from the copayment provisions of the rule on cost sharing.

RESPONSE: The Department agrees and has adopted the term "anesthesiology" in the final rule to exempt both anesthesiologist and nurse anesthetist services from the copayment provisions of Rule XX (37.79.501). The Department has changed "dentist" to "dental", "pathologist" to "pathology", and "radiologist" to "radiology" as well, since these terms better describe that the services, rather than the providers, are exempt from the copayment.

COMMENT #4: Orthodontics and dental prosthetic treatments are elective and should not be included benefits. Orthodontics, acrylic and plastic restorations, anesthesia, gold inlay restorations, extraction of third molars, crowns (except stainless steel), installation of complete or partial dentures, bridge pontics and abutment crowns should also be excluded.

RESPONSE: The Department agrees that orthodontic treatment should not be covered. The Department's experience in administering the Medicaid program is that the other services listed by the commentor are necessary for some children. The department's policy is to leave treatment choices to dentists and parents to the greatest extent possible. CHIP does not pay for all dental services that a child may need. The Department believes that the limited monetary nature of the dental benefit will serve as a deterrent to unnecessary dental care and that more restrictions on services, beyond the ones specified, are not needed.

COMMENT #5: The \$200 dental services cap is not sufficient for basic preventive treatment and emergency care. The cap should not apply to children who have dental disease, are in pain or will be in pain or should be removed altogether.

RESPONSE: CHIP is governed by Title XXI of the Social Security Act. Congress appropriated a fixed amount of money for the

program. The Montana Legislature also authorized a fixed appropriation for the program. Federal regulations allow states to establish a benefit package as long as certain core services are provided. States are not required to provide a dental benefit, but may choose to do so. If a state chooses to cover dental care, all children must have the same dental benefit if they have a medical need for the service. In response to the comments it received about the need for a more comprehensive dental benefit, the Department has increased the dental limit to \$350 each benefit year in Rule XIX (37.79.326) in the final rule from the \$200 originally proposed. This increase in the dental benefit to \$350 each benefit year will mean that annually 375 fewer children will be served by CHIP than if the benefit were left at \$200. The Department did not increase the dental benefit beyond \$350 per year because of the corresponding number of children who would be excluded from the CHIP. As an example, if the dental benefit had been increased to \$500 each benefit year the number of CHIP children who could be served would decrease by 721 children when compared with the number who could be served with a \$200 limit.

COMMENT #6: Funding appropriated for CHIP dental coverage is not adequate. As a result, many dentists may not participate.

RESPONSE: Please see the response to Comment #5. In March 2000 there were 108 CHIP dental providers. The department hopes that by raising the CHIP dental benefit cap to \$350 each benefit year, more dental providers will be encouraged to participate.

COMMENT #7: 53-4-1009, MCA requires the Department to adopt rules governing confidentiality when necessary. The Department should compare the health care disclosures under CHIP with applicable confidentiality provisions and determine whether those provisions are sufficient from both a legal and administrative perspective.

RESPONSE: The Department agrees with the commentor's analysis. It will conduct an evaluation of the health care disclosures under CHIP and will determine if the applicable confidentiality provisions are sufficient to protect the privacy of CHIP beneficiaries and their families. If necessary, the department will propose confidentiality rules in a future notice.

COMMENT #8: The Department should remove the requirement in Rule VII(1) (37.79.301) that a CHIP insurer must provide dental benefits. Dental benefits will actually be underwritten by the Department.

RESPONSE: The Department requires CHIP insurers to provide dental services for certain conditions, such as traumatic injury. The word "medical" was inserted in Rule VII(1) (37.79.301) to clarify which services are covered under insurance and which services are provided under the separate dental benefit. Language specifying that eyeglasses and dental

services are reimbursed directly by the Department was also added to Rule VII(1) (37.79.301).

COMMENT #9: The term "enrollment area" should be defined as the State of Montana.

RESPONSE: The term "enrollment area" was deleted from Rule XXIII (37.79.505). Please see the response to comments 47 and 51 for more detail. The Department hopes to contract with multiple insurers to provide the insurance portion of CHIP benefits. These insurers may not offer statewide coverage. Families may wish to be covered although statewide coverage is not available.

COMMENT #10: The eyeglass benefit in Rule XVII(3)(b) and (3)(c) (37.79.321) should be more stringent. The diopter changes listed have a numerical cutoff too low to be cost effective. Rule XVII(3)(d) through (3)(i) (37.79.321) is unnecessary and would expose CHIP to abuse by providers.

RESPONSE: The Department declines to change the eyeglass criteria. These criteria have been used in the Medicaid program for several years. They were originally developed in consultation with vision providers. Medicaid has not found that they have been abused.

COMMENT #11: The Department should consistently use the term "benefits" throughout the rules to describe the medical, vision and dental services received by children served by CHIP. The term "beneficiary" should be used to describe children eligible to receive benefits and the term "applicant" should be applied to children and their guardians who apply for CHIP benefits but have not been determined eligible.

RESPONSE: The Department agrees and has made these changes where appropriate. In some instances, the Department has continued to use the terms "child" and "services" when they better describe the intent of the rule.

COMMENT #12: Rule II(7) (37.79.102) should state whether gross or net income will be used to determine total family income.

RESPONSE: The Department agrees, but believes this change would be better delineated in Rule II(24) (37.79.102) which was revised to specify that adjusted gross earned income as defined by federal income tax law and regulations and unearned income will be used to determine CHIP eligibility.

COMMENT #13: The requirement in Rule II(10) (37.79.102) that families must live together except when a family member temporarily resides in a treatment facility is too restrictive.

RESPONSE: The definition does not specify that family members must live together unless a member is in a treatment facility.

It is the Department's intent that family members live together unless a member is temporarily out of the home for reasons such as employment or attendance in a school.

COMMENT #14: The terms "authorized insurer", "health service corporation" and "health maintenance organization" should be defined in Rule II(15) (37.79.102).

RESPONSE: The Department intends the terms be used according to their definitions in the Montana Code Annotated. The Department declines to further define them in these rules.

COMMENT #15: The term "Montana resident" in Rule II(19) (37.79.102) should be expanded and outlined in detail. 53-4-1004(2), MCA requires that CHIP residency criteria conform as nearly as practicable with Medicaid eligibility requirements for residency.

RESPONSE: The Department declines to expand the definition. The Department believes that the proposed definition is adequate and in conformity with the Montana Code Annotated. It is also identical to the definition Montana Medicaid uses for residency.

COMMENT #16: The term "U.S. citizen" should be defined in Rule II (37.79.102).

RESPONSE: The Department declines to define this term further. The Department intends that the ordinary meaning, someone born in the United States or who has been naturalized according to Federal law, applies in this rule.

COMMENT #17: The term "covered benefits" in the proposed rules should be changed to "benefits".

RESPONSE: The Department agrees and has deleted the word "covered" from the final rules.

COMMENT #18: The term "state employee" should be clarified to explain the meaning of permanent employee status.

RESPONSE: The Department intends the term to have the meaning defined in the Montana Code Annotated. This is the common definition of the term and it would be redundant to repeat it in these rules.

COMMENT #19: The term "total family income" should not include income that may not be counted because of a Federal law.

RESPONSE: The Department acknowledges that is prohibited from counting certain income by federal law under the federal enabling Legislation for CHIP. The Department agrees with the commentor and has added language to Rule II(24) (37.79.102) to help clarify this requirement.

COMMENT #20: The definition of "unearned income" should specify that it is income that is not "earned income".

RESPONSE: The Department believes that the definition of unearned income is sufficient as proposed. To specify that unearned income is not earned income would be redundant, and the department declines to change the definition.

COMMENT #21: The rules should specify that a child is not eligible for CHIP benefits if the child is ineligible under these rules or federal requirements.

RESPONSE: The Department intends that the rules be read together. CHIP is federally funded and subject to federal requirements. Therefore, the Department believes that these rules are sufficient as proposed and declines to accept the commentor's proposal.

COMMENT #22: The term "rule" in proposed Rule III(5) (37.79.201) should be expanded to "these rules" because eligibility requirements in proposed Rule IV (37.79.202) would be considered besides those in Rule III (37.79.201).

RESPONSE: The Department agrees and has deleted the word "rule" and inserted the word "subchapter" in the final rules.

COMMENT #23: The term "eligibility period" in Rule III(9) (37.79.201) should be changed to "enrollment date" to assure that no more than one year elapses between eligibility redeterminations.

RESPONSE: The final rule will remain as originally proposed. The Department intends the eligibility period for a family to remain constant, however, the enrollment dates may vary for different members. For example, coverage of a newborn whose date of birth is six months after his siblings were first enrolled with a CHIP insurer should be redetermined at the same time as the siblings' coverage.

COMMENT #24: The term "state employee insurance benefits" in Rule IV (37.79.202) should be defined. A nominal benefit should not preclude CHIP eligibility.

RESPONSE: The Department intends the term "state employee insurance benefits" to mean the state group insurance established in MCA Title 2, chapter 18, parts 7 and 8. Montana law establishes the benefits and eligibility for state group insurance. Nominal benefits are defined by the Health Care Financing Administration. Therefore, the Department declines to define either term in this rule.

COMMENT #25: Rule IV (37.79.202) should specify that a CHIP beneficiary would lose eligibility immediately upon incarceration.

RESPONSE: This is specified in Rule VI(1)(b) (37.79.207).

COMMENT #26: Rule V(1)(a) (37.79.206) should be clarified because a decrease in the federal poverty level could be interpreted either as a change in the federal poverty level or as a change in total family income.

RESPONSE: The Department intends the rule to mean that a family's eligibility should be redetermined when there is a change in the federal poverty level as defined in Rule II(11) (37.79.102). The Department does not intend that eligibility be redetermined when the family's income changes as a percentage of the federal poverty level. The Department believes that the rule is sufficient as proposed, and declines to accept the commentor's proposal.

COMMENT #27: Does the term "other creditable coverage" have the same meaning in Rule V(1)(c) (37.79.206) as in Rule III(1)(e) (37.79.201)? If so, a definition or cross-reference should be added.

RESPONSE: The Department intends the meaning to be the same in both rules. The Department believes neither a definition nor a cross-reference is needed.

COMMENT #28: CHIP eligibility should be redetermined when a child's guardian becomes eligible for state group insurance benefits, not when the guardian is employed by the state. Under Montana law, a state employee's eligibility for group insurance benefits depends on the nature of the employment.

RESPONSE: The Department agrees and has changed Rule V(1)(f) (37.79.206) accordingly.

COMMENT #29: Rule V(2) (37.79.206) should be deleted or Rule V(1) and (2) (37.79.206) should be reconciled to eliminate apparent duplication.

RESPONSE: The Department agrees and has amended Rule V(2) (37.79.206).

COMMENT #30: CHIP eligibility should end immediately when a beneficiary is found eligible for Medicaid benefits. Medicaid eligibility should be added to Rule VI(1) (37.79.207), which lists conditions under which CHIP eligibility immediately ends.

RESPONSE: The Department disagrees. Children may become eligible for Medicaid for a retroactive period. For example, an application may be submitted at the beginning of a month, but not approved until the middle of a subsequent month. Medicaid eligibility would be effective to the date of application. However, the CHIP insurance premiums have already been paid to the insurer and the insurer is obligated to provide the insurance benefit for the periods for which premiums were paid.

The Department intends that CHIP coverage continue through the end of the month for which a premium was paid. It does not intend to relieve insurers of their contractual obligations.

COMMENT #31: Rule VI (37.79.207) should be amended to provide that CHIP eligibility ends on the date a beneficiary attains the age of 19 years. Under federal guidelines, CHIP eligibility should end when a beneficiary turns 19, unless coverage has been prepaid. As currently administered by the Department, a CHIP insurer is paid on the 25th day of the month for coverage during the month. CHIP coverage for the month in which a beneficiary attains the age of 19 is not truly prepaid.

RESPONSE: The Department disagrees, and declines to accept the commentor's proposed changes. The Montana state plan specifies that CHIP will cover the child through the end of the month of the child's 19th birthday. This state plan is acceptable to the Health Care Financing Administration. Furthermore, the Department pays most premiums to the insurer well before the 25th day of the month.

COMMENT #32: Rule VI(1) (37.79.207) should be amended to add a change of residence to the list of conditions that will result in immediate termination of CHIP eligibility.

RESPONSE: The Department agrees and directs the commentor's attention to Rule VI(1)(c) (37.79.207) which specifies that coverage terminates when a child moves from the state. A change in residence within Montana will not, however, cause the child to be automatically terminated. For further clarification, please see the response to Comment #51.

COMMENT #33: Rule VI(4) (37.79.207) should be amended so that the CHIP insurer, not the Department, will collect amounts paid to providers on behalf of a child because of misrepresentation of income or failure to give notice of changes as required by the rules.

RESPONSE: The Department disagrees, and declines to accept the commentor's suggestion. The Department has paid a premium to the insurer for medical services or has paid the provider for dental services or eyeglasses. Any money for which the guardian is liable is due the Department, not the insurer or provider who has already been paid.

COMMENT #34: Rule VII(1) (37.79.301) should specify which benefits are to be provided by CHIP insurers and which are to be provided by the Department.

RESPONSE: The Department agrees and has added Rule VII(2) (37.79.301) to specify which benefits are reimbursed directly by the Department.

COMMENT #35: A definition of the term "participating provider"

should be added to Rule II (37.79.102). The definition should be modeled on 33-36-103(19), MCA.

RESPONSE: The Department agrees and has added a definition of participating provider to Rule II (37.79.102).

COMMENT #36: Rule VIII(2)(b) (37.79.302) should be supplemented to specify that sometimes, such as when a beneficiary attains the age of 19 years and benefits are not prepaid, CHIP eligibility will end immediately even if the beneficiary is receiving inpatient hospital benefits.

RESPONSE: The Department disagrees, and declines to accept the proposed change. Please see the explanation in the response to Comment #31. Payment for the full month is included in the premium paid to the insurer.

COMMENT #37: The circumstances addressed in Rule VIII(2)(b) and (2)(c) (37.79.302) are not preexisting conditions. They should be renumbered.

RESPONSE: The Department agrees and has renumbered Rule VIII (37.79.302).

COMMENT #38: Rule VIII(2)(c) (37.79.302) should specify that CHIP coverage for the newborn child of a CHIP beneficiary is available after the first 31 days only if an application is submitted and CHIP eligibility requirements are met.

RESPONSE: The Department believes the rule, as written, is sufficient and declines to accept the commentor's proposal. Eligibility requirements are defined in Rule III (37.79.201).

COMMENT #39: Federal and state law restricts CHIP benefits. Benefits are modeled on the state employees group insurance benefits. Since the mandatory restrictions and the model plan are subject to change, CHIP benefits and restrictions should not be specifically outlined in the rules.

RESPONSE: The Department disagrees, and declines to accept the commentor's proposal. The Department believes that one function of the rules is to provide information to the public about obligations, rights and benefits conferred under CHIP. Therefore, in the interest of public disclosure, benefits should be outlined in these rules. Ease of maintenance must be balanced against the public's right to know. The Department believes the convenience of the commentor's suggestion is outweighed by the public's need for information about CHIP coverage.

COMMENT #40: 53-4-1005(2), MCA prevents the Department from providing payment for birth control contraceptives under CHIP. Rule IX(1) (37.79.303) should specifically exclude birth control contraceptives and treatment for temporal mandibular joint (TMJ)

disease.

RESPONSE: The Montana Administrative Procedure Act 2-4-305(2), MCA suggests that rules should not unnecessarily repeat statutory language. Therefore, the department declines to address birth control contraceptives in this rule. The Department believes that temporal mandibular joint (TMJ) disease should be covered to the same extent that other diseases are covered. Therefore, the Department declines to accept the commentor's proposal.

COMMENT #41: The term "incarcerated in a criminal justice institution" in Rule IX(1)(r) (37.79.303) should be changed to "inmate of a public institution".

RESPONSE: The Department agrees that the term should be clarified and has changed Rule IX(1)(r) (37.79.303) to "a child who is incarcerated". The term "incarcerated" is defined in Rule II (37.79.102).

COMMENT #42: As currently administered by the Department, CHIP beneficiaries are entitled to the well baby, well child and immunization services recommended by the American Academy of Pediatrics. Rule XII(3) (37.79.309) would add immunizations recommended by the Advisory Committee on Immunizations. The Department should clarify the well baby, well child and immunization benefits that must be provided to CHIP beneficiaries.

RESPONSE: The Department declines to accept the commentor's request for further clarification. The coverage recommended by these two groups is mandated by Health Care Financing Administration regulations. Currently, the two groups have identical immunization recommendations. Therefore, clarification is unnecessary.

COMMENT #43: The term "inborn errors of metabolism" in Rule XIII(4) (37.79.312) should be expanded and made consistent with 33-22-131, MCA.

RESPONSE: The Department agrees and has added a reference to 33-22-131, MCA after the phrase "inborn errors of metabolism" in Rule XIII(4) (37.79.312).

COMMENT #44: For the sake of consistency, the term "family income" in Rule XX(3) (37.79.501) be changed to "total family income".

RESPONSE: The Department agrees and has amended Rule XX (37.79.501) to change the term "total family income" to "income". The definition in Rule II(24) (37.79.102) was changed to clarify which income is included and which is excluded in a family.

COMMENT #45: Because they may be subject to change, the enrollment fees and copayments in Rule XX should not be specifically stated. This would make the rule easier to maintain.

RESPONSE: The Department believes that copayments should be outlined in these rules. Ease of maintenance must be balanced against the public's right to know specifics of the program. The Department believes the convenience of the commentor's suggestion is outweighed by the public's need for information about CHIP copayments. The enrollment fee has been eliminated. For details, please see the Department's changes and the responses to comments on Rules III (37.79.201) and XX (37.79.501).

COMMENT #46: Rule XXI (37.79.503) should be supplemented to include a description of the process the department will use to designate an insurer if a family fails to express a preference.

RESPONSE: The Department does not believe that this level of detail is necessary in the rule. The Department has developed an administrative process to assign children to an insurer if more than one insurer is available. Children may disenroll with the insurer the Department assigns as specified in Rule XXIII. Therefore, the Department declines to adopt the commentor's suggested change.

COMMENT #47: Rule XXI(4) (37.79.503) should be expanded to provide that an insurer is not required to accept a beneficiary who resides in a part of the state in which the insurer has no participating providers.

RESPONSE: The Department wishes to leave this choice up to the family. This situation has arisen in the past and families have chosen to travel to obtain care from a participating provider rather than remain uninsured. Therefore, the Department has clarified Rule XXIII (37.79.505) to give the child or beneficiary the choice to travel to the nearest participating provider. For more discussion, see the response to Comment #51.

COMMENT #48: The definition of the term "primary care provider" should be modeled on 33-36-103(20), MCA.

RESPONSE: The Department agrees and has incorporated a definition of "primary care provider" in Rule II (37.79.102).

COMMENT #49: A CHIP insurer should have the right to require beneficiaries to use participating providers only, except in cases of emergency.

RESPONSE: The conditions that the insurer may impose, including the use of a participating provider, are already noted in Rule XXV (37.79.602).

COMMENT #50: The word "chose" in Rule XXII(1) (37.79.504) be changed to "choose".

RESPONSE: The Department agrees and has changed the final rule accordingly.

COMMENT #51: The Department should clarify the meaning of the term "insurer's enrollment area" in Rule XXIII(5)(a) (37.79.505).

RESPONSE: The Department agrees and has rewritten the rule to specify that if a child moves to a geographic area where their insurer does not have a participating provider, the department will disenroll the child from the previous insurer and will enroll the child with an insurer who has participating providers in the county. However, if no insurers can offer a participating provider in the area, the child or the child's guardian will be given a choice to disenroll from the CHIP program or to agree to travel to the closest participating provider to obtain medical care, except in the instances noted in Rule XXV (37.79.602).

COMMENT #52: The term "good cause" should be defined in the rules or a reference to the applicable statute or rule in Montana insurance law should be included.

RESPONSE: The Department intends the term "good cause" as used in these rules to have the meaning appropriate in the context and consistent with Montana health insurance law. The existence of good cause for termination of an insurance contract is a determination to be made by the Commissioner of Insurance under the authority of state law. The Department declines to further define the term for purposes of CHIP.

COMMENT #53: The Department should explain the purpose of Rule XXIV (37.79.601) that prohibits a CHIP insurer from holding a beneficiary or guardian responsible for the insurer's debts. An insurer should be allowed to recover payments it made on behalf of a beneficiary who was later found ineligible for CHIP benefits.

RESPONSE: The Department disagrees. If an insurer has been paid a CHIP premium by the department on behalf of a child, the insurance company may not shift the responsibility of paying a provider to the child or his guardian. For a further explanation, please see the response to Comment #33.

COMMENT #54: Rule XXV(3) (37.79.602) requiring the insurer to provide services to CHIP beneficiaries in the same manner as non-CHIP persons is inapplicable and should be deleted. Providers, not insurers provide services directly to CHIP beneficiaries and other persons.

RESPONSE: The Department agrees and has amended Rule XXV(3)

(37.79.602) to specify that an insurer and "its participating providers" are subject to the requirement that CHIP children not be treated in a different manner than other clients are treated. For example, if a doctor would routinely hospitalize a child with a certain medical condition, the doctor may not choose to treat the CHIP child with home care and bed rest solely because of the child's insurance status. Nor may the insurer place more restrictive criteria on coverage for this group of beneficiaries solely on the basis of their CHIP status. This rule should not be interpreted to imply that a provider or insurer cannot make reasonable decisions based on the individual circumstances and medical needs of a particular child.

COMMENT #55: Under some circumstances, an insurer or provider should be allowed to bill a CHIP beneficiary or guardian. An insurer should be allowed to recover payments made on behalf of a beneficiary who is later found ineligible for CHIP benefits. A provider should be allowed to bill for a service that is not a benefit of CHIP. Rule XXVII(1) (37.79.606) should be amended to recognize those circumstances.

RESPONSE: The Department agrees such circumstances may exist. It will conduct an evaluation of the circumstances under which a CHIP provider should be allowed to bill for a service which is not a benefit of CHIP. If necessary, the Department will propose rules in a future notice.

COMMENT #56: To comply with the terms of Rule XXVII(1) (37.79.606), an insurer must include a provision in its provider agreements that a provider may not bill a CHIP beneficiary or guardian. This requirement would be easier to administer if the term "its providers" was changed to "its participating providers".

RESPONSE: The Department intends that an insurer must guarantee that the CHIP beneficiary or guardian will not be billed regardless of whether the provider is a "participating" provider or not. This may mean that if a participating provider is not available, the insurer may have to pay 100% of a provider's charges to ensure that the CHIP beneficiary receives necessary medical services. The insurer may also enter into an agreement with a non-participating provider on a one-time or case-specific basis. In any event, pending further rules, the CHIP beneficiary cannot be billed for any charges not paid by the insurer.

COMMENT #57: Proposed Rule XXVII(3) (37.79.606) would allow the Department to recover from an insurer any payment made to a provider who was utilized by the insurer in a manner inconsistent with the provider's license. The provision is ambiguous and exceeds the scope of the department's rule making authority. The disputed provision was not supported by a rationale in the notice of proposed rule making.

RESPONSE: The Department agrees and has withdrawn the proposal. It will conduct an evaluation of the need to recover payments made to a provider utilized by the insurer in a manner inconsistent with the provider's license. If appropriate, the department will propose rules in a future notice.

COMMENT #58: The time allowed in Rule V(3) (37.79.206) for a CHIP guardian to report changes which affect eligibility is inconsistent with the time allowed recipients of Medicaid, food stamps and Temporary Assistance to Needy Families (TANF). The time should be reduced from 30 days to 10 days for the sake of consistency.

RESPONSE: CHIP eligibility is not related to any of the programs listed by the commentor. The Department believes that 30 days is a reasonable time-frame for notification, and a shorter time would not be reasonable for CHIP purposes. Therefore, the Department declines to accept the suggested change.

COMMENT #59: Is the provision in Rule XX(6) (37.79.501) which waives the CHIP enrollment fee and copayments for a person who declares himself to be a Native American permissible?

RESPONSE: The Federal law which regulates CHIP funding prohibits the Department from charging enrollment fees and copayments to Native Americans. In its effort to administer CHIP in the most efficient and cost-effective manner, the department considered options for determining whether a child is a Native American. The Department recognizes the sovereignty of Native American Indian nations, and affirms the right of those nations to determine tribal membership. The Department could have contacted each Indian nation to determine whether a CHIP applicant was an enrolled member. The Department also could have required a CHIP applicant claiming Native American status to provide proof of tribal enrollment. However, the Department determined that those options would have been too burdensome, time-consuming and expensive in view of the remote likelihood of fraudulent claims of Native American heritage. The Department also recognizes that some persons may be incorporated into Native American communities but would not qualify for tribal membership. Considering the federal policy requiring states to promote CHIP in minority communities, the Department determined that self declaration would best serve the citizens of Montana. Rule XX(6) (37.79.501) has been amended to make clearer that a family is exempt from the copayment requirement if any of the applicants for CHIP is a Native American or Alaskan Native. HCFA has declared that this exemption does not apply if only a sibling who has not applied for CHIP or the guardian is Native American or Alaskan Native.

COMMENT #60: The language in Rules XXII (37.79.504) and XXIII (37.79.505) requiring or allowing a child to make certain elections is too restrictive. The term "guardian" should be

added to accommodate children who are not competent to perform those functions.

RESPONSE: The Department agrees and has amended the rules accordingly.

/s/ Dawn Sliva  
Rule Reviewer

/s/ Laurie Ekanger  
Director, Public Health and  
Human Services

Certified to the Secretary of State May 1, 2000.

VOLUME NO. 48

OPINION NO. 11

COURTS, CITY - Procedure for selecting substitute city judge;  
COURTS, JUSTICE - Procedure for selecting substitute justice of  
peace;  
JUDGES - Procedures for selecting substitute city judge and  
substitute justice of peace;  
JUSTICES OF THE PEACE - Procedure for selecting substitute  
justice of peace;  
MONTANA CODE ANNOTATED - Title 3, chapter 3; sections 3-1-803,  
-805, 3-10-231, 3-11-203;  
OPINIONS OF THE ATTORNEY GENERAL - 40 Op. Att'y Gen. No. 26  
(1983).

- HELD: 1. A substitute city court judge may be selected by the  
sitting city judge from a list of qualified persons  
regardless of the availability of another city judge  
or justice of the peace.
2. If a sitting justice of the peace has been  
disqualified pursuant to Mont. Code Ann. § 3-1-803 or  
-805, the substitute justice must be another justice  
of the peace and may not be someone who has qualified  
to act as a substitute justice under Mont. Code Ann.  
§ 3-10-231(2). If the sitting justice of the peace is  
sick, disabled or absent, the substitute justice may  
be a person who has qualified under § 3-10-231(2), as  
long as another justice of the peace or a city judge  
is not readily available. If the sitting justice of  
the peace is on vacation or in training, the  
substitute justice is chosen in the same manner as if  
the justice were sick or absent, as long as there is  
not another justice of the peace from the county of  
the sitting justice.
3. In determining who is available to act as a substitute  
justice of the peace, the sitting justice may rely  
upon letters from other justices and city judges that  
they are unavailable. Such letters should not be  
relied upon indefinitely, however. After a reasonable  
time, as determined by the sitting justice, the  
justices and judges who wrote the letters should be  
contacted to determine if they are still unavailable.

April 20, 2000

Mr. Steven J. Shapiro  
Town Attorney  
P.O. Box 2187  
Clancy, MT 59634

Dear Mr. Shapiro:

Montana Administrative Register

9-5/11/00

You have requested my opinion on two questions which I have rephrased as follows:

1. Is a person who holds the offices of both city judge and justice of the peace required to contact city judges and justices of the peace in neighboring counties and elsewhere before calling a substitute judge who is not an elected or appointed city judge or justice of the peace?
2. May a person who holds the offices of both city judge and justice of the peace rely upon letters from city judges and justices of the peace from neighboring counties indicating that they are unavailable in deciding whom to call as a substitute judge?

Your questions arise from a situation in which the city judge for the Town of Boulder is also the justice of the peace for Jefferson County. Both the Town of Boulder and Jefferson County maintain lists of persons, pursuant to Mont. Code Ann. §§ 3-11-203 and 3-10-231, who may be called upon when the judge is absent or has been disqualified. Three justices of the peace and one city judge from neighboring counties have sent letters stating that each is unavailable to act as a substitute judge or justice of the peace because of heavy caseloads. Your questions concern how these letters should be used when selecting someone to sit as a substitute city judge or a substitute justice of the peace.

With respect to selecting a substitute for a city judge, the answer is fairly straightforward. Mont. Code Ann. § 3-11-203 defines when a substitute may be called in as a city judge and provides:

- (1) The city judge or mayor may call in a city judge, a justice of the peace, or some qualified person to act in the judge's place whenever the judge is:
  - (a) a party in a case;
  - (b) interested in a case;
  - (c) the spouse of or related to either party in a case by consanguinity or affinity within the sixth degree; or
  - (d) sick, absent, or unable to act.
- (2) The city judge may call in a city judge, justice of the peace, or some qualified person to act in his stead when a disqualifying affidavit is filed against him pursuant to the supreme court's rules on disqualification and substitution of judges.
- (3) A city judge of any city or a justice of the peace of any county may sit as city judge at the city judge's request.

Under this section, a qualified person may be called in when the judge is sick, absent, unable to act or disqualified. There is no requirement to contact any city judge or justice of the peace prior to calling in a "qualified person." In response to your questions, then, with respect to calling in a substitute for a city judge, a substitute judge may be called in regardless of the availability of another justice of the peace or city judge and whether or not the other justices have expressed that they are unavailable.

The answers are more complicated, however, with respect to the position of justice of the peace because the reason for the absence of the justice determines who may be called in as a substitute justice. Mont. Code Ann. § 3-10-231 describes the procedures for calling in a substitute justice of the peace:

(1) Whenever a justice of the peace is disqualified from acting in any action because of the application of the supreme court's rules on disqualification and substitution of judges, 3-1-803 and 3-1-805, the justice of the peace shall either transfer the action to another justice's court in the same county or call a justice from a neighboring county to preside.

(2) (a) The following requirements must be met to qualify a substitute for a justice of the peace:

(i) Within 30 days of taking office, a justice of the peace shall provide a list of persons who are qualified to hold court in the justice's place during a temporary absence when another justice or city judge is not available.

. . . .

(3) Whenever a justice is sick, disabled, or absent, the justice may call in another justice, if there is one readily available, or a city judge or a person from the list provided for in subsection (2) to hold court for the absent justice until the absent justice's return. If the justice is unable to call in a substitute, the county commissioners shall call in another justice, a city judge, or a person from the list provided for in subsection (2).

(4) During the time when a justice of the peace is on vacation or attending a training session, another justice of the peace of the same county is authorized to handle matters that otherwise would be handled by the absent justice. When there is no other justice of the peace in the county, the justice of the peace may designate another person in the same manner as if the justice were sick or absent.

(5) A justice of the peace of any county may hold the court of any other justice of the peace at that justice's request.

The manner in which a substitute justice of the peace is chosen and who may be chosen depend upon the reason for the sitting justice's absence.

If a justice of the peace is absent because of disqualification under Mont. Code Ann. § 3-1-803 or -805, then the justice must either transfer the case to a justice in the same county or call in a justice from another county. If there is no other justice in the county, the only remaining option is to call in a justice from a neighboring county.

You have indicated that there is not another justice from Jefferson County or another city judge from the Town of Boulder, and that justices from neighboring counties and the city judge from Helena have stated in letters they are not available to act as substitutes due to their heavy caseloads. You ask if a non-elected or non-appointed justice can be called as a substitute. Mont. Code Ann. § 3-10-231(2) describes the procedure for qualifying persons to act as substitute justices of the peace and you indicate that a list of such "qualified persons" is being maintained in Jefferson County.

Your question is whether such a "qualified person" may act as a substitute without having to call in a justice from a neighboring county. Mont. Code Ann. § 3-10-231(1) is clear in stating that when a justice is disqualified, *only* another justice from the same county or a neighboring county may be called to substitute. See also 40 Op. Att'y Gen. No. 26 (1983) ("qualified person" may not be called in when the justice is disqualified). As you have noted, the Montana Supreme Court has strictly construed the statutes on substitute justices of the peace. Potter v. District Court, 266 Mont. 384, 880 P.2d 1319 (1994). Therefore, in response to your first question, when a justice has been disqualified, the justice may not call in a substitute who was neither appointed nor elected as a justice of the peace.

Your second question asks whether a disqualified justice may rely on letters from justices from neighboring counties which indicate that the justices are unavailable to act as substitute justices due to their heavy caseloads. Under the statutes on substitution of justices, there is no procedure for determining availability of justices in neighboring counties. It is therefore up to the individual sitting justice who becomes disqualified to determine availability of a neighboring justice each time he becomes disqualified. This does not mean that the disqualified justice must contact justices whom he knows or he reasonably believes cannot serve as substitutes. The law does not require idle acts. Mont. Code Ann. § 1-3-223.

A letter from a neighboring justice stating that he or she is too busy to act as a substitute may be relied upon by the sitting justice for a reasonable period of time. It would be unreasonable, however, to rely upon such a letter indefinitely to determine the availability of the justice. Periodically, the justices who wrote the letters should be contacted to determine if they are still unavailable. The reasonableness of such a time period may vary, but it would be prudent to contact the justices every four to six months to determine whether they are still unavailable.

If the disqualified justice is satisfied that justices from "neighboring" counties are unavailable, whether through reasonable reliance upon letters or other communication, then justices from other counties may be contacted. Under Mont. Code Ann. § 3-10-231(5), a "justice of the peace of any county may hold the court of any other justice of the peace at that justice's request." Thus, a justice of the peace from any county may sit as a substitute, if justices in the neighboring counties are unavailable.

If the sitting justice has not been disqualified, but is sick, disabled, or otherwise absent, Mont. Code Ann. § 3-10-231(3) states that the "justice may call in another justice, if there is one readily available, or a city judge or a person from the list provided for in subsection (2) to hold court for the absent justice until the absent justice's return." Although this section could be read to provide that it is discretionary for the sitting justice to call in another justice, if one is readily available, or a city judge or another qualified person, the Montana Supreme Court in Potter read this language as mandatory and stated that a readily available justice or a city judge must be contacted before calling in an otherwise qualified substitute justice.

In Potter, the court read subsections (2) and (3) of Mont. Code Ann. § 3-10-231 together and stated that the first sentence of subsection (2) affects the manner in which a substitute justice may be called in under subsection (3). Section 3-10-231(2) states, with respect to the procedures for qualifying someone to be on the "qualified persons" list, that the "justice of the peace shall provide a list of persons who are qualified to hold court in the justice's place during a temporary absence when another justice or city judge is not available." The court in Potter interpreted subsection (2) as providing that a sitting justice may call in a qualified person only when no other justice or city judge is available, stating:

Additionally, the defendants maintain that, before calling in a substitute judge from the list, there must be no other justice of the peace, or city judge available to act as a substitute judge. We agree with that conclusion. Reading § 3-10-231(3) and (4), MCA, *in pari materia*, with § 3-10-231(2), MCA, as we must

(§ 1-2-101, MCA), it is clear that a sitting judge may call in a substitute judge from the list ". . . when no other justice or city judge is available." Section 3-10-213(2), MCA. Accordingly, we conclude that, under the statutory scheme enacted by the legislature, in addition to the three requirements set forth in the immediately preceding paragraph of this opinion, a sitting justice of the peace must first attempt to call in another justice of the peace, if there is one readily available, (§ 3-10-231(2), MCA), or a city judge before resorting to calling in a qualified substitute judge from the list. Sections 3-10-231(2), (3) and (4), MCA.

Potter, 880 P.2d at 1324.

Thus, only if neither a justice of the peace nor a city judge is available may a qualified person be called in to act as a substitute justice of the peace when the sitting justice is unavailable as defined in Mont. Code Ann. § 3-10-231(3). As discussed above, the sitting justice may reasonably rely upon current and accurate letters indicating that another justice of the peace or city judge is not available.

If the sitting justice is absent due to training or a vacation, and there is not another justice in the county, the procedure for calling in a substitute justice of the peace is the same as if the justice were sick or absent.

In summary, how a substitute justice is selected depends upon the reasons for the absence of the sitting justice. In cases where the sitting justice is disqualified, only another justice may be called in. When the sitting justice is sick, disabled or absent, another justice or city judge may be called if he or she is readily available. Otherwise, a person who has been qualified under Mont. Code Ann. § 3-10-231(2) may be called as a substitute. When the sitting justice is on vacation or in training, and there is not another justice from the sitting justice's county, then a substitute is determined in the same manner as if the justice were sick or absent.

As a caveat, it should be noted that nothing in this opinion addresses or is intended to address the selection of a municipal court judge as a substitute or acting justice of the peace, or as a substitute or acting city judge.

THEREFORE, IT IS MY OPINION:

1. A substitute city court judge may be selected by the sitting city judge from a list of qualified persons regardless of the availability of another city judge or justice of the peace.

2. If a sitting justice of the peace has been disqualified pursuant to Mont. Code Ann. § 3-1-803 or -805, the substitute justice must be another justice of the peace and may not be someone who has qualified to act as a substitute justice under Mont. Code Ann. § 3-10-231(2). If the sitting justice of the peace is sick, disabled or absent, the substitute justice may be a person who has qualified under § 3-10-231(2), as long as another justice of the peace or a city judge is not readily available. If the sitting justice of the peace is on vacation or in training, the substitute justice is chosen in the same manner as if the justice were sick or absent, as long as there is not another justice of the peace from the county of the sitting justice.
  
3. In determining who is available to act as a substitute justice of the peace, the sitting justice may rely upon letters from other justices and city judges that they are unavailable. Such letters should not be relied upon indefinitely, however. After a reasonable time, as determined by the sitting justice, the justices and judges who wrote the letters should be contacted to determine if they are still unavailable.

Sincerely,

/s/ Joseph P. Mazurek

JOSEPH P. MAZUREK  
Attorney General

jpm/elg/dm

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.

Business and Labor Interim Committee:

- ▶ Department of Agriculture;
- ▶ Department of Commerce;
- ▶ Department of Labor and Industry;
- ▶ Department of Livestock;
- ▶ Department of Public Service Regulation; and
- ▶ Office of the State Auditor and Insurance Commissioner.

Education 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, Justice, and Indian Affairs Interim Committee:

- ▶ Department of Corrections; and
- ▶ Department of Justice.

Revenue and Taxation Interim Committee:

- ▶ Department of Revenue; and
- ▶ Department of Transportation.

State Administration, Public Retirement Systems, 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.

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

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies which have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through December 31, 1999. This table includes those rules adopted during the period January 1, 2000 through March 31, 2000 and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within 6 months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 31, 1999, this table and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule and the page number at which the action is published in the 1999 and 2000 Montana Administrative Registers.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number. These will fall alphabetically after department rulemaking actions.

GENERAL PROVISIONS, Title 1

1.2.419 Scheduled Dates for the Montana Administrative Register, p. 2432, 2777

ADMINISTRATION, Department of, Title 2

I & II and other rules - State Procurement, p. 2124, 65  
2.21.227 Annual Vacation Leave Policy, p. 903  
2.21.306 and other rule - Disaster Leave for Trained American Red Cross Volunteers, p. 2315, 446  
2.21.1423 and other rules - Persons with Disabilities Preference Policy, p. 2312, 448  
2.21.3602 and other rules - Veterans' Employment Preference Policy, p. 2304, 450

(Public Employees' Retirement Board)  
2.43.437 Purchase of Military Service by Members of the Retirement Systems Administered by the Public Employees' Retirement Board, p. 2301, 70

(Teachers' Retirement Board)  
I and other rules - Teachers' Retirement System - Extra Duty Compensation - Membership of Teacher's Aides and Part-time Employees - Correction of Errors on Contributions and Overpayment, p. 2792, 822

I and other rules - Teachers' Retirement System,  
p. 1565, 2243, 2837

(State Compensation Insurance Fund)

I and other rules - Construction Credit Program -  
Premium Rates - Premium Modifiers and Dividends,  
p. 1, 1033

AGRICULTURE, Department of, Title 4

I & II Japanese Beetle (Popillia japonica) Quarantine,  
p. 905

I & II Commodity Research and Market Development Program,  
p. 113, 726

4.5.202 and other rule - Category 1 and Category 2 Noxious  
Weeds, p. 2796, 451

4.10.1806 Fees, p. 2672, 182

4.10.1808 Termination of the Pesticide Disposal Program,  
p. 986

STATE AUDITOR, Title 6

I-VII Valuation of Life Insurance Policies, p. 2488, 2839

6.6.1105 Allowable Exclusions and Restrictions, p. 1274, 2246

6.6.1110 Determination of Reasonableness of Benefits in  
Relation to Premium Charged in Credit Disability and  
Credit Life Insurance, p. 1717, 453

6.6.4102 Continuing Education Fees, p. 1600, 2247, 183

6.10.126 Unethical Practices, p. 1272, 2245

6.10.131 Foreign Security Exemption, p. 117, 824

(Classification Review Committee)

6.6.8301 Updating References to the NCCI Basic Manual for  
Workers Compensation and Employers Liability  
Insurance, 1996 Edition, p. 2139, 2841

COMMERCE, Department of, Title 8

8.2.208 Renewal Dates, p. 1719, 2435

(Board of Alternative Health Care)

8.2.208 and other rules - Renewal Dates - Naturopathic  
Physician Continuing Education Requirements -  
Licensing by Examination - Definitions - Midwives  
Continuing Education Requirements - Licensure of  
Out-of-State Applicants - Direct Entry Midwife  
Protocol Standard List, p. 1460, 2038

8.4.503 Direct-Entry Midwife Apprenticeship Requirements,  
p. 1933, 456

(Board of Barbers)

8.10.405 Fee Schedule, p. 435, 2040

(Board of Chiropractors)

8.12.603 and other rules - Examinations - Temporary Permits -  
Continuing Education Requirements - Unprofessional

9-5/11/00

Montana Administrative Register

Conduct - Fees - Interns and Preceptors -  
Recertification - Denial - Revocation - Patient  
Records, p. 663

(Board of Clinical Laboratory Science Practitioners)  
8.13.301 and other rules - Applications for License - Fees -  
Minimum Standards for Licensure - Continuing  
Education Requirements, p. 2675, 727, 1034

(Board of Cosmetologists)  
8.14.814 Fees - Initial, Renewal, Penalty and Refund Fees,  
p. 439, 2043

(Board of Dentistry)  
8.16.402A and other rules - Dentist Applications - Fees -  
Conversion of Inactive Status Licenses - Complaint  
Procedures - Dental Hygienist Licensure by  
Credentials - Denturist Examinations - Interns -  
Renewal - License Reinstatement - Dental Hygienist  
Local Anesthetic Agent Licensure, p. 518

(Board of Hearing Aid Dispensers)  
8.20.407 and other rules - Records - Unprofessional Conduct -  
Minimum Testing and Recording Procedures -  
Definitions - Transactional Documents, p. 777

(Board of Horse Racing)  
8.22.503 and other rules - Horse Racing, p. 529, 953

(Board of Medical Examiners)  
8.28.1501 and other rules - Definitions - Post-Graduate  
Training Program, p. 2143, 627, 729

(Board of Funeral Service)  
8.30.402 and other rules - Applications - Fees - Inactive  
Status and Reactivation - Contracts - Federal Trade  
Commission Regulations - Continuing Education -  
Disclosure Statements on Embalming - Unprofessional  
Conduct - Crematory Facility Regulation - Processing  
of Cremated Remains - Perpetual Care and Maintenance  
Fund Reports - Restrictions on Officers - Transfer  
of Cemetery Ownership - Perpetual Care and  
Maintenance Funds - Prepaid Funeral Arrangements -  
Branch Establishment Facilities - Definitions -  
Prearranged, Prefinanced or Prepaid Funerals -  
Requirements for Sale of At-need, Pre-need and  
Prepaid Funeral Arrangements - Pre-need Funeral  
Agreements - Trust Funds, p. 668

(Board of Nursing)  
8.32.301 and other rules - Nurse Practitioner Practice -  
Standards Relating to the Licensed Practical Nurse's  
Role in Intravenous (IV) Therapies, p. 537, 954

8.32.308 and other rules - Temporary Permits - General  
Requirements for Licensure - Re-examination -

Licensure for Foreign Nurses - Temporary Practice Permits - Renewals - Conduct of Nurses, p. 988  
8.32.1409 Prohibited IV Therapies, p. 563, 680, 2437  
8.32.1702 and other rules - Nursing Tasks that may be Delegated - General Nursing Tasks that may not be Delegated - Nursing Tasks Related to Gastrostomy Feeding that may be Delegated, p. 2150, 458

(Board of Nursing Home Administrators)

8.34.414 and other rules - Examinations - Continuing Education - Fee Schedule, p. 227, 1035

(Board of Occupational Therapists)

8.35.407 Fees, p. 685, 1036

(Board of Optometry)

8.36.417 and other rules - Licensure of Out-of-State Applicants - Approved Programs or Courses - Therapeutic Pharmaceutical Agents - Approved Course and Examination - Approved Drugs, p. 2153, 2760

(Board of Outfitters)

8.39.501 and other rules - Outfitter Licenses - Qualifications - Examinations - Outfitter Acting as Guide - Renewal - Amendment to Operations Plan - Inactive - Guide or Professional Guide License - Fees for Outfitter Operations Plan - N.C.H.U. - Guide or Professional Guide - Outfitter Records - Safety Provisions - Standards for Outfitters - Guides and Professional Guides - Unprofessional Conduct and Misconduct - Moratorium - Review of New Operations Plan - Proposed Expansion of Net Client Hunting Use Under Existing and New Operations Plans - Sale and Purchase of an Outfitting Operation, p. 2318, 730

(Board of Pharmacy)

8.40.608 and other rules - Renewals - Non-compliance - Application for Registration - Wholesale Drug Distributor Licensing, p. 1721, 2438

8.40.702 Definitions, p. 2330, 460

8.40.906 and other rules - Forms and Reports - Pharmacy Technicians - Patient Counseling, p. 540, 909

(Board of Physical Therapy Examiners)

8.42.403 Fees, p. 543, 1038

(Board of Plumbers)

8.44.402 and other rules - Plumbing Definitions - Applications - Examinations - Master Plumbers - Registration of Business Names - Renewals - Fee Schedule - Qualifications - Journeyman - Temporary Practice Permits - Out-of-State Applicants - Complaint Procedure - Medical Gas Endorsement Required - Application for Endorsement - Annual

Renewal of Endorsement - Endorsement Verification,  
p. 230, 825

(Board of Professional Engineers and Land Surveyors)  
8.48.1105 Fee Schedule, p. 1936, 743

(Board of Private Security Patrol Officers and Investigators)  
8.50.437 Fee Schedule, p. 459, 2044

(Board of Public Accountants)  
8.54.416 and other rules - Licensure of Foreign-Trained  
Applicants - Credit for Formal Individual Study  
Programs - Basic Requirement, p. 2332, 461

(Board of Radiologic Technologists)  
8.56.409 and other rule - Fees, p. 239, 783

(Board of Real Estate Appraisers)  
I Appraisal Reviews, p. 785  
8.57.101 and other rule - Board Organization - Continuing  
Education, p. 1189, 2624  
8.57.406 and other rules - Qualifying Education Requirements  
- Adoption of USPAP by Reference - Regulatory  
Reviews, p. 2679, 956

(Board of Realty Regulation)  
8.58.406A Applications for Licensure by Salespersons and  
Brokers, p. 546  
8.58.415A Continuing Real Estate Education, p. 2337, 184

(Board of Respiratory Care Practitioners)  
8.59.402 and other rules - Definitions - Procedures for  
Renewal - Inactive Status Licenses - Continuing  
Education Requirements, p. 548, 1039

(Board of Sanitarians)  
8.60.413 Fees, p. 999, 2248

(Board of Speech-Language Pathologists and Audiologists)  
8.62.407 and other rules - Qualifications for Probationary  
License - Fees - Unlicensed Person, p. 1470, 2249  
8.62.413 Fees, p. 687

(Building Codes Division)  
8.70.101 and other rules - Building Codes Division, p. 1001,  
1885

(Consumer Affairs Division)  
I-V Telemarketing Registration and Fraud Prevention Act,  
p. 120

(Division of Banking and Financial Institutions)  
I-VI Deferred Deposit Lending, p. 1849, 2570, 71

(Board of County Printing)

8.91.301 and other rules - County Printing, p. 2339, 630

(Local Government Assistance Division)

I Administration of the 2000 Federal Community Development Block Grant Program, p. 126

I 2000/2001 Treasure State Endowment Program (TSEP), p. 2342, 186

I Administration of the 1999 Treasure State Endowment Program (TSEP), p. 1473, 2761

8.94.3001 and other rules - Monumentation of Surveys - Form, Accuracy, and Descriptive Content of Records Survey, p. 2156, 462, 1041

8.94.3806 Submission and Review of Applications under the 2000/2001 Treasure State Endowment Program (TSEP), p. 552, 1042

(Board of Investments)

8.97.910 and other rules - INTERCAP Program, p. 2169

8.97.1101 and other rules - Board of Investments, p. 2682, 470, 1043

(Economic Development Division)

8.99.401 and other rules - Microbusiness Finance Program, p. 555, 1045

(Travel Promotion and Development Division)

8.119.101 Tourism Advisory Council, p. 993

(Health Facility Authority)

8.120.101 and other rules - Health Facility Authority, p. 995

EDUCATION, Title 10

(Office of Public Instruction)

I-XI and other rules - Special Education, p. 129, 1048

10.21.101A and other rules - School Funding, Budgeting, and Transportation, p. 2694, 623

(Board of Public Education)

I and other rules - Teacher Certification - Reporting of Negative Certification Actions, p. 569

I-CCLXXXIV and other rules - Content and Performance Standards for Literature, Writing, Speaking and Listening, Media Literacy, Science, Health, Technology, World Languages, Reading and Mathematics, p. 1030, 2440

10.56.101 Student Assessment, p. 242, 957

10.57.220 and other rule - Teacher Certification - Recency of Credit - Endorsement Information, p. 911

(State Library Commission)

I & II Federation Advisory Boards and Base Grants, p. 247

10.102.101 and other rules - Library Standards, p. 1724, 2626

(Montana Heritage Preservation and Development Council)  
I-VII Acquisition of Real and Personal Property, p. 13,  
966

FISH, WILDLIFE, AND PARKS, Department of, Title 12

12.9.602 and other rule - Emergency Amendment - Pheasant  
Enhancement Program, p. 1071  
12.9.602 and other rule - Pheasant Enhancement Program,  
p. 1000  
12.9.602 and other rule - Pheasant Enhancement Program,  
p. 2719, 831

(Fish, Wildlife, and Parks Commission)

I-III Importation of Bait Leeches, p. 18, 827  
12.6.901 Regulating Personal Watercraft on the Tongue River  
Reservoir, p. 175  
12.6.901 Limiting the Motor-Propelled Water Craft to No-Wake  
Speed on the Fort Peck Dredge Cut Trout Pond,  
p. 2722, 744  
12.6.901 Limiting the Motor-Propelled Water Craft to No-Wake  
Speed from Porcupine Bridge to the Mouth of the Swan  
River, p. 1732, 1938, 2763

ENVIRONMENTAL QUALITY, Department of, Title 17

I & II and other rules - Underground Storage Tanks -  
Underground Storage Tank Licensing, p. 572, 969  
I-IV Solid Waste - Payment of Certain Abandoned Vehicle  
Removal Charges, p. 1791, 2452  
I-XIII and other rules - Hazardous Waste -  
Comparable/Syngas Fuel Exclusion - Remedial Action  
Plans - Military Munitions - Hazardous Waste  
Management, p. 1940, 2843  
17.36.101 and other rules - Subdivisions - Procedures for  
Local Health Officer Review of Subdivision  
Applications, p. 610, 967  
17.40.203 and other rule - Wastewater Operators -  
Certification - Fees for Water and Wastewater  
Operators, p. 2596, 72  
17.40.203 Wastewater Operator Certification, p. 1494, 1804  
17.56.101 and other rule - Underground Storage Tanks -  
Underground Storage Tank Repairs, p. 1496, 2046  
17.56.1001 Underground Storage Tanks - Underground Storage  
Tanks Fee Schedule, p. 1853, 2858

(Board of Environmental Review)

I and other rules - Air Quality - Use of Credible  
Evidence in Assessing Air Quality Compliance, p. 250  
I and other rules - Public Water Supply - Public Water  
and Sewage System Requirements, p. 578, 1895  
I-XIV and other rules - Air Quality - Air Quality  
Compliance Assurance Monitoring - Requirements for  
Air Quality Operating Permit Content, p. 2725, 839  
17.8.101 Air Quality - Exclusions from the Definition of  
Volatile Organic Compounds, p. 257

- 17.8.101 and other rule - Air Quality - Implementation of Revised Federal Air Quality Standards for Particulate Matter, p. 2750, 836
- 17.8.102 and other rules - Air Quality - Air Quality Incorporation by Reference Rules, p. 1191, 2250, 2767
- 17.8.302 Air Quality - Cement Manufacturing Industry and Primary Lead Smelting Maximum Achievable Control Technology, p. 261
- 17.8.504 and other rule - Air Quality - Air Quality Permit Application Operation Fees, p. 1612, 2254
- 17.8.1201 and other rule - Air Quality - Title V Air Quality Operating Permits, p. 2747, 838
- 17.24.101 and other rules - Metal Mines - Metal Mines Reclamation Act, p. 2178, 473
- 17.24.303 and other rules - Coal and Uranium - Coal and Uranium Mining Organizational Changes, p. 1782, 2768
- 17.30.105 and other rule - Water Quality - Certification Options - General Prohibitions to Surface Water Quality Standards and Procedures, p. 1608, 2256
- 17.30.602 and other rules - Water Quality - Trigger Values, p. 1603, 2275
- 17.30.602 and other rules - Water Quality - Montana Surface Water Quality Standards - Nondegradation - Ground Water Pollution Control System, p. 477, 1617, 2257
- 17.30.630 Water Quality - Temporary Water Quality Standards for Portions of Mike Horse Creek, Bear Trap Creek, and the Upper Blackfoot River, p. 263
- 17.30.705 Water Quality - Nondegradation Requirements for Outstanding Resource Waters, p. 2753, 843

(Department of Environmental Quality and Board of Environmental Review)

- 17.4.101 Incorporation by Reference of the Attorney General's Model Rules, p. 2173, 472

(Petroleum Tank Release Compensation Board)

- 17.58.101 and other rules - Procedures and Criteria for Compensation of Petroleum Tank Remedial Costs, p. 1475, 2279

TRANSPORTATION, Department of, Title 18

- 18.2.101 Model Procedural Rules, p. 787
- 18.8.101 and other rules - Motor Carrier Services Regulations for Overdimensional Vehicles and Loads, p. 269, 1075

CORRECTIONS, Department of, Title 20

- I-XLIV Operation and Physical Condition of a Private Correctional Facility - Security, Safety, Health, Treatment and Discipline of Persons Confined in a Private Correctional Facility, p. 1276, 1902, 2629
- 20.2.101 Department Model Procedural Rules, p. 2600, 74
- 20.9.101 and other rules - Youth Placement Committees, p. 617, 1078

JUSTICE, Department of, Title 23

- I and other rules - Insurance Required Prior to the Public Display of Fireworks - Fire Code, p. 2190, 2860
- 23.14.401 Adding Two Members to the Peace Officers Standards and Training Advisory Council, p. 1734, 2284
- 23.16.1802 and other rules - Responsible Party for Video Gambling Machine Taxes and Record Keeping, p. 1739, 2048

LABOR AND INDUSTRY, Department of, Title 24

- I Payment of Silicosis Benefits, p. 179, 862
- I-IX Workers' Compensation Administrative Assessment, p. 22, 844
- I-XI and other rules - Workers' Compensation Administrative Assessment for the State Fiscal Years 1992 through 1999, p. 1859, 2877
- 24.11.442 and other rule - Unemployment Insurance Benefit Claims, p. 1856, 2876
- 24.16.9007 Montana's Prevailing Wage Rates - Building Construction Services - Heavy and Highway Construction Services, p. 922
- 24.21.414 Wage Rates for Certain Apprenticeship Programs - Building Construction Occupations, p. 925

(Workers' Compensation Judge)

- 24.5.301 and other rules - Procedural Rules, p. 914

LIVESTOCK, Department of, Title 32

(Milk Control Board)

- 32.24.301 and other rules - Pricing of Producer Milk - Utilization - Procedures to Purchase - Marketing of Surplus Milk, p. 282
- 32.24.301 Emergency Amendment - Economic Formula in Pricing Class I Milk at the Producer Level, p. 75
- 32.24.503 and other rules - Quota and Pooling Transactions - Surplus and Excess Milk, p. 2602, 78

MILITARY AFFAIRS, Department of, Title 34

- I-VI Administration of the Education Benefit Program for the Montana National Guard, p. 1619, 2051

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

- Establishing a Negotiated Rulemaking Committee to Negotiate and Develop Proposed Rules Relating to Cabin and Homesite Lease Rates, p. 292
- I-XII Control of Timber Slash and Debris, p. 928
- 36.2.101 Department Model Procedural Rules, p. 2224, 2636
- 36.12.102 and other rules - Water Rights Bureau, p. 33, 636
- 36.12.801 and other rules - New Appropriation Verification Procedures, p. 1796, 2285

36.14.502 Dam Safety - Hydrologic Standard for Emergency and Principal Spillways, p. 2031, 2226, 2573

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

- I-III Guardianship Services, p. 410, 864
- I-V Independent Review of Health Care Decisions, p. 2344, 2880
- I-VII Use of Automated External Defibrillators, p. 1643, 1913
- I-XI and other rules - Transfer from Department of Social and Rehabilitation Services - Home and Community-Based Services Program, p. 296
- I-XVIII and other rules - Transfer from Department of Social and Rehabilitation Services and Department of Family Services - Repeal of Rules from the Department of Family Services - Amendment of Rules of the Department of Health and Environmental Sciences and Public Health and Human Services, p. 356
- I-XXI Network Adequacy in Managed Care, p. 1627, 2052, 2637
- I-XXV and other rules - AFDC Foster Care, p. 964, 1514, 2286
- I-XXIX The Children's Health Insurance Program (CHIP), p. 416
- I-XLI and other rules - Coverage and Reimbursement of Mental Health Services for Medicaid Eligible and Certain Other Low Income Individuals, p. 723, 1301, 1806
- 11.5.201 and other rules - Protective Services for the Developmentally Disabled, p. 2834, 475
- 16.24.107 Orthodontia Care for Children Special Health Services (CSHS) Recipients, p. 2529, 2879
- 16.35.101 and other rules - End Stage Renal Disease (ESRD) Recipients, p. 1023
- 16.38.307 Laboratory Testing Fees, p. 1003
- 17.70.101 and other rules - Transfer from the Department of Environmental Quality - Radiation Control, p. 189
- 20.11.111 State Facility Reimbursement, p. 1502, 1805
- 37.70.406 and other rules - Low Income Energy Assistance Program (LIEAP), p. 1877, 2575
- 37.80.201 and other rules - Child Care Subsidy Programs, p. 1798, 2454
- 37.85.212 and other rules - Resource Based Relative Value Scale (RBRVS) - Early and Periodic Screening, Diagnostic and Treatment Services (EPSDT) - Eyeglasses Services - Clinic Services - Dental and Denturist Services - Durable Medical Equipment, Orthotics, Prosthetics and Supplies (DMEOPS) - Hearing Aid Services - Transportation Services - Non-Hospital Laboratory and Radiology Services, p. 1008
- 37.86.2901 and other rule - Inpatient Hospital Services, p. 1017

- 46.9.301 and other rules - Grants-in-Aid to Counties - Community Services Block Grants, p. 39, 745
- 46.12.101 and other rules - Transfer from the Department of Social and Rehabilitation Services - Medicaid Eligibility, p. 476
- 46.12.202 and other rules - Transfer from the Department of Social and Rehabilitation Services - General Medicaid Services, p. 479
- 46.12.502B and other rules - Transfer from the Department of Social and Rehabilitation Services - Medicaid Mental Health Services, p. 195, 865
- 46.12.503 and other rules - Transfer from the Department of Social and Rehabilitation Services - Medicaid Services - Primary Care, p. 482
- 46.12.503 and other rules - Inpatient Hospital Services, p. 1744, 2078
- 46.12.510 and other rules - Transfer from the Department of Social and Rehabilitation Services - Senior and Long Term Care Services, p. 489
- 46.12.521 and other rules - Montana Medicaid Passport to Health Program, p. 42, 866
- 46.12.605 and other rule - Orthodontia for Medicaid Recipients, p. 2522, 2898
- 46.12.1222 and other rules - Nursing Facilities, p. 2827, 492
- 46.12.3215 Medicaid Health Plan Enrollment, p. 1624, 2080
- 46.12.3804 and other rules - Families Achieving Independence in Montana (FAIM), p. 2799, 746
- 46.12.4101 and other rules - Transfer from the Department of Social and Rehabilitation Services - Medicaid for Certain Medicare Beneficiaries and Others, p. 197
- 46.18.106 and other rules - Families Achieving Independence in Montana (FAIM), p. 2532
- 46.18.149 and other rule - Emergency Assistance for Recipients of Temporary Assistance to Needy Families (TANF), p. 2755, 199

PUBLIC SERVICE REGULATION, Department of, Title 38

- I Establishing the Meaning and Effect of the "Landfill Closure Provision" in Class D Motor Carrier Authorities, p. 1291A, 2455
- I-III and other rules - Operator Service Providers, p. 1754, 2081
- I-V and other rule - Electric Utility Industry Restructuring and Customer Choice Act - Disclosure and Labeling to Inform Customers on Electricity Supply Service, p. 2611
- I-V Unauthorized Product or Service Charges on Telephone Bills, p. 1749, 2086
- I-VIII Implementing Senate Bill 406 ("Electricity Buying Cooperative Act") and House Bill 221 pertaining to Electricity Default Suppliers - Electricity Default Supplier Licensing and Selection, p. 2228, 2770
- I-XX Protective Orders - Protection of Confidential Information, p. 939

- 38.2.314 Practice Before the Public Service Commission, p. 2559, 749
- 38.3.130 Meaning and Effect of the Landfill Closure Provision in Class D Motor Carrier Authorities, p. 690
- 38.3.402 and other rules - Application and Reporting Fees, p. 934
- 38.5.1401 Definition of Customer under Termination of Gas and Electric Service, p. 625, 1080
- 38.5.2202 and other rule - Pipeline Safety, p. 2608, 752

REVENUE, Department of, Title 42

- I and other rules - Endowment Tax Credit, p. 806
- I and other rules - Oil and Gas Taxes, p. 706
- I and other rules - Tax Benefits, p. 702
- I and other rules - Family Education Savings Program Account Rules, p. 693
- I and other rule - Intangible Personal Property, p. 2620, 872
- I-III and other rules - Class Eight Property Exemption - Depreciation Schedules for Personal Property, p. 2351, 2909
- I-V Declaratory Rulings, p. 697
- I-V and other rules - Property Tax Assessment, p. 2385, 2905
- I-VII and other rules - Centrally Assessed Property and Telecommunications Excise Tax, p. 2405, 2914
- I-VII Ethics of Department of Revenue Employees, p. 1651, 2576
- I-IX and other rules - Office of Dispute Resolution, p. 2374, 2900
- I-XII Universal System Benefits Programs, p. 2396, 2927
- 42.11.309 Commission Rate Applicability Date, p. 704
- 42.12.101 and other rules - Liquor Licenses, p. 789
- 42.14.101 and other rules - Lodging Facility Use Tax Rules, p. 2561, 2904
- 42.15.507 Elderly Homeowner Credit, p. 2035, 2581
- 42.23.501 and other rules - New and Expanded Industry Credit, p. 810

SECRETARY OF STATE, Title 44

- I Defining Search Criteria for Uniform Commercial Code Certified Searches, p. 818
- 1.2.419 Scheduled Dates for the Montana Administrative Register, p. 2432, 2777
- 44.14.101 and other rule - Allow Records to be Retained on Digital Media - Records with a Retention of 10 Years or Longer, p. 815
- (Commissioner of Political Practices)
- 44.10.321 and other rules - Reporting of Contributions and Expenditures, p. 635, 2287
- 44.10.331 Limitations on Receipts from Political Committees, p. 2241, 2934